

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

In re:

MIG, INC.,

Debtor.

Chapter 11

Case No. 09-12118 (KG)

**DECLARATION OF PETER NAGLE
IN SUPPORT OF THE DEBTOR'S CHAPTER 11
PETITION AND REQUEST FOR FIRST DAY RELIEF**

PETER NAGLE hereby declares, under penalty of perjury, as follows:

1. I am the CFO and a Director of debtor MIG, Inc., ("**MIG**" or the "**Debtor**").¹ I have served in these capacities since 2008 and 2007, respectively. In addition, I am a director of the general partner of CaucusCom Ventures L.P. ("**CaucusCom**"), which owns 100% of the common stock of MIG. I am also the Chief Investment Officer of Salford Capital Partners, Inc. ("**Salford**"), an international private equity firm. Prior to joining Salford, I was an investment banker with Merrill Lynch and UBS Warburg in London. Over the past twelve years I have gained considerable investment and business management experience in Central and Eastern European markets.

2. I submit this affidavit to provide the Court with information concerning the Debtor to support the Debtor's petition and the relief requested by the Debtor in certain "first day" applications and motions (collectively, the "**First Day Motions**").

3. In addition to the personal knowledge that I have acquired while working with the Debtor, I also have knowledge of, and familiarity with, the Debtor's books and records, and

¹ MIG was formerly known as Metromedia International Group, Inc. In January, 2009, Metromedia International Group, Inc. changed its name to MIG, Inc.

financial and operational affairs. I have also participated directly in communications and negotiations with the Debtor's constituents, as well as with the Debtor's advisors. Except as otherwise indicated, all statements in this Declaration are based upon my personal knowledge, my review of the Debtor's books and records, other relevant documents, and other information prepared or collected by the Debtor's employees, or upon my opinion based upon my experience with the Debtor's operations and financial condition. In making the statements herein, based upon the foregoing, I have relied in part upon others to accurately record, prepare, and collect any such documentation and other information.

4. As CFO, I am authorized to submit this Declaration on behalf of the Debtor. If I were called to testify as a witness in this matter, I could and would competently testify to each of the facts set forth herein based upon my personal knowledge and review of documents, or upon my professional opinion.

5. Section I of this Declaration provides a general summary of the Debtor. Section II describes the business of the Debtor, the developments which led to the Debtor's Chapter 11 filing, and our goals in the Chapter 11 Case. Section III sets forth facts relevant to consideration of the First Day Motions.

I. EXECUTIVE SUMMARY

6. The Debtor and certain of its affiliates, as described in Section II, hold interests in several leading and innovative telecommunications providers in the Republic of Georgia ("**Georgia**"), a country in the Commonwealth of Independent States (the "CIS") in the Caucus region between Russia, Turkey and Azerbaijan. Over the past two years, the Debtor has defended an appraisal action in the Court of Chancery of the State of Delaware (the "**Chancery Court**") in the matter captioned *In re: Appraisal of Metromedia International Group, Inc.*, Civil Action No. 3351-CC (the "**Appraisal Action**"), brought by a certain group of preferred

shareholders (the “**Petitioners**”)² against the company. The Appraisal Action has resulted in substantial litigation costs and, as described in more detail in Section II, a debilitating \$188 million judgment (the “**Judgment**”) entered against MIG on June 5, 2009.

7. The Debtor believes the Judgment is substantially overstated and has appealed the Judgment to the Delaware Supreme Court (the “**Appeal**”). MIG further believes that its assets have value well beyond the Judgment. In fact, two experts recently provided testimony before the Chancery Court that the company’s assets have material value in excess of all of the company’s liabilities. Yet these assets are illiquid interests in Georgian telecommunications companies. Fully realizing the value of the Debtor’s assets will take time and, because of the circumstances in which its major assets operate, requires careful planning and execution.

8. The Petitioners have refused to enter into a consensual stay of execution of the Judgment. The Debtor also has been unsuccessful in its attempts to post a bond or otherwise to secure a judicial stay of execution of the judgment due to its lack of liquid assets, the current economic climate, and the fact that the Debtor’s investments are located in an emerging market.

9. Outside of Chapter 11, because no consensual or judicial stay was in place, the Petitioners were entitled to commence execution on the Judgment. A precipitous foreclosure by the Petitioners in the Appraisal Action would pose a serious threat to the Debtor’s long-term viability to the detriment of all its constituencies. After careful consideration, and after exhausting available remedies outside of a Chapter 11 filing, MIG has determined that it requires

² The preferred shareholders who participated in bring the appraisal action consist of: Gracie Capital, LP, Gracie Capital, LP, II, Gracie Capital Opportunities Master Fund, LP, Gracie Capital International, Ltd, Gracie Capital International, II, Ltd, GPC XLII, LLC, Zazove Associates LLC, Private Management Group Inc., Black Horse Capital LP, Black Horse Capital QP LP, Black Horse Capital Offshore Ltd., Cohanzick Management LLC, Lanphier Capital Management Inc., Milestone Vimba Fund LP, Ingalls & Snyder LLC, MSF 93 LP, Hedgehog Capital LLC, Patrick Conlin, Farallon Capital Partners, L.P., Farallon Capital Institutional Partners, L.P., Farallon Capital Institutional Partners II, L.P., Farallon Capital Institutional Partners III, L.P., Tincum Partners, L.P., Farallon Capital Offshore Partners II, L.P., Noonday Capital Partners, L.L.C., Farallon Capital Offshore Investors, Inc., and Noonday Offshore, Inc.

the protection offered by Chapter 11. As detailed below, MIG does not intend to relitigate the Appraisal Action in the Bankruptcy Court, but rather intends to expeditiously pursue the Appeal in state court and use the Chapter 11 process to restructure its balance sheet in an orderly fashion (whether through new investments or a sale of assets) and develop a reorganization plan that will satisfy any final judgment rendered in the Appraisal Action and preserve value for its other creditors and interest holders.

II. BACKGROUND

10. On June 18, 2009 (the “**Petition Date**”), MIG commenced this Chapter 11 Case (the “**Case**”) by filing a voluntary petition for relief under Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”), in the United States Bankruptcy Court for the District of Delaware.

A. **Overview of the Debtor’s Corporate History.**³

11. MIG was organized in 1929 under the laws of the Commonwealth of Pennsylvania and was reincorporated in 1968 under the laws of the state of Delaware. Prior to January 2009, MIG operated under the name “Metromedia International Group, Inc.” and prior to 1995, MIG operated under the names “The Actava Group Inc.” and “Fuqua Industries, Inc.”

12. Until late 1990s, MIG owned, operated and sold dozens of companies in diverse industries, including entertainment business, photo finishing, lawn and garden equipment and sporting goods. In 1995, as a result of the merger of Orion Pictures Corporation (a motion picture company), Metromedia International Telecommunications, Inc. (a communications and media company operating principally in countries of the former Soviet Union), MCEG Sterling Incorporated (an independent film production and distribution company), with and into MIG,

³ Certain of this information comes from a review of the Debtor’s internal documents, as well as the Chancery Court Opinion in *In re: Appraisal of Metromedia International Group, Inc.*, Civil Action No. 3351-CC, which is publicly available.

MIG changed its name from “The Actava Group Inc.” to “Metromedia International Group, Inc.” Through the 1995 mergers, MIG adopted a strategy of development of media, communications and entertainment holdings, with emphasis on developments in the emerging markets of the former Soviet Union countries. In 1997, as a result of the merger of Asian American Telecommunications into a wholly owned subsidiary of MIG, the scope of communications business development was extended to include the People’s Republic of China.

13. In 1997, MIG consummated the sale of substantially all of its U.S.-based entertainment assets, consisting of Orion Pictures Corporation, Samuel Goldwyn Company and Motion Picture Corporation of America (and each of their respective subsidiaries), including its feature film and television library of over 2,200 titles, to P&F Acquisition Corp., the parent company of Metro-Goldwyn-Mayer, Inc., for gross consideration of \$573.0 million. Thereafter, in 1998, MIG sold its remaining entertainment assets consisting of the Landmark Theatre Group to Silver Cinemas for approximately \$62.5 million and the assumption of certain Landmark liabilities. These transactions provided significant funds for MIG’s expansion of its emerging market communications and media businesses.

14. In 1999, MIG consummated the acquisition of PLD Telekom, holder of interests in several communications businesses providing high quality long distance and international telecommunications services in the CIS. Also in 1999, MIG was forced to liquidate its interests in the telecommunications business ventures in China by order of the Chinese government.

15. By 2002, MIG had invested the cash proceeds from prior years’ operations and the sale of business holdings in the acquisition or development of telephony, radio and cable TV business operations located principally in Eastern Europe, Russia and Central Asia. As a result of these investments and a high level of corporate overhead spending, MIG’s cash reserves

became substantially depleted. MIG faced a serious liquidity crisis, compounded by the onset of semi-annual interest payment obligations on its corporate high-yield debt.

16. In early 2003, in response to growing liquidity pressures, MIG adopted a restructuring strategy, which involved the sale a large number of its operating businesses and severe cuts of its overhead costs. Cash proceeds generated from these sales allowed MIG by mid 2005 to repay all of its third-party indebtedness.

17. Since 2005, all of MIG's operating businesses have been located in Georgia and operated through its subsidiaries and affiliates. MIG's corporate office is in Charlotte, NC.

B. The 2007 Merger.

18. In early 2007, Sun Capital Partners Ltd., a United Kingdom principal investment group ("**Sun**"), joined Salford as a partner in discussions with MIG regarding a tender offer for MIG's shares of common stock. MIG's Board concluded, based upon advice it received from its experts and legal advisors, that Salford/Sun's proposed tender offer was superior to the proposals submitted by other potential acquirers. On July 17, 2007, MIG's board authorized MIG to enter into a merger agreement with CaucusCom pursuant to which CaucusCom Mergerco Corp. ("**MergerSub**"), a wholly-owned subsidiary of CaucusCom, would conduct the tender offer for all MIG's outstanding common shares at \$1.80 per share followed by a back-end short-form merger (the "**Merger**").

19. The tender offer closed on August 21, 2007. At closing, MergerSub had acquired approximately 77.6% of the outstanding common shares, making CaucusCom, through MergerSub, the controlling shareholder of MIG. On August 22, 2007, MergerSub exercised a top-up option (the "**Top-Up Option**") to obtain additional common shares of MIG which it had the right to require under the merger agreement. Such exercise allowed MergerSub to increase

its ownership of MIG's common shares to 90% and to effectuate the short-form merger. As soon as the Merger closed, representatives of CaucusCom took control of MIG's Board.

C. The Appraisal Action.

20. The Merger, gave rise to appraisal rights for dissenting preferred shareholders and caused the Petitioners to bring the Appraisal Action against MIG in the Chancery Court to determine the value of the preferred shares held by preferred shareholders that filed a notice of appraisal.

21. On April 16, 2009, the Chancery Court issued an opinion (the "**Opinion**"), finding that the value of each preferred share was \$38.93 on August 22, 2007 (the "**Appraisal Date**").⁴ Subsequently on May 5, 2009, the Petitioners made a motion for reconsideration to the Chancery Court. After considering the motion, the Chancery Court revised its Opinion on May 28, 2009, finding that the value of each preferred share was \$47.47 on August 22, 2007. The Chancery Court entered the Judgment in the Appraisal Action on June 5, 2009, in the total amount of \$188,367,736.47, representing principal and pre-judgment interest for the appraisal of 3,533,203 preferred shares are the subject of the Appraisal Action (3,198,742 held by the Petitioners and 334,461 preferred shares held by preferred shareholders that filed a demand for appraisal but were not Petitioners in the Appraisal Action. MIG believes that the Judgment is substantially overstated and intends to vigorously pursue the Appeal.

D. The Debtor's Current Holdings.

22. MIG's principal asset is its indirect ownership of 46% of the membership interests of International Telcell Cellular, LLC ("**ITC**"). ITC owns all the issued and outstanding equity interests of Magticom Ltd. ("**Magticom**"), the leading mobile telephony company in Georgia and owns interests in three smaller telecommunications companies in the country. The

⁴ *In re Appraisal Metromedia International Group, Inc.*, Civ. 3351 (Del. Ch. April, 16, 2009).

remaining ownership stake of ITC is held primarily by Dr. George Jokhtaberidze (“**Dr. Jokhtaberidze**”), a Georgian national who founded Magticom. Magticom is operated as a joint venture between Dr. Jokhtaberidze and MIG with both parties exercising joint management control. As part of the joint venture agreements, both MIG and Dr. Jokhtaberidze are bound by strict non-alienation and change of control provisions regarding their interests in Magticom. These provisions stipulate that if there is any change of voting or economic interests at ITC or Magticom by either party or certain of their affiliates, including MIG, the breaching party shall lose all voting rights in the joint venture; thereby leaving that breaching party in the position as a minority shareholder with no management or voting rights and protections. Triggering these provisions would cause material value destruction to the value of MIG’s assets to the detriment of all of its stakeholders.

23. Magticom is the leading mobile telephony operator in Georgia, and is also the largest telephone operator (mobile or fixed) in Georgia, as measured by revenues and traffic volumes. The company is headquartered in Tbilisi, Georgia and provides services to businesses and consumers nationwide. Magticom’s network covers essentially all populated territories of Georgia, enabling country-wide wireless access to the company’s mobile telephony, roaming services and related information services.

24. Magticom delivers services under two brands, “Magti” and “Bali.” The former is a full service general market brand offering a variety of conventional and premium service packages. The “Bali” brand is targeted to the rapidly growing youth market and features service packages especially tailored to that segment’s interests and affordability level.

25. MIG holds its investments in its Georgian assets through its direct and indirect wholly-owned subsidiaries, MIG Telecommunications, Inc. (“**MITI**”), a Delaware corporation, MIG Georgia Holdings, Inc., a Delaware Corporation, and ITC Cellular LLC, a Delaware limited

liability company (“ITCC”). In addition to its indirect ownership interest in Magticom, MIG also holds indirect interests in: Ayety TV, a Georgian cable television provider; Telecom Georgia, a long-distance transit operator; and Telenet, a high-speed data communication and internet access service provider. MIG’s wholly-owned subsidiary Tag Holdings, Inc. also owns a parcel of land in Alabama.

26. As of June 10, 2009, MIG had approximately \$49 million in cash split between its own accounts and those of its 100% owned subsidiaries.

E. The Debtor’s Current Ownership and Operations.

27. On August 21, 2007, MIG had 4,140,000 preferred shares issued and outstanding. Of these, 3,533,203 preferred shares are the subject of the Appraisal Action. As a result, MIG currently has 606,797 preferred shares outstanding, which are currently trading at approximately \$27.50 on the pink sheets. MIG further has 1,000 common shares outstanding, all of which are owned by CaucusCom.

28. As of the Petition Date, the Debtor had nine employees who oversee its operations and investments. Two of MIG’s employees are based in the United States; the remaining employees are based in London or Tbilisi, Georgia.

29. The Debtor incurs on-going running costs of approximately \$4.5 million per annum (excluding legal expenses) in its investment activities and about approximately \$1 million per year related to workers compensation claims and retirement benefits and other charges related to its past business activities (discussed below). The Debtor is dependent on the earnings of its business ventures and the distribution of dividends or other payment of these earnings to meet its own corporate cash requirements.

F. The Debtor's Historical Liabilities.

30. As discussed above, until 2002, MIG had substantial operations in the United States. As a result of those operations, MIG still has liabilities that it intends to address through the Chapter 11 Case, including severance, pension, health benefits, workers' compensation, and environmental liabilities (the "**Historical Liabilities**"). The Historical Liabilities total approximately \$4.1 million, plus additional contingent liabilities.

31. First, MIG has continuing obligations related to various pension and retiree benefits that MIG offered to certain executives over the course of its history. MIG's monthly liability to these pension beneficiaries is approximately \$28,894.30. MIG estimates that its total liability for these pension obligations is approximately \$2.8 million based on actuarial estimates. MIG is also obligated to the spouse of the late J.B. Fuqua, a former Chief Executive Officer of the company, for ongoing retiree medical benefits. MIG has an accrued liability of \$354,000 for such medical benefits. MIG currently has \$147,000 in unpaid reimbursement requests due to Mrs. Fuqua.

32. Second, MIG has liability for outstanding workers' compensation and product liability claims related to its past practice of self-insuring its business risks. MIG estimates the total liability for these claims is approximately \$165,000. As discussed further in Section III below, the Workers' Compensation Obligations (defined below) are largely secured by cash collateralized bonds. Contemporaneously with the filing of the Chapter 11 Case, MIG is seeking authorization to continue to pay its Workers' Compensation Obligations.

33. Third, MIG may also be liable for certain remedial costs attributable to environmental clean-up or management activities at sites related to former U.S.-based subsidiary operations including sites located at (i) Butterworth Landfill, Grand Rapids, Michigan; (ii)

Folkertsma Refuse Site, Kent County, Michigan; (iii) Sunrise Landfill, Michigan; (iv) Lake Calumet Cluster, Chicago, Illinois; (v) Opelika, Alabama; and (vi) East Canton, Ohio.

34. In addition to its Historical Liabilities, MIG is liable to Mark Hauf, a former CEO of MIG, for \$991,389, which remains from the total amount of \$1.5 million as part of a severance arrangement arising out of the Amended and Restated Employment Agreement By and Between Metromedia International Group, Inc. and Mark Stephen Hauf, dated July 13, 2007. Specifically, under the severance agreement, MIG is liable to Mr. Hauf for (i) \$316,389 in cash over 17 months and (ii) a \$675,000 secured note, to satisfy MIG's obligations to him for severance and reimbursement of various expenses.

G. The Debtor's Current Valuation.

35. The Debtor believes that its assets are worth significantly more than its liabilities. In fact, expert testimony at the trial in the Appraisal Action, by experts for both the Petitioners and MIG, illustrate that MIG's assets far exceed that stated in the Judgment plus its other liabilities. At trial, the parties' valuation experts presented their opinions as to the value of MIG's total equity capitalization as of the August 22, 2007, Appraisal Date. MIG's expert, valued MIG's total equity capitalization at \$327.65 million. Petitioners' expert valued MIG's total equity capitalization at between \$439.4 million and \$535.7 million.

36. Since the Appraisal Date, the assets of MIG, in particular its primary asset Magticom, have continued to perform well. The 2008 gross revenues and EBITDA of Magticom were \$277.8 million and \$176.5 million respectively;⁵ a 27.3% and 30.5% increase over 2007 results of \$218.2 million and \$135.3 million. Despite the global economic downturn⁶ and the

⁵ In 2008, Magticom took an impairment charge of approximately \$20 million related to loss of assets in the South Ossetia region of Georgia due to the Georgian-Russian war.

⁶ Like other developing countries, Georgia's economy has been hit by the global economic crisis. However, the impact has not been as severe, compared to other countries in the region, as Georgia (i) had very limited

political crisis in Georgia, Magticom continues to perform well Overall for 2009, the budget anticipates a full year EBITDA performance of approximately \$160 million. In addition, MIG currently has cash balances of approximately \$49 million.⁷

37. MIG's directors estimate that the current total value of the assets held by MIG exceeds \$450 million.

H. The Debtor's Attempts to Address the Judgment.

38. Notwithstanding the inherent value of the Debtor's prime assets, because they are illiquid interests in the Georgian telecommunications companies, it does not have the ability to pay the Judgment in full at this time. The \$188 million Judgment, in combination with the Debtor's other liabilities, far exceeds the value of its liquid assets. Further, any attempt to pay the Judgment in full by attempting to liquidate its illiquid assets would destroy any remaining value for the Debtor's other constituents.

39. The Debtor is unable to obtain any capital or credit in any significant or expedited manner at this time due to the global economic crisis and the lack of available credit, particularly for businesses focused on emerging markets such as Georgia. Obtaining such financing will take considerable time and effort.

40. The Debtor has been exploring potential transactions that could raise additional equity capital. However, a sale of a significant or all of the Debtor's interest in ITCC, its major asset, would trigger non-alienation provisions in MIG's joint venture agreement with Dr.

borrowings in foreign currency (both the Government and private sector), (ii) is not a resource/commodities based economy, (iii) has not been as dependent on foreign direct investment/capital flows as other developing countries, and (iv) has had significant increase in foreign aid commitments post the August 2008 war with Russia. This has been reflected in the relative stability of the Georgian Lari versus the U.S. dollar. The current exchange rate rests at 1 \$USD/Lari of 1.65; below the average of 1.71 for 2007 and marginally above the 2008 average exchange rate \$USD/Lari of 1.50.

⁷ As at the Appraisal Date, MIG had a negative cash balance of \$6m which was factored into the valuations completed for the expert testimony in the Appraisal Action.

Jokhtaberidze. These onerous provisions have the potential to destroy MIG's value in the event of any change of control.

41. The Debtor has exhausted all available remedies to address its liquidity issues outside of a bankruptcy filing. First, it sought to post supersedeas bond to obtain a stay of the Judgment pending an appeal. MIG engaged with several companies that specialize in arranging large bonds. In their discussions and review, each company made it clear that the overall market for seeking bonds, without full cash collateral from MIG, was challenging and any bond for a company like MIG would require a letter of credit from a reputable international bank. The bonding companies also emphasized that even if MIG could obtain a letter of credit, there would be risks related to counterparty exposure limits between the bonding companies and provider of the letter of credit. The Debtor does not have sufficient cash with which to post a bond and has spoken to several large commercial and investment banks with which it regularly conducts business, but those banks have refused to issue a the Debtor a letter of credit. In declining to issue such letters, these banks have cited difficulties presented by the current state of the worldwide credit markets, the illiquid nature of the Debtor's assets, as well as the risky nature of the Debtor's business because of its exposure to an emerging and politically unstable market like Georgia.

42. Second, during the course of the litigation the Debtor sought an overall settlement with the Petitioners and, once the Opinion was issued by the Chancery Court, sought their agreement to a stay of execution of the Judgment pending Appeal. Within the past week, MIG's counsel proposed to the Petitioners the posting of alternative security, and also offered to provide for a restriction on the alienation of the Debtor's assets. Additionally, in the past week, MIG put forward proposals for a settlement of the Judgment. To date, these negotiations have been unsuccessful.

43. Third, on June 12, 2009, the Debtor sought a stay from the Chancery Court and proposed to (i) deposit cash representing a portion of the Judgment and (ii) implement non-alienation provisions that would prevent MIG from disposing of or pledging its interests in MITI. A hearing on this motion was held on June 17, 2009. The Chancery Court denied the motion. Without a consensual or judicial stay in place, according to Delaware law, the Petitioners may commence execution on the Judgment.

44. The Debtor's Chapter 11 filing seeks to protect the value of its enterprise for all of its constituencies - the Petitioners, the other dissenting preferred shareholders, the remaining outstanding preferred shareholders, creditors with severance, pension, health benefits, workers' compensation, and environmental liability claims, and common shareholders. After careful consideration, MIG has concluded that even if its appeal of the Appraisal Action is successful, and the Judgment is reduced to the level advocated by MIG, it will still need to reorganize through Chapter 11. Without the "breathing spell" provided by Chapter 11, MIG will be forced prematurely to liquidate its assets, resulting in an artificially depressed price for its interests in Magticom and the other Georgian entities. The protection afforded by Chapter 11 will provide MIG with the opportunity to pursue the Appeal and restructure its assets and liabilities (whether through a sale of assets, new investment, or other restructuring transaction).

45. While MIG's joint venture agreement governing its investment in Magticom has onerous non alienation provisions it also provides MIG with the right to make an initial public offering of Magticom. This could generate significant funds for the benefit of MIG and its creditors. However, preparing Magticom for the public markets and implementing an IPO is a time intensive exercise that could not be arranged in the absence of a stay.

46. It is the Debtor's intention to emerge from bankruptcy with a restructured balance sheet and continue its operations and investment activities. MIG has the capacity and potential

to effectively reorganize itself given its strong financial performance over the past two years, and in particular during the first quarter of 2009.

III. FIRST DAY MOTIONS

47. Concurrently with and shortly after the filing of this Chapter 11 Case, MIG will be filing a number of First Day Motions.⁸ The Debtor seeks through the First Day Motions to: (a) maintain its bank accounts and cash management system; (b) continue to pay its workers' compensation claims; (c) continue with the appeal (the "**Appeal**") of the Judgment; (d) retain and provide for the compensation of appropriate professionals; and (e) take actions necessary for the efficient administration of this Chapter 11 Case.

48. I have reviewed each of the First Day Motions, including the exhibits thereto, and I believe that the relief sought in each of the First Day Motions is narrowly tailored to meet the goals described above and, ultimately, will be critical to the Debtor's ability to achieve success in the Chapter 11 Case.

A. Motion of the Debtor for Order Authorizing the (A) Maintenance of Bank Accounts and Continued Use of Existing Business Forms and Checks and (B) Continued Use of Existing Cash Management System

49. The Debtor has filed a motion (the "**Cash Management Motion**") for an order: (a) authorizing, but not directing, the continued use of the Debtor's existing cash management system; (b) authorizing the maintenance of existing bank accounts; (c) authorizing the continued use of existing business forms and checks; and (d) providing any additional relief required in order to effectuate the foregoing. The Debtor maintains six (6) bank accounts (listed in "Exhibit A" to the Cash Management Motion), which are part of a carefully constructed and highly-

⁸ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the relevant First Day Motion.

automated cash management system that ensures the Debtor's ability to efficiently monitor and control its cash position.

50. The center of the Debtor's cash management system is the Wachovia Account No. 7472 (the "**Main Account**"). Funds are transferred from the Main Account to three (3) separate accounts as follows:

a. The Debtor has one investment account, Wachovia Account No. 7595, (the "**Money Market Account**"). The Debtor maintains a minimum balance in the Main Account and transfers all funds exceeding the minimum balance, as established by Wachovia, to the Money Market Accounts. Funds are transferred as needed from the Money Market Account back to the Main Account to ensure there are sufficient operating funds to cover all accounts payable and disbursements. Any incoming funds the Debtor receives which it does not need for accounts payable purposes are transferred to the Money Market Account.

b. Funds are transferred on a nightly basis from the Main Account to the Wachovia Account No. 7485 (the "**Disbursement Account**") to fund (i) all accounts payable and general administrative expenses, including but not limited to, payments for legal and professional services, office rent, insurance premiums, reimbursement of monthly healthcare premiums of former employees, certain workers' compensation claims, monthly ACH debit by payroll processing paying supplemental retirement and pension benefits to former executives, and board members' fees, and (ii) payroll, including payroll taxes (which is paid monthly). The Disbursement Account is a "zero balance account" and, as such, to the extent there exists a positive balance in the Disbursement Account, by way of credits received or otherwise, such funds are transferred on a nightly basis to the Main Account.

c. Funds are also transferred on a nightly basis from the Main Account to the Wachovia Account No. 7566 (the “**Workers Comp. Account**”) to fund workers’ compensation claim payments (medical and indemnity) to be paid by Crawford & Co., a third party workers’ compensation administrator on behalf of the Debtor. Similar to the Disbursement Account, the Workers Comp. Account is a “zero balance account” and, as such, to the extent there exists a positive balance in such account, such funds are transferred on a nightly basis to the Main Account.⁹

51. The Debtor also maintains a restricted cash account at Morgan Stanley/Smith Barney, Account No. 1769, the funds of which are held as collateral for certain workers’ compensation bonds issued by Travelers Casualty & Surety Company of America on behalf of the Debtor.

52. Finally, the Debtor is required to maintain, pursuant to the regulations of the Department of Insurance of the state of Georgia, a money market account at US Bank Account No. 5100 on behalf of the Georgia Insurance Commissioner. The funds in this account are held as collateral for potential workers’ compensation claims in connection with the claims the Georgia Insurance Commissioner may find arose under the coverage of the Actava Risk Retention Group Captive Insurance Company of Georgia, Inc. (“**Actava**”). Actava was MIG’s insurance captive company when MIG operated under the name “The Actava Group, Inc.” and formerly insured certain workers’ compensation claims arising in Georgia. Actava is no longer in existence.

53. The flow of funds in and out of the Main Account, Disbursement Account, Workers’ Comp. Account, and Money Market Account are authorized by three (3) of the

⁹ The Debtor has filed contemporaneously with this Motion the Motion for Entry of Order Authorizing the Debtor to Pay Certain Pre-petition Workers’ Compensation Obligations in the Ordinary Course of Business Pursuant to Sections 105(a) and 363 of the Bankruptcy Code.

Debtors' employees, who are authorized persons on the bank accounts (collectively, the "**Authorized Persons**"). Specifically, funds may be transferred from one of the Debtor's Wachovia accounts to another of the Debtor's Wachovia accounts by one of the three Authorized Persons. In the case of transfers outside of the Debtor's Wachovia Accounts, funds may be transferred only upon the authorization of two of the three Authorized Persons.

54. In the ordinary course of business, the Debtor funds workers' compensation claims and payroll through its Bank Accounts. From these accounts, checks are written for payroll and on account of workers' compensation claims by third party administrators on the Debtor's behalf (the "**Check Writing Privileges**"). If the Check Writing Privileges are interrupted it could result in a disruption of the Debtor's payroll and timely payment of worker's compensation claims, which could lead to a significant erosion of the Debtor's employees' morale. Because the Check Writing Privileges are carried out in the ordinary course of business, the Debtor does not believe their continuance requires Court approval. However, out of an abundance of caution the Debtor also seeks authority to continue the Check Writing Privileges in order to avoid interference with the Debtor's ability to make payroll and timely address workers' compensation claims.

55. The relief requested will help ensure the Debtor's smooth transition into Chapter 11 and avoid the possible disruptions and distractions that could otherwise divert the Debtor's attention from more pressing matters during the initial days of this Chapter 11 Case.

B. Motion of the Debtor for Order Authorizing Debtor to Pay Certain Pre-Petition Workers' Compensation Obligations

56. In connection with MIG's past practice of self-insuring workers' compensation in various states including, California, Georgia, Florida, Kentucky, Missouri, New York, Massachusetts, New Jersey, and Pennsylvania, MIG was obligated under the laws of these states

to post bonds or another form of collateral to secure all potential workers' compensation claims. As of the Petition Date, MIG had posted a total of approximately \$3.2 million in bonds in these states. Specifically, MIG has posted a total of (i) a \$650,000 bond in Georgia for certain of its Workers' Compensation Obligations arising out of Georgia, (ii) a \$220,000 bond in California; (iii) a \$100,000 bond in Pennsylvania; (iv) a \$180,000 bond in Missouri; (v) a \$525,000 bond in Florida; (vi) two bonds totaling \$609,807 in Kentucky; (vii) a \$350,000 bond in New York; (viii) a \$500,000 bond in Massachusetts; and (ix) a \$100,000 bond in New Jersey. The bonds are 100% collateralized by restricted cash collateral accounts MIG established with Morgan Stanley/Smith Barney on behalf of Travelers Casualty & Surety Company of America ("**Travelers**").

57. Under a reinsurance agreement with Ace American Insurance Company (also known as INA/CIGNA, "**INA/CIGNA**"), MIG was required to post collateral, for exposure in certain states where MIG was unable to self insure. Under this reinsurance agreement, claims were paid directly by the reinsurer who was subsequently reimbursed by MIG. MIG currently has \$200,000 cash collateral being held by INA/CIGNA to secure these Obligations. The most recent claim, in Louisiana, closed during the fourth quarter for 2008 and MIG does not believe there are any open claims with INA/CIGNA as of the Petition Date.

58. In addition to the bond described above, in the state of Georgia, MIG was required to maintain a money market account with US Bank for the benefit of the Georgia Insurance Commissioner to secure certain of its Workers' Compensation Obligations in Georgia that were previously issued by the Actava Risk Retention Group Captive Insurance Company of Georgia, Inc. ("**Actava**"). Actava was MIG's insurance captive, which formerly insured MIG's workers' compensation claims in the state of Georgia for the years 1988-1993. Actava has since been liquidated. As of the Petition Date, MIG had posted a total of approximately \$100,000 in

Georgia in a money market account with US Bank for the Workers' Compensation Obligations arising out of Georgia that were previously insured by Actava. MIG does not believe it has any prepetition liability outstanding to the Georgia Insurance Commissioner in connection with its Workers' Compensation Obligations, previously insured by Actava.

59. MIG makes payments on its open workers' compensation claims against it on a daily, weekly and monthly basis, through its two third-party administrators Crawford & Co. ("**Crawford**") and Cambridge Integrated Services ("**Cambridge**," together with Crawford the "**Third-Party Administrators**") in many of the states where a bond has been posted. MIG facilitates the payment of the Workers' Compensation Obligations in two ways. First, Crawford was given direct access to one of MIG's bank accounts (the "**Workers Comp. Account**"), which was specifically set up for the payment of the such Obligations. Crawford can use this account to initiate an ACH transfer to reimburse itself for any payment made on behalf of MIG to claimants. Second, MIG reimburses payments of Workers' Compensation Obligations made by Cambridge and/or the reinsurer INA/CIGNA through the accounts payable process.

60. MIG requires the Court's authority to continue to satisfy its Workers' Compensation Obligations and to allow Crawford access to MIG's bank account to pay the Workers' Compensation Obligations. If MIG fails to meet its Workers' Compensation Obligations, the states holding bonds may have the right to draw on the full amount of the bonds posted. As a result, MIG may be required to forfeit the entire amount of cash collateral securing the bonds. Additionally, Travelers may have the right, pursuant to its agreement with MIG, to collect any portion or all of the cash collateral in the relevant Morgan Stanley/Smith Barney account if any one of the states begins to draw on a bond. Should Travelers exhaust the funds in the account for the state where the claim arose, it may then access the other funds being held as cash collateral in the remaining Morgan Stanley/Smith Barney accounts. Currently, MIG has a

total of \$3.2 million being held as cash collateral with Morgan Stanley/Smith Barney to secure the bonds issued by Travelers.

61. MIG estimates that its present exposure to Workers' Compensation Obligations totals approximately \$165,364 (based on an actuarial analysis performed in 2006) and that it is liable for approximately \$20,000 in Workers' Compensation Obligations for the month of June, 2009. However, because these Obligations are largely secured, if MIG fails to pay the June, 2009 Workers' Compensation Obligations, as well as the other upcoming Obligations, it risks losing over \$3.4 million in cash collateral being held by the various third parties, as set forth on Exhibit "A" thereto. In states where bonds have been posted and where MIG has determined that it has minimal to zero exposure, MIG has attempted to no avail to persuade the states to reduce the required security based on the unlikelihood that future claims will be reported.

62. The Debtor therefore seeks an order authorizing it: (a) continue to pay its Workers' Compensation Obligations in the ordinary course of business; (b) pay its Third-Party Administrators for the costs incurred in paying the weekly/monthly Workers' Compensation Obligations; (c) allow Crawford access to its accounts to initiate ACH drafts, and (d) reimburse INA/CIGNA and Cambridge for any similar payments for Workers' Compensation Obligations. Without such authority, the Debtor will incur significant loss.

C. Motion for Entry of an Order Authorizing the Debtor to Modify the Automatic Stay to Pursue the Appeal

63. The Debtor seeks entry of an order granting limited relief from the automatic stay to pursue the Appeal on the basis that the Judgment is substantially overstated, and to allow the Petitioners to file any cross-appeal in connection with the Judgment; however, the modification of the stay shall not extend to permit the Petitioners the right to execute on, or take any action to enforce the Judgment, without further order of this Court. The Debtor believes that "cause"

exists to lift the automatic stay. First, considerations of judicial economy weigh heavily in favor of relief from the stay. If the Debtor is not permitted to continue this appeal the Judgment this Court will have to estimate the Petitioner's claims without the benefit of the Appeal. Further, the Delaware state courts are competent to determine matters arising under state law, especially where, as here, the Delaware courts have a great deal of experience in corporate law appraisal actions. Second, the Debtor believes that no party-in-interest in this Case will be prejudiced or will suffer should the automatic stay be lifted.

64. The Debtor therefore requests that the Court enter an order modifying the stay as requested in the motion.

D. Application of Debtors and Debtor-in-Possession for Order Authorizing the Retention and Employment of Greenberg Traurig, LLP as Counsel for the Debtor, Effective as of the Petition Date

65. The Debtor proposes to engage Greenberg Traurig, LLP ("**Greenberg Traurig**") as Counsel for the Debtor in this Chapter 11 Case.

66. The Debtor seeks to retain Greenberg Traurig because of the firm's extensive general experience and knowledge in the field of debtor's and creditor's rights and business reorganizations under Chapter 11 of the Bankruptcy Code. Greenberg Traurig is well suited for the type of representation required by the Debtor, given the firm's substantial experience representing debtors in complex reorganization Cases. In addition to bankruptcy and workouts, members of the firm practice in almost all other practice areas, including litigation, business, international trade, employment, tax, labor, corporate, and commercial law. Greenberg Traurig is an international law firm with more than 1,700 attorneys in 29 offices, including an office for the practice of law in Wilmington, Delaware, where this Chapter 11 Case is pending. Greenberg Traurig has extensive experience appearing before the courts in this district. Accordingly, the

Debtor determined that Greenberg Traurig has the resources and experience necessary to represent them in this Chapter 11 Case.

67. For all of these reasons, I respectfully request that this Court grant the relief sought on behalf of the Debtor in the Motion filed concurrently herewith.

E. Application of Debtor for Order Authorizing the Retention and Employment of Debevoise and Plimpton, LLP as Special Corporate and Litigation Counsel to the Debtor, Effective as of the Petition Date as of the Petition Date Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code

68. The Debtor proposes to engage Debevoise & Plimpton, LLP (“**Debevoise**”) as Special Corporate and Litigation Counsel for the Debtor in this Chapter 11 Case.

69. Debevoise has extensive experience representing the Debtor in connection with corporate matters as well as the Appeal and Judgment and has consistently provided the Debtor effective and efficient legal services. The Debtor believes that both the interruption and duplicative costs involved in obtaining substitute counsel at this juncture would be extremely harmful to the Debtor and its estate. Accordingly, the Debtor determined that Debevoise has the resources and experience necessary to represent it as Special Corporate and Litigation Counsel for the continuing corporate matters in this Chapter 11 Case.

70. For all of these reasons and those set forth in the Debevoise Retention Application, I respectfully request that this Court grant the relief sought on behalf of the Debtor in the Motion filed concurrently herewith.

F. Application of Debtor for Order Authorizing the Retention and Employment of Potter Anderson & Corroon, LLP as Special Delaware Litigation Counsel to the Debtor, Effective as of the Petition Date Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code

71. The Debtor proposes to engage Potter Anderson & Corroon LLP (“**Potter Anderson**”) as Special Delaware Litigation Counsel for the Debtor in this Chapter 11 Case.

72. Potter Anderson has extensive experience representing the Debtor in connection with the Appeal and Judgment and has a track record of providing the Debtor with effective and efficient legal services. The Debtor believes that both the interruption and duplicative costs involved in obtaining substitute counsel at this juncture would be extremely harmful to the Debtor and its estate. Accordingly, the Debtor determined that Potter Anderson has the resources and experience necessary to represent them as Special Delaware Litigation Counsel for the continuing the Appeal of the Judgment during this Chapter 11 Case.

73. For all of these reasons and those set forth in the Potter Anderson Retention Application, I respectfully request that this Court grant the relief sought on behalf of the Debtor in the Motion filed concurrently herewith.

G. Motion of the Debtor for Administrative Order Under Sections 105(a) and 331 Establishing Procedures or Interim Monthly Compensation and Reimbursement of Expenses of Professionals

74. The Debtor either has filed or will file applications to retain: (a) Greenberg Traurig, LLP, as its bankruptcy counsel, (b) Debevoise & Plimpton LLP, as its special corporate and litigation counsel, and (c) Potter Anderson & Corroon, LLP, as its special Delaware litigation counsel (the “**Debtor’s Professionals**”). The Debtor further anticipates that it may also retain other professionals in this Chapter 11 case if the need arises. Moreover, any statutory committees appointed in this case (collectively, the “**Committee**”) will likely retain counsel and other professionals to represent them in connection with this Chapter 11 case (together with the Debtor’s Professionals, the “**Professionals**”). The involvement of additional Professionals may cause the professional fee application and review process to be exceptionally burdensome on the Debtor, the Professionals, the Office of the United States Trustee and this Court. Implementation of compensation procedures will provide an efficient structure for disbursing

Compensation to the Professionals and will allow all parties in this case to monitor the monthly accrual of Compensation for each Professional.

75. Accordingly, the Debtor seeks entry of an Administrative Order similar to orders entered in other cases in this District, pursuant to Sections 105(a) and 331 of the Bankruptcy Code establishing procedures for the payment of fees and reimbursement of expenses for professionals retained pursuant to Court order.

IV. CONCLUSION

76. The primary purpose of the filing of this Chapter 11 Case is to preserve the long-term viability of the Debtor. MIG seeks to protect the value of its assets for the benefit of all its creditors and stakeholders while it restructures its balance sheet (whether through new investments or a sale of assets) in an orderly fashion and develops a reorganization plan that will satisfy any final judgment rendered in the Appraisal Action and preserves value for its other creditors and interest holders. The protection afforded by Chapter 11 is necessary at this time in order to achieve these objectives. For the reasons described herein and in the First Day Motions, I believe that the prospect for achieving these objectives for the benefit of creditors and other stakeholders will be substantially enhanced if this Court grants the relief requested in each of the First Day Motions and respectfully request the Court to do so.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: June 19, 2009

A handwritten signature in black ink, appearing to read 'P. Nagle', written over a horizontal line.

PETER NAGLE
Chief Financial Officer
MIG, Inc., Debtor and Debtor-in-Possession