

June 5, 2006

Audit and Review
Office of the Chief Trial Counsel
State Bar of California
1149 South Hill Street
Los Angeles, California 90015-2299

RE: Request for Review of Decision (California Bar Complaint #05-20211)

Dear Chief Trial Counsel, California Bar:

This is my formal request to the California Bar for a review of the decision I received on March 6, 2006, (the "Decision"), [Exhibit S](#), made in regard to my California bar complaint #05-20211. [Exhibit R](#). Having reviewed the Decision in Next Factor's first complaint, we now augment our original filing in this request, (the "Request"), as directed by the Decision, and supplement it with copies of specific and particular documentation as further demonstration of attorney misconduct.

The additional and new evidence ("Additional Evidence") submitted in response to the Decision provides further demonstrative support for my complaint against the CA Attorney's apparent misconduct as it relates to the failure to obtain waivers of conflicts in accord with the CRPC.

The Additional Evidence also demonstrates grave and related CA Attorney misconduct ("Attorney Misconduct"). For example, in [section 5.8.2](#) of this Request we demonstrate in detail that the lead CA attorney Sidney P. Levinson misled the Court when he concealed his identity as the lead attorney for a client-creditor and who later assisted this client-creditor against Aural in efforts to reverse the Court's final order rejecting this client-creditor's claim. In so doing, the CA Attorney represented an interest adverse to the estate, was not disinterested, and was, therefore, not qualified to represent the debtor in this case¹. If the CA Attorneys had not misled the Court and had fully disclosed these facts, they would have been disqualified as debtor's counsel and in that event would have been required to disgorge the approximate \$1M in fees they earned in the case.

In another instance we show that the Court found that the debtor, represented by the CA Attorneys, engaged in misconduct related to a 29-day delay to disclose adverse representation in this case, and we provide Additional Evidence of the same CA Attorneys delaying disclosure of adverse representation in other instances by several months. Unfortunately, I see misconduct such as this too often in our business. I ask that your office consider the entirety of the CA Attorneys conduct as you review these complaints.

¹ The adverse interest and disinterested person limitations set forth in 11 U.S.C. §327(a) can not be waived. *In re S.S. Retail Stores*, 211 B.R. 699 (Bankr. 9th Cir. 1997); *In re Envirodyne Industries, Inc.* 150 B.R. at 1016.

I want to share with you that Next Factors, Inc. (“Next”) has been reluctantly involved in protracted litigation over the last several years and in various jurisdictions regarding the bankruptcy system, as it relates to the business of trade claim factoring. As founder and President of Next, I feel deeply disillusioned and oppressed as a result of our experience with the legal system. I feel that Next has been frustrated in obtaining justice; that entrenched professionals were able to profit though interconnections of conflicted interests; and that the very legal system that is supposedly there to protect corporate and individual rights and property has been effectively hijacked by professionals who either abuse their own power and authority or whom are attorneys willing to Abandon their Client for Protection of Opposing Counsel (“[ACPOC Syndrome](#)”) rather than with upholding ethical rules and principles of justice. Misconduct in a federal court located in California by California attorneys fall within the jurisdiction and responsibility of your office.

The unethical and oppressive tactics of professionals make the business of trade claim factoring increasingly unprofitable for those who are independent of and unaffiliated with bankruptcy professionals. The original aims of bankruptcy law have been largely disaffected. I have encountered, on too many occasions, vested interests who collude to influence outcomes contrary to the greater good originally intended by Congress. It is with this experience -- having lost faith in the legal system in CA, and indeed in the bankruptcy system generally -- that I plead for a fair and even-handed audit and review of the Decision and investigation of the original Complaint as augmented by and through this Request.

Sincerely,

David P. O’Donnell, President

Date: _____

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1.0 Scope of Additional and New Evidence

The Attorney Misconduct is related to the systemic failure of H&B to obtain waivers of conflicts as proscribed by the California Bar Rules, failure to adhere to other California Bar Rules as demonstrated by Additional Evidence, and failure to comport their conduct in accordance with opinions of California courts, ethics opinions, rules, statutes, and standards promulgated by other jurisdictions and bar associations (“Guiding Authority”) as detailed in this Request.

The Additional Evidence is provided in both paper form and an Adobe Acrobat file. For greater facility I have provided diagramed chronologies of the matters detailed in this Request. Please note that each of the facts and events identified in these diagramed chronologies will link to the particular Additional Evidence which supports it when reading the materials in Adobe Acrobat². In addition, the blue underlined text in this Request is similarly linked to the associated Additional Evidence.

2.0 Jurisdiction

The original complaint, and this present Request, is seeking a review of CA Attorney Misconduct under which the Office of the Chief Trial Counsel (the “OCTC”) has jurisdiction. Specifically, I am requesting a review of CA Attorney conduct under the State Bar Act and the Rules of Professional Conduct.

Pursuant to the State Bar Act § 6044, the California State Bar, with the filing of *any* complaint, “may initiate or conduct investigations of all matters affecting or relating to: [...] (c) the discipline of the members of the State Bar”. According to the State Bar’s own website, the State Bar accepts consumer complaints³, and I am certainly a consumer of CA legal services and of the CA court system. The State Bar provides further that “[e]ach local administrative committee shall: (a) receive and investigate complaints as to the conduct of members.” State Bar Act § 6043. For a willful breach of any of the CRPC, the State Bar Board of Governors has the power to discipline attorneys by reproof, public or private, or to recommend to the Supreme Court the suspension from practice for an attorney not exceeding three years. State Bar Act § 6077. Based on the foregoing, I assert that the State Bar Act confers jurisdiction to your Office in this matter.

One of the additional allegations of misconduct complained of in section 5.9 of this Request contains a reference to two issued Court Orders, included in the Additional Evidence, wherein the Court identified misconduct. Certainly the OCTC has jurisdiction to investigate a matter deemed misconduct by a Court in California.

²To follow a link: 1) Select the hand tool , a zoom tool, or a selection tool; 2) Position the pointer over the linked area on the page until the pointer changes to a hand with a pointing finger . (The hand has a plus sign in it if the links point to the Web.) Then click the link.

³ The State Bar of California Website, Home > Attorney Resources > Lawyer Discipline & Complaints > FAQs, at URL: http://calbar.ca.gov/state/calbar/calbar_generic.jsp?cid=10136&id=FAQ

However, the text of the Decision I received from the ICTCI suggests that the bankruptcy court must first find that the CA Attorney's engaged in Misconduct, and then issue an order to that effect, as a prerequisite to OCTC asserting jurisdiction over this Request. While a court decision finding misconduct is identified in this Request, such a court decision or order finding misconduct should not serve as prerequisite to investigation by the CA Bar. It is true that the State Bar Act § 6086.7 requires that the State Bar investigate and determine whether disciplinary action against the lawyer is warranted when a court notifies the State Bar of certain misconduct, but it would appear incorrect to suggest that this is the *exclusive* means by which a complaint may be filed and investigated by the State Bar.

An individual consumer must be able to file a complaint with the State Bar in order for the objectives of a self-policed organization to be met. As earlier indicated, the State Bar itself invites and receives complaints from individual consumers of the CA legal system. Neither §6086.7 nor apparently any other provision of the Act prohibits the OCTC from asserting jurisdiction in these matters solely because another court has not yet reported misconduct to the State Bar. If a prior court finding of misconduct were necessary as a prerequisite for OCTC to assert jurisdiction in every case, then the ability of consumers to recognize and respect the State Bar "as a contributing and accountable leader in improving the administration of justice and ensuring the rule of law in our civil society"⁴ would be substantively weakened. If the consumers cannot bring forward complaints against members of the State Bar, then how can they expect that its' members are ever investigated by the State Bar, let alone held to account for misconduct?

In the same way that the State Bar ensures the integrity of the ruling on attorney discipline cases through the nations only discipline system that employs independent professional judges who are dedicated to ruling on attorney discipline cases, so too does the State Bar ensure the integrity of the review of charges of attorney misconduct through the receipt of complaints by consumers who are independent of the professional judges who may or may not complain of misconduct in every case.

Even where a professional judge may find a conflict does not merit disqualification (and the attendant disruption to the case), that does not mean that it has approved of an attorney's conduct – that question can still be resolved by a disciplinary body⁵.

The original complaint and this Request provides Guiding Authority relevant to bankruptcy jurisprudence, but only for your consideration. My intent is to illuminate the context within which the alleged violations of the State Bar Act or the Rules of Professional Conduct take place. To be clear, I am not requesting the OCTC to make any determination based on any rule or law related to bankruptcy law or rules. This Request only seeks a review of conduct by CA Attorneys under the CA Bar Rules, the OCTC

⁴ State Bar of California Long-Range Strategic Plan, Aug. 23, 2002.

⁵ Subin Assocs. V. Two Ninety One Broadway Realty Assocs., 126 A.D.2d 443, 510 N.Y.S.2d 588, 589 (1987)

therefore has jurisdiction to determine if misconduct was committed by the CA Attorneys.

In exercising its' authority to investigate complaints of misconduct by individual consumers, the California Bar upholds honesty and integrity of the bar⁶ while maintaining the public confidence in lawyers⁷. That the California Bar seeks to uphold these virtues is evidenced by its' own goal as stated in the State Bar of California Long-Range Strategic Plan, Aug. 23, 2002: "To assure that the public is protected and served by attorneys and other legal services providers that meet the highest standards of competence and ethics." The alleged misconduct complained of herein is significant and represents a pattern of abuse that reflects poorly on the integrity of all lawyers who may be judged by the conduct of the CA Attorneys.

3.0 Background

3.1 About Next Factors

Next is a claims trader and was acting in that capacity as a creditor in the Aural case. Claims trading has increased significantly in large bankruptcy cases, and Next has observed a commensurate increase in practices and actions of bankruptcy professionals that is, at best, unethical. While there is no "bankruptcy police" whose responsibility it is to ensure the honesty and integrity of the bankruptcy system, the professionals entrenched in the system should certainly be held to account for their ethical lapses under the disciplinary rubric of their self-policing professional organization.

3.2 About H&B

A substantial portion of H&B's business involves the representation of large corporate 11 debtors. The CA Attorneys named in this complaint served as reorganization counsel for Aural, Inc.

3.3 About Argo Partners, Inc.

Argo Partners, Inc. ("Argo") is a claims trader. At all times during the pendent Aural bankruptcy case, Argo Partners, Inc. ("Argo") was a direct competitor of Next Factors, Inc. Argo purchased a number of claims held by various debtors in the Aural bankruptcy case and the claims trader with the largest number of claims in the case. Argo was a client of H&B during various periods during the pendent Aural bankruptcy case.

⁶ Pulsecard, Inc. v. Discover Card Servs., 1994 U.S. Dist. LEXIS 19635, at *10 (D. Kan. 1994).

⁷ First Am. Carriers v Kroger Co., 302 Ark. 86, 787 S.W.2d 669, 671 (1990).

4.0 Summary of New and Additional Evidence

The gross violations of the CRPC, other instances of Misconduct, and the impairment that these willful, deliberate, and inexcusable acts caused, are each evidenced by specific pleadings, documents, and declarations enclosed herein. I ask the OCTC to consider the entirety of the CA Attorney's conduct when considering these complaints. While the CRPC does not require actual proof of harm or deception as a necessary prerequisite to culpability for certain of these apparent acts of Misconduct⁸, each of Next, other unsecured creditors, and the Court all appear to have been so impaired during the course of the Aureal case.

This request and the original complaint is not a complete enumeration of claims I have against the CA Attorneys; it merely represents what has been compiled in the time allotted since receiving the Decision. I welcome the opportunity to provide further information and/or to speak with a representative from the OCTC to share other matters of concern with you .

I do not intend to limit the review of this complaint to any particular section of the CRPC or the State Bar Act as I do not know whether any other CRPC rules or provisions of the State Bar Act may also be connected with these apparent acts of Attorney Misconduct.

To the extent that the OCTC requires further evidence, beyond that included in the Additional Evidence provide with this Request or the original Complaint, that might be protected by attorney-client privilege, I want to inform the OCTC that I have been informed by the liquidating trustee in the Aureal case, David A. Bradlow, that he will fully cooperate with any investigation into misconduct by the CA Attorneys and disclose any information you require.

⁸Culpability for violating CRPC 5-200(B) may be established even where there is no direct evidence of malice, intent to deceive, or hope of personal gain. Actual deception is not necessary to sustain a violation; willful deception is established where the lawyer knowingly presents a false statement which may tend to mislead the court. In the Matter of Tempkin (Review Dept. 1991) 1 Cal. State Bar Ct.Rptr. 321.

5.0 Claims of Attorney Misconduct

5.1 The CA Attorney's Failure to Obtain Waiver of Conflicts Should be Evaluated Against the CRPC and the State Bar Act.

The Response characterizes our complaints of multiple failures of the CA Attorneys to obtain informed written consent pursuant to CRPC 3-310, as complaints of failures “to obtain waiver[s] of conflicts *in a bankruptcy court* (emphasis added).” [Exhibit S](#). It appears that this characterization by the Complaint Analyst was partially determinative in the decision to close our complaint, and this characterization is incorrect.

As discussed in section [2.0 Jurisdiction](#), our original [Complaint](#), and this Request, provides Guiding Authority relevant to bankruptcy jurisprudence. However, this is offered only to illuminate the context within which the alleged violations of the State Bar Act or the Rules of Professional Conduct take place. We are not complaining that the failure of CA Attorneys to obtain waivers of conflicts was a result of any non-compliance with the bankruptcy court rules, or bankruptcy law. On the contrary, we are requesting that an evaluation of whether the rule to avoid the representation of adverse interests has been broken should be based upon the rules found in the CRPC⁹ and the State Bar Act.

It would appear counterintuitive to suggest that the rules found in the CRPC are somehow diminished or eliminated when a California Attorney is practicing in any particular area of law, such as bankruptcy. If Audit and Review of the Office of Chief Trial Counsel affirms the Decision, it would seem to create just this exception for California bankruptcy attorneys.

While I ask that the Complaint and this Request be evaluated against the CRPC and the State Bar Act, I similarly request that any purported defenses to a failure to obtain necessary informed written consents also be evaluated against these same authorities. Therefore, to the extent a CA Attorney may defend their conflicted representation on the basis that they remained disinterested with respect to their client (notwithstanding its representation of an adverse client i.e. [Exhibit D at 3:5-7](#)), that should not absolve the CA Attorneys' of their ethical requirements under CRPC 3-310(c)(3). Wholly absent from CRPC 3-310(c) is any prerequisite “material adverse effect” requirement, in contrast to the ABA Model Rules 1.7(a)(1) which concerns adverse representation where there exists a “material adverse effect” on representation.

⁹ We also suggest that the Guiding Authority may be helpful in evaluating Attorney Misconduct.

5.2 Sufficient Evidence Regarding All Claims of Failure to Obtain Informed Written Consent Are Provided with this Request and on the Record

In CA Bar complaint #05-20211, and in this Request, I complain that the CA Attorney's did not obtain informed written consent on multiple occasions. The Additional Evidence provided with this Request, along with the public docket in the Aureal case, provides the OCTC with the evidence required to evaluate each instance of these categories of alleged misconduct.

Any document that might or could have met the CA Attorney's disclosure requirements under CRPC would be disclosed to the bankruptcy court and visible on the docket. This is so because the Bankruptcy Code §327(a) implies a continuing obligation upon the professional to immediately disclose connections which are either discovered subsequently or which arise subsequently during the course of the representation¹⁰. Furthermore, disclosure is an ongoing responsibility. Actual or potential conflicts that arise after the initial application and disclosure should be promptly disclosed to the court¹¹. The OCTC can therefore look to the Additional Evidence and public docket to determine whether the CA Attorneys complied with their CRPC 3-310(C)(3) requirements. In evaluating the CA Attorneys conduct in this regard, and in determining whether or not the conduct complained of merits an investigation, it is instructive to review the importance of disclosure requirements to bankruptcy practice as it may relate to the misconduct of which I complain.

As discussed in the [original complaint](#), the Guiding Authority reflected in the Bankruptcy Code¹² and Bankruptcy Rules¹³ requires that Professionals must be "disinterested," "[neither hold nor represent any] interest adverse to the estate" and disclose all connections which may bear upon the foregoing.¹⁴ The import of this mandate that conflict waivers be fully disclosed is illustrated in a recent Montana¹⁵ case.

In that case, the debtor's counsel recognized that the debtor's main secured lender was an existing client of the firm, just as in the Aureal case where [H&B's client Oaktree was a secured creditor and majority shareholder of Aureal, the debtor and of course H&B's client](#). Counsel sought and obtained from the lender a conflict waiver that contained a "no litigation" exception that specified that counsel would not represent the debtor in litigation directly adverse to the lender. By the time the conflicts waiver was obtained, counsel had already filed an affidavit with the court in support of its application for employment by the debtor.

¹⁰Rome v. Braunstein, 19 F.3d at 57-58 (1 st Cir. 1994).

¹¹[In re Sauer](#), 191 B.R. 402 (Bankr. Neb. 1995).

¹²11 U.S.C. §§101 et al., as amended.

¹³Fed. R. Bankr. P. 1001 et al., as amended.

¹⁴Bankruptcy Code §327(a) and Bankruptcy Rule 2014.

¹⁵[In re Jore Corp.](#), 298 B.R. 703 (Bankr. D. Mt. 2003).

In this initial affidavit, as well as in subsequent amendments to it, counsel advised the court that it would “continue to review its connections with shareholders, creditors, potential creditors, and other parties in interest...[and] will notify the Court if any actual conflicts of interest or other significant connections are discovered in th[e] process.” The firm continued as the debtor’s lead counsel in a number of contested matters and negotiations adverse to the lender. Almost a full year passed before the debtor’s counsel notified the court of the no litigation exception in the lender’s waiver, despite the continual disputes between the debtor and the lender.

Upon learning of the limitation to the lender’s conflict waiver, the U.S. Trustee filed a motion to disqualify the debtor’s counsel and vacate the order authorizing its employment. The court granted the motion, holding that counsel’s failure to disclose the waiver’s no litigation exception violated mandatory bankruptcy disclosure requirements and could not be excused for simply being unintentional¹⁶.

In the same way that bankruptcy disclosure requirements serves to protect public participants in the bankruptcy system, so too does a full written disclosure and informed consent required by CRPC 3-310 helps protect the members of the public who are creditors in bankruptcy proceedings in California, while further engendering confidence in the legal system by ensuring that bankruptcy lawyers provide the broad¹⁷, full¹⁸, and candid disclosure of all facts and connections which may be relevant in determining their eligibility for employment under § 327. These requirements are designed to assure not only integrity in fact, but the appearance of propriety¹⁹. These matters merit an investigation by the CA bar.

5.2.1 The OCTC investigator must conclude the CA Attorneys either incurred multiple 3-310 violations with all conflicted clients, or that they engaged in a more severe and deliberate set of actions to hide the corresponding conflict from the Court.

This Request demonstrates at least 3 separate 3-310 violations. Even if we were to assume that HBD delivered a complete written 3-310 disclosure to Argo prior to the First Conflicted Representation, and Argo properly consented to that representation, then the CA Attorneys would still be found to have failed to disclose to the Court, for at least 289 days, the existence the conflicted representation, the secret agreement, and the consent thereto by Argo. Under this hypothetical, the CA Attorneys would have been

¹⁶ *Id.* at 724-727.

¹⁷ *See* *Diamond Lumber v. Unsec’d Creditors’ Comm.*, 88 B.R. 773, 777 (N.D. Tex. 1988) (noting that the disclosure duty is so broad because the court, rather than the attorney, must decide whether the facts constitute an impermissible conflict).

¹⁸ *See* *In re Bolton-Emerson*, 200 B.R. 725, 731 (D. Mass. 1996); *In re Blinder, Robinson & Co.*, 131 B.R. 872 (cautioning that, in bankruptcy cases, full disclosure of all potential adverse interests should be a principle of first magnitude).

¹⁹ *In re Ira Haupt & Co.*, 361 F.2d 164, 168 (2d Cir. 1966) (“The conduct of bankruptcy proceedings not only should be right but must seem right”).

misleading the Court throughout the 289 day period, on each occasion that they submitted a declaration to court but failed to disclose.

At the same time, either a 3-310 violation still existed with the CA Attorney's obligation to the debtor Aural, or Aural was part of the conspiracy to consent to the conflicted representation and withhold same from the Court and all other creditors. Unfortunately for the CA Attorneys, this same logic applies to the Second Conflicted Representation and each time the CA Attorneys acted as debtor Aural's counsel when reviewing each of the 19 claims owned by Argo.

5.3 The CA Attorneys Failed to Avoid the Representation of Adverse Interests Upon the Acceptance of Employment from Creditor Argo Partners Inc. On October 11, 2000.

On October 11, 2000, an unsecured creditor in the Aural case known as Argo Partners, Inc. retained Aural's attorney H&B ("First Conflicted Representation"). [Exhibit D at 2:19-26](#). Argo, as an unsecured creditor of Aural's bankruptcy estate, is a party in interest in the Aural bankruptcy case. Argo's interest in Aural's bankruptcy estate is by definition adverse to Aural. Under the plain language of CRPC 3-310(C)(3) the CA Attorney's were required to obtain the informed written consent of both Argo and Aural prior to entering into the employ of Argo²⁰.

Unfortunately, the Additional Evidence reflects that both integrity in fact was tainted and the appearance of impropriety was created by the CA Attorneys conduct in this case. I will develop this point by first focusing attention on the disclosure requirement. The public docket in this case reflects only one document that might come close to meeting the disclosure requirements of CRPC 3-310(A); the First Supplemental Declaration. [Exhibit D](#). This document is wanting in certain substantive respects and could not serve to satisfy the informed written consent requirement.

5.3.1 The Written Disclosure was Not Timely Filed

As an initial matter, I ask the OCTC to consider that the First Supplemental Declaration, the document that first notified the bankruptcy court about the CA Attorney's conflicted representation, was untimely filed. That is to say, it was filed late. To be clear, the filing on June 7, 2001 was no less than 239 days after the CA Attorneys retained Argo in the First Conflicted Representation. [Exhibit J at 4](#). Even if we assume that the First Supplemental Declaration was a conforming disclosure, it could not have legitimately served the purposes of CRPC 3-310(c)(3) when it was filed almost 8 months after the adverse representation commenced. The dismissive nature of the CA Attorney's actions regarding their CRPC 3-310(c)(3) requirements is further punctuated when you consider that at the time the First Supplemental Declaration was filed, the concurrent representation of the adverse client had already concluded. [Exhibit D at 4:1](#).

Perhaps this late filing was merely an innocent mistake on the part of the CA Attorneys and/or somehow a professional courtesy should have been extended by the professionals in the case to the CA Attorneys. The Additional Evidence shows that the late filing could hardly be characterized as ignorance or mistake when considering the many communications between the CA Attorneys and Argo during the First Conflicted Representation. Rather, these communications show the CA Attorneys delayed their

²⁰ "[...] attorneys for debtors-in-possession have a fiduciary duty to their client [...]. In fact, 11 U.S.C. 327 guards against concurrent representation of both the creditor and a debtor-in-possession." *In re Sidco, Inc.*, 173 BR 194 (E.D.Cal. 1994).

disclosure of their employment by an adverse client, thereby engendering the appearance of impropriety on the part of the CA Attorneys.

5.3.2 The CA Attorneys Were Fully Aware of the First Conflicted Representation When Their CRPC 3-310(C)(3) Obligations Arose

The Additional Evidence demonstrates that the CA Attorneys should have known that CRPC 3-310(C)(3) obligations arose prior to their employment by Argo in the Aureal case. A review of the pertinent dates and activities begins when Aureal filed their Application of Debtor and Debtor in Possession to Employ Hennigan & Bennett as Reorganization Counsel on April 5, 2000. [Exhibit A](#). On June 19, 2000, the Court issued an order authorizing employment of H&B. [Exhibit B](#). Shortly thereafter, H&B conducted numerous telephone conferences with Argo. Each of these telephone conferences²¹, and other significant related events surrounding the CA Attorney's First Conflicted Representation, is illustrated in the chronology diagram of [Exhibit J](#). The following discussion of these communications and related activities will not only demonstrate that the CA Attorney's knew Argo was a creditor with adverse interests in the Aureal case, but that they allowed at least the appearance of impropriety to germinate by their deliberate actions in the case.

5.3.2.1 Communications and Related Activities with Argo Prior to First Conflicted Representation

As can be seen in [Exhibit J](#), no less than four telephone conferences between the CA Attorney's and Argo took place after June 19, 2000, when the Court authorized the CA Attorney's employment by Aureal, but before the date that Argo retained the CA Attorney's, on October 11, 2000. In fact, as recently as the day before Argo retained the CA Attorney's in the Aureal case, CA Attorney Sidney Levinson conducted his third telephone conference with Argo. [Exhibit C at 7](#). CA Attorney Joshua Morse conducted his first telephone conference with Argo on October 6, 2000. [Exhibit C at 7](#).

These four telephone communications were not the sole method by which the CA Attorneys would have been alerted to Argo's position in the Aureal case. The CA Attorneys would have been informed on or before October 2, 2000 of Aureal's status as creditor in the case because at least as early as this date Argo filed a notice of claims transfer in the Aureal case. [Exhibit F](#). This notice was docketed in the normal course in the Aureal case.

Whether by phone or by mail, the CA Attorneys must surely have known Argo was a creditor with interests adverse to Aureal prior to entering into Argo's employ. As we suggested earlier, no CRPC 3-310(C)(3) conforming papers were filed in the Aureal

²¹ Note the debtor was actually charged for each of these communications between the CA Attorney and their client Argo who was at the same time adverse to the CA Attorney's client Aureal.

case by the CA Attorneys. Guiding Authority of the Bankruptcy Code and Bankruptcy Rules would similarly have required that a timely disclosure be made to the Court.

5.3.2.2 Communications and Related Activities with Argo During First Conflicted Representation

Many more telephone conferences and related activities were conducted after Argo retained H&B as their council, but before H&B disclosed the First Conflicted Representation. The first of these took place on October 12, 2000, when CA Attorney James O. Johnston signed a Notice of Appearance and Request for Notice in the First Conflicted Representation. [Exhibit I at 3](#). This Notice of Appearance was filed merely two days following CA Attorney Sidney Levinson's phone call with Argo, a phone call which itself preceded Argos' retention of H&B by only one day. CA Attorney Sidney Levinson conducted another telephone conference on December 5, 2000. [Exhibit C at 15](#). Two other H&B employees, CA Attorney Joshua Morse and legal assistant Joanne B. Stern had two additional telephone conferences with Argo during the First Conflicted Representation. [Exhibit C](#). CA Attorney Joanne B. Stern prepared a memo to Argo regarding "Argo Information". [Exhibit C](#). Finally, this First Conflicted Representation ostensibly concluded in February, 2001, according to CA Attorney Sidney Levinson. [Exhibit D at 2:27](#).

5.3.2.3 Communications and Related Activities with Argo Prior to First Supplemental Declaration

Once the First Conflicted Representation ostensibly concluded, there was one additional H&B activity concerning Argo. According to the Fee Application, legal assistant Joanne B. Stern reviewed the creditor database regarding Argo claims on June 6, 2001. [Exhibit C at 17](#). On the day following Joanne B. Stern's review of Argo claims, some 239 days after the representation of Argo began, CA Attorney Sidney Levinson finally filed his supplemental declaration wherein the previously concluded Argo representation was disclosed.

5.4 The CA Attorneys Failed to Avoid the Representation of Adverse Interests Upon Acceptance of Employment from Creditor Argo Partners, Inc. on a Date Between February 2001 and August 7, 2001.

On some date after February, 2001, Argo again retained Aureal's attorney H&B ("Second Conflicted Representation"). [Exhibit E at 2:26](#). The CA Attorney's were again required to obtain the informed written consent of both Argo and Aureal prior to entering into the second retainer agreement with Argo. I complain that the CA Attorney's did not so obtain the informed written consent of both parties. The Additional Evidence provided with this Request, along with the public docket in the Aureal case, provide the OCTC with the evidence required to evaluate this instance of alleged misconduct. The discussion in [section 5.2](#) above regarding evidence necessary to evaluate an instance of alleged misconduct in that section applies equally here.

Unfortunately, just as was the case in [section 5.2](#), the Additional Evidence reflects that both integrity in fact was tainted and the appearance of impropriety was created by the CA Attorneys conduct in this case. I will develop this point by first focusing attention on the disclosure requirement. The public docket in this case reflects only one document that might come close to meeting the disclosure requirements of CRPC 3-310(A); the Second Supplemental Declaration. [Exhibit E](#). This document is wanting in certain substantive respects and could not serve to satisfy the informed written consent requirement.

5.4.1 The Written Disclosure was Not Timely Filed

The Second Supplemental Declaration, the document that first notified the bankruptcy court about the CA Attorney's Second Conflicted Representation, was untimely filed. That is to say, it was filed late. To be clear, the filing on October 24, 2001 was no less than 78 days, possibly more, after the CA Attorneys retained Argo in the Second Conflicted Representation. [Exhibit J at 6](#). Even if we assume that the First Supplemental Declaration was a conforming disclosure, it could not have legitimately served the purposes of CRPC 3-310(c)(3) when it was filed more than 2 months after the adverse representation commenced. Just as in the First Conflicted Representation, where the corresponding disclosure was made after the representation concluded, the disclosure in the Second Conflicted Representation was apparently made after the representation of the adverse client already concluded. [Exhibit E at 3:3](#).

There were numerous communications and activities between the CA Attorneys and Argo as illustrated in [section 5.2](#), and the diagram in [Exhibit J](#). There were further interactions between H&B and Argo following the First Conflicted Representation, all of which show that the CA Attorneys delayed their disclosure of their employment by an adverse client, thereby engendering the appearance of impropriety on the part of the CA Attorneys.

5.4.2 The CA Attorneys Were Fully Aware of the Second Conflicted Representation When Their CRPC 3-310(C)(3) Obligations Arose

The Additional Evidence demonstrates that the CA Attorneys should have known that CRPC 3-310(C)(3) obligations arose prior to their second employment by Argo in the Aural case. The following discussion of communications and related activities will further demonstrate that the CA Attorney's allowed, at a minimum, the appearance of impropriety by their deliberate actions in the case.

5.4.2.1 Communications and Related Activities with Argo Prior to Second Conflicted Representation

There were two telephone conferences conducted with Argo by CA Attorney Sidney Levinson after Attorney Levinson filed his First Supplemental Declaration on June 7, 2001, but before the Second Conflicted Representation began. These telephone conferences took place on July 16, 2001. On that same day, CA Attorney Levinson also reviewed information concerning Argo's voting on the Aural bankruptcy plan. [Exhibit C at 19](#).

5.4.2.2 Communications and Related Activities with Argo Prior to Second Supplemental Declaration

CA Attorney Levinson does not specify when the Second Conflicted Representation of Argo began. [Exhibit E](#). Indeed, this representation must have commenced sometime after the First Conflicted Representation concluded, but prior to August 7, 2001, when CA Attorney Levinson signed a Stipulation to Continue the Hearing on the Motion of Debtor and Debtor-In-Possession to Disallow Transferee Claims of Argo Partners in the Second Conflicted Representation. [Exhibit H](#). Interestingly, the date of the signature on this pleading in the adverse client matter occurred within roughly 2 weeks of CA Attorney Levinson's telephone conferences with Argo, and review of Argo ballots, in the Aural matter. On September 21, 2001, CA Attorney Levinson filed a Response to Objection to Argo Partners' Claims. [Exhibit G at 50](#). CA Attorney Levinson then represented Argo at a hearing in the Second Conflicted Representation on September 25, 2001. Having resolved the objections in the Second Conflicted Representation in Argo's favor, CA Attorney then filed, approximately 1 month later, the Second Supplemental Disclosure with the Court on October 24, 2001. [Exhibit E](#). This Second Supplemental Disclosure does not indicate that the representation of Argo by the H&B has ceased, but rather that it continues. [Exhibit E at 3](#).

5.5 Upon Their Employment by Argo for the First and Second Conflicted Representation, the CA Attorneys Were Required to Seek Renewed Informed Written Consent From Aureal and Argo.

H&B obtained a conflict waiver from Aureal which appears in the retainer agreement entered into by Aureal and H&B. [Exhibit A at 11](#). While Aureal apparently consented to a potential future conflict of interest, the CA Attorneys were not thereby relieved of their duty to warn Aureal of the actual conflict with Argo once that actual conflict arose.²² In fact, the CA Attorneys were obligated to seek renewed consent from Aureal, who consented to engage in representation that had only *the potential* for a conflict.²³ They were so obligated upon the First Conflicted Representation and then again upon the Second Conflicted Representation. What evidence exists on the record that such informed written consent was received?

We have only CA Attorney Sidney Levinson's two statements that "each of the Debtor and Argo has consented to HBD's concurrent representation of the Debtor and Argo." [Exhibit D at 3:23-24](#) and [Exhibit E at 3:22-23](#). While these gratuitous statements may have been acceptable for the Court's purposes, it does not meet the definition of a informed written consent conforming to CRPC 3-310(A) for the CA Bar's purposes.

In re Robin, 2002 Cal. App. Unpublished LEXIS 3042 (Cal. App. March 15, 2002) (Cal. App. 2002) (recital in court and "on the record" did not satisfy California's writing requirement).

The two statements of CA Attorney Sidney Levinson do not indicate whether any of the required consents conformed to the CRPC²⁴. It does not provide: 1) when each party was informed of the adverse representation; 2) when consent was communicated to H&B by each party; 3) nor any writing evidencing the informed consent as required by CRPC.

If there were informed written consents to the adverse representations of Aureal, those agreements would be considered outside of the ordinary course of business for the debtor-in-possession Aureal. Such agreements may not be entered into without proper notice and motion through the bankruptcy Court. The Additional Evidence, in concert with the public docket in the Aureal case, enables an investigator to determine whether informed written consents were obtained and thereby offers sufficient evidence for determining whether the CA Attorneys' conformed to CRPC requirements this matter. I

²² See *Blecher & Collins, P.C. v. N.W. Air.*, 858 F. Supp. 1442, 1456 (C.D. Cal 1994).

²³ See, e.g., *Klemm v. Superior Court*, 75 Cal. App. 3d 893, 142 Cal. Rptr. 509, 513 (1977) opining that, once an actual conflict develops, a previous waiver of potential conflicts becomes ineffective). Cf. Cal. State Bar Standing Comm. On Prof'l Responsibility & Conduct, Formal Op. 1989-115 (1989) (approving blanket prospective waivers, but requiring a new waiver once a potential conflict ripens into an actual one).

²⁴*In re Begun*, 162 B.R. 168, 177 (Bankr. N.D. Ill. 1993) (conclusive statements that the professional holds no adverse interests are insufficient).

believe no informed written consents conforming to CRPC 3-310(A) were obtained by the CA Attorneys prior to the First Conflicted Representation or the Second Conflicted Representation, let alone actually sought in either case for either party.

5.6 The CA Attorneys Misled the Court While Acting with Extraordinary Favor Toward Argo in a Matter Where Aureal's Interests Were Materially Adverse to Argo

The CA Attorneys acted, on "Aureal's dime",²⁵ to affect a legal detriment to Aureal and to confer a benefit upon Argo. The method by which the CA Attorneys misled the Court and extended favor to Argo was by deft artifice. The CA Attorneys accomplished this act by misleading the Court through the selective presentation and omission of facts in a stipulation, (the "Stipulation"), filed with the Court, the parties to which were H&B, Argo Partners, Inc., and the attorneys for the Official Committee of Unsecured Creditors. [Exhibit K](#). This Stipulation was submitted by the CA Attorneys for the Courts consideration and approval after the CA Attorneys had been hired multiple times by Argo.

This stipulation sought and achieved what amounts to a reversal of a prior final order by the Court wherein the Court sustained the debtor Aureal's objection to a claim owned by Center Capital Corp. As described below, it appears that this Stipulation circumvented the more appropriate legal method for requesting reconsideration of an order allowing or disallowing a claim against the estate. This act, when viewed in the context of the Additional Evidence described below, leads to the conclusion that the CA Attorneys were less than zealously advocating for their client, the debtor Aureal, and zealously advocating for their client, the creditor Argo.

I assert that the conduct described in this section 5.6 is proscribed by CRPC 5-200(B) which bars the use of "an artifice or false statement of fact or law" in order to "mislead the judge, judicial officer, or jury" and the State Bar Act § 6068(d) which requires that attorneys comply with a general duty to be truthful.

The Additional Evidence illustrates that the CA Attorneys were under no legal duty to enter into this Stipulation; that Aureal paid the fee for the CA Attorney's misconduct; and that Argo reaped a financial windfall as a result. Interestingly, these actions occurred subsequent to the employment of the CA Attorneys by Argo. More pointedly, retention by Argo of the CA Attorneys occurred on the day following a telephone conference between Sidney Levinson and Argo regarding the transfer of claims in the Aureal case. [Exhibit J at 2](#).

In order for the OCTC to fully comprehend the nature and circumstances of this misconduct, it is necessary to explain both the factors surrounding the Stipulation and to clearly identify the particular elements in the Additional Evidence which supports this complaint. As this information is evaluated, we ask that you keep the following critical question close at hand: What was the likelihood that this conflict that eventuated between the CA Attorneys and their client Argo materially interfered with the CA Attorney's independent professional judgment in considering alternatives or foreclosed courses of

²⁵ That is to say, the attorneys in a bankruptcy matter are paid through the estate of the debtor.

action that reasonably should be pursued on behalf of the CA Attorney's other client, the debtor Aureal, in this matter?

Claims Trading

Argo is in the business of purchasing claims against debtors in bankruptcy proceedings. Through this business, claims traders seek to make a profit by acquiring trade claims for an amount less than the amount that ultimately is distributed by the debtor with respect to those claims. As one would expect, since a creditor can sell a claim they have against a debtor only once, the claims trading marketplace is highly competitive. Success comes by applying a combination of science and art to both the timing of the offer to buy a claim from a creditor and the purchase price to offer for that claim. The matter of this complaint relates to the treatment of a particular trade claim in this case.

The trade claim at issue.

The present complaint relates to the biased treatment CA Attorneys afforded to Argo with respect to a particular claim originally owned by Center Capital Corporation (the "Center claim"). A chronology of the events surrounding this Center claim appears in [Exhibit P](#). As you can see from [Exhibit P](#), the Schedules of Assets and Liabilities (the "Schedules") filed by Aureal on May 11, 2000 reflect that Center Capital Corporation was owed \$44,904.76 as of the date that Aureal petitioned for bankruptcy protection. [Exhibit K at 2:6](#). Center Capital Corporation, the holder of this claim, filed a proof of claim with the Court on August 31, 2000 for \$39,668.22. [Exhibit K at 8](#). The basis of this claim, according to Center Capital's attorney Kenneth C. Greene, was a Lease Agreement and a Plan of Reorganization with Media Vision. [Exhibit K at 8](#).

The dollar value of the Center claim.

A properly filed proof of claim is prima facie evidence of the validity and the amount of the claim²⁶. Note that the Center claim for \$39,668.22 differs from the amount on Aureal's Schedules. What effect does this lesser amount in Center Capital's proof of claim have, as to the validity of the claim? Pursuant to the Federal Rules of Bankruptcy Procedure, a proof of claim executed and filed supersedes any scheduling of that claim by the debtor²⁷. Therefore, the Center claim filed on August 31, 2000 became the claim of record and Center Capital Corp. continued as the record owner of that claim. Note that Aureal later corrected their books and records to reflect an even further reduced amount owing to Center Capital Corporation in the amount of \$16,252.68. [Exhibit O at 2:12](#).

²⁶ Fed. R. Bankr. P. 3001(f); see 11 U.S.C. § 502(a) (claim deemed allowed absent objection); In re White, 168 B.R. 825, 828-29 (Bankr. D. Conn. 1994).

²⁷ Fed. R. Bankr. P. 3003(C)(4).

Center Capitol Corp. has always been the record holder of the Center claim.

Center Capitol Corp. was record holder of their claim throughout the pendent Aureal case. Argo never became record holder of the Center claim because their attempts to do so were flawed in at least two respects.

First, Argo did not file the correct papers. Even though Argo purchased the Center claim from Center Capital Corp., it never properly filed evidence of the transfer of this claim with the Court. Argo purchased the Center claim from Center Capital Corp. on September 25, 2000. [Exhibit Q at 2](#). Argo then attempted to file a transfer of claim according to Fed. R. Bankr. P. 3001(E)(1) or (3), which represents a transfer of claim *before* a proof of claim has been filed in the case. However, recall that Center Capitol Corp. first filed a proof of claim on August 31, 2000 pursuant to Fed. R. Bankr. P. 3001(A) and (B). This filing of proof of claim by Center Capital Corp. established the amount of the claim at \$39,668.22.

When Argo purchased the Center claim, it should have filed a Notice of Transfer of Claim pursuant to Fed. R. Bankr. P. 3001(E)(2) or (4) which represents a transfer of claim *after* a proof of claim has been filed. If Argo had succeeded in their original intent, they would have extracted the benefit of Fed. R. Bankr. P. 3001(f) which provides that the filing of a proof of claim is prima facie evidence of the validity and the amount of the claim. Rather than a Center claim established at \$39,668.22, Argo would have a Center claim worth \$44,904.76. Where the creditor had already filed a proof of claim in the lesser amount, Argo should have filed a Notice of Transfer of Claim pursuant to Fed. R. Bankr. P. 3001(E)(2) or (4), along with the corresponding evidence of the transfer as required. Since Argo never properly filed a Notice of Transfer of Claim, Argo was never a record holder of the claim in the Aureal proceedings.

Second, even if Argo's attempt to file a transfer of claim according to Fed. R. Bankr. P. 3001(E)(1) or (3) was correct, it would have failed because there was no Center claim in the amount of \$44,904.76. This claim was superseded by Center Capitol Corp.'s proof of claim for \$39,668.22 that it filed on August 31, 2000. Since Argo did not reference a valid claim in their Notice of Transfer of Claim, and Argo could not transfer a nonexistent claim, Argo never became a record holder of the Center claim during the pendency of the Aureal case.

The Center claim was disallowed in its entirety.

In every bankruptcy case, any "party in interest" may object to the proof of claim²⁸. The CA Attorneys did so in the Aureal case when they objected (the "Objection") to the Center claim on December 7, 2000. [Exhibit L at 14](#). This then became a "contested matter."²⁹ The objection was joined with a demand for relief of the kind specified in Federal Rule of Bankruptcy Procedure 7001, and so it became an

²⁸ 11 U.S.C. § 502.

²⁹ See Fed. R. Bankr. P. 9014.

adversary proceeding³⁰. The demand for relief requested by the CA Attorneys was to have the Center claim expunged from the claims registrar. Once the CA Attorneys produced some evidence (the mere filing of an objection is insufficient) disputing the validity of a claim, the burden then shifted to Center Capitol Corp., the claimant and record holder thereof, to prove the validity of their claim. The claimant bears the ultimate burden of establishing a valid claim by a preponderance of the evidence³¹. Center Capitol Corp. had the burden of overcoming two objections to their claim that were made by the CA Attorneys.

In the first objection, the CA Attorneys stated that there was insufficient evidence provided with the proof of claim. [Exhibit L at 14](#). Recall that the basis of this claim, according to Center Capital's attorney Kenneth C. Greene, was a Lease Agreement and a Plan of Reorganization with Media Vision. [Exhibit K at 8](#). When a claim is based on a writing such as these, the original or a duplicate of these writing must be filed with the proof of claim³². In this case, since neither the Lease Agreement or Plan of Reorganization with Media Vision was filed with the proof of claim, the debtor objected to the claim.

The second objection was based on the fact that the amount of the Center claim exceeded the amounts reflected in Aureal's books and records. [Exhibit L at 14](#), [Exhibit O at 2:12](#).

On January 17, 2001, the Court indicated it would sustain the CA Attorney's objection to Argo's Center claim. [Exhibit M](#). Moreover, at that same hearing, the Court ruled it would sustain any objections to individuals whose notice needed correction. Thereafter, on February 9, 2001, the Court signed the form of order submitted by CA Attorney Joshua D. Morse, sustaining the objection to Argo's Center claim which was disallowed and expunged in its entirety. [Exhibit N at 5](#).

Notice of the Objection was properly served on Center Capitol.

Attorney Kenneth C. Greene for Center Capitol was served notice of the Objection on December 6, 2000. This was proper as Center Capital was the record owner of the Center claim, for the reasons discussed above. Argo was not the record owner of the Center claim, although they did attempt to file a notice of claims transfer that would have served to bestow upon them prima facie evidence of the amount of the claim they purchased from Center Capital. This amount was \$5236.54 more than Center Capital listed as the amount of their claim on their own proof of claim they filed with the Court. In sustaining the CA Attorney's Objection to the Center claim, the Court found that "[n]otice of the Objection was reasonable and appropriate under the circumstances and that no further notice is necessary". [Exhibit N at 2:5](#).

³⁰ Fed. R. Bankr. P. 3007.

³¹ In re South Motor Co., 161 B.R. 532, 547 (Bankr. S.D. Fla. 1993).

³² Fed. R. Bankr. P. 3001(C).

The consequences of not responding to an objection to a claim in a bankruptcy case can be severe. To avoid that result, creditors like Center Capital should establish procedures for promptly reviewing notices received from debtors in bankruptcy and responding when necessary to protect their rights. Similarly, trade claim buyers must properly account for their acquired claims and follow the rules in order to be recognized by the bankruptcy court as record owner of the claim and to receive notice in the case.

Argo's interest in the Center Claim.

What about Argo's rights to the claim it purchased from Center Capital? Is there no way that their attorneys, the CA Attorneys, can help them out here?

According to Fed. R. Bankr. P. 3008, "[a] party in interest can move for reconsideration of an order allowing or disallowing a claim against the estate. The court after a hearing on notice shall enter an appropriate order." Reconsideration is discretionary with the court. The notes to the rules indicate that a request for reconsideration of the disallowance of a claim would "ordinarily come from the claimant." The claimant is Center Capital, and I suppose they could have hired an attorney and paid that attorney from their own funds, then moved for reconsideration of their disallowed claim. Once the order became final, then Center Capital could have sought reconsideration of the decision. In such a case, Center Capital would have the burden of establishing that a clear error of fact or law or a manifest injustice must be corrected, or that newly discovered evidence was discovered.

However, in this case, the CA Attorneys removed this burden from Argo, via removing this burden from Center Capital, submitting a stipulation in the matter as between the CA Attorneys, Argo, and the Official Committee of Unsecured Creditors (the CA Attorneys made no demand for a hearing, in fact, they stated "no hearing required"). [Exhibit K at 1:16](#). It would seem here that the objective discretion of the Court in these matters and Center Capital or Argo's burden as a moving party to a motion for reconsideration has been usurped by the CA Attorneys own egoistic discretion in filing the Stipulation with the Court. We are reminded that there were and remain alternatives by which Center Capital could, and in fact is so obligated, to help Argo in this matter.

Argo clearly appears to have executed a valid Assignment of Claim with Center Capital. [Exhibit FF at 49](#). I presume that provides Argo with rights under contract law as against Center Capital. For example, under the Assignment of Claim, Center Capital "represents and warrants that the amount of the claim is not less than \$44,904.76". It would appear that Center Capital breached this warranty when filing a proof of claim for \$39,668.22 that it sold to Argo for \$44,904.76. Furthermore, there is a provision in the Assignment of Claim whereby Center Capital "agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part." Since the Center claim was disallowed in whole, they, and not the CA Attorneys on behalf of the debtor, are obligated to make immediate proportional restitution to Argo.

Similarly, under the same Assignment of Claim, Center Capital “agrees to forward to Assignee all notices received from Debtor, the Court, or any third party with respect to the Claim assigned herein”. As discussed earlier, in the absence of a properly filed Notice of Transfer of Claim, Argo has no rights to the Center claim and is not record owner of the claim under bankruptcy law. To be clear, the Court was not obligated to serve Argo with Notice. On the other hand, Center Capitol certainly was obligated to forward to Argo the Notice it had received. Argo again perhaps has rights under contract law as against Center Capitol, but not as against the debtor Aural, even with the CA Attorneys help.

Still, what about Argo’s rights to the claim it purchased from Center Capital? Is there no way that their attorneys, the CA Attorneys, can help them out here? Yes...

CA Attorney’s deft artifice is reflected in the Stipulation.

Now that I have fully explained the circumstances leading up to the Stipulation, we can closely examine the Stipulation and identify multiple factual omissions in that Stipulation, as submitted by the CA Attorneys. These omissions would necessarily have misled the Court (and perhaps Aural) in this matter. The Stipulation reads more like a brief by creditor Argo’s attorney, the CA Attorneys, than as a negotiated agreement made by debtor Aural’s attorney, the CA Attorneys.

5.6.1 The CA Attorneys Omit relevant information about the genesis of the Center Claim.

In the Stipulation, the CA Attorneys state that the Center claim “apparently” is for payments due from another bankruptcy case. [Exhibit K at 2:10](#). They further state that the other bankruptcy case “appears” to be based on a lease agreement. [Exhibit K at 2:24](#). The impression left with the reading of the Stipulation is that the Center claim is about a lease. That characterization would serve to simplify the question of the validity of the claim, as far as Argo’s interests are concerned. It would be easy to consider the Center claim a simple item to be readily disposed of by the Court, according to the CA Attorney’s wishes. It does not, however, reflect the basis stated in the Center claim as filed.

It is more candid to say that the Center claim is based on two separate liabilities as enumerated in the proof of claim filed by Center Capitol. These two liabilities are: 1) Lease Agreement, and 2) Plan of Reorganization with Media Vision. [Exhibit K at 8](#). The CA Attorneys objected to the Center claim, in part, because there was insufficient evidence provided with the proof of claim, as required by the Federal Rules of Bankruptcy Procedure. [Exhibit L at 14](#). The claim must be proved by a preponderance of the evidence.

In submitting the Stipulation, we ask “what additional evidence is presented by CA Attorneys in support of their desire to reverse the prior Court Order sustaining the objection to the Center claim”? Why was the absence of evidence not properly identified by the CA Attorneys and addressed in the Stipulation? What advantage came to debtor Aureal’s estate when their attorneys, the CA Attorneys, did not require further evidence that would substantiate the Center claim?

5.6.2 The CA Attorneys omit relevant information about the absence of any writings in support of the Center claim, nor about the weakness of the evidence submitted.

Conspicuously absent from the Stipulation and the original Proof of Claim is certain relevant evidence that could be used to support a finding that the Center claim was a valid claim. No written Lease Agreement, nor a statement of the circumstances of the loss or destruction of that document exists in the Stipulation or original Proof of Claim. No written Plan of Reorganization with Media Vision, nor a statement of the circumstances of the loss or destruction of that document exists in the Stipulation or original Proof of Claim. There are no declarations in fact from any individual with direct knowledge of the contents of either the Lease Agreement or the Plan of Reorganization. Rather, they proffer a declaration (the “Accounting Declaration”) by Gerrie K. Sargent, a Senior Accounting Manager of Aureal, and an amortization schedule he maintained. [Exhibit O](#). There are enumerable issues with the proffered evidence.

In the Accounting Declaration, Gerrie K. Sargent states that he has no “personal knowledge of the actual terms of the Agreement”. [Exhibit O at 2:4](#). Mr. Sargent also has no personal knowledge of the Center claim or the proper basis of that claim. Rather, he was “informed”, by an unspecified person (perhaps the CA Attorneys?), that the Center claim relates solely to the Plan of Reorganization with Media Vision (the “Plan”). [Exhibit O at 1:27](#). The personal knowledge Gerrie K. Sargent asserts in the capacity of an accountant is immeasurably specific and narrow: he knows that he personally made payments to Center Capitol based on an amortization schedule. [Exhibit O at 2:5](#). He provides a copy of this schedule. [Exhibit O at 3](#). Mr. Sargent then deduces that these payments, made according to an amortization schedule (the “Amortization Schedule”) that he maintained, must have been those same payments due under the Plan – the same Plan that he was informed of by an unnamed person or attorney. As you can see, much of Mr. Sargent’s declaration relies on heresay and speculation. These are not the sole issues in regards to the Amortization Schedule.

The Amortization Schedule that is speculated to represent payments due under the Plan suggests itself that it represents more than one liability. [Exhibit O at 3](#). However, the CA Attorneys characterize the Center claim as “originating from a lease agreement between Center and MV” (emphasis added). [Exhibit K at 2:24](#).

In the upper right side on the first page of the exhibit, we see two liabilities identified as “CENTER S/T 01-0400-2707” and “CENTER L/T 01-0400-2907”. These

two separate liabilities may certainly correspond with the two separate basis listed on the Proof of Claim filed by Center Capital, namely (1) a Lease Agreement and (2) a Plan of Reorganization with Media Vision. [Exhibit K at 8](#). Indeed, if you add two figures under each of these liabilities on any row of the Amortization Schedule, you will see that their sum is equal to the “PRIN BALANCE” column, apparently representing the combined principle balance of the two separate liabilities. This fact raises an important question as to whether one of these liabilities was, as the Proof of Claim filed by Center Capital suggests, for a current lease obligation³³ and how the terms in the corresponding writings affect these liabilities. What about the accounting of these liabilities?

If the Amortization Schedule reflected a debt owed by Aural, why was it not reflected in the debtor’s accounting system? As Mr. Sargent states in his declaration, “the Debtor only booked monthly installments of the MV Liability as they accrued on a monthly basis”. How is it that the accounting system would not reflect the total debt owed? How did Aural account for this debt on its balance sheet as a long term liability? How is it that the Amortization Schedule does not have on it a title or description reflecting just what this debt on the Amortization Schedule actually represents? The only information Mr. Sargent has received appears to have come from the CA Attorneys. The answer to some of these questions may lie in a closer look at the form the Amortization Schedule takes.

The Amortization Schedule is partially obscured and appears to be a composite image. The figures representing the TOTALS line suggests it has been manually pasted into that position. [Exhibit O at 4](#). The two columns representing the two separate liabilities suggests too that those columns have been manually pasted into that position. The latter apparent alteration of the Amortization Schedule further obscures the title of this paper. [Exhibit O at 3](#). Why was a composite page created and who created it? Is that artifice all that remains of any writings or agreements that evidence the underlying liabilities?

Each of these issues is relevant to the determination of validity of the Center claim – a claim which had been disallowed in a final order of the Court. Why were none of these issues properly identified by the CA Attorneys and addressed in the Stipulation? What advantage came to debtor Aural’s estate when their attorneys, the CA Attorneys, did not to ask and receive answers to these questions?

³³The answer to this question would be outcome determinative in regards to the disposition of the Center claim. If the second and or first liability represented a current lease, and debtor Aural took no action to assume or reject the lease, then under bankruptcy law the lease is automatically rejected, and the leased premises must be immediately surrendered to the landlord. Once the lease is rejected, the landlord will have an administrative expense claim for any rent unpaid for the post petition period up to the date of surrender of the premises. The remaining claim is treated as an unsecured claim limited to the rent due under the lease, without acceleration

5.6.3 The CA Attorneys omit relevant information about the failed transfer of claim from Center Capital to Argo.

The CA Attorneys identify the discrepancy between the amount of the claim identified in Center Capitols proof of claim (\$39,668.22) and the amount of the claim identified Argo’s Notice and Assignment (\$44,904.76). However, the CA Attorneys do so in a way that suggests this is the only aspect of the attempted transfer of the Center claim that is incorrect (i.e. “is incorrect inasmuch” [Exhibit K at 2:26](#)).

Another aspect of the attempted transfer of the Center claim that is incorrect, but that is not directly identified in the Stipulation, is the fact that Argo attempted to use a method of claims transfer reserved exclusively for those transfers that are made *before* a proof of claim has been filed. [Exhibit K at 2:16](#). However, Center Capitol had already filed a proof of claim. As the CA Attorneys indicate, the Center Capitol proof of claim supercedes any claim for \$44,904.76. [Exhibit K at 2:27](#). What they do not indicate to the Court is that Argo’s attempted transfer therefore failed, not solely because the amount of the claim differed from the amount of Center Capitols proof of claim, but also because Argo failed to properly adhere to the requirements for transferring a claim, and because the claim they were attempting to transfer no longer existed in accordance with the debtors books and records as well as the claims register. The Stipulation as written would mislead one as to the rights of Argo and Center with respect to the Center claim.

Each of these issues is relevant to the determination of validity of Argo’s interest in the Center claim, with respect to *the bankruptcy proceedings*. Why were none of these issues properly identified by the CA Attorneys and addressed in the Stipulation? What advantage came to debtor Aural’s estate when their attorneys, the CA Attorneys, did not identify and properly address these issues?

5.6.4 The CA Attorneys omit relevant information about the impetus for and extent of the further review of the Center claim.

One question that arises from the Stipulation jumps out of the section of the Stipulation that attempts to create a basis of evidence proving the validity of the Center claim. The section begins, “[u]pon further review of the Center claim”. [Exhibit K at 3:7](#). Who asked for this review of a disallowed claim? What was the extent of discovery? What factors entered into the decision by debtor to grant Argo these funds when it legally was not required to do so?

Later in the section, the CA Attorneys note “a review of the Declaration of Service for the Objection reveals that the Debtor notified Center, but not Argo, with notice of the Objection.” The Stipulation is clearly focused on righting a perceived wrong to Argo. Where is the declaration from Argo swearing that it was entitled to receive notice but did not receive it and was not aware of the objection? As to what might Argo have known about the Center claim and why might the CA Attorneys want to

help them out here, please see the next which details the numerous communications between Argo and the CA Attorneys around each critical event in this matter.

As has been discussed, it is Center Capital that is in the position to request for reconsideration here, not Argo. The Stipulation is a creative way in which to shoe-horn a reversal of the Court's prior decision to disallow the Center claim in its entirety.

5.6.5 The CA Attorneys omit relevant information regarding the proper record holder of the Center claim thereby implying that the debtor Aureal was legally bound to serve notice of the Objection of the Center claim to Argo and thus now Aureal owes some legal or altruistic duty to Argo in order to help them out.

The CA Attorneys state that “the Debtor served Center, but not Argo, with notice of the Objection”. [Exhibit K at 3:12](#). The next sentence makes the case that “[i]n order to prevent Argo from being required to seek reconsideration of the Order with respect to the disallowance of the Center Claim, the Debtor and the Committee are willing to [ask the court to reverse it's prior Order]”. Well, if Argo was entitled to notice as is suggested then it certainly seems reasonable that the Court do something to help Argo out. However, that artifice is not reality.

In reality, the due process clause of the Fifth Amendment of the United States Constitution requires that known creditors, like Center, receive actual notice of the Objection in order to oppose the Objection and safeguard their rights. Argo was not a known creditor. They did not affect a transfer for the reasons previously discussed; there were not on the claims register, they did not exist as far as this claim was concerned. Argo was not harmed by the bankruptcy process such that the Court, the debtors attorneys, the CA Attorneys, or the Committee for that matter whereby any one of them were legally required to artificially construct Argo as record holder of the Center claim, to accept without question the validity of the Center claim, let alone to reverse the Court's final order in regards to the Center claim in a manner wholly outside of the proscribed method for carrying out such an action pursuant to Fed. R. Bankr. P. 3008.

Why would the debtor's attorneys, the CA Attorneys, frame the facts in such a way as to paint the situation in the best light for Argo? Perhaps out of loyalty to their client. A closer examination of the communications between the CA Attorneys and Argo demonstrates that Argo knew all about the Center claim.

CA Attorney's communications with Argo.

The communications between the CA Attorneys and Argo regarding Argo claims are well document in the Additional Evidence, and may also be viewed in the attached chronological diagram labeled [Exhibit P](#). The communications we refer to begin about 1 week following Argos' purchase of the Center claim on October 3, 2005 when CA

Attorney Sidney Levinson conducted a telephone conference with Argo regarding the claims that Argo had purchased in the Aureal case. [Exhibit C at 6,10](#). Indeed, Argo had just purchased the Center claim one week earlier. A week following this telephone conference, CA Attorney Sid Levinson conducted another telephone conference wherein the transferred claims of Argo were discussed. [Exhibit C at 7,11](#). So by way of review we have Argo purchasing the Center claim and discussing their claims a number of times with CA Attorney Sid Levinson.

On the day following CA Attorney Sid Levinson's October 10, 2000 communication with Argo about their claims, Argo retained H&B to represent them in another case.

Two days after Argo retained H&B to represent them in another case, CA Attorney Sid Levinson had another telephone conference with Argo regarding creditor inquiries. On Friday, December 1, 2000, CA Attorney Joshua Morse conducted a telephone conference with Argo regarding Argo's claims. [Exhibit C at 15](#). The next Tuesday, December 5, 2000, CA Attorney Sidney Levinson had yet another telephone conference concerning status in the case. [Exhibit C at 15](#). CA Attorney Sidney Levinson signed the First Omnibus Objection (the "Objection") in the Aureal case on the next day, December 6, 2000. What is significant about this document, who signed it, and the date it was signed?

The significant aspect of the Objection is that it contained an objection to Argo's Center claim. [Exhibit L at 14](#). Specifically, Aureal, via their counsel, the CA Attorneys, wanted the Center claim expunged from the claims register. The reasons the CA Attorneys filed this objection to Aureal's Center claim were two-fold: 1) there was insufficient evidence provided with the proof of claim, and 2) the amount of the claim exceeded the amounts listed on the Debtors' books and records. In affect, this objection would leave the Argo's Center claim disallowed in its' entirety.

The significant aspect of who signed the Objection is that it was CA Attorney Sidney Levinson. CA Attorney Sidney Levinson had no less than 4 telephone conferences with Argo since Argo purchased the Center claim. The significant aspect about the date it was signed is that it was signed the day following a status telephone conference between CA Attorney Sidney Levinson and Argo. What significant status would have been discussed? It must have included everything from a discussion of the imminent Objection to a detailed identification of any Argo claims that may be included among the claims in the Objection.

The relevant fact is that none of these communications were disclosed in a written form to the CA Attorney's other client, debtor Aureal.

5.6.6 The CA Attorneys omit relevant information about their prior knowledge, and Argo's prior knowledge, that Argo was not in fact the record holder of the Center claim.

Argo purchased a number of claims held by various creditors of the debtor Aureal during the case. Specifically, Argo purchased 19 such claims. [Exhibit FF](#). The Center claim was the third such claim for which Argo filed a Notice of Transfer. For the reasons previously stated in [section 5.6](#), Argo failed to effect a change in record ownership for this claim, as far as the bankruptcy case was concerned. Was there an epiphany late in the case as to Argo and the Center claim?

It was not until April 29, 2002, after having represented Argo as an adverse client in two matters, that the CA Attorneys filed the Stipulation as described in [section 5.6](#). However, it would appear that both Argo and the CA Attorneys were well aware of the record ownership of the Center claim, and the claims disposition, at least as early as the date the CA Attorneys filed their First Supplemental Declaration. This information was concealed from the Court in the Stipulation. The following facts detail what must have been know by Argo and the CA Attorneys and when.

The Notice of Transfer of the Center claim was filed on September 27, 2000. [Exhibit FF at 48](#). The last Notice of Transfer for any claim owned by Argo was filed on November 27, 2000. [Exhibit FF at 58](#). It was not until June 7, 2001 that the CA Attorney Sidney P. Levinson filed the First Supplemental Declaration. By that date, all known Argo claims had been transferred. This was approximately 6 months after CA Attorney Sidney P. Levinson had signed the debtors First Omnibus Objection which included the objection to the Center claim. [Exhibit P at 4](#). In his First Supplemental Declaration, CA Attorney Sidney P. Levinson states that "HBD is informed and believes that Argo currently holds 18 claims". In his Second Supplemental Declaration, he makes this statement again. [Exhibit E at 2:15](#).

The number of claims stated in both Declarations is 1 less than the total number Argo had transferred in the case. We provide Additional Evidence that shows Attorney Matthew A. Gold for Argo was served notice of the First and Second Supplemental Declarations. These facts make clear that both Argo and the CA Attorneys knew Argo was not the record holder of the Center claim almost a year before the CA Attorneys filed the Stipulation. It appears that following two separate engagements as Argo's law firm, the CA Attorneys felt they should help them out here.

5.7 The CA Attorneys Failed to Seek Renewed Informed written Consent Prior to Pursuing a Stipulated Agreement Between Argo, CA Attorneys, and Creditor Committee.

The facts detailed in [section 5.6](#) demonstrate a clear matter in which the interests of Areal and Argo were actually adverse. The actions of the CA Attorneys in support of their client in that matter were extraordinary. The CA Attorneys recent relationship with Argo most certainly affected the CA Attorney's representation of Areal. According to CRPC 3-310(B)(2), where an attorney knows or reasonably should know that professional relationship with Argo would substantially affect the attorneys representation of the existing client, the attorney must provide written disclosure to the client.

5.8 The CA Attorneys Misled the Judge By Artifice, False Statement, and Concealment of Material Facts Concerning the First Conflicted Representation, the Second Conflicted Representation, and the Stipulation.

The Additional Evidence exemplifies instances where the CA Attorneys violated CRPC 5-200(B) which provides that a lawyer "[s]hall not seek to mislead the judge, judicial officer, or jury by an artifice or false statement of fact or law," and the State Bar Act § 6068(d) requirement that lawyers employ "such means only as are consistent with the truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law." An important consideration for the review of the complaints in this section is that California jurisprudence has extended the prohibition on false statements of fact to prohibit the concealment of material facts.

As the court in In the Matter of Jeffers put it "[i]t is settled that concealment of material facts is just as misleading as explicit false statements, and accordingly, is misconduct calling for discipline."³⁴

This section will detail five allegations of misconduct related to the concealment of material facts from the Court after first introducing the likely motivation behind the CA Attorneys misconduct.

5.8.1 The CA Attorneys faced revocation of their employment and disgorgement of all fees.

Debtor Aural and creditor Argo held inherently adverse interests during the Aural case. Therefore, there is always the potential that at any time the CA Attorneys would no longer remain disinterested with respect to Aural as they represented both parties. As discussed in [section 5.2](#) and the [original complaint](#), full disclosure by professionals provides interested parties with the information needed to determine if an objection to continued employment should be made. If such an event occurred, then §327 of the Bankruptcy Code would require that the Court disqualify the CA Attorneys as counsel for Aural, if there was an actual conflict of interest between Aural and Argo.

Due to the circumstances described in [section 5.6](#), there was arguably an actual conflict of interest throughout most of the Aural case as illustrated by the chronologies of Exhibits [P](#), [J](#), and [X](#) and described in the original complaint and this Request. Based

³⁴ (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211, 220 (*quoting* Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 162, 162 Cal.Rptr. 458, 606 P.2d 765). Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 162 Cal.Rptr. 458, 606 P.2d 765 (when lawyer sought reduction of bail from bail commissioner, lawyer's failure to disclose fact that the lawyer had previously made two other bail reduction motions that day which were denied constituted failure to disclose material facts in violation of B&PC § 6068(d) and former CRPC 7-105 (1975)).

on the number and timing of communications between Argo and the CA Attorneys as described in [section 5.11](#), it is possible that the CA Attorneys had prior knowledge that future representation of Argo may become actually adverse.

If the CA Attorneys were disqualified as debtor's counsel during the Aural case, they likely would have to disgorge all fees they earned as happened in the case of debtor Aureals' financial advisor PWC and described in [section 5.9](#). The risks to professionals who do not remain disinterested are engaged in misconduct are severe. This penalty is certain motivation for professionals to maintain the façade, if not the authenticity, of disinterestedness.

5.8.2 The CA Attorneys deliberately omitted the name of the attorney who provided services for the Second Conflicted Representation in the Second Supplemental Declaration.

In the context of the legal requirements of, and financial risk to, the CA Attorneys as described in [section 5.8.1](#), CA Attorney Sidney P. Levinson filed the First Supplemental Declaration following the First Conflicted Representation. In this declaration, CA Attorney Levinson pointed to ethical walls between the professionals at H&B that were servicing each of the conflicted clients. [Exhibit D at 3:25-4:2](#).

According to CA Attorney Levinson "None of the HBD attorneys principally responsible for representing the Debtor in this bankruptcy case were involved in HBD's representation of Argo." This statement serves to assuage fears that the concurrent adverse representation may cause the CA Attorneys to become disinterested. More specifically, CA Attorney Levinson states "Nearly all of the work for Argo was performed by James O. Johnston, who has performed *only minimal services* for the Debtor in this bankruptcy case." (emphasis in the original). By these statements, CA Attorney Levinson demonstrates his understanding of the importance that the interested parties would place on the material fact that the CA Attorneys had ethical walls between them³⁵.

Indeed, CA Attorney Levinson counseled their client Aural in matters pertaining to so-called "ethical walls". [Exhibit U at 3:4-15](#). In that matter, he understood that a dual engagement would require that "personnel performing services for the Debtor would not perform services for [the conflicted client], either directly, or indirectly, with regard to matters involving the Debtor."

However, in an issue in the Aural case described in [section 5.9](#) where concurrent representation of the debtor and another creditor would represent an actual conflict of interest, the Court stated it agreed with precedent that creating an "ethical wall" would not solve the problem. [Exhibit HH at 6:22](#). The Court states that "the difficulty of

³⁵ The CA Attorneys demonstrate experience negotiating such walls in their work with PWC. [Exhibit U at 3:7](#).

ensuring that such protective measures are effective is greater when the dual employment is concurrent than when it is successive. For this reason, the Court agrees with case law that an “ethical wall” may resolve a conflict in the latter instance but not in the former.” [Exhibit HH at 7:20](#). *In re Trust America Services Corporation*, 175 B.R. 413, 421 (Bankr.M.D. Fla 1994 (“[t]he ‘chinese wall’ is generally not an acceptable means of conflict avoidance where the same professional organization actively represents two adverse interests”). As we see next, even as the CA Attorneys were attempting to certify their adverse representation through the “ethical wall”, the wall was coming down in the Second Supplemental Declaration.

In the context of the legal requirements of, and financial risk to, the CA Attorneys as described in [section 5.8.1](#), CA Attorney Sidney P. Levinson filed the Second Supplemental Declaration following the Second Conflicted Representation. In this declaration, CA Attorney Levinson omitted relevant information. The information concerned which CA Attorney was performing legal services for Argo. This CA Attorney happened to be the same CA Attorney working for Argo against the debtor Aureals interests ([section 5.6](#)). It is an important fact because it would have been used by the Court, the United States Trustee, a creditor in the Areal case, or any other interested party to determine whether or not the CA Attorneys remained disinterested in the Areal case. However, due to the CA Attorneys purposeful actions, the information was concealed and these parties were deprived of the opportunity to act on that information.

The name of the CA Attorney who performed the services in the Second Conflicted Representation was CA Attorney Sidney P. Levinson. This partner of H&B was the lead attorney in the Areal case³⁶. CA Attorney Sidney P. Levinson’s conversations, activities, and discussions related to Argo in the Second Conflicted Representation are depicted in the chronology of [Exhibit P](#) discussed in [section 5.6](#), while more general contacts are displayed in [Exhibit J](#).

Anytime the CA Attorneys claimed that they “fully disclosed” their conflicted representation with Argo, they were misleading the court, as is clearly noted in this section: CA Attorney Sidney P. Levinson concealed his identity as the lead counsel on the Second Conflicted Representation.

5.8.2.1 The CA Attorneys held an interest adverse to Areal, were not disinterested, and were, therefore, not qualified to represent Areal.

Lead CA Attorney Sidney P. Levinson, misled the Court when he concealed his identity and role as the lead attorney who also later assisted Argo against Areal in efforts to reverse the Court’s final order rejecting Argo’s claim as described in [section 5.6](#). In so doing, the CA Attorney represented an interest adverse to the estate, was not

³⁶ The Court noted another omission in a paper submitted by CA Attorney Sidney P. Levinson. This is discussed in section 5.9.

disinterested, and was, therefore, not qualified to represent the debtor in this case³⁷. *US Trustee v. Price Waterhouse*, 19 F.3d 138 (3rd Cir. 1994)(a debtor in possession cannot employ accountants or other professionals who are not disinterested); *In re Envirodyne Industries, Inc.*, 150 B.R. 1008 (Bankr. N.D. Ill.1993)(to represent an adverse interest means to serve as an agent for an entity holding an adverse interest).

5.8.3 The CA Attorneys deliberately omitted from the Second Supplemental Declaration the date that the Second Conflicted Representation Began While Employing Subtle but Base Deception Regarding this Date.

In the context of the legal requirements of, and financial risk to, the CA Attorneys as described in [section 5.8.1](#), CA Attorney Sidney P. Levinson filed the First Supplemental Declaration following the First Conflicted Representation. In this declaration, CA Attorney Levinson stated that the CA Attorneys would “continue to monitor [their] engagements and connections and will make additional supplemental disclosures as necessary.” [Exhibit D at 4:5-7](#).

According to CA Attorney Levinson, the First Conflicted Representation concluded in February 2001 and “the Debtor does not currently represent Argo in any matters.”³⁸ This statement serves to assuage fears that the concurrent adverse representation might be continuing, and therefore may cause the CA Attorneys to become disinterested in the future. By these statements, CA Attorney Levinson demonstrates his understanding of the importance that the interested parties would place on the material fact that the CA Attorneys were not currently representing Argo.

In the context of the legal requirements of, and financial risk to, the CA Attorneys as described in [section 5.8.1](#), CA Attorney Sidney P. Levinson filed the Second Supplemental Declaration following the Second Conflicted Representation. In this declaration, CA Attorney Levinson omitted relevant information. The information concerned the date on which Argo retained the CA Attorneys for the Second Conflicted Representation. It is an important fact because it would have been used by the Court, the United States Trustee, a creditor in the Aureal case, or any other interested party to determine whether or not the CA Attorneys remained disinterested in the Aureal case and whether or not the CA Attorneys were candid and truthful regarding this and other declarations. However, due to the CA Attorneys actions, the information was concealed and these parties were deprived of the opportunity to act on that information.

³⁷ The adverse interest and disinterested person limitations set forth in 11 U.S.C. §327(a) can not be waived. *In re S.S. Retail Stores*, 211 B.R. 699 (Bankr. 9th Cir. 1997); *In re Envirodyne Industries, Inc.* 150 B.R. at 1016.

³⁸ The CA Attorney Sidney P. Levinson likely meant to state that “HBD does not currently represent Argo in any matters”. However, this slip of the keyboard reflects how the subconscious mind of the CA Attorneys recognized the adverse nature of the representation.

CA Attorney Sidney P. Levinson states that Argo retained the CA Attorneys “[s]ubsequent to the filing of the Argo Supplemental Declaration”. [Exhibit E at 2:26](#). CA Attorney Levinson then states that the hearing in the Second Conflicted Representation occurred on September 25, 2001. [Exhibit E at 3:3](#). The Second Supplemental Declaration was filed on October 24, 2001. These dates indicate that the filing of the disclosure related to the Second Conflicted Representation commenced took place only 29 days following that representation. This misleading impression was incorrect.

In fact, the earliest date located so far indicates that the filing of the disclosure related to the Second Conflicted Representation took place at least 78 days after the Second Conflicted Representation commenced. This fact is demonstrated by a continuance filed by CA Attorney Sidney Levinson in the Second Conflicted Representation on August 7, 2001. [Exhibit H at 2](#). It is still unknown at this time when this adverse representation actually began. What is known is that this delay was at least over 2.5 times as long as the impression created by CA Attorney Sidney P. Levinson. In other words, at least fewer than 2 months following the promise made by Attorney P. Levinson to “monitor [their] engagements and connections and will make additional supplemental disclosures as necessary”, the CA Attorneys were again engaged by a client with adverse interests. When the CA Attorneys decided to final submit a declaration disclosing the adverse representation more than 78 days later, the representation had already concluded.

These facts reflect that the CA Attorneys were less than candid with the Court and the probable motivation; to purposefully avoid the disclosure of concurrent adverse representations and protect over \$1Million in professional fees. The facts show that the CA Attorneys deprived the Court and other interested parties from fulfilling their role in the employment process. This omission is similar to the circumstances described in [section 5.9](#) wherein the Court found that a 29 day delay in filing a disclosure in an employment application was purposely intended to take advantage of that delay.

Anytime the CA Attorneys claimed that they “fully disclosed” their conflicted representation with Argo, they were misleading the court, as is clearly noted in this section: CA Attorney Sidney P. Levinson concealed the date this representation began in the Second Conflicted Representation.

5.8.4 The CA Attorneys deliberately omitted from both Supplemental Declarations the similarities among the issues in the adverse representation and the issues in the Aureal case.

In the context of the legal requirements of, and financial risk to, the CA Attorneys as described in [section 5.8.1](#), CA Attorney Sidney P. Levinson filed the First Supplemental Declaration following the First Conflicted Representation. In this declaration, CA Attorney Levinson stated that he believed “the controversies for which HBD represents Argo [...] are entirely unrelated to any of the claims held by Argo

against the Debtor.” [Exhibit D at 3:14](#). A similar statement is made in the Second Supplemental Declaration following the Second Conflicted Representation. [Exhibit E at 3:14](#).

These two statements serve to assuage fears that the concurrent adverse representation might affect the CA Attorneys representation of Aureal, or that the CA Attorneys might be influenced in a way that would render them no longer disinterested in their representation of Aureal against Argo. By these statements, CA Attorney Levinson demonstrates his understanding of the importance that the interested parties would place on the material fact that the controversies for which they represent Argo are unrelated to any of the claims held by Argo against Aureal.

Contrary to the CA Attorney’s statements, the controversies for which they represented Argo were related to claims held by Argo against the debtor Aureal. Most generally, claims trading is claims trading, wherever it is practiced. Argo was a substantial claims trader, one of the most active in the Aureal case with 18 claims in the aggregate dollar amount of \$270,906.91 (not including the Center claim). There are numerous common trade claims issues that could be litigated such as whether a transferred claim was asserted by more than one transferee or transferred properly. This latter issue is one example that happened to be an issue in the Center claim against Aureal that Argo attempted to transfer and in the claims Argo held subject to the First Conflicted Representation.

As previously discussed, Argo did not effectuate a transfer of the Center claim as it intended. Yet the CA Attorneys extended extraordinary efforts in crafting a Stipulation that would result in a benefit to Argo and detriment to the Aureal estate. Part of the CA Attorneys work in the First Conflicted Representation was to argue the effectiveness of the transfer of claims that Argo filed in that case. The CA Attorney James O. Johnston argued “**when the requirements of Rule 3001(e) have been followed, as they indisputably were by Argo in this case, and where an assigning creditor does not object to the assignment of its claim, as none have in this case, the matter is at an end.**” (bold and underlined in the original). [Section 5.6](#) describes how Rule 3001 was applied by the CA Attorneys to the Argo claim against Aureal’s interest in this case. These demonstrate similar issues between the claims of Argo in the First Conflicted Representation and the claims of Argo against the adverse client Aureal.

This is an important fact because it would have been used by the Court, the United States Trustee, a creditor in the Aureal case, or any other interested party to determine whether or not the CA Attorneys would remain disinterested in the Aureal case after representing Argo in the First and Second Conflicted Representations. However, due to the CA Attorneys actions, the information was concealed and these parties were deprived of the opportunity to act on that information.

5.8.5 The CA Attorneys misled the Court when it promised to promptly file additional declarations when learning of potentially conflicting representation.

CA Attorney James O. Johnston, a partner of the H&B law firm, promised the Court in his declaration in support of the debtor’s application for their employment, dated April 4, 2000, that “[i]f at any subsequent time during the course of this proceeding, H&B learns of any representation that may give rise to a conflict, an amended Declaration identifying and specifying such potential conflict will be filed promptly with the Court and the Office of the United States Trustee.” [Exhibit GG at 3:23](#). CA Attorney Johnston’s statement serves to assuage fears that future concurrent adverse representations might affect the CA Attorneys representation of Aureal, or that the CA Attorneys might be influenced in a way that would render them no longer disinterested in their representation of Aureal against the conflicted party. This fear would not be unfounded, as the CA Attorneys required their client Aureal to waive potential future conflicts as a part of the retainer agreement. [Exhibit A at 12](#). By this promise, CA Attorney Johnston demonstrates his understanding of the importance that the interested parties would place on the material fact that they would be notified promptly before taking on clients with potential or actual adverse interests.

In the case of Argo and PWC, the CA Attorneys neglected to ever seek prior permission from the Court before to representing these parties. With respect to Argo, the CA Attorneys waited until the employment concluded before submitting the promised “prompt” disclosure to the Court. With respect to PWC, the CA Attorneys waited almost 4 months, and the disclosure was imbedded in a declaration that was serving a different purpose than that of fulfilling the promise made to the Court by CA Attorney Johnston. Due to the CA Attorneys actions, these parties were deprived of the opportunity to act on the respective adverse representation information.

On each occasion when the CA Attorneys filed a Fee Application with the Court for payment of fees earned and expenses incurred in the Aureal case, they made a continued representation that they remained disinterested in the case and did not hold or maintain an interest adverse to the estate. During the period of concurrent representation of Argo and Aureal with adverse interests, the CA Attorneys misled the Court each time it filed a Fee Application as follows:

PERIOD OF ADVERSE REPRESENTATION	DATE OF FEE APPLICATION WHERE 327(A) DISINTERESTEDNESS STATEMENT REAFFIRMED
Oct 11, 2000 – Feb 2001 Exhibit J	12/1/2000 Exhibit II at 4:19
Oct 11, 2000 – Feb 2001 Exhibit J	12/27/00 Exhibit II at 5:1
Oct 11, 2000 – Feb 2001 Exhibit J	2/14/2001 Exhibit II at 4:22
Oct 11, 2000 – Feb 2001 Exhibit J	2/15/2001 Exhibit II at 5:4
Oct 11, 2000 – Feb 2001 Exhibit J	2/16/2001 Exhibit II at 5:11

Jun 8, 2001 – Sep 25, 2001 Exhibit J	6/28/2001 Exhibit II at 5:25
Jun 8, 2001 – Sep 25, 2001 Exhibit J	7/6/2001 Exhibit II at 6:4
Jun 8, 2001 – Sep 25, 2001 Exhibit J	8/6/2001 Exhibit II at 6:11

The failure to inform the Court has previously been ruled misconduct in CA. A lawyer failed to inform the court of two continuance requests by opposing counsel (the second request was on the day of the proceeding and a result of transportation problems). When opposing counsel failed to appear, the respondent-lawyer obtained a default. The lawyer in the disciplinary proceeding was held culpable for willful concealment of material information coupled with the intent to mislead a judicial officer. *Grove v. State Bar* (1965) 63 Cal.2d 312, 46 Cal.Rptr. 513, 405 P.2d 553. The First and Second Supplemental Declarations similarly failed to inform the Court as they were filed after representation concluded. The Court and other Interested Parties were therefore deprived of their role in the employment process. Similarly, the CA Attorneys should be held culpable for willful concealment of material information couple with the intent to mislead a judicial officer.

5.9 The CA Attorneys Misled the Judge By Artifice and/or False Statement Concerning the Employment of PriceWaterhouseCooper LLC in the Aural Case.

The misconduct detailed in this section arises out of events surrounding the employment of PriceWaterhouseCooper LLC (“PWC”) as accountants and financial advisors to the debtor Aural. In this matter of misconduct, the Additional Evidence includes clear findings of misconduct by the CA Attorneys as made by the Court in Memorandum of Decisions. The relevant facts and events are depicted graphically in [Exhibit X](#). The recitation of facts begins with an introduction to one of PWC’s clients.

PWC’s Adverse Representation of Creative Technology, Ltd.

Prior to the Aural bankruptcy filing, PWC had a client known as Creative Technology, Ltd. This company engaged PWC for their audit and tax services. [Exhibit V at 5:8](#). PWC was further engaged as technical consulting experts for Creative in a lawsuit between Creative and Aural. [Exhibit V at 5:10](#). In fact, there were no less than three separate cases pending as between Create an Aural. [Exhibit Y at 9:14](#). Before Aural filed for bankruptcy, Creative hired PWC to perform a due diligence on Aural in anticipation of a possible pre-bankruptcy acquisition of Aural’s assets. [Exhibit W at 2:14](#). As you can see, PWC was representing Creative in adverse litigation against Aural and in advising them as a buyer of Aural assets. This clear conflict was partly the impetus for the Trustee to object to the employment application of PWC in this case. [Exhibit Z](#). Creative objected to the employment for those reasons as well. [Exhibit AA](#). The debtor and the CA Attorneys, however, desired that PWC be employed, regardless of the serious conflict.

It is perhaps not too surprising that Aural would want to employ the professional PWC who was concurrently representing its adversary when you also consider that PWC was representing the largest secured creditor in the case, Oaktree. [Exhibit V at 4:27](#). Oaktree was the subject of our earlier 3-310 complaint against the CA Attorneys involving Lender Issues, [Exhibit R at 7](#). Recall too that the CA Attorneys were representing Oaktree during the pendent Aural case. [Exhibit R at 5](#). The last remaining member of the Aural board of directors was a principal at Oaktree. [Exhibit V at 4:27](#). It was this so-called Aural “board of directors” and the CA Attorneys who hired PWC. [Exhibit BB at 3:21](#).

Perhaps this does not surprise every professional engaged in the bankruptcy system and there may not necessarily be proof of misconduct therein. I suggest that what might surprise the OCTC is the conduct of the CA Attorneys in helping out Aural to retain their adversely conflicted accounting professional, and the Court Order finding that an artifice enveloped that matter. The CA Attorneys role begins on April, 4, 2000.

CA Attorney Relation to PWC Adverse Interests

On this day, the day before Aureal filed their petition for bankruptcy protection, the CA Attorneys and their client Aureal were both informed that PWC were representing Creative in adverse litigation against Aureal on. [Exhibit T at 2:17](#). Also on this day, PWC received a retainer of \$150,000. [Exhibit BB at 5:14](#). According to Creative, PWC requested that Creative waive the conflict created by its dual representation of Creative and Aureal; Creative understandably refused this request. [Exhibit AA at 2:5](#). In this situation, how then could the CA Attorneys help out their client Aureal and also see their own selection of accountant professional be employed in the case?

The situation was dire. It appeared that the significant adversarial conflicts in the case between the parties, combined with the likely continued objections of both Creative and the US Trustee to the employment of PWC by Aureal would doom the debtor's request to employ PWC as a professional during the critical first few months of Aureal's debtor-in-possession status. The answer came from CA Attorney Sidney Levinson who advised their client Aureal to resolve the matter by creating a conflict waiver letter to be signed by Aureal and PWC. [Exhibit U at 2:18](#). It took 28 days to complete the terms of this conflict waiver letter.³⁹ The application to employ PWC was filed the next day on May 4, 2000. The hearing on multiple objections to the application occurred on June 19, 2000. [Exhibit Y](#). The effect of this accomplishment resulted in PWC's employment during the first two months of the case when PWC performed the bulk of its services. [Exhibit T at 4:4](#). The CA Attorneys themselves were subsequently employed by PWC on April 29, 2002⁴⁰. [Exhibit U at 4:5-13](#). Later in the case, this delay became a matter of grave concern for the Court, and a matter of misconduct for the CA Attorneys.

The Court Approves and Later Revokes Employment of PWC by Aureal

Earlier in the case, on July 26, 2000, an Order was issued approving PWC's employment as financial advisors for Aureal. [Exhibit BB at 18](#). This Order included specific restrictions and requirements to PWC's employment. [Exhibit BB at 20](#). PWC did not accept the Court's conditions for future employment, and the Court found that PWC intentionally misled the Court by "failing to disclose in a meaningful fashion that it did not accept the Court's conditions for future employment by the debtor". [Exhibit T at 4:10](#). The court found that inclusion of the information embedded in a paragraph contained in a two-page transmittal letter, enclosing courtesy copies of certain documents. [Exhibit T at 4:15](#). On this finding, the Court based its August 7, 2002 order to deny PWC's final fee application, to revoke the previous order approving its employment, and to disgorge the retainer PWC received pre-petition. [Exhibit T at 1:11](#).

³⁹ The U.S. Trustee guidelines specify that employment applications are to be filed within 15 days.

⁴⁰ In keeping with CA Attorney pattern of misconduct, this late disclosure occurred on August 19, 2002, as the final paragraph of a declaration by Sidney P. Levinson. This declaration concerned perhaps not an entirely unrelated matter: the motion for reconsideration filed by PWC of the order denying second and final fee application of PWC and Directing Revocation of Retention and Ordering Disgorgement. Interests of the parties at this point were adverse, and again 3-310 requirements were not fulfilled by CA Attorneys prior to their entering this representation.

This Order was issued pursuant to the Court's July 23, 2002 Decision, which also concerned the conduct of the CA Attorneys and their client Aural.

The Court Finds Misconduct on the Part of CA Attorneys and Aural

In the Court's Decision, the Court found that the debtor Aural had "purposely delayed submitting the employment application to the Court [...] to secure the benefits of PWC's services regardless of whether the Court approved PWC's employment." After the Court issued its Order pursuant to the Decision, PWC moved for reconsideration of the Court's Decision. The only additional evidence provided to the Court with PWC's motion were declarations of the professionals in the case, "attesting to their good faith". [Exhibit T at 2:13](#).

One of these declarations was that of CA Attorney Sidney P. Levinson who states that the Court's finding regarding the true motivation for the delay as stated in the Decision was incorrect. [Exhibit U at 3:16-19](#). He further states that "the delay was a result of efforts by the Debtor, our firm on behalf of the Debtor, and PwC, to negotiate a resolution of the issues concerning PwC's dual employment in a manner [...]"⁴¹. Later in the same declaration, CA Attorney Levinson states that the omission in an application for employment of EYR⁴² of any information regarding the fact of PWCs resignation or the circumstances surrounding PWC's resignation was not a deliberate omission. With this new evidence the Court made the following findings in its September 9, 2002 Memorandum Re Motion for Reconsideration ("Memorandum").

The Court found that all of the arguments made in explanation for the delay in filing the PWC employment application made by the CA Attorneys in support of the Final Fee Application were unpersuasive both at the time the Decision was made and at the time the Court considered the Motion for Reconsideration. [Exhibit T at 3:11](#). The Court further found that the "debtor's conduct in this case deprived the Court and other interested parties of their role in the employment process during the period of delay". [Exhibit T at 3:24](#). Clearly the Court did not approve of the CA Attorneys conduct in regard to the delay it imposed on the Court and other interested parties or to the manner in which information regarding PWC's supposed resignation from employment was omitted from the application for employment of the successor EYR.

In evaluating the facts and events concerning this misconduct, we note that the State Bar Act § 6068(d) requires that attorneys comply with a general duty to be truthful. This section mirrors CRPC 5-200(B), which proscribes practices which "mislead or tend to mislead." The State Bar of California has consistently imposed sanctions on attorneys for violating the rules set forth in § 6068(d). *See, e.g., Davis v. State Bar* (1983) 33 Cal.3d 231, 188 Cal.Rptr. 441, 655 P.2d 1276 (holding that "the filing of false or

⁴¹ CA Attorney Sidney P. Levinson made similar claims at the hearing on the application to employ PWC. Exhibit Y at 48:5-13.

⁴² EYR was a financial advisor who was to replace PWC as a result of PWC's resignation as financial advisor due to their non-acceptance of the Courts conditions of future employment.

misleading pleadings or documents is ground for discipline"). See also, *Pickering v. State Bar* (1944) 24 Cal.2d 141, 148 P.2d 1 (holding that "[t]he presentation to a court of a statement of fact known to be false presumes an intent to secure a determination based upon it and is a clear violation of [§ 6068(d)].").

5.9.1 The Court's finding of misconduct in the PWC matter reflects the egregious nature of the CA Attorney's conduct in the First and Second Conflicted Representations.

There are similarities between the misconduct in the PWC matter and in the First and Second Conflicted Representations. In all of these circumstances, the CA Attorneys delayed their actions in disclosing material information to the Court. In all of these circumstances, the CA Attorneys had at various times concurrent adverse clients. In all of these circumstances, the CA Attorneys, when disclosing information to the Court, did so in a way intended to mislead the court or interested parties. However, there exists stark contrast which amplifies the CA Attorney Misconduct.

In the PWC matter, the Court found that a mere 29 day delay of filing a disclosure was purposeful --- an artifice that enabled the CA Attorneys to guarantee for themselves (as well as for their client Aural), PWC's continued employment through the early stages of the case⁴³. This delay was too long. However, in the First and Second Conflicted Representations, we had an even longer delay between an event in the case requiring notice to the Court, and the subsequent delivery of that notice: 239 days and over 78 days, respectively. [Exhibit X at 3](#). In these Conflicted Representations, the actual representation had already concluded so as to secure the benefits of representing the conflicted client regardless of whether the Court or other Interested Parties approved of the adverse representation⁴⁴.

⁴³ Even the Court in its Decision suggested that one reason PWC may not have filed a new employment application with the Court is that "neither PWC nor the debtor [as counseled by CA Attorneys] may have considered the Court's role in the employment process significant". [Exhibit T at 8:9](#).

⁴⁴ The adverse interest and disinterested person limitations set forth in 11 U.S.C. §327(a) can not be waived. *In re S.S. Retail Stores*, 211 B.R. 699 (Bankr. 9th Cir. 1997); *In re Envirodyne Industries, Inc.* 150 B.R. at 1016.

5.10 The CA Bar should employ §6169 of the Bar Act and require the CA Attorneys to refrain from systemic pattern of failing to disclose adverse representation; such conduct misleads the Court and violates CRPC 3-310.

The original complaint and this Request detail numerous occasions where the CA Attorneys represent clients with concurrent potential and actual adverse interests. Multiple CA Attorneys appear to consider themselves above the requirements of CRPC 3-310. The examples reflected in the table below demonstrate a pattern of behavior and suggests they will continue to violate CRPC 3-310 in the future.

Date	Description of conduct or CRPC 3-310 violation identified in original complaint or this Request
April 5, 2000	CA Attorneys represented adverse client Oaktree without following CRPC 3-310 requirements.
April 12, 2000	CA Attorney states H&B represents another debtor adverse to Oaktree and that no party has yet to assert H&B is disinterested <i>in that case</i> . Exhibit R at 25:3 . Comment displays arrogant view of employment matters and CRPC 3-310 requirements.
April 13, 2000	New information concerning CA Attorneys representation of Oaktree triggered additional CRPC 3-310 requirements.
October 11, 2000	CA Attorneys represented adverse client Argo without following CRPC 3-310 requirements.
>February, 2001 <August 7, 2001	CA Attorneys represented adverse client Argo without following CRPC 3-310 requirements.
<April 29, 2002	The CA Attorneys did not provide written disclosure to Aural detailing their professional relationship and extent of communications with Argo required by CRPC 3-310.
<April 29, 2002	The CA Attorneys were obligated to seek renewed consent from Aural when the representation of Argo became actually adverse.
August 12, 2002	CA Attorneys represented adverse client PWC without following CRPC 3-310 requirements
During the pendent Aural case.	CA Attorneys had to reviewed 19 Argo claims. Exhibit FF . During actual adverse representation of Argo, a separate 3-310 and 327(a) violation would apply each time they reviewed one of these Argo claims.

5.11 The CA Attorneys Pattern of Communications with Argo in Conjunction with Their Conduct During the Pendent Aural Case Creates An Appearance of Impropriety that Should be Investigated

The diagrams of Exhibits [J](#) and [P](#) reflect a disturbing pattern of communications between the CA Attorneys and Argo. It appears that significant actions related to the misconduct complained of herein take place in close proximity to telephone conferences between the parties or services the CA Attorneys or their staff performed at the expense of the Aural bankruptcy estate. These exemplify, at best, an appearance of impropriety. There were only 13 separate interactions between the parties in the case, according to the Additional Evidence. However, 4 of these immediately precipitated actions that surround our allegations of misconduct. A majority precipitates actions by within a couple of weeks. The CA Bar should investigate this correlation as it relates to the complaint. A list of the immediately proximate events follows:

Date	Precipitating Event	Date	Subsequent Event
10/10/2000	CA Attorney Sidney Levinson conference with Argo Partners.	10/11/2000	Argo retains HBD
10/12/2000	Argo files appearance in First Conflicted Representation	10/13/2000	CA Attorney Sidney Levinson conference with Argo Partners
6/6/2001	CA Professional Joanne B. Stern reviews creditor database regarding Argo	6/7/2001	CA Attorney Sidney Levinson files declaration with Court disclosing First Conflicted Representation
12/5/2000	CA Attorney Sidney Levinson conference with Argo Partners	12/6/2000	CA Attorney Sidney Levinson files papers objecting to Center claim

5.12 CA Attorney Sidney P. Levinson appears to have engaged in coaching a witness or encouraging a witness to testify falsely.

On December 4, 2001, Next, through its counsel, deposed Ramesh Kandukuri, an employee or agent of Aural. In Mr. Kandukuri's deposition, he stated that that an Aural product named the SQ3500 was manufactured and released by Aural. [Exhibit DD at 4, deposition p. 151:2-8](#). On several instances, Mr. Levinson interjected answers to several questions directed towards Mr. Kandukuri and suggested breaks when Mr. Kandukuri's answers were detrimental to the debtor.

Shortly thereafter, CA Attorney Sidney P. Levinson called for a break.

After the break, Mr. Kandukuri began not by answering the first question following the break, but rather by stating that he wanted to now change his earlier testimony just given to say that he did not remember if the SQ3500 was manufactured. [Exhibit DD at 4, deposition p. 153:15-20](#).

5.13 The CA Attorneys provided documentary evidence that was apparently fabricated and misleading, in violation of the CRPC and the USC.

[Exhibit EE](#) contains documents produced by the CA Attorneys in response to a request for documents by Next's attorney in the Aureal case. Upon inspection it is clear that the documents provided are likely fabrications.

The three sets of documents we focus on are a series of Marketing Meeting Minutes related to Aureal products. Next was the holder of a claim related to these products and requested that Aureal provide them for review. Dates in these documents would be determinative as to Next's rights related to it's claim. These documents are located as follows: First Meeting at Exhibit EE at 39, Second Meeting at Exhibit EE at 42, and Third Meeting at Exhibit EE at 45. The following is an enumeration of some inconsistencies with these documents that illustrates likely document fabrication:

- The title of each of these 3 Marketing Meeting Minutes has the same date: February 15, 2000. It is incredulous that 3 marketing meetings would be held on the same date at unspecified times with separate minutes notes.
- The expected participants list and host varies for each of the 3 documents is different for the 1st document, indicating that these 3 documents were purportedly intended to represent meetings held on different dates.
- The information under heading "I. ADMINISTRATIVE" specifies in each of the 3 Marketing Meeting Minutes that the next meeting will take place on Monday, February 22nd. February 22, 2000 did not fall on a Monday.

Each of the 3 documents shows detailed notes and corrections that were hand-written on the paper. However, this detail does not comport with the lack of any correction of the current meeting date errors or the future meeting on a non-existent date.

There exists only one plausible explanation which would account for these documents which 1) at first glance would have helped the debtor in their litigation, 2) included intense hand written detail including corrections but ignoring the most relevant errors to contemporaneous participants, 3) provided no indication of the author of the notes, 4) were not provided with the 36 pages delivered at 6:29pm by facsimile in advance of the deposition, but rather on the day of the deposition: The documents were a well planned but poorly executed fabrication.

An investigator could easily determine beyond a reasonable doubt whether these documents (which included hand writing samples) were fabricated. There are a finite number of participants and former employees, there are actual hand writing samples, and

An investigator could easily determine beyond a reasonable doubt whether these documents (which included hand writing samples) were fabricated. There are a finite number of participants and former employees, there are actual hand writing samples, and the company would certainly have to have years worth of Marketing Meeting Minutes which would always have the same date errors verifiable by these employees.

What if the CA Attorneys did not alter these documents, but that was done by Aural? The CA Attorneys remain culpable for violating the rule against misleading courts and judicial officers as that may be established even where there is no direct evidence of malice, intent to deceive, or hope of personal gain. Actual deception is not necessary to sustain a violation; willful deception is established where the lawyer knowingly presents a false statement which may tend to mislead the court. Even where the fabrications are the work of another, and the lawyer is unaware of the truth, the lawyer remains culpable if the lawyer learns of their bogus nature and continues to assert their authenticity. *In the Matter of Tempkin* (Review Dept. 1991) 1 Cal. State Bar Ct.Rptr. 321 (due to inconsistent findings (involving Bar Act §§ 6106, 6068(b) and § 6103) and the need for witness "credibility reassessment" thereby necessitating a reevaluation of the documentary evidence, the case was remanded).

EXHIBIT A

COPY

BRUCE BENNETT (SBN 105430)
JAMES O. JOHNSTON (SBN 167330)
JOSHUA M. MESTER (SBN 194783)
HENNIGAN & BENNETT
601 South Figueroa Street, Suite 3300
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Telephone: (213) 694-1200
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FILED
JUL 13 2011
CLERK OF COURT
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Proposed Reorganization Counsel for
Debtor and Debtor in Possession

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re

AUREAL, INC., d/b/a SILO.COM,
f/k/a AUREAL
SEMICONDUCTOR, INC., f/k/a
MEDIA VISION TECHNOLOGY,
INC., a Delaware corporation;

Debtor.

Case No. **100 42104**
(Chapter 11)

APPLICATION OF DEBTOR AND DEBTOR
IN POSSESSION TO EMPLOY HENNIGAN
& BENNETT AS REORGANIZATION
COUNSEL; DECLARATION OF JAMES O.
JOHNSTON IN SUPPORT

[No Hearing Required]

Aureal, Inc., the debtor and debtor in possession herein (the "Debtor"), hereby
applies to this Court for the entry of an order, in substantially the form of the proposed
order attached hereto as Exhibit A, authorizing it to employ the law firm of Hennigan &
Bennett ("H&B") as its reorganization counsel. In support of this Application, the Debtor
submits the accompanying Declaration of James O. Johnston (the "Johnston
Declaration") and respectfully represents as follows:

///

HENNIGAN & BENNETT

CA BAR #05-20211
EXHIBIT A - PAGE 1

1 1. On April 5, 2000 (the "Petition Date"), the Debtor commenced its
2 reorganization case by filing a voluntary petition for relief under chapter 11 of the
3 Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code").

4 2. The Debtor is continuing in possession of its assets and is operating and
5 managing its business as debtor in possession pursuant to sections 1107 and 1108 of the
6 Bankruptcy Code.

7 3. The Debtor's business is in the field of digital audio imaging, which is the
8 process of creating a highly realistic audio experience by closely simulating the real
9 world physics of audio. The Debtor has developed a series of audio products based
10 upon its A3D technologies. One of the leading markets for the Debtor's audio products
11 is the personal computer gaming market. As of the Petition Date, the Debtor was
12 integrating its A3D technologies with internet based applications to increase its
13 customer base.

14 4. On the Petition Date, the Debtor employed approximately 56 employees in
15 offices located in Fremont, California and Austin, Texas. At these offices, the Debtor
16 conducts sales, shipping, production, and research and development efforts.

17 **Services to be Provided by H&B as Reorganization Counsel**

18 5. The Debtor desires to employ H&B as its reorganization counsel in
19 connection with this case on substantially the terms and conditions set forth in the
20 retention agreement attached hereto as Exhibit B (the "Retention Agreement").

21 6. All attorneys comprising or associated with H&B who will render services
22 in this case are or will be duly admitted to practice law in the Courts of the State of
23 California and in the United States District Court for the Northern District of California.
24 A summary of the experience and qualifications of these attorneys and paraprofessionals
25 of H&B expected to render substantial services to the Debtor is attached hereto as
26 Exhibit C.

27 ///
28 ///

CA BAR #05-20211
EXHIBIT A - PAGE 2

1 7. Among other things, as indicated in the Retention Agreement, the Debtor
2 requires H&B to render the following types of professional services:

- 3 • To advise the Debtor regarding matters of bankruptcy law;
- 4 • To represent the Debtor in proceedings or hearings before this Court
5 involving matters of bankruptcy law;
- 6 • To assist the Debtor in the preparation of reports, accounts,
7 applications, and orders;
- 8 • To advise the Debtor concerning the requirements of the
9 Bankruptcy Code, Bankruptcy Rules, and United States Trustee Guidelines and
10 Requirements relating to the administration of this case and the operation of the
11 Debtor's business; and
- 12 • To assist the Debtor in the negotiation, preparation, confirmation,
13 and implementation of a plan of reorganization.

14 8. As indicated in the Retention Agreement, however, except as set forth in
15 paragraphs 9, 10, and 11 below, the Debtor does not intend for H&B to be responsible for
16 appearances before any court or agency, other than before this Court and the office of
17 the United States Trustee; litigation before this Court with respect to matters which are,
18 in essence, disputes involving issues of nonbankruptcy law; or the provision of
19 substantive legal advice outside of the insolvency area, such as in areas implicating
20 patent, trademarks, intellectual property, corporations, taxation, securities, torts,
21 environmental, labor, criminal, or real estate law. Further, the Debtor does not intend
22 for H&B to be required to devote attention to, form professional opinions as to, or advise
23 the Debtor with respect to their disclosure obligations under nonbankruptcy laws or
24 agreements.

25 9. The Debtor anticipates that in addition to employing H&B as
26 reorganization counsel, the Debtor will require the services of litigation, corporate,
27 trademark and patent counsel. However, the Debtor does not expect that there will be
28 duplication in the services to be rendered to the Debtor by the separate counsel.

1 10. The Debtor may, from time to time, request that H&B undertake specific
2 matters beyond the limited scope of the responsibilities set forth above. Should H&B
3 agree in its discretion to undertake any such specific matters, the Debtor seeks authority
4 by this Application to employ H&B for such matters, in addition to those set forth above,
5 without further order of this Court.

6 11. H&B also has agreed to serve as counsel to the Debtor with respect to
7 certain nonbankruptcy litigation to be commenced on behalf of the Debtor. The terms
8 and conditions of that engagement are set forth in a separate engagement letter, which
9 will be submitted to the Court for approval with the appropriate notice.

10 **H&B's Compensation as Reorganization Counsel**

11 12. H&B has received a retainer of \$300,000 for services to be rendered to the
12 Debtor in connection with this chapter 11 case. H&B has deposited the unearned
13 portion of that retainer into a trust account in the name of the Debtor, as a trust
14 fund/security retainer, to secure the payment of H&B's allowed fees and expenses in
15 this case. During the one year period prior to the filing date of the chapter 11 petition,
16 H&B did not receive from the Debtor any other payments for services rendered to the
17 Debtor in connection with this case and the reorganization of its business.

18 13. H&B has agreed to accept as compensation for its services its retainer and
19 such additional reasonable sums as may be allowed by this Court in accordance with
20 law, based upon the time spent and services rendered, the results achieved, the
21 difficulties encountered, the complexities involved, and other appropriate factors, as set
22 forth in the Retention Agreement. A list of the guideline hourly rates for H&B and of
23 those members of H&B expected to render services to the Debtor is attached hereto as
24 Exhibit "D".

25 14. No additional compensation will be paid by the Debtor to H&B except
26 upon application to and approval by the Bankruptcy Court after notice and a hearing.

27 ///

28 ///

Disinterestedness

1
2 15. To the best of the Debtor's knowledge, based upon the Johnston
3 Declaration, except as they are or have been the attorneys for the Debtor, H&B and all of
4 the attorneys comprising or employed by it are disinterested persons who do not hold or
5 represent an interest adverse to the estates and who do not have any connection with the
6 Debtor, their creditors, or any other party in interest in these cases, or their respective
7 attorneys or accountants, except as stated in the Johnston Declaration.

8 16. Moreover, to the best of the Debtor's knowledge, based upon the Johnston
9 Declaration, H&B and all of the attorneys comprising or employed by H&B:

10 (a) are not and have not been an equity security holder or an insider of
11 the Debtor.

12 (b) are not and have not been an investment banker for any outstanding
13 security of the Debtor.

14 (c) are not and have not been an investment banker for a security of the
15 Debtor, or an attorney for such an investment banker in connection with the offer,
16 sale or issuance of any security of the Debtor.

17 (d) are not and have not been a director, officer or employee of the
18 Debtor or of any investment banker for any security of the Debtor.

19 (e) subject to the disclosures contained in the Johnston Declaration,
20 have no interest materially adverse to the interest of the estate or any class of
21 creditors or equity security holders, by reason of any direct or indirect
22 relationship to, connection with, or interest in, the Debtor or an investment
23 banker for any security of the Debtor, or for any other reason.

24 ///

25 ///

26 ///

27 ///

28 ///

1 18. The name, address and phone number of the person signing this
2 Application on behalf of H&B and the relationship of such person to H&B is:

3 James O. Johnston, Partner
4 Hennigan & Bennett
5 601 S. Figueroa Street, Suite 3300
6 Los Angeles, California 90017
7 Telephone: (213) 694-1200

7 **Summary**

8 19. The employment of H&B as the Debtor's reorganization counsel is in the
9 best interest of the estate.

10 20. The Debtor has served copies of the Application and certain related
11 pleadings and documents on the Office of the United States Trustee, the creditors
12 identified on the lists of creditors holding the twenty largest unsecured claims against
13 the Debtor, and counsel to the Debtor's primary secured lender, Oaktree Capital
14 Management, LLC.

1 **WHEREFORE**, the Debtor requests that it be authorized to employ H&B as its
2 reorganization counsel with compensation to be at the expense of the estate in such
3 amount as the Court may hereafter allow in accordance with law.

4
5 DATED: April 5, 2000

AUREAL, INC.

6
7
8 By: 
Steve Mitchell,
Chief Operating Officer

9
10
11 Submitted By:

12
13
14 By: 
James O. Johnston
Hennigan & Bennett
Proposed Reorganization Counsel for Debtor
And Debtor in Possession

1 BRUCE BENNETT (SBN 105430)
2 JAMES O. JOHNSTON (SBN 167330)
3 JOSHUA M. MESTER (SBN 194783)
4 HENNIGAN & BENNETT
5 601 South Figueroa Street, Suite 3300
6 Los Angeles, California 90017
7 Telephone: (213) 694-1200
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9 Proposed Reorganization Counsel for
10 Debtor and Debtor in Possession

11 UNITED STATES BANKRUPTCY COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 OAKLAND DIVISION

14 In re

15 AUREAL, INC., d/b/a SILO.COM,
16 f/k/a AUREAL
17 SEMICONDUCTOR, INC., f/k/a
18 MEDIA VISION TECHNOLOGY,
19 INC., a Delaware corporation;

20 Debtor.

Case No.

(Chapter 11)

**[PROPOSED] ORDER APPROVING
APPLICATION OF DEBTOR AND DEBTOR
IN POSSESSION TO EMPLOY HENNIGAN
& BENNET AS REORGANIZATION
COUNSEL**

[No Hearing Required]

21
22 Upon the "Application of Debtor and Debtor in Possession for Authority to
23 Employ Hennigan & Bennett as Reorganization Counsel" and the Declaration of
24 James O. Johnston in support thereof (collectively the "Application"), filed by Aureal,
25 Inc. (the "Debtor"), to employ the law firm of Hennigan & Bennett ("H&B") as its
26 attorneys; it appearing to the Court that H&B and its members and employees are
27 disinterested persons who do not hold or represent an interest adverse to the estate
28 in the matters upon which they are to be engaged; that the employment of H&B by

HENNIGAN & BENNETT

1 the Debtors is in the best interest of the estate; that notice the Application was
2 appropriate; and good cause appearing therefor,

3 **IT IS HEREBY ORDERED THAT:**

4 1. The Application is hereby APPROVED.

5 2. The Debtor is hereby authorized to employ H&B as its reorganization
6 counsel, on substantially the terms and conditions set forth in the Application and
7 the retention agreement attached as Exhibit B to the Application, with compensation
8 to be at the expense of the estate in such amount as the Court may hereafter allow.

9 p

10 DATE: April __, 2000

11 _____
12 UNITED STATES BANKRUPTCY JUDGE

13 Submitted by:

14 HENNIGAN & BENNETT

15
16 By: _____

17 Joshua M. Mester
18 Proposed Reorganization Counsel for
19 Debtor and Debtor in Possession
20
21
22
23
24
25
26
27
28

HENNIGAN & BENNETT

HENNIGAN & BENNETT

LAWYERS

601 SOUTH FIGUEROA STREET

SUITE 3300

LOS ANGELES, CALIFORNIA 90017

TELEPHONE (213) 694-1200

FACSIMILE (213) 694-1234

April 4, 2000

VIA FACSIMILE
AND FEDERAL EXPRESS

Aureal, Inc.
45757 Northport Loop West
Fremont, CA 94538
[facsimile no. 510-252-4554]

**Re: Retainer Agreement between Hennigan & Bennett and Aureal, Inc.,
And Its Subsidiaries, Crystal River Engineering, Inc., and Aureal
Limited Regarding Bankruptcy Representation**

Gentlemen:

This letter sets forth the terms and conditions upon which Hennigan & Bennett ("H&B") will represent Aureal, Inc., and its wholly-owned subsidiaries Crystal River Engineering, Inc., and Aureal Limited (collectively, "Aureal"), in connection with the filing and prosecution of chapter 11 bankruptcy cases for one or more of them in the United States Bankruptcy Court for the Northern District of California, Oakland Division.

H&B will act as Aureal's special reorganization counsel to render such ordinary and necessary legal services as may be required in connection with the contemplated chapter 11 cases, including:

1. Assisting Aureal in the preparation of its bankruptcy petition(s), schedule(s) of assets and liabilities, statement(s) of financial affairs, and such other documents as are required to be filed with the Bankruptcy Court and the Office of the United States Trustee to commence and proceed with the chapter 11 case(s);
2. Advising Aureal with respect to the sale of some or all of its assets and with respect to the negotiation, preparation, and confirmation of a plan or plans of reorganization;

HENNIGAN & BENNETT

Aureal, Inc.

Chapter 11 Retainer Agreement

April 4, 2000

Page 2

3. Assisting Aureal in preparing and obtaining approval of a disclosure statement or statements;
4. Appearing at meetings of creditors;
5. Representing Aureal in litigation in the Bankruptcy Court where such litigation involves substantial and material issues of bankruptcy law; and
6. Advising Aureal regarding its legal rights and responsibilities as a debtor in possession under the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the United States Trustee Guidelines and Requirements.

Please be advised that H&B's employment as Aureal's special reorganization counsel does not include any of the following: (a) appearances before any court or agency other than the Bankruptcy Court and the Office of the United States Trustee; (b) litigation in the Bankruptcy Court with respect to matters which are, in the main, disputes involving issues of nonbankruptcy law; and (c) the provision of advice outside the insolvency area, including advise with respect to matters such as patent, trademark, corporations, taxation, securities, torts, environmental, labor, criminal, and real estate law. Further, the limited scope of our employment as Aureal's special reorganization counsel does not include giving attention to, forming professional opinions as to, or advising you with respect to, disclosure obligations under federal securities or other nonbankruptcy laws or agreements.

As you are aware, H&B also has agreed to serve as counsel to Aureal with respect to certain nonbankruptcy litigation to be commenced on behalf of Aureal. The terms and conditions of that engagement are set forth in a separate engagement letter, which letter is to be read and interpreted consistently and concurrently with the terms and conditions set forth herein.

With respect to H&B's services as special reorganization counsel pursuant to this engagement letter, Aureal has agreed to pay H&B a reasonable fee for services rendered and to be rendered and to pay H&B for all costs and expenses charged to its account. We have requested and Aureal agreed to pay the sum of \$300,000 as a retainer for the professional services that H&B will render and for the expenses that H&B will incur as special reorganization counsel, as well as additional security for Aureal's obligations to H&B. H&B's engagement is contingent on its receipt of that sum prior to the commencement of any bankruptcy proceedings with respect to Aureal. The retainer amount may be allocated by H&B among the entities comprising Aureal in any manner in which H&B deems appropriate.

HENNIGAN & BENNETT

Aureal, Inc.

Chapter 11 Retainer Agreement

April 4, 2000

Page 3

Following exhaustion of the retainer, H&B will seek additional compensation for services rendered during the course of the chapter 11 cases ("interim compensation") based in part upon our guideline hourly rates. These rates range from \$200 to \$460 per hour for attorneys, from \$90 to \$340 per hour for financial consultants, and from \$50 to \$155 for paralegals and clerks. Our guideline hourly rates are adjusted periodically, typically on January 1 of each year, to reflect the advancing experience, capabilities and seniority of our professionals as well as general economic factors.

Our requests for interim compensation also will include charges for reasonable costs and expenses incurred in connection with the engagement. Such costs and expenses typically include, among others, charges for messenger services, air couriers, word processing services, secretarial overtime, photocopying, postage, long distance telephone service, computerized legal research facilities, process service, investigative searches, and other charges customarily invoiced by law firms in addition to fees for legal services, including court fees and travel expenses. In the event that we incur expenses that we deem to be extraordinary or significant, such as transcript costs or sizable outsourced photocopying expenses, you agree that Aureal will pay those expenses directly.

It is H&B's practice to charge our clients for services rendered based upon not only the total number of hours of services rendered charged at guideline hourly rates, but also upon such other factors as the complexity of the problems presented to us, the amount at issue, the nature, quality and extent of the opposition encountered, the results accomplished, the skill we exercised in accomplishing those results, the extent to which our services were rendered outside the Los Angeles area, after normal business hours or on other than normal business days, delay in our receipt of compensation, and the extent to which we were at risk in being paid. When our representation is ended, the firm will determine the amount of the total fees and will send Aureal a final statement, which may reflect a fee that exceeds the interim compensation previously sought or invoiced by H&B. To the extent that H&B's final fee exceeds the total number of hours of services rendered charged at guideline hourly rates, H&B will consult with Aureal before setting that final fee.

Because of the specialized nature of our practice, from time to time H&B may concurrently represent one client in a particular case and the adversary of that client in an unrelated case. Thus, for example, while representing Aureal, H&B also may represent a creditor of Aureal in that creditor's capacity as a debtor or as a creditor of an entity which is not related to Aureal. In addition, while representing Aureal, H&B may represent an account debtor of Aureal as a debtor in a reorganization case or in connection with out-of-court negotiations with such entity's creditors concerning the

HENNIGAN & BENNETT

Aureal, Inc.

Chapter 11 Retainer Agreement

April 4, 2000

Page 4

entity's ability to pay its debts generally. Please be assured that, despite any such concurrent representation, we strictly preserve all client confidences and zealously pursue the interests of each of our clients, including in those circumstances in which we represent the adversary of an existing client in an unrelated case. Aureal agrees that it does not consider such concurrent representation, in unrelated matters, of Aureal and any adversary to be inappropriate and therefore waives any objections to any such present or future concurrent representation.

Also, several attorneys at H&B have spouses, parents, children, siblings, fiances or fiancées who are attorneys at other law firms and companies. H&B has strict policies against disclosing confidential information to anyone outside the firm, including spouses, parents, children, siblings, fiances and fiancées. You agree that you do not consider our representation of Aureal to be inappropriate in light of any such relationships, and H&B agrees to advise Aureal in the event that it determines that any of the relationships likely would lead to a conflict situation.

H&B maintains a policy that it does not provide opinion letters to its clients or to others who might wish to rely on such letters. We do not alter this policy except under very unusual circumstances and then only upon further written agreement, which provides for compensation to us for the special risks attendant to the furnishing of such opinions. H&B maintains errors and omissions insurance coverage applicable to the services to be rendered hereunder which complies with the requirements imposed by California Business and Professions Code sections 6147(a)(6) and 6148(a)(4).

By this agreement, HMB is being engaged only by Aureal and its subsidiaries, which are corporate entities. Our employment does not include the representation of any individual officer, director, shareholder, employee or any affiliate of Aureal.

Aureal may discharge H&B at any time. H&B may withdraw at any time with Aureal's consent or for good cause without Aureal's consent. Good cause for H&B's withdrawal includes Aureal's breach of this agreement (including Aureal's failure to pay any statement or invoice when due), Aureal's refusal or failure to cooperate with us, or any fact or circumstance that would render our continuing representation unlawful or unethical.

By executing this agreement you acknowledge that you have read carefully and understand all its terms. This letter constitutes the entire understanding between Aureal and H&B regarding our employment as special reorganization counsel, and this agreement cannot be modified except by further written agreement signed by each party. As noted above, the terms and conditions of H&B's engagement by

HENNIGAN & BENNETT

Aureal, Inc.

Chapter 11 Retainer Agreement

April 4, 2000

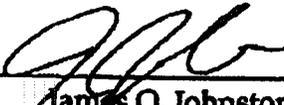
Page 5

Aureal with respect to certain nonbankruptcy litigation matters are set forth in a separate engagement letter.

If you have any questions about the foregoing, please call Josh Mester, or me. Moreover, please feel free to obtain independent legal advice regarding this agreement. If you are in agreement with the foregoing, and it accurately represents your understanding of Aureal's retainer agreement with H&B with respect to services as special reorganization counsel, please execute the enclosed copy of this letter and return it to me. If not, please contact us immediately. We look forward to working with you on these cases.

Very truly yours,

HENNIGAN & BENNETT

By 
James O. Johnston

THE FOREGOING IS APPROVED AND AGREED TO:

DATED: April 4, 2000

AUREAL, INC.

By: 
Its: Chief Operating Officer

Aureal, Inc.'s Taxpayer I.D. Number: 94-3117385

CA BAR #05-20211
EXHIBIT A - PAGE 14

EXHIBIT C
BIOGRAPHIES OF MEMBERS OF
HENNINGAN & BENNETT
EXPECTED TO RENDER SERVICES TO THE DEBTOR

BRUCE BENNETT, born Brooklyn, New York, October 3, 1958; admitted to bar, 1982, California. *Education*: Brown University (Sc.B., magna cum laude, 1979); Harvard University (J.D., cum laude, 1982). Commissioner, Personal and Small Business Bankruptcy Law Advisory Commission of The California Board of Legal Specialization. *Member*: Los Angeles County (Member, Sections on: Commercial Law and Bankruptcy; Business and Corporation) and American (Member, Section on: Business Law) Bar Associations; The State Bar of California (Member, Business Law Section); International Bar Association (Member, Section on: Business Law, Committee J: Insolvency and Creditors' Rights); Financial Lawyers Conference. Hourly rate: \$460.

SIDNEY P. LEVINSON, born August 10, 1963, Los Angeles, California; admitted to bar 1988, California, 1989, District of Columbia. Admitted to United States Supreme Court, United States Court of Appeals for the Ninth Circuit, United States District Courts for the Northern District of California, District of Columbia and District of Maryland. *Education*: Brandeis University (B.A., cum laude, 1985), UCLA Law School (J.D., 1988). Member, UCLA Law Review, 1986-1988. Trial Attorney, U.S. Department of Justice, Civil Division, Commercial Litigation Branch, 1992-1995. *Member*: American Bar Association (Business Law Section), American Bankruptcy Institute, Los Angeles Bankruptcy Forum. Author, "Does the Government Bear the Ultimate Burden of Proof Regarding Allowance of a Tax Claim in Bankruptcy," 25 Cal. Bankr. J. 137 (1999). Hourly rate: \$355.

JAMES O. JOHNSTON, born Glendale, California, August 14, 1968; admitted to bar, 1993, California. *Education*: Stanford University (B.A. 1990); University of Southern California (J.D./M.A. 1993) (Malcomb Lucas, Alfred J. Mellenthin, Gerald G. Kelly, and Scribes Award). Member, Order of the Coif. Member, University of Southern California Law Review, 1992-1992; Managing Editor, 1992-1993. Law Clerk to the Honorable Cynthia Holcomb Hall, U.S. Ninth Circuit Court of Appeals, 1993-1994. Co-author, "State Defiance of Bankruptcy Law", 52 Vand. L. Rev. 1528 (1999). Author, "The Inequitable Machinations of Section 362(a)(3); Rethinking Bankruptcy's Automatic Stay Over Intangible Property Rights," 66 S.Cal.Rev 659 (1992). Co-author, "Introduction: In the Matter of Kaye, Scholer, Fierman, Hays & Handler: A Symposium on Government Regulations, Lawyers' Ethics, and the Rule of Law", 66 S.Cal.L.Rev. 977 (1993). Co-author, "Privileges in Bankruptcy," presented at the New York University Workshop on Bankruptcy & Business Reorganization (1993). *Member*: Los Angeles County Bar Association; American Bankruptcy Institute; The State of California; Hourly rate: \$345.

JOSHUA M. MESTER, born Baltimore, Maryland, July 16, 1972; admitted to bar, 1998, California, U.S. District Court, Central and Northern Districts of California. *Education:* Georgetown University (B.S.B.A. 1994); University of San Francisco, School of Law (1997, with honors). Law Clerk to the Honorable Erithe A. Smith, United States Bankruptcy Court, Central District of California, August 1998-1999, Assistant Counsel with the Office of the General Counsel, Department of the Navy; September 1997-July 1998; *Member:* Los Angeles County Bar Association; Financial Lawyers Conference; Hourly rate: \$230.

KATHRYN S. BOWMAN, born Wellington, Ohio, October 26, 1955. *Position:* Legal Assistant. *Education:* California State University at Los Angeles (Paralegal Certificate, 1985). *Employment:* Stutman, Triester & Glatt (1986-1992), Legal Assistant; United States Bankruptcy Court, Central District of California (1992-1993); Hennigan & Bennett (1995-present).

JOANNE STERN, born Nurnberg, Germany, December 13, 1959. *Position:* Legal Assistant. *Education:* Pitzer College, Claremont, California (B.A., 1981), University Of West Los Angeles, School of Paralegal Studies (Paralegal Certificate, 1990). *Employment.* Stutman, Triester & Glatt (1992-1997), Legal Assistant; Neilson, Elggren, Durkin & Co. (1997-1999); Hennigan & Bennett (1999 - present).

EXHIBIT D

NAME

RATE

Bruce Bennett

\$460/hour

Sidney P. Levinson

\$355/hour

James O. Johnston

\$345/hour

Joshua M. Mester

\$230/hour

Joanne Stern

\$155/hour

Kathryn S. Bowman

\$155/hour

EXHIBIT B

ORIGINAL ^T

1 BRUCE BENNETT (SBN 105430)
 2 JAMES O. JOHNSTON (SBN 167330)
 3 SIDNEY P. LEVINSON (SBN 139419)
 4 JOSHUA M. MESTER (SBN 194783)
 5 HENNIGAN & BENNETT
 601 South Figueroa Street, Suite 3300
 Los Angeles, California 90017
 Telephone: (213) 694-1200
 Facsimile: (213) 694-1234

FILED
 JUN 1 9 2000
 U.S. BANKRUPTCY COURT
 OAKLAND, CALIFORNIA

6 Proposed Reorganization Counsel for
 7 Debtor and Debtor in Possession

8
 9 **UNITED STATES BANKRUPTCY COURT**
 10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 11 **OAKLAND DIVISION**

12 In re
 13 AUREAL, INC., d/b/a SILO.COM,
 14 f/k/a AUREAL
 15 SEMICONDUCTOR, INC., f/k/a
 16 MEDIA VISION TECHNOLOGY,
 17 INC., a Delaware corporation;
 18 Debtor.

Case No. 00-42104-T11
 (Chapter 11)

**[PROPOSED] ORDER APPROVING
 APPLICATION OF DEBTOR AND DEBTOR
 IN POSSESSION TO EMPLOY HENNIGAN
 & BENNETT AS REORGANIZATION
 COUNSEL**

[No Hearing Required]

22
 23 Upon the "Application of Debtor and Debtor in Possession for Authority to
 24 Employ Hennigan & Bennett as Reorganization Counsel" and the Declaration and
 25 Supplemental Declaration of James O. Johnston in support thereof (collectively the
 26 "Application"), filed by Aural, Inc. (the "Debtor"), to employ the law firm of
 27 Hennigan & Bennett ("H&B") as its attorneys; it appearing to the Court that H&B and
 28 its members and employees are disinterested persons who do not hold or represent
 an interest adverse to the estate in the matters upon which they are to be engaged;

1 HENNIGAN & BENNETT

CA BAR #05-20211
 EXHIBIT B - PAGE 1

116

1 that the employment of H&B by the Debtors is in the best interest of the estate; that
 2 notice of the Application was appropriate; that there is no objection to the
 3 Application based upon the information supplied in the Supplemental Declaration
 4 and the provisions of Paragraph 3 of this Order; and good cause appearing therefor,

5 **IT IS HEREBY ORDERED THAT:**

6 1. The Application is hereby APPROVED.

7 2. The Debtor is hereby authorized to employ H&B as its reorganization
 8 counsel, on substantially the terms and conditions set forth in the Application,
 9 Paragraph 3 of this Order, and the retention agreement attached as Exhibit B to the
 10 Application, with compensation to be at the expense of the estate in such amount as
 11 the Court may hereafter allow.

12 3. Any attorneys who provide representation to the estate on bankruptcy
 13 matters shall be precluded from providing any concurrent representation to Oaktree
 14 Capital Management LLC or other entities affiliated with or managed by Oaktree
 15 Capital Management LLC (collectively, "Oaktree") on other matters, including but not
 16 limited to H&B's representation of Oaktree in Farallon Capital Partners, L.P., et. al. v.
 17 Gleacher & Co., Inc. et. al., pending in the California Superior Court in Los Angeles as
 18 case number BC 215260. The provisions of this Paragraph 3 shall not apply to H&B
 19 attorneys who provide non-bankruptcy litigation representation to the Debtor in the
 20 event that the Debtor seeks and obtains bankruptcy court approval to represent the
 21 Debtor in such non-bankruptcy matters.

22
 23 DATE: ~~April~~ ^{June} 19 2000

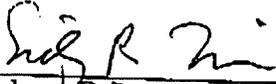
24 Leslie Tchankousky
 25 UNITED STATES BANKRUPTCY JUDGE

CA BAR #05-20211
 EXHIBIT B - PAGE 2

1 Submitted by:

2 HENNIGAN & BENNETT

3

4 By: 

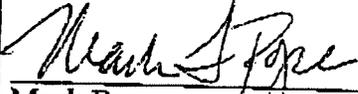
Sidney P. Levinson

5 Proposed Reorganization Counsel for
6 Debtor and Debtor in Possession

6

7 NO OBJECTION

7

8 

Mark Pope

9 Attorney-Advisor

10 Office of the United States Trustee
11 1301 Clay Street, # 680 North
Oakland, CA 94612-5217
(510) 637-3200

12

13

Thomas C. Mitchell

14

Orrick, Herrington & Sutcliffe

15

400 Sansome Street

16

San Francisco, CA 94111-3143

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(415) 773-5732

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HENNIGAN & BENNETT

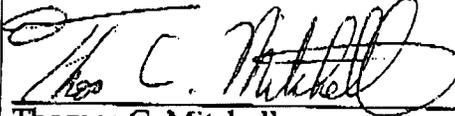
CA BAR #05-20211
EXHIBIT B - PAGE 3

1 Submitted by:
2 HENNIGAN & BENNETT

3
4 By: _____
5 Sidney P. Levinson
6 Proposed Reorganization Counsel for
7 Debtor and Debtor in Possession

8 NO OBJECTION

9 _____
10 Mark Pope
11 Attorney-Advisor
12 Office of the United States Trustee
13 1301 Clay Street, # 680 North
14 Oakland, CA 94612-5217
15 (510) 637-3200

16 _____
17 
18 Thomas C. Mitchell
19 Orrick, Herrington & Sutcliffe LLP
20 400 Sansome Street
21 San Francisco, CA 94111-3143
22 (415) 773-5732

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CA BAR #05-20211
EXHIBIT B - PAGE 4

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DECLARATION OF SERVICE

I am over the age of eighteen years and not a party to the within action. My business address is Hennigan & Bennett, 601 South Figueroa Street, Suite 3300, Los Angeles, California 90017.

On April 24, 2000, I served the following pleading:

[PROPOSED] ORDER APPROVING APPLICATION OF DEBTOR AND DEBTOR IN POSSESSION TO EMPLOY HENNIGAN & BENNETT AS REORGANIZATION COUNSEL

on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, with first-class postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as follows below.

I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

SEE ATTACHED SERVICE LIST

The above-described pleading also was transmitted to the indicated parties set forth above in the manner described below:

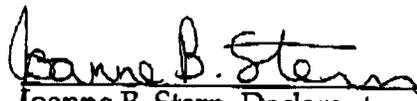
By air courier service, for next business-day delivery by

By messenger service, for same-day delivery by hand by

by telecopy, for immediate receipt.

I declare that I am employed in an office of a member of the bar of this Court, at whose direction the within service was made.

EXECUTED on April 24, 2000 at Los Angeles, California.


Joanne B. Stern, Declarant

CA BAR #05-20211
EXHIBIT B - PAGE 5

Debtor:

AUREAL, INC.
Attn: Steve Mitchell
45757 Northport Loop West
Fremont, CA 94538

Secured Creditor as Agent:

Oaktree Capital Management LLC
Attn: Richard Masson
333 S. Grand Avenue, 28th Floor
Los Angeles, CA 90071

20 Largest Unsecured Creditor:

UMC Group (USA)
Attn: Tam Kalvin
488 Deguigne Drive
Sunnyvale, CA 94086

20 Largest Unsecured Creditor:

Cadence Design Systems, Inc.
Attn: Steve Mih
555 River Oaks Parkway
San Jose, CA 95134

20 Largest Unsecured Creditor:

Ziff-Davis, Inc.
Attn: Customer Service
File #2082
Los Angeles, CA 90074-2082

20 Largest Unsecured Creditor:

PC World Communications
Attn: Kevin Greenc
PO Box 3700-67
Boston, MA 02241-0767

20 Largest Unsecured Creditor:

Integra-Dync Corp.
Attn: Ren Condotta
145 King Street, West, Suite 1000
Toronto, ON M5H 1J8
Canada

20 Largest Unsecured Creditor:

Highsoft, Inc.
Attn: Steve Campos
1965 Latham Street
Mountain View, CA 94040-2107

Request For Special Notice:

Orrick, Herrington & Sutcliffe
Attn: Thomas C. Mitchell, Esq.
400 Sansome Street
San Francisco, CA 94111-3143

Caesar Intl Req for Special Notice:

William C. Lewis, Esq.
Law Offices of William C. Lewis
510 Waverley Street
Palo Alto, CA 94031

Debtor's Counsel:

Bruce Bennett/Joshua Mester
Hennigan & Bennett
601 S Figueroa St., Suite 3300
Los Angeles, CA 90017

Counsel to Oaktree Capital Mgmt.:

Eric Reimcr, Esq.
McDermott, Will & Emory
2049 Century Park East, 34th Floor
Los Angeles, CA 90067

20 Largest Unsecured Creditor:

Flatland Online, Inc.
Attn: Michael K. Powers
2325 Third Street, Suite 215
San Francisco, CA 94107

20 Largest Unsecured Creditor:

Juan Gonzalez
KPMG
3 Embarcadero Center, Suite 2000
San Francisco, CA 94111

20 Largest Unsecured Creditor:

Houlihan Lokey Howard & Zukin
Attn: Glenn R. Daniel, Managing Director
49 Stevenson Street, 14th Floor
San Francisco, CA 94105

20 Largest Unsecured Creditor:

VIFA-Speak A/S
Stationsvej 5
6920 Videbaek
Danmark

20 Largest Unsecured Creditor:

3DSL
Attn: John Byrne
Blissworth Base Hill
Stoke Road, Busworth
Northants, UK NN73DB

20 Largest Unsecured Creditor:

Hruska Productions Audio, Inc.
Attn: Jennifer Hruska
66 Rear Dudley Street
Arlington, MA 02476

Creative Labs Req For Spec Notice:

Mark Shinderman, Esq.
Munger, Tolles & Olson LLP
355 South Grand Avenue, Suite 3500
Los Angeles, CA 90071-1560

Ocean Data Products Req Spec. Not:

Patricia S. Mar, Esq.
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105

Office of the U.S. Trustee:

U.S. Trustee
1301 Clay Street, Suite 690N
Oakland, CA 94612

20 Largest Unsecured Creditor:

Ocean Data Products
5th Floor Kader Industrial Bldg.
22 Kai Cheung Road
Kowloon Bay
Kowloon, Hong Kong

20 Largest Unsecured Creditor:

Caesar International, Inc.
Attn: JoJo Estavillo
2860 Zanker Road, Suite 210
San Jose, CA 95134

20 Largest Unsecured Creditor:

Avnet Electronics Marketing
Attn: Judy O'Brien
2105 Lundy Avenue
San Jose, CA 95131

20 Largest Unsecured Creditor:

Finova Technology Finance, Inc.
Attn: Lori P. Sullivan
115 West Century Road, 3rd Floor
Paramus, NJ 07652

20 Largest Unsecured Creditor:

GE Capital
Attn: Brian Haber
Dept. 3123
Pasadena, CA 91051-3123

20 Largest Unsecured Creditor:

Activision, Inc.
Attn: Andrea Tedeschi
3100 Ocean Park Boulevard
Santa Monica, CA 90405

20 Largest Unsecured Creditor:

PC Gamer
Attn: Robin Rosales
150 North Hill Drive
Brisbane, CA 94005

Creative Labs, et al Req. Spec. Notice:

Erika Rottenberg, Esq.
Creative Labs, Inc.
1901 McCarthy Boulevard
Milpitas, CA 95035

I/O Magic Req. for Spec. Notice:

Horowitz & Beam
Attn: Lawrence M. Cron, Esq.
Two Ventura Plaza, Suite 350
Irvine, CA 92618

Request for Special Notice:

Ritter, Van Pelt & Yi, LLP

Attn: Jack Limper

4906 El Camino Real, Suite 205

Los Altos, CA 94022

In re AUREAL, INC.	CHAPTER 11 Debtor. CASE NUMBER 00-42104-T11
------------------------------	--

**NOTICE OF ENTRY OF JUDGMENT OR ORDER
AND CERTIFICATE OF MAILING**

TO ALL PARTIES IN INTEREST ON THE ATTACHED SERVICE LIST:

1. You are hereby notified, pursuant to Local Bankruptcy Rule 9021-1(1)(a)(v), that a judgment or order entitled *(specify)*:

[PROPOSED] ORDER APPROVING APPLICATION OF DEBTOR AND DEBTOR IN POSSESSION TO EMPLOY HENNIGAN & BENNETT AS REORGANIZATION COUNSEL

was entered on *(specify date)*:

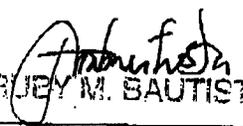
JUN 20 2000

2. I hereby certify that I mailed a copy of this notice and a true copy of the order or judgment to the persons and entities on the attached service list on *(specify date)*:

Dated:

JUN 20 2000

KEENAN G. CASADY
Clerk of the Bankruptcy Court

By: 
RUBY M. SAUTISTA
Deputy Clerk

CA BAR #05-20211
EXHIBIT B - PAGE 8

SERVICE LIST

Debtor's Counsel:

Hennigan & Bennett

Attn: Sid Levinson/Joshua Mester

601 South Figueroa Street, Suite 3300

Los Angeles, CA 90017

EXHIBIT C

2nd Fee Application

2nd Fee App

Matter	Date	Timekeeper	Description	Hrs	Fees
0020 - Meetings of and Communications with Creditors	7/5/2000	Joanne B. Stern	Telephone conference with Mr. Reimer regarding signature page to stipulation regarding order establishing sale procedures for certain assets of the estate, overbid procedures, break-up fee arrangements.	0.1	\$15.50
0020 - Meetings of and Communications with Creditors	7/5/2000	Joanne B. Stern	Telephone conference with creditor regarding filing proof of claim.	0.1	\$15.50
0020 - Meetings of and Communications with Creditors	7/5/2000	Sidney Levinson	Telephone conference with Mr. Hiraga regarding Voyetra-Turtle Beach.	0.2	\$71.00
0020 - Meetings of and Communications with Creditors	7/6/2000	Joanne B. Stern	Telephone conference with Mr. Holiday regarding application to employ auctioneer.	0.2	\$31.00
0020 - Meetings of and Communications with Creditors	7/6/2000	Joanne B. Stern	Telephone conference with Ruby at the Clerk's office regarding order approving sales procedures motion and stipulation.	0.2	\$31.00
0020 - Meetings of and Communications with Creditors	7/6/2000	Joanne B. Stern	Telephone conference with Ms. Cronin regarding filing proof of claim.	0.2	\$31.00
0020 - Meetings of and Communications with Creditors	7/6/2000	Sidney Levinson	Telephone conference with Ms. Michelson (committee counsel) regarding status of various matters.	0.4	\$142.00
0020 - Meetings of and Communications with Creditors	7/7/2000	Sidney Levinson	Telephone conference with Mr. Mitchell regarding document retention, Gray Cary.	0.3	\$106.50
0020 - Meetings of and Communications with Creditors	7/10/2000	Joanne B. Stern	Telephone conference with Mr. Mitchell regarding signing declaration in support of motion to approve premium finance agreement.	0.1	\$15.50
0020 - Meetings of and Communications with Creditors	7/10/2000	Joanne B. Stern	Prepare correspondence to Mr. Mitchell regarding signing declaration in support of motion to approve premium finance agreement.	0.2	\$31.00
0020 - Meetings of and Communications with Creditors	7/10/2000	Joanne B. Stern	Telephone conference with Sterling Madison regarding filing notice of motion and motion for approval of stipulation to pay employee vacation benefits.	0.2	\$31.00
0020 - Meetings of and Communications with Creditors	7/11/2000	Joanne B. Stern	Telephone conference with Celina at Marsh & Associates regarding insurance certificates.	0.2	\$31.00
0020 - Meetings of and Communications with Creditors	7/12/2000	Sidney Levinson	Telephone conference with Ms. Michelson regarding various issues.	0.4	\$142.00
0020 - Meetings of and Communications with Creditors	7/13/2000	Sidney Levinson	Telephone conference with Mr. Gold (Argo Partners) regarding status of case.	0.2	\$71.00
0020 - Meetings of and Communications with Creditors	7/14/2000	Sidney Levinson	Telephone conference with Mr. Reimer regarding sale, exclusivity, other issues.	0.4	\$142.00
0020 - Meetings of and Communications with Creditors	7/19/2000	Joanne B. Stern	Telephone conference with Mr. Shimanek regarding status of shares and section 144 issues.	0.2	\$31.00
0020 - Meetings of and Communications with Creditors	7/20/2000	Joanne B. Stern	Telephone conference with Ms. Bautista regarding copy of Ritter Van Pelt application.	0.1	\$15.50
0020 - Meetings of and Communications with Creditors	7/24/2000	Joanne B. Stern	Telephone conference with Sterling Madison regarding copies of claims.	0.1	\$15.50
0020 - Meetings of and Communications with Creditors	7/24/2000	Joanne B. Stern	Telephone conference with Mr. Pancurak regarding notice received.	0.2	\$31.00
0020 - Meetings of and Communications with Creditors	7/24/2000	Joanne B. Stern	Telephone conference with Ms. Johnston regarding notice received.	0.2	\$31.00



3rd Fee Application

ORIGINAL

1 BRUCE BENNETT (SBN 105430)
2 MICHAEL A. MORRIS (SBN 89842)
3 SIDNEY P. LEVINSON (SBN 139419)
4 HENNIGAN, BENNETT & DORMAN
5 601 South Figueroa Street, Suite 3300
6 Los Angeles, California 90017
7 Telephone: (213) 694-1200
8 Facsimile: (213) 694-1234

9 Reorganization and Litigation Counsel
10 for Debtor and Debtor in Possession

FILED
FEB 13 2011
COURT REPORTER
OAKLAND, CALIFORNIA

11 UNITED STATES BANKRUPTCY COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 OAKLAND DIVISION

14 In re) Case No. 00-42104-T11

15 AUREAL INC., d/b/a SILO.COM,)
16 f/k/a AUREAL SEMICONDUCTOR,) (Chapter 11)
17 INC., f/k/a MEDIA VISION)
18 TECHNOLOGY, INC., a Delaware)
19 corporation;)

20 Debtor.)

21 NOTICE OF AMENDED APPLICATION
22 AND AMENDED THIRD INTERIM
23 APPLICATION OF HENNIGAN, BENNETT
24 & DORMAN FOR ALLOWANCE OF
25 COMPENSATION AND REIMBURSEMENT
26 OF EXPENSES FOR PROFESSIONAL
27 SERVICES RENDERED AS
28 REORGANIZATION COUNSEL AND
LITIGATION COUNSEL TO THE DEBTOR
AND DEBTOR IN POSSESSION

[No Hearing Requested]

PLEASE TAKE NOTICE, that Hennigan, Bennett & Dorman, ("HBD"), counsel to
Aureal Inc., d/b/a Silo.com, f/k/a Aureal Semiconductor, Inc., f/k/a Media Vision Technology,
Inc., a Delaware corporation (the "Debtor"), in the above-captioned case, respectfully submits to
the Court, pursuant to sections 327, 330, 331 and 503(b) of title 11 of the United States Code (the
"Bankruptcy Code"), and Rule 2015 of the Federal Rule of Bankruptcy Procedure (the
"Bankruptcy Rule"), this "Notice of Amended and Amended Third Interim Application of

3rd Application

Date	Matter	Timekeeper	Description	Hours	Fees
10/2/2000	0020 - Meetings of and Communications with Creditors	Kelly Frazier	Telephone conference with Mr. Voulankis regarding creditors claims.	0.10	\$ 23.50
10/3/2000	0020 - Meetings of and Communications with Creditors	Joanne B. Stern	Telephone conference with creditor regarding filing proof of claim.	0.10	\$ 15.50
10/3/2000	0020 - Meetings of and Communications with Creditors	Joanne B. Stern	Telephone conference with creditor regarding filing proof of claim.	0.10	\$ 15.50
10/4/2000	0020 - Meetings of and Communications with Creditors	Joshua Mester	Telephone conference with Ms. Hruska regarding payment of claim against the debtor.	0.20	\$46.00
10/4/2000	0020 - Meetings of and Communications with Creditors	Joshua Mester	Telephone conference with Ms. Cleary regarding claim of Hruska.	0.20	\$46.00
10/5/2000	0020 - Meetings of and Communications with Creditors	Joanne B. Stern	Telephone conference with creditor regarding claims process.	0.20	\$31.00
10/6/2000	0020 - Meetings of and Communications with Creditors	Joanne B. Stern	Telephone conference with Mr. Rose regarding revisions to Areal order.	0.20	\$31.00
10/13/2000	0020 - Meetings of and Communications with Creditors	Sidney Levinson	Telephone conference with Mr. Gold regarding creditor inquiries.	0.20	\$71.00
10/23/2000	0020 - Meetings of and Communications with Creditors	Sidney Levinson	Telephone conference with creditor (LSI) regarding status.	0.20	\$71.00
Grand Total				1.50	\$350.50





Date	Matter	Timekeeper	Description	Hours	Fees
10/3/2000	0030 - General Business Operations	Sidney Levinson	Telephone conference with Mr. Gold regarding purchased claims.	0.10	\$35.50
10/3/2000	0030 - General Business Operations	Sidney Levinson	Conference with Ms. Stern regarding purchased claims.	0.10	\$35.50
10/23/2000	0030 - General Business Operations	Sidney Levinson	Telephone conference with Mr. Mitchell regarding various issues.	0.40	\$142.00
10/24/2000	0030 - General Business Operations	Joanne B. Stern	Telephone conference with Judge Tchaikovsky's law clerk regarding status of orders.	0.10	\$ 15.50
Grand Total				.70	\$228.50

Date	Matter	Timekeeper	Description	Hours	Fees
10/4/2000	0075 - Hruska Claim	Joshua Mester	Prepare memorandum to Mr. Levinson and Ms. Frazier regarding Hruska claim.	0.30	\$69.00
10/4/2000	0075 - Hruska Claim	Joshua Morse	Telephone conference with Ms. Cleary regarding Hruska's unsecured claim and the sale motion.	0.30	\$60.00
10/4/2000	0075 - Hruska Claim	Sidney Levinson	Telephone conference with Mr. Mester regarding Hruska claim.	0.20	\$71.00
10/5/2000	0075 - Hruska Claim	Joshua Morse	Telephone conference with Ms. Cleary (Hruska claim).	0.20	\$40.00
10/6/2000	0075 - Hruska Claim	Sidney Levinson	Telephone conference with Ms. Hruska regarding cure claim.	0.30	\$106.50
10/6/2000	0075 - Hruska Claim	Joshua Morse	Telephone conference with Mr. Gold regarding Hruska claim.	0.10	\$20.00
10/6/2000	0075 - Hruska Claim	Joshua Morse	Telephone conference with Ms. Cleary regarding Hruska claim.	0.10	\$20.00
10/10/2000	0075 - Hruska Claim	Sidney Levinson	Telephone conference with Mr. Gold regarding transfer of claims.	0.20	\$71.00
Grand Total				1.7	\$457.50



ORIGIN

1 BRUCE BENNETT (SBN 105430)
2 MICHAEL A. MORRIS (SBN 89842)
3 SIDNEY P. LEVINSON (SBN 139419)
4 KELLY K. FRAZIER (Admitted Pro Hac Vice)
5 HENNIGAN, BENNETT & DORMAN
6 601 South Figueroa Street, Suite 3300
7 Los Angeles, California 90017
8 Telephone: (213) 694-1200
9 Facsimile: (213) 694-1234

10 Reorganization and Litigation Counsel
11 for Debtor and Debtor in Possession

12 UNITED STATES BANKRUPTCY COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

FILED
00 DEC 27 PM 12:36
KAREN M. CARROLL, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND, CA

15 In re) Case No. 00-42104-T11

16 AUREAL INC., d/b/a SILO.COM,)
17 f/k/a AUREAL SEMICONDUCTOR,) (Chapter 11)
18 INC., f/k/a MEDIA VISION)
19 TECHNOLOGY, INC., a Delaware)

20 Debtor.) **NOTICE OF APPLICATION AND THIRD**
21) **INTERIM APPLICATION OF HENNIGAN,**
22) **BENNETT & DORMAN FOR ALLOWANCE**
23) **OF COMPENSATION AND**
24) **REIMBURSEMENT OF EXPENSES FOR**
25) **PROFESSIONAL SERVICES RENDERED**
26) **AS REORGANIZATION COUNSEL AND**
27) **LITIGATION COUNSEL TO THE DEBTOR**
28) **AND DEBTOR IN POSSESSION**

[No Hearing Requested]

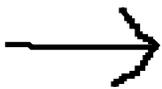
23 **PLEASE TAKE NOTICE**, that pursuant to Bankruptcy Local Rule ("B.L.R.") 9014-1 of
24 the United States Bankruptcy Court for the Northern District of California, any objection to the
25 requested relief, or a request for hearing on the matter below, must be filed and served upon
26 counsel for the Aural Inc., debtor and debtor in possession in the above-captioned case, (the
27 "Debtor"), at the address listed above, within twenty (20) days of mailing of this notice. A
28

HENNIGAN, BENNETT & DORMAN

3rd App.

DATE		HOURS	FEES
<u>Nickname 1: 0020 - Meetings of and Communications with Creditors</u>			
10/2/2000	Telephone conference with Mr. Voulankis regarding creditors claims. Kelly Frazier	0.10	\$23.50
10/3/2000	Telephone conference with creditor regarding filing proof of claim. Joanne B. Stern	0.10	\$15.50
10/3/2000	Telephone conference with creditor regarding filing proof of claim. Joanne B. Stern	0.10	\$15.50
10/4/2000	Telephone conference with Ms. Cleary regarding claim of Hruska. Joshua Mester	0.20	\$46.00
10/4/2000	Telephone conference with Ms. Hruska regarding payment of claim against the debtor. Joshua Mester	0.20	\$46.00
10/5/2000	Telephone conference with creditor regarding claims process. Joanne B. Stern	0.20	\$31.00
10/6/2000	Telephone conference with Mr. Rose regarding revisions to Aural order. Joanne B. Stern	0.20	\$31.00
10/13/2000	Telephone conference with Mr. Gold regarding creditor inquiries. Sidney Levinson	0.20	\$71.00
10/23/2000	Telephone conference with creditor (LSI) regarding status. Sidney Levinson	0.20	\$71.00
Total: 0020 - Meetings of and Communications with Creditors		1.50	\$350.50

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EXHIBIT C - PAGE 9



DATE		HOURS	FEE\$
<u>Nickname 1: 0030 - General Business Operations</u>			
10/2/2000	Telephone conference with Mr. Lathrop regarding patent deadline and compliance therewith. Joanne B. Stern	0.30	\$46.50
10/2/2000	Telephone conference with Mr. Mitchell regarding trademark deadline and compliance therewith. Joanne B. Stern	0.10	\$15.50
10/3/2000	Analyze correspondence regarding trademark issues. Sidney Levinson	0.20	\$71.00
10/3/2000	Telephone conference with Mr. Gold regarding purchased claims. Sidney Levinson	0.10	\$35.50
10/3/2000	Conference with Ms. Stern regarding purchased claims. Sidney Levinson	0.10	\$35.50
10/3/2000	Revise order approving Caesar payment. Joanne B. Stern	0.10	\$15.50
10/6/2000	Revise Circle Order. Joanne B. Stern	0.10	\$15.50
10/6/2000	Revise Caesar Order. Joanne B. Stern	0.10	\$15.50
10/10/2000	Telephone conference with Mr. Mitchell regarding pension issue. Sidney Levinson	0.20	\$71.00
10/10/2000	Prepare correspondence to YS Chang regarding filing Korean appeal. Joanne B. Stern	0.50	\$77.50
10/10/2000	Revise Caesar order. Joanne B. Stern	0.30	\$46.50

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EXHIBIT C - PAGE 10

DATE		HOURS	FEE\$
10/6/2000	Telephone conference with Ms. Hruska regarding cure claim. Sidney Levinson	0.30	\$106.50
10/6/2000	Prepare e-mail correspondence to Ms. Michelson regarding claims. Joanne B. Stern	0.20	\$31.00
→ 10/10/2000	Telephone conference with Mr. Gold regarding transfer of claims. Sidney Levinson	0.20	\$71.00
10/12/2000	Draft correspondence to Mr. Day (3DSL) regarding letter of credit issue and 3DSL's claim. Joshua Morse	0.60	\$120.00
10/12/2000	Review and revise correspondence to Mr. Day (3DSL) regarding letter of credit issue and 3DSL's claim. Joshua Morse	0.30	\$60.00
10/16/2000	Review and revise letter to 3DSL regarding letter of credit. Joshua Morse	0.60	\$120.00
10/18/2000	Review claims register. Sidney Levinson	0.30	\$106.50
10/18/2000	Prepare memorandum to Mr. Morse regarding forms of objection to claims and exhibits. Joshua Mester	0.40	\$92.00
10/18/2000	Meeting with Mr. Morse regarding objections to claims. Joshua Mester	0.70	\$161.00
10/18/2000	Meeting with Mr. Mester regarding preparation of omnibus motion objecting to claims. Joshua Morse	0.70	\$140.00

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EXHIBIT C - PAGE 11

DATE		HOURS	FEE\$
10/6/2000	Telephone conference with Mr. Mitchell regarding post-closing retained equipment. Kelly Frazier	0.10	\$23.50
10/6/2000	Telephone conference with Mr. Carlson regarding inventory count. Kelly Frazier	0.20	\$47.00
10/6/2000	Telephone conference with Messrs. Mitchell and Morris regarding sale issues. Sidney Levinson	0.20	\$71.00
10/6/2000	Telephone conference with Ms. Frazier regarding status. Sidney Levinson	0.20	\$71.00
10/6/2000	Telephone conference with Mr. Morris regarding sale issues. Sidney Levinson	0.20	\$71.00
10/6/2000	Telephone conference with Ms. Frazier regarding inventory and closing matters. Michael Morris	0.30	\$126.00
10/6/2000	Telephone conference with Mr. Masson regarding status of closing. Michael Morris	0.10	\$42.00
10/6/2000	Telephone conference with Mr. Levinson regarding closing issues. Michael Morris	0.30	\$126.00
10/6/2000	Telephone conference with Mr. Lafferty regarding response on open issues. Michael Morris	0.20	\$84.00
→ 10/6/2000	Telephone conference with Mr. Gold regarding Hruska claim. Joshua Morse	0.10	\$20.00

4th Fee Application

4th Application

DATE		HOURS	FE
<hr/>			
<u>Nickname 1: 0020 - Meetings of and Communications with Creditors</u>			
12/12/2000	Telephone conference with creditor regarding status. Sidney Levinson	0.10	\$35.
→ 12/12/2000	Prepare correspondence to Ms. Sargent regarding Argo Partners information. Joanne B. Stern	0.20	\$31.0
→ 12/12/2000	Telephone conference with Ms. Sargent regarding Argo Partners. Joanne B. Stern	0.20	\$31.0
12/15/2000	Telephone conference with attorney for Krsytech regarding filing of plan. Joanne B. Stern	0.20	\$31.0
12/15/2000	Telephone conference with Mr. Brown regarding new telephone numbers for Aureal and Mohler, Nixon. Joanne B. Stern	0.20	\$31.0
<hr/>			
Total: 0020 - Meetings of and Communications with Creditors		0.90	\$159.50

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EXHIBIT C - PAGE 14

DATE		HOURS	FEI
<u>Nickname 1: 0070 - Claims Administration and Objections</u>			
→ 12/1/2000	Telephone conference with Mr. Gold regarding claims. Joshua Morse	0.10	\$20.0
→ 12/5/2000	Telephone conference with Mr. Gold regarding status. Sidney Levinson	0.20	\$71.0
12/13/2000	Telephone conference with creditor regarding objection to claim. Sidney Levinson	0.10	\$35.5
12/15/2000	Review file regarding Aural invoice information. Joanne B. Stern	0.40	\$62.0
<u>Total: 0070 - Claims Administration and Objections</u>		0.80	\$188.50

10th Fee Application

10th Fee Application

DATE		HOURS	FEI
6/5/2001	Prepare facsimile correspondence to Mr. Mitchell regarding debtor's solicitation letter. Joanne B. Stern	0.20	\$33.0
6/5/2001	Revise second amended plan and make camera ready. Joanne B. Stern	1.30	\$214.5
6/6/2001	Review and revise creditor database. Joanne B. Stern	2.10	\$346.5
6/6/2001	Telephone conference with McCutcheon regarding solicitation process. Joanne B. Stern	0.20	\$33.0
6/6/2001	Telephone conference with Mr. Fallek regarding solicitation process. Joanne B. Stern	0.20	\$33.0
6/6/2001	Review creditor database regarding Argo Partners claims. Joanne B. Stern	0.30	\$49.5
6/7/2001	Analyze solicitation issues. Sidney Levinson	0.20	\$75.0
6/7/2001	Review informational letter to creditors and shareholders for plan solicitation; meeting with Mr. Levinson regarding same. Joshua Morse	0.30	\$63.0
6/7/2001	Review and revise creditor database. Joanne B. Stern	0.90	\$148.5
6/7/2001	Revise second amended plan. Joanne B. Stern	0.30	\$49.5
6/8/2001	Telephone conference with Mr. Mitchell regarding signing solicitation letter. Joshua Morse	0.10	\$21.0

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EXHIBIT C - PAGE 17



11th Fee Application

11th Fee Application

DATE		HOURS	FEE
→ 7/16/2001	Telephone conference with Mr. Gold regarding ballots cast on Committee plan. Sidney Levinson	0.10	\$37.5
7/16/2001	Draft email to Mr. Liang regarding plan negotiation. Sidney Levinson	0.10	\$37.5
7/16/2001	Conference with Mr. Morris regarding committee ballot report. Sidney Levinson	0.20	\$75.0
→ 7/16/2001	Telephone conference with Mr. Gold regarding ballots cast on Committee plan. Sidney Levinson	0.20	\$75.0
→ 7/16/2001	Review Argo ballots. Sidney Levinson	0.10	\$37.5
7/16/2001	Review and analyze committee ballot report. Sidney Levinson	0.50	\$187.5
7/16/2001	Review file regarding committee's objection to debtor's second amended plan. Joanne B. Stern	0.60	\$99.0
7/16/2001	Prepare facsimile correspondence to Mr. Pope regarding McCutchen documents. Joanne B. Stern	0.20	\$33.0
7/16/2001	Review committee's ballot report. Joanne B. Stern	0.40	\$66.0
7/17/2001	Further analysis of Committee ballot report. Sidney Levinson	0.30	\$112.5

CA BAR #05-20211
EXHIBIT C - PAGE 19

EXHIBIT D

FILED
MB
01 JUN -7 PM 3:27

CLERK
U.S. DISTRICT COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

1 BRUCE BENNETT (SRN 105430)
SIDNEY P. LEVINSON (SBN 139419)
2 JOSHUA D MORSE (SBN 211050)
HENNIGAN, BENNETT & DORMAN
3 601 South Figueroa Street, Suite 3300
Los Angeles, CA 90017
4 Telephone: (213) 694-1200
Fax: (213) 694-1234

FILE BY
FAX

5 Reorganization Counsel for
6 Debtor and Debtor in Possession

7 *File By FAX*

UNITED STATES BANKRUPTCY COURT

8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 OAKLAND DIVISION

10 In re) Case No.00-42104-T11
11)
12 AUREAL INC., d/b/a SILO.COM, f/k/a) (Chapter 11)
AUREAL SEMICONDUCTOR, INC., f/k/a)
13 MEDIA VISION TECHNOLOGY, INC., a)
Delaware corporation,)
14 Debtor.) SUPPLEMENTAL DECLARATION OF
SIDNEY P. LEVINSON IN CONNECTION
15) WITH EMPLOYMENT BY DEBTOR AND
DEBTOR-IN-POSSESSION OF
16) HENNIGAN, BENNETT & DORMAN AS
REORGANIZATION COUNSEL
17)
18)

19 I, Sidney P. Levinson, declare:

20 I, Sidney P. Levinson, declare:
21 I am a member in good standing of the Bar of the State of California, and I am
22 admitted to practice before, among other courts, the United States District Court for the Northern
23 District of California. I am employed at Hennigan, Bennett & Dorman ("HBD"), reorganization
24 counsel for Aural, Inc., the debtor and debtor in possession (the "Debtor") in the above-captioned
25 bankruptcy case. I make this Supplemental Declaration in Connection With Employment by Debtor
26 and Debtor of Hennigan, Bennett & Dorman AS Reorganization Counsel to disclose a connection
27 between HBD and a party in interest in the case. Except where otherwise indicated, I have personal
28

SUPPLEMENTAL DECLARATION OF SIDNEY P. LEVINSON IN CONNECTION WITH
EMPLOYMENT BY DEBTOR AND DEBTOR IN POSSESSION OF HENNIGAN, BENNETT & DORMAN
AS REORGANIZATION COUNSEL Case No. 00-42104-T11

CA BAR #05-20211
EXHIBIT D - PAGE 1

545

1 knowledge of the matters set forth below and, if called to testify, I would and could competently
2 testify thereto

3 2. On April 5, 2000, the Debtor filed an application to employ HBD as bankruptcy
4 reorganization counsel. At that time, HBD disclosed in its retention agreement that it would
5 represent creditors in unrelated matters. On April 13, 2000, HBD provided a Supplemental
6 Declaration of James O. Johnston which provided additional information regarding HBD's
7 representation of Oaktree Capital Management, L.L.C. On June 19, 2000, this Court entered an order
8 authorizing the employment of HBD as bankruptcy reorganization counsel.

9 3. Subsequently, on June 12, 2000, HBD filed an application to employ HBD as
10 litigation counsel. In connection with that application, HBD submitted the Declaration of James O
11 Johnston dated June 12, 2000, and the Supplemental Declaration of Sidney P. Levinson, dated June
12 28, 2000. On August 9, 2000, HBD filed an amended application with respect to employment as
13 litigation counsel. On October 25, 2000, this Court entered an order authorizing the employment of
14 HBD as litigation counsel.

15 4. Since the commencement of this bankruptcy case, a number of the claims held by
16 various creditors of the Debtor have been purchased by Argo Partners, Inc. ("Argo"). HBD is
17 informed and believes that Argo currently holds 16 claims in an aggregate dollar amount of
18 \$270,906.91.

19 5. On October 11, 2000, subsequent to the Debtor's retention of HBD in this bankruptcy
20 case, and as authorized by HBD's retention agreement with the debtor, Argo retained HBD to
21 represent Argo in connection with a separate matter entirely unrelated to this bankruptcy case.
22 Specifically, Argo retained HBD to serve as Argo's special bankruptcy counsel for the purpose of
23 representing Argo in the bankruptcy and receivership cases involving Nashville Wireless Cable Joint
24 Venture and Continental Wireless Cable Television, Inc., currently and/or previously pending before
25 the United States District Court for the Southern District of California as Case No. 94cv0737E
26 (COA) and Case No. 97cv0352E (COA) (collectively, the "Receivership Cases"). Argo had not
27 retained HBD prior to the Receivership Cases. HBD's representation of Argo in the Receivership

28 HENNING, BENNETT & DORMAN

-1-

SUPPLEMENTAL DECLARATION OF SIDNEY P. LEVINSON IN CONNECTION WITH
EMPLOYMENT BY DEBTOR AND DEBTOR IN POSSESSION OF HENNING, BENNETT & DORMAN
AS REORGANIZATION COUNSEL - Case No. 00-42108-T11

1 Cases concluded in February 2001, and the Debtor does not currently represent Argo in any matters.
 2 HBD's representation of Argo did not constitute a material portion of HBD's business. To the
 3 contrary, the overwhelming majority of HBD's business relates to litigation and bankruptcy matters
 4 that do not involve Argo or any of its affiliates.

5 6. I believe that HBD is and remains "disinterested" with respect to the Debtor, within
 6 the meaning of sections 101(14) and 327 of the Bankruptcy Code, notwithstanding its representation
 7 of Argo during the period October 2000 through February 2001.

8 7. Specifically, HBD does not fall within the criteria set forth in subsections (A)
 9 through (D) of section 101(14). Moreover, I do not believe that HBD has an interest materially
 10 adverse to the interest of the Debtor's estate, or to any class of creditors or equity security holders,
 11 for at least the following reasons:

12 a. As noted above, to the best of my knowledge, none of the parties to the
 13 Receivership Cases, other than Argo, are parties in interest, or are affiliated with parties in interest
 14 in the above-captioned case. Moreover, I believe that the controversies for which HBD represents
 15 Argo in the Receivership Cases are entirely unrelated to any of the claims held by Argo against the
 16 Debtor.

17 b. The matter for which HBD represents Argo did not constitute a material
 18 percentage of HBD's revenues or overall client base. The Receivership Cases is the only matter
 19 where HBD has provided representation to Argo. Thus, I believe that HBD's representation of Argo
 20 in the Receivership Cases does not constitute a material portion of HBD's business. The
 21 overwhelming majority of HBD's business relates to litigation and bankruptcy matters that do not
 22 involve Argo or any of its affiliates.

23 c. Each of the Debtor and Argo has consented to HBD's concurrent
 24 representation of the Debtor and Argo.

25 d. Nearly all of the work for Argo was performed by James O. Johnston, who
 26 has performed only minimal services for the Debtor in this bankruptcy case. None of the HBD
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HENNIGAN, BENNETT & DORMAN

-2-

SUPPLEMENTAL DECLARATION OF SIDNEY F. LEVINSOHN IN CONNECTION WITH
 EMPLOYMENT BY DEBTOR AND DEBTOR IN POSSESSION OF HENNIGAN, BENNETT & DORMAN
 AS REORGANIZATION COUNSEL - Case No. 00-42104-111

CA BAR #05-20211
 EXHIBIT D - PAGE 3

1 attorneys principally responsible for representing the Debtor in this bankruptcy case were involved
2 in HBD's representation of Argo.

3 7. In summary, I believe that HBD remains disinterested notwithstanding HBD's
4 representation of Argo in the unrelated Receivership Cases.

5 8. HBD will continue to monitor its engagements and connection and will make
6 additional supplemental disclosures as necessary.

7 I declare under penalty of perjury that the foregoing is true and correct

8 Executed this 7th day of June, 2001, at Los Angeles, California.

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By: Sidney P. Levinson
Sidney P. Levinson
Reorganization Counsel for Debtor
And Debtor in Possession

CA BAR #05-20211
EXHIBIT D - PAGE 4

DECLARATION OF SERVICE

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I am over the age of eighteen years and not a party to the within action. My business address is Hennigan, Bennett & Dorman, 601 South Figueroa Street, Suite 3300, Los Angeles, California 90017.

On June 7, 2001, I served the following pleading:

SUPPLEMENTAL DECLARATION OF SIDNEY P. LEVINSON IN CONNECTION WITH EMPLOYMENT BY DEBTOR AND DEBTOR IN POSSESSION OF HENNIGAN, BENNETT & DORMAN AS REORGANIZATION COUNSEL

on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, with first class postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as follows:

See attached service list

I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

The above-described pleading also was transmitted to the indicated parties set forth above in the manner described below:

- By air courier service, for next business-day delivery by _____;
- By messenger service, for same-day delivery by hand by _____;
- By telecopy, for immediate receipt _____.

I declare that I am employed in an office of a member of the bar of this Court, at whose direction the within service was made. I declare under penalty of perjury under the law of the United States of America that the foregoing is true and correct.

EXECUTED on June 7, 2001, at Los Angeles, California.


Joanne Stern, Declarant

HENNIGAN, BENNETT & DORMAN

PROOF OF SERVICE

CA BAR #05-20211
EXHIBIT D - PAGE 5

Debtor:

ATREAI, INC
Attn: Steve Mitchell
PO Box 12587
Pleasanton, CA 94566-2587

Secured Creditor as Agent:

Oaktree Capital Management LLC
Attn: Richard Masson
333 S. Grand Avenue, 28th Floor
Los Angeles, CA 90071

Creditors' Committee Member:

UMC Group (USA)
Attn: Hwai-Jen Lu, Credit Manager
488 DeGulgas Drive
Sunnyvale, CA 94086

Creditors' Committee Member:

Highsoft, Inc.
Attn: R. Scott Holmgren, Gen. Mgr.
1964 Latham Street
Mountain View, CA 94040-2107

20 Largest Unsecured Creditor:

Caesar International, Inc.
Attn: JoJo Estrella
2860 Zanker Road, Suite 210
San Jose, CA 95134

20 Largest Unsecured Creditor:

PC World Communications
Attn: Kevin Greene
PO Box 3700-67
Boston, MA 02241-0767

20 Largest Unsecured Creditor:

Integra-Dyne Corp.
Attn: Ren Condotta
145 King Street, West, Suite 1000
Toronto, ON M5H 1J8
Canada

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Hruska Productions Audio, Inc.
Attn: Jennifer Hruska
66 Rear Dudley Street
Arlington, MA 02476

Creative Labs, et al Req. Spec. Notices:

Erika Rottenberg, Esq.
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Debtor's Counsel:

Sidney Levinson/Kelly Frazier
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Counsel to Oaktree Capital Manag.:

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3049 Century Park East, 34th Floor
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Attn: Terry Campbell
2325 Third Street, Suite 300
San Francisco, CA 94107

Creditors' Committee Member:

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Attn: O'Neil Persons, Collections Mgr.
115 West Century Road, 3rd Floor
Paramus, NJ 07652

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Attn: Steve Muir
555 River Oaks Parkway
San Jose, CA 95134

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VIFA-Speak A/S
Attn: David Stephens
1860 Renaissance Blvd
Sturtevant, WI 53177

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3DSL
Attn: John Byrne
Blissworth Base Hill
Stokes Road, Buswirth
Northvale, NJ 07648

Request For Special Notice:

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Attn: Thomas C. Mitchell, Esq.
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Caesar Int'l Req for Special Notices:

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Request for Special Notices:

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Attn: Jack Limper
4906 El Camino Real, Suite 205
Los Altos, CA 94022

Office of the U.S. Trustee:

U.S. Trustee
Attn: Mark L. Pope, Esq.
1301 Clay Street, Suite 690N
Oakland, CA 94612

Creditors' Committee Member:

Ocean Data Products
2nd Floor Radio Industrial Bldg.
27 Kai Cheung Road
Kowloon Bay
Kowloon, Hong Kong

Creditors' Committee Member:

Juan Gonzalez
KPMG
3 Jambalaya Center, Suite 2000
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20 Largest Unsecured Creditors:

Ziff Davis
Attn: Customer Service Dept.
One Park Avenue
New York, NY 10016

Request for Notice Debt Acquisition:

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Attn: Tom Scheidt
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San Diego, CA 92110

Pinoy Ben for Special Notice:
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New York Dept of Taxation and Finance
Deputy Commissioner and Counsel
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Los Angeles, CA 90071

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RCC Carpathia Master reg for notice:
RCC Carpathia Master Fund Ltd
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Secured Creditor as Agent:
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U.S. Trustee
Attn: Mark L. Pope, Esq.
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5th Floor Kader Industrial Bldg.
22 Kai Cheung Road
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Attn: Chris Smythe
44 Old Ridgebury Road
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Patricia S. Mar, Esq.
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105

20 Largest Unsecured Creditors:
Ziff Davis
Attn: Customer Service Dept.
One Park Avenue
New York, NY 10016

EXHIBIT E

1 SIDNEY P. LEVINSON (SBN 139419)
JOSHUA D. MORSE (SBN 211050)
2 HENNIGAN, BENNETT & DORMAN
601 South Figueroa Street, Suite 3300
3 Los Angeles, CA 90017
Telephone: (213) 694-1200
4 Fax: (213) 694-1234

5 Reorganization Counsel for
Debtor and Debtor in Possession

6
7 **UNITED STATES BANKRUPTCY COURT**
8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
9 **OAKLAND DIVISION**
10

11 In re

12 AUREAL INC., d/b/a SILO.COM, f/k/a
13 AUREAL SEMICONDUCTOR, INC., f/k/a
14 MEDIA VISION TECHNOLOGY, INC., a
Delaware corporation,

15 Debtor.

) Case No.00-42104-T11

) (Chapter 11)

) **SUPPLEMENTAL DECLARATION OF**
) **SIDNEY P. LEVINSON IN CONNECTION**
) **WITH EMPLOYMENT BY DEBTOR AND**
) **DEBTOR-IN-POSSESSION OF**
) **HENNIGAN, BENNETT & DORMAN AS**
) **REORGANIZATION COUNSEL**

16
17
18
19 I, Sidney P. Levinson, declare:

20 1. I am a member in good standing of the Bar of the State of California, and I am
21 admitted to practice before, among other courts, the United States District Court for the Northern
22 District of California. I am employed at Hennigan, Bennett & Dorman ("HBD"), reorganization
23 counsel for Aureal, Inc., the debtor and debtor in possession (the "Debtor") in the above-captioned
24 bankruptcy case. I make this Supplemental Declaration in Connection With Employment by Debtor
25 and Debtor of Hennigan, Bennett & Dorman As Reorganization Counsel to disclose a connection
26 between HBD and a party in interest in the case. Except where otherwise indicated, I have personal
27

28
SUPPLEMENTAL DECLARATION OF SIDNEY P. LEVINSON IN CONNECTION
WITH EMPLOYMENT BY DEBTOR AND DEBTOR-IN-POSSESSION OF
HENNIGAN, BENNETT & DORMAN AS REORGANIZATION COUNSEL - Case No. 00-42104-T11

ORIGINAL FILED

OCT 24 2001

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

1 knowledge of the matters set forth below and, if called to testify, I would and could competently
2 testify thereto.

3 2. On April 5, 2000, the Debtor filed an application to employ HBD as bankruptcy
4 reorganization counsel. At that time, HBD disclosed in its retention agreement that it would
5 represent creditors in unrelated matters. On April 13, 2000, HBD provided a Supplemental
6 Declaration of James O. Johnston which provided additional information regarding HBD's
7 representation of Oaktree Capital Management, LLC. On June 19, 2000, this Court entered an order
8 authorizing the employment of HBD as bankruptcy reorganization counsel.

9 3. Subsequently, on June 12, 2000, HBD filed an application to employ HBD as
10 litigation counsel. In connection with that application, HBD submitted the Declaration of James O.
11 Johnston dated June 12, 2000, and the Supplemental Declaration of Sidney P. Levinson, dated
12 June 28, 2000. On August 9, 2000, HBD filed an amended application with respect to employment
13 as litigation counsel. On October 25, 2000, this Court entered an order authorizing the employment
14 of HBD as litigation counsel.

15 4. Since the commencement of this bankruptcy case, a number of the claims held by
16 various creditors of the Debtor have been purchased by Argo Partners, Inc. ("Argo"). HBD is
17 informed and believes that Argo currently holds 18 claims in an aggregate dollar amount of
18 \$270,906.91.

19 5. On June 7, 2001, HBD filed a supplemental declaration (the "Argo Supplemental
20 Declaration") in which it disclosed its representation of Argo in connection with a separate matter
21 entirely unrelated to this bankruptcy case; specifically, in the bankruptcy and receivership cases
22 involving Nashville Wireless Cable Joint Venture and Continental Wireless Cable Television, Inc.,
23 currently and/or previously pending before the United States District Court for the Southern District
24 of California as Case No. 94cv0737E (CGA) and Case No. 97cv0352E (CGA)(collectively, the
25 "Receivership Cases").

26 6. Subsequent to the filing of the Argo Supplemental Declaration, Argo requested that
27 HBD represent Argo in connection with a new separate matter, also entirely unrelated to this
28

1 bankruptcy case. Specifically, Argo retained HBD to represent it in responding to objections to
2 claims purchased and held by Argo in In re Scour, Inc., Case No. LA 00-38784 KM (Bankr. C.D.
3 Cal.) (the "Scour Case"). A hearing on those objections was held on September 25, 2001, and the
4 objections have now been resolved.

5 7. I believe that HBD is and remains "disinterested" with respect to the Debtor, within
6 the meaning of sections 101(14) and 327 of the Bankruptcy Code, notwithstanding its representation
7 of Argo in the Scour Case.

8 8. Specifically, HBD does not fall within the criteria set forth in subsections (A)
9 through (D) of section 101(14). Moreover, I do not believe that HBD has an interest materially
10 adverse to the interest of the Debtor's estate, or to any class of creditors or equity security holders,
11 for at least the following reasons:

12 a. As noted above, to the best of my knowledge, none of the parties to the Scour
13 Case, other than Argo, are parties in interest, or are affiliated with parties in interest, in the above-
14 captioned case. Moreover, I believe that the controversies for which HBD represents Argo in the
15 Scour Case are entirely unrelated to any of the claims held by Argo against the Debtor.

16 b. The matter for which HBD represents Argo did not constitute a material
17 percentage of HBD's revenues or overall client base. The Scour Case is only the second matter
18 where HBD has provided representation to Argo, the first being the Receivership Cases. Thus, I
19 believe that HBD's representation of Argo in the Scour Case does not constitute a material portion of
20 HBD's business. The overwhelming majority of HBD's business relates to litigation and bankruptcy
21 matters that do not involve Argo or any of its affiliates.

22 c. Each of the Debtor and Argo has consented to HBD's concurrent
23 representation of the Debtor and Argo.

24 9. In summary, I believe that HBD remains disinterested notwithstanding HBD's
25 representation of Argo in the unrelated Scour Case.

26 10. HBD will continue to monitor its engagements and connection and will make
27 additional supplemental disclosures as necessary.

28

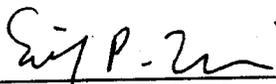
HENNIGAN, BENNETT & DORMAN

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I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23 day of October, 2001, at Los Angeles, California.

By: 
Sidney P. Levinson
Reorganization Counsel for Debtor
And Debtor in Possession

CA BAR #05-20211
EXHIBIT E - PAGE 4

DECLARATION OF SERVICE

I am over the age of eighteen years and not a party to the within action. My business address is Hennigan, Bennett & Dorman, 601 South Figueroa Street, Suite 3300, Los Angeles, California 90017.

On October 24, 2001, I served the following pleading:

SUPPLEMENTAL DECLARATION OF SIDNEY P. LEVINSON IN CONNECTION WITH EMPLOYMENT BY DEBTOR AND DEBTOR-IN-POSSESSION OF HENNIGAN, BENNETT & DORMAN AS REORGANIZATION COUNSEL

on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, with first-class postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as follows:

See attached service list

I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in an affidavit

I declare that I am employed in an office of a member of the bar of this Court, at whose direction the within service was made. I declare under penalty of perjury under the law of the United States of America that the foregoing is true and correct.

EXECUTED on October 24, 2001, at Los Angeles, California.

Joanne Stern
Joanne Stern, Declarant

CA BAR #05-20211
EXHIBIT E - PAGE 5

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Debtor:

AUREAL, INC.
Attn: Steve Mitchell
PO Box 12587
Pleasanton, CA 94588-2587

Secured Creditor as Agent:

Oaktree Capital Management LLC
Attn: Richard Masson
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Los Angeles, CA 90071

Creditors' Committee Member:

UMC Group (USA)
Attn: Huai-Jen Lu, Credit Manager
488 Deguigne Drive
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Attn: R. Scott Holmgren, Gen. Mgr.
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I/O Magic Reg. for Spec. Notice:

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Debtor's Counsel:

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Attn: John Byrne
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Stoke Road, Blisworth
Northants, NN73DB, UK

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Request For Special Notice:

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Fremont Landlord:

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Alan Yee
764 Pollard Road
Los Gatos, CA 95032

New York Dept of Tax req for not:

New York Dept of Taxation and Finance
Deputy Commissioner and Counsel
Attn: Amy J. Murphy
77 Broadway, Suite 112
Buffalo, NY 14203-1670

Creditor:

Circle International, Inc.
385 Valley Drive
Brisbane, CA 94005

Landlord:

Fifth Street Properties, LLC
c/o Commonwealth Partners, LLC
Attn: Mr. David Armstrong
633 West Fifth St., 72nd Floor
Los Angeles, CA 90071

Fifth Street Properties Reg for Notice:

Pillsbury, Winthrop LLP
Attn: Craig Barbarosh/Kalman Steinberg
650 Town Center Drive, 7th Flr.
Costa Mesa, CA 92626-7122

RCG Carpathia Master req for notice:

RCG Carpathia Master Fund Ltd
Attn: Allison Coviello
666 Third Avenue, 26th Fl
New York, NY 10017

Request for Special Notice:

Christopher Beard, Esq.
Beard & Beard
4601 North Park Avenue
Chevy Chase, MD 20815

Creditors' Committee Member:

IT&E Corporation
Attn: Anthony D. Allocca
11 N. Market Street, Suite 730
San Jose, CA 95113

Counsel to Lam Research:

Dale L. Bratton, Esq.
Heller, Ehrman, White & McAuliffe
333 Bush Street, Suite 3000
San Francisco, CA 94104-2878

Req. for Spec. Notice:

Howard, Rice, et al
Attn: James Lopes/Gary Kaplan
3 Embarcadero Center, Suite 700
San Francisco, CA 94111

Debtor's Financial Advisor:

E&Y Restructuring LLC
Attn: Robert H. Warshauer
555 California Street,
San Francisco, CA 94104

Copelco Reg. for Spec. Notice:

Kenneth G. Lau
Hemar & Rousso
15910 Ventura Boulevard, 12th Flr.
Encino, CA 91436-2829

Debtor's Special Patent Counsel:

David N. Lathrop, Esq.
Gallagher & Lathrop, A Prof Corp.
601 California Street, Suite 1111
San Francisco, California 94108-2805

Counsel to 3DFX:

Hopkins & Carley
Attn: John Easterbrook, Esq.
70 South First Street
San Jose, CA 95113-2406

Dice, Inc.
PO Box 560573
The Colony, TX 85056

Counsel to Krystaltech:

Michael Y. Sukhman, Esq.
Law Office of M. Scott Vayer
620 Fifth Avenue
New York, New York 10020

Request for Special Notice:

Peter A. Chapman, Esq.
24 Perdicaris Place
Trenton, NJ 08618

Creditor's Committee Counsel:

Randy Michelson, Esq.
McCutcheon, Doyle, Brown & Enerson
3 Embarcadero Center
San Francisco, CA 94111

Vifa/Scan-Speak Req for Spec. Not:

David M. Meegan, Esq.
Meegan, Hanschu & Kassenbrock
1545 River Park Drive, Suite 550
Sacramento, CA 95815

Creative Labs Req. for Spec. Not:

Creative Labs, Inc.
Attn: Stacey Leong
1901 McCarthy Boulevard
Milpitas, CA 95035

Auditor to the Debtor:

Mohler, Nixon & Williams
Attn: Steve Vidlock
635 Campbell Technology Pkwy, #100
Campbell, CA 95008

Regen Capital Req. For Notice:

Elliott Herskowitz
Regen Capital I, Inc.
PO Box 626 Planetarium Station
New York, New York 10024-0540

Integra-Dyne Reg. for Special Notice:

Tracy Green, Esq.
Wendel, Rosen, Black & Dean
1111 Broadway, 24th Floor
Oakland, CA 94607

Tax Accountants:

Neilson, Elggren LLP
Attn: Vernon Calder
230 South 500 East, Suite 425
Salt Lake City, UT 84102

Dice Inc. request for notice:

J. Mark Chevallier, Esq.
3550 Lincoln Plaza
500 N. Akard
Dallas, TX 85201

Argo Partners Request for Notice:

Matthew A. Gold, Esq.
Argo Partners, Inc.
12 West 37th St. 9th Fl
New York, NY 10018

Request for Notice Debt Acquisition:

DACA V. LLC
Attn: Tom Scheidt
2120 W. Washington Street
San Diego, CA 92110

Next Factor Request for Notice:

Edward Archambault
Next Factor, Inc.
72 Van Reipen Avenue, Suite 37
Jersey City, NJ 07306

Counsel to the Examiner:

Daniel M. Linchey, Esq.
Goldberg, Stinnett, Meyers & Davis
44 Montgomery Street, Suite 2900
San Francisco, CA 94104

Next Factor Request for Notice:

William Webb Farrer, Esq.
Law Offices of William Webb Farrer
300 Montgomery Street, Suite 789
San Francisco, CA 94104

EXHIBIT F

FILED

United States Bankruptcy Court

Northern District of California, Oakland Division

00 OCT -2 AM 9:07

KEENAN CASADY, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

In re:

Aureal, Inc.

Chapter 11

Case No. 00-42104

Debtor

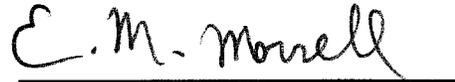
NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (1) or (3) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

1. TO: **Fitzgerald Communications Inc.**
245 First St., 12th Fl
Cambridge, MA 02142

2. Your entire claim as shown in the amount of **\$3,265.89** has been transferred pursuant to the Purchase Letter dated as of September 26th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: September 26, 2000



Ed Morrell
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT F - PAGE 1

~T

ASSIGNMENT OF CLAIM

Fitzgerald Communications Inc, having a mailing address at 245 First St, 12th Fl, Cambridge, MA 02142 ("Assignor"), in consideration of the sum of : \$ (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aural, Inc Case No. 00-42104 (LT) ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), jointly administered under Aural, Inc, Case No. 00-42104 (LT), in the currently outstanding amount of not less than \$3,265.89 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of _____ has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$3,265.89 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this _____ day of _____ 2000.

ATTEST:

By: ME [Signature]
Signature

CFO
Print Name/Title

Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 26 day of September 2000.

ATTEST:

By: E. M. Morrell
Ed Morrell
Argo Partners, Inc.
212-643-5456

CA BAR #05-20211
EXHIBIT F - PAGE 3

EXHIBIT G

2:00-bk-38784-ES Scour Inc A Delaware Corp
Case type: bk Chapter: 11 Asset: Yes Vol: v Judge: Erithe A. Smith
Date filed: 10/12/2000 Plan confirmed: 04/15/2002
Date terminated: 12/17/2002 Date of last filing: 12/17/2002

History

Doc.

No. Dates Description

1 Filed: 10/12/2000

Entered: 10/13/2000

Voluntary Petition (Chapter 11)

Docket Text: Voluntary petition under chapter 11 [ASI]

2 Filed: 10/12/2000

Entered: 10/13/2000

Exhibit A (Corporation)

Docket Text: Exhibit "A" [corporations] [ASI]

3 Filed: 10/12/2000

Entered: 10/13/2000

Statement of Related Case

Docket Text: Statement of related cases [ASI]

4 Filed: 10/12/2000

Entered: 10/13/2000

Disclosure of Compensation of Attorney for Debtor

Docket Text: Disclosure of attorney fees [ASI]

5 Filed: 10/12/2000

Entered: 10/13/2000

List of creditors holding 20 largest unsecured claims

Docket Text: List of creditors holding 20 largest unsecured claims [ASI]

6 Filed: 10/12/2000

Entered: 10/13/2000

Verification of creditor matrix

Docket Text: Verification of creditor matrix [ASI]

7 Filed: 10/12/2000

Entered: 10/13/2000

Matrix (Mailing List)

Docket Text: Matrix [mailing list] [ASI]

8 Filed: 10/12/2000

Entered: 10/13/2000

Equity Security Holders

Docket Text: List of equity security holders [ASI]

9 Filed: 10/12/2000

Entered: 10/13/2000

Venue Disclosure Form

Docket Text: Venue disclosure form [for Corporations and Partnerships filing a chapter 11] [ASI]

10 Filed: 10/12/2000

Entered: 10/13/2000

Corp Resolution Auth Filing

Docket Text: Corporate resolution authorizing filing of petitions [ASI]

11 Filed: 10/12/2000

Entered: 10/13/2000

Notice Avail Chapters

Docket Text: Notice of available chapters [ASI]

12 Filed: 10/12/2000

Entered: 10/13/2000

Attorney's State Bar Number

Docket Text: Attorney's state bar number on page 1 of petition form [ASI]

13 Filed: 10/12/2000

Entered: 10/13/2000

Atty Signature Pg2 Petition

Docket Text: Signature[s] page 2 of petition form B1 for attorney [ASI]

14 Filed: 10/12/2000

Entered: 10/13/2000

Case Commencement Deficiency Notice

Docket Text: Case commencement deficiency notice Summary of Schedules; Signed Declaratn Re Sched; Disk over 100 Creditors [ASI]

15 Filed: 10/12/2000

Entered: 10/13/2000

Order to comply BK Rule 1007

Docket Text: ORDER to comply with bankruptcy rule 1007 and notice of intent Schedule A; Schedule B; Schedule D; Schedule E; Schedule F; Schedule G; Schedule H; Statemt Financial Affairs [ASI]

16 Filed: 10/12/2000

Entered: 10/13/2000

Certificate of Mailing

Docket Text: Certificate of mailing RE: Item# 14 [ASI]

17 Filed: 10/12/2000

Entered: 10/13/2000

Certificate of Mailing

Docket Text: Certificate of mailing RE: Item# 15 [ASI]

18 Filed & Entered: 10/18/2000

Terminated: 12/17/2002

ORDER shortening time

Docket Text: ORDER setting hearing on status of Chapter 11 case and requiring report on status of Chapter 11 case. Courts own motion. With notice of entry. hearing on 01/10/2001 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 1 [BB]

19 Filed: 10/18/2000

Entered: 10/19/2000

Request for special notice

Docket Text: Request for special notice filed by Johsua D. Wayser attorney for Greenwald, Pauly, Foster & Miller; with signed proof of service. [REC]

20 Filed: 10/18/2000

Entered: 10/19/2000

Request for special notice

Docket Text: Request for special notice filed by Alan J. Cohen, Esq., Attorney for creditor CarryOn Communication, Inc., with proof of service [NDI]

21 Filed: 10/18/2000

Entered: 10/19/2000

Notice

Docket Text: Notice of submission to the United States Trustee of application of Scour Inc. for authority to employ perkins Coie LLP as general counsel pursuant to 11 USC Section 327[a] and deadline to file response and request for hearing thereon and proof of service filed by proposed attorneys for debtor and debtor-in-possession, Scour Inc. [GDG]

22 Filed: 10/19/2000

Entered: 10/20/2000

Terminated: 01/03/2001

Emergency motion

Docket Text: Emergency motion for approval of debtor's application to employ Perkins Coie LLP as general counsel; Filed by Steven G. F. Polard proposed

attorney for debtor; With proof of service hearing on 11/01/2000 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item#

21[Disposed] [BB]

23 Filed: 10/19/2000

Entered: 10/20/2000

Declaration

Docket Text: Declaration of Steven G. F. Polard RE: Item# 22 [BB] Original

NIBS Entry Number: 22A

24 Filed: 10/19/2000

Entered: 10/20/2000

ORDER shortening time

Docket Text: ORDER shortening time GRANTED; Hearing scheduled for 11-1-00 at 10:00 a.m. in Courtroom 1468, 255 E. Temple Street, Los Angeles, CA 90012 RE: Item# 22 [BB] Original NIBS Entry Number: 23

25 Filed: 10/20/2000

Entered: 10/24/2000

Terminated: 11/03/2000

Emergency motion

Docket Text: Emergency motion by debtor for order approving payment of insider compensation; Filed by Michael I. Sorochinsky proposed attorney for debtor; With proof of service hearing on 11/01/2000 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BB] Original NIBS Entry Number: 24

26 Filed: 10/20/2000

Entered: 10/24/2000

Declaration

Docket Text: Declaration of Craig A. Grossman RE: Item# 25 [BB] Original NIBS Entry Number: 24A

27 Filed: 10/20/2000

Entered: 10/24/2000

ORDER shortening time

Docket Text: ORDER shortening time GRANTED; Hearing 11-1-00 at 10:00 a.m. in Courtroom 1468, 255 E. Temple Street, Los Angeles, CA 90012 RE: Item# 25 [BB] Original NIBS Entry Number: 25

28 Filed & Entered: 10/24/2000

Notice of 341a meeting (BNC)

Docket Text: Notice of 341a meeting [requested from BNC] hearing on 11/20/2000 at 10:30 a.m. at 221 N. Figueroa St., Ste. 104, Los Angeles, CA 90012 [OVI] Original NIBS Entry Number: 26

29 Filed: 10/26/2000

Entered: 10/27/2000

Supplemental (Generic)

Docket Text: Supplemental declaration of Steven G.F. Polard in support of application of Scour Inc. for authority to employ perkins Coie LLP as general bankruptcy counsel and proof of service filed by proposed attorneys for debtor and debtor-in-possession Scour Inc. RE: Item# 23 [GDG] Original NIBS Entry Number: 27

30 Filed & Entered: 10/27/2000

Objection

Docket Text: Objection of Twentieth Century Fox Film Corporation [FOX] to Perkins Coie LLP's representation of debtor, Scour Inc., where debtor is adverse to FOX and proof of service filed by attorneys for Twentieth Century Fox Film Corporation RE: Item# 22 [GDG] Original NIBS Entry Number: 28

. Doc.

No. Dates Description

31 Filed & Entered: 10/27/2000

Declaration

Docket Text: Declaration of Gary D. Roberts in support of objection and proof of service filed by attorneys for Twentieth Century Fox Film Corporation RE: Item# 30 [GDG] Original NIBS Entry Number: 29
32 Filed & Entered: 10/27/2000

Objection

Docket Text: Objection [limited] of COPYRIGHT HOLDERS [Please see pleading for list of parties] to debtor's application to employ Perkins Coie as general counsel, filed by Suzanne Uhland, Kevin Blaine, Andrew Rosenberg, attorney for copyright holders, with proof of service RE: Item# 22 [SKF] Original NIBS Entry Number: 30

33 Filed: 10/27/2000

Entered: 10/30/2000

Certificate of Mailing

Docket Text: Certificate of mailing RE: Item# 28 [BNC] Original NIBS Entry Number: 31

34 Filed: 10/27/2000

Entered: 10/30/2000

Declaration Re Sched

Docket Text: Declaration concerning debtor's schedules RE: Item# 1 [GDG] Original NIBS Entry Number: 32

35 Filed: 10/27/2000

Entered: 10/30/2000

Summary of Schedules

Docket Text: Summary of schedules RE: Item# 1 [GDG] Original NIBS Entry Number: 33

36 Filed: 10/27/2000

Entered: 10/30/2000

Schedule A

Docket Text: Schedule A filed RE: Item# 35 [GDG] Original NIBS Entry Number: 34

37 Filed: 10/27/2000

Entered: 10/30/2000

Schedule B

Docket Text: Schedule B filed RE: Item# 35 [GDG] Original NIBS Entry Number: 35

38 Filed: 10/27/2000

Entered: 10/30/2000

Schedule C

Docket Text: Schedule C filed RE: Item# 35 [GDG] Original NIBS Entry Number: 36

39 Filed: 10/27/2000

Entered: 10/30/2000

Schedule D

Docket Text: Schedule D filed RE: Item# 35 [GDG] Original NIBS Entry Number: 37

40 Filed: 10/27/2000

Entered: 10/30/2000

Schedule E

Docket Text: Schedule E filed RE: Item# 35 [GDG] Original NIBS Entry Number: 38

41 Filed: 10/27/2000

Entered: 10/30/2000

Schedule F

Docket Text: Schedule F filed RE: Item# 35 [GDG] Original NIBS Entry Number: 39

42 Filed: 10/27/2000

Entered: 10/30/2000

Schedule G

Docket Text: Schedule G filed RE: Item# 35 [GDG] Original NIBS Entry Number: 40

43 Filed: 10/27/2000

Entered: 10/30/2000

Schedule H

Docket Text: Schedule H filed RE: Item# 35 [GDG] Original NIBS Entry Number: 41

44 Filed: 10/27/2000

Entered: 10/30/2000

Statement of Financial Affairs

Docket Text: Statement of financial affairs RE: Item# 35 [GDG] Original NIBS Entry Number: 42

45 Filed: 10/27/2000

Entered: 10/30/2000

Terminated: 11/06/2000

Application of non-resident attorney to appear in a specific case per Local Bankruptcy rule

Docket Text: Application of non-resident attorney to appear in a specific case per Local Bankruptcy rule filed by Kevin T Blaine, attorney for Twentieth Century Fox Film Corporation, Universal City Studios, Inc, Sony Pictures Entertainment Inc, Paramount Pictures Corporation, Metro-Goldwyn Mayer Studios Inc, Disney Enterprises, Inc, Columbia Pictures Industries, Inc, Zomba Recording Corporation, Walt Disney Records, Virgin Records America, Inc, UMG Recordings, Inc, Sony Music Entertainment Inc, Motown Record Company, LP, LaFace Records, Interscope Records, Hollywood Records, Inc, Capitol Records, BMG Music dba The RCA Records Label, and Arista Records, Inc, with proof of service [Disposed] [SKF] Original NIBS Entry Number: 43

46 Filed: 10/27/2000

Entered: 10/31/2000

Proof of service

Docket Text: Proof of service filed by proposed attorneys for debtor and debtor-in-possession Scour Inc. RE: Item# 18 [GDG] Original NIBS Entry Number: 44

47 Filed: 10/27/2000

Entered: 10/31/2000

Objection

Docket Text: Objection of the United States Trustee to employment application of Perkins Coie LLP as general bankruptcy counsel to the debtor and proof of service filed by US Trustee RE: Item# 22 [GDG] Original NIBS Entry Number: 45

48 Filed: 10/30/2000

Entered: 10/31/2000

Terminated: 11/06/2000

Application of non-resident attorney to appear in a specific case per Local Bankruptcy rule

Docket Text: Application of non-resident attorney to appear in a specific case per Local Bankruptcy rule [David E. Kendall of Williams & Connolly LLP] and proof of service filed by David E. Kendall [Disposed] [GDG] Original NIBS Entry Number: 46

63 Filed: 10/30/2000

Entered: 11/01/2000

Terminated: 11/02/2000

Emergency motion

Docket Text: Emergency motion by debtor for order authorizing the sale of personal property free and clear of liens and encumbrances; Filed by Steven G. F. Polard proposed attorney for debtor With proof of service hearing on

11/07/2000 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA
90012[Disposed] [BB] Original NIBS Entry Number: 61
64 Filed: 10/30/2000
Entered: 11/01/2000

Declaration

Docket Text: Declaration of Craig A. Grossman RE: Item# 63 [BB] Original NIBS
Entry Number: 61A

49 Filed & Entered: 10/31/2000

Declaration

Docket Text: Declaration of Michael I. Sorochinsky re telephonic notice of
hearing on Scour's emergency motioin for approval of debtor's application to
employ Perkins Coie LLP as general counsel RE: Item# 22 [GDG] Original NIBS
Entry Number: 47

50 Filed & Entered: 10/31/2000

Declaration

Docket Text: Declaration of Ann Ferreri re telephonic notice of hearing on
Scour's emergency motion for order approving payment of insider compensation RE:
Item# 25 [GDG] Original NIBS Entry Number: 48

51 Filed & Entered: 10/31/2000

Declaration

Docket Text: Declaration of Corinna Atkinson re telephonic notice of hearing
on Scour's emergency motion for order approving payment of insider compensation
RE: Item# 25 [GDG] Original NIBS Entry Number: 49

52 Filed & Entered: 10/31/2000

Declaration

Docket Text: Declaration of Gloria Mandel re telephonic notice of hearing on
Scour's emergency motion for approval of debtor's applicatioin to employ Perkins
Coie LLP as general counsel RE: Item# 22 [GDG] Original NIBS Entry Number: 50

53 Filed & Entered: 10/31/2000

Proof of service

Docket Text: Proof of service filed by proposed attorneys for debtor and
debtor-in-possession Scour Inc. RE: Item# 49 [GDG] Original NIBS Entry Number:
51

54 Filed & Entered: 10/31/2000

Proof of service

Docket Text: Proof of service filed by proposed attorneys for debtor and
debtor-in-possession Scour Inc. RE: Item# 25 [GDG] Original NIBS Entry Number:
52

55 Filed & Entered: 10/31/2000

Proof of service

Docket Text: Proof of service filed by proposed attorneys for debtor and
debtor-in-possession Scour Inc. RE: Item# 22 [GDG] Original NIBS Entry Number:
53

56 Filed & Entered: 10/31/2000

Proof of service

Docket Text: Proof of service [Lyle Greenburg] filed by attorneys for debtor
and debtor-in-possession RE: Item# 22 [GDG] Original NIBS Entry Number: 54

57 Filed & Entered: 10/31/2000

Proof of service

Docket Text: Proof of service [Entertainment Boulevard Inc.] filed by
attorneys for debtor and debtor-in-possession RE: Item# 22 [GDG] Original NIBS
Entry Number: 55

58 Filed & Entered: 10/31/2000

Proof of service

Docket Text: Proof of service [Redline Games] filed by attorneys for debtor
and debtor-in-possession RE: Item# 22 [GDG] Original NIBS Entry Number: 56

. Doc.

No. Dates Description

59 Filed & Entered: 10/31/2000

Proof of service

Docket Text: Proof of service [Redline Games] filed by attorneys for debtor and debtor-in-possession RE: Item# 25 [GDG] Original NIBS Entry Number: 57

60 Filed: 10/31/2000

Entered: 11/01/2000

Notice

Docket Text: Notice of Appearance and Request for Special Notice filed by David E.Kendall, attorney for Twentieth Century Fox Film Coporation;Universal City Studios, Inc;Sony Pictures Entertainment Inc; Paramount Pictures Corporation; Metro Goldwyn Mayer Studios Inc;Disney Enterprises, Inc;Columbia Pictures industries, Inc;Zomba Recording Corporation; Walt Disney Records;Virgin Records America, Inc;UMG Recordings, Inc;Sony Music Entertainment Records Inc;Motown Recor Company,L.P.;LaFace records;Interscope Records;Hollywood records,Inc;Capitol Records,Inc;BMG Music d.b.a.The RCA Records Label;and Arista Records,Inc with proof of service [CBK] Original NIBS Entry Number: 58

61 Filed: 10/31/2000

Entered: 11/01/2000

Notice

Docket Text: Notice of Appearance ond Request for Special Notice filed by Robert J.White, attorney for Time Warner Entertainment Company,L.P.;Warner Bros.Records Inc;London-Sire Records Inc;Elektra Entertainment Group Inc; and Atlantic Recording Corporation with proof of service [CBK] Original NIBS Entry Number: 59

62 Filed: 10/31/2000

Entered: 11/01/2000

Supplemental (Generic)

Docket Text: Supplemental proof of service filed by proposed attorneys for debtor and debtor-in-possession Scour Inc. on emergency motion for order authorizing the sale of personal property free and clear of liens and encumbrances; memorandum of points and authorities; declaration of Craig A. Grossman [GDG] Original NIBS Entry Number: 60

65 Filed: 10/31/2000

Entered: 11/01/2000

ORDER shortening time

Docket Text: ORDER shortening time GRANTED; Hearing 11-7-00 at 11:00 a.m. in Courtroom 1468, 255 E. Temple Street, Los Angeles, CA 90012 RE: Item# 63 [BB] Original NIBS Entry Number: 62

71 Filed: 11/01/2000

Entered: 11/02/2000

Terminated: 11/15/2000

Emergency motion

Docket Text: Emergency motion by debtor for order authorizing debtor to close the exchange outside the ordinary course of business; With proof of service hearing on 11/14/2000 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 70[Disposed] [BB] Original NIBS Entry Number: 67

72 Filed: 11/01/2000

Entered: 11/02/2000

Declaration

Docket Text: Declaration of Craig A. Grossman RE: Item# 71 [BB] Original NIBS Entry Number: 67A

74 Filed: 11/01/2000

Entered: 11/02/2000

Terminated: 11/17/2000

Emergency motion

Docket Text: Emergency motion by debtor for order setting hearing date and notice requirements and establishing procedures in connection with debtor's motion for order authorizing debtor to 1. Sell assets free and clear of liens, claims and interests pursuant to bankruptcy code section 363[b], [f] and [m]; 2. Assume and assign contracts pursuant to bankruptcy code sections 365[f] and [k]; and 3. Enter into asset purchase agreement with LISTEN; Filed by Steven G. F. Polard, proposed attorney for debtor hearing on 11/14/2000 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 73[Disposed] [BB] Original NIBS Entry Number: 69
75 Filed: 11/01/2000
Entered: 11/02/2000

Declaration

Docket Text: Declaration of Craig A. Grossman RE: Item# 74 [BB] Original NIBS Entry Number: 69A
66 Filed & Entered: 11/02/2000

Declaration

Docket Text: Declaration of Craig A. Grossman regarding waiver by Scour Inc. of Perkins Coie LLP conflicts and proof of service filed by proposed attorneys for debtor and debtor-in-possession [GDG] Original NIBS Entry Number: 63
67 Filed & Entered: 11/02/2000

Withdrawal of motion

Docket Text: Withdrawal of motion of debtor's emergency motion for order authorizing the sale of personal property free and clear of liens and encumbrances; With proof of service RE: Item# 63 [BB] Original NIBS Entry Number: 64

68 Filed & Entered: 11/02/2000
Terminated: 11/02/2000

Ex parte application

Docket Text: Ex parte application for order shortening time for hearing and briefing schedule on debtor's motion for order authorizing debtor to close the exchange outside the ordinary course of business; Filed by Steven G.F. Polard proposed attorney for debtor; With proof of service hearing on 11/14/2000 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BB] Original NIBS Entry Number: 65
69 Filed & Entered: 11/02/2000

Declaration

Docket Text: Declaration of Craig A. Grossman RE: Item# 68 [BB] Original NIBS Entry Number: 65A
70 Filed & Entered: 11/02/2000

ORDER shortening time

Docket Text: ORDER shortening time GRANTED; Hearing scheduled for 11-14-00 at 11:00 a.m. in Courtroom 1468 RE: Item# 68 [BB] Original NIBS Entry Number: 66
73 Filed & Entered: 11/02/2000
Terminated: 12/17/2002

Ex parte application

Docket Text: Ex parte application ning time for hearing and briefing schedule on debtor's motion for order setting hearing date and notice requirements and establishing procedures in connection with debtor's motion for order authorizing debtor to 1. Sell assets free and clear of liens, claims and interests pursuant to bankruptcy code section 363[b],[f] and [m] 2. Assume and assign contracts pursuant to bankruptcy code section 365[f] and [k]; and 3. Enter into asset purchase agreements with Listen; Filed by Steven G. F. Polard, proposed attorney for debtor; With proof of service hearing on 11/14/2000 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 71[Disposed] Original NIBS Entry Number: 68
[DISPOSED] related to Order docket item #66 RE: Item# 71 [BB] Original NIBS Entry Number: 68

[DISPOSED] [SKF] Original NIBS Entry Number: 68

76 Filed & Entered: 11/03/2000

Notice

Docket Text: Notice of Lodging of waivers of Twentieth Century Fox and the Disney Company and proof of service filed by proposed attorneys for debtor and debtor-in-possession Scour Inc. [GDG] Original NIBS Entry Number: 70

77 Filed & Entered: 11/03/2000

ORDER granting/approving

Docket Text: ORDER granting/approving debtor's emergency motion for order approving payment of insider compensation; With notice of entry RE: Item# 25 [BB] Original NIBS Entry Number: 71

78 Filed: 11/03/2000

Entered: 11/06/2000

ORDER re:

Docket Text: ORDER re: debtor's application for authority to employ Perkins Coie LLP as special counsel; With notice of entry: Note to all: Waivers of Scour, and limited waivers of conflict by Fox and Disney [the limited waivers being for only the above matters] have been filed on 11-2 and 11-3 respectively. No later than 7 days before the continued December 12, 2000 hearing date Court requires that Scour counsel obtain [if possible] and file with the Court supplemental written waivers which reflect that Scour, Fox and Disney have consulted with, or been told by Perkin Coie to consult with, but declined to consult with separate counsel on the issue of waiving conflict and still wish to waive conflict. e.g. Klemm vs Sup Ct 75 Cal.App 3d 839, 901 [1977], see Buehler v. S. Bardellati, 34 Cal App. 4th 1527, 1537 [1995] RE: Item# 22 [BB] Original NIBS Entry Number: 72

79 Filed: 11/03/2000

Entered: 11/06/2000

ORDER on application of non-resident attorney to appear in a specific case per Local Bankruptcy rule

Docket Text: ORDER on application of non-resident attorney to appear in a specific case per Local Bankruptcy rule with notice of entry - Granted [David e. Kendall] RE: Item# 48 [GDG] Original NIBS Entry Number: 73

80 Filed: 11/03/2000

Entered: 11/06/2000

ORDER on application of non-resident attorney to appear in a specific case per Local Bankruptcy rule

Docket Text: ORDER on application of non-resident attorney to appear in a specific case per Local Bankruptcy rule with notice of entry - Granted [Kevin T. Baine] RE: Item# 45 [GDG] Original NIBS Entry Number: 74

81 Filed: 11/03/2000

Entered: 11/06/2000

Unsecured creditors' committee appointed

Docket Text: Unsecured creditors' committee appointed filed by Terri Anderson, assistant United States Trustee, with proof of service [SKF] Original NIBS Entry Number: 75

82 Filed: 11/07/2000

Entered: 11/09/2000

Formatted diskette required for petition with over 100 creditors

Docket Text: 3 1/2" formatted diskette required for petition with over 100 creditors filed by Steven G.F.Polard, attorney for debtor RE: Item# 14 [CBK] Original NIBS Entry Number: 76

83 Filed: 11/08/2000

Entered: 11/09/2000

Request for special notice

Docket Text: Request for special notice filed by David R.Weinstein, attorney for Official Committee of Unsecured Creditors with proof of service [CBK] Original NIBS Entry Number: 77

84 Filed: 11/08/2000

Entered: 11/09/2000

Request for special notice

Docket Text: Request for special notice filed by Joseph Buchman, attorney for Brook Furniture Rental Inc with proof of service [CBK] Original NIBS Entry Number: 78

85 Filed: 11/09/2000

Entered: 11/13/2000

Response

Docket Text: Response by creditors' committee to debtor's motion re Sale Procedures and proof of service filed by attorneys for Official Committee of unsecured Creditors RE: Item# 74 [GDG] Original NIBS Entry Number: 79

86 Filed: 11/09/2000

Entered: 11/13/2000

Statement (Generic)

Docket Text: Statement by The Copyright Plaintiff in support of debtor's motion for order authorizing debtor to close Scour exchange outside the ordinary course of business and proof of service filed by attorneys for the Time Warner Plaintiffs, plaintiffs other than the Time Warner Plaintiffs, and attorneys for the Music Publishing plaintiffs RE: Item# 71 [GDG] Original NIBS Entry Number: 80

87 Filed & Entered: 11/13/2000

Declaration

Docket Text: Declaration of Corinna Atkinson re telephonic notice of hearing and proof of service filed by proposed attorneys for debtor and debtor in possession Scour Inc. RE: Item# 73 [GDG] Original NIBS Entry Number: 81

88 Filed & Entered: 11/13/2000

Declaration

Docket Text: Declaration of Yolanda McCowan re telephonic notice of hearing and proposed attorneys for debtor and debtor in possession Scour Inc. RE: Item# 73 [GDG] Original NIBS Entry Number: 82

89 Filed & Entered: 11/13/2000

Declaration

Docket Text: Declaration of Shawn Henry re facsimile notice and proposed attorneys for debtor and debtor in possession Scour Inc. RE: Item# 73 [GDG] Original NIBS Entry Number: 83

90 Filed & Entered: 11/13/2000

Declaration

Docket Text: Declaration of Joan Quinn re telephonic notice of hearing and proposed attorneys for debtor and debtor in possession Scour Inc. RE: Item# 73 [GDG] Original NIBS Entry Number: 84

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No. Dates Description

91 Filed & Entered: 11/13/2000

Declaration

Docket Text: Declaration of Roderick Wall re telephonic notice of hearing and proof of service filed by proposed attorneys for debtor and debtor-in-possession Scour Inc. RE: Item# 73 [GDG] Original NIBS Entry Number: 85

92 Filed & Entered: 11/13/2000

Declaration

Docket Text: Declaration of Beth Passage re telephonic notice of hearing and proof of service proposed attorneys for debtor and debtor in possession Scour Inc. RE: Item# 73 [GDG] Original NIBS Entry Number: 86

93 Filed & Entered: 11/13/2000

Proof of service

Docket Text: Proof of service filed by proposed attorneys for debtor and debtor-in-possession Scour Inc. [Shawn Henry] RE: Item# 73 [GDG] Original NIBS Entry Number: 87

94 Filed & Entered: 11/13/2000

Proof of service

Docket Text: Proof of service filed by proposed attorneys for debtor and debtor-in-possession Scour Inc. RE: Item# 73 [GDG] Original NIBS Entry Number: 88

95 Filed & Entered: 11/13/2000

Notice

Docket Text: Notice of entry of order shortening time and notice of hearings on Scour Inc.'s motions RE: Item# 73 [GDG] Original NIBS Entry Number: 89

96 Filed: 11/13/2000

Entered: 11/14/2000

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities submitted by Listen.Com Inc. in support of sales procedures and fees - Filed by attorneys for Listen.Com Inc. [GDG] Original NIBS Entry Number: 90

97 Filed: 11/13/2000

Entered: 11/14/2000

Declaration

Docket Text: Declaration of Carol L. Smith in support of overage fee and break-up fee for Listen.Com Inc. - Filed by attorneys for Listen.Com Inc. [GDG] Original NIBS Entry Number: 91

98 Filed: 11/13/2000

Entered: 11/14/2000

Proof of service

Docket Text: Proof of service by facsimile filed by attorneys for Listen.Com Inc. RE: Item# 97 [GDG] Original NIBS Entry Number: 92

101 Filed: 11/13/2000

Entered: 11/15/2000

Objection

Docket Text: Objection filed by Susanne Meline, attorney for Centerspan Communications Corporation; Declaration of Frank G. Hausmann; With proof of service RE: Item# 74 [DEO] Original NIBS Entry Number: 95

99 Filed & Entered: 11/14/2000

Declaration

Docket Text: Declaration of mark Albert in response to inquiry of Creditors Committee as to motion re overbid procedures and proof of service filed by proposed attorneys for debtor and debtor-in-possession Scour Inc. [GDG] Original NIBS Entry Number: 93

100 Filed & Entered: 11/14/2000

Proof of service

Docket Text: Proof of service filed by proposed attorneys for debtor and debtor-in-possession Scour Inc. RE: Item# 99 [GDG] Original NIBS Entry Number: 94

102 Filed: 11/14/2000

Entered: 11/15/2000

Declaration

Docket Text: Declaration of Carol L. Smith regarding shareholders and preferred stock of Listen.Com Inc. - Filed by attorneys for Listen.Com Inc. [GDG] Original NIBS Entry Number: 96

103 Filed: 11/14/2000

Entered: 11/15/2000

ORDER granting/approving

Docket Text: ORDER granting/approving debtor's motion for order authorizing debtor to close Scour Exchange with notice of entry RE: Item# 71 [GDG] Original NIBS Entry Number: 97
104 Filed: 11/15/2000
Entered: 11/16/2000

Notice of motion/application

Docket Text: Notice of motion/application by Official Committee of Unsecured Creditors of to employ general Bankruptcy counsel and proof of service filed by proposed attorneys for Official Committee of Unsecured Creditors [GDG] Original NIBS Entry Number: 98
105 Filed: 11/16/2000
Entered: 11/17/2000

Request for special notice

Docket Text: Request for special notice filed by Ira P.Rothken, attorney for MP3Board, Inc with proof of service [CBK] Original NIBS Entry Number: 99
106 Filed: 11/16/2000
Entered: 11/17/2000

Notice

Docket Text: Notice of Lodging of waivers of Twentieth Century Fox, The Disney Company and Scour Inc. - Filed by proposed special counsel for debtor and debtor-in-possession Scour Inc. [GDG] Original NIBS Entry Number: 100
107 Filed: 11/16/2000
Entered: 11/17/2000

Supplemental (Generic)

Docket Text: Supplemental [2nd] declaration of Steven G. F. Polard re two disinterestedness issues arising post-petition - Filed by proposed attorneys for debtor and debtor-in-possession Scour Inc. [GDG] Original NIBS Entry Number: 101
108 Filed: 11/16/2000
Entered: 11/17/2000

Proof of service

Docket Text: Proof of service filed by proposed special counsel for debtor and debtor-in-possession Scour Inc. RE: Item# 106 [GDG] Original NIBS Entry Number: 102
109 Filed & Entered: 11/17/2000

ORDER re:

Docket Text: ORDER re: establishing sale procedures and authorizing fees; Hearing scheduled for 12-12-00 at 11:00 a.m. in Courtroom 1468, 255 E. Temple Street, Los Angeles, CA 90012; With notice of entry RE: Item# 74 [BB] Original NIBS Entry Number: 103
110 Filed: 11/17/2000
Entered: 11/20/2000
Terminated: 11/20/2000

Emergency motion

Docket Text: Emergency motion filed by movant MP3 Board Inc. to purchase or license perishable asset of debtor pursuant to 11 U.S.C. 363[b][1]; combined with motion for order shortening time for notice of hearing on the motion; Filed by Ira P. Rothken attorney for movant; With notice of entry [Disposed] [BB] Original NIBS Entry Number: 104
111 Filed: 11/17/2000
Entered: 11/20/2000

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities RE: Item# 110 [BB] Original NIBS Entry Number: 105
112 Filed: 11/17/2000
Entered: 11/20/2000

Declaration

Docket Text: Declaration of Ira P. Rothken RE: Item# 110 [BB] Original NIBS
Entry Number: 106

113 Filed: 11/17/2000

Entered: 11/20/2000

Declaration

Docket Text: Declaration of Lars Mapstead RE: Item# 110 [BB] Original NIBS

Entry Number: 107

115 Filed: 11/17/2000

Entered: 11/21/2000

Terminated: 12/18/2000

Motion to Sell

Docket Text: Motion to sell by debtor 1. Sell assets free and clear of liens, claims and interests pursuant to bankruptcy code sections 363[b][f] and [m] and 2. Enter into asset purchase agreement with Listen.Com Inc.; Filed by Paul M. Brent attorney for debtor; With proof of service hearing on 12/12/2000 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 109[Disposed] [BB] Original NIBS Entry Number: 109

116 Filed: 11/17/2000

Entered: 11/21/2000

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities RE: Item# 115 [BB] Original NIBS Entry Number: 109A

117 Filed: 11/17/2000

Entered: 11/21/2000

Declaration

Docket Text: Declaration of Craig Grossman RE: Item# 115 [BB] Original NIBS

Entry Number: 109B

118 Filed: 11/17/2000

Entered: 11/21/2000

Notice of hearing

Docket Text: Notice of hearing on motion for order authorizing debtor and debtor in possession to sell assets free and clear of liens and encumbrance pursuant to 11 U.S.C. 363[b][f] and [m], and to enter into purchase agreement with Listen.Com; Filed by Paul M. Brent attorney for debtor; With proof of service hearing on 12/12/2000 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 115 [BB] Original NIBS Entry Number: 110

119 Filed: 11/17/2000

Entered: 11/21/2000

Terminated: 12/17/2002

Generic Motion

Docket Text: Motion by debtor pursuant to bankruptcy code sections 365[a], 365[f] and 365[k] for order authorizing debtor to assume and assign executory contract to LISTEN.COM INC., Filed by Paul M. Brent proposed attorney for debtor; With proof of service hearing on 12/12/2000 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 115[Disposed] [BB] Original NIBS Entry Number: 111

[DISPOSED] by 166 [SKF] Original NIBS Entry Number: 111

120 Filed: 11/17/2000

Entered: 11/21/2000

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities RE: Item# 119 [BB] Original NIBS Entry Number: 111A

121 Filed: 11/17/2000

Entered: 11/21/2000

Declaration

Docket Text: Declaration of Craig Grossman RE: Item# 119 [BB] Original NIBS Entry Number: 111B

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No. Dates Description

122 Filed: 11/17/2000

Entered: 11/21/2000

Notice of hearing

Docket Text: Notice of hearing on motion of debtor and debtor in possession for order authorizing debtor to assume and assign executory contract to LISTEN.COM INC. pursuant to bankruptcy code sections 365[a], 365[f] and 365[k]; Filed by Paul Brent; With proof of service hearing on 12/12/2000 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 119 [BB] Original NIBS Entry Number: 112

114 Filed & Entered: 11/20/2000

ORDER denying

Docket Text: ORDER denying MP3 Board's emergency motion with prejudice to purchase or license perishable asset of debtor pursuant to 11 U.S.C. 363[d][1] and Denying motion for order shortening time for notice of hearing on the motion; With notice of entry RE: Item# 110 [BB] Original NIBS Entry Number: 108

123 Filed: 11/20/2000

Entered: 11/21/2000

Request for special notice

Docket Text: Request for special notice Filed by David S Kupetz, attorney for Wongdoody Inc; With proof of service [HA2] Original NIBS Entry Number: 113

124 Filed: 11/21/2000

Entered: 11/29/2000

Proof of service

Docket Text: Proof of service filed by proposed counsel for: Scour Inc., debtor and debtor-in-possession RE: Item# 122 [GDG] Original NIBS Entry Number: 114

125 Filed: 11/22/2000

Entered: 11/29/2000

Notice of motion/application

Docket Text: Notice of motion/application of debtor for authority to employ Steinberg, Nutter & Brent Law Corporation as general counsel and proof of service filed by proposed counsel for debtor and debtor-in-possession, Scour Inc. [GDG] Original NIBS Entry Number: 115

126 Filed: 11/24/2000

Entered: 11/29/2000

Terminated: 12/17/2002

Application to Employ

Docket Text: Application to employ by Official Committee of Unsecured Creditors general bankruptcy counsel [Weinstein & Eisen]; The US Trustee has raise an objection and proof of service filed by proposed attorneys for Official Committee of Unsecured Creditors [Disposed] [GDG] Original NIBS Entry Number: 116

127 Filed: 11/24/2000

Entered: 11/29/2000

Declaration

Docket Text: Declaration of Aram Ordubegian RE: Item# 126 [GDG] Original NIBS Entry Number: 116A

128 Filed: 11/24/2000

Entered: 11/29/2000

Declaration

Docket Text: Declaration of William A. Rudick RE: Item# 126 [GDG] Original NIBS Entry Number: 116B

129 Filed: 11/27/2000

Entered: 11/29/2000

Response

Docket Text: Response by Creditors' Committee to debtor's motion for authority to assume and assign executory contracts and proof of service filed by proposed attorneys for Official Committee of Unsecured Creditors RE: Item# 119 [GDG] Original NIBS Entry Number: 117

130 Filed: 11/28/2000

Entered: 11/29/2000

Response

Docket Text: Response [Limited] by the copyright plaintiffs to debtors' motion for order authorizing debtor and debtor in possession to sell assets free and clear of liens and encumbrance pursuant to 11 USC 363[b][f] and [m] and to enter into purchase agreement with Listen.Com Inc. and proof of service filed by attorneys for the Time Warner plaintiffs RE: Item# 115 [GDG] Original NIBS Entry Number: 118

131 Filed: 11/28/2000

Entered: 11/29/2000

ORDER re:

Docket Text: ORDER re: Debtor's motion to sell assets and debtor's motion for order authorizing debtor to assume and assign executory contracts set for hearing and overbid on 12-12-00 at 11:00 a.m. in Courtroom 1468; Debtor counsel to advertise the sale and overbid of debtor's assets on internet; With notice of entry [BB] Original NIBS Entry Number: 119

132 Filed & Entered: 11/29/2000

Reply

Docket Text: Reply to United States Trustee's objection to the Official Committee of Unsecured Creditors' application to employ general bankruptcy counsel [Weinstein and Eisen], filed by Aram Ordubegian, proposed attorney for creditors' committee, with proof of service RE: Item# 126 [SKF] Original NIBS Entry Number: 120

133 Filed: 11/29/2000

Entered: 11/30/2000

Terminated: 12/05/2000

Application to Employ

Docket Text: Application to employ Steinberg, Nutter & Brent as general counsel for debtor; Declaration of Paul M. Brent; Comments of the US Trustee, no objection; With proof of service RE: Item# 125[Disposed] [DEO] Original NIBS Entry Number: 121

134 Filed: 11/30/2000

Entered: 12/04/2000

Amendment/Amended

Docket Text: Amendment/Amended appointment and notice of appointment of Committee of Creditors Holding Unsecured Claims and proof of service filed by US Trustee, Add: Angel Investors 650 Page Mill Road Alto, CA 94304 Attn: J. Casey McGlynn [650] 354-4115 [GDG] Original NIBS Entry Number: 122

135 Filed: 12/01/2000

Entered: 12/04/2000

ORDER not signed

Docket Text: ORDER not signed 12-1-00 Per objection of U.S. Trustee 1. Applicant must file and serve the Sony conflict waiver, plus written conflict waiver for the committee, before Court can approve employment and 2. Correct employment date could not be before 11-6-00 date when committee hired firm; Applicant must get hearing date from Calendar deputy and file/conflict waivers plus notice of hearing on U.S. Trustee, Committee, debtor, debtor attorney Brent, attorneys, and all other parties entitled to notice, 10 days before hearing, to pursue this employment. KPM; Hearing scheduled for 12-20-00 at 10:00 a.m. in Courtroom 1468. RE: Item# 126 [BB] Original NIBS Entry Number: 123

136 Filed: 12/01/2000

Entered: 12/04/2000

Terminated: 12/17/2002

Stipulation (Generic)

Docket Text: Stipulation re: Release of \$50,000.00 from Perkins Coie LLP Trust account to the debtor for its ordinary use and proof of service filed by proposed interim special counsel for: Scour Inc., debtor and debtor-in-possession [GDG] Original NIBS Entry Number: 124

137 Filed: 12/01/2000

Entered: 12/05/2000

ORDER approving employment of professional

Docket Text: ORDER approving employment of professional with notice of entry - Granted [Steinberg, Nutter & Brent - effective November 1, 2000] RE: Item# 133 [GDG] Original NIBS Entry Number: 125

138 Filed: 12/05/2000

Entered: 12/06/2000

Notice

Docket Text: Notice of submission of competitive bid by Centerspan Communications Corporation pursuant to order establishing sale procedures and authorizing fees - Filed by attorneys for Centerspan Communications Corporation [GDG] Original NIBS Entry Number: 126

139 Filed: 12/05/2000

Entered: 12/06/2000

Declaration

Docket Text: Declaration of Frank G. Hauksmann RE: Item# 138 [GDG] Original NIBS Entry Number: 126A

140 Filed: 12/05/2000

Entered: 12/06/2000

Declaration

Docket Text: Declaration of Jack W. Berka RE: Item# 138 [GDG] Original NIBS Entry Number: 126B

141 Filed: 12/05/2000

Entered: 12/06/2000

Brief/Memorandum

Docket Text: Brief/Memorandum of terms of Bid submitted by Listen.Com Inc. for assets of debtor - Filed by attorneys for Listen.Com Inc. for assets of debtor [GDG] Original NIBS Entry Number: 127

142 Filed: 12/05/2000

Entered: 12/06/2000

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities in support of valuation of Listen.Com stock - Filed by attorneys for Listen.Com Inc. [GDG] Original NIBS Entry Number: 128

143 Filed: 12/05/2000

Entered: 12/06/2000

Declaration

Docket Text: Declaration of Valuenomics Research Inc. and Gary E. Jones, President, in support of the proposed transaction series 1 preferred stock value per share by Listen.Com - Filed by attorneys for Listen.Com Inc. [GDG] Original NIBS Entry Number: 129

144 Filed: 12/05/2000

Entered: 12/06/2000

Proof of service

Docket Text: Proof of service [by facsimile] filed by attorneys for Listen.Com Inc. RE: Item# 142 [GDG] Original NIBS Entry Number: 130

145 Filed: 12/05/2000

Entered: 12/06/2000

Declaration

Docket Text: Declaration of Carol L. Smith regarding Listen.Com Inc.'s submission of Bid for purchase of debtor's assets - Filed by attorneys for Listen.Com Inc. [GDG] Original NIBS Entry Number: 131
146 Filed: 12/05/2000
Entered: 12/06/2000

Declaration

Docket Text: Declaration of service by messenger of memorandum of terms of Bid submitted by Listen.Com Inc. and related documents - Filed by attorneys for Listen.Com Inc. [GDG] Original NIBS Entry Number: 132
147 Filed: 12/05/2000
Entered: 12/06/2000
Terminated: 12/17/2002

Generic Motion

Docket Text: Motion JOINT by debtor and through Steinberg, Nutter & Brent Law Corporation and Perkins Coie, LLP in support of motion to continue hearing on application to employ Perkins Coie, LLP; Filed by Paul M. Brent proposed co-counsel for debtor; With proof of service [Disposed] [BB] Original NIBS Entry Number: 133
148 Filed & Entered: 12/06/2000

ORDER not signed

Docket Text: ORDER not signed Continuance denied. Court has already signed order employing Steinberg, Nutter and Brent as counsel for debtor in possession, so there is no need for continuing during transition - transition has occurred and 11 U.S.C. 503[b] cannot be used to get around employment restrictions of 11 U.S.C. 327, attorney; In re Mehdipour, 202 BR 474; In re Albrecht 245 BR 666 [BB] Original NIBS Entry Number: 133A
[DISPOSED] by 133A RE: Item# 147 [SKF] Original NIBS Entry Number: 133A
149 Filed: 12/06/2000
Entered: 12/07/2000

Proof of service

Docket Text: Proof of service filed by attorneys for Centerspan Communications Corporation RE: Item# 138 [GDG] Original NIBS Entry Number: 134
150 Filed: 12/06/2000
Entered: 12/07/2000
Terminated: 11/04/2002

Generic Motion

Docket Text: Motion and notice of motion for order authorizing debtor to reject unexpired leases of non-residential real property, pursuant to 11 USC 365[a] and federal rule of bankruptcy procedure 6066 and proof of service filed by proposed counsel for Scour Inc.,, debtor and debtor-in-possession [Disposed] [GDG] Original NIBS Entry Number: 135

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No. Dates Description
151 Filed: 12/06/2000
Entered: 12/07/2000

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities RE: Item# 150 [GDG] Original NIBS Entry Number: 135A
152 Filed: 12/06/2000
Entered: 12/07/2000

Declaration

Docket Text: Declaration of Craig Grossman RE: Item# 150 [GDG] Original NIBS Entry Number: 135B
153 Filed & Entered: 12/08/2000

Declaration

Docket Text: Declaration of Phil Wiser, filed by Craig M. Prim attorney for LiquidAudio [NV] Original NIBS Entry Number: 136

154 Filed: 12/08/2000

Entered: 12/11/2000

Comments

Docket Text: Comments on bid by LISTEN.COM; Filed by David R. Weinstein, attorney for Official Committee of Unsecured Creditors; With proof of service RE: Item# 119 [DEO] Original NIBS Entry Number: 137

155 Filed: 12/08/2000

Entered: 12/11/2000

Comments

Docket Text: Comments on bid by CENTERSPAN; Filed by David R. Weinstein, attorney for Official Committee of Unsecured Creditors; With proof of service RE: Item# 138 [DEO] Original NIBS Entry Number: 138

156 Filed: 12/08/2000

Entered: 12/11/2000

Terminated: 02/06/2001

Generic Motion

Docket Text: Motion by attorney for debtor for order authorizing debtor and debtor in possession extension of time to assume or reject unexpired leases of non-residential real property 11 U.S.C. 365[d][4]; Filed by Paul M. Brent attorney for debtor; With proof of service hearing on 01/10/2001 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BB] Original NIBS Entry Number: 139

157 Filed: 12/08/2000

Entered: 12/11/2000

Notice of motion/application

Docket Text: Notice of motion/application RE: Item# 156 [BB] Original NIBS Entry Number: 139A

158 Filed: 12/08/2000

Entered: 12/11/2000

Declaration

Docket Text: Declaration of Craig Grossman RE: Item# 156 [BB] Original NIBS Entry Number: 139B

159 Filed: 12/08/2000

Entered: 12/11/2000

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities RE: Item# 156 [BB] Original NIBS Entry Number: 139C

160 Filed: 12/08/2000

Entered: 12/11/2000

Objection

Docket Text: Objection of Centerspan Communications Corporation to the declaration of Valuenomics Research Inc. and Gary E. Jones, its president, regarding proposed transaction series 1 preferred stock value per share by Listen.Com - Filed by attorneys for Centerspan Communications Corporation RE: Item# 143 [GDG] Original NIBS Entry Number: 140

161 Filed: 12/08/2000

Entered: 12/11/2000

Response

Docket Text: Response of Centerspan Communications Corporation to the Bid of Listen.Com - Filed by attorneys for Centerspan Communications Corporation RE: Item# 138 [GDG] Original NIBS Entry Number: 141

162 Filed: 12/08/2000

Entered: 12/11/2000

Declaration

Docket Text: Declaration of Frank G. Hausmann RE: Item# 161 [GDG] Original NIBS Entry Number: 141A

163 Filed: 12/08/2000

Entered: 12/11/2000

Declaration

Docket Text: Declaration of Jack W. Berka RE: Item# 161 [GDG] Original NIBS
Entry Number: 141B

164 Filed: 12/08/2000

Entered: 12/11/2000

Declaration

Docket Text: Declaration of Debbie A. Simon RE: Item# 161 [GDG] Original NIBS
Entry Number: 141C

165 Filed: 12/08/2000

Entered: 12/11/2000

Reply

Docket Text: Reply of Listen.Com to Bids submitted by Centerspan and Liquid
Audio - filed by attorneys for Listen.Com Inc. RE: Item# 138 [GDG] Original NIBS
Entry Number: 142

166 Filed: 12/08/2000

Entered: 12/11/2000

Comments

Docket Text: Comments by debtor on Bids and proof of service filed by counsel
for: Scour Inc., debtor and debtor-in-possession RE: Item# 138 [GDG] Original
NIBS Entry Number: 143

167 Filed: 12/08/2000

Entered: 12/11/2000

Proof of service

Docket Text: Proof of service filed by attorney for Liquid Audio via facsimile
[GDG] Original NIBS Entry Number: 144

168 Filed: 12/08/2000

Entered: 12/12/2000

Declaration

Docket Text: Declaration of Angela chan regarding sale notice posted on
debtor's website [GDG] Original NIBS Entry Number: 145

169 Filed: 12/08/2000

Entered: 12/12/2000

Proof of service

Docket Text: Proof of service filed by attorneys for Listen.Com Inc. by
facsimile of reply of Listen.Com to Bid submitted by Centerspan and related
documents RE: Item# 165 [GDG] Original NIBS Entry Number: 146

170 Filed: 12/08/2000

Entered: 12/12/2000

Declaration

Docket Text: Declaration [second] of Valuenomics Research Inc. and Gary E.
Jones President in reply to Bid submitted by Centerspan [GDG] Original NIBS
Entry Number: 147

171 Filed: 12/08/2000

Entered: 12/12/2000

Proof of service

Docket Text: Proof of service filed by attorneys for Listen.Com Inc. by
messenger of reply of Listen.Com to Bid submitted by Centerspan and related
documents [GDG] Original NIBS Entry Number: 148

172 Filed: 12/08/2000

Entered: 12/12/2000

Declaration

Docket Text: Declaration [third] of Valuenomics Research Inc. and Gary E.
Jones, President, in support of Bid submitted by Listen.Com RE: Item# 170 [GDG]
Original NIBS Entry Number: 149

173 Filed: 12/08/2000

Entered: 12/12/2000

Declaration

Docket Text: Declaration [second] of Carol L. Smith regarding Listen.Com Inc.'s submission of Bid for purchase of debtor's assets [GDG] Original NIBS Entry Number: 150

174 Filed: 12/08/2000

Entered: 12/12/2000

Proof of service

Docket Text: Proof of service filed by attorneys for Liquid Audio via facsimile RE: Item# 153 [GDG] Original NIBS Entry Number: 151

175 Filed: 12/08/2000

Entered: 12/12/2000

Declaration

Docket Text: Declaration [GDG] Original NIBS Entry Number: 152

176 Filed: 12/11/2000

Entered: 12/12/2000

Response

Docket Text: Response by creditors' committee to Bid by Liquid Audio and proof of service filed by proposed attorneys for Official Committee of Unsecured Creditors [GDG] Original NIBS Entry Number: 153

177 Filed: 12/11/2000

Entered: 12/12/2000

Declaration

Docket Text: Declaration of Gary E. Jones of Valuenomics Research Inc. and Gary E. Jones, president, in reply to Bid submitted by Liquid Audio RE: Item# 170 [GDG] Original NIBS Entry Number: 154

178 Filed: 12/11/2000

Entered: 12/13/2000

Reply

Docket Text: Reply of Centerspan Communications Corporation to comments regarding its competitive bid, filed by Susanne Meline, attorney for Centerspan Communications Corporation RE: Item# 165 [SKF] Original NIBS Entry Number: 155

179 Filed: 12/11/2000

Entered: 12/13/2000

Declaration

Docket Text: Declaration of Frank G. Hausmann RE: Item# 178 [SKF] Original NIBS Entry Number: 155A

180 Filed: 12/11/2000

Entered: 12/13/2000

Declaration

Docket Text: Declaration of Jack W. Berka RE: Item# 178 [SKF] Original NIBS Entry Number: 155B

. Doc.

No. Dates Description

181 Filed: 12/11/2000

Entered: 12/13/2000

Proof of service

Docket Text: Proof of service by messenger, filed by Linda DaSilva RE: Item# 177 [SKF] Original NIBS Entry Number: 156

182 Filed: 12/11/2000

Entered: 12/13/2000

Proof of service

Docket Text: Proof of service by facsimile, file dby Angela Chan RE: Item# 177 [SKF] Original NIBS Entry Number: 157

183 Filed: 12/11/2000

Entered: 12/13/2000

Proof of service

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Docket Text: Proof of service by U.S. mail. filed by Angela Chan RE: Item# 177
[SKF] Original NIBS Entry Number: 158

184 Filed: 12/12/2000

Entered: 12/13/2000

Declaration

Docket Text: Declaration of Paul M. Brent and Scott W. Simpson re compliance with order establishing sale procedure; With proof of service RE: Item# 109

[DEO] Original NIBS Entry Number: 159

185 Filed: 12/13/2000

Entered: 12/14/2000

Proof of service

Docket Text: Proof of service via facsimile of reply of Centerspan Communications Corporation to comments reagrding its competitive bid, filed by Carole Cooper RE: Item# 178 [SKF] Original NIBS Entry Number: 160

186 Filed: 12/13/2000

Entered: 12/14/2000

Proof of service

Docket Text: Proof of service via facsimile of Centerspan's objection and response of Centerspan to bid of Listen.com, file dby Carole Cooper RE: Item# 161 [SKF] Original NIBS Entry Number: 161

187 Filed & Entered: 12/14/2000

Proof of service

Docket Text: Proof of service filed by Paul M. Brent, attorney for debtor, with proof of service RE: Item# 109 [SKF] Original NIBS Entry Number: 162

188 Filed & Entered: 12/14/2000

Declaration

Docket Text: Declaration of Scott W. Simpson, re: obtaining tapes of hearing of December 12, 2000, with proof of service [SKF] Original NIBS Entry Number: 163

189 Filed & Entered: 12/14/2000

Declaration

Docket Text: Declaration of Paul M. Brent re: advertisement of sale of debtor's assets, with proof of service RE: Item# 109 [SKF] Original NIBS Entry Number: 164

190 Filed: 12/15/2000

Entered: 12/18/2000

ORDER granting/approving

Docket Text: ORDER granting/approving debtor to 1] assume and assign executory contracts to Centerspan Communications Corporation under Bankruptcy code sections 365[a], 365[f] and 365[k]; 2] sell substantially all of debtor's assets to Centerspan Communications Corporation under section 363 of the Bankruptcy code; and 3] enter into asset purchase agreement relating to the foregoing [with details], with notice of entry RE: Item# 115 [SKF] Original NIBS Entry Number: 165

191 Filed: 12/15/2000

Entered: 12/18/2000

Findings of Fact and Conclusions of Law

Docket Text: Findings of fact and conclusions of law regarding motions for order authorizing debtor to assume and assign executory contracts to Listen.com; for order authorizing debtor to 1] sell assets free and clear of liens, claims and interests; and enter into asset purchase agreement with Listen.com, with notice of entry RE: Item# 115 [SKF] Original NIBS Entry Number: 166

192 Filed: 12/15/2000

Entered: 12/18/2000

Request for special notice

Docket Text: Request for special notice filed by Karl E Block attorney for Oracle Corporation and Oracle Credit Corporation; with proof of service [KM2] Original NIBS Entry Number: 167

193 Filed: 12/15/2000

Entered: 12/18/2000

Terminated: 12/17/2002

Stipulation (Generic)

Docket Text: Stipulation re: Second Release of \$50,000.00 from Perkins Coie, LLP Trust Account to the debtor for its ordinary use filed by attorney for Scour, Inc. RE: Item# 136[Disposed] [MPM] Original NIBS Entry Number: 168

194 Filed: 12/15/2000

Entered: 12/18/2000

Status report

Docket Text: Status report on Chapter 11 case; declaration of Paul M. Brent; Hearing 1/10/01 at 10:00 a.m. RE: Item# 18 [MPM] Original NIBS Entry Number: 169

195 Filed: 12/18/2000

Entered: 12/19/2000

Terminated: 12/17/2002

Generic Motion

Docket Text: Motion of debtor-in-possession for order setting bar date to file proofs of claim or interest; declaration of Paul M. Brent; memorandum of points and authorities in support thereof, filed by Paul M. Brent, with proof of service [Disposed] [YR] Original NIBS Entry Number: 170

196 Filed: 12/18/2000

Entered: 12/19/2000

Notice

Docket Text: Notice to creditors of motion setting bar date to file proofs of claim or interest, filed by Paul M. Brent, with proof of service [YR] Original NIBS Entry Number: 171

197 Filed: 12/18/2000

Entered: 12/19/2000

Notice of hearing

Docket Text: Notice of hearing re: Official Committee of Unsecured Creditors' application for authority to employ Weinstein & Eisen as general bankruptcy counsel , filed by Aram Ordubegian, with proof of service hearing on 12/28/2000 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [YR] Original NIBS Entry Number: 172

198 Filed: 12/18/2000

Entered: 12/20/2000

Proof of service

Docket Text: Proof of service

And RE: Item# 190 [DEO] Original NIBS Entry Number: 173

199 Filed: 12/21/2000

Entered: 12/26/2000

Notice

Docket Text: Notice of filing of conflict waivers from Sony Pictures Entertainment, Inc. and the Official Committee of Unsecured Creditors; With proof of service [DEO] Original NIBS Entry Number: 174

200 Filed: 12/26/2000

Entered: 12/27/2000

Request for special notice

Docket Text: Request for special notice and Change of Address filed by Becket & Lee, LLP for American Express Travel Related Svcs Co Inc Corp Card. [REC] Original NIBS Entry Number: 175

201 Filed: 12/28/2000

Entered: 01/02/2001

Terminated: 03/05/2001

Notice of hearing

Docket Text: Notice of hearing on the first interim fee application of Steinberg, Nutter & Brent, Law Corporation, filed by Paul M Brent, Counsel for Scour, Inc., Debtor and Debtor-in-possession; with proof of service hearing on 02/27/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Rescheduled] [RMA] Original NIBS Entry Number: 176

202 Filed: 12/29/2000

Entered: 01/02/2001

Terminated: 02/26/2001

Generic Motion

Docket Text: Motion and notice of motion for order authorizing extension of exclusivity periods pursuant to 11 U.S.C. 1121[d]; Filed by Paul M. Brent attorney for debtor; With proof of service hearing on 01/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BB] Original NIBS Entry Number: 177

203 Filed: 12/29/2000

Entered: 01/02/2001

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities RE: Item# 202 [BB] Original NIBS Entry Number: 177A

204 Filed: 12/29/2000

Entered: 01/02/2001

Declaration

Docket Text: Declaration of Paul M. Brent RE: Item# 202 [BB] Original NIBS Entry Number: 177B

205 Filed: 12/29/2000

Entered: 01/03/2001

ORDER denying

Docket Text: ORDER denying debtor's application for authority to employ Perkins Coie L.L.P., as general bankruptcy counsel [with notice of entry] RE: Item# 22 [BP] Original NIBS Entry Number: 178

206 Filed: 01/05/2001

Entered: 01/08/2001

Terminated: 12/17/2002

Application to Employ

Docket Text: Application to employ Brooks, Norton & Garbowitz an accountancy corporation, nunc pro tun, accountants; Filed by Paul M. Brent attorney for debtor; With proof of service hearing on 01/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BB] Original NIBS Entry Number: 179

207 Filed: 01/05/2001

Entered: 01/08/2001

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities RE: Item# 206 [BB] Original NIBS Entry Number: 179A

208 Filed: 01/05/2001

Entered: 01/08/2001

Declaration

Docket Text: Declaration of Joseph A. Brooks RE: Item# 206 [BB] Original NIBS Entry Number: 179B

209 Filed: 01/05/2001

Entered: 01/08/2001

Notice of motion/application

Docket Text: Notice of motion/application With proof of service RE: Item# 206 [BB] Original NIBS Entry Number: 180

210 Filed: 01/10/2001

Entered: 01/11/2001

ORDER approving employment of professional

Docket Text: ORDER approving employment of professional Weinstein & Eisen, as General Bankruptcy Counsel; See order for further details. With Notice of Entry. RE: Item# 206 [RMA] Original NIBS Entry Number: 181 [DISPOSED] [SKF] Original NIBS Entry Number: 181

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No. Dates Description

211 Filed: 01/12/2001

Entered: 01/16/2001

Terminated: 02/07/2001

Application to Employ

Docket Text: Application to employ Perkins Coie LLP as special counsel under 11 U.S.C. 327[e] nunc pro tunc; Filed by Steven G. F. Polard proposed special counsel to debtor hearing on 02/07/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BB] Original NIBS Entry Number: 182

212 Filed: 01/12/2001

Entered: 01/16/2001

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities RE: Item# 211 [BB] Original NIBS Entry Number: 182A

213 Filed: 01/12/2001

Entered: 01/16/2001

Declaration

Docket Text: Declaration of Paul M. Brent RE: Item# 211 [BB] Original NIBS Entry Number: 183

214 Filed: 01/12/2001

Entered: 01/16/2001

Declaration

Docket Text: Declaration of Craig A. Grossman RE: Item# 211 [BB] Original NIBS Entry Number: 184

215 Filed: 01/12/2001

Entered: 01/16/2001

Declaration

Docket Text: Declaration of Steven G. F. Polard RE: Item# 211 [BB] Original NIBS Entry Number: 185

216 Filed: 01/12/2001

Entered: 01/16/2001

Notice of motion/application

Docket Text: Notice of motion/application RE: Item# 211 [BB] Original NIBS Entry Number: 186

217 Filed: 01/12/2001

Entered: 01/16/2001

Notice of hearing

Docket Text: Notice of hearing re application to employ special counsel to the debtor; Filed by Paul M. Brent attorney for debtor; With proof of service hearing on 02/07/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 211 [BB] Original NIBS Entry Number: 187

218 Filed: 01/12/2001

Entered: 01/16/2001

Proof of service

Docket Text: Proof of service filed by Steven G. F. Polard RE: Item# 211 [BB] Original NIBS Entry Number: 188

219 Filed: 01/12/2001

Entered: 01/16/2001

Proof of service

Docket Text: Proof of service filed by Steven G. F. Polard RE: Item# 211 [BB]
Original NIBS Entry Number: 189

221 Filed: 01/12/2001

Entered: 01/17/2001

ORDER re:

Docket Text: ORDER re: Setting Dates Certain - 1] Debtor to file, serve and set for hearing a disclosure statement with an accompanying plan on or before May 2, 2001; 2] Debtor must obtain Court approval of a disclosure statement on or before July 2, 2001; 3] Debtor must obtain confirmation of a plan on or before September 5, 2001, with notice of entry [SKF] Original NIBS Entry Number: 191
220 Filed: 01/16/2001

Entered: 01/17/2001

Notice

Docket Text: Notice of bar date for filing proofs of claims and interest [MARCH 15, 2001], filed by Paul M Brent, Attorney for Debtor; with proof of service RE: Item# 194 [RMA] Original NIBS Entry Number: 190

222 Filed: 01/19/2001

Entered: 01/22/2001

Amendment/Amended

Docket Text: Amendment/Amended notice of all professionals of interim fee application of Steinberg, Nutter & Brent, Law Corporation, filed by Paul M Brent, Counsel for Scour, Inc., Debtor and Debtor-in-possession; with proof of service [RMA] Original NIBS Entry Number: 192

224 Filed: 01/19/2001

Entered: 01/23/2001

ORDER granting/approving

Docket Text: ORDER granting/approving proofs of claims and interests; MARCH 15, 2001. With Notice of Entry. Original NIBS Entry Number: 194
And [RMA] Original NIBS Entry Number: 194

[DISPOSED] [SKF] Original NIBS Entry Number: 194

223 Filed: 01/22/2001

Entered: 01/23/2001

Request for special notice

Docket Text: Request for special notice and change of address filed by Becket & Lee, attorneys for American Express Travel Related Services [CBK] Original NIBS Entry Number: 193

225 Filed: 01/24/2001

Entered: 01/26/2001

Document

Docket Text: Document: The copyright plaintiffs' reservation of rights re Scour, Inc.s' motion to employ Perkins Coie LLP as Special Counsel, Nunc Pro Tunc; with proof of service RE: Item# 211 [RMA] Original NIBS Entry Number: 195

226 Filed: 01/26/2001

Entered: 02/01/2001

Response

Docket Text: Response on motion for authority to employ Perkins Coie LLP Nunc Pro Tunc; filed by David R Weinstein, Attorney for Official Committee of Unsecured Creditors; with proof of service RE: Item# 211 [RMA] Original NIBS Entry Number: 196

227 Filed: 01/29/2001

Entered: 02/01/2001

Terminated: 02/23/2001

Application to Employ

Docket Text: Application to employ [Supplement] Brooks, Norton & Garbowitz, and Accountancy Corporation, Nunc Pro Tunc; filed by Paul M Brent, Attorney for debtor and debtor-in-possession; with proof of service RE: Item# 206[Disposed] [RMA] Original NIBS Entry Number: 197

228 Filed: 02/02/2001

Entered: 02/06/2001

ORDER to extend time

Docket Text: ORDER to extend time Granted to assume or reject lease of non residential real property; extended to up to and including February 9, 2001; See order; [with notice of entry] RE: Item# 156 [BP] Original NIBS Entry Number: 198

229 Filed: 02/02/2001

Entered: 02/06/2001

Terminated: 12/17/2002

Stipulation (Generic)

Docket Text: Stipulation to take off calendar the hearing on the application to employ Perkins Coie, L.L.P. as special counsel to the debtor and debtor in possession nunc pro tunc; Filed by Paul M. Brent attorney for debtor RE: Item# 156[Disposed] [BB] Original NIBS Entry Number: 199

[DISPOSED] by 199 A RE: Item# 211 [SKF] Original NIBS Entry Number: 199

230 Filed: 02/02/2001

Entered: 02/06/2001

ORDER not signed

Docket Text: ORDER not signed DENIED ther is no such thing as "taking a matter off calendar". Matters are either 1. Ruled on by Court 2. Continued by Court on proper written application to continue showing cause to cotinue or 3.

Motion/application may be withdrawn by movant RE: Item# 229 [BB] Original NIBS Entry Number: 199A

232 Filed: 02/05/2001

Entered: 02/07/2001

Terminated: 09/18/2001

Motion to reject executory contract

Docket Text: Motion to reject executory contract [and notice] pursuant to 11 U.S.C. Section 365[a] and Federal Rule of Bankruptcy Procedure 6066; filed by Paul M. Brent [Disposed] [BP] Original NIBS Entry Number: 201

233 Filed: 02/05/2001

Entered: 02/07/2001

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities RE: Item# 232 [BP] Original NIBS Entry Number: 201A

234 Filed: 02/05/2001

Entered: 02/07/2001

Declaration

Docket Text: Declaration of Craig Grossman RE: Item# 233 [BP] Original NIBS Entry Number: 201B

235 Filed: 02/05/2001

Entered: 02/07/2001

Notice

Docket Text: Notice of rescheduled hearing on application to employ Perkins Coie, L.L.P; filed by Paul M. Brent [with proof of service] RE: Item# 211 [BP] Original NIBS Entry Number: 202

231 Filed & Entered: 02/06/2001

Withdrawal of motion

Docket Text: Withdrawal of motion /application to employ Perkins Coie, L.L.P. as special counsel to the debtor and debtor in possession nunc pro tunc; Filed by Paul M. Brent attorney for debtor; With proof of service RE: Item# 211 [BB] Original NIBS Entry Number: 200

236 Filed: 02/06/2001

Entered: 02/07/2001

Withdrawal of motion

Docket Text: Withdrawal of motion [Duplicate] to employ Perkiins Coie, L.L.P. as special counsel to debtor; filed by Paul M. Brent RE: Item# 211 [BP] Original NIBS Entry Number: 203
237 Filed: 02/07/2001
Entered: 02/08/2001

Change of address

Docket Text: Change of address for debtor filed by Paul M Brent attorney for Debtor; with proof of service [KM2] Original NIBS Entry Number: 204
238 Filed: 02/09/2001
Entered: 02/14/2001

Joint notice of transfer of claim pursuant to FRBP rule 3001(e)(2) and waiver of opportunity to object

Docket Text: Joint notice of transfer of claim pursuant to FRBP rule 3001[e][2] and waiver of opportunity to object Transfer from Micro Warehouse to Argo Partners, amount of \$11,496.22; Claim # 31 [RMA] Original NIBS Entry Number: 205
239 Filed: 02/16/2001
Entered: 02/20/2001

Joint notice of transfer of claim pursuant to FRBP rule 3001(e)(2) and waiver of opportunity to object

Docket Text: Joint notice of transfer of claim pursuant to FRBP rule 3001[e][2] and waiver of opportunity to object Transfer of claim from Durrance Group to Argo Partners for the amount of \$13,000.00; Claim No. 18 [RMA] Original NIBS Entry Number: 206
240 Filed: 02/20/2001
Entered: 02/22/2001

Joint notice of transfer of claim pursuant to FRBP rule 3001(e)(2) and waiver of opportunity to object

Docket Text: Joint notice of transfer of claim pursuant to FRBP rule 3001[e][2] and waiver of opportunity to object Transfer from Lyon & Lyon, LLP to Argo Partners, Amount \$37,502.89 and Claim No. 11 [RMA] Original NIBS Entry Number: 207

. Doc.

No. Dates Description

241 Filed: 02/22/2001
Entered: 02/23/2001

ORDER approving employment of professional

Docket Text: ORDER approving employment of professional Brooks, Norton and Garbowitz, an Accountancy Corporation. With Notice of Entry. [RMA] Original NIBS Entry Number: 208
[DISPOSED] RE: Item# 227 [SKF] Original NIBS Entry Number: 208

242 Filed: 02/22/2001
Entered: 02/26/2001

ORDER to extend time

Docket Text: ORDER to extend time of exclusivity periods pursuant to U.S.C. 1121 [d]. GRANTED. The 120-day exclusivity period is extended to and including May 2, 2001; and the 180-day exclusivity period is extended to July 2, 2001. With Notice of Entry. RE: Item# 202 [RMA] Original NIBS Entry Number: 209

243 Filed: 02/23/2001
Entered: 02/28/2001

Joint notice of transfer of claim pursuant to FRBP rule 3001(e)(2) and waiver of opportunity to object

Docket Text: Joint notice of transfer of claim pursuant to FRBP rule 3001[e][2] and waiver of opportunity to object Transfer of claim from XXCAL, Inc., to Argo Partners for the amount of \$25,000.00; Claim No. 17 [RMA] Original NIBS Entry Number: 210
244 Filed: 03/01/2001

Entered: 03/02/2001

Notice

Docket Text: Notice of Weinstein & Eisen's new billing rates, filed by David R Weinstein, Attorney for Official Committee of Unsecured Creditors with declaration of service [RMA] Original NIBS Entry Number: 211

245 Filed: 03/01/2001

Entered: 03/05/2001

Notice of continued hearing

Docket Text: Notice of continued hearing on Interim Fee Application of Steinberg, Nutter, & Brent; filed by Paul M Brent, Counsel for Scour, Inc., Debtor and Debtor-in-Possession; with proof of service postponed to 03/28/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 201 [RMA] Original NIBS Entry Number: 212

246 Filed: 03/02/2001

Entered: 03/05/2001

Terminated: 04/10/2001

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses [FIRST INTERIM] of Weinstein & Eisen, attorney for the Official Committee of unsecured creditors, filed by Aram Ordubegian, with proof of service hearing on 03/28/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 213

247 Filed: 03/02/2001

Entered: 03/05/2001

Declaration

Docket Text: Declaration of aram Ordubegian RE: Item# 246 [SKF] Original NIBS Entry Number: 213A

248 Filed: 03/02/2001

Entered: 03/05/2001

Terminated: 12/17/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses FIRST INTERIM; Filed by Paul Brent attorney for debtor for Brooks, Norton & Garbowitz accountants for Chapter 11 debtor for the period 10-12-00 through 2-26-01; declaration of Joseph C. Brooks; proof of service hearing on 03/28/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BB] Original NIBS Entry Number: 214

249 Filed: 03/02/2001

Entered: 03/05/2001

Terminated: 12/17/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses FIRST INTERIM; Filed by Paul M. Brent attorney for debtor for Steinberg, Nutter & Brent Law Corporation, counsel for Chapter 11 debtor, for allowance of compensation and reimbursement of expenses; declaration of Paul Brent; proof of service; period November 2000 through 2-27-01 hearing on 03/28/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BB] Original NIBS Entry Number: 215

250 Filed: 03/02/2001

Entered: 03/05/2001

Notice of hearing

Docket Text: Notice of hearing on First Interim application for fees of Steinberg, Nutter & Brent, Law Corporation; Weinstein & Eisen; and Brooks, Norton & Garbowitz; with proof of service hearing on 03/28/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 249 [BB] Original NIBS Entry Number: 216

251 Filed: 03/08/2001

Entered: 03/12/2001

Declaration

Docket Text: Declaration of Craig Grossman in support of First Interim application of Brooks, Norton & Garbowitz; filed by Paul M Brent, Attorney for debtor; with proof of service RE: Item# 248 [RMA] Original NIBS Entry Number: 217

252 Filed: 03/08/2001

Entered: 03/12/2001

Declaration

Docket Text: Declaration of Craig Grossman in support of First Interim application of Steinberg, Nutter & Brent; filed by Paul M Brent, Attorney for Debtor; with proof of service RE: Item# 249 [RMA] Original NIBS Entry Number: 218

253 Filed: 03/09/2001

Entered: 03/12/2001

Declaration

Docket Text: Declaration of William A Rudick re first interim application for compensation by General Bankruptcy Counsel for Official Committee of Unsecured Creditors; filed by Aram Ordubegian, Attorney for Official Committee of Unsecured Creditors; with declaration of service RE: Item# 246 [RMA] Original NIBS Entry Number: 219

254 Filed: 03/09/2001

Entered: 03/12/2001

Document

Docket Text: Document: Proof of interest, filed by Michael J Crum, CFP on behalf of James Umphryes; with proof of service [RMA] Original NIBS Entry Number: 220

255 Filed: 03/15/2001

Entered: 03/20/2001

Objection

Docket Text: Objection to the First Interim Fee Application of Weinstein & Eisen; filed by Dare Law, Attorney for the U. S. Trustee; with proof of service RE: Item# 246 [RMA] Original NIBS Entry Number: 221

256 Filed: 03/19/2001

Entered: 03/21/2001

Joint notice of transfer of claim pursuant to FRBP rule 3001(e)(2) and waiver of opportunity to object

Docket Text: Joint notice of transfer of claim pursuant to FRBP rule 3001[e][2] and waiver of opportunity to object Transfer from Donahue, Messereau, et al to Argo Partners, amount \$4,113.90 [claim not filed] [RMA] Original NIBS Entry Number: 222

257 Filed: 03/21/2001

Entered: 03/22/2001

Reply

Docket Text: Reply of Weinstein & Eisen to United States Trustee's objections to the First Interim application for compensation by General Bankruptcy Counsel for Official Committee of Unsecured Creditors; filed by Aram Ordubegian, Attorney for Official Committee of Unsecured Creditors; with proof of service RE: Item# 255 [RMA] Original NIBS Entry Number: 223

258 Filed: 03/23/2001

Entered: 03/27/2001

Terminated: 05/25/2001

Motion to Sell

Docket Text: Motion to sell personal property free and clear of liens and encumbrances; Filed by Paul M. Brent attorney for debtor; memorandum of points and authorities; declaration of Craig Grossman; with proof of service hearing on

04/17/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BB] Original NIBS Entry Number: 224

259 Filed: 03/23/2001

Entered: 03/27/2001

Notice of hearing

Docket Text: Notice of hearing filed by Paul M. Brent; with proof of service hearing on 04/17/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 258 [BB] Original NIBS Entry Number: 225

260 Filed: 03/23/2001

Entered: 03/27/2001

Terminated: 05/09/2001

Generic Motion

Docket Text: Motion by debtor for order authorizing debtor to change its name from Scour Inc. to Apartment 433 Technologies, Inc. and to amend caption to reflect name change; Filed by Paul M. Brent attorney for debtor; memorandum of points and authorities; with proof of service hearing on 04/17/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BB] Original NIBS Entry Number: 226

261 Filed: 03/23/2001

Entered: 03/27/2001

Notice of hearing

Docket Text: Notice of hearing filed by Paul M. Brent; with proof of service hearing on 04/17/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 260 [BB] Original NIBS Entry Number: 227

262 Filed: 03/28/2001

Entered: 03/29/2001

Document

Docket Text: Document: Redlined changes to asset purchase agreement; filed by Paul M Brent, Attorney for debtor; with proof of service [RMA] Original NIBS Entry Number: 228

263 Filed: 03/29/2001

Entered: 03/30/2001

Terminated: 04/23/2001

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses break-up fee for Listen.com; Filed by Hill Blackett III attorney for Listen.com; hearing on 04/25/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BB] Original NIBS Entry Number: 229

264 Filed: 03/29/2001

Entered: 03/30/2001

Notice of hearing

Docket Text: Notice of hearing filed by Hill Blackett III hearing on 04/25/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 263 [BB] Original NIBS Entry Number: 230

265 Filed: 03/29/2001

Entered: 03/30/2001

Proof of service

Docket Text: Proof of service filed by Hill Blackett III RE: Item# 263 [BB] Original NIBS Entry Number: 231

266 Filed: 03/29/2001

Entered: 03/30/2001

Declaration

Docket Text: Declaration of Hill Blackett III RE: Item# 263 [BB] Original NIBS Entry Number: 232

267 Filed: 03/29/2001

Entered: 03/30/2001

Declaration

Docket Text: Declaration of Robert B. Dellenbach RE: Item# 263 [BB] Original
NIBS Entry Number: 233
268 Filed: 04/02/2001
Entered: 04/05/2001

Comments

Docket Text: Comments to Debtor's motion for order authorizing Debtor to change it name from Scour, Inc. to Apartment 433 Technologies, Inc., and to amend caption to reflect name change; filed by Aram Ordubegian, Attorney for Official Committee of Unsecured Creditors; with declaration of service RE: Item# 260 [RMA] Original NIBS Entry Number: 234

269 Filed: 04/03/2001
Entered: 04/05/2001

Objection

Docket Text: Objection [limited] to motion of debtor for order authorizing the sale of personal property free and clear of liens and encumbrances; filed by Robert G Loewy, Attorney for Time Warner Plaintiffs; Kevin T Baine, Attorney for The Studio and Music Recording Plaintiffs; and Andrew Rosenberg, Attorney for The Music Publishing Plaintiffs; with proof of service RE: Item# 258 [RMA] Original NIBS Entry Number: 235

270 Filed: 04/05/2001
Entered: 04/09/2001
Terminated: 12/17/2002

Motion to reject executory contract

Docket Text: Motion to reject executory contract filed by Paul M Brent, Counsel for Scour, Inc., Debtor and Debtor-in-Possession; with memorandum of points and authorities; declaration of Craig Grossman; proof of service RE: Item# 258[Disposed] [RMA] Original NIBS Entry Number: 236
[DISPOSED] by #282 [SKF] Original NIBS Entry Number: 236

. Doc.

No. Dates Description
271 Filed: 04/05/2001
Entered: 04/09/2001

Declaration

Docket Text: Declaration of Linda T Bowen re: compliance with Local Rule 9013-7 [a] with respect to uncontested motion for order authorizing debtor to reject executory contracts; with proof of service RE: Item# 270 [RMA] Original NIBS Entry Number: 237

272 Filed: 04/06/2001
Entered: 04/10/2001

ORDER re: application for fees, expenses or compensation

Docket Text: ORDER re: application for fees, expenses or compensation tter & Brent fees: \$166,182.25 and expenses: \$5,674.18 for a total of \$171,856,41; Brooks, Norton & Garbowitz fees: \$8,514.50 expenses: \$17.00 for a total of \$8,531.50; Weinstein & Eisen fees: \$35,813.75 and expenses: 6,156.95 for a total of \$41,970.70; With Notice of Entry.

[DISPOSED]

[DISPOSED] RE: Item# 246 [RMA] Original NIBS Entry Number: 238

273 Filed: 04/13/2001
Entered: 04/16/2001

ORDER not signed

Docket Text: ORDER not signed re motion for orde authorizing debtor to reject executory contracts pursuant to 11 U.S.C. 365[a] and Federal Rule of Bankruptcy Procedure 6066; Court needs more evidence before it can Grant rejection. Court needs supplemental declaration attaching and authenticating each contract sought to be rejected so Court can read same and assure itself that the contracts sought to be rejected are executory contracts or unexpired leases to which 365 applies. File and serve on each contracting party the supplemental declaration.

Plus Court will need a new proposed order that reflects to "motion and supplemental declaration with contracts" RE: Item# 232 [BB] Original NIBS Entry Number: 239

274 Filed: 04/16/2001

Entered: 04/18/2001

Notice of transfer of claim pursuant to bankruptcy rule 3001(e)4

Docket Text: Notice of transfer of claim pursuant to bankruptcy rule 3001[e]4 Transfer of claim from SXSX SALES TO LIQUIDITY SOLUTIONS, INC., amount \$1,275.00 [claim not filed] [RMA] Original NIBS Entry Number: 240

275 Filed: 04/16/2001

Entered: 04/18/2001

Notice of transfer of claim pursuant to bankruptcy rule 3001(e)4

Docket Text: Notice of transfer of claim pursuant to bankruptcy rule 3001[e]4 Transfer of claim from Direct Sales, Inc., to Liquidity Solutions, Inc., amount \$17,936.07 [claim not filed] [RMA] Original NIBS Entry Number: 241

276 Filed: 04/16/2001

Entered: 04/18/2001

Notice of transfer of claim pursuant to bankruptcy rule 3001(e)4

Docket Text: Notice of transfer of claim pursuant to bankruptcy rule 3001[e]4 Transfer of claim from Systematic Office Supp. to Liquidity Solutions, Inc., amount \$3,209.38; claim number 80 [RMA] Original NIBS Entry Number: 242

288 Filed: 04/18/2001

Entered: 04/27/2001

Joint notice of transfer of claim pursuant to FRBP rule 3001(e)(2) and waiver of opportunity to object

Docket Text: Joint notice of transfer of claim pursuant to FRBP rule 3001[e][2] and waiver of opportunity to object from Boylston Group to Argo Partners [A proof of claim has not been filed in the proceeding] [SKF] Original NIBS Entry Number: 254

277 Filed: 04/20/2001

Entered: 04/23/2001

Declaration

Docket Text: Declaration of Paul M. Brent re: request that the Court grant the application of Listen.com, Inc., for payment of breakup fee without necessity for hearing with proof of service, filed by Paul M. Brent, attorney for Scour, Inc. RE: Item# 263 [SF] Original NIBS Entry Number: 243

278 Filed: 04/20/2001

Entered: 04/23/2001

Terminated: 04/24/2001

Ex parte application

Docket Text: Ex parte application for order authorizing filing of motion under seal [Local Bankruptcy Rule 5003-2[4][a]] limiting notice and setting hearing on motion; declaration of Paul M. Brent; declaration of Craig A. Grossman; with proof of service, filed by Paul M. Brent, attorney for Scour, Inc. [Disposed] [SF] Original NIBS Entry Number: 244

279 Filed: 04/20/2001

Entered: 04/23/2001

ORDER granting/approving

Docket Text: ORDER granting/approving allowing application of Listen.com Inc. for payment of break-up fee; with notice of entry of judgment or order and certificate of service RE: Item# 263 [BB] Original NIBS Entry Number: 245

280 Filed: 04/20/2001

Entered: 04/24/2001

ORDER granting/approving

Docket Text: ORDER granting/approving exparte application authorizing filing of motion under seal and setting hearing: Hearing set for 4-25-01 at 11:00 a.m.

in courtroom 1468; See order for other details [with notice of entry] RE: Item# 278 [BP] Original NIBS Entry Number: 246

282 Filed: 04/23/2001

Entered: 04/25/2001

Terminated: 10/21/2002

Motion to reject executory contract

Docket Text: Motion to reject executory contract [and notice] [ORACLE], pursuant to 11 U.S.C. Section 365[a] and Federal Rule of Bankruptcy Procedure 6066; declaration of Craig Grossman; filed by Paul M. Brent [with proof of service] [Disposed] [BP] Original NIBS Entry Number: 248

281 Filed: 04/24/2001

Entered: 04/25/2001

Request for special notice

Docket Text: Request for special notice filed by Heidrick & Struggles with supporting affidavit [CBK] Original NIBS Entry Number: 247

283 Filed: 04/24/2001

Entered: 04/25/2001

Notice of hearing

Docket Text: Notice of hearing on shortened time on debtor's motion under seal; filed by Paul M. Brent hearing on 04/25/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 278 [BP] Original NIBS Entry Number: 249

284 Filed: 04/24/2001

Entered: 04/25/2001

Declaration

Docket Text: Declaration of telephonic and facsimile notice of hearing on debtor's motion under seal; filed by Paul M. Brent RE: Item# 278 [BP] Original NIBS Entry Number: 250

285 Filed: 04/24/2001

Entered: 04/27/2001

Notice of continued hearing

Docket Text: Notice of continued hearing filed by Paul M. Brent, with proof of service postponed to 05/09/2001 at 10:00 a.m. at 255 E. Temple St., Courtroom 1668, Los Angeles, CA 90012 RE: Item# 258 [SS] Original NIBS Entry Number: 251

286 Filed: 04/24/2001

Entered: 04/27/2001

Declaration

Docket Text: Declaration of Paul M. Brent in support of debtor's motion for order authorizing sale of personal property free and clear of liens and encumbrances RE: Item# 258 [SS] Original NIBS Entry Number: 252

287 Filed & Entered: 04/27/2001

Notice of transfer of claim pursuant to bankruptcy rule 3001(e)4

Docket Text: Notice of transfer of claim pursuant to bankruptcy rule 3001[e]4 From: Brook Furniture Rental To: Liquidity Solutions, Inc., amount \$72,892.84 [BP] Original NIBS Entry Number: 253

289 Filed: 04/27/2001

Entered: 05/01/2001

Withdrawal re:

Docket Text: Withdrawal re: transfer of claim from: Systematic Office Supply to Liquidity Solutions, Inc. ; filed by Robert K. Minkoff RE: Item# 276 [BP] Original NIBS Entry Number: 255

295 Filed: 04/30/2001

Entered: 05/04/2001

Joint notice of transfer of claim pursuant to FRBP rule 3001(e)(2) and waiver of opportunity to object

Docket Text: Joint notice of transfer of claim pursuant to FRBP rule 3001[e][2] and waiver of opportunity to object From: Music Vision, Inc. To:

Liquidity Solutions, Inc. Amount of \$10,000.00 [BP] Original NIBS Entry Number: 261

296 Filed: 04/30/2001

Entered: 05/04/2001

Joint notice of transfer of claim pursuant to FRBP rule 3001(e)(2) and waiver of opportunity to object

Docket Text: Joint notice of transfer of claim pursuant to FRBP rule 3001[e][2] and waiver of opportunity to object From: TMVM, Inc., To: Liuidity Solutions, Inc. Amout of \$20,000.00 [BP] Original NIBS Entry Number: 262

290 Filed: 05/02/2001

Entered: 05/03/2001

Notice of hearing

Docket Text: Notice of hearing on debtor's disclosure statement describing plan of reorganization; filed by Paul M. Brent [with proof of service] hearing on 06/26/2001 at 2:00 p.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 221[Rescheduled] [BP] Original NIBS Entry Number: 256

291 Filed: 05/02/2001

Entered: 05/03/2001

Notice of hearing

Docket Text: Notice of hearing on motion of debtor for order approving compromise and settlemental of claims; filed by Paul M. Brent [with proof of service] hearing on 05/30/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [BP] Original NIBS Entry Number: 257

292 Filed: 05/02/2001

Entered: 05/03/2001

Terminated: 12/17/2002

Disclosure Statement

Docket Text: Disclosure statement FIRST; Filed by Paul M. Brent attorney for debtor hearing on 06/26/2001 at 2:00 p.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Rescheduled] [BB] Original NIBS Entry Number: 258

293 Filed: 05/02/2001

Entered: 05/03/2001

Terminated: 12/17/2002

Plan of reorganization

Docket Text: Plan of reorganization FIRST; Filed by Paul M. Brent attorney for debtor; with proof of service hearing on 06/26/2001 at 2:00 p.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 292[Disposed] [BB] Original NIBS Entry Number: 259

294 Filed: 05/02/2001

Entered: 05/03/2001

Notice of motion/application

Docket Text: Notice of motion/application RE: Item# 292 [BB] Original NIBS Entry Number: 260

297 Filed: 05/02/2001

Entered: 05/04/2001

Joint notice of transfer of claim pursuant to FRBP rule 3001(e)(2) and waiver of opportunity to object

Docket Text: Joint notice of transfer of claim pursuant to FRBP rule 3001[e][2] and waiver of opportunity to object From: Maple Plaza Parking To: Argo Partners amount of \$8,385.00 [BP] Original NIBS Entry Number: 263

298 Filed: 05/02/2001

Entered: 05/04/2001

Joint notice of transfer of claim pursuant to FRBP rule 3001(e)(2) and waiver of opportunity to object

Docket Text: Joint notice of transfer of claim pursuant to FRBP rule 3001[e][2] and waiver of opportunity to object From: Brockway Standard Inc., To:Argo Partners amount \$115,287.19 [BP] Original NIBS Entry Number: 264

299 Filed: 05/04/2001
Entered: 05/07/2001
Terminated: 10/12/2001

Motion to approve compromise

Docket Text: Motion to approve compromise and notice of motion of claims between debtor and Bartlit, Beck, et. al.; declaration of Craig Grossman; Filed by Paul M. Brent attorney for debtor; with memorandum of points and authorities; with proof of service hearing on 05/30/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BB] Original NIBS Entry Number: 265

300 Filed: 05/04/2001
Entered: 05/08/2001

ORDER granting/approving

Docket Text: ORDER granting/approving Motion under seal [see order for further details] [RMA] Original NIBS Entry Number: 266

. Doc.

No. Dates Description
301 Filed: 05/04/2001
Entered: 05/09/2001

ORDER re:

Docket Text: ORDER re: Motion for order authorizing debtor to change its name from Scour, Inc., to Apartment 433 Technologies Inc., only if debtor files applicable state law and only if state law allows change; and denying portion of motion seeking to delete name Scour from bankruptcy petition. With Notice of Entry. RE: Item# 260 [RMA] Original NIBS Entry Number: 267

302 Filed: 05/08/2001
Entered: 05/10/2001

Opposition

Docket Text: Opposition [limited] to motion for order authorizing debtor to reject executory contract [Oracle]; filed by Karl E Block, Attorney for Oracle Corporation; with proof of service RE: Item# 282 [RMA] Original NIBS Entry Number: 268

303 Filed: 05/10/2001
Entered: 05/16/2001

Notice of transfer of claim pursuant to bankruptcy rule 3001(e)4

Docket Text: Notice of transfer of claim pursuant to bankruptcy rule 3001[e]4 Transfer claim from Cardinal Equipment Co to Liquidity Solutions, Inc., amount \$4,850.00 [claim was not filed] [RMA] Original NIBS Entry Number: 269

304 Filed: 05/10/2001
Entered: 05/16/2001

Notice of transfer of claim pursuant to bankruptcy rule 3001(e)4

Docket Text: Notice of transfer of claim pursuant to bankruptcy rule 3001[e]4 Transfer of claim from MP3.COM to Liquidity Solutions, Inc., amount of \$23,448.00, claim No. 66 [RMA] Original NIBS Entry Number: 270

305 Filed: 05/14/2001
Entered: 05/16/2001

Notice

Docket Text: Notice of Firm Name Change. Filed by Aram Ordubegian, attorney for Official Committee of Unsecured Creditors, with signed proof of service. Law firm of Weinstein, Eisen & Levine has changed its name to WEINSTEIN, EISEN & WEISS. [REC] Original NIBS Entry Number: 271

306 Filed: 05/16/2001
Entered: 05/17/2001

Declaration

Docket Text: Declaration of Linda T Bowen re: compliance with Local Rule 9013-7 [a] with respect to uncontested motion for order authorizing debtor to reject

executory contracts; with proof of service RE: Item# 270 [RMA] Original NIBS Entry Number: 272

307 Filed: 05/22/2001

Entered: 05/23/2001

Request re: (mapping)

Docket Text: Request re: Removal of Name from Service List and for Further Notices filed by Hill Blackett, III., attorney for Listen.Com, Inc with proof of service [CBK] Original NIBS Entry Number: 273

308 Filed: 05/23/2001

Entered: 05/24/2001

Response

Docket Text: Response to Oracle Corporation's limited opposition to motion for order authorizing debtor to reject executory contract [Oracle]; declaration and filed by Paul M Brent, Counsel for debtor; with proof of service RE: Item# 302 [RMA] Original NIBS Entry Number: 274

309 Filed: 05/23/2001

Entered: 05/24/2001

Notice of hearing

Docket Text: Notice of hearing filed by Paul M Brent, Attorney for debtor; with proof of service hearing on 06/05/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 302 [RMA] Original NIBS Entry Number: 275

310 Filed: 05/23/2001

Entered: 05/24/2001

Supplemental (Generic)

Docket Text: Supplemental declaration of Craig Grossman in support of motion for order authorizing debtor to reject executory contracts [IX2 Networks, LLC, and Quest Business Services]; with proof of service RE: Item# 234 [RMA] Original NIBS Entry Number: 276

311 Filed: 05/24/2001

Entered: 05/25/2001

ORDER granting/approving

Docket Text: ORDER granting/approving Debtor's motion to sell personal property. [See order for further details]. With Notice of Entry. RE: Item# 258 [RMA] Original NIBS Entry Number: 277

312 Filed: 05/24/2001

Entered: 05/29/2001

Supplemental (Generic)

Docket Text: Supplemental regarding rejection Oracle Contract with proof of service, filed by Paul M. Brent, attorney for Scour, Inc. RE: Item# 282 [SF] Original NIBS Entry Number: 278

315 Filed: 05/24/2001

Entered: 05/30/2001

Terminated: 06/25/2001

ORDER to continue/reschedule hearing

Docket Text: ORDER to continue/reschedule hearing tor for order approving compromise and settlement of claims between debtor and Bartlit, Beck, et al - GRANTED. With Notice of Entry. [Rescheduled] Original NIBS Entry Number: 281 Notice of continued hearing postponed to 06/26/2001 at 2:00 p.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [RMA] Original NIBS Entry Number: 281

316 Filed: 05/24/2001

Entered: 05/30/2001

ORDER not signed

Docket Text: ORDER not signed for motion for order authorizing debtor to reject executory contracts pursuant to 11 U.S.C. 365[a] and Federal Rule of

Bankruptcy Porcedure 6066 [See order for details]. [RMA] Original NIBS Entry Number: 282

313 Filed: 05/25/2001

Entered: 05/29/2001

Terminated: 07/02/2001

Notice of continued hearing

Docket Text: Notice of continued hearing on motion of debtor for order approving compromise and settlement of claims with proof of service; filed by Paul M. Brent, attorney for Scour, Inc.; continued hearing postponed to 06/26/2001 at 2:00 p.m. at 255 E. Temple St., Courtroom 1668, Los Angeles, CA 90012 RE: Item# 299[Rescheduled] [SF] Original NIBS Entry Number: 279

314 Filed: 05/25/2001

Entered: 05/29/2001

Notice of hearing

Docket Text: Notice of hearing to all professionals of second interim fee application of Steinberg, Nutter & Brent, Law Corporation with proof of service, filed by Paul M. Brent, attorney for Scour, Inc. hearing on 07/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [SF] Original NIBS Entry Number: 280

317 Filed: 05/29/2001

Entered: 05/31/2001

Notice of transfer of claim pursuant to bankruptcy rule 3001(e)4

Docket Text: Notice of transfer of claim pursuant to bankruptcy rule 3001[e]4 Transfer of claim from Cort Furniture Rental to Argo Partners; amount of \$1,780.00 [claim was not filed] [RMA] Original NIBS Entry Number: 283

318 Filed: 06/01/2001

Entered: 06/05/2001

Terminated: 12/17/2002

Objection to Claim

Docket Text: Objection to claim [and notice] to disallow transferred claims; memorandum of points and authorities; declaration of Craig Grossman [Group One] filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 07/03/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [SKF] Original NIBS Entry Number: 284

319 Filed: 06/08/2001

Entered: 06/11/2001

Terminated: 12/17/2002

Generic Motion

Docket Text: Motion [and notice] to disallow duplicative claims; memorandum of points and authorities; declaration of Craig Grossman [Group Two], filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 07/10/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 285

320 Filed: 06/08/2001

Entered: 06/11/2001

Terminated: 08/13/2001

Generic Motion

Docket Text: Motion [and notice] for order approving settlement agreement and mutual release of claims between the debtor and copyright plaintiffs and Allied Trade Association; memorandum of points and authorities; declaration of Craig Grossman; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 07/03/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 286

321 Filed: 06/08/2001

Entered: 06/11/2001

Notice of motion/application

Docket Text: Notice of motion/application filed by Paul M. Brent, attorney for debtor, with proof of service RE: Item# 320 [SKF] Original NIBS Entry Number: 287

322 Filed: 06/18/2001

Entered: 06/19/2001

Terminated: 07/02/2001

Application of non-resident attorney to appear in a specific case per Local Bankruptcy rule

Docket Text: Application of non-resident attorney to appear in a specific case per Local Bankruptcy rule filed by Thomas G. Hentoff [Disposed] [MPM] Original NIBS Entry Number: 288

323 Filed: 06/18/2001

Entered: 06/19/2001

Notice of transfer of claim pursuant to bankruptcy rule 3001(e)4

Docket Text: Notice of transfer of claim pursuant to bankruptcy rule 3001[e]4 Transfer of claim from Flycast Communications to Liquidity Solutions, Inc., amount \$15,996.00 [claim not filed] [RMA] Original NIBS Entry Number: 289

324 Filed & Entered: 06/20/2001

Notice

Docket Text: Notice lodging of settlement agreement and mutual release by and between Copyright Plaintiff's and debtor; filed by Paul M Brent, Attorney for debtor and debtor-in-possession; with proof of service RE: Item# 320 [RMA] Original NIBS Entry Number: 290

325 Filed: 06/24/2001

Entered: 06/25/2001

Application and ORDER rescheduling hearing -GRANTED

Docket Text: Application and ORDER rescheduling hearing - GRANTED filed by Paul M Brent, Counsel for debtor. With Notice of Entry. postponed to 07/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 315 [RMA] Original NIBS Entry Number: 291

326 Filed: 06/24/2001

Entered: 06/25/2001

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon [Joint] of Official Committee of Creditors holding unsecured claims and the debtor re: conversion of hearing on debtor's disclosure statement to status conference; GRANTED, with notice of entry. [RMA] Original NIBS Entry Number: 292

328 Filed: 06/24/2001

Entered: 06/26/2001

ORDER not signed

Docket Text: ORDER not signed NOT THE CORRECT ORDER [See order for further details]. RE: Item# 299 [RMA] Original NIBS Entry Number: 294

327 Filed: 06/25/2001

Entered: 06/26/2001

Comments

Docket Text: Comments to debtor's disclosure statement; filed by Ron Maroko, Trial Attorney; with declaration of service RE: Item# 292 [RMA] Original NIBS Entry Number: 293

329 Filed: 06/26/2001

Entered: 06/27/2001

Terminated: 06/29/2001

Motion for Examination

Docket Text: Motion/Application for examination under 2004 of "person most knowledgeable" at Centerspan Communications Corporation, filed by Paul M. Brent, attorney for debtor, with proof of service [Disposed] [SKF] Original NIBS Entry Number: 295

331 Filed: 06/27/2001

Entered: 06/28/2001

ORDER re:

Docket Text: ORDER re: Debtor's motion for order authorizing debtor to reject executory contracts pursuant to 11 U.S.C. 365 [a] and Federal Rule of Bankruptcy Procedure 6066 [IX2 Networks, LLC and Quest Business Networks] The Court cannot sign the amended order approving motion for order authorizing debtor to reject executory contracts pursuant to 11 U.S.C. 365 [a] and Federal Rule of Bankruptcy Procedure 6066 lodged May 31, 2001 until the Court receives an authenticated copy of the Quest Contracts. With Notice of Entry. [RMA] Original NIBS Entry Number: 296

. Doc.

No. Dates Description

330 Filed: 06/28/2001

Entered: 06/29/2001

Order on Motion for Examination

Docket Text: ORDER for examination under 2004 GRANTED, with notice of entry [Centerspan Communications Corporation's "person most knowledgeable" is to appear on July 27, 2001 at 10:00 a.m., at the offices of Steinberg, Nutter & Brent, at 501 Colorado Avenue, Suite 300, Santa Monica] RE: Item# 329 [SKF] Original NIBS Entry Number: 295A

333 Filed: 06/28/2001

Entered: 07/02/2001

Notice of continued hearing

Docket Text: Notice of continued hearing filed by Paul M Brent, Counsel for debtor; with proof of service postponed to 07/31/2001 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 313 [RMA] Original NIBS Entry Number: 298

332 Filed: 06/29/2001

Entered: 07/02/2001

ORDER on application of non-resident attorney to appear in a specific case per Local Bankruptcy rule

Docket Text: ORDER on application of non-resident attorney to appear in a specific case per Local Bankruptcy rule GRANTED; Thomas G Hentoff. With Notice of Entry. RE: Item# 322 [RMA] Original NIBS Entry Number: 297

334 Filed: 06/29/2001

Entered: 07/02/2001

Terminated: 10/01/2001

Objection to Claim

Docket Text: Objection to claim [GROUP 3]; memorandum of points and authorities; declaration of Craig Grossman; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 07/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 299

335 Filed: 06/29/2001

Entered: 07/02/2001

Terminated: 08/17/2001

Generic Motion

Docket Text: Motion [and notice] for order authorizing extension of exclusivity period pursuant to 11 U.S.C. section 1121[d]; memorandum of points and authorities; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 08/01/2001 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 300

336 Filed: 07/05/2001

Entered: 07/06/2001

Terminated: 07/06/2001

Declaration

Docket Text: Declaration of service by mail re: motion to disallow claims [Group One]; filed by Scott W Simpson, declarant; with proof of service RE: Item# 333[Rescheduled] [RMA] Original NIBS Entry Number: 301

337 Filed: 07/05/2001

Entered: 07/06/2001

Terminated: 07/18/2001

Notice of continued hearing

Docket Text: Notice of continued hearing on motion to disallow claims [Group One]; filed by Paul M Brent, Counsel for debtor; with proof of service postponed to 07/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 336[Rescheduled] [RMA] Original NIBS Entry Number: 302

338 Filed: 07/06/2001

Entered: 07/09/2001

Terminated: 12/17/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses of PERKINS COIE, LLP special counsel for Chapter 11 debtor; declaration of Steven G.F. Polard; filed by Steven G.F. Polard, proposed special counsel for debtor hearing on 07/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 336[Disposed] Original NIBS Entry Number: 303

[DISPOSED] by item #399 [SKF] Original NIBS Entry Number: 303

339 Filed: 07/06/2001

Entered: 07/09/2001

Terminated: 08/14/2001

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses SECOND INTERIM of general bankruptcy counsel for creditor committee;; declaration of Aram Ordubegian, filed by Aram Ordubegian, attorney for creditor committee, with proof of service hearing on 07/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 304

340 Filed: 07/06/2001

Entered: 07/09/2001

Terminated: 07/24/2001

Application to Employ

Docket Text: Application to employ Perkins Coie, LLP as special counsel nunc pro tunc; memorandum of points and authorities; filed by Steven G.F. Polard, proposed special counsel for debtor hearing on 07/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 305

341 Filed: 07/06/2001

Entered: 07/09/2001

Declaration

Docket Text: Declaration of Steven G.F. Polard RE: Item# 340 [SKF] Original NIBS Entry Number: 306

342 Filed: 07/06/2001

Entered: 07/09/2001

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities field by Steven G.F. Polard, proposed attorney for debtor RE: Item# 340 [SKF] Original NIBS Entry Number: 307

343 Filed: 07/06/2001

Entered: 07/09/2001

Declaration

Docket Text: Declaration of Craig A. Grossman RE: Item# 340 [SKF] Original NIBS Entry Number: 308

344 Filed: 07/06/2001

Entered: 07/09/2001

Declaration

Docket Text: Declaration of Paul M. Brent RE: Item# 340 [SKF] Original NIBS Entry Number: 309

345 Filed: 07/06/2001

Entered: 07/09/2001

Notice of motion/application

Docket Text: Notice of motion/application for authority to employ Perkis Coie, filed by Steven G.F. Polard, proposed special counsel for debtor RE: Item# 340 [SKF] Original NIBS Entry Number: 310

346 Filed: 07/06/2001

Entered: 07/09/2001

Proof of service

Docket Text: Proof of service filed by Miriam Bartlett RE: Item# 340 [SKF] Original NIBS Entry Number: 311

347 Filed: 07/06/2001

Entered: 07/10/2001

Terminated: 12/17/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses [SECOND INTERIM] of Brooks, Norton & Garbowitz, accountants for Chapter 11 debtor; declarations of Joseph C. Brooks and Craig Grossman, filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 07/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 312

348 Filed: 07/06/2001

Entered: 07/10/2001

Terminated: 12/17/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses [SECOND INTERIM] of Steinberg, Nutter & Brent, Law Corporation, counsel for chapter 11 debtor; declaration of Paul M. Brent; declaration of Craig Grossman, filed by Paul M. Brent, attorney for debtor with proof of service hearing on 07/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 313

349 Filed: 07/10/2001

Entered: 07/11/2001

Notice of continued hearing

Docket Text: Notice of continued hearing filed by Paul M Brent, Counsel for debtor; with proof of service postponed to 07/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 320 [RMA] Original NIBS Entry Number: 314

350 Filed: 07/12/2001

Entered: 07/13/2001

Opposition

Docket Text: Opposition to debtor's and debtor in possession's motion to disallow claims [Group 3]; filed by David L Margulies, Attorney for Creditor Opptree, Inc., formerly known as Poemation Recruiting and Roger; with memorandum of points and authorities; declaration of Roger Blonder and proof of service [RMA] Original NIBS Entry Number: 315

351 Filed: 07/12/2001

Entered: 07/13/2001

Change of address

Docket Text: Change of address for creditor Amplified Holding, Inc filed by Checkout.Com [KM2] Original NIBS Entry Number: 316

352 Filed: 07/13/2001

Entered: 07/16/2001

Opposition

CA BAR #05-20211
EXHIBIT G - PAGE 41

Docket Text: Opposition to debtor's motion for order approving compromise and settlement of claims between the debtor and Bartlit Beck, et al; declaration of Aram Ordubegian; filed by Aram Ordubegian, attorney for creditor's committee, with proof of service [SKF] Original NIBS Entry Number: 317

353 Filed: 07/13/2001

Entered: 07/16/2001

Declaration

Docket Text: Declaration of service by mail; filed by Scott W. Simpson RE: Item# 348 [SKF] Original NIBS Entry Number: 318

354 Filed: 07/13/2001

Entered: 07/16/2001

Declaration

Docket Text: Declaration of service by mail, filed by Scott W. Simpson RE: Item# 320 [SKF] Original NIBS Entry Number: 319

355 Filed: 07/13/2001

Entered: 07/17/2001

ORDER to continue/reschedule hearing

Docket Text: ORDER to continue/reschedule hearing debtor's Disclosure Statement and to extend the deadline for debtor to file its amended disclosure statement in support of amended plan of reorganization to 8-8-2001; GRANTED. With Notice of Entry. RE: Item# 320 Original NIBS Entry Number: 320

Notice of continued hearing postponed to 09/11/2001 at 2:00 p.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [RMA] Original NIBS Entry Number: 320

356 Filed: 07/13/2001

Entered: 07/18/2001

ORDER disallowing claim(s)

Docket Text: ORDER disallowing claim[s] filed by Account Pros; claim #44, filed by Cort Furniture; claim # 29, filed by Direct Sales; claim #79, filed by Donahue, Messereau; claim # 18, filed by Durrance Group; claim # 59, filed by Entertainment Boulevard; claims # 11 and 36, filed by Lyon & Lyon; claim #66, filed by MP3.com; claim #20, filed by Ogilvy Publication; claim # 80, filed by Systematic Office Supplies; claim # 17, filed by XXCal, Inc., [no proof of claim filed] by Cardinal Equipment; Maple Plaza Parking, Network Appliance, Inc., and SXS Sales; with notice of entry. [Rescheduled] Original NIBS Entry Number: 321 Notice of continued hearing for debtor's objection to claims: Claim # 31, filed by Microwarehouse and claim filed by Boylston Group [no proof of claim filed] postponed to 07/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [RMA] Original NIBS Entry Number: 321

358 Filed: 07/16/2001

Entered: 07/19/2001

UNDER SEALED DOCUMENTS

Docket Text: UNDER SEALED DOCUMENTS title of document: Debtor's motion for order authorizing debtor to sell or dispose of the assets of the Estate [Centerspan Stock] pursuant to 11 U.S.C. section 363[b]; declaration of Craig Grossman [SKF] Original NIBS Entry Number: 323

357 Filed: 07/17/2001

Entered: 07/18/2001

Notice of continued hearing

Docket Text: Notice of continued hearing on motion to disallow claims [group two]; filed by Paul M Brent, Counsel for debtor; with proof of service postponed to 08/07/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 337 [RMA] Original NIBS Entry Number: 322

359 Filed: 07/18/2001

Entered: 07/20/2001

Declaration

Docket Text: Declaration of Linda T Bowen re: duplicate proofs of claims of Pacific Bell; with proof of service [RMA] Original NIBS Entry Number: 324
360 Filed: 07/20/2001
Entered: 07/23/2001
Terminated: 10/09/2001

Objection to Claim

Docket Text: Objection to claim /motion to disallow claims [and notice][GROUP 4], re claim numbers 53,84,59,80,81,11,17,18,31,54,79,[no number - Maple Parking Transferor],66, [no number - SWSW Sales - transferor], 29, [no number - Cardinal Equipment Company - Transferor], 44, [no number - Flycast - transferor]; memorandum of points and authorities; declaration of Craig Grossman; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 08/21/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 325

. Doc.

No. Dates Description

361 Filed: 07/20/2001
Entered: 07/24/2001

Amendment/Amended

Docket Text: Amendment/Amended to caption of Bankruptcy Petition to reflect name change of chapter 11 debtor from "SCOUR, INC., A DELAWARE CORPORATION." TO "SCOUR, INC., now known as APARTMENT 433 TECHNOLOGIES, INC."; filed by Paul Brent, Attorney for Debtor; with proof of service RE: Item# 1 [RMA] Original NIBS Entry Number: 326

362 Filed: 07/20/2001
Entered: 07/24/2001

Notice

Docket Text: Notice of amendment to caption of Bankruptcy Petition to reflect name change; filed by Paul M Brent, Attorney for debtor; with proof of service RE: Item# 361 [RMA] Original NIBS Entry Number: 327

363 Filed & Entered: 07/24/2001

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon hearings on the application to employ Perkins Coie, L.L.P. as special counsel to the debtor and debtor and debtor-in-possession NUNC PRO TUNC and its application for fees; with notice of entry RE: Item# 361[Rescheduled] Original NIBS Entry Number: 328

Notice of continued hearing postponed to 10/03/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 340 [NV] Original NIBS Entry Number: 328

364 Filed: 07/26/2001
Entered: 07/27/2001

Withdrawal re:

Docket Text: Withdrawal re: objection to claim of OPPTREE, INC., filed by Paul M Brent, Counsel for Debtor; with proof of service [RMA] Original NIBS Entry Number: 329

365 Filed: 07/27/2001
Entered: 07/30/2001

ORDER to continue/reschedule hearing

Docket Text: ORDER to continue/reschedule hearing tor for order approving settlement agreement and mutual release of claims between the debtor and copyright plaintiffs and Allied Trade Association; GRANTED. With Notice of Entry. Original NIBS Entry Number: 330

Notice of continued hearing postponed to 07/31/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [RMA] Original NIBS Entry Number: 330

366 Filed: 07/27/2001
Entered: 07/30/2001

Terminated: 03/29/2002

Objection to Claim

Docket Text: Objection to claim /motion to disallow claims [GROUP 5] and notice; memorandum of points and authorities; declaration of Craig Grossman, filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 08/28/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 331

367 Filed & Entered: 07/31/2001

Declaration

Docket Text: Declaration of Craig Grossman re: Financial Condition of the Estate, with proof of service [SKF] Original NIBS Entry Number: 332

368 Filed: 07/31/2001

Entered: 08/01/2001

Declaration

Docket Text: Declaration of William A Rudick re second interim application for compensation by General Bankruptcy Counsel for Official Committee of Unsecured Creditors; filed by Aram Ordubegian, Attorney for Official Committee of Unsecured Creditors; with declaration of service RE: Item# 348 [RMA] Original NIBS Entry Number: 333

369 Filed: 07/31/2001

Entered: 08/01/2001

Notice of motion/application

Docket Text: Notice of motion/application to employ Cowan Alexander Equipment Group as Acutioneer; filed by Paul M Brent, Attorney for Debtor and Debtor-In-Possession; with proof of service [RMA] Original NIBS Entry Number: 334

370 Filed: 07/31/2001

Entered: 08/02/2001

Notice of sale of estate property

Docket Text: Notice of sale of estate property Sale date: August 16, 2001 at 11:00 a.m., property to be sold: Computer equipment and office furniture per physical inspection; filed by Paul M Brent, Esq., and proof of service [RMA] Original NIBS Entry Number: 335

371 Filed & Entered: 08/02/2001

Terminated: 09/07/2001

Order to show cause

Docket Text: ORDER to show cause directing debtor to file with court evidence that debtor has complied with applicable state law procedures for changing debtor's corporate name, with notice of entry hearing on 08/28/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 336

372 Filed: 08/02/2001

Entered: 08/03/2001

ORDER disallowing claim(s)

Docket Text: ORDER disallowing claim[s] [Duplicate claims] re Claim No. 36, filed by Argo Partners; Claim No. 35, filed by Scour [See order for further details]. With Notice of Entry. [RMA] Original NIBS Entry Number: 337

373 Filed: 08/02/2001

Entered: 08/06/2001

Objection

Docket Text: Objection to motion to disallow claim [claim #6] from Peopleware Technical Resources, Inc., filed by Jeff Thaler, Chief Financial Officer, Owner for PeopleWare Technical Resources, Inc. [RMA] Original NIBS Entry Number: 338

374 Filed: 08/03/2001

Entered: 08/06/2001

Notice of continued hearing

Docket Text: Notice of continued hearing on motion of debtor for order approving compromise and settlement of claims between debtor and Bartlit, Beck,

ET. AL; filed by Paul M Brent, Counsel for debtor; with proof of service postponed to 10/02/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 299 [RMA] Original NIBS Entry Number: 339

375 Filed: 08/07/2001

Entered: 08/09/2001

Notice of hearing

Docket Text: Notice of hearing on debtor's first amended disclosure statement describing plan of reorganization; filed by Paul M Brent, Attorney for debtor; with proof of service hearing on 09/11/2001 at 2:00 p.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [RMA] Original NIBS Entry Number: 340

376 Filed: 08/08/2001

Entered: 08/10/2001

Terminated: 12/17/2002

Amended Disclosure Statement

Docket Text: Amended disclosure statement [FIRST AMENDED] describing First Amended Chapter 11 plan, filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 09/11/2001 at 2:00 p.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 292 [SKF] Original NIBS Entry Number: 341

377 Filed: 08/10/2001

Entered: 08/13/2001

ORDER granting/approving

Docket Text: ORDER granting/approving motion of debtor and approving settlement agreement and Mutual Release of claims between the debtor and copyright plaintiffs and Allied Trade Association. With Notice of Entry. RE: Item# 320 [RMA] Original NIBS Entry Number: 342

378 Filed: 08/10/2001

Entered: 08/14/2001

ORDER disallowing claim(s)

Docket Text: ORDER disallowing claim[s] of Boylston Group and Microwarehouse. With Notice of Entry. [RMA] Original NIBS Entry Number: 343

379 Filed: 08/10/2001

Entered: 08/14/2001

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon to continue the hearing on the motion of debtor and debtor-in-possession to disallow transferee claims of Arog Partners; Continued to 9-25-2001 at 11:00 a.m., with notice of entry. [RMA] Original NIBS Entry Number: 344

380 Filed: 08/10/2001

Entered: 08/14/2001

ORDER to continue/reschedule hearing

Docket Text: RMA] Original NIBS Entry Number: 345

381 Filed: 08/10/2001

Entered: 08/14/2001

ORDER re: application for fees, expenses or compensation

Docket Text: ORDER re: application for fees, expenses or compensation tter & Brent, Law Corporation in fees: \$160,892.00 and expenses: \$5,918.00; Brooks, Norton & Garbowitz in fees: 16,628.00; Weinstein, Eisen & Weiss in fees: \$14,775.50 and expenses: \$1,6452.54. With Notice of Entry.

[DISPOSED]

[DISPOSED] RE: Item# 339 [RMA] Original NIBS Entry Number: 346

384 Filed: 08/13/2001

Entered: 08/15/2001

Opposition

Docket Text: Opposition of creditor Wongdoody, Inc., to debtor Scour, Inc.,'s objection to claim; filed by Angela M. Sousa RE: Item# 366 [BP] Original NIBS Entry Number: 349

385 Filed: 08/13/2001

Entered: 08/15/2001

Declaration

Docket Text: Declaration of Benjamin Winer of Wongdoody, Inc. in further support of Wongdoody's claim, and in opposition to debtor Scour Inc.'s objection to claim; RE: Item# 384 [BP] Original NIBS Entry Number: 350

386 Filed: 08/13/2001

Entered: 08/15/2001

Response

Docket Text: Response to order to show cause directing debtor to file with court evidence that debtor has complied with applicable state law procedures for changing debotr's corporation name; filed by Paul M. Brent RE: Item# 371 [BP] Original NIBS Entry Number: 351

387 Filed: 08/13/2001

Entered: 08/15/2001

Withdrawal re:

Docket Text: Withdrawal re: transfer of claim from Music Vision to Liquidity Solutions, Inc.; filed by Robert K. Minkoff [BP] Original NIBS Entry Number: 352

388 Filed: 08/13/2001

Entered: 08/15/2001

Withdrawal re:

Docket Text: Withdrawal re: transfer of claim from TMVM, Inc.; filed by Robert K. Minkoff of Liquidity Souldtions, Inc. [BP] Original NIBS Entry Number: 353

382 Filed: 08/14/2001

Entered: 08/15/2001

Objection

Docket Text: Objection to motion to disallow claim of Technical Connection, Inc.; filed by Kevin K Haah, Attorney for Creditor Technical Connections, Inc. and declaration of Peter Mackinnon [RMA] Original NIBS Entry Number: 347

383 Filed: 08/14/2001

Entered: 08/15/2001

Response

Docket Text: Response by American Express Travel Related Services Company, Inc. to debtor's motion to disallow claims; filed by Gilbert B Weisman, Counsel for American Express Travel Related Services Company, Inc.; with certificate of service [RMA] Original NIBS Entry Number: 348

389 Filed: 08/16/2001

Entered: 08/17/2001

ORDER granting/approving

Docket Text: ORDER granting/approving motion for order authorizing extension of exclusivity period pursuant to 11 U.S.C. 112 [d]; extended to and including November 2, 2001. With Notice of Entry. RE: Item# 335 [RMA] Original NIBS Entry Number: 354

390 Filed: 08/16/2001

Entered: 08/17/2001

ORDER allowing and disallowing claim(s)

Docket Text: ORDER allowing and disallowing claim[s] ALLOWED: Claim No. 4, filed by Opptree, Inc. for \$15,920.00; DISALLOWED: Claim No. 5, filed by Opptree, Inc. in the amount of \$15,920.00; Claim No. 46 in the amount of \$15,920.00 as duplicate of Claim No. 4 [By Stipulation]. With Notice of Entry. [RMA] Original NIBS Entry Number: 355

. Doc.

No. Dates Description

391 Filed: 08/16/2001

Entered: 08/17/2001

ORDER disallowing claim(s)

Docket Text: ORDER disallowing claim[s] re claim # 42, filed by Pacific Bell as duplicative of Pacific Bell Claim No. 43. With Notice of Entry. [RMA]
Original NIBS Entry Number: 356
[DISPOSED] [SKF] Original NIBS Entry Number: 356
392 Filed & Entered: 08/20/2001
Transcript filed

Docket Text: Transcript filed hearing held 12-20-01 RE: Item# 131 [SQ]
Original NIBS Entry Number: 357
393 Filed: 08/20/2001
Entered: 08/22/2001
Terminated: 09/14/2001

Application and ORDER rescheduling hearing -GRANTED

Docket Text: Application and ORDER rescheduling hearing - GRANTED of Brown & Wood per stipulation with notice of entry of judgment or order and certificate of service - continued postponed to 09/25/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 366[Rescheduled] [MPM]
Original NIBS Entry Number: 358
394 Filed: 08/20/2001
Entered: 08/22/2001

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon ing to disallow claim of American Express Travel with notice of entry of judgment or order and certificate of service RE: Item# 366 Original NIBS Entry Number: 359
Notice of hearing continued to hearing on 09/25/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [MPM] Original NIBS Entry Number: 359
395 Filed: 08/20/2001
Entered: 08/22/2001

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon ring to disallow claim no. 28 of Systems Design Solutions, Inc. with notice of entry of judgment or order and certificate of service Original NIBS Entry Number: 360
Notice of hearing continued hearing on 09/25/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [MPM] Original NIBS Entry Number: 360
396 Filed: 08/20/2001
Entered: 08/22/2001

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon ring to disallow claims of Promo Shop, Inc. with notice of entry of judgment or order and certificate of service Original NIBS Entry Number: 361
Notice of hearing continued hearing on 09/25/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [MPM] Original NIBS Entry Number: 361
397 Filed: 08/21/2001
Entered: 08/22/2001

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon ring to disallow claims of Redline Games with notice of entry of judgment or order and certificate of service Original NIBS Entry Number: 362
Notice of hearing continued hearing on 09/25/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [MPM] Original NIBS Entry Number: 362
398 Filed: 08/21/2001
Entered: 08/22/2001
Terminated: 10/03/2001

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon ring to disallow claims of Checkout.Com with notice of entry of judgment or order and certificate of service [Rescheduled] Original NIBS Entry Number: 363

Notice of hearing continued hearing on 09/25/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [MPM] Original NIBS Entry Number: 363
399 Filed: 08/27/2001

Entered: 08/29/2001

Withdrawal re:

Docket Text: Withdrawal re: proof of claim No. 1 in the amount of \$47,015.54 as duplicative of claim No. 48 in the amount of \$48,916.54; filed by Paul B Brent, Attorney for Debtor; with proof of service [RMA] Original NIBS Entry Number: 364

418 Filed: 08/29/2001

Entered: 09/28/2001

Joint notice of transfer of claim pursuant to FRBP rule 3001(e)(2) and waiver of opportunity to object

Docket Text: Joint notice of transfer of claim pursuant to FRBP rule 3001[e][2] and waiver of opportunity to object from Amplified Holdings, Inc [Checkout.Com] to CNP, Inc for \$330,151.14; Claim No. 23 with proof of service [NV] Original NIBS Entry Number: 383

400 Filed: 09/06/2001

Entered: 09/07/2001

ORDER granting/approving

Docket Text: ORDER granting/approving Debtor to change its name from SCOUR, INC., TO APARTMENT 433 TECHNOLOGIES, INC., and to amend caption to reflect name change and vacating order to show cause. With Notice of Entry. RE: Item# 371 [RMA] Original NIBS Entry Number: 365

402 Filed: 09/06/2001

Entered: 09/07/2001

Objection

Docket Text: Objection of The United States Trustee to debtor's disclosure statement; filed by Dare Law, Attorney for the U. S. Trustee; with proof of service RE: Item# 292 [RMA] Original NIBS Entry Number: 367

401 Filed & Entered: 09/07/2001

Terminated: 09/10/2001

Ex parte application

Docket Text: Ex parte application for order authorizing the filing of request under seal [local bankruptcy rule 5003-2[4][A]] limiting notice; declaration of Paul M. Brent, filed by Paul M. Brent, attorney for debtor, with proof of service [Disposed] [SKF] Original NIBS Entry Number: 366

403 Filed: 09/07/2001

Entered: 09/10/2001

ORDER granting/approving

Docket Text: ORDER granting/approving ex parte application authorizing filing of request under seal, with notice of entry RE: Item# 401 [SKF] Original NIBS Entry Number: 368

404 Filed: 09/07/2001

Entered: 09/10/2001

Request re: (mapping)

Docket Text: Request re: conversion of hearing on debtor's disclosure statement to status conference, filed by Paul M. Brent, attorney for debtor [SKF] Original NIBS Entry Number: 369

405 Filed: 09/07/2001

Entered: 09/10/2001

ORDER granting/approving

Docket Text: ORDER granting/approving request re: conversion of hearing on debtor's disclosure statement to status conference, with notice of entry [SKF] Original NIBS Entry Number: 370

406 Filed: 09/07/2001

Entered: 09/14/2001

Notice of continued hearing

Docket Text: Notice of continued hearing on objection to disallow claims [group 4]; continued postponed to 09/25/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 360 [BP] Original NIBS Entry Number: 371

407 Filed: 09/07/2001

Entered: 09/14/2001

Notice of continued hearing

Docket Text: Notice of continued hearing postponed to 09/25/2001 at 09:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 393 [BP] Original NIBS Entry Number: 372

409 Filed: 09/07/2001

Entered: 09/14/2001

Terminated: 11/26/2001

Application to Employ

Docket Text: Application to employ Cowan Alexander Equipment Group, as auctioneer; declaration of Adam F. Alexander; comments of U.S. Trustee with objection [with proof of service] filed by Paul M. Brent [Disposed] [BP] Original NIBS Entry Number: 374

408 Filed: 09/13/2001

Entered: 09/14/2001

Response

Docket Text: Response in opposition to debtor's objection to proof of claim of creditor Brown & Wood LLP; with memorandum of points and authorities; filed by Richard W Havel, attorney for creditor Brown & Wood LLP; declarations of Alan L Jakimo and Richard W Havel; with proof of service RE: Item# 393 [RMA] Original NIBS Entry Number: 373

410 Filed: 09/13/2001

Entered: 09/17/2001

Supplemental (Generic)

Docket Text: Supplemental declaration [second] of Craig Grossman in support of debtor to reject executory contracts [IX2 Networks, LLC, and Quest Business Services]; with proof of service [RMA] Original NIBS Entry Number: 375

411 Filed: 09/17/2001

Entered: 09/18/2001

Notice

Docket Text: Notice of status conference to be held on September 25, 2001 at 2:00 p.m.; filed by Paul M Brent, Attorney for debtor; with proof of service [RMA] Original NIBS Entry Number: 376

412 Filed: 09/17/2001

Entered: 09/18/2001

ORDER granting/approving

Docket Text: ORDER granting/approving [Amended order] authorizing debtor to reject executory contracts entered into with IX2 Networks, LLC and Quest Business Services; with notice of entry. RE: Item# 232 [RMA] Original NIBS Entry Number: 377

413 Filed: 09/17/2001

Entered: 09/18/2001

ORDER not signed

Docket Text: ORDER not signed due to objection of U.S. Trustee that auctioneer only bonded up to \$20,000 which is less than est. value of items to be auctioned. To pursue employment, file/serve declaration attaching evidence bond has been increased to \$100,000 and either obtain signature of US Trustee or set for hearing by calling calendar deputy and give notice to US Trustee and all other parties entitled to notice RE: Item# 409 [SKF] Original NIBS Entry Number: 378

414 Filed: 09/20/2001

Entered: 09/21/2001

Response

Docket Text: Response to objection to Argo Partners' claims; filed by Sidney P Levinson, Counsel for Argo Partners; with declaration of service [RMA] Original NIBS Entry Number: 379

415 Filed: 09/21/2001

Entered: 09/24/2001

Objection

Docket Text: Objection to transfer of claim number 23 pursuant to Federal Rule of Bankruptcy Procedure 3001[e][2]; filed by Ronald E Guttman, Attorney for Checkout.com, LLC; with proof of service [RMA] Original NIBS Entry Number: 380

416 Filed: 09/24/2001

Entered: 09/25/2001

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon Re: withdrawal of proofs of claims filed by Time Warner, Studio/Music Record Group, and Music Publishing Claimants. With Notice of Entry. [RMA] Original NIBS Entry Number: 381

417 Filed & Entered: 09/26/2001

Notice of hearing

Docket Text: Notice of hearing re: Checkout.com, LLC's objection to transfer of claim number 23 pursuant to Federal Rule of Bankruptcy Procedure 3001[e][2], with certificate of mailing hearing on 11/13/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 415 [SKF] Original NIBS Entry Number: 382

419 Filed: 09/28/2001

Entered: 10/01/2001

Withdrawal of motion

Docket Text: Withdrawal of motion of debtor's motion to disallow claims [Group 3], filed by Paul M. Brent, attorney for debtor, with proof of service RE: Item# 334 [SKF] Original NIBS Entry Number: 384

420 Filed: 10/02/2001

Entered: 10/03/2001

Supplemental (Generic)

Docket Text: Supplemental declaration of Steven G.F. Polard in support of application of Perkins Coie LLP to be special counsel nunc pro tunc, filed by Steven Polard, with proof of service RE: Item# 341 [AC] Original NIBS Entry Number: 385

. Doc.

No. Dates Description

421 Filed & Entered: 10/03/2001

Notice of continued hearing

Docket Text: Notice of continued hearing on debtor's motion to disallow certain claims [Group 5], filed by Paul M. Brent, attorney for debtor, with proof of service postponed to 11/13/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 398 [SKF] Original NIBS Entry Number: 386

422 Filed: 10/04/2001

Entered: 10/05/2001

Terminated: 11/26/2001

Motion to approve compromise

Docket Text: Motion to approve compromise and settlement of claims between the debtor and promo shop, Inc.; memorandum of points and authorities; declarations of Craig Grossman and Robert Mittedorf, filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 11/13/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 387

423 Filed: 10/04/2001

Entered: 10/05/2001

Notice of motion/application

Docket Text: Notice of motion/application filed by Paul M. Brent, with proof of service RE: Item# 422 [SKF] Original NIBS Entry Number: 388

424 Filed: 10/04/2001

Entered: 10/09/2001

ORDER allowing and disallowing claim(s)

Docket Text: ORDER allowing and disallowing claim[s] [GROUP 5], see order for further details; notice of entry of judgment or order and certificate of mailing RE: Item# 366 [SQ] Original NIBS Entry Number: 389

425 Filed: 10/04/2001

Entered: 10/09/2001

ORDER allowing and disallowing claim(s)

Docket Text: ORDER allowing and disallowing claim[s] [the following list not in numerical order] 27, 14, 48, 62, 13, 2, 26, 21, 47, 9, 51, 6, 45, 16, 30, 56, 1, 24, 19, 15 [For rulings on the individual claims, please see order] - the objections to the following claims are continued to November 13, 2001 at 11:00 a.m.: 68, 3, 28, - with notice of entry RE: Item# 366 Original NIBS Entry Number: 390

Notice of continued hearing postponed to 11/13/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [SKF] Original NIBS Entry Number: 390

426 Filed: 10/04/2001

Entered: 10/09/2001

ORDER allowing and disallowing claim(s)

Docket Text: ORDER allowing and disallowing claim[s] [the following list is not in numerical order] 53, 84, 59, 81, 11, 17, 18, 31, 54, 79, Argo Partners in their amount of \$8,385.00, 66, 29, [3] liquidity solution claims in the amounts of \$1,275.00, \$4,850.00, and \$15,996.00, 80, 44 [for rulings on the individual claims, please see order], with notice of entry RE: Item# 360 [SKF] Original NIBS Entry Number: 391

427 Filed: 10/09/2001

Entered: 10/10/2001

ORDER to continue/reschedule hearing

Docket Text: ORDER to continue/reschedule hearing on to employ Perkins Coie, L.L.P. as special counsel to the debtor and debtor-in-possession nunc pro tunc and its application for fees; GRANTED [By Stipulation]. With Notice of Entry. RE: Item# 360 Original NIBS Entry Number: 392

Notice of continued hearing postponed to 10/24/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [RMA] Original NIBS Entry Number: 392

428 Filed & Entered: 10/12/2001

ORDER granting/approving

Docket Text: ORDER granting/approving motion of debtor approving settlement and compromise of claims between the debtor and Bartlit, Beck, et. al.; with notice of entry. RE: Item# 299 [RMA] Original NIBS Entry Number: 393

429 Filed: 10/12/2001

Entered: 10/15/2001

Notice

Docket Text: Notice [third] to all professionals of interim fee application of Steinberg, Nutter & Brent, Law Corporation; filed by Paul M Brent, Counsel for Scour Inc., debtor and debtor-in-possession; with proof of service [RMA] Original NIBS Entry Number: 394

430 Filed: 10/16/2001

Entered: 10/17/2001

Terminated: 10/30/2001

Ex parte application

Docket Text: Ex parte application to continue hearing re: Checkout.com, LLC's objection to transfer of claim number 23; declaration of Ronald E. Guttman in support; filed by Ronald E. Guttman, attorney for checkout.com, with proof of service [Disposed] [SKF] Original NIBS Entry Number: 395

431 Filed: 10/16/2001

Entered: 10/17/2001

ORDER shortening time

Docket Text: ORDER shortening time GRANTED - Hearing on 10-17-01 at 11:00 a.m.

RE: Item# 430 [SKF] Original NIBS Entry Number: 396

432 Filed & Entered: 10/18/2001

Response

Docket Text: Response of CNP, Inc., to Checkout.com, LLC's objection to transfer of claim number 23 and objection to Checkout.com LLC's ex-parte motion to continue objections to transfer of claim; filed by Julia W. Brand, attorney for CNP, Inc. with proof of service RE: Item# 430 [SKF] Original NIBS Entry Number: 397

433 Filed: 10/19/2001

Entered: 10/22/2001

Notice of motion/application

Docket Text: Notice of motion/application to employ Perkins Coie, LLP As Special Counsel to the debtor, Nunc Pro Tunc and its application for payment of fees and costs; filed by Paul M Brent, Attorney for debtor; with proof of service [RMA] Original NIBS Entry Number: 398

434 Filed: 10/24/2001

Entered: 10/25/2001

ORDER approving employment of professional

Docket Text: ORDER approving employment of professional Perkins Coie, L.L.P. as special counsel to the debtor [By Stipulation] and debtor-in-possession and payment of \$114,000.00 to Perkins Coie, L.L.P. as full and final payment of all claims against the estate, including all pre and post-petition claims; with notice of entry. [RMA] Original NIBS Entry Number: 399

435 Filed: 10/26/2001

Entered: 10/29/2001

ORDER denying

Docket Text: ORDER denying ex parte motion of Checkout.Com, LLC to continue hearing on Checkout.Com, LLC'S objection to transfer of claim number 23 and scheduling order. With Notice of Entry. RE: Item# 430 [RMA] Original NIBS Entry Number: 400

436 Filed: 10/29/2001

Entered: 10/30/2001

Withdrawal of motion

Docket Text: Withdrawal of motion /objection to transfer of claim number 23, filed by Patricia Glaser, with proof of service RE: Item# 430 [AC] Original NIBS Entry Number: 401

437 Filed & Entered: 10/30/2001

Terminated: 10/31/2001

Ex parte application

Docket Text: Ex parte application pursuant to local bankruptcy rule 9075-1[b] for order shortening time on motion pursuant to bankruptcy rule 9024 in connection with opposition of Redline Games, Inc to objection to claim [group 5]; filed by David W. Meadows attorney for movant, with declaration of David W. Meadows and proof of service hearing on 11/13/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [NV] Original NIBS Entry Number: 402

438 Filed & Entered: 10/30/2001

Terminated: 10/31/2001

Ex parte application

Docket Text: Ex parte application pursuant to local bankruptcy rule 9075-1[b] for order shortening time on motion pursuant to bankruptcy rule 9024 in connection with opposition of Systems Design solutions, Inc to objection to claim [group 5] with declaration of David W. Meadows; filed by David W. Meadows attorney for movant, with proof of service hearing on 11/13/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [NV] Original NIBS Entry Number: 403

439 Filed: 10/30/2001

Entered: 10/31/2001

ORDER shortening time

Docket Text: ORDER shortening time GRANTED - hearing on 11-13-01 at 11:00am RE: Item# 437 [NV] Original NIBS Entry Number: 404

440 Filed: 10/30/2001

Entered: 10/31/2001

ORDER shortening time

Docket Text: ORDER shortening time GRANTED - hearing on 11-13-01 at 11:00 am RE: Item# 438 [NV] Original NIBS Entry Number: 405

441 Filed: 10/30/2001

Entered: 10/31/2001

Terminated: 02/11/2002

Generic Motion

Docket Text: Motion of Systems Design Solutions, Inc pursuant to bankruptcy rule 9024 in connection with response to objection to claim [group 5] with declaration of David W. Meadows; filed by David Meadows attorney for movant Systems Design Solutions, Inc, with proof of service hearing on 11/13/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 438[Disposed] [NV] Original NIBS Entry Number: 406

442 Filed: 10/30/2001

Entered: 10/31/2001

Opposition

Docket Text: Opposition of Systems Design Solutions, Inc. to objection to claim [Group 5]; declaration of William Rudick; filed by David W. Meadows attorney for movant, Systems Design Solutions, Inc. with proof of service RE: Item# 366 [NV] Original NIBS Entry Number: 407

443 Filed: 10/30/2001

Entered: 10/31/2001

Terminated: 02/08/2002

Generic Motion

Docket Text: Motion of Redline Games, Inc pursuant to bankruptcy rule 9024 in connection with response to objection to claim [Group 5] and declaration of David W. Meadows; filed by David W. Meadows attorney for movant, Redline Games, Inc; with proof of service hearing on 11/13/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 437[Disposed] [NV] Original NIBS Entry Number: 408

444 Filed: 10/30/2001

Entered: 10/31/2001

Opposition

Docket Text: Opposition of Redline Games, Inc to objection to claim [Group 5] with declaration of James Anhalt III; filed by David W. Meadows attorney for movant, Redline Games, Inc, with proof of service RE: Item# 366 [NV] Original NIBS Entry Number: 409

445 Filed: 11/02/2001

Entered: 11/07/2001

Terminated: 12/06/2001

Motion to approve compromise

Docket Text: Motion to approve compromise and settlement of claims between the debtor and Opptree, Inc.; declaration of Craig Grossman and Roger Blonder; filed

by Paul M. Brent, attorney for debtor [with proof of service] hearing on 11/27/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BP] Original NIBS Entry Number: 410

446 Filed: 11/02/2001

Entered: 11/07/2001

Notice of hearing

Docket Text: Notice of hearing on motion for debtor for order approving compromise and settlement of claims of Opptree, Inc. hearing on 11/27/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 445 [BP] Original NIBS Entry Number: 411

447 Filed: 11/02/2001

Entered: 11/07/2001

Terminated: 12/06/2001

Motion to approve compromise

Docket Text: Motion to approve compromise and settlement of claims between the debtor and Wongdoody, Inc.; declaration of Craig Grossman and Ben Weiner [with proof of service] hearing on 11/27/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BP] Original NIBS Entry Number: 412

448 Filed: 11/02/2001

Entered: 11/07/2001

Notice of hearing

Docket Text: Notice of hearing on motion of debtor for order approving compromise and settlement of claims of Wongdoody, Inc.; filed by Paul M. Brent hearing on 11/27/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [BP] Original NIBS Entry Number: 413

449 Filed: 11/02/2001

Entered: 11/07/2001

Terminated: 12/06/2001

Motion to approve compromise

Docket Text: Motion to approve compromise and settlement of claims between the debtor and Liquidity Solutions, Inc; declaration of Craig Grossman and Robert Minkoff; filed by Paul M. Brent, attorney for debtor [with proof of service] hearing on 11/27/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BP] Original NIBS Entry Number: 414

450 Filed: 11/02/2001

Entered: 11/07/2001

Notice of hearing

Docket Text: Notice of hearing on motion of debtor for order approving compromise settlement of claims of Liquidity Solutions, Inc.; filed by Paul M. Brent hearing on 11/27/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 449 [BP] Original NIBS Entry Number: 415

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No. Dates Description

451 Filed: 11/02/2001

Entered: 11/07/2001

Notice of hearing

Docket Text: Notice of hearing on motion of debtor for order approving settlement agreement and mutual release of claims between debtor and Oracle Corporation; filed by Paul M. Brent hearing on 11/27/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [BP] Original NIBS Entry Number: 416

452 Filed: 11/05/2001

Entered: 11/07/2001

Terminated: 12/17/2001

Motion to approve compromise

Docket Text: Motion to approve compromise and settlement agreement and mutual release of claims between the debtor and Oracle Corporation; declaration of Craig Grossman; filed by Paul M. Brent, attorney for debtor hearing on 11/27/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 451[Disposed] [BP] Original NIBS Entry Number: 417
453 Filed & Entered: 11/08/2001

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon ing on objections to claims of system design solutions and redine games, GRANTED - with notice of entry RE: Item# 451 Original NIBS Entry Number: 418
Notice of continued hearing 2/18/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 451 Original NIBS Entry Number: 418

And [SKF] Original NIBS Entry Number: 418

454 Filed: 11/15/2001

Entered: 11/16/2001

Terminated: 12/17/2001

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses for Steinberg, Nutter & Brent, Law Corporation, counsel for chapter 11 debtor for allowance of compensation and reimbursement of expenses; declaration of Paul M. Brent; declaration of Craig Grossman; filed by Paul M. Brent [Third interim application] hearing on 12/11/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BP] Original NIBS Entry Number: 419

455 Filed: 11/15/2001

Entered: 11/16/2001

Terminated: 12/17/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses [Third interim application] for compensation by general bankrutpcy counsel of official committee of unsecured creditors; declaration of Aram Ordubegian; filed by Aram Ordubegain hearing on 12/11/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BP] Original NIBS Entry Number: 420

456 Filed: 11/16/2001

Entered: 11/19/2001

Terminated: 12/17/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses [Third interim application] of Brooks, Norton & Garbowitz, accountants for chapter 11 debtor for allowance of compensation and reimbursement of expenses; declaratonof Joseph C. B rooks and Craig Grossman; filed by Joseph C. Brooks [with proof of service] hearing on 12/11/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [BP] Original NIBS Entry Number: 421

457 Filed: 11/16/2001

Entered: 11/19/2001

Notice of hearing

Docket Text: Notice of hearing on third interim application for fees of Steinberg, Nutter & Brent, Law Corporation; Weinstein & Eisen; Brooks, Norton & Garbowitz; hearing on 12/11/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 454 [BP] Original NIBS Entry Number: 422

458 Filed: 11/19/2001

Entered: 11/21/2001

Supplemental (Generic)

Docket Text: Supplemental to application of debtor and debtor-in-possession for authority to employ Cowan Alexander Equipment Group, as auctioneer; filed by

Paul M Brent; declaration of Adam F Alexander; with proof of service RE: Item# 409 [RMA] Original NIBS Entry Number: 423
462 Filed: 11/21/2001
Entered: 11/27/2001

Comments

Docket Text: Comments of The United States Trustee to debtor's supplemental application to employ Cowan Alexander Equipment Group as auctioneer; filed by Dare Law; with proof of service RE: Item# 458 [RMA] Original NIBS Entry Number: 427

460 Filed: 11/24/2001
Entered: 11/26/2001

ORDER approving employment of professional

Docket Text: ORDER approving employment of professional Cowan Alexander Equipment Group as auctioneer; with notice of entry. RE: Item# 409 [RMA] Original NIBS Entry Number: 425

459 Filed: 11/25/2001
Entered: 11/26/2001

ORDER granting/approving

Docket Text: ORDER granting/approving motion of debtor approving settlement and compromise of claims between the debtor and Promo Shop, Inc., with notice of entry. RE: Item# 422 [RMA] Original NIBS Entry Number: 424

461 Filed: 11/26/2001
Entered: 11/27/2001

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon to extended court-ordered deadline for debtor to file its amended disclosure statement in support of amended plan of reorganization and to continue hearing on approval of debtor's disclosure statement; the date by which the debtor must file and serve its disclosure statement is December 12, 2001; the hearing on approval of debtor's disclosure statement shall be continued from November 27, 2001 at January 29, 2002 at 2:00 p.m. in courtroom 1468 of the United States Bankruptcy Court located at 255 E. Temple Street, Los Angeles, California. With Notice of Entry. [RMA] Original NIBS Entry Number: 426

463 Filed: 11/30/2001
Entered: 12/03/2001

Notice of continued hearing

Docket Text: Notice of continued hearing on motion of debtor for order approving compromise and settlement of claim of Oracle Corporation; filed by Paul M Brent, Counsel for debtor; with proof of service postponed to 12/05/2001 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 452 [RMA] Original NIBS Entry Number: 428

464 Filed: 12/03/2001
Entered: 12/04/2001

Declaration

Docket Text: Declaration of Paul M Brent in support of order approving compromise and settlement of claim between the debtor and Oracle Corporation; with proof of service RE: Item# 463 [RMA] Original NIBS Entry Number: 429
465 Filed & Entered: 12/04/2001

Declaration

Docket Text: Declaration of Paul M Brent in support of order approving compromise and settlement of claim between the debtors and Wongdoody, Inc., with proof of service RE: Item# 447 [RMA] Original NIBS Entry Number: 430
466 Filed & Entered: 12/04/2001

Declaration

Docket Text: Declaration of Paul M Brent in support of order approving compromise and settlement of claim between the debtor and Liquidity Solutions, Inc.; with proof of service RE: Item# 449 [RMA] Original NIBS Entry Number: 431

467 Filed & Entered: 12/04/2001

Declaration

Docket Text: Declaration of Paul M Brent in support of order approving compromise and settlement of claim between the debtor and Opptree, Inc., with proof of service RE: Item# 445 [RMA] Original NIBS Entry Number: 432

468 Filed: 12/04/2001

Entered: 12/05/2001

Comments

Docket Text: Comments of the U.S. Trustee on interim fee application; filed by Dare Law, attorney for U.S. Trustee, with proof of service RE: Item# 456 [NV] Original NIBS Entry Number: 433

469 Filed: 12/05/2001

Entered: 12/06/2001

Supplemental (Generic)

Docket Text: Supplemental declaration of Paul Brent in support of order approving compromise; filed by Paul Brent attorney for debtor, with proof of service RE: Item# 467 [NV] Original NIBS Entry Number: 434

470 Filed: 12/05/2001

Entered: 12/06/2001

ORDER granting/approving

Docket Text: ORDER granting/approving motion approving settlement and compromise of claims between the debtor and OPPTREE, Inc., a corporation formerly known as Poemation Recruiting and Roger Blonder. OPPTREE, Inc., a corporation formerly known as Poemation Recruiting and Roger Blonder, shall have a claim in the debtor's estate of \$12,320.00 and receive payment upon entry of a non-appealable order granting this motion, with notice of entry RE: Item# 445 [NV] Original NIBS Entry Number: 435

471 Filed: 12/05/2001

Entered: 12/06/2001

ORDER granting/approving

Docket Text: ORDER granting/approving motion approving settlement and compromise of claims between the debtor and Wongdoody, Inc., Pursuant to the terms of the compromise, Scour, Inc. shall pay to WONGDOODY, INC \$150,000.00 in full satisfaction of Wongdoody's approved claim [which was in the amount of \$221,611.23] upon entry of a non-appealable order granting this motion, with notice of entry RE: Item# 447 [NV] Original NIBS Entry Number: 436

472 Filed: 12/05/2001

Entered: 12/06/2001

ORDER granting/approving

Docket Text: ORDER granting/approving motion approving settlement and compromise of claims between the debtor and Liquidity Solutions, Inc., LIQUIDITY SOLUTIONS, INC., shall have a claim in the debtor's estate of \$142,018.10 and receive payment upon entry of a non-appealable order granting this motion; with notice of entry RE: Item# 449 [NV] Original NIBS Entry Number: 437

473 Filed: 12/05/2001

Entered: 12/06/2001

Declaration

Docket Text: Declaration of William A. Rudick re third interim application for compensation; filed by Aram Ordubegian attorney for official committee of unsecured creditors; with proof of service RE: Item# 454 [NV] Original NIBS Entry Number: 438

474 Filed: 12/06/2001

Entered: 12/07/2001

Application and ORDER rescheduling hearing -GRANTED

Docket Text: Application and ORDER rescheduling hearing - GRANTED [per stipulation filed by Paul Brent, attorney for debtor] - with notice of entry

postponed to 01/29/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 443 [SKF] Original NIBS Entry Number: 439
475 Filed: 12/10/2001
Entered: 12/12/2001

Declaration

Docket Text: Declaration of Craig Grossman in support of third interim application of Steinberg, Nutter & Brent, Law Corporation, Counsel for chapter 11 debtor, for allowance of compensation and reimbursement of expenses; filed by Paul M Brent; with proof of service RE: Item# 454 [RMA] Original NIBS Entry Number: 440

476 Filed: 12/11/2001
Entered: 12/12/2001

Declaration

Docket Text: Declaration of Craig Grossman in support of third interim application of Brooks, Norton & Garbowitz, accountant for chapter 11 debtor, for allowance of compensation and reimbursement of expenses; filed by Paul M Brent; with proof of service RE: Item# 456 [RMA] Original NIBS Entry Number: 441

477 Filed: 12/12/2001
Entered: 12/13/2001
Terminated: 12/17/2002

Amended Disclosure Statement

Docket Text: Amended disclosure statement [SECOND] descriing Chapter 11 plan; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 01/29/2002 at 2:00 p.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [SKF] Original NIBS Entry Number: 442

478 Filed: 12/12/2001
Entered: 12/13/2001

Notice of hearing

Docket Text: Notice of hearing on debtor's second amended disclosure statement; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 01/29/2002 at 2:00 p.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 477 [SKF] Original NIBS Entry Number: 443

479 Filed: 12/16/2001
Entered: 12/17/2001

ORDER granting/approving

Docket Text: ORDER granting/approving motion of debtor approving settlement and compromise of claims between the debtor and Oracle Corporation. With Notice of Entry. RE: Item# 452 [RMA] Original NIBS Entry Number: 444

480 Filed: 12/16/2001
Entered: 12/17/2001

ORDER re: application for fees, expenses or compensation

Docket Text: ORDER re: application for fees, expenses or compensation tter & Brent in fees: \$177,516.75 and expenses in the amount of \$8,685.56; Brooks, Norton & Garbowitz in fees: \$16,628.00; Weinstein, Eisen & Weiss in fees: \$31,359.50 and expenses: \$2,147.08. With Notice of Entry.

[DISPOSED]

[DISPOSED] RE: Item# 454 [RMA] Original NIBS Entry Number: 445

. Doc.

No. Dates Description

481 Filed: 01/04/2002
Entered: 01/07/2002
Terminated: 03/04/2002

Objection to Claim

Docket Text: Objection to claim [by motion] to disallow claims [Group 6]; memorandum of points and authorities; declaration of Craig Grossman; filed by Paul M. Brent hearing on 02/12/2002 at 11:00 a.m. at 255 E. Temple St.,

Courtroom 1468, Los Angeles, CA 90012[Disposed] [BP] Original NIBS Entry Number: 446

482 Filed: 01/08/2002

Entered: 01/09/2002

Comments

Docket Text: Comments to debtor's second amended disclosure statement; filed by Aram Ordubegian attorney for Official Committee of Unsecured Creditors; with proof of service RE: Item# 477 [NV] Original NIBS Entry Number: 447

483 Filed: 01/15/2002

Entered: 01/16/2002

Objection

Docket Text: Objection [Evidentiary] to declaration of James Anhalt III re: Redline Games, Inc.'s response to claim objection; filed by Paul M. Brent attorney for debtor; with proof of service [NV] Original NIBS Entry Number: 448

484 Filed: 01/15/2002

Entered: 01/16/2002

Reply

Docket Text: Reply to opposition to objection to claim and opposition to motion of Redline Games, Inc pursuant to bankruptcy rule 9024 in connection with response to objection to claim; filed by attorney for debtor; with proof of service RE: Item# 483 [NV] Original NIBS Entry Number: 449

485 Filed: 01/15/2002

Entered: 01/16/2002

Objection

Docket Text: Objection [Evidentiary] to declaration of William Rudick re: System Design Solutions, Inc.'s response to claim objection; filed by attorney for debtor; with proof of service [NV] Original NIBS Entry Number: 450

486 Filed: 01/15/2002

Entered: 01/16/2002

Reply

Docket Text: Reply to opposition to objection to claim, and opposition to motion of Systems Design Solutions, Inc purusant to bankruptcy rule 9024 in connection with response to objection to claim; filed by attorney for debtor; with proof of service RE: Item# 485 [NV] Original NIBS Entry Number: 451

487 Filed: 01/16/2002

Entered: 01/17/2002

Statement of disinterestedness for employment of professional person under bankruptcy rule 2014

Docket Text: Statement of disinterestedness for employment of professional person under bankruptcy rule 2014 [AMENDED] filed by Aram Ordubegian attorney for Official Committee of Unsecured Creditors; with proof of service [NV] Original NIBS Entry Number: 452

488 Filed: 01/22/2002

Entered: 01/23/2002

Response

Docket Text: Response of Systems Design Solutions, Inc., filed by David W Meadows, attorney for System Design Solutions, Inc., and proof of service RE: Item# 485 [RMA] Original NIBS Entry Number: 453

489 Filed: 01/22/2002

Entered: 01/23/2002

Response

Docket Text: Response of Redline Games, Inc., to evidentiary objections; filed by David W Meadows; with proof of service RE: Item# 483 [RMA] Original NIBS Entry Number: 454

490 Filed: 01/22/2002

Entered: 01/23/2002

Response

Docket Text: Response of Redline Games, Inc., to debtor's opposition to motion pursuant to Rule 9024 in connection with objection to claim; filed by David W Meadows; with proof of service [RMA] Original NIBS Entry Number: 455
491 Filed: 01/22/2002
Entered: 01/23/2002

Response

Docket Text: Response of Systems Design Solutions, Inc., to debtor's opposition to motion pursuant to Rule 9024 in connection with objection to claim; supplemental declaration of William Rudick; filed & proof of service cy David W Meadows, attorney for Systems Design Solutions, Inc. [RMA] Original NIBS Entry Number: 456
492 Filed: 01/23/2002
Entered: 01/24/2002

Comments

Docket Text: Comments of the United States Trustee to second amended disclosure statement and amended chapter 11 plan of reorganization; COMMENTS: No Objections, filed by Dare Law, U.S. Trustee; with proof of service RE: Item# 477 [NV] Original NIBS Entry Number: 457
493 Filed: 01/28/2002
Entered: 01/29/2002
Terminated: 02/08/2002

Amended Disclosure Statement

Docket Text: Amended disclosure statement [THIRD] describing second amended chapter 11 plan of reorganization; filed by attorney for debtor, with proof of service hearing on 01/29/2002 at 2:00 p.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 477[Disposed] [NV] Original NIBS Entry Number: 458
494 Filed & Entered: 01/31/2002
Terminated: 02/25/2002

Amended Disclosure Statement

Docket Text: Amended disclosure statement [FOURTH AMENDED] describing third amended chapter 11 plan, declaration of Craig Grossman; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 02/05/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 493[Disposed] [SKF] Original NIBS Entry Number: 459
495 Filed & Entered: 01/31/2002

Document

Docket Text: Document: Guide to reviewing changes to concurrently filed fourth amended disclosure statement describing third amended plan; filed by Paul Brent, attorney for debtor, with proof of service RE: Item# 494 [SKF] Original NIBS Entry Number: 460
496 Filed & Entered: 01/31/2002
Terminated: 04/15/2002

Plan of reorganization

Docket Text: Plan of reorganization [THIRD AMENDED] filed by Paul Brent, attorney for debtor, with proof of service hearing on 02/05/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 293[Disposed] [SKF] Original NIBS Entry Number: 461
497 Filed: 02/05/2002
Entered: 02/06/2002

ORDER not signed

Docket Text: ORDER not signed re fourth amended disclosure statement - NOT USED [different order being lodged by Brent, Esq.] RE: Item# 494 [SKF] Original NIBS Entry Number: 462
498 Filed & Entered: 02/08/2002
ORDER denying

Docket Text: ORDER denying motion of Redline Games, Inc., pursuant to bankruptcy rule 9024 in connection with objection to claim; [with notice of entry] RE: Item# 443 [NV] Original NIBS Entry Number: 463
499 Filed & Entered: 02/08/2002

ORDER denying

Docket Text: ORDER denying approval of Redlined third amended disclosure statement discribing second amended chapter 11 plan of reorganization; [with notice of entry] RE: Item# 493 [NV] Original NIBS Entry Number: 464
500 Filed & Entered: 02/08/2002

ORDER denying

Docket Text: ORDER denying motion of Systems Design Solutions, Inc., pursuant to bankruptcy rule 9024 in connection with objection to claim; [with notice of entry] RE: Item# 441 [NV] Original NIBS Entry Number: 465

501 Filed: 02/08/2002

Entered: 02/11/2002

Notice

Docket Text: Notice of Firm Name Change And New Billing Rates. Filed by David R Weinstein attorney for Official Committee of Unsecured Creditors; with proof of service [KM2] Original NIBS Entry Number: 466

502 Filed: 02/08/2002

Entered: 02/11/2002

ORDER disallowing claim(s)

Docket Text: ORDER disallowing claim[s] RE: Claim No. 28 [Systems Design Solutions, Inc.,] filed by Steinberg, Nutter & Brent [with notice of entry] RE: Item# 441 [NV] Original NIBS Entry Number: 467

503 Filed: 02/11/2002

Entered: 02/13/2002

Declaration

Docket Text: Declaration re: entry of order without hearing pursuant to local bankruptcy rule 9013-1[g]; Aram Ordubegian [BP] Original NIBS Entry Number: 468

504 Filed: 02/12/2002

Entered: 02/13/2002

Terminated: 12/17/2002

Amended Disclosure Statement

Docket Text: Amended disclosure statement ected at hearing describing third amended chpater 11 plan, with exhibits; filed by Paul BGrent, attorney for debtor, with proof of service Original NIBS Entry Number: 469

[DISPOSED] RE: Item# 494 [SKF] Original NIBS Entry Number: 469

505 Filed: 02/12/2002

Entered: 02/13/2002

Amended plan of reorganization

Docket Text: Amended plan of reorganization with exhibits, filed by Paul M. Brent, attorney for debtor, with proof of service; Hearing on April 9, 2002 at 2:00 p.m., Courtroom 1468, 255 East Temple Street, Los Angeles, CA 90012 RE:

Item# 494 Original NIBS Entry Number: 470

[DISPOSED] RE: Item# 496 [SKF] Original NIBS Entry Number: 470

506 Filed: 02/12/2002

Entered: 02/13/2002

Notice of hearing

Docket Text: Notice of hearing on confirmation of debtor's third amended plan of reorganization [with exhibits]; filed by Paul Brent, attorney for debtor, with proof of service hearing on 04/09/2002 at 2:00 p.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 505 [SKF] Original NIBS Entry

Number: 471

507 Filed: 02/12/2002

Entered: 02/13/2002

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon [Joint] re: withdrawal of Kevin Smilak's claim No. 34, as duplicative of claim No. 69; [with notice of entry of judgment or order] [BP] Original NIBS Entry Number: 472

508 Filed: 02/21/2002

Entered: 02/25/2002

ORDER granting/approving

Docket Text: ORDER granting/approving 1. Fourth amended disclosure statement [as correct at hearing] describing third amended chapter 11 plan of reorganization [with exhibits] 2. Fixing time for acceptance or rejection of plan of reorganization; 3. Fixing time for objections to confirmation of plan; and 4. Fixing time for confirmation hearing; with proof of service RE: Item# 494 [NV] Original NIBS Entry Number: 473

509 Filed: 02/22/2002

Entered: 02/25/2002

Notice of motion/application

Docket Text: Notice of motion/application of fourth interim application of Steinberg, Nutter & Brent, Law Corporation filed by Paul M. Brent; Hearing 4/09/02 at 11:00 a.m. [MPM] Original NIBS Entry Number: 474

510 Filed: 02/27/2002

Entered: 02/28/2002

Request for special notice

Docket Text: Request for special notice and change of Firm Name filed by richard P.Seegman, attorney for Brown & Wood LLP, now known as Sidley Austin Brown & Wood LLP, filed with proof of service [CBK] Original NIBS Entry Number: 475

. Doc.

No. Dates Description

511 Filed: 02/28/2002

Entered: 03/01/2002

Request for special notice

Docket Text: Request for special notice filed by Richard P.Seegman, attorney for Creditor Brown & Wood LLP now known as Sidley Austin Brown & Wood LLP with proof of service [CBK] Original NIBS Entry Number: 476

512 Filed: 03/03/2002

Entered: 03/04/2002

ORDER disallowing claim(s)

Docket Text: ORDER disallowing claim[s] re claim # 62, filed by Paul M. Brent, of Steinberg, Nutter & Brent [with notice of entry] RE: Item# 481 [NV] Original NIBS Entry Number: 477

513 Filed: 03/03/2002

Entered: 03/04/2002

ORDER disallowing claim(s)

Docket Text: ORDER disallowing claim[s] of Jennifer Parker - Group 6; filed by Paul M. Brent of Steinberg, Nutter & Brent, with notice of entry RE: Item# 481 [NV] Original NIBS Entry Number: 478

514 Filed: 03/03/2002

Entered: 03/04/2002

ORDER disallowing claim(s)

Docket Text: ORDER disallowing claim[s] of Mark Torres - Group 6; filed by Paul M. Brent of Steinberg, Nutter & Brent [with notice of entry RE: Item# 481 [NV] Original NIBS Entry Number: 479

515 Filed: 03/05/2002

Entered: 03/07/2002

ORDER approving employment of professional

Docket Text: ORDER approving employment of professional [to continue to employ] Weinstein, Eisen & Weiss as general bankruptcy counsel; [with notice of entry] [NV] Original NIBS Entry Number: 480

516 Filed: 03/15/2002
Entered: 03/18/2002
Terminated: 05/16/2002
Objection to Claim

Docket Text: Objection to claim /disallow claims [and notice] [GROUP 7], nos. 32,33,69,83,61,71; memorandum of points and authorities; declaration of James Ellis; filed by Paul Brent; attorney for debtor, with proof of service hearing on 04/16/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 481

517 Filed: 03/15/2002
Entered: 03/18/2002
Terminated: 05/01/2002
Objection to Claim

Docket Text: Objection to claim /disallow claims [and notice] [GROUP 8], nos. 65,68; memorandum of points and authorities; declaration of Craig Grossman; filed by Paul Brent, attorney for debtor, with proof of service hearing on 04/16/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 482

518 Filed: 03/15/2002
Entered: 03/18/2002
Terminated: 04/10/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses FOURTH INTERIM of STEINBERG, NUTTER and BRENT, counsel for Chapter 11 debtor for the period November 1, 2001 to February 28, 2002; declaration of Paul M. Brent, declaration of Craig Grossman; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 04/09/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 483

519 Filed: 03/15/2002
Entered: 03/18/2002
Terminated: 12/17/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses [FOURTH INTERIM] of Weinstein Eisen Weiss and Rothschild, attorney for creditor's committee for the period November 12, 2001 to February 28, 2002; declaration of Aram Ordubegian; filed by Aran Ordubegian, attorney for creditor's committee, with proof of service hearing on 04/09/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] Original NIBS Entry Number: 484

[DISPOSED] by item #497 [SKF] Original NIBS Entry Number: 484

520 Filed: 03/15/2002
Entered: 03/18/2002
Notice of hearing

Docket Text: Notice of hearing on Fourth Interim Application for fees of Steinberg, Nutter & Brent, a law corporation; Weinstein & Eisen; Brook, Norton & Garbowitz; filed by attorney for debtor [with proof of service] hearing on 04/09/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 519 [NV] Original NIBS Entry Number: 485

521 Filed: 03/15/2002
Entered: 03/19/2002
Terminated: 12/17/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses [FOURTH INTERIM] of Brooks Norton and Garbowitz, Accountant for debtor; declaration of Joseph C. Brooks; Declaration of Craig Grossman; filed by Joseph C. Brooks, attorney for debtor, with proof of service hearing on 04/09/2002 at

11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 519[Disposed] Original NIBS Entry Number: 486

[DISPOSED] by item # 497 [SKF] Original NIBS Entry Number: 486

522 Filed & Entered: 03/29/2002

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon to withdrawal of debtor's presently pending objection to claim No. 23 for CNP [with notice of entry] RE: Item# 366

[NV] Original NIBS Entry Number: 487

523 Filed: 03/29/2002

Entered: 04/01/2002

Summary of ballots

Docket Text: Summary of ballots /voting on debtor's third amended plan; declaration of Paul M. Brent; declaration of Craig Grossman; filed by Paul M.

Brent, attorney for debtor, with proof of service RE: Item# 496 [SKF] Original NIBS Entry Number: 488

524 Filed: 03/29/2002

Entered: 04/01/2002

Brief/Memorandum

Docket Text: Brief/Memorandum in support of confirmation of third amended plan of reorganization; declaration of Craig Grossman; filed by Paul M. Brent,

attorney for debtor, with proof of service RE: Item# 496 [SKF] Original NIBS Entry Number: 489

525 Filed: 04/02/2002

Entered: 04/03/2002

Opposition

Docket Text: Opposition by Travis Kalanick to motion to disallow Founders' claim; declaration in support; filed by Carmela Tan, attorney for Travis

Kalanick RE: Item# 516 [BP] Original NIBS Entry Number: 490

526 Filed: 04/03/2002

Entered: 04/04/2002

Terminated: 05/02/2002

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon to respond to motion to disallow Founders' Claims; ORDERED, the time for Claimants only to file and serve a

response to Claims Objection shall be extended from 4-2-02 to 4-9-02; the time for debtor to reply to any response of Claimants shall be extended from 4-9-02

to 4-12-02; See Order for other details [with notice of entry of judgment or order] RE: Item# 516[Rescheduled] Original NIBS Entry Number: 491

Notice of continued hearing on objection to claims; continued postponed to

04/23/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [BP] Original NIBS Entry Number: 491

527 Filed & Entered: 04/05/2002

Declaration

Docket Text: Declaration of Lynne Carey re fourth interim application for compensation by general bankruptcy counsel for official committee of unsecured

creditors; filed by David R. Weinstein attorney for official committee of unsecured creditors [with proof of service] RE: Item# 521 [NV] Original NIBS

Entry Number: 492

528 Filed: 04/05/2002

Entered: 04/08/2002

Memorandum of points and authorities

Docket Text: Memorandum of points and authorities in opposition to objection to proof of claim; filed by Michael M. Hernandez attorney for creditor James

Umphryes [with proof of service] RE: Item# 517 [NV] Original NIBS Entry Number: 493

529 Filed: 04/05/2002

Entered: 04/08/2002

Comments

Docket Text: Comments of the U.S. Trustee on Fourth Interim Fee applications; filed by Dare Law, attorney for U.S. Trustee, with proof of service RE: Item# 521 [NV] Original NIBS Entry Number: 494

530 Filed: 04/08/2002

Entered: 04/09/2002

Declaration

Docket Text: Declaration of Michael I. Gottfried in support of stipulation to continue time to respond to motion to disallow founders claims; filed by Michael I. Gottfried attorney for creditors Dan Rodrigues, Kevin Smilak, and Ilya Haykinson [with proof of service] RE: Item# 526 [NV] Original NIBS Entry Number: 495

531 Filed & Entered: 04/09/2002

Judge's instruction for entering discharge in chapter 11 cases

Docket Text: Judge's instructions for entering discharge in chapter 11 cases - No discharge will be entered because the debtor is not eligible for one [NV] Original NIBS Entry Number: 496

532 Filed: 04/09/2002

Entered: 04/10/2002

ORDER re: application for fees, expenses or compensation

Docket Text: ORDER re: application for fees, expenses or compensation Granted: Steinberg, Nutter & Brent allowed interim compensation of \$93,709.50 and expenses of \$5,554.93 for the period of November 1, 2001 to February 28, 2002 ; Brooks, Norton & Garbowitz is allowed compensation of \$28,957.50 and no expenses for period of November 10,2001 to March 11, 2002; Weinstein, Eisen & Weiss is allowed interim compensation of \$8,998.50 and expenses of \$1,605.34 for the period of November 13, 2001 to February 28, 2002; [with notice of entry of judgment or order] RE: Item# 518 [BP] Original NIBS Entry Number: 497

533 Filed: 04/09/2002

Entered: 04/10/2002

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon to continue time to respond to motion to disallow Founders' claims; The Claimants time to file and serve a response to the Claims Objection shall be extended from April 9, 2002 to April 16, 2002; The debtor to reply to response of Claimants shall be extended from April 12, 2002 to April 18, 2002 with a file stamped courtesy copy delivered to chambers immediated after filing; [with notice of entry of judgment or order] Re: Item #491 [BP] Original NIBS Entry Number: 498

534 Filed: 04/12/2002

Entered: 04/15/2002

ORDER confirming chapter 11 plan - granted

Docket Text: ORDER confirming chapter 11 plan - granted with notice of entry RE: Item# 496 [SKF] Original NIBS Entry Number: 499

535 Filed & Entered: 04/15/2002

Notice of order confirming chapter 11 plan (BNC)

Docket Text: Notice of order confirming chapter 11 plan [requested from BNC] RE: Item# 534 [SKF] Original NIBS Entry Number: 500

536 Filed: 04/15/2002

Entered: 04/16/2002

Application and ORDER rescheduling hearing -GRANTED

Docket Text: Application and ORDER rescheduling hearing - GRANTED [by Stipulation] on objection to claim Group 7; see Order for time to file and service response and reply [with notice of entry of judgment or order] Continue postponed to 05/15/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 526 [BP] Original NIBS Entry Number: 501

537 Filed: 04/15/2002

Entered: 04/16/2002

Application and ORDER rescheduling hearing -GRANTED

Docket Text: Application and ORDER rescheduling hearing - GRANTED [by Stipulation] re objection to claim of Travis Kalanick; see Order for time for filing and serving opposing papers and reply papers; [with notice of entry of judgment or order] Continue postponed to 05/15/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 516 [BP] Original NIBS Entry Number: 502
538 Filed: 04/15/2002
Entered: 04/16/2002

Application and ORDER rescheduling hearing -GRANTED

Docket Text: Application and ORDER rescheduling hearing - GRANTED [by Stipulation] re: objection of claim of James Umphrey; see Order for time to file and service response and reply [with notice of entry of judgment or order] Continue postponed to 05/15/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 517 [BP] Original NIBS Entry Number: 503
539 Filed: 04/18/2002
Entered: 04/19/2002

Certificate of Mailing

Docket Text: Certificate of mailing RE: Item# 535 [BNC] Original NIBS Entry Number: 504

540 Filed: 04/25/2002

Entered: 04/26/2002

ORDER disallowing claim(s)

Docket Text: ORDER disallowing claim[s] , Inc., in its entirety and deeming the claim of Redline Games, Inc to be withdrawn [Claim No. 68 only] with notice of entry. RE: Item# 535 Original NIBS Entry Number: 505
And [NV] Original NIBS Entry Number: 505
. Doc.

No. Dates Description

541 Filed: 04/30/2002

Entered: 05/01/2002

ORDER allowing and disallowing claim(s)

Docket Text: ORDER allowing and disallowing claim[s] /ALLOWING CLAIM IN A REDUCED AMOUNT [re claim of James Umphreys], with notice of entry RE: Item# 517 [SKF] Original NIBS Entry Number: 506

543 Filed: 04/30/2002

Entered: 05/02/2002

Terminated: 06/20/2002

Generic Motion

Docket Text: Motion and notice of motion to disallow claims of IX2 Networks, LLC; memorandum of points and authorities; declaration of Craig Grossman; filed by attorney for debtor with proof of service hearing on 06/04/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [NV] Original NIBS Entry Number: 508

544 Filed: 04/30/2002

Entered: 05/02/2002

Terminated: 06/07/2002

Generic Motion

Docket Text: Motion and notice of motion to disallow claims of Heidrick & Struggles, Inc.; memorandum of points and authorities; declaration of Craig Grossman; filed by attorney for debtor with proof of service hearing on 06/04/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [NV] Original NIBS Entry Number: 509

545 Filed: 04/30/2002

Entered: 05/02/2002

Terminated: 06/06/2002

Generic Motion

Docket Text: Motion and notice of motion to disallow Founder Claim of Michael Todd; memorandum of points and authorities; declaration of James Ellis; filed by attorney for debtor with proof of service hearing on 06/04/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [NV] Original NIBS Entry Number: 510

[DISPOSED] by item no. 536 [SKF] Original NIBS Entry Number: 510

542 Filed: 05/01/2002

Entered: 05/02/2002

Application and ORDER rescheduling hearing -GRANTED

Docket Text: Application and ORDER rescheduling hearing - GRANTED [and stipulation] for motion to disallow Founders' claims; with notice of entry postponed to 06/12/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 526 [NV] Original NIBS Entry Number: 507

546 Filed: 05/07/2002

Entered: 05/08/2002

Terminated: 12/17/2002

Motion to approve compromise

Docket Text: Motion to approve compromise [and notice] and settlement between the debtor and Heidrick & Struggles, Inc.; points and authorities; declaration of Craig Grossman; declaration of Jeanne Puckett; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 06/04/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] Original NIBS Entry Number: 511

[DISPOSED] by item 527 [SKF] Original NIBS Entry Number: 511

547 Filed: 05/08/2002

Entered: 05/10/2002

Objection

Docket Text: Objection [Evidentiary] to Travis Kalanick's opposition to motion to disallow founders claims; filed by attorney for debtors with proof of service RE: Item# 536 [NV] Original NIBS Entry Number: 512

548 Filed: 05/08/2002

Entered: 05/10/2002

Reply

Docket Text: Reply to Travis Kalanick's opposition to motion to disallow founders' claims; request for continuance; with declaration of Paul M. Brent with proof of service RE: Item# 536 [NV] Original NIBS Entry Number: 513

549 Filed: 05/13/2002

Entered: 05/14/2002

Notice to professionals to file application for compensation

Docket Text: Notice to professionals to file application for compensation of Fifth and Final Fee application of Steinberg, Nutter & Brent, a Law Corporation, filed by attorney for debtor with proof of service [NV] Original NIBS Entry Number: 514

550 Filed & Entered: 05/14/2002

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon resolving debtor's presently pending objection to claim of Travis Kalanick; with proof of service and notice of entry [NV] Original NIBS Entry Number: 515

551 Filed: 05/15/2002

Entered: 05/16/2002

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon resolving debtor's presently pending objection to claims of Dan Rodrigues, Kevin Smilak, Ilya Haykinson and Jason Droege and allowing for claims in reduced amounts; [court waives need for BR 9019 because settlement is not more favorable than what confirmed plan would give.] with notice of entry RE: Item# 516 [NV] Original NIBS Entry Number: 516

552 Filed: 05/20/2002

Entered: 05/21/2002

Opposition

Docket Text: Opposition [and notice of opposition] to motion to disallow claims of IX2 Networks, LLC; memorandum of points and authorities with declaration of William N. Peckovich; filed by Charbel F. Lahoud attorney for respondent, IX2 Networks, LLC; with proof of service RE: Item# 543 [NV] Original NIBS Entry Number: 517

553 Filed: 05/22/2002

Entered: 05/23/2002

ORDER to continue/reschedule hearing

Docket Text: ORDER to continue/reschedule hearing on debtor's motion to disallow Founder Claim of Michael Todd [By Stipulation]; with notice of entry. [RMA] Original NIBS Entry Number: 518

554 Filed: 05/22/2002

Entered: 05/23/2002

Notice of continued hearing

Docket Text: Notice of continued hearing postponed to 06/18/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 545 [RMA] Original NIBS Entry Number: 518A

555 Filed: 05/29/2002

Entered: 05/30/2002

ORDER to continue/reschedule hearing

Docket Text: ORDER to continue/reschedule hearing on motion to disallow claim of IX2 NETWORKS, LLC. [By Stipulation]; GRANTED and notice of entry. [RMA]

Original NIBS Entry Number: 519

556 Filed: 05/29/2002

Entered: 05/30/2002

Notice of continued hearing

Docket Text: Notice of continued hearing postponed to 06/19/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 543 [RMA] Original NIBS Entry Number: 519A

557 Filed: 05/31/2002

Entered: 06/03/2002

Terminated: 12/17/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses [FIFTH AND FINAL] by general bankruptcy counsel for Official committee of unsecured creditors for the period March 1, 2002 to May 30, 2002; declaration of Aram Ordubegian; filed by Aram Ordubegian, attorney for creditor's committee, with proof of service hearing on 06/26/2002 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 520

558 Filed: 05/31/2002

Entered: 06/03/2002

Terminated: 12/17/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses [FIFTH AND FINAL] of Steinberg, Nutter & Brent, counsel for debtor for the period, February 28, 2002 to May 20, 2002; declaration of Paul Brent; declaration of Craig Grossman; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 06/26/2002 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 521

559 Filed: 05/31/2002

Entered: 06/03/2002

Terminated: 06/26/2002

Application for payment of interim or final fees and/or expenses

Docket Text: Application for payment of interim or final fees and/or expenses [FIFTH AND FINAL] of Brooks, Norton & Garbowitz, Accountants for Chapter 11 debtor, for the period March 12, 2002 to May 28, 2002; declaration of Joseph C. Brooks; declaration of Craig Grossman; filed by Joseph C. Brooks, accountant for debtor, with proof of service hearing on 06/26/2002 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 522

560 Filed: 05/31/2002

Entered: 06/03/2002

Notice of hearing

Docket Text: Notice of hearing on fifth and final fee applications; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 06/26/2002 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 559 [SKF] Original NIBS Entry Number: 523

561 Filed: 05/31/2002

Entered: 06/03/2002

Terminated: 07/01/2002

Motion to approve compromise

Docket Text: Motion to approve compromise [and notice] and settlement of claims between debtor and Michael Todd; points and authorities; declaration of Craig Grossman; declaration of Michael Todd; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 06/26/2002 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012[Disposed] [SKF] Original NIBS Entry Number: 524

562 Filed: 05/31/2002

Entered: 06/03/2002

Notice of hearing

Docket Text: Notice of hearing on motion to compromise; filed by Paul M. Brent, attorney for debtor, with proof of service hearing on 06/26/2002 at 10:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 [SKF] Original NIBS Entry Number: 525

563 Filed: 06/05/2002

Entered: 06/06/2002

Terminated: 06/25/2002

Notice of continued hearing

Docket Text: Notice of continued hearing on motion to disallow founders claim of Michael Todd; filed by attorney's for debtor with proof of service postponed to 06/19/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 545[Rescheduled] [NV] Original NIBS Entry Number: 526

564 Filed: 06/06/2002

Entered: 06/07/2002

ORDER granting/approving

Docket Text: ORDER granting/approving objection to claim of Heidrick & Struggles, Inc., and granting motion of debtor approving settlement and compromise of claims between the debtor and Heidrick & Struggles, Inc; [Heidrick & Struggles shall have a claim in the debtor estate of \$50,000.00 and receive payment upon entry of a non-appealable order granting this motion] with notice of entry RE: Item# 544 [NV] Original NIBS Entry Number: 527

565 Filed: 06/14/2002

Entered: 06/17/2002

Terminated: 08/16/2002

Final Decree

Docket Text: Motion for final decree ; memorandum of points and authorities; declaration of Paul M. Brent; filed by Paul M. Brent, attorney for debtor, with proof of service [Disposed] [SKF] Original NIBS Entry Number: 528

566 Filed: 06/14/2002

Entered: 06/17/2002

Notice of motion/application

Docket Text: Notice of motion/application for final decree; filed by Paul M. Brent, attorney for debtor, with proof of service RE: Item# 565 [SKF] Original NIBS Entry Number: 529
567 Filed: 06/14/2002
Entered: 06/17/2002

Status report

Docket Text: Status report re: debtor;s compliance with confirmed plan or reorganization; filed by Paul M. Brent, attorney for debtor, with proof of service RE: Item# 565 [SKF] Original NIBS Entry Number: 530
568 Filed: 06/18/2002
Entered: 06/19/2002

Declaration

Docket Text: Declaration of Lynne Cary re fifth and final application for compensation by general bankruptcy counsel for official committee of unsecured creditors; filed by Aram Ordubegian attorney for official committee of unsecured creditors; with proof of service RE: Item# 557 [NV] Original NIBS Entry Number: 531
569 Filed: 06/19/2002
Entered: 06/20/2002

Comments

Docket Text: Comments of the United States Trustee on Fifth and Final Fee application; filed by U.S. Trustee with proof of service RE: Item# 557 [NV] Original NIBS Entry Number: 532
570 Filed: 06/19/2002
Entered: 06/20/2002

Stipulation and ORDER thereon

Docket Text: Stipulation and ORDER thereon resolving debtor's presently pending objection to claim of IX2 Networks, LLC, and allowing for claim in a reduced amount; declaration of Craig Grossman and William N. Peckovich; [1. IX2 shall reduce its claim from \$43,629.07 to \$34,903.26 which represents 80% of its claim filed, 2. IX2 shall b entitled to a payment from the debtor in the amount of \$34,903.26 100% of its allowed claim 10 days after the date of entry of a final non-appealable order of the Bankruptcy Court approving this stipulation. [see stipulation from further orders] with notice of entry RE: Item# 543 [NV] Original NIBS Entry Number: 533

. Doc.

No. Dates Description

571 Filed: 06/24/2002
Entered: 06/25/2002

Notice of continued hearing

Docket Text: Notice of continued hearing on motion to disallow Founders Claim of Michael Todd; filed by Paul M. Brent, attorney for debtor, with proof of service postponed to 06/26/2002 at 11:00 a.m. at 255 E. Temple St., Courtroom 1468, Los Angeles, CA 90012 RE: Item# 563 [SKF] Original NIBS Entry Number: 534
572 Filed & Entered: 06/26/2002

ORDER granting/approving

Docket Text: ORDER granting/approving fifth and final allowances of compensation and reimbursement of expenses and final payment of same; [with notice of entry] RE: Item# 563 [NV] Original NIBS Entry Number: 535

[DISPOSED]

[DISPOSED]

[DISPOSED] RE: Item# 559 [SKF] Original NIBS Entry Number: 535

573 Filed: 06/28/2002
Entered: 07/01/2002

ORDER granting/approving

Docket Text: ORDER granting/approving motion for order approving compromise and settlement of claims between the debtor and Michael Todd [Payment shall be made on 100% of the allowed claim of Michael Todd within 7 days of the date of the hearing] with notice of entry RE: Item# 561 [NV] Original NIBS Entry Number: 536

574 Filed: 07/03/2002

Entered: 07/05/2002

Notice of motion/application

Docket Text: Notice of motion/application on final decree [hearing on July 31, 2002 at 10:00 a.m., Courtroom 1438, Los Angeles, CA 90012]; filed by Paul M. Brent, attorney for debtor, with proof of service RE: Item# 565 [SKF] Original NIBS Entry Number: 537

575 Filed: 07/03/2002

Entered: 07/05/2002

Supplemental (Generic)

Docket Text: Supplemental declaration [of Paul M. Brent] to motion for final decree re: status of distributions; with proof of service RE: Item# 567 [SKF] Original NIBS Entry Number: 538

576 Filed: 07/03/2002

Entered: 07/05/2002

Declaration

Docket Text: Declaration of Scott W. Simpson, re service by mail RE: Item# 574 [SKF] Original NIBS Entry Number: 539

577 Filed: 07/11/2002

Entered: 07/12/2002

Amendment/Amended

Docket Text: Amendment/Amended notice of hearing on motion of reorganized debtor for final decree pursuant to bankruptcy rule 3022 and 11 U.S.C. 350, filed by Paul M. Brent with proof of service RE: Item# 574 [CJS] Original NIBS Entry Number: 540

578 Filed: 08/15/2002

Entered: 08/16/2002

Final Decree

Docket Text: FINAL DECREE and Order Closing Chapter 11 Case; with notice of entry. RE: Item# 565 [RMA] Original NIBS Entry Number: 541

579 Filed & Entered: 09/20/2002

ORDER to reassign case

Docket Text: ORDER to reassign case and Adversary Proceedings from Bankruptcy Judge Kathleen March to Bankruptcy Judge Erithe A. Smith [YR] Original NIBS Entry Number: 542

580 Filed & Entered: 10/21/2002

ORDER granting/approving

Docket Text: ORDER granting/approving motion to reject executory contract with Oracle; with notice of entry RE: Item# 282 [SKF] Original NIBS Entry Number: 543

581 Filed: 10/29/2002

Entered: 10/30/2002

Declaration

Docket Text: Declaration of Linda T Bowen re: compliance with Local Rule 9013-7[a] with respect to uncontested motion for order authorizing debtor to reject unexpired leases of non-residential real property pursuant to 11 U.S.C. 365[a] and Federal Rule of Bankruptcy Procedure 6006; with proof of service RE: Item# 150 [RMA] Original NIBS Entry Number: 544

582 Filed & Entered: 11/04/2002

ORDER granting/approving

Docket Text: ORDER granting/approving debtor's motion to reject unexpired leases of non-residential real property with Maple Plaza Limited pursuant to 11 U.S.C. 365[a] and Federal Rule of Bankruptcy Procedure 6006, the rejection fo

the leases shall be deemed effective as of November 2, 2000 -[for additional information refer to file]- with notice of entry and proof of service; filed by Paul M. Brent Attorney for Debtor and Debtor-in-Possession RE: Item# 150 [LQ3] Original NIBS Entry Number: 545

583 Filed & Entered: 12/17/2002

ORDER closing case

Docket Text: ORDER closing case FINAL DECREE [SRB] Original NIBS Entry Number: 546

PACER Service Center
Transaction Receipt

12/09/2005 07:28:12

PACER Login: nf0021 Client Code:

Description: History/Documents Search Criteria: 2:00-bk-38784-ES Type: History

Docket Text: DisplayDktText

Billable Pages: 49 Cost: 3.92

EXHIBIT H

ORIGINAL

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PAUL M. BRENT, ESQ., SBN 125976
STEINBERG, NUTTER & BRENT
LAW CORPORATION
501 COLORADO AVENUE, SUITE 300
SANTA MONICA, CALIFORNIA 90401-2426
PH: (310) 451-9714
FAX: (310) 451-0929

[SPACE BELOW FOR FILING STAMP ONLY]

ENTERED
AUG 14 2001
CLERK, U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
Clerk's Office

Attorneys For: Debtor and Debtor-in-Possession, Scour, Inc.,
Now Known as Apartment 433 Technologies, Inc.

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DISTRICT**

Printed on Recycled Paper

In Re:)
SCOUR, INC., Now Known as)
APARTMENT 433 TECHNOLOGIES,)
INC.,)
Debtor and)
Debtor-in-Possession.)

Case No. LA 00-38784 KM
Chapter 11

**STIPULATION TO CONTINUE THE
HEARING ON THE MOTION OF DEBTOR
AND DEBTOR-IN-POSSESSION TO
DISALLOW TRANSFEREE CLAIMS OF
ARGO PARTNERS; ORDER THEREON**

Presently-Scheduled Hearing

Date: August 21, 2001
Time: 11:00 a.m.
Place: Courtroom "1468"
255 E. Temple Street
Los Angeles, California

FILED
AUG 10 2001
CLERK, U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
Clerk's Office

The Debtor and Debtor-in-Possession Scour, Inc. ("Debtor"), by and through its counsel, Paul M. Brent of Steinberg, Nutter & Brent, Law Corporation, and Argo Partners, by and through its counsel Sidney Levinson of Hennigan, Bennett & Dorman, hereby stipulate, agree to and request the following:

1. That the Court continue the hearing on the Motion of Debtor to Disallow the Transferee Claims held by Argo Partners which is presently scheduled to be heard on August 21, 2001, at 11:00 a.m., to thirty (30) days thereafter.
2. The continuance is requested to allow for negotiations to continue towards resolving the parties' disputes concerning the claims of Argo Partners ("Argo").

27 \\\
28 \\\

344 PA

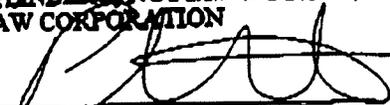
CA BAR #05-20211
EXHIBIT H - PAGE 1

1 3. Argo reserves the right to object to the Motion and Debtor reserves the right to file
 2 responsive pleadings thereto, prior to the continued hearing in accordance with the time limits set forth
 3 in the Local Bankruptcy Rules.

4 4. By having entered into the Stipulation, the Debtor in no way intends to imply that the
 5 right to object to the claims of Argo Partners has been waived.

6
 7
 8 Dated: August 8, 2001

STEINBERG, NUTTER & BRENT,
 LAW CORPORATION


 PAUL M. BRENT, Attorneys for
 Scour, Inc., Debtor and Debtor-in-
 Possession

9
 10
 11
 12
 13 Dated: August 7, 2001

HENNIGAN, BENNETT & DORMAN


 SIDNEY V. LEVINSON, Attorneys for
 Argo Partners

CA BAR #05-20211
EXHIBIT H - PAGE 2

ORDER

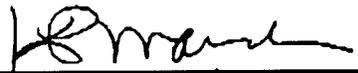
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The Court, having reviewed the foregoing Stipulation and GOOD CAUSE APPEARING, IT IS ORDERED as follows:

1. The hearing on the Debtor's Motion to Disallow Transferee Claims of Argo Partners ("Motion"), presently scheduled to be heard on August 7, 2001, at 11:00 a.m. in Courtroom "1468" is hereby continued to September 25, 2001 at 11:00 a.m.

2. Continuance of the Motion shall be without prejudice to the right of all parties-in-interest to file objections to the Motion and any responsive pleadings thereto, prior to the continued hearing, in accordance with the time limits set forth on the Local Bankruptcy Rules.

Dated: Aug. 10, 2001, 2001


THE HONORABLE KATHLEEN P. MARCH,
UNITED STATES BANKRUPTCY JUDGE

[scour/disallow claims/GROUP 4/transferee claims-continuc hearing.stipulation-order.wpd]

CA BAR #05-20211
EXHIBIT H - PAGE 3

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Scott W. Simpson, am an employee in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action; my business address is: 501 Colorado Avenue, Suite 300, Santa Monica, CA 90401-2426. On August 8, 2001, I served the foregoing document(s) described as:

STIPULATION TO CONTINUE THE HEARING ON THE MOTION OF DEBTOR AND DEBTOR-IN-POSSESSION TO DISALLOW TRANSFEREE CLAIMS OF ARGO PARTNERS; ORDER THEREON

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Santa Monica, CA, addressed as follows:

U.S. Trustee
Office of the U.S. Trustee
221 North Figueroa Street, Suite 800
Los Angeles, CA 90012

Counsel for Argo Partners
Sidney P. Levinson
Hennigan, Bennett & Dorman
601 South Figueroa Street, Suite 3300
Los Angeles, CA 90017

Counsel for Committee
David R. Weinstein, Esq.
1925 Century Park East, Suite 1150
Los Angeles, CA 90067-2712

(By Mail) I caused such envelope with postage thereon, fully prepaid to be placed in the United States mail. Executed August 8, 2001 at Santa Monica, CA.

(By Personal Service) I caused such envelope to be delivered by hand to the offices of the addressee. Executed on August _____, 2001 at Santa Monica, CA.

(By Facsimile) I caused such documents to be served upon the above-referenced parties by facsimile. Executed on August _____, 2001 at Santa Monica, California.

(Federal) I declare that I am an employee in the offices of a member of the State Bar of this court at whose direction the service was made.


* SCOTT W. SIMPSON

CA BAR #05-20211
EXHIBIT H - PAGE 4

Paul M. Brent
Steinberg, Nutter & Brent
501 Colorado Avenue, Suite 300
Santa Monica, CA 90401-2426

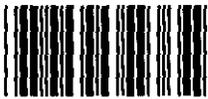
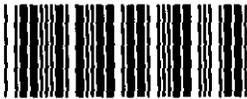
Office of the U.S. Trustee
221 North Figueroa St., Suite 800
Los Angeles, CA 90012

David R. Weinstein, Esq.
1925 Century Park East, Suite 1150
Los Angeles, CA 90067-2712

Sidney P. Levinson
Hennigan, Bennett & Dorman
601 South Figueroa Street, Suite 3300
Los Angeles, CA 90017

EXHIBIT I

USDC SCAN INDEX SHEET



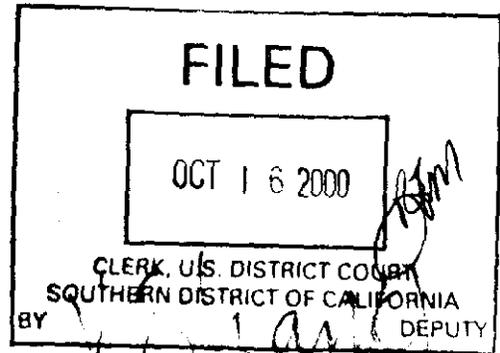
VLS 10/17/00 9:41
3:94-CV-00737 SEC V. CONTINENTAL WIRE
808
NTCF.

CA BAR #05-20211
EXHIBIT I - PAGE 1

ORIGINAL

1 HENNIGAN, BENNETT & DORMAN
James O. Johnston (State Bar No. 167330)
2 601 South Figueroa Street, Suite 3300
Los Angeles, CA 90017
3 Telephone: (213) 694-1200
Facsimile: (213) 694-1234
4

5 Counsel for Argo Partners, Inc.



6
7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 SECURITIES AND EXCHANGE)
COMMISSION,)

) Case No. 94cv0737E (CGA)

11 Plaintiff,)

) NOTICE OF APPEARANCE AND
) REQUEST FOR NOTICE

12 v.)

13 CONTINENTAL WIRELESS CABLE)
14 TELEVISION, INC.; ROBIN J. MCPHERSON;)
JAY R. BISHOP; AND GENE R. CARDENAZ,)

15 Defendants.)

16 In re)

) Case No. 97cv0352E (CGA)

17 NASHVILLE WIRELESS CABLE JOINT)
18 VENTURE,)

19 Debtor.)
20)

21 TO THE HONORABLE WILLIAM B. ENRIGHT AND ALL OTHER INTERESTED
22 PARTIES:

23 Argo Partners, Inc. ("Argo"), a creditor of Nashville Wireless Cable Joint Venture, hereby
24 appears in this matter and requests to be added to the Court's master mailing list. Argo requests that
25 all notices given or required to be given and all papers and pleadings served or required to be served
26 in the above-captioned cases, whether sent by the Clerk of the Court, the debtor, or any creditor,
27 committee, or party in interest, be given to and served upon itself and its counsel at the following
28 addresses:

29 HENNIGAN, BENNETT & DORMAN

30 REQUEST FOR NOTICE

94cv0737E(CGA) and 94cv0352E(CGA)

308

CA BAR #05-20211
EXHIBIT I - PAGE 2

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Michael Singer
Matthew Gold
Argo Partners, Inc.
12 West 37th Street
Ninth Floor
New York, NY 10018
Telephone: (212) 643-5445
Telecopy: (212) 643-6401; *and*

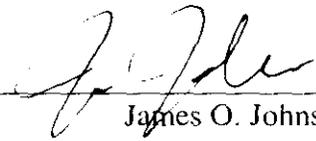
James O. Johnston, Esq.
Hennigan, Bennett & Dorman
601 South Figueroa Street
Suite 3300
Los Angeles, CA 90017
Telephone: (213) 694-1200
Telecopy: (213) 694-1234

The foregoing request includes, without limitation, orders on and notices of any motion, application, petition, pleading, plan of reorganization, disclosure statement, or complaint, whether formal or informal, written or oral, transmitted or conveyed by mail, telephone, telecopy, or otherwise in these cases.

Neither this request for notice nor any subsequent appearance, pleading, proof of claim, or other writing or conduct shall constitute a waiver of any (a) rights to trial by jury in any proceeding as to any and all matters so triable; or (b) other rights, claims, defenses, setoffs, or other matters under any agreement, law or equity. All of such rights hereby are reserved and preserved, without exception and with no purpose of confessing or conceding jurisdiction in any way by this filing or by any other participation in this case.

DATED: October 12, 2000

HENNIGAN, BENNETT & DORMAN

By: 
James O. Johnston

Counsel for Argo Partners, Inc.

1 **PROOF OF SERVICE**

2
3 STATE OF CALIFORNIA,)
4) SS.
5 COUNTY OF LOS ANGELES)

6 I am employed in the County of Los Angeles, State of California. I am over the age of
7 18 years and not a party to the within action. My business address is 601 South Figueroa Street,
8 Suite 3300, Los Angeles, California 90017.

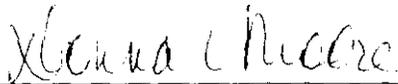
9 On October 13, 2000, I served the foregoing document described above as NOTICE OF
10 APPEARANCE AND REQUEST FOR NOTICE on the interested parties in this action by placing
11 the true copy(ies) thereof enclosed in sealed envelopes addressed as follows:

12 David L. Osias, Esq. Karen Matteson, Esq.
13 Loraine L. Pedowitz, Esq. Securities and Exchange Commission
14 Allen Matkins Leck Gamble & Mallory LLP 5670 Wilshire Boulevard, 11th Floor
15 501 West Broadway, 9th Floor Los Angeles, CA 90036
16 San Diego, CA 92101

17 I caused such envelope(s) with postage thereon fully prepaid to be placed in the United
18 States mail at Los Angeles, California. I am readily familiar with the firm's practice of collection
19 and processing correspondence for mailing. Under that practice it would be deposited with U.S.
20 postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the
21 ordinary course of business. I am aware that on motion of the party served, service is presumed
22 invalid if postal cancellation date or postage meter date is more than one day after date of deposit for
23 mailing in affidavit.

24 I declare that I am employed in the office of a member of this bar of this court at whose
25 direction the service was made.

26 Executed on October 13, 2000 at Los Angeles, California.

27 
28 _____
Donna Moore

CA BAR #05-20211
EXHIBIT I - PAGE 4

EXHIBIT J

Exhibit J - Chronology of Conflicted Representation

Apr 5, 2000

Aureal files application to employ HBD. Exhibit A.

Jun 19, 2000

Court issues order authorizing employment of H&B. Exhibit B.

Jul 13, 2000

Sidney Levinson telephone conference with Argo Partners. Exhibit C, p. 2 (second fee application).

Apr 5, 2000

Apr 6, 2000

Jun 19, 2000

Jun 20, 2000

Jul 13, 2000

Jul 14, 2000

Exhibit J - Chronology of Conflicted Representation

Oct 11, 2000

90 days after H&B discussed status of Aureal case with Argo, HBD was retained by Argo in connection with Receivership Cases ("**First Conflicted Representation**"). Exhibit D, Supplemental Declaration of Sidney P. Levinson, (filed by Fax on June 7, 2001), p. 2 par 5.

Oct 2, 2000

One of Argo's Notice of Transfers of Claim filed in Aureal case. Exhibit F.

Oct 3, 2000

Sidney Levinson telephone conference with Argo Partners regarding purchased claims. Exhibit C, p. 6, 10 (3rd fee application).

Oct 6, 2000

Joshua Morse telephone conference with Argo Partners. Exhibit C, p.7 & 12 (third fee application).

Oct 10, 2000

Sidney Levinson telephone conference with Argo Partners. Exhibit C, p. 7 & 11 (third fee application).

Oct 2, 2000

Oct 3, 2000

Oct 6, 2000

Oct 7, 2000

Oct 10, 2000

Oct 11, 2000

Exhibit J - Chronology of Conflicted Representation

Oct 12, 2000

A Notice of Appearance for Argo Partners was signed by H&B, filed by HBD on 12/16/00 in **First Conflicted Representation**. Exhibit I, Receivership Cases Notice of Appearance.

Oct 13, 2000

Sidney Levinson telephone conference with Argo Partners. Exhibit C, p. 5, 9 (third fee application).

Dec 1, 2000

Joshua Morse telephone conference with Argo Partners. Exhibit C, p.15 (fourth fee application).

Dec 5, 2000

Sidney Levinson telephone conference with Argo Partners. Exhibit C, p. 15 (fourth fee application).

Oct 12, 2000

Oct 13, 2000

Dec 1, 2000

Dec 2, 2000

Dec 5, 2000

Dec 6, 2000

Exhibit J - Chronology of Conflicted Representation

Feb ??, 2001

HBD's representation of Argo in **First Conflicted Representation** apparently concluded, but a more specific date was not offered. Exhibit D, p. 2, par 5.

Jun 7, 2001

239 days after H&B's **First Conflicted Representation**, Sidney Levinson files a declaration disclosing same. Exhibit D, p. 1.

Dec 12, 2000

Joanne B. Stern telephone conference with Argo Partners regarding Argo Partners information. Exhibit C, p. 14 (fourth fee application).

Jun 6, 2001

Joanne B. Stern review creditor database regarding Argo Partners claims. Exhibit C, p. 17 (tenth fee application).

Dec 12, 2000

Joanne B. Stern preparation of correspondence to Ms. Sargent of Argo Partners regarding Argo Partners information. Exhibit C, p. 14 (fourth fee application).

Dec 12, 2000

Dec 13, 2000

Feb 1, 2001

Feb 2, 2001

Jun 6, 2001

Jun 7, 2001

Exhibit J - Chronology of Conflicted Representation

Jul 16, 2001

Levinson tel conf. with Argo Partners. Exhibit C, p. 19 (eleventh fee application).

Jul 16, 2001

Sidney Levinson review Argo ballots. Exhibit C, p. 19 (eleventh fee application).

Jul 16, 2001

Levinson tel conf. w/ Argo re: ballots cast on Cmte plan. Exhibit C, p. 19 (eleventh fee application).

< Aug 7, 2001

Argo retained H&B a second time. On this day, CA Attorney Levinson continued a hearing date in the **Second Conflicted Representation**.

Argo was therefore retained a second time beginning sometime before this date, but after June 7, 2001, the date of the late filing of the disclosure of the **First Conflicted Representation**. Exhibit H, p. 2.

Sep 21, 2001

The docket in the **Second Conflicted Representation** indicates that Sidney Levinson filed a pleading as counsel for Argo on September 20, 2001. Exhibit G, p. 50.

Jul 16, 2001

Jul 17, 2001

Aug 7, 2001

Aug 8, 2001

Sep 21, 2001

Sep 22, 2001

Exhibit J - Chronology of Conflicted Representation

Sep 25, 2001

H&B represents Argo at a hearing on objections to Argo claims in **Second Conflicted Representation**. H&B represents that these objections have been resolved, representation apparently continues. Exhibit E, par 6.

Oct 24, 2001

at least **78 days**, possibly more, after the first known date of the **Second Conflicted Representation**, Sidney Levinson files a supplemental declaration for the Second Conflicted Representation.

Levinson implies that the Second Conflicted Representation began 9/25/01; actual dates are omitted. Exhibit E, par 6.

01

Sep 25, 2001

Sep 26, 2001

Oct 24, 2001

EXHIBIT K

ORIGINAL

FILED

MAY 03 2002

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

1 HENNIGAN, BENNETT & DORMAN
MICHAEL A. MORRIS (SBN 89842)
2 SIDNEY P. LEVINSON (SBN 139419)
JOSHUA D. MORSE (SBN 211050)
3 601 South Figueroa Street, Suite 3300
Los Angeles, CA 90017
4 Telephone: (213) 694-1200
Fax: (213) 694-1234

5 Reorganization Counsel for
6 Debtor and Debtor in Possession

7 UNITED STATES BANKRUPTCY COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 OAKLAND DIVISION

11 In re) Case No.00-42104-T11
)
12 AUREAL, INC., d/b/a SILO.COM, f/k/a) (Chapter 11)
AUREAL SEMICONDUCTOR, INC., f/k/a)
13 MEDIA VISION TECHNOLOGY, INC., a) **STIPULATION AND ORDER**
Delaware corporation,) **AUTHORIZING ALLOWANCE OF**
) **CLAIM NUMBER 107 (FILED BY**
14 Debtor.) **CENTER CAPITAL CORPORATION)**
)
15)
) [No Hearing Required]

16
17 The following "Stipulation And Order Authorizing Allowance Of Claim Number 107 (Filed
18 By Center Capital Corporation)" (the "Stipulation") is entered into, by and through counsel, on
19 behalf of Aural Inc., the debtor and debtor in possession herein (the "Debtor"), Argo Partners, Inc.
20 ("Argo"), as successor in interest to Center Capital Corporation ("Center"), and the Official
21 Committee of Unsecured Creditors (the "Committee") with respect to the following facts:

22 A. On April 5, 2000 (the "Petition Date"), the Debtor commenced its reorganization case
23 by filing a voluntary petition for relief under chapter 11 of title 11 United States Code (the
24 "Bankruptcy Code").

25 B. The Debtor is continuing in possession of its assets and is operating and managing its
26 business as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.
27
28

1 C. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
2 This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

3 D. Prior to the commencement of this bankruptcy case, the Debtor's business was in the
4 field of digital audio imaging, which is the process of creating a highly realistic audio experience by
5 closely simulating the real world physics of audio.

6 E. On or about May 11, 2000, the Debtor filed its Schedules of Assets and Liabilities
7 (the "Schedules"), which represented an amount owing to Center of \$44,904.76 (the "Scheduled
8 Amount").

9 F. Thereafter, On August 31, 2000, Center filed a proof of claim for \$39,668.22 (the
10 "Center Claim"), which apparently is a claim for payments due under the terms of a plan of
11 reorganization¹ from a bankruptcy of the Debtor's predecessor in interest, Media Vision
12 Technology, Inc. ("MV"). A true and correct copy of the Center Claim is attached hereto as
13 Exhibit A, and has been assigned Claim Number 107 on the Official Claims Register in this case.

14 G. Center assigned the Center Claim to Argo pursuant to the Assignment of Claim dated
15 September 25, 2000 (the "Assignment"). A true and correct copy of the Assignment contained
16 within the "Notice Of Transfer Of Claim Pursuant To Rule 3001(E)(1) or (3) Of The Federal Rules
17 Of Bankruptcy Procedure" (the "Notice") is attached hereto as Exhibit B.²

18 H. On December 7, 2000, the Debtor filed the "Notice Of Objection And Debtor's First
19 Omnibus Objection To Claims (Duplicate Claims, Cured Claims, Reclassified Claims, No Basis
20 Claims, Equity Claims, Amended Claims, And Late Claims)" (the "Objection"). Through the
21 Objection, the Debtor sought to expunge the Center Claim in its entirety on the grounds that (i) the
22 Center Claim was filed with insufficient evidence to substantiate the amount claimed and (ii) the
23

24 ¹ Center's original claim in the MV bankruptcy appears to originate from a lease agreement
25 between Center and MV (the "MV Liability").

26 ² The reference contained in the Notice and the Assignment that the Center Claim was valued
27 at \$44,904.76 (representing the Scheduled Amount) is incorrect inasmuch as Center filed the
28 Center Claim for \$39,668.22 after the Debtor filed the Schedules, which acted to supercede
the Schedule Amount. Accordingly, for the purposes of this Stipulation, the amount of the
Center Claim is deemed to be \$39,668.22.

1 amount sought through the Center Claim exceeded the amount reflected in the Debtor's books and
2 records.

3 I. The Debtor did not receive any opposition to the relief requested in the Objection
4 with respect to the Center Claim. Accordingly, at a hearing on January 17, 2001, the Honorable
5 Leslie Tchaikovsky sustained the Objection with respect to the Center Claim.³ Thus, the Center
6 Claim was disallowed in its entirety.

7 J. Upon further review of the Center Claim, however, the Debtor discovered that it
8 does, in fact, owe the amount sought through the Center Claim. It appears that the Debtor's books
9 and records only indicate a portion of the total MV Liability and not the entire amount due and
10 owing.⁴ See accompanying Declaration Of Gerrie Sargent In Support Of Stipulation And Order
11 Authorizing Allowance Of Claim Number 107 (Filed By Center Capital Corporation) (the "Sargent
12 Declaration"). Moreover, a review of the Declaration of Service for the Objection reveals that the
13 Debtor served Center, but not Argo, with notice of the Objection.

14 K. In order to prevent Argo from being required to seek reconsideration of the Order
15 with respect to the disallowance of the Center Claim, the Debtor and the Committee are willing to
16 stipulate that this Court may authorize the Center Claim to be treated as an allowed general
17 unsecured claim in the amount of \$39,668.22.

18 **NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND FOR OTHER**
19 **GOOD AND VALUABLE CONSIDERATION, THE DEBTOR, ARGO (AS SUCCESSOR IN**
20 **INTEREST TO CENTER), AND THE COMMITTEE, AGREE AS FOLLOWS:**

21 1. This Prepetition Claim Stipulation shall have no force or effect unless and until it is
22 approved by the Court through the entry of this Order.

23

24 ³ Thereafter, on February 9, 2001, the Order Sustaining Debtor's First Omnibus Objection
25 To Claims (Duplicate Claims, Cured Claims, Reclassified Claims, No Basis Claims, Equity
26 Claims, Amended Claims, And Late Claims) was entered.

27 ⁴ As of the Petition Date, the Debtor owed Center \$38,941.52, however only \$16,252.68 of
28 that amount (three monthly installments of \$5,417.56) was reflected on the Debtor's books
and records, as the Debtor only booked monthly installments of the MV Liability as they
accrued on a monthly basis.

1 2. The Debtor agrees, upon the entry of an Order approving this Stipulation in form and
2 content satisfactory to Argo and the Committee, to treat the Center Claim as an allowed general
3 unsecured claim in the amount of \$39,668.22 in full satisfaction of any and all outstanding
4 obligations owing by the Debtor to Argo (as successor in interest to Center).

5 3. The provisions of this Stipulation shall be binding upon Argo (as successor in interest
6 to Center), the Committee and the Debtor and their respective successors and assigns (including any
7 chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of the Debtor) and
8 inure to the benefit of Argo (as successor in interest to Center), the Committee and the Debtor and
9 (except with respect to any trustee hereinafter appointed or elected for the estate of the Debtor) their
10 respective successor and assigns.

11 4. The Debtor shall promptly mail copies of this Stipulation and the Sargent Declaration
12 to the Committee, the Office of the United States Trustee, and to any other party which has filed a
13 request for notices with this Court.

14 5. In the event that an objection is filed to this Stipulation, a final hearing to approve
15 this Stipulation shall be scheduled by the Debtor on no less than ten (10) days notice. Any objection
16 to the relief provided under this Stipulation shall serve and file written objections; which objections
17 shall be served upon

18 Hennigan, Bennett & Dorman
19 601 South Figueroa Street, Suite 3300
20 Los Angeles, California 90017
21 Attention: Joshua D. Morse, Esq.
22 Reorganization Counsel for Debtor and Debtor in Possession

23 Argo Partners, Inc.
24 12 West 37th St.
25 9th Floor
26 New York, NY 10018
27 Attention: Matthew Gold, Esq.

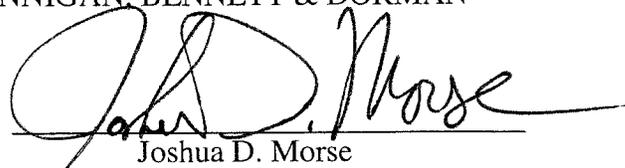
28 McCutchen, Doyle, Brown & Enersen, LLP
29 3 Embarcadero Center
30 San Francisco, CA 94111
31 Attention: Randy Michelson, Esq.
32 Attorneys for the Official Committee of Unsecured Creditors

1 and shall be filed with the Clerk of the United States Bankruptcy Court for the Northern District of
2 California, Oakland, California, in each case no later than fifteen (15) days from the date of service
3 of this Stipulation. In the event that no objection is filed on or before fifteen (15) days from the date
4 of service of this Stipulation, this Order shall automatically become a final order without the need
5 for any further order of this Court.

6 6. This Prepetition Claim Stipulation may be executed by facsimile and in counterparts
7 by the parties hereto.

8 DATED: April 29, 2002

HENNIGAN, BENNETT & DORMAN

By: 
Joshua D. Morse

Reorganization Counsel for
Debtor and Debtor in Possession

13 DATED: April __, 2002

ARGO PARTNERS, INC.

By: _____
Matthew Gold

17 DATED: April __, 2002

MCCUTCHEN, DOYLE, BROWN & ENERSEN,
LLP

By: _____
Randy Michelson

Attorneys for the Official Committee of
Unsecured Creditors

22 APPROVED AND SO ORDERED

23 Dated: May 3, 2002


THE HONORABLE LESLIE TCHAIKOVSKY,
UNITED STATES BANKRUPTCY JUDGE

1 and shall be filed with the Clerk of the United States Bankruptcy Court for the Northern District of
 2 California, Oakland, California, in each case no later than fifteen (15) days from the date of service
 3 of this Stipulation. In the event that no objection is filed on or before fifteen (15) days from the date
 4 of service of this Stipulation, this Order shall automatically become a final order without the need
 5 for any further order of this Court.

6 6. This Prepetition Claim Stipulation may be executed by facsimile and in counterparts
 7 by the parties hereto.

8 DATED: April __, 2002

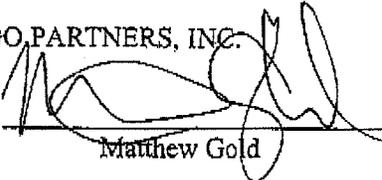
HENNIGAN, BENNETT & DORMAN

9
 10 By: _____
 Joshua D. Morse

11 Reorganization Counsel for
 12 Debtor and Debtor in Possession

13 DATED: April 29, 2002

ARGO PARTNERS, INC.

14
 15 By: 
 Matthew Gold

16
 17 DATED: April __, 2002

MCCUTCHEN, DOYLE, BROWN & ENERSEN,
 LLP

18
 19 By: _____
 Randy Michelson

20 Attorneys for the Official Committee of
 21 Unsecured Creditors

22 APPROVED AND SO ORDERED

23 Dated: _____

24 _____
 THE HONORABLE LESLIE TCHAIKOVSKY,
 UNITED STATES BANKRUPTCY JUDGE

CA BAR #05-20211
 EXHIBIT K - PAGE 6

Hennigan, Bennett & Dorman
 Lawyers
 Los Angeles, California

1 and shall be filed with the Clerk of the United States Bankruptcy Court for the Northern District of
2 California, Oakland, California, in each case no later than fifteen (15) days from the date of service
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6 6. This Prepetition Claim Stipulation may be executed by facsimile and in counterparts
7 by the parties hereto.

8 DATED: April __, 2002

HENNIGAN, BENNETT & DORMAN

9
10 By: _____
Joshua D. Morse

11 Reorganization Counsel for
12 Debtor and Debtor in Possession

13 DATED: April __, 2002

ARGO PARTNERS, INC.

14
15 By: _____
Matthew Gold

16
17 DATED: April 30, 2002

MCCUTCHEN, DOYLE, BROWN & ENERSEN,
18 LLP

19 By: Randy Michelson
Randy Michelson

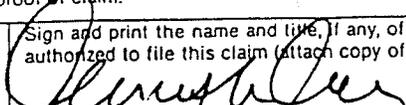
20 Attorneys for the Official Committee of
21 Unsecured Creditors

22 APPROVED AND SO ORDERED

23 Dated: _____

THE HONORABLE LESLIE TCHAIKOVSKY,
24 UNITED STATES BANKRUPTCY JUDGE

CA BAR #05-20211
EXHIBIT K - PAGE 7
Hennigan, Bennett & Dorman
Lawyers
Los Angeles, California

United States Bankruptcy Court		PROOF OF CLAIM	
NORTHERN District of CALIFORNIA			
In re (Name of Debtor) AUREAL, INC., dba SILO.COM		Case Number 00 42104 T11	
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" of payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.			
Name of Creditor <i>(The person or entity to whom the debtor owes money or property)</i> CENTER CAPITAL, f/k/a TUCKER FINANCIAL		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.	
Name and Addresses Where Notices Should be Sent c/o Kenneth C. Greene, Esq. 300 Drakes Landing Road, Suite 250 Greenbrae, CA 94904			
Telephone No. (415) 925-0700			
ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR: 0082592 090		Check here if this claim: <input type="checkbox"/> replaces a previously filed claim, dated: _____ <input type="checkbox"/> amends	
1. BASIS FOR CLAIM:			
<input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other (Describe briefly) Lease Agreement and Plan of Reorganization w/Media Vision		<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensations (Fill out below) Your social security number _____ Unpaid compensations for services performed from _____ (date) to _____ (date)	
2. DATE DEBT WAS INCURRED: Prior to 1998		3. IF COURT JUDGMENT, DATE OBTAINED:	
4. CLASSIFICATION OF CLAIM. Under the Bankruptcy Code all claims are classified as one or more of the following: (1) Unsecured nonpriority, (2) Unsecured Priority, (3) Secured. It is possible for part of a claim to be in one category and part in another. CHECK THE APPROPRIATE BOX OR BOXES that best describe your claim and STATE THE AMOUNT OF THE CLAIM.			
<input type="checkbox"/> SECURED CLAIM \$ _____ Attach evidence of perfection of security interest Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other (Describe briefly)		<input type="checkbox"/> UNSECURED PRIORITY CLAIM \$ _____ Specify the priority of the claim. <input type="checkbox"/> Wages, salaries, or commissions (up to \$2000), earned not more than 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier—11 U.S.C. § 507(a)(3) <input type="checkbox"/> Contributions to an employee benefit plan—U.S.C. § 507(a)(4) <input type="checkbox"/> Up to \$900 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use—11 U.S.C. § 507(a)(6) <input type="checkbox"/> Taxes or penalties of governmental units—11 U.S.C. § 507(a)(7) <input type="checkbox"/> Other—11 U.S.C. §§ 507(a)(2), (a)(5)—(Describe briefly)	
Amount of arrearage and other charges included in secured claim above, if any \$ _____ <input checked="" type="checkbox"/> UNSECURED NONPRIORITY CLAIM \$ 39,668.22 A claim is unsecured if there is no collateral or lien on property of the debtor securing the claim or to the extent that the value of such property is less than the amount of the claim.			
5. TOTAL AMOUNT OF CLAIM AT TIME CASE FILED: \$ 39,668.22 (Unsecured)		\$ _____ (Secured) \$ _____ (Priority) \$ 39,668.22 (Total)	
<input type="checkbox"/> Check this box if claim includes prepetition charges in addition to the principal amount of the claim. Attach itemized statement of all additional charges.			
6. CREDITS AND SETOFFS: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. In filing this claim, claimant has deducted all amounts that claimant owes to debtor.		THIS SPACE IS FOR COURT USE ONLY	
7. SUPPORTING DOCUMENTS: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, or evidence of security interests. If the documents are not available, explain. If the documents are voluminous, attach a summary.			
8. TIME-STAMPED COPY: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.			
Date 8/29/00	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any)  Kenneth C. Greene, Attorney for Center Capital		

FILED

AUG 31 2000

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

THIS SPACE IS FOR COURT USE ONLY

CA BAR #05-20211
EXHIBIT K - PAGE 8

ORIGINAL
EXHIBIT A

United States Bankruptcy Court

Northern District of California, Oakland Division

In re:

Aureal, Inc.

Debtor

Chapter 11
Case No. 00-42104

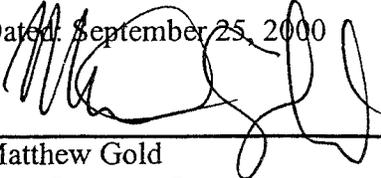
**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (1) or (3) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

1. TO: **Center Capital Corporation**
PO Box 1188
Farmington, CT 06034

2. Your entire claim as shown in the amount of **\$44,904.76** has been transferred pursuant to the Purchase Letter dated as of September 25th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: September 25, 2000


Matthew Gold
Argo Partners, Inc.
(212) 643-5444

ASSIGNMENT OF CLAIM

Center Capital Corporation, having a mailing address at PO Box 1188, Farmington, CT 06034 ("Assignor"), in consideration of the sum of \$ (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aureal, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than \$44,904.76 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of _____ has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$44,904.76 that the Claim in that amount is valid and that no objection to the Claim has been made. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of this Claim and that it has independently and without reliance on Assignee, and based on such information made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee, with specific limited authority, to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignee agrees to take any such further action, at its own expense, as it may deem necessary or desirable to effect any payments or distributions on account of the Claim to Assignee.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as Assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 25 day of September 2000.

ATTEST:

By: Wayne Johnson
Signature

Wayne Johnson, Special Asset Manager
Print Name/Title
Center Capital Corporation

212-405-2810
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 25th day of September 2000.

ATTEST:

By: Matthew A. Gold
Matthew A. Gold
Argo Partners, Inc.
212-643-5445

CA BAR #05-20211
EXHIBIT K - PAGE 11

1 **DECLARATION OF SERVICE**

2 I am over the age of eighteen years and not a party to the within action. My business
3 address is Hennigan, Bennett & Dorman, 601 South Figueroa Street, Suite 3300, Los Angeles,
4 California 90017.

5 On April 30, 2002, I served the following pleading:

6 **STIPULATION AND ORDER AUTHORIZING ALLOWANCE OF CLAIM NUMBER 107**
7 **(FILED BY CENTER CAPITAL CORPORATION).**

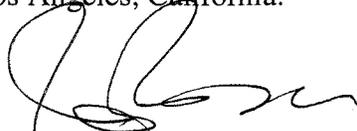
8 on the interested parties in this action by placing true copies thereof, enclosed in sealed
9 envelopes, with first-class postage thereon fully prepaid, in the United States mail at Los Angeles,
10 California addressed as follows:

11 See attached service list

12 I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States
13 mail at Los Angeles, California. I am readily familiar with the firm's practice of collection and
14 processing correspondence for mailing. Under that practice it would be deposited with the U.S.
15 postal service on that same day with postage thereon fully prepaid at Los Angeles California in
16 the ordinary course of business. I am aware that on motion of the party served, service is
17 presumed invalid if postal cancellation date or postage meter date is more than one day after date
18 of deposit for mailing in an affidavit

19 I declare that I am employed in an office of a member of the bar of this Court, at whose
20 direction the within service was made. I declare under penalty of perjury under the law of the
21 United States of America that the foregoing is true and correct.

22 EXECUTED on April 30, 2002, at Los Angeles, California.

23 
24 _____
25 John Bass, Declarant

CA BAR #05-20211
EXHIBIT K - PAGE 12

Debtor:

AUREAL, INC.
Attn: Steve Mitchell
PO Box 12587
Pleasanton, CA 94588-2587

Secured Creditor as Agent:

Oaktree Capital Management LLC
Attn: Richard Masson
333 S. Grand Avenue, 28th Floor
Los Angeles, CA 90071

Creditors' Committee Member:

UMC Group (USA)
Attn: Huai-Jen Lu, Credit Manager
488 Deguigne Drive
Sunnyvale, CA 94086

Creditors' Committee Member:

Highsoft, Inc.
Attn: R. Scott Holmgren, Gen. Mgr.
1965 Latham Street
Mountain View, CA 94040-2107

20 Largest Unsecured Creditor:

Caesar International, Inc.
Attn: JoJo Estavillo
1735 Technology Dr, Suite 300
San Jose, CA 95110-1333

20 Largest Unsecured Creditor:

PC World Communications
Attn: Kevin Greene
PO Box 3700-67
Boston, MA 02241-0767

20 Largest Unsecured Creditor:

Integra-Dyne Corp.
Attn: Ren Condotta
145 King Street, West, Suite 1000
Toronto, ON M5H 1J8
Canada

Creative Labs, et al Reg. Spec. Notice:

Erika Rottenberg, Esq.
Creative Labs, Inc.
1901 McCarthy Boulevard
Milpitas, CA 95035

I/O Magic Reg. for Spec. Notice:

Lawrence M. Cron, Esq.
Senn Palumbo Meulemans LLP
18301 Von Karman Avenue, Suite 850
Irvine, CA 92612

Debtor's Counsel:

Sidney Levinson
Hennigan, Bennett & Dorman
601 S Figueroa St., Suite 3300
Los Angeles, CA 90017

Counsel to Oaktree Capital Mgmt.:

Eric Reimer, Esq.
McDermott, Will & Emory
2049 Century Park East, 34th Floor
Los Angeles, CA 90067

Creditors' Committee Member:

Flatland Online, Inc.
Attn: Terry Campbell
4104 24th Street
San Francisco, CA 94114

Creditors' Committee Member:

Finova Technology Finance, Inc.
Attn: O'Neil Petrone, Collections Mgr.
115 West Century Road, 3rd Floor
Paramus, NJ 07652

20 Largest Unsecured Creditor:

Cadence Design Systems, Inc.
Attn: Steve Mih
555 River Oaks Parkway
San Jose, CA 95134

20 Largest Unsecured Creditor:

VIFA-Speak A/S
Attn: David Stephens
1860 Renaissance Blvd
Sturtevant, WI 53177

20 Largest Unsecured Creditor:

3DSL
Attn: John Byrne
Stone Barn Blisworth Hill Barns
Stoke Road, Blisworth
Northants, NN73DB, UK

Request For Special Notice:

Orrick, Herrington & Sutcliffe
Attn: Thomas C. Mitchell, Esq.
400 Sansome Street
San Francisco, CA 94111-3143

Caesar Intl Reg for Special Notice:

William C. Lewis, Esq.
Law Offices of William C. Lewis
510 Waverley Street
Palo Alto, CA 94031

Request for Special Notice:

Ritter, Van Pelt & Yi, LLP
Attn: Jack Limper
4906 El Camino Real, Suite 205
Los Altos, CA 94022

Office of the U.S.Trustee:

U.S. Trustee
Attn: Mark L. Pope, Esq.
1301 Clay Street, Suite 690N
Oakland, CA 94612

Creditors' Committee Member:

Ocean Data Products
5th Floor Kader Industrial Bldg.
22 Kai Cheung Road
Kowloon Bay
Kowloon, Hong Kong

Creditors' Committee Member:

Juan Gonzalez
KPMG
3 Embarcadero Center, Suite 2000
San Francisco, CA 94111

Creditors' Committee Member:

Imagine Media Inc. d/b/a PC Gamer
Attn: David Palavi
150 North Hill Drive
Brisbane, CA 94005

20 Largest Unsecured Creditor:

Houlihan Lokey Howard & Zukin
Attn: Glenn Daniel, Managing Director
One Sansome Street, Suite 1700
San Francisco, CA 94104

20 Largest Unsecured Creditor:

GE Capital
Attn: Chris Smythe
44 Old Ridgebury Road
Danbury, CT 06810

20 Largest Unsecured Creditor:

Activision, Inc.
Attn: George Rose
3100 Ocean Park Boulevard
Santa Monica, CA 90405

Creative Labs Reg For Spec Notice:

Andrea J. Weiss, Esq.
Munger, Tolles & Olson LLP
355 South Grand Avenue, Suite 3500
Los Angeles, CA 90071-1560

Ocean Data Products Reg Spec. Not:

Patricia S. Mar, Esq.
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105

20 Largest Unsecured Creditors:

Ziff Davis
Attn: Customer Service Dept.
One Park Avenue
New York, NY 10016

Finova Req. for Special Notice:

Sachnoff & Weaver, Ltd.
Attn: Charles P. Schulman, Esq.
30 South Wacker Drive, Suite 2900
Chicago, IL 60606

Request For Special Notice:

Maggie Lewsadder
Makefield Securities Corporation
789 S. Federal Hwy., Suite 102
Stuart, FL 34994

Fremont Landlord:

Lam Research, Inc.
Attn: George M. Schisler, Jr.
4560 Cushing Parkway
Fremont, CA 94538-6470

SEC Req. For Spec. Notice:

Sarah D. Moyed, Esq.
Securities & Exchange Commission
Pacific Regional Office
5670 Wilshire Blvd., 11th Floor
Los Angeles, CA 90036-3648

Req. for Special Notice:

Alan Yee
764 Pollard Road
Los Gatos, CA 95032

New York Dept of Tax req for not:

New York Dept of Taxation and Finance
Deputy Commissioner and Counsel
Attn: Amy J. Murphy
77 Broadway, Suite 112
Buffalo, NY 14203-1670

Creditor:

Circle International, Inc.
385 Valley Drive
Brisbane, CA 94005

Landlord:

Fifth Street Properties, LLC
c/o Commonwealth Partners, LLC
Attn: Mr. David Armstrong
633 West Fifth St., 72nd Floor
Los Angeles, CA 90071

Fifth Street Properties Req for Notice:

Pillsbury, Winthrop LLP
Attn: Craig Barbarosh/Kalman Steinberg
650 Town Center Drive, 7th Flr.
Costa Mesa, CA 92626-7122

RCG Carpathia Master req for notice:

RCG Carpathia Master Fund Ltd
Attn: Allison Coviello
666 Third Avenue, 26th Fl
New York, NY 10017

Request for Special Notice:

Christopher Beard, Esq.
Beard & Beard
4601 North Park Avenue
Chevy Chase, MD 20815

Creditors' Committee Member:

IT&E Corporation
Attn: Anthony D. Allocca
11 N. Market Street, Suite 730
San Jose, CA 95113

Counsel to Lam Research:

Dale L. Bratton, Esq.
Heller, Ehrman, White & McAuliffe
333 Bush Street, Suite 3000
San Francisco, CA 94104-2878

Req. for Spec. Notice:

Howard, Rice, et al
Attn: James Lopes/Gary Kaplan
3 Embarcadero Center, Suite 700
San Francisco, CA 94111

Debtor's Financial Advisor:

E&Y Restructuring LLC
Attn: Robert H. Warshauer
555 California Street,
San Francisco, CA 94104

Copelco Req. for Spec. Notice:

Kenneth G. Lau
Hemar & Rousso
15910 Ventura Boulevard, 12th Flr.
Encino, CA 91436-2829

Debtor's Special Patent Counsel:

David N. Lathrop, Esq.
Gallagher & Lathrop, A Prof Corp.
601 California Street, Suite 1111
San Francisco, California 94108-2805

Counsel to 3DFX:

Hopkins & Carley
Attn: John Easterbrook, Esq.
70 South First Street
San Jose, CA 95113-2406

Dice, Inc.

PO Box 560573
The Colony, TX 85056

Counsel to Krystaltech:

Michael Y. Sukhman, Esq.
Law Office of M. Scott Vayer
620 Fifth Avenue
New York, New York 10020

Request for Special Notice:

Peter A. Chapman, Esq.
24 Perdicaris Place
Trenton, NJ 08618

Creditor's Committee Counsel:

Randy Michelson, Esq.
McCutcheon, Doyle, Brown & Enerso
3 Embarcadero Center
San Francisco, CA 94111

Vifa/Scan-Speak Req for Spec. Not:

David M. Meegan, Esq.
Meegan, Hanschu & Kassenbrock
1545 River Park Drive, Suite 550
Sacramento, CA 95815

Creative Labs Req. for Spec.Not:

Creative Labs, Inc.
Attn: Stacey Leong
1901 McCarthy Boulevard
Milpitas, CA 95035

Auditor to the Debtor:

Mohler, Nixon & Williams
Attn: Steve Vidlock
635 Campbell Technology Pkwy, #100
Campbell, CA 95008

Regen Capital Req. For Notice:

Elliott Herskowitz
Regen Capital I, Inc.
PO Box 626 Planetarium Station
New York, New York 10024-0540

Integra-Dvne Req. for Special Notice:

Tracy Green, Esq.
Wendel, Rosen, Black & Dean
1111 Broadway, 24th Floor
Oakland, CA 94607

Tax Accountants:

Neilson, Elggren LLP
Attn: Vernon Calder
230 South 500 East, Suite 425
Salt Lake City, UT 84102

Dice Inc. request for notice:

J. Mark Chevallier, Esq.
3550 Lincoln Plaza
500 N. Akard
Dallas, TX 85201

Argo Partners Request for Notice:

Matthew A. Gold, Esq.
Argo Partners, Inc.
12 West 37th St. 9th Fl
New York, NY 10018

Request for Notice Debt Acquisition:

DACA V. LLC
Attn: Tom Scheidt
2120 W. Washington Street
San Diego, CA 92110

Counsel to the Examiner:

Daniel M. Linchey, Esq.
Goldberg, Stinnett, Meyers & Davis
44 Montgomery Street, Suite 2900
San Francisco, CA 94104

Next Factor Request for Notice:

William Webb Farrer, Esq.
Law Offices of William Webb Farrer
300 Montgomery Street, Suite 789
San Francisco, CA 94104

Next Factor Request for Notice:

Edward Archambault
Next Factor, Inc.
72 Van Reipen Avenue, Suite 37
Jersey City, NJ 07306

EXHIBIT L

1 BRUCE BENNETT (SBN 105430)
2 MICHAEL A. MORRIS (SBN 89842)
3 SIDNEY P. LEVINSON (SBN 139419)
4 HENNIGAN, BENNETT & DORMAN
5 601 South Figueroa Street, Suite 3300
6 Los Angeles, California 90017
7 Telephone: (213) 694-1200
8 Fax: (213) 694-1234

9 Reorganization Counsel for
10 Debtor and Debtor in Possession

ORIGINAL

FILED

DEC - 7 2000

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

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UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re
AUREAL INC., d/b/a SILO.COM,
f/k/a AUREAL
SEMICONDUCTOR, INC., f/k/a
MEDIA VISION TECHNOLOGY,
INC., a Delaware corporation,
Debtor.

) Case No. 00-42104-T11

) (Chapter 11)

) NOTICE OF OBJECTION AND DEBTOR'S
) FIRST OMNIBUS OBJECTION TO
) CLAIMS (DUPLICATE CLAIMS, CURED
) CLAIMS, RECLASSIFIED CLAIMS, NO
) BASIS CLAIMS, EQUITY CLAIMS,
) AMENDED CLAIMS, AND LATE CLAIMS)

) Hearing

) Date: January 17, 2001

) Time: 2:00 p.m.

) Place: Hon. Leslie Tchaikovsky
) 1300 Clay St., Courtroom 201
) Oakland, CA 94612

PLEASE TAKE NOTICE that on January 17, 2001, at 2:00 p.m., or as soon thereafter as counsel may be heard, in Courtroom 201 of the Honorable Leslie Tchaikovsky, located at 1300 Clay Street, Oakland, California 94612, a hearing will be held on the following "First Omnibus Objection to Claims (Duplicate Claims, Cured Claims, Reclassified Claims, No Basis Claims, Paid Claims, Postpetition Amount Claims, Wrong Case Claims, Late Claims, Equity Claims, and Amended Claims) (the

365

1 "Objection"), submitted by Aural Inc., the debtor and debtor in possession in the above-
2 captioned case (the "Debtor").

3 **PLEASE TAKE FURTHER NOTICE** that, if a proof of claim that you filed against
4 the Debtor (or a claim that was scheduled on you behalf by the Debtor) is identified on
5 any of the schedules attached to the Objection as Exhibits A through H, the Debtor has
6 objected to that claim through the Objection. The Objection therefore directly affects
7 your rights, and your claim may be reduced, modified, or disallowed, expunged and
8 eliminated by the relief sought by the Debtor in the Objection.

9 **PLEASE TAKE FURTHER NOTICE** that due to the voluminous nature of the
10 claims attached to the Exhibits, the Exhibits with copies of the claims attached thereto
11 are only being filed with the Court in the original copy of this Objection. If you would
12 like to receive a copy of the Exhibits with copies of the claims attached thereto, please
13 contact Joshua D. Morse of Hennigan, Bennett & Dorman, the Debtor's counsel, at (213)
14 694-1200.

15 **PLEASE TAKE FURTHER NOTICE** that responses, if any, to the relief requested
16 in the Objection must be in writing and be filed with the United States Bankruptcy Court
17 for the Northern District of California, 1300 Clay Street, Oakland, California 94612, and
18 received by the undersigned counsel for the Debtor no later than 4:00 p.m., Prevailing
19 Pacific time on January, 2001. Only those parties who have timely filed and served
20 responses will be heard at such hearing.

21 **PLEASE TAKE FURTHER NOTICE** that every response to the Objection must
22 contain at a minimum the following:

- 23 a. A caption setting forth the name of the Court, the case number and the title
24 of the Objection to which the response is directed;
- 25 b. The name of the claimant and description of the basis for the amount of the
26 claim;
- 27
- 28

1 c. A concise statement setting forth the reasons why such claim should not be
2 disallowed or reclassified for the reasons set forth in the Objection, including, but not
3 limited to, the specific factual and legal basis upon which the claimant will reply in
4 opposing the Objection;

5 d. All documentation or other evidence of the claim, to the extent not
6 included with the proof of claim previously filed with the Claims Agent, upon which the
7 claimant will rely in opposing the Objection at the hearing;

8 e. The address to which the Debtor must return any reply to the response;
9 and

10 f. The name, address, and telephone number of the person (which may be
11 the claimant or his/her/its legal representative) possessing ultimate authority to
12 reconcile, settle, or otherwise resolve the claim on behalf of the claimant. If you have
13 questions about why your claim is identified on any of the Exhibits to the Objection,
14 please contact Joshua D. Morse of Hennigan, Bennett & Dorman, the Debtor's counsel, at
15 (213) 694-1200.

16 I. SUMMARY OF RELIEF REQUESTED

17 The Debtor, pursuant to sections 502(b), 506(a), and 507 of title 11 of the United
18 States Code (the "Bankruptcy Code") and Rule 3007 of the Federal Rules of Bankruptcy
19 Procedure (the "Bankruptcy Rules"), hereby objects to each of the proofs of claim
20 identified on the schedules attached hereto as Exhibits A through H other than those
21 claims identified as "Remaining Claims" (collectively, the "Disputed Claims"), and
22 request that the Court enter an order disallowing, expunging, reclassifying, and/or
23 reducing, as set forth below, each of such Disputed Claims.

24 **ATTENTION ALL PERSONS THAT HAVE FILED A PROOF OF CLAIM OR**
25 **HAD SCHEDULED A CLAIM AGAINST ANY OF THE DEBTORS:** Please take
26 notice that, if a proof of claim that you filed against the Debtor (or a claim that was
27 scheduled on your behalf by the Debtor) is identified on any of the schedules that are
28 attached to this Objection as Exhibits A through H, the Debtor has objected to that

1 claim through this Objection. This Objection therefore directly affects your rights,
2 and your claim may be reduced, modified, or disallowed, expunged, and eliminated
3 by the relief sought by the Debtor in this Objection. Please carefully review the
4 accompanying Notice for important information regarding the date of the hearing on
5 this Objection, as well as the deadlines and procedures for filing a response to this
6 Objection. If you or your attorney do not respond to this Objection by the deadline
7 set forth in that Notice, the Court may decide that you do not oppose the Objection as
8 to your claim. If you have questions about why your claim is identified on any of the
9 Exhibits to this Objection, please contact Joshua D. Morse, of Hennigan, Bennett &
10 Dorman, the Debtor's counsel, at (213) 694-1200.

11 This Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 157 and
12 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of
13 this case and this Objection in this district is proper pursuant to 28 U.S.C. §§ 408 and
14 1409. The statutory predicate for the relief requested herein is sections 502(b), 506(a),
15 507, 1106(a), and 1107(a) of the Bankruptcy Code and Bankruptcy Rules 3003(c) and
16 3007.

17 This Objection is based upon the accompanying Declaration of Joshua D. Morse
18 and the facts and argument set forth below.

19 II. BACKGROUND

20 1. On April 5, 2000 (the "Petition Date"), the Debtor commenced its
21 reorganization case by filing a voluntary petition for relief under chapter 11 of the
22 Bankruptcy Code.

23 2. The Debtor is continuing in possession of its assets and is operating and
24 managing its business as debtor in possession pursuant to sections 1107 and 1108 of the
25 Bankruptcy Code.

26 3. Prior to the commencement of this bankruptcy case, the Debtor's business
27 was in the field of digital audio imaging, which is the process of creating a highly
28 realistic audio experience by closely simulating the real world physics of audio.

1 4. At the time it filed the bankruptcy petition, the Debtor provided the Court
2 with a list of its then-identified creditors, including the address of each creditor (the
3 "Creditors Matrix"). On April 6, 2000, the Court provided notice of the chapter 11
4 bankruptcy case to the creditors set forth in the Creditors Matrix (the "Notice"). The
5 Notice established, among other things, that the bar date deadline for filing proofs of
6 claim was July 31, 2000 (the "Bar Date") for all creditors except governmental units.

7 5. Subsequent to the Bar Date, the Debtor learned that it had inadvertently
8 failed to include on the original Creditor Matrix submitted to the Court the names and
9 addresses of certain potential creditors, nearly all of which are either shareholders of the
10 Debtor or are former or current parties to contracts with the Debtor (collectively referred
11 to as the "Additional Creditors"). By order dated August 25, 2000, this Court approved
12 the "Stipulation Between Debtor, Official Committee of Unsecured Creditors (the
13 "Committee"), and Lender to Extend the Bar Date for Certain Potential Creditors; Order
14 Thereon" (the "Stipulated Bar Date Extension"), by which the Court, *inter alia*,
15 authorized the Debtor to send out the "Supplemental Notice of Extension of Bar Date
16 Deadline" (the "Supplemental Bar Date Notice") and established September 30, 2000
17 (the "Extended Bar Date"), as the deadline for the filing of proofs of claim and interest
18 against the Debtor.

19 6. On July 18, 2000, the Debtor filed a motion to sell certain of its operating
20 assets (including numerous executory contracts) to Guillemot Corporation ("Guillemot")
21 for the sum of \$8 million (the "Sale Motion"). The hearing on the Sale Motion was
22 commenced on August 15, 2000, and was subsequently continued to August 17, 2000
23 and August 18, 2000. At the hearing, the Debtor received competing qualified bids for
24 the purchase of certain of its assets, and at the conclusion of the hearing recommended
25 that the Court accept the offer from Creative Technology, Ltd. ("Creative").

26 7. On or about September 21, 2000, the Court entered the "Order (1)
27 Approving Sale of Certain Assets of the Estate, Free and Clear of Liens Asserted by
28 OCM Administrative Services II, as Agent for Secured Lenders, Caesar Technology,

1 Circle International (Holland) B.V. and UMC Group, (2) Authorizing Assumption and
2 Assignment of Leases and Executory Contracts and (3) Authorizing the Release of
3 Claims and Dismissal of Actions," (the "Sale Order"). Pursuant to the Sale Order, the
4 Debtor's sale to Creative closed on or about November 2, 2000.

5 8. In response to the Notice and the Supplemental Bar Date Notice,
6 approximately 145 proofs of claim and interest have been filed in this case. The Debtor
7 has begun its review and analysis of those claims, as well as the various claims that
8 appear in the Schedules. Based upon that review, the Debtor has determined that the
9 Disputed Claims cannot be allowed as filed and, for the reasons set forth below, must be
10 disallowed, expunged, reclassified, and/or reduced in the manner described below.

11 III. RELIEF REQUESTED

12 9. By this Objection, the Debtor respectfully requests that the Court enter an
13 Order granting the following relief with respect to the Disputed Claims:

14 a. Disallowing and expunging the claims identified on Exhibit A as
15 "Claims to be Expunged" (collectively, the "Duplicative Claims"), which claims
16 the Debtor believes duplicate one or more other proofs of claim filed against the
17 Debtor or are included within other proofs of claim filed against the Debtor
18 (identified on Exhibit A as the "Remaining Claims");

19 b. Disallowing and expunging the claims identified on Exhibit B as
20 "Cured Claims" (collectively, the "Cure Payment Claims"), which claims the
21 Debtor believes to have been satisfied through the payment of cure claims in
22 connection with the Debtor's previously-approved sale of assets to Creative;

23 c. Reclassifying, and where indicated, reducing the amount of the
24 claims identified on Exhibit C as "Originally Filed Claims" (collectively, the
25 "Reduced and/or Reclassified Claims"), as specifically set forth on Exhibit C,
26 which claims the Debtor believes to have been filed as priority and/or secured
27 claims without an appropriate basis for doing so and/or to have been filed in
28 amounts that exceed the amounts reflected in the Debtor's books and records

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and/or to have been filed in amounts including postpetition amounts and/or interest without an appropriate basis for doing so;

d. Disallowing and expunging or reducing the claims identified on Exhibit D as "No Basis Claims" (collectively, the "No Basis Claims"), which claims the Debtor believes to have been filed without sufficient evidentiary support (or the support provided does not verify the amount listed on the claim form attached thereto) and/or from which the Debtor's books and records reveal no liability and for which the Debtor otherwise believes to have no basis in fact or law;

e. Reclassifying as equity interests in the Debtor (subject to future proof, if necessary, of the ownership of shares in the Debtor) the claims identified on Exhibit E as "Claims to be Reclassified as Equity Interest" (collectively, the "Equity Interests"), which claims the Debtor believes to represent the assertion of equity interests by shareholders of the Debtor;

f. Disallowing and expunging the claims identified on Exhibit F as "Claims to be Expunged" (collectively, the "Superseded Claims"), which claims the Debtor believes to have been amended and superseded by one or more subsequent proofs of claim filed against the Debtor (identified on Exhibit F as the "Remaining Claims");

g. Disallowing and expunging the claims identified on Exhibit G as the "Claims to be Expunged" (collectively, the "Late Claims"), which claims were filed after the Extended Bar Date; and

h. Disallowing and expunging or reclassifying the claims identified on Exhibit H as "Multiple Issue Claims" (collectively, the "Multiple Issue Claims"), which claims the Debtor believes to have more than one of the defects identified above.

1 **IV. BASIS FOR THE RELIEF REQUESTED**

2 10. Section 502(b) of the Bankruptcy Code provides a number of grounds on
3 which a proof of claim may be disallowed, including where “such claim is unenforceable
4 against the debtor and property of the debtor, under any agreement or applicable law
5 for a reason other than because such claim is contingent or unmatured” and where
6 “proof of such claim is not timely filed.” 11 U.S.C. §§ 502(b)(1), (9). For the reasons set
7 forth below, valid objections under section 502(b) of the Bankruptcy Code exist with
8 respect to each of the Disputed Claims.

9 **A. The Duplicative Claims**

10 11. The Debtor’s review of the Disputed Claims indicates that each of the
11 Duplicative Claims duplicates (either identically or materially) one or more other proofs
12 of claim filed against the Debtor, as identified on Exhibit A as the “Remaining Claims.”
13 The Debtor, therefore, requests that the Court disallow and expunge the Duplicative
14 Claims, while leaving the Remaining Claims for consideration at a future date (subject to
15 the rights of all parties in interest to object to such Remaining Claims on any and all
16 available grounds).

17 12. A failure to disallow the Duplicative Claims could result in the relevant
18 creditor receiving an unwarranted double recovery against the bankruptcy estates, in
19 contravention of section 502(b)(1) of the Bankruptcy Code and to the detriment of other
20 similarly situated creditors. Moreover, no prejudice will accrue because holders of the
21 Duplicative Claims nevertheless will have their Remaining Claims pending against the
22 Debtor.

23 **B. The Cure Payment Claims**

24 13. The Debtor’s review of the Disputed Claims indicates that each of the Cure
25 Payment Claims was satisfied through the payment of cure claims in connection with
26 the Debtor’s previously-approved sale of assets to Creative. The Debtor also believes
27 that no claimant has sought relief from the Sale Order. Accordingly, pursuant to
28

1 section 502(b)(1) of the Bankruptcy Code, the Debtor requests that the Court disallow
2 and expunge the Cure Payment Claims.

3 **C. The Reduced and/or Reclassified Claims**

4 14. The Debtor's review of the Disputed Claims indicates that the Reduced
5 and/or Reclassified Claims either: (i) were filed as priority and/or secured claims
6 without an appropriate basis for doing so; and/or (ii) were filed in amounts that exceed
7 the amounts reflected in the Debtor's books and records as due and owing with respect
8 to such claims; and/or (iii) were filed in amounts including postpetition amounts
9 and/or interest without an appropriate basis for doing so.

10 15. The Debtor therefore requests that the Court enter an order reclassifying
11 and/or reducing the amounts of the Reduced and/or Reclassified Claims as set forth on
12 Exhibit C. Specifically, the Debtor requests that, with respect to each Reduced and/or
13 Reclassified Claim, the Court order that the Claim be deemed filed in the status and the
14 amount identified for such claim on Exhibit C in the row entitled "Claim Reduced
15 and/or Reclassified To."

16 **D. No Basis Claims**

17 16. Upon review of the Disputed Claims and the Debtor's books and records,
18 the Debtor has determined that the No Basis Claims represent proofs of claim that: (i)
19 are not reflected as liabilities in the Debtor's books and records; (ii) are not otherwise
20 justified as valid; and (iii) were filed by parties with no valid claims to assert. For
21 example, many of the No Basis Claims identified on Exhibit D lack any supporting
22 documentation or otherwise provide any indication of the alleged liability of the Debtor.
23 Other No Basis Claims previously were satisfied by the Debtor in the ordinary course of
24 business. And, the supporting documentation attached to other No Basis Claims clearly
25 indicates that the appropriate obligor is an entity other than the Debtor.

26 17. Accordingly, the Debtor requests that the Court disallow and expunge or
27 reduce the No Basis Claims.

1 **E. The Equity Interests**

2 18. The Debtor's review of the Disputed Claims indicates that each of the
3 Equity Interests represents the assertion of an equity interest by a shareholder of the
4 Debtor.¹ The Debtor therefore requests that the Court reclassify the Equity Interests as
5 equity interests in the Debtor (subject to the future right of parties in interest to object to
6 such reclassified equity interests and to demand proof of the ownership of shares in the
7 Debtor by claimant).

8 **F. The Superseded Claims**

9 19. The Debtor's review of the Disputed Claims indicates that each of the
10 Superseded Claims was amended and superseded by one or more subsequent proofs of
11 claim filed against the Debtor, as identified on Exhibit F as the "Remaining Claims." The
12 Debtor therefore requests that the Court disallow and expunge the Superseded Claims,
13 while leaving the Remaining Claims for consideration at a future date (subject to the
14 rights of all parties in interest to object to such Remaining Claims on any and all
15 available grounds).

16 **G. The Late Claims**

17 20. The Debtor's review of the Disputed Claims indicates that each of the Late
18 Claims was filed after the Extended Bar Date. Accordingly, pursuant to the
19 Supplemental Bar Date Notice (which provides that claimants who do not file claims by
20 the Extended Bar Date "will be forever barred from participating in the estate of the
21 Debtor") and section 502(b)(9) of the Bankruptcy Code (which provides for the
22 disallowance of untimely proofs of claim), the Debtor requests that the Court disallow
23 and expunge the Late Claims.

24
25
26 ¹ In fact, many of the Equity Interests were filed as "proofs of interest" in this case. The Debtor has filed
27 this Objection solely as a precautionary measure with respect to such proofs of interest, in order to
28 ensure that there is no question that each of the claims/interests identified on Exhibit E actually
represents an equity interest, rather than a claim.

1 **H. The Multiple Issue Claims**

2 21. The Debtor's review of the Disputed Claims indicates that, as reflected on
3 Exhibit H, each of the Multiple Issue Claims have more than one of the defects identified
4 above with respect to the other Disputed Claims. The Debtor therefore requests that the
5 Court disallow and expunge the Multiple Issue Claims, while leaving the claims
6 identified on Exhibit H as "Remaining Claims", if any, for consideration at a future date
7 (subject to the rights of all parties in interest to such Remaining Claims on any and all
8 available grounds).

9 **V. RESERVATION OF RIGHTS**

10 22. To the extent that this Objection is not granted with respect to any
11 particular Disputed Claim, the Debtor reserves all rights to object to any and all of the
12 Disputed Claims on grounds not set forth in this Objection. This Objection is based
13 upon the Debtor's preliminary review of the Disputed Claims and the Debtor's
14 determination that the grounds for objection set forth above should constitute adequate
15 grounds for the relief requested by this Objection. The Debtor has not fully analyzed the
16 merits of each of the Disputed Claims and, to the extent that this Objection is overruled
17 with respect to any particular Disputed Claim, it is likely that other grounds for
18 objection to such claim may exist. The Debtor, therefore, reserves all rights to object to
19 any such claims, as well as to the claims identified as Remaining Claims on the various
20 Exhibits to this Motion.

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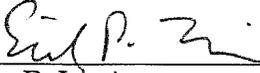
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VI. CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court grant the relief requested in this Objection and grant such other and further relief as is just and proper.

DATED: December 6, 2000

HENNIGAN, BENNETT & DORMAN

By: 
Sidney P. Levinson

Reorganization Counsel for
Debtor and Debtor in Possession

EXHIBIT H

MULTIPLE ISSUE CLAIMS

Claim No.	Claimant	Date Claim Filed	Multiple Issue Claims	Relief Requested	Objections	Allowed Claim
33	Martek Sale Attn: Mike Hogue 5101 Ironwood Drive Soquel, CA 95073	05/01/00	\$2,828.54	Claim to be Expunged	Insufficient evidence provided with proof of claim; Duplicative	\$0
34	Aaron Martin 6225 Edwars Mt. Cove Austin, TX 78731	05/01/00	\$18,000.00	Claim to be Expunged	Not a secured claim; Claimant previously paid amount of allowed claim; Insufficient evidence provided with proof of claim	\$0
35	Antonio Ginart 3684 River Heights Crossing Marietta, GA 30067	05/01/00	\$15,588.00	Claim to be Expunged	Not entitled to priority wage status - not employee of Debtor; Claimant previously paid amount of allowed claim; Insufficient evidence provided with proof of claim	\$0
40	Alameda County Water District Finance and Administration Manager 43885 S. Grimmer Blvd. Fremont, CA 94538	05/04/00	\$106.02	Claim to be Expunged	Insufficient evidence provided with proof of claim; Claimant previously paid amount of allowed claim	\$0

Claim No.	Claimant	Date Claim Filed	Multiple Issue Claims	Relief Requested	Objections	Allowed Claim
74	Sherri L. Drehobl Corporate Legal Department, C-3 Kemper Insurance Companies One Kemper Drive Long Grove, IL 60049	07/17/00	\$0 (unliquidated)	Claim to be Expunged	Includes postpetition amounts; Not entitled to unsecured priority status; Insufficient evidence provided with proof of claim	\$0
81	Delaware Secretary of State Division of Corporations C/O MNB Dept. 74072 Baltimore, MD 21274-4072	07/24/00	\$184,911.15	Claim to be Expunged	Insufficient evidence provided with proof of claim; Claimant previously paid amount of allowed claim	\$0
91	Infogrames North America, Inc. 5300 Stevens Creek Blvd. Suite 500 San Jose, CA 95129	07/31/00	\$50,000.00	Claim to be Expunged	Insufficient evidence provided with proof of claim; Claimant previously paid amount of allowed claim	\$0
101	Scott & Alyce Diehl 762 Via De La Paz Pacific Palisades, CA 90272	07/26/00	\$6,338.20 (198 shares of common stock)	Claim to be Reclassified and allowed as Equity Interest	Not entitled to Unsecured Priority status; equity interest asserted	Reclassified as equity interest
107	Center Capital, f/k/a Tucker Financial c/o Kenneth C. Greene, Esq. 300 Drakes Landing Road Suite 250 Greenbrae, CA 94904	08/31/00	\$39,668.22	Claim to be Expunged	Insufficient evidence provided with proof of claim; exceeds amounts listed on Debtor's books and records	\$0
110	Paul Carrubba [address not provided]	09/13/00	\$7,692.28	Claim to be Expunged	Insufficient evidence provided with proof of claim; Not entitled to unsecured priority wage status	\$0

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DECLARATION OF SERVICE

I am over the age of eighteen years and not a party to the within action. My business address is Hennigan, Bennett & Dorman, 601 South Figueroa Street, Suite 3300, Los Angeles, California 90017.

On December 6, 2000, I served the following pleading:

NOTICE OF OBJECTION AND DEBTOR'S FIRST OMNIBUS OBJECTION TO CLAIMS (DUPLICATE CLAIMS, CURE PAYMENT CLAIMS, AND RECLASSIFIED CLAIMS, NO BASIS CLAIMS, EQUITY CLAIMS, AMENDED CLAIMS AND LATE CLAIMS))

on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, with first-class postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as follows:

See attached Service List

The above-described pleading also was transmitted to the indicated parties set forth above in the manner described below:

By air courier service, for next business-day delivery by

By messenger service, for same-day delivery by hand by

by telecopy, for immediate receipt.

I declare that I am employed in an office of a member of the bar of this Court, at whose direction the within service was made.

EXECUTED on December 6, 2000, at Los Angeles, California.



Kathy Bowman, Declarant

Antonio Ginart
3684 River Heights Crossing
Marietta, GA 30067

Delaware Secretary of State
Division of Corporations
C/O MNB Dept. 74072
Baltimore, MD 21274-4072

Center Capital, f/k/a Tucker Financial
c/o Kenneth C. Greene, Esq.
300 Drakes Landing Road, Suite 250
Greenbrae, CA 94904

Evlyn DeVaul
20 Montsalas Dr.
Monterey, CA 93940

William Husbands
8465 Dover Dr.
Grant Bay, CA 95746

Ocean Information System (China) Limited
Units 15-17, 9/F, Chevalier Comm. Centre
8 Wang Hoi Road
Kowloon Bay, Kowloon, H.K.

Peake Printers, Incorporated
c/o Lawrence S. Jacobs
110 N. Washington Street
Suite 540
Rockville, MD 20850

Alameda County Water District
Finance and Administration Manager
43885 S. Grimmer Blvd.
Fremont, CA 94538

Infogrames North America, Inc.
5300 Stevens Creek Blvd.
Suite 500
San Jose, CA 95129

Paul Carrubba
[address not provided]

Russell D. Mieke
Michael R. Mieke JT TEN
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Los Angeles, CA 90067-6807

Ellen Sondheim
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Kinnelon, NJ 07405

Sherri L. Drehobl
Corporate Legal Department, C-3
Kemper Insurance Companies
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Long Grove, IL 60049

Scott & Alyce Diehl
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Pacific Palisades, CA 90272

Ann Frances McGrath
20810-3 Fourth Street
Saratoga, CA 95070

Dinh Nguyen
[address not provided]

Eugene Kurt Steinmann
2610 Richards Ave.
Cayucos, CA 93430

Robert M. Gromis
608 N. Roxbury Drive
Beverly Hills, CA 90210

Finova Capital Corporation
C/o Charles P. Schulman
Sachnoff & Weaver, Ltd.
30 South Wacker Drive
Suite 2900
Chicago, IL 60606

Commonwealth of Massachusetts
Department of Revenue
Box 9484
Boston, MA 02210

Highsoft, Inc.
1965 Latham Street
Mountain View, CA 94040

Joseph N. Delsignore
Agnes Delsignore
76 Woodland Ave.
Campbell, OH 44405-1046

IT&E Corporation
111 N. Market Street
Suite 730
San Jose, CA 95113

Alterflex Corporation
1717 Oakland Road
San Jose, CA 95131

Telogy Test Equipment
Management Services
Box 96994
Chicago, IL 60693

Pacific Gas and Electric Company
PO Box 8329
Stockton, CA 95208

Recall Total Infor Mgmt Inc.
PO Box 101184
Atlanta, GA 30392-1184

PR Newswire
GPO Box 5897
New York, NY 10087-5897

Minolta Business Solutions
Attn: Lisa Schmiedeskamp
1800 Overcenter Dr.
Moberly, MO 65270

Heller Ehrman White & McAuliffe LLP
Peter J. Benvenuti, Esq.
333 Bush Street
San Francisco, CA 94111-2878

Brooks Technical Group Inc.
10080 North Wolfe Road
SW#-100
Cupertino, CA 95014

Enominds Software Inc.
2328G Walsh Avenue
Santa Clara, Ca 95051-1312

Gray Cary Ware & Freidenrich LLP
Attn: Lilian G. Stenfeldt, Esq.
400 Hamilton Avenue
Palo Alto, Ca 94301-1825

Aon Consulting, Inc.
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San Jose, CA 95131

IT&E Corporation
111 N. Market Street
Suite 730
San Jose, CA 95113

Alterflex Corporation
1717 Oakland Road
San Jose, CA 95131

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GPO Box 5897
New York, NY 10087-5897

Pacific Gas and Electric Company
PO Box 8329
Stockton, CA 95208

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PO Box 101184
Atlanta, GA 30392-1184

Commonwealth of Massachusetts
Department of Revenue
ATTN: Anne Chan, Tax Examiner
Box 9484
Boston, MA 02205-9484

TLC Administrators Lipman Co.
3340 Walnut Avenue, Suite 290
Fremont, CA 94538-2215

Wall Street Interviews Inc.
250 West 40th Street, Suite 410
New York, NY 10018

Combs & Greenley
49 Stevenson St., Suite 400
San Francisco, CA 94105

AT&T Corp.
55 Corporate Drive
Bridgewater, NJ 08807-1265

Video Solutions
50 First St., Suite 507
San Francisco, Ca 94105

Partners By Design Inc.
24300 Town Center Drive
Suite 380
Valencia, CA 91355

Romac International Inc.
PO Box 277997
Atlanta, GA 30384-7997

AIG Law Department - Bankruptcy
Michelle A. Levitt, Esq.
70 Pine Street, 31st Floor
New York, NY 10270

Preferred Software Inc.
Attn Dr. Philip J. Faillace
800 Dixon Way
Los Altos, CA 94022-1106

Gareth, Inc.
Gareth Loy, President
PO Box 151185
San Rafael, CA 94915

Department of the Treasury
Internal Revenue Service
1301 Clay Street, Stop 1400S
Oakland, CA 94612-5210

Computer Modules, Inc.
2350 Walsh Ave.
Santa Clara, Ca 95051

DSM Technologies
2355 Oakland Road, Suite 44
San Jose, Ca 95131

Momentum Data Systems, Inc.
1733 Bruckhurst
FountainValley, CA 92708

Arthur R. Ellard Jr.
Almeda B. Ellard JT TEN
[no address provided]

Joseph N. Delsignore
Agnes Delsignore JT TEN
[no address provided]

Skjerven Morrill MacPherson LLP
25 Metro Drive, Suite 700
San Jose, CA 95110

Joe McDiarmid
Sandra McDiarmid
1301 Combs
El Dorado, AR 71730

odd R. Britton
830 M-65N
achine, MI 49753

Gareth Stevens, Inc.
Attn: David C. Miller
330 W. Olive St., #100
Milwaukee, WI 53212

Jude Soundar
450 West Briar, Apt. 9E
Chicago, IL 60657

Barbara Spear
1558 La Jolla Dr.
Thousand Oaks, CA 91362

Eugene M & Margaret Flora
3526 Benton Street
Santa Clara, CA 95051-4405

Jim Stahl (Ziff Davis, Inc.)
28 E. 28th St.
New York, NY 10016

Imperial A.I. Credit Corp.
160 Water St., 19th Floor
New York, NY 10038-4922

Jeffry G. Locke
Trustee of Bankruptcy Estate of MTC
Telemanagement Corp., Netsource
Communications, Inc., and MTC International, Inc.
c/o Stromsheim & Associates
353 Sacramento St., Suite 860
San Francisco, CA 94110

Ocean Data Products, Inc.
c/o Patricia S. Mar
Morrison & Foerster LLP
425 Market Street
San Francisco, Ca 94105-2482

Ziff Davis, Inc.
28 E. 28th St.
New York, NY 10016

Imperial A.I. Credit Corp.
160 Water St., 19th Floor
New York, NY 10038-4922

Aaron Martin
6225 Edwards Mt. Cove
Austin, TX 78731

Thomson Consumer Electronic Sales GmbH
Karl Wiechert Allee 74
30625 Hanover
many

Martek Sale
Attn: Mike Hogue
5101 Ironwood Drive
Soquel, CA 95073

Supercom Canada Ltd.
4011 14th Avenue
Markham, Ontario Canada
L3R029

Debtor:

AUREAL, INC.
Attn: Steve Mitchell
45757 Northport Loop West
Fremont, CA 94538

Secured Creditor as Agent:

Oaktree Capital Management LLC
Attn: Richard Masson
333 S. Grand Avenue, 28th Floor
Los Angeles, CA 90071

Creditors' Committee Member:

UMC Group (USA)
Attn: Huai-Jen Lu, Credit Manager
488 Deguigne Drive
Sunnyvale, CA 94086

Creditors' Committee Member:

Highsoft, Inc.
Attn: R. Scott Holmgren, Gen. Mgr.
1965 Latham Street
Mountain View, CA 94040-2107

20 Largest Unsecured Creditor:

Caesar International, Inc.
Attn: JoJo Estavillo
2860 Zanker Road, Suite 210
San Jose, CA 95134

20 Largest Unsecured Creditor:

PC World Communications
Attn: Kevin Greene
PO Box 3700-67
Boston, MA 02241-0767

20 Largest Unsecured Creditor:

Integra-Dyne Corp.
Attn: Ren Condotta
145 King Street, West, Suite 1000
Toronto, ON M5H 1J8
Canada

20 Largest Unsecured Creditor:

Hruska Productions Audio, Inc.
Attn: Jennifer Hruska
66 Rear Dudley Street
Arlington, MA 02476

Creative Labs, et al Req. Spec. Notice:

Erika Rottenberg, Esq.
Creative Labs, Inc.
1901 McCarthy Boulevard
Milpitas, CA 95035

I/O Magic Req. for Spec. Notice:

Horowitz & Beam
Attn: Lawrence M. Cron, Esq.
Two Ventura Plaza, Suite 350
Irvine, CA 92618

Debtor's Counsel:

Sidney Levinson/Kelly Frazier
Hennigan, Bennett & Dorman
601 S Figueroa St., Suite 3300
Los Angeles, CA 90017

Counsel to Oaktree Capital Mgmt.:

Eric Reimer, Esq.
McDermott, Will & Emory
2049 Century Park East, 34th Floor
Los Angeles, CA 90067

Creditors' Committee Member:

Flatland Online, Inc.
Attn: Terry Campbell
2325 Third Street, Suite 335
San Francisco, CA 94107

Creditors' Committee Member:

Finova Technology Finance, Inc.
Attn: O'Neil Petrone, Collections Mgr.
115 West Century Road, 3rd Floor
Paramus, NJ 07652

20 Largest Unsecured Creditor:

Cadence Design Systems, Inc.
Attn: Steve Mih
555 River Oaks Parkway
San Jose, CA 95134

20 Largest Unsecured Creditor:

VIFA-Speak A/S
Attn: David Stephens
1860 Renaissance Blvd
Sturtevant, WI 53177

20 Largest Unsecured Creditor:

3DSL
Attn: John Byrne
Blissworth Base Hill
Stokes Road, Busworth
Northants, UK NN73DB

Request For Special Notice:

Orrick, Herrington & Sutcliffe
Attn: Thomas C. Mitchell, Esq.
400 Sansome Street
San Francisco, CA 94111-3143

Caesar Intl Req for Special Notice:

William C. Lewis, Esq.
Law Offices of William C. Lewis
510 Waverley Street
Palo Alto, CA 94031

Request for Special Notice:

Ritter, Van Pelt & Yi, LLP
Attn: Jack Limper
4906 El Camino Real, Suite 205
Los Altos, CA 94022

Office of the U.S. Trustee:

U.S. Trustee
Attn: Mark L. Pope, Esq.
1301 Clay Street, Suite 690N
Oakland, CA 94612

Creditors' Committee Member:

Ocean Data Products
5th Floor Kader Industrial Bldg.
22 Kai Cheung Road
Kowloon Bay
Kowloon, Hong Kong

Creditors' Committee Member:

Juan Gonzalez
KPMG
3 Embarcadero Center, Suite 2000
San Francisco, CA 94111

Creditors' Committee Member:

Imagine Media Inc. d/b/a PC Gamer
Attn: John Lysdahl, Credit Manager
150 North Hill Drive
Brisbane, CA 94005

20 Largest Unsecured Creditor:

Houlihan Lokey Howard & Zukin
Attn: Glenn Daniel, Managing Director
49 Stevenson Street, 14th Floor
San Francisco, CA 94105

20 Largest Unsecured Creditor:

GE Capital
Attn: Chris Smythe
44 Old Ridgebury Road
Danbury, CT 06810

20 Largest Unsecured Creditor:

Activision, Inc.
Attn: George Rose
3100 Ocean Park Boulevard
Santa Monica, CA 90405

Creative Labs Req For Spec Notice:

Andrea J. Weiss, Esq.
Munger, Tolles & Olson LLP
355 South Grand Avenue, Suite 3500
Los Angeles, CA 90071-1560

Ocean Data Products Req Spec. Not:

Patricia S. Mar, Esq.
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105

20 Largest Unsecured Creditors:

Ziff Davis
Attn: Customer Service Dept.
One Park Avenue
New York, NY 10016

Finova Req. for Special Notice:

Sachnoff & Weaver, Ltd.
Attn: Charles P. Schulman, Esq.
30 South Wacker Drive, Suite 2900
Chicago, IL 60606

Request For Special Notice:

Maggie Lewsadder
Makefield Securities Corporation
789 S. Federal Hwy., Suite 102
Stuart, FL 34994

Fremont Landlord:

Lam Research, Inc.
Attn: George M. Schisler, Jr.
4560 Cushing Parkway
Fremont, CA 94538-6470

SEC Req. For Spec. Notice:

Sarah D. Moyed, Esq.
Securities & Exchange Commission
Pacific Regional Office
5670 Wilshire Blvd., 11th Floor
Los Angeles, CA 90036-3648

Req. for Special Notice:

Alan Yee
764 Pollard Road
Los Gatos, CA 95032

Counsel to Intel:

Jonathan Landers, Esq.
Gibson, Dunn & Crutcher
One Montgomery St.,
Telesis Tower, 26th and 31st Floors
San Francisco, CA 94104

Creditor:

Circle International, Inc.
385 Valley Drive
Brisbane, CA 94005

Landlord:

Fifth Street Properties, LLC
c/o Commonwealth Partners, LLC
Attn: Mr. David Armstrong
633 West Fifth St., 72nd Floor
Los Angeles, CA 90071

Tax Accountants:

Neilson, Elggren LLP
Attn: Vernon Calder
230 South 500 East, Suite 425
Salt Lake City, UT 84102

Request for Special Notice:

Christopher Beard, Esq.
Beard & Beard
4601 North Park Avenue
Chevy Chase, MD 20815

Req For Special Notice Center Capital:

Kenneth C. Green, Esq.
KENNETH C. GREEN & ASSOCIATES
300 Drakes Landing Rd., Ste. 250
Greenbrae, CA 94904

Counsel to Lam Research:

Dale L. Bratton, Esq.
Heller, Ehrman, White & McAuliffe
333 Bush Street, Suite 3000
San Francisco, CA 94104-2878

Req. for Spec. Notice:

Howard, Rice, et al
Attn: James Lopes/Gary Kaplan
3 Embarcadero Center, Suite 700
San Francisco, CA 94111

Debtor's Financial Advisor:

E&Y Restructuring LLC
Attn: Robert H. Warshauer
555 California Street,
San Francisco, CA 94104

Copelco Req. for Spec. Notice:

Kenneth G. Lau
Hemar & Rousso
15910 Ventura Boulevard, 12th Flr.
Encino, CA 91436-2829

Debtor's Special Patent Counsel:

David N. Lathrop, Esq.
Gallagher & Lathrop, A Prof Corp.
601 California Street, Suite 1111
San Francisco, California 94108-2805

Counsel to 3DFX:

Hopkins & Carley
Attn: John Easterbrook, Esq.
70 South First Street
San Jose, CA 95113-2406

Fifth Street Properties Req for Notice:

Pillsbury, Madion & Sutro LLP
Attn: Craig Barbarosh/Kalman Steinberg
650 Town Center Drive, 7th Flr.
Costa Mesa, CA 92626-7122

Request for Special Notice:

Peter A. Chapman, Esq.
24 Perdicaris Place
Trenton, NJ 08618

Creditors' Committee Member:

IT&E Corporation
Attn: Anthony D. Allocca
11 N. Market Street, Suite 730
San Jose, CA 95113

Vifa/Scan-Speak Req for Spec. Not:

David M. Meegan, Esq.
Meegan, Hanschu & Kassenbrock
1545 River Park Drive, Suite 550
Sacramento, CA 95815

Creative Labs Req. for Spec. Not:

Creative Labs, Inc.
Attn: Stacey Leong
1901 McCarthy Boulevard
Milpitas, CA 95035

Creditor's Committee Counsel:

Randy Michelson, Esq.
McCutcheon, Doyle, Brown & Enerson
3 Embarcadero Center
San Francisco, CA 94111

Auditor to the Debtor:

Mohler, Nixon & Williams
Attn: Steve Vidlock
42 West Campbell Avenue
Campbell, CA 95008

Regen Capital Req. For Notice:

Elliott Herskowitz
Regen Capital I, Inc.
PO Box 626 Planetarium Station
New York, New York 10024-0540

Integra-Dyne Req. for Special Notice:

Tracy Green, Esq.
Wendel, Rosen, Black & Dean
1111 Broadway, 24th Floor
Oakland, CA 94607

Dice Inc. request for notice:

J. Mark Chevallier, Esq.
3550 Lincoln Plaza
500 N. Akard
Dallas, TX 85201

Dice, Inc.
PO Box 560573
The Colony, TX 85056

EXHIBIT M

FILED

JAN 18 2001

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

MINUTES

UNITED STATES BANKRUPTCY COURT AT OAKLAND, CALIFORNIA-TERM 2001

JUDGE LESLIE TCHAIKOVSKY COURT TIME: 2:00 P.M.

COURTROOM: 201 DATE: WEDNESDAY, JANUARY 17, 2001

ECRO: DONNA DIGGS

COURTROOM DEPUTY: HANKA SIDZINSKA

AUREAL, INC.

00 42104 T11

OBJECTION TO CLAIM OF
OMNIBUS

CHAPTER 11

JOSHUA MORSE (X) FOR
DEBTOR

PATRICIA MAR (X) FOR
OCEAN DATA PRODUCTS

PETITION FILED 4-5-00



MINUTES OF PROCEEDING:

- 1) FOR ANY CLAIMS THAT WERE SETTLED MR. MORSE MAY SUBMIT THE ORDER.
- 2) THE COURT IS WILLING TO SUSTAIN OBJECTIONS AS TO THE INDIVIDUALS THAT DID NOT FILE THEIR RESPONSES, IF THE NOTICES ARE CORRECTED. THE PROPOSED FORM OF ORDER TO BE SUBMITTED WITH PROOFS OF PROPER NOTICES.

CA BAR #05-20211
EXHIBIT M - PAGE 1

7

EXHIBIT N

ORIGINAL

1 BRUCE BENNETT (SBN 105430)
SIDNEY P. LEVINSON (SBN 139419)
2 JOSHUA D. MORSE (SBN 211050)
HENNIGAN, BENNETT & DORMAN
3 601 South Figueroa Street, Suite 3300
Los Angeles, California 90017
4 Telephone: (213) 694-1200
Fax: (213) 694-1234

5 Reorganization Counsel for
6 Debtor and Debtor in Possession

FILED
FEB 09 2001
BANKRUPTCY COURT
OAKLAND, CALIFORNIA

7
8 **UNITED STATES BANKRUPTCY COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND DIVISION**

11 In re) Case No. 00-42104T11
12 AUREAL INC., d/b/a SILO.COM,) (Chapter 11)
f/k/a AUREAL)
13 SEMICONDUCTOR, INC., f/k/a) **ORDER SUSTAINING DEBTOR'S FIRST**
MEDIA VISION TECHNOLOGY,) **OMNIBUS OBJECTION TO CLAIMS**
14 INC., a Delaware corporation,) **(DUPLICATE CLAIMS, CURED CLAIMS,**
15 Debtor.) **RECLASSIFIED CLAIMS, NO BASIS**
16) **CLAIMS, EQUITY CLAIMS, AMENDED**
17) **CLAIMS, AND LATE CLAIMS)**

Hearing

18 Date: January 17, 2001
19 Time: 2:00 p.m.
Place: Hon. Leslie Tchaikovsky
1300 Clay St., Courtroom 201
Oakland, CA 94612

21 This matter coming before the Court on the "Debtor's First Omnibus Objection To
22 Claims (Duplicate Claims, Cured Claims, Reclassified Claims, No Basis Claims, Equity
23 Claims, Amended Claims, and Late Claims)" (the "Objection") filed by Aureal Inc., the
24 above-captioned debtor and debtor in possession (the "Debtor"); and the Court having
25 reviewed the Objection, the Declaration of Joshua D. Morse in support of the Objection,
26 any and all responses and objections to the Objection, and the record in this case;

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THE COURT HEREBY FINDS THAT:

A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334;

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

C. Notice of the Objection was reasonable and appropriate under the circumstances and that no further notice is necessary;

D. The legal and factual bases set forth in the Objection establish good and sufficient cause for the relief granted herein; and Accordingly:

IT HEREBY IS ORDERED THAT:

1. The Objection is SUSTAINED, and any and all objections or responses to the Objection are overruled.

2. The claims identified on Exhibit A to this Order as "Claims to be Expunged" are disallowed and expunged in their entirety.

3. The claims identified on Exhibit B to this Order as "Claims to be Reclassified as Equity Interest" are reclassified as equity interests in the Debtor.

4. The claims identified on Exhibit C to this Order as "Multiple Issue Claims" are reclassified and/or disallowed and expunged in their entirety.

5. The claims identified on Exhibit D to this Order "Resolved Claims" are allowed in their entirety as indicated.

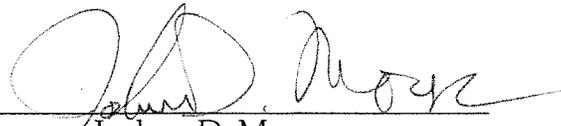
6. To the extent that this Order grants less than all of the relief requested in the Objection, the Debtor reserves all rights to object to any and all of the claims that are the subject of the Objection on grounds not set forth in the Objection, and the filing and prosecution of the Objection shall not prejudice or diminish those grounds. The Debtor also reserves all rights to object to any and all of the claims identified as "Remaining Claims" and/or "No Basis Claims" and/or "Multiple Issue Claims" on the various

1 Exhibits to this Order on all available grounds, and the filing and prosecution of the
2 Objection shall not prejudice or diminish those grounds.

3 DATED: Feb. 9, 2001


HONORABLE LESLIE TCHAIKOVSKY
UNITED STATES BANKRUPTCY JUDGE

6 Submitted by:
7 HENNIGAN, BENNETT & DORMAN

8
9 By: 
Joshua D. Morse

10 Reorganization Counsel for
11 Debtor and Debtor in Possession

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EXHIBIT N - PAGE 3

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EXHIBIT A

DUPLICATE CLAIMS

CLAIMS TO BE EXPUNGED

Claim No.	Duplicate Claim No.	Claimant	Date Claim Filed	Amount of Claim
115	117	Joseph N. Delsignore Agnes Delsignore 76 Woodland Ave. Campbell, OH 44405-1046	09/25/00	\$335.00

REMAINING CLAIMS

Claim No.	Claimant	Date Claim Filed	Amount of Claim
115	Joseph N. Delsignore Agnes Delsignore 76 Woodland Ave. Campbell, OH 44405-1046	09/25/00	\$335.00 (A)

(A) Claim No. 115 is further objected to as an Equity Claim and listed on Exhibit E.

Claim No.	Claimant	Date Claim Filed	Multiple Issue Claims	Relief Requested	Objections	Allowed Claim
107	Center Capital, f/k/a Tucker Financial 300 Drakes Landing Rd., Ste. 250 Greenbrae, CA 94904 Attn: Kenneth C. Greene, Esq./ Attorney for Center Capital	08/31/00	\$39,668.22	Claim to be expunged	Insufficient evidence provided with proof of claim; exceeds amounts listed on Debtor's books and records	\$0
110	Paul Carruba [address not provided/ telephone number provided, but no answer]	09/13/00	\$7,692.28	Claim to be expunged	Insufficient evidence provided with proof of claim; not entitled to unsecured priority wage status	\$0
121	Ann Frances McGrath 20810-3 Fourth Street Saratoga, CA 95070	09/25/00	\$358.06	Claim to be expunged	Not entitled to secured status; Insufficient evidence provided with proof of claim; Only entitled to equity interest	\$0
122	Evlyn DeVaul 20 Montsalas Dr. Monterey, CA 93940	09/27/00	\$21,629.08	Claim to be expunged	Insufficient evidence provided with proof of claim; Only entitled to equity interests	\$0
133	Russell D. Mieke Michael R. Mieke JT TEN 1353 Arbor Park Dr. San Jose, CA 95126	10/02/00	\$6.60 (33 shares of common stock)	Claim to be expunged	Insufficient evidence provided with proof of claim; Only entitled to equity interests; Late filed claim	\$0
135	Lillian Husbands 8465 Dover Dr. Grantie Bay, CA 95746	10/02/00	\$0 (undetermined)	Claim to be expunged	Only entitled to equity interest; Late filed claim	\$0
137	Eugene Kurt Steinmann 2610 Richards Ave. Cayucos, CA 93430	10/02/00	\$187,000.00	Claim to be expunged	Only entitled to equity interest; Late filed claim	\$0

EXHIBIT O

ORIGINAL

FILED

MAY 01 2002

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

1 HENNIGAN, BENNETT & DORMAN
MICHAEL A. MORRIS (SBN 89842)
2 SIDNEY P. LEVINSON (SBN 139419)
JOSHUA D. MORSE (SBN 211050)
3 601 South Figueroa Street, Suite 3300
Los Angeles, CA 90017
4 Telephone: (213) 694-1200
Fax: (213) 694-1234

5 Reorganization Counsel for
6 Debtor and Debtor in Possession

7 UNITED STATES BANKRUPTCY COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 OAKLAND DIVISION

11 In re) Case No.00-42104-T11
)
12 AUREAL, INC., d/b/a SILO.COM, f/k/a) (Chapter 11)
AUREAL SEMICONDUCTOR, INC., f/k/a)
13 MEDIA VISION TECHNOLOGY, INC., a) **DECLARATION OF GERRIE SARGENT**
Delaware corporation,) **IN SUPPORT OF STIPULATION AND**
) **ORDER AUTHORIZING ALLOWANCE**
14 Debtor.) **OF CLAIM NUMBER 107 (FILED BY**
) **CENTER CAPITAL CORPORATION)**
15)
16)

[No Hearing Required]

18 I, GERRIE K. SARGENT, do hereby declare that:

19 1. I am the Senior Accounting Manager of Aural, Inc., the above-captioned debtor and
20 debtor in possession (the "Debtor").

21 2. I submit this declaration in support of the "Stipulation And Order Authorizing
22 Allowance Of Claim Number 107 (Filed By Center Capital Corporation)" (the "Stipulation").

23 Except as indicated below, I have personal knowledge of the following facts and, if called and sworn
24 as a witness, I would and could competently testify thereto.

25 3. I am of the opinion that the proof of claim filed by Center Capital Corporation
26 ("Center") in the amount of \$39,668.22 (the "Center Claim") is due and owing and should be
27 allowed as filed. I am informed and believe that the Center Claim represents the outstanding
28

CA BAR #05-20211
EXHIBIT O - PAGE 1
HENNIGAN, BENNETT & DORMAN
LAWYERS
LOS ANGELES, CALIFORNIA

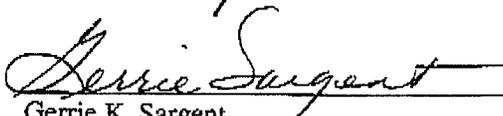
1 payments and interest owing to Center pursuant to a settlement agreement (the "Agreement")
2 implemented through a plan of reorganization from a bankruptcy of the Debtor's predecessor in
3 interest, Media Vision Technology, Inc. ("MV").

4 4. I do not have personal knowledge of the actual terms of the Agreement, however, in
5 my capacity as the Debtor's Senior Accounting Manager, I maintained the Center Capital
6 Amortization Schedule (the "Schedule"), a copy of which is attached hereto as Exhibit A. From
7 maintaining the Schedule and making payments to Center pursuant to the Schedule prior to the
8 Petition Date (as that term is defined in the Stipulation), I understand that such Schedule represents
9 the stream of payments due to MV pursuant to the Agreement.

10 5. As of the Petition Date, the Debtor owed Center payments totaling \$38,941.52, plus
11 interest amortized at 9% per annum from January 1, 2000 through the Petition Date. Of that
12 amount, \$16,252.68 (three monthly installments of \$5,417.56) was reflected on the Debtor's
13 corrected books and records. This is consistent with the fact that the Debtor only booked monthly
14 installments of the MV Liability as they accrued on a monthly basis given that the last payment to
15 Center was made on or about January 1, 2000. The \$16,252.68 represents payments that were not
16 made prior to the Petition Date.

17 I declare under penalty of perjury under the laws of the United States of America that the
18 foregoing is true and correct to the best of my knowledge and belief.

19 Executed this 10 day of April, 2002 at Tracy, California.

20
21 
22 Gerrie K. Sargent

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EXHIBIT O - PAGE 2

Hennigan, Bennett & O'Connell
Attorneys
Los Angeles, California

Aug. 11, 1997

CENTER CAPITAL AMORTIZATION SCHEDULE

CENTER S/T **CENTER L/T**
01-0400-2707 **01-0400-2907**

		NEW	INT	PRIN	PRIN		
		PAYMENTS	9.00%		BALANCE		
1995	1-Dec			8,562.00	264,487.98		
1996	1-Jan	5,417.56	1,983.66	3,433.90	261,054.08		
	1-Feb	5,417.56	1,957.91	3,459.65	257,594.43		
	1-Mar	5,417.56	1,931.96	3,485.60	254,108.82		
	1-Apr	5,417.56	1,905.82	3,511.74	250,597.08		
	1-May	5,417.56	1,879.48	3,538.08	247,059.00		
	1-Jun	5,417.56	1,852.94	3,564.62	243,494.38		
	1-Jul	5,417.56	1,826.21	3,591.35	239,903.03		
	1-Aug	5,417.56	1,799.27	3,618.29	236,284.74		
	1-Sep	5,417.56	1,772.14	3,645.42	232,639.32		
	1-Oct	5,417.56	1,744.79	3,672.77	228,966.55		
	1-Nov	5,417.56	1,717.25	3,700.31	225,266.24		
	1-Dec	5,417.56	1,689.50	3,728.06	221,538.18		
1997	1-Jan	5,417.56	1,661.54	3,756.02	217,782.15		
	1-Feb	5,417.56	1,633.37	3,784.19	213,997.96		
	1-Mar	5,417.56	1,604.98	3,812.58	210,185.38		
	1-Apr	5,417.56	1,576.39	3,841.17	206,344.21		
	1-May	5,417.56	1,547.58	3,869.98	202,474.24		
	1-Jun	5,417.56	1,518.56	3,899.00	198,575.23		
	1-Jul	5,417.56	1,489.31	3,928.25	194,646.99		
	1-Aug	5,417.56	1,459.85	3,957.71	190,689.28		
	Special	14,566.34	0.00	14,566.34	176,122.94	51,179.75	124,943.19
	1-Sep	5,417.56	1,375.55	4,042.01	172,080.93	51,618.22	120,462.70
	1-Oct	5,417.56	1,290.61	4,126.95	167,953.97	52,005.36	115,948.61
	1-Nov	5,417.56	1,259.65	4,157.91	163,796.07	52,395.40	111,400.67
	1-Dec	5,417.56	1,228.47	4,189.09	159,606.98	52,788.36	106,818.61
1998	1-Jan	5,417.56	1,197.05	4,220.51	155,386.47	53,184.28	102,202.19
	1-Feb	5,417.56	1,165.40	4,252.16	151,134.31	53,583.16	97,551.15
	1-Mar	5,417.56	1,133.51	4,284.05	146,850.26	53,985.03	92,865.22
	1-Apr	5,417.56	1,101.38	4,316.18	142,534.07	54,389.92	88,144.15
	1-May	5,417.56	1,069.01	4,348.55	138,185.52	54,797.84	83,387.67
	1-Jun	5,417.56	1,036.39	4,381.17	133,804.35	55,208.83	78,595.52
	1-Jul	5,417.56	1,003.53	4,414.03	129,390.32	55,622.89	73,767.43
	1-Aug	5,417.56	970.43	4,447.13	124,943.19	56,040.07	68,903.12
	1-Sep	5,417.56	937.07	4,480.49	120,462.70	56,460.37	64,002.34
	1-Oct	5,417.56	903.47	4,514.09	115,948.61	56,883.82	59,064.79
	1-Nov	5,417.56	869.61	4,547.95	111,400.67	57,310.45	54,090.22
	1-Dec	5,417.56	835.51	4,582.05	106,818.61	57,740.28	49,078.34
1999	1-Jan	5,417.56	801.14	4,616.42	102,202.19	58,173.33	44,028.86
	1-Feb	5,417.56	766.52	4,651.04	97,551.15	58,609.63	38,941.52
	1-Mar	5,417.56	731.63	4,685.93	92,865.22	59,049.20	33,816.02
	1-Apr	5,417.56	696.49	4,721.07	88,144.15	59,492.07	28,652.08
	1-May	5,417.56	661.08	4,756.48	83,387.67	59,938.26	23,449.41
	1-Jun	5,417.56	625.41	4,792.15	78,595.52	60,387.80	18,207.72
	1-Jul	5,417.56	589.47	4,828.09	73,767.43	60,840.71	12,926.72

CA BAR #05-20211
EXHIBIT O - PAGE 3

	1-Aug	5,417.56	553.26	4,864.30	68,903.12	61,297.01	7,606.11
	1-Sep	5,417.56	516.77	4,900.79	64,002.34	61,756.74	2,245.60
	1-Oct	5,417.56	480.02	4,937.54	59,064.79	59,064.79	-
	1-Nov	5,417.56	442.99	4,974.57	54,090.22	54,090.22	-
	1-Dec	5,417.56	405.68	5,011.88	49,078.34	49,078.34	-
2000	1-Jan	5,417.56	368.09	5,049.47	44,028.86	44,028.86	-
	1-Feb	5,417.56	330.22	5,087.34	38,941.52		
	1-Mar	5,417.56	292.06	5,125.50	33,816.02		
	1-Apr	5,417.56	253.62	5,163.94	28,652.08		
	1-May	5,417.56	214.89	5,202.67	23,449.41		
	1-Jun	5,417.56	175.87	5,241.69	18,207.72		
	1-Jul	5,417.56	136.56	5,281.00	12,926.72		
	1-Aug	5,417.56	96.95	5,320.61	7,606.11		
	1-Sep	5,417.56	57.05	5,360.51	2,245.60		
	1-Oct	2,262.44	16.84	2,245.60	0.00		
	1-Nov						
	1-Dec						
2001	1-Jan						

TOTALS	<u>325,629.70</u>	<u>61,141.72</u>	<u>273,049.98</u>
---------------	--------------------------	-------------------------	--------------------------

TOTALS	<u>320,212.14</u>	<u>59,158.06</u>	<u>261,054.08</u>
---------------	--------------------------	-------------------------	--------------------------

1 **DECLARATION OF SERVICE**

2 I am over the age of eighteen years and not a party to the within action. My business
3 address is Hennigan, Bennett & Dorman, 601 South Figueroa Street, Suite 3300, Los Angeles,
4 California 90017.

5 On April 30, 2002, I served the following pleading:

6 **DECLARATION OF GERRIE SARGENT IN SUPPORT OF STIPULATION AND ORDER
7 AUTHORIZING ALLOWANCE OF CLAIM NUMBER 107 (FILED BY CENTER
8 CAPITAL CORPORATION).**

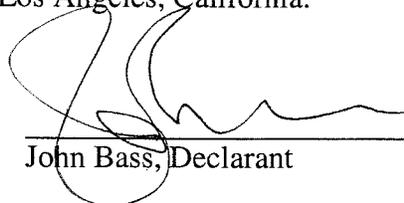
9 on the interested parties in this action by placing true copies thereof, enclosed in sealed
10 envelopes, with first-class postage thereon fully prepaid, in the United States mail at Los Angeles,
11 California addressed as follows:

12 See attached service list

13 I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States
14 mail at Los Angeles, California. I am readily familiar with the firm's practice of collection and
15 processing correspondence for mailing. Under that practice it would be deposited with the U.S.
16 postal service on that same day with postage thereon fully prepaid at Los Angeles California in
17 the ordinary course of business. I am aware that on motion of the party served, service is
18 presumed invalid if postal cancellation date or postage meter date is more than one day after date
19 of deposit for mailing in an affidavit

20 I declare that I am employed in an office of a member of the bar of this Court, at whose
21 direction the within service was made. I declare under penalty of perjury under the law of the
22 United States of America that the foregoing is true and correct.

23 EXECUTED on April 30, 2002, at Los Angeles, California.

24 
25 _____
26 John Bass, Declarant

CA BAR #05-20211
EXHIBIT O - PAGE 5

Debtor:

AUREAL, INC.
 Attn: Steve Mitchell
 PO Box 12587
 Pleasanton, CA 94588-2587

Secured Creditor as Agent:

Oaktree Capital Management LLC
 Attn: Richard Masson
 333 S. Grand Avenue, 28th Floor
 Los Angeles, CA 90071

Creditors' Committee Member:

UMC Group (USA)
 Attn: Huai-Jen Lu, Credit Manager
 488 Deguigne Drive
 Sunnyvale, CA 94086

Creditors' Committee Member:

Highsoft, Inc.
 Attn: R. Scott Holmgren, Gen. Mgr.
 1965 Latham Street
 Mountain View, CA 94040-2107

20 Largest Unsecured Creditor:

Caesar International, Inc.
 Attn: JoJo Estavillo
 1735 Technology Dr, Suite 300
 San Jose, CA 951110-1333

20 Largest Unsecured Creditor:

PC World Communications
 Attn: Kevin Greene
 PO Box 3700-67
 Boston, MA 02241-0767

20 Largest Unsecured Creditor:

Integra-Dyne Corp.
 Attn: Ren Condotta
 145 King Street, West, Suite 1000
 Toronto, ON M5H 1J8
 Canada

Creative Labs, et al Req. Spec. Notice:

Erika Rottenberg, Esq.
 Creative Labs, Inc.
 1901 McCarthy Boulevard
 Milpitas, CA 95035

I/O Magic Req. for Spec. Notice:

Lawrence M. Cron, Esq.
 Senn Palumbo Meulemans LLP
 18301 Von Karman Avenue, Suite 850
 Irvine, CA 92612

Debtor's Counsel:

Sidney Levinson
 Hennigan, Bennett & Dorman
 601 S Figueroa St., Suite 3300
 Los Angeles, CA 90017

Counsel to Oaktree Capital Mgmt.:

Eric Reimer, Esq.
 McDermott, Will & Emory
 2049 Century Park East, 34th Floor
 Los Angeles, CA 90067

Creditors' Committee Member:

Flatland Online, Inc.
 Attn: Terry Campbell
 4104 24th Street
 San Francisco, CA 94114

Creditors' Committee Member:

Finova Technology Finance, Inc.
 Attn: O'Neil Petrone, Collections Mgr.
 115 West Century Road, 3rd Floor
 Paramus, NJ 07652

20 Largest Unsecured Creditor:

Cadence Design Systems, Inc.
 Attn: Steve Mih
 555 River Oaks Parkway
 San Jose, CA 95134

20 Largest Unsecured Creditor:

VIFA-Speak A/S
 Attn: David Stephens
 1860 Renaissance Blvd
 Sturtevant, WI 53177

20 Largest Unsecured Creditor:

3DSL
 Attn: John Byrne
 Stone Barn Blisworth Hill Barns
 Stoke Road, Blisworth
 Northants, NN73DB, UK

Request For Special Notice:

Orrick, Herrington & Sutcliffe
 Attn: Thomas C. Mitchell, Esq.
 400 Sansome Street
 San Francisco, CA 94111-3143

Caesar Intl Req for Special Notice:

William C. Lewis, Esq.
 Law Offices of William C. Lewis
 510 Waverley Street
 Palo Alto, CA 94031

Request for Special Notice:

Ritter, Van Pelt & Yi, LLP
 Attn: Jack Limper
 4906 El Camino Real, Suite 205
 Los Altos, CA 94022

Office of the U.S.Trustee:

U.S. Trustee
 Attn: Mark L. Pope, Esq.
 1301 Clay Street, Suite 690N
 Oakland, CA 94612

Creditors' Committee Member:

Ocean Data Products
 5th Floor Kader Industrial Bldg.
 22 Kai Cheung Road
 Kowloon Bay
 Kowloon, Hong Kong

Creditors' Committee Member:

Juan Gonzalez
 KPMG
 3 Embarcadero Center, Suite 2000
 San Francisco, CA 94111

Creditors' Committee Member:

Imagine Media Inc. d/b/a PC Gamer
 Attn: David Palavi
 150 North Hill Drive
 Brisbane, CA 94005

20 Largest Unsecured Creditor:

Houlihan Lokey Howard & Zukin
 Attn: Glenn Daniel, Managing Director
 One Sansome Street, Suite 1700
 San Francisco, CA 94104

20 Largest Unsecured Creditor:

GE Capital
 Attn: Chris Smythe
 44 Old Ridgebury Road
 Danbury, CT 06810

20 Largest Unsecured Creditor:

Activision, Inc.
 Attn: George Rose
 3100 Ocean Park Boulevard
 Santa Monica, CA 90405

Creative Labs Req For Spec Notice:

Andrea J. Weiss, Esq.
 Munger, Tolles & Olson LLP
 355 South Grand Avenue, Suite 3500
 Los Angeles, CA 90071-1560

Ocean Data Products Req Spec. Not:

Patricia S. Mar, Esq.
 Morrison & Foerster LLP
 425 Market Street
 San Francisco, CA 94105

20 Largest Unsecured Creditors:

Ziff Davis
 Attn: Customer Service Dept.
 One Park Avenue
 New York, NY 10016

Finova Reg. for Special Notice:

Sachnoff & Weaver, Ltd.
Attn: Charles P. Schulman, Esq.
30 South Wacker Drive, Suite 2900
Chicago, IL 60606

Request For Special Notice:

Maggie Lewsadder
Makefield Securities Corporation
789 S. Federal Hwy., Suite 102
Stuart, FL 34994

Fremont Landlord:

Lam Research, Inc.
Attn: George M. Schisler, Jr.
4560 Cushing Parkway
Fremont, CA 94538-6470

SEC Reg. For Spec. Notice:

Sarah D. Moyed, Esq.
Securities & Exchange Commission
Pacific Regional Office
5670 Wilshire Blvd., 11th Floor
Los Angeles, CA 90036-3648

Req. for Special Notice:

Alan Yee
764 Pollard Road
Los Gatos, CA 95032

New York Dept of Tax req for not:

New York Dept of Taxation and Finance
Deputy Commissioner and Counsel
Attn: Amy J. Murphy
77 Broadway, Suite 112
Buffalo, NY 14203-1670

Creditor:

Circle International, Inc.
385 Valley Drive
Brisbane, CA 94005

Landlord:

Fifth Street Properties, LLC
c/o Commonwealth Partners, LLC
Attn: Mr. David Armstrong
633 West Fifth St., 72nd Floor
Los Angeles, CA 90071

Fifth Street Properties Req for Notice:

Pillsbury, Winthrop LLP
Attn: Craig Barbarosh/Kalman Steinberg
650 Town Center Drive, 7th Flr.
Costa Mesa, CA 92626-7122

RCG Carpathia Master req for notice:

RCG Carpathia Master Fund Ltd
Attn: Allison Coviello
666 Third Avenue, 26th Fl
New York, NY 10017

Request for Special Notice:

Christopher Beard, Esq.
Beard & Beard
4601 North Park Avenue
Chevy Chase, MD 20815

Creditors' Committee Member:

IT&E Corporation
Attn: Anthony D. Allocca
11 N. Market Street, Suite 730
San Jose, CA 95113

Counsel to Lam Research:

Dale L. Bratton, Esq.
Heller, Ehrman, White & McAuliffe
333 Bush Street, Suite 3000
San Francisco, CA 94104-2878

Req. for Spec. Notice:

Howard, Rice, et al
Attn: James Lopes/Gary Kaplan
3 Embarcadero Center, Suite 700
San Francisco, CA 94111

Debtor's Financial Advisor:

E&Y Restructuring LLC
Attn: Robert H. Warshauer
555 California Street,
San Francisco, CA 94104

Copelco Reg. for Spec. Notice:

Kenneth G. Lau
Hemar & Rousso
15910 Ventura Boulevard, 12th Flr.
Encino, CA 91436-2829

Debtor's Special Patent Counsel:

David N. Lathrop, Esq.
Gallagher & Lathrop, A Prof Corp.
601 California Street, Suite 1111
San Francisco, California 94108-2805

Counsel to 3DFX:

Hopkins & Carley
Attn: John Easterbrook, Esq.
70 South First Street
San Jose, CA 95113-2406

Dice, Inc.

PO Box 560573
The Colony, TX 85056

Counsel to Krystaltech:

Michael Y. Sukhman, Esq.
Law Office of M. Scott Vayer
620 Fifth Avenue
New York, New York 10020

Request for Special Notice:

Peter A. Chapman, Esq.
24 Perdicaris Place
Trenton, NJ 08618

Creditor's Committee Counsel:

Randy Michelson, Esq.
McCutcheon, Doyle, Brown & Enerson
3 Embarcadero Center
San Francisco, CA 94111

Vifa/Scan-Speak Req for Spec. Not:

David M. Meegan, Esq.
Meegan, Hanschu & Kassenbrock
1545 River Park Drive, Suite 550
Sacramento, CA 95815

Creative Labs Req. for Spec. Not:

Creative Labs, Inc.
Attn: Stacey Leong
1901 McCarthy Boulevard
Milpitas, CA 95035

Auditor to the Debtor:

Mohler, Nixon & Williams
Attn: Steve Vidlock
635 Campbell Technology Pkwy, #100
Campbell, CA 95008

Regen Capital Req. For Notice:

Elliott Herskowitz
Regen Capital I, Inc.
PO Box 626 Planetarium Station
New York, New York 10024-0540

Integra-Dyne Req. for Special Notice:

Tracy Green, Esq.
Wendel, Rosen, Black & Dean
1111 Broadway, 24th Floor
Oakland, CA 94607

Tax Accountants:

Neilson, Elggren LLP
Attn: Vernon Calder
230 South 500 East, Suite 425
Salt Lake City, UT 84102

Dice Inc. request for notice:

J. Mark Chevallier, Esq.
3550 Lincoln Plaza
500 N. Akard
Dallas, TX 85201

Argo Partners Request for Notice:

Matthew A. Gold, Esq.
Argo Partners, Inc.
12 West 37th St. 9th Fl
New York, NY 10018

Request for Notice Debt Acquisition:

DACA V. LLC
Attn: Tom Scheidt
2120 W. Washington Street
San Diego, CA 92110

Counsel to the Examiner:

Daniel M. Linchey, Esq.
Goldberg, Stinnett, Meyers & Davis
44 Montgomery Street, Suite 2900
San Francisco, CA 94104

Next Factor Request for Notice:

William Webb Farrer, Esq.
Law Offices of William Webb Farrer
300 Montgomery Street, Suite 789
San Francisco, CA 94104

Next Factor Request for Notice:

Edward Archambault
Next Factor, Inc.
72 Van Reipen Avenue, Suite 37
Jersey City, NJ 07306

EXHIBIT P

Exhibit P - Chronology of Attorney Misconduct

~ May 11, 2000

Aureal files Schedule of Assets and Liabilities which represented an amount owing to Center Capital Corp. of \$44,904.76. Exhibit K, p.2:6.

Note that Aureal's books and records were corrected to reflect an amount owing to Center Capitol Corp. of \$16,252.68. Exhibit O, p.2:12.

Jul 13, 2000

Sidney Levinson telephone conference with Argo Partners re status of case. Exhibit C, p. 2 (second fee application).

Aug 31, 2000

Center Capital files their proof of claim for \$39,668.22.

This claim supercedes the Center Capital claim for \$44,904.76 (the amount listed on Aureal's Schedule of Assets and Liabilities). Fed. R. Bankr. P. 3003(C)(4).

The basis for the claim was identified as "Lease Agreement and Plan of Reorganization Media Vision". Exhibit K, p.8.

May 11, 2000

May 12, 2000

Jul 13, 2000

Jul 14, 2000

Aug 31, 2000

Exhibit P - Chronology of Attorney Misconduct

Sep 27, 2000

Argo filed their Notice of Transfer of Claim identifying a Center claim for \$44,904.76. Exhibit Q, p.1.

This purported transfer was to no effect because:

- 1) there was no \$44,904.76 claim to transfer. Center's earlier filed proof of claim for \$39,668.22 superceded any prior claim amount Exhibit Q, p.1, therefore, Center remained the record owner of this claim and
- 2) the attempted transfer under Fed. R. Bankr. P. 3001(E)(1) or (3) was invalid as attempting to transfer before a proof of claim was filed, but Center Capital already filed a proof of claim on Aug. 31, 2000.

Sep 25, 2000

Center assigned their claim of an amount not less than \$44,904.76 to Argo. Exhibit Q, p.2.

Center Capital Corp. did not have a claim for \$44,904.76 at this time. This claim was superceded by Center Capital's prior filing of a proof of claim for \$39,668.22. Fed. R. Bankr. P. 3003(C)(4)

Oct 3, 2000

Sidney Levinson telephone conference with Argo Partners regarding purchased claims. Exhibit C, p. 6, 10 (3rd fee application).

Sep 1, 2000

Sep 25, 2000

Sep 26, 2000

Sep 27, 2000

Oct 3, 2000

Oct

Exhibit P - Chronology of Attorney Misconduct

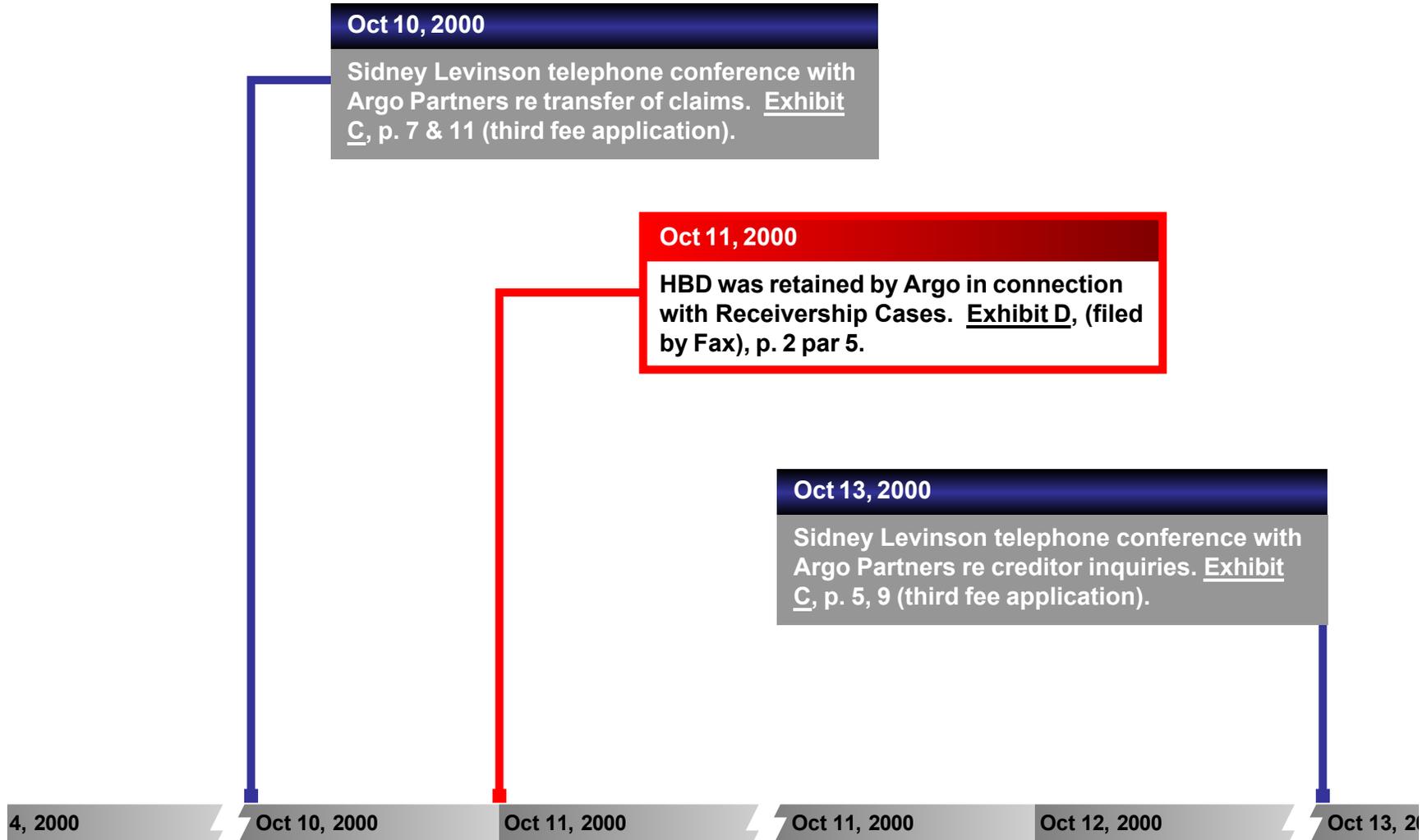


Exhibit P - Chronology of Attorney Misconduct

Dec 6, 2000

CA Attorney Sidney Levinson signs the debtors First Omnibus Objection which included an objection to Argo's "Center claim". Exhibit L, p.12. This was filed the next day.

Dec 5, 2000

Sidney Levinson telephone conference with Argo Partners re status. Exhibit C, p. 15 (fourth fee application).

Dec 1, 2000

Joshua Morse telephone conference with Argo Partners re claims. Exhibit C, p. 15 (fourth fee application).

000

Oct 14, 2000

Dec 1, 2000

Dec 2, 2000

Dec 5, 2000

Dec 6, 2000

Exhibit P - Chronology of Attorney Misconduct

Dec 12, 2000

Joanne B. Stern telephone conference with Argo Partners regarding Argo Partners information. Exhibit C, p. 14 (fourth fee application).

Dec 12, 2000

Joanne B. Stern preparation of correspondence to Ms. Sargent of Argo Partners regarding Argo Partners information. Exhibit C, p. 14 (fourth fee application).

Jan 17, 2001

The Court sustained the CA Attorney's objection to Argo's Center claim. Exhibit M. At that hearing, the Court ruled it would sustain any objections to individuals whose notice need correction.

Feb 9, 2001

Court entered Order sustaining the objection to Argo's Center claim which was disallowed and expunged in its entirety. Exhibit N.

Dec 12, 2000

Dec 13, 2000

Jan 17, 2001

Jan 18, 2001

Feb 9, 2001

Exhibit P - Chronology of Attorney Misconduct

Jun 6, 2001

Joanne B. Stern review creditor database regarding Argo Partners claims. Exhibit C, p. 17 (tenth fee application).

< Aug 7, 2001

Argo retained H&B a second time. On this day, CA Attorney Levinson continued a hearing date in the **Second Conflicted Representation**.

Argo was therefore retained a second time beginning sometime before this date, but after June 7, 2001, the date of the late filing of the disclosure of the **First Conflicted Representation**. Exhibit H, (Stipulation Filed in Second Conflicted Representation, signed by Sidney Levinson for H&B as attorney for Argo), p.2.

Apr 29, 2002

CA Attorneys sign stipulation between Argo and the Unsecured Creditors Committee on April 29, 2002 whereby Argo will be paid on the Center claim. Exhibit K.

This result came after the CA Attorneys previously obtained a valid and final **Court Order disallowing the Center claim in its' entirety**.

Note, the price Argo paid to Center for the claim is redacted in their pleading for the stipulation allowing the Center Claim. Exhibit K, p.10.

Feb 10, 2001

Jun 6, 2001

Jun 7, 2001

Aug 7, 2001

Aug 8, 2001

Apr

EXHIBIT Q

United States Bankruptcy Court

Northern District of California, Oakland Division

FILED

SEP 27 2000

**BANKRUPTCY COURT
OAKLAND, CALIFORNIA**

In re:

Aureal, Inc.

Chapter 11

Case No. 00-42104

Debtor

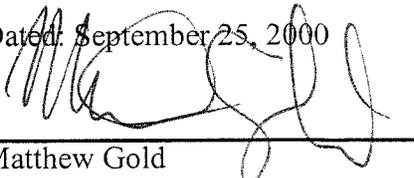
**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (1) or (3) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

1. TO: **Center Capital Corporation
PO Box 1188
Farmington, CT 06034**

2. Your entire claim as shown in the amount of **\$44,904.76** has been transferred pursuant to the Purchase Letter dated as of September 25th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: September 25, 2000


Matthew Gold
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT Q - PAGE 1

20

ASSIGNMENT OF CLAIM

Center Capital Corporation, having a mailing address at PO Box 1188, Farmington, CT 06034 ("Assignor"), in consideration of the sum of \$ (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aureal, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than \$44,904.76 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of _____ has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$44,904.76 that the Claim in that amount is valid and that no objection to the Claim has been made. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee, with specific limited authority, to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignee agrees to take any such further action, at its own expense, as it may deem necessary or desirable to effect any payments or distributions on account of the Claim to Assignee.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as Assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 25 day of September 2000.

ATTEST:

By: Wayne Johnson
Signature

Wayne Johnson, Special Asset Manager
Print Name/Title
Center Capital Corporation

860-405-2910
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 25th day of September 2000.

ATTEST:

By: Matthew A. Gold
Matthew A. Gold
Argo Partners, Inc.
212-643-5445

CA BAR #05-20211
EXHIBIT Q - PAGE 3

EXHIBIT R

December 28, 2005

Office of the Chief Trial Counsel/Intake
State Bar of California
1149 South Hill Street
Los Angeles, California 90015-2299

RE: California Bar Complaint Against Members of Hennigan, Bennett & Dorman LLP as Reorganization Counsel for Aureal, Inc. and Adverse Counsel for Oaktree.

Dear Chief Trial Counsel, California Bar:

This is my answer to question #7 on the accompanying California Bar ("Bar") Compliant Form against the named California-licensed attorneys ("CA Attorneys"), all of whom are present or former attorneys with the firm Hennigan, Bennett & Dorman LLP ("H&B"), in your state.

1.0 Nature of Complaint

The sole concern of this complaint is the CA Attorney's apparent failure to adhere to the California Bar Rule 3-310 which requires attorneys to obtain written informed consent of each client in circumstances where the interests of those clients are adverse to each other, in order to avoid the representation of adverse interests of those clients. The apparent failure to act in accordance with CRPC 3-310 is evidenced by specific events surrounding the initial retention of H&B by Aureal. It further apparently resulted in the impairment to Next Factors ("Next") and other unsecured creditors in the Aureal case, as discussed in section 2.9 *Apparent Harm to Next and Other Unsecured Creditors*.

I complain that while the circumstances requiring attorneys to obtain written informed consent were present in the Aureal case, it appears that H&B neither obtained the required written informed consent nor obtained a blanket waiver that the conflicted parties could knowingly and intelligently enter into. I further complain that any consent obtained by H&B must follow a written disclosure of the relevant circumstances and of the actual and reasonably foreseeable adverse consequences to the client¹, in accordance with CRPC 3-310(A).

¹This complaint is in regards to the apparent failure of H&B to obtain a written informed consent from their concurrent adverse clients: Aureal, the debtor-in-possession; Oaktree and the Oaktree Funds, the largest creditor in the Aureal case, as detailed in section 2.3 *Adverse Representation (CRPC 3-310)* of this complaint; and the Creditors Committee as detailed in section 2.4 *Relevance of CRPC 3-310 to CA Attorneys as Creditors Committee Fiduciary*, with respect to the initial retention of H&B by Aureal.

First I will set out what I believe to be the relevant portion of the California Rules of Professional Conduct (“CRPC”), followed by a brief note on ethics opinions, laws, rules, opinions of California courts, and standards regarding disclosure requirements of any actual or potential conflict under bankruptcy law that I ask to be considered when evaluating the conduct that forms the basis of this complaint; the apparent failure to obtain written informed consent at the outset of the Aureal case as required by CRPC 3-310. I do not know whether any other CRPC requirements may also be connected with the particular facts I set out below.

1.1 CRPC 3-310

The CA Attorneys apparently violated California Bar Rule 3-310 by failing to obtain written informed consent of each client, and other parties entitled to such related disclosure. This apparent failure would have occurred on the initial retention of H&B in the Aureal case, and in every subsequent instance when new potential or actual adverse issues arose between clients, as discussed in sections 2.3 *Adverse Representation* and 2.8 *Failure to Seek Renewed Consent*.

Rule 3-310. Avoiding the Representation of Adverse Interests.

(A) For purposes of this rule:

(1) "Disclosure" means informing the client or former client of the relevant circumstances and of the actual and reasonably foreseeable adverse consequences to the client or former client;

(2) "Informed written consent" means the client's or former client's written agreement to the representation following written disclosure;

(B) A member shall not accept or continue representation of a client without providing written disclosure to the client where:

(1) The member has a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; or

(3) The member has or had a legal, business, financial, professional, or personal relationship with another person or entity the member knows or reasonably should know would be affected substantially by the resolution of the matter; or

(C) A member shall not, without the informed written consent of each client:

(3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter.

1.2 Bankruptcy Proceedings

The need for full disclosure, as a prerequisite to valid consent among conflicted parties, is an integral element of CRPC 3-310 and the prime concern of this complaint. It is a necessary element of federal bankruptcy practice as well; and central to the context in which the conduct complained of takes place.

Full disclosure is of paramount import because it enables creditors and the US Trustee to be informed of the facts necessary to determine whether they should object to the employment of a debtor's attorney. Such possible objection to debtor's retention of an attorney by creditors or the US Trustee is provided for within 11 U.S.C. 327(a) and (c):

11 USC § 327. Employment of professional persons

(a) Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

(c) In a case under chapter 7, 12, or 11 of this title, a person is not disqualified for employment under this section solely because of such person's employment by or representation of a creditor, unless there is objection by another creditor or the United States trustee, in which case the court shall disapprove such employment if there is an actual conflict of interest.

The statute does not automatically cause a conflicted attorney to be disqualified as debtor's counsel, but rather requires disapproval of such employment if an actual conflict exists, after there has been an "*objection by another creditor or the United States trustee*". This begs the question: How will another creditor or the United States trustee know that an objection should be made?

The answer to this question lies in part with the CA Attorneys requirements of CRPC 3-310: the full disclosure required by this rule provides another creditor or the United States trustee with the information needed to determine if an objection should be made. This determination would be based on knowledge of an actual or apparent lack of

disinterestedness² or holding of any interest, or representing any interest adverse to the bankruptcy estate. Such a determination is dependent upon the disclosure provided to the court by the appointed lawyer or firm.

A full written disclosure and informed consent required by CRPC 3-310 thereby helps protect the members of the public who are creditors in bankruptcy proceedings in California, while further engendering confidence in the legal system by ensuring that bankruptcy lawyers provide the broad³, full⁴, and candid disclosure of all facts and connections which may be relevant in determining their eligibility for employment under § 327. Who then must come forward with the information concerning the conflict?

It is the duty of the attorney to make full disclosure of the conflict in a meaningful manner⁵. This is so regardless of the legal arena within which a conflict arises, whether it is bankruptcy or other law. An effective consent to waive a conflict must be in writing, and must fully inform the client⁶ about the nature and extent of the conflict.

2.0 Facts to My Understanding

2.1 About Next Factors

Next is a claims trader. Claims trading has become “big business” and has attracted a wide variety of players. However, as the scope of the claims trading activity has increased, so too has the potential for corrupt practices and actions involving the professionals retained in those related proceedings. Despite the rampant claims trading

² *In re Sullivan*, 1992 U.S. Dist. LEXIS 3954, at *14 (E.D. Pa. 1992) (“It is not sufficient that the trustee and his counsel actually be disinterested; the appearance of interestedness must also be avoided”).

³ *See Diamond Lumber v. Unsec'd Creditors' Comm.*, 88 B.R. 773, 777 (N.D. Tex. 1988) (noting that the disclosure duty is so broad because the court, rather than the attorney, must decide whether the facts constitute an impermissible conflict).

⁴ *See In re Bolton-Emerson*, 200 B.R. 725, 731 (D. Mass. 1996); *In re Blinder, Robinson & Co.*, 131 B.R. 872 (cautioning that, in bankruptcy cases, full disclosure of all potential adverse interests should be a principle of first magnitude).

⁵ *In re California Cannery and Growers (Bkrcty.N.D.Cal. 1987)* 74 B.R. 336. *See also Image Technical Services, Inc. v. Eastman Kodak Company* (N.D. Cal. 1993) 820 F. Supp. 1212, 1217. *See also Schmitz v. Zilveti* (9th Cir. 1994) 20 F.3d 1043, 1048-1049 (a lawyer has a duty to investigate for his own potential conflicts of interest).

⁶ *See Image Technical Services, Inc. v. Eastman Kodak Company* (N.D. Cal. 1993) 820 F. Supp. 1212, 1216-1217 (Consent to waive a conflict under CRPC 3-310 was not effective where it was not in writing and where the client was not informed (i) how the proposed representation would be adverse to the client's interest, (ii) that the law firm was actually going to appear on a brief against the client or (iii) of the potential exposure to the client.).

involved in large bankruptcy cases, there are few precautions in place to avoid corrupt practices and actions involving bankruptcy professionals.

Next is engaging itself in the national debate for federal bankruptcy reformation as a result of the harm that Next and similarly situated creditors have as a result of a number of such practices. Our first area of focus relates to state bar ethical requirements of bankruptcy lawyers in connection to their disclosure requirements under federal bankruptcy practice.

2.2 About H&B

A substantial portion of H&B's business involves the representation of large corporate 11 debtors. The CA Attorneys named in this complaint served as reorganization counsel for Aureal, Inc.

2.3 Adverse Representation (CRPC 3-310)

H&B engaged in concurrent representation of the debtor and an entity which was both the secured creditor and majority shareholder in the Aureal case. The CA Attorneys apparently did so without adhering to the requirements of CRPC 3-310. The employment began with Aureal, Inc, filing their "Application Of Debtor And Debtor In Possession For Authority To Employ Hennigan & Bennett As Reorganization Counsel" on April 5, 2000 with the US Bankruptcy Court for the Northern District of California attached as Exhibit A (the "Application"), and the CA Attorney James O. Johnston Declaration in support of that Application on April 5, 2000, attached as Exhibit E (the "First Declaration").

The First Declaration disclosed that H&B was representing an affiliate of the largest secured creditor and shareholder. The First Disclosure further informed the Court about an unrelated court case in which H&B was serving as counsel for Oaktree Capital Management, LLC ("Oaktree"). The CA Attorney's were thereby concurrently serving as adverse counsel for a firm that was affiliated with the largest creditor and equity holder in the case, the Oaktree Funds. The information in this declaration clearly required the CA Attorneys to seek written informed consent of each client. A subsequent declaration by CA Attorney Johnston provided new disclosure.

On April 13, 2000, a Supplemental Declaration of CA Attorney James O. Johnston was filed with the court. This declaration provided additional information about

H&B's representation of Oaktree attached as Exhibit B (the "Oaktree Disclosure"). The information in this declaration, omitted from the First Declaration, clearly required the CA Attorneys to seek, for the second time, written informed consent of each client.

The Oaktree Disclosure informed the court that Oaktree was an affiliate of, related to, or manager of various funds (the "Oaktree Funds") that asserted secured claims against Aureal, Inc. in the amount of approximately \$18,151,739.00. This amount constituted the majority of the liabilities of the Aureal. An enumeration of the entities constituting the Oaktree Funds was also disclosed.

The Oaktree Funds represented 8 separate entities: 1) OCM Opportunities Fund II, L.P., 2) PCW Special Credits Funds IIIb, 3) TCW Special Credits Trust, 4) TCW Special Credits Trust IIIb, 5) The Board of Trustees of the Delaware State Employees' Retirement Fund, 6) Weyerhaeuser Company Master Retirement Trust, 7) Columbia/HCA Master Retirement Trust, and 8) OCM Administrative Services II, LLC. The Oaktree Disclosure represented that one or more of the Oaktree Funds were affiliates of, related to, or managed by Oaktree. The conflicts that did or could arise between Aureal and Oaktree required that the CA Attorneys obtain the informed written consent required in CRPC 3-310 for each of their clients affected by this actual or potential adversity: Aureal, Oaktree, and each of the Oaktree Funds.

2.4 Relevance of CRPC 3-310 to CA Attorneys as Creditors Committee Fiduciary

Aureal was the debtor-in-possession ("DIP") in their bankruptcy case, a fact which impacts their attorney's requirements under CRPC 3-310⁹. This impact stems from the special trustee powers that a DIP enjoys under the bankruptcy code, and the attached responsibility the DIP inherits to act as a fiduciary for creditors. A lawyer who undertakes to fulfill instructions of the client in cases where the client is a fiduciary may actually assume a relationship not only with the client but also with the client's intended beneficiaries¹⁰. In this way, the CA Attorneys owe a duty to third-party creditor beneficiaries when representing a debtor-in-possession with fiduciary duties. Therefore, the CA Attorneys should have provided a written disclosure to the Creditors Committee.

⁹ A debtor-in-possession in Chapter 11 bankruptcy cases acts as the bankruptcy trustee in the case, with all of the attendant duties of a fiduciary toward each creditor in the case. In re Kelton Motors Inc., 109 B.R. 641, 645 (Bankr. D. Vt. 1989). Cf. In re Grabill Corp., 113 B.R. at 970.

¹⁰ See Lucas v. Hamm (1961) 56 Cal.2d 583, 15 Cal.Rptr. 821, 364 P.2d 685 (when a lawyer is retained to draft a will, the document's very purpose is to create a benefit for a legatee, and hence a duty is owed to the legatee even though the legatee and the lawyer are not in privity of contract); Morales v. Field, DeGoff, Huppert & MacGowan (1st Dist. 1979) 99 Cal.App.3d 307, 160 Cal.Rptr. 239 (a lawyer representing a trustee assumes a relationship with the beneficiary akin to that between trustee and beneficiary and thus assumes a duty of care toward the beneficiary).

2.5 Facts Illustrating Egregious Nature of Conflict¹¹

To the extent that H&B may have failed to adhere to CRPC 3-310 with respect to Aureal, Oaktree, Oaktree Funds, and the Creditors Committee, it is a potential willful breach made more egregious by the surrounding facts and circumstances. I understand that an overview of the factual context in which the possible unethical conduct complained of occurred is not a prerequisite to the applicability of CRPC 3-310. However, this context does illuminate the need to obtain the clients informed written consent in this case¹².

Aureal may have had a cause of action with one or more of Oaktree and the Oaktree Funds, or Aureal may have wanted to subordinate Oaktree or the Oaktree Funds claims behind that of the other creditors in the case, either of which would certainly place the CA Attorney client's interests adverse to those of the debtor. Such a cause of action may be found within the facts surrounding Aureal's entry into bankruptcy. According to the Aureal ex-CEO, Kenneth Kokinakis, as reported by Ziff Davis Media and attached here as Exhibit C (the "Aureal Power Struggle"):

"Management hoped to sell to avoid bankruptcy, while the shareholders thought we should hold out for a better deal. So we left"

According to the Aureal Power Struggle article, there was a management walkout at Aureal involving all eight corporate officers listed in Aureal's annual report. Moreover, four out of the five members of the board of directors also left the company. The sole remaining board member was a principal at Oaktree. At the time, Oaktree held the majority interest in Aureal.

By way of review, we ask the following rhetorical questions: Who was the shareholder holding out for a better deal? Oaktree; Who funded Aureal? Oaktree; Who was left running Aureal prior to filing for bankruptcy? Oaktree; Who became a secured party at the 11th hour? Oaktree; Who made the decision to file for bankruptcy? Oaktree¹³.

¹¹ "Integrity is the very breath of justice. Confidence in our law, our courts, and in the administration of justice is our supreme interest. No practice must be permitted to prevail which invites towards the administration of justice a doubt or distrust of its integrity." Erwin M. Jennings Co. v DiGenova, 107 Conn. 491, 499, 141 A. 866, 868 (1928).

¹² The text of CRPC 3-310 contains no "material adverse effect" requirement as a prerequisite to the rule's applicability in a case of concurrent adverse representation. Similarly, the rule applies regardless of the CA Attorney's reasonable belief about the lack of adverse effect on the representation of their clients.

¹³ Indeed, it would appear to me that Aureal acts as the mere "Alter Ego" of its largest shareholder, sole secured creditor, and sole board member.

Among the potential claims or against Oaktree and the Oaktree Funds, or the defenses to their claims, at the time the CA Attorney's undertook concurrent representation would have been all those based on theories of aiding and abetting, equitable subordination, validity of the security interest, deepening insolvency and fraudulent conveyance ("Lender Issues"). These facts underscore the importance of full disclosure and informed consent of the parties prior to such representation¹⁴. They also are instructive to the CA Attorneys: any written disclosure of the relevant circumstances and of the actual and reasonably foreseeable adverse consequences to the client would have to include, without limitation, a full disclosure of these Lender Issues, as required by and in accordance with CRPC 3-310(A).

2.6 Blanket Waiver

Any blanket waiver which H&B may have received from Aureal could not serve to contractually circumvent the CA Attorney's obligations to obtain an informed written consent under CRPC 3-310 during the initial retention of H&B by Aureal. The disclosure required must further have conformed to the definition in CRPC 3-310(A). Each of the CA Attorneys has the duty to make a full disclosure of the actual or potential conflicts to their clients, in a meaningful manner²⁰. Such disclosure should, at a minimum, include the information as discussed in section 2.5 *Facts Illustrating Egregious Nature of Possible CRPC 3-310 Violation*, including, without limitation, the Lender Issues. In this case, the CA Attorneys did obtain from Aureal advance consent to conflicts of interest that presently existed or that might arise in the future. It appears that the CA Attorney's did not, however, obtain the informed written consent prior to obtaining this blanket waiver.

The advanced consent H&B did obtain appears in their Retainer Agreement with Aureal in the form of a "Blanket Waiver" on pages 3 and 4 of the attached Exhibit D (the "Blanket Waiver"). The CA Attorneys knew or should have known that Oaktree/Oaktree Funds were creditors in the Aureal bankruptcy case as they were listed on the proof of service list attached to the Application. Similarly, they would also have been informed as to the Lender Issues. These facts highlight the need for the CA Attorney's to have obtained an informed written consent. However, in accordance with

¹⁴"A lawyer for the debtor in possession represents the estate and owes duties to the entire creditor body. Because the bankruptcy process involves a competition among all of the creditors and shareholders for a share of a limited pie, all of the creditors' interests are potentially adverse to one another." Christopher W. Frost, *Are you really disinterested? Chapter 11 presents real problems in ethics*, ABA Section of Business Law Today, November/December (1998).

²⁰ *In re California Cannery and Growers* (Bkrcty.N.D.Cal. 1987) 74 B.R. 336.

CRPC 3-310, such consent was required *even in the absence of these additional facts* which reflect the egregious circumstances surrounding the apparent failure of the CA Attorney to obtain the informed written consent.

2.7 Apparent Failure to Obtain Informed Written Consent

On April 4, 2000, Aureal executed the H&B retainer agreement and became their client. Exhibit D. Oaktree was on the attached Service List. Exhibit B. H&B was required to obtain a written informed consent before April 4, 2000 between these concurrent adverse clients as required under CRPC 3-310. The only indication available from the bankruptcy court that these clients had consented to the concurrent and adverse representation of Aureal and Oaktree is from the statement of Attorney Johnston: "I am informed by other members of H&B that each of the Debtor, the Oaktree Funds, and Oaktree have consented to H&B's concurrent representation of the Debtor and Oaktree Funds." Exhibit B. In this case, the omitted information is more telling than the proffered hearsay.

Attorney Johnston does not state that he has either fully disclosed the true nature of the adversarial conflicts, including the Lender Issues, or has received written consent to the conflicted representation²³. No conflict waiver letter or written consent from Aureal, Oaktree, Oaktree Funds, or the Creditors Committee which mentions the Lender Issues was submitted into court, and we have reason to believe that none exists²⁴. Indeed, Next made requests for such written waivers with respect to the Oaktree Affiliates to the CA Attorneys and the Liquidating Trustee in this case; Next has yet to receive a response.

A separate violation of CRPC 3-310 may be associated with Attorney Johnston's subsequent statement: "The representation of large corporate chapter 11 debtors, who typically have sizable corporate and institutional creditors, constitutes a substantial portion of H&B's business. In fact, other members of H&B have informed me that H&B currently represents a chapter 11 debtor against which an Oaktree Affiliate also asserts significant secured claims. To the best of my knowledge, no person has asserted that H&B is not disinterested in that case."

Attorney Johnston does not indicate whether or not informed written consent was received in this instance. If such informed written consent was not obtained, then it would appear that this CA Attorney believes the burden of CRPC 3-310 rests not with

²³ See, e.g., In re Jaeger, 213 B.R. 578, 585-586 (Bankr. C.D. Cal. 1997).

²⁴ If any such waiver was received from Aureal, it should have been filed with the court.

himself but rather on CA Attorney's clients or opposing parties. This would not be the first instance where a CA Attorney misconstrued CRPC 3-310.

Page four of the Retainer Agreement (Exhibit D) discusses "Relationship Conflicts" involving H&B attorney spouses and other relatives who work at other law firms and companies. The blanket waiver that H&B obtained from Aureal was subject to the disclosure by H&B in the event that "[H&B] determines than any of the relationships likely would lead to a conflict situation." By this language, it appears that H&B again misconstrues CRPC 3-310 as applying to their clients only where the CA Attorney has a reasonable belief that the conflict may have an adverse effect on the representation of a client. On the contrary, CRPC 3-310 applies regardless of the CA Attorney's reasonable belief about the lack of adverse effect a conflict of interest will have on the representation of a client. Next has no knowledge of any H&B Relationship Conflicts, but we assert that if any exist, H&B must obtain the informed written consent required by CRPC 3-310.

2.8 Failure to Seek Renewed Consent

On April 13, 2000, the Oaktree Disclosure was filed with the Court. This supplemental declaration (Exhibit B) was submitted not at the CA Attorney's initiative, but rather in response to concerns raised by the Court at the initial hearing on the Application. In this supplemental declaration, Attorney Johnston discloses the following facts: 1) Oaktree asserts claims against Aureal in the amount of approximately \$18M, and 2) the CA Attorneys represent Oaktree in an unrelated action pending in the California Superior Court.

Even if the CA Attorneys had obtained the informed written consent from Oaktree, Oaktree Funds, and the Creditors Committee as required by CRPC 3-310 when first engaging the client, they were required to receive renewed informed written consent as a result of the new facts in the supplemental declaration.²⁵

2.9 Apparent Harm to Next and Other Unsecured Creditors

The unsecured creditors in this case were impaired as a result of H&B's apparent breach of their promise made to their concurrent and adverse clients that they "zealously pursue the interests of each of our clients, including in those circumstances in which we represent the adversary of an existing client in an unrelated case." Exhibit D. This harm occurred in at least two separate respects.

²⁵See, e.g., Klemm v. Superior Court, 75 Cal. App. 3d 893, 142 Cal. Rptr. 509, 513 (1977) opining that, once an actual conflict develops, a previous waiver of potential conflicts becomes ineffective). Cf. Cal. State Bar Standing Comm. On Prof'l Responsibility & Conduct, Formal Op. 1989-115 (1989) (approving blanket prospective waivers, but requiring a new waiver once a potential conflict ripens into an actual one).

First, the unsecured creditors, Next, and the US Trustee (“Harmed Parties”) were harmed by the absence of a disclosure of information relevant and necessary to them in determining whether or not they should object to the employment of H&B by the debtor in this case. Such a right is specifically provided for and fundamental to the bankruptcy code. 11 U.S.C. 327(A). Had H&B obtained the written informed consent of each client after first making a full disclosure of all issues relating to CRPC 3-310, which disclosure would include, at a minimum, the Lender Issues, either in their First Declaration, the Oaktree Disclosure, or to each client, then one or more of the Harmed Parties could have made an objection to the employment of the conflicted CA Attorneys. However, apparently such information was not disclosed and the case was managed in a fashion that resulted in speedy liquidation of debtor assets. The CA Attorneys appear to have either failed to address the Lender Issues or simply resolved all such issues in favor of the wealthier non-liquidating client²⁶. In either event, this first harm has resulted in additional harm.

Second, H&B did not retain outside counsel to review Lender Issues. As a result of the management of the case, the unsecured creditors, and Next, were left impaired while the only secured creditor, Oaktree, was paid in full. Had H&B retained outside counsel to review issues where Aureal and Oaktree’s interests were adverse, such as involving the Lender Issues discussed above, then an action may have been filed against one or more parties, such as Oaktree, that could have left Next and other creditors unimpaired while the conflicted client, Oaktree, would possibly have been paid less.

A written informed consent in compliance with CRPC 3-310(A), wherein all of the relevant circumstances, such as the Lender Issues, and of the actual and reasonably foreseeable adverse consequences was first disclosed and obtained by H&B, then Next and the other creditors may have been left unimpaired. This consent was required under CRPC 3-310 before April 4, 2000, when H&B retained a concurrent adverse client, and subsequently on April 13, 2000, when the Oaktree Disclosure was made.

²⁶ The Lender Issues discussed are common in fact situations similar to the one presented in this complaint. However, an attorney may not determine alone whether or not such potential issues may have an adverse effect on the representation of a client. Such an incredulous position would render CRPC 3-310 moot whenever a CA attorney holds a “reasonable belief” about the adverse affect an issue may have for a client.

3.0 Request

Given that H&B's conduct appears to violate the California Rules of Professional Conduct, 3-310, I respectfully request that the Office of the Chief Trial Counsel investigate this matter to see if the CA Attorneys should be subject to sanctions for their actions.

In order to ensure transparency in the Bar investigatory process, and to aid members of the Bar in determining what constitutes a disclosure in conformity with the definition in CRPC 3-310(A) in bankruptcy practice, I would ask that any purported written waiver produced by H&B be made available for public inspection. Further, I ask that H&B provide a complete statement of Relationship Conflicts, available for public inspection.

The simple facts giving rise to the complaint regarding the concurrent adverse representation of H&B and Oaktree appear straight-forward. Significant effort was expended in focusing this complaint solely on that topic in hopes that your investigation could proceed quickly. I look forward to learning about the outcome of your investigation in the near future. Meanwhile, I am available to answer any questions you may have.

Sincerely,

David P. O'Donnell, President

Date: _____

EXHIBIT A

COPY

BRUCE BENNETT (SBN 105430)
JAMES O. JOHNSTON (SBN 167330)
JOSHUA M. MESTER (SBN 194783)
HENNIGAN & BENNETT
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FILED
JUL 13 2011
CLERK OF COURT
DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

Proposed Reorganization Counsel for
Debtor and Debtor in Possession

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re
AUREAL, INC., d/b/a SILO.COM,
f/k/a AUREAL
SEMICONDUCTOR, INC., f/k/a
MEDIA VISION TECHNOLOGY,
INC., a Delaware corporation;

Debtor.

Case No. **100 42104**
(Chapter 11)

APPLICATION OF DEBTOR AND DEBTOR
IN POSSESSION TO EMPLOY HENNIGAN
& BENNETT AS REORGANIZATION
COUNSEL; DECLARATION OF JAMES O.
JOHNSTON IN SUPPORT

[No Hearing Required]

Aureal, Inc., the debtor and debtor in possession herein (the "Debtor"), hereby
applies to this Court for the entry of an order, in substantially the form of the proposed
order attached hereto as Exhibit A, authorizing it to employ the law firm of Hennigan &
Bennett ("H&B") as its reorganization counsel. In support of this Application, the Debtor
submits the accompanying Declaration of James O. Johnston (the "Johnston
Declaration") and respectfully represents as follows:

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HENNIGAN & BENNETT

CA BAR #05-20211
EXHIBIT R - PAGE 14

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1. On April 5, 2000 (the "Petition Date"), the Debtor commenced its reorganization case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code").

2. The Debtor is continuing in possession of its assets and is operating and managing its business as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. The Debtor's business is in the field of digital audio imaging, which is the process of creating a highly realistic audio experience by closely simulating the real world physics of audio. The Debtor has developed a series of audio products based upon its A3D technologies. One of the leading markets for the Debtor's audio products is the personal computer gaming market. As of the Petition Date, the Debtor was integrating its A3D technologies with internet based applications to increase its customer base.

4. On the Petition Date, the Debtor employed approximately 56 employees in offices located in Fremont, California and Austin, Texas. At these offices, the Debtor conducts sales, shipping, production, and research and development efforts.

Services to be Provided by H&B as Reorganization Counsel

5. The Debtor desires to employ H&B as its reorganization counsel in connection with this case on substantially the terms and conditions set forth in the retention agreement attached hereto as Exhibit B (the "Retention Agreement").

6. All attorneys comprising or associated with H&B who will render services in this case are or will be duly admitted to practice law in the Courts of the State of California and in the United States District Court for the Northern District of California. A summary of the experience and qualifications of these attorneys and paraprofessionals of H&B expected to render substantial services to the Debtor is attached hereto as Exhibit C.

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- 1 7. Among other things, as indicated in the Retention Agreement, the Debtor
2 requires H&B to render the following types of professional services:
- 3 • To advise the Debtor regarding matters of bankruptcy law;
 - 4 • To represent the Debtor in proceedings or hearings before this Court
5 involving matters of bankruptcy law;
 - 6 • To assist the Debtor in the preparation of reports, accounts,
7 applications, and orders;
 - 8 • To advise the Debtor concerning the requirements of the
9 Bankruptcy Code, Bankruptcy Rules, and United States Trustee Guidelines and
10 Requirements relating to the administration of this case and the operation of the
11 Debtor's business; and
 - 12 • To assist the Debtor in the negotiation, preparation, confirmation,
13 and implementation of a plan of reorganization.

14 8. As indicated in the Retention Agreement, however, except as set forth in
15 paragraphs 9, 10, and 11 below, the Debtor does not intend for H&B to be responsible for
16 appearances before any court or agency, other than before this Court and the office of
17 the United States Trustee; litigation before this Court with respect to matters which are,
18 in essence, disputes involving issues of nonbankruptcy law; or the provision of
19 substantive legal advice outside of the insolvency area, such as in areas implicating
20 patent, trademarks, intellectual property, corporations, taxation, securities, torts,
21 environmental, labor, criminal, or real estate law. Further, the Debtor does not intend
22 for H&B to be required to devote attention to, form professional opinions as to, or advise
23 the Debtor with respect to their disclosure obligations under nonbankruptcy laws or
24 agreements.

25 9. The Debtor anticipates that in addition to employing H&B as
26 reorganization counsel, the Debtor will require the services of litigation, corporate,
27 trademark and patent counsel. However, the Debtor does not expect that there will be
28 duplication in the services to be rendered to the Debtor by the separate counsel.

1 10. The Debtor may, from time to time, request that H&B undertake specific
2 matters beyond the limited scope of the responsibilities set forth above. Should H&B
3 agree in its discretion to undertake any such specific matters, the Debtor seeks authority
4 by this Application to employ H&B for such matters, in addition to those set forth above,
5 without further order of this Court.

6 11. H&B also has agreed to serve as counsel to the Debtor with respect to
7 certain nonbankruptcy litigation to be commenced on behalf of the Debtor. The terms
8 and conditions of that engagement are set forth in a separate engagement letter, which
9 will be submitted to the Court for approval with the appropriate notice.

10 **H&B's Compensation as Reorganization Counsel**

11 12. H&B has received a retainer of \$300,000 for services to be rendered to the
12 Debtor in connection with this chapter 11 case. H&B has deposited the unearned
13 portion of that retainer into a trust account in the name of the Debtor, as a trust
14 fund/security retainer, to secure the payment of H&B's allowed fees and expenses in
15 this case. During the one year period prior to the filing date of the chapter 11 petition,
16 H&B did not receive from the Debtor any other payments for services rendered to the
17 Debtor in connection with this case and the reorganization of its business.

18 13. H&B has agreed to accept as compensation for its services its retainer and
19 such additional reasonable sums as may be allowed by this Court in accordance with
20 law, based upon the time spent and services rendered, the results achieved, the
21 difficulties encountered, the complexities involved, and other appropriate factors, as set
22 forth in the Retention Agreement. A list of the guideline hourly rates for H&B and of
23 those members of H&B expected to render services to the Debtor is attached hereto as
24 Exhibit "D".

25 14. No additional compensation will be paid by the Debtor to H&B except
26 upon application to and approval by the Bankruptcy Court after notice and a hearing.

27 ///

28 ///

Disinterestedness

1
2 15. To the best of the Debtor's knowledge, based upon the Johnston
3 Declaration, except as they are or have been the attorneys for the Debtor, H&B and all of
4 the attorneys comprising or employed by it are disinterested persons who do not hold or
5 represent an interest adverse to the estates and who do not have any connection with the
6 Debtor, their creditors, or any other party in interest in these cases, or their respective
7 attorneys or accountants, except as stated in the Johnston Declaration.

8 16. Moreover, to the best of the Debtor's knowledge, based upon the Johnston
9 Declaration, H&B and all of the attorneys comprising or employed by H&B:

10 (a) are not and have not been an equity security holder or an insider of
11 the Debtor.

12 (b) are not and have not been an investment banker for any outstanding
13 security of the Debtor.

14 (c) are not and have not been an investment banker for a security of the
15 Debtor, or an attorney for such an investment banker in connection with the offer,
16 sale or issuance of any security of the Debtor.

17 (d) are not and have not been a director, officer or employee of the
18 Debtor or of any investment banker for any security of the Debtor.

19 (e) subject to the disclosures contained in the Johnston Declaration,
20 have no interest materially adverse to the interest of the estate or any class of
21 creditors or equity security holders, by reason of any direct or indirect
22 relationship to, connection with, or interest in, the Debtor or an investment
23 banker for any security of the Debtor, or for any other reason.

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18. The name, address and phone number of the person signing this Application on behalf of H&B and the relationship of such person to H&B is:

James O. Johnston, Partner
Hennigan & Bennett
601 S. Figueroa Street, Suite 3300
Los Angeles, California 90017
Telephone: (213) 694-1200

Summary

19. The employment of H&B as the Debtor's reorganization counsel is in the best interest of the estate.

20. The Debtor has served copies of the Application and certain related pleadings and documents on the Office of the United States Trustee, the creditors identified on the lists of creditors holding the twenty largest unsecured claims against the Debtor, and counsel to the Debtor's primary secured lender, Oaktree Capital Management, LLC.

1 WHEREFOR, the Debtor requests that it be authorized to employ H&B as its
2 reorganization counsel with compensation to be at the expense of the estate in such
3 amount as the Court may hereafter allow in accordance with law.

4
5 DATED: April 5, 2000

AUREAL, INC.

6
7
8 By: 
9 Steve Mitchell,
10 Chief Operating Officer

11 Submitted By:

12
13
14 By: 
15 James O. Johnston
16 Hennigan & Bennett
17 Proposed Reorganization Counsel for Debtor
18 And Debtor in Possession

EXHIBIT B

1 BRUCE BENNETT (SBN 105430)
2 JAMES O. JOHNSTON (SBN 167330)
3 JOSHUA M. MESTER (SBN 194783)
4 HENNIGAN & BENNETT
5 601 South Figueroa Street, Suite 3300
6 Los Angeles, California 90017
7 Telephone: (213) 694-1200
8 Facsimile: (213) 694-1234

9 Proposed Reorganization Counsel for
10 Debtor and Debtor in Possession

COPY
ORIGINAL FILED
APR 18 2000
COURT CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

11 UNITED STATES BANKRUPTCY COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 OAKLAND DIVISION

14 In re
15 AUREAL, INC., d/b/a SILO.COM,
16 f/k/a AUREAL SEMICONDUCTOR,
17 INC., f/k/a MEDIA VISION
18 TECHNOLOGY, INC., a Delaware
19 corporation;

20 Debtor.

21 Case No. 00-42104-T11
22 (Chapter 11)

23 SUPPLEMENTAL DECLARATION OF
24 JAMES O. JOHNSTON IN SUPPORT OF
25 APPLICATION OF DEBTOR AND
26 DEBTOR IN POSSESSION TO EMPLOY
27 HENNIGAN & BENNETT AS
28 REORGANIZATION COUNSEL

Date: April 17, 2000
Time: 3:30 p.m.
Place: Courtroom 201
1300 Clay Street
Oakland, CA 94612

29 I, James O. Johnston, declare:

30 1. I am a member in good standing of the Bar of the State of California, and I
31 am admitted to practice before, among other courts, the United States District Court for
32 the Northern District of California. I am a partner in Hennigan & Bennett ("H&B"),
33 proposed reorganization counsel for Aural, Inc., the debtor and debtor in possession
34 (the "Debtor") in the above-captioned bankruptcy case. I make this Supplemental
35 Declaration in further support of the "Application Of Debtor And Debtor In Possession

36 HENNIGAN & BENNETT

243

CA BAR #05-20211
EXHIBIT R - PAGE 22

1 For Authority To Employ Hennigan & Bennett As Reorganization Counsel" (the
2 "Application") and in response to concerns that I understand to have been raised by the
3 Court at the initial hearing on the Application. Except where otherwise indicated, I have
4 personal knowledge of the matters set forth below and, if called to testify, I would and
5 could competently testify thereto.

6 2. Based upon my review of the Debtor's books and records, it appears that
7 OCM Opportunities Fund II, L.P., TCW Special Credits Fund IIIb, TCW Special Credits
8 Trust, TCW Special Credits Trust IIIb, The Board of Trustees of the Delaware State
9 Employees' Retirement Fund, Weyerhaeuser Company Master Retirement Trust,
10 Columbia/HCA Master Retirement Trust, and OCM Administrative Services II, LLC
11 (collectively, the "Oaktree Funds") assert secured claims against the Debtor in the
12 amount of approximately \$18,151,739 and also that the Oaktree Funds own a majority of
13 the shares of the Debtor. H&B has been informed by the Oaktree Funds that one or
14 more of the Oaktree Funds are affiliates of, related to, or managed by Oaktree Capital
15 Management LLC ("Oaktree").

16 3. H&B represents Oaktree, on a contingent-fee basis, in an unrelated action
17 entitled Farallon Capital Partners, L.P., et. al. v. Gleacher & Co., Inc. et. al., which action
18 currently is pending in the California Superior Court in Los Angeles as Case Number BC
19 215260 (the "Farallon Litigation"). The Farallon Litigation involves alleged fraud by the
20 underwriters for a Thai steel company in connection with the issuance of bonds by that
21 Thai steel company. In the Farallon Litigation, Oaktree, as plaintiff, alleges that it was
22 damaged through the purchase of the Thai steel company's bonds, and Oaktree is
23 pursuing remedies against the underwriters.

24 4. To the best of my knowledge, none of the parties to the Farallon Litigation,
25 other than Oaktree, are parties in interest, or are affiliated with parties in interest, in the
26 above-captioned case in which H&B seeks employment. Also, to the best of my
27 knowledge, the controversies for which H&B represents Oaktree in the Farallon

28 ///

HENNIGAN & BENNETT

1 Litigation are entirely unrelated to any of the transactions conducted by any of the
2 Oaktree Funds with the Debtor.

3 5. I believe that H&B is "disinterested" with respect to the Debtor, within the
4 meaning of sections 101(14) and 327 of the Bankruptcy Code, notwithstanding its
5 ongoing representation of Oaktree on the Farallon Litigation.

6 6. Specifically, as indicated in that Declaration, H&B does not fall within the
7 criteria set forth in subsections (A) through (D) of section 101(14). Moreover, I do not
8 believe that H&B has an interest materially adverse to the interest of the Debtor's estate,
9 or to any class of creditors or equity security holders, for at least the following reasons:

10 a. As noted above, to the best of my knowledge, none of the parties to
11 the Farallon Litigation, other than Oaktree, are parties in interest, or are affiliated
12 with parties in interest, in the above-captioned case. Moreover, I believe that the
13 controversies for which H&B represents Oaktree in the Farallon Litigation are
14 entirely unrelated to any of the transactions conducted by any of the Oaktree
15 Funds with the Debtor.

16 b. The Farallon Litigation does not constitute a material percentage of
17 H&B's revenues or overall client base. Specifically, based upon information
18 provided to me from H&B personnel who regularly monitor and administer our
19 books and records, I believe that H&B devoted to the Farallon Litigation only
20 approximately 1.14% of the total hours billed by H&B professionals and
21 employees from March 1, 1999 through February 29, 2000. Thus, I believe that
22 H&B's representation of Oaktree in the Farallon Litigation does not constitute a
23 material portion of H&B's business. The overwhelming majority of H&B's
24 business relates to litigation and bankruptcy matters that do not involve Oaktree
25 or any of its affiliates.

26 c. I am informed by other members of H&B that each of the Debtor,
27 the Oaktree Funds, and Oaktree have consented to H&B's concurrent
28 representation of the Debtor and the Oaktree Funds.

HENNIGAN & BENNETT

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d. The representation of large corporate chapter 11 debtors, who typically have sizable corporate and institutional creditors, constitutes a substantial portion of H&B's business. In fact, other members of H&B have informed me that H&B currently represents a chapter 11 debtor against which an Oaktree affiliate also asserts significant secured claims. To the best of my knowledge, no person has asserted that H&B is not disinterested in that case.

7. In summary, I believe that H&B is disinterested notwithstanding H&B's representation of Oaktree in the unrelated Farallon Litigation, and I believe that the employment of H&B as requested in the Application is reasonable and appropriate under the circumstances.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 12th day of April, 2000, at Los Angeles, California.

By: 
James O. Johnston
Proposed Reorganization Counsel for Debtor
And Debtor in Possession

CA BAR #05-20211
EXHIBIT R - PAGE 25

DECLARATION OF SERVICE

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I am over the age of eighteen years and not a party to the within action. My business address is Hennigan, Mercer & Bennett, 601 South Figueroa Street, Suite 3300, Los Angeles, California 90017.

On April 13, 2000, I served the following pleading:

SUPPLEMENTAL DECLARATION OF JAMES O. JOHNSTON IN SUPPORT OF APPLICATION OF DEBTOR AND DEBTOR IN POSSESSION TO EMPLOY HENNIGAN & BENNETT AS REORGANIZATION COUNSEL

on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, with first-class postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as follows:

See attached Service List

The above-described pleading also was transmitted to the indicated parties set forth above in the manner described below:

By air courier service, for next business-day delivery by

By messenger service, for same-day delivery by hand by

By telecopy, for immediate receipt to those creditors marked with an asterisk.

I declare that I am employed in an office of a member of the bar of this Court, at whose direction the within service was made.

EXECUTED on April 13, 2000, at Los Angeles, California.

Kathryn S. Bowman

Kathryn S. Bowman, Declarant

PROOF OF SERVICE

CA BAR #05-20211
EXHIBIT R - PAGE 26

Debtor:
AUREAL, INC.
Attn: Steve Mitchell
7 Northport Loop West
Mont, CA 94538

Secured Creditor as Agent:
Oaktree Capital Management LLC
Attn: Richard Masson
333 S. Grand Avenue, 28th Floor
Los Angeles, CA 90071

20 Largest Unsecured Creditor:
UMC Group (USA)
Attn: Tam Kalvin
488 Deguigne Drive
Sunnyvale, CA 94086

20 Largest Unsecured Creditor:
Cadence Design Systems, Inc.
Attn: Steve Mih
555 River Oaks Parkway
San Jose, CA 95134

20 Largest Unsecured Creditor:
Ziff-Davis, Inc.
Attn: Customer Service
File #2082
Los Angeles, CA 90074-2082

20 Largest Unsecured Creditor:
World Communications
Attn: Kevin Greene
PO Box 3700-67
Boston, MA 02241-0767

20 Largest Unsecured Creditor:
Integra-Dyne Corp.
Attn: Ren Condorta
145 King Street, West, Suite 1000
Toronto, ON M5H 1J8
Canada

20 Largest Unsecured Creditor:
Highsoft, Inc.
Attn: Steve Campos
1965 Latham Street
Mountain View, CA 94040-2107

20 Largest Unsecured Creditor:
Orrick, Herrington & Sutcliffe
Attn: Terrence P. McMahon
1020 March Road
Menlo Park, CA 94025

Debtor's Counsel:
Bruce Bennett/Joshua Mester
Hennigan & Bennett
601 S Figueroa St., Suite 3300
Los Angeles, CA 90017

Counsel to Oaktree Capital Mgmt.:
Eric Reimer, Esq.
McDermott, Will & Emory
2049 Century Park East, 34th Floor
Los Angeles, CA 90067

20 Largest Unsecured Creditor:
Flatland Online, Inc.
Attn: Michael K. Powers
2325 Third Street, Suite 215
San Francisco, CA 94107

20 Largest Unsecured Creditor:
KPMG, LLP
Attn: Juan Gonzales
Dept. 0922
PO Box 120001
Dallas, TX 75312-0922

20 Largest Unsecured Creditor:
Houlihan Lokey Howard & Zukin
Attn: Glenn R. Daniel, Managing Director
49 Stevenson Street, 14th Floor
San Francisco, CA 94105

20 Largest Unsecured Creditor:
VIFA-Speak A/S
Stationsvej 5
6920 Videbaek
Denmark

20 Largest Unsecured Creditor:
3DSL
Attn: John Byrne
Blissworth Base Hill
Stoke Road, Busworth
Northants, UK NN73DB

20 Largest Unsecured Creditor:
Hruska Productions Audio, Inc.
Attn: Jennifer Hruska
66 Rear Dudley Street
Arlington, MA 02476

Request For Special Notice:
Orrick, Herrington & Sutcliffe
Attn: Thomas C. Mitchell, Esq.
400 Sansome Street
San Francisco, CA 94111-3143

Office of the U.S. Trustee: ★
U.S. Trustee
1301 Clay Street, Suite 690N
Oakland, CA 94612

20 Largest Unsecured Creditor:
Ocean Data Products
5th Floor Kader Industrial Bldg.
22 Kai Cheung Road
Kowloon Bay
Kowloon, Hong Kong

20 Largest Unsecured Creditor:
Caesar International, Inc.
Attn: JoJo Estavillo
2860 Zanker Road, Suite 210
San Jose, CA 95134

20 Largest Unsecured Creditor:
Avnet Electronics Marketing
Attn: Judy O'Brien
2105 Lundy Avenue
San Jose, CA 95131

20 Largest Unsecured Creditor:
Finova Technology Finance, Inc.
Attn: Lori P. Sullivan
115 West Century Road, 3rd Floor
Paramus, NJ 07652

20 Largest Unsecured Creditor:
GE Capital
Attn: Brian Haber
Dept. 3123
Pasadena, CA 91051-3123

20 Largest Unsecured Creditor:
Activision, Inc.
Attn: Andrea Tedeschi
3100 Ocean Park Boulevard
Santa Monica, CA 90405

20 Largest Unsecured Creditor:
PC Gamer
Attn: Robin Rosales
150 North Hill Drive
Brisbane, CA 94005

CA BAR #05-20211
EXHIBIT R - PAGE 27

EXHIBIT C



Power Struggle Forced Aural Walkout

March 6, 2003

By [Mark Hachman](#)

The mysterious last days of Aural Semiconductor were marred by a power struggle that culminated in a management walkout, according to the ex-chief executive of the company.

Kenneth "Kip" Kokinakis, who led Aural—the company that popularized the concept of virtualized HRTF sound on the PC—joined similarly named startup Aura Communications in January, in yet another bid to turn a struggling company around.



ADVERTISEMENT

Kokinakis joked about the similarity between his two companies' monikers. "Yeah, I thought Aura — Aural—here we go again," Kokinakis said in an interview. "At least this time, maybe we won't get sued."

Aural was founded on the principle that the experience of interacting with devices like a PC or a television set could be made more interactive through the use of "virtual" sound, which uses audio coding algorithms to fool the ear into thinking sounds were actually coming from behind, over, or under the listener. Aura Communications, meanwhile, has designed a personal-area-networking technology that rivals Bluetooth.

Aural's work prompted a number of competing technologies, the most recent being Dolby's [Virtual Speaker](#) algorithm.

But in late March 2000, Aural issued a statement claiming that the company needed an immediate infusion of cash to remain in business and that it was considering selling off its assets.

It ultimately sold out to Creative Labs; ironically, Aural had defended itself against Creative Labs in a bitter legal fight involving patents and claims of false advertising. Aural later estimated it spent \$6.4 million in 1999 solely on legal fees, while pulling in just slightly more in product revenue each quarter.

The day after Aural issued its plea for cash, management walked out en masse. All of the eight corporate officers listed in Aural's annual report, including the chief executive, chief financial officer,

chief technical officer, general counsel and sales executives, left the company. Four of the five members of the board of directors also left, save for D. Richard Masson, principal at Oaktree Capital Management LLC, Los Angeles, a venture -capital firm that held a majority stake in Aureal.

Kokinakis essentially vanished from the public eye for several years, quietly working as a consultant. Toni Schneider, Aureal's vice president of advanced audio products, now runs [Oddpost](#), a Webmail service paid for by customers, not ads. General counsel Brendan O'Flaherty joined broadband chip company [Massana](#).

Kokinakis said the walkout, which was never explained publicly, simply came down to a fight between shareholders and management. "We had exhausted our funds," he said. "Management hoped to sell to avoid bankruptcy, while the shareholders thought we should hold out for a better deal. So we left."

According to Kokinakis, he's applying some lessons from the Aureal ordeal to his new position at Aura Communications.

Aura now uses a fables model, while Aureal contracted with foundries to build and sell its audio components to companies such as the now-defunct Diamond Multimedia. That got Aureal into trouble, Kokinakis admitted, when Aureal began building its own add-on cards and shipping them to Diamond to resell. Aureal later took the plunge and started building and selling its cards under its own name.

In retrospect, Kokinakis said that strategy was a mistake.

"Had Diamond not folded, we could have done it," Kokinakis said. "But I think we were too greedy in that transaction. We were trying to build a brand, but I think we might have been better off in revenue sharing."

Still, Kokinakis said, the management team faced an uphill battle from the beginning. Aureal was formed from the ashes of Media Vision, an add-on card manufacturer that underwent a complete management and technology overhaul after its executives were indicted for fraud in 1998. Steven Allan, the ex-CFO of Media Vision, was found guilty of five counts of wire, mail and securities fraud last year following an eight-year investigation.

"It was almost impossible right from the beginning," Kokinakis said. "We just ran out of gas."

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EXHIBIT D

HENNIGAN & BENNETT

LAWYERS

601 SOUTH FIGUEROA STREET

SUITE 3300

LOS ANGELES, CALIFORNIA 90017

TELEPHONE (213) 694-1200

FACSIMILE (213) 694-1234

April 4, 2000

**VIA FACSIMILE
AND FEDERAL EXPRESS**

Aureal, Inc.
45757 Northport Loop West
Fremont, CA 94538
[facsimile no. 510-252-4554]

**Re: Retainer Agreement between Hennigan & Bennett and Aureal, Inc.,
And Its Subsidiaries, Crystal River Engineering, Inc., and Aureal
Limited Regarding Bankruptcy Representation**

Gentlemen:

This letter sets forth the terms and conditions upon which Hennigan & Bennett ("H&B") will represent Aureal, Inc., and its wholly-owned subsidiaries Crystal River Engineering, Inc., and Aureal Limited (collectively, "Aureal"), in connection with the filing and prosecution of chapter 11 bankruptcy cases for one or more of them in the United States Bankruptcy Court for the Northern District of California, Oakland Division.

H&B will act as Aureal's special reorganization counsel to render such ordinary and necessary legal services as may be required in connection with the contemplated chapter 11 cases, including:

1. Assisting Aureal in the preparation of its bankruptcy petition(s), schedule(s) of assets and liabilities, statement(s) of financial affairs, and such other documents as are required to be filed with the Bankruptcy Court and the Office of the United States Trustee to commence and proceed with the chapter 11 case(s);
2. Advising Aureal with respect to the sale of some or all of its assets and with respect to the negotiation, preparation, and confirmation of a plan or plans of reorganization;

HENNIGAN & BENNETT

Aureal, Inc.

Chapter 11 Retainer Agreement

April 4, 2000

Page 2

3. Assisting Aureal in preparing and obtaining approval of a disclosure statement or statements;
4. Appearing at meetings of creditors;
5. Representing Aureal in litigation in the Bankruptcy Court where such litigation involves substantial and material issues of bankruptcy law; and
6. Advising Aureal regarding its legal rights and responsibilities as a debtor in possession under the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the United States Trustee Guidelines and Requirements.

Please be advised that H&B's employment as Aureal's special reorganization counsel does not include any of the following: (a) appearances before any court or agency other than the Bankruptcy Court and the Office of the United States Trustee; (b) litigation in the Bankruptcy Court with respect to matters which are, in the main, disputes involving issues of nonbankruptcy law; and (c) the provision of advice outside the insolvency area, including advise with respect to matters such as patent, trademark, corporations, taxation, securities, torts, environmental, labor, criminal, and real estate law. Further, the limited scope of our employment as Aureal's special reorganization counsel does not include giving attention to, forming professional opinions as to, or advising you with respect to, disclosure obligations under federal securities or other nonbankruptcy laws or agreements.

As you are aware, H&B also has agreed to serve as counsel to Aureal with respect to certain nonbankruptcy litigation to be commenced on behalf of Aureal. The terms and conditions of that engagement are set forth in a separate engagement letter, which letter is to be read and interpreted consistently and concurrently with the terms and conditions set forth herein.

With respect to H&B's services as special reorganization counsel pursuant to this engagement letter, Aureal has agreed to pay H&B a reasonable fee for services rendered and to be rendered and to pay H&B for all costs and expenses charged to its account. We have requested and Aureal agreed to pay the sum of \$300,000 as a retainer for the professional services that H&B will render and for the expenses that H&B will incur as special reorganization counsel, as well as additional security for Aureal's obligations to H&B. H&B's engagement is contingent on its receipt of that sum prior to the commencement of any bankruptcy proceedings with respect to Aureal. The retainer amount may be allocated by H&B among the entities comprising Aureal in any manner in which H&B deems appropriate.

HENNIGAN & BENNETT

Aureal, Inc.

Chapter 11 Retainer Agreement

April 4, 2000

Page 3

Following exhaustion of the retainer, H&B will seek additional compensation for services rendered during the course of the chapter 11 cases ("interim compensation") based in part upon our guideline hourly rates. These rates range from \$200 to \$460 per hour for attorneys, from \$90 to \$340 per hour for financial consultants, and from \$50 to \$155 for paralegals and clerks. Our guideline hourly rates are adjusted periodically, typically on January 1 of each year, to reflect the advancing experience, capabilities and seniority of our professionals as well as general economic factors.

Our requests for interim compensation also will include charges for reasonable costs and expenses incurred in connection with the engagement. Such costs and expenses typically include, among others, charges for messenger services, air couriers, word processing services, secretarial overtime, photocopying, postage, long distance telephone service, computerized legal research facilities, process service, investigative searches, and other charges customarily invoiced by law firms in addition to fees for legal services, including court fees and travel expenses. In the event that we incur expenses that we deem to be extraordinary or significant, such as transcript costs or sizable outsourced photocopying expenses, you agree that Aureal will pay those expenses directly.

It is H&B's practice to charge our clients for services rendered based upon not only the total number of hours of services rendered charged at guideline hourly rates, but also upon such other factors as the complexity of the problems presented to us, the amount at issue, the nature, quality and extent of the opposition encountered, the results accomplished, the skill we exercised in accomplishing those results, the extent to which our services were rendered outside the Los Angeles area, after normal business hours or on other than normal business days, delay in our receipt of compensation, and the extent to which we were at risk in being paid. When our representation is ended, the firm will determine the amount of the total fees and will send Aureal a final statement, which may reflect a fee that exceeds the interim compensation previously sought or invoiced by H&B. To the extent that H&B's final fee exceeds the total number of hours of services rendered charged at guideline hourly rates, H&B will consult with Aureal before setting that final fee.

Because of the specialized nature of our practice, from time to time H&B may concurrently represent one client in a particular case and the adversary of that client in an unrelated case. Thus, for example, while representing Aureal, H&B also may represent a creditor of Aureal in that creditor's capacity as a debtor or as a creditor of an entity which is not related to Aureal. In addition, while representing Aureal, H&B may represent an account debtor of Aureal as a debtor in a reorganization case or in connection with out-of-court negotiations with such entity's creditors concerning the

HENNIGAN & BENNETT

Aureal, Inc.

Chapter 11 Retainer Agreement

April 4, 2000

Page 4

entity's ability to pay its debts generally. Please be assured that, despite any such concurrent representation, we strictly preserve all client confidences and zealously pursue the interests of each of our clients, including in those circumstances in which we represent the adversary of an existing client in an unrelated case. Aureal agrees that it does not consider such concurrent representation, in unrelated matters, of Aureal and any adversary to be inappropriate and therefore waives any objections to any such present or future concurrent representation.

Also, several attorneys at H&B have spouses, parents, children, siblings, fiances or fiancées who are attorneys at other law firms and companies. H&B has strict policies against disclosing confidential information to anyone outside the firm, including spouses, parents, children, siblings, fiances and fiancées. You agree that you do not consider our representation of Aureal to be inappropriate in light of any such relationships, and H&B agrees to advise Aureal in the event that it determines that any of the relationships likely would lead to a conflict situation.

H&B maintains a policy that it does not provide opinion letters to its clients or to others who might wish to rely on such letters. We do not alter this policy except under very unusual circumstances and then only upon further written agreement, which provides for compensation to us for the special risks attendant to the furnishing of such opinions. H&B maintains errors and omissions insurance coverage applicable to the services to be rendered hereunder which complies with the requirements imposed by California Business and Professions Code sections 6147(a)(6) and 6148(a)(4).

By this agreement, HMB is being engaged only by Aureal and its subsidiaries, which are corporate entities. Our employment does not include the representation of any individual officer, director, shareholder, employee or any affiliate of Aureal.

Aureal may discharge H&B at any time. H&B may withdraw at any time with Aureal's consent or for good cause without Aureal's consent. Good cause for H&B's withdrawal includes Aureal's breach of this agreement (including Aureal's failure to pay any statement or invoice when due), Aureal's refusal or failure to cooperate with us, or any fact or circumstance that would render our continuing representation unlawful or unethical.

By executing this agreement you acknowledge that you have read carefully and understand all its terms. This letter constitutes the entire understanding between Aureal and H&B regarding our employment as special reorganization counsel, and this agreement cannot be modified except by further written agreement signed by each party. As noted above, the terms and conditions of H&B's engagement by

HENNIGAN & BENNETT

Aureal, Inc.

Chapter 11 Retainer Agreement

April 4, 2000

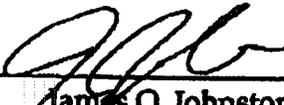
Page 5

Aureal with respect to certain nonbankruptcy litigation matters are set forth in a separate engagement letter.

If you have any questions about the foregoing, please call Josh Mester, or me. Moreover, please feel free to obtain independent legal advice regarding this agreement. If you are in agreement with the foregoing, and it accurately represents your understanding of Aureal's retainer agreement with H&B with respect to services as special reorganization counsel, please execute the enclosed copy of this letter and return it to me. If not, please contact us immediately. We look forward to working with you on these cases.

Very truly yours,

HENNIGAN & BENNETT

By 
James O. Johnston

THE FOREGOING IS APPROVED AND AGREED TO:

DATED: April 4, 2000

AUREAL, INC.

By: 
Its: Chief Operating Officer

Aureal, Inc.'s Taxpayer I.D. Number: 94-3117385

F:\Client Files A-H\Client Files A\Aureal\Ext Correspondence\retainer agmt for ch 11 jo322000.doc

CA BAR #05-20211
EXHIBIT R - PAGE 36

EXHIBIT E

COPY

BRUCE BENNETT (SBN 105430)
JAMES O. JOHNSTON (SBN 167330)
JOSHUA M. MESTER (SBN 194783)
HENNIGAN & BENNETT
601 South Figueroa Street, Suite 3300
Los Angeles, California 90017
Telephone: (213) 694-1200
Facsimile: (213) 694-1234

CO COPY
CO APP-5 PM 12:33
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIF.

Proposed Reorganization Counsel for
Debtor and Debtor in Possession

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re
AUREAL, INC., d/b/a SILO.COM,
f/k/a AUREAL
SEMICONDUCTOR, INC., f/k/a
MEDIA VISION TECHNOLOGY,
INC., a Delaware corporation;

Case No. **00 42104**
(Chapter 11)

DECLARATION OF JAMES O. JOHNSTON IN
SUPPORT OF APPLICATION OF DEBTOR
AND DEBTOR IN POSSESSION TO EMPLOY
HENNIGAN & BENNETT AS
REORGANIZATION COUNSEL

Debtor.

[No Hearing Required]

I, James O. Johnston, declare:

1. I am a member in good standing of the Bar of the State of California. I am admitted to practice before, among other courts, the United States District Court for the Northern District of California. I am a partner in Hennigan & Bennett ("H&B"), proposed reorganization counsel for Aural, Inc., the debtor and debtor in possession (the "Debtor") in the above-captioned bankruptcy case. I make this Declaration in support of the "Application Of Debtor And Debtor In Possession For Authority To

HENNIGAN & BENNETT

CA BAR #05-20211
EXHIBIT R - PAGE 38

1 Employ Hennigan & Bennett As Reorganization Counsel (the "Application"). I have
2 personal knowledge of the matters set forth below and, if called to testify, I would and
3 could competently testify thereto.

4 2. This Declaration is made pursuant to 11 U.S.C. §§ 327, and 329(a) and Rule
5 2016(b) of the Federal Rules of Bankruptcy Procedure.

6 3. By the Application, the Debtor has applied to the Court for authority to
7 engage H&B as its reorganization counsel on substantially the terms and conditions set
8 forth in the retention agreement attached as Exhibit B to the Application (the "Retention
9 Agreement").

10 4. To the best of my knowledge, information, and belief, all attorneys
11 comprising or employed by H&B who will render services in this case are or will be duly
12 admitted to practice law in the courts of the State of California and in the United States
13 District Court for the Northern District of California and are familiar with the
14 Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy
15 Rules for this District.

16 5. H&B has received a retainer of \$300,000 for services to be rendered to the
17 Debtor in connection with this chapter 11 case. H&B has deposited the unearned
18 portion of the retainer in a trust account in the name of the Debtor, as a trust
19 fund/security retainer, to secure the payment of H&B's allowed fees and expenses in
20 this case. During the one year period prior to the filing date of the chapter 11 petition,
21 H&B did not receive from the Debtor any other payments for services rendered to the
22 Debtor in connection with this case and the reorganization of its business. H&B does not
23 have a prepetition claim against the Debtor's estate.

24 6. H&B has agreed to accept as compensation for its services its retainer and
25 such additional reasonable sums as may be allowed by this Court in accordance with
26 law, based upon the time spent and services rendered, the results achieved, the
27 difficulties encountered, the complexities involved, and other appropriate factors. As set
28 forth in the Retention Agreement, the Debtor has agreed to pay H&B a reasonable fee.

HENNIGAN & BENNETT

1 Such fee may exceed fee calculated by reference to H&B's standard guideline hourly
2 rates.

3 7. I understand that the provisions of Sections 328, 329 and 330 of the
4 Bankruptcy Code and Federal Rule of Bankruptcy Procedure 2016 require, among other
5 things, Court approval of employment of professionals and Court authorization of any
6 fees and costs that H&B shall receive from the Debtor after appropriate notice and a
7 hearing.

8 8. H&B has not shared or agreed to share any compensation for its
9 representation of the Debtor with any other person, except as among the members of
10 H&B.

11 9. H&B represents Oaktree Capital Management, LLC, an affiliate of the
12 Debtor's largest secured creditor and largest equity holder, in an unrelated litigation
13 matter entitled Farallon Capital Partners, L.P., et. al. v. Gleacher & Co., Inc. et. al., which
14 is pending in the California Superior Court in Los Angeles, as case number BC 215260.
15 Despite that concurrent representation which is within the scope of and permitted by
16 retention agreement, I believe that H&B is "disinterested" within the meaning of section
17 101(14) of the Bankruptcy Code, and does not hold or represent an interest materially
18 adverse to the estates within the meaning of section 327 of the Bankruptcy Code.

19 10. Except as set forth above, to the best of my knowledge, information, and
20 belief, neither H&B nor any of the attorneys comprising as employed by it has any prior
21 connection to the Debtor or is an insider of the Debtor or any other related entities in
22 which the Debtor may have an interest, its creditors, or any other party in interest in this
23 case or its respective attorneys or accountants. If at any subsequent time during the
24 course of this proceeding, H&B learns of any representation that may give rise to a
25 conflict, an amended Declaration identifying and specifying such potential conflict will
26 be filed promptly with the Court and the Office of the United States Trustee.

27
28

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1 11. In the following supplemental disclosures, references to H&B include all
 2 members thereof who are expected to render services in this case. To the best of my
 3 knowledge, information and belief:

4 a. H&B is not and has not been a creditor, an equity security holder or
 5 an insider of the Debtor.

6 b. H&B is not and has not been an investment banker for any
 7 outstanding security of the Debtor.

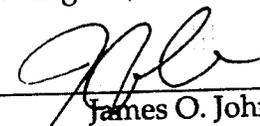
8 c. H&B is not and has not been an investment banker for a security of
 9 the Debtor, or an attorney for such an investment banker in connection with the offer,
 10 sale or issuance of any security of the Debtor.

11 d. H&B is not and has not been a director, officer or employee of the
 12 Debtor or of any investment banker for any security of the Debtor.

13 e. H&B has no interest materially adverse to the interest of the estate
 14 or of any class of creditors or equity security holders, by reason of any direct or indirect
 15 relationship to, connection with, or interest in, the Debtor or an investment banker for
 16 any security of the Debtor, or for any other reason.

17 I declare under penalty of perjury that the foregoing is true and correct.

18 Executed this 7th day of April, 2000, at Los Angeles, California.

19 By: 
 20 James O. Johnston
 21 Proposed Reorganization Counsel for Debtor
 22 And Debtor in Possession

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 EXHIBIT R - PAGE 41

EXHIBIT S



THE STATE BAR
OF CALIFORNIA

1149 SOUTH HILL STREET, LOS ANGELES, CALIFORNIA 90015-2299

OFFICE OF THE CHIEF TRIAL COUNSEL
INTAKE

TELEPHONE: (213) 765-1000
TDD: (213) 765-1566
FAX: (213) 765-1168
<http://www.calbar.ca.gov>

March 6, 2006

DAVID P O'DONNEL
72 VAN REIPEN AVE # 37
JERSEY CITY NJ 07306

Inquiry No.: 05-20211
Respondent: JOSHUA MESTER, SIDNEY LEVINSON, STEVE MITCHELL, JAMES
JOHNSTON, LINDA KONTOS, JOSHUA MORSE, KAREN KUPETZ,
MICHAEL MORRIS

Dear Mr. O'Donnelli:

Your complaint received on December 29, 2005, and January 25, 2006, have been reviewed by an attorney to determine whether the above-referenced attorneys violated the State Bar Act and/or the Rules of Professional Conduct, and whether there are basis for investigation or prosecution of their alleged conduct. In your complaint, among other issues, you state that the associate of Hennigan & Bennett Lawyers failed to obtain waiver of conflicts in a bankruptcy court.

After careful review and after taking into consideration all relevant factors, we have determined that the matter does not warrant disciplinary action. The circumstances of which you complained appears to be about the conduct of the opposing counsels, and your complaint does not provide sufficient evidence for disciplinary action to take place against them. If the client was to make this complaint, the client would be waiving the confidentiality of attorney-client communications, and the State Bar could require a full response from the attorneys to the allegations. In this situation, the court in which the case is located has jurisdiction to determine if misconduct were committed by the attorneys. Should there be a finding of misconduct on the attorneys' part, you may re-file your complaint, along with a copy of the court's order for further consideration.

If you do not agree with the decision to close your complaint, you may request a review, in writing within **three (3) months**, of the date of this letter. Telephonic requests cannot be accepted. Include with your request any additional or new evidence and **copies** of documentation which you believe should be considered. You may make your written request to: Audit and Review, Office of the Chief Trial Counsel, State Bar of California, 1149 South Hill Street, Los Angeles, California 90015.

Very truly yours,

Manya B. Lewis
Complaint Analyst

MBL/ec

EXHIBIT T

FILED

SEP 09 2002

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re No. 00-42104 T
Chapter 11
AUREAL, INC., etc.,
Debtor.

MEMORANDUM RE MOTION FOR RECONSIDERATION

On July 23, 2002, the Court issued a Memorandum of Decision (the "Decision", concluding that PriceWaterhouseCooper LLC's ("PWC") final fee application should be denied, the order approving its employment should be revoked, and it should be required to disgorge the retainer received pre-petition. An order pursuant to the Decision was issued on August 7, 2002.

On August 19, 2002, PWC filed a motion for reconsideration of the Court's decision. The Court conducted a telephone conference to determine how to proceed with respect to the motion. Appearances at that conference included counsel for the Official Creditors' Committee (the "Committee"), whose objection to the final fee application precipitated the Decision.

The Committee indicated that it did not intend to file a response to the motion. Therefore, the Court advised the parties that it would consider the motion without hearing unless, after reviewing the motion, it concluded that a hearing would be helpful. Having reviewed and thoroughly considered the motion and supporting

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1 declarations, and concluding that no hearing would be helpful, the
2 Court issues this decision, stating its reasons for denying the
3 motion.

4 DISCUSSION

5 As acknowledged by the motion, the grounds for a motion for
6 reconsideration are limited. A decision may be reconsidered to
7 correct a clear error of fact or law or a manifest injustice. A
8 decision may also be reconsidered upon the presentation of newly
9 discovered evidence. Finally, a decision may be reconsidered to
10 permit the Court to supplement or amplify its findings. None of
11 these grounds has been established by the moving party. For the most
12 part, PWC simply reiterates the arguments made in connection with the
13 final fee application. The only additional evidence consists of
14 declarations by the various professionals, attesting to their good
15 faith.

16 As stated in the Decision, the Court found that, one day prior
17 to the commencement of this case, PWC and the debtor discovered that
18 PWC was already representing an adverse party in litigation against
19 the debtor. Nevertheless, the debtor waited approximately one month
20 before filing an application to employ PWC. The Court found that,
21 based on the events that occurred thereafter, it appeared likely that
22 the debtor had purposely delayed submitting the employment
23 application to the Court: i.e., so as to secure the benefits of PWC's
24 services regardless of whether the Court approved PWC's employment.

25 PWC contends that this finding is a clear error of fact. It
26 notes that any delay in requesting approval for its employment was to

1 its disadvantage since, if the Court had not approved its employment,
2 it would not have been entitled to be paid for its services. This
3 argument is unpersuasive. The Court did not find that PWC purposely
4 delayed. It found that the debtor purposely delayed. While PWC was
5 at risk as a result of the delay, the debtor gained an advantage.

6 The debtor's explanation for the delay in filing the employment
7 application--i.e., that: (1) it did not perceive PWC's employment on
8 both sides of the litigation in question as a conflict, (2) in any
9 event, was willing to waive the conflict, and (3) was attempting to
10 persuade the adverse party to withdraw its objection--was previously
11 advanced in support of the final fee application. The Court did not
12 find it persuasive then and does not do so now. It is not the
13 debtor's job to determine whether a proposed professional has an
14 actual conflict with the estate. The debtor is simply required to
15 disclose the professional's connections. Fed. R. Bankr. Proc.
16 2014(a). It is the Court's job to determine whether these
17 connections represent an adverse interest. 11 U.S.C. § 327(a).

18 Moreover, if the Court concludes that there is an actual
19 conflict, the conflict may not be waived by the debtor on behalf of
20 the estate. The professional is simply disqualified from employment
21 by the estate. 11 U.S.C. § 327(a). Where there is any question of
22 an adverse interest, the Court requires that notice and an
23 opportunity to be heard be given to the principal creditors and the
24 Office of the United States Trustee. The debtor's conduct in this
25 case deprived the Court and other interested parties of their role in
26 the employment process during the period of delay.

1 The delay would have been of no consequence had no services been
2 performed by PWC during the period of the delay. However, during
3 this one month period, PWC was performing substantial services for
4 the debtor. As PWC noted in connection with its final fee
5 application, the bulk of its services were performed during the first
6 two months of the case.

7 However, the Court did not base its denial of PWC's final fee
8 application on its finding that the debtor purposely delayed filing
9 the employment application. Rather, the Court based its denial on
10 its finding that PWC intentionally misled the Court, by failing to
11 disclose in a meaningful fashion that it did not accept the Court's
12 conditions for future employment by the debtor.

13 Clearly, the declaration of its general counsel, which purported
14 to respond to the requirements of the Decision, did not include this
15 information. PWC's sole attempt to "inform" the Court of its
16 decision was PWC's counsel's inclusion of a paragraph to that effect
17 on the second page of a two page transmittal letter (the "July 7
18 Letter"), enclosing courtesy copies of certain documents. The Court
19 found and continues to find that this did not represent a good faith
20 attempt to inform the Court of important information.

21 As noted in the Decision, there was no copy of the July 7 Letter
22 in the Court file nor did the Court recall having seen it. However,
23 the Court accepted as true counsel's representation that the July
24 7 Letter was actually sent. Transmittal letters are frequently not
25 placed in the file or even presented to the judge. The fact that
26 they are not shows the lack of importance generally ascribed to such

1 letters. The Court finds it implausible that the counsel in question
2 would believe that this was the best way to communicate the
3 information to the Court. The principal attorney representing PWC
4 and the author of the letter is one of the senior members of the
5 local bankruptcy bar. He is not naive or inexperienced. One of
6 PWC's other attorneys was a law clerk for the undersigned judge.

7 PWC advances three arguments as to why the Court's finding that
8 PWC intended to mislead the Court was in clear error. First, it
9 contends that, because the Courts had previously directed counsel to
10 submit letter briefs, PWC (or its counsel) concluded that PWC's
11 decision should be communicated in a letter rather than in the
12 declaration filed by PWC's general counsel. This argument makes no
13 sense.

14 Occasionally, the Court directs counsel to fax a document to
15 chambers. No reasonable attorney would understand this to constitute
16 a direction to fax all future documents to the Court. Similarly, no
17 reasonable attorney would have construed the Court's direction to
18 file letter briefs on a single occasion to constitute a direction to
19 submit all future communications to the Court by letter. Moreover,
20 this argument does not explain the absence of any reference to PWC's
21 intention in the declaration executed by PWC's general counsel filed
22 pursuant to the Decision.

23 Second, PWC contends that the letter was only two pages long.
24 Therefore, it was not unreasonable to expect the Court to read the
25 letter from start to finish. This contention assumes that the letter
26 ever reached the judge. As noted in the Decision, there was no copy

1 of the letter in the file and the undersigned judge has no
2 recollection of ever having seen it.

3 Moreover, the brevity of the letter made it less likely to have
4 been read as did the fact that copies of documents were enclosed. If
5 the letter had been lengthy, it might not have been "mistaken" for a
6 transmittal letter. Most likely, it would have been presented to the
7 judge and have been read from start to finish. If the letter had not
8 enclosed documents, it would certainly not have been "mistaken" for
9 a transmittal letter.¹ Again, most likely, it would have been
10 presented to the judge and read from start to finish. The fashion in
11 which the letter was transmitted could not have been more perfectly
12 designed to escape notice.

13 PWC's counsel notes that he practices regularly before the Court
14 and would not have attempted to mislead the Court, thereby
15 jeopardizing his reputation with the Court. The Court was mindful of
16 this consideration prior to issuing the Decision. The principal
17 attorney representing PWC, who authored the July 7 Letter, is a
18 prominent member of the San Francisco bankruptcy bar. To the Court's
19 knowledge, his integrity has never been called into question. Had
20 the July 7 Letter been an isolated incident, the Court might well
21 have given PWC and its counsel the benefit of the doubt. However,
22 the Court felt compelled to reach the decision it did by the sequence
23

24
25 _____
26 ¹No purpose was served by sending the Court copies of the
enclosed documents. The original declaration had been filed. PWC
was not presenting the proposed order to the Court for its
signature at that time.

1 of events reflected by the case file. These events are identified in
2 the Decision.

3 PWC's counsel was obviously on the horns of a dilemma. Its
4 client had substantial fees at stake. PWC and its counsel must have
5 anticipated that, if informed of PWC's decision not to accept the
6 Court's conditions for employment, the Court might not sign PWC's
7 retention order. If the Court declined to sign the order, PWC could
8 not be paid. On the other hand, if PWC's decision were not
9 communicated to the Court in some fashion, both PWC and its counsel
10 could be subject to sanctions. PWC's counsel may have concluded that
11 it could avoid both horns of this dilemma by providing the
12 information to the Court in such a way that there was a good chance
13 that it would go unnoticed by the Court.

14 PWC also attempts to explain away its description of its first
15 fee application as an interim fee application. It discloses that,
16 after it had completed its transition services, PWC decided that it
17 would be willing to perform some additional services for the debtor.
18 Thereafter, after negotiating with the Committee concerning the scope
19 of these services, PWC performed some additional services for which
20 it sought payment in the final fee application.

21 This additional information raises more problems than it
22 resolves. If the July 7 Letter was a meaningful attempt to inform
23 the Court that PWC would perform no further services for the debtor
24 (other than transition services) and if PWC assumed the Court had
25 received and read this communication, how could PWC legitimately
26 agree to perform further services without requiring the debtor to

1 file a new employment application with the Court? The Court can
2 conceive of three possible explanations for its failure to do so.

3 First, PWC may have believed that the information concerning its
4 decision had never been effectively communicated to the Court and
5 therefore that the Court believed that PWC had been authorized to
6 perform future services for the debtor. Second, PWC may not have
7 wished to have a new employment application filed because it did not
8 wish the adverse party to the litigation to know that it was
9 performing additional services for the debtor. Third, neither PWC
10 nor the debtor may have considered the Court's role in the employment
11 process significant. None of these explanations supports granting
12 the motion for reconsideration.

13 **CONCLUSION**

14 The motion for reconsideration will be denied. The moving party
15 has failed to establish any of the grounds for reconsideration of a
16 decision.

17 Dated: September 9, 2002

18 
19 United States Bankruptcy Judge

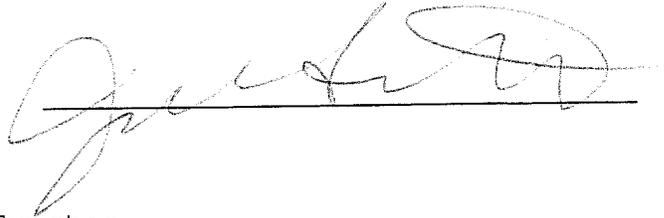
PROOF OF SERVICE

I, the undersigned, a regularly appointed and qualified clerk in the office of the United States Bankruptcy Court for the Northern District of California at Oakland, hereby certify:

That I, in the performance of my duties as such clerk, served a copy of the foregoing document by depositing it in the regular United States mail at Oakland, California, on the date shown below, in a sealed envelope bearing the lawful frank of the Bankruptcy Court, addressed as listed below.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: September 9, 2002



Office of the United States Trustee
Document placed in UST mailbox at
US Bankruptcy Court
1300 Clay Street, Third Floor
Oakland, CA 94612

Michael H. Ahrens
Sheppard, Mullin, Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111

Sidney P. Levinson
Hennigan, Bennett & Dorman
601 S. Figueroa St., Ste. 3300
Los Angeles, CA 90017

Randy Michelson
McCutchen, Doyle, Brown & Enersen, LLP
Three Embarcadero Center
San Francisco, CA 94111-4067

EXHIBIT U

ORIGINAL
FILED

02 AUG 19 PM 3:08

U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

1 SIDNEY P. LEVINSON (SBN 139419)
2 HENNIGAN, BENNETT & DORMAN LLP
3 601 South Figueroa Street, Suite 3300
4 Los Angeles, California 90017
5 Telephone: (213) 694-1200
6 Fax: (213) 694-1234

Attorneys for Debtor

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

10 In re)
11 AUREAL, INC., d/b/a SILO.COM,)
12 f/k/a AUREAL SEMICONDUCTOR,)
13 INC., f/k/a MEDIA VISION)
14 TECHNOLOGY, INC., a Delaware)
15 corporation,)
16 Debtor.)

Case No. 00-42104-TI
(Chapter 11)
DECLARATION OF SIDNEY P. LEVINSON
Date: September 16, 2002
Time: 2:00 p.m.
Place: Courtroom 201
Hon. Leslie Tchaikovsky
U.S. Bankruptcy Court
1300 Clay Street, Oakland, CA

I, SIDNEY P. LEVINSON, declare and state as follows:

1. This Declaration is submitted in connection with the motion for reconsideration (the "Motion") filed by PricewaterhouseCoopers LLP (hereinafter "PwC")

CA BAR #05-20211
EXHIBIT U - PAGE 1

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1 of the *Order Denying Second and Final Fee Application of PricewaterhouseCoopers LLP,*
2 *Directing Revocation of Retention and Ordering Disgorgement* (the "Order").

3 2. I am a partner at Hennigan, Bennett & Dorman LLP (hereinafter
4 "HB&D"), counsel to the Debtor.

5 3. I have read the Court's July 2002 Memorandum issued in connection
6 with the Order.

7 4. This case was filed on April 5, 2000. During the first week of the
8 bankruptcy case, PwC advised the Debtor and our firm that, in the course of performing its
9 conflicts check for employment as financial advisor, PwC had determined that it had been
10 retained by Creative Technology, Ltd. ("Creative") to provide litigation support activities
11 and potentially expert witness testimony in connection with litigation then pending
12 between Creative and the Debtor (the "Creative Litigation").

13 5. PwC advised the Debtor and our firm that, in order to obtain
14 Creative's consent to the Debtor's engagement of PwC as financial advisor, Creative
15 wanted assurance that the Debtor would not seek to disqualify or otherwise undermine the
16 testimony of any PwC personnel in the Creative Litigation. Believing that providing such
17 assurance would resolve any and all potential objections by Creative to the employment of
18 PwC as the Debtor's financial advisor, the Debtor, advised by our firm, and PwC began the
19 process of preparing a conflict waiver letter to be executed by the Debtor and PwC.

20 6. During the course of negotiating that letter, on April 19, 2000, PwC
21 provided our firm with a draft, prepared by PwC, of PwC's employment application, along
22 with a declaration of Glenn Hiraga in support of the application. In reviewing that draft
23 application, we learned that, in addition to PwC's retention by Creative in the Creative
24 Litigation, Creative had also requested PwC, in February 2000, to provide advisory
25 services to Creative in connection with the Debtor's sale of assets in the event of a
26 bankruptcy filing. In discussions that followed between the Debtor and PwC concerning
27 this issue, PwC requested that the Debtor agree to permit PwC to continue that engagement
28 if requested by Creative. The need for the Debtor and our firm to evaluate and understand

1 absence of any reference to the resignation of PwC as financial advisor in the application
2 to employ EYR was not a deliberate omission. Regarding the application to employ
3 Neilson Elggren, that firm provided tax and audit related services, services different from
4 those for which the Debtor sought to retain PwC and EYR.

5 10. In the interest of full disclosure, since the Effective Date in this
6 bankruptcy case, HB&D has been retained in two matters involving PwC, one on behalf of
7 PwC and the other against PwC. Both of those matters are entirely unrelated to this
8 bankruptcy case. First, PwC retained HB&D on April 29, 2002 to represent PwC in
9 connection with an appeal by PwC pending before the United States Court of Appeals for
10 the Ninth Circuit, PricewaterhouseCoopers LLP v. Thrifty Oil Co., D.C. No. CV-00-
11 00605-JTM. Later, on or about July 10, 2002, HB&D was retained by a former partner of
12 PwC in connection with potential claims of that former partner against PwC. Both matters
13 remain pending.

14 I declare under penalty of perjury under the laws of the United States that the
15 foregoing is true and correct. Executed this 19th day of August, 2002 in Los Angeles,
16 California.

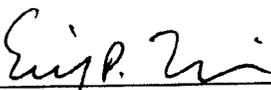
17
18 
19 _____
20 SIDNEY P. LEVINSON
21
22
23
24
25
26
27
28

EXHIBIT V

CA BAR #05-20211
EXHIBIT V - PAGE 1

1 BRUCE BENNETT (SBN 105430)
2 SIDNEY P. LEVINSON (SBN 139419)
3 JOSHUA M. MESTER (SBN 194783)
4 HENNIGAN, BENNETT & DORMAN
5 601 South Figueroa Street, Suite 3300
6 Los Angeles, California 90017
7 Telephone: (213) 694-1200
8 Facsimile: (213) 694-1234

Proposed Reorganization Counsel for
Debtor and Debtor in Possession

FILED
00 MAY -4 PM 3:01

KEENAN R. CASADY, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

FILE BY
FAX

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re
AUREAL, INC., d/b/a SILO.COM,
f/k/a AUREAL SEMICONDUCTOR,
INC., f/k/a MEDIA VISION
TECHNOLOGY, INC., a Delaware
corporation.

Debtor.

Case No. 00-42104-T11
(Chapter 11)

NOTICE OF AND APPLICATION FOR
AUTHORITY TO EMPLOY
PRICEWATERHOUSECOOPERS LLP
NUNC PRO TUNC AS ACCOUNTANTS
AND FINANCIAL ADVISORS TO THE
DEBTOR AND DEBTOR IN
POSSESSION

[No Hearing Required]

PLEASE TAKE NOTICE that Bankruptcy Local Rule ("B.L.R.") 9014-1 of the
United States Bankruptcy Court for the Northern District of California prescribes the
procedures to be followed, and pursuant to that rule, any objection to the requested
relief, or a request for hearing on the matter below, must be filed and served upon
counsel for Aural, Inc., debtor and debtor in possession in the above-captioned case
(the "Debtor," "Company," or "Applicant"), at the address listed above, within twenty
(20) days of mailing of this notice. A request for hearing or objection must be
accompanied by any declarations or memoranda of law the party objecting or requesting

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1 wishes to present in support of its position. If there is not a timely objection to the
2 requested relief or a request for hearing, the Court may enter an order granting the relief
3 by default. Counsel for the Debtor will give at least 10 days written notice of hearing to
4 the objecting or requesting party, as well as to the U.S. Trustee and to the Committee of
5 Unsecured Creditors, in the event an objection or request for hearing is timely made.

6 **PLEASE TAKE FURTHER NOTICE** that pursuant to 11 U.S.C. § 327 and Fed. R.
7 Bankr. P. 2014 and 5002, the Debtor submits this Application for Authority to Employ
8 PricewaterhouseCoopers LLP (hereinafter "PricewaterhouseCoopers") Nunc Pro Tunc
9 as Accountants and Financial Advisors to the Debtor (the "Application"). A copy of a
10 proposed order granting the relief requested herein is attached as Exhibit A. In support
11 of this Application, the Applicant respectfully represents as follows:

12 **Background**

13 1. On April 5, 2000 (the "Petition Date"), the Debtor filed a voluntary petition
14 seeking an order for relief under chapter 11 of the United States Bankruptcy Code,
15 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code").

16 2. The Debtor has continued in the possession of its assets, and is operating
17 and managing its business as debtor in possession pursuant to sections 1107 and 1108 of
18 the Bankruptcy Code.

19 3. The Debtor's business is in the field of digital audio imaging, which is the
20 process of creating a highly realistic audio experience by closely simulating the real
21 world physics of audio. The Debtor has developed a series of audio products based
22 upon its proprietary A3D technologies, and as of the Petition date, the Debtor was
23 integrating its A3D technologies with internet based applications to increase its
24 customer base.

25 **Services To Be Provided By PricewaterhouseCoopers**

26 4. The Debtor respectfully submits that the services of
27 PricewaterhouseCoopers, located at 400 South Hope Street, Los Angeles, California
28

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1 90071-2889, are necessary to enable it to evaluate the complex financial and economic
2 issues raised by the Debtor's current financial situation and chapter 11 filing.

3 5. The Debtor is of the opinion that PricewaterhouseCoopers is a firm with
4 considerable knowledge, expertise and experience in the area of corporate accounting
5 and financial services related to bankruptcy proceedings, and is well qualified to advise
6 the Debtor in this case. The Debtor also is informed and believes that

7 PricewaterhouseCoopers has the appropriate personnel needed to perform the services
8 required by the estate. PricewaterhouseCoopers has previously been employed as
9 accountants for debtors and bankruptcy trustees and, together with its staff, has extensive
10 experience and expertise in performing this type of service. Attached hereto as Exhibit B,
11 and incorporated herein by reference, is a selected list of clients that
12 PricewaterhouseCoopers has advised in a reorganization context. In addition, a copy of
13 the resume of Glenn Hiraga, the partner in charge of the proposed engagement with the
14 Debtor, is attached hereto as Exhibit C, and incorporated herein by reference.

15 6. Applicant desires to employ the accounting firm of
16 PricewaterhouseCoopers to perform general accounting, valuation, tax and other
17 consulting services for the Applicant in the above-entitled proceedings. The specific
18 description of services that the Applicant anticipates to be performed in connection with
19 these proceedings are as follows:

20 a. evaluate the condition of the Debtor's business, assets, liabilities,
21 operations, debt structure, cash collateral, financial reporting, internal accounting controls,
22 corporate structure, organization and financial condition;

23 b. assist in the sale of the business as a going concern or otherwise,
24 including, but not limited to, the sale of the Debtor's inventory, intellectual property, and
25 fixed assets;

26 c. provide advice regarding day-to-day business transactions performed
27 in the ordinary course;

28
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1 d. value the Debtor and its assets and any securities issued with respect
2 to the Debtor's chapter 11 case, excluding the valuation of any claim (or potential claim) for
3 or against the clients of PricewaterhouseCoopers, as identified herein in paragraph 8;

4 e. assist the Debtor in preparing and analyzing cash flow projections,
5 financial statements, business plans and other necessary special projects or reports, and
6 provide expert testimony with respect thereto;

7 f. participate in the evaluation of any plan of reorganization submitted
8 by the Debtor or any other person;

9 g. assist the Debtor, if requested, in developing a proposal for a plan of
10 reorganization and in the implementation thereof including, *inter alia*, assistance in the plan
11 negotiation and plan confirmation process, preparation of financial segments of documents
12 related to the plan, and preparation and presentation of expert testimony relating to
13 financial matters (including, the feasibility of any plan and the value of any reorganization
14 securities issued or to be issued in connection therewith), if required;

15 h. periodically report to the Bankruptcy Court and any appropriate
16 committee with respect to the foregoing; and

17 i. all other professional services that may be necessary during the
18 pendency of the Debtor's chapter 11 case.

19 Applicant believes that the employment of accountants and financial advisors is
20 essential to perform the services noted above.

21 7. PricewaterhouseCoopers has commenced providing the Debtor assistance
22 with the above services as of March 23, 2000.

23 8. Applicant is informed and believes that PricewaterhouseCoopers is a
24 disinterested party. Additionally, the Applicant has read the disclosures in the
25 Declaration of Glenn Hiraga in support of this Application, and is fully aware of the
26 following:

27 a. Oaktree Capital Management LLC, the Company's largest stockholder
28 and secured creditor, is an audit and tax client of PricewaterhouseCoopers.

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1 b. PricewaterhouseCoopers performs audit and tax work for unsecured
2 creditors including, Ziff-Davis, Inc., Orrick Herrington & Sutcliffe LLP, and UMC Group
3 (USA).

4 c. Compaq Computer Corporation, Dell Computer Corporation,
5 Hewlett-Packard, IBM Personal Systems Group, Micron Electronics, and Sony Electronics
6 are all large customers of the Company and clients of PricewaterhouseCoopers.
7 PricewaterhouseCoopers performs audit, tax, and consulting work for these entities.

8 d. PricewaterhouseCoopers performs audit and tax work for Creative
9 Technology, Ltd., and its subsidiaries Creative Labs, Inc. and E-MU Systems Ltd.
10 (collectively "Creative"). PricewaterhouseCoopers also has been engaged as technical
11 consulting experts for Creative in Creative Labs, Inc. v. Aural Semi-Conductor, Inc., Case
12 No. C98-21006, currently pending in the United States District Court for the Northern
13 District of California, San Jose Division, and may provide similar services to Creative in
14 connection with other litigation cases that are adverse to Aural that currently are pending
15 in the United States District Court for the Northern District of California, San Francisco
16 Division (collectively, the "Creative Litigation"). In addition, PricewaterhouseCoopers
17 may assist Creative in making an offer for the purchase of all or a portion of the assets of
18 the Company. The Company also has agreed and consented that the employment of
19 PricewaterhouseCoopers as financial advisor to the Debtor may not be used to disqualify
20 PricewaterhouseCoopers in the Creative Litigation. Any other basis for disqualification is
21 still available to the Company. In addition, the Debtor is aware of
22 PricewaterhouseCoopers' potential engagement to assist Creative in formulating an offer
23 to purchase the Company. A copy of the letter setting forth this understanding is attached
24 hereto as Exhibit D (the "Conflicts Waiver Letter").

25 e. Moreover, pursuant to the Conflicts Waiver Letter, an ethical wall has
26 been created internally to ensure that PricewaterhouseCoopers' involvement with Creative
27 is separate and apart from its involvement with the Company. Specifically, the following
28 procedures will be adhered to:

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- 1 • No information pertinent to the engagement with the Debtor will be shared with
- 2 those working on any matter for Creative, any affiliate of Creative, or any other
- 3 matter related to the Creative Litigation (collectively, the "Creative Matters").
- 4 Similarly, no information from the Creative Matters will be shared with those
- 5 working on the Debtor's engagement.
- 6 • Neither Glenn Hiraga, nor any staff working with Glenn Hiraga (in the Aural
- 7 bankruptcy matter or any other engagement) will work directly with or for any
- 8 partner involved in the Creative Matters.
- 9 • All files related to the Debtor's engagement will not be kept on
- 10 PricewaterhouseCoopers' network to ensure files are kept confidential. All files
- 11 related to the Debtor's engagement will be maintained on the Company's system (in
- 12 Fremont, California) or on laptop computers in possession of staff members
- 13 assigned to the Debtor's engagement. In addition, all appropriate precautions and
- 14 measures will be taken by PricewaterhouseCoopers to ensure that personnel
- 15 involved in the Creative Matters will not have access to any hard copies of Aural's
- 16 documents.

17 9. PricewaterhouseCoopers has agreed to perform the above-referenced

18 services and thereafter make application to this Court for compensation.

19 PricewaterhouseCoopers also has agreed to accept as its fees such amounts as determined

20 by this Court. Subject to the Court's approval, PricewaterhouseCoopers will charge the

21 Applicant for its services on an hourly basis in accordance with its ordinary and

22 customary rates in effect at the time such services are rendered. The current range of

23 hourly rates charged by PricewaterhouseCoopers for various levels of staff are attached

24 hereto as Exhibit E. In addition, PricewaterhouseCoopers will maintain detailed records

25 of, and charge the Applicant for, any actual and necessary costs and expenses incurred in

26 connection with the aforementioned services. The Applicant proposes to pay

27 PricewaterhouseCoopers for its services from funds of this estate with Court approval. A

28

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1 copy of the retention agreement between the Debtor and PricewaterhouseCoopers is
2 attached hereto as Exhibit F.

3 10. To the best of the Applicant's knowledge and belief, the firm of
4 PricewaterhouseCoopers has no connection with the Debtor, the creditors of the Debtor,
5 or any other parties in interest (see above disclosures) and holds no interest adverse to this
6 estate.

7 11. PricewaterhouseCoopers has performed an internal search for any potential
8 conflicts of interest based upon the names of the parties involved in this proceeding.
9 PricewaterhouseCoopers is part of the PricewaterhouseCoopers LLP network of hundreds
10 of offices through the world and is engaged by new clients every day, and thus, cannot
11 assure that following its employment by the Applicant, a conflicting engagement will not
12 be accepted somewhere else in its firm. Should any potential conflict arise,
13 PricewaterhouseCoopers will notify the Debtor immediately.

14 12. On April 4, 2000, PricewaterhouseCoopers received a retainer of \$150,000.
15 Prior to the bankruptcy, \$49,707.50 in fees and approximately \$7,000 in expenses were
16 incurred on behalf of the Company. As of the Petition Date, the retainer balance was
17 approximately \$93,292.50.

18 13. Pursuant to Fed. R. Bankr. P. 2014, accompanying this motion is the
19 Declaration of Glenn Hiraga supporting, among other things, Applicant's conclusion that
20 PricewaterhouseCoopers is a disinterested person.

21 14. In light of the potential conflict issues with respect to
22 PricewaterhouseCoopers' retention in this bankruptcy matter, the Debtor and
23 PricewaterhouseCoopers have been negotiating the terms of the Conflicts Waiver
24 Agreement. A final agreement regarding this matter was eventually reached on May 3,
25 2000. Although the Debtor has failed to meet the fifteen day deadline set forth in the U.S.
26 Trustee Guidelines 2.1.5, the Debtor nonetheless believes that this Application is timely
27 filed given the critical importance of reaching a final resolution regarding the Conflicts
28 Waiver Agreement prior to filing this Application.

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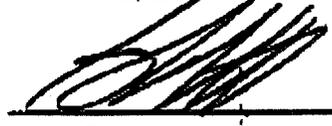
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WHEREFORE, the Applicant prays that it be authorized to retain the services of PricewaterhouseCoopers LLP, at the expense of the estate, for the purposes set forth hereinabove, said employment to be effective April 5, 2000, and to continue until further Order of this Court, and that the compensation for said accountants and financial advisors be fixed by the Court after notice and hearing as provided for in the applicable Bankruptcy Rules, and for any such additional and further relief as this Court deems appropriate.

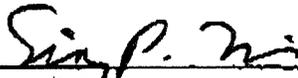
Dated: May 4, 2000

AUREAL, INC



Steve Mitchell,
Chief Operating Officer

Submitted By:



Sidney P. Levinson
Herrigay, Bennett & Dorman
Reorganization Counsel for Debtor and
Debtor in Possession

HERRIGAN, BENNETT & DORMAN

1 BRUCE BENNETT (SBN 105430)
 SIDNEY P. LEVINSON (SBN 139419)
 2 JOSHUA M. MESTER (SBN 194783)
 HENNIGAN, BENNETT & DORMAN
 3 601 South Figueroa Street, Suite 3300
 Los Angeles, California 90017
 4 Telephone: (213) 694-1200
 Facsimile: (213) 694-1234
 5

6 Proposed Reorganization Counsel for
 Debtor and Debtor in Possession

7 FILE BY
 8 FAX

9 UNITED STATES BANKRUPTCY COURT
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

11 In re

) Case No. 00-42104-T11

12 AUREAL, INC., d/b/a SILO.COM,
 f/k/a AUREAL SEMICONDUCTOR,
 13 INC., f/k/a MEDIA VISION
 TECHNOLOGY, INC., a Delaware
 14 corporation,

) (Chapter 11)

15 Debtor.

) [Proposed] ORDER APPROVING
 APPLICATION TO EMPLOY
 PRICEWATERHOUSECOOPERS NUNC
 PRO TUNC AS ACCOUNTANTS AND
 FINANCIAL ADVISORS TO THE
 DEBTOR AND DEBTOR IN
 POSSESSION

18 [No Hearing Required]

21
 22 Upon the "Application for Authority to Employ PricewaterhouseCoopers LLP
 23 Nunc Pro Tunc as Accountants and Financial Advisors to the Debtor and Debtor in
 24 Possession" and the Declaration of Glenn A. Hiraga in support thereof (collectively, the
 25 "Application"), filed by Aural, Inc. (the "Debtor"), to employ the accounting firm of
 26 PricewaterhouseCoopers LLP ("PricewaterhouseCoopers") as its accountants and
 27 financial advisors; it appearing to the Court that PricewaterhouseCoopers and its
 28 members and employees are disinterested persons who do not hold or represent an

11 HENNIGAN, BENNETT & DORMAN

EXHIBIT A
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1 interest adverse to the estate in the matters upon which they are to be engaged; that the
2 employment of PricewaterhouseCoopers by the Debtor is in the best interest of the estate;
3 that notice of the Application was appropriate; and good cause appearing therefor,

4 **IT IS HEREBY ORDERED THAT:**

5 1. The Application hereby is APPROVED;

6 2. The Debtor is hereby authorized to employ PricewaterhouseCoopers as its
7 accountants and financial advisors, on substantially the same terms and conditions set
8 forth in the Application and the retention agreement (a copy of which is attached hereto),
9 with compensation to be at the expense of the estate in such amount as the Court may
10 hereafter allow; and

11 3. In order to further ensure confidentiality, PricewaterhouseCoopers shall
12 internally create an ethical wall, including, without limitation, adhering to the following
13 procedures:

14 a. No information pertinent to the engagement with the Debtor will be
15 shared with those working on any matter for Creative Labs, Inc. or
16 any of its affiliates and/or subsidiaries, or any other matter related to
17 the Creative Litigation (as defined in the Application) (collectively,
18 the "Creative Matters"). Similarly, no information from Creative
19 Matters will be shared with those working on the Debtor's
20 engagement;

21 b. Neither Glenn Hiraga, nor any staff working with Glenn Hiraga (in
22 the Aureal bankruptcy matter or any other engagement) will work
23 directly with or for any partner involved in the Creative Matters; and

24 c. All files related to the Debtor's engagement will not be kept on
25 PricewaterhouseCoopers' network to ensure files are kept
26 confidential. All files related to the Debtor's engagement will be
27 maintained on the Debtor's system (in Fremont, California) or on
28 laptop computers in possession of staff members assigned to the

HENNIGAN, BENNETT & DORMAN

EXHIBIT A
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Debtor's engagement. In addition, all appropriate precautions and measures will be taken by PricewaterhouseCoopers to ensure that personnel involved in Creative Matters will not have access to any hard copies of Aureal's documents.

Dated: _____, 2000

UNITED STATES BANKRUPTCY JUDGE

Submitted by:
HENNIGAN, BENNETT & DORMAN

By _____
Sidney P. Levinson
Proposed Reorganization Counsel for
Debtor and Debtor in Possession

HENNIGAN, BENNETT & DORMAN

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Exhibit B

Exhibit B
PRICEWATERHOUSECOOPERS LLP
SUBJECT REORGANIZATION ENGAGEMENTS

AEROSPACE

Murdoch Inc. (Debtor)

COMMUNICATIONS

U.S. Fiberline Communications (Investigative Accounting Services)

ENTERTAINMENT

Arista Records (Creditor)

Casino Club Partnership (Unsecured Creditors' Committee)

Economic Resource Corporation (Bd of Directors) (Workout Advisor)

BurdDisney (Debtor)

Toei Braxton (Unsecured Creditor)

Visicom (Trustee)

Weintraub Entertainment (Unsecured Creditors' Committee)

FINANCIAL SERVICES

Advent Management Corporation (Trustee)

Cross Financial Services (Receiver)

Drexel Burnham Lambert (Unsecured Creditors' Committee)

Financial Capital Investment Co. (Debtor)

Financial Corporation of America (Trustee)

First Republic Bank Corp. (FDIC)

FOBAPROA-Mexico (Banks)

KRM (Creditors' Committee)

Loans Financial Corporation (Unsecured Creditors' Committee)

Mcorp (Unsecured Creditors' Committee)

Murray Financial Corporation (Trustee)

NONB Texas (Purchaser)

Preferred Credit (Advisor to Monitor)

Texas Commerce Bancshares (Purchaser)

Trust Company of America (Receiver)

United Security Mortgage Company (Trustee)

Sallie Mae (Debtor)

Western Savings & Loan (Debtor)

WestRed Holdings, Inc. (Assignment for the Benefit of Creditors)

WS Clearing (Receiver)

FOOD

Americold Corp. (Debtor)

Boydco, Inc. (Debtor)

Cal Fruit (Debtor)

Combi Grocers (Trustee)

Galletti Brothers Foods, Inc. (Debtor)

Hamburger Hamlet Restaurants, Inc. (Debtor)

Heileman Brewing (Unsecured Creditors' Committee)

Louise's Trattoria (Creditor)

Megafoods Stores, Inc. (Debtor)

Mrs. Fields (Debtor)

Reel Seafood (Debtor)

Royal Seafoods (Debtor)

Rusly Pelican Restaurants, Inc. (Unsecured Creditors' Committee)

Sizzler Restaurants (Bank Group)

Van De Kamp/Holland Dutch Bakers, Inc. (Trustee)

Van Kamp Seafood (Debtor)

Wilson Foods Corporation (Unsecured Creditors' Committee)

Wyatt's Cafeterias (Debtor)

HEALTHCARE

Maxicare Health Plans, Inc. (Debtor)

Meris Laboratories (Debtor)

Polymer Technology International (Trustee)

Willcare Corporation (Unsecured Creditors' Committee)

South Bay Medical (Equity Holder)

Triad Healthcare (Trustee)

Vendell Healthcare (Bondholders)

Virginia Manor Convalescent Home, Inc. (Trustee)

Western Dental (Plan Monitor)

HIGH TECHNOLOGY

American Capital Investments, Inc. (Trustee)

Borland International, Inc. (Debtor)

Evelex (Unsecured Creditors' Committee)

Memorex Telex (Debtor)

Media Vision (Debtor)

Micropolis (Debtor)

Exhibit B
PRICEMATERHOUSECOOPERS LLP
SELECT REORGANIZATION ENGAGEMENTS

HIGH TECHNOLOGY (continued)

Microwave Corp. (Debtor)
Pinnacle Micro (Creditor)
Plantronics (Debtor)
Rep-Sac Corp. (Debtor)
Reveal Computers (Trustee)
Siliconix (Unsecured Creditors' Committee)
System Integrators (Bank Group)
Trikon (Bank Group)
Virtual Vision, Inc. (Debtor)

HOSPITALITY

Aranheim Hilton (Secured Creditor)
Double Tree Hotel Marina Cabrillo (Debtor)
Estate of Brian James Corbell (Trustee)
Hyatt Arlington Virginia (Debtor)
Hyatt Princess Allcande (Debtor)
Mirage Springs Hotel (Unsecured Creditor)
Orlando Twin Towers (Secured Lender)
Peninsula Hotel (Unsecured Creditor)
Registry Resorts - Scottsdale (Debtor)
Saratosphere Corporation (Secured Creditors' Committee)
Westwood Marquis Hotel (Secured Lender)

INSURANCE

Advent Management Corporation (Trustee)
First Executive Corporation (Debtor)

MANUFACTURING

ABC dba Micro Games of America (Unsecured Creditors' Committee)
All Pahl/Certified Aerospace (Debtor)
Allstar Aerospace (Debtor)
Beaede'l Industries (Debtor)
Boyd Furniture (Debtor)
Breton Construction, Inc. (Debtor)
DeLorean Motors (Examiner)
Dynasty (Debtor)
Eagle-Picher Industries, Inc. (Debtor)

MANUFACTURING (continued)

Earnark Marine Sports, Inc. (Secured Creditor)
Everex Systems, Inc. (Unsecured Creditors' Committee)
Fairchild Aircraft Corporation (Trustee)
Generra Sportswear Co. (Unsecured Creditors' Committee)
Hecks, Inc. (Unsecured Creditors' Committee)
Hood Lumber Co. & Bugaboo Timber Co. (Secured Lender)
Kaiser Steel Corp. (Unsecured Creditors' Committee)
LTV Corporation (Equity Holders' Committee)
Lacey Plywood (Creditors' Committee)
McCall Patterns (Debtor)
Media Vision Technology, Inc. (Debtor)
Minscribe (Unsecured Creditors' Committee)
Natural Cotton Colours (Debtor)
Orchids Paper Products (Debtor)
Ovation (Trustee)
Pacific Oulook Sportswear (Creditors' Committee)
Piper Aircraft Corporation (Unsecured Creditors' Committee)
Qualex Corporation (Debtor)
Stanton Industries, Inc. (Creditors' Committee)
System Integrators, Inc. (Bank Group)
Tropilome (Debtor)
Thermadyne Industries, Inc. (Bank Group)
Tracor, Inc. (Senior Lenders)
TSL Holdings-Tardon Computers (Creditors' Committee)

MUNICIPALITIES

City of Irvine
Orange County Investment Pool

OIL AND GAS/ENERGY

Annex Petroleum (Trustee)
Colorado Ute (Unsecured Creditors' Committee)
Dannson Oil Company (Unsecured Creditors' Committee)
El Paso Electric & Power (Bank Creditors' Group)
K S Resources (Receiver)
Public Service Company of New Hampshire (Equity Holders)
The Western Company of North America (Debtor)

EXHIBIT B
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Exhibit B
PRICEMATERHOUSECOOPERS LLP
SUBJECT REORGANIZATION ENGAGEMENTS

OIL AND GAS/ENERGY (continued)

Thirty Oil (Unsecured Creditors' Committee)
 Tucson Electric Power Co. (Bank Creditors' Committee)
 Westar Energy (Receiver)
 Westmoreland Coal Company (Creditors' Committee)

REAL ESTATE

American Capital Investments (Receiver)
 American Continental Corp. (Unsecured Creditors' Committee)
 Baldwin Builders (Unsecured Creditors' Committee)
 Baldwin Towne Center (Debtor)
 Bank of America (Borrower Analyses for Secured Creditor)
 Brumley (Secured Creditors' Committee)
 California Coastal Development (Debtor)
 Casino Club Partnership (Unsecured Creditors' Committee)
 Carpenter's Union Pension Trust (Secured Creditor)
 Centennial Homes (Debtor)
 Chase Manhattan Bank (Secured Creditor)
 Commencement Bay LP (Secured Creditor)
 Continental Bank (Secured Creditor Assistance)
 Credit Lyonnais (Secured Creditor)
 General Electric Pension Trust (Debtor)
 Glen Ivy Resorts (Trustee)
 Hill Williams Income Funds (Trustee)
 Horizon Golf Club & Residential Community (Debtor)
 Hunters Ridge (Creditors)
 IDM Corp. (Unsecured Creditors' Committee)
 KSBQ Equities (Debtor)
 Marina Cabrillo Company (Debtor)
 Martech USA, Inc. (Debtor)
 Mortgage & Realty Trust (Equity Committee)
 Mueller Development Co. (Creditor's Committee)
 Olympia & York (Debtor & Secured Creditor)
 P. Hendley & Associates (Unsecured Creditors' Committee)
 PaceSetter Homes/American PaceSetter (Debtor)
 Pier 57 (Examiner)
 Playa Vista (Secured Creditor)
 Reservation Ranch (Debtor)

REAL ESTATE (continued)

The Lusk Company (Debtor)
 UDC Homes, Inc. (Secured Creditor)
 Wells Fargo Bank (Secured Creditor)
 Western Federal Savings & Loan (Trustee)
 Windsor Capital (Debtor)
 Ronald Williams & Palo Alto Town & Country Village (Debtor)
 Zahler (Trustee)
 Zufo Properties Co. (Debtor)

RETAIL INDUSTRY

Airport Industrial Park Associates (Debtor)
 Allied Stores Corporation (Debtor)
 Anna's Linens (Debtor)
 Apple Tree Markets (Secured Lender)
 Barry's Jewelers (Secured Lenders)
 Businessland, Inc. (Debtor)
 California Target Enterprises/Lazar (Unsecured Creditors)
 Carter Hawley Hale Stores, Inc. (Debtor)
 Circle K Corporation (Unsecured Creditors' Committee)
 Chamberland Farms (Creditors' Committee)
 Esnet Home Centers (Debtor)
 Federated Department Stores, Inc. (Debtor)
 Genera Sportswear Company, Inc. (Creditors' Committee)
 Great Western Publishing Company (Debtor)
 Han Mi (Crisis Management)
 Hooked on Phonics (Unsecured Creditors' Committee)
 House of Fabrics (Creditors' Committee)
 Jay Jacobs, Inc. (Debtor)
 Imposters (Debtor)
 LA Gear (Debtor)
 Musicland (Debtor)
 Pacific Liben (Debtor)
 Party America (Unsecured Creditors' Committee)
 Phil & Jim's (Debtor)
 Piece Goods Stores, Inc. (Debtor)
 Project Five & Diane (Debtor)
 Quorum International, Ltd. (Creditors' Committee)

EXHIBIT B
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Exhibit C

Exhibit C**GLENN A. HIRAGA**

Position Partner, Financial Advisory Services Group,
PricewaterhouseCoopers LLP, Los Angeles office.

Education J.D. (1983), cum laude, Loyola Law School at Los Angeles
B.S. (1974), Management, California State College at San Bernardino
B.A. (1970), Economics, University of California at Riverside

Range of Experience Mr. Hiraga has significant experience in bankruptcy matters. He has served as financial advisor to creditors' committees, equity committees, trustees and debtors-in-possession. In the capacity of advisor to the trustee, Mr. Hiraga has, on many occasions, advised as to the value of the assets of a company, as well as offers to acquire a company.

Professional and Business History PricewaterhouseCoopers LLP: 1978 to present.
Partner, 1987; Senior Manager, 1985 - 1987; Manager, 1981 - 1985; Senior, 1980 - 1981; Audit Staff Accountant, 1978 - 1980.
Riverside County Assessor, 1972 - 1976, Real Estate Appraiser.

Examples of Professional and Business Experience Selected bankruptcy or bankruptcy-related matters in which Mr. Hiraga has provided advice include:

- American Continental Corporation
- Advent Management/Coastal Insurance
- Circle K Corporation
- Financial Corporation of America
- IDM, Corp.
- Ovation, Inc.
- Baldwin Builders
- Brian J. Corbell
- Just for Feet
- Performance Capital Management
- Micropolis (USA) Inc.

GLENN A. HIRAGA

Page 2

Professional and Business Experience (continued)

Fraudulent Conveyance Action

Mr. Hiraga is the consulting, coordinating partner with respect to defending against a \$300 million fraudulent conveyance action by a trustee in bankruptcy. Mr. Hiraga was responsible for directing a multi-disciplined team of experts in dealing with a very complex action covering several years of business activities.

Financial Advisor to \$180 Million Real Estate Reorganization

In the Baldwin Builders bankruptcy, Price Waterhouse was financial advisor to both the Chapter 11 Trustee and the Official Committee of Unsecured Creditors. Unsecured Creditors Committee, Price Waterhouse evaluated each of these purchase offers.

Advent Management/Coastal Insurance

Mr. Hiraga was a declarant as to the solvency of the debtor for the one year period prior to the filing of bankruptcy. The Trustee was pursuing both preferential transfers and fraudulent conveyance theories of recovering.

Financial Corporation of America

Mr. Hiraga was the consulting, coordinating partner and declarant as to solvency of FCA. The actions on behalf of a trustee involved fraudulent conveyances and preferential transfers.

Professional and Business Affiliations

American Bar Association, Financial Institution Committee, ABA Tax Section,
California Society of CPAs, Depository Institution Statewide Committee, American Institute of Certified Public Accountants, and California Bar Association.

CA BAR #05-20211
EXHIBIT V - PAGE 20

Exhibit D

May-03-00 02:08pm From:AUREAL INC

+6102524400

T-120 P.02/03 F-455



Aureal Inc.
15757 Northport Loop West
Fremont, CA 94538
510 252 4245 phone
510 252 4400 fax
www.aureal.com

May 3, 2000

Mr. Glenn A. Hiraga
PricewaterhouseCoopers LLP
400 South Hope Street
Los Angeles, CA 90071-2889

Re: In re Aureal, Inc., Bankruptcy Case No. 00-42104 -TJ

Dear Mr. Hiraga,

Pursuant to a letter agreement dated March 28, 2000, Aureal, Inc. ("Aureal") has retained PricewaterhouseCoopers LLP ("PwC") as its financial advisor. As of April 5, 2000, Aureal became the debtor and debtor in possession in the above-referenced bankruptcy case (the "Bankruptcy Case"). Currently, Aureal is seeking to have the Bankruptcy Court authorize the continued employment of PwC as financial advisor to Aureal, which services will include, among other things, providing advice concerning a potential sale of substantially all of Aureal's assets (the "Aureal Engagement").

This letter confirms that PwC has disclosed to Aureal that PwC provides services for Creative Labs, Inc. ("Creative"), an adversary to Aureal in certain pending litigation in the United States District Courts for the Northern District of California (the "Creative Litigation"). PwC's services in connection with the Creative Litigation include, among other litigation support activities, potential expert testimony on Creative's behalf. Further, PwC has disclosed that it may be requested to provide advisory services to Creative with respect to Creative's offer to purchase assets being sold by Aureal through the bankruptcy process.

In light of the foregoing disclosures by PwC, Aureal agrees, on the condition set forth below, that it will not seek to disqualify or otherwise undermine the testimony of any PwC partner in the Creative Litigation based upon the fact that PwC has been retained by Aureal in the Bankruptcy Case. This agreement, however, is conditioned on PwC's agreement that no information regarding PwC's work in the Aureal Engagement will be shared with anyone at PwC other than those individuals who are involved with, and provide assistance to Aureal in the Bankruptcy Case. In order to facilitate PwC's performance to this agreement, PwC further has agreed to maintain an "ethical wall," that includes, among other things, the adherence to the following procedures:



AUREAL

May-03-00 02:03am From-AUREAL INC

+5102524480

T-120 P.03/03 F-455

1. No information pertinent to the Aural Engagement will be shared with those working on any matter for Creative, any affiliate of Creative, or any other matter related to the Creative Litigation (collectively, the "Creative Matters"). Similarly, no information from the Creative Matters will be shared with those working on the Aural Engagement.
2. Neither Glenn Hiraga, nor any staff working with Glenn Hiraga (in the Aural Engagement or any other engagement), will work directly with or for any partner involved in the Creative Matters.
3. To ensure that the files related to the Aural Engagement are kept confidential and cannot be accessed by any PwC personnel providing services on any Creative Matters, all files related to the Aural Engagement will not be kept on PwC's network files, but rather, will be maintained on Aural's computer system (in Fremont, California), or on laptop computers in possession of PwC staff members assigned to the Aural Engagement. In addition, all appropriate precautions and measures will be taken by PwC to ensure that personnel involved in the Creative Matters will not have access to any hard copies of Aural's documents.

Please indicate your agreement to the aforementioned conditions by countersigning below.

Aural looks forward to continuing to work with PwC in the pending bankruptcy case.

Very truly yours,

AUREAL, INC



Steve Mitchell
Chief Operating Officer

AGREED AND ACCEPTED BY:

PRICEWATERHOUSECOOPERS, LLP


Glenn A. Hiraga, Partner



AUREAL

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EXHIBIT V - PAGE 22

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EXHIBIT V - PAGE 23

EXHIBIT E
STATEMENT OF PRICEWATERHOUSECOOPERS LLP
ON COMPENSATION

The following is the current individual hourly billing rates of the professionals from PricewaterhouseCoopers who have rendered or may render services in connection with the above-captioned matter:

<u>INDIVIDUAL</u>	<u>HOURLY RATES</u>
Glenn A. Hiraga	\$400
Shawn M. Kelly	\$225
Partners/Managing Directors	\$400-\$450
Manager/Director	\$300-\$380
Associate Consultants	\$150-\$225
Professional Assistants	\$80-\$85

In the event that PricewaterhouseCoopers increases its rates to all clients, the rates charged to the Debtor will be similarly increased. PricewaterhouseCoopers shall give the Debtor thirty (30) days notice in advance of such rate increases.

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PRICEWATERHOUSECOOPERS

PRIVATE & CONFIDENTIAL

Mr. Steve Mitchell
Aural, Inc.
45757 North Fort Loop West
Fremont, California 94538

PricewaterhouseCoopers LLP
400 South Hope Street
Los Angeles CA 90071-2849
Telephone (213) 234 3000

March 28, 2000

Dear Mr. Mitchell:

1. Introduction

This letter confirms that we, PricewaterhouseCoopers LLP ("PricewaterhouseCoopers"), have been retained by you, Aural Semiconductor, Inc. (the "Company"), to provide the services ("the Services") set out below. We agree that this letter and the related Terms and Conditions constitute the arrangement pursuant to which such Services will be provided.

2. Scope of our Services

At your request, the Services to be performed by PricewaterhouseCoopers shall include the following:

- Assist the Company in preparing financial information to support the decision making process.
- Help the Company assess the merits of various business alternatives.
- Act as liaison between the Company and potential buyers.
- Attend meetings with the Company, creditors, and customers to help encourage product flow and cash realization.
- Perform such other accounting and financial services for the Company as may be necessary.

Such Services, as outlined above, are subject to change as mutually agreed between us.

PricewaterhouseCoopers is engaged by the Company to provide consulting services only. Accordingly, while we may from time to time suggest various options which may be available to you, and further give our professional evaluation of each of these options, the ultimate decision as to which, if any, of these options to implement rest with the Company, its management and board of directors. PricewaterhouseCoopers and its individual partners and employees will not make any management decisions for the Company and will not be responsible for communicating information concerning the Company to the public or the Company's shareholders.

As part of our engagement, PricewaterhouseCoopers may be requested to assist the Company (and its legal or other advisors) in negotiating with the Company's creditors and equity holders and with other interested parties. In the event that we participate in such negotiations, the representations made and the positions advanced will be those of the Company and its management, not PricewaterhouseCoopers or its partners and employees.

PRICEWATERHOUSECOOPERS

Mr. Steve Mitchell
Aureal, Inc.
March 24, 2000
Page 2

3. Fees

Fees in connection with this engagement will be based upon the time necessarily spent in providing the Services, multiplied by our standard hourly rates, summarized as follows:

	<u>Per Hour</u>
Partner / Managing Director	\$400-\$450
Manager / Director	\$300-\$380
Associates / Sr. Associates	\$150-\$225
Administrative / ParaProfessional	\$80-\$85
Glenn Hiraga, Partner	\$400
Shawn Kelly	\$225
Other Staff (as needed)	\$150

Hourly rates are revised from time to time. We will notify you of any such changes to our rates. Note that we do not provide any assurance regarding the outcome of our work and our fees will not be contingent on the results of such work.

It is our typical practice to obtain a retainer of \$150,000 for an engagement of this nature. The retainer, which is payable upon the execution of this letter, will be held and applied to our final bill for the Services, with any excess amounts refunded to you. The retainer is not intended to be an estimate for the total cost of the work to be performed.

In addition to the fees outlined above, PricewaterhouseCoopers will bill the Company for reasonable expenses which are likely to include airfare, meals and hotel accommodations, telephone, industry research, duplicating and printing, etc.

Invoices for fees and expenses incurred in connection with this engagement will be billed weekly, and are due upon receipt. If we do not receive payment of any invoice within 30 days of the invoice date, we shall be entitled, without prejudice to any other rights that we may have, to charge interest accruing on the sum due to us at the annual rate of 15 percent and to suspend provision of the Services until all sums due are paid in full.

4. Terms and Conditions

The attached terms and conditions set forth the duties of each party with respect to the Services. Further, this letter and the terms and conditions attached comprise the entire engagement (the "Engagement") for the provision of the Services to the exclusion of any other express or implied terms, whether expressed orally or in writing, including any conditions, warranties and representations and shall supersede all previous letters of engagement, undertakings, agreements and correspondence regarding the Services.



Mr. Steve Mitchell
Atrcal, Inc.
March 24, 2000
Page 3

5. **Governing Law and Jurisdiction**

The contract shall be governed by and interpreted in accordance with the laws of California. The Courts of California shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning the Contract and any matter arising from it. The parties irrevocably waive any right they may have to object to any action being brought in these Courts, to claim that the action has been brought to an inconvenient forum or to claim that these Courts do not have jurisdiction.

6. **Conflicts of Interest**

We are currently in the process of identifying any potential conflicts of interest or relationship that would preclude us from performing the above work for you. We have undertaken a limited review of our records to determine PricewaterhouseCoopers' professional relationships with the persons and entities you identified. As you know, we are a large firm with over 100 offices throughout the United States. We are engaged by new clients every day and cannot assure that following our employment by you, an engagement for other parties in this matter will not be accepted somewhere else in our firm. We will advise you as promptly as possible of the circumstances of any such engagements for other parties in this matter which create a potential conflict of interest, should the engagement team become aware of such an engagement.

PRICEWATERHOUSECOOPERS

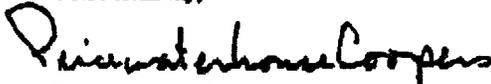
Mr. Steve Mitchell
Aureal, Inc.
March 24, 2000
Page 4

7. **Acknowledgement and Acceptance:**

Please acknowledge your acceptance of the terms of our engagement under the Contract by signing the confirmation below and returning a copy of this letter and a copy of the attached terms and conditions to us at the above address.

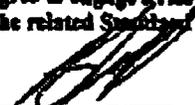
If you have any questions regarding this letter or the attached terms and conditions, please do not hesitate to contact us.

Yours faithfully,


PriceWaterhouseCoopers

Confirmation of Terms of Engagement

We agree to engage PriceWaterhouseCoopers upon the terms set forth in this Letter of Engagement and the related Summary Terms and Conditions from PriceWaterhouseCoopers.


Signed: Mr. Steve Mitchell
Position: CA
On behalf of: Aureal, Inc.

Date: April 5, 2000

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STANDARD TERMS AND CONDITIONS

Re: Aureal, Inc.

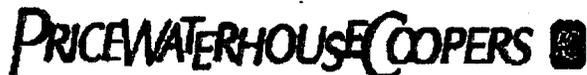
The following are the terms and conditions (the "Terms and Conditions") on which we will provide the Services to you set forth within the attached Letter of Engagement. The Letter of Engagement and the Terms and Conditions are together referred to as the "Engagement". The Engagement forms the entire agreement between us relating to the Services. It replaces and supersedes any previous proposals, correspondence understandings or other communications whether written or oral. The headings and titles in the Engagement are included to make it easier to read but do not form part of the Engagement.

1. Reports and Advice

- 1.1 **Reliance on drafts** – You acknowledge that no reliance shall be placed on draft reports, conclusions or advice, whether oral or written, issued by us as the same may be subject to further work, revision and other factors which may mean that such drafts are substantially different from any final report or advice issued.
- 1.2 **Our responsibility for final reports** – In the event we will be acting as independent experts, our reports or advice must be objective and impartial. While we will be prepared to discuss draft reports, which do not constitute our final opinion, the content of our final report is a matter for us alone.
- 1.3 **Use and purpose of advice and reports** – Any advice given or report issued by us is provided solely for your use and benefit and only in connection with the purpose in respect of which the Services are provided. Unless required by law, you shall not provide any advice given or report issued by us to any third party or refer to us or the Services without our prior written consent. In no event, regardless of whether consent has been provided, shall we assume any responsibility to any third party to which any advice or report is disclosed or otherwise made available.

2. Information and Assistance

- 2.1 **Provision of information and assistance** – Our performance of the Services is dependent upon you providing us with such information and assistance as we may reasonably require from time to time.
- 2.2 **Punctual and accurate information** – You shall use reasonable skill, care and attention to ensure that all information we may reasonably require is provided on a timely basis and is accurate and complete. You shall also notify us if you subsequently learn that the information provided is incorrect or inaccurate or otherwise should not be relied upon.
- 2.3 **Your responsibility for information provided** – Any reports issued or conclusions reached by us may be based upon information provided by and on your behalf.



STANDARD TERMS AND CONDITIONS

Re: Aural, Inc.

Page 2

2.4 **No assurance on financial data** - While our work may include an analysis of financial accounting data, this engagement will not include an audit, compilation or review of any kind of any financial statements. The Company management will be responsible for any and all financial information prepared during the course of this engagement, and we will not examine or compile any such financial information. Accordingly, as part of this engagement, we will not express any opinion or other form of assurance on the financial statements or financial components of the Company.

2.5 **Prospective financial information** - In the event the Services involve prospective financial information, our work will not constitute an examination, compilation or apply agreed-upon procedures in accordance with standards established by the American Institute of Certified Public Accountants, and we will express no assurance of any kind on such information. There will usually be differences between estimated and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. We will take no responsibility for the achievability of the expected results anticipated by the management of the Company.

3. Fees and Additional Services

3.1 **Changes to Services** - Either party may request changes to the Services. Any variation to the Engagement, including any variation to fees, services or time for performance of the Services, must be separately agreed to in writing and, if agreed, shall form part of the Engagement and to which these Terms and Conditions shall apply.

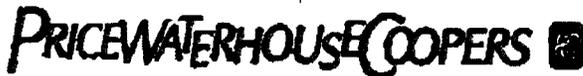
3.2 **Payment of fees** - Time for payment of fees and expenses shall be of the essence.

If you disagree with or question any amount due under an invoice submitted by us, you shall communicate such disagreement to us in writing, within 30 days of the invoice date. Any claim not made within that period shall be deemed to be waived.

3.3 **Your responsibility for other parties** - You shall be solely responsible for the work and fees of any other party engaged by you to participate in the Engagement regardless of whether such party was introduced to you by us. Except as provided in the Letter of Engagement, we shall not be responsible for providing or reviewing specialist advice or services including legal, regulatory, accounting or taxation matters.

(2)

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STANDARD TERMS AND CONDITIONS

Re: Aural, Inc.

Page 3

4. Confidentiality

4.1 Restriction on confidential information - Both parties agree that any confidential information received from the other party shall only be used for the purposes of providing or receiving Services under this or any other contract between us. Except as provided below, neither party will disclose the other party's confidential information to any third party without the other party's consent. Confidential information shall not include information that:

4.1.1 is or becomes generally available to the public other than as a result of a breach of an obligation under this clause;

4.1.2 is acquired from a third party who, to our knowledge, owes no obligation of confidence in respect of the information; or

4.1.3 is or has been independently developed by the recipient.

4.2 Disclosing confidential information - Notwithstanding clause 4.1 above, either party will be entitled to disclose confidential information of the other to a third party to the extent that this is required by valid legal process provided that (and without breaching any legal or regulatory requirement) where reasonably practicable not less than 2 business days notice in writing is first given to the other party.

4.3 Citation of engagement - Without prejudice to Clause 4.1 and Clause 4.2 above, we may cite generally the performance of the Services to our clients and prospective clients as an indication of our experience, unless we both specifically agree otherwise in writing.

4.4 Internal quality reviews - Notwithstanding the above we may disclose any information referred to in this Clause 4 to any other PricewaterhouseCoopers entity or use it for internal quality reviews.

4.5 Maintenance of workpapers - Notwithstanding the above, we may keep one archival set of our working papers from the Engagement, including working papers containing or reflecting confidential information, in accordance with our professional standards. It is the policy of PricewaterhouseCoopers not to retain copies of our working papers for more than two years after our work is completed.

5. Termination

5.1 Termination of Engagement with notice - Either party may terminate the Engagement for whatever reason upon written notice to the other party. Upon receipt of such notice, we will stop all work immediately. You will be responsible for all fees and expenses incurred by PricewaterhouseCoopers through the date termination notice is received.

5.2 Continuation of terms - The terms of the Engagement that expressly or by implication are intended to survive its termination or expiration will survive and continue to bind both parties.

(2)

CA BAR #05-20211
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STANDARD TERMS AND CONDITIONS

Re: Aural, Inc.

Page 4

6. Indemnification and Liability Limitation

6.1 Indemnification - You agree to indemnify and hold harmless PricewaterhouseCoopers and its personnel from any and all claims, liabilities, costs and expenses relating to services PricewaterhouseCoopers renders under this Letter of Engagement, except to the extent finally determined to have resulted from the willful misconduct or fraudulent behavior of PricewaterhouseCoopers relating to such services.

6.2 Limitation of liability - In no event shall PricewaterhouseCoopers be liable to you, whether a claim be in tort, contract or otherwise:

- (A) for any amount in excess of the total professional fees paid by you under this Letter of Engagement letter; or
- (B) for any consequential, indirect, lost profit or similar damages relating to PricewaterhouseCoopers's services provided under this Letter of Engagement letter, except to the extent finally determined to have resulted from the willful misconduct or fraudulent behavior of PricewaterhouseCoopers relating to such services.

6.3 Commencement of legal proceedings - You accept and acknowledge that any legal proceedings arising from or in connection with the Engagement (or any variation or addition thereto) must be commenced within one year from the date when you become aware of or ought reasonably to have become aware of the facts which give rise to our alleged liability and in any event not later than two years after any alleged breach of contract or act of negligence or commission of any other tort.

6.4 Waiver of jury trial - In the unlikely event that differences concerning our services or fees should arise that are not resolved by mutual agreement, to facilitate judicial resolution and save time and expense, you and PricewaterhouseCoopers agree not to demand a trial by jury in any action, proceeding or counterclaim arising out of or relating to our services and fees for this engagement.

7. Filing for Bankruptcy Protection

7.1 In the event that management of the Company or its Board of Directors considers filing for protection under Title 11 of the United States Code, the Company agrees to use its best efforts to have the Court enter an order appointing PricewaterhouseCoopers as its financial advisors on terms substantially equivalent to those outlined herein.

8. Results

8.1 You accept and acknowledge that we have not made any warranties or guarantees of any nature with respect to the results, outcome or final developments in this matter or with respect to the economic, financial or other results which you may experience as a result of the provision of the Services.

(4)



STANDARD TERMS AND CONDITIONS

Re: Aereal, Inc.
Page 5

9. Working for Other Clients

9.1 We will not be prevented or restricted by anything in the Engagement from providing services to other clients. We will take reasonable steps to ensure that confidential information communicated to us during the course of this Engagement will be maintained confidentially and will not be disclosed or made available to partners, principals and staff who do not have a need to know such information for purposes of performing the Engagement.

PricewaterhouseCoopers
PricewaterhouseCoopers LLP

Confirmation of Terms of Engagement

We agree to engage PricewaterhouseCoopers upon the terms set forth in these Standard Terms and Conditions and the related Letter of Engagement from PricewaterhouseCoopers.

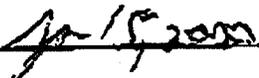


Signature



Title

Mr. Steve Mitchell
On behalf of Aereal, Inc.



Date

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DECLARATION OF SERVICE

I am over the age of eighteen years and not a party to the within action. My business address is Hennigan, Bennett & Dorman, 601 South Figueroa Street, Suite 3300, Los Angeles, California 90017.

On May 4, 2000, I served the following pleading:

NOTICE OF AND APPLICATION FOR AUTHORITY TO EMPLOY PRICEWATERHOUSECOOPERS LLP NUN PRO TUNC AS ACCOUNTANTS AND FINANCIAL ADVISORS TO THE DEBTOR AND DEBTOR IN POSSESSION

on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, with first-class postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as follows below.

I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

SEE ATTACHED SERVICE LIST

The above-described pleading also was transmitted to the indicated parties set forth above in the manner described below:

By air courier service, for next business-day delivery by

By messenger service, for same-day delivery by hand by

by telecopy, for immediate receipt.

I declare that I am employed in an office of a member of the bar of this Court, at whose direction the within service was made.

EXECUTED on May 4, 2000 at Los Angeles, California.



Joanne Stern, Declarant

HENNIGAN, BENNETT & DORMAN

PROOF OF SERVICE

Debtor:

AUREAL, INC.
Attn: Steve Mitchell
45757 Northport Loop West
Fremont, CA 94538

Secured Creditor as Agent:

Oaktree Capital Management LLC
Attn: Richard Masson
333 S. Grand Avenue, 28th Floor
Los Angeles, CA 90071

Creditors' Committee Member:

UMC Group (USA)
Attn: Hwai-Jen Lo, Credit Manager
488 Deguigne Drive
Sunnyvale, CA 94086

Creditors' Committee Member:

Highsoft, Inc.
Attn: R. Scott Holmgren, Gen. Mgr.
1965 Latham Street
Mountain View, CA 94040-2107

20 Largest Unsecured Creditor:

Caesar International, Inc.
Attn: JoJo Estavillo
2860 Zanker Road, Suite 210
San Jose, CA 95134

20 Largest Unsecured Creditor:

PC World Communications
Attn: Kevin Greene
PO Box 3700-67
Boston, MA 02241-0767

20 Largest Unsecured Creditor:

Integra-Dyne Corp.
Attn: Ren Condotta
145 King Street, West, Suite 1000
Toronto, ON M5H 1J8
Canada

20 Largest Unsecured Creditor:

Hruska Productions Audio, Inc.
Attn: Jennifer Hruska
66 Rear Dudley Street
Arlington, MA 02476

Creative Labs, et al Req. Spec. Notice:

Debra Rottenberg, Esq.
Creative Labs, Inc.
1301 McCarthy Boulevard
Milpitas, CA 95035

Debtor's Counsel:

Sidney P. Levinson/Kelly Frazier
Hennigan & Bennett
601 S Figueroa St., Suite 3300
Los Angeles, CA 90017

Counsel to Oaktree Capital Mgmt.:

Eric Reimer, Esq.
McDermott, Will & Emory
2049 Century Park East, 34th Floor
Los Angeles, CA 90067

Creditors' Committee Member:

Flatland Online, Inc.
Attn: Terry Campbell
2325 Third Street, Suite 215
San Francisco, CA 94107

Creditors' Committee Member:

Finova Technology Finance, Inc.
Attn: O'Neil Petrone, Collections Mgr.
115 West Century Road, 3rd Floor
Paramus, NJ 07652

20 Largest Unsecured Creditor:

Cadence Design Systems, Inc.
Attn: Steve Mih
555 River Oaks Parkway
San Jose, CA 95134

20 Largest Unsecured Creditor:

VIFA-Speak A/S
Stationsvej 5
6920 Videbaek
Danmark

20 Largest Unsecured Creditor:

3DSL
Attn: John Byrne
Blissworth Base Hill
Stoke Road, Busworth
Northants, UK NN73DB

Request For Special Notice:

Orrick, Harrington & Sutcliffe
Attn: Thomas C. Mitchell, Esq.
400 Sansome Street
San Francisco, CA 94111-3143

Caesar Intl Req for Special Notice:

William C. Lewis, Esq.
Law Offices of William C. Lewis
510 Waverley Street
Palo Alto, CA 94031

Office of the U.S. Trustee:

U.S. Trustee
Attn: Mark L. Pope, Esq.
1301 Clay Street, Suite 690N
Oakland, CA 94612

Creditors' Committee Member:

Ocean Data Products
5th Floor Kader Industrial Bldg.
22 Kai Cheung Road
Kowloon Bay
Kowloon, Hong Kong

Creditors' Committee Member:

Juan Gonzalez
KPMG
3 Embarcadero Center, Suite 2000
San Francisco, CA 94111

Creditors' Committee Member:

Imagine Media Inc. d/b/a PC Gamer
Attn: John Lysdahl, Credit Manager
150 North Hill Drive
Brisbane, CA 94005

20 Largest Unsecured Creditor:

Houlihan Lokey Howard & Zukin
Attn: Glenn Daniel, Managing Director
49 Stevenson Street, 14th Floor
San Francisco, CA 94105

20 Largest Unsecured Creditor:

GE Capital
Attn: Brian Haber
Dept. 3123
Pasadena, CA 91051-3123

20 Largest Unsecured Creditor:

Acdivision, Inc.
Attn: Andrea Tedeschi
3100 Ocean Park Boulevard
Santa Monica, CA 90405

Creative Labs Req For Spec Notice:

Mark Shinderman, Esq.
Munger, Tolles & Olson LLP
355 South Grand Avenue, Suite 3500
Los Angeles, CA 90071-1560

Ocean Data Products Req Spec. Not:

Patricia S. Mar, Esq.
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105

I/O Marie Req. for Spec. Notice:

Horowitz & Beam
Attn: Lawrence M. Cron, Esq.
Two Ventura Plaza, Suite 350
Irvine, CA 92618

Request for Special Notice:

Ritter, Van Pelt & Yi, LLP
Attn: Jack Limper
4906 El Camino Real, Suite 205
Los Altos, CA 94022

20 Largest Unsecured Creditors:

Ziff Davis
Attn: Customer Service Dept.
One Park Avenue
New York, NY 10016

Finova Req. for Special Notice:

Sachnoff & Weaver, Ltd.
Attn: Charles P. Schulman, Esq.
30 South Wacker Drive, Suite 2900
Chicago, IL 60606

Request for Special Notice:

Christopher Beard, Esq.
Beard & Beard
4601 North Park Avenue
Chevy Chase, MD 20815

Request for Special Notice:

Peter A. Chapman, Esq.
24 Perdicaris Place
Trenton, NJ 08618

Request For Special Notice:

Maggie Lewsadder
Makefield Securities Corporation
789 S. Federal Hwy., Suite 102
Suat, FL 34994

Financial Consultant to the Debtor:

Price Waterhouse Coopers LLP
Attn: Glenn Hiraga/Shaw Kelly
400 South Hope Street
Los Angeles, CA 90071-2889

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EXHIBIT W

1 MICHAEL H. AHRENS, CAL. BAR NO. 44766
JEFFREY K. REHFELD, CAL. BAR NO. 188128
2 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
3 Including Professional Corporations
Four Embarcadero Center, 17th Floor
4 San Francisco, California 94111
Telephone: (415) 434-9100
5 Facsimile: (415) 434-3947

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KEENAN C. O'SADY, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

6 Attorneys for PricewaterhouseCoopers LLP

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8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11
12 In re

13 AUREAL, INC., d/b/a SILO.COM,
14 f/k/a AUREAL SEMICONDUCTOR, INC.,
15 f/k/a MEDIA VISION TECHNOLOGY,
INC., a Delaware corporation,

16 Debtor.

Case No. 00-42104-TI

(Chapter 11)

**DECLARATION OF HILARY KRANE
IN SUPPORT OF
PRICEWATERHOUSECOOPERS LLP'S
RESPONSE TO OBJECTIONS TO
APPLICATION FOR AUTHORITY TO
EMPLOY
PRICEWATERHOUSECOOPERS LLP
NUNC PRO TUNC AS ACCOUNTANTS
AND FINANCIAL ADVISORS TO THE
DEBTOR AND DEBTOR IN POSSESSION**

DATE: June 19, 2000
TIME: 2:00 p.m.
PLACE: Courtroom 201
1300 Clay Street
Oakland, CA 94612

23
24 I, HILARY KRANE, declare and state as follows:

25 1. I am over eighteen (18) years of age and, if called upon, would
26 competently testify to the matters set forth herein from my own personal knowledge, except
27 as otherwise stated. Except as to those statements made upon information and belief, I have
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1 personal knowledge of the following facts and, if called and sworn as a witness, I would and
2 could competently testify thereto. As for those statements made upon information and
3 belief, I believe them to be true.

4 2. I am the Assistant General Counsel of PricewaterhouseCoopers LLP
5 (hereinafter "PwC").

6 3. This Declaration is submitted in support of PwC's response to the
7 objections filed by the U.S. Trustee and Creative Technology, Ltd. and its subsidiaries
8 Creative Labs, Inc. and E-MU Systems Ltd. to the "Application for Authority to Employ
9 PricewaterhouseCoopers LLP Nunc Pro Tunc as Accountants and Financial Advisors to the
10 Debtor and Debtor in Possession" (the "Application") filed by Aural, Inc. as debtor and
11 debtor in possession in the above-captioned chapter 11 bankruptcy case (the "Debtor").

12 4. PwC performs tax and audit work for Creative Technology, Ltd. and its
13 subsidiaries Creative Labs, Inc. and E-MU Systems Ltd. (collectively, "Creative").

14 5. Prior to the Petition Date, Creative retained PwC to do due diligence
15 work in connection with a possible pre-petition acquisition of the Debtor's assets.

16 6. While client confidentiality prevents PwC from detailing what work
17 was actually performed, PwC can unequivocally state that it did not (1) serve as an agent for
18 Creative in connection with the possible purchase, (2) "represent" Creative in the
19 negotiations, i.e. negotiate on behalf of Creative with the Debtor or (3) take any other action
20 to affect the potential purchase price.

21 7. Not only did PwC not do these things as a factual matter, it is precluded
22 from performing any of these roles because of the necessity of PwC retaining its
23 independence from Creative given its role as external auditor.

24 8. Rules governing audit accountant conduct and related conflicts of
25 interest issues are promulgated by the American Institute of Certified Public Accountants
26 ("AICPA"), which apply to audits of both public and private companies, and the Securities
27 and Exchange Commission ("SEC"), which pertain to public companies. The AICPA rules
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1 are generally more permissive than those of the SEC. A copy of certain relevant AICPA
2 rules and interpretations thereof are attached hereto as Exhibits A and B.

3 9. Both the AICPA and the SEC have strict rules prohibiting an
4 independent accountant from performing any traditional management functions, which
5 includes acting as an agent for management or negotiating on behalf of an audit client. See,
6 e.g., Ex. B at 1. Thus, while PwC may collect and analyze information for Creative, it is
7 prohibited from making any decisions based on that information or taking any action on
8 Creative's behalf in connection with the potential purchase of any assets or businesses, be
9 they associated with the Debtor or any other entity.

10 10. In discussing with Creative PwC's intention to serve as advisor to the
11 Debtor in the Debtor's bankruptcy, PwC was notified that Creative expressed some concern
12 in connection with Creative's engagement of PwC as expert witness in certain litigation and
13 that Creative objected because it wanted to be free to retain PwC to provide additional
14 services in connection with its possible purchase of the Debtor's assets should it so choose.

15 11. Recognizing the limitations on the services it could supply Creative
16 under the independence rules, PwC indicated to Creative that it did not believe that its role
17 as advisor to the debtor would prevent it from accepting such future assignments for any
18 conflict reason.

19 12. While PwC never viewed the situation as creating an actual conflict it
20 did recognize that it had a business issue to address. Accordingly, in order to provide
21 additional comfort to Creative, PwC discussed the situation with the Debtor and its counsel,
22 who agreed that provided that an ethical wall was in place to ensure that Creative did not get
23 any greater access to information because of its relationship PwC, it would have no
24 objection to PwC accepting such an assignment from Creative in the future should Creative
25 ask it to (something that has not yet happened).

1 13. PwC formalized this in the letter it received from the Debtor dated May
2 3, 2000 in order to put Creative's concerns to rest and to be able to provide the Trustee and
3 the Court with a completely clear view of PwC's relationships.

4 14. PwC never requested a waiver from Creative as it never believed, and
5 still does not believe, that it has put itself in the position of acting "adverse" to Creative's
6 interests in any way.

7 15. Large accounting firm serve many clients in the same and competing
8 industries as a regular part of their business operations; their ethical obligations to maintain
9 the confidentiality of client information prevents clients from being harmed in these
10 situations.

11 16. It has not ever been nor is it now the view of the profession, the AICPA
12 or PwC specifically that accepting an engagement for a client who happens to be a fierce
13 competitor or even a nemesis of another client creates a conflict of interest. Provided that
14 the firm can effectively protect each clients' confidential information and that the firm will
15 not be put in a position of negotiating against itself or potentially taking two disparate
16 positions on the same set of facts, no conflict of interest arises to prevent the accountant
17 from servicing both of its clients needs.

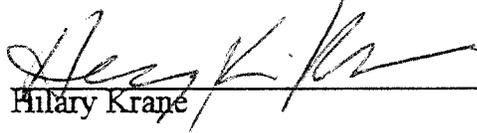
18 17. PwC's due diligence work was completed on March 6, 2000 and PwC
19 has not been retained by Creative to perform any other services in connection with whatever
20 plans it may have to attempt to purchase the Debtor's assets out of bankruptcy.

21 18. As it currently stands, PwC has absolutely no obligations to Creative
22 with respect a potential bid for the Debtor or its assets and if Creative believes that PwC's
23 advisory services for the debtor would compromise its ability to effectively provide them
24 services in this regard, it can simply not seek to retain PwC to provide those services.

25 19. With respect to the issue of a accountant expert witness, the AICPA has
26 produced a report setting standards for certified public accountants entitled "Conflicts of
27 Interest in Litigation Services Engagement," ("Special Report") which confirms that an
28

1 accountant plays a much different role, and as such is bound by much different rules, than
2 attorneys. A copy of the Special Report is attached hereto as Exhibit C.

3
4 I declare under penalty of perjury under the laws of the United States that the
5 foregoing is true and correct. Executed this 14th day of June, 2000 in San Francisco,
6 California.

7 
8 Hilary Krane

ReferenSearch-Excerpts from infobase:

ET Section 100
INDEPENDENCE, INTEGRITY, AND OBJECTIVITY

ET Section 101
Independence

.01 **Rule 101—Independence.** A member in public practice shall be independent in the performance of professional services as required by standards promulgated by bodies designated by Council.

[As adopted January 12, 1988.]

Interpretations under Rule 101 —Independence

Interpretations and Ethics Rulings which existed before the adoption of the Code of Professional Conduct on January 12, 1988, will remain in effect until further action is deemed necessary by the appropriate senior technical committee.

.02 **101-1—Interpretation of Rule 101.** Independence shall be considered to be impaired if, for example, a member had any of the following transactions, interests, or relationships:

- A. During the period of a professional engagement or at the time of expressing an opinion, a member or a member's firm
1. Had or was committed to acquire any direct or material indirect financial interest in the enterprise.
 2. Was a trustee of any trust or executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise.
 3. Had any joint, closely held business investment with the enterprise or with any officer, director, or principal stockholders thereof that was material in relation to the member's net worth or to the net worth of the member's firm.
 4. Had any loan to or from the enterprise or any officer, director, or principal stockholder of the enterprise except as specifically permitted in interpretation 101-5 [ET section 101.07].
- B. During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, a member or a member's firm
1. Was connected with the enterprise as a promoter, underwriter or voting trustee, as a director or officer, or in any capacity equivalent to that of a member of management or of an employee.
 2. Was a trustee for any pension or profit-sharing trust of the enterprise.

The above examples are not intended to be all-inclusive.

The period of a professional engagement starts when the member begins to perform any professional services requiring independence for an enterprise, lasts for the entire duration of the professional relationship, which

ReferenSearch-Excerpts from infobase:

could cover many periods, and ends with the formal or informal notification of the termination of the professional relationship either by the member, by the enterprise, or by the issuance of a report, whichever is later. Accordingly, the professional engagement does not end with the issuance of a report and recommence with the signing of the following year's engagement.

[Paragraph added by adoption of the Code of Professional Conduct on January 12, 1988. Revised, effective June 30, 1990, by the Professional Ethics Executive Committee. Revised, November 1991, effective January 1, 1992 with earlier application encouraged, by the Professional Ethics Executive Committee. Revised, effective February 28, 1998, by the Professional Ethics Executive Committee.]

[.03] [101-1] [Formerly paragraph .02 renumbered by adoption of the Code of Professional Conduct on January 12, 1988. Formerly interpretation 101-1, renumbered as 101-4 and moved to paragraph .06, April 1992.]

.04 101-2—Former practitioners and firm independence. For purposes of this interpretation, a former practitioner is defined as a proprietor, partner, shareholder, or equivalent who leaves by resignation, termination, retirement, or sale of all or part of the practice.

For purposes of determining a firm's compliance with Rule 101 [ET section 101.01] and its interpretations, a former practitioner is not included in the term "a member or a member's firm" (see ethics interpretation 101-9, ET section 101.11) provided that

1. Payment of the amounts due to the former practitioner for his or her interest in the firm and for unfunded, vested retirement benefits according to the payment schedule in effect should be such that they do not cause a substantial doubt about the firm's ability to continue as a going concern for a reasonable period of time. In addition, such amounts including all retirement benefits should be fixed, both as to the amount and payment dates. Such amounts due a former practitioner may be paid over a reasonable period of time, and a reasonable rate of interest may be paid on any unpaid balances. Retirement benefits may be adjusted only for inflation.

2. The former practitioner does not participate in the firm's business or professional activities whether or not compensated for such participation. This proscription does not apply to consultations on an advisory basis for a reasonable period of time during the transition period upon leaving the firm.

3. The former practitioner does not appear to participate in the activities of or be associated with his or her former firm. An appearance of participation or association results from such actions as inclusion of the former practitioner's name under the firm's name in an office building directory, inclusion of the former practitioner's name as a member of the firm in membership lists of business, professional or civic organizations, or inclusion of the former practitioner's name in the firm's internal directory without being designated as retired. The former practitioner will not be considered as participating or associating with his or her former firm solely because the former practitioner is provided an office, either in the firm's suite or in a separate location, and related office amenities such as secretarial and telephone services. (However, see 4. below for restrictions regarding office space and amenities for a former practitioner who accepts a position of significant influence with a client.)

4. A former practitioner in a position of significant influence with the client must no longer be provided with office space and related amenities by his or her former firm.
[Replaces previous interpretation 101-2, *Retired Partners and Firm Independence*, August, 1989, effective August 31, 1989.]

.05 101-3—Accounting services. Members in public practice may be asked to provide manual or automated bookkeeping or data processing services to clients. Computer systems design and programming assistance may also be rendered by members either in conjunction with data processing services or as a

ReferenSearch-Excerpts from infobase:

separate engagement. In addition, members may rent "block time" on their computers to their clients but are not involved in the processing of transactions or maintaining the client's accounting records.

A member providing such services to a client must meet the following requirements to be considered independent:

1. The client must accept the responsibility for the financial statements as his own. The client must be sufficiently informed of the enterprise's activities and financial condition and the applicable accounting principles so that the client can reasonably accept such responsibility, including, specifically, fairness of "valuation and presentation" and adequacy of disclosure. When necessary, the member must discuss accounting matters with the client to assist the client in understanding such matters.

2. The member must not assume the role of employee or of management. For example, the member shall not consummate transactions, have custody of assets, or exercise authority on behalf of the client. The client must prepare the source documents on transactions in sufficient detail to identify clearly the nature and amount of such transactions. The member should not make changes in such basic data without the concurrence of the client.

3. When financial statements are prepared from books and records which the member has maintained, the member must comply with applicable standards for audits, reviews, or compilations. [Formerly paragraph .04, renumbered by adoption of the Code of Professional Conduct on January 12, 1988. Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

.06 101-4—Honorary directorships and trusteeships of not-for-profit organization. Members may be asked to lend the prestige of their names to not-for-profit organizations that limit their activities to those of a charitable, religious, civic, or similar nature by being named as a director or a trustee. A member who permits his or her name to be used in this manner and who is associated with the financial statements of the organization would not be considered lacking in independence under Rule 101 [ET section 101.01] so long as his or her position is clearly honorary, and he or she cannot vote or otherwise participate in board or management functions. If the member is named in letterheads and externally circulated materials, the member must be identified as an honorary director or honorary trustee. [Formerly paragraph .05, renumbered by adoption of the Code of Professional Conduct on January 12, 1988. Formerly interpretation 101-1. Revised, effective June 30, 1990, by the Professional Ethics Executive Committee. Renumbered as Interpretation 101-4 and moved from paragraph .03, April, 1992.]

.07 101-5—Loans from financial institution clients and related terminology. Interpretation 101-1.A.4 [ET section 101.02] provides that, except as permitted in this interpretation, a member's independence shall be considered to be impaired if the member has any loan to or from the enterprise or any officer, director, or principal stockholder of the enterprise. This interpretation does not consider independence to be impaired for certain grandfathered loans and other permitted loans from financial institution clients for whom services are performed requiring independence as set forth below under "Grandfathered Loans" and "Other Permitted Loans," respectively.

Grandfathered Loans

This interpretation grandfathers the following loans obtained from a financial institution under that institution's normal lending procedures, terms, and requirements, and that meet the other specified conditions stated herein, and (a) that exist as of January 1, 1992; (b) that were obtained from a financial institution prior to its becoming a client requiring independence; (c) that were obtained from a financial institution for which independence was not required and that were later sold to a client for which independence is required; or (d) that were obtained from a financial institution client requiring independence, by a borrower prior to his or her

ReferenSearch-Excerpts from infobase:

becoming a member with respect to such client. *However, independence will be considered to be impaired if, after January 1, 1992, a member obtains a loan as described in this paragraph from an entity that, at the time of obtaining the loan, is a client requiring independence.* For purposes of applying the grandfathered loans provision, the date a loan commitment or line of credit is granted must be used, rather than the date a transaction closes or funds are obtained. Grandfathered loans must, at all times, be current as to all terms.

1. Home mortgages.
2. Other secured loans. The value of the collateral securing such loans should equal or exceed the remaining balance of the grandfathered loans during the term of the loans. However, if the value of the collateral is less than the remaining balance of the grandfathered loans, the portion of the loans that exceeds the value of the collateral must not be material to the member's net worth.
3. Unsecured loans not material to the member's net worth.

A loan would no longer be considered grandfathered if, after the latest of the dates in (a) through (d) above, the terms of the loan change in any manner not provided for in the original loan agreement. Changes in the terms of the loan include, but are not limited to, a new or extended maturity date, a new interest rate or formula, revised collateral, or revised or waived covenants.

With respect to (1) limited partnerships (or similar type entities) in which member(s) have a combined interest exceeding 50 percent of the total limited partnership interest, and (2) general partnerships in which member(s) can control the partnership, the loan is ascribed to each partner on the basis of legal liability as a limited or general partner. Even if the amount ascribed to the member is zero, independence is considered to be impaired if the partnership renegotiates the loan or enters into a new loan after the latest of the dates in (a) through (d) above.

Other Permitted Loans

This interpretation permits only the following loans obtained from a financial institution client for which independence is required. These loans must be obtained under the institution's normal lending procedures, terms, and requirements and must, at all times, be kept current as to all terms.

1. Automobile loans and leases collateralized by the automobile.
2. Loans fully collateralized by the cash surrender value of an insurance policy.
3. Loans fully collateralized by cash deposits at the same financial institution (e.g., "passbook loans").
4. Credit cards and cash advances where the aggregate outstanding balance on the current statement is reduced to \$5,000 or less by the payment due date.

Terminology

For purposes of interpretations 101-1.A.4 [ET section 101.02] and 101-5 [ET section 101.07], the following terms are defined:

* For the definition of "member" see Interpretation 101-9 [ET section 101.11], "The meaning of certain independence terminology and the effect of family relationships on independence."

ReferenSearch-Excerpts from infobase:**Loan**

A loan is considered to be a financial transaction, the characteristics of which generally include, but are not limited to, an agreement that provides for repayment terms and a rate of interest. A loan includes, but is not limited to, a guarantee of a loan, a letter of credit, a line of credit, or a loan commitment.

Financial Institution

A financial institution is considered to be an entity that, as part of its normal business operations, makes loans to the general public.

Normal Lending Procedures, Terms, and Requirements

"Normal lending procedures, terms, and requirements" relating to a member's loan from a financial institution are defined as lending procedures, terms, and requirements that are reasonably comparable with those relating to loans of a similar character committed to other borrowers during the period in which the loan to the member is committed. Accordingly, in making such comparison and in evaluating whether a loan was made under "normal lending procedures, terms, and requirements," the member should consider all the circumstances under which the loan was granted, including

1. The amount of the loan in relation to the value of the collateral pledged as security and the credit standing of the member or the member's firm.
2. Repayment terms.
3. Interest rate, including "points."
4. Closing costs.
5. General availability of such loans to the public.

Related prohibitions that may be more restrictive are prescribed by certain state and federal agencies having regulatory authority over such financial institutions. Broker-dealers, for example, are subject to regulation by the Securities and Exchange Commission.

[Revised, November 30, 1987, by the Professional Ethics Executive Committee. Formerly paragraph .06, renumbered by adoption of the Code of Professional Conduct on January 12, 1988. References revised to reflect issuance of AICPA Code of Professional Conduct on January 12, 1988. Revised, effective June 30, 1990, by the Professional Ethics Executive Committee. Revised, November 1991, effective January 1, 1992 with earlier application encouraged, by the Professional Ethics Executive Committee. Revised, effective February 28, 1998 by the Professional Ethics Executive Committee.]

.08 101-6—The effect of actual or threatened litigation on independence. Rule 101 [ET section 101.01] provides that a member shall be independent in the performance of professional services as required by standards promulgated by bodies designated by Council. In some circumstances, independence may be considered to be impaired as a result of litigation or the expressed intention to commence litigation.

Litigation between client and member

In order for the member to fulfill his obligation to render an informed, objective opinion on the client company's financial statements, the relationship between the management of the client and the member must be characterized by complete candor and full disclosure regarding all aspects of the client's business operations. In addition, there must be an absence of bias on the part of the member so that he or she can

ReferenSearch-Excerpts from infobase:

independence if no such claims are asserted by the company or the present management.

3. If any of the persons who file cross-claims against the member are also officers or directors of other clients of the member, the member's independence with respect to such other clients would not usually be impaired.

Other third-party litigation

Another type of third-party litigation against the member may be commenced by a lending institution, other creditor, security holder, or insurance company who alleges reliance on financial statements of the client with which the member is associated as a basis for extending credit or insurance coverage to the client. In some instances, an insurance company may commence litigation (under subrogation rights) against the member in the name of the client to recover losses reimbursed to the client. These types of litigation would not normally affect the member's independence with respect to a client who is either not the plaintiff or is only the nominal plaintiff, since the relationship between the member and client management would not be affected. They should be examined carefully, however, since the potential for adverse interests may exist if the member alleges, in his defense, fraud, or deceit by the present management.

If the real party in interest in the litigation (e.g., the insurance company) is also a client of the member ("the plaintiff client"), the member's independence with respect to the plaintiff client may be impaired if the litigation involves a significant risk of a settlement or judgment in an amount which would be material to the member's firm² or to the plaintiff client.

Effects of impairment of independence

If the member believes that the circumstances would lead a reasonable person having knowledge of the facts to conclude that the actual or intended litigation poses an unacceptable threat to the member's independence, the member should either (a) *disengage himself or herself*, or (b) *disclaim an opinion because of lack of independence*. Such disengagement may take the form of resignation or cessation of any audit work then in progress pending resolution of the issue between the parties.

Termination of impairment

The conditions giving rise to a lack of independence are usually eliminated when a final resolution is reached and the matters at issue no longer affect the relationship between the member and client. The member should carefully review the conditions of such resolution to determine that all impairments to the member's objectivity have been removed.

[Formerly paragraph .07, renumbered by adoption of the Code of Professional Conduct on January 12, 1988. Revised, effective June 30, 1990, by the Professional Ethics Executive Committee. Revised, effective September 30, 1995, by the Professional Ethics Executive Committee, by deletion of subhead and paragraph and reissuance as ethics ruling No. 100, *Actions Permitted When Independence is Impaired* [ET section 191.200-.201], under Rule 101 [ET section 101.01.]

[.09] [101-7]—[Deleted] [Formerly paragraph .08, renumbered by adoption of the Code of Professional Conduct on January 12, 1988.]

.10 101-8—Effect on Independence of financial interests in nonclients having investor or investee relationships with a member's client.

2 See footnote 1.

ReferenSearch-Excerpts from infobase:

Introduction

Financial interests in nonclients that are related in various ways to a client may impair independence. Situations in which the nonclient investor is a partnership are covered in other rulings [ET section 191.138-.139, .158-.159, and .162-.163].

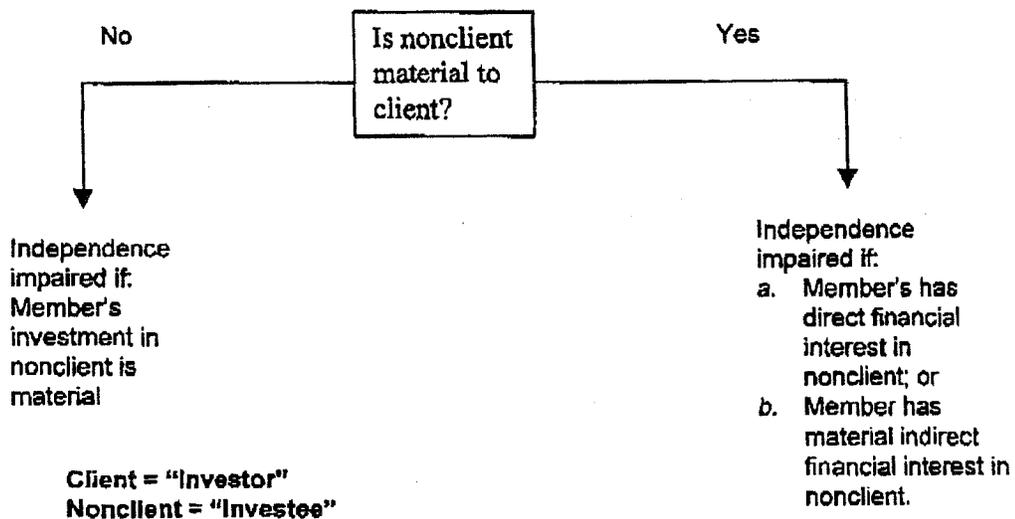
Terminology

The following specifically identified terms are used in this interpretation as indicated:

1. **Client.** The term client means the person or entity with whose financial statements the member or the member's firm is associated.
2. **Significant Influence.** The term significant influence is as defined in Accounting Principles Board (APB) Opinion 18 [AC 182].
3. **Investor.** The term investor means (a) a parent, (b) a general partner, or (c) a natural person or corporation that has the ability to exercise significant influence.
4. **Investee.** The term investee means (a) a subsidiary or (b) an entity over which an investor has the ability to exercise significant influence.

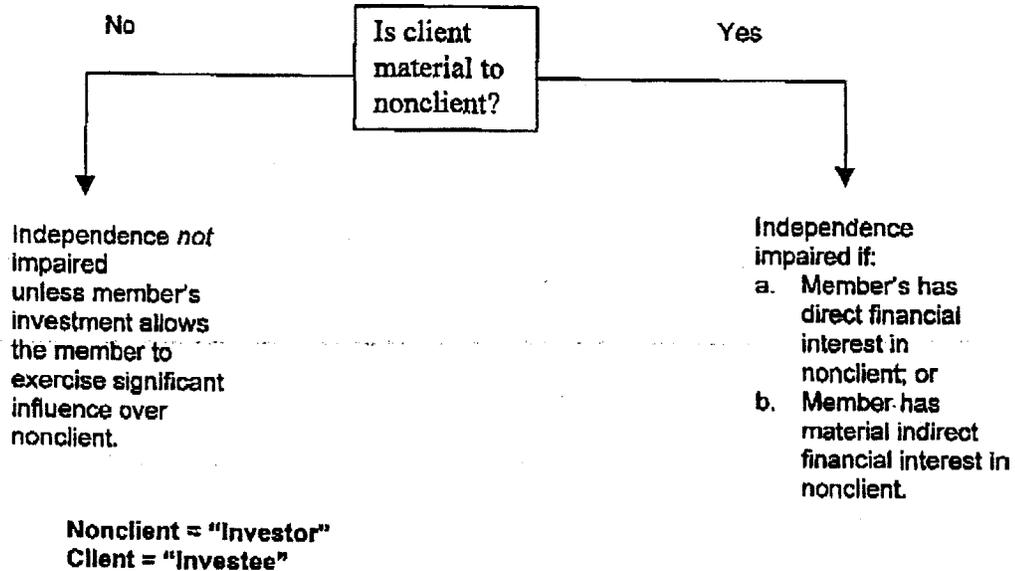
Interpretation

Where a nonclient investee is material to a client investor, any direct or material indirect financial interest of a member in the nonclient investee would be considered to impair the member's independence with respect to the client investor. If the nonclient investee is immaterial to the client investor, a member's material investment in the nonclient investee would cause an impairment of independence.



ReferenSearch-Excerpts from infobase:

Where a client investee is material to nonclient investor, any direct or material indirect financial interest of a member in the nonclient investor would be considered to impair the member's independence with respect to the client investee. If the client investee is immaterial to the nonclient investor, and if a member's financial interest in the nonclient investor allows the member to exercise significant influence over the actions of the nonclient investor, the member's independence would be considered impaired.



Other relationships, such as those involving brother-sister common control or client-nonclient joint ventures, may affect the appearance of independence. The member should make a reasonable inquiry to determine whether such relationships exist, and if they do, careful consideration should be given to whether the financial interests in question would lead a reasonable observer to conclude that the specified relationships pose an unacceptable threat to the member's independence.

In general, in brother-sister common control situations, an immaterial financial interest of a member in the nonclient investee would not impair the independence of a member with respect to the client investee, provided the member could not exercise significant influence over the nonclient investor.

However, if a member's financial interest in a nonclient investee is material, the member could be influenced by the nonclient investor, thereby impairing the member's independence with respect to the client investee. In like manner, in a joint venture situation, an immaterial financial interest of a member in the nonclient investor would not impair the independence of the member with respect to the client investor, provided that the member could not exercise significant influence over the nonclient investor.

If a member does not and could not reasonably be expected to have knowledge of the financial interests or relationship described in this interpretation, the member's independence would not be considered to be impaired under this interpretation.

[Revised, December 31, 1983, by the Professional Ethics Executive Committee. Formerly paragraph .09 renumbered by adoption of the Code of Professional Conduct on January 12, 1988. References changed to reflect the issuance of the AICPA Code of Professional Conduct on January 12, 1988. Replaces previous

ReferenSearch-Excerpts from infobase:

interpretation 101-8, *Effect on Independence of Financial Interests in Nonclients Having Investor or Investee Relationships With a Member's Client*, April 1991, effective April 30, 1991. Revised, December 31, 1991, by the Professional Ethics Executive Committee.]

.11 101-9—The meaning of certain independence terminology and the effect of family relationships on independence.

This interpretation defines certain terms used in interpretation 101-1 [ET section 101.02] and, in doing so, also explains how independence may be impaired through certain family relationships.

Member or Member's Firm

A member (as used in Rule 101 [ET section 101.01]) and a member or a member's firm (as used in interpretation 101-1 [ET section 101.02]) include—

1. The member's firm and its proprietors, partners, or shareholders. A member's firm is defined as a form of organization permitted by state law or regulation whose characteristics conform to resolutions of Council that is engaged in the practice of public accounting, including the individual owners thereof.
2. All individuals³ participating in the engagement, except those who perform only routine clerical functions, such as typing and photocopying.
3. All individuals³ with a managerial position located in an office participating in a significant portion of the engagement.
4. Any entity (for example, a partnership, corporation, trust, joint venture, or pool) whose operating, financial, or accounting policies can be controlled (see definition of control for consolidation purposes in Financial Accounting Standards Board [FASB] Statement No. 94 [AC section C51]) by one or more of the persons described in (1) through (3) or by two or more such persons if they choose to act together.

A member or a member's firm does not include an individual³ solely because he or she was formerly associated with the client in any capacity described in interpretation 101-1-B [ET section 101.02], if such an individual³ has disassociated himself or herself from the client and does not participate in the engagement for the client covering any period of his or her association with the client.

A member or a member's firm includes individuals³ who provide services to clients and are associated with the client in any capacity described in interpretation 101-1-B [ET section 101.02], if the individuals³ are located in an office participating in a significant portion of the engagement.

Managerial Position

The organization of firms varies; therefore, whether an individual has a managerial position depends on his or her responsibilities and how he or she or the position itself is held out to clients and third parties. The following are some, but not necessarily all, of the responsibilities that suggest that an individual has a managerial position:

1. Continuing responsibility for the overall planning and supervision of engagements for

³ Refers to all employees of the member and all contractors retained by the member, except specialists as discussed in SAS No. 73 [AU section 336], irrespective of their functional classification (for example, audit, tax, or management consulting services).

ReferenSearch-Excerpts from infobase:

specified clients

2. Authority to determine that an engagement is complete subject to final partner approval if required
3. Responsibility for client relationships (for example, negotiating and collecting fees for engagements and marketing the firm's services)
4. Existence of profit sharing as a significant feature of total compensation
5. Responsibility for overall management of the firm, development, or establishment of firm policies on technical matters, and implementation of or compliance with the following five elements of quality control:
 - a. Independence, integrity and objectivity
 - b. Personnel management
 - c. Acceptance and continuation of clients and engagements
 - d. Engagement performance
 - e. Monitoring

Significant Influence

A person or entity can exercise significant influence over the operating, financial, or accounting policies of another entity if for example, the person or entity—

1. Is connected with the entity as a promoter, underwriter, voting trustee, general partner or director (other than an honorary director as defined in the AICPA Code of Professional Conduct).
2. Is connected with the entity in a policy-making position related to the entity's primary operating, financial, or accounting policies, such as chief executive officer, chief operating officer, chief financial officer, or chief accounting officer.
3. Meets the criteria established in Accounting Principles Board Opinion No. 18, *The Equity Method of Accounting for Investments in Common Stock*, [AC section 182], and its interpretations to determine the ability of an investor to exercise such influence with respect to an entity.

The foregoing examples are not necessarily all-inclusive.

Office Participating In a Significant Portion of the Engagement

An office would be considered to be participating in a significant portion of an engagement if the office had primary client responsibility for a multioffice engagement. In addition, professional judgment must be exercised in deciding whether any other office participates in a significant portion of a multioffice engagement. For example, an office would be considered to be participating in a significant portion of the engagement if the office's engagement hours or fees are material to total engagement hours or fees or if the office's responsibility for reporting, whether internally or externally, on a portion of the engagement relates to a material amount of assets or income (loss) before income taxes of the client.

ReferenSearch-Excerpts from infobase:

The foregoing examples are not necessarily inclusive of all the situations in which an office may be considered to be participating in a significant portion of the engagement.

Spouses and Dependent Persons

Except as stated in the following paragraph, the term *member* includes spouses (whether or not dependent) and dependent persons (whether or not related) for all purposes of complying with Rule 101 [ET section 101.01].

The exception is that the independence of the member and the member's firm will not normally be impaired solely as a result of the employment of a spouse or dependent person by a client subject to the following conditions:

1. Independence would be considered to be impaired if a spouse or dependent person of one of the following has a position with the client that allows significant influence over the client's operating, financial, or accounting policies:
 - a. An individual participating in the engagement
 - b. A proprietor, partner, or shareholder who—
 - i. is located in an office participating in a significant portion of the engagement; or
 - ii. has the ability to exercise influence over the engagement; or
 - iii. has any involvement with the engagement (for example, consultation on accounting or auditing issues)
2. Independence will be considered to be impaired if a spouse or dependent person of an individual participating in the engagement has a position with the client involving activities that are *audit-sensitive* (even though the position is not one that allows *significant influence*).

In general, a person's activities would be considered audit-sensitive if such activities are normally an element of or subject to significant internal accounting controls. For example, the following positions, which are not intended to be all-inclusive, would normally be considered audit-sensitive: cashier; internal auditor; accounting supervisor; purchasing agent; or inventory warehouse supervisor.

Nondependent Close Relative

The term *member* or *member's firm* excludes nondependent close relatives of the persons described in (1) through (3) of that definition. Nevertheless, in the circumstances discussed below the independence of a member or a firm can be impaired because of a nondependent close relative.

Close relatives are nondependent children, grandchildren stepchildren, brothers, sisters, grandparents, parents, parents-in-law and their respective spouses. Close relatives do not include the brothers and sisters of the member's spouse.

The independence of a member's firm would be considered to be impaired with respect to an enterprise if—

1. During the period of the professional engagement or at the time of expressing an opinion, an individual participating in the engagement has a close relative with a financial interest in the enterprise that was material to the close relative and of which the individual participating in the engagement has knowledge.

ReferenSearch-Excerpts from infobase:

- 2. During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion—
 - a. An individual participating in the engagement has a close relative who could exercise significant influence over the operating, financial, or accounting policies of the enterprise or who is otherwise employed in a position in which the person's activities are audit-sensitive, or
 - b. A proprietor, partner, or shareholder any one of whom is located in an office participating in a significant portion of the engagement, has a close relative who could exercise significant influence over the operating, financial, or accounting policies of the enterprise.

Other Considerations

Members must be aware that it is impossible to enumerate all circumstances wherein the appearance of a member's independence might be questioned by third parties. For example, a member's relationship with a cohabitant may be equivalent to that of a spouse. In addition, in situations involving assessment of the association of any relative or dependent person with a client, members must consider whether the strength of personal and business relationships between the member and the relative or dependent person, in conjunction with the specified association with the client, would lead a reasonable person aware of all the facts, who took into consideration normal strength of character and normal behavior under such circumstances, to conclude that the situation poses an unacceptable threat to the member's objectivity and appearance of independence.

[Replaces previous interpretation 101-9, *The Meaning of Certain Independence Terminology and the Effect of Family Relationships on Independence*, November 1993, effective November 30, 1993.]

.12 101-10—The effect on independence of relationships with entities included in the governmental financial statements.⁴ For purposes of this interpretation, a financial reporting entity's general purpose financial statements issued in conformity with generally accepted accounting principles include the primary government, its fund types, funds, account groups, and blended component units, financial statements or disclosures of discretely presented component units that should be included in the general purpose financial statements, and notes to the general purpose financial statements. Entities that should be disclosed in the notes to the general purpose financial statements include, but are not limited to, related organizations, joint ventures, jointly governed organizations, and component units of another government with characteristics of a joint venture or jointly governed organization.

Auditor of Financial Reporting Entity

A member issuing a report on the general purpose financial statements of the financial reporting entity must be independent of the financial reporting entity, as defined in paragraph 1 of this interpretation. However, independence is not required with respect to a related organization if the financial reporting entity is not financially accountable for the organization and the required disclosure does not include financial information (for example, the ability to appoint or the appointment of governing board members).

Auditor of a Material Fund Type, Fund, Account Group, or Component Unit of the Financial Reporting Entity or Entity that Should Be Disclosed In the Notes to the General Purpose Financial Statements of the Financial Reporting Entity

⁴ Except for a financial reporting entity's general purpose financial statements, which is defined within the text of this interpretation, certain terminology used throughout the interpretation is specifically defined by the Governmental Accounting Standards Board.

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ReferenSearch-Excerpts from infobase:

A member who is auditing the financial statements of a material fund type, fund, account group, or component unit of the financial reporting entity or entity that should be disclosed in the notes to the general purpose financial statements of the financial reporting entity but is not auditing the primary government, should be independent with respect to those financial statements and those of the primary government. The member is not required to be independent of other fund types, funds, account groups, or component units of the financial reporting entity or entities that should be disclosed in the notes to the general purpose financial statements of the financial reporting entity provided they are not financially accountable for or to the auditee organization⁵ or cannot significantly influence the auditee organization through financial transactions or through common policy-making individuals⁶ or governing board membership.

Auditor of Immaterial Fund Type, Fund, Account Group, or Component Unit of the Financial Reporting Entity or Entity that Should Be Disclosed in the Notes to the General Purpose Financial Statements of the Financial Reporting Entity

A member who is not auditing the primary government but is auditing the financial statements of one or more fund type(s), fund(s), account group(s), or component unit(s) of the financial reporting entity or entity(ies) that should be disclosed in the notes to the general purpose financial statements of the financial reporting entity that alone or in the aggregate are immaterial to the general purpose financial statements, should be independent with respect to those financial statements and should not be associated with the primary government in any capacity described in interpretation 101-1-B [ET section 101.02]. If the member is auditing immaterial fund types, funds, account groups or component units of the financial reporting entity or entities that should be disclosed in the notes to the general purpose financial statements of the financial reporting entity that, when aggregated, are material to the financial reporting entity, the member should be independent of those financial statements and the primary government.

[Formerly paragraph .11, renumbered by adoption of the Code of Professional Conduct on January 12, 1988. References changed to reflect the issuance of the AICPA Code of Professional Conduct on January 12, 1988. Replaces previous interpretation 101-10, *The Effect on Independence of Relationships Proscribed by Rule 101 and its Interpretations With Nonclient Entities Included With a Member's Client in the Financial Statements of a Governmental Reporting Entity*, April 1991, effective April 30, 1991. Replaces previous interpretation 101-10, *The Effect on Independence of Relationships With Entities Included in the Governmental Financial Statements*, January 1996, effective January 31, 1996.]

.13 101-11—Independence and the performance of professional services under the Statements on Standards for Attestation Engagements and Statement on Auditing Standards No. 75, Engagements to Apply Agreed-Upon Procedures to Specified Elements, Accounts, or Items of a Financial Statement

Introduction

Rule 101, *Independence* [ET section 101.01], provides that "a member in public practice shall be independent in the performance of professional services as required by standards promulgated by bodies designated by Council." The Statement on Standards for Attestation Engagements, *Attestation Standards* [AT section 100], and Statement on Auditing Standards No. 1, section 220, *Independence* [AU section 220], require independence in the performance of engagements covered by those standards. Rule 101 [ET section 101.01] and its interpretations and rulings provide guidance in determining whether or not a member is independent.

⁵ Auditee organization refers to the entity with respect to which professional services are performed.

⁶ Policy-making individuals are individuals who occupy positions with the entity relating to its primary operating, financial, or accounting policies.

ReferenSearch-Excerpts from infobase:

[Definitions]

Assertion. Any declaration, or a set of related declarations taken as a whole, by a party responsible for it.

Subject Matter of an Engagement. Any attribute or subset of attributes referred to or contained in an assertion that may in and of itself constitute an assertion.

Responsible Party. The person(s) or entity responsible for an assertion or the subject matter of an assertion; or a specified element, account, or item of a financial statement that is the specific subject matter of the engagement.

Engagement. An engagement in which a member or member's firm is engaged to or does issue a written communication that expresses a conclusion about the reliability of a written assertion; or an engagement in which a member is engaged to or does issue a report of findings based on specific procedures performed on the specific subject matter of specified elements, accounts, or items of a financial statement.

Engagement Team. Includes owners, partners, and shareholders of a firm who participate in the acceptance or performance of the engagement and full- or part-time professional employees who participate in the acceptance or the performance of the engagement, including individuals who provide consultation or supervisory services for the engagement.

Firm. Any organization permitted by state law or regulation to engage in the practice of public accounting whose characteristics conform to resolutions of [the AICPA] Council [ET appendix B] of which an individual on the engagement team is an owner, partner, shareholder, or employee; but does not include owners, partners, shareholders, or employees as individuals.

[Applicability]

This interpretation applies *only to engagements performed under the Statements on Standards for Attestation Engagements and Statement on Auditing Standards No. 75, Engagements to Apply Agreed-Upon Procedures to Specified Elements, Accounts, or Items of a Financial Statement* [AU section 622], when the report issued states that its use is to be restricted to identified parties and the member reasonably expects that the report will be restricted to those parties.⁷

This interpretation does not apply to engagements covered by the Statements on Standards for Attestation Engagements or Statement on Auditing Standards No. 75, *Engagements to Apply Agreed-Upon Procedures to Specified Elements, Accounts, or Items of a Financial Statement* [AU section 622], when the report issued does not state that its use is to be restricted to identified parties, nor does it apply to engagements requiring independence under other standards promulgated by bodies designated by Council. In all other circumstances, independence in accordance with Rule 101 [ET section 101.01] and its interpretations and rulings would apply.

Interpretation

Independence will be considered to be impaired if, during the period of the engagement or at the time the written communication is issued—

1. An individual on the engagement team or his or her spouse; dependent, or firm has a relationship with the responsible party that is proscribed by interpretation 101-1 [ET section

⁷ Reports restricted in use in compliance with the applicability section of this interpretation continue to be restricted even when made a matter of public record.

ReferenSearch-Excerpts from infobase:

101.02] of Rule 101 [ET section 101.01].

2. An individual on the engagement team has a nondependent close relative⁸ who has either a position of significant influence with, or a financial interest material to the close relative in the responsible party.
3. An owner, partner, or shareholder of the firm who is located in an office participating in a significant portion of the engagement, or the spouse or dependent of such an owner, partner, or shareholder, has either a position of significant influence⁸ with, or a financial interest material to such person in the responsible party.
4. The firm, an individual on the engagement team (or his or her spouse or dependent), or an owner, partner, or shareholder in an office performing a significant portion of the engagement, contributed to the development of the subject matter of the engagement or stands to gain financially directly from the outcome of the engagement.
5. An individual on the engagement team knows or could reasonably be expected to know that any owner, partner, or shareholder located in other offices of the firm (a) *contributed to the development of the subject matter of the engagement or stands to gain financially directly from the outcome of the engagement or* (b) *has a position of significant influence⁸ with the responsible party.*

In determining whether a relationship with a responsible party is one that is proscribed under interpretation 101-1 [ET section 101.02], the following guidance is provided:

- Interpretation 101-6, "The Effect of Actual or Threatened Litigation on Independence" [ET section 101.08], is not applicable unless the litigation relates to the engagement or is material to the firm or to the financial statements of the responsible party.
- Interpretation 101-9, "The Meaning of Certain Independence Terminology and the Effect of Family Relationships on Independence" [ET section 101.11], is not applicable because the applicability of this interpretation is stated herein.

[Replaces previous interpretation 101-11, *Independence and Attest Engagements*, January 1996, effective January 31, 1996.]

.14 101-12—Independence and cooperative arrangements with clients. Independence will be considered to be impaired if, during the period of a professional engagement or at the time of expressing an opinion, a member's firm had any cooperative arrangement with the client that was material to the member's firm or to the client.

Definition of Terms

Firm—For purposes of this interpretation only, a firm is a form of organization permitted by state law or regulation whose characteristics conform to resolutions of Council that is engaged in the practice of public accounting.

Cooperative Arrangement—A cooperative arrangement exists when a member's firm and a client jointly participate in a business activity. The following are examples, which are not all inclusive, of cooperative arrangements:

⁸ For purposes of this interpretation, this term shall mean the same as in Interpretation 101-9, "The Meaning of Certain Independence Terminology and the Effect of Family Relationships on Independence" [ET section 101.11].

ReferenSearch-Excerpts from infobase:

1. Prime/subcontractor arrangements to provide services or products to a third party
2. Joint ventures to develop or market products or services
3. Arrangements to combine one or more services or products of the firm with one or more services or products of the client and market the package with references to both parties
4. Distribution or marketing arrangements under which the firm acts as a distributor or marketer of the client's products or services, or the client acts as the distributor or marketer of the products or services of the firm

Nevertheless, joint participation with a client in a business activity does not ordinarily constitute a cooperative arrangement when all the following conditions are present:

- a. The participation of the firm and the participation of the client are governed by separate agreements, arrangements, or understandings.
- b. The firm assumes no responsibility for the activities or results of the client, and vice versa.
- c. Neither party has the authority to act as the representative or agent of the other party.

In addition, the member's firm should consider the requirements of Rule 302 [ET section 302.01] and Rule 503 [ET section 503.01].

[Effective November 30, 1993.]

.15 101-13—Extended audit services. A member or a member's firm (the member) may be asked by a client, for which the member performs a professional service requiring independence, to perform extended audit services. These services may include assistance in the performance of the client's internal audit activities and/or an extension of the member's audit service beyond the requirements of generally accepted auditing standards (hereinafter referred to as "extended audit services").

A member's performance of extended audit services would not be considered to impair independence with respect to a client for which the member also performs a service requiring independence, provided that the member or his or her firm does not act or does not appear to act in a capacity equivalent to a member of client management or as an employee.

The responsibilities of the client, including its board of directors, audit committee, and management, and the responsibilities of the member, as described below, should be understood by both the member and the client. It is preferable that this understanding be documented in an engagement letter that indicates that the member may not perform management functions, make management decisions, or act or appear to act in a capacity equivalent to that of an employee.

A member should be satisfied that the client understands its responsibility for establishing and maintaining internal control and directing the internal audit function, if any. As part of its responsibility to establish and maintain internal control, management monitors internal control to assess the quality of its performance over time. Monitoring can be accomplished through ongoing activities, separate evaluations or a combination of both.

Ongoing monitoring activities are the procedures designed to assess the quality of internal control

ReferenSearch-Excerpts from infobase:

performance over time and that are built into the normal recurring activities of an entity and include regular management and supervisory activities, comparisons, reconciliations and other routine actions. Separate evaluations focus on the continued effectiveness of a client's internal control. A member's independence would not be impaired by the performance of separate evaluations of the effectiveness of a client's internal control, including separate evaluations of the client's ongoing monitoring activities.

The member should understand that, with respect to the internal audit function, the client is responsible for—

- Designating a competent individual or individuals, preferably within senior management, to be responsible for the internal audit function
- Determining the scope, risk and frequency of internal audit activities, including those to be performed by the member providing extended audit services
- Evaluating the findings and results arising from the internal audit activities, including those performed by the member providing extended audit services
- Evaluating the adequacy of the audit procedures performed and the findings resulting from the performance of those procedures by, among other things, obtaining reports from the member

The member should be satisfied that the board of directors and/or audit committee is informed of roles and responsibilities of both client management and the member with respect to the engagement to provide extended audit services as a basis for the board of directors and/or audit committee to establish guidelines for both management and the member to follow in carrying out these responsibilities and monitoring how well the respective responsibilities have been met.

The member should be responsible for performing the audit procedures in accordance with the terms of the engagement and reporting thereon. The day-to-day performance of the audit procedures should be directed, reviewed, and supervised by the member. The report should include information that allows the individual responsible for the internal audit function to evaluate the adequacy of the audit procedures performed and the findings resulting from the performance of those procedures. This report may include recommendations for improvements in systems, processes, and procedures. The member may assist the individual responsible for the internal audit function in performing preliminary audit risk assessments, preparing audit plans, and recommending audit priorities. However, the member should not undertake any responsibilities that are required, as described above, to be performed by the individual responsible for the internal audit function.

Performing procedures that are generally of the type considered to be extensions of the member's audit scope applied in the audit of the client's financial statements, such as confirming of accounts receivable and analyzing fluctuations in account balances, would not impair the independence of the member or the member's firm even if the extent of such testing exceeds that required by generally accepted auditing standards.

The following are examples of activities that, if performed as part of an extended audit service, would be considered to impair a member's independence:

- Performing ongoing monitoring activities or control activities (for example, reviewing loan originations as part of the client's approval process or reviewing customer credit information as part of the customer's sales authorization process) that affect the execution of transactions or

ReferenSearch-Excerpts from infobase:

ensure that transactions are properly executed, accounted for, or both, and performing routine activities in connection with the client's operating or production processes that are equivalent to those of an ongoing compliance or quality control function

- Determining which, if any, recommendations for improving the internal control system should be implemented
- Reporting to the board of directors or audit committee on behalf of management or the individual responsible for the internal audit function
- Authorizing, executing, or consummating transactions or otherwise exercising authority on behalf of the client
- Preparing source documents on transactions
- Having custody of assets
- Approving or being responsible for the overall internal audit work plan including the determination of the internal audit risk and scope, project priorities and frequency of performance of audit procedures
- Being connected with the client in any capacity equivalent to a member of client management or as an employee (for example, being listed as an employee in client directories or other client publications, permitting himself or herself to be referred to by title or description as supervising or being in charge of the client's internal audit function, or using the client's letterhead or internal correspondence forms in communications)

The foregoing list is not intended to be all inclusive.

[Effective August 31, 1996.]

ET Section 102

Integrity and Objectivity

.01 Rule 102—Integrity and objectivity. In the performance of any professional service, a member shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate his or her judgment to others.

[As adopted January 12, 1988.]

Interpretations under Rule 102—Integrity and Objectivity

Interpretations and Ethics Rulings which existed before the adoption of the Code of Professional Conduct on January 12, 1988, will remain in effect until further action is deemed necessary by the appropriate senior technical committee.

.02 102-1—Knowing misrepresentations in the preparation of financial statements or records. A member who knowingly makes, or permits or directs another to make, false and misleading

ReferenSearch-Excerpts from infobase:

entries in an entity's financial statements or records shall be considered to have knowingly misrepresented facts in violation of Rule 102 [ET section 102.01].

.03 102-2—Conflicts of interest. A conflict of interest may occur if a member performs a professional service for a client or employer and the member or his or her firm has a relationship with another person, entity, product, or service that could, in the member's professional judgment, be viewed by the client, employer, or other appropriate parties as impairing the member's objectivity. If the member believes that the professional service can be performed with objectivity, and the relationship is disclosed to and consent is obtained from such client, employer, or other appropriate parties, the Rule shall not operate to prohibit the performance of the professional service. When making the disclosure, the member should consider Rule 301, *Confidential Client Information* [ET section 301.01].

Certain professional engagements, such as audits, reviews, and other attest services, require independence. Independence impairments under Rule 101 [ET section 101.01], its interpretations, and rulings cannot be eliminated by such disclosure and consent.

The following are examples, not all-inclusive, of situations that should cause a member to consider whether or not the client, employer, or other appropriate parties could view the relationship as impairing the member's objectivity:

- A member has been asked to perform litigation services for the plaintiff in connection with a lawsuit filed against a client of the member's firm.
- A member has provided tax or personal financial planning (PFP) services for a married couple who are undergoing a divorce, and the member has been asked to provide the services for both parties during the divorce proceedings.
- In connection with a PFP engagement, a member plans to suggest that the client invest in a business in which he or she has a financial interest.
- A member provides tax or PFP services for several members of a family who may have opposing interests.
- A member has a significant financial interest, is a member of management, or is in a position of influence in a company that is a major competitor of a client for which the member performs management consulting services.
- A member serves on a city's board of tax appeals, which considers matters involving several of the member's tax clients.
- A member has been approached to provide services in connection with the purchase of real estate from a client of the member's firm.
- A member refers a PFP or tax client to an insurance broker or other service provider, which refers clients to the member under an exclusive arrangement to do so.
- A member recommends or refers a client to a service bureau in which the member or partner(s) in the member's firm hold material financial interest(s).

The above examples are not intended to be all-inclusive.

ReferenSearch-Excerpts from infobase:

[Replaces previous interpretation 102-2, *Conflicts of Interest*, August 1995, effective August 31, 1995.]

.04 102-3—Obligations of a member to his or her employer's external accountant. Under Rule 102 [ET section 102.01], a member must maintain objectivity and integrity in the performance of a professional service. In dealing with his or her employer's external accountant, a member must be candid and not knowingly misrepresent facts or knowingly fail to disclose material facts. This would include, for example, responding to specific inquiries for which his or her employer's external accountant requests written representation.

[Effective November 30, 1993.]

.05 102-4—Subordination of judgment by a member. Rule 102 [ET section 102.01] prohibits a member from knowingly misrepresenting facts or subordinating his or her judgment when performing professional services. Under this Rule, if a member and his or her supervisor have a disagreement or dispute relating to the preparation of financial statements or the recording of transactions, the member should take the following steps to ensure that the situation does not constitute a subordination of judgment:¹

1. The member should consider whether (a) the entry or the failure to record a transaction in the records, or (b) the financial statement presentation or the nature or omission of disclosure in the financial statements, as proposed by the supervisor, represents the use of an acceptable alternative and does not materially misrepresent the facts. If, after appropriate research or consultation, the member concludes that the matter has authoritative support and/or does not result in a material misrepresentation, the member need do nothing further.
2. If the member concludes that the financial statements or records could be materially misstated, the member should make his or her concerns known to the appropriate higher level(s) of management within the organization (for example, the supervisor's immediate superior, senior management, the audit committee or equivalent, the board of directors, the company's owners). The member should consider documenting his or her understanding of the facts, the accounting principles involved, the application of those principles to the facts, and the parties with whom these matters were discussed.
3. If, after discussing his or her concerns with the appropriate person(s) in the organization, the member concludes that appropriate action was not taken, he or she should consider his or her continuing relationship with the employer. The member also should consider any responsibility that may exist to communicate to third parties, such as regulatory authorities or the employer's (former employer's) external accountant. In this connection, the member may wish to consult with his or her legal counsel.
4. The member should at all times be cognizant of his or her obligations under interpretation 102-3 [ET section 102.04].

[Effective November 30, 1993.]

.06 102-5—Applicability of Rule 102 to members performing educational services. Educational services (for example, teaching full- or part-time at a university, teaching a continuing professional education course, or engaging in research and scholarship) are professional services as defined in ET section 92.10, and are therefore subject to Rule 102 [ET section 102.01]. Rule 102 [ET section 102.01] provides that the member shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate his or her judgment to others.

[Effective March 31, 1995.]

ReferenSearch-Excerpts from infobase:

.07 102-6—Professional services involving client advocacy. A member or a member's firm may be requested by a client—

1. To perform tax or consulting services engagements that involve acting as an advocate for the client.
2. To act as an advocate in support of the client's position on accounting or financial reporting issues, either within the firm or outside the firm with standard setters, regulators, or others.

Services provided or actions taken pursuant to such types of client requests are professional services [ET section 92.10] governed by the Code of Professional Conduct and shall be performed in compliance with Rule 201, *General Standards* [ET section 201.01], Rule 202, *Compliance With Standards* [ET section 202.01], and Rule 203, *Accounting Principles* [ET section 203.01], and interpretations thereof, as applicable. Furthermore, in the performance of any professional service, a member shall comply with Rule 102 [ET section 102.01], which requires maintaining objectivity and integrity and prohibits subordination of judgment to others. When performing professional services requiring independence, a member shall also comply with Rule 101 [ET section 101.01] of the Code of Professional Conduct.

Moreover, there is a possibility that some requested professional services involving client advocacy may appear to stretch the bounds of performance standards, may go beyond sound and reasonable professional practice, or may compromise credibility, and thereby pose an unacceptable risk of impairing the reputation of the member and his or her firm with respect to independence, integrity, and objectivity. In such circumstances, the member and the member's firm should consider whether it is appropriate to perform the service.

[Effective August 31, 1995.]

ET Section 191

Ethics Rulings on Independence, Integrity, and Objectivity

Ethics Rulings and Interpretations which existed before the adoption of the Code of Professional Conduct on January 12, 1988, will remain in effect until further action is deemed necessary by the appropriate senior technical committee.

1. Acceptance of a Gift

.001 Question—Would the independence of a member's firm be considered to be impaired if an employee or partner accepts a gift or other unusual consideration from a client?

.002 Answer—If an employee or partner accepts more than a token gift from a client, even with the knowledge of the member's firm, the appearance of independence may be lacking.

2. Association Membership

.003 Question—If a member joined a trade association which is a client, would the independence of the member be considered to be impaired with respect to the association?

.004 Answer—Independence of the member would not be considered to be impaired provided the member did not serve as an officer, director, or in any capacity equivalent to that of a member of management.

ReferenSearch-Excerpts from infobase:

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

3. Member as Signer or Cosigner of Checks

.005 Question—A member has been requested to accept the responsibility in emergency situations of signing or co-signing checks with a designated employee of a client. Would the independence of the member be considered to be impaired under these circumstances?

.006 Answer—Independence of the member would be considered to be impaired since such activities are management functions.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

4. Payroll Preparation Services

.007 Question—A member performs payroll preparation services for clients. A single bank account in the member's name is used to clear all checks. Individual employee checks are co-signed by the member as well as by an officer of each of the respective clients. The clients reimburse the member for the net amount of the payrolls. Would the independence of the member be considered to be impaired with respect to clients who avail themselves of this service?

.008 Answer—Independence of the member would be considered to be impaired.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

[5.] Member as Bookkeeper

[.009-.010] [Deleted June 1991]

6. Member's Spouse as Accountant of Client

.011 Question—The spouse of a member is employed as an accountant by a client. Would the independence of the member or member's firm be considered to be impaired under these circumstances?

.012 Answer—Independence of the member or member's firm would not necessarily be considered to be impaired. The performance of accounting services by the member would not impair independence if performed in accordance with the requirements of interpretation 101-3 [ET section 101.05]. Therefore, the spouse of a member could perform the same functions as the member without impairing the independence of the member or member's firm. If, however, the spouse's functions were not in compliance with interpretation 101-3 [ET section 101.05], independence may be impaired and should be considered under interpretation 101-9, "Spouses and Dependent Persons" [ET section 101.11].

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

7. Member Providing Contract Services

.013 Question—A member proposes to enter into contract with a client to supervise office personnel or approve disbursements. Would the independence of the member be considered to be impaired with respect to the client?

.014 Answer—Independence of the member would be considered to be impaired since management functions are being performed.

ReferenSearch-Excerpts from infobase:

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

8. Member Providing Advisory Services

.015 Question—A member has provided extensive advisory services for a client. In that connection, the member has attended board meetings, interpreted financial statements, forecasts and other analyses, counseled on potential expansion plans, and counseled on banking relationships. Would the independence of the member be considered to be impaired under these circumstances?

.016 Answer—Independence of the member would not be considered to be impaired because the member's role is advisory in nature.

9. Member as Representative of Creditor's Committee

.017 Question—A member performs the following functions for a creditors' committee in control of a debtor corporation which will continue to operate under its existing management subject to extension agreements:

- a. Sign or co-sign checks issued by the debtor corporation.
- b. Sign or co-sign purchase orders in excess of established minimum amounts.
- c. Exercise general supervision to insure compliance with budgetary controls and pricing formulas established by management, with the consent of the creditors, as part of an overall program aimed at the liquidation of deferred indebtedness.

Would the independence of the member be considered to be impaired with respect to the debtor corporation?

.018 Answer—Independence of the member would be considered to be impaired under each situation described since these are management functions.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

10. Member as Legislator

.019 Question—A member is an elected legislator in a local government. The city manager, who is responsible for all administrative functions, is also an elected official. Would the independence of the member be considered to be impaired with respect to the governmental entity?

.020 Answer—Independence of the member would be considered to be impaired if the member served as an elected legislator in a municipal body at the same time the member is engaged to perform a service requiring independence for the body even though the city manager is an elected official rather than an appointee of the legislature.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

11. Member as Executor or Trustee

.021 Question—A member has been designated to serve as an executor or trustee of the estate of an individual who owns the majority of the stock of a corporation. Would the independence of the member be considered to be impaired with respect to the corporation?

.022 Answer—The mere designation of a member to become executor or trustee would not be

ReferenSearch-Excerpts from infobase:

considered to impair the independence of the member. Actual service would be considered to impair the member's independence.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

12. Member as Trustee

.023 Question—A charitable foundation is the sole beneficiary of the estate of the foundation's deceased organizer. If a member becomes a trustee of the foundation, would the independence of the member be considered to be impaired with respect to (1) the foundation or (2) the estate?

.024 Answer—If a member served as trustee of the foundation, independence of the member would be considered to be impaired with respect to both the foundation and the estate.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

[13.] Member as Bank Stockholder

[.025-.026] [Deleted November 1993]

14. Member on Board of Federated Fund-Raising Organization

.027 Question—A member serves as a director or officer of a local United Way or similar organization that operates as a federated fund-raising organization from which certain local charities receive funds. Would the independence of the member be considered to be impaired with respect to such charities?

.028 Answer—Independence of the member's firm would not normally be considered to be impaired unless the United Way or similar organization that operates as a federated fund-raising organization exercises managerial control over the local charities participating in the fund-raising organization. (See ethics ruling No. 93 [ET section 191.186-.187] under Rule 101 [ET section 101.01] for additional guidance.)

[Replaces previous ruling No. 14, *Member on Board of Directors of United Fund*, April 1991.]

[15.] Retired Partner as Director

[.029-.030] [Deleted June 1991]

16. Member on Board of Directors of Nonprofit Social Club

.031 Question—A member serves on the board of directors of a nonprofit social club. Would the independence of the member be considered to be impaired with respect to the club?

.032 Answer—Independence of the member would be considered to be impaired since the board of directors has the ultimate responsibility for the affairs of the club.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

ReferenSearch-Excerpts from infobase:

17. Member of Social Club

.033 Question—A member belongs to a social club (for example, country club, tennis club) in which membership requirements involve the acquisition of a pro rata share of equity or debt securities. Would the independence of the member's firm be considered to be impaired with respect to the social club?

.034 Answer—As long as membership in a club is essentially a social matter, independence of the member's firm would not be considered to be impaired because such equity or debt ownership is not considered to be a direct financial interest within the meaning of Rule 101 [ET section 101.01]. However, the member should not serve on the club's governing board or take part in its management.

[Replaces previous ruling No. 17, *Member as Stockholder in Country Club, February 1991.*]

[18.] Member as City Council Chairman

[.035-.036] [Deleted June 1991]

19. Member on Deferred Compensation Committee

.037 Question—A member serves on a committee which administers the client's deferred compensation program. Would the independence of the member be considered to be impaired under these circumstances?

.038 Answer—Independence of the member would be considered to be impaired since service on a committee of this type would be participation in management functions. The member could render consulting assistance without joining the committee.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

20. Member Serving on Governmental Advisory Unit

.039 Question—A member serves on a citizens' committee which is studying possible changes in the form of a county government the member audits. The member also serves on a committee appointed to make a study of the financial status of a state. Would the independence of the member be considered to be impaired with respect to a county which is in that state?

.040 Answer—Independence of the member would not be considered to be impaired with respect to the county through the member's service on either committee.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

21. Member as Director and Auditor of the Entity's Profit Sharing Trust

.041 Question—A member serves in the dual capacity of director of an enterprise and auditor of the financial statements of that enterprise's profit sharing and retirement trust. Would the independence of the member be considered to be impaired with respect to the trust?

.042 Answer—Independence of the member would be considered to be impaired with respect to the enterprises's profit sharing and retirement trust since as director of the enterprise, the member would be involved in management functions that affect the plan.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

ReferenSearch-Excerpts from infobase:

[22.] Family Relationship, Brother

[.043-.044] [Deleted June 1991]

[23.] Family Relationship, Uncle by Marriage

[.045-.046] [Deleted June 1991]

[24.] Family Relationship, Father

[.047-.048] [Deleted June 1991]

[25.] Family Relationship, Son

[.049-.050] [Deleted June 1991]

[26.] Family Relationship, Son

[.051-.052] [Deleted June 1991]

[27.] Family Relationship, Spouse as Trustee

[.053-.054] [Deleted June 1991]

[28.] Cash Account With Brokerage Client

[.055-.056] [Superseded by ethics ruling No. 59.]

29. Member as Bondholder

.057 Question—A member has been asked to perform a service requiring independence for a municipal authority that has outstanding bonds of which the member owns an immaterial amount. Would the independence of the member be considered to be impaired with respect to the authority?

.058 Answer—Independence of the member would be considered to be impaired since the member has a loan to a client.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

[30.] Financial Interest by Employee

[.059-.060] [Deleted July 1979]

31. Performance of Services for Common Interest Realty Associations (CIRAs), Including Cooperatives, Condominium Associations, Planned Unit Developments, Homeowners Associations, and Timeshare Developments

.061 Question—A member or member's firm is associated with, or is a member of, a common interest realty association (CIRA) as the result of the ownership or lease of real estate. Would the independence of the member or member's firm be considered to be impaired with respect to the CIRA?

.062 Answer—Yes, except independence would not be considered to be impaired with respect to the CIRA if all of the following conditions are met:

ReferenSearch-Excerpts from infobase:

- a. The CIRA performs functions similar to local governments, such as public safety, road maintenance, and utilities.
- b. The member or member's firm's annual assessment is not material to either the member or member's firm or the CIRA's operating budgeted assessments.
- c. The liquidation of the CIRA or the sale of common assets would not result in a distribution to the member or member's firm.
- d. Creditors of the CIRA would not have recourse to the member or member's firm if the CIRA became insolvent.
- e. The member or member's firm does not act or appear to act in any capacity equivalent to a member of management or employee for the CIRA, including membership on the board of directors or committees (excluding advisory committees as defined in ethics ruling No. 72 [ET section 191.144-.145]).

If the member or member's firm has a relationship with a real estate developer or management company that is associated with the CIRA, see interpretation 102-2 [ET section 102.03] for guidance.

[Revised, effective May 31, 1998, by the Professional Ethics Executive Committee.]

[32.] Mortgage Loan to Member's Corporation

[.063-.064] [Deleted December 1991]

[33.] Member as Participant in Employee Benefit Plan

[.065-.066] [Deleted May 1998]

[34.] Member as Auditor of Common Trust Funds

[.067-.068] [Deleted February 1991]

35. Stockholder in Mutual Funds

.069 Question—A member owns shares in a regulated mutual investment fund which holds shares of stock in the member's clients. Would the independence of the member be considered to be impaired with respect to the client enterprises whose stock is held by the fund?

.070 Answer—Securities of the member's clients held by the regulated mutual investment fund in question represent indirect financial interests of the member in securities of his or her clients. If the indirect financial interest becomes material to the member, the member's independence would be considered to be impaired. In addition, if the member has significant influence over the regulated mutual fund, the member's independence would be considered to be impaired.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

36. Participant in Investment Club

.071 Question—A member owns an investment club. Would the independence of the member be considered to be impaired with respect to a client in which the investment club holds shares?

ReferenSearch-Excerpts from infobase:

.072 *Answer*—Independence of the member would be considered to be impaired since the ownership of stock in a client through an investment club is considered a direct financial interest. Under these circumstances materiality is not an issue.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

[37.] **Retired Partners as Co-Trustee**

[.073-.074] [Deleted November 1980]

38. **Member as Co-Fiduciary With Client Bank**

.075 *Question*—A member serves with a client bank in a co-fiduciary capacity with respect to an estate or trust. Would the independence of the member be considered to be impaired with respect to the bank or its trust department?

.076 *Answer*—Independence of the member would not be considered to be impaired provided the assets in the estate or trust were not material in relation to the total assets of the bank and/or trust department.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

39. **Member as Officially Appointed Stock Transfer Agent or Registrar**

.077 *Question*—Would the independence of a member be considered to be impaired with respect to a client for whom the member serves as an officially appointed stock transfer agent or registrar?

.078 *Answer*—Independence of the member would be considered to be impaired since the functions performed by the member as an officially appointed transfer agent or registrar would be considered equivalent to that of a member of management or of an employee. Functions such as distribution of dividends and warrants and the legal transfer of the shares of outstanding capital stock would cause the independence of the member to be considered to be impaired. However, if the member is not officially appointed, this is not intended to preclude the member from assisting the client in performing functions in accordance with interpretation 101-3 [ET section 101.05].

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

[40.] **Controller Entering Public Practice**

[.079-.080] [Deleted June 1979]

41. **Member as Auditor of Insurance Company**

.081 *Question*—Contributions made by a member for a retirement plan for the member and the member's employees are invested and managed by an insurance company in a pooled separate account, not part of the general assets of the insurance company, for this and similar contracts. Would the independence of the member be considered to be impaired?

.082 *Answer*—Independence of the member would not be considered to be impaired as a result of the member's investment in the pooled separate account.

[Replaces previous ruling No. 41, *Member as Auditor of Mutual Insurance Company*, November, 1990.]

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ReferenSearch-Excerpts from infobase:

[42.] Member as Life Insurance Policy Holder

[.083-.084] [Deleted April 1991]

[43.] Member's Employee as Treasurer of a Client

[.085-.086] [Deleted June 1991]

[44.] Past Due Billings

[.087-.088] [Superseded by ethics ruling No. 52.]

[45.] Past Due Fees: Client in Bankruptcy

[.089-.090] [Deleted November 1990]

[46.] Member as General Counsel

[.091-.092] [Superseded by ethics ruling No. 51.]

[47.] Member as Auditor of Mutual Fund and Shareholder of Investment Advisor/Manager

[.093-.094] [Deleted February 1991]

48. Faculty Member as Auditor of a Student Fund

.095 Question—A member employed full or part-time on the faculty of a university is asked to audit the financial statements of the Student Senate Fund. The university:

1. Acts as a collection agent for student fees and remits them to the Student Senate.
2. Requires that a university administrator approve and sign Student Senate checks.

Would the independence of the member be considered to be impaired under these circumstances?

.096 Answer—Independence of the member would be considered to be impaired with respect to the Student Senate Fund since the member would be auditing several of the management functions performed by the university, the member's employer.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

[49.] Investor and Investee Companies

[.097-.098] [Superseded by interpretation 101-8.]

[50.] Family Relationship, Brother-in-Law

[.099-.100] [Deleted June 1983]

51. Member Providing Legal Services

.101 Question—A member who is an attorney serves as general counsel or its equivalent for a client. Would the independence of the member be considered to be impaired with respect to the client?

ReferenSearch-Excerpts from infobase:

.102 *Answer*—The member would not be considered to be independent with respect to the client because serving as general counsel or its equivalent would be acting in a management capacity.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

52. Unpaid Fees

.103 *Question*—A member's client has not paid fees for previously rendered professional services. Would the independence of the member's firm be considered to be impaired with respect to the client for the current year?

.104 *Answer*—Independence of the member's firm is considered to be impaired if, when the report on the client's current year is issued, billed or unbilled fees, or a note receivable arising from such fees, remain unpaid for any professional services provided more than one year prior to the date of the report.

This ruling does not apply to fees outstanding from a client in bankruptcy.

[Replaces previous ruling No. 52, *Past Due Fees*, November 1990. Revised, effective November 30, 1997, by the Professional Ethics Executive Committee.]

[53.] Member as Auditor of Employee Benefit Plan and Sponsoring Company

[.105-.106] [Deleted June 1991]

54. Member Providing Appraisal, Valuation, or Actuarial Services

.107 *Question*—Would the performance by a member of appraisal, valuation, or actuarial services for a client impair the independence of that member?

.108 *Answer*—Performance by a member of appraisal, valuation, or actuarial services, the results of which may be incorporated in the client's financial statements, would not impair a member's independence if all of the significant matters of judgment involved are determined or approved by the client and the client is in a position to have an informed judgment on the results of those services.

[Replaces previous ruling No. 54, *Member Providing Actuarial Services*, November 1990.]

55. Independence During Systems Implementation

.109 *Question*—A member has been requested by a client to perform an engagement involving the implementation of an information and control system. As part of this implementation, the member will arrange interviews for client's hiring of new personnel, and instruct and oversee the training of current client personnel. Would the independence of the member be considered to be impaired with respect to the client if the member performs this engagement?

.110 *Answer*—Independence of the member would not be considered impaired under these circumstances provided the client makes all significant management decisions related to the hiring of new personnel and the implementation of the system. The member also must limit his or her supervisory activities to initial instruction and training of personnel and should avoid direct supervision of the actual operation of the system or any related activities that would constitute undue involvement in or identification with management functions.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

ReferenSearch-Excerpts from infobase:

56. Executive Search

.111 Question—A member's client is establishing a new operation in another locality. The client has asked the member to recruit and hire for the company a controller and a cost accountant for its new operation. Would the independence of the member be considered to be impaired with respect to the client if the member performed this engagement?

.112 Answer—Independence of the member would be considered to be impaired since decisions as to employment of personnel are considered a management function. However, a member may perform services consisting of recommending a position description and candidate specifications, searching for and initially screening candidates, and recommending qualified candidates to the client. Such consulting assistance would not impair independence provided client management is responsible for any ultimate hiring decision.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

[57.] MAS Engagement to Evaluate Service Bureaus

[.113-.114] [Deleted August 1995]

[58.] Member as Lessor

[.115-.116] [Deleted May 1998]

[59.] Account With Brokerage Client

[.117-.118] [Deleted November 1987]

60. Employee Benefit Plans—Member's Relationships With Participating Employer(s)

.119 Question—A member has been asked to audit the financial statements of an employee benefit plan that may have one or more participating employer(s). Must the member maintain independence with respect to the participating employer(s) in order to be considered independent of the plan?

.120 Answer—Independence would not be considered to be impaired with respect to the plan unless the member has a financial interest in the participating employer(s) or other relationships with the participating employer(s) that would give the member significant influence over such employer(s). When auditing plans subject to the Employee Retirement Income Security Act (ERISA), Department of Labor (DOL) regulations must be followed.*

[Replaces previous ruling No. 60, *Employee Benefit Plans—Member's Relationships With Participating Employer(s)*, November 1993.]

[61.] Participation of Member's Spouse In Client's Stock Ownership Plans (Including an ESOP)

[.121-.122] [Deleted May 1998]

[62.] Member and Client Are Limited Partners In a Limited Partnership

[.123-.124] [Deleted April 1991]

* *Note:* Currently, DOL regulations are more restrictive than the position stated in this ruling.

ReferenSearch-Excerpts from infobase:

[63.] Review of Prospective Financial Information—Member's Independence of Promoters

[.125-.127] [Deleted August 1992]

64. Member on Board of Organization for Which Client Raises Funds

.128 Question—Is a member independent of an entity that functions solely to raise funds for an organization if the member serves on the board of directors of the organization?

.129 Answer—A member's independence would be considered to be impaired with respect to a fund-raising foundation if the member serves on the board of directors of the organization. However, if the directorship is clearly honorary, the member's independence would not be considered to be impaired.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

65. Use of the CPA Designation by Member Not in Public Practice

.130 Question—A member who is not in public practice wishes to use his or her CPA designation in connection with financial statements and correspondence of the member's employer. The member also wants to use the CPA designation along with employment title on business cards. Is it permissible for the member to use the CPA designation in these manners?

.131 Answer—Yes. However, if the member uses the CPA designation in a manner to imply that he or she is independent of the employer, the member would be knowingly misrepresenting facts in violation of Rule 102 [ET section 102.01]. Therefore, it is advisable that in any transmittal within which the member uses his or her CPA designation, he or she clearly indicate the employment title. In addition, if the member states affirmatively in any transmittal that a financial statement is presented in conformity with generally accepted accounting principles, the member is subject to Rule 203 [ET section 203.01].

[Replaces previous ruling No. 65, *Use of the CPA Designation by Member Not in Public Practice*, February 1996, effective February 29, 1996.]

66. Member's Retirement or Savings Plan Has Financial Interest in Client

.132 Question—A member has been engaged to perform a service requiring independence for a client company. The member has established a retirement or savings plan through which the member has a financial interest in the client company. Would the member's independence be considered impaired because of this financial interest?

.133 Answer—Any direct or material indirect financial interest owned by a member's retirement or savings plan in a client company would be considered to be a direct or material indirect financial interest of the member in that client and would, therefore, impair the member's independence with respect to that client.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

67. Servicing of Loan

.134 Question—Would the mere servicing of a member's loan by a client financial institution impair the member's independence with respect to the client?

.135 Answer—No.

ReferenSearch-Excerpts from infobase:

[Replaces previous ruling No. 67, *Servicing of Loan*, November 1993.]

68. Blind Trust

.136 Question—A member has a direct financial interest in an enterprise for which the member has been engaged to perform a service requiring independence. Would the independence of the member be considered to be impaired if the member transfers the direct financial interest into a blind trust?

.137 Answer—The independence of the member would be considered impaired whether or not the financial interest is placed in a blind trust. Further, a member should ensure that a blind trust does not hold a direct or material indirect financial interest in clients for which the member provides services requiring independence.

[Revised, effective June 30, 1990, by the Professional Ethics Executive Committee.]

69. Investment With a General Partner

.138 Question—A private, closely held entity is the general partner and controls limited partnership A as defined in FASB Statement No. 94. The member has a material (to his or her net worth) limited partnership interest in limited partnership A. The member has been asked to provide a service requiring independence for a new limited partnership B with the same general partner. Would the member be independent for purposes of providing services to limited partnership B?

.139 Answer—Because the general partner has control over limited partnership A, the member is considered to have a joint closely held business investment with the general partner, who has significant influence over limited partnership B, the proposed client. Since the member has a material investment in limited partnership A, independence would be considered to be impaired with respect to limited partnership B.

[Replaces previous ruling No. 69, *Joint Investment With a Promoter and/or General Partner*, April 1991, Effective April 30, 1991.]

70. Member's Depository Relationship With Client Financial Institution

.140 Question—A member maintains checking accounts or has savings accounts, certificates of deposit or money market accounts at a financial institution for which the member provides a service requiring independence. Would the member's checking accounts or savings accounts, certificates of deposit or money market accounts impair the member's and his firm's independence with respect to the financial institution under Rule 101 [ET section 101.01] and its interpretations?

.141 Answer—The member's and his firm's independence would not be considered to be impaired with respect to the financial institution provided that the checking accounts, savings accounts, certificates of deposit or money market accounts were fully insured by the appropriate state or federal government deposit insurance agencies. Checking accounts, savings accounts, certificates of deposit and money market accounts not fully insured by state or federal government deposit insurance agencies would not impair independence provided that the uninsured amounts are not material to the member or the member's firm.

71. Use of Nonindependent CPA Firm on an Engagement

.142 Question—Firm A is not independent with respect to an entity. Partners, shareholders, or professional employees of Firm A are participating on Firm B's engagement team for that entity. Would Firm B's independence be considered to be impaired?

ReferenSearch-Excerpts from infobase:

.143 Answer—Yes. The use by Firm B of partners, shareholders, or professional employees from Firm A as part of the engagement team will impair Firm B's independence with respect to that engagement.

However, use of the work of such individuals in a manner similar to internal auditors is permissible provided that there is compliance with the Statements on Auditing Standards. Applicable literature contained in the Statements on Auditing Standards should be consulted.

72. Member on Advisory Board of Client

.144 Question—A member has agreed to serve on the advisory board of a client. Would service on the advisory board impair the member's or the member's firm's independence with respect to the client?

.145 Answer—The member's services on the advisory board would impair the member's and the member's firm's independence unless all the following criteria are met: (1) the responsibilities of the advisory board are in fact advisory in nature; (2) the advisory board has no authority to make nor does it appear to make management decisions on behalf of the client; and (3) the advisory board and those having authority to make management decisions (including the board of directors or its equivalent) are distinct groups with minimal, if any, common membership.

[73.] Meaning of the Period of a Professional Engagement

[.146-.147] [Deleted February 1998]

74. Audits, Reviews, or Compilations and a Lack of Independence

.148 Question—If a member in public practice is not independent with respect to a client, is it permissible under Rule 101 [ET section 101.01] for the member to issue an audit, review, or compilation report for the client?

.149 Answer—A member may not issue an audit opinion or review report if the member is not independent with respect to the client. A member may issue a compilation report for a client with respect to which the member is not independent. However, the member must specifically disclose his or her lack of independence without giving reasons for the impairment.

75. Member Joining Client Credit Union

.150 Question—A member's partners and employees are members of a credit union that requests the member's firm to provide professional services requiring independence. Does membership in the credit union impair the independence of the member and the member's firm with respect to the credit union?

.151 Answer—Membership in the credit union would not impair the member's independence with respect to the credit union as long as all of the following criteria are met:

1. A member and/or his or her partners or employees must individually qualify to join the credit union other than by virtue of the professional services provided to the credit union.
2. The exercise of the member's vote or other activities must not have significant influence over the operating, financial, or accounting policies of the credit union.
3. Any loans from the credit union must meet the conditions specified in interpretation 101-1.A.4 [ET section 101.02] and be made under normal lending procedures, terms, and requirements (see interpretation 101-5 [ET section 101.07]).

ReferenSearch-Excerpts from infobase:

- 4. Any deposits with the credit union must meet the conditions specified in ruling No. 70 [ET section 191.140-.141] under Rule 101 [ET section 101.01].

[Effective February 28, 1992, earlier application is encouraged.]

[76.] Guarantee of Loan

[.152-.153] [Deleted December 1991]

77. Individual Considering or Accepting Employment With the Client

.154 Question—During the performance of an engagement, an individual participating in the engagement may be offered employment by the client or may seek employment with the client. What are the implications of these actions with respect to the AICPA Code of Professional Conduct?

.155 Answer—An individual participating in an engagement who is offered employment by, or seeks employment with, that client during the conduct of the engagement must consider whether or not his or her ability to act with integrity and objectivity has been impaired. When the engagement is one requiring independence, the individual must remove himself or herself from the engagement until the employment offer is rejected or employment is no longer being sought, in order to prevent any appearance that integrity or objectivity has been impaired.

A member may become aware that an individual participated in the engagement while employment with the client was being considered or after it had been accepted. In these circumstances the member should consider what, if any, additional procedures may be necessary to ensure that all work had been performed with objectivity and integrity as required under Rule 102 [ET section 102.01]. Any additional procedures will depend on the nature of the engagement and may require reperformance of the work or other appropriate procedures.

[78.] Service on Governmental Board

[.156-.157] [Deleted August 1995]

79. Member's Investment In a Partnership That Invests in Member's Client

.158 Question—A member has a direct financial interest in a partnership that invests in a client of the member's firm. Would the member's independence be considered to be impaired with respect to the client?

.159 Answer—If the member is a general partner, or functions in a capacity similar to that of a general partner, in a partnership that invests in a client of the member's firm, the member is deemed to have a direct financial interest in the client. Independence is considered to be impaired.

If the member is a limited partner in a partnership that invests in a client of the member's firm, the member is considered to have an indirect financial interest in the client. Independence would be considered to be impaired if the indirect financial interest is material to the member's net worth.

80. The Meaning of a Joint Closely Held Business Investment

.160 Question—Under Rule 101 [ET section 101.01] and interpretation 101-1 [ET section 101.02], a member's independence is considered to be impaired if, during the period of the professional engagement or at the time of expressing an opinion, the member or the member's firm had any joint closely held business

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ReferenSearch-Excerpts from infobase:

investment with the client or any officer, director, or principal stockholder thereof that was material in relation to the member's net worth or to the net worth of the member's firm. What is a joint closely held business investment?

.161 *Answer*—For purposes of Rule 101 [ET section 101.01], its interpretations, and rulings, a joint closely held business investment is a business investment that is subject to control, as defined in FASB Statement No. 94 [AC section C51], by the member, the client, its officers, directors, or principal stockholders, individually or in any combination.

81. Member's Investment in a Limited Partnership

.162 *Question*—A member is a limited partner in a limited partnership (LP), including a master limited partnership. A client is a general partner in the same LP. Is the member's independence considered to be impaired with respect to (1) the LP, (2) the client, and (3) any subsidiaries of the LP?

.163 *Answer*— 1. The member's limited partnership interest in the LP is a direct financial interest in the LP that would impair independence under interpretation 101-1.A.1 [ET section 101.02].

2. The LP is an investee of the client because the client is a general partner in the LP. Therefore, under interpretation 101-8 [ET section 101.10], if the investment in the LP is material to the client, the member's financial interest in the LP would impair the member's independence with respect to the client. However, if the client's financial interest in the LP is not material to the client, an immaterial financial interest of the member in the LP would not impair independence with respect to the client.

3. Since the member is a limited partner in the LP, the member is considered to have an indirect financial interest in all subsidiaries of the LP. If the indirect financial interest in the subsidiaries is material to the member, the member's independence would be considered to be impaired with respect to the subsidiaries under interpretation 101-1.A.1 [ET section 101.02].

If the member or client general partner, individually or together can control the LP, the LP would be considered a joint closely held business investment under interpretation 101-1.A.3 [ET section 101.02] [see ruling No. 80 [ET section 191.160-.161]].

82. Campaign Treasurer

.164 *Question*—A member has been asked to serve as the campaign treasurer of the campaign organization of a candidate for the office of mayor. If the member serves in this capacity, would the member's independence be impaired with respect to (1) the political party with which the candidate is associated, (2) the municipality of which the candidate may become mayor, and (3) the campaign organization?

.165 *Answer*—Independence would not be considered to be impaired with respect to the political party or municipality. However, due to his or her role as treasurer, the member would not be considered to be independent with respect to the campaign organization itself.

[83.] Member on Board of Component Unit and Auditor of Oversight Entity

[.166-.167] [Deleted January 1996]

[84.] Member on Board of Material Component Unit and Auditor of Another Material Component Unit

[.168-.169] [Deleted January 1996]

ReferenSearch-Excerpts from infobase:

85. Bank Director

.170 Question—May a member in public practice serve as a director of a bank?

.171 Answer—Yes; however, before accepting a bank directorship, the member should carefully consider the implications of such service if the member has clients that are customers of the bank.

These implications fall into two categories:

- a. **Confidential Client Information**—Rule 301 [ET section 301.01] provides that a member in public practice shall not disclose any confidential client information without the specific consent of the client. This ethical requirement applies even though failure to disclose information may constitute a breach of the member's fiduciary responsibility as a director.
- b. **Conflicts of Interest**—Interpretation 102-2 [ET section 102.03] provides that a conflict of interest may occur if a member performs a professional service (including service as a director) and the member or his or her firm has a relationship with another entity that could, in the member's professional judgment, be viewed by appropriate parties as impairing the member's objectivity. If the member believes that the professional service can be performed with objectivity and the relationship is disclosed to and consent is obtained from all appropriate parties, performance of the service shall not be prohibited.

In view of the above factors, it is generally not desirable for a member in public practice to accept a position as bank director where the member's clients are likely to engage in significant transactions with the bank. If a member is engaged in public practice, the member should avoid the high probability of a conflict of interest and the appearance that the member's fiduciary obligations and responsibilities to the bank may conflict with or interfere with the member's ability to serve the client's interest objectively and in complete confidence.

The general knowledge and experience of CPAs in public practice may be very helpful to a bank in formulating policy matters and making business decision; however, in most instances, it would be more appropriate for the member as part of the member's public practice to serve as a consultant to the bank's board. Under such an arrangement, the member could limit activities to those which did not involve conflicts of interest or confidentiality problems.

[86.] Partially Secured Loans

[.172-.173] [Deleted February 1998]

[87.] Loan Commitment or Line of Credit

[.174-.175] [Deleted February 1998]

[88.] Loans to Partnership in Which Members are Limited Partners

[.176-.177] [Deleted February 1998]

[89.] Loan to Partnership in Which Members are General Partners

[.178-.179] [Deleted February 1998]

[90.] Credit Card Balances and Cash Advances

ReferenSearch-Excerpts from infobase:

[.180-.181] [Deleted February 1998]

91. Member Leasing Property to or From a Client

.182 Question—A member or member's firm (member) is leasing property to or from a client. Would the independence of the member be impaired with respect to the client?

.183 Answer—Independence would not be considered to be impaired if the lease meets the criteria of an operating lease (as defined in [FASB Statement] No. 13, paragraph 6.a.ii [AC section L10.102]), the terms and conditions set forth in the lease agreement are comparable with other leases of a similar nature, and all amounts are paid in accordance with the terms of the lease.

Independence would be considered to be impaired if the lease meets the criteria of a capital lease (as defined in FASB Statement No. 13, paragraph 6.a.i [AC section L10.102]) unless the lease is in compliance with interpretations 101-1.A.4 [ET section 101.02] and 101-5 [ET section 101.07], because the lease would be considered to be a loan to or from the client.

[Revised, effective May 31, 1998, by the Professional Ethics Executive Committee.]

92. Joint Interest in Vacation Home

.184 Question—A member holds a joint interest in a vacation home along with an officer, director, or principal stockholder of an entity for which the member performs services requiring independence. Would the vacation home constitute a "jointly held business investment" for the purposes of interpretation 101-1.A.3 [ET section 101.02]?

.185 Answer—Yes. The vacation home, even if solely intended for the personal use of the owners, would be considered a jointly held business investment as defined in ethics ruling No. 80 [ET section 191.160-.161]. Accordingly, the materiality provisions of interpretation 101-1.A.3 [ET section 101.02] must be considered in assessing independence.

93. Service on Board of Directors of Federated Fund-Raising Organization

.186 Question—A member serves as a director or officer of a local United Way or similar organization that operates as a federated fund-raising organization from which local charities that are clients of the member receive funds. Does the member have a conflict of interest under Rule 102 [ET section 102.01]?

.187 Answer—Interpretation 102-2 [ET section 102.03] provides that a conflict of interest may occur if a member performs a professional service for a client and the member or his or her firm has a relationship with another entity that could, in the member's professional judgment, be viewed by the client or other appropriate parties as impairing the member's objectivity. If the member believes that the professional service can be performed with objectivity and the relationship is disclosed to and consent is obtained from the appropriate parties, performance of the service shall not be prohibited. (If the service is one requiring independence, consult ethics ruling No. 14 [ET section 191.027-.028] under Rule 101 [ET section 101.01]).

94. Indemnification Clause in Engagement Letters

.188 Question—A member proposes to include in engagement letters a clause that provides that the client would release, indemnify, defend, and hold the member (and his or her partners, heirs, executors, personal representatives, successors, and assigns) harmless from any liability and costs resulting from knowing misrepresentations by management. Would the inclusion of such an indemnification clause in engagement letters impair the member's independence with respect to the client?

ReferenSearch-Excerpts from infobase:

.189 *Answer*—No.

95. Agreement With Attest Client to Use ADR Techniques

.190 *Question*—Alternative dispute resolution (ADR) techniques are used to resolve disputes (in lieu of litigation) relating to past services, but are not used as a substitute for the exercise of professional judgment for current services. Would a predispute agreement to use ADR techniques between a member and a client cause the member's independence to be impaired?

.191 *Answer*—No. Such an agreement would not cause an impairment of independence since the member and the client are not in threatened or actual positions of material adverse interests by reason of threatened or actual litigation.

96. Commencement of ADR Proceeding

.192 *Question*—Would the commencement of an alternative dispute resolution (ADR) proceeding impair independence?

.193 *Answer*—Except as stated in the next sentence, independence would not be considered to be impaired because many of the ADR techniques designed to facilitate negotiation and the actual conduct of those negotiations do not place the member and the client in threatened or actual positions of material adverse interests. Nevertheless, if the member and client are in a position of material adverse interests because the ADR proceedings are sufficiently similar to litigation, ethics interpretation 101-8 [ET section 101.08] should be applied. Such a position would exist if binding arbitration were used.

[97.] Performance of Certain Extended Audit Services

[.194-.195] [Deleted August 1996]

98. Member's Loan From a Nonclient Subsidiary or Parent of an Attest Client

.196 *Question*—A member has obtained a loan from a nonclient. The parent or a subsidiary of the nonclient is a client of the member requiring independence. Does the member's loan from the nonclient subsidiary or parent impair the member's independence with respect to the client?

.197 *Answer*—A member's loan, that is not a "grandfathered" or "permitted" loan under interpretation 101-5 [ET section 101.07], from a nonclient subsidiary would impair the member's independence with respect to the client. However, a loan from a nonclient parent would not impair the member's independence with respect to the client subsidiary as long as the subsidiary is not material to its parent.

99. Member Providing Services for Company Executives

.198 *Question*—A member has been approached by a company, for which he or she may or may not perform other professional services, to provide personal financial planning or tax services for its executives. The executives are aware of the company's relationship with the member, if any, and have also consented to the arrangement. The performance of the services could result in the member recommending to the executives actions that may be adverse to the company. What rules of conduct should the member consider before accepting and during the performance of the engagement?

.199 *Answer*—Before accepting and during the performance of the engagement, the member should consider the applicability of Rule 102, Integrity and Objectivity [ET section 102.01]. If the member believes that he or she can perform the personal financial planning or tax services with objectivity, the member

ReferenSearch-Excerpts from infobase:

would not be prohibited from accepting the engagement. The member should also consider informing the company and the executives of possible results of the engagement. During the performance of the services, the member should consider his or her professional responsibility to the clients (that is, the company and the executives) under Rule 301, Confidential Client Information [ET section 301.01].

100. Actions Permitted When Independence Is Impaired

.200 Question—If a member was independent when his or her report was initially issued, may the member re-sign the report or consent to its use at a later date when his or her independence is impaired?

.201 Answer—Yes. A member may re-sign the report or consent to its use at a later date when his or her independence is impaired, provided that no "post-audit work" is performed by the member during the period of impairment. The term "post-audit work," in this context, does not include inquiries of successor auditors, reading of subsequent financial statements, or such procedures as may be necessary to assess the effect of subsequently discovered facts on the financial statements covered by the member's previously issued report.

101. Client Advocacy and Expert Witness Services

.202 Question—Would the performance of expert witness services be considered as acting as an advocate for a client as discussed in interpretation 102-6 [ET section 102.07]?

.203 Answer—No. A member serving as an expert witness does not serve as an advocate but as someone with specialized knowledge, training, and experience in a particular area who should arrive at and present positions objectively.

102. Member's Indemnification of a Client

.204 Question—As a condition to retaining a member or member's firm for the performance of a professional service requiring independence, client or prospective client requests that the member or member's firm enter into an agreement providing, among other things, that the member or member's firm indemnify the client for damages, losses, or costs arising from lawsuits, claims, or settlements that relate, directly or indirectly, to client acts. Would the member or member's firm entering into such an agreement be independent of the client?

.205 Answer—No. Such an agreement would impair independence under interpretation 101-1.A [ET section 101.02] and interpretation 101-1.B [ET section 101.02].

103. Member Providing Attest Report on Internal Controls

.206 Question—If a member or a member's firm (member) provides extended audit services for a client in compliance with interpretation 101-13 [ET section 101.15], would the member be considered independent in the performance of an attestation engagement to report on the client's assertion regarding the effectiveness of its internal control over financial reporting?

.207 Answer—Independence would not be impaired with respect to the issuance of such a report if all of the following conditions are met:

1. The member's activities have been limited in a manner consistent with interpretation 101-13 [ET section 101.15].
2. Management has assumed responsibility to establish and maintain internal control.

ReferenSearch-Excerpts from infobase:

3. Management does not rely on the member's work as the primary basis for its assertion and accordingly has (a) evaluated the results of its ongoing monitoring procedures built into the normal recurring activities of the entity (including regular management and supervisory activities) and (b) evaluated the findings and results of the member's work and other separate evaluations of controls, if any.

104. Member Providing Operational Auditing Services

.208 Question—As part of an extended audit engagement, a member or member's firm (member) may be asked to review certain of the client's business processes, as selected by the client, for how well they function, their efficiency, or their effectiveness. For example, a member may be asked to assess whether performance is in compliance with management's policies and procedures, to identify opportunities for improvement, and to develop recommendations for improvement or further action for management consideration and decision making. Would the member's independence be considered to be impaired in performing such a service?

.209 Answer—The member's independence would not be considered to be impaired provided that during the course of the review the member does not act or appear to act in a capacity equivalent to that of a member of client management or of an employee. The decision as to whether any of the member's recommendations will be implemented must rest entirely with management.

105. Frequency of Performance of Extended Audit Procedures

.210 Question—In providing extended audit services, would the frequency with which a member performs an audit procedure impair the member's independence?

.211 Answer—The independence of the member or member's firm would not be considered to be impaired provided that the member's activities have been limited in a manner consistent with interpretation 101-13 [ET section 101.15] and the procedures performed constituted separate evaluations of the effectiveness of the ongoing control and monitoring activities/procedures that are built into the client's normal recurring activities.

106. Member Has Significant Influence Over an Entity That Has Significant Influence Over a Client

.212 Question—A member or member's firm (member) has significant influence, as defined in interpretation 101-9 [ET section 101.11], over an entity that has significant influence over a client. Would independence be considered to be impaired with respect to the client?

.213 Answer—Yes. Because the member has significant influence over an entity that has significant influence over a client, the member also is considered to have significant influence over the client.

See interpretation 101-8 [ET section 101.10] for further guidance.

107. Participation in Health and Welfare Plan of Client

.214 Question—A member participates in or receives benefits from a health and welfare plan (the "Plan") sponsored by a client. Would the independence of the member or member's firm be considered to be impaired with respect to the client sponsor and the Plan?

.215 Answer—Participation of the member in a Plan sponsored by a client would impair the independence of the member or member's firm with respect to the client sponsor and the Plan. However, if the member's participation in the Plan, or benefits received thereunder, arises as the result of the permitted employment of the member's spouse or cohabitant in accordance with interpretation 101-9 [ET section

ReferenSearch-Excerpts from infobase:

101.11], independence would not be impaired provided that the Plan is normally offered to all employees in equivalent employment positions.

108. Participation of Member or Spouse In Retirement, Savings, or Similar Plan Sponsored by, or That Invests in, Client

.216 Question—A member participates in a retirement, savings, or similar plan ("Benefit Plan") that is either sponsored by a client ("Sponsor Client") or invests in the Sponsor Client or in another client of the member ("Other Client"). Would the independence of the member or member's firm be considered to be impaired with respect to the Sponsor Client, the Other Client, or the Benefit Plan?

.217 Answer—Participation of the member in a Benefit Plan that is sponsored by a client or that invests in a client would impair independence with respect to the Sponsor Client, the Other Client, and the Benefit Plan. However, if the member's participation in the Benefit Plan arises as the result of the permitted employment of the member's spouse or cohabitant in accordance with interpretation 101-9 [ET section 101.11], independence would not be impaired if all of the following conditions are met:

- a. The Benefit Plan is normally offered to all employees in equivalent employment positions.
- b. If the Benefit Plan provides for an investment option by the spouse, the investment option selected by the spouse is not in the Sponsor Client or the Other Client.
- c. If no other investment option is available (also see ruling No. 35 [ET section 191.069-.070]), and the right of possession exists, the investment is promptly withdrawn and disposed. The right of possession is not considered to exist if a penalty significant to the investment is imposed upon withdrawal.
- d. If the right of possession does not exist, the spouse's investment through the Benefit Plan in the Sponsor Client or the Other Client is considered an indirect financial interest and is not material to the member's net worth.

109. Member's Investment in Financial Services Products That Invest in Clients

.218 Question—Amounts contributed by a member or a member's firm (member) for investment purposes, including retirement plans, are invested or managed by a non-client financial services company that offers financial services products, for example, insurance contracts and other investment arrangements, which allow the member to direct his or her investment into debt or equity securities. Under what circumstances would the independence of the member be considered to be impaired?

.219 Answer—If the member has the ability to direct and does direct his or her investment through a financial services product into a client, the independence of the member would be considered to be impaired with respect to that client because such an investment is considered to be a direct financial interest in the client as defined under interpretation 101-1 [ET section 101.02]. If the member does not exercise his or her ability to direct the investment but the financial services product were to invest in a client, such investment would be a direct financial interest in the client and independence would be considered to be impaired.

If the member does not have the ability to direct the investment and the financial services product invests in a client, the member is considered to have an indirect financial interest in the client. If the indirect financial interest becomes material to the member, the member's independence would be considered to be impaired. (See ethics ruling no. 35 under rule 101 [ET section 191.069-.070] for additional guidance with respect to investments in mutual funds).

ReferenSearch-Excerpts from infobase:

Further, an investment in a financial services product that invests only in clients of the member is considered to be a direct financial interest in such client, and independence would be considered to be impaired.

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Ethics Interpretation and Rulings

Ethics interpretations and rulings are promulgated by the Executive Committee of the Professional Ethics Division to provide guidelines as to the scope and application of the rules but are not intended to limit such scope or application. Publication of an interpretation or ethics ruling in the Journal of Accountancy constitutes notice to members. A member who departs from interpretations or rulings shall have the burden of justifying such departure in any disciplinary hearing.

INTERPRETATION 101-3 UNDER RULE OF CONDUCT 101:

Performance of Other Services

A member in public practice or his or her firm ("member") who performs for a client services requiring independence ("attest services") may also perform other nonattest services ("other services") for that client. Before a member performs other services for an attest client, he or she must evaluate the effect of such services on his or her independence. In particular, care should be taken not to perform management functions or make management decisions for the attest client, the responsibility for which remains with the client's board of directors and management.

Before performing other services, the member should establish an understanding with the client regarding the objectives of the engagement, the services to be performed, management's responsibilities, the member's responsibilities, and the limitations of the engagement. It is preferable that this understanding be documented in an engagement letter that indicates the member will not perform management functions or make management decisions. In addition, the member should be satisfied that the client is in a position to have an informed judgment on the results of the other services and that the client understands its responsibility to:

1. Designate a management-level individual or individuals to be responsible for overseeing the services being provided.
2. Evaluate the adequacy of the services performed and any findings that result.
3. Make management decisions, including accepting responsibility for the results of the other services.
4. Establish and maintain internal controls, including monitoring ongoing activities.

General Activities

The following are some general activities that would be considered to impair a member's independence:

- Authorizing, executing or consummating a transaction, or otherwise exercising authority on behalf of a client (for example, negotiating a transaction), or having the authority to do so
- Preparing source documents¹ or originating data, in electronic or other form, evidencing the occurrence of a transaction (for example, purchase orders, payroll time records, and customer orders)
- Having custody of client assets
- Supervising client employees in the performance of their normal recurring activities
- Determining which recommendations of the member should be implemented
- Reporting to the board of directors on behalf of management
- Serving as a client's stock transfer or escrow agent, registrar, general counsel or its equivalent

¹ The documents upon which evidence of an accounting transaction are initially recorded. Source documents are often followed by the creation of many additional records and reports, which do not, however, qualify as initial recordings. Examples of source documents are purchase orders, payroll timecards, and customer orders.

The examples in the following table identify the effect that performance of other services for an attest client can have on a member's independence. These examples are not intended to be all-inclusive of the types of other services performed by members.

<i>Type of Other Service</i>	<i>Independence Would Not Be Impaired</i>	<i>Independence Would Be Impaired</i>
Bookkeeping	<ul style="list-style-type: none"> Record transactions for which management has determined or approved the appropriate account classification, or post coded transactions to a client's general ledger. Prepare financial statements based on information in the trial balance. Post client-approved entries to a client's trial balance. Propose standard, adjusting, or correcting journal entries or other changes affecting the financial statements to the client. Provide data-processing services. 	<ul style="list-style-type: none"> Determine or change journal entries, account codings or classification for transactions, or other accounting records without obtaining client approval. Authorize or approve transactions. Prepare source documents or originate data. Make changes to source documents without client approval.
Payroll and other disbursement	<ul style="list-style-type: none"> Using payroll time records provided and approved by the client, generate unsigned checks, or process client's payroll. transmit client-approved payroll or other disbursement information to a financial institution provided the client has authorized the member to make the transmission and has made arrangements for the financial institution to limit the corresponding individual payments as to amount and payee. In addition, once transmitted, the client must authorize the financial institution to process the information. Make electronic payroll tax payments in accordance with U.S. Treasury Department guidelines provided the client has made arrangements for its financial institution to limit such payments to a named payee.² 	<ul style="list-style-type: none"> Accept responsibility to authorize payment of client funds, electronically or otherwise, except as specifically provided for with respect to electronic payroll tax payments. Accept responsibility to sign or cosign client checks, even if only in emergency situations. Maintain a client's bank account or otherwise have custody of a client's funds or make credit or banking decisions for the client. Sign payroll tax return on behalf of client management. Approve vendor invoices for payment.

² Although this type of transaction may be considered by some to be similar to signing checks or disbursing funds, the professional Ethics Executive Committee concluded that making electronic payroll tax payments under the specified criteria would not impair a members independence.

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Type of Other Service

Independence Would Not Be Impaired

Independence Would Be Impaired

Benefit plan administration³

- Communicate summary plan data to plan trustee.
- Advise client management regarding the application or impact of provisions of the plan document.
- Process transactions (e.g., investment/benefit elections or increase/decrease contributions to the plan; data entry; participant confirmations; and processing of distributions and loans) initiated by plan participants through the member's electronic medium, such as an interactive voice response system or Internet connection or other media.
- Prepare account valuations for plan participants using data collected through the member's electronic or other media.
- Prepare and transmit participant statements to plan participants based on data collected through the member's electronic or other medium.

- Make policy decisions on behalf of client management.
- When dealing with plan participants, interpret the plan document on behalf of management without first obtaining management's concurrence.
- Make disbursements on behalf of the plan.
- Have custody of assets of a plan.
- Serve a plan as a fiduciary as defined by ERISA.

Investment – advisory or management

- Recommend the allocation of funds that a client should invest in various asset classes, depending upon the client's desired rate of return, risk tolerance, etc.
- Perform recordkeeping and reporting of client's portfolio balances including providing a comparative analysis of the client's investments to third-party benchmarks.
- Review the manner in which a client's portfolio is being managed by investment account managers, including determining whether the managers are (1) following the guidelines of the client's investment policy statement; (2) meeting the client's investment objectives; and (3) conforming to the client's stated investment styles. Transmit a client's investment selection to a broker-dealer or equivalent provided the client has authorized the broker-dealer or equivalent to execute the transaction.

- Make investment decisions on behalf of client management or otherwise have discretionary authority over a client's investments.
- Execute a transaction to buy or sell a client's investment.
- Have custody of client's assets, such as taking temporary possession of securities purchased by a client.

³ When auditing plans subject to the Employee Retirement Income Security Act (ERISA), Department of Labor (DOL) regulations, which may be more restrictive, must be followed.

Type of Other Service

Independence Would Not Be Impaired

Independence Would Be Impaired

Corporate finance – consulting or advisory

- Assist in developing corporate strategies.
- Assist in identifying or introducing the client to possible sources of capital that meet the client's specifications or criteria.
- Assist in analyzing the effects of proposed transactions including providing advice to a client during negotiations with potential buyers, sellers, or capital sources.
- Assist in drafting an offering document or memorandum.
- Participate in transaction negotiations in an advisory capacity.

- Negotiate on behalf of the client or its owners with potential investors and capital sources.
- Distribute private placement memoranda or offering documents to potential investors.
- Act as an underwriter, broker, agent, distributor, or guarantor with respect to client securities.
- Solicit investors or promote client securities.
- Maintain custody of client securities.

Appraisal, valuation or actuarial

- Test the reasonableness of the value placed on an asset or liability included in a client's financial statements by preparing a separate valuation of that asset or liability.
- Perform a valuation of a client's business when all significant matters of judgment are determined or approved by the client and the client is in a position to have an informed judgment on the results of the valuation.

- Prepare a valuation of an employer's securities contained in an employee stock ownership plan (ESOP) to support transactions with participants, plan contributions, and allocations within the ESOP, when the client is not in a position to have an informed judgment on the results of this valuation.
- Prepare an appraisal, valuation, or actuarial report using assumptions determined by the member and not approved by the client.

Executive or employee search

- Recommend a position description or candidate specifications.
- Solicit and perform screening of candidates and recommend qualified candidates to a client based on the client-approved criteria (e.g., required skills and experience).
- Participate in employee hiring or compensation discussions in an advisory capacity.

- Negotiate employee compensation or benefits.
- Hire or terminate client employees.

Business risk consulting

- Provide assistance in assessing the client's business risks and control processes.
- Recommend a plan for making improvements to a client's control processes and assist in implementing these improvements.

- Make or approve business risk decisions.
- Present business risk considerations to the board or others on behalf of management.

Type of Other Service

Information systems --
design, installation or
integration

Independence Would Not Be Impaired

- Design, install or integrate a client's information system, provided the client makes all management decisions.
- Customize a prepackaged accounting or information system, provided the client makes all management decisions.
- Provide the initial training and instruction to client employees on a newly implemented information and control system.

Independence Would Be Impaired

- Supervise client personnel in the daily operation of a client's information system.
- Manage a client's local area network system.

AICPA

***Conflicts of Interest
in Litigation
Services Engagements***

Management Consulting Services Division

EXHIBIT C

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AICPA

**CONSULTING SERVICES
SPECIAL REPORT 93-2**

Conflicts of Interest in Litigation Services Engagements

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AMERICAN

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ACCOUNTANTS

Management Consulting Services Division

72/100

CONFLICTS OF INTEREST IN LITIGATION SERVICES ENGAGEMENTS

72/105 PROFESSIONAL ISSUES IN LITIGATION SERVICES

.01 Litigation services are rendered by a CPA using accounting and consulting skills to assist a client in a matter that involves potential or pending litigation or dispute resolution proceedings with a trier of fact. The services rendered may include fact-finding (including assistance in the discovery and analysis of data), damage calculations, document management, expert testimony, and other professional services. Bankruptcy, reorganization, and insolvency services as provided by CPAs generally are considered litigation services. A CPA providing litigation services will have responsibilities as an objective professional that range from rendering a judgment about accounting principles or facts at issue to providing analyses of and opinions regarding one of several acceptable alternative calculations or determinations (even under generally accepted accounting principles). The CPA's interpretation of conflicts of interest that could result from accepting a litigation services engagement may differ significantly from that of the attorney who owes nearly total allegiance to and is an advocate for the client.

The Need to Maintain Integrity and Objectivity

.02 In a litigation services engagement, a conflict of interest exists when a CPA's ability to objectively evaluate and present an issue for a client will be impaired by current, prior, or possible future relationships with parties to the litigation. As a professional, the CPA should avoid engagements that involve conflicts of interest. Rule 102 of the AICPA Code of Professional Conduct requires that members shall, in the performance of any professional service, maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate their judgment to others.

.03 The criterion for evaluating whether a conflict of interest is involved in a litigation services engagement is the ability of the CPA to maintain integrity and objectivity as described in the Statement of Standards for Consulting Services (SSCS). A conflict of interest is based on fact, rather than appearance. However, the CPA should be mindful of and deal with appearances of conflict before accepting the engagement.

.04 Interpretation 102-2 of the Code also indicates that a conflict of interest may occur if, while performing a professional service for a client, the CPA or the firm has a significant relationship with another person, entity, product, or service that could be viewed as impairing their objectivity. The Code provides, however, that if this significant relationship is disclosed

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SERVICES ENGAGEMENTS

to the client and other appropriate parties, and they consent to the CPA's acceptance of the engagement, the rule shall not prohibit the performance of the professional service.

.05 In addition to the rule and related interpretation concerning conflicts of interest, the CPA who provides litigation services must also consider the impact of rule 301, "Confidential Client Information." Rule 301 prohibits a member in public practice from disclosing any confidential client information without the consent of the client. The CPA therefore may be unable to disclose to or obtain consent from all of the appropriate parties. Indeed, the legal process may operate to prevent the CPA from disclosing any information to other parties, particularly in the case of expected or threatened litigation. Rule 301 may restrict the CPA's attempts to resolve apparent conflicts of interest or business relationships. Problems arising under rule 102, its interpretation, and Rule 301 are commonly referred to as conflicts of interest, perceived or otherwise, in the provision of litigation services.

The Concept of Independence

.06 Independence is not a criterion in the determination of whether a conflict of interest exists in a litigation services engagement. Independence as an ethical issue is limited to attestation engagements¹ as required by the attestation standards, which also address the question of the appearance of independence. The independence concept was developed to ensure the CPA's objectivity and credibility in examining and reporting upon financial statements that will be relied upon by people who cannot investigate the assertions. The reliability of the CPA's professional opinion of the financial statements gives them more credibility and usefulness. The independence concept forms an important part of the comprehensive and well-documented set of standards applied to attestation services. However, in generally accepted auditing standards, little guidance is provided on the relationship of the independence concept to litigation services.

Conflict Issues for CPAs

.07 Unlike the legal profession, the accounting profession has developed little formal guidance on conflicts of interest. Most guidance relating to the CPA's professional relationships concerns the concept of independence, focusing primarily on the relationship between the CPA and the client in an attestation engagement. This guidance, however, is not directly concerned with relationships that the CPA may have in other types of engagements.

.08 The increasing use of CPAs as consultants and expert witnesses in litigation has required them to consider their professional relationships in new ways. When an attorney seeks to engage a CPA for litigation services, both professionals are concerned with whether the CPA has a conflict of interest with any of the parties to the litigation. Unfortunately, there is a

¹ See the AICPA MAS Special Report *Comparing Audit and Management Advisory Services: A Guide for the Practitioner* (New York: AICPA, 1993).

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SERVICES ENGAGEMENTS

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confusion as to precisely what this means. An attorney has a well-defined and documented concept of what constitutes such a conflict in the legal profession. Consequently, this concept may be applied inappropriately to the CPA, who may be confused as well because of the lack of guidance in professional accounting literature. However, the standards of the legal profession concerning conflicts of interest should not be applied to the accounting profession because the roles of the attorney and the CPA in litigation are entirely different.

.09 A conflict of interest may arise from the CPA's ethical obligation to preserve client confidences or from the existence of relationships that may undermine objectivity in presenting an issue concerning a client. In judging conflicts of interest, the CPA should differentiate between those based on fact and those that could arise as a result of perceptions or business considerations. The CPA may come to different conclusions based on the category into which the issue falls. The CPA may base a decision to decline an engagement on the existence of the perception that a conflict exists, on business considerations, or on other reasons such as lack of expertise or time. Conversely, absent a conflict of interest or possession of confidential information, the CPA may accept an engagement even if business relationship issues exist.

.10 The CPA must decide whether a conflict of interest exists on a case by case basis. If none exists, the CPA must then decide whether a business relationship or a perception of a conflict exists that may warrant declining the request for professional services. For example, the CPA may decline to perform services because the position required by the prospective client conflicts with the business interests of an existing client. Thus, while a conflict of interest may not exist as defined by the professional standards, conflicting business relationships may indeed exist. This determination is based on the CPA's judgment. If a perception of conflict exists, the CPA may be unable to obtain permission to accept the engagement from all of the appropriate parties because of confidentiality of information. In this instance, the CPA may have to evaluate whether a conflict of interest actually exists.

.11 Clearly, multi-office CPA firms face a difficult problem in monitoring conflicts of interest. Opportunities for conflicts arise not only because of the number of offices and clients but also because of the variety of services offered by these firms. Multi-office firms may therefore need a formal system to identify relationships that pose potential conflicts of interest.

.12 Before accepting a litigation services engagement, CPAs carefully evaluate their relationships, if any, with all parties to the action to identify potential conflicts. These parties include named and potential adverse parties including counsel to the opposing parties. During the course of an engagement, there is always the potential for a non-opposing party to become an opposing party. Therefore, continuing sensitivity to newly arising conflicts is necessary, particularly in engagements that are long or involve several parties.

.13 In evaluating certain situations, the CPA may conclude there is no conflict but that the attorney could perceive a conflict. Before accepting such an engagement, the CPA should disclose to the retaining attorney any prior or existing relationships with all parties to the litigation, if disclosure is permitted by the parties with whom the CPA has a confidential relationship. When possible, disclosure of such relationships is good practice, even if a conflict may not exist. Great care, however, should be taken to avoid disclosing client confidences, including names, which in themselves may be confidential. Indeed, there may be circumstances

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in which the very fact of a prior relationship is confidential. In rejecting an engagement, the CPA may not disclose confidential information gained from another client.

Differences Between CPAs' and Lawyers'
Professional Responsibilities

.14 The litigation services practitioner should understand the difference between the responsibilities of accountants and those of attorneys under each profession's conflict of interest rules. An attorney in litigation is an advocate for the client. Indeed, the attorney has an ethical obligation to represent a client "zealously within the bounds of the law." By design, the American litigation process is an adversarial proceeding in which the best case for each litigant is put before the trier of fact. The attorney who is neutral, independent, and objective could not do the job well. As law professors Aronson and Weckstein have put it:

Once a lawyer agrees to serve as an advocate, he must loyally safeguard his client's interest, urge any permissible construction of the law favorable to the client—without regard to his personal opinion as to what construction will ultimately prevail—and, in general, must resolve any doubts as to the law and facts in the client's favor.²

.15 This duty of advocacy is not just a characteristic of the legal profession but is part of its very fabric:

Of equal importance in our adversary system is that counsel be loyal to his client. "The duty of a lawyer, both to his client and to the legal system, is to represent his client zealously within the bounds of the law..." [EC7-1] Note that this partisanship does not arise merely from any retainer paid by the client to the lawyer, but is imposed upon the lawyer by the legal system, regardless of the presence or absence of financial remuneration. There is no basic conflict between the duty of lawyer to his client and to the court. In the adversary system, loyalty and zealotness in representation of the client is the primary duty of the lawyer as an officer of court.³

.16 The litigation process demands that the attorney take every available advantage for the client, put the client's case in the best possible light, not offer evidence that is harmful to the client (with some exceptions), and challenge everything possible in the opponent's case. The

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² Aronson, R.H. and D.T. Weckstein, *Professional Responsibility* (West Publishing Co., 1980), p. 13.

³ *Ibid.*, p. 272.

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opposing attorney, of course, has the same job. In a very real sense, a litigating attorney becomes the client's champion.

.17 It is thus not only appropriate, but also absolutely necessary, that lawyers have a strict conflict of interest policy. It generally is not possible to represent one client while also representing another with actual or potentially opposing interests. To attempt to do so, however carefully, would be intrinsically unfair to both clients. For this reason, before accepting an engagement, lawyers go to great lengths to ascertain whether they represent or have represented other clients whose interests do or could oppose those of a prospective client.

.18 The American Bar Association Rules of Professional Conduct contain several rules concerning conflicts of interest. According to the general rule, an attorney shall not represent a client if doing so would be directly adverse to the interests of another client or if the representation of that client may be limited materially by the attorney's responsibility to another client or third person or by the attorney's own interest. In both cases, however, the attorney who reasonably believes that representation will not adversely affect the relationship with the other client, may represent the client if both clients consent after a full disclosure of the circumstances and consultation (with certain stated exceptions). The general rule also provides that the attorney who represents several clients in a single matter must explain to each the implications of the common representation and the advantages and risks involved.

.19 The general rule does not alter the arguments of case law and ethics opinions that, in certain cases involving actual or apparent conflicts, consent to continued representation is immaterial, and in certain cases or situations in which the conflict is apparent rather than real, multiple representation is not permissible. In addition, the rule provides that a lawyer who has represented a client in a matter shall not represent another client in the same or a substantially related matter whose interests are materially adverse to the interests of the former client, unless the attorney fully discloses the circumstances in consultation with the former client.

.20 The legal profession's *Canons of Ethics* provides that loyalty is an essential element in the attorney's relationship with a client. Maintaining the required independence of professional judgment precludes accepting or continuing employment that will adversely affect the attorney's judgment on behalf of or dilute loyalty to a client. The problem often arises when an attorney is asked to represent two or more clients who may have interests that are conflicting, inconsistent, diverse, or otherwise discordant. An attorney is an advocate who owes complete loyalty to the client.

.21 The CPA as an expert witness has a role that differs from that of an attorney. The CPA does not serve as an advocate but rather is presented to the trier of fact as someone with specialized knowledge, training, and experience in a particular area and presents positions with objectivity. The function of the CPA as an expert witness is to assist the trier of fact in understanding complex or unfamiliar concepts. The CPA expert is not expected to singlemindedly and one-sidedly offer only evidence and opinions that help the client. The CPA is expected to offer an objective opinion, based on knowledge and experience, of how the issues at hand should be interpreted by the trier of fact. A CPA is required by professional standards to maintain objectivity and integrity in providing any professional service. Rule 102 of the *Code of Professional Ethics* of the AICPA states:

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In the performance of any professional service, a member shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate his or her judgment to others.

.22 The essential qualities of objectivity in a CPA expert are perhaps obscured by the fact that the role is executed in an adversarial process. The CPA is offered to the court and paid by one side. Nevertheless, the CPA's opinions should be based on the facts in a given case, regardless of who the client is. Indeed, several elements of the litigation process strongly encourage objectivity. First, the CPA expert presents the work and opinions under oath. Secondly, the bases for the CPA expert's opinions usually are subject to comprehensive discovery by opposing attorneys as well as cross-examination at trial. The work may also be subject to rebuttal by similarly qualified experts hired by the opposing side. Furthermore, the CPA expert's long-term credibility is at risk, since testimony might be used in certain circumstances to impeach testimony in subsequent cases.

.23 In effect, the requirement for objectivity and integrity for a CPA cannot readily be equated with the undivided loyalty to a client required of a lawyer. Accordingly, many relationships that would result in a conflict of interest for a lawyer may not result in a conflict for the CPA expert.

.24 The role of the CPA working directly for an attorney may be further complicated because of the privileged nature of communication that may extend to the accountant's work product. The CPA must decide whether there is a conflict of interest or business relationship considering the context of the work requested and the nature of the advice sought. The CPA judges whether the expected role is to function as an objective expert or to support a position taken by counsel. The CPA must maintain objectivity and integrity as well as avoid conflicts of interest and must be careful to avoid a position of advocacy that would lack integrity (for example, supporting a position the CPA knows to be false).

72/110 ILLUSTRATIVE CASE STUDIES

.01 The following case studies illustrate the potential conflicts of interest or business relationships that a CPA may encounter when asked to provide litigation services.

Simultaneous Conflicts

.02 Barbara Smith, a CPA, has worked with clients in the travel industry for several years. Her current engagements include attestation and consulting services for Airline A, a national carrier. The consulting services engagement involves assisting management to evaluate marketing strategies for dealing with competition. Recently, Commuter B, a start-up commuter airline, filed suit against Airline A for causing it economic losses by operating below cost in the market area. Because of Smith's expertise in the airline industry, Commuter B asks her assistance in preparing its claim for damages. Should Smith accept this engagement?

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.03 Rule 301 of the AICPA Code of Professional Conduct states: "A member in public practice shall not disclose any confidential client information without the specific consent of the client." Smith therefore should consider whether she has obtained confidential client information in providing Airline A with attestation and consulting services. Since these services probably involved reviewing information relevant to Commuter B's lawsuit, Smith should question whether to accept this engagement because it would appear to compromise Airline A's confidences.

.04 Rule 301 suggests that with Airline A's consent, Smith could pursue the engagement. However, it may be difficult to obtain such consent. Furthermore, as a matter of business practice, most CPAs would not accept an engagement directly adverse to the interests of a continuing attestation client. Such an engagement might cause difficulties for Smith in assessing valuation and disclosure requirements for the financial statements of the attestation client and in maintaining confidentiality for the two clients. Airline A likely would have to be advised adequately of the nature of the Smith's prospective engagement with B in order to make an informed decision. To advise A of this, Smith would require the approval of B's lawyers, who would be concerned about the confidentiality of their trial preparation plans if she were to describe the nature of the engagement adequately.

.05 In a different situation, Alan Mason, a tax CPA, provides Company A with only tax advice and tax compliance reporting. Company B approaches George Carpenter, a partner in the litigation services division of Mason's firm, for assistance in developing its damages case against Company A. The damages case involves matters totally separate from the tax engagement. Should Carpenter decline this engagement because of a potential conflict of interest?

.06 If Carpenter has had no access to confidential information about the matter in litigation and would establish procedures to ensure there will be no such access during the pendency of the case, he could conclude that no conflict exists. However, the existence of the tax engagement should be disclosed to the attorney for Company B and, if possible, Company A also should be informed. Early disclosure gives Company B's attorney an opportunity to consider this issue before retaining Carpenter and gives Company A an opportunity to object if it views the appearance of conflict differently from Carpenter.

.07 Carpenter may also wish to consider the impact of the engagement on his tax partner's relationship with Company A. Although Carpenter may not have a conflict of interest, he may decide to decline the engagement for business considerations. Business interests may cause the CPA to refuse an engagement, but the limited knowledge gained by others in the firm in any specialized area may not create a conflict of interest.

.08 In performing an audit or an attest function for a client, CPAs generally have broad access to confidential information. Therefore, they should be much more sensitive to actual conflicts of interest when they are providing attestation services to one of the litigants involved.

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Subsequent Conflicts

.09 CPA Smith's consulting services to Airline A involved only a completed engagement to assist in developing a marketing plan. There is no ongoing relationship. Subsequently, Commuter B approaches Smith for assistance with damages in its lawsuit. Does the lack of an ongoing relationship permit Smith to accept the engagement with B?

.10 Rule 301 on confidential client information is not limited to current clients. A practitioner must be able to have the full confidence of a client in order to provide assistance adequately. To ensure this relationship, the profession assures clients that information gained in an engagement will never be disclosed to others without their consent. Thus, Smith must consider carefully whether the litigation services engagement would create a conflict by appearing to require use of information obtained in the consulting engagement.

Preliminary Interviews With Prospective Clients

.11 When a CPA is approached by a prospective client about a litigation engagement, the client or its attorney typically will give the CPA sufficient information about the case to assist in identifying the opposing parties, the key issues in dispute, and the role intended for the CPA. In describing the matter at hand, the prospective client may communicate confidential information to the CPA. If the CPA is not retained by this prospective client and subsequently is approached by the client's opposition, must the CPA decline the opposition's offer of an engagement to protect the confidential information received previously?

.12 This question has not been specifically addressed by the accounting profession. However, rule 301 prohibits revealing any confidential client information. State bar associations generally have concluded that a prospective client from whom an attorney obtains confidential information during an initial interview is a client nonetheless, against whom the attorney cannot use this information. This conclusion may guide the CPA even though the rules of conflict of interest for attorneys differ from those for accountants. To avoid this problem, the CPA should attempt to limit the confidential or strategic information received before deciding on the prospective engagement.

Joint Representation

.13 Joint representations occur when a CPA is engaged by both opposing parties for assistance in resolving the issues in their dispute. A request for joint representation could arise in a variety of circumstances. Given the adversarial nature of a litigation services engagement, before accepting one, the CPA should carefully consider the nature of the relationship with each of the parties and the role to be played. The concern is usually greater in marital dissolutions as is illustrated in the following case.

.14 Joan Evans, a CPA, has provided a full range of services to a married couple for several years. The husband is a principal in a closely held business for which Evans has provided consulting and accounting services. In addition, the couple has acquired ownership

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interest in several pieces of income property for which Evans has provided tax advice as well as accounting services. In a marital dissolution action, the couple requests Evans's help with the accounting and valuation aspects of the property settlement. Can Evans accept this engagement?

.15 A lawyer's ability to represent both parties in a dispute has been restricted by case law and legal ethics because of the lawyer's role as advocate. An accountant, however, brings objectivity to a dispute. Even so, it may be difficult for Evans to advise adequately both parties to a divorce, given their prior relationships. In deciding whether to accept the engagement, Evans needs to consider two issues. First, during her prior engagement with the couple, she may have received confidential information from one of the parties. By accepting the joint engagement, Evans might compromise the confidential nature of these communications. The second issue concerns objectivity. Evans may have a more significant economic relationship with one spouse through work performed for the business. This relationship could lead to an inability to provide objective advice for both spouses.

.16 The nature of the prior relationship must govern the decision. If there was no prior relationship with the couple, or the relationship was limited in scope, Evans could consider accepting the engagement. Nevertheless, in joint representations the adversarial nature of the dispute is an inherent risk. A CPA might be best advised to act as a court-appointed accountant to be insulated from the adversarial nature of the assignment. In any event, there should be complete disclosure to both parties, and the CPA should obtain informed consent to the joint representation with a clear identification of the engagement's scope.

.17 The CPA should consider the same factors before accepting engagements in which two clients with potentially differing interests ask for common assistance. Borrowers and lenders and buyers and sellers may also request joint representation. In general, the CPA would have no conflict and could accept engagements to resolve business disputes between two parties objectively.

Simultaneous Consultations

.18 The issue of a conflict also arises when a CPA is engaged to work simultaneously for and against clients of the same law firm in different cases. For example, Expert A may be retained by Counsel A to assist Plaintiff A by providing a valuation of an apartment building. Counsel B is the attorney for Defendant B in this matter. Before the case goes to trial, Counsel B approaches Expert A about an unrelated case. Counsel B, however, is unaware that Expert A is a consultant for Counsel A in Counsel B's other case. Does Expert A have a conflict in this situation?

.19 Since no confidential client communications are involved, and Expert A can maintain objectivity and integrity, there is no conflict of interest. Nevertheless, the situation is ticklish because Expert A may wish to notify Counsel B of the relationship with Counsel A. However, such notification ethically cannot be given until Counsel A chooses to disclose that Expert A has been retained. Expert A may seek permission from Counsel A to disclose the relationship;

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however, lacking approval, Expert A may wish to refuse the engagement offer of Counsel B without disclosing the reason.

.20 This conflict question raises a problem for counsel rather than an ethical question for the expert witness. An attorney may feel that the engagement of the CPA implies approval of the opponent's expert. The CPA should be aware of the potential for problems in such circumstances and should fully disclose such relationships to counsel, if possible, before accepting an engagement.

.21 This situation presents a conflict of business relationships, not a conflict of interest, and thus is a matter for the individual CPA to decide.

Other Potential Conflicts

.22 Several other situations give rise to considerations of conflicts of interest or business relationships. The CPA may be asked to testify on one side of an issue after testifying on the other side in a previous case. This situation can be complicated further in a multi-partner firm, if one partner testifies on one side of an issue and another partner is later asked to testify for the other side. In both cases, conflict of business relationships clearly exist and indeed the appearance of a conflict of interest may exist in the public's perception of the CPA's or the firm's views. Under generally accepted accounting principles, however, alternative views may be possible and indeed permissible. For example, under differing fact patterns, different conclusions may be drawn. A consistent position, however, would benefit the credibility and posture of the CPA. In these situations, the CPA's public image may be a more significant concern than the applicability of any conflict of interest rule.

.23 The expert opinion rendered in a court of law is that of the individual not the firm. Thus, differences of opinion among a firm's partners should not automatically discredit the testimony of an expert witness. However, disclosure of the situation to client or counsel is recommended.

.24 Another potential conflict may exist when the CPA is involved in a multi-party case. For example, the CPA's existing client may be a named member of a class or group or may be providing services to large governmental entities. A definition of conflicts associated with large groups would be far too broad a guideline to be effectual. For example, a CPA who assists a client in opposing an Internal Revenue Service ruling while performing services for another government agency at the same time is unlikely to be considered to have a conflict of interest. However, it is conceivable that certain situations involving government agencies may give rise to conflicting business relationships that would, in the CPA's own judgment, preclude helping to oppose one agency while working for another agency.

CONFLICTS OF INTEREST IN LITIGATION
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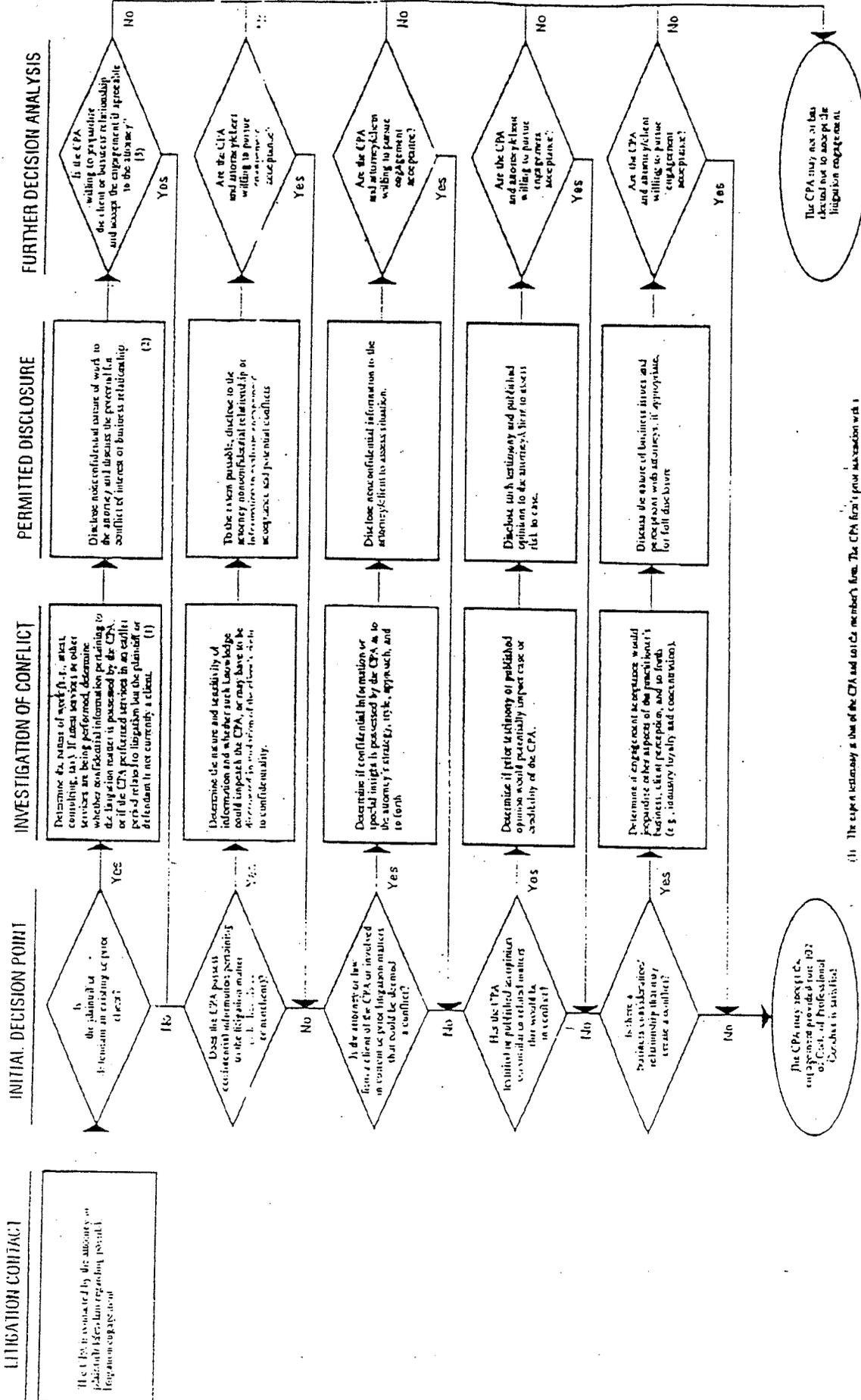
72/100-11

72/115 SUMMARY

.01 This special report is not intended to cover all situations that may give rise to conflicts of interest or of business relationships. Its purpose is to illustrate the diversity of situations that could give rise to such problems. The nature and complexity of litigation service engagements make it imperative that potential conflicts be identified early, preferably before the CPA accepts the engagement. The CPA should discuss situations that give rise to any questions of conflicts with the client's lawyer to permit evaluation before litigation services are provided.

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Conflict of Interest
Decision Tree



(1) The steps necessary to determine if the CPA and law firm are members of the same firm. The CPA firm's prior association with a company would generally not create any membership of the firm's knowledge to the law firm. The CPA may, however, as long as the CPA has no direct or indirect knowledge of the firm, such prior or current association should be disclosed to the attorney provided the attorney provides a written acknowledgment of the same.

(2) Although a CPA's firm may have a common or prior business relationship with a plaintiff or defendant through a group providing legal or other services, such relationships would not necessarily create a conflict of interest if provided confidential information is not possessed by the law firm. However, there is likely a business or other relationship that would create a business conflict requiring the CPA to disclose the engagement.

(3) Should a CPA disclose confidential information to an attorney (e.g., financial convenience litigation involving a trust), the litigation probably should not be material to the financial interests of the attorney.

CONSULTING SERVICES PUBLICATIONS

Title

Product Number

Small Business Consulting Practice Aids Series

<i>Assisting Small Business Clients in Obtaining Funds</i>	055018
<i>Identifying Client Problems: A Diagnostic Review Technique</i>	055253
<i>Assisting Clients in Maximizing Profits: A Diagnostic Approach</i>	055268
<i>Effective Inventory Management for Small Manufacturing Clients</i>	055272
<i>Assisting Clients in Determining Pricing for Manufactured Products</i>	055287
<i>Business Planning</i>	055291
<i>Personal Financial Planning: The Team Approach</i>	055304
<i>Diagnosing Management Information Problems</i>	055323
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<i>Cash Management</i>	055342
<i>Evaluating and Starting a New Business</i>	055357
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<i>Developing and Improving Clients' Recruitment, Selection, and Orientation Programs</i>	055133
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<i>Assisting a Financially Troubled Business</i>	055140
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<i>Conflicts of Interest in Litigation Services Engagements</i>	048563

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<i>Small Business Consulting Tool: Diagnostic Review Checklist for Maximizing Profits</i>	055010
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To obtain any of these publications, call the AICPA Order Department at 800-862-4272, or order via fax at 800-362-5066.

NOTICE TO READERS

This special report is designed as educational and reference material for Institute members and others who provide *consulting services* as defined in the Statement on Standards for Consulting Services (SSCS) issued by the AICPA. It does not establish standards or preferred practices.

Various members of the 1991-1992 AICPA Litigation Services Subcommittee provided information for this special report and advised the authors and staff. The subcommittee members are listed below.

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Mark Gallagher
Melinda M. Harper
Seymour Jones
Todd S. Lundy

Edward J. O'Grady
Sam F. Rhodes
Roger B. Shlonsky
Marvin L. Stone
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C. Kenneth White

The subcommittee gratefully acknowledges the contributions made to this special report by Seymour Jones, the principal author, as well as its debt to the discussion paper "Conflicts of Interest," issued by the Litigation Services Committee of the California Society of Certified Public Accountants in May, 1986. Certain issues and illustrations in this special report are based on that paper.

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Technical Standards and Services

Monte N. Kaplan, *Technical Manager*
Management Consulting Services

Steven E. Sacks, *Technical Manager*
Management Consulting Services

William J. Moran, *Technical Manager*
Management Consulting Services

EXHIBIT X

Exhibit X - Delays Advised or Engaged by CA Attorneys

Feb 2000

Creative retained PWC to provide advisory services to Creative in connection with Aureal's sale of assets in the event of a bankruptcy filing. Exhibit U at 2:22.

< Apr 5, 2000

Oaktree Capitol Management LLC, subject of earlier 3-310 complaint and "Lender Issues", Exhibit R at 7, is an audit and tax client of PWC. Exhibit V at 4:27.

Apr 5, 2000

Aureal bankruptcy case filed, Aureal files application to employ HBD. Exhibit A.

Apr 4, 2000

CA Attorneys for Aureal, Aureal, and PWC begin negotiating a conflict waiver letter. Exhibit U at 2:13.

Apr 4, 2000

CA Attorneys and Aureal are informed that PWC was representing an adverse party in litigation against the debtor Aureal. Exhibit T at 2:16-24.

Apr 19, 2000

PWC provides CA Attorneys with draft employment application in support of the application. Exhibit U at 2:20.

Feb 1, 2000

Feb 2, 2000

Apr 4, 2000

Apr 5, 2000

Apr 19, 2000

Exhibit X - Delays Advised or Engaged by CA Attorneys

May 3, 2000

Terms of the conflict waiver letter sent by debtor/H&B to PWC. Exhibit W at 4:1.

May 4, 2000

Aureal files application to employ PWC. Exhibit V.

Jun 7, 2001

239 days after H&B's First Conflicted Representation, Sidney Levinson files declaration disclosing same. Exhibit D, p. 1.

Apr 20, 2000

May 3, 2000

May 4, 2000

Jun 7, 2001

Jun 8, 2001

Exhibit X - Delays Advised or Engaged by CA Attorneys

Oct 24, 2001

78+ days after Second Conflicted Representation, Sidney Levinson files declaration disclosing same. Exhibit E, par 6.

Jul 2002

The court found a mere **29 day** delay from the day PWC commenced work and the subsequent filing of their employment application & conflict disclosure was found to be purposeful.

The Court found the delay was intended to obtain the benefit of employment of PWC, regardless whether the Court would approve of such employment. Exhibit U at 3:16.

Aureal was advised by CA Attorneys on this matter. Exhibit U at 2:18.

Apr 29, 2002

CA Attorneys retained by PWC. Exhibit U at 4:8.

Oct 24, 2001

Oct 25, 2001

Apr 29, 2002

Apr 30, 2002

Jul 1, 2002

Exhibit X - Delays Advised or Engaged by CA Attorneys

Sep 9, 2002

Court upholds its finding that a **29 day** delay in filing the PWC employment application & conflict disclosure was purposeful.

The Court found the debtor Aureal sought an advantage in the delay and **all arguments to the contrary by CA Attorneys in Motion for Reconsideration are found to be unpersuasive.** Exhibit T at 3:6-12.

Aug 19, 2002

CA Attorney Sidney P. Levinson files declaration in connection with the motion for reconsideration filed by PWC. Exhibit U.

Jul 2, 2002

Aug 19, 2002

Aug 20, 2002

Sep 9, 2002

EXHIBIT Y

1 UNITED STATES BANKRUPTCY COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 (OAKLAND DIVISION) CLERK
4 U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA

ORIGINAL

5 In re:

6 AUREAL, INC. dba SILO.COM
7 fka AUREAL SEMICONDUCTOR,
8 INC. fka MEDIA VISION
9 TECHNOLOGY, INC.,

Case 00-42104 T

Chapter 11

10 Oakland, California
11 June 19, 2000
12 2:30 p.m.

Debtor.

_____ /

13 TRANSCRIPT OF PROCEEDINGS
14 (1) STATUS CONFERENCE
15 (2) APPLICATION TO APPOINT ACCOUNTANT, PRICE-WATERHOUSE

16 BEFORE THE HONORABLE LESLIE TCHAIKOVSKY
17 UNITED STATES BANKRUPTCY JUDGE

18 APPEARANCES:

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P R O C E E D I N G S

June 19, 2000

2:30 p.m.

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THE COURT: I think we are left with Aural.

THE CLERK: Yes. Line Item 8, Aural, Inc.

MR. LEVINSON: Good afternoon, Your Honor, Sid Levinson, Hennigan, Bennett & Dorman for the Debtor, Aural, Inc.

MR. POPE: Your Honor, Mark Pope for the U.S. Trustee.

MS. MICHELSON: Good afternoon, Your Honor, Randy Michelson, McCutchen, Doyle, Brown & Enersen, proposed counsel for the Creditors' Committee -- as of 1:00 o'clock this afternoon.

MR. LAU: Good afternoon, Your Honor, Kenneth Lau of Hemar & Rouso on behalf of secured creditor, Copelco Capital.

MR. REIMER: Good afternoon, Your Honor, Eric R. Reimer of McDermott, Will & Emery on behalf of Oak Tree Capital Management as collateral agent for the secured lenders.

MR. LOPES: Good afternoon, Your Honor, James Lopes of the Howard Rice firm on behalf of Creative Labs.

MR. MITCHELL: Good afternoon, Your Honor, Thomas Mitchell of Orrick, Herrington & Sutcliffe appearing on

1 behalf of Orrick, Herrington & Sutcliffe as a creditor.

2 MR. AHRENS: Your Honor, Michael Ahrens and Jeffrey
3 Rehfield of Sheppard, Mullin on behalf of Price-Waterhouse
4 Coopers.

5 MS. MAR: Patricia Mar, Morrison & Foerster, on
6 behalf of Ocean Data Products.

7 THE COURT: Well, I'm glad to see we have balance
8 here. I have a former Law Clerk on one side and a former
9 employer on the other.

10 (Laughter.)

11 THE CLERK: I have three people that did not check
12 in, so we don't know their names --

13 THE COURT: Which three are those?

14 THE CLERK: Mr. Lopes, Ms. Mar and -- I'm not
15 sure --

16 THE COURT: Could we have your cards.

17 THE CLERK: Reimer or --

18 MR. REIMER: I'm embarrassed to say I don't have
19 a card with me, Your Honor.

20 THE COURT: You can fill out a little slip.

21 MR. REIMER: I hope I don't have a -- run into a
22 car wreck on the way out.

23 (Laughter.)

24 THE COURT: Okay.

25 MR. LEVINSON: Thank you, Your Honor. Sid Levinson

1 for the Debtor. Your Honor, we're here today for a status
2 conference that's been scheduled in the Aureal case. I can
3 briefly bring the Court up to date on where things stand in
4 the case.

5 The primary focus at this point has been the sale
6 of the assets, and we've been working since April in terms
7 of marketing, allowing parties to do their diligence. We
8 filed a motion a couple of weeks ago seeking approval of sale
9 procedures. There's a hearing scheduled for this Thursday.
10 We're continuing to talk to a number of different parties
11 which have continued to express interest in purchasing these
12 assets, and we'll continue that process up through Thursday
13 and beyond so that we can get as many interested parties
14 involved as possible.

15 The sale is probably going to dictate what happens
16 with respect to the plan and disclosure statement process.
17 Once we know exactly what it is that's going to be purchased
18 and how much is going to be paid and what the claims are
19 going to be, we'll be in a better position I think to talk
20 with the Creditors' Committee, with their counsel who was
21 just selected today, and to move forward with that process.

22 We had intended to file a motion next week to seek
23 an extension of the exclusivity period which would currently
24 expire in early August, and I expect we'll probably ask for
25 a 120-day extension of that period in that motion. And we

1 will, as I say, move forward with the sale process as quickly
2 as we can to maximize the value. That's really our objective
3 at this point is to create an as open and fair a process as
4 we can to have the maximum number of parties participating.

5 We've also -- today is the deadline to file
6 objections to the sale procedures, except the Committee was
7 granted an extension until Wednesday in anticipation of the
8 fact that their counsel was going to be selected today, and
9 we'll be obviously dealing with the parties who have filed
10 objections, to review those objections and evaluate them
11 prior to Thursday.

12 THE COURT: Okay.

13 MR. LEVINSON: With respect to business operations,
14 our main objective at this point has been to preserve value
15 of the assets. We're continuing to engage in discussions
16 with certain vendors, particularly those who have possession
17 of inventory that would be a part of the sale, to attempt to
18 negotiate accommodations with them, and continuing to seek
19 to, where we can, create cash and liquidate assets.

20 We've had some loss of employees over the 60 to 75
21 days that this case has been ongoing. One of the things that
22 we're looking at right now is putting into place a modest
23 employee retention plan. We're going to talk about that with
24 counsel for the Creditors' Committee, and we've had some
25 discussions with the Office of the U.S. Trustee last week,

1 again something modest to -- mainly focused on preservation
2 of value, pending the sale process.

3 One asset that we've been taking a look at over the
4 last 30 days is a leasehold interest of the primary lease
5 which is located in Fremont. It's a very large space. It's
6 approximately 100,000 feet. We're fortunate to have a lease
7 at below market value -- we view it as below market value,
8 and we are in the process of retaining a broker with an eye
9 towards assigning the lease interest to generate additional
10 value.

11 It so happens that this particular lease is not
12 subject to the security interest of the primary secured
13 lender, and so as I say, we are hopeful that we can generate
14 some somewhat -- not insubstantial value from that particular
15 leasehold, and notably that leasehold is not subject to the
16 sale procedures that are currently pending. It's a separate
17 asset.

18 THE COURT: M-hm. You've already extended time to
19 assume or reject?

20 MR. LEVINSON: We had -- there was a bridge order
21 entered and there's a hearing scheduled for Thursday --

22 THE COURT: Okay.

23 MR. LEVINSON: -- seeking a 120-day extension,
24 which --

25 THE COURT: I recalled seeing something.

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MR. LEVINSON: Yes.

THE COURT: Okay.

MR. LEVINSON: Yes. And at that time, we'll be seeking -- it will be 120 days from -- I believe from when the 60 days would have expired --

THE COURT: Okay.

MR. LEVINSON: -- prior to the bridge order, so some time in early October, which will give us an opportunity to conduct some marketing --

THE COURT: M-hm.

MR. LEVINSON: -- with respect to that asset. One of the other developments, as Your Honor knows from past hearings, there's -- at the time that the bankruptcy case was filed, there was significant litigation pending with Creative, three separate cases. Last week the Debtor filed an application to expand the scope of our firm's employment to serve as litigation counsel with respect to those pending matters, and that was -- that was filed on a 20-day negative notice.

THE COURT: M-hm.

MR. LEVINSON: The period for that has not yet expired. So that probably summarizes the most material happenings in the case.

THE COURT: Okay.

MR. LEVINSON: One other thing, Your Honor, if I

1 may, I'm not sure that the order authorizing our firm's
2 employment as reorganization counsel has been entered. We
3 hadn't see it on the docket. We had filed back in April a
4 stipulated proposed order that had provided the supplemental
5 disclosure and addressed the concerns of one of the creditors
6 in the case, and I had brought some extra copies of that,
7 only because we've received questions as to why are you still
8 proposed counsel. And so --

9 THE COURT: Right. Mr. Pope, this comes as a
10 surprise to me. It's not something I checked on. I just
11 assumed it had been signed. But are you -- have you seen a
12 final order, signed order, approving their employment?

13 MR. POPE: Approving Mr. Levinson's firm's
14 employment? I'm not sure if I've seen that order or not,
15 Your Honor. I've been dealing with them as if they've been
16 approved counsel, and I didn't really have any reason -- no
17 one has approached me questioning their qualifications.

18 THE COURT: Well, you said you brought extra copies
19 of the proposed form of order. Why don't you leave them and
20 we'll check the docket and the file, and if one hasn't been
21 signed, it will be signed.

22 MR. LEVINSON: Thank you, Your Honor. May I
23 approach?

24 THE COURT: Yes, you may.

25 Okay. Anybody have any other comments to make,

1 just in terms of general status of the case, before we
2 address the application?

3 MS. MICHELSON: Yes, Your Honor. Coming in, in the
4 middle of the movie, is never easy. I have asked Mr.
5 Levinson if we could delay Thursday's hearing by a few days
6 so I'd have an opportunity to get up to speed. He wasn't
7 willing to commit to that, pending further discussions.

8 THE COURT: That would be the hearing on the
9 application to extend the time to assume or reject that
10 lease?

11 MS. MICHELSON: Any application, to approve
12 proposed bidding and overbidding procedures.

13 THE COURT: Okay.

14 MS. MICHELSON: Could we get some available dates
15 from the Court if we are able to reach a stipulation on
16 extending it for two or three days?

17 THE COURT: Sure.

18 MS. MICHELSON: That's probably all I would need.

19 THE COURT: Sure. So you're hoping that you can
20 reach a stipulation to continue it to the next week; is that
21 basically what you're asking?

22 MS. MICHELSON: That's basically it.

23 THE COURT: What's our schedule like next week?

24 THE CLERK: Next week is trial week, but we do have
25 time. How long do you think it would take? Half day

1 on --

2 THE COURT: Probably no more than an hour.

3 MS. MICHELSON: An hour, I would think.

4 THE CLERK: We have Tuesday morning.

5 THE COURT: Okay.

6 THE CLERK: Monday afternoon or Thursday.

7 THE COURT: So you just want to keep those in mind
8 because -- of course, we may fill in those time blocks
9 between now and then --

10 MS. MICHELSON: I understand.

11 THE COURT: -- but based on our schedule right now,
12 those are available.

13 MS. MICHELSON: Okay. Thank you.

14 MR. LOPES: Your Honor, could I make sure I get on
15 the notice list if the hearing is continued, telephonically?

16 THE COURT: Could you please keep him informed?

17 MS. MICHELSON: Yes.

18 THE COURT: Okay. Then the only other matter I
19 have on calendar is the application to employ Price-
20 Waterhouse. Let me -- before you start, let me just tell you
21 that the way this matter was briefed, when things happen of
22 this sort and they're difficult issues, it's awkward because
23 the heart of the brief was in the reply. So what I feel
24 missing is a substantive response on the other side, because
25 the real heart of what you gave me was in the reply.

1 MR. AHRENS: And I appreciate that, Your Honor.
2 And since things have been moving so quickly, I would expect
3 that there would be a lot of reply today to the points we
4 made. It's -- really, I agree with the Court that since the
5 objection was made, we really have become the moving party,
6 I would imagine, once the issues are identified, and the two
7 objecting parties really haven't had a lot of time to reply
8 to that, but I imagine they would have plenty of thoughts
9 here today.

10 Your Honor, with respect to the papers, I know we
11 only filed it last Wednesday because the objections were just
12 filed the prior week, but in these type of matters you always
13 want to get the matter before the Court as soon as possible
14 because there always is the problem of not being employed and
15 compensation.

16 I'd like to just go through a few points and then
17 open it up to questions or to any reply because we said
18 mostly everything in our brief. I think the first thing we
19 said was really telling, and that me as a lawyer and you
20 probably as a judge seeing this, if you use the standards of
21 the attorneys, you'd see a problem with this; you'd see a
22 problem because it looks like there's an absolute conflict.
23 But what I've been learning lately from all of the
24 discussions I'm going to with respect to the combination of
25 the legal and the accounting profession, I'm learning that

1 that's not the case; that's really not the case.

2 And that's why we have a big five as opposed to a
3 big five thousand. I even went to the ABI in December and
4 on the Ethics Committee, they're talking about changing the
5 legal rules to be more like the accounting rules. And if
6 Price-Waterhouse in this case, just because of the fact that
7 they audited Creative, a competitor, somebody who's drained
8 millions of dollars, you know, out of this estate through
9 litigation, but the litigation isn't involved in this
10 application -- if this were the case, that would mean that
11 in every case Price-Waterhouse or Arthur Anderson could not
12 really have a reorganization consulting practice, because
13 there's got to be a bidder out there that they audit that's
14 interested in buying the assets.

15 But I start off really with the premise, Your
16 Honor, that I realize that no matter how much Price-
17 Waterhouse will benefit the estate -- and I'm going to
18 address that at the end -- we have to follow the rules. I've
19 heard the U.S. Trustee say that; I've heard counsel for the
20 U.S. Trustee say that in many cases, and I agree with that.
21 Even if it means a loss to the estate, if there is a problem
22 of being disinterested, if there is a problem with
23 being -- if there's a conflict that's not appropriately
24 waived, or if there's a material adverse interest against the
25 estate, you cannot approve them. So I'll start off with that

1 concession, no matter how much they benefit, because we have
2 to stand by the rules of bankruptcy. There has to be an
3 integrity in the estate.

4 But we have gone through that and come to the
5 conclusion as has the general counsel for PWC -- and that's
6 important, and I'll discuss that in a minute -- that there's
7 absolutely no conflict. The general counsel of PWC performs
8 a function, not of representing any one interest, but of
9 making a determination as to whether there's a conflict. And
10 as she has said in her declaration filed in this court, the
11 rules of any conflict with respect to accountants really rely
12 upon independence.

13 If I'm an auditor, I have to be independent. I do
14 not represent my client; I do not -- I'm not adverse; I am
15 independent. And that's totally different than my firm. The
16 reason there's a couple thousand law firms nationally, big
17 law firms, is because of our rules of either appearance of
18 a conflict or an actual conflict because you have to be
19 aggressive; you have to be an advocate; you have to represent
20 your client. And that's totally different.

21 THE COURT: You know, I followed that point and
22 therefore I was a little confused when you said there's talk
23 about changing the attorney rules so they're more like the
24 accountant's rules. I don't know how you do that, given
25 those two different roles.

1 MR. AHRENS: Your Honor, I don't know that it will
2 ever happen, because it's so ingrained after 30 years in
3 practice, but I was at an ABI conference at which they are
4 talking right now about how the laws may be changed to allow
5 this combination of law firms and accounting firms. But it
6 hasn't been changed yet. It's just a committee, and you
7 know, they meet twice, three times a year and they talk about
8 these things. And so there's a lot of discussion about that,
9 and quite candidly until those discussions, I was -- I
10 thought that the accounting firms had similar rules as we do,
11 but they simply don't.

12 So therefore, Your Honor, we have to look at -- and
13 the law is clear -- whether or not you're disinterested, all
14 the cases seem to talk in terms, the same terms, as whether
15 or not there's a conflict. That's 327(a). 327(a) also talks
16 in terms of material -- represent or hold an interest that
17 is materially adverse. And so if you --

18 THE COURT: There's not really any -- I mean, some
19 of the papers talked about holding an interest, and there's
20 not really any argument that Price-Waterhouse holds an
21 interest adverse; is there?

22 MR. AHRENS: No, Your Honor.

23 THE COURT: It's really a question of representing
24 an interest.

25 MR. AHRENS: Right. That's right, Your Honor.

1 THE COURT: And I think there's also no dispute
2 that Creative is an adverse interest, so to me, it boils down
3 to does Price-Waterhouse represent Creative.

4 MR. AHRENS: I agree with that. And all I've heard
5 from my client -- and we have this in the declaration -- is
6 they do not represent Creative, period.

7 THE COURT: I think that's the heart of the
8 argument, and I'm curious to hear the argument on the other
9 side, if there is one.

10 MR. AHRENS: And now I will simply go through why
11 they do not represent. They have to be independent. So
12 every time the general counsel's office gets a call, can we
13 do this or can't we do this -- and by the way my client is
14 present in court, Hillary Kane (Phonetic), and she could
15 answer any questions, if you would like, that the Court may
16 have -- and she makes a decision whether or not it's
17 consistent with that general premise of independence.

18 Now, being an expert witness, you're a friend of
19 the court; you're representing to the court. I've had many
20 times -- and by the way we met with the U.S. Trustee's Office
21 and went over all these thoughts last week; Mr. Pope had just
22 come back from vacation and he was kind enough to listen to
23 all of our thoughts -- I've represented many a client where
24 they want an appraisal to come in at a certain price, and
25 what I do is I generally hire the appraisers; there's no

1 trick to this, as work product, and then when I find out what
2 the testimony will be, you either do or don't hire them. But
3 I've had many a fight with an independent appraiser. I've
4 been in a fight with an accounting firm that I hired as an
5 expert witness, and they simply don't represent an interest.
6 So that doesn't do it.

7 The same thing with doing a review on any potential
8 purchase of assets. They did a little work apparently that's
9 public knowledge, but they did the same thing. They checked.
10 Is this okay? Yes, you're independent because all you're
11 doing is seeing if the numbers fairly represent general --
12 GAP, generally accepted accounting principles. They're not
13 in the room negotiating on behalf of Creative. And so, Your
14 Honor, I think we've analyzed it --

15 THE COURT: What about giving turnaround advice?
16 Wouldn't that be representing? I'm not sure that was done
17 here. I'm just trying to --

18 MR. AHRENS: That wasn't done here.

19 THE COURT: -- trying to figure out when
20 accountants are representing and when they aren't.

21 MR. AHRENS: Yes. I think --

22 THE COURT: Negotiating clearly, but what else?

23 MR. AHRENS: When they are giving advice and trying
24 to maximize the recovery for the estate and they're actually
25 at the table saying you should pay more, talking to bidders

1 and saying we want more for the estate, I think that's
2 representing an interest in the estate.

3 THE COURT: I had some problem with some of the
4 comments in papers that well, they aren't making decisions.
5 They're different from attorneys because they're not making
6 decisions for the client. Well, attorneys, if they're
7 behaving properly, don't make decisions for clients either;
8 they advise and the client makes the decision.

9 MR. AHRENS: That's correct, but if they're at the
10 table actually negotiating and trying to get -- maximize the
11 return, on Mr. Harraga's (Phonetic) side, I think you would
12 have an argument if that's -- on both sides representing each
13 other, I mean, that to me would present a materially adverse
14 interest. But that isn't the facts.

15 Now, let's go through one other thing, Your Honor.
16 Creative has always been adverse to Aural. I represented
17 the Debtor in 1994, the Media Vision One. Mr. Lopes
18 represented the Creditors' Committee. We know how adverse
19 they were. At that stage, Price-Waterhouse -- and we have
20 this in the documents -- fully disclosed, and there was no
21 objection by the U.S. Trustee; there was no objection from
22 Creative. Now I'm not saying that they're estopped. I never
23 said that in the papers. But what I am saying that in 1994
24 Price-Waterhouse was very important. They spent over two
25 thousand hours between '94 and the filing helping Media

1 Vision do what it couldn't do, and that is, continue to
2 reorganize. They're now in Chapter 22.

3 But the bottom line is that they are extremely
4 important in this case, especially in light of the
5 resignation of all of the -- basically all of the management
6 of this estate. Counsel for the Debtor, the Debtor, does
7 want Price-Waterhouse employed. They will tremendously
8 benefit this estate. They've been talking to bidders since
9 they've been employed in this estate. They have no
10 alternative. I do the same as proposed reorganization
11 counsel; I try to maximize the recovery for the estate until
12 actually approved.

13 It is very unfortunate that we have this situation,
14 but we know Creative is objecting, and we know that Creative
15 does not want them employed. But the bottom line is,
16 Creative has not even asked to hire them, post-petition, as,
17 quote, "their advisor to advise on numbers." And pre-
18 petition -- I mean, post-petition, they haven't even asked
19 them. They say we may want to hire them in their objection.
20 But the bottom line is they haven't asked.

21 THE COURT: Well, could Price-Waterhouse even do
22 that and audit?

23 MR. AHRENS: I think -- yes, Your Honor, of course.

24 THE COURT: They can advise -- they could advise
25 Creative?

1 MR. AHRENS: Yes. Let's talk about pre-petition
2 and post-petition. First, pre-petition, absolutely, because
3 the general counsel of Price-Waterhouse Coopers always has
4 to make a determination when somebody comes to them, does
5 this compromise my independence. And as long as you're only
6 reviewing numbers and saying we don't think they meet GAP,
7 as long as you're only saying we don't think that's okay,
8 they're still independent. Can I be an expert witness? Yes,
9 you can be an expert witness because you're an independent
10 expert witness. And so they only allow them basically to do
11 that type of function for Creative.

12 Now, post-petition, we haven't even been asked.
13 Post-petition, we think we can still do it. We would like
14 the Court to so order. But so much is involved for this
15 estate, so much time has been spent getting this bidding
16 process that you're going to hear more about on Thursday,
17 general counsel's office has made the decision that if this
18 Court has a problem with that, post-petition, that they feel
19 that Aureal came to them first. Basically, they're looking
20 to do two clients because they also represent other people,
21 Creative, but they will not accept the request in the future,
22 which hasn't been made yet, to post-petition being employed
23 by Creative.

24 We think that's okay. We think that as long as
25 they still are independent, they can still -- this is their

1 ticket. I mean, if they violate this rule, they're going to
2 be in trouble with the SEC, with a lot of other people, and
3 they know these conflict rules better than I do. And so
4 therefore, Your Honor, I submit --

5 THE COURT: Now, you said one thing that made me
6 nervous. If I heard you correctly, you said Price-Waterhouse
7 is out there talking to potential buyers. Isn't that
8 representing --

9 MR. AHRENS: No, no, no, no.

10 THE COURT: No. Did I mishear you?

11 MR. AHRENS: No, Price-Waterhouse, as Aureal is,
12 is getting contacts from potential bidders saying, what's the
13 bidding process, things like that. They have to give advice
14 to the management as to what to do in connection with that.
15 But surely, you know, a general reorganization counsel is one
16 that prepares analyses, and it's given to management, and
17 they are needed for the bidding process. I mean, how much
18 is the company worth; what are the assets worth --

19 THE COURT: But when Price-Waterhouse starts
20 talking to outsiders about what's going on with the client,
21 isn't that representing?

22 MR. AHRENS: Your Honor, that's the Aureal side.
23 That's what I've already said. If you're general
24 reorganization counsel --

25 THE COURT: Okay. So you're conceding that Price-

1 Waterhouse represents and would like to be approved as
2 representing the Debtor. They're just saying they don't
3 represent Creative.

4 MR. AHRENS: Right.

5 THE COURT: Okay.

6 MR. AHRENS: Right. I'm not sure how far they want
7 to go. I could talk to my client and see how far the
8 management wants them to go.

9 As Mr. Rehfield just reminded me, the reason
10 for -- the other side of the point, of the independence, is
11 because of their audit functions over at Creative. They do
12 not audit --

13 THE COURT: I see.

14 MR. AHRENS: -- they do not audit. Arthur Anderson
15 & Company audits Aural, so they don't have that situation
16 here.

17 THE COURT: Okay.

18 MR. AHRENS: But when testing the conflict rules,
19 the materially adverse interest rules, and the rules of
20 whether or not you're disinterested, in every case, you're
21 not adverse because of whichever you did for Creative, and
22 you simply are not adverse. There's no interest that you're
23 representing, because the Code reads that you cannot
24 represent an interest adverse to the estate.

25 THE COURT: Right.

1 MR. AHRENS: So it's not on the estate side; it's
2 on the representation --

3 THE COURT: I get it.

4 MR. AHRENS: Okay.

5 THE COURT: I was missing that for a minute.

6 MR. AHRENS: And so in closing, Your Honor, I think
7 there's no real argument that they have a learning curve that
8 would be almost impossible to overcome knowing this company
9 and to give advice to management in this company as to what
10 to do in the bidding process. So I wouldn't suggest that
11 just because of the tremendous decline in the value of the
12 estate that you step on the Bankruptcy Rules, but I don't
13 think you have to.

14 THE COURT: Okay. I assume Mr. Lopes is going to
15 argue, but I'd like to hear first from Mr. Pope.

16 MR. POPE: Thank you, Your Honor. Your Honor,
17 first, there's the technical issue of Price-Waterhouse
18 Coopers' standing to be responding to an objection by the
19 U.S. Trustee to an employment application by the Debtor,
20 Aureal. I'm sure the Court values what they've had to say,
21 but there is the issue of their standing --

22 THE COURT: I view them as a friend of the Court.

23 MR. POPE: Thank you, Your Honor. On the merits
24 of the issue, our objection and their reply, the
25 fundamental -- the fact here is that Aureal and Creative do

1 have adverse interests to each other by virtue of being
2 competitors, but more importantly, by virtue of being in
3 litigation in Federal District Court, by virtue of Creative's
4 attempt pre-petition to purchase the assets of the Debtor and
5 apparent interest in pursuing that post-petition, in
6 purchasing the assets of the Debtor. That is clear.

7 THE COURT: I think we all are in agreement with
8 that.

9 MR. POPE: Okay. So the Court properly asked the
10 right question. Does Price-Waterhouse Coopers represent
11 Creative in its adverse interest? Well, Price-Waterhouse
12 Coopers has done, is doing, or proposes to do work for both
13 the Debtor and for Creative in these adversarial
14 circumstances in which the parties find themselves. Mr.
15 Ahrens is correct. I have read his papers, of course, and
16 we did have the benefit of meeting and conferring, and that
17 was valuable to us in understanding their argument.

18 I've since had a chance to look at some of the case
19 law. I don't believe the case law has quite so narrow a
20 definition of representation of an adverse interest as Mr.
21 Ahrens. We certainly do not. The U.S. Trustee does not
22 share that narrow interpretation of representation. We have
23 a broader understanding of what it means to represent an
24 adverse interest. And I'd like just to --

25 THE COURT: Can you give me which cases you think

1 are primarily helpful in this issue?

2 MR. POPE: I would like to do that, Your Honor.
3 Thank you. I would ask the Court to look at the case of In
4 re Thrifty Oil Company, 205 Bankruptcy Reporter, 1009 out of
5 the Central District of California Bankruptcy Court (1997),
6 where the court held that in an accounting case, a Chapter
7 11 case, an interest adverse to the debtor can arise from the
8 representation of another party in connection with the
9 bankruptcy case, or it can arise from representing those in
10 litigation with the debtor as well. And this again is an
11 accountant we're talking about.

12 Another case is In re Micro Time Management
13 Systems, Inc. at 102 Bankruptcy Reporter, 602, a bankruptcy
14 decision out of the Eastern District of Michigan. There an
15 accountant was working as a consultant to a creditor of the
16 debtor involved in litigation that didn't even involve the
17 debtor. It was a creditor against another party, but the
18 accountant was attempting to serve as a consultant for that
19 creditor in that case and also as accountant for the debtor
20 in possession, and the court ruled that this particular
21 accountant who was also attempting to service the Chapter 11
22 trustee, he could not serve as Chapter 11 trustee and his
23 accounting firm could not serve as accountant for the debtor
24 because he was not disinterested, given that consulting role.
25 We have a consulting role here between PWC and Creative.

1 Another case, Your Honor, is the case of In re CVC,
2 Inc. at 120 Bankruptcy Reporter, 874 (1990) case out of the
3 Northern District of Ohio.

4 MR. AHRENS: Pardon me. Could you give me that
5 cite again?

6 MR. POPE: Yes. It's 120 BR 874, Bankruptcy Court
7 of the Northern District of Ohio, a 1990 case, where the
8 court held that there is -- there was an actual conflict of
9 interest which existed with respect to an accountant's
10 employment by the debtor when that accountant also was
11 employed by a third party who was interested in purchasing
12 the assets of the debtor. Again, it's the factual scenario
13 or one of the scenarios that we have in this case, one of the
14 dynamics.

15 So we don't believe the case law embraces this idea
16 that accountants are so objective and independent that they
17 are not subjected to the same kind of disinterestedness
18 requirements that apply to all professionals under 327(a).
19 We believe that the Bankruptcy Code's requirements of
20 disinterestedness and not representing adverse interests
21 include accountants, even though their role might be slightly
22 or even significantly different than attorneys. So we're not
23 trying to mix and match attorneys and accountants; we just
24 think they all have to be disinterested and --

25 THE COURT: Okay. Let me ask you a question, a

1 hypothetical. If the only function Price-Waterhouse
2 performed for Creative was the audit function, would you feel
3 differently about this?

4 MR. POPE: Your Honor, because -- I would have to
5 go back and look at that issue. Just as a conceptual matter,
6 I didn't look at that. I might be more sympathetic to that
7 as being not representing an adverse interest, but that
8 is -- that's not what we have here because their role is
9 involved in the litigation; it's involved in due diligence
10 of the Debtor so that Creative can formulate an offer to
11 purchase the assets of the Debtor. It may --

12 THE COURT: Because frankly the audit and the
13 expert witness seem to me to be the easy ones. The due
14 diligence seems to be the area where it gets closer to
15 representing, in my mind. I haven't reached any conclusion
16 on this yet, so -- it should be obvious --

17 MR. POPE: I understand.

18 THE COURT: -- but I was just wondering if you had
19 the same kind of -- it seems like you don't want to commit
20 yourself but it seems like you have somewhat of the same
21 reaction.

22 MR. POPE: I would, in response to that question,
23 say that -- Mr. Ahrens mentioned the 1994 case, Media Vision,
24 when even then Creative and Aureal were competitors and he
25 was retained in some capacity and there was no objection.

1 Well that's because there was no litigation at the time.
2 That changes things. It makes it more crystal clear that
3 there's an adverse relationship here. It's more emphatic.
4 So that's one distinction I would make.

5 But we're not -- we're not totally sold, even that
6 standing alone, the auditor function doesn't still raise
7 problems. But again, we go beyond that here. We have the
8 consulting and the due diligence and the efforts to purchase
9 the assets of the Debtor.

10 The important issue here, Your Honor, is the --
11 whether Price-Waterhouse Coopers is qualified to represent
12 the Debtor, given its relationships with Creative. We
13 respectfully submit that they're not and are prepared, if it
14 would assist the Court, to put some of this in writing, and
15 we would do that in a couple of days, if the Court would wish
16 that to happen.

17 As far as the nunc pro tunc nature of it, I don't
18 want to take too much time on that. Aureal and Price-
19 Waterhouse Coopers are very familiar with the bankruptcy
20 system, and they know the importance of timely filing their
21 employment application, so it appears that they could have
22 had it on file within 15 days, which is what the U.S. Trustee
23 guidelines call for, and did not. So -- but the thrust of
24 our concern is the relationship between PWC and Creative, and
25 we submit that they're not qualified under 327(a).

1 THE COURT: Okay. We're going to have to take a
2 short break right now to change Recorders, and I'll take a
3 short break too and then I'll come back.

4 MR. POPE: Thank you.

5 (A recess is taken at approximately 3:00 p.m.)

6 THE CLERK: You may remain as you are.

7 THE COURT: Mr. Lopes?

8 MR. LOPES: Your Honor, I will be relatively brief.
9 Creative is generally in agreement with the position of the
10 U.S. Trustee. A couple of comments: Contrary to the papers
11 that were filed on behalf of Price-Waterhouse, they did seek
12 a waiver from Creative, which waiver was refused, and if
13 that's an important issue to the Court, we can provide --

14 THE COURT: You say, "contrary to the papers,"
15 because I thought that was discussed in the papers.

16 MR. LOPES: The papers say no waiver was sought.
17 In fact, a waiver was sought, and it was refused.

18 THE COURT: Maybe the term "waiver" wasn't used,
19 but I thought I saw reference to -- although we didn't think
20 we needed to, we just did ask for them to approve it.

21 MR. LOPES: That isn't what the papers say.

22 THE COURT: Hmm. Okay.

23 MR. LOPES: The papers say they did not seek a
24 waiver.

25 THE COURT: Okay.

1 MR. LOPES: They did seek a waiver, and it was
2 refused. The other comment I would have is that the papers
3 filed by Price-Waterhouse indicate that there's all this
4 continuity, and it's in the best interest of the estate.
5 Nothing in the Debtor's application indicated that was the
6 basis upon which Price-Waterhouse was hired. Having been
7 involved in the prior case, I know that Paul Webber was the
8 primary point person from Price-Waterhouse, and he's not
9 involved in this representation. So I would suggest that the
10 Court discount that argument. There's no evidence or support
11 for that argument either in the Price-Waterhouse papers or
12 in the Debtor's original application.

13 THE COURT: In any event, either the representation
14 is proper or it isn't proper.

15 MR. LOPES: That's correct, Your Honor.

16 THE COURT: It's really the fact that it --

17 MR. LOPES: And the best interest of the estate is
18 a straw argument. It doesn't hold any weight.

19 THE COURT: And I should not be influenced by that.

20 MR. LOPES: You should ignore it, in my view.

21 The Court asked whether or not there was a conflict
22 in 1994. Circumstances were quite different in 1994. Price-
23 Waterhouse was --

24 THE COURT: I don't think that was exactly -- what
25 was 1994? Why --

1 MR. LOPES: That was the previous bankruptcy.

2 THE COURT: Okay. I think what I asked is if the
3 only function performed had been the auditing function, would
4 Mr. Pope have --

5 MR. LOPES: I was going to point out in 1994, that
6 was the only function.

7 THE COURT: Okay.

8 MR. LOPES: Price-Waterhouse were auditors for
9 Creative, and that was their only role.

10 THE COURT: And was that why Creative did not --

11 MR. LOPES: I can't comment on that. I didn't
12 represent Creative back then.

13 THE COURT: Right.

14 MR. LOPES: But I can comment now that the
15 situation is very different. Price-Waterhouse is not only
16 the auditors for Creative, Creative's position has changed.
17 Creative has been involved in very difficult and extensive
18 litigation with this Debtor. So I think that, in and of
19 itself, changes the role of Price-Waterhouse, even if they
20 were only the auditors.

21 But it goes well beyond that. They were expert
22 witnesses in this highly contentious litigation, which the
23 Debtor is blaming for its downfall, and most importantly,
24 they represented us as advisors in making a purchase proposal
25 just prior to the bankruptcy filing and have assured us on

1 a continuing basis that they will continue to represent us
2 in that regard, which representation we are looking for. We
3 intend to make a bid for the Debtor's assets in this case,
4 and we intend to rely upon Price-Waterhouse to advise us in
5 that regard.

6 It seems to me that if this is not a conflict, then
7 you should write "Accountants" out of §327, because there's
8 never going to be a conflict. The papers filed on behalf of
9 Price-Waterhouse are very good, but they don't address the
10 big picture, and the big picture is that there's a conflict
11 here. And they're saying, 327 really doesn't apply to
12 accountants. Accountants are different than attorneys.
13 Yeah, accountants are different than attorneys, but if this
14 isn't a conflict, there's never going to be a conflict for
15 accountants. You couldn't have a clearer case.

16 It seems to me that what they're arguing is kind
17 of the law of large firms and the law of ethical walls
18 precludes any conflicts for accounting firms. If this were
19 Sugarman & Company coming in and saying, well, Randy Sugarman
20 is going to work for the Debtor and Judy Bratton is going to
21 work for Creative in the bidding process and the sale process
22 and advising the Debtor about the sale and advising Creative
23 about their purchase. But that's not a conflict, because
24 they're not going to talk to each other. Well, clearly, the
25 Court wouldn't accept that argument. And I don't think the

1 Court should accept that argument simply because it's Price-
2 Waterhouse. They have a conflict.

3 THE COURT: Do you see the issue as different from
4 whether they could perform any services and also would be
5 viewed as still being independent enough to perform an audit?

6 MR. LOPES: I don't -- I think that's --

7 THE COURT: Because that seems to be the primary
8 thrust of their argument.

9 MR. LOPES: Well, I don't -- frankly, I don't quite
10 understand it. I mean, they're saying that because they're
11 our auditors, all they can do is report numbers to us. They
12 can't advise us. The letter that -- the engagement letter,
13 talks about advisory services that Price-Waterhouse Coopers
14 has provided and may provide to Creative. They are our
15 advisors, and in that capacity, you're looking for their
16 judgment and for their wisdom and for their experience.
17 They're simply not bringing us numbers and saying here are
18 the numbers and be happy with them.

19 We're paying them a lot of money, and we have paid
20 them a lot of money to provide advisory services. And they
21 are our advisors, and I think by being our advisors they have
22 created a conflict to advise the Debtor in this case on
23 precisely the same issues, which is, you know, what do we
24 sell; how do we sell it; how much do we sell it for; what's
25 its value; what's the strategy? That's what they're

1 attempting to advise both sides on, and I don't think they
2 can do it. And if they can --

3 THE COURT: Let's get away from the -- both sides.
4 I'm just still trying to understand how this works for
5 accountants. Just one client, as I understand their
6 argument, they could not maintain the ability to audit your
7 client and do the type of service that you're describing.
8 Do you agree with that or not?

9 MR. LOPES: I don't agree with it because they
10 have. I mean --

11 THE COURT: Well, one thing is whether they've done
12 it; the other thing is whether it's proper. Let's assume
13 there's no other client involved. It's just a question of
14 whether they are your auditor, your client's auditor, and
15 your client says, and plus, we want you to do this other job
16 for us which is advising us in connection with the purchase.
17 Is it your view that they can properly do both of those
18 things. It's not inconsistent --

19 MR. LOPES: I am certainly not an expert on
20 accounting conflicts.

21 THE COURT: You don't have a view on that. You
22 don't have a view on that.

23 MR. LOPES: But I -- in my experience, they
24 certainly do. I think -- and correct me if I'm wrong --

25 THE COURT: No, they do, but accountants do that

1 in general?

2 MR. LOPES: I think -- I think their turnaround
3 people advise debtors who are audit clients. I believe that
4 to be the case. I don't think they refer out that turnaround
5 business just because they have an audit --

6 THE COURT: I don't know. I think some of them
7 form separate little entities to do that, for just that
8 reason, but I'm not -- like most attorneys, we're not as
9 familiar with the standards for accountants as we are for
10 attorneys.

11 MR. LOPES: I have certainly seen a number of
12 instances where the turnaround group in a big five firm have
13 advised an audit client, and whether or not they aren't
14 supposed to do that, I don't know. But it certainly happens.
15 And, you know, I don't see -- I don't see a different quality
16 here in terms of the type of advisory services that are being
17 provided, and I don't think the fact that they're a large
18 firm and I don't think the fact that they've built this
19 ethical wall solves the problem.

20 By the way, we have requested -- prior counsel
21 requested, you know, the written procedures that were in
22 place for this ethical wall. We haven't received them, and
23 I have to question how well the ethical wall is working if
24 pleadings in the Aureal bankruptcy case indicate what's going
25 on with the Creative representation. It seems to me that

1 some ethical wall has been breached there, because, you know,
2 that doesn't seem quite appropriate to me either.

3 So I think it creates a lot of problems. I think
4 the big five accounting firms do have -- require some amount
5 of leniency in the bankruptcy context because of how big they
6 are, how many creditors, have many parties they're involved
7 with. But this is a case where there is clearly a conflict
8 and where they should have stepped aside. I mean clearly
9 they were aware of the problem. Clearly, they sought
10 waivers. Clearly, they negotiated this extensive agreement
11 with the Debtor. They recognized the problem. They just
12 didn't solve it. And I don't think they've solved it to the
13 satisfaction of the Bankruptcy Code. They're not
14 disinterested. And I don't think their employment should be
15 allowed.

16 THE COURT: Okay. Any cases you want me to look
17 at other than those three that Mr. Pope cited?

18 MR. LOPES: No, Your Honor.

19 THE COURT: Okay. Before -- I just want to see if
20 Ms. Michelson has anything she wants to say.

21 MS. MICHELSON: Your Honor, I haven't had the
22 benefit of reading the papers or looking at the law, or most
23 importantly, consulting with my client on the issues, so I
24 will not take a position at this point.

25 THE COURT: Okay. Do you want a little time to do

1 that or do you have too many other things to do at the start
2 of the case?

3 MS. MICHELSON: I think the matter is being ably
4 argued on both sides, and I would defer to them.

5 THE COURT: Okay.

6 MR. POPE: Your Honor, I have a fourth case that
7 I failed --

8 THE COURT: I don't know that we can hear you
9 because you're too far away from the microphone.

10 MR. POPE: I was going to ask permission to inform
11 the Court of a fourth case that I failed --

12 THE COURT: Please do.

13 MR. POPE: -- to mention that might be relevant and
14 helpful to the Court and to the parties. It's the case of
15 Trust America Service Corp., 175 BR 413, bankruptcy, Middle
16 District of Florida, (1991) Tampa Division. It deals with
17 the issue of ethical walls and accounting firms and Chapter
18 11, and the court held that an ethical wall is generally not
19 an acceptable means of conflict avoidance where the same
20 professional organization actively represents two adverse
21 interests. So it is relevant.

22 THE COURT: Okay.

23 MR. POPE: Thank you, Your Honor.

24 THE COURT: I'm sorry, Mr. Mitchell. Did you want
25 to say something first? Remind me whom you represent.

1 MR. MITCHELL: Your Honor, I represent Orrick,
2 Herrington & Sutcliffe, which is the second largest unsecured
3 creditor in this case, according to the Debtor's schedules.

4 THE COURT: Okay.

5 MR. MITCHELL: I'm not going to address the U.S.
6 Trustee's argument, because I think they're focused on, you
7 know, the technical point of law that the courts have said
8 about disinterestedness.

9 I think, though, that it is important to note the
10 issues that are at stake here, other than the issues the U.S.
11 Trustee has raised. Creative has been locked in very
12 difficult litigation with Aural for some time now, and at
13 least as I heard the arguments that were being presented on
14 behalf of Creative, they were saying that there's a conflict
15 because they want to be able to hire Price-Waterhouse in the
16 future to represent them in connection with the possible
17 purchase of Aural's assets.

18 And I'm very concerned about kind of the
19 conflicting interests that Creative is facing here as on one
20 hand a potential creditor of the case, on the other hand
21 somebody who is in what might be described as almost "bet the
22 company" litigation with Aural -- at least from Aural's
23 perspective.

24 And I also don't, you know, even on traditional,
25 you know, legal rules of conflict of interest, which may or

1 may not apply here -- I don't understand how somebody's
2 desire to hire somebody to do work in the future can create
3 a conflict now. And so I really think we are left with the
4 issues that the U.S. Trustee raises as to whether or not
5 Price-Waterhouse Coopers is disinterested under 327.

6 But I think the fact that Creative wants to hire
7 them in the future to do work should not be a relevant
8 factor, and I haven't heard any allegations from Creative of
9 the kind of harm that you normally see where one side is
10 trying to actually disqualify the other side's professional,
11 because that's in effect what Creative is trying to do here.
12 They're trying to take away Aureal's right to choose its
13 accountant on the grounds that they also represent Creative.
14 And I'm not hearing that there's some risk of disclosure of
15 information that, you know, that might be confidential to
16 Creative that they don't want being disclosed, anything like
17 that.

18 And so I think for that reason the objections that
19 Creative is raising really aren't on point here. The issues
20 I think that the U.S. Trustee is raising are ones that the
21 Court does have to decide, but I think Creative, because of
22 its multiple roles here -- and we do have to bear that in
23 mind -- I think it would not be altogether helpful for this
24 estate to lose Price-Waterhouse Coopers at this point.

25 Now, if that's what 327 requires and that's the

1 interest the U.S. Trustee has to enforce, I mean, that's
2 where we are and we all agree we have to follow the law.
3 But I think that's what we need to be focusing on, is that
4 issue, and not the kinds of issues that Creative has been
5 raising.

6 Thank you, Your Honor.

7 MR. LOPES: Your Honor, may I simply clarify in
8 response to that? I mean, we have hired Price-Waterhouse,
9 and we're working with them on a continuing basis. It's not
10 a question of we may hire them in the future. And I think
11 it's clear that we do -- we have shared information and will
12 share information with them that we don't want disclosed.
13 I mean, I thought that went without saying. I mean, that is
14 the conflict. I mean, we're sharing confidential information
15 with their advisors.

16 MR. AHRENS: Your Honor, just a brief reply. I
17 understand --

18 THE COURT: Before you do, on that point, I had a
19 brief discussion with Judge Jellen about this because I
20 think it's a difficult issue, one that I'm not familiar
21 enough with the legal stance. I wish I were more. We're all
22 familiar with the attorney standards, but not as much with
23 accountant.

24 And I said, well, -- the whole issue of
25 confidentiality, and the point he raised with me was, well,

1 I'm not aware of an accountant privilege, so if you've shared
2 confidential information with the accountant, that would be
3 subject to discovery. Now is that right or not?

4 I think it's only fair to let you know that that
5 idea has been planted in my mind, and if that's erroneous,
6 you can correct me. So it may be that you don't have any
7 right of confidentiality. Whether or not Price-Waterhouse
8 represents the Debtor, that information may be subject to
9 disclosure, if he's correct about this that it's not
10 privileged.

11 MR. LOPES: That would surprise me very much. I
12 mean, does that mean that Price-Waterhouse, if they do end
13 up representing both sides, don't need an ethical wall, that
14 they can share any information they've received from either
15 party. I don't think that's correct.

16 THE COURT: I think the one thing perhaps missing
17 from his comment was, if it's part of litigation, perhaps
18 it's part of the general litigation privilege, but I don't
19 think there is a special accountant-client privilege; is
20 there?

21 MR. LOPES: Well, there's work product that's
22 created with the attorney involved.

23 THE COURT: Work product is a whole different kind
24 of issue. I think I've answered my own question, that there
25 is litigation ongoing and probably to the extent the

1 accounting service is performed in the context of the
2 litigation, it probably would be covered by the attorney-
3 client privilege.

4 MR. LOPES: Okay.

5 MR. AHRENS: Of course, Your Honor, on that point,
6 then I'll get to my brief reply, as I said earlier, once you
7 decide to use that expert as a witness, there is no
8 privilege. Every discussion you've ever had with that lawyer
9 is no longer work product. We all know that.

10 THE COURT: Of course, this accountant wears
11 several hats and so when wearing the different hat, it's not
12 clear that that --

13 MR. AHRENS: Well, that's what I want to address
14 with Your Honor, and that is, in reply -- just a very few
15 points, and I understand a few of the other creditors want
16 to address this and then that will be it -- this all comes
17 back to the audit function. What is consistent with the
18 audit function? Nothing that compromises your lack of
19 independence.

20 There's about four cases that were cited by the
21 U.S. Trustee's office. We have read them. They weren't in
22 the brief, but I appreciate, as I said, he hasn't had a lot
23 of time to look at it so that's fine, but I would be
24 surprised if it is a well-reasoned decision if they were
25 performing the audit function in that case.

1 And as I said to you before, performing the audit
2 function is what brings us to the conclusion that there is
3 no conflict. And where you're the auditor, you cannot take
4 any engagement that would compromise the independence. As
5 the Court noted, being an independent witness, no compromise;
6 you're an independent witness. So to when you perform any
7 analysis of numbers for any other purpose, you've got to
8 maintain your independence. So --

9 THE COURT: You know, how you describe this third
10 category and how Mr. Lopes describes it, is a little
11 different. You say due diligence, looking at figures to see
12 if they're kept in accordance with GAP; he says advice. I
13 haven't been party to these discussions. How do I know which
14 it is. Is --

15 MR. AHRENS: Your Honor, if --

16 THE COURT: There seems to be a different quality
17 about those two types of services.

18 MR. AHRENS: Right. The problem is, we are trying
19 to be professional and not disclose --

20 THE COURT: I know it --

21 MR. AHRENS: -- what we've done from Creative.
22 There is somebody in court who knows who would be happy to
23 talk to the Court or to do a confidential -- but again, we
24 probably would want to talk to Creative, and they're our
25 competitors, so we could address that if we have to, but you

1 could just start off with the premise that the counsel for
2 Price-Waterhouse Coopers has determined that these actions
3 are not representation; they are not representation that
4 compromises their independence. It's something that would
5 be the same as the audit function which does not disqualify
6 them.

7 And that's the key and that's how I bet --
8 although none of these cases are Ninth Circuit decisions;
9 none of them are binding on this Court -- I would bet if they
10 are well-reasoned decisions, you're going to find that in one
11 case I hear already that that person was the Chapter 11
12 trustee and an accountant. I mean, that's a lot different.
13 When you're an accountant and you are an auditor and you have
14 to maintain your independence, there is no conflict, Your
15 Honor.

16 Now, on the other issue that Creative's counsel
17 stated, that we asked for their waiver. The Court was
18 correct as to what we said. We didn't feel -- but we had
19 business reasons, and this goes to nunc pro tunc also. Why
20 did we take 15 more days than is normal? Counsel for the
21 Debtor is a very competent firm. They know exactly what you
22 have to do. The problem was, at Creative's -- because of
23 Creative's situation, Price-Waterhouse went out of their way
24 to make sure that Creative wasn't hurt.

25 They knew that they were doing some services that

1 we provided, including audit functions, the three functions,
2 audit, doing the work with respect to expert witness and also
3 they did a little work for the -- reviewing some records in
4 connection with pre-petition due diligence. And they came
5 to the conclusion that they better get Aureal's okay that
6 they won't try to disqualify them so they don't prejudice
7 their other client.

8 They're going the other way saying, because we will
9 be in a non-audit function with the Debtor, we want to make
10 sure that Creative is not hurt. And the general counsel is
11 looking at both of these sides and saying, I want to serve
12 all clients fairly and that's what they did.

13 So there wasn't a date when they said we think
14 there's a waiver of conflict; we want your consent. What
15 they said to Aureal is we want to make sure that we don't
16 prejudice our other client.

17 I think that's all of the points I had in response,
18 Your Honor. 327, Mr. Lopes, a very good advocate, argued
19 that we had said it doesn't apply. We admit it; it does
20 apply, and we think we meet that. His example of Sugarman,
21 not on point. Auditor, non-audited. That's the distinction
22 and that's why there is no conflict.

23 Thank you, Your Honor.

24 THE COURT: There's some other parties who wanted
25 to address the Court?

1 MR. LEVINSON: Your Honor, Sid Levinson for the
2 Debtor. Your Honor, with respect to this particular issue,
3 Price-Waterhouse, because of their involvement beginning in
4 late March, particularly at the time that senior management
5 had resigned, we were facing a very difficult issue with
6 respect to -- or I should say difficult business
7 circumstances with respect to keeping the business afloat in
8 the midst of the ongoing litigation with Creative. And then
9 ultimately, we filed the bankruptcy case.

10 With respect to this issue with Creative, our main
11 focus was insuring that there were procedures and safeguards
12 to insure that there wouldn't be any breach of
13 confidentiality, because I think that's ultimately what the
14 issue becomes is whether or not our information, information
15 about our company, might inadvertently find its way to
16 Creative and vice-versa.

17 We were satisfied with the procedures that were put
18 into place, given the fact that the people who are working
19 on the matter for Aural are not involved with respect to
20 Creative, that they work out of -- that they're from a
21 separate office, that they're actually working out of the
22 Aural offices, that all of the information is on Aural's
23 separate computer system, and given those procedures and the
24 others that were put into place, we were satisfied that that
25 confidentiality issue would be satisfied.

1 It would be a hardship for the estate if we had to
2 replace the accountants at this time. The accountants have
3 been in there, as I say, working for nearly three months.
4 With respect to counsel, Mr. Ahrens' point as far as the nunc
5 pro tunc, he is correct that the reason that it wasn't filed
6 within the 15 days was the need to address these issues and
7 make sure that they were dealt with in a satisfactory manner
8 to all parties so that the estate was protected and so
9 that -- and for Price-Waterhouse's protection as well. And
10 ultimately there was a letter that was executed on May 3rd
11 that addressed these particular issues relating to Creative
12 and then ultimately the application was filed the following
13 day.

14 I would note that other than the United States
15 Trustee, the only party to object is Creative. No other
16 creditors in this case have objected to the employment of
17 Price-Waterhouse. And it's important to know, Creative is
18 not here for the benefit of the estate. They're not here as
19 a creditor of this estate. They are here on their own
20 behalf, one as a litigant against Aural, a litigant that
21 brought two cases against Aural and is also a defendant in
22 a third, all of which are --

23 MR. LOPES: Your Honor, I would object.

24 This --

25 THE COURT: Please don't interrupt. I'll listen

1 to you after if you wish to respond. And don't -- and
2 anything he's saying has obviously crossed my mind as a
3 possibility, so the problem is I can speculate what motivates
4 their objection, and I can appreciate the potential harm to
5 the estate if I don't employ them, but both of those really
6 are red herrings. The question is, can I approve the
7 employment.

8 MR. LEVINSON: You're correct, Your Honor. And
9 I'll leave it at that.

10 THE COURT: Okay. Anybody else wish to speak?

11 MR. REIMER: I was going to address one of the red
12 herrings on --

13 (Laughter.)

14 THE COURT: Why don't you let it pass, unless
15 you -- okay. Anything further? Okay. Is it submitted?

16 MR. AHRENS: Yes, Your Honor.

17 THE COURT: Okay. I'll take it under submission.
18 I have to give this more thought and read these cases.

19 MR. AHRENS: Your Honor, if you're going to read
20 those cases, would you like in two days -- I haven't read
21 those cases so could I just write a letter to the judge
22 or --

23 THE COURT: I can wait one week for any additional
24 submissions that people wish to submit.

25 MR. AHRENS: Thank you, Your Honor.

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THE COURT: And it needs to be done by letter
brief.

MR. AHRENS: Thank you.

THE COURT: Okay. Thank you.

ALL COUNSEL: Thank you, Your Honor.

(Whereupon, the proceedings are concluded at 3:25 p.m.)

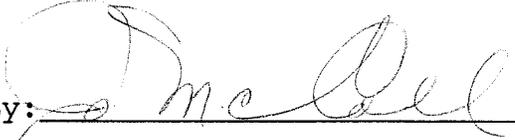
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EXHIBIT Y - PAGE 50

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CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

DATED: June 30, 2000

By: 
Jo McCall

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EXHIBIT Y - PAGE 51

EXHIBIT Z

CA BAR #05-20211
EXHIBIT Z - PAGE 1

1 MINNIE LOO, Assistant United States Trustee (SBN 106613)
MARK L. POPE, Attorney-Advisor (SBN 182769)
2 ANDREW D. VELEZ-RIVERA, Attorney-Advisor (SBN 143481)
MARGARET H. McGEE, Attorney-Advisor (SBN 142722)
3 U.S. DEPARTMENT OF JUSTICE
Office of the United States Trustee
4 1301 Clay Street, Suite 690-N
Oakland, California 94612-5217
5 Telephone: (510) 637-3200

FILED
00 MAY 24 PM 4:
KEEPER OF COURT
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF C.
OAKLAND, CA.

6 Attorneys for the Interim United States Trustee MAUREEN TIGHE

7
8 **UNITED STATES BANKRUPTCY COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 In re:) Case No. 00-42104 T
11 AUREAL, INC., d/b/a SILO.COM,) Chapter 11
12 f/k/a AUREAL SEMICONDUCTOR,)
13 Inc., f/k/a MEDIA VISION) {Hearing Requested}
TECHNOLOGY, INC., a Delaware)
corporation,)
14 Debtor.)

15 **OBJECTION BY UNITED STATES TRUSTEE TO**
16 **APPLICATION TO EMPLOY PRICEWATERHOUSECOOPERS LLP**
17 **NUNC PRO TUNC AS ACCOUNTANTS AND FINANCIAL ADVISORS**
18 **TO THE DEBTOR AND DEBTOR IN POSSESSION**
19 **AND REQUEST FOR HEARING**

20 The United States Trustee is responsible for, inter alia, supervising "the
21 administration of cases . . . under chapter . . . 11" of the Code and is given discretion to
22 file comments with the court with respect to applications for employment of professional
23 persons. 28 U.S.C. Section 586(a)(3).

24 The United States Trustee objects to the Application to Employ
25 PricewaterhouseCoopers LLP ("PWC") Nunc Pro Tunc as Accountants and Financial
26 Advisors to the Debtor and Debtor in Possession for the following reasons:

27 The Application seeks to employ PWC as the debtor's accountant and
28 financial advisor in this case. The services which PWC is to provide include valuing the
debtor's assets and securities, assisting the debtor with business plans, developing and

82

1 negotiating a plan of reorganization and offering expert testimony relating to the
2 feasibility of any plan. Application at 4.

3 At the same time, PWC is engaged as technical consulting experts for creditor
4 Creative Labs, Inc., (“Creative”) in a lawsuit styled *Creative Labs, Inc. v. Aural Semi-
5 Conductor, Inc.*, Case No. 98-21006, currently pending in the United States District
6 Court for the Northern District of California, San Jose Division and may provide similar
7 services to Creative in connection with other litigation adverse to the debtor that is
8 pending in the San Francisco division of that Court.^{1/} Application at 5. PWC also has or
9 intends to assist Creative in making an offer for the purchase of all or a portion of the
10 assets of the debtor. Application at 5.

11 In assisting Creative against the debtor in pending litigation and in its efforts to
12 purchase the debtor’s assets, PWC represents an interest adverse to the estate and is not
13 disinterested and is, therefore, not qualified to represent the debtor in this case. 11
14 U.S.C. §§101(14)(E) and 327(a);^{2/} *U.S. Trustee v. Price Waterhouse*, 19 F.3d 138 (3rd
15 Cir. 1994)(a debtor in possession cannot employ accountants or other professionals who
16 are not disinterested); *In re Envirodyne Industries, Inc.*, 150 B.R. 1008 (Bankr. N.D.
17
18

19 ^{1/}Debtor’s Statement of Financial Affairs shows three lawsuits involving the debtor and Creative and
20 a related entity asserting patent infringement, false advertising, contributory infringement and
inducement of infringement. Statement of Financial Affairs at p.22.

21 ^{2/} Under the pertinent language of 11 U.S.C. 327(a), a debtor in possession
22
23 may employ one or more attorneys, accountants, appraisers, auctioneers, or other
24 professional persons, that do not hold or represent an interest adverse to the estate, and that
are disinterested persons, to represent the [debtor in possession] in carrying out [its] duties.”
11 U.S.C. §327(a).

25 Under the pertinent language of 11 U.S.C. §101(14)(E) a disinterested person
26
27 means a person that . . .does not have an interest materially adverse to the interest of the
estate . . . for any . . . reason.
28 11 U.S.C. 101(14)(E).

1 Ill.1993)(to represent an adverse interest means to serve as an agent for an entity holding
2 an adverse interest).

3 A high degree of impartiality and detached judgment is expected of estate
4 professionals during the administration of the case. The services being rendered by
5 PWC to Creative would create a conflict of interest which would inevitably affect and
6 impair its performance of services to the bankruptcy estate. At a minimum, PWC seeks
7 to be integrally involved in valuing the assets of the estate on behalf of both the debtor
8 and Creative. PWC would have the duty to assist the debtor in maximizing the value but
9 its representation of the potential purchaser would require it to establish a value at the
10 lowest range.

11 Debtor appears to have asserted a waiver of the conflict created by PWC serving
12 Creative. Application at 7. However, the adverse interest and disinterested person
13 limitations set forth in 11 U.S.C. §327(a) can not be waived. *In re S.S. Retail Stores*, 211
14 B.R. 699 (Bankr. 9th Cir. 1997); *In re Envirodyne Industries, Inc.*, 150 B.R. at 1016.

15 The Application incorporates PWC's retention letter dated March 28, 2000
16 attached to the Application at Exhibit F. The United States Trustee objects to any
17 provision of the Retention letter which is inconsistent with this Court's Guidelines for
18 Compensation and Expense Reimbursement of Professionals and Trustees.

19 The Declaration of Glenn A. Hiraga in Support of Application to Employ
20 PricewaterhouseCoopers LLP ("PWC") Nunc Pro Tunc as Accountants and Financial
21 Advisors to the Debtor and Debtor in Possession does not appear to include a disclosure
22 of any connection of PWC with the debtor's attorneys in this case as required by Federal
23 Rule of Bankruptcy Procedure 2014(a).

24 The Application asserts that is was filed in a timely manner. Application at 7.
25 However, it seeks PWC's employment *nunc pro tunc* without having addressed the
26 standards for such employment set forth in *In re Atkins*, 69 F.3d 970 (9th Cir.1995).

1 WHEREFORE, based on the above, the United States Trustee respectfully
2 requests that the Application be denied and requests a hearing thereon.

3 Dated: May 24, 1999

Respectfully submitted,

4 Minnie Loo
5 Assistant United States Trustee

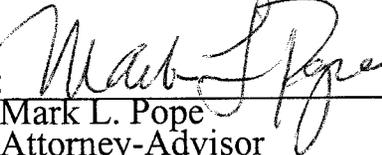
6 By: 
7 Mark L. Pope
8 Attorney-Advisor
9 Attorneys for United States Trustee
10 Maureen Tighe
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EXHIBIT AA

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

1 JAMES L. LOPES (No. 63678)
2 JANET A. NEXON (No. 104747)
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9 Facsimile: 415/217-5910

6 Attorneys for CREATIVE TECHNOLOGY, LTD.,
7 CREATIVE LABS, INC., and E-MU SYSTEMS,
8 LTD.

9 UNITED STATES BANKRUPTCY COURT
10 NORTHERN DISTRICT OF CALIFORNIA

FILED
00 MAY 24 PM 3:08
KEENAWA, CANADY, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

ORIGINAL

11 AUREAL, INC., d/b/a/ SILO.COM, f/k/a
12 AUREAL SEMICONDUCTOR, INC.,
13 F/K/A MEDIA VISION TECHNOLOGY,
14 INC., a Delaware corporation,

Debtor.

No. 00-42104-T11

REQUEST FOR HEARING ON AND
OBJECTION TO THE APPLICATION
FOR AUTHORITY TO EMPLOY
PRICEWATERHOUSECOOPERS AS
ACCOUNTANTS AND FINANCIAL
ADVISORS TO THE DEBTOR AND
DEBTOR IN POSSESSION

18 Creative Technology, Ltd. and its subsidiaries Creative Labs, Inc. and E-MU
19 Systems Ltd. (collectively "Creative"), a party in interest herein, hereby object to the
20 Application for Authority to Employ PricewaterhouseCoopers as Accountants and Financial
21 Advisors to the Debtor and Debtor in Possession ("Application") and request that the
22 Application be set for hearing on at least ten days written notice to interested parties.
23

24 As set forth in the Application, PricewaterhouseCoopers performs audit and tax
25 work for Creative, is employed as an expert witness for Creative in litigation with the Debtor
26 and, most importantly, assisted Creative in making an offer to purchase substantially all of th
27 assets of the Debtor which offer was made prior to the filing of this bankruptcy case.

28 Creative is informed that the Debtor intends to sell substantially all of its assets in

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HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

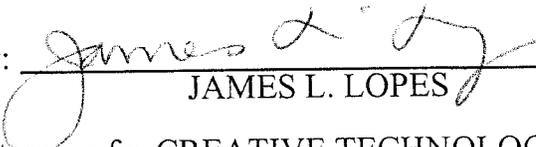
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the chapter 11 case and that Glenn Hiraga, a PricewaterhouseCoopers partner, will be the point person with respect to that sale. Creative still wishes to purchase substantially all of the assets of the Debtor and intends to make all appropriate efforts to become the successful purchaser in this chapter 11 case. It also intends to continue to retain PricewaterhouseCoopers to assist it in these efforts. Creative refused the request of PricewaterhouseCoopers to waive the conflict created by its dual representation of Creative and the Debtor and does not believe that PricewaterhouseCoopers can proceed to represent both entities without such a waiver. In essence, if PricewaterhouseCoopers proceeds as requested, it will be sitting on both sides of the negotiations for the sale of the Debtor's assets.

By reason of the foregoing, Creative requests that this matter be set for hearing and that at such hearing this Court deny the Application.

DATED: May 27, 2000.

HOWARD, RICE, NEMEROVSKI, CANADY,
FALK & RABKIN
A Professional Corporation

By: 
JAMES L. LOPES

Attorneys for CREATIVE TECHNOLOGY, LTD.,
CREATIVE LABS, INC., and E-MU SYSTEMS,
LTD.

EXHIBIT BB

CA BAR #05-20211
EXHIBIT BB - PAGE 1
CONFORMED COPY

1 Glenn A. Hiraga
2 PricewaterhouseCoopers LLP
3 400 South Hope Street
4 Los Angeles, California 90017
5 Telephone: (213) 236-3000
6 Facsimile: (213) 622-9062

7 Accountants and Financial Advisors to
8 The Debtor and Debtor in Possession

9 UNITED STATES BANKRUPTCY COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION

U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND, CA

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COPY
OF ORIGINAL FILED

11 In re) Case No. 00-42104-T11
12)
13 AUREAL, INC., d/b/a SILO.COM,) (CHAPTER 11)
14 F/k/a AUREAL)
15 SEMICONDUCTOR, INC., f/k/a) SECOND INTERIM AND FINAL FEE
16 MEDIA VISION TECHNOLOGY,) APPLICATION OF
17 INC., a Delaware corporation;) PRICEWATERHOUSECOOPERS LLP FOR
18) ALLOWANCE AND PAYMENT OF
19 Debtor.) COMPENSATION AND REIMBURSEMENT OF
20) EXPENSES (FOR THE PERIOD FROM
21) APRIL 5, 2000 UP TO AND INCLUDING
22) OCTOBER 15, 2001); DECLARATION OF
23) GLENN A. HIRAGA
24)
25) No Hearing Required
26)
27) Date: No Hearing Set
) Time:
) Place: 1300 Clay Street
) Oakland, CA 94612

23 TO THE HONORABLE LESLIE TCHAIKOVSKY, UNITED STATES BANKRUPTCY
24 JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND THE DEBTOR AND
25 DEBTOR IN POSSESSION:
26 ///
27 ///

Second Interim and Final Fee Application of PricewaterhouseCoopers for Allowance and Payment of Compensation and Reimbursement of Expenses (April 5, 2000 to October 15, 2001)

1 The Application of PricewaterhouseCoopers LLP ("PwC") respectfully
2 represents as follows:

3 TABLE OF CONTENTS

4
5 I. INTRODUCTORY STATEMENT 3
6 II. DESCRIPTION OF EXPERIENCE 6
7 III. DESCRIPTION OF SERVICES RENDERED 7
8 IV. SUMMARY..... 14
9 V. DECLARATION OF GLENN A. HIRAGA..... 17

10
11 Exhibits

- 12 A. Court Order Approving Employment of PricewaterhouseCoopers LLP
13 B. Summary of Professional Fees by Consultant
14 C. Summary of Professional Fees by Activity and Consultant
15 D. Fee Detail by Activity and Date
16 E. Summary of Expenses by Expense Type
17 F. Expense Detail by Type and Consultant
18 G. Experience and Qualifications of Professionals with Significant
19 Hours on the Case

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I.

INTRODUCTORY STATEMENT

1. This is the Second Interim and Final Fee Application (the "Application") of PwC for compensation for services rendered and reimbursement of expenses in connection with this matter. This application kindly requests that the Court (i) allow, as an expense of the administration in Aureal, Inc. ("Aureal", "The Estate"), PwC's fees in the amount of \$245,159.50 and expenses in the amount of \$48,702.67 for the period April 5, 2000, up to and including October 15, 2001 (the "Interim Application Period") and (ii) give final authorization to Aureal to pay PwC \$199,126.81, which represents the amount of fees and expenses attributable to the period April 5, 2000 through October 15, 2001 net of the \$94,735.36 retainer.

2. Aureal filed a voluntary petition under Chapter 11 on April 5, 2000 (the "Petition Date"). On May 4, 2000, the Debtor submitted the "Application To Employ PricewaterhouseCoopers LLP Nun Pro Tunc As Accountants and Financial Advisors To The Debtor and Debtor In Possession." On July 26, 2000, an order was issued approving PwC's employment as financial advisor for Aureal. A copy of the employment order is included as Exhibit "A".

3. PwC was selected by the Board of Directors and the counsel to the Debtor to specifically utilize the Los Angeles based team. It was their opinion that the professionals on this team were the most appropriate to be utilized on the engagement. PwC also believes that their selection was most appropriate for the engagement. Management and the Board of Directors were fully aware that out of town

1 expenses such as airfare, hotel, etc. would be incurred in utilizing
2 this team.

3 4. Extensive involvement of high level PwC professionals in
4 operations and liquidation was necessary due to the departure of the
5 Debtor's entire senior management, except for the Human Resources
6 executive. Furthur, a high level of experience was required to
7 assist the Controller in activities, due to the fact that he was a
8 contracted personnel and not a permanent employee of the company.

9 5. In order to avoid any additional expense likely to be
10 incurred by expanding on this description of the posture of the case
11 and the Debtors' affairs, PwC incorporates by reference, as permitted
12 by Local Rule 2016(1)(a)(i), the narrative history of the present
13 status of this case as set forth in the final fee application of the
14 Debtors' counsel Hennigan Bennett & Dorman.

15 6. In its role as financial advisor to Aureal, PwC in the
16 Interim Application Period provided 942.1 hours of service accruing
17 \$253,312.00 in fees. PwC voluntarily reduced this amount by \$8,152.50,
18 resulting in net fees of \$245,159.50. In addition, PwC incurred
19 \$48,702.64 in expenses. Schedules summarizing fees and expenses for
20 each PwC professional who performed services during the Application
21 Period are attached hereto as Exhibits "B" through "F".

22 7. PwC submitted two (2) professional fee applications in this
23 Application Period. No hearing was held to review and approve the
24 first application. Certain expenses were claimed on the First Interim
25 Fee Application, which PwC is now voluntarily reducing by \$492.03.
26 This represents airfare upgrades of \$450.00 and miscellaneous expenses
27 of \$42.03. In addition, PwC voluntarily reduced it's fees incurred in

1 transitioning the new financial advisors by 50% or \$8,152.50. The
2 summary of PwC's applications are as follows:

3	Date Filed	Period Covered	Fees	Expenses	Total
4	08/25/00	04/05/00-07/31/00	\$237,657.50	\$48,345.75	\$286,003.25
5		Voluntary Reduction:		\$(492.03)	\$(492.03)
6		08/01/00-10/15/01	\$ 15,654.50	\$ 848.95	\$ 16,503.45
7		Total per Schedules:	\$253,312.00	\$48,702.67	\$302,014.67
8		Voluntary reduction:	\$(8,152.50)	0	\$(8,152.50)
9	11/09/01	Total:	<u>\$245,159.50</u>	<u>\$48,702.67</u>	\$293,862.17
10		Retainer Applied			<u>\$(94,735.36)</u>
11		Total Payment Requested:			<u>\$199,126.81</u>

12 8. This Application is PwC's second and final request to this
13 Court for allowance and payment of compensation and reimbursement of
14 expenses. On April 4, 2000, PwC received a retainer of \$150,000. PwC
15 applied outstanding fees of \$48,617.50 and outstanding expenses of
16 \$6,647.14 against the retainer. On the Petition Date the net
17 retainer was \$94,735.36. From the Petition Date to October 15, 2001,
18 PwC has accrued \$253,312.00 in fees and \$48,702.67 in expenses, less
19 the voluntary reduction in fees of \$8,152.50. Net fees and expenses
20 due after applying the \$94,735.36 retainer is \$199,126.81.

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II.

DESCRIPTION OF PRICEWATERHOUSECOOPERS LLP EXPERIENCE

5. PwC, the world's largest professional services organization, provides accounting, auditing, tax, litigation, information technology, bankruptcy and business recovery consulting services to clients of its 867 offices in 152 countries worldwide.

6. PwC has extensive experience in financial reorganizations, bankruptcy and litigation consulting services. Our professionals have provided services to a wide variety of industries, and as a result, PwC has accumulated a wealth of knowledge concerning the intricacies in these matters.

7. In bankruptcy and forensic accounting, PwC has accumulated over a quarter of a century of experience servicing Debtors, Creditors, and Trustees in bankruptcy matters. Current and former Chapter 11 cases in which PwC - Western Region acted as financial advisor and accountants to either the Debtor, the Creditors' Committee, or the Trustee include: Circle K Corporation, Carter Hawley Hale, America West Airlines, Maxicare Health Plans, Tucson Electric Power Co., and First Executive Corporation.

8. In addition, PwC has assisted numerous Debtor and Debtor-In-Possession entities involving liquidation of bankruptcy estates, successful development of reorganization plans, numerous valuation projects, extensive tax consulting, and other services related to reorganization.

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1 III.

2 DESCRIPTION OF SERVICES RENDERED TO THE DEBTOR

3
4 9. During the Application Period, PwC assisted the Debtor in
5 the following categories of service:

6
7 **A. Financial Analysis/Business Operations**

8 10. For the Application Period PwC performed numerous analysis
9 to assess the financial position of Aureal and to determine an
10 appropriate business strategy. A more detailed description of the
11 various tasks PwC performed is as follows:

12 11. Cash/Cash Equivalent Analysis (Fees: \$11,095.00; Hours:
13 53.5; Blended Hourly Rate: \$207.38): PwC provided weekly cash
14 management oversight which included the identification of cash
15 received and disbursed, the review of invoices processed, and a
16 weekly reconciliation of receipts and disbursements with bank records
17 and Aureal's budget. Given the liquidity issues facing Aureal and
18 the high employee attrition rate, cash management procedures employed
19 by PwC were necessary to provide a foundation to manage the business.

20 12. Accounts Receivable Analysis (Fees: \$10,417.50; Hours:
21 46.8; Blended Hourly Rate: \$222.60): PwC analyzed the outstanding
22 receivables to determine the timing and magnitude of future cash
23 collections. PwC also monitored "key" customers to ensure that late
24 outstanding customer balances were addressed by Aureal's management.
25 When necessary, PwC informed legal counsel to facilitate legal action
26 and encourage payment.

27 ///

1 13. Inventory/Sales Management (Fees: \$69,882.50; Hours:
2 205.7; Blended Hourly Rate: \$339.73): PwC invested a substantial
3 amount of time managing inventory and the sales of inventory to
4 maximize value. This included, but not limited to, (i) assessing the
5 value and availability of inventory locally in the Fremont warehouse
6 and abroad at various vendor locations, (ii) regulating the sale of
7 inventory to clients including Sony, Ocean, Caesar, Voyetra and I/O
8 Magic, (iii) reviewing sales and license agreements to determine
9 available distribution channels, and (iv) negotiating with customers
10 and vendors to maintain the flow of product. In addition, PwC helped
11 disseminate relevant information to customers to encourage their
12 support.

13 This activity was necessary due to the fact that the Debtor's
14 senior management had resigned. The absence of senior management to
15 supervise these activities, necessitated assistance from highly
16 experienced PwC staff.

17 14. Employee/Salary Analysis (Fees: \$11,917.50; Hours: 43.2;
18 Blended Hourly Rate: \$275.87): PwC helped balance the Debtor's
19 staffing needs and its liquidity "crunch" by actively managing
20 payroll. To do this, PwC analyzed, on a weekly basis, payroll by
21 employee by department for contract and non-contract employees -
22 locally and abroad. In addition, PwC conducted interviews with
23 management and potential buyers to determine "key" employees. PwC
24 encouraged "key" employees to stay by way of active communication and
25 monetary rewards where appropriate.

26 The ability to analyze and make decisions regarding "key"
27 employees is gained through extensive experience in liquidation

1 situations. As a result, higher level professionals were very
2 involved in this process.

3 15. Budget Analysis (Fees: \$5,020.00; Hours: 16.6; Blended
4 Hourly Rate: \$302.41): PwC created a rolling 13-week budget after
5 analyzing historical accounting records and interviewing employees.
6 This budget was useful in providing general oversight of Aural's
7 cash position. Each week PwC compared actual results to the budget
8 to identify areas of concern. This information was passed on to
9 Aural's management and the Board of Directors. The weekly budget
10 played an integral role in making key decisions. For example, the
11 timing and magnitude of headcount reductions and the timing of the
12 sales process were, in part, determined based on the available cash
13 forecasted by the budget.

14 The controller was a relatively newly hired contractual employee
15 and had no longevity with the Debtor. In addition, the entire senior
16 management team, except the human resources officer had resigned.
17 PwC's expertise in liquidating situations allowed it to provide
18 valuable guidance in managing the Debtor's cash flow in the absence
19 of experienced senior financial staff.

20 16. Lease Analysis (Fees: \$3,292.50; Hours: 17.3; Blended
21 Hourly Rate: \$190.32): PwC reviewed Aural's property and equipment
22 leases to access the value of the Estate. Based on the analysis of
23 the lease terms and current market data, PwC determined if it was
24 appropriate to assume or reject the various leases. For example, PwC
25 determined that the property lease for the Fremont location had
26 significant value. PwC worked with the real estate broker and
27 ///

1 management to determine and evaluate the best way to capture the
2 inherent value of the below-market lease.

3 17. Weekly Report Preparation/General (Fees: \$20,750.00;
4 Hours: 99.0; Blended Hourly Rate: \$209.60): Each week a general
5 update was provided to Aureal's management and the Board of
6 Directors. This report generally included a summary of the budgeted
7 and actual cash receipts and disbursements, a recap of the employee
8 roster with anticipated payroll expenditures, a review of significant
9 outstanding receivables, and a write-up of significant events for the
10 week. This report facilitated communication and provided pertinent
11 information about the current and anticipated condition of the
12 Debtor.

13 After the departure of the senior management team, the Debtor
14 needed assistance in understanding the state of operations. PwC's
15 extensive financial experience enabled it to assist the management
16 and Board of Directors in managing operations and the liquidation.

17 **TOTAL FINANCIAL ANALYSIS/BUSINESS OPERATIONS (\$132,375.00; HOURS:**
18 **482.1; BLENDED HOURLY RATE: \$274.58).**

19 **B. Sale of Business and Liquidation Analysis**

20 18. PwC spent a considerable amount of time assessing the
21 options for the Debtor to determine an appropriate course of action.
22 To this end, PwC examined (i) selling Aureal in its entirety (as a
23 going-concern); (ii) liquidating Aureal; (iii) selling some of
24 Aureal's operations and liquidating others.

25 19. Sale of Business (Fees: \$30,925.00; Hours: 86.4; Blended
26 Hourly Rate: \$357.93): PwC invested time facilitating the sale
27 process. This included, but is not limited to, (i) meeting with

1 prospective buyers (e.g., Conexant, Concordia Capital, Guillemot,
2 Intel, Cirrus Logic, and SRS Labs) to address their questions and/or
3 concerns; (ii) disseminating information at the request of
4 prospective buyers and collecting information for the due diligence
5 room; (iii) granting tours of the Fremont facility; (iv) coordinating
6 discussions with potential buyers, the Debtor, and the Debtor's
7 counsel (Hennigan, Bennett & Dorman).

8 The complex and technical nature of these meetings required the
9 participation of PwC professionals with a rich history in business
10 dispositions. Such experience was critical in assisting both the
11 Debtor and potential buyers in the sale process.

12 20. Furniture, Fixtures, and Equipment Inventory (Fees:
13 \$16,565.00; Hours: 79.1; Blended Hourly Rate: \$209.42): PwC took an
14 inventory of all furniture, fixtures, and equipment located at the
15 Fremont location to (i) determine the liquidation value, (ii) to
16 enhance security over the assets, and (iii) to aid potential buyers
17 in their assessment of the Debtor's assets. Given the Debtor's
18 inaccurate and piecemeal records, this was a necessary task. PwC
19 tagged and counted all equipment of significant value located at the
20 Fremont location. This included monitors, computers, telephones,
21 furniture, servers, printers, fax machines, kitchen appliances, and
22 lab equipment - over 1,500 items in all. In addition, individuals
23 with property off-site were contacted to return items such as laptops
24 and lab equipment. PwC's inventory was helpful in obtaining bids
25 from auctioneers, securing items of value, and informing potential
26 buyers about the physical assets owned by the Debtor.

27 ///

1 21. Auctioneer Evaluation (Fees: \$8,755.00; Hours: 33.6;
2 Blended Hourly Rate: \$260.57): To evaluate the Debtor's options, it
3 was necessary to perform a liquidation analysis. To this end, PwC
4 inventoried all of the furniture, fixtures, and equipment (see above)
5 and solicited bids from a number of auctioneers. PwC supplied the
6 auctioneers with an inventory listing and escorted them through the
7 Fremont facility to obtain bids. PwC evaluated each proposal/bid and
8 recommended an auctioneer to perform the liquidation when necessary.

9 **TOTAL SALE OF BUSINESS (\$56,245.00; HOURS: 199.1; BLENDED**
10 **HOURLY RATE: \$282.50).**

11 **C. FEE/EMPLOYMENT APPLICATION (\$27,742.00, HOURS: 144.9;**
12 **BLENDED HOURLY RATE \$191.46).**

13 22. PwC professionals spent time preparing the employment
14 application, the fee application and timelogs in conformity with the
15 guidelines of the United States Bankruptcy Code. As of October 15,
16 2001, the total amount spent in relation to the employment application
17 is \$6,880.00 (2.7% of the total request). As of October 15, 2001, the
18 total amount spent in relation to the fee applications is \$20,862.00
19 (8.2% of the total request).

20 **D. FEE/EMPLOYMENT OBJECTIONS (\$6,640.00, HOURS: 16.6; BLENDED**
21 **HOURLY RATE: \$400.00).**

22 23. PwC expended substantial effort in supporting our
23 application for employment. The scope of our activities included the
24 research and preparation of a written response to the opposition. PwC
25 also attended the court hearing on this matter.

26 ///
27 ///

1 The nature of responding to an objection necessitates the
2 presence of a high level professional at the court hearing and in
3 forming the support for PwC's application.

4 **E. TRANSITIONAL PROCEDURES (\$16,305.00, HOURS: 41.4; BLENDED**
5 **HOURLY RATE: \$393.84).**

6 24. PwC played a significant role searching for a suitable
7 replacement as financial advisor to Aural. PwC transitioned the new
8 financial advisors into their roles through updates on key issues
9 including inventory valuations and the sale of Company assets as well
10 as provide pertinent documents to facilitate their duties. This
11 process was necessary to ensure the replacement advisor had as much
12 information as possible to provide effective advisory services to the
13 Debtor.

14 PwC has voluntarily reduced the fees requested for this activity
15 by 50% of the total incurred. PwC spent 41.4 hours, incurring
16 \$16,305.00 in fees; however, we are requesting approval of only
17 \$8,152.50 in fees.

18 **F. CASE ADMINISTRATION (\$14,005.00, HOURS: 58.0; BLENDED**
19 **HOURLY RATE: \$241.47).**

20 25. PwC expended significant time and effort in performing
21 various administrative tasks as required by the United States
22 Bankruptcy Code. Such tasks typically involved the proper
23 documentation of work performed and filing all pertinent documents
24 including legal proceedings, correspondences, memorandums and weekly
25 reports. Additional document management was necessary to facilitate
26 the transition of the engagement to the new consultants of the Debtor.

27 ///

1 IV.

2 SUMMARY

3 1. PwC has compiled its fees and expenses and prepared this
4 application in conformance with the Office of the United States
5 Trustee Guidelines.

6 2. Exhibits "B" through "F" (attached hereto) detail the time
7 and expenses of all PwC professionals during the Application Period.

8 ▪ **Exhibit B** - Summarizes the professionals who performed services,
9 the number of hours spent , the respective professional's billing
10 rate, and the total fees for such services;

11 ▪ **Exhibit C** - Summarizes fees by activity by consultant;

12 ▪ **Exhibit D** - Summarizes fees by activity by date. Each itemized
13 record includes: (1) the date each service was rendered, (2) the
14 professional(s) who performed the service, (3) a description of
15 the services rendered, and (4) the time spent performing the
16 service in increments of tenths of an hour;

17 ▪ **Exhibit E** - Recaps expenses by category (i.e., airfare, lodging,
18 meals, mileage, parking, and other). It should be noted that any
19 airfare charges were incurred as a result of travel in coach class.
20 All meals expensed represent breakfasts and dinners while out of
21 town and lunches at the work site with Debtor present. PwC has not
22 requested reimbursement for certain out-of-pocket expenses when it
23 would not be possible to assemble the billing details for
24 reimbursement under the Local Rules of this Court. These unbilled
25 out-of-pocket expenses typically include telephone charges for
26 calls placed in its offices, postage costs including Federal
27 Express charges and copying and facsimile charges incurred at PwC's

1 office in connection with the case. These unbilled out-of-pocket
2 expenses were real costs that have been incurred by PwC and have
3 benefited the Debtor;

4 • **Exhibit F** - Provides detail for each expense by expense category by
5 individual. All expenses for which reimbursements are sought, are
6 disclosed in detail by individual.

7 3. During the period covered by this application, our billing
8 rates were:

9	Glenn A. Hiraga	\$400 - \$425
10	Shawn Kelly	\$225 - \$325
11	Partners/Managing Directors	\$400 - \$475
12	Manager/Director	\$300 - \$380
13	Associate Consultants	\$150 - \$225
14	Professional Assistants	\$80 - \$90

15 4. In compliance with U.S. Trustee Guideline "B", attached as
16 Exhibit "H" are descriptions of the Qualifications of Professionals
17 with significant hours in this matter.

18 5. PwC's time records show a total of 942.1 hours rendered
19 from April 5, 2000 through October 15, 2001, with fees totaling
20 \$253,312.00. This represents an average rate of \$268.88 per hour.

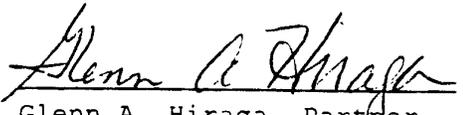
21 6. Neither PwC nor any members of PwC has any agreement or
22 understanding of any kind to divide, pay over, or share with any other
23 person, except as among the members of PwC, any portion of the fees or
24 expenses to be awarded pursuant to this Second and Final Fee
25 Application.

26 **Wherefore**, PwC respectfully requests that the Court (i) allow,
27 as an expense of administration in Aureal's Chapter 11 case, PwC's

1 fees in the amount of \$245,159.50 and expenses in the amount of
2 \$48,702.67, and (ii) authorize Areal to pay PwC \$199,126.81 forthwith
3 upon the entry of an Order approving this Application.

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DATED: November 7, 2001


Glenn A. Hiraga, Partner
PricewaterhouseCoopers LLP

Handwritten signature

ORIGINAL

1 MICHAEL H. AHRENS, CAL. BAR NO. 44766
2 JEFFREY K. REHFELD, CAL. BAR NO. 188128
3 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
4 A Limited Liability Partnership
5 Including Professional Corporations
6 Four Embarcadero Center, 17th Floor
7 San Francisco, California 94111
8 Telephone: (415) 434-9100
9 Facsimile: (415) 434-3947

FILED

JUL 26 2000

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

6 Attorneys for PricewaterhouseCoopers LLP

ORIGINAL FILED

JUL 26 2000

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

OAKLAND DIVISION

12 In re
13 AUREAL, INC., d/b/a SILO.COM,
14 f/k/a AUREAL SEMICONDUCTOR, INC.,
15 f/k/a MEDIA VISION TECHNOLOGY,
16 INC., a Delaware corporation,
17 Debtor.

Case No. 00-42104-TI

(Chapter 11)

[Proposed] ORDER APPROVING
APPLICATION TO EMPLOY
PRICEWATERHOUSECOOPERS
NUNC PRO TUNC AS ACCOUNTANTS
AND FINANCIAL ADVISORS TO THE
DEBTOR AND DEBTOR IN
POSSESSION

DATE: June 19, 2000
TIME: 2:00 p.m.
PLACE: Courtroom 201
1300 Clay Street
Oakland, CA 94612

23 On June 19, 2000, a hearing was held on the "Application for Authority to Employ
24 PricewaterhouseCoopers LLP Nunc Pro Tunc as Accountants and Financial Advisors to the
25 Debtor and Debtor in Possession" ("Application") filed by Aural, Inc. (the "Debtor").
26 Creative Technology, Ltd. and its subsidiaries Creative Labs, Inc. and E-MU Systems Ltd.
27 (collectively, "Creative") and the Office of the United States Trustee ("U.S. Trustee") each

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EXHIBIT BB - PAGE 18

1 filed objections to the Application. PricewaterhouseCoopers LLP ("PwC") filed pleadings in
2 response to the objections.

3 Appearing at the hearing were Sidney Levinson of the law firm of Hennigan, Bennett
4 & Dorman on behalf of the Debtor; Michael Ahrens of the law firm of Sheppard, Mullin,
5 Richter & Hampton LLP on behalf of PwC; James Lopes of the law firm of Howard Rice
6 Nemerovski Canady Falk & Rabkin on behalf of Creative; Randy Michelson of the law firm
7 McCutchen, Doyle, Brown & Enersen, LLP on behalf of the Official Committee of
8 Unsecured Creditors; and Mark Pope on behalf of the U.S. Trustee.

9 Following the hearing the Court took the Application under submission. The U.S.
10 Trustee filed a supplemental opposition to the Application. PwC filed supplemental
11 materials in support of the Application.

12 Thereafter, the Court issued its "Memorandum of Decision Re Employment of
13 Accountants" dated June 28, 2000 (the "Decision"), which provided that the Debtor may
14 retain PwC subject to the satisfaction of certain conditions.

15 On July 7, 2000 PwC filed with the Court the "Declaration of Hilary Krane In
16 Support Of Application For Authority To Employ PriceWaterhouseCoopers LLP Nunc Pro
17 Tunc As Accountants and Financial Advisors To The Debtor And Debtor In Possession"
18 ("Krane Declaration"), which complies with the conditions required for PwC's employment
19 set forth by the Court in its Decision.

20 Upon consideration of all of the pleadings filed with the Court relating to the
21 Application, the arguments made by counsel at the June 19, 2000 hearing, and the Krane
22 Declaration; it appearing to the Court that PwC and its members and employees are
23 disinterested persons who do not hold or represent an interest adverse to the estate in the
24 matters upon which they are to be engaged; that the employment of PwC by the Debtor is in
25 the best interest of the estate; that notice of the Application was appropriate; and good cause
26 appearing therefor.

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IT IS HEREBY ORDERED THAT:

1. The Application hereby is APPROVED;

2. The Debtor is hereby authorized to employ PwC as its accountants and financial advisors, on substantially the same terms and conditions set forth in the Application and the retention agreement (a copy of which is attached hereto as Exhibit 1), nunc pro tunc to April 5, 2000, with compensation to be at the expense of the estate in such amount as the Court may hereafter allow;

3. PwC is prohibited from providing Creative with any advice concerning the purchase of the Debtor's assets during the pendency of this bankruptcy case;

4. PwC must resign as Creative's consulting expert in the "Creative Litigation" (as defined in the Application) and is prohibited from providing Creative with any such expert consulting services during the pendency of this bankruptcy case; and

5. In order to further ensure confidentiality, PwC shall internally create an ethical wall, including, without limitation, adhering to the following procedure:

a. No information pertinent to the engagement with the Debtor will be shared with those working on any matter for Creative, or any other matter related to the Creative Litigation (collectively, the "Creative Matters"). Similarly, no information from Creative Matters will be shared with those working on the Debtor's engagement.

b. Neither Glenn Hiraga, nor any staff working with Glenn Hiraga (in the Debtor's bankruptcy matter or any other engagement) will work directly with or for any partner involved in the Creative Matters; and

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c. All files related to the Debtor's engagement will not be kept on PwC's network to ensure files are kept confidential. All files related to the Debtor's engagement will be maintained on the Debtor's system (in Fremont, California) or on laptop computers in possession of staff members assigned to the Debtor's engagement. The only exception to the foregoing provisions is that information relating to the Debtor's engagement has been and may continue to be forwarded by electronic mail to those PwC members working on the Debtor's engagement (even though such electronic mail messages are routed through a PwC electronic mail server and, therefore, technically may be on the PwC network), as long as such electronic mail messages are only accessible by those PwC staff members assigned to the Debtor's engagement and appropriate PwC management information systems personnel and provided that all appropriate precautions and measures will be taken by PwC to ensure that personnel involved in Creative Matters will not have access to any such electronic mail messages. In addition, all appropriate precautions and measures will be taken by PwC to ensure that personnel involved in Creative Matters will not have access to any hard copies of the Debtor's documents.

Dated: *July 26, 2000*

Leslie Tcharkovsky

HON. LESLIE TCHARKOVSKY
United States Bankruptcy Judge

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Submitted by:

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By Jeffrey K. Rehfeld
Michael H. Ahrens
Jeffrey K. Rehfeld

Counsel for PricewaterhouseCoopers LLP

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EXHIBIT BB - PAGE 22

1 Approved as to form:

2 HENNIGAN, BENNETT & DORMAN
3

4 By _____
5 Sidney P. Levinson

6 Counsel for the Debtor and Debtor in Possession
7

8 HOWARD RICE NEMEROVSKI CANADY FALK & RABIN
9

10 By _____
11 James Lopes

12 Counsel for Creative Technology, Ltd. and its subsidiaries
13 Creative Labs, Inc. and E-MU Systems Ltd.

14 McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP
15

16 By Randy Michelson
17 Randy Michelson

18 Counsel for the Official Committee of Unsecured Creditors
19

20 OFFICE OF THE UNITED STATES TRUSTEE
21

22 By _____
23 Mark Pope

24 Counsel for the Office of the United States Trustee
25
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CA BAR #05-20211
EXHIBIT BB - PAGE 23

1 Approved as to form:

2 HENNIGAN, BENNETT & DORMAN
3

4 By _____
5 Sidney P. Levinson

6 Counsel for the Debtor and Debtor in Possession

7
8 HOWARD RICE NEMEROVSKI CANADY FALK & RABIN

9
10 By James Lopes
for James Lopes

11 Counsel for Creative Technology, Ltd. and its subsidiaries
12 Creative Labs, Inc. and E-MU Systems Ltd.

13
14 McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP

15
16 By _____
Randy Michelson

17 Counsel for the Official Committee of Unsecured Creditors

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19 OFFICE OF THE UNITED STATES TRUSTEE

20
21 By _____
22 Mark Pope

23 Counsel for the Office of the United States Trustee

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EXHIBIT BB - PAGE 24

1 Approved as to form:

2 HENNIGAN, BENNETT & DORMAN

3
4 By Stacy P. Levinson
5

6 Counsel for the Debtor and Debtor in Possession

7
8 HOWARD RICE NEMEROVSKI CANADY FALK & RABIN

9
10 By James Lopes

11 Counsel for Creative Technology, Ltd. and its subsidiaries
12 Creative Labs, Inc. and E-MU Systems Ltd.

13
14 McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP

15
16 By Randy Michelson

17 Counsel for the Official Committee of Unsecured Creditors

18
19 OFFICE OF THE UNITED STATES TRUSTEE

20
21 By Mark Pope
22

23 Counsel for the Office of the United States Trustee

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EXHIBIT BB - PAGE 25

EXHIBIT CC

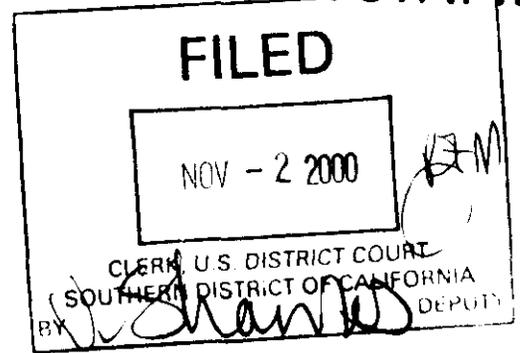
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EXHIBIT CC - PAGE 1

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3:94-CV-00737 SEC V. CONTINENTAL WIRE
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P/A.

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HENNIGAN, BENNETT & DORMAN
James O. Johnston (State Bar No. 167330)
601 South Figueroa Street, Suite 3300
Los Angeles, CA 90017
Telephone: (213) 694-1200
Facsimile: (213) 694-1234

Counsel for Argo Partners, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

CONTINENTAL WIRELESS CABLE
TELEVISION, INC.; ROBIN J. MCPHERSON;
JAY R. BISHOP; AND GENE R. CARDENAZ,

Defendants.

Case No. 94cv0737E (CGA)
Bk. Case No. 97cv0352E (CGA)

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR ORDER COMPELLING
DISTRIBUTION TO ARGO PARTNERS,
INC.

In re

Hearing

NASHVILLE WIRELESS CABLE JOINT
VENTURE.

Debtor.

Date: December 4, 2000
Time: 10:30 a.m.
Place: Courtroom 3
940 Front Street
San Diego, CA

Argo Partners, Inc. ("Argo") submits this Memorandum of Points and Authorities in support of the accompanying "Motion For Order Compelling Distribution To Argo Partners, Inc." (the "Motion").

The statement of facts supporting this Memorandum is set forth in the Motion. In the interest of brevity, that statement is not repeated here and, instead, is incorporated by this reference. Capitalized terms not otherwise defined in this Memorandum have the meanings ascribed to them in the Motion.

///

HENNIGAN, BENNETT & DORMAN

1116AS

MEMO IN SUPPORT OF MOTION FOR ORDER COMPELLING DISTRIBUTION 94CV0737E(CGA) AND 94CV0352E(CGA)

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CA BAR #05-20211
EXHIBIT CC - PAGE 2

1 I. INTRODUCTION

2 Argo is in the business of purchasing claims against debtors in bankruptcy
3 proceedings. Though that business, Argo seeks to make a reasonable profit by acquiring claims for
4 an amount less than the amount that ultimately is distributed by the debtor with respect to those
5 claims.

6 Argo is entitled to make that profit because, in purchasing claims, it assumes
7 substantial risks. Among others, Argo assumes the risk that, as is frequently the case, distributions
8 from the bankruptcy estate will be delayed by a matter of months or years after the date of
9 assignment. Argo also assumes the risk that, if and when they ultimately are made, distributions
10 from the estate will be less than the amount that it paid for the claims. Argo further assumes the risk
11 that – as happened in this case – the claims that it acquires will be reduced or disallowed and that
12 Argo will be unable to recover the amounts that it paid for those claims.

13 Through its business, Argo provides a valuable service to the often powerless holders
14 of small unsecured claims. Namely, Argo provides such creditors with a way to remove the risks
15 assumed by Argo, to "cash out," to move on with their lives, and to receive an immediate, certain
16 payment instead of waiting for some future distribution, in an uncertain amount and at an uncertain
17 date, from the bankruptcy estate. These benefits are well recognized and respected in bankruptcy
18 cases:

19 The existence of a market for claims, whether debt securities or trade
20 claims, can provide substantial benefits to creditors, and to a debtor. The benefits
21 to creditors are obvious. The automatic stay prevents creditors from pursuing
22 payment remedies against the debtor with respect to their prepetition claims.
23 Creditors, particularly unsecured creditors who generally have no right to obtain
24 relief from the automatic stay, may be forced to wait years for payment from the
25 debtor's estate under a plan of reorganization. Access to a market for claims
26 provides creditors with an opportunity to convert their claims into cash which
27 may be needed to pay expenses. A claims market also permits a creditor to shift
28 the risks inherent in chapter 11 cases – risks that the debtor's business (and

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recoveries in the chapter 11 estate) will continue to decline or that distributions will be delayed substantially -- to a party more willing to accept that risk.

Herbert Minkel and Cynthia Baker, Claims and Control in Chapter 11 Cases: A Call for Neutrality, 13 Cardozo L. Rev. 35, 35-36 (1991) (citations omitted).

In fact, Bankruptcy Rule 3001(e) anticipates those benefits and provides a specific mechanism for recognizing and implementing the transfer of claims in a bankruptcy case. See Fed. R. Bankr. P. 3001(e). As explained in more detail below, **when the requirements of Rule 3001(e) have been followed, as they indisputably were by Argo in this case, and where an assigning creditor does not object to the assignment of its claim, as none have in this case, the matter is at an end.** The presiding court simply has no authority to rescind, nullify, or otherwise modify the transfer. E.g., Viking Associates, L.L.C. v. Drewes (In re Olson), 120 F.3d 98, 102 (8th Cir. 1997) ("Since no unsecured creditor objected to the transfers in this case, the Bankruptcy Court had no authority to disallow the transfers."); Official Unsecured Creditors' Committee v. Stern (In re SPM Mfg. Corp.), 984 F.2d 1305, 1314 n.9 (1st Cir. 1993) (pursuant to Bankruptcy Rule 3001(e), "the bankruptcy court cannot disapprove the transfer because of its terms, e.g., inadequate consideration"); In re Lifestyles 80's, Inc., 187 B.R. 156, 157 (Bankr. D.N.J. 1995) (Bankruptcy Rule 3001(e) "was designed to reduce litigation over the transfer of claims and to limit the court's role to adjudication of disputes regarding transfers of claims. In the absence of a timely objection by the alleged transferor, the clerk may note the transfer without the need for court approval.").

Thus, had the Nashville chapter 11 case not been dismissed, there simply could be no question whatsoever that Argo is entitled to receive the full amount of the distributions to be made with respect to the Assigned Claims. As demonstrated below, the fact that the case was dismissed and that the assets and liabilities (including liabilities with respect to the Assigned Claims) reverted in the Continental receivership estate should not, and does not, change that result. At the time of that reversion, ownership of the Assigned Claims conclusively resided with Argo, and the Assigned Claims were undisputed liabilities of Nashville to Argo. The Continental receivership estate has assumed those liabilities.

///

1 Olson, 120 F.3d at 102 n.4. No creditor having done so in this case, the Receiver should not now be
2 permitted delay any longer a full distribution to Argo.

3
4 **II. BECAUSE NO ASSIGNING CREDITOR OBJECTED TO THE**
5 **TRANSFER OF ITS CLAIM, BANKRUPTCY RULE 3001(e) PROHIBITS**
6 **DISALLOWANCE OR LIMITATION OF THE ASSIGNED CLAIMS**

7 "Prior to 1991, some courts interpreted [Bankruptcy] Rule 3001 as authorization for
8 courts to monitor the manner in which claims are transferred or assigned and thereby prevent, *inter*
9 *alia*, the improper proliferation of claims, wrongdoing and inequitable conduct." SPM Mfg., 984
10 F.2d at 1314 n.9 (quoting In re Ionosphere Clubs, Inc., 119 B.R. 440, 443 (Bankr. S.D.N.Y. 1990)).

11 Bankruptcy Rule 3001(e) was amended in 1991 expressly to overrule those cases and
12 to eliminate judicial oversight of the claims assignment process in the absence of objection by an
13 assigning creditor. The Advisory Committee's notes regarding the 1991 amendments make this
14 clear:

15 Subdivision (e) is amended to limit the court's role to the adjudication of
16 disputes regarding transfers of claims. . . . If a claim has been transferred other
17 than for security after a proof of claim has been filed, the transferee is substituted
18 for the transferor in the absence of a timely objection by the alleged transferor. In
19 that event, the clerk should note the transfer without the need for court approval.
20 Fed. R. Bankr. P. 3001(e) advisory committee's note to 1991 amendments (emphasis added).

21 Thus, in its current guise, Bankruptcy Rule 3001(e)(2) is crystal clear regarding the
22 effect of a transfer of claim in a bankruptcy proceeding:

23 Transfer of Claim Other Than for Security After Proof Filed. If a claim
24 . . . has been transferred other than for security after the proof of claim has been
25 filed, evidence of the transfer shall be filed by the transferee. The clerk shall
26 immediately notify the alleged transferor by mail of the filing of the evidence of
27 transfer and that objection thereto, if any, must be filed within 20 days of the
28 mailing of the notice or within any additional time allowed by the court. If the

1 alleged transferor files a timely objection and the court finds, after notice and
2 hearing, that the claim has been transferred other than for security, it shall enter an
3 order substituting the transferee for the transferor. If a timely objection is not
4 filed by the alleged transferor, the transferee shall be substituted for the
5 transferor.

6 Fed. R. Bankr. P. 3001(e)(2) (emphasis added).

7 Accordingly, as noted above, it is now clear that, in the absence of an objection by
8 the assigning creditor, courts simply have no authority to disallow or limit an assignment of claim.
9 E.g., Olson, 120 F.3d at 102; SPM Mfg., 984 F.2d at 1314 & n.9; Lifestyles 80's, 187 B.R. at 157.

10 In fact, in Olson the Eighth Circuit expressly rejected the argument (similar to the argument that the
11 SEC apparently will make) that a bankruptcy court could use its "equitable powers" to enjoin or
12 limit the assignment of claims, noting that "these equitable powers are not a license for a court to
13 disregard the clear language and meaning of the bankruptcy statutes and rules." Olson, 120 F.3d at
14 102 (quoting Official Committee of Equity Security Holders v. Mabey, 832 F.2d 299, 302 (4th Cir.
15 1987)).

16 Put another way by the Ninth Circuit's Bankruptcy Appellate Panel, "[t]he assignee
17 of a claim takes the claim with all rights attendant." Turner v. California Department of Real Estate
18 (In re Turner), 199 B.R. 694, 697 (9th Cir. B.A.P. 1996) (quoting In re Florida, 164 B.R. 636, 640
19 (9th Cir. B.A.P. 1994)). Thus, as there could be no objection to the Assigned Claims (which have
20 now been allowed by Order of the Court) in the hands of the assigning creditors, there can be no
21 objection to the Assigned Claims in the hands of Argo pursuant to valid, unopposed, and binding
22 assignments of claim.

23
24 **III. DISMISSAL OF THE NASHVILLE BANKRUPTCY CASE DOES NOT**
25 **NULLIFY THE CONCLUSIVE AND BINDING NATURE OF TRANSFERS OF THE**
26 **ASSIGNED CLAIMS OR THE PROTECTIONS OF BANKRUPTCY RULE 3001(e)**

27 As noted above, when the Nashville chapter 11 case was dismissed, the assets and
28 liabilities of Nashville (including liabilities with respect to the Assigned Claims) revested in the

1 Continental receivership estate. Accordingly, because ownership of the Assigned Claims
2 conclusively resided with Argo at the time of dismissal (with the exception of the five claims
3 assigned shortly after the date of dismissal), the undisputed liabilities represented by the Assigned
4 Claims became undisputed liabilities of the Continental receivership estate to Argo. There is no
5 basis whatsoever on which to deny or withhold from Argo a full ratable distribution with respect to
6 those claims.

7 Moreover, even if the protections of Bankruptcy Rule 3001(e) somehow did not
8 apply, nothing in the law of equity receiverships supports a limitation of the Assigned Claims. In
9 fact, numerous cases hold that, in determining the appropriate distributions from a receivership
10 estate, the Court should look to and apply principles of bankruptcy law by analogy. E.g., First
11 Securities Co., 507 F.2d at 419-20; Elmas Trading, 85 B.R. at 119; Investors Security Leasing, 476
12 F. Supp. at 842-43.

13 As noted above, sound policies support Bankruptcy Rule 3001(e) and its prohibition
14 on after-the-fact judicial oversight of claim transfers, and there are no countervailing policies or
15 principles at work here. Thus, even if it determines that it is not literally bound by Bankruptcy Rule
16 3001(e), the Court can and should apply the protections of the Rule by analogy, if nothing else.
17 Given that Argo acquired the Assigned Claims during the pendency of the Nashville chapter 11
18 case, this is the only fair and logical result.

19
20 **IV. EVEN IF PERMISSIBLE, LIMITATION OF THE ASSIGNED**
21 **CLAIMS WOULD NOT BE APPROPRIATE UNDER THE CIRCUMSTANCES**

22 Even if the Court were authorized and inclined to assess the merits of the transfers of
23 the Assigned Claims to Argo – in derogation of Bankruptcy Rule 3001(e) – those transfers withstand
24 all possible scrutiny. To start with, Argo went beyond the requirements of Bankruptcy Rule 3001(e)
25 by providing notice of the claim assignments directly to the Receiver (which notice was in addition
26 to the notice provided by the Clerk of the Court to the assigning creditors themselves). See, e.g.,
27 Troy Savings Bank v. Travelers Motor Inn, Inc., 215 B.R. 485, 491 (N.D.N.Y. 1997) (“the purpose
28 of Rule 3001(e)(2) . . . is not to give unrelated third parties notice of the transfer, but to give the

1 *transferor* notice of the filing of claim by the transferee") (emphasis in original); Jordan v. Colorado
2 Student Loan Program (In re Jordan), 146 B.R. 31, 32 (D. Colo. 1992) ("There is no requirement
3 that the debtor be notified of the transfer."). Notwithstanding that notice and the fact of docketing of
4 the claim assignments by the Clerk of Court, neither the Receiver, nor the SEC, nor the assigning
5 creditors, nor anyone else ever objected to any of the noticed and docketed assignments of claim.

6 *More fundamentally, prior to assigning their claims, the assigning creditors had far*
7 *more information at their disposal than do creditors in most comparable cases. For example, in*
8 *addition to all of the other publicly available information in the docket of the Nashville bankruptcy*
9 *case (on which Argo relied in making its offers to purchase the Assigned Claims), the creditors had*
10 *a notice from the Receiver, in the form of the Distribution Notice, estimating with precision what the*
11 *amount of distributions would be in the case and when those distributions would be made. Such*
12 *projections are almost unheard of in the context of a bankruptcy case and, as explained in the*
13 *Motion, several creditors used that information to rescind their claim assignments.¹*

14 The information sent by Argo to the assigning creditors also was crystal clear
15 regarding the import of the proposed assignments. By the Assignment Agreement and the
16 Confirmation Letter, the assigning creditors had full and fair notice that, by accepting payment from
17 Argo, they were *relinquishing any and all rights to receive any further distributions with respect to*
18 *the Assigned Claims. Moreover, the creditors affirmatively acknowledged that Argo had made no*
19 *representations to them and that they had not relied on Argo in making an assessment of the*
20 *likelihood and amount of distributions in the bankruptcy case. Finally, through the Confirmation*
21 *Letter that accompanied Argo's payment to the creditors, Argo provided notice that the assignment*
22 *would end all future distributions to the creditors, and Argo provided the creditors with a last chance*
23

24 ¹ Unlike those creditors, Argo had no right to rescind the assignments after receiving the
25 *Distribution Notice. Consider Argo's predicament if, after making offers to purchase claims for*
26 *twenty-two and a half cents on the dollar, Argo had received a notice from the Receiver*
27 *indicating that distributions likely would approximate fifteen cents on the dollar and would not*
28 *be made for another year. In that case, all of the creditors to whom offers had been made likely*
would have accepted those offers, and Argo would have suffered the consequences of having
undertaken the risks inherent in its offer to acquire claims. This hypothetical illustrates the
unfairness of the SEC's apparent belief that Argo is not entitled to profit in any way from its
purchase of the Assigned Claims.

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to rescind their assignments (an opportunity of which some creditors availed themselves). Simply put, there can be no argument that any of the creditors failed to understand the nature of their actions. See Lifestyle 80's, 187 B.R. at 158 (refusing to rescind a claim assignment based upon the assignor's alleged unilateral mistake, where "[t]he language of the solicitation letter is clear [and the assignor] does not make any argument that [the assignee] defrauded it or misrepresented the transaction in any manner").

Perhaps for that reason, none of the assigning creditors (nor, to date, the Receiver or the SEC) objected to the transfer of claims. In the words of the Eighth Circuit, the assigning creditors "should be allowed to decide for themselves whether to seek redress for an alleged injury." Olson, 120 F.3d at 102 n.4. No creditor having done so in this case, the Receiver should not now be permitted delay a full distribution to Argo any longer.

V. CONCLUSION

There is no legal or equitable basis for withholding a full distribution to Argo with respect to the Assigned Claims. Accordingly, Argo respectfully requests that the Court grant the Motion and enter an order compelling the Receiver to make to Argo a full, pro rata, twenty-five percent (25%) distribution with respect to the Assigned Claims, plus all interest accrued from the date on which the Receiver made distributions to other similarly-situated creditors in this case, and thereafter to make distributions with respect to the Assigned Claims at the same time and in the same manner as distributions that are made to other similarly-situated creditors.

DATED: November 1, 2000

HENNIGAN, BENNETT & DORMAN

By:  _____
James O. Johnston

Counsel for Argo Partners, Inc.

1 **PROOF OF SERVICE**

2
3 STATE OF CALIFORNIA,)
4) SS.
5 COUNTY OF LOS ANGELES)

6 I am employed in the County of Los Angeles, State of California. I am over the age of
7 18 years and not a party to the within action. My business address is 601 South Figueroa Street,
8 Suite 3300, Los Angeles, California 90017.

9 On November 1, 2000, I served the foregoing document described above as
10 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR ORDER
11 COMPELLING DISTRIBUTION TO ARGO PARTNERS, INC. on the interested parties in this
12 action by placing the true copies thereof enclosed in sealed envelopes addressed as follows:

13
14 David L. Osias, Esq. Karen Matteson, Esq.
15 Loraine L. Pedowitz, Esq. Securities and Exchange Commission
16 Allen Matkins Leck Gamble & Mallory LLP 5670 Wilshire Boulevard, 11th Floor
17 501 West Broadway, 9th Floor Los Angeles, CA 90036
18 San Diego, CA 92101

19 I caused such envelopes to be retrieved and sent by Federal Express for next day delivery to
20 the addresses noted above.

21 I declare that I am employed in the office of a member of this bar of this court at whose
22 direction the service was made.

23 Executed on November 1, 2000 at Los Angeles, California.

24 

25 _____
26 Donna Moore
27
28

EXHIBIT DD

1 UNITED STATES BANKRUPTCY COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 OAKLAND DIVISION

4 ---oOo---

5
6 In re:

CASE NO. 00-42104-T11

7 AUREAL, INC, d/b/a SILO.COM,
f/k/a AUREAL SEMICONDUCTOR, INC.,
8 f/k/a MEDIA VISION TECHNOLOGY,
INC., a Delaware corporation

RECEIVED

JAN - 7 2002

CLERK OF
COURT

9
10
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12
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14 DEPOSITION OF RAMESH KANDUKURI
15 THURSDAY, DECEMBER 20, 2001
16
17
18
19

20 BEMA REPORTING
553 Laidley Street
21 San Francisco, California 94131
(415) 585-4009
22 FAX (415) 858-9282
23
24

25 REPORTED BY: SHAREN H. DAINS, CSR NO. 2040, CM

CA BAR #05-20211
EXHIBIT DD - PAGE 1

...position. And showed you a list with
 certain matters and inquired whether you had
 reviewed this document.
 The questions I want to ask you are not
 whether you specifically reviewed this document, but
 rather whether in advance of this deposition you had
 consented to testify on behalf of the company on behalf
 of Aureal with respect to certain, not all, of these
 matters.

10 With respect to matter one in exhibit twelve,
 11 the utilization of the intellectual property delivered
 12 by Momentum Data Systems under that certain software
 13 development agreement by and between Momentum and
 14 Aureal dated October 30, 1999 therein designated and
 15 hereinafter referred to as the "Deliverables" in any
 16 boards manufactured by or to the order of Aureal that
 17 incorporate all or any part of the Deliverables, in
 18 advance of today's deposition, did you, in fact,
 19 consent to testify on Aureal's behalf with respect to
 20 that matter?

21 A. Yes.

22 Q. With respect to the second matter, the
 23 negotiation of the terms and conditions of the SDA, in
 24 advance of this deposition, did you consent to testify
 25 on behalf of Aureal with respect to that issue?

1 knowledge of those matters, did you consent in advance
 2 of this deposition to testify on behalf of Aureal with
 3 respect to that matter?

4 A. Yes.

5 Q. Do you recall being made aware, even if not
 6 shown this particular document, being made aware of
 7 those specific matters being requested, whether you had
 8 specific knowledge of those matters, and whether or not
 9 you would consent to testify on behalf of Aureal in
 10 advance of the deposition?

11 A. Yes, I was made aware.

12 Q. Did you, in fact, consent with respect to all
 13 those matters?

14 A. Yes, I did.

15 Q. Do you continue to consent to testify on
 16 behalf of Aureal with respect to all those matters?

17 A. Yes, I do.

18 MR. LEVINSON: That's all I have.

19
 20 EXAMINATION

21 BY MR. FARRER:

22 Q. Mr. Kandukuri, exactly what day did you
 23 consent to testify on all those matters? When did that
 24 discussion take place?

25 A. Last night.

1 A. Yes.

2 Q. With respect to matter number three, the
 3 documentation related to or concerning the performance
 4 of the terms and conditions of the SDA, did you consent
 5 to testify on behalf of Aureal with respect to that
 6 matter?

7 A. Yes.

8 Q. With respect to matter four, the transfer or
 9 disclosure of the Deliverables to any third party, did
 10 you consent to testify on behalf of Aureal with
 11 respect to that matter in advance of today's
 12 deposition?

13 A. Yes.

14 Q. With respect to matter number five, the
 15 transfer or disclosure to any third party of the
 16 intellectual property designed by Momentum under the
 17 SDA, did you consent in advance of this deposition to
 18 testify on behalf of Aureal with respect to that
 19 matter?

20 A. Yes.

21 Q. Now with respect to matter number seven, the
 22 names and last known addresses of all persons who have
 23 knowledge of matters set forth in paragraphs one
 24 through seven above, putting aside the addresses and
 25 focusing only on the names of persons who have

1 Q. But you've never seen exhibit twelve?

2 A. No.

3 Q. Why is it you testified when I asked you the
 4 question that you hadn't consented, but now after
 5 speaking to counsel you had?

6 MR. LEVINSON: Objection, mischaracterizes the
 7 testimony.

8 THE WITNESS: I'll tell you why. All your
 9 focus was on: Have you have seen exhibit twelve. The
 10 answer is no. Whereas I kept trying to say, but I'm
 11 aware of the content of exhibit twelve.

12 Since you put me in a little semantic trap,
 13 have I seen this piece of paper, no I haven't, but I
 14 have discussed these issues, and agreed to testify,
 15 yes.

16 BY MR. FARRER:

17 Q. Were any of these paragraphs read to you
 18 last night, paragraphs one through eight on exhibit
 19 twelve?

20 A. Yes.

21 Q. They were word for word?

22 A. Not word for word. See this is what I'm
 23 trying to avoid, this business of letter for letter,
 24 no.

25 When I'm told the content of what I'm supposed

MR. FARRER: Item five.

MR. LEVINSON: Item five he has been

designated.

MR. FARRER: I understand that. Let's ask

him.

Q. You have no knowledge of that area, do you?

A. I shall repeat the answer I made. You asked this question before. And what I said was I do not have any knowledge, but if there were such a transfer I would have been consulted while I was with Aureal, but I was not. A) I do not know; B) I was not asked.

Q. Were you aware you had been designated to testify on Aureal's behalf with regard to paragraphs one through five of this document before Mr. Levinson just said you were?

A. Yes, I was. They sent me a copy of this deposition notice.

Q. I just asked you a minute ago if you had ever seen it, and you said no.

A. Sorry, if it is this document, the answer is no.

Q. Let's get to my question. You've never seen this document, have you, you've never seen exhibit twelve, that was your testimony.

1 exhibit twelve?

A. I cannot answer, because you are using a legal term that doesn't mean much to me. They said we request you to make a deposition concerning this matter, and I said yes, I would.

Q. You're here today because I specifically asked for you, okay? I sent a deposition notice, exhibit one, asking for you to come here.

MR. LEVINSON: This is argumentative and a waste of time. He has been designated, we had a discussion --

MR. FARRER: It's a little hard, Counsel, for you to argue he has consented to be here to testify on these matters if you've never even discussed it with him.

Q. The truth of the matter is, isn't it, sir, that you had no knowledge that you were being designated by Aureal to testify on items one through five?

A. You mean verbatim one, two, three, four, five?

Q. Yes, sir.

A. The answer is no, I did not. But obviously they called me and talked to me and told me what I had to depose about. About the general content of the deposition, yes, I knew.

So my question is: Did you know that Aureal was designating you to testify on behalf of one through five at any time prior to Mr. Levinson just saying that they were?

A. I need a minute to review something.

MR. LEVINSON: I will represent for the record that I had a conversation with Mr. Kandukuri in advance of the deposition beginning where we discussed the matters --

MR. FARRER: I don't want you to answer the questions for the witness, Mr. Levinson. I want to hear his testimony, and I'd rather not have you couch him.

MR. LEVINSON: I'm not couching him. The issue here is what matter has he been designated for.

MR. FARRER: No, it's not. It's whether or not he had knowledge of it.

THE WITNESS: I knew that I was going to testify on matters relating to the SDA. As you said, I have not seen this document, but I was aware what I would be deposing about related to the SDA with Momentum, yes.

BY MR. FARRER:

Q. Were you aware that Aureal is designating you as a witness to testify on items one through five in

Q. And you have had no access to Aureal's books and records for purposes of producing the documents that we asked Aureal to produce, have you?

A. No, I have had no access.

Q. And you have no knowledge of the documents -- you have no knowledge of the search undertaken by Aureal to find documents responsive to the document request contained in exhibit twelve, do you?

A. I do not have the knowledge.

MR. FARRER: Well, I'm going to adjourn. Note for the record the time please, and then we'll take up the designation issue with the court.

MR. LEVINSON: I am going to have one question. I want a two-minute break. One follow up question or two maybe.

THE REPORTER: The time noted is 5:32. (Whereupon a short recess was taken.)

MR. FARRER: Let's note the time on the record that counsel has been out talking to the witness.

THE REPORTER: 5:39.

EXAMINATION

BY MR. LEVINSON:

Q. Mr. Kandukuri, counsel for Next Factor asked you a number of questions with respect to exhibit

...information that goes back to probably April of 2000, I don't have any supporting documents, and I'm asking you if you have anything that will help us shed some light on this.

Q. This is a conversation between you and Mr. Purcell. I wasn't party to it. The records wouldn't enlighten you. It's what you understood him to mean when he told you that Aural was not honoring its contractual obligations, what did you think he meant?

A. I think he was referring to stock, that's my recollection.

Q. Assuming you had approved exhibit nine for payment, who would you have given it to, to process for payment, given the date of the invoice to Mr. O'Flaherty?

A. This I would have given to Brandon because stock transactions were processed by Brandon. It's not like a cash payment that would go to accounting.

Q. Are you familiar with something called an SQ3500?

A. Yes.

Q. What is that?

A. It's an Aural board, an Aural product. We have to be precise, because board is just a board,

1 agreement?

2 A. No.

3 Q. You are absolutely sure of that?

4 A. Uh-huh.

5 Q. I need a yes or no answer, I mean audible answer?

7 A. Yes, I'm sure, yes.

8 Q. Was the SQ2500 is another Aural product?

9 A. Yes.

10 Q. Was that product manufactured?

11 A. Before I answer this, I do want to state that I'm not sure if the 3500 is manufactured. I'm having difficulty with these product numbers, and whether it was manufactured or not.

15 Do you have any information that will help me jog my memory?

17 Q. This is your company, not mine. I mean I know nothing about it. That's why I'm taking your deposition.

20 A. What I'm trying to point out to you, you are talking about somebody one and a half years after of the fact with no information. If you have any, like a flyer or any information that would be germane, that will help my recall.

25 Q. If I had a flyer that said the product was

1 product involves the software.

2 Q. And the SQ3500 is an Aural product?

3 A. Uh-huh.

4 Q. Was that product a product that Aural manufactured?

6 A. Yes.

7 Q. Was that a product that Aural released?

8 A. Yes.

9 Q. Did the SQ3500 include any part of the deliverables delivered by Momentum under the software development agreement?

12 A. Excuse me, I need to back off for a minute here, because you mentioned this product number. The reason I need to back off is see Aural had three -- they had an SQ1500, they had 2500, they had 3500.

16 And what I'm trying to recall is whether the 3500 was released. So I'm going to change what I said a moment ago. I'm not sure, given the product number, whether that particular 3500 was released, because I am having some difficult distinguishing between those three products, fifteen, twenty-five and thirty-five.

22 Q. Can you answer my question?

23 A. So please repeat the question.

24 Q. Did the SQ3500 include any of the deliverables delivered by Momentum under the software development

1 released, would you accept that as establishing it was released?

3 MR. LEVINSON: Objection, ambiguous, calls for legal conclusion.

5 MR. FARRER: No.

6 THE WITNESS: I would not. It would jog my memory.

8 BY MR. FARRER:

9 Q. How would it jog your memory if you just tell me you might not accept it as true?

11 MR. LEVINSON: Let's do this, it's getting late again. We are going to take a one minute break. (Off the record discussion.)

14 BY MR. FARRER:

15 Q. Let's go back to my question. Was the SQ2500 manufactured by Aural?

17 A. Before I answer that, I would like to change the answer I made regarding the 3500. You asked me a question was it manufactured, and I said yes. I'd like to change it to I do not remember, because I don't.

21 Q. Who at Aural would know the answer to that question?

23 MR. LEVINSON: Objection, ambiguous.

24 THE WITNESS: Steve Mitchell, he can look at the papers that he has, sales records.

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EXHIBIT DD - PAGE 5

something, and key people would be in the loop then.
 2 That's what I did.
 3 Q. Did you give the Aureal -- excuse me. Did you
 4 give the Momentum invoice for the incentive bonus to
 5 accounting for payment?
 6 A. I don't have definitive recall, but I think I
 7 did.
 8 Q. Do you believe that Momentum is entitled to
 9 any royalties under the software development agreement?
 10 MR. LEVINSON: Objection, calls for legal
 11 conclusion.
 12 THE WITNESS: I cannot comment on it because
 13 I'm not familiar with the royalty provisions.
 14 BY MR. FARRER:
 15 Q. Who at Aureal would make the decision as to
 16 whether or not Momentum was entitled to royalties under
 17 that agreement?
 18 A. Brandon.
 19 Q. You had no role whatsoever in negotiating the
 20 terms and conditions of the royalty payments?
 21 A. No.
 22 MR. LEVINSON: I object to that last question,
 23 it's ambiguous.
 24 BY MR. FARRER:
 25 Q. Were you assigned any role whatsoever in

1 he does about the agreement.
 2 MR. FARRER: You showed it to him at your
 3 meeting last night.
 4 MR. LEVINSON: You could show it to him
 5 now. If you just want him to continue to try to
 6 recall, I think you are just treating the witness
 7 unfairly in that respect.
 8 THE WITNESS: I would prefer you put it in
 9 front of me, because I saw this agreement last night
 10 you're right, but after how long, I don't know how
 11 long, at least thirteen months or something.
 12 So anyway, if you want to discuss any issues,
 13 please put it in front of me.
 14 BY MR. FARRER:
 15 Q. Do you know who at Aureal negotiated the
 16 royalties provisions in the SDA?
 17 A. No.
 18 Q. If I just the term SDA, you understood what I
 19 was talking about?
 20 A. I do.
 21 Q. That's the only thing that's important, that
 22 you understand it.
 23 Let's mark this as exhibit one.
 24 (Exhibit 1 was marked for identification.)
 25 BY MR. FARRER:

1 interpreting the loyalty provisions of the software
 2 development agreement for the company in terms of
 3 deciding whether or not Momentum was entitled to
 4 royalties thereunder?
 5 A. To the best of my recollection, we did not
 6 discuss royalties at all, because the product was not
 7 released. And so I don't recall any discussions with
 8 Brandon at all. It was not an issue.
 9 Q. Do you recall discussing -- well, if royalties
 10 had been due, would you have played any role in that
 11 decision as to how much in royalties were due and when
 12 they should be paid, or was that going to be handled by
 13 somebody else at Aureal?
 14 MR. LEVINSON: Objection, ambiguous.
 15 THE WITNESS: No, I would not have been
 16 involved.
 17 BY MR. FARRER:
 18 Q. You wouldn't have been involved?
 19 A. No. It's tied to the units sold, which I
 20 would not be able to --
 21 Q. Why do you say the royalties was tied to the
 22 units sold?
 23 MR. LEVINSON: Again, objection. I think
 24 having the agreement in front of this witness might be
 25 helpful, instead of having him just try to recall what

1 Q. Mr. Kandukuri, I've asked the court reporter
 2 to mark as exhibit one a document entitled "Second
 3 Amended Notice of Deposition and Request for Produc-
 4 of Documents" addressed to you. There's a title there.
 5 Have you ever seen this document before? And
 6 please take whatever time you need to review it in
 7 order to answer my question.
 8 A. I've read it.
 9 Q. Have you ever seen this document before?
 10 A. Yes.
 11 Q. When did you first see it?
 12 A. On the 17th of December.
 13 Q. Three days ago?
 14 A. (Witness nodding head up and down.)
 15 Q. Were you aware that my client has been trying
 16 to take your deposition since September?
 17 A. No.
 18 Q. Were you aware that you were being asked to
 19 bring documents here today to your deposition?
 20 A. When I read this, I saw that. But since I
 21 have nothing in my possession, I was not concerned.
 22 Q. So you did read all of the document requests
 23 that are specified in paragraphs one through eight on
 24 pages four and five of exhibit one?
 25 A. Yes.

(Whereupon the record was read by the Reporter.)

THE WITNESS: Some parts of it, yes.

BY MR. FARRER:

Q. What parts of it were you involved in implementing?

MR. LEVINSON: Same objection.

THE WITNESS: The parts that pertain to product development.

BY MR. FARRER:

Q. What do you mean by that? What physically was your involvement in the software development agreement between Aural and Momentum?

MR. LEVINSON: Objection, compound, objection ambiguous.

THE WITNESS: I was the program manager from Aural side, so I would assign tasks to Momentum and monitor the progress of their work, and also coordinate development on our side, on Aural's side.

BY MR. FARRER:

Q. Did you play any role in the quality assurance testing performed on the product under the software development agreement between Aural and Momentum?

A. We did not perform QA on that particular product. It did not reach that state. It was still in

1 A. Steve Mitchell.

2 Q. Who is Steve Mitchell?

3 A. He was the chief operating officer of Aural.

4 Q. When is the last time you saw Mr. Mitchell?

5 A. October of 2000.

6 Q. When you left?

7 A. Right.

8 Q. Was he still there?

9 A. Yes.

10 Q. Do you know where he lived?

11 A. I believe Pleasanton.

12 Q. Did Aural manufacture any of the stratocaster boards?

13 A. No.

14 Q. Did Aural make any stratocaster boards?

15 MR. LEVINSON: Objection, ambiguous.

16 THE WITNESS: Only engineering prototypes, I believe four of them, that's it.

17 BY MR. FARRER:

18 Q. Did Aural display a stratocaster board at a trade show, or shows to your knowledge?

19 A. I do not know.

20 Q. Have you ever seen any press releases

21 announcing the release of the stratocaster board?

22 A. No.

1 engineering developed.

2 Q. What is that product that you are referring to?

3 A. That was a term we used in-house to refer to it and that term is stratocaster.

4 Q. Did Aural use any other terms to refer to that product developed under the software development agreement between Aural and Momentum other than stratocaster?

5 A. No.

6 Q. Did you play any role in the sale of Aural's assets to Creative Technologies?

7 A. No.

8 Q. Do you know whether the intellectual property that was developed under the software development agreement between Aural and Momentum was given to Creative?

9 MR. LEVINSON: Objection, assumes -- foundation.

10 THE WITNESS: No.

11 BY MR. FARRER:

12 Q. You don't know, or it wasn't given?

13 A. I do not know.

14 Q. Who at Aural would you believe would know the answer to that question?

1 Q. Did the stratocaster board perform in its intended environment?

2 MR. LEVINSON: Objection, ambiguous.

3 THE WITNESS: Since no acceptance testing was performed, I cannot give you a definitive answer to that question. We did not conduct acceptance testing.

4 BY MR. FARRER:

5 Q. Acceptance testing was the second stage, or requirement. The first requirement was did it perform in its intended environment, according to you, so that's the question?

6 MR. LEVINSON: That's the question he answered.

7 MR. FARRER: No, he's jumped to the second requirement.

8 MR. LEVINSON: He answered the question. The fact that he happened to mention the second requirement in the answer doesn't mean he didn't answer the question.

9 THE WITNESS: I would answer your question.

10 The stratocaster board was plugged into a PC during its development, and it was partially operational.

11 BY MR. FARRER:

12 Q. What part didn't operate?

13 A. The sound quality was unacceptable, and there

product announcement, it's not a release.

BY MR. FARRER:

Q. It's a product announcement?

A. Yes.

Q. So displaying a completed product at a trade show to the public and announcing that it will be available for purchase in a few months is called a public announcement, not a release?

MR. LEVINSON: Objection, vague.

THE WITNESS: Yes.

BY MR. FARRER:

Q. And you would still say, would you not, or is it your testimony that you would not have a product release even though that product worked in the intended environment, successfully completed the acceptance testing, and the public was generally aware of it?

A. We need to add a fourth criterion.

Q. Okay, what's that?

A. It needs to be available to the public. So far we talked about announcing, but we talk about should be available to the public.

Q. Should be, or has to be?

A. Has to be to qualify as a release.

Q. What do you mean by available?

A. If a customer wants to place an order for the

MR. LEVINSON: You understand his question?

THE WITNESS: Yes, I do, and I want to make a statement. The process we are using for defining what constitutes a release is a circuitous one.

BY MR. FARRER:

Q. Circuitous?

A. Yes. This is not how you define a term properly through interrogation. It needs more brainstorming.

So yes, we can go on, but because of the nature of the process we are using, I have to, when I think of a criterion that is missing, I have to add it because of the formality of the method we use.

So I just want to point out when you said changing hands, yes, I said that changing hands was not a requirement. But when you think about it, if company X says: I'm releasing a product and nobody can get it, people do not construe that as a release.

Q. But it doesn't have to change hands for it to be released, does it?

MR. LEVINSON: Objection, asked and answered about eight times.

MR. FARRER: He keeps changing his answer.

MR. LEVINSON: No, he doesn't. He does not.

BY MR. FARRER:

product, there should be a mechanism for doing so.

Q. If the company says it will be available in a couple months, does that satisfy that requirement?

A. No.

Q. Why not?

A. Because as far as the public is concerned, until they can get ahold of the product, it has not been released.

Q. You told me changing hands is not required.

MR. LEVINSON: Objection, mischaracterizes the witness' testimony.

BY MR. FARRER:

Q. So who cares whether or not they can buy it?

MR. LEVINSON: Objection, the question is vague as to -- well, it's vague.

Do you want to read back -- can you read back that last question, beginning with "who cares."

MR. FARRER: It's real simple.

Q. Who cares whether or not the public can buy it given your prior testimony that changing hands is not necessary?

MR. LEVINSON: Objection, vague. Can you read back the very last question.

(Whereupon the record was read by the Reporter.)

Q. You testified here before the break that you wanted to withdraw the term changing hands, that it was not a requirement. Now you seem to be telling me well, yes, it is.

MR. LEVINSON: Objection, mischaracterizes the witness's testimony, which is on the record and speaks for itself.

MR. FARRER: You've also told me that this is a common industry understanding.

And since you've been in this industry for thirty plus years, I'm just trying to get at what the requirements are. And it seems to be not necessarily that straight forward.

MR. LEVINSON: Objection, statement is argumentative and there's no question.

THE WITNESS: Yes, it is not straight forward. So many companies use so many criteria, that there is no simple answer.

BY MR. FARRER:

Q. So companies have different definitions of release, is that correct?

A. Absolutely.

Q. So it's not a common industry standard, is it?

MR. LEVINSON: Objection.

THE WITNESS: I cannot agree. Just because

EXHIBIT EE

HENNIGAN, BENNETT & DORMAN
LAWYERS

601 SOUTH FIGUEROA STREET
SUITE 3300
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 694-1200
FACSIMILE (213) 694-1234
Direct: (213) 694-1063
KupetzK@HBDLawyers.com

RECEIVED

DEC 12 2001

LAW OFFICES OF
WILLIAM W. FARRER

December 11, 2001

VIA FACSIMILE AND FEDERAL EXPRESS

William Webb Farrer
Law Offices of William Webb Farrer
300 Montgomery St., #789
San Francisco, CA 94104

Re: In re Aural Inc., Case No. 00-42104-T11 (Bankr. N.D. Cal.)

Dear Mr. Farrer:

In response to your "Second Amended Notice of Deposition & Request For Production of Documents To Ramesh Kandukuri" and your "Second Amended Notice of Deposition & Request For Production Of Documents To Aural, Inc.'s Most Knowledgeable Person(s)," both dated November 30, 2001, enclosed are documents Bates Stamped AURE 00001-00036. We are in the process of determining whether there are additional non-privileged documents responsive to your requests, which we will produce if located. We are also preparing formal responses and objections to the requests which will be served shortly.

Finally, this confirms that the deposition of Mr. Kandukuri has been rescheduled for Thursday, December 20, 2001 at 10:00 at the Terra Law, 60 S. Market Street, Suite 200, San Jose, California.

Very truly yours,

Karen L. Kupetz

CA BAR #05-20211
EXHIBIT EE - PAGE 1

FROM :

FAX NO. : 2098350360

May. 14 2001 02:12PM P1



Aural Inc.
 7034 Commerce Cr., Ste.H
 Pleasanton, CA 94588

To: Joshua Morse	From: Gerrie Sargent
Company: Hennigan & Bennett	Date: May 14, 2001
Fax No.: 213-694-1234	Total No. of Pages: 10
Phone No.	Sender's Phone No.: 209-832-1365 or 209-808-1191
Re: Momentum Data Systems	Sender's Fax No.:
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle	

Notes/Comments:

Notice: This facsimile contains confidential information that is being transmitted to and is intended only for the use of the recipient named above. Reading, disclosure, discussion, dissemination, distribution or copying of this information by anyone other than the named recipient or his or her employees or agents is strictly prohibited. If you have received this facsimile in error, please immediately destroy it and notify us by calling the number listed above.

FROM :

FAX NO. : 2098350360

May. 14 2001 02:12PM P2

MOMENTUM DATA SYSTEMS, INC.
17330 BROOKHURST STREET, SUITE 140
FOUNTAIN VALLEY, CA 92708
(714) 378-5805

INVOICE

Date: 06/21/99 Inv. No.: 912949
Due Date: 07/06/99 Page No.: 1

Aureal Semiconductor
Attn: Gita Bhargava- Purch. Mgr.
4245 Technology Dr
Fremont CA 94538

Ship To/Remarks

SHIP VIA FOB TERMS YOUR # OUR # SALES REP
 Net 15 days MEM/UNOSTG

DESCRIPTION ITEM NUMBER	ORDERED UNIT MEASURE	SHIPPED BACKORDERED	UNIT PRICE ITEM DISCOUNT	EXTENDED PRICE
Consulting Services/Cash - Item #: CONS	1.0	1.0	25000.0000	25000.00
Consulting Services/Stock Item #: CONS	1.0	1.0	5000.0000	5000.00

VENDOR# MM 881
REGISTERED _____
POSTED J-281
G/L CODE 01-720-7050
INITIALS AL 7/13/99

SUB TOTAL	30000.00
TAX	0.00
TOTAL	30000.00
NET TO PAY	30000.00

CA BAR #05-20211
EXHIBIT EE - PAGE 3

FROM :

FAX NO. : 2098350360

May. 14 2001 02:13PM P3

No. 911575

CA BAR #05-20211
EXHIBIT EE - PAGE 4

06/21/99	CONSULTING	25000.00	0.00	25000.00
----------	------------	----------	------	----------

ORIGINAL DOCUMENT HAS METALLIC WATERMARK OR REVERSE SIDE

AUREAL  **AUREAL**

Aureal Semiconductor Inc.
4245 Technology Drive
Fremont, CA 94538
(510) 252-4245
(510) 252-4491 Fax

VOID AFTER 90 DAYS No. **911575**

DATE	NO.	AMOUNT
07/13/99	911575	25000.00

U.S. DOLLARS

TWENTY-FIVE THOUSAND DOLLARS AND 00 CENTS

PAY TO THE ORDER OF
MOMENTUM DATA SYSTEMS, INC.
 17330 BROCKHURST STREET
 SUITE 140
 FOUNTAIN VALLEY, CA
 92708

Mexico Chile
NOT NEGOTIABLE

Two signatures required for amounts over \$10,000.

#911575# 122100024814277 1526820

FROM :

FAX NO. : 2098350360

May. 14 2001 02:13PM P4



**MOMENTUM
DATA SYSTEMS^{INC.}**

**JERRY PURCELL Ph.D.
PRESIDENT**

17330 Brockhurst St., Suite 140
Fountain Valley, CA 92708
Phone (714) 378-5805
FAX (714) 378-5885
email: jerry@mds.com

CA BAR #05-20211
EXHIBIT EE - PAGE 5

FROM :

FAX NO. : 2098350362

May, 14 2001 02:14PM P5

June 17, 1999

Mr Sanjay Iyer Ph.D
Vice President
Aureal Semiconductor
4245 Technology Drive
Fremont, CA 94538

Dear Sanjay,

SUBJECT: MEMORANDUM OF UNDERSTANDING FOR STRATOCASTER PROJECT

Based on our discussions, I believe the following summarizes our agreement.

Payment Terms:

\$30,000	\$25,000 cash \$5,000 stock	Invoice Date June 21
\$40,000	\$25,000 cash \$15,000 stock	Invoice Date July 30
\$40,000	\$25,000 cash \$15,000 stock	Invoice Date August 31
\$40,000	\$25,000 cash \$15,000 stock	Invoice Date September 30

All invoices - net 15 days. Amount of stock per invoice is the cash value of that invoice divided by the selling price of the stock on the day of the invoice.

Royalty Payments:

\$1/board - first 75,000 boards \$75,000

\$0.50/board - second 75,000 boards \$37,500

\$0.25/board - remaining production run

Conditions:

1. If the royalty amount does not reach \$150,000 within 18 months of product release, Aureal Semiconductor will pay the delta between the cumulative royalty payment and \$150,000 to Momentum Data Systems
2. Royalty payments shall be made quarterly, starting December 31, 1999. Royalty payments for each quarter will be paid to Momentum Data Systems within 30 days of quarter end.
3. Modifications to OS software on Motorola DSP56362 will remain the Intellectual Property of Momentum Data Systems. However, Momentum Data Systems will grant rights to use new TDM input/output drivers

FROM :

FAX NO. : 2898350360

May. 14 2001 02:14PM P6

subject to above royalty payments

-2-

June 22, 1999

4. Momentum Data Systems has the right to reuse A3D code on it's products without royalty charge

Incentive Bonus

An incentive bonus of \$50,000 will be paid to Momentum Data Systems if the mutually agreed deliverables are delivered to Aureal Semiconductor by September 1. If the September 1 date is not met but an October 1 date is met, an incentive bonus of \$25,000 will be paid to Momentum Data Systems. The bonus will be paid as stock subject to the same conditions as the invoices listed under payment terms.

Deliverables

TBD

Please see appendix 1

Acceptance Criteria

TBD

Please see appendix 1

Remaining Issues

Momentum Data Systems is intending to develop its own reverb algorithm and needs to establish guidelines so that implementing your reverb algorithm on the Motorola board does not preclude us from developing our own reverb algorithm.

I am sure there are other issues that need to be covered, but this is my first attempt at putting them on paper. Please feel free to contact me if you have any questions or comments.

Sincerely,

Jerry E. Parcell
Jerry E. Parcell Ph.D.
President

Sanjay Lya
6/23/99

lb

CA BAR #05-20211
EXHIBIT EE - PAGE 7

FROM :

FAX NO. : 2098350360

May. 14 2001 02:15PM P7

Appendix 1

Deliverables:

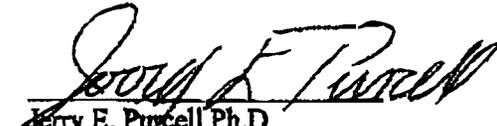
MDS will deliver source and binary code for the following 563xx modules:

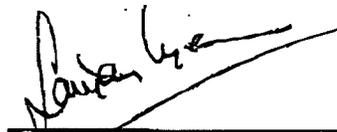
1. Aureal "A3Dverb" reverb algorithm
2. Aureal "A3DS" virtualization algorithm
3. 56362 operating system patches for required ESAI and SPI modifications
4. Diagnostic code for Aureal manufacturing test software

The code should be packaged in a mutually agreed format for download by the Aureal device driver.

Acceptance criteria:

Aureal requires that the "A3Dverb" and "A3DS" algorithms run concurrently with AC3 decode. Additionally, the final deliverables must pass a test plan provided by Aureal SQA.


 Jerry E. Purcell Ph.D.
 President
 Momentum Data Systems


 Sanjay Iyer Ph.D.
 Vice President, General Manager
 Technology Division
 Aureal Inc.

CA BAR #05-20211
EXHIBIT EE - PAGE 8

FROM :

FAX NO. : 2098350360

May. 14 2001 02:15PM P9

June 17, 1999

Mr Sanjay Iyer Ph.D.
Vice President
Aureal Semiconductor
4245 Technology Drive
Fremont, CA 94538

Dear Sanjay,

SUBJECT: MEMORANDUM OF UNDERSTANDING FOR STRATOCASTER PROJECT

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- \$0.50/board - second 75,000 boards \$37,500
- \$0.25/board - remaining production run

Conditions:

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3. Modifications to OS software on Motorola DSP56362 will remain the Intellectual Property of Momentum Data Systems. However, Momentum Data Systems will grant rights to use new TDM

MOMENTUM DATA SYSTEMS
17330 BROOKHURST ST, SUITE 140
FOUNTAIN VALLEY, CA 92708

AURE 00008

CA BAR #05-20211
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FROM :

FAX NO. : 2098350360

May. 14 2001 02:16PM P9

-2-

input/output drivers subject to above royalty payments

July 9, 1999

4. Momentum Data Systems has the right to reuse A3D code on it's products without royalty charge

Incentive Bonus

An incentive bonus of \$50,000 will be paid to Momentum Data Systems if the mutually agreed deliverables are delivered to Aureal Semiconductor by September 1. If the September 1 date is not met but an October 1 date is met, an incentive bonus of \$25,000 will be paid to Momentum Data Systems. The bonus will be paid as stock subject to the same conditions as the invoices listed under payment terms.

Deliverables

TBD

Acceptance Criteria

TBD

Remaining Issues

Momentum Data Systems is intending to develop its own reverb algorithm and needs to establish guidelines so that implementing your reverb algorithm on the Motorola board does not preclude us from developing our own reverb algorithm.

I am sure there are other issues that need to be covered, but this is my first attempt at putting them on paper. Please feel free to contact me if you have any questions or comments.

Sincerely,

Jerry E. Purcell Ph.D.
President

lh

CA BAR #05-20211
EXHIBIT EE - PAGE 10

FROM :

FAX NO. : 2098350360

May. 14 2001 02:16PM P10

Gladys Dinglasan

From: Sanjay Iyer
Sent: Monday, July 12, 1999 7:33 PM
To: Gladys Dinglasan
Subject: RE: Momentum Data Systems, Inc, inv#912949 dtd 06/21/99, \$30,000.00

Gladys,

The first invoice is OK to pay. We are past due, we value our relationship with these folks, please pay now.

Thanks.

sanjay

-----Original Message-----

From: Gladys Dinglasan
Sent: Monday, July 12, 1999 5:26 PM
To: Sanjay Iyer
Cc: David Domeier; Gita Bhargava
Subject: Momentum Data Systems, Inc, inv#912949 dtd 06/21/99, \$30,000.00
Importance: High

Hi Sanjay,

Gita just handed me the first invoice received from Momentum Data Systems, Inc for Stratocaster project, please see details below.

Description/Item#	Unit Price	Ext. Price
Consulting Svcs-Cash/ Item#: CONS	\$25,000.00	\$25,000.00
Consulting Svcs-Stock/ Item#: CONS	5,000.00	5,000.00

Please let me know, if the above & the rest of the payments (please review payment terms below) are "okay to pay". Thanks. -Gladys

Dave - I need your help on the G/L distribution of payments. Thanks. -Gladys

Just an FYI.....(to refresh memory)

Payment terms:
\$30,000.00 \$25,000.00 cash Invoice date - Now past due 5,000.00 stock
June 21, 1999

\$40,000.00	\$25,000.00 cash 15,000.00 stock	Invoice date July 30, 1999
\$40,000.00	\$25,000.00 cash 15,000.00 stock	Invoice date August 31, 1999
\$40,000.00	\$25,000.00 cash 15,000.00 stock	Invoice date September 30, 1999

All invoices - net 15 days. Amount of stock per invoice is the cash value of that invoice divided by the selling price of the stock on the day of the invoice.

CA BAR #05-20211
EXHIBIT EE - PAGE 11

F. J.



MOMENTUM DATA SYSTEMS INC.

17330 BROOKHURST STREET, SUITE 140, FOUNTAIN VALLEY, CA 92708
PHONE: (714) 378-5805, FAX: (714) 378-5985

SOFTWARE DEVELOPMENT AGREEMENT

Customer: _____			
Address : _____			
Street: _____	City : _____	State : _____	ZIP: _____
Phone : _____	Fax : _____		
Contact : _____	Contact email : _____		
State of incorporation : _____			

This SOFTWARE DEVELOPMENT AGREEMENT ("Agreement") is made on the effective date listed below between Customer, whose name and address are listed above, and Momentum Data Systems, Inc., ("Developer" or "MDS"), a California corporation with its principal offices located at 17730 Brookhurst Street, Suite 140, Fountain Valley, CA and the company designated above as Customer ("Customer"), a corporation with its principal office at the address shown above.

TERMS AND CONDITIONS

1. SERVICES

1.1 This is a contract whereby the Developer will provide services to the Customer in the form of designing software for use by the Customer. Deliverables under this Agreement shall be composed of two types of software, which shall be called in the first instance, "Custom Software" and, in the second instance, "Other Deliverables." Exhibit A to this Agreement, incorporated by reference herein, shall furnish the descriptions of the Custom Software and the Other Deliverables for the purposes of this Agreement. The term "Deliverables," wherever used, shall refer to both the Custom Software and to the Other Deliverables. The services to be provided by Developer shall be governed by a written Project Assignment mutually agreed upon by Customer and Developer. The Project Assignment, attached as Exhibit A, shall set forth and constitute the complete and exclusive specification for designing the Custom Software, and for governing the development, installation and acceptance thereof.

1.2 The Project Assignment shall be based upon information provided by Customer who shall be entirely responsible for the accuracy and completeness of such information.

2. ACCEPTANCE.

Source Code
dates for delivery of acceptable product if not delivered # back

Development schedule

CA BAR #05-20211
EXHIBIT EE - PAGE 12

Time response to unacceptable deliverable. 5 days;

This agreement contemplates that the Developer shall tender the Deliverables to the Customer for review to determine if the Deliverables are acceptable. The time between tender of the Deliverables for acceptance and acceptance by the Customer shall be known as the "Acceptance Period."

*10 days
How many times?*

2.1 EFFECT OF ACCEPTANCE. Upon Acceptance, any of Customer's obligations that in this agreement are made conditional upon Acceptance shall become unconditional and fully due according to the schedule set out in Exhibit C, Terms of Payment. Except to the extent expressly provided for this Agreement, upon Acceptance, Developer shall be deemed released from any and all further obligations under this Agreement.

2.2 ACCEPTANCE. Acceptance shall occur when the Customer notifies Developer that the Deliverables have successfully performed in accordance with the Acceptance Criteria.

2.3 CONSEQUENCES OF FAILURE TO MEET ACCEPTANCE CRITERIA. Developer's sole liability if the Deliverables fail to meet the acceptance criteria shall be limited to correcting the same. If such corrections prove to be impossible to make, then Developer's liability shall be limited to that set forth in Paragraph 6 below. — ?

time period.

2.4 WARRANTY. The Deliverables are warranted to conform to the Acceptance Criteria. Developer's sole obligation under this warranty shall be to remedy any nonconformance of the Deliverables to the Acceptance Criteria, provided such nonconformance is reported to Developer during the ninety (90)-day period following acceptance in sufficient detail for Developer to duplicate the nonconformance and verify the correction. The above warranty is contingent upon proper use of the Deliverables and will not apply if the Deliverables has been modified by the Customer. EXCEPT FOR THE EXPRESS WARRANTY STATED IN THIS CLAUSE, DEVELOPER DISCLAIMS ALL WARRANTIES ON PRODUCTS AND SERVICES FURNISHED HEREUNDER, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS; and the stated express warranties are in lien of all obligations or liabilities on the part of Developer arising out of or in connection with the performance of the Deliverables.

2.5 SUPPORT. After the ninety (90)-day warranty period following acceptance, Customer may report instances of nonconformance of the Deliverables to the Acceptance Criteria to the Developer whereupon the Developer shall investigate the reported instances and provide cost estimates to the Customer for remedying the nonconformance instances. The cost estimates will be based on the Developer's then current time and material rates plus expenses, if any. The cost estimates will be provided within two business days of receipt of reported instances from the Customer. Developer will undertake remedial work within two business days of receipt of authorization from Customer. If Customer desires cost estimates and initiation of remedial work within four hours of informing Developer, Customer agrees to pay an additional twenty five percent (25%) over Developer's then current time and material rates. Developer will bill the Customer for actual hours expended and expenses incurred in remedying instances of nonconformance.

CA BAR #05-20211
EXHIBIT EE - PAGE 13

3. PAYMENT

3.1 Payment shall be according to the Terms of Payment set forth on Exhibit C, which are incorporated by reference into this Agreement. The price charged by the Developer is based upon: (i) receipt by Developer in a timely manner of all required materials as set forth in Paragraph 5 below, **Required materials missing in Paragraph 5**(ii) ~~no charges~~ to the Project Assignment, (iii) Developer is not required to perform any ancillary services and (iv) Customer does not cause a delay or interruption of services.

material increased

3.2 If Developer participates in or otherwise furnishes services or materials in connection with 3.1 (i) through (iv) above, such effort shall be paid for by the Customer at Developer's then current time and material rates plus expenses, if any, and this Agreement shall be adjusted accordingly. *provided that Aureal agrees to such adjustment.*

3.3 When commercial transportation or overnight living expenses are incurred by Developer, Customer shall be charged actual expenses.

3.4 Unless expressly stated otherwise on Exhibit C, Developer shall separately invoice Customer for each monthly installment and Customer shall pay all such invoices within fifteen (15) days of invoice date. All charges are exclusive of all customs, import duties, federal, state, municipal or other government excise, sales, use, occupational, or like taxes now in force or enacted in the future (including any interest and penalties) which Developer may be required to collect or remit.

4. DATA RIGHTS AND CONFIDENTIALITY.

4.1 GRANT OF LICENSE. Developer grants to Customer, and its heirs and assigns, a exclusive, worldwide license during the term of this contract to reproduce, distribute, modify, publicly perform and display, with the right to sublicense and assign such rights in the Custom Software. Except to the extent as shall be stated on Exhibit C, Terms of Payment, this license shall be royalty-free.

No grant of a license under this agreement shall extend to software development tools, or any part thereof, used by Developer in connection with its business, even if such tools were developed or improved in connection with the Custom Software. In particular, by way of illustration and not by limitation, nothing in this agreement shall prevent, bar, or hinder Momentum from developing its own reverb algorithm for use on the Motorola DSP 56362 or any other processor, nor shall any clause of this agreement create any property interest of any kind in favor of Aureal over any such reverb algorithm developed by Momentum, nor shall anything in this agreement require Momentum to turn over anything other than the binary code for the 56362 operating system patches for required ESAI modifications and the diagnostic code for Aureal manufacturing test software, all of which software shall be deemed part of Momentum's software development tools for the purposes of this agreement.

Source code do we want

4.2 NO GRANT BY ESTOPPEL. Except as otherwise expressly provided, no license or other right is hereby transferred to Customer, including any license by implication, estoppel or otherwise, under any patent, patent application, trade secret, trademark or copyright.

CA BAR #05-20211
EXHIBIT EE - PAGE 14

4.3 CONFIDENTIALITY.

4.3.1 Confidential Information. Both parties to this agreement shall during the term of this agreement and thereafter, take all steps reasonably necessary to hold in trust what each party knows or has reason to know is regarded as confidential by the other party. ("Confidential Information."). Confidential Information includes but is not limited to, technical and business information relating to a party's inventions or products, research and development, production, manufacturing and engineering processes, costs, profit or margin information, employee skills and salaries, finances, customers, marketing and production and future business plans. Each party's obligations with respect to the other party's Confidential Information also extend to any third party's proprietary or confidential information disclosed in the course of performing obligations under this Agreement.

4.3.2 Limitations on Use. Each party shall: (i) use the Confidential Information solely to perform the obligations arising under this Agreement; (ii) take reasonable measures to maintain the confidentiality of the Confidential Information, but not less than the measures it uses to protect confidential information of a similar type; (iii) give immediate notice to the other party of any unauthorized use or disclosure of the confidential information, and (iv) give reasonable assistance to the other party in remedying any such unauthorized use or disclosure of the Confidential Information. In addition, neither party shall (i) disclose the Confidential Information to any person except its employees, or consultants to whom it is necessary to disclose the Confidential Information for such use; (ii) disclose or make available the Confidential Information to any of its employees or consultants, except to the extent that such persons shall have agreed to receive it under terms at least as restrictive as those specified .

4.3.3 Exceptions. The obligations and restrictions of Paragraph 4.3.2 shall not apply to the extent that a party seeking to avoid the application of Paragraph 4.3.2 can demonstrate:

- (1) the disclosed information at the time of receipt by the party were part of the public domain;
- (2) after receipt by the party, the disclosed information became part of the public domain by publication or otherwise, except through breach of this Agreement;
- (3) the disclosed information can be established by documentary evidence to have already been in the hands of the party before receipt from the other party;
- (4) the disclosed information is received from a third party without similar restrictions and without breach of this Agreement; or
- (5) the disclosed information is required to be disclosed by a government agency to further the objections of the agreement, or by a proper court of competent jurisdiction; provided however that the party seeking avoidance of the application of paragraph 4.3.2 pursuant to this exception shall use its best efforts to minimize the disclosure of such information and will assist the other party in obtaining a protective order before such disclosure.

Revised.
Indemnity
from Developer?

5. **INDEMNITY.** Customer hereby undertakes and agrees to indemnify and save harmless Developer, its officers, directors and employees, from any and all liability, loss, damage, suits, debts, claims, expenses, etc., whatsoever, arising directly or indirectly out of this Agreement or out of the use of said Deliverables including any patent, copyright, trade secret or trademark infringement claims.

6. **LIMITATION OF REMEDIES AND LIABILITY.** NEITHER DEVELOPER NOR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION, OR DELIVERY OF THE DELIVERABLES AND ANY AND ALL RELATED SERVICES OR EQUIPMENT (INCLUDING COMPUTERS AND MACHINES), SHALL BE LIABLE TO CUSTOMER OR ANY PARTY CLAIMING THROUGH CUSTOMER FOR ANY DAMAGES OR EXPENSES OF ANY TYPE, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS, LOST SAVINGS, LOST BUSINESS, LOSS OF ANTICIPATED BENEFITS, OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES, DIRECT OR INDIRECT, SPECIAL OR GENERAL, ARISING OUT OF THE USE OR INABILITY TO USE SUCH DELIVERABLES, WHETHER ARISING OUT OF CONTRACT, NEGLIGENCE, TORT, OR UNDER ANY WARRANTY, OR OTHERWISE, AND WHETHER CAUSED BY DEFECT, NEGLIGENCE, BREACH OF WARRANTY, DELAY IN DELIVERY, OR OTHERWISE, EVEN IF DEVELOPER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR FOR ANY OTHER CLAIM BY ANY OTHER PARTY. NO OBLIGATION OR LIABILITY SHALL ARISE OR FLOW FROM DEVELOPER'S RENDERING TECHNICAL OR OTHER ADVICE IN CONNECTION WITH THE DELIVERABLES, OR ANY OTHER DEVELOPER PROGRAMS, OR DEVELOPER SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL DEVELOPER INSTALLATION AND TRAINING SERVICES, AND ANY AND ALL ANNUAL SUPPORT AND MAINTENANCE SERVICES. DEVELOPER'S LIABILITY FOR DAMAGES IN NO EVENT SHALL EXCEED THE LICENSE FEE PAID FOR THE RIGHT TO USE THE DELIVERABLES, OR \$10,000, WHICHEVER SHALL BE THE LESSER.

7. **INDEPENDENT CONTRACTOR.** It is understood and agreed that each of the parties hereto is an independent contractor and that Customer is not, nor shall be considered to be, an agent, distributor, or representative of Developer for any purpose.

8. **GENERAL**

8.1. **ALLOCATION OF RISK.** This Agreement allocates the risk of product failure between Customer and Developer. Developer's program pricing reflects this allocation of risk in the limited warranty and the limitation of remedies and liability. Customer and Developer agree that the terms of this Agreement allocate the risks associated with the use of the Programs between Customer and Developer.

8.2 **OPERATING ENVIRONMENT.** Developer assumes no responsibility for the operating environment in which the Programs are to function.

8.3 **FORCE MAJEURE.** Developer shall not be in default by reason of any failure of

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WRITTEN, RELATING TO THE SUBJECT MATTER HEREIN. NO COURSE OF CONDUCT BY A PARTY SHALL BE DEEMED A WAIVER OF ANY OTHER RIGHT OR REMEDY. A PARTY MAY NOT WAIVE, CHANGE, MODIFY, OR DISCHARGE THIS AGREEMENT EXCEPT BY WRITTEN AGREEMENT.

9. AUTHORITY. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE TERMS OF THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, ANY PROVISIONS RELATING TO WARRANTIES, PREVAIL OVER ANY LICENSES CONTAINED IN THE PROGRAM PACKAGE AND USER MANUALS DELIVERED TO CUSTOMER PURSUANT TO THIS AGREEMENT.

<p>So agreed by Customer:</p> <p>by : _____</p> <p>its : _____</p> <p>Date : _____</p>	<p>Accepted by Developer:</p> <p>by : _____</p> <p>its : _____</p> <p>Date : _____</p>
---	---

EXHIBIT "A"

PROJECT ASSIGNMENT

The following shall be deemed Custom Software for the purpose of this Agreement:

Source and binary code for the following 563xx modules:

1. Areal "A3Dverb" reverb algorithm
2. Areal "A3DS" virtualization algorithm

The following shall be deemed Other Deliverables for the purposes of this agreement:

Binary code only for :

3. 56362 operating system patches for required ESAI modifications; and, 56362 Boot Program File with deployment instructions.
4. Test code for Areal manufacturing.

Developer shall make reasonable efforts to support the Customer to make the Deliverables operational on Customer's target board which will not have the 68HC11 chip.

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EXHIBIT "B"

ACCEPTANCE CRITERIA

The code shall be in a mutually agreed format for download by the Aural device driver.

Aural shall accept the Deliverables if the "A3Dverb" and "A3DS" algorithms run concurrently with AC3 decode and the final deliverables pass a test plan agreed upon by Aural and Momentum.

Test Plan?

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EXHIBIT "C"

TERMS OF PAYMENT

The fee for the deliverables shall be composed of three parts: a fixed fee component, a royalty fee, and, upon timely delivery (as stated below), an incentive fee.

Fixed Fee.

Aureal shall pay a total fixed fee of \$150,000.00. The fixed fee shall be paid in components of cash and of stock of Aureal Inc., according to the following schedule:

Amount Due	Composition of Payment	Invoice Date:
\$30,000	\$25,000 cash \$5,000 stock	June 21, 1999
\$40,000	\$25,000 cash \$15,000 stock	July 30, 1999
\$40,000	\$25,000 cash \$15,000 stock	September 30 August 31, 1999
\$40,000	\$25,000 cash \$15,000 stock	October 25 September 30, 1999

All invoices shall be net 15 days. Stock shall be in freely tradeable and unrestricted shares of Aureal, Inc., or if not, the shares shall be furnished with an agreement in form satisfactory to Momentum to register the shares in Aureal's next offering of stock to the public. Number of shares of stock due shall be the cash value of the stock due on the invoice date in question (\$5,000 or \$15,000, as the case may be), divided by the selling price of the stock on the close of trading on the day of the invoice. If the shares delivered are not publicly traded, the value to be placed on each share shall be set by agreement of the parties based on a reasonable evaluation of Aureal's net worth, earnings and other factors which generally affect the value of stock.

Royalty Payments.

In addition to the fixed fee, royalty payments shall be paid on all boards manufactured by or to the order of Aureal which incorporate all or any part of the Deliverables. Royalty payments shall be paid according to the following schedule:

\$1.00 per board for the first 75,000 boards

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17330 BROOKHURST STREET, SUITE 140, FOUNTAIN VALLEY, CA 92708
 PHONE: (714) 378-5805, FAX: (714) 378-5985

SOFTWARE DEVELOPMENT AGREEMENT

Customer:	_____		
Address :	_____		
Street:	City :	State :	ZIP: _____
Phone :	Fax :		_____
Contact :	Contact email : _____		
State of incorporation :	_____		

This SOFTWARE DEVELOPMENT AGREEMENT ("Agreement") is made on the effective date listed below between Customer, whose name and address are listed above, and Momentum Data Systems, Inc., ("Developer" or "MDS"), a California corporation with its principal offices located at 17730 Brookhurst Street, Suite 140, Fountain Valley, CA and the company designated above as Customer ("Customer"), a corporation with its principal office at the address shown above.

TERMS AND CONDITIONS

1. SERVICES

1.1 This is a contract whereby the Developer will provide services to the Customer in the form of designing software for use by the Customer. Deliverables under this Agreement shall be composed of two types of software, which shall be called in the first instance, "Custom Software" and, in the second instance, "Other Deliverables." Exhibit A to this Agreement, incorporated by reference herein, shall furnish the descriptions of the Custom Software and the Other Deliverables for the purposes of this Agreement. The term "Deliverables," wherever used, shall refer to both the Custom Software and to the Other Deliverables. The services to be provided by Developer shall be governed by a written Project Assignment mutually agreed upon by Customer and Developer. The Project Assignment, attached as Exhibit A, shall set forth and constitute the complete and exclusive specification for designing the Custom Software, and for governing the development, installation and acceptance thereof.

1.2 The Project Assignment shall be based upon information provided by Customer who shall be entirely responsible for the accuracy and completeness of such information.

2. ACCEPTANCE.

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This agreement contemplates that the Developer shall tender the Deliverables to the Customer for review to determine if the Deliverables are acceptable. The time between tender of the Deliverables for acceptance and acceptance by the Customer shall be known as the "Acceptance Period."

2.1 EFFECT OF ACCEPTANCE. Upon Acceptance, any of Customer's obligations that in this agreement are made conditional upon Acceptance shall become unconditional and fully due according to the schedule set out in Exhibit C, Terms of Payment. Except to the extent expressly provided for this Agreement, upon Acceptance, Developer shall be deemed released from any and all further obligations under this Agreement.

2.2 ACCEPTANCE. Acceptance shall occur when the Customer notifies Developer that the Deliverables have successfully performed in accordance with the Acceptance Criteria.

2.3 CONSEQUENCES OF FAILURE TO MEET ACCEPTANCE CRITERIA. Developer's sole liability if the Deliverables fail to meet the acceptance criteria shall be limited to correcting the same. If such corrections prove to be impossible to make, then Developer's liability shall be limited to that set forth in Paragraph 6 below.

2.4 WARRANTY. The Deliverables are warranted to conform to the Acceptance Criteria. Developer's sole obligation under this warranty shall be to remedy any nonconformance of the Deliverables to the Acceptance Criteria, provided such nonconformance is reported to Developer during the ninety (90)-day period following acceptance in sufficient detail for Developer to duplicate the nonconformance and verify the correction. The above warranty is contingent upon proper use of the Deliverables and will not apply if the Deliverables has been modified by the Customer. EXCEPT FOR THE EXPRESS WARRANTY STATED IN THIS CLAUSE, DEVELOPER DISCLAIMS ALL WARRANTIES ON PRODUCTS AND SERVICES FURNISHED HEREUNDER, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS; and the stated express warranties are in lien of all obligations or liabilities on the part of Developer arising out of or in connection with the performance of the Deliverables.

2.5 SUPPORT. After the ninety (90)-day warranty period following acceptance, Customer may report instances of nonconformance of the Deliverables to the Acceptance Criteria to the Developer whereupon the Developer shall investigate the reported instances and provide cost estimates to the Customer for remedying the nonconformance instances. The cost estimates will be based on the Developer's then current time and material rates plus expenses, if any. The cost estimates will be provided within two business days of receipt of reported instances from the Customer. Developer will undertake remedial work within two business days of receipt of authorization from Customer. If Customer desires cost estimates and initiation of remedial work within four hours of informing Developer, Customer agrees to pay an additional twenty five percent (25%) over Developer's then current time and material rates. Developer will bill the Customer for actual hours expended and expenses incurred in remedying instances of nonconformance.

3. PAYMENT

3.1 Payment shall be according to the Terms of Payment set forth on Exhibit C, which are incorporated by reference into this Agreement. The price charged by the Developer is based upon: (i) receipt by Developer in a timely manner of all required materials as set forth in Paragraph 5 below, **Required materials missing in Paragraph 5**(ii) no changes to the Project Assignment, (iii) Developer is not required to perform any ancillary services and (iv) Customer does not cause a delay or interruption of services.

3.2 If Developer participates in or otherwise furnishes services or materials in connection with 3.1 (i) through (iv) above, such effort shall be paid for by the Customer at Developer's then current time and material rates plus expenses, if any, and this Agreement shall be adjusted accordingly.

3.3 When commercial transportation or overnight living expenses are incurred by Developer, Customer shall be charged actual expenses.

3.4 Unless expressly stated otherwise on Exhibit C, Developer shall separately invoice Customer for each monthly installment and Customer shall pay all such invoices within fifteen (15) days of invoice date. All charges are exclusive of all customs, import duties, federal, state, municipal or other government excise, sales, use, occupational, or like taxes now in force or enacted in the future (including any interest and penalties) which Developer may be required to collect or remit.

4. DATA RIGHTS AND CONFIDENTIALITY.

4.1 GRANT OF LICENSE. Developer grants to Customer, and its heirs and assigns, a exclusive, worldwide license during the term of this contract to reproduce, distribute, modify, publicly perform and display, with the right to sublicense and assign such rights in the Custom Software. Except to the extent as shall be stated on Exhibit C, Terms of Payment, this license shall be royalty-free.

No grant of a license under this agreement shall extend to software development tools, or any part thereof, used by Developer in connection with its business, even if such tools were developed or improved in connection with the Custom Software. In particular, by way of illustration and not by limitation, nothing in this agreement shall prevent, bar, or hinder Momentum from developing its own reverb algorithm for use on the Motorola DSP 56362 or any other processor, nor shall any clause of this agreement create any property interest of any kind in favor of Aureal over any such reverb algorithm developed by Momentum, nor shall anything in this agreement require Momentum to turn over anything other than the binary code for the 56362 operating system patches for required ESAI modifications and the diagnostic code for Aureal manufacturing test software, all of which software shall be deemed part of Momentum's software development tools for the purposes of this agreement.

4.2 NO GRANT BY ESTOPPEL. Except as otherwise expressly provided, no license or other right is hereby transferred to Customer, including any license by implication, estoppel or otherwise, under any patent, patent application, trade secret, trademark or copyright.

4.3 CONFIDENTIALITY.

4.3.1 Confidential Information. Both parties to this agreement shall during the term of this agreement and thereafter, take all steps reasonably necessary to hold in trust what each party knows or has reason to know is regarded as confidential by the other party. ("Confidential Information."). Confidential Information includes but is not limited to, technical and business information relating to a party's inventions or products, research and development, production, manufacturing and engineering processes, costs, profit or margin information, employee skills and salaries, finances, customers, marketing and production and future business plans. Each party's obligations with respect to the other party's Confidential Information also extend to any third party's proprietary or confidential information disclosed in the course of performing obligations under this Agreement.

4.3.2 Limitations on Use. Each party shall: (i) use the Confidential Information solely to perform the obligations arising under this Agreement; (ii) take reasonable measures to maintain the confidentiality of the Confidential Information, but not less than the measures it uses to protect confidential information of a similar type; (iii) give immediate notice to the other party of any unauthorized use or disclosure of the confidential information, and (iv) give reasonable assistance to the other party in remedying any such unauthorized use or disclosure of the Confidential Information. In addition, neither party shall (i) disclose the Confidential Information to any person except its employees, or consultants to whom it is necessary to disclose the Confidential Information for such use; (ii) disclose or make available the Confidential Information to any of its employees or consultants, except to the extent that such persons shall have agreed to receive it under terms at least as restrictive as those specified .

4.3.3 Exceptions. The obligations and restrictions of Paragraph 4.3.2 shall not apply to the extent that a party seeking to avoid the application of Paragraph 4.3.2 can demonstrate:

(1) the disclosed information at the time of receipt by the party were part of the public domain;

(2) after receipt by the party, the disclosed information became part of the public domain by publication or otherwise, except through breach of this Agreement;

(3) the disclosed information can be established by documentary evidence to have already been in the hands of the party before receipt from the other party;

(4) the disclosed information is received from a third party without similar restrictions and without breach of this Agreement; or

(5) the disclosed information is required to be disclosed by a government agency to further the objections of the agreement, or by a proper court of competent jurisdiction; provided however that the party seeking avoidance of the application of paragraph 4.3.2 pursuant to this exception shall use its best efforts to minimize the disclosure of such information and will assist the other party in obtaining a protective order before such disclosure.

5. **INDEMNITY.** Customer hereby undertakes and agrees to indemnify and save harmless Developer, its officers, directors and employees, from any and all liability, loss, damage, suits, debts, claims, expenses, etc., whatsoever, arising directly or indirectly out of this Agreement or out of the use of said Deliverables including any patent, copyright, trade secret or trademark infringement claims.

6. **LIMITATION OF REMEDIES AND LIABILITY.** NEITHER DEVELOPER NOR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION, OR DELIVERY OF THE DELIVERABLES AND ANY AND ALL RELATED SERVICES OR EQUIPMENT (INCLUDING COMPUTERS AND MACHINES), SHALL BE LIABLE TO CUSTOMER OR ANY PARTY CLAIMING THROUGH CUSTOMER FOR ANY DAMAGES OR EXPENSES OF ANY TYPE, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS, LOST SAVINGS, LOST BUSINESS, LOSS OF ANTICIPATED BENEFITS, OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES, DIRECT OR INDIRECT, SPECIAL OR GENERAL, ARISING OUT OF THE USE OR INABILITY TO USE SUCH DELIVERABLES, WHETHER ARISING OUT OF CONTRACT, NEGLIGENCE, TORT, OR UNDER ANY WARRANTY, OR OTHERWISE, AND WHETHER CAUSED BY DEFECT, NEGLIGENCE, BREACH OF WARRANTY, DELAY IN DELIVERY, OR OTHERWISE, EVEN IF DEVELOPER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR FOR ANY OTHER CLAIM BY ANY OTHER PARTY. NO OBLIGATION OR LIABILITY SHALL ARISE OR FLOW FROM DEVELOPER'S RENDERING TECHNICAL OR OTHER ADVICE IN CONNECTION WITH THE DELIVERABLES, OR ANY OTHER DEVELOPER PROGRAMS, OR DEVELOPER SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL DEVELOPER INSTALLATION AND TRAINING SERVICES, AND ANY AND ALL ANNUAL SUPPORT AND MAINTENANCE SERVICES. DEVELOPER'S LIABILITY FOR DAMAGES IN NO EVENT SHALL EXCEED THE LICENSE FEE PAID FOR THE RIGHT TO USE THE DELIVERABLES, OR \$10,000, WHICHEVER SHALL BE THE LESSER.

7. **INDEPENDENT CONTRACTOR.** It is understood and agreed that each of the parties hereto is an independent contractor and that Customer is not, nor shall be considered to be, an agent, distributor, or representative of Developer for any purpose.

8. **GENERAL**

8.1. **ALLOCATION OF RISK.** This Agreement allocates the risk of product failure between Customer and Developer. Developer's program pricing reflects this allocation of risk in the limited warranty and the limitation of remedies and liability. Customer and Developer agree that the terms of this Agreement allocate the risks associated with the use of the Programs between Customer and Developer.

8.2 **OPERATING ENVIRONMENT.** Developer assumes no responsibility for the operating environment in which the Programs are to function.

8.3 **FORCE MAJEURE.** Developer shall not be in default by reason of any failure of

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its performance under this Agreement if such failure results, directly or indirectly, from, but not limited to, fire, explosion, strike, freight embargo, act of God, or the public enemy, war, civil disturbance, act of any government, de jure or de facto, or any agency or official thereof, labor shortage, transportation contingencies, unusually severe weather, default of manufacturer or supplier as a subcontractor, quarantine or restriction, epidemic, or catastrophe, or other similar event beyond the control of Developer

8.4 SEVERABILITY. If any provisions or portions thereof of this Agreement are invalid or unenforceable under any applicable statute or rule or law, they are to that extent to be deemed omitted.

8.5 WAIVER IN PART. Any waiver, in whole or in part, of any right or remedy provided for in this Agreement shall not constitute a waiver of any other right or remedy. A party may not waive, change, modify, or discharge this Agreement except by written agreement.

8.6 ASSIGNMENT; BINDING EFFECT. This License may not be assigned or otherwise transferred by Customer without the prior written consent of Developer. This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

8.7 ATTORNEY FEES. If either party incurs attorney fees and costs in interpreting or enforcing the terms of this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorney fees, regardless of whether a suit or action is filed, and if suit or action is filed, on any appeal therefrom.

8.8 HEADINGS. The headings used herein are for convenience only, aren't a part of this Agreement, and shall not be deemed to limit or affect any of the provisions herein.

8.9 DUPLICATE ORIGINALS. The parties agree that this Agreement may be executed in duplicate originals with the effective date of this Agreement being the date listed below.

8.10 ARBITRATION. Except to the extent that a dispute may involve the determination of rights to intellectual property, including but not limited to patents, trade secrets, trademarks, and copyrights, all disputes arising out of this Agreement shall be fully, finally and conclusively resolved by the referral to the American Arbitration Association, under the rules then applying. Judgment upon any award by an arbitrator may be entered in any court of appropriate jurisdiction.

8.11 GOVERNING LAW; VENUE. This Agreement is governed by California law without reference to the place of execution or performance. All actions, suits, or proceedings not subject to mandatory and binding arbitration under this Agreement, which seek to enforce or interpret the terms of this Agreement shall be brought and prosecuted in the courts located in the State of California. This provision shall survive the termination of this Agreement and no action, regardless of form, arising hereunder, may be instituted by either party more than one

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year after the cause of action arose, or, in the case of nonpayment, more than two years from the date of the last payment, except that the above limitations shall not apply to the enforcement of any of Developer's intellectual property rights.

8.12 TERMS AND TERMINATION

8.12.1 Effective Date. This Agreement is effective on the date last signed below.

8.12.2 Term. This Agreement is effective until terminated. . Developer may terminate this Agreement by providing Customer with 30 days' prior written notice upon Customer's failure to comply with any term or condition in this Agreement, including, but not limited to, Customer's failure to make any payment due hereunder within 10 days of the due date, Customer's insolvency or bankruptcy, cessation or termination of Customer's business, or the appointment of a receiver to operate the business of Customer.

8.12.3 Acceleration. If Customer fails to pay any sums due under this Agreement within 10 days of the due date, Developer may declare all unpaid sums immediately due and payable without demand or notice.

8.12.4 Legal Remedies Unaffected. Upon termination of this Agreement, Developer may seek any legal or equitable remedy available against Customer for any violation of the terms of this Agreement including, without limitation, injunctive relief and specific performance. Termination of this Agreement shall not relieve Customer of any payment obligations due under it and that upon termination all sums due shall become immediately due and payable.

8.12.5 Survival of Obligations. The following obligations shall survive the termination of this agreement: (i) all obligations of the parties accrued at termination to remit fees, ship, pay for, warrant, and, to the extent provided in this agreement, replace or service the Deliverables; and (ii) all confidentiality obligations of the parties, and all dispute resolution provisions.

8.11. NOTICES. Any notice required under this Agreement shall be in writing and shall be deemed given on the date personally delivered to the recipient, or, if deposited in the mail, as of the date of mailing, if sent by first class mail, registered or certified, postage prepaid, return receipt requested, to the address stated in this Agreement or such other addresses as either party may designate by written notice to such other party.

8.12. INTEGRATION. CUSTOMER REPRESENTS: CUSTOMER HAS READ THIS ENTIRE DOCUMENT, WHICH COMPRISES THE TERMS AND CONDITIONS IN THIS AGREEMENT, UNDERSTANDS EACH AND EVERY TERM AND CONDITION IN IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN DEVELOPER AND CUSTOMER AND THAT THIS AGREEMENT SUPERSEDES ALL PRIOR AND CONTEMPORANEOUS AGREEMENTS. PROPOSALS, NEGOTIATIONS, OR DISCUSSIONS, ORAL OR

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WRITTEN, RELATING TO THE SUBJECT MATTER HEREIN. NO COURSE OF CONDUCT BY A PARTY SHALL BE DEEMED A WAIVER OF ANY OTHER RIGHT OR REMEDY. A PARTY MAY NOT WAIVE, CHANGE, MODIFY, OR DISCHARGE THIS AGREEMENT EXCEPT BY WRITTEN AGREEMENT.

9. AUTHORITY. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE TERMS OF THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, ANY PROVISIONS RELATING TO WARRANTIES, PREVAIL OVER ANY LICENSES CONTAINED IN THE PROGRAM PACKAGE AND USER MANUALS DELIVERED TO CUSTOMER PURSUANT TO THIS AGREEMENT.

<p>So agreed by Customer:</p> <p>by : _____</p> <p>its : _____</p> <p>Date : _____</p>	<p>Accepted by Developer:</p> <p>by : _____</p> <p>its : _____</p> <p>Date : _____</p>
---	---

EXHIBIT "A"

PROJECT ASSIGNMENT

The following shall be deemed Custom Software for the purpose of this Agreement:

Source and binary code for the following 563xx modules:

1. Aureal "A3Dverb" reverb algorithm
2. Aureal "A3DS" virtualization algorithm

The following shall be deemed Other Deliverables for the purposes of this agreement:

Binary code only for :

3. 56362 operating system patches for required ESAI modifications; and, 56362 Boot Program File with deployment instructions.

4. Test code for Aureal manufacturing.

Developer shall make reasonable efforts to support the Customer to make the Deliverables operational on Customer's target board which will not have the 68HC11 chip.

EXHIBIT "B"

ACCEPTANCE CRITERIA

The code shall be in a mutually agreed format for download by the Aural device driver.

Aural shall accept the Deliverables if the "A3Dverb" and "A3DS" algorithms run concurrently with AC3 decode and the final deliverables pass a test plan agreed upon by Aural and Momentum.

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EXHIBIT "C"

TERMS OF PAYMENT

The fee for the deliverables shall be composed of three parts: a fixed fee component, a royalty fee, and, upon timely delivery (as stated below), an incentive fee.

Fixed Fee.

Aureal shall pay a total fixed fee of \$150,000.00. The fixed fee shall be paid in components of cash and of stock of Aureal Inc., according to the following schedule:

Amount Due	Composition of Payment	Invoice Date:
\$30,000	\$25,000 cash \$5,000 stock	June 21, 1999
\$40,000	\$25,000 cash \$15,000 stock	July 30, 1999
\$40,000	\$25,000 cash \$15,000 stock	<u>September</u> 30 <u>August 31</u> , 1999
\$40,000	\$25,000 cash \$15,000 stock	<u>October</u> 25 <u>September 30</u> , 1999

All invoices shall be net 15 days. Stock shall be in freely tradeable and unrestricted shares of Aureal, Inc., or if not, the shares shall be furnished with an agreement in form satisfactory to Momentum to register the shares in Aureal's next offering of stock to the public. Number of shares of stock due shall be the cash value of the stock due on the invoice date in question (\$5,000 or \$15,000, as the case may be), divided by the selling price of the stock on the close of trading on the day of the invoice. If the shares delivered are not publicly traded, the value to be placed on each share shall be set by agreement of the parties based on a reasonable evaluation of Aureal's net worth, earnings and other factors which generally affect the value of stock.

Royalty Payments.

In addition to the fixed fee, royalty payments shall be paid on all boards manufactured by or to the order of Aureal which incorporate all or any part of the Deliverables. Royalty payments shall be paid according to the following schedule:

\$1.00 per board for the first 75,000 boards

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\$0.50 per board for second 75,000 boards
\$0.25 per board for remaining production run

Conditions on Royalties:

1. If the royalty amount due to Momentum does not reach \$150,000 within 18 months of product release, Aureal shall pay the difference between the cumulative royalty payment and \$150,000 to Momentum.
2. Royalty payments shall be made quarterly, starting December 31, 1999. Royalty payments for each quarter shall be paid to Momentum within thirty (30) days of quarter end.
3. Nothing in this agreement to the contrary, modifications to OS software on Motorola DSP56362 will remain the complete property of Momentum. However, Momentum will grant rights to use new TDM input/output drivers subject to the above royalty agreement.
4. Nothing in this agreement to the contrary, Momentum shall have an irrevocable license from Aureal to reuse A3DS code in Momentum's own products without royalty charge.
5. Aureal shall make available for inspection at any reasonable time all records relating to sales of boards to the extent reasonably necessary for Momentum to verify that the royalties paid are correct.

Incentive Bonus.

In addition to the fixed fee and the royalties, Aureal shall pay Momentum an incentive bonus of \$50,000 if Items One and Three of the Deliverables are furnished to Aureal no later than September 24, 1999 and the Deliverables conform to Acceptance Criteria. If the Deliverables are delivered after September 24, 1999, but are delivered on or before October 1, 1999, then Aureal shall pay Momentum the sum of \$25,000 if the Deliverables conform to Acceptance Criteria. Payment is due when a) Tests for Acceptance Criteria Conformance of the Deliverables are complete, no later than three business days after date of delivery, and b) Deliverables conform to Acceptance Criteria on the date of delivery, net 15 days. Payment shall be made in stock according to the rules established above for payment of stock as a component of the fixed fee.

COPY

June 17, 1999

Mr Sanjay Iyer Ph.D.
Vice President
Aureal Semiconductor
4245 Technology Drive
Fremont, CA 94538

Dear Sanjay,

SUBJECT: MEMORANDUM OF UNDERSTANDING FOR STRATOCASTER PROJECT

Based on our discussions, I believe the following summarizes our agreements.

Payment Terms:

\$30,000	\$25,000 cash \$5,000 stock	Invoice Date June 21
\$40,000	\$25,000 cash \$15,000 stock	Invoice Date July 30
\$40,000	\$25,000 cash \$15,000 stock	Invoice Date August 31
\$40,000	\$25,000 cash \$15,000 stock	Invoice Date September 30

All invoices - net 15 days. Amount of stock per invoice is the cash value of that invoice divided by the selling price of the stock on the day of the invoice.

Royalty Payments:

\$1./board - first 75,000 boards \$75,000

\$0.50/board - second 75,000 boards \$37,500

\$0.25/board - remaining production run

Conditions:

1. If the royalty amount does not reach \$150,000 within 18 months of product release, Aureal Semiconductor will pay the delta between the cumulative royalty payment and \$150,000 to Momentum Data Systems
2. Royalty payments shall be made quarterly, starting December 31, 1999. Royalty payments for each quarter will be paid to Momentum Data Systems within 30 days of quarter end.
3. Modifications to OS software on Motorola DSP56362 will remain the Intellectual Property of Momentum Data Systems. However, Momentum Data Systems will grant rights to use new TDM input/output drivers.

MOMENTUM DATA SYSTEMS
17334 BROOKHURST ST, SUITE 140
FOUNTAIN VALLEY, CA 92708

June 22, 1999

subject to above royalty payments

- 4. Momentum Data Systems has the right to reuse A3D code on it's products without royalty charge

Incentive Bonus

An incentive bonus of \$50,000 will be paid to Momentum Data Systems if the mutually agreed deliverables are delivered to Aureal Semiconductor by September 1. If the September 1 date is not met but an October 1 date is met, an incentive bonus of \$25,000 will be paid to Momentum Data Systems. The bonus will be paid as stock subject to the same conditions as the invoices listed under payment terms.

Deliverables

TBD Please see appendix 1

Acceptance Criteria

TBD Please see appendix 1

Remaining Issues

Momentum Data Systems is intending to develop its own reverb algorithm and needs to establish guidelines so that implementing your reverb algorithm on the Motorola board does not preclude us from developing our own reverb algorithm.

I am sure there are other issues that need to be covered, but this is my first attempt at putting them on paper. Please feel free to contact me if you have any questions or comments.

Sincerely,

Jerry E. Parcell
 Jerry E. Parcell Ph.D.
 President

Sanjay
 6/23/99

lh

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EXHIBIT EE - PAGE 32

Appendix 1

Deliverables:

MDS will deliver source and binary code for the following 563xx modules:

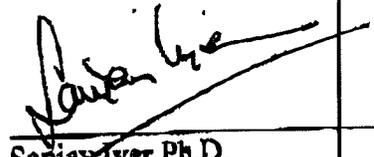
- 1. Aureal "A3Dverb" reverb algorithm
- 2. Aureal "A3DS" virtualization algorithm
- 3. 56362 operating system patches for required ESAI and SPI modifications
- 4. Diagnostic code for Aureal manufacturing test software

The code should be packaged in a mutually agreed format for download by the Aureal device driver.

Acceptance criteria:

Aureal requires that the "A3Dverb" and "A3DS" algorithms run concurrently with AC3 decode. Additionally, the final deliverables must pass a test plan provided by Aureal SQA.


 Jerry E. Purcell Ph.D.
 President
 Momentum Data Systems


 Sanjay Tyer Ph.D.
 Vice President, General Manager
 Technology Division
 Aureal Inc.

CA BAR #05-20211
EXHIBIT EE - PAGE 33

June 17, 1999

Mr Sanjay Iyer Ph.D.
Vice President
Aureal Semiconductor
4245 Technology Drive
Fremont, CA 94538

Dear Sanjay,

SUBJECT: MEMORANDUM OF UNDERSTANDING FOR STRATOCASTER PROJECT

Based on our discussions, I believe the following summarizes our agreements.

Payment Terms:

\$30,000	Invoice Date	June 21
\$40,000	Invoice Date	July 30
\$40,000	Invoice Date	August 31
\$40,000	Invoice Date	September 30

June 21* payment - due on receipt of invoice

All remaining invoices - net 15 days

Royalty Payments:

- \$1/board - first 75,000 boards \$75,000
- \$0.50/board - second 75,000 boards \$37,500
- \$0.25/board - remaining production run

Conditions:

1. If the royalty amount does not reach \$150,000 within 12 months of product release, Aureal will pay the delta between the cumulative royalty payment and \$150,000 to Momentum Data Systems
2. Royalty payments shall be made quarterly, starting December 31, 1999. Royalty payments for each quarter will be paid to Momentum Data Systems within 30 days of quarter end.
3. Modifications to OS software on Motorola DSP5632001 will remain the IP of MDS. However, MDS will grant rights to use new TDM input/output drivers.

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EXHIBIT EE - PAGE 34

- 2 -

June 18, 1999

Remaining Issues

Momentum Data Systems is intending to develop its own reverb algorithm and needs to establish guidelines so that implementing your reverb algorithm on the Motorola board does not preclude us from developing our own reverb algorithm.

I am sure there are other issues that need to be covered, but this is my first attempt at putting them on paper. Please feel free to contact me if you have any questions or comments.

Sincerely,

Jerry E. Purcell Ph.D.
President

lh

CA BAR #05-20211
EXHIBIT EE - PAGE 35

June 17, 1999

Mr Sanjay Iyer Ph.D.
Vice President
Aureal Semiconductor
4245 Technology Drive
Fremont, CA 94538

Dear Sanjay,

SUBJECT: MEMORANDUM OF UNDERSTANDING FOR STRATOCASTER PROJECT

Based on our discussions, I believe the following summarizes our agreements.

Payment Terms:

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June 21st payment - due on receipt of invoice

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3. Modifications to OS software on Motorola DSP5632001 will remain the IP of MDS. However, MDS will grant rights to use new TDM input/output drivers.

- 2 -

June 18, 1999

Remaining Issues

Momentum Data Systems is intending to develop its own reverb algorithm and needs to establish guidelines so that implementing your reverb algorithm on the Motorola board does not preclude us from developing our own reverb algorithm.

I am sure there are other issues that need to be covered, but this is my first attempt at putting them on paper. Please feel free to contact me if you have any questions or comments.

Sincerely,

Jerry E. Purcell Ph.D.
President

lh

CA BAR #05-20211
EXHIBIT EE - PAGE 37

HENNIGAN, BENNETT & DORMAN

601 South Figueroa Street, Suite 3300
Los Angeles, California 90017
Tel: (213) 694-1200 Fax: (213) 694-1234

RECEIVED

DEC 12 2001

LAW OFFICES OF
WILLIAM W. FARRER

FACSIMILE COVER SHEET

Date: December 11, 2001 **File Name:** Aural
From: Karen Kupetz **Direct Line:** (213) 694-1063

To:	Company	Fax number
William Webb Farrer	Law Offices of William Webb Farrer	(415) 765-9109

Number of pages, including cover:

38

For Your Information Reply ASAP For Your Review

Supplemental Message:

ORIGINAL WILL:

BE SENT BY MAIL BE SENT BY FEDEX/OVERNIGHT COURIER
 BE SENT BY MESSENGER NOT BE SENT

The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

If there are any questions or problems with the transmission of this facsimile, please call (213)-694-1200.

CA BAR #05-20211
EXHIBIT EE - PAGE 38

MARKETING MEETING MINUTES
FEBRUARY 15TH, 2000

- a) Next steps are open source, then A3D.
 - 2. Mike Minnick rolling in WDM and open source core, though little was done in the week Mike had to work on it due to other constraints.
 - 3. Open source likely to be delayed until GDC timeframe
 - 4. RESOURCES ARE STILL A BIG ISSUE!!!
 - 5. Prepare a Press Release for GDC timeframe – only if OpenSource is released. (Suneil/Eldy)
 - 6. Could be delayed till April for beta Linux driver with A3D supt.
 - 7. Will not be included in retail products unless OpenSource is available; only available for download from web site.
- D. QUAKE III / A3D Press Release
- 1. Eldy to write press release and clear with Activision
 - 2. David to get developer quote
- E. Mac OS support
- 1. Newer Tech engineer willing to contract to do all work. Engineer to have further meeting with Jibrán. (No status)
- F. A3D Integration with Third Parties (Chet)
- 1. AMD:
 - a) Presentation was made to AMD on 2/9. Info package is being shopped around to different groups. They are particularly interested in NMI gate integration, with some interest in ADIF. Their 2000 product line is already set. Integration would not come until 2001 products.
 - b) AMD is urging us to join the Audio Communications Riser (ACR) SIG, to come up with an industry spec for a new riser standard.
 - c) We can't enter into any agreements at this time due to ongoing negotiations.
 - 2. Chet to create 1) Proposal Template and 2) NDA (if not in place)
 - a) Presentation, ADIF 2.0 spec and NMI paper complete
 - b) Chet to send package to Brendan
- G. SW Priority meeting (Chet)
- 1. Priority list was distributed at marketing meeting and discussed so as to go into the Tuesday morning meeting with a coherent marketing strategy.
- H. New Product MRD—No major progress
- 1. Product Idea needs MRD: FM transmitter on Sound Card with SW that helps you set up correct frequency on your FM Stereo. Roger to revise
 - 2. Demonstratable prototypes in house this week.
 - 3. PLL crystal for better transmission stability. Expected to be a \$2 cost adder.
 - 4. Discussion on how to get Antenna out of the chassis. Currently the idea is to have an antenna wire out a hole on the backplate.
 - 5. Need to work the control of the transmitter into Vortex control panel. To investigate tying the transmission frequency to a slider switch. Need to get working sample ASAP.
 - 6. Volumes expected to be 20K pcs per month, replace SQ2500 as mainstream product.
 - 7. "Daughtercard" solution is out; single card solution is now from the get-go.
 - 8. Need brainstorming on naming the product. Try to get it out of the Soundcard category. David suggests "Voyager". =)
 - 9. Campaign and Positioning (\$99 retail) needs to be worked out.
- I. MISC
- 1. Other Product / Solution Ideas

**MARKETING MEETING MINUTES
FEBRUARY 15TH, 2000**

2. Voice over IP. We need to evaluate :
 - a) www.Net2phone.com
 - b) www.visitalk.com – Roger needs to get proposal.
 - c) www.Dialpad.com - Alan Yee working on this.
 - d) www.freephone.com
 - e) www.rogerwilco.com - Suneil working on integration with A3D, possibly for GDC timeframe?
 - f) www.phonefree.com
3. Need to plan how VoIP fits into product line – Roger needs to decide how it fits into business plans
4. MWM Digital Microphones – Samples arriving soon; Roger will follow up.

J. SILO.COM

1. Rick Allen has handed off Silo marketing to the Marcom group
2. Eldy and Cameron are performing background research
3. Silo 2.0 software has been handed off to Aureal engineering
4. No original Silo team members remain

K. Speaker Program

1. Hardware problems that can be solved are almost finished
2. No software resources.
3. Attempting to get a waiver from the PC2001 USB audio spec.

L. Au 8838

1. A.k.a. Marmot, Suneil & Roger to take at the latest engineering spec being circulated.
(Pending receipt of latest specs from Engineering)
2. 3.3V compatibility doesn't meet spec and will fail PC2001 spec.
3. Use pins to help reduce EMI interface (power and ground?)

M. Tradeshow

1. GDC – Work in progress with \$0 budget.
2. Roger to get monitors from ArtMedia for show.
3. Need 2 x 4.1, and 3 x 2.1 sets of speakers for show.

N. Nintendo

1. Alan Yee is setting up a meeting with their R&D group at GDC.
2. This would be a software license opportunity only, for their Dolphin and GameBoy follow-on platforms.

MARKETING MEETING MINUTES
FEBRUARY 15, 2000

Expected Participants:

Brendan O'Flaherty []	Rick Allen []
Chet Dayal []	Suneil Mishra []
Eldy Nodal []	Roger Goh []
Marc Stimak []	David Gasior []
Alan Yee []	Patti Norris []

I. ADMINISTRATIVE

A. David to host next meeting on Monday, February 22nd.

II. OVERVIEW OF PROJECTS, NEW AND ONGOING

A. SQ 3500 Status—No significant progress. Will hold shipment until Messiah is available.

1. Schedule for SQ3500 Launch – March 2000 (80%).
 - a) Pro-logic implemented, but has bug.
 - b) Dolby certification submission: : waiting for software bug fix, Alan Yee has PC ready.
 - c) Expected Dolby Certification: : ~1 wk after submission
 - d) Samples to key OEM accounts customers (4 pcs) : Available, but not distributed
 - e) Samples to Reviewers (20 pcs) : TBD
 - f) GDC Show units (5 pcs) : 3/3/00
 - g) Quick Turn CD duplications: : d) + 5 days
2. Game Bundle (Bat. Zone II, Messiah)
 - a) Messiah Retail date is "March", OEM version = Retail date + 15 days
 - b) Rage folks have sent some titles {Wild Metal Country, Rally Championship 99, Off Road Racer} that supposedly have AC-3 tracks for possible bundling, but do not have A3D support currently.
3. App Bundle *Soldier of Fortune e*
 - a) Magic Music Maker (OK)
 - b) Cyberlink Power DVD (OK)
 - c) Future Beat – in SQA
 - d) Silo Player 2.0 (GM 2/11)
 - e) Flatland Rover (OK) – NEW BUILD EXPECTED, TO BE ROLLED IN.
 - f) Investigate getting MP3 ripper – Roger
 - (1) Magic MM with encoder from Qdesign = \$0
 - (2) Allows 25 rips for 30 days
 - (3) \$10 to upgrade to full version
4. Packaging
 - a) Final Mockup in for review, final changes this week.
 - b) No manual or manual resource
 - c) Game sticker cannot be created until bundle is certain.

B. A3D 3.0 SDK Release (Suneil)

1. Released to developers en masse, 2/11
2. Working with selected developers on game projects
3. Need 2048 for reverb
4. 25 Samples required for GDC 
5. Final DLL completed.
6. CDs to dup 2/15, expected back by 3/1
7. Datasheets received 2/15
8. Does not include S/W Dolby Decoder (will use one user already has)

**MARKETING MEETING MINUTES
FEBRUARY 15TH, 2000**

C. Linux Drivers for Vortex Cards

1. Have publicly released a 1.0⁵ driver for 8810, 8820, and 8830.
 - a) Next steps are open source, then A3D.
2. Mike Minnick rolling in WDM and open source core.
3. Open source likely to be delayed until GDC timeframe
4. RESOURCES ARE STILL A BIG ISSUE!!!
5. Prepare a Press Release for GDC timeframe (Suneil/Eldy)
6. Could be delayed till April for beta Linux driver with A3D supt.
7. Will not be included in retail products, only available for download from web site.
8. ~~AT&T 6 GHz Linux drivers and WDM drivers -- quote from Intelligraphics -- 12 wks -- 3/8K~~

D. QUAKE III Supports A3D Press Release

1. Activision is Ok with the wording, need to time it for GDC (Suneil / Eldy)

E. Mac OS support

1. Newer Tech engineer willing to contract to do all work. Engineer to have further meeting with Jibran. GO/NO-GO?

F. A3D Integration with Third Parties (Chet)

1. AMD:
 - a) Presentation was made to AMD on 2/9. Info package is being shopped around to different groups. They are particularly interested in NMI gate integration, with some interest in ADIF. Their 2000 product line is already set. Integration would not come until 2001 products.
 - b) AMD is urging us to join the Audio Communications Riser (ACR) SIG, to come up with an industry spec for a new riser standard.
 - c) We can't enter into any agreements at this time due to ongoing negotiations.
2. ~~CBS~~
 - a) ~~No opportunity~~
3. Chet to create 1) Proposal Template and 2) NDA (if not in place)
 - a) Presentation, ADIF 2.0 spec and NMI paper complete

G. SW Priority meeting (Chet)

1. Priority list was distributed at marketing meeting and discussed so as to go into the Tuesday morning meeting with a coherent marketing strategy. *AT drivers for Cameron*

H. New Product MRD—No major progress

1. Product Idea needs MRD: FM transmitter on Sound Card with SW that helps you set up correct frequency on your FM Stereo. ~~DONE (?)~~
2. Demonstratable prototypes in house this week.
3. PLL crystal for better transmission stability. Expected to be a \$2 cost adder.
4. Discussion on how to get Antenna out of the chassis. a) Hole on back bracket rolled into baseboard design; b) for upgrades (if offered), ship with a drilled backplate (\$0.09 each)
5. Need to work the control of the transmitter into Vortex control panel. To investigate tying the transmission frequency to a slider switch. Need to get working sample ASAP.
6. Volumes expected to be 20K pcs per month, replace SQ2500 as mainstream product.
7. ~~"Daughtercard" solution may be worked into a single card solution for cost savings~~
8. Need brainstorming on naming the product. Try to get it out of the Soundcard category.
9. Campaign and Positioning (\$99 retail) needs to be worked out.

MARKETING MEETING MINUTES
FEBRUARY 15TH, 2000

I. MISC

1. Other Product / Solution Ideas
2. Voice over IP. We need to evaluate :
 - a) ~~www.Visitalk.com~~
 - b) www.visitalk.com - Expected meeting at end of this week. → web
 - c) www.Dialpad.com
 - d) www.Taotalk.com
 - e) ~~www.Visitalk.com~~
 - f) www.rogerwilco.com - Partnership with them at GDC
 - g) www.phonefree.com
3. Need to plan how VoIP fits into product line - ~~ROGER WILCO SIDE~~
4. ~~MaxPhone has approached Roger with a headset / micro bundling deal.~~
5. MWM Digital Microphones - Roger to call
a. See Solution - Dragon

J. SILO.COM

1. Rick Allen has handed off Silo marketing to the Marcom group
2. Eldy and Cameron are performing background research
3. Silo 2.0 software has been handed off to Aureal engineering—Engineering should do a build this week before final Silo resource is gone.

K. Speaker Program

1. Hardware problems that can be solved are almost finished
2. No software resources.
3. Attempting to get a waiver from the PC2001 USB audio spec.

L. Au 8838 8860

1. A.k.a. Marmot, Suneil & Roger to take at the latest engineering spec being circulated. (Pending receipt of latest specs from Engineering)
2. 3.3V compatibility doesn't meet spec.—need to make an executive decision on whether or not this is acceptable

M. Tradeshows

1. GDC - Work in progress with \$0 budget
2. Need 2 x 4.1, and 3 x 2.1 sets of speakers for show.

N. Nintendo

1. Alan Yee is setting up a meeting with their R&D group at GDC.
2. This would be a software license opportunity only, for their Dolphin and GameBoy-follow-on platforms.

→ PC2001

8860

↳ EXTRA PINS ↳

power & grounds
to.

**MARKETING MEETING MINUTES
FEBRUARY 15, 2000**

Expected Participants:

<i>Brendan O'Flaherty []</i>	<i>Rick Allen []</i>
<i>Chet Dayal []</i>	<i>Suneil Mishra []</i>
<i>Eldy Nodal []</i>	<i>Roger Goh []</i>
<i>Marc Stimak []</i>	<i>David Gasior []</i>
<i>Alan Yee []</i>	<i>Patti Norris []</i>

I. ADMINISTRATIVE

A. _____ to host next meeting on Monday, February 22nd.

II. OVERVIEW OF PROJECTS, NEW AND ONGOING

A. SQ 3500 Status (Roger)

1. Schedule for SQ3500 Launch – March 2000 (80%).
 - a) ESD/EMI fixed for baseboard, Gerber released.
 - b) Pro-logic implemented, but has bug. MDS Fixes have been incorporated.
 - c) Dolby certification submission: : 2/4/00 (?)
 - d) Expected Dolby Certification: : TBD
 - e) Samples to key OEM accounts customers (4 pcs) : 2/7/00
 - f) Samples to Reviewers (20 pcs) : TBD
 - g) GDC Show units (5 pcs) : 3/3/00
 - h) Quick Turn CD duplications: : d) + 5 days
2. Upgrade Program for SQ2500—on hold
3. Game Bundle (Bat. Zone II, Messiah)
 - a) Messiah Retail date is “March”, OEM version = Retail date + 15 days
 - b) Rage folks have sent some titles {Wild Metal Country, Rally Championship 99, Off Road Racer} that supposedly have AC-3 tracks for possible bundling.
4. App Bundle
 - a) Magic Music Maker (OK)
 - b) Cyberlink Power DVD (OK)
 - c) Future Beat – in SQA
 - d) Silo Player 2.0 (GM 2/11)
 - e) Flatland Rover (OK) – NEW BUILD EXPECTED, TO BE ROLLED IN.
 - f) Investigate getting MP3 ripper – Roger
 - (1) Magic MM with encoder from Qdesign = \$0
 - (2) Allows 25 rips for 30 days
 - (3) \$10 to upgrade to full version
5. Packaging
 - a) Mockup in 1/19 for review, changes submitted
 - b) Put “MP3” on the box, Roger to provide text
 - c) Should have final mockup by 2/7

**MARKETING MEETING MINUTES
FEBRUARY 15TH, 2000**

B. A3D 3.0 SDK Release (Suneil)

1. ~~Not yet~~ released to developers en masse
2. Working with selected developers on game projects
3. Dependencies with Stratocaster schedule
4. Will launch when SQ3500 is launched -
5. HOW MANY Samples required? 0 now but 25 for GDC
6. Docs in process, almost complete.
7. Final DLL ready 2/11/00.
8. CDs not available until GDC timeframe (3/7)
9. Datasheets supposed to be delivered 2/14
10. Does not include S/W Dolby Decoder (will use one user already has)

2000

check

C. Linux Drivers for Vortex Cards

1. Have publicly released a 1.04 driver for 8810, 8820, and 8830.
 - a) Next steps are open source, then A3D.
2. Open source likely to be delayed until February - if will not be ready for LinuxWorld
3. RESOURCES ARE STILL A BIG ISSUE!!!
4. Prepare a Press Release when Linux open source release is imminent (Suneil/Eldy) - GDC
5. Could be delayed till April for beta Linux driver with A3D supt.
6. Questions re: inclusion in OEM/ Retail package??? NO RETAIL CHANGE-PUT ON WEB SITE.
7. AT&T 6-CH Linux drivers and WDM drivers -- quote from Intellgraphics = 12 wks= \$48K
8. Linux developer as will connect with Jibrán /Suneil for follow up.

D. QUAKE III Supports A3D Press Release

1. Current status: Left msg. with Andrea T. at Activision to pursue release/approvals.
2. Activision is Ok with the wording, need to time it for GDC (Suneil / Eldy)

ASK Suneil

E. Mac OS support

1. Newer Tech engineer willing to contract to do all work. Engineer to have further meeting with Jibrán. GO/NO-GO?

ASK Jibrán

F. A3D Integration with Third Parties (Chet)

1. Nvidia :
 - a) Nvidia needs to rethink the model completely.
 - b) Look into Nvidia's involvement with the MS X BOX program
2. AMD:
 - a) AMD is urging us to join the Audio Communications Riser (ACR) SIG, to come up with an industry spec for a new riser standard.
 - b) We can't enter into any agreements at this time due to ongoing negotiations.
 - c) Marc has set a meeting on Wednesday, 2/9/00 with the AMD core logic people to discuss further. Has invited Chet to attend the meeting in Austin.
 - d) ~~not~~ **not gates and embedded group.**
3. SiS
 - a) Chet to come with business proposal for evaluation. ~~SiS has no monetary value add to the equation, it is a matter of how much they are willing to pay for Soft A3D.~~

**MARKETING MEETING MINUTES
FEBRUARY 15TH, 2000**

4. Chet to create 1) Proposal Template and 2) NDA (if not in place)
- a) Speaking with Marc, as soon as we put together any proposal, it will generate a lot of questions, and the only people qualified to answer them are Brian Sassone, or maybe Chris Brown, and both of them are swamped with other tasks.
 - b) Chet will gather whatever material he can for now but we have to realize the shortage of VLSI resources to even do an effective transfer of information.

G. SW Priority meeting (Chet)

1. Priority list was distributed at marketing meeting and discussed so as to go into the Tuesday morning meeting with a coherent marketing strategy.

H. New Product MRD

1. Product Idea needs MRD: FM transmitter on Sound Card with SW that helps you set up correct frequency on your FM Stereo. *DONE(?) End of week.*
2. **Prototypes in house this week.**
3. PLL crystal for better transmission stability. Expected to be a \$2 cost adder.
4. Discussion on how to get Antenna out of the chassis. a) Hole on back bracket rolled into baseboard design; b) for upgrades (if offered), ship with a drilled backplate (\$0.09 cost).
5. Need to work the control of the transmitter into Vortex control panel. To investigate tying the transmission frequency to a slider switch. Need to get working sample ASAP.
6. Volumes expected to be 20K pcs per month, replace SQ2500 as mainstream product.
7. "Daughtercard" solution may be worked into a single card solution for cost savings.
8. Need brainstorming on naming the product. Try to get it out of the Soundcard category.
9. Campaign and Positioning (\$99 retail) needs to be worked out.

I. MISC

1. Other Product / Solution Ideas
2. Voice over IP. We need to evaluate :
 - a) www.Net2phone.com
 - b) www.visitalk.com - Expected meeting at end of this week.
 - c) www.Dialpad.com
 - d) www.Taotalk.com
 - e) www.freephone.com [STATUS?]
 - f) www.rogerwilco.com
 - g) www.phonefree.com
3. Need to plan how VoIP fits into product line - ROGER TO UPDATE BUSINESS SIDE
4. MaxPhone has approached Roger with a headset / mike bundling deal.
5. MWM Digital Microphones - Samples coming *- Roger to update*

J. Next Generation Motherboard Targeted Products—on hold, minimum 5 month effort with no available resources

K. SILO.COM

1. Rick Allen has handed off Silo marketing to the Marcom group.
2. Eldy and Cameron are performing background research
3. Silo 2.0 software has been handed off to Aureal engineering.

L. Speaker Program

1. Hardware problems that can be solved are almost finished
2. No software resources.

*Liquid
audio
support
to SKI's,*

MARKETING MEETING MINUTES
FEBRUARY 15TH, 2000

M. Au 8838

1. A.k.a. Marmot, Suneil & Roger to take at the latest engineering spec being circulated.
(Pending receipt of latest specs from Engineering)
2. 3.3V compatibility doesn't meet spec.

N. Tradeshows

1. GDC ~~work in progress for small showing~~ March 14/11, 12
2. 7 sets of Impact speakers located (some may not be fully functioning)

O. Nintendo

1. Alan Yee waiting for info from Nintendo.

a. RFD group. GDC.

↳ Board not detected

↳ chip land

8/10

CA BAR #05-20211
EXHIBIT EE - PAGE 48

Stock code	Description	Br	Wh	Order Line number no.	Order date	Ship date	Stocking qty	units B/o	U/M	To ship value	To B/O value	Day	Status
<p>FGV 536 B/A 6601</p>													
HA88DC30A-01B	ASSY, BD, SQ2500, REV B, (B01)	01	FG	002932	03/07	04/01	0	10000	EA	0.00	87,000.00	1	Cr/Sp
		01	BA	002923	03/07	04/14	0	10000	EA	0.00	87,000.00	1	Cr/Sp
		01	BA	002924	03/07	03/09	0	10000	EA	0.00	87,000.00	1	Cr/Sp
HA88DC30A-01B	ASSY, BD, SQ2500, REV B, (B01)	01	FG	002932	03/07	03/08	0	2500	EA	0.00	84,000.00	1	Cr/Sp
		01	FG	002932	03/07	03/16	0	2500	EA	0.00	84,000.00	1	Cr/Sp
		01	FG	002933	03/07	03/30	0	2500	EA	0.00	84,000.00	1	Cr/Sp
		01	FG	002933	03/07	04/13	0	2500	EA	0.00	84,000.00	1	Cr/Sp
		01	FG	002934	03/07	04/27	0	2500	EA	0.00	84,000.00	1	Cr/Sp
		01	FG	002934	03/07	05/30	0	2500	EA	0.00	84,000.00	1	Cr/Sp
HA88DC30A-01B	ASSY, BD, VORTEX2, (INCA)	01	FG	002930	03/07	03/08	0	2000	EA	0.00	40,000.00	1	Cr/Sp
HA88RVL10A-02	ASSY, BD, ADVANTAGE (5V)	01	FG	002931	03/07	03/16	0	2500	EA	0.00	30,000.00	1	Cr/Sp
		01	FG	002931	03/07	03/08	0	2500	EA	0.00	30,000.00	1	Cr/Sp
		01	FG	002937	03/07	03/29	0	2000	EA	0.00	24,000.00	1	Cr/Sp
		01	FG	002937	03/07	04/06	0	2000	EA	0.00	24,000.00	1	Cr/Sp
		01	FG	002937	03/07	04/13	0	2000	EA	0.00	24,000.00	1	Cr/Sp
		01	FG	002937	03/07	04/20	0	2000	EA	0.00	24,000.00	1	Cr/Sp
		01	FG	002938	03/07	04/27	0	2000	EA	0.00	24,000.00	1	Cr/Sp
		01	FG	002938	03/07	05/04	0	2000	EA	0.00	24,000.00	1	Cr/Sp
		01	FG	002938	03/07	05/11	0	2000	EA	0.00	24,000.00	1	Cr/Sp
		01	FG	002938	03/07	05/18	0	2000	EA	0.00	24,000.00	1	Cr/Sp
		01	FG	002939	03/07	06/01	0	2500	EA	0.00	30,000.00	1	Cr/Sp
		01	FG	002939	03/07	06/15	0	2500	EA	0.00	30,000.00	1	Cr/Sp
FGV1000C-01	FG, V1 (RETAIL), W/CD/MAN/CBL	01	FG	002928	03/07	03/08	0	10000	EA	0.00	120,000.00	1	Cr/Sp
<p>Total for customer : IOMA001 0 103000 0.00 1,411,000.00</p>													
<p>Customer : MICR008 - MICRON ELECTRONICS</p>													
HA88DC30A-01	ASSY, BD, SQ2500 REV. C	01	FG	002926	03/07	03/07	0	10	EA	0.00	265.00	1	Book
HA88DC30A-01	ASSY, BD, SQ2500 REV. D	01	FG	002926	03/07	03/07	0	10	EA	0.00	265.00	1	Book
HA88DC30A-01A	ASSY, BD, SQ2500, REV A (MICRON)	01	SK	002676	01/18	02/29	0	292	EA	0.00	7,738.00	50	Hd/Bo
		01	SK	002848	02/22	03/31	0	2640	EA	0.00	69,960.00	15	Hd/Bo
SW8830ME12036	CD, SQ2500, MICRON, V2036	01	SK	002676	01/18	02/29	0	1380	EA	0.00	1,035.00	50	Hd/Bo
		01	SK	002848	02/22	03/31	0	1500	EA	0.00	1,125.00	15	Hd/Bo
SW8830ME12041-2	CD, SQ2500, MICRON, V2041-02	01	SK	002676	01/18	02/29	0	241	EA	0.00	180.75	50	Hd/Bo
		01	SK	002848	02/22	03/31	0	2460	EA	0.00	1,845.00	15	Hd/Bo
<p>Total for customer : MICR008 0 8533 0.00 82,413.75</p>													

Order Backlog by customer report

Order Line	Order Ship date	Stocking qty	units	B/o qty	U/M	To ship value	To B/O value	Day Status		
Customer : PACK003 - PACKARD BELL NEC EUROPE BV										
FG88DL30A-01A	FG, SQ2500(SI/COAX), W/CD/MAN									
01 FG 002853		3	02/23	03/08	0	120	EA	0.00		
01 FG 002853		4	02/23	03/15	0	120	EA	0.00		
01 FG 002853		5	02/23	03/22	0	120	EA	0.00		
01 CA 002820		3	02/16	02/22	240	0	EA	2,640.00		
01 CA 002820		6	02/16	03/06	240	0	EA	2,640.00		
01 CA 002820		7	02/16	03/10	0	240	EA	0.00		
01 CA 002844		4	02/22	03/17	0	240	EA	0.00		
01 CA 002844		5	02/22	03/24	0	240	EA	0.00		
Total for customer : PACK003						480		1080	5,280.00	19,980.00
Customer : PROF001 - PROFESSIONAL COMPUTER HK LTD										
FG88A10AD-01	FG, SOUND COM, W/CD/MAN									
1A BA 002892		3	03/02	03/15	0	500	EA	0.00		
1A BA 002892		1	03/02	03/15	0	3000	EA	0.00		
1A BA 002892		2	03/02	03/28	0	7000	EA	0.00		
1A FG 002892		4	03/02	03/15	0	500	EA	0.00		
Total for customer : PROF001						0		11000	0.00	152,500.00
Customer : SCIS001 - SCI SYSTEMS										
BAR8AS10A-02	ASSY, BD, ADVANTAGE (AMP/AUX)									
01 FG 002684		9	01/19	05/03	0	2520	EA	0.00		
Total for customer : SCIS001						0		2520	0.00	22,680.00
Customer : TATU001 - TATUNG										
BAR8AS10A-01	ASSY, BD, ADVANTAGE (AMP)									
01 FG 002694		6	01/21	03/20	0	1500	EA	0.00		
Total for customer : TATU001						0		1500	0.00	13,500.00
Customer : TECH007 - TECH WORKS UK LIMITED										
FG88DL30A-01	VORTEX2 SQ DIG PCI W/MNL, CD									
01 BA 002112		2	11/30	03/31	0	1400	EA	0.00		
Total for customer : TECH007						0		1400	0.00	49,000.00

Stock code	Description	Br Wh number no.	Order Line	Order date	Ship date	Stocking qty	units	B/O qty	U/M	To ship value	To B/O value	Day	Status
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Customer : VIDEO01 - VIDEOLOGIC

FG88DL30A-01	VORTEX2 SQ DIG PCI W/MNL, CD	01 FG 002598	3	12/28	03/31	0	3000	EA	EA	0.00	99,000.00	71	Cr/Sp
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Total for customer : VIDEO01

Customer : VOYE001 - VOYETRA TURTLE BEACH, INC

AU8830A2-40	VORTEX AU8830 VERSION A2	01 BA 002333	6	11/02	04/01	0	70000	EA	EA	0.00	490,000.00	127	Cr/Sp
		01 BA 002898	1	03/02	05/18	0	50000	EA	EA	0.00	275,000.00	6	Cr/Sp
		01 BA 002898	2	03/02	06/29	0	60000	EA	EA	0.00	330,000.00	6	Cr/Sp

Total for customer : VOYE001

Customer : WPI001 - WORLD PEACE INDUSTRIAL CO.LTD

AU8810A2T-40	VORTEX AU8810 VERSION A2 TOPP	3A BA 002164	7	10/11	04/03	0	24500	EA	EA	0.00	98,000.00	149	Hd/Bo
		3A BA 002164	8	10/11	04/10	0	25000	EA	EA	0.00	100,000.00	149	Hd/Bo
		3A BA 002917	1	03/07	03/20	0	19000	EA	EA	0.00	76,000.00	1	Book
		3A BA 002917	2	03/07	04/03	0	18000	EA	EA	0.00	72,000.00	1	Book
		3A BA 002917	3	03/07	04/06	0	10000	EA	EA	0.00	40,000.00	1	Book
		3A BA 002917	4	03/07	04/10	0	17000	EA	EA	0.00	68,000.00	1	Book
		3A BA 002917	5	03/07	04/25	0	18000	EA	EA	0.00	72,000.00	1	Book
		3A BA 002917	6	03/07	05/02	0	5000	EA	EA	0.00	20,000.00	1	Book
AU8830B0-40	VORTEX AU8830 VERSION B0	3A BA 002765	2	02/03	03/20	0	5000	EA	EA	0.00	29,000.00	34	Hd/Bo
		3A BA 002765	3	02/03	04/10	0	5000	EA	EA	0.00	29,000.00	34	Hd/Bo

Total for customer : WPI001

Customer : ZOOM001 - ZOOM-TEK

RA88AS10A-02	ASSY,BD,ADVANTAGE (AMP/AUX)	01 FG 002886	2	03/01	03/01	0	2	EA	EA	0.00	0.00	7	Hd/Bo
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Total for customer : ZOOM001

Customer: RAB001 - RAAB KARCHER ELECTRONIC SYSTEM

Invoice	Date	Stock code	Description	Mh	Br	Sls	Geo	P/cl	Ot	Quantity	Sale Amt
000810	07/02/98	BA88200RTB1B2	OBSOLETE	FG	01	RS	EU	DEMO	U	1	0.00
002802	12/09/99	FG88DL30A-01	FG, SUPERQUAD, W/CD/MAN	CA	01	N	EU	B003	U	4980	164,340.00
002802	12/09/99			FG	01	N	EU	B003	U	30	0.00
002976	01/12/00	FG88VLI0A-02	FG, ADVANTAGE(5V), W/CD	CI	01	CS	EU	B003	U	1260	41,580.00
002802	12/09/99			CA	01	N	EU	B001	U	3000	30,600.00
002802	12/09/99			FG	01	N	EU	B001	U	30	0.00
002976	01/12/00			CI	01	CS	EU	B001	U	1260	12,852.00
000810	07/02/98	SW8820C112C	CD, VORTEX1, V1.12(OBSOLETE)	FG	01	RS	EU	VOR	U	1	0.00

Customer totals 10562 249,372.00
 Grand totals 10562 249,372.00

End of report

Report options selected >

Report sequence	: Customer, Stock Code
From date	: Lowest
To date	: Highest
From stock code	: Lowest
To stock code	: Highest
From warehouse	: Lowest
To warehouse	: Highest
From customer	: RAB001
To customer	: RAB001
From salesperson	: Lowest
To salesperson	: Highest
From product class	: Lowest
To product class	: Highest
From branch	: Lowest
To branch	: Highest
From supplier	: Lowest
To supplier	: Highest
Order type	: All
From geographic	: Lowest
To geographic	: Highest
Summary report	: No
Subtotals required	: No
Profit details	: No
New page for each customer	: No

Product class: B001 - 8910 AUDIO BOARDS

Stock code	Description	Quantity	Sale Amt	Profit	Prf %
BA88AL10A-01	ADVANTAGE LITE	10000	87,000.00	17,949.30	20.63
BA88AS10A-01	ASSY, BD, ADVANTAGE (AMP)	24340	219,022.50	218,632.50	99.82
BA88AS10A-02	ASSY, BD, ADVANTAGE (AMP/AUX)	2	0.00	0.00	0.00
BA88DC10A-01	ASSY, BD, SQ1500	881	18,310.00	4,844.07	26.60
BA88VL10A-02	ASSY, BD, ADVANTAGE (5V)	1817	21,600.00	9,053.47	41.91
FG88AC10AD-01	FG, SOUND COM, W/CD/MAN	723	17,231.00	3,837.94	22.27
FG88DC10A-01	NOT USED	132	3,120.00	974.35	31.22
FG88VL10A-01	FG, VORTEX ADVANTAGE PCI W/CD	18051	199,913.00	120,926.47	60.48
FG88VL10A-02	FG, ADVANTAGE (5V), W/CD	88480	938,302.00	273,193.58	29.11
FGSQ1500-01	FG, SQ1500 (RETAIL)	541	19,834.50	12,391.61	62.47
VSP901	** Non stocked **	1000	8,250.00	8,250.00	100.00
Product cls totals		145967	1,532,483.00	670,053.19	43.72

Product class: B002 - 8920 VORTEX1 BOARDS (AUDIO)

FG88ST20A-01	FG, VORTEX1, W/CD/MAN, (INCA)	44920	611,251.25	64,275.28	10.51
FG88ST20A-02A	FG, VORTEX1, W/CD/MAN, (WARE)	5030	10,457.00	29,054.38-	277.84-
FG88VL10A-01	** Non stocked **	911-	227.75-	227.75-	100.00
FG88VL10A-WB	** Non stocked **	182-	36.40-	36.40-	100.00
FGV1000C-01	FG, V1 (RETAIL), W/CD/MAN/CBL	20000	430,000.00	168,595.40	39.20
Product cls totals		68857	1,051,444.10	203,552.15	19.35

Product class: B003 - 8930 VORTEX2 BOARDS (AUDIO)

AU8830BO-40	** Non stocked **	30	0.00	0.00	0.00
BA88DC30A-01A	ASSY, BD, SQ2500, REV A (MICRON)	8220	229,528.00	80,878.10	35.23
BA88DC30A-01B	ASSY, BD, SQ2500, REV B, (B0)	586	11,172.50	355.99	3.18
BA88DL30-DB01	MX300 DIAMOND BULK SOUND CRD	7500	288,750.00	120,119.40	41.59
BA88DL30A-03	ASSY, BD, SQ2200 (HP)	10762	328,372.00	78,426.60	23.88
BA88DL30D-04R	MX300 RETAIL	5635	149,327.50	22,629.71	15.15
BA88ST30A-01B	ASSY, BD, VORTEX2, (INCA)	2140	40,660.00	11,892.55	29.24
BA88ST30A-02A	ASSY, BD, VORTEX2 (WARE/IBM)	25	475.00	475.00	100.00
BA88ST30A-02B	ASSY, BD, VORTEX2 (WARE/IBM)	170	3,230.00	2,054.64	63.61
FG88DL30A-01	FG, SUPERQUAD, W/CD/MAN	71330	2,282,338.00	646,077.91	28.30
FG88DL30D-03R	MX300 RETAIL	2	0.00	0.00	0.00
FG88ST30A-01	FG, VORTEX2, W/CD/MAN	23613	511,217.70	153,304.52	29.98
FG88ST30A-01W	** Non stocked **	40	1,026.00	1,026.00	100.00
FGSQ2500-01	FG, SQ2500 (RETAIL)	1987	120,448.05	75,218.18	62.44
MX300	** Non stocked **	0	0.00	0.00	0.00
SW8830ME12036	CD, SQ2500, MICRON, V2036	1320	990.00	990.00-	100.00-
Product cls totals		133360	3,967,534.75	1,191,468.60	30.03

Product class: B004 - 8838 AUDIO BOARDS

BA88ST20A-02	** Non stocked **	5-	62.70-	62.70-	100.00
BA88VL10A-01	** Non stocked **	12-	120.00-	120.00-	100.00
Product cls totals		17-	182.70-	182.70-	100.00

Product class: B020 - ALL MODEM PRODUCTS

BA88MO10AD-01	ASSY, BD, VCOM V90 DOM, MODEM	5868	58,600.00	18,304.03-	31.23-
FG88DL30A-01	** Non stocked **	4-	147.20-	147.20-	100.00
FG88MO10AD-01	FG, VCOM V90 (DOM), W/CD/MAN/CBL	10217	104,539.00	46,219.06-	44.21-
FG88ST20A-02A	** Non stocked **	27-	334.80-	334.80-	100.00
Product cls totals		16054	162,657.00	65,005.09-	39.96-

Product class: DEMO - DEMO

SW3P00004-01	CD, Descent 3: Sol Ascent	120	0.00	132.00-	0.00
SW8830MEI2041	CD, SQ2500, MICRON, V2041-01	880	660.00	193.60	22.33
SW8830SQ2040-01	CD, SQ2500, RETAIL, V2040	5	0.00	0.00	0.00
Product cls totals		1005	660.00	61.60	9.33

*Andy Wolfe
 CTO / Business Dev*

CA BAR #05-20211
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Stock code	Description	Quantity	Sale Amt	Profit	Prf %
Product class: EV01 - EVALUATION SAMPLES					
ASP 301E1	** Non stocked **	150	0.00	0.00	0.00
SW3P00004-01	CD, Descent^3: Sol Ascent	660	0.00	726.00-	0.00
SW8810AR3100	CD, VCOM, SI, V3100	5860	0.00	2,051.00-	0.00
SW8810SQ3220-01	CD, SQ1500, RETAIL, V3220	836	0.00	396.41-	0.00
SW8830SQ2040-01	CD, SQ2500, RETAIL, V2040	503	0.00	224.42-	0.00
SWA3DSDK20-01	CD, A3D 2.0 SDK REV 01	163	0.00	0.00	0.00
Product cls totals		8182	0.00	3,397.83-	0.00
Product class: INRB - INVENTORY REIMBURSEMENT					
AU8820B2-40	** Non stocked **	25-	237.50-	237.50-	100.00
BA88DC30A-01B	** Non stocked **	10	283.75	283.75	100.00
BA88DL30D-04R	** Non stocked **	5635-	149,327.50-	149,327.50-	100.00
Components	** Non stocked **	1	8,343.45	8,343.45	100.00
FG88DL30A-01	** Non stocked **	240	8,400.00	8,400.00	100.00
FG88VL10A-01	** Non stocked **	0	0.00	0.00	0.00
SI3012-KS	** Non stocked **	10040-	13,052.00-	13,052.00-	100.00
SI3024-KS	** Non stocked **	10040-	13,052.00-	13,052.00-	100.00
Product cls totals		25489-	158,641.80-	158,641.80-	100.00
Product class: MRB1 - Material Review Board					
AU8808CO-40	** Non stocked **	4-	21.00-	21.00-	100.00
AU8808CO-40	** Non stocked **	0	0.00	0.00	0.00
AU8820B2-40	** Non stocked **	119-	928.00-	928.00-	100.00
AU8830A2-40	** Non stocked **	5000-	55,000.00-	55,000.00-	100.00
FG88VL10A-01	** Non stocked **	3030-	36,360.00-	36,360.00-	100.00
Product cls totals		8153-	92,309.00-	92,309.00-	100.00
Product class: REBT - REBATES					
FG88DL30A-01	** Non stocked **	700-	5,110.00-	5,110.00-	100.00
FG88ST30A-01	** Non stocked **	25000-	100,000.00-	100,000.00-	100.00
Product cls totals		25700-	105,110.00-	105,110.00-	100.00
Product class: RY00 - LICENCE/ROYALTY					
LICENSE	** Non stocked **	1	15,000.00	15,000.00	100.00
Product cls totals		1	15,000.00	15,000.00	100.00
Product class: RYRE - ROYALTY REIMBURSEMENT					
ROYALTY COSTS	** Non stocked **	1	121,750.00	121,750.00	100.00
Product cls totals		1	121,750.00	121,750.00	100.00
Product class: S001 - AU8820 Vortex 1					
AU8820CO-40	VORTEX AU8820 VERSION C0	47000	282,000.00	170,759.46	60.55
Product cls totals		47000	282,000.00	170,759.46	60.55
Product class: S002 - AU8830, Vortex 2					
AU8830A2-40	VORTEX AU8830 VERSION A2	306270	2,165,271.00	1,283,101.88	59.25
AU8830B0-40	VORTEX AU8830 VERSION B0	40	0.00	159.28-	0.00
SW8830MEI2041-2	CD, SQ2500, MICRON, V2041-02	4790	3,592.50	4,981.60-	138.66-
Product cls totals		311100	2,168,863.50	1,277,961.00	58.92
Product class: S003 - 8808 VORTEX1 CHIP					
AU8808CO-40	** Non stocked **	32406-	135,252.00-	151,938.08-	112.33

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Product class: S003 - 8808 VORTEX1 CHIP

Stock code Description

Quantity	Sale Amt	Profit	Prf %	
Product cls totals	32406-	135,252.00-	151,938.08-	112.33

Product class: S004 - 8810A1/A2 AUDIO CHIP

AU8810A2T-40 ** Non stocked **

72843	291,372.00	291,372.00	100.00	
Product cls totals	72843	291,372.00	291,372.00	100.00

Product class: S006 - 8810A1/A2T AUDIO/MODEM

AU8810A1T-40 VORTEX AU8810 VERSION A1 TQFP
 AU8810A2T-40 VORTEX AU8810 VERSION A2 TQFP

152740	593,715.00	345,501.81	58.19	
96032	384,128.00	226,168.28	58.87	
Product cls totals	248772	977,843.00	571,670.09	58.46

Product class: S007 - AU8838 AUDIO CHIPS

VSP901 ** Non stocked **

1000	8,250.00	8,250.00	100.00	
Product cls totals	1000	8,250.00	8,250.00	100.00

Product class: SF00 - PACKAGED SOFTWARE SALES

SW3P00004-01 CD,Descent^3: Sol Ascent
 SW8810AR3000 CD,ADVANTAGE,SI,V3000
 SW8830MEI2041 CD,SQ2500,MICRON,V2041-01
 SWA3DPKT CD,A3D PRO SW KIT

3780	0.00	4,158.00-	0.00	
200	0.00	70.00-	0.00	
1620	1,215.00	356.40	29.33	
15	159.00	159.00	100.00	
Product cls totals	5615	1,374.00	3,712.60-	270.20-

Grand totals 967992 10,089,735.85 3,941,600.99 39.06

of report

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Stock code: ASP 301E1 - ** Non stocked **

Invoice Date	Customer name	Wh Br Sls Geo P/cl Ct	Quantity	Sale Amt	Profit	Prf %
02447 10/13/99	OPS 001 OPS TECHNOLOGY LIMITED	** 01 N PR EV01 U	160	0.00	0.00	0.00
Stock code totals			160	0.00	0.00	0.00

Stock code: AU8808C0-40 - ** Non stocked **

00187 11/19/99	BCM001 BCM ADVANCED RESEARCH	** 01 AL CA MRB1 U	4-	21.00-	21.00-	100.00
02614 11/08/99	TRIG001 TRIGEM COMPUTER	FG 1A JL AP S003 U	950	5,700.00	3,451.52	60.55
02615 11/08/99		FG 1A JL AP S003 U	6100	36,600.00	22,162.40	60.55
00185 11/18/99	WPI001 WORLD PEACE INDUSTRIAL CO.LTD	** 3A JL PR S003 U	39456-	177,552.00-	177,552.00-	100.00
Stock code totals			32410-	135,273.00-	151,959.08-	112.33

Stock code: AU8808C0-40 - ** Non stocked **

00191 11/22/99	BCM001 BCM ADVANCED RESEARCH	** 01 AL CA MRB1 U	4-	21.00-	21.00-	100.00
00027 11/23/99		** 01 AL CA MRB1 U	4	21.00	21.00	100.00
Stock code totals			0	0.00	0.00	0.00

Stock code: AU8810AIT-40 - VORTEX AU8810 VERSION A1 TQFP

02677 11/12/99	WPI001 WORLD PEACE INDUSTRIAL CO.LTD	ZZ 2A JL PR S006 U	83760	335,040.00	198,924.14	59.37
02677 11/12/99		ZZ 2A JL PR S006 U	68980	258,675.00	146,577.67	56.66
Stock code totals			152740	593,715.00	345,501.81	58.19

Stock code: AU8810A2T-40 - VORTEX AU8810 VERSION A2 TQFP

02435 10/12/99	WPI001 WORLD PEACE INDUSTRIAL CO.LTD	BA 03 JL PR S006 U	11042	44,168.00	26,223.98	59.37
02442 10/12/99		C 03 JL PR S006 U	33958	135,832.00	80,647.87	59.37
02677 11/12/99		ZZ 2A JL PR S006 U	23875	95,500.00	56,701.45	59.37
02826 12/15/99		C 3A JL PR S006 U	27157	108,628.00	62,594.98	57.62
02837 12/17/99		** 3A JL PR S004 U	22843	91,372.00	91,372.00	100.00
02837 12/17/99		** 3A JL PR S004 U	50000	200,000.00	200,000.00	100.00
Stock code totals			168875	675,500.00	517,540.28	76.61

Stock code: AU8820B2-40 - ** Non stocked **

00188 11/19/99	BCM001 BCM ADVANCED RESEARCH	** 01 AL CA MRB1 U	42-	252.00-	252.00-	100.00
00190 11/22/99		** 01 AL CA MRB1 U	42-	252.00-	252.00-	100.00
00028 11/23/99		** 01 AL CA MRB1 U	42	252.00	252.00	100.00
00165 10/04/99	YANG001 THE YANG GROUP	** 01 DM INRB R	25-	237.50-	237.50-	100.00
00166 10/04/99		** 01 DM MRB1 R	40-	380.00-	380.00-	100.00
00167 10/04/99		** 01 DM MRB1 R	37-	296.00-	296.00-	100.00
Stock code totals			144-	1,165.50-	1,165.50-	100.00

Stock code: AU8820C0-40 - VORTEX AU8820 VERSION C0

002418 10/06/99	VOYE001 VOYETRA TURTLE BEACH, INC	FG 01 AL US S001 U	10000	60,000.00	36,331.80	60.55
002418 10/06/99		FG 01 AL US S001 U	12000	72,000.00	43,598.16	60.55
002745 11/26/99		FG 01 AL US S001 U	15000	90,000.00	54,497.70	60.55
002745 11/26/99		FG 01 AL US S001 U	10000	60,000.00	36,331.80	60.55
Stock code totals			47000	282,000.00	170,759.46	60.55

Stock code: AU8830A2-40 - ** Non stocked **

000189 11/22/99	SAMSUNG SAMSUNG ELECTRONICS AMERICA	** 01 JL US MRB1 U	5000-	55,000.00-	55,000.00-	100.00
002501 10/27/99	VOYE001 VOYETRA TURTLE BEACH, INC	FG 01 AL US S002 U	52812	369,684.00	159,382.39	43.11
002511 10/27/99		C 01 AL US S002 U	8713	60,991.00	26,295.14	43.11
002603 11/05/99		FG 01 AL US S002 U	23475	164,325.00	70,845.67	43.11
002603 11/05/99		FG 01 AL US S002 U	19302	135,114.00	58,251.89	43.11
002748 11/29/99		FG 01 AL US S002 U	53195	372,365.00	152,027.05	40.82
002829 12/16/99		** 01 AL US S002 U	27503	192,521.00	192,521.00	100.00

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ock code: AU8830A2-40 - ** Non stocked **

Voice	Date	Customer	Name	Wh	Br	Sls	Geo	P/ci	Ot	Quantity	Sale Amt	Profit	Prf %
2830	12/16/99			**	01	AL	US	S002	U	50000	350,000.00	350,000.00	100.00
2613	11/08/99	WPI001	WORLD PEACE INDUSTRIAL CO.LTD	FG	3A	JL	AP	S002	U	3960	28,908.00	13,138.96	45.45
2613	11/08/99			FG	3A	JL	AP	S002	U	3200	23,360.00	10,617.34	45.45
2677	11/12/99			ZZ	2A	JL	PR	S002	U	41010	299,373.00	136,067.90	45.45
2838	12/17/99			**	3A	JL	PR	S002	U	9900	72,270.00	72,270.00	100.00
2937	12/31/99			C	3A	JL	PR	S002	U	13200	96,360.00	41,684.54	43.25
Stock code totals										301270	2,110,271.00	1,228,101.88	58.19

ock code: AU8830B0-40 - VORTEX AU8830 VERSION B0

12505	10/27/99	SONE001	SONY ELECTRONICS INC.	FG	01	MH	US	S002	U	20	0.00	79.64-	0.00
12502	10/27/99	SONY002	SONY ELECTRONICS, INC	FG	01	AL	US	S002	P	20	0.00	79.64-	0.00
Stock code totals										40	0.00	159.28-	0.00

ock code: AU8830B0-40 - ** Non stocked **

12873	12/21/99	VOYE001	VOYETRA TURTLE BEACH, INC	**	01	AL	US	B003	U	30	0.00	0.00	0.00
Stock code totals										30	0.00	0.00	0.00

ock code: BA88AL10A-01 - ADVANTAGE LITE

12421	10/08/99	IOMA001	I/O MAGIC	BA	01	IDC	US	B001	S	9780	85,086.00	17,554.42	20.63
12440	10/12/99			BA	01	IDC	US	B001	S	220	1,914.00	394.88	20.63
Stock code totals										10000	87,000.00	17,949.30	20.63

ock code: BA88AS10A-01 - ** Non stocked **

02454	10/14/99	HEW001	HEWLETT PACKARD	**	01	JS	US	B001	U	5	48.75	0.00	0.00
02458	10/18/99			**	01	JS	US	B001	U	7	68.25	0.00	0.00
02465	10/18/99			**	01	JS	US	B001	U	8	78.00	0.00	0.00
02633	11/10/99			**	01	JS	US	B001	U	7	68.25	0.00	0.00
02678	11/12/99			**	01	JS	US	B001	U	8	78.00	0.00	0.00
02694	11/16/99			**	01	JS	US	B001	U	4	39.00	0.00	0.00
02724	11/19/99			**	01	JS	US	B001	U	1	9.75	0.00	0.00
02793	12/07/99			FG	01	JS	US	B001	U	30	292.50	292.50	100.00
02871	12/21/99	HEW003	HEWLETT PACKARD SINGAPORE PTE	BA	1A	JL	AP	B001	U	5000	45,000.00	45,000.00	100.00
02871	12/21/99			BA	1A	JL	AP	B001	U	5000	45,000.00	45,000.00	100.00
02871	12/21/99			BA	1A	JL	AP	B001	U	600	5,400.00	5,400.00	100.00
02878	12/22/99			BA	1A	JL	AP	B001	U	140	1,260.00	1,260.00	100.00
02878	12/22/99			BA	1A	JL	AP	B001	U	5000	45,000.00	45,000.00	100.00
02879	12/22/99			BA	1A	JL	AP	B001	U	4860	43,740.00	43,740.00	100.00
02932	12/31/99			BA	1A	JL	AP	B001	U	60	540.00	540.00	100.00
02900	12/28/99	HEW004	HEWLETT-PACKARD, SHANGHAI	BA	1A	JL	AP	B001	U	60	540.00	540.00	100.00
02794	12/08/99	SCIS001	SCI SYSTEMS	FG	01	JS	EU	B001	P	10	0.00	0.00	0.00
02851	12/20/99	TATU001	TATUNG	BA	01	JS	EU	B001	U	100	900.00	900.00	100.00
02929	12/30/99			BA	01	JS	EU	B001	U	3000	27,000.00	27,000.00	100.00
02930	12/30/99			BA	01	JS	EU	B001	U	500	4,500.00	4,500.00	100.00
Stock code totals										24340	219,022.50	218,632.50	99.82

ock code: BA88AS10A-02 - ASSY, BD, ADVANTAGE (AMP/AUX)

102877	12/22/99	HEW001	HEWLETT PACKARD	FG	01	JS	US	B001	P	2	0.00	0.00	0.00
Stock code totals										2	0.00	0.00	0.00

ock code: BA88DC10A-01 - ASSY, BD, SQ1500

002420	10/07/99	3DSL001	3DSL	FG	01	CS	EU	B001	U	12	0.00	181.26-	0.00
002524	10/29/99	ACCL001	ACCLAIM ENTERTAINMENT	FG	01	SM	US	B001	P	2	0.00	32.51-	0.00
002508	10/27/99	ACER002	ACER INC.	FG	01	JS	PR	B001	U	8	0.00	130.04-	0.00
002578	11/03/99	ACTI002	ACTIVISION	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
002670	11/12/99			FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
002598	11/05/99	AURAN	AURAN PTY. LTD.	FG	01	N	PR	B001	P	2	0.00	30.21-	0.00

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Stock code: BA88DC10A-01 - ASSY, BD, SQ1500

Invoice	Date	Customer name	Wh	Br	Sls	Geo	P/c1	Ot	Quantity	Sale Amt	Profit	Prof %
2532	10/29/99	BIOW001	FG	01	SM	CA	B001	P	2	0.00	32.51-	0.00
2533	10/29/99	BLIZ001	FG	01	SM	US	B001	P	2	0.00	32.51-	0.00
2577	11/03/99	BLOO001	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
2668	11/12/99	BOOT001	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
2523	10/29/99	BUNG001	FG	01	SM	US	B001	P	2	0.00	32.51-	0.00
2795	12/08/99	CAR0001	FG	01	3D	EU	B001	U	60	1,560.00	649.50	41.63
2479	10/21/99	CDC001	FG	01	CS	EU	B001	P	3	0.00	45.32-	0.00
2762	11/30/99	CREA001	FG	01	SM	PR	B001	P	2	0.00	30.35-	0.00
2888	12/23/99	CYBE003	FG	01	N	US	B001	P	2	0.00	30.35-	0.00
2904	12/28/99	EDGE001	FG	01	IDC	US	B001	P	2	0.00	30.35-	0.00
2751	11/29/99	EET 001	FG	01	IDC	EU	B001	P	3	0.00	45.53-	0.00
2715	11/19/99	EID0001	FG	01	SM	US	B001	U	2	0.00	30.21-	0.00
2747	11/29/99	ELEC002	FG	01	IDC	EU	B001	P	3	0.00	45.53-	0.00
2553	11/03/99	EMPI001	FG	01	SM	EU	B001	P	4	0.00	60.42-	0.00
2662	11/12/99	GAME002	CI	01	3D	EU	B001	U	480	12,000.00	4,749.57	39.57
2597	11/05/99	GTIN001	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
2560	11/03/99	HASB001	FG	01	SM	US	B001	P	4	0.00	60.42-	0.00
2797	12/08/99	IDEA001	FG	01	3D	EU	B001	U	120	3,120.00	1,298.99	41.63
2606	11/05/99	IGUA001	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
2671	11/12/99	INFO002	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
2673	11/12/99	INFO003	FG	01	IDC	EU	B001	P	3	0.00	45.53-	0.00
2749	11/29/99	INGR001	FG	01	SM	US	B001	P	5	0.00	75.53-	0.00
02579	11/03/99	INTE009	FG	01	SM	US	B001	P	2	0.00	32.51-	0.00
02525	10/29/99	ION001	FG	01	IDC	EU	B001	U	1	0.00	15.11-	0.00
02477	10/21/99	IP L001	FG	01	N	US	B001	P	2	0.00	30.21-	0.00
02595	11/05/99	KNOWLED	FG	01	SM	US	B001	P	8	0.00	130.04-	0.00
02531	10/29/99	LUCAS A	FG	01	IDC	EU	B001	P	3	0.00	45.32-	0.00
02735	11/24/99	M TE001	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
02666	11/12/99	MATT001	FG	01	SM	EU	B001	P	2	0.00	30.21-	0.00
02551	11/03/99	MEDI004	FG	01	SM	US	B001	P	2	0.00	32.51-	0.00
02527	10/29/99	MICR005	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
02667	11/12/99		FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
02717	11/19/99	MIDW001	FG	01	RCH	US	B001	P	2	0.00	30.21-	0.00
02596	11/05/99	NEWW001	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
02720	11/19/99	NVID001	FG	01	SM	US	B001	U	2	0.00	30.21-	0.00
02664	11/12/99	ORIG001	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
02574	11/03/99	OUTR001	FG	01	IDC	US	B001	P	1	0.00	15.18-	0.00
02767	11/30/99	PC C001	FG	01	N	EU	B001	P	3	0.00	45.32-	0.00
02570	11/03/99	PSYGNOS	FG	01	SM	EU	B001	P	2	0.00	32.51-	0.00
02526	10/29/99	REME001	FG	01	SM	US	B001	U	2	0.00	30.21-	0.00
02719	11/19/99	RIPC001	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
02665	11/12/99	SAVA001	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
02586	10/04/99	SIER003	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
02663	11/12/99	SOUT001	FG	01	SM	EU	B001	P	2	0.00	30.35-	0.00
02763	11/30/99	SPIR001	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
02566	11/03/99	SQUA001	FG	01	SM	US	B001	P	1	0.00	15.11-	0.00
02674	11/12/99	SUNSO01	FG	01	SM	US	B001	P	1	0.00	15.11-	0.00
02567	11/03/99	SYLU001	FG	01	SM	PR	B001	P	1	0.00	15.11-	0.00
02675	11/12/99	TANT001	FG	01	IDC	US	B001	P	2	0.00	30.21-	0.00
002489	10/22/99	TECH008	FG	01	SM	US	B001	P	2	0.00	32.51-	0.00
002518	10/29/99	TERM001	FG	01	SM	US	B001	P	2	0.00	32.51-	0.00
002528	10/29/99	THE 005	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
002708	11/18/99	THE 006	FG	01	RCH	US	B001	U	2	0.00	619.50	40.49
002785	12/02/99		FG	01	3D	US	B001	U	60	1,530.00	16.26-	0.00
002514	10/29/99	THQ001	FG	01	SM	US	B001	P	1	0.00	16.26-	0.00
002672	11/12/99		FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
002558	11/03/99	VERA001	FG	01	SM	US	B001	P	4	0.00	60.42-	0.00
002550	11/03/99	VISU002	FG	01	SM	US	B001	P	2	0.00	30.21-	0.00
002426	10/08/99	WTC001	FG	01	IDC	US	B001	P	5	0.00	75.53-	0.00
002635	11/10/99	XITE001	FG	01	MH	EU	B001	P	5	0.00	75.53-	0.00
Stock code totals									881	18,210.00	4,844.07	26.60

Stock code: BA88DC30A-01A - ASSY, BD, SQ2500, REV A (MICRON)

002420	10/07/99	3DSL001	FG	01	CS	EU	B003	U	12	0.00	215.54-	0.00
002410	10/05/99	MICR008	SK	01	JS	US	B003	S	180	5,040.00	1,806.83	35.84

CA BAR #05-20211

ock code: BA88DC30A-01A - ASSY,BD,SQ2500,REV A MICRON

Invoice	Date	Customer name	Wh	Br	Sls	Geo	P/c1	Oc	Quantity	Sale Amt	Profit	Prf %
12519	10/05/99		SK	01	JS	US	B003	U	300	8,400.00	3,011.38	35.84
12422	10/08/99		SK	01	JS	US	B003	S	60	1,680.00	602.28	35.85
12445	10/12/99		SK	01	JS	US	B003	U	300	8,400.00	3,011.38	35.84
12468	10/19/99		SK	01	JS	US	B003	U	300	8,400.00	3,011.38	35.84
12491	10/25/99		SK	01	JS	US	B003	U	180	5,040.00	1,806.83	35.84
12541	11/03/99		SK	01	JS	US	B003	U	480	13,440.00	4,818.20	35.84
12542	11/03/99		SK	01	JS	US	B003	U	240	6,720.00	2,409.10	35.84
12619	11/08/99		SK	01	JS	US	B003	U	600	16,800.00	6,022.75	35.84
12637	11/10/99		SK	01	JS	US	B003	U	180	5,040.00	1,806.83	35.84
12701	11/16/99		SK	01	JS	US	B003	U	60	1,680.00	602.28	35.85
12705	11/17/99		SK	01	JS	US	B003	U	120	3,360.00	1,204.55	35.84
12729	11/23/99		SK	01	JS	US	B003	U	360	10,080.00	3,613.65	35.84
12731	11/24/99		SK	01	JS	US	B003	U	60	1,680.00	602.28	35.85
12746	11/30/99		SK	01	JS	US	B003	U	240	6,720.00	2,370.70	35.27
12791	12/07/99		SK	01	JS	US	B003	U	300	8,400.00	2,963.38	35.27
12792	12/07/99		SK	01	JS	US	B003	U	1140	31,920.00	11,260.83	35.27
02809	12/09/99		SK	01	JS	US	B003	U	480	13,440.00	4,741.40	35.27
02868	12/21/99		SK	01	JS	US	B003	U	381	10,668.00	3,763.49	35.27
02870	12/21/99		SK	01	JS	US	B003	U	1260	35,280.00	12,446.18	35.27
02901	12/28/99		SK	01	JS	US	B003	U	180	5,040.00	1,778.03	35.27
02906	12/29/99		SK	01	JS	US	B003	U	180	5,040.00	1,778.03	35.27
02922	12/30/99		**	01	JS	US	B003	U	280	7,840.00	2,765.82	35.27
00196	12/31/99		**	01	JS	US	B003	U	13-	390.00-	390.00-	100.00
02940	12/31/99		SK	01	JS	US	B003	U	180	5,040.00	1,778.03	35.27
02941	12/31/99		SK	01	JS	US	B003	U	180	4,770.00	1,508.03	31.61
Stock code totals									8220	229,528.00	80,878.10	35.23

tock code: BA88DC30A-01B - ASSY,BD,SQ2500,REV B, (B0)

02487	10/22/99	ABS001	FG	01	RCH	US	B003	P	2	0.00	35.92-	0.00
02524	10/29/99	ACCL001	FG	01	SM	US	B003	P	4	0.00	89.45-	0.00
02507	10/27/99	ACER002	FG	01	JS	PR	B003	P	8	0.00	178.90-	0.00
02508	10/27/99		FG	01	JS	PR	B003	U	3	0.00	67.09-	0.00
02578	11/03/99	ACTI002	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
02578	11/03/99		FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
02578	11/03/99		FG	01	N	PR	B003	P	4	0.00	71.85-	0.00
02532	10/29/99	AURAN	FG	01	SM	CA	B003	P	4	0.00	89.45-	0.00
02533	10/29/99	BIOW001	FG	01	SM	US	B003	P	4	0.00	89.45-	0.00
02533	10/29/99	BLIZ001	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
02577	11/03/99	BLOO001	FG	01	SM	US	B003	P	2	0.00	35.92-	0.00
02668	11/12/99	BOOT001	FG	01	SM	US	B003	P	4	0.00	89.45-	0.00
02523	10/29/99	BUNG001	FG	01	IDC	PR	B003	P	2	0.00	36.24-	0.00
02777	12/03/99	CHA0002	FG	01	SM	PR	B003	P	4	0.00	72.49-	0.00
02762	11/30/99	CREA001	FG	01	N	US	B003	P	1	0.00	18.12-	0.00
02886	12/23/99	CREA002	FG	01	N	US	B003	P	2	0.00	36.24-	0.00
02888	12/23/99	CYBE003	FG	01	N	US	B003	P	4	0.00	71.85-	0.00
02563	11/03/99	DERE001	FG	01	SM	US	B003	P	4	0.00	90.61-	0.00
02759	11/30/99	DIAM001	FG	01	JS	US	B003	P	5	0.00	35.92-	0.00
02575	11/03/99	DIGI007	FG	01	SM	EU	B003	P	2	0.00	35.92-	0.00
002568	11/03/99	DRAM001	FG	01	SM	EU	B003	P	4	0.00	71.85-	0.00
002775	12/03/99	DRAMAERA	FG	01	IDC	US	B003	U	2	0.00	36.24-	0.00
002776	12/03/99	EDGE001	FG	01	IDC	US	B003	P	2	0.00	36.24-	0.00
002776	12/03/99		FG	01	IDC	EU	B003	P	3	0.00	54.37-	0.00
002751	11/29/99	EET 001	FG	01	IDC	EU	B003	P	6	0.00	107.77-	0.00
002564	11/03/99	EIDO001	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
002715	11/19/99		FG	01	SM	US	B003	U	4	0.00	54.37-	0.00
002747	11/29/99	ELEC002	FG	01	IDC	EU	B003	P	3	0.00	71.85-	0.00
002553	11/03/99	EMPI001	FG	01	SM	EU	B003	P	4	0.00	71.85-	0.00
002597	11/05/99	GTIN001	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
002560	11/03/99	HASB001	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
002556	11/03/99	HOLD001	FG	01	SM	EU	B003	P	4	0.00	71.85-	0.00
002547	11/03/99	ID SOFT	FG	01	SM	US	B003	P	4	0.00	35.92-	0.00
002606	11/05/99	IGUA001	FG	01	SM	US	B003	P	2	0.00	35.92-	0.00
002671	11/12/99	INFO002	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
002673	11/12/99	INFO003	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
002749	11/29/99	INGR001	FG	01	IDC	EU	B003	P	3	0.00	54.37-	0.00
002569	11/03/99	INSI002	FG	01	SM	EU	B003	P	4	0.00	71.85-	0.00
002579	11/03/99	INTE009	FG	01	SM	US	B003	P	25	0.00	449.05-	0.00

ckc code: BA88DC30A-01B - ASSY, BD, SQ2500, REV B, (B0)

voice	Date	Customer name	Wh	Br	Sls	Geo	P/Cl	Ot	Quantity	Sale Amt	Profit	Prf %
2525	10/29/99	IONCG1 ION STORM	FG	01	SM	US	B003	P	4	0.00	89.45-	0.00
2477	10/21/99	IP L001 IP LABS	FG	01	IDC	EU	B003	U	1	0.00	17.96-	0.00
2770	12/01/99		FG	01	IDC	EU	B003	U	240	10,080.00	5,730.70	56.95
2807	12/09/99	KARM001 KARMA FRANCE	FG	01	IDC	EU	B003	P	2	0.00	36.24-	0.00
2595	11/05/99	KNOWLED KNOWLEDGE ADVENTURE	FG	01	N	US	B003	P	4	0.00	71.85-	0.00
2764	11/30/99	LIQU001 LIQUID ENTERTAINMENT	FG	01	SM	US	B003	U	2	0.00	36.24-	0.00
2531	10/29/99	LUCAS A LUCAS ARTS ENTERTAINMENT	FG	01	SM	US	B003	P	8	0.00	178.90-	0.00
2735	11/24/99	M TEC01 M TEAM SYSTEMS	FG	01	IDC	EU	B003	P	3	0.00	53.89-	0.00
2666	11/12/99	MATT001 MATTEL MEDIA, INC.	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
2987	12/23/99	MATT002 MATTEL INTERACTIVE-ENTERTAINME	FG	01	N	US	B003	P	2	0.00	36.24-	0.00
2551	11/03/99	MEDI004 MEDIA DESIGN GROUP	FG	01	SM	US	B003	P	2	0.00	35.92-	0.00
2527	10/29/99	MICR005 MICROPROSE SOFTWARE	FG	01	SM	US	B003	P	4	0.00	89.45-	0.00
2559	11/03/99		FG	01	SM	US	B003	P	5	0.00	89.81-	0.00
2567	11/12/99		FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
2455	10/14/99	MICR008 MICRON ELECTRONICS	**	01	JS	US	INRB	U	5	140.00	140.00	100.00
2457	10/18/99		**	01	JS	US	INRB	U	5	143.75	143.75	100.00
2478	10/21/99		FG	01	JS	US	B003	U	24	690.00	258.91	37.52
2573	11/03/99		FG	01	JS	US	B003	U	14	402.50	151.03	37.52
2596	11/05/99	NEWW001 NEW WORLD COMPUTING	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
2720	11/19/99	NVID001 NVIDIA	FG	01	SM	US	B003	U	4	0.00	71.85-	0.00
2562	11/03/99	ORIG001 ORIGIN	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
2664	11/12/99		FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
02574	11/03/99	OUTR001 OUTRAGE ENTERTAINMENT	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
02632	11/10/99	PACI003 PACIFIC TECHNOLOGY AMERICA	FG	01	RG	US	B003	P	19	0.00	341.28-	0.00
02570	11/03/99	PSYGN01 PSYGNOSIS	FG	01	N	EU	B003	P	4	0.00	71.85-	0.00
02583	10/31/99	RAVEN S RAVEN SOFTWARE	FG	01	N	US	B003	P	4	0.00	71.85-	0.00
02526	10/29/99	REME001 REMEDY ENTERTAINMENT LTD	FG	01	SM	EU	B003	P	4	0.00	89.45-	0.00
02719	11/19/99	RIPC001 RIPCORD GAMES	FG	01	SM	US	B003	U	4	0.00	71.85-	0.00
02665	11/12/99	SAVA001 SAVAGE ENTERTAINMENT LLC	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
02586	10/04/99	SIER003 SIERRA ON-LINE, INC.	FG	01	SM	US	B003	P	2	0.00	35.92-	0.00
02555	11/03/99	SIR-001 SIR-TECH CANADA, LTD.	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
02663	11/12/99	SOUT001 SOUTHPEAK INTERACTIVE	FG	01	SM	US	B003	P	2	0.00	35.92-	0.00
02763	11/30/99	SPIR001 SPIRAL HOUSE LTD.	FG	01	SM	EU	B003	P	4	0.00	72.49-	0.00
02566	11/03/99	SQUA001 SQUARESOFT INC.	FG	01	SM	US	B003	P	2	0.00	35.92-	0.00
02674	11/12/99	SUNSO01 SUNSTORM INTERACTIVE	FG	01	SM	US	B003	P	1	0.00	17.96-	0.00
02567	11/03/99	SYLU001 SYLUM ENTERTAINMENT LTD.	FG	01	SM	US	B003	P	2	0.00	35.92-	0.00
02584	10/31/99	TAKE001 TAKE 2 INTERACTIVE SOFTWARE	FG	01	SM	EU	B003	P	4	0.00	71.85-	0.00
02675	11/12/99	TANT001 TANTALUS ENTERTAINMENT	FG	01	SM	PR	B003	P	1	0.00	17.96-	0.00
02489	10/22/99	TECH008 TECHNOLOGY MARKETING	FG	01	IDC	US	B003	P	2	0.00	35.92-	0.00
02518	10/29/99	TERM001 TERMINAL REALITY INC.	FG	01	SM	US	B003	P	4	0.00	89.45-	0.00
02528	10/29/99	THE 005 THE 3DO COMPANY	FG	01	SM	US	B003	P	2	0.00	89.45-	0.00
02561	11/03/99	THER001 THERE INC.	FG	01	SM	US	B003	P	2	0.00	35.92-	0.00
02514	10/29/99	THQ001 THQ INC.	FG	01	SM	US	B003	P	1	0.00	22.36-	0.00
02672	11/12/99		FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
02558	11/03/99	VERA001 VERANT INTERACTIVE	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
02550	11/03/99	VISU002 VISUAL SCIENCES LTD.	FG	01	SM	US	B003	P	4	0.00	71.85-	0.00
02554	11/03/99	YAGE001 YAGER Gbr	FG	01	SM	EU	B003	P	4	0.00	71.85-	0.00
Stock code totals									596	11,456.25	639.74	5.58

Stock code: BA88DL30-DB01 - MX300 DIAMOND BULK SOUND CRD

002681	11/15/99	DIAM001 DIAMOND MULTIMEDIA SYSTEMS, INC	BA	01	BO	US	B003	U	7500	288,750.00	120,119.40	41.59
Stock code totals									7500	288,750.00	120,119.40	41.59

Stock code: BA88DL30A-03 - ASSY, BD, SQ2200 (HP)

002490	10/22/99	HEW001 HEWLETT PACKARD	CI	01	JS	US	B003	U	12	372.00	94.54	25.41
002875	12/21/99		FG	01	JS	US	B003	U	10	310.00	77.18	24.89
002412	10/05/99	SCIS001 SCI SYSTEMS	CI	01	JS		B003	S	160	4,960.00	1,260.47	25.41
002412	10/05/99		CI	01	JS		B003	S	20	620.00	157.56	25.41
002450	10/14/99		CI	01	JS		B003	U	300	9,300.00	2,363.38	25.41
002470	10/21/99		CI	01	JS		B003	U	300	9,300.00	2,363.38	25.41
002522	10/29/99		CI	01	JS		B003	U	300	9,300.00	2,363.38	25.41
002624	11/09/99		CI	01	JS		B003	U	300	9,300.00	2,363.38	25.41
002685	11/15/99		CI	01	JS		B003	U	1380	42,780.00	10,871.53	25.41

ck code: BA88DL30A-03 - ASSY, BD, 321100 HP

voice	Date	Customer	name	Wh	Br	Sls	Geo	P/cl	Ot	Quantity	Sale Amt	Profit	Prf %
1722	11/19/99			CI	01	JS		B003	U	1080	33,420.00	8,508.15	25.41
1800	12/09/99			CI	01	JS		B003	U	840	26,040.00	6,483.05	24.89
1800	12/09/99			CI	01	JS		B003	U	1440	44,640.00	11,113.80	24.89
1800	12/09/99			CI	01	JS		B003	U	1140	35,340.00	8,798.43	24.89
1800	12/09/99			CI	01	JS		B003	U	1380	42,780.00	10,650.73	24.89
1800	12/09/99			CI	01	JS	US	B003	U	420	11,970.00	2,191.53	18.30
2852	12/20/99			CI	01	JS	US	B003	U	1680	47,880.00	8,766.11	18.30
2926	12/30/99												
Stock code totals										10762	328,372.00	78,426.60	23.88

ck code: BA88DL30D-04R - MX300 RETAIL

2405	10/04/99	KRYS001	KRYSTALTECH SEMICONDUCTORS	BA	01	BA	US	B003	U	5635	149,327.50	22,629.71	15.15
0168	10/04/99			**	01	BA	US	INRB	U	5635-	149,327.50-	149,327.50-	100.00
Stock code totals										0	0.00	126,697.79-	0.00

ck code: BA88M010AD-01 - ASSY, BD, VCOM V90 DOM, MODEM

2508	10/27/99	ACER002	ACER INC.	FG	01	JS	PR	B020	U	8	0.00	49.72-	0.00
2813	12/10/99	EVER002	EVERTEX	FG	01	IDC	US	B020	U	5860	58,600.00	18,254.31-	31.15-
Stock code totals										5868	58,600.00	18,304.03-	31.23-

ck code: BA88ST20A-02 - ** Non stocked **

0198	12/31/99	PC C001	PC CLUB	**	01	IDC	US	B004	U	1-	14.70-	14.70-	100.00
0198	12/31/99			**	01	IDC	US	B004	U	4-	48.00-	48.00-	100.00
Stock code totals										5-	62.70-	62.70-	100.00

ck code: BA88ST30A-01B - ASSY, BD, VORTEX2, (INCA)

0698	11/16/99	AIIT001	AII TECHNOLOGIES, INC	CI	01	JS	US	B003	U	660	12,540.00	3,740.83	29.83
0801	12/09/99			CI	01	JS	US	B003	U	460	8,740.00	2,533.64	28.98
0823	12/13/99			CI	01	JS	US	B003	U	500	9,500.00	2,753.96	28.98
0884	12/22/99			CI	01	JS	US	B003	U	200	3,800.00	1,101.58	28.98
0889	12/23/99			CI	01	JS	US	B003	U	20	380.00	110.16	28.98
0927	12/30/99			CI	01	JS	US	B003	U	300	5,700.00	1,652.38	28.98
Stock code totals										2140	40,660.00	11,892.55	29.24

ck code: BA88ST30A-02A - ASSY, BD, VORTEX2 (WARE/IBM)

0821	12/10/99	IBM001	IBM	FG	01	JS	US	B003	U	25	475.00	475.00	100.00
Stock code totals										25	475.00	475.00	100.00

ck code: BA88ST30A-02B - ** Non stocked **

02437	10/12/99	IBM001	IBM	**	01	JS	US	B003	U	90	1,710.00	1,710.00	100.00
02744	11/26/99			FG	01	JS	US	B003	U	30	570.00	132.24	23.20
02752	11/29/99	IBM002	IBM UNITED KINGDOM LTD	FG	01	JS	EU	B003	U	50	950.00	212.40	22.35
Stock code totals										170	3,230.00	2,054.64	63.61

ck code: BA88VL10A-01 - ** Non stocked **

00198	12/31/99	PC C001	PC CLUB	**	01	IDC	US	B004	U	12-	120.00-	120.00-	100.00
Stock code totals										12-	120.00-	120.00-	100.00

ck code: BA88VL10A-02 - ASSY, BD, ADVANTAGE (5V)

002420	10/07/99	3DSL001	3DSL	FG	01	CS	EU	B001	U	10	0.00	69.05-	0.00
002417	10/06/99	ABS001	ABS COMPUTER TECHNOLOGIES	FG	01	RCH	US	B001	P	2	0.00	13.81-	0.00
002414	10/05/99	ACER002	ACER INC.	FG	01	JS	PR	B001	P	3	0.00	20.72-	0.00

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Stock code: B88V110A-00 - ASSY,SD,ADVANTAGE (EV)

Invoice	Date	Customer	name	Wh	Br	Sls	Geo	P/Cl	Qt	Quantity	Sale Amt	Profit	Prf %
002411	10/05/99	IOMA001	I/O MAGIC	BA	01	IDC	US	B001	U	1800	21,600.00	9,170.87	42.45
002425	10/08/99	SYNNG01	SYNNEX	FG	01	IDC	US	B001	P	1	0.00	6.91-	0.00
002416	10/06/99	WEST001	WEST TECHNOLOGY INC.	FG	01	BA	US	B001	P	1	0.00	6.91-	0.00
Stock code totals										1817	21,600.00	9,053.47	41.91

Stock code: Components - ** Non stocked **

002915	12/30/99	OCEA002	OCEAN MFG. LTD.	**	01	CS	PR	INRB	U	1	8,343.45	8,343.45	100.00
Stock code totals										1	8,343.45	8,343.45	100.00

Stock code: FG88AC10AD-01 - FG, SOUNDCOM, W/CD/MAN

002420	10/07/99	3DSL001	3DSL	FG	01	CS	EU	B001	U	2	0.00	0.00	0.00
002417	10/06/99	ABS001	ABS COMPUTER TECHNOLOGIES	FG	01	RCH	US	B001	P	2	0.00	0.00	0.00
002487	10/22/99			FG	01	RCH	US	B001	P	2	0.00	0.00	0.00
002507	10/27/99	ACER002	ACER INC.	FG	01	JS	PR	B001	P	8	0.00	151.80-	0.00
002508	10/27/99			FG	01	JS	PR	B001	U	8	0.00	151.80-	0.00
002453	10/14/99	BOLD001	BOLDATA	FG	01	TK	US	B001	P	1	0.00	0.00	0.00
002718	11/19/99	ESSA001	ESSAN ALHANSY	FG	01	IDC	US	B001	P	1	0.00	18.83-	0.00
002601	11/05/99	FUTU001	FUTURE ELECTRONICS INC.	FG	01	IDC	CA	B001	P	5	0.00	94.13-	0.00
002697	11/16/99			FG	01	IDC	CA	B001	U	60	1,461.00	331.50	22.68
002765	11/30/99			FG	01	IDC	CA	B001	P	2	0.00	37.79-	0.00
002848	12/17/99	GBMI001	GB MICRO ELECTRONICS INC.	CI	01	IDC	CA	B001	U	120	2,520.00	252.59	10.02
002733	11/24/99	HI-V001	HI-VAL, INC.	FG	01	IDC	US	B001	P	1	0.00	18.83-	0.00
002477	10/21/99	IP L001	IP LABS	FG	01	IDC	EU	B001	U	1	0.00	0.00	0.00
002436	10/12/99	PERR001	MIKE PERRANOSKY	FG	01	IDC	US	B001	P	3	0.00	0.00	0.00
002825	12/15/99	PROF001	PROFESSIONAL COMPUTER HK LTD	BA	1A	EC	AP	B001	U	500	13,250.00	3,802.46	28.69
002530	10/29/99	PTI001	P.T.I.	FG	01	BA	US	B001	P	1	0.00	18.98-	0.00
002760	11/30/99	SUPE003	SUPERCOM	FG	01	RCH	CA	B001	P	1	0.00	18.90-	0.00
002427	10/08/99	SUPE004	SUPERCOM	FG	01	IDC	US	B001	U	1	0.00	0.00	0.00
002425	10/08/99	SYNN001	SYNNEX	FG	01	IDC	US	B001	P	2	0.00	0.00	0.00
002708	11/18/99	THE 006	THE CHIP MERCHANT, INC.	FG	01	RCH	US	B001	U	1	0.00	37.65-	0.00
002416	10/06/99	WEST001	WEST TECHNOLOGY INC.	FG	01	BA	US	B001	P	1	0.00	0.00	0.00
Stock code totals										723	17,231.00	3,837.84	22.27

Stock code: FG88DC10A-01 - NOT USED

002487	10/22/99	ABS001	ABS COMPUTER TECHNOLOGIES	FG	01	RCH	US	B001	P	2	0.00	30.21-	0.00
002507	10/27/99	ACER002	ACER INC.	FG	01	JS	PR	B001	P	8	0.00	130.04-	0.00
002517	10/29/99	EB S001	EB STORES GROUP LTD.	FG	01	IDC	EU	B001	P	2	0.00	33.71-	0.00
002846	12/17/99	HERT001	HERTA TRADING CO. LIMITED	FG	01	3D	EU	B001	U	120	3,120.00	1,168.31	37.44
Stock code totals										132	3,120.00	974.35	31.22

Stock code: FG88DL30A-01 - FG, SUPERQUAD, W/CD/MAN

002755	11/29/99	3DSL001	3DSL	CA	01	CS	EU	B003	P	120	0.00	2,773.45-	0.00
002417	10/06/99	ABS001	ABS COMPUTER TECHNOLOGIES	FG	01	RCH	US	B003	P	2	0.00	43.99-	0.00
000169	10/12/99	ABS0001	ABSOLUTEMM.COM AB	**	01	3D	EU	INRB	U	6000-	198,000.00-	198,000.00-	100.00
000169	10/12/99			**	01	3D	EU	INRB	U	4020-	132,660.00-	132,660.00-	100.00
002446	10/12/99	ABS0002	ABSOLUTE MULTIMEDIA LTD.	**	01	CS	EU	INRB	U	6000	198,000.00	198,000.00	100.00
002446	10/12/99			**	01	CS	EU	INRB	U	4020	132,660.00	132,660.00	100.00
000194	12/30/99			FG	01	CS	EU	B003	U	10020-	330,660.00-	99,076.96-	29.96
002414	10/05/99	ACER002	ACER INC.	FG	01	JS	PR	B003	P	3	0.00	65.99-	0.00
002507	10/27/99			FG	01	JS	PR	B003	P	8	0.00	175.96-	0.00
002508	10/27/99			FG	01	JS	PR	B003	U	8	0.00	175.96-	0.00
000175	10/29/99	AEE 001	ABACUS EQUIPMENT ELECTRONIQUE	FG	01	CS	EU	B003	U	60-	2,190.00-	870.30-	39.73
002500	10/26/99	ALIE001	ALIENWARE PC SYSTEMS	CI	01	N	US	B003	U	60	2,700.00	1,380.30	51.12
002880	12/22/99			CI	01	N	US	B003	U	60	2,700.00	1,313.28	48.64
002431	10/08/99	AMD001	ADVANCED MICRO DEVICES	CI	01	BA	US	B003	U	180	6,804.00	2,844.89	41.81
002611	11/05/99			CI	01	BA	US	B003	U	180	6,804.00	2,672.63	39.28
002626	11/09/99	ARCU001	ARCUS	FG	01	RCH	US	B003	P	1	0.00	22.95-	0.00
002552	11/03/99	BERR001	BERRY JENNINGS	FG	01	BA	US	B003	P	1	0.00	22.95-	0.00
002439	10/12/99	BOST001	BOSTON LIMITED	CA	01	3D	EU	B003	U	120	5,040.00	2,400.59	47.63

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ack code: FG82DL30A-01 - FG, SUPERQUAD, W/ CD MAN

Invoice	Date	Customer	Name	Wh	Br	Sls	Geo	P/cl	Ot	Quantity	Sale Amt	Profit	Prof %
2498	10/26/99			CA	01	3D	EU	B003	U	120	4,536.00	1,896.59	41.81
0174	10/27/99			**	01	3D	EU	REBT	U	120-	940.00-	240.00-	200.00
2922	12/13/99			CA	01	3D	EU	B003	U	120	4,536.00	1,762.55	38.85
2727	11/22/99	CAR0001	CARO GROUP	CA	01	3D	EU	B003	U	120	4,536.00	1,781.75	39.28
2495	10/26/99	CDC001	CDC POINT SPA	CA	01	CS	EU	B003	U	480	12,000.00	1,442.36	12.01
2496	10/26/99			CA	01	CS	EU	B003	U	1980	49,500.00	5,949.74	12.01
0181	11/08/99			**	01	CS	EU	REBT	U	480-	3,840.00-	3,840.00-	100.00
2766	11/30/99			CA	01	CS	EU	B003	U	2460	61,500.00	4,644.28	7.55
2684	11/15/99	CENT001	CENTERPRISE INTERNATIONAL LMTD	CA	01	3D	EU	B003	U	1020	33,660.00	10,248.88	30.44
2842	12/17/99			CA	01	3D	EU	B003	U	1020	30,600.00	7,025.68	22.95
2899	12/23/99			CA	01	3D	EU	B003	U	60	1,800.00	413.28	22.96
2535	10/29/99	CHS001	CHS ELECTRONICS	FG	01	BA	US	B003	P	1	0.00	22.00-	0.00
2448	10/14/99	COMPO05	COMPONENT RESOURCES	CI	01	3D	EU	B003	U	480	15,000.00	4,442.36	29.61
10171	10/14/99			FG	01	3D	EU	B003	U	480-	15,000.00-	4,442.36-	29.61
2467	10/18/99			CA	01	3D	EU	B003	U	480	15,000.00	4,442.36	29.61
2631	11/10/99			CA	01	3D	EU	B003	U	480	15,120.00	4,103.00	27.13
2517	10/29/99	EB S001	EB STORES GROUP LTD.	FG	01	IDC	EU	B003	P	2	0.00	43.99-	0.00
2718	11/19/99	ESSA001	ESSAN ALHANSY	FG	01	IDC	US	B003	P	1	0.00	22.95-	0.00
2741	11/24/99	FDI001	FUJITSU DEVICES INC.	BA	1A	JL	JA	B003	U	500	17,500.00	6,023.96	34.42
2833	12/16/99			BA	1A	JL	JA	B003	U	500	17,500.00	5,943.96	33.96
2599	11/05/99	FUTU001	FUTURE ELECTRONICS INC.	FG	01	IDC	CA	B003	P	2	0.00	45.90-	0.00
2883	12/22/99			CI	01	IDC	CA	B003	U	120	4,200.00	1,426.55	33.96
2466	10/18/99	GAME002	GAMETECH OY AB LIMITED	CA	01	3D	EU	B003	U	120	4,536.00	1,896.59	41.81
02783	11/29/99			CA	01	3D	EU	B003	U	480	18,144.00	7,050.20	38.85
02492	10/25/99	GBMI001	GB MICRO ELECTRONICS INC.	CI	01	IDC	CA	B003	U	240	8,832.00	3,553.18	40.23
02773	12/02/99			CI	01	IDC	CA	B003	U	240	8,832.00	3,285.10	37.19
02945	12/31/99			FG	01	IDC	US	B003	P	2	0.00	45.90-	0.00
02733	11/24/99	HI-V001	HI-VAL, INC.	CA	01	3D	EU	B003	U	480	16,800.00	5,706.20	33.96
02789	12/03/99	IDEA001	IDEAL HARDWARE PLC	CI	01	IDC	EU	B003	U	60	2,268.00	948.30	41.81
02477	10/21/99	IP L001	IP LABS	CI	01	IDC	EU	B003	U	120	4,380.00	1,606.55	36.67
02770	12/01/99			FG	01	CS	EU	B003	P	15	0.00	344.28-	0.00
02627	11/09/99	JOHN002	JOHN MILNER	CI	01	IDC	US	B003	U	60	2,268.00	948.30	41.81
02452	10/14/99	KRYS001	KRYSTALTECH SEMICONDUCTORS	CI	01	IDC	US	B003	U	120	4,200.00	1,445.75	34.42
02610	11/05/99			FG	01	BA	US	B003	P	60	0.00	1,386.72-	0.00
02772	12/02/99			CI	01	IDC	US	B003	U	3000	105,000.00	35,663.76	33.96
02829	12/16/99			CI	01	IDC	US	B003	U	4000	128,000.00	35,551.68	27.77
02923	12/30/99			CI	01	IDC	US	B003	U	43000	1,376,000.00	382,180.56	27.77
02923	12/30/99			CI	01	IDC	US	B003	U	60	2,160.00	840.30	38.90
02475	10/21/99	MICR007	MICRO PRO INC.	FG	01	IDC	US	B003	U	60	2,160.00	782.88	36.24
02590	11/04/99			CI	01	IDC	US	B003	U	120	4,320.00	1,565.75	36.24
02630	11/10/99			CI	01	IDC	US	B003	U	60	2,160.00	773.28	35.80
02896	12/23/99			CI	01	IDC	US	B003	U	60	2,160.00	773.28	35.80
02911	12/29/99			CI	01	IDC	US	B003	U	240	8,904.00	3,395.50	38.13
02593	11/04/99	MICR011	MICRO STANDARD	CI	01	IDC	US	B003	U	60	2,226.00	848.88	38.13
02646	11/11/99			FG	01	N	US	B003	U	3	0.00	65.99-	0.00
02413	10/05/99	MINDSCA	MINDSCAPE	BA	01	N	PR	B003	U	500	16,000.00	5,002.46	31.26
02441	10/12/99	OCE001	OCEAN OFFICE AUTOMATION	FG	01	TK	US	B003	U	1	0.00	22.00-	0.00
02415	10/05/99	PACI002	PACIFIC MAGTRON, INC.	CI	01	IDC	US	B003	U	240	8,832.00	3,553.18	40.23
02461	10/18/99			CI	01	IDC	US	B003	U	240	8,832.00	3,285.10	37.19
02779	11/29/99			FG	01	TK	US	B003	R	2	0.00	46.22-	0.00
02812	12/10/99			CA	01	3D	EU	B003	U	240	8,400.00	3,121.18	37.15
02483	10/21/99	PACK001	PACKARD BELL NEC SCOTLAND LTD.	CA	01	3D	EU	B003	U	120	4,200.00	1,560.59	37.15
02483	10/21/99			CA	01	3D	EU	B003	U	120	4,200.00	1,445.75	34.42
002594	11/01/99			CA	01	3D	EU	B003	U	240	8,400.00	2,891.50	34.42
002594	11/01/99			CA	01	3D	EU	B003	U	240	8,400.00	2,891.50	34.42
002594	11/01/99			CA	01	3D	EU	B003	U	240	8,400.00	2,891.50	34.42
002689	11/16/99			CA	01	3D	EU	B003	U	240	8,400.00	2,891.50	34.42
002703	11/17/99			CA	01	3D	EU	B003	U	60	2,100.00	713.28	33.96
002876	12/21/99			CI	01	IDC	US	B003	U	60	2,268.00	948.30	41.81
002476	10/21/99	PAM 001	PAM PACIFIC ASSOCIATES, INC.	FG	01	IDC	US	B003	U	120	4,536.00	1,781.75	39.28
002587	11/04/99			CI	01	IDC	US	B003	U	60	2,268.00	890.88	39.28
002711	11/18/99			CI	01	IDC	US	B003	U	60	2,268.00	881.28	38.85
002784	11/30/99			FG	01	IDC	US	B003	U	60	2,268.00	881.28	38.85
002865	12/21/99			CI	01	IDC	US	B003	U	120	4,416.00	1,776.59	40.23
002423	10/08/99	PC C001	PC CLUB	CI	01	IDC	US	B003	U	60	2,208.00	888.30	40.23
002451	10/14/99			CI	01	IDC	US	B003	U	60	2,208.00	888.30	40.23
002494	10/25/99			CI	01	IDC	US	B003	U	120	0.00	2,639.41-	0.00

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 EXHIBIT PAGE 66

Printed: 11/11/99 10:11:14
Job: 11/11/99

Job code: FG88DL30A-01 - FG, SUPERVALD, W/CD/MAN

Invoice	Date	Customer	Name	Wh	Br	Sls	Geo	P/rci	Ot	Quantity	Sale Amt	Profit	Prf %
1434	10/25/99			CI	01	IDC	US	B003	U	60	2,208.00	388.30	40.23
2661	11/12/99			CI	01	IDC	US	B003	U	60	2,208.00	330.88	37.63
2726	11/22/99			CI	01	IDC	US	B003	U	60	2,208.00	330.88	37.63
2891	12/23/99			CI	01	IDC	US	B003	U	60	2,208.00	321.28	37.19
2894	12/23/99			CI	01	IDC	US	B003	U	60	2,208.00	321.28	37.19
2912	12/29/99			CI	01	IDC	US	B003	U	60	2,268.00	381.28	38.85
2913	12/29/99			CI	01	IDC	US	B003	U	60	2,208.00	321.28	37.19
0199	12/31/99			**	01	IDC	US	B020	U	4-	147.20-	147.20-	100.00
2608	12/09/99	PIXE001	PIXEL MULTIMEDIA	CA	01	3D	EU	B003	U	120	4,536.00	1,762.55	38.85
2530	10/29/99	PTI001	P.T.I.	FG	01	BA	US	B003	P	1	0.00	22.00-	0.00
0192	12/08/99	QUAL001	QUALITEC DISTRIBUTION AB	**	01	CS	EU	REBT	U	100-	430.00-	430.00-	100.00
2802	12/09/99	RAB001	RAAB KÄRCHER ELECTRONIC SYSTEM	CA	01	N	EU	B003	U	4980	164,340.00	49,241.84	29.96
2802	12/09/99			FG	01	N	EU	B003	U	30	0.00	693.36-	0.00
2471	10/21/99	SUPE003	SUPERCOM	**	01	RCH	CA	INRB	U	240	8,400.00	8,400.00	100.00
2499	10/26/99			CI	01	IDC	CA	B003	U	1020	34,680.00	12,245.02	35.30
2503	10/27/99			FG	01	RCH	CA	B003	P	1	0.00	22.00-	0.00
2521	10/29/99			CI	01	IDC	CA	B003	U	180	6,300.00	2,340.89	37.15
2623	11/09/99			CI	01	RCH	CA	B003	U	480	16,800.00	5,783.00	34.42
2425	10/08/99	SYNN001	SYNNEX	FG	01	IDC	US	B003	P	1	0.00	22.00-	0.00
2428	10/08/99	TERM001	TERMINAL REALITY INC.	FG	01	SM	US	B003	P	2	0.00	43.99-	0.00
2433	10/08/99	THE 006	THE CHIP MERCHANT, INC.	CI	01	RCH	US	B003	U	60	2,226.00	906.30	40.71
2588	11/04/99			CI	01	RCH	US	B003	U	180	6,498.00	2,366.63	36.42
2796	12/08/99			CI	01	RCH	US	B003	U	180	6,498.00	2,337.83	35.97
2874	12/21/99			FG	01	RCH	US	B003	R	1	0.00	23.11-	0.00
2910	12/29/99			CI	01	RCH	US	B003	U	120	4,332.00	1,558.55	35.97
2482	10/21/99	VIDE001	VIDEOLGIC	CA	01	3D	EU	B003	U	3480	114,840.00	38,297.12	33.34
02931	12/31/99			CA	01	N	EU	B003	U	1980	55,440.00	9,678.08	17.45
02750	11/29/99	VISIO04	VISION 3000 UK LTD	FG	01	IDC	EU	B003	P	1	0.00	23.11-	0.00
02810	12/10/99	VITE001	VITESSE COMPUTER INC.	BA	1A	JL	AP	B003	U	120	4,536.00	1,762.55	38.85
02432	10/08/99	WALLO01	WALLINGFORD ELECTRONICS	CI	01	IDC	US	B003	U	60	2,340.00	1,020.30	43.60
02925	12/30/99			CI	01	BA	US	B003	U	60	2,340.00	953.28	40.73
02416	10/06/99	WEST001	WEST TECHNOLOGY INC.	FG	01	BA	US	B003	P	1	0.00	22.00-	0.00
02898	12/23/99	WINM001	WINMAX POLSKA	CA	01	3D	EU	B003	U	120	4,536.00	1,762.55	38.85
02612	11/05/99	XITE001	XITEL, PTY, LTD.	CI	01	MH	EU	B003	U	300	10,500.00	3,614.38	34.42
02702	11/17/99			BA	01	N	EU	B003	U	180	6,300.00	2,168.63	34.42
02786	12/02/99			CI	01	AL	EU	B003	U	180	6,300.00	2,139.83	33.96
02787	12/02/99			CI	01	N	EU	B003	U	180	6,300.00	2,139.83	33.96
02872	12/21/99			FG	01	N	EU	B003	U	60	2,100.00	713.28	33.96
02909	12/29/99			BA	01	CS	EU	B003	U	180	6,300.00	2,139.83	33.96
02914	12/29/99			CI	01	N	EU	B003	U	60	2,100.00	713.28	33.96
02942	12/31/99			FG	01	N	EU	B003	U	120	4,200.00	1,426.55	33.96
02942	12/31/99			CI	01	N	EU	B003	U	180	6,300.00	2,139.83	33.96

Stock code totals 70866 2,285,480.80 649,220.71 28.40

Stock code: FG88DL30D-03R - MX300 RETAIL

02428	10/08/99	TERM001	TERMINAL REALITY INC.	FG	01	SM	US	B003	P	2	0.00	0.00	0.00
										2	0.00	0.00	0.00

Stock code: FG88M010AD-01 - FG, VCOM V90(DOM),W/CD/MAN/CBL

002420	10/07/99	3DSL001	3DSL	FG	01	CS	EU	B020	U	2	0.00	14.75-	0.00
002417	10/06/99	ABS001	ABS COMPUTER TECHNOLOGIES	FG	01	RCH	US	B020	P	2	0.00	14.75-	0.00
002507	10/27/99	ACER002	ACER INC.	FG	01	JS	PR	B020	P	8	0.00	59.00-	0.00
002453	10/14/99	BOLDO01	BOLDDATA	FG	01	TK	US	B020	P	1	0.00	7.38-	0.00
002718	11/19/99	ESSA001	ESSAN ALHANSY	FG	01	IDC	US	B020	P	1	0.00	14.71-	0.00
002761	11/30/99	EVER002	EVERTEX	FG	01	IDC	US	B020	P	2	0.00	29.55-	0.00
002813	12/10/99			FG	01	IDC	US	B020	U	3400	34,000.00	16,235.24-	47.75-
002946	12/31/99			FG	01	IDC	US	B020	U	759	7,590.00	3,624.28-	47.75-
002947	12/31/99			CI	01	IDC	US	B020	U	5601	56,010.00	26,745.17-	47.75-
002861	12/21/99	FOUN001	FOUNTAIN TECHNOLOGIES, INC.	CI	01	IDC	US	B020	P	5	0.00	73.88-	0.00
002697	11/16/99	FUTU001	FUTURE ELECTRONICS INC.	FG	01	JS	US	B020	P	60	957.00	74.70	7.80
002765	11/30/99			FG	01	IDC	CA	B020	U	2	0.00	29.55-	0.00
002696	11/16/99	GBMI001	GB MICRO ELECTRONICS INC.	FG	01	IDC	CA	B020	U	240	4,068.00	538.78	13.24
002733	11/24/99	HI-V001	HI-VAL, INC.	FG	01	IDC	US	B020	P	1	0.00	14.71-	0.00

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EXHIBIT FF

FILED

United States Bankruptcy Court

00 OCT -2 AM 9:07

Northern District of California, Oakland Division

KEENAN CASADY, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

In re:

Aureal, Inc.

Chapter 11

Case No. 00-42104

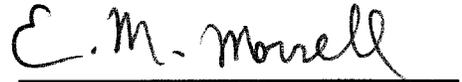
Debtor

NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (1) or (3) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

1. TO: **Fitzgerald Communications Inc.**
245 First St., 12th Fl
Cambridge, MA 02142
2. Your entire claim as shown in the amount of **\$3,265.89** has been transferred pursuant to the Purchase Letter dated as of September 26th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: September 26, 2000



Ed Morrell
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 1

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ASSIGNMENT OF CLAIM

Fitzgerald Communications Inc, having a mailing address at 245 First St, 12th Fl, Cambridge, MA 02142 ("Assignor"), in consideration of the sum of : \$ (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aural, Inc Case No. 00-42104 (LT) ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), jointly administered under Aural, Inc, Case No. 00-42104 (LT), in the currently outstanding amount of not less than \$3,265.89 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of _____ has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$3,265.89 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this _____ day of _____ 2000.

ATTEST:

By: ME [Signature]
Signature

CFO
Print Name/Title

Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 26 day of September 2000.

ATTEST:

By: E. M. Morrell
Ed Morrell
Argo Partners, Inc.
212-643-5456

CA BAR #05-20211
EXHIBIT FF - PAGE 3

FILED

United States Bankruptcy Court

Northern District of California, Oakland Division

00 OCT -2 AM 9:07
KEENAN J. O'BRYEN, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

In re:

Aureal, Inc.

Chapter 11
Case No. 00-42104

Debtor

**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (1) or (3) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

- 1. TO: **Pathway Public Relations, Ltd.
269 High Street, Berkhamsted,
Hertfordshire, UK
HP4 1-EG**
- 2. Your entire claim as shown in the amount of **\$15,295.99** has been transferred pursuant to the Purchase Letter dated as of September 26th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: September 27, 2000

E. M. Morrell

Ed Morrell
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 4

ASSIGNMENT OF CLAIM

Pathway Public Relations, Ltd, having a mailing address at 269 High Street - Berkhamsted, Hertfordshire, UK Hp4 1-Eg ("Assignor"), in consideration of the sum of US\$ (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aural, Inc Case No. 00-42104 (LT) ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), jointly administered under Aural, Inc, Case No. 00-42104 (LT), in the currently outstanding amount of not less than US\$15,295.99 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of _____ has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than US\$15,295.99 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 26th day of September 2000.

ATTEST:

By:

Signature



WILLIAM J. DONNELLY
DIRECTOR

Print Name/Title

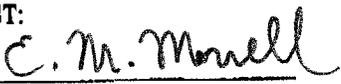
+44 1442 874006

Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 27th day of September 2000.

ATTEST:

By:



Ed Morrell
Argo Partners, Inc.
212-643-5456

CA BAR #05-20211
EXHIBIT FF - PAGE 6

United States Bankruptcy Court

~~COPY~~
OF ORIGINAL FILED

FILED
00 OCT -3 AM 9:1

Northern District of California, Oakland Division

00 OCT -3 AM 9:46

KEEP IN FILE
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

In re:

Aureal, Inc.

KEENAN: CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

Chapter 11
Case No. 00-42104

Debtor

**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (1) or (3) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

1. TO: **Vector Fabrication
1629 Watson Court
Milpitas, CA 95035**
2. Your entire claim as shown in the amount of **\$1,100.21** has been transferred pursuant to the Purchase Letter dated as of September 29th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: September 29, 2000



Matthew Gold
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 7

ASSIGNMENT OF CLAIM

Vector Fabrication, having a mailing address at **1629 Watson Court, Milpitas, CA 95035** ("Assignor"), in consideration of the sum of _____ the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aural, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than **\$1,100.21** and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of _____ has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than **\$1,100.21** that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 25 day of Sept. 2000.

ATTEST:

By: Kimberly Nguyen
Signature

KIMBERLY NGUYEN / SALES ADMIN
Print Name/Title
Vector Fabrication

(408) 942 9800
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 29th day of September 2000.

ATTEST:

By: Matthew A. Gold
Matthew A. Gold
Argo Partners, Inc.
212-643-5445

United States Bankruptcy Court

Northern District of California, Oakland Division

In re:

Aureal, Inc.

Debtor

FILED
00 OCT -3 AM 9:47
KELLY J. HARRIS, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

Chapter 11
Case No. 00-42104

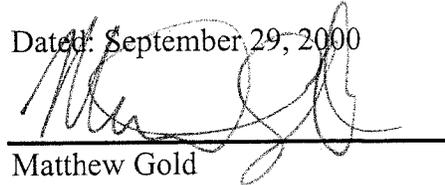
NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (2) or (4) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

TO: **Ziff-Davis, Inc.**
28 E. 28th Street
NY, NY 10016-7930

1. Your entire claim as shown in the amount of **\$112,378.59** has been transferred pursuant to the Purchase Letter dated as of September 29th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: September 29, 2000



Matthew Gold
Argo Partners, Inc.
(212) 643-5444

ASSIGNMENT OF CLAIM

Ziff-Davis, Inc., having a mailing address at **File 2082, Los Angeles, CA 90074** ("Assignor"), in consideration of the sum of \$ (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aural, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (L) in the currently outstanding amount of not less than **\$112,378.59** and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of 112,378.59 has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than **\$112,378.59** that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may

exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as Assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 29th day of September 2000.

ATTEST:

By:

Chris G. Standal
Signature

CHRIS G. STANDAL - DIRECTOR OF CREDIT & COLLECTIONS

Print Name/Title

Ziff-Davis, Inc.

212-503-3202
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 29 day of September 2000.

ATTEST:

By:

Matthew A. Gold

Matthew A. Gold
Argo Partners, Inc.
212-643-5445

CA BAR #05-20211
EXHIBIT FF - PAGE 12

United States Bankruptcy Court

FILED *gl*

00 OCT -6 PM 2:10

Northern District of California, Oakland Division

RECEIVED
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CAL.
OAKLAND, CA.

In re:

Aureal, Inc.

Chapter 11

Case No. 00-42104

Debtor

**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (1) or (3) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

**TO: DTP Direct
6690 Shady Oak Road
Eden Prairie, MN 55344**

1. Your entire claim as shown in the amount of **\$6,740.06** has been transferred pursuant to the Purchase Letter dated as of October 2nd, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: October 2, 2000

[Handwritten Signature]

Matthew Gold
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 13

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ASSIGNMENT OF CLAIM

DTP Direct, having a mailing address at **5198 W 76th St, Edina, MN 55439** ("Assignor"), in consideration of the sum of _____ (the "Purchase Price"), does hereby transfer to **Argo Partners, Inc.**, having an address at **12 West 37th Street, 9th Floor, New York, NY 10018** ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against **Aureal, Inc.** ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than **\$6,740.06** and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

- A Proof of Claim has not been filed in the proceedings.
- A Proof of Claim in the amount of _____ has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than **\$6,740.06** that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as Assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 2 day of October 2000.

ATTEST:

By: Steven Forstner
Signature

STEVEN FORSTNER - Director of Credit
Print Name/Title
DTP Direct

612-259-4778
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 2 day of October 2000.

ATTEST:

By: Matthew A. Gold
Matthew A. Gold
Argo Partners, Inc.
212-643-5445

CA BAR #05-20211
EXHIBIT FF - PAGE 15

United States Bankruptcy Court

W FILED

00 OCT 10 AM 9:06

Northern District of California, Oakland Division

RECEIVED
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

In re:

Aureal, Inc.

Chapter 11

Case No. 00-42104

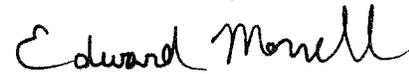
Debtor

**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (1) or (3) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

1. TO: **C D Works
2009 O'Toole Avenue
San Jose, CA 95131**
2. Your entire claim as shown in the amount of **\$3,795.36** has been transferred pursuant to the Purchase Letter dated as of October 3rd, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: October 3, 2000



Ed Morrell
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 16

ASSIGNMENT OF CLAIM

C D Works, having a mailing address at 2009 O'Toole Avenue, San Jose, CA 95131 ("Assignor"), in consideration of the sum of _____ the "Purchase Price", does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aureal, Inc Case No. 00-42104 (LT) ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), jointly administered under Aureal, Inc, Case No. 00-42104 (LT), in the currently outstanding amount of not less than \$3,795.36 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of _____ has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$3,795.36 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

Sent By: ARGO PARTNERS;

212 643 6401;

Sep-2 0 13:54;

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 3 day of October 2000.

ATTEST:

By: [Signature]

Signature

Wade Hirsch/CEO
Print Name/Title

408-321-7483
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 3 day of October 2000.

ATTEST:

By: [Signature]

Ed Morrell
Argo Partners, Inc.
212-643-5456

CA BAR #05-20211
EXHIBIT FF - PAGE 18

FILED

OCT 10 2000

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

United States Bankruptcy Court

Northern District of California, Oakland Division

In re:

Aureal, Inc.

Chapter 11

Case No. 00-42104

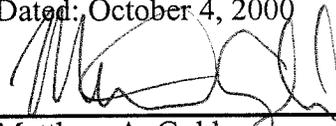
Debtor

NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (2) or (4) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

1. TO: **Martin Staffing Resources**
1777 Botelho Drive #275
Walnut Creek CA, 94596
2. Your entire claim as shown in the amount of \$37,647.47 has been transferred pursuant to the Purchase Letter dated as of October 3rd, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: October 4, 2000



Matthew A. Gold
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 19

210

ASSIGNMENT OF CLAIM

Martin Staffing Resources, having a mailing address at 1777 BOTELHO DR #275, WALNUT CREEK CA 94596 ("Assignor"), in consideration of the sum of \$36,201.97 (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aural, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than \$36,201.97 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of \$37,647.47 has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$36,201.97 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as Assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 3rd day of October 2000.

ATTEST:

By: Linda Martin
Signature

LINDA MARTIN, PRESIDENT
Print Name/Title
Martin Staffing Resources

925-253-1271
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 4th day of October 2000.

ATTEST:

By: Matthew A Gold
Matthew A Gold
Argo Partners, Inc.
212-643-3445

CA BAR #05-20211
EXHIBIT FF - PAGE 21

NORTHERN DISTRICT OF CALIFORNIA (OAKLAND)

Name of Debtor
Aural, Inc., a Delaware corporation

Case Number
00-42104
Chapter 11
Creditor Id:



Name of Creditor (The person or other entity to whom the debtor owes money or property):
THE MARTIN AGENCIES, Inc.
1000 MARTIN STAFFING RESOURCES
1777 BOWLING DRIVE #275
WALNUT CREEK CA 94596

Telephone Number:
925-938-6400

- Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
- Check box if you have never received any notices from the bankruptcy court in this case.
- Check box if the address differs from the address on the envelope sent to you by the court.

ORIGINAL FILED

SEP 28 2000

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

THIS SPACE IS FOR COURT USE ONLY

Account or other number by which creditor identifies debtor:
CUST # 1168

Check here if replaces amends a previously filed claim, dated _____
this claim:

1. Basis for Claim
- Goods sold
 - Services performed
 - Money loaned
 - Personal injury/wrongful death
 - Taxes
 - Other

- Retiree benefits as defined in 11 U.S.C. §1114(a)
- Wages, salaries, and compensation (fill out below)
Your SS #: _____
Unpaid compensation for services performed from _____ to _____
(date) (date)

2. Date debt was incurred: **2/10/00, 2/25/00, 3/3/00, 3/10/00, 3/17/00, 4/24/00, 2/21/00, 4/2/00, 4/14/00**

3. If court judgment, date obtained:

4. Total Amount of Claim at Time Case Filed: **\$ 37,647.47**

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.
 Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. Secured Claim.
 Check this box if your claim is secured by collateral (including a right of setoff).
Brief Description of Collateral:
 Real Estate Motor Vehicle
 Other _____
Value of Collateral: \$ _____
Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____

6. Unsecured Priority Claim.
 Check this box if you have an unsecured priority claim
Amount entitled to priority \$ _____
Specify the priority of the claim:
 Wages, salaries, or commissions (up to \$4,300)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3).
 Contributions to an employee benefit plan - 11 U.S.C. §507(a)(4).
 Up to \$ 1,950* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).
 Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).
 Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
 Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____).
**Amounts are subject to adjustment on 4/1/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.*

7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

MAIL CLAIM TO:

Clerk's Office
U.S. Bankruptcy Court
P.O. Box 2070
Oakland, CA 94606-2070

Date: **9/27/00**
Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):
Linda Martin, PRESIDENT

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

CA BAR #05-20211
EXHIBIT FF - PAGE 22

United States Bankruptcy Court

Northern District of California, Oakland Division

In re:

Aureal, Inc.

Debtor

FILED

00 OCT 10 PM 1:33

KEENAN J. CONLEY, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

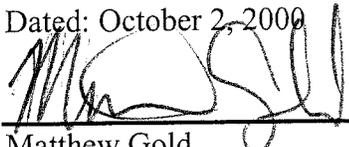
Chapter 11
Case No. 00-42104

**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (1) or (3) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

**TO: Parallax d/b/a Parallax Sales Inc
734 Walt Whitman Rd #209
Melville, NY 11747**

- 1. Your entire claim as shown in the amount of **\$11,080.17** has been transferred pursuant to the Purchase Letter dated as of October 2nd, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: October 2, 2000


Matthew Gold
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 23

21

ASSIGNMENT OF CLAIM

Parallax d/b/a Parallax Sales Inc., having a mailing address at 734 Walt Whitman Rd #209, Melville, NY 11747 ("Assignor"), in consideration of the sum of _____ (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aureal, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than \$11,080.17 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of _____ has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$11,080.17 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

CA BAR #05-20211
EXHIBIT FF - PAGE 24

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as Assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

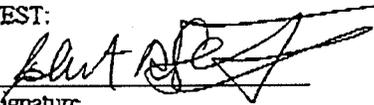
This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 2 day of Oct. 2000.

ATTEST:

By: 
Signature

Robert DeStefano, Pres.

Print Name/Title
Parallax d/b/a Parallax Sales Inc.

516-351-1000
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 2nd day of October 2000.

ATTEST:

By: 
Matthew A. Gold
Argo Partners, Inc.
212-643-5445

CA BAR #05-20211
EXHIBIT FF - PAGE 25

United States Bankruptcy Court

FILED

00 OCT 10 PM 1:32

Northern District of California, Oakland Division

KEENAN L. CASWY, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

In re:

Aureal, Inc.

Chapter 11

Case No. 00-42104

Debtor

**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (2) or (4) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

**TO: Eagle Management Group, Inc
650 Grove Rd, Suite 105
Paulsboro, NJ 08062**

1. Your entire claim as shown in the amount of **\$3,049.28** has been transferred pursuant to the Purchase Letter dated as of October 2nd, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: October 2, 2000



Ed Morrell
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 26

Sent By: ARGO PARTNERS;

ASSIGNMENT OF CLAIM

Eagle Management Group, Inc. having a mailing address at 650 Grove Rd, Suite 105, Paulsboro, NJ 08060 ("Assignor"), in consideration of the sum of \$ (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aurcal, Inc Case No. 00-42104 (LT) ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), jointly administered under Aurcal, Inc, Case No. 00-42104 (LT), in the currently outstanding amount of not less than \$3,049.28 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of 3,049.28 has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$3,049.28 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights thereunder pursuant to this Assignment of Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any

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EXHIBIT FF - PAGE 27

action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 2ND day of October 2000.

ATTEST:

By: Albert M. Marandola
Signature

Albert M. MARANDOLA CFO
Print Name/Title

(856) 848-7266 X122
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 2 day of October 2000.

ATTEST:

By: Ed Morrell
Ed Morrell
Argo Partners, Inc.
212-643-5456

CA BAR #05-20211
EXHIBIT FF - PAGE 28

FILED

W

United States Bankruptcy Court

00 OCT 12 PM 1: 56

Northern District of California, Oakland Division

KEENAN G. CASADY, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

In re:

Aureal, Inc.

Chapter 11

Case No. 00-42104

Debtor

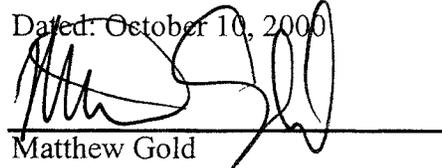
**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (2) or (4) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

**TO: PSINet, Inc.
PO Box 485
Herndon, VA 20172**

1. Your entire claim as shown in the amount of **\$8,160.94** has been transferred pursuant to the Purchase Letter dated as of September 29th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: October 10, 2000



Matthew Gold
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 29

219

ASSIGNMENT OF CLAIM

PSINet, Inc. having a mailing address at PO Box 485, Herndon, VA 20172 ("Assignor"), in consideration of the sum of \$72.42 (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th St., 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aureal, Inc Case No. 00-42104 (LT) ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), jointly administered under Aureal, Inc, Case No. 00-42104 (LT), in the currently outstanding amount of not less than \$8,160.94 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

- A Proof of Claim has not been filed in the proceedings.
- A Proof of Claim in the amount of \$ 8160.94 has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$8,160.94 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights thereunder pursuant to this Assignment of

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 29th day of September 2000.

ATTEST:

By:

Signature

Arthur Slye, Credit Manager
Print Name/Title

703-726-1532
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 29th day of September 2000.

ATTEST:

By:

Ed Morrow
Argo Partners, Inc
212-643-5456

CA BAR #05-20211
EXHIBIT FF - PAGE 31

FILED

00 OCT 12 PM 1:56

KEENAN G. CASADY, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

United States Bankruptcy Court

Northern District of California, Oakland Division

In re:

Aureal, Inc.

Chapter 11

Case No. 00-42104

Debtor

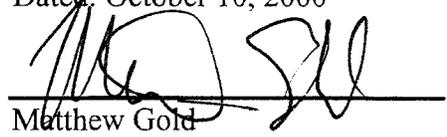
**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (2) or (4) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

**TO: Emery Worldwide
PO Box 371232
Pittsburgh, PA 15250**

- 1. Your entire claim as shown in the amount of \$14,458.48 has been transferred pursuant to the Purchase Letter dated as of October 4th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: October 10, 2000



Matthew Gold
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 32

ASSIGNMENT OF CLAIM

Emery Worldwide, having a mailing address at PO Box 371232, Pittsburgh, PA 15250 ("Assignor"), in consideration of the sum of \$ (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aureal, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than \$12,642.35 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of 14,458.48 has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$12,642.35 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full

CA BAR #05-20211
EXHIBIT FF - PAGE 33

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as Assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

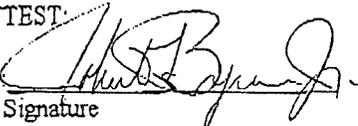
This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 4 day of October 2000.

ATTEST:

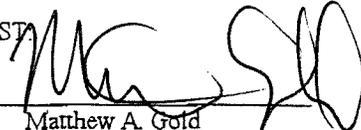
By: 
Signature

MANAGER RECOVERIES.
Print Name/Title
Emery Worldwide

570-969-3320
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 10 day of October 2000.

ATTEST:

By: 
Matthew A. Gold
Argo Partners, Inc.
212-643-5445

CA BAR #05-20211
EXHIBIT FF - PAGE 34

FILED

00 OCT 12 PM 1:57

United States Bankruptcy Court

Northern District of California, Oakland Division

KEENAN G. CASADY, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

In re:

Aureal, Inc.

Chapter 11

Case No. 00-42104

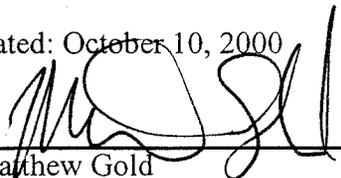
Debtor

**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (2) or (4) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

**TO: Networkguys, Inc.
39235 Liberty Street, Suite D-O
Freemont, CA 94538**

- 1. Your entire claim as shown in the amount of \$3,280.00 has been transferred pursuant to the Purchase Letter dated as of October 10th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: October 10, 2000

Matthew Gold
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 35

ASSIGNMENT OF CLAIM

Networkguys, Inc, having a mailing address at 39235 Liberty Street, Suite D-O, Fremont, CA 94538 ("Assignor"), in consideration of the sum of (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aureal, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than \$3,280.00 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

- A Proof of Claim has not been filed in the proceedings.
- A Proof of Claim in the amount of ~~\$8,500~~⁴³ ~~less 5,220~~⁴³ (net \$3,280⁴³) has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$3,280.00 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

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EXHIBIT FF - PAGE 36

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as Assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 10th day of October 2000.

ATTEST:

By: [Signature]
Signature

D. E. Edwards, CFO
Print Name/Title
Networkguys, Inc

510-713-8880 x304
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 10 day of October 2000.

ATTEST:

By: [Signature]
Matthew A. Gold
Argo Partners, Inc.
212-643-5445

CA BAR #05-20211
EXHIBIT FF - PAGE 37

United States Bankruptcy Court

Northern District of California, Oakland Division

In re:

Aural, Inc.

Debtor

FILED

00 OCT 12 PM 1:57

KEENAN G. CASADY, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

Chapter 11

Case No. 00-42104(LT)

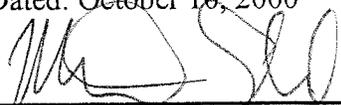
NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (2) or (4) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

1. TO: **Brooks Technical Group, Inc.**
10080 North Wolfe Rd, Ste 100
Cupertino, CA 95014

2. Your entire claim as shown in the amount of **\$6580.85** has
been transferred pursuant to the Purchase Letter dated as of
September 29th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: October 10, 2000



Matthew Gold
Argo Partners, Inc.
(212) 643-5444

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EXHIBIT FF - PAGE 38

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ASSIGNMENT OF CLAIM

Brooks Technical Group, Inc., having a mailing address at **10080 North Wolfe Rd, Ste 100, Cupertino, CA 95014** ("Assignor"), in consideration of the sum of _____ the "Purchase Price"), does hereby transfer to **Argo Partners, Inc.**, having an address at **12 West 37th Street, 9th Floor, New York, NY 10018** ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against **Aureal, Inc.** ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than **\$5,917.53** and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

- A Proof of Claim has not been filed in the proceedings.
- A Proof of Claim in the amount of \$6,580.85 has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than **\$5,917.53** that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as Assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 28th day of SEPTEMBER 2000.

ATTEST:

By: Michel Potter for Brooks Technical Group
Signature

MICHEL POTTER - CORP. SECRETARY

Print Name/Title
Brooks Technical Group, Inc

408-252-3880
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 29 day of September 2000.

ATTEST:
By: [Signature]

Matthew A. Gold
Argo Partners, Inc.
212-643-5445

CA BAR #05-20211
EXHIBIT FF - PAGE 40

United States Bankruptcy Court

Northern District of California, Oakland Division

In re:

Aureal, Inc.

Debtor

FILED

SEP 27 2000

**BANKRUPTCY COURT
OAKLAND, CALIFORNIA**

Chapter 11
Case No. 00-42104

**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (2) or (4) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

1. TO: **Hruska Audio Products, Inc.
66 Rear Dudley Street
Arlington, MA 02476**
2. Your entire claim as shown in the amount of **\$40,900.00** has been transferred pursuant to the Purchase Letter dated as of September 25th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: September 25, 2000

Matthew Gold
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 41

ASSIGNMENT OF CLAIM

Hruska Audio Productions, Inc., having a mailing address at 66 Rear Dudley Street, Arlington, MA 02476 ("Assignor"), in consideration of the sum of : 9 (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aural, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than \$40,000.00 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of \$40,900.00 has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$40,000.00 that to the best of the Assignor's knowledge the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

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EXHIBIT FF - PAGE 42

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings; provided, however, that Assignee shall promptly provide Assignor with a copy of any objection filed against the Claim which seeks to disallow all or any portion of the Claim, and shall allow Assignor to participate in the defense of the Claim, at Assignor's own expense, should such an objection be filed.

Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 25th day of September 2000.

ATTEST:

By: 
Signature

Jennifer Hruska, President

Print Name/Title
Hruska Audio Productions, Inc.

781-641-0063
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 25th day of September 2000.

ATTEST:

By: 
Matthew A. Gold

ArgoPartners, Inc. Ph. 212-643-5445

CA BAR #05-20211
EXHIBIT FF - PAGE 43

NORMB10 (Official Form 10/4/98)

**UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF CALIFORNIA (OAKLAND)**

Name of Debtor
 Aural, Inc., a DataWare corporation

Case Number
 00-42104
 Chapter 11
 Creditor Id: 2581572

Name of Creditor (The person or other entity to whom the debtor owes money or property):
 Hruska Productions Audio Inc
 Name and Address where notices should be sent:

Hruska Productions Audio Inc
 66 Rear Dudley Street
 Arlington, MA 02476

Telephone Number: **781-641-0063**

- Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
- Check box if you have never received any notices from the bankruptcy court in this case.
- Check box if the address differs from the address on the envelope sent to you by the court.

Account or other number by which creditor identifies debtor:

- Check box if replacement amended a previously filed claim, check this claim
- Retire benefits as defined in 11 U.S.C. § 541(c)(2)
- Wages, salaries, and compensation (not holiday) Your SS #: _____
 Unpaid compensation for services performed from _____ (date) to _____ (date)

1. Basis for Claim

- Goods sold
- Services performed
- Money loaned
- Personal injury/wrongful death
- Taxes
- Other

2. Date debt was incurred: **9-22-99**

3. If court judgment, date obtained:

4. Total Amount of Claim at Time Case Filed:

If all or part of your claim is secured or entitled to priority, also complete item 5 or 6 below.

Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

40,800.00 forty thousand nine hundred dollars

5. Secured Claim

Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:

- Real Estate
- Motor Vehicle
- Other

Value of Collateral: \$ _____

Amount of storage and other charges at time case filed included in secured claim, if any: \$ _____

6. Unsecured Priority Claim

Check this box if you have an unsecured priority claim.

- Amount entitled to priority \$ _____
- Specify the priority of the claim:
- Wages, salaries, or commissions (up to \$4,300)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3).
- Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4).
- Up to \$1,250* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).
- Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).
- Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
- Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(_____).

*Amounts are subject to adjustment on 4/1/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

7. Creditors: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. Supporting Documents: Attach copies of supporting documents such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. **DO NOT SEND ORIGINAL DOCUMENTS.** If the documents are not available, explain. If the documents are voluminous, attach a summary.

9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

MAIL CLAIM TO:

Clerk's Office
 U.S. Bankruptcy Court
 P.O. Box 20770
 Oakland, CA 94606-2070

Date: **7-13-00**
 Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

RECEIVED
 U.S. BANKRUPTCY COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND
 00 JUL 13 2000
 OF ORIGINAL FILED

CA BAR #05-20211
 EXHIBIT FF - PAGE 44

United States Bankruptcy Court

Northern District of California, Oakland Division

In re:

Aureal, Inc.

Debtor

FILED

SEP 27 2000

**BANKRUPTCY COURT
OAKLAND, CALIFORNIA
Chapter 11
Case No. 00-42104**

**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (1) or (3) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

1. TO: **Cellular One Monthly Rental
PO Box 7107
San Francisco, CA 94120**

2. Your entire claim as shown in the amount of **\$2,117.97** has been transferred pursuant to the Purchase Letter dated as of September 22nd, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: September 25, 2000

E. M. Morrell

Ed Morrell
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 45

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ASSIGNMENT OF CLAIM

Cellular One Monthly Rental, having a mailing address at **PO Box 7107, San Francisco, CA 94120** ("Assignor"), in consideration of the sum of _____ (the "Purchase Price"), does hereby transfer to **Argo Partners, Inc.**, having an address at **12 West 37th Street, 9th Floor, New York, NY 10018** ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against **Aureal, Inc** Case No. **00-42104 (LT)** ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), jointly administered under **Aureal, Inc**, Case No. **00-42104 (LT)**, in the currently outstanding amount of not less than **\$2,117.97** and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of _____ has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than **\$2,117.97** that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 22 day of Sept. 2000.

ATTEST:

By: W. J. Alab
Signature

Warren I. Alderson / Corporate Receivables Supervisor
Print Name/Title

650/827-8585
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 22 day of September 2000.

ATTEST:

By: E. M. Morrell
Ed Morrell
Argo Partners, Inc.
212-643-5456

CA BAR #05-20211
EXHIBIT FF - PAGE 47

United States Bankruptcy Court

Northern District of California, Oakland Division

FILED

SEP 27 2000

**BANKRUPTCY COURT
OAKLAND, CALIFORNIA**

In re:

Aureal, Inc.

Chapter 11

Case No. 00-42104

Debtor

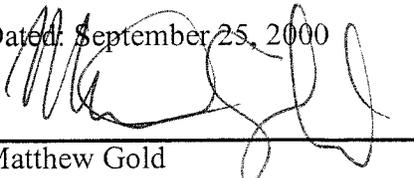
**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (1) or (3) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

1. TO: **Center Capital Corporation
PO Box 1188
Farmington, CT 06034**

2. Your entire claim as shown in the amount of **\$44,904.76** has been transferred pursuant to the Purchase Letter dated as of September 25th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: September 25, 2000



Matthew Gold
Argo Partners, Inc.
(212) 643-5444

CA BAR #05-20211
EXHIBIT FF - PAGE 48

20

ASSIGNMENT OF CLAIM

Center Capital Corporation, having a mailing address at PO Box 1188, Farmington, CT 06034 ("Assignor"), in consideration of the sum of \$ (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aureal, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than \$44,904.76 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of _____ has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$44,904.76 that the Claim in that amount is valid and that no objection to the Claim has been made. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee, with specific limited authority, to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignee agrees to take any such further action, at its own expense, as it may deem necessary or desirable to effect any payments or distributions on account of the Claim to Assignee.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as Assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 25 day of September 2000.

ATTEST:

By: Wayne Johnson
Signature

Wayne Johnson, Special Asset Manager
Print Name/Title
Center Capital Corporation

860-405-2810
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 25th day of September 2000.

ATTEST:

By: Matthew A. Gold
Matthew A. Gold
Argo Partners, Inc.
212-643-5445

CA BAR #05-20211
EXHIBIT FF - PAGE 50

United States Bankruptcy Court

Northern District of California, Oakland Division

In re:

Aureal, Inc.

Debtor

Chapter 11
Case No. 00-42104 T

FILED
00 SEP 29 AM 11:55
RECEIVED
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CAL.
OAKLAND, CA.

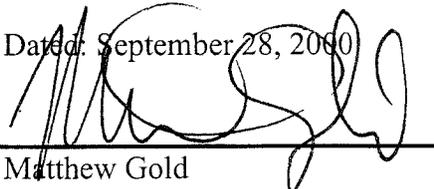
**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (2) or (4) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

1. TO: **Innominds Software, Inc**
995 Cape Anita Place,
San Jose, CA 95133

2. Your entire claim as shown in the amount of **\$26,010.55** has been transferred pursuant to the Purchase Letter dated as of September 28th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: September 28, 2000


Matthew Gold
Argo Partners, Inc.
(212) 643-5444

ASSIGNMENT OF CLAIM

Innominds Software, Inc. having a mailing address at 995 Cape Anita Place, San Jose, CA 95133 ("Assignor"), in consideration of the sum of \$ 0 (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aureal, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than \$24,840.00 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

A Proof of Claim has not been filed in the proceedings.

A Proof of Claim in the amount of 26010.55 has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$24,840.00 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as Assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 28 day of Sept 2000.

ATTEST:

By: [Signature]
Signature

Rao V VERMAIA/CEO
Print Name/Title
Innominds Software, Inc

Telephone # _____

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 28th day of September 2000.

ATTEST:

By: [Signature]
Matthew A Gold
Argo Partners, Inc
212-643-5445

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA (OAKLAND)**

PROOF OF CLAIM

Name of Debtor
Aureal, Inc., a Delaware corporation

Case Number
00-42104
Chapter 11
Creditor Id: 2561594



NEVER FILE THIS FORM AGAINST AN ADMINISTRATIVE EXPENSE CLAIM FOR AN ADMINISTRATIVE EXPENSE ARISING AFTER THE COMMENCEMENT OF THE CASE. A REQUEST FOR PAYMENT OF AN ADMINISTRATIVE EXPENSE MUST BE FILED PURSUANT TO 11 U.S.C. § 503.

Name of Creditor (The person or other entity to whom the debtor owes money or property):
Innominds Software Inc
Name and Address where notices should be sent:

Innominds Software Inc
2328G Walsh Avenue
Santa Clara, CA 95051-1312

- Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
- Check box if you have never received any notices from the bankruptcy court in this case.
- Check box if the address differs from the address on the envelope sent to you by the court.

Telephone Number:

THIS SPACE IS FOR COURT USE ONLY

Account or other number by which creditor identifies debtor:

Check here if replaces this claim amends a previously filed claim, dated _____

1. Basis for Claim

- Goods sold
- Services performed
- Money loaned
- Personal injury/wrongful death
- Taxes
- Other

Retiree benefits as defined in 11 U.S.C. § 1114(a)
 Wages, salaries, and compensation (fill out below)
 Your SS #: _____
 Unpaid compensation for services performed
 from 12/1/99 to 2/3/00
 (date) (date)

2. Date debt was incurred:

12/21/99 2/3/00

3. If court judgment, date obtained:

4. Total Amount of Claim at Time Case Filed:

\$ 2600.55

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.

Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. Secured Claim.

Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:
 Real Estate Motor Vehicle
 Other _____

Value of Collateral: \$ _____

Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____

6. Unsecured Priority Claim.

Check this box if you have an unsecured priority claim
 Amount entitled to priority \$ 2600.55
 Specify the priority of the claim:

- Wages, salaries, or commissions (up to \$4,300)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3).
- Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4).
- Up to \$ 1,950* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).
- Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).
- Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
- Other - Specify applicable paragraph of 11 U.S.C. § 507(a)().

*Amounts are subject to adjustment on 4/1/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

MAIL CLAIM TO:

Clerk's Office
 U.S. Bankruptcy Court
 P.O. Box 2070
 Oakland, CA 94606-2070

Date

6/21/00

Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):

J. Sarawana Rao, CEO, SARAWANA RAO VEMULA

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

CA BAR #05-20211
 EXHIBIT FF - PAGE 54

FILED

00 SEP 29 PM 3:24

KLENAWA, GALEA, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

United States Bankruptcy Court

Northern District of California, Oakland Division

In re:

Aureal, Inc.

Chapter 11

Case No. 00-42104

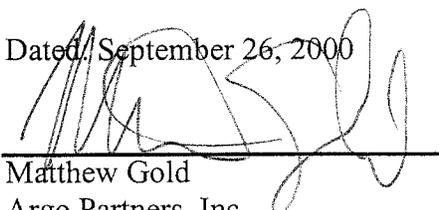
Debtor

NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (2) or (4) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

1. TO: **Tri-Valley Tradeshow**
7567 Amador Valley Rd, Suite 104
Dublin, CA 94568
2. Your entire claim as shown in the amount of **\$2,212.38** has been transferred pursuant to the Purchase Letter dated as of September 25th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated September 26, 2000


Matthew Gold
Argo Partners, Inc.
(212) 643-5444

ASSIGNMENT OF CLAIM

Tri-Valley Tradeshow, having a mailing address at 7567 Amador Valley Rd, Suite 104, Dublin, CA 94568 ("Assignor"), in consideration of the sum of _____ (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aural, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than \$2,212.38 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

- A Proof of Claim has not been filed in the proceedings.
- A Proof of Claim in the amount of \$ 2,212.38 has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim on the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$2,212.38 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights there under pursuant to this Assignment of

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 25th day of September 2000.

ATTEST:

By: Mary Hevener
Signature

MARY HEVENER / Treasurer
Print Name/Title
Tri-Valley Tradeshow

(925) 875-9065
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 26 day of September 2000.

ATTEST:

By: Matthew A. Gold
Matthew A. Gold
Argo Partners, Inc.
212-643-5445

INVOICE TOTAL
CREDIT SERVICE CHARGE, IF NOT PAID BY 4/29/99

\$2,169.00
\$43.38

PAYABLE UPON RECEIPT * CREDIT SERVICE CHARGE WILL BE
DUE IF NOT PAID WITHIN

\$2,212.38

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EXHIBIT FF - PAGE 57

FILED

NOV 27 PM 3:40
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

United States Bankruptcy Court

Northern District of California, Oakland Division

In re:

Aureal, Inc.

Chapter 11
Case No. 00-42104

Debtor

**NOTICE OF TRANSFER OF CLAIM
PURSUANT TO RULE 3001 (E) (1) or (3) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

**TO: Digital Testing Services, Inc.
3600 Peterson Way
Santa Clara, CA 95054**

- 1. Your entire claim as shown in the amount of \$10,399.31 has been transferred pursuant to the Purchase Letter dated as of November 16th, 2000 to:

Argo Partners, Inc.
12 West 37th St., 9th Floor
New York, NY 10018

Dated: November 17, 2000

Jeff Herles
Argo Partners, Inc.
(212) 643-5444

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EXHIBIT FF - PAGE 58

ASSIGNMENT OF CLAIM

Digital Testing Service, Inc. having a mailing address at 3600 Peterson Way, Santa Clara, CA 95054 ("Assignor"), in consideration of the sum of _____ (the "Purchase Price"), does hereby transfer to Argo Partners, Inc., having an address at 12 West 37th Street, 9th Floor, New York, NY 10018 ("Assignee") all of Assignor's right, title and interest in and to the claim or claims of Assignor, as more specifically set forth (the "Claim") against Aureal, Inc. ("Debtor"), Debtor in proceedings for reorganization (the "Proceedings") in the United States Bankruptcy Court for the Northern District of California, (the "Court"), Case No. 00-42104 (LT) in the currently outstanding amount of not less than \$10,399.31 and all rights and benefits of Assignor relating to the Claim, including without limitation the Proof of Claim identified below and Assignor's rights to receive all interest, penalties and fees, if any, which may be paid with respect to the Claim, and all cash, securities, instruments and other property which may be paid or issued by Debtor in satisfaction of the Claim. The Claim is based on amounts owed to Assignor by Debtor as set forth below and this assignment shall be deemed an absolute and unconditional assignment of the Claim for the purpose of collection and shall not be deemed to create a security interest.

Assignor represents and warrants that (Please Check One):

- A Proof of Claim has not been filed in the proceedings.
- A Proof of Claim in the amount of _____ has been duly and timely filed in the Proceedings (and a true copy of such Proof of Claim is attached to this Assignment). If the Proof of Claim amount differs from the Claim amount set forth above, Assignee shall nevertheless be deemed the owner of that Proof of Claim subject to the terms of this Agreement and shall be entitled to identify itself as owner of such Proof of Claim in the records of the Court.

Assignor further represents and warrants that the amount of the Claim is not less than \$10,399.31 that the Claim in that amount is valid and that no objection to the Claim exists. Assignor further represents and warrants that no payment has been received by Assignor, or by any third party claiming through Assignor, in full or partial satisfaction of the Claim, that Assignor has not previously assigned, sold or pledged the Claim to any third party, in whole or in part, that Assignor owns and has title to the Claim free of any and all liens, security interests or encumbrances of any kind or nature whatsoever, and that there are no offsets or defenses that have been or may be asserted by or on behalf of Debtor or any other party to reduce the amount of the Claim or to impair its value.

Assignor is aware that the above Purchase Price may differ from the amount ultimately distributed in the Proceedings with respect to the Claim and that such amount may not be absolutely determined until entry of a final order confirming a plan of reorganization. Assignor acknowledges that, except as set forth in this Assignment, neither Assignee nor any agent or representative of Assignee has made any representation whatsoever to Assignor regarding the status of the Proceedings, the condition of Debtor (financial or otherwise) or any other matter relating to the Proceedings, the Debtor or the Claim. Assignor represents that it has adequate information concerning the business and financial condition of Debtor and the status of the Proceedings to make an informed decision regarding the sale of the Claim and that it has independently and without reliance on Assignee, and based on such information as Assignor has deemed appropriate (including information available from the files of the Court in the Proceedings), made its own analysis and decision to enter into this Assignment of Claim.

Assignor agrees to make to Assignee immediate proportional restitution and repayment of the above Purchase Price to the extent that the Claim is disallowed for any reason whatsoever in whole or in part, together with interest at the rate of ten percent (10%) per annum on the amount repaid for the period from the date of this Assignment through the date such repayment is made. Assignor further agrees to reimburse Assignee for all losses, costs, and expenses, including reasonable legal fees and costs, incurred by assignee as a result of such disallowance.

In the event the Claim is ultimately allowed in an amount in excess of the amount purchased herein, Assignor is hereby deemed to sell to Assignee, and Assignee hereby agrees to purchase, the balance of said Claim at the same percentage of claim paid herein not to exceed twice the claim amount specified above. Assignee shall remit such payment to Assignor upon Assignee's satisfaction that the Claim has been allowed in the higher amount and is not subject to any objection by the Debtor.

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney and authorizes Assignee to act in Assignor's stead, to demand, sue for, compromise and recover all such amounts as now are, or may hereafter become, due and payable for or on account of the Claim herein assigned. Assignor grants unto Assignee full authority to do all things necessary to enforce the claim and its rights thereunder pursuant to this Assignment of

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EXHIBIT FF - PAGE 59

Claim. Assignor agrees that the powers granted by this paragraph are discretionary in nature and that Assignee may exercise or decline to exercise such powers at Assignee's sole option. Assignee shall have no obligation to take any action to prove or defend the Claim's validity or amount in the Proceedings. Assignor agrees to take such further action, at its own expense, as may be necessary or desirable to effect the assignment of the Claim and any payments or distributions on account of the Claim to Assignee including, without limitation, the execution of appropriate transfer powers, corporate resolutions and consents.

Assignor agrees to forward to Assignee all notices received from Debtor, the Court or any third party with respect to the Claim assigned herein and to vote the Claim, and to take such other action with respect to the Claim in the Proceedings, as assignee may from time to time request. Assignor further agrees that any distribution received by Assignor on account of the Claim, whether in the form of cash, securities, instrument or any other property, shall constitute property of Assignee to which Assignee has an absolute right, and that Assignor will hold such property in trust and will, at its own expense, promptly deliver to Assignee any such property in the same form received, together with any endorsements or documents necessary to transfer such property to Assignee.

Assignor hereby acknowledges that Assignee may at any time reassign the Claim, together with all right, title and interest of Assignee in and to this Assignment of Claim. All representation and warranties made herein shall survive the execution and delivery of this Assignment of Claim and any such re-assignment. This Assignment of Claim may be executed in counterparts and all such counterparts taken together shall be deemed to constitute a single agreement.

This Assignment of Claim shall be governed by and construed in accordance with the laws of the State of New York. Any action arising under or relating to this Assignment of Claim may be brought in any State or Federal court located in the State of New York, and Assignor consents to and confers personal jurisdiction over Assignor by such court or courts and agrees that service of process may be upon Assignor by mailing a copy of said process to Assignor at the address set forth in this Assignment of Claim, and in any action hereunder Assignor waives the right to demand a trial by jury.

CONSENT AND WAIVER

Assignor hereby acknowledges and consents to all of the terms set forth in this Assignment of Claim and hereby waives its right to raise any objections thereto and its right to receive notice pursuant to Rule 3001 of the Rules of Bankruptcy Procedure.

IN WITNESS WHEREOF, the undersigned Assignor hereunto sets its hand this 16th day of November 2000.

ATTEST:

By: Susie Hartline
Signature

Susie Hartline / A/R Supervisor
Print Name/Title
Digital Testing Service, Inc.

(408) 567-4376
Telephone #

IN WITNESS WHEREOF, the undersigned on behalf of each Assignee has hereunto sets its hand this 17 day of NOVEMBER 2000.

ATTEST:

By: [Signature]
~~Matthew Gold~~ JEREMY HALE
Argo Partners, Inc.
212-643-5444

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EXHIBIT FF - PAGE 60

EXHIBIT GG

COPY

BRUCE BENNETT (SBN 105430)
JAMES O. JOHNSTON (SBN 167330)
JOSHUA M. MESTER (SBN 194783)
HENNIGAN & BENNETT
601 South Figueroa Street, Suite 3300
Los Angeles, California 90017
Telephone: (213) 694-1200
Facsimile: (213) 694-1234

CO COPY
CO APP-5 PM 12:33
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Proposed Reorganization Counsel for
Debtor and Debtor in Possession

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re
AUREAL, INC., d/b/a SILO.COM,
f/k/a AUREAL
SEMICONDUCTOR, INC., f/k/a
MEDIA VISION TECHNOLOGY,
INC., a Delaware corporation;

Debtor.

Case No. **00 42104**
(Chapter 11)

DECLARATION OF JAMES O. JOHNSTON IN
SUPPORT OF APPLICATION OF DEBTOR
AND DEBTOR IN POSSESSION TO EMPLOY
HENNIGAN & BENNETT AS
REORGANIZATION COUNSEL

[No Hearing Required]

I, James O. Johnston, declare:

1. I am a member in good standing of the Bar of the State of California. I am admitted to practice before, among other courts, the United States District Court for the Northern District of California. I am a partner in Hennigan & Bennett ("H&B"), proposed reorganization counsel for Aural, Inc., the debtor and debtor in possession (the "Debtor") in the above-captioned bankruptcy case. I make this Declaration in support of the "Application Of Debtor And Debtor In Possession For Authority To

HENNIGAN & BENNETT

CA BAR #05-20211
EXHIBIT GG - PAGE 1

1 Employ Hennigan & Bennett As Reorganization Counsel (the "Application"). I have
2 personal knowledge of the matters set forth below and, if called to testify, I would and
3 could competently testify thereto.

4 2. This Declaration is made pursuant to 11 U.S.C. §§ 327, and 329(a) and Rule
5 2016(b) of the Federal Rules of Bankruptcy Procedure.

6 3. By the Application, the Debtor has applied to the Court for authority to
7 engage H&B as its reorganization counsel on substantially the terms and conditions set
8 forth in the retention agreement attached as Exhibit B to the Application (the "Retention
9 Agreement").

10 4. To the best of my knowledge, information, and belief, all attorneys
11 comprising or employed by H&B who will render services in this case are or will be duly
12 admitted to practice law in the courts of the State of California and in the United States
13 District Court for the Northern District of California and are familiar with the
14 Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy
15 Rules for this District.

16 5. H&B has received a retainer of \$300,000 for services to be rendered to the
17 Debtor in connection with this chapter 11 case. H&B has deposited the unearned
18 portion of the retainer in a trust account in the name of the Debtor, as a trust
19 fund/security retainer, to secure the payment of H&B's allowed fees and expenses in
20 this case. During the one year period prior to the filing date of the chapter 11 petition,
21 H&B did not receive from the Debtor any other payments for services rendered to the
22 Debtor in connection with this case and the reorganization of its business. H&B does not
23 have a prepetition claim against the Debtor's estate.

24 6. H&B has agreed to accept as compensation for its services its retainer and
25 such additional reasonable sums as may be allowed by this Court in accordance with
26 law, based upon the time spent and services rendered, the results achieved, the
27 difficulties encountered, the complexities involved, and other appropriate factors. As set
28 forth in the Retention Agreement, the Debtor has agreed to pay H&B a reasonable fee.

HENNIGAN & BENNETT

1 Such fee may exceed fee calculated by reference to H&B's standard guideline hourly
2 rates.

3 7. I understand that the provisions of Sections 328, 329 and 330 of the
4 Bankruptcy Code and Federal Rule of Bankruptcy Procedure 2016 require, among other
5 things, Court approval of employment of professionals and Court authorization of any
6 fees and costs that H&B shall receive from the Debtor after appropriate notice and a
7 hearing.

8 8. H&B has not shared or agreed to share any compensation for its
9 representation of the Debtor with any other person, except as among the members of
10 H&B.

11 9. H&B represents Oaktree Capital Management, LLC, an affiliate of the
12 Debtor's largest secured creditor and largest equity holder, in an unrelated litigation
13 matter entitled Farallon Capital Partners, L.P., et. al. v. Gleacher & Co., Inc. et. al., which
14 is pending in the California Superior Court in Los Angeles, as case number BC 215260.
15 Despite that concurrent representation which is within the scope of and permitted by
16 retention agreement, I believe that H&B is "disinterested" within the meaning of section
17 101(14) of the Bankruptcy Code, and does not hold or represent an interest materially
18 adverse to the estates within the meaning of section 327 of the Bankruptcy Code.

19 10. Except as set forth above, to the best of my knowledge, information, and
20 belief, neither H&B nor any of the attorneys comprising as employed by it has any prior
21 connection to the Debtor or is an insider of the Debtor or any other related entities in
22 which the Debtor may have an interest, its creditors, or any other party in interest in this
23 case or its respective attorneys or accountants. If at any subsequent time during the
24 course of this proceeding, H&B learns of any representation that may give rise to a
25 conflict, an amended Declaration identifying and specifying such potential conflict will
26 be filed promptly with the Court and the Office of the United States Trustee.

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EXHIBIT GG - PAGE 3

1 11. In the following supplemental disclosures, references to H&B include all
2 members thereof who are expected to render services in this case. To the best of my
3 knowledge, information and belief:

4 a. H&B is not and has not been a creditor, an equity security holder or
5 an insider of the Debtor.

6 b. H&B is not and has not been an investment banker for any
7 outstanding security of the Debtor.

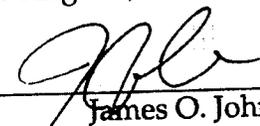
8 c. H&B is not and has not been an investment banker for a security of
9 the Debtor, or an attorney for such an investment banker in connection with the offer,
10 sale or issuance of any security of the Debtor.

11 d. H&B is not and has not been a director, officer or employee of the
12 Debtor or of any investment banker for any security of the Debtor.

13 e. H&B has no interest materially adverse to the interest of the estate
14 or of any class of creditors or equity security holders, by reason of any direct or indirect
15 relationship to, connection with, or interest in, the Debtor or an investment banker for
16 any security of the Debtor, or for any other reason.

17 I declare under penalty of perjury that the foregoing is true and correct.

18 Executed this 7th day of April, 2000, at Los Angeles, California.

19 By: 
20 James O. Johnston
21 Proposed Reorganization Counsel for Debtor
22 And Debtor in Possession
23
24
25
26
27
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CA BAR #05-20211
EXHIBIT GG - PAGE 4

EXHIBIT HH

FILED

JUN 2 8 2000

BANKRUPTCY COURT
OAKLAND, CALIFORNIA

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re
AUREAL, INC., etc.,
Debtor-in-Possession.

No. 00-42104 T
Chapter 11

MEMORANDUM OF DECISION RE EMPLOYMENT OF ACCOUNTANTS

Aureal, Inc. (the "Debtor"), a chapter 11 debtor-in-possession, seeks to employ PricewaterhouseCoopers LLP ("PWC") as its accountants and financial advisors in connection with the above-captioned bankruptcy case. The Office of the United States Trustee (the "UST") and Creative Technology, Inc. ("Creative"), a creditor engaged in litigation with the Debtor, object to PWC's employment. They contend that PWC's past, present, and contemplated future employment by Creative disqualifies PWC from being employed by the Debtor pursuant to 11 U.S.C. § 327. For the reasons stated below, the Court overrules the objection in part and sustains it in part. Whether the Debtor may employ PWC depends on PWC's willingness to forego providing a portion of its proposed current and contemplated future services to Creative.¹

¹The UST also objects to PWC's request that it be employed on a nunc pro tunc basis. The Debtor filed its chapter 11 petition on April 5, 2000. The Debtor's application to employ PWC was not filed until May 4, 2000. The Debtor represented that it delayed filing the application in an attempt to resolve this employment dispute with Creative and the UST. The Court is satisfied with

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CA BAR #05-20211
EXHIBIT HH - PAGE 1

1 In the PWC employment application, the Debtor stated that it
2 wished to employ PWC for a variety of purposes, including to assist
3 in the sale of its business as a going concern. The application
4 disclosed various connections with interested parties which the
5 Debtor contended were not disqualifying. The only controversial
6 connection is the services performed and to be performed by PWC for
7 Creative.

8 The PWC employment application disclosed that PWC performs
9 audit and tax work for ("Creative") and its subsidiaries. It
10 disclosed that PWC has also been engaged by Creative as technical
11 consulting experts in litigation against the Debtor. Finally, the
12 application disclosed that PWC may assist Creative in making an offer
13 for the purchase of all or a portion of the assets of the Company.
14 The employment application stated that an "ethical wall" had been
15 created by PWC and would be maintained to ensure that PWC's
16 involvement with Creative was kept separate from its involvement with
17 the Debtor.

18 The UST and Creative objected to the Debtor's employment of PWC
19 under these circumstances. They contended that PWC's past, present,
20 and contemplated future services for Creative gave it an interest
21 adverse to the Debtor. As a result, they contended, PWC was not
22 disinterested as required by 11 U.S.C. § 327(a).

23
24
25 this explanation given the slight delay. The Court is also
26 satisfied with the notice of the application given to creditors.
Thus, if PWC may be employed by the Debtor, it may be employed on a
nunc pro tunc basis.

1 The Debtor and PWC contended that PWC was and is disinterested.
2 They emphasized the difference between an accountant's role and an
3 attorney's, at least when an accountant is performing auditing
4 services. Whereas an attorney owes its primary duty to its client,
5 in performing auditing services, an accountant owes its primary duty
6 to the public.

7 Furthermore, ethical rules governing accountants circumscribe
8 what other services an accountant can perform for a client without
9 losing the independence necessary to continue to perform auditing
10 services. PWC's general counsel had concluded that serving as a
11 consulting expert in connection with Creative's litigation with the
12 Debtor and assisting Creative in connection with the purchase of the
13 Debtor's assets fell within the zone of these permitted services.²
14 Since the additional services that PWC provides to Creative do not
15 compromise its independence in accordance with ethical standards
16 governing accountants, they should not be deemed to create a conflict
17 of interest for bankruptcy purposes.

18 Section 327(a) of the Bankruptcy Code provides that, subject to
19 the other subsections of that section, "the trustee, with the court's
20 approval, may employ one or more...accountants...that do not hold or
21 represent an interest adverse to the estate, and that are
22

23
24 ²PWC and Creative described the contemplated services in
25 connection with the purchase of the Debtor's assets somewhat
26 differently. PWC described the services as "due diligence."
Creative described them as "providing advice concerning the
proposed purchase." However, the Court is satisfied that there is
no meaningful difference between these two descriptions for
purposes of this application.

1 disinterested persons, to represent or assist the trustee in carrying
2 out the trustee's duties under...[title 11]." No one contended that
3 PWC itself "holds" an interest adverse to the estate.³ Clearly,
4 Creative does "hold" an interest adverse to the estate. Therefore,
5 the Debtor and PWC focused their argument on whether PWC "represents"
6 Creative. They contended that it does not.

7 The Court concludes that this focus is misdirected. First,
8 section 327(a) also requires that PWC be a "disinterested person."
9 Section 101(14) contains an exhaustive definition of the phrase
10 "disinterested person." The only portion of the definition arguably
11 applicable to PWC is section 101(14)(E). Section 101(14)(E) states
12 that a "disinterested person" means a person that "does not have an
13 interest materially adverse to the interest of the estate...."

14 Second, as noted above, section 327(a) is subject to section 327(c).

15 Section 327(c) provides that "a person is not disqualified for
16 employment under this section solely because of such person's
17 **employment by** or representation of a creditor, unless there is
18 objection by another creditor or the United States trustee, in which
19 case the court shall disapprove such employment if there is an actual
20 conflict of interest [emphasis added]." Thus, even if the services
21 provided and to be provided to Creative by PWC do not qualify as
22 representation, PWC has clearly been employed and proposes to
23

24
25 ³The Court interprets this phrase to require that PWC itself
26 have an economic interest adverse to the estate. The Court does
not consider PWC's interest in getting paid for its services a
sufficiently direct economic interest to disqualify it from
employment by the Debtor under this provision.

1 representation, PWC has clearly been employed and proposes to
2 continue to be employed by Creative. Pursuant to 11 U.S.C. § 327(c)
3 and § 101(14)(E), the Court finds the critical issue presented by
4 this dispute not to be whether PWC represents Creative but rather
5 whether the services provided by PWC to Creative create a conflict of
6 interest with the Debtor and the estate.

7 At the hearing on the application, the UST cited four cases in
8 support of its position that PWC's services for Creative disqualify
9 it from employment by the Debtor: In re Micro-Time Management
10 Systems, Inc., 102 BR 602 (Bankr. E.D. Mich. 1989); In re CVC, Inc.,
11 120 B.R. 874 (Bankr. N.D. Ohio 1990); In re Trust Amercia Corp., 175
12 B.R. 413 (Bankr. M.D. Fla. 1994); and In re Thrifty Oil Co., 205 B.R.
13 1009 (Bank. S.D. Cal. 1997). In a supplemental brief, the UST cited
14 two additional cases: In re Aircraft Instrument & Development, Inc.,
15 151 B.R. 939 (Bankr. D. Kan. 1993) and In re Michigan General
16 Corporation, 77 B.R. 97 (Bankr. N.D. Tex. 1987). PWC contended that
17 the cases cited by the UST were all factually distinguishable.⁴

18 The Court agrees with PWC to some extent.⁵ Most of the cases
19 cited involved fee applications, not an employment application as
20 does this case. In several of the cases, the professionals had not
21

22 ⁴PWC did not have an opportunity to comment on the two cases
23 first cited by the UST in its supplemental brief since the parties'
24 supplemental briefs were submitted simultaneously. However, the
25 Court has read and considered these additional cases.

25 ⁵The remainder of the supplemental response is not
26 particularly helpful due to its focus on the meaning of the term
"representation" in 11 U.S.C. § 327(a). As noted above, the Court
has concluded that this issue is not determinative of the outcome
of this dispute.

1 disclosed, or at least not fully disclosed, the nature and extent of
2 the potentially disqualifying connections. There is no such failure
3 to disclose in this case. In several of the cases, the accountant
4 had clearly "represented" the debtor-in-possession or committee by
5 negotiating with third parties. In one instance, the accountant
6 served a chapter 11 trustee. PWC has not played any such role on
7 behalf of Creative nor does it propose to do so in the future.

8 However, the cases do provide some guidance. The Thrifty Oil
9 and Aircraft Instrument & Development courts concluded that an
10 accounting firm may concurrently represent a debtor-in-possession or
11 creditor's committee and perform auditing services for a creditor or
12 other party with an interest adverse to the estate. The Court agrees
13 that this dual employment does not constitute an actual conflict of
14 interest and is therefore permissible pursuant to 11 U.S.C. § 327(c).
15 Although presenting a somewhat different issue and not addressed by
16 any of the cases cited, the Court concludes that the tax work
17 performed by PWC for Creative is also not disqualifying as long as
18 PWC does not serve as an advocate for Creative in tax litigation. In
19 obtaining tax work from accountant, Creative is not pursuing an end
20 adverse to the Debtor.

21 At the other end of the issue spectrum, the Trust America court
22 concluded that, if a proposed concurrent representation of a debtor-
23 in-possession or committee, on the one hand, and a creditor, on the
24 other, would represent an actual conflict of interest, creating an
25 "ethical wall" would not solve the problem. Trust America, 175 B.R.
26 at 421. Again, the Court agrees with this conclusion.

1 However, the Court must still decide whether PWC's proposed
2 services for Creative, other than audit and tax services, do create
3 a conflict of interest. The cases do not assist the Court in making
4 this determination. Instead, the Court must consider the questions
5 from a practical point of view. From this vantage point, the Court
6 concludes that serving as Creative's consulting expert in litigation
7 against the Debtor and advising Creative in connection with the
8 purchase of the Debtor's assets would pose a conflict of interest
9 with its representation of the Debtor.

10 Certainly, in both capacities, as a professional, PWC must give
11 its most objective professional opinion to Creative. Presumably,
12 Creative is counting on PWC's doing so. Nevertheless, by providing
13 these opinions to Creative, PWC is assisting Creative in matters that
14 are adverse to the Debtor and the estate. The dual employment would
15 present a problem of divided loyalty. Moreover, Creative may be
16 required to give PWC confidential information in order to obtain its
17 professional opinion. Creative may have concerns about whether that
18 information will be kept confidential. As the case law recognizes,
19 an "ethical wall" is not always effective despite the professional's
20 best intentions. Id. The difficulty of ensuring that such
21 protective measures are effective is greater when the dual employment
22 is concurrent than when it is successive. For this reason, the Court
23 agrees with case law that an "ethical wall" may resolve a conflict in
24 the latter instance but not in the former.

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CONCLUSION

For the reasons stated above, the Court concludes that the Debtor may employ PWC only if PWC: (1) agrees not to continue serving as Creative's consulting expert nor to provide Creative with advice concerning the purchase of the Debtor's assets and (2) maintains and "ethical wall" to preserve the confidentiality of any information obtained as a result of any such services for Creative in the past. The Debtor shall submit an order granting or denying its application, as appropriate. If the order seeks approval of the employment of PWC, it shall be accompanied by a declaration from an appropriate representative of PWC, agreeing to the foregoing conditions.

Dated: June 28, 2000


United States Bankruptcy Judge

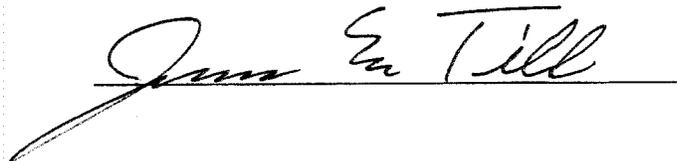
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2 PROOF OF SERVICE

3 I, the undersigned, a regularly appointed and qualified
4 clerk in the office of the United States Bankruptcy Court for
5 the Northern District of California at Oakland, hereby certify:

6 That I, in the performance of my duties as such clerk,
7 served a copy of the foregoing document by depositing it in the
8 regular United States mail at Oakland, California, on the date
9 shown below, in a sealed envelope bearing the lawful frank of
10 the Bankruptcy Court, addressed as listed below.

11 I declare under penalty of perjury under the laws of the
12 United States that the foregoing is true and correct.

13 Dated: June 28, 2000

14 
15 _____

16 Office of the United States Trustee
17 Document placed in UST mailbox at
18 US Bankruptcy Court
19 1300 Clay Street, Third Floor
20 Oakland, CA 94612

21 Sidney P. Levinson
22 Hennigan, Bennett & Dorman
23 601 S. Figueroa St., Ste. 3300
24 Los Angeles, CA 90017

25 James L. Lopes
26 Howard, Rice and Nemerovski
3 Embarcadero Center, Ste. 700
San Francisco, CA 94111

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McCutchen, Doyle, Enersen & Brown
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CA BAR #05-20211
EXHIBIT HH - PAGE 10

EXHIBIT II

1 Services Rendered as Reorganization Counsel and Litigation Counsel to the Debtor and Debtor in
2 Possession," ("Twelfth Application"). By the Twelfth Application, HBD respectfully requests
3 allowance of interim compensation for professional services rendered in the amount of
4 \$54,878.00 and reimbursement of actual, necessary and reasonable expenses in the amount of
5 \$5,784.07 incurred during the period August 1, 2001, through August 31, 2001.

6 **PLEASE TAKE FURTHER NOTICE**, that pursuant to the "Order Granting Motion For
7 Administrative Order Under Sections 105(a) and 331 of the Bankruptcy Code Establishing
8 Procedures For Interim Compensation and Reimbursement of Expenses For Professionals and
9 Committee Members," (the "Administrative Order"), a copy of which is attached hereto as
10 Exhibit A, and Bankruptcy Local Rule ("B.L.R.") 9014-1 of the United States Bankruptcy Court
11 for the Northern District of California, any objection to the requested relief, or a request for
12 hearing on the matter below, must be filed and served upon counsel for the Aureal, Inc., debtor
13 and debtor in possession in the above-captioned case, (the "Debtor"), at the address listed above,
14 within twenty (20) days of mailing of this notice. A request for hearing or objection must be
15 accompanied by any declarations or memoranda of law the party objecting or requesting wishes
16 to present in support of its position. If there is not a timely objection to the requested relief or a
17 request for hearing, the Court may enter an order granting the relief by default. Counsel for the
18 Debtor will provide at least 10 days written notice of hearing to the objecting or requesting party,
19 as well as to the U.S. Trustee and to the Official Committee of Unsecured Creditors (the
20 "Committee"), in the event an objection or request for hearing is timely made.

21 **I. RELIEF REQUESTED**

22 1. By this Application, Hennigan, Bennett & Dorman ("HBD"), reorganization and
23 litigation counsel to the Debtor, respectfully applies to the Court, pursuant to sections 327, 330,
24 331 and 503(b) of title 11 of the United States Code (the "Bankruptcy Code"), and Rule 2015 of
25 the Federal Rule of Bankruptcy Procedure (the "Bankruptcy Rule"), for allowance of interim
26 compensation for professional services rendered in the amount of \$54,878.00 and
27 reimbursement of actual, necessary and reasonable expenses in the amount of \$5,784.07,
28 incurred during the period August 1, 2001, through August 31, 2001.

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II. BACKGROUND

2. On April 5, 2000 (the "Petition Date"), the Debtor commenced its reorganization case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

3. The Debtor is continuing in possession of its assets and is operating and managing its business as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

4. Since the commencement of this bankruptcy case, the Debtor and its professionals have devoted most of their attention to four issues: (1) the sale of the Debtor's assets; and (2) the litigation claims by and against Creative Technology, Inc. ("Creative"); (3) the filing of a plan of reorganization and disclosure statement and solicitation thereof; and (4) analysis and litigation of claims held by and asserted against the Debtor.

III. RETENTION OF APPLICANT AS REORGANIZATION COUNSEL AND LITIGATION COUNSEL

5. HBD has extensive bankruptcy and reorganization experience representing debtors in possession in large and complex cases such as this one. HBD has, in years past, successfully helped reorganize several different types of businesses through chapter 11 reorganizations.

6. HBD has provided reorganization and bankruptcy legal services to the Debtor for the period March 22, 2000 through the present. HBD received a prepetition retainer in the amount of \$300,000 ("Prepetition Retainer"). Of that amount, \$76,402.17 was applied against the Prepetition Retainer for prepetition services rendered and expenses incurred.

7. On April 5, 2000, (the "Petition Date"), the Debtor filed the "Application Of Debtor and Debtor in Possession for Authority to Employ Hennigan & Bennett as Reorganization Counsel" (the "Employment Application"). The Employment Application was subsequently granted through the "Order Authorizing Debtors To Employ Hennigan & Bennett As Reorganization Counsel to the Debtor and Debtor in Possession" (the "Retention Order"), on June 19, 2000. By the Retention Order, the Court approved the Debtor's employment of HBD as reorganization counsel pursuant to section 327(a) of the Bankruptcy Code and authorized HBD to be compensated at the expense of the estate as set forth in the Employment Application, subject to interim and final allowance by the Court.

1 8. On or about June 12, 2000, HBD filed its "Application of Debtor and Debtor in
2 Possession to Expand Employment of Hennigan, Bennett & Dorman and Approve Litigation
3 Engagement Agreement." Subsequently, on or about August 9, 2000, HBD filed the "Amended
4 Application of Debtor and Debtor in Possession to Expand Employment of Hennigan, Bennett
5 & Dorman and Approve Litigation Engagement Agreement" (the "Litigation Application"). By
6 the Litigation Application, the Debtor sought to expand HBD's employment to include HBD's
7 representation of the Debtor in the pending cases that were brought prepetition by and against
8 Creative Labs, Inc. and its affiliates (collectively, "Creative"). The Court approved the
9 Litigation Application on October 25, 2000.

10 9. On November 15, 2000, this Court entered an "Order Approving First Interim
11 Application of Hennigan, Bennett & Dorman for Allowance of Compensation and
12 Reimbursement of Expenses for Professional Services Rendered as Reorganization Counsel to
13 the Debtor and Debtor in Possession" (the "First Interim Fee Order"). Pursuant to the First
14 Interim Fee Order, the Court allowed HBD's fees in the amount of \$606,938.00 and expenses in
15 the amount of \$57,250.51, for the period April 5, 2000 through June 30, 2000, and authorized
16 the Debtor to pay eighty percent (80%) of the allowed fees and one-hundred percent (100%) of
17 the allowed expenses. The balance of the Prepetition Retainer was applied to the fees and
18 expenses awarded from the First Interim Fee Order.

19 10. On December 1, 2000, HBD Filed its original Notice of Application and Second
20 Interim Application of Hennigan, Bennett & Dorman for Allowance of Compensation and
21 Reimbursement of Expenses as Reorganization Counsel to the Debtor and Debtor in Possession.
22 Subsequently, on February 14, 2001, HBD filed the Notice of Amended and Amended Second
23 Interim Application of Hennigan, Bennett & Dorman for Allowance of Compensation and
24 Reimbursement of Expenses as Reorganization Counsel to the Debtor and Debtor in Possession
25 (the "Amended Second Application"). Pursuant to the Amended Second Application, HBD
26 sought allowance of fees in the amount of \$421,818.50 and reimbursement of expenses in the
27 amount of \$61,700.83 for the period July 1, 2000 through September 30, 2000. The Amended
28 Second Application was approved by this Court on February 16, 2001.

1 11. On December 27, 2000, HBD filed its original Notice of Application and Third
2 Interim Application of Hennigan, Bennett & Dorman for Allowance of Compensation and
3 Reimbursement of Expenses as Reorganization Counsel to the Debtor and Debtor in Possession.
4 Subsequently, on February 15, 2001 HBD filed the Notice of Amended and Amended Third
5 Interim Application Of Hennigan, Bennett & Dorman for Allowance of Compensation and
6 Reimbursement of Expenses as Reorganization Counsel to the Debtor and Debtor in Possession.
7 (the "Amended Third Application"). Pursuant to the Amended Third Application, HBD sought
8 allowance of fees in the amount of \$107,145.50 and reimbursement of expenses of \$6,854.31
9 for the period October 1, 2000 through October 31, 2000. The Amended Third Application was
10 approved by this Court on February 21, 2001.

11 12. On February 16, 2001, HBD filed its Notice of Application and Fourth Interim
12 Application for Allowance of Compensation and Reimbursement of Expenses for Professional
13 Services Rendered as Reorganization Counsel to the Debtor and Debtor in Possession (the
14 "Fourth Application"). Pursuant to the Fourth Application, HBD sought allowance of fees in
15 the amount of \$93,241.50 and reimbursement of expenses in the amount of \$34,064.65 for the
16 period November 1, 2000 through December 1, 2001. The Fourth Application was approved by
17 the Court on April 4, 2001.

18 13. On April 20, 2001, HBD filed its Notice of Application and Fifth Interim
19 Application for Allowance of Compensation and Reimbursement of Expenses for Professional
20 Services Rendered as Reorganization Counsel to the Debtor and Debtor in Possession (the
21 "Fifth Application"). Pursuant to the Fifth Application, HBD sought allowance of fees in the
22 amount of \$65,410.50 and reimbursement of expenses in the amount of \$4,523.20 for the period
23 January 1, 2001 through January 31, 2001. The Fifth Application was approved by the Court on
24 June 11, 2001.

25 14. On or about June 28, 2001, HBD filed its Notice of Application and Sixth Interim
26 Application for Allowance of Compensation and Reimbursement of Expenses for Professional
27 Services Rendered as Reorganization Counsel to the Debtor and Debtor in Possession (the
28 "Sixth Application"). Pursuant to the Sixth Application, HBD sought allowance of fees in the

1 amount of \$40,666.00 and reimbursement of expenses in the amount of \$14,080.56 for the
2 period February 1, 2001 through February 28, 2001. The Sixth Application was approved by
3 the Court on August 3, 2001.

4 15. On or about July 6, 2001, HBD filed its Notice of Application and Seventh Interim
5 Application for Allowance of Compensation and Reimbursement of Expenses for Professional
6 Services Rendered as Reorganization Counsel to the Debtor and Debtor in Possession (the
7 "Seventh Application"). Pursuant to the Seventh Application, HBD sought allowance of fees in
8 the amount of \$49,201.00 and reimbursement of expenses in the amount of \$6,229.02 for the
9 period March 1, 2001 through March 31, 2001. The Seventh Application was approved by the
10 Court on August 6, 2001.

11 16. On or about August 6, 2001, HBD filed its Notice of Application and Eighth
12 Interim Application for Allowance of Compensation and Reimbursement of Expenses for
13 Professional Services Rendered as Reorganization Counsel to the Debtor and Debtor in
14 Possession (the "Eighth Application"). Pursuant to the Eighth Application, HBD sought
15 allowance of fees in the amount of \$75,071.00 and reimbursement of expenses in the amount of
16 \$12,274.94 for the period April 1, 2001 through April 30, 2001. The Eighth Application was
17 approved by the Court on October 22, 2001.

18 17. On or about October 18, 2001, HBD filed its Notice of Application and Ninth
19 Interim Application for Allowance of Compensation and Reimbursement of Expenses for
20 Professional Services Rendered as Reorganization Counsel to the Debtor and Debtor in
21 Possession (the "Ninth Application"). Pursuant to the Ninth Application, HBD sought
22 allowance of fees in the amount of \$66,465.00 and reimbursement of expenses in the amount of
23 \$11,296.46 for the period May 1, 2001 through May 31, 2001. The Ninth Application has not
24 been approved as of the date of this application.

25 18. On or about October 18, 2001, HBD filed its Notice of Application and Tenth
26 Interim Application for Allowance of Compensation and Reimbursement of Expenses for
27 Professional Services Rendered as Reorganization Counsel to the Debtor and Debtor in
28 Possession (the "Tenth Application"). Pursuant to the Tenth Application, HBD sought

1 allowance of fees in the amount of \$51,668.00 and reimbursement of expenses in the amount of
2 \$19,442.35 for the period June 1, 2001 through June 30, 2001. The Tenth Application has not
3 been approved as of the date of this application.

4 19. On or about October 24, 2001, HBD filed its Notice of Application and Eleventh
5 Interim Application for Allowance of Compensation and Reimbursement of Expenses for
6 Professional Services Rendered as Reorganization Counsel to the Debtor and Debtor in
7 Possession (the "Eleventh Application"). Pursuant to the Eleventh Application, HBD sought
8 allowance of fees in the amount of \$83,303.00 and reimbursement of expenses in the amount of
9 \$12,454.26 for the period July 1, 2001 through July 31, 2001. The Eleventh Application has not
10 been approved as of the date of this application.

11 IV. DESCRIPTION OF SERVICES RENDERED BY APPLICANT

12 20. The services rendered by HBD during the Twelfth Fee Period are grouped into the
13 fee categories set forth below. The fees have been subdivided into 44 separate categories to
14 comply with the requirements of this Court. The attorneys and paralegals who rendered services
15 relating to each category are identified in Exhibit C attached hereto. The total number of hours
16 that each individual spent as well as the total compensation sought for each category are
17 reflected in the fee statements attached hereto as Exhibit B.

18 21. Case Administration (010). This category includes a number of different tasks that
19 are necessary to administer the bankruptcy case including inventory of correspondence and
20 pleadings, and preparation for and attendance of status conference. During the Twelfth Fee
21 Period, HBD rendered 31.30 hours of services and incurred fees in the amount of \$3,055.00.

22 22. Meetings of and Communications with Creditors (020). This category includes
23 time spent participating in telephone conferences regarding the case status. During the Twelfth
24 Fee Period, HBD rendered 0.30 hours of services and incurred fees in the amount \$112.50.

25 23. General Business Operations (030). This category includes time spent reviewing
26 and preparing correspondence regarding a copy of notice of the commencement of the case.
27 During the Twelfth Fee Period, HBD rendered 2.00 hours of service and incurred fees in the
28 amount of \$295.00.

1 24. Monthly Operating Reports (033). This category includes time spent reviewing
2 and revising the monthly operating report. During the Twelfth Fee Period, HBD rendered 0.20
3 hours of services and incurred fees in the amount of \$33.00.

4 25. Trademarks (034). This category includes time spent preparing correspondence
5 regarding the payment of outstanding fees. During the Twelfth Fee Period, HBD rendered 0.80
6 hours of services and incurred fees in the amount of \$132.00.

7 26. Fee/Employment Applications (040). This category includes time spent preparing
8 correspondence regarding payment of fees and participating in telephone conferences regarding
9 a check received. During the Twelfth Fee Period, HBD rendered 1.30 hours of services and
10 incurred fees in the amount of \$214.50.

11 27. HBD Fee Applications (042). This category includes time spent drafting and
12 revising the Eighth and Ninth Applications of HBD, as well as preparing the declaration in
13 support of the Eighth Application. During the Twelfth Fee Period, HBD rendered 7.40 hours of
14 services and incurred fees in the amount of \$1,221.00.

15 28. Ritter, Van Pelt (047). This category includes time spent preparing
16 correspondence and participating in a telephone conference regarding fees. During the Twelfth
17 Fee Period, HBD rendered 1.20 hours of services and incurred fees in the amount of \$198.00.

18 29. Mohler, Nixon (048). This category includes time spent reviewing and preparing
19 correspondence regarding Mohler Nixon retainer agreement. During the Twelfth Fee Period,
20 HBD rendered 0.40 hours of services and incurred fees in the amount of \$66.00.

21 30. Claims Administration (070). This category includes time spent reviewing and
22 preparing correspondence, participating in telephone conferences, and conducting research
23 regarding various claims. During the Twelfth Fee Period, HBD rendered 5.30 hours of services
24 and incurred fees in the amount of \$1,075.50.

25 31. Omnibus Claims Objection Motion (072). This category includes spent time
26 reviewing and revising a response to Momentum's response to the second omnibus claims
27 objection. During the Twelfth Fee Period, HBD rendered 0.50 hours of services and incurred
28 fees in the amount of \$105.00.

1 32. Ocean Claims (076). This category includes time spent participating in multiple
2 telephone conferences and preparing correspondence regarding the status conference and
3 preparing and processing notice of the status conference. During the Twelfth Fee Period, HBD
4 rendered 1.70 hours of services and incurred fees in the amount of \$331.50.

5 33. Account Receivable Recovery (General) (086). This category includes multiple
6 conferences regarding accounts receivable issues. During the Twelfth Fee Period, HBD
7 rendered 0.60 hours of services and incurred fees in the amount of \$225.00.

8 34. Asset Disposition (090). This category includes time spent on a telephone
9 conference regarding sale of the corporate shell. During the Twelfth Fee Period, HBD rendered
10 0.20 hours of services and incurred fees in the amount of \$75.00.

11 35. Plan/Disclosure Statement (100). This category includes time spent analyzing
12 third amended plan and preparing third amended plan for filing. During the Twelfth Fee Period,
13 HBD rendered 2.80 hours of services and incurred fees in the amount of \$679.00.

14 36. Disclosure Statement (101). This category includes time spent reviewing
15 correspondence regarding filing of the plan. During the Twelfth Fee Period, HBD rendered 0.20
16 hours of services and incurred fees in the amount of \$33.00.

17 37. Plan of Reorganization (102). This category includes time spent preparing and
18 revising the Plan and Order for filing and participating in telephone conferences regarding the
19 Plan and Order. During the Twelfth Fee Period, HBD rendered 5.80 hours of services and
20 incurred fees in the amount of \$2,133.00.

21 38. Plan Related Documents (105). This category includes time spent reviewing the
22 file regarding Copelco documents. During the Twelfth Fee Period, HBD rendered 0.40 hours of
23 services and incurred fees in the amount of \$66.00.

24 39. Litigation (120). This category includes time spent reviewing files regarding
25 objections to claims; participating in telephone conferences regarding a status conference; and
26 attending to status conference issues. During the Twelfth Fee Period, HBD rendered 9.50 hours
27 of services and incurred fees in the amount of \$1,747.50.

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1 40. Creative Sale/ Creative Stock (179). This category includes time spent reviewing
2 and revising the prospectus and resolutions; and participating in telephone conferences
3 regarding Creative stock. During the Twelfth Fee Period, HBD rendered 2.90 hours of services
4 and incurred fees in the amount of \$1,087.50.

5 41. Micro Pro Inc. Complaint (210). This category includes time spent preparing and
6 reviewing correspondence, drafting and revising a motion to approve settlement, and
7 participating in a telephone conference regarding case settlement. During the Twelfth Fee
8 Period, HBD rendered 2.40 hours of services and incurred fees in the amount of \$681.50.

9 42. Ecovision/Communications with Other Side (225). This category includes time
10 spent drafting correspondence regarding responses to discovery requests. During the Twelfth
11 Fee Period, HBD rendered 0.70 hours of services and incurred fees in the amount of \$147.00.

12 43. Future Technologies Complaint (240). This category includes time spent drafting
13 an order approving a settlement agreement with Future Technologies. During the Twelfth Fee
14 Period, HBD rendered 0.20 hours of services and incurred fees in the amount of \$42.00.

15 44. World Peace Complaint (260). This category includes time spent participating in
16 telephone conferences and preparing correspondence regarding World Peace complaint and
17 settlement. During the Twelfth Fee Period, HBD rendered 0.60 hours of services and incurred
18 fees in the amount of \$162.00.

19 45. World Peace/ Communications with Other Side (265). This category includes
20 time spent participating in a telephone conference with counsel for World Peace regarding
21 settlement. During the Twelfth Fee Period, HBD rendered 0.20 hours of services and incurred
22 fees in the amount of \$75.00.

23 46. Krystaltech Complaint (270). This category includes time spent participating in
24 telephone and office conferences regarding status conference, settlement, and production of
25 documents; review of documents provided by Krystaltech; research regarding potential
26 witnesses; and preparation of evidence regarding claim. During the Twelfth Fee Period, HBD
27 rendered 19.00 hours of services and incurred fees in the amount of \$5,358.00.
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1 47. Krystaltech/ Discovery (272). This category includes time spent reviewing
2 correspondence regarding discovery. During the Twelfth Fee Period, HBD rendered 0.10 hours
3 of services and incurred fees in the amount of \$37.50.

4 48. Centerprise/ Discovery (292). This category includes time spent participating in a
5 conference regarding discovery issues. During the Twelfth Fee Period, HBD rendered 0.30
6 hours of services and incurred fees in the amount of \$112.50.

7 49. Raab Karcher Complaint (300) This category includes time spent participating in
8 telephone conferences and reviewing and revising an order regarding the Avnet settlement
9 agreement. During the Twelfth Fee Period, HBD rendered 0.90 hours of services and incurred
10 fees in the amount of \$189.00.

11 50. Raab Karcher/ Communications with Other Side (305). This category includes
12 time spent participating in telephone conferences regarding the Avnet settlement agreement.
13 During the Twelfth Fee Period, HBD rendered 1.00 hours of services and incurred fees in the
14 amount of \$210.00.

15 51. Supercom Richmond Complaint (320). This category includes time spent
16 reviewing bankruptcy rules and rules of civil procedure and reviewing files in preparation for a
17 status conference. During the Twelfth Fee Period, HBD rendered 0.50 hours of services and
18 incurred fees in the amount of \$140.00.

19 52. Supercom Richmond/ Discovery (322). This category includes time spent
20 attending a status conference. During the Twelfth Fee Period, HBD rendered 0.50 hours of
21 services and incurred fees in the amount of \$140.00.

22 53. IntegraDyne Complaint (360). This category includes time spent participating in
23 multiple telephone conferences regarding documents and claims and review of documents
24 relating to Integradyne claim. During the Twelfth Fee Period, HBD rendered 10.80 hours of
25 service and incurred fees in the amount of \$3,699.50.

26 54. I/O Magic Complaint (370). This category includes time spent reviewing answer
27 to I/O Magic complaint. During the Twelfth Fee Period, HBD rendered 0.30 hours of services
28 and incurred fees in the amount of \$84.00.

1 55. IP Labs Complaint (380). This category includes time spent participating in a
2 telephone conference regarding the IP Labs conference and drafting an order approving the IP
3 Labs settlement agreement. During the Twelfth Fee Period, HBD rendered 0.30 hours of
4 services and incurred fees in the amount of \$63.00.

5 56. Citicorp Motion to Reconsider (400). This category includes time spent
6 participating in telephone and office conferences regarding Citicorp claim issues; drafting
7 pleadings, declarations, and correspondence in opposition to CVF's motion to reconsider; and
8 researching multiple legal issues related to the CVF motion. During the Twelfth Fee Period,
9 HBD rendered 31.30 hours of services and incurred fees in the amount of \$7,140.00.

10 57. Service of Citicorp (401). This category includes time spent participating in a
11 telephone conference regarding service of a pleading. During the Twelfth Fee Period, HBD
12 rendered 0.10 hours of services and incurred fees in the amount of \$37.50.

13 58. Citicorp/ Discovery (402). This category includes time spent preparing for and
14 participating in telephone conferences regarding discovery issues; drafting document requests
15 and reviewing documents; preparing for and participating in discovery hearing; and drafting and
16 revising correspondence regarding discovery. Discovery in this proceeding was contentious and
17 HBD was required to schedule two hearings to compel CVF to comply with its discovery
18 obligations. During the Twelfth Fee Period, HBD rendered 22.40 hours of services and incurred
19 fees in the amount of \$6,255.00.

20 59. Citicorp/ Response to Discovery (403). This category includes time spent
21 participating in telephone and office conferences and preparing correspondence regarding
22 discovery issues, as well as drafting a deposition outline. During the Twelfth Fee Period, HBD
23 rendered 3.50 hours of services and incurred fees in the amount of \$847.50.

24 60. Citicorp/ Deposition (404). This category includes time spent participating in
25 conferences regarding litigation and deposition issues; drafting, reviewing and revising
26 deposition outlines for Elizabeth Sullivan, CVF's chief witness who testified by declaration in
27 support of the motion to reconsider; preparing for and conducting Sullivan deposition; and
28 analysis and review of the deposition transcript; and factual investigation of CVF's claims,

1 including interviews with current and former employees and consultants who provided
2 declarations in response to CVF's allegations in its motion for reconsideration. During the
3 Twelfth Fee Period, HBD rendered 22.60 hours of services and incurred fees in the amount of
4 \$5,505.00.

5 61. Citicorp/ Communications with Other Side (405). This category includes time
6 spent participating in telephone conferences and preparing and reviewing correspondence
7 regarding discovery and settlement issues. During the Twelfth Fee Period, HBD rendered 3.40
8 hours of services and incurred fees in the amount of \$855.00.

9 62. Next Factors/ Momentum Data Claim (410). This category includes time spent
10 participating in telephone and office conferences regarding claims; factual investigation
11 regarding the merits of the amended proof of claim, including interviews with former
12 employees; drafting, reviewing, revising and filing objections and responses to Next Factors and
13 Momentum Data's proofs of claim in anticipation of a hearing scheduled for September 6, 2001;
14 legal research regarding subordination of \$100,000.00 of the claim; and drafting, reviewing and
15 revising settlement proposals. During the Twelfth Fee Period, HBD rendered 38.50 hours of
16 services and incurred fees in the amount of \$9,372.00.

17 63. Service of Next Factors (411). This category includes time spent participating in a
18 telephone conference regarding notice of deposition; analyzing standing of Next Factors; and
19 reviewing deposition notices. During the Twelfth Fee Period, HBD rendered 1.80 hours of
20 services and incurred fees in the amount of \$405.00.

21 64. Next Factors/ Response to Discovery (413). This category includes time spent
22 participating in telephone conferences regarding a subpoena and notice of deposition, and
23 drafting correspondence regarding standing issues. During the Twelfth Fee Period, HBD
24 rendered 1.20 hours of services and incurred fees in the amount of \$435.00.

25 V. RELIEF REQUESTED AND BASIS THEREOF

26 65. During the Twelfth Fee Period, HBD seeks payment for 237.40 hours of services,
27 in the amount of \$54,878.00 as detailed in the fee statements attached hereto as Exhibit B. HBD
28

1 has also incurred expenses in the amount of \$5,784.07, as indicated in Exhibit B, attached
 2 hereto.

3 66. As previously mentioned, on June 19, 2000, the Debtor filed the Notice of Motion
 4 and Motion For Administrative Order Under Sections 105(a) and 331 of the Bankruptcy Code
 5 Establishing Procedures and Deadlines for Interim Compensation and Reimbursement of
 6 Expenses For Professionals and Committee Members (the "Fee Procedures Motion"). On or
 7 about July 28, 2000, the Administrative Order. Pursuant to the Administrative Order,
 8 professionals employed under section 327, 328, 331, and 1108 of the Bankruptcy Code may file
 9 and serve a monthly fee application for interim compensation.

10 67. By this Application, HBD requests interim approval of its fees and expenses for
 11 the Twelfth Fee Period, in accordance with the Administrative Order. The period of
 12 compensation requested by this Application commenced on August 1, 2001 and ran to and
 13 including August 31, 2001. The total compensation for this period requested by HBD amounts
 14 to \$54,878.00, based on 237.40 hours of services rendered. During this period, HBD also
 15 incurred actual, reasonable and necessary business expenses in the aggregate amount of
 16 \$5,784.07. Copies of the detailed statements showing fees and expenses incurred by HBD are
 17 attached hereto as Exhibit B. HBD requests that the Court authorize the Debtor to pay eighty
 18 percent (80%) of fees and one hundred percent (100%) of expenses approved by the Court.

19 68. For all of the foregoing reasons, HBD believes that the fees requested in this
 20 Application are reasonable and reflect the value of the services provided to the Debtor's estate.
 21 Moreover, HBD has requested reimbursement only of actual and necessary expenses.

22 **WHEREFORE**, HBD requests that this Court enter an order granting HBD (a) interim
 23 allowance of fees in the amount of \$54,878.00 and expenses in the amount of \$5,784.07;
 24 (b) authority for the Debtor to pay eighty percent (80%) of approved fees and one-hundred
 25 percent (100%) of approved expenses, and (c) such other and further relief as the Court may deem
 26 just and proper.