

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

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In re : Chapter 11
: :
ADVANTA CORP., *et al.*, : Case No. 09-13931 (KJC)
: :
Debtors.¹ : (Jointly Administered)
: :
-----X Re: Docket No. 53

**CERTIFICATION OF COUNSEL REGARDING DEBTORS’
APPLICATION PURSUANT TO SECTIONS 327(A) AND 328 OF THE
BANKRUPTCY CODE FOR AUTHORIZATION TO EMPLOY
AND RETAIN ALVAREZ & MARSAL NORTH AMERICA, LLC AS
FINANCIAL ADVISOR TO THE DEBTORS AND DEBTORS IN POSSESSION**

The undersigned certifies as follows:

1. On November 18, 2009, the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”) filed the **Debtors’ Application Pursuant to Sections 327(a) and 328 of the Bankruptcy Code for Authorization to Employ and Retain Alvarez & Marsal North America, LLC as Financial Advisor to the Debtors and Debtors in Possession** [Docket No. 53] (the “Application”) with the United States Bankruptcy Court for the District of Delaware (the “Court”).

2. The undersigned further certifies that he has reviewed the Court’s docket in the

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above-captioned chapter 11 cases and no answer, objection or other responsive pleading to the Application appears thereon. Pursuant to the Notice of Application and Hearing, responses to the Application were to be filed and served no later than 4:00 p.m. (Eastern Standard Time) on November 27, 2009.

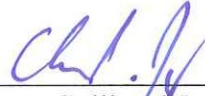
3. The Debtors received certain informal comments (the “Comments”) to the Application from the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) and the Official Committee of Unsecured Creditors (the “Committee”). Other than the Comments, the undersigned further certifies that neither he nor the Debtors have received further comments, objections or informal responses to the Application. Attached hereto as Exhibit A is a revised form of order resolving the Comments (the “Revised Order”).²

4. The Revised Order has been circulated to and is acceptable to the U.S. Trustee and the Committee. For the convenience of the Court and all parties-in-interest, a blackline of the Revised Order against the proposed form of order filed with the Application is attached hereto as Exhibit B.

² Pursuant to the *Order Pursuant to Section 105(a) of the Bankruptcy Code Directing That Certain Orders in the Chapter 11 Cases of Advanta Corp., et al., Be Made Applicable to New Debtors* [Docket No. 87], the Application was made applicable to the New Debtors (as defined therein) and the New Debtors’ chapter 11 cases are being jointly administered with the First Filed Debtors’ (as defined therein) chapter 11 cases. Accordingly, footnote 1 has been revised in the Revised Order to include each of the New Debtors.

WHEREFORE, the Debtors respectfully request that the Revised Order, substantially in the form attached hereto as Exhibit A, be entered at the earliest convenience of the Court.

Dated: December 2, 2009
Wilmington, Delaware



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PROPOSED ATTORNEYS FOR
DEBTORS AND DEBTORS IN
POSSESSION

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

-----X
:
In re : Chapter 11
:
ADVANTA CORP., *et al.*, : Case No. 09-13931 (KJC)
:
Debtors.¹ : (Jointly Administered)
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-----X **Re: Docket No. 53**

ORDER AUTHORIZING DEBTORS TO EMPLOY AND RETAIN ALVAREZ & MARSAL NORTH AMERICA, LLC AS FINANCIAL ADVISORS TO DEBTORS AND DEBTORS IN POSSESSION PURSUANT TO SECTIONS 327(a) AND 328 OF THE BANKRUPTCY CODE

Upon the application (the “**Application**”) of the debtors in possession in the above-captioned case (collectively, the “**Debtors**”) for an order pursuant to sections 327(a) and 328 of title 11 of the United States Code (the “**Bankruptcy Code**”), authorizing the Debtors to employ and retain Alvarez & Marsal North America, LLC, together with employees of its affiliates (all of which are wholly-owned by its parent company and employees), its wholly owned subsidiaries, and independent contractors (collectively, “**A&M**”) as financial advisors, nunc pro tunc to November 8, 2009 (the “**Petition Date**”) on the terms set forth in the engagement letter (the “**Engagement Letter**”) annexed to the Application as Exhibit A; and

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upon the Declaration of Joseph A. Bondi in support of the Application annexed thereto as Exhibit B; and due and adequate notice of the Application having been given; and the Court being satisfied that A&M is a “disinterested person” as such term is defined under section 101(14) of the Bankruptcy Code; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by this Application is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED that:

1. The Application is granted to the extent set forth herein.
2. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Application.
3. Pursuant to sections 327(a) and 328 of the Bankruptcy Code, the Debtors are hereby authorized to retain A&M as financial advisors to the Debtors, nunc pro tunc to the Petition Date on the terms set forth in the Engagement Letter.
4. The terms of the Engagement Letter, including without limitation, the compensation provisions and the indemnification provisions, as modified by the Application and this Order, are reasonable terms and conditions of employment and are hereby approved.
5. The indemnification obligations of the Debtors set forth in the Engagement Letter, as modified by the Application, are approved, subject during the pendency of these chapter 11 cases to the following:
 - (a) A&M shall not be entitled to indemnification, contribution or reimbursement pursuant to the Engagement Letter for services, unless such services and the indemnification, contribution or reimbursement therefore are approved by the Court;

(b) The Debtors shall have no obligation to indemnify A&M, or provide contribution or reimbursement to A&M, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from A&M's gross negligence, willful misconduct, breach of fiduciary duty, if any, bad faith or self-dealing; (ii) for a contractual dispute in which the Debtors allege the breach of A&M's contractual obligations unless the Court determines that indemnification, contribution or reimbursement would be permissible pursuant to *In re United Artists Theatre Company, et al.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination as to A&M's gross negligence, willful misconduct, breach of fiduciary duty, or bad faith or self-dealing but determined by this Court, after notice and a hearing to be a claim or expense for which A&M should not receive indemnity, contribution or reimbursement under the terms of the Agreement as modified by this Order;

(c) If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing these chapter 11 cases, A&M believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Agreement (as modified by this Order), including without limitation the advancement of defense costs, A&M must file an application therefore in this Court, and the Debtors may not pay any such amounts to A&M before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by A&M for indemnification, contribution or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify A&M. All parties in interest shall

retain the right to object to any demand by A&M for indemnification, contribution or reimbursement;

(d) The limitation on amounts to be contributed under Subpart (D) of the Indemnification Agreement attached to the Engagement Letter is hereby eliminated; and

(e) Notwithstanding anything to the contrary in this Order, the U.S. Trustee and the Official Committee of Unsecured Creditors (the "Committee") shall retain the right and be entitled to object to the fees of A&M based on the reasonableness standard under Bankruptcy Code sections 330 and 331. This Order and the record relating to the Court's consideration of the Application shall not prejudice or otherwise affect the rights of the U.S. Trustee or the Committee to challenge the reasonableness of A&M's compensation under Bankruptcy Code sections 330 and 331. Accordingly, nothing in this Order or the record shall constitute a finding of fact or conclusion of law binding the U.S. Trustee or the Committee, on appeal or otherwise, with respect to the reasonableness of A&M's compensation

6. To the extent there is inconsistency between the terms of the Engagement Letter, the Application, and this Order, the terms of this Order shall govern.

7. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Dated: _____, 2009
Wilmington, Delaware

THE HONORABLE KEVIN J. CAREY
CHIEF UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

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	:	
<i>In re</i>	:	Chapter 11
	:	
ADVANTA CORP., <i>et al.</i> ,	:	Case No. 09-13931 (KJC)
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Debtors. ¹	:	(Jointly Administered)
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	-X	Re: Docket No. <u>—53</u>

ORDER AUTHORIZING DEBTORS TO EMPLOY AND RETAIN ALVAREZ & MARSAL NORTH AMERICA, LLC AS FINANCIAL ADVISORS TO DEBTORS AND DEBTORS IN POSSESSION PURSUANT TO SECTIONS 327(a) AND 328 OF THE BANKRUPTCY CODE

Upon the application (the “**Application**”) of the debtors in possession in the above-captioned case (collectively, the “**Debtors**”) for an order pursuant to sections 327(a) and 328 of title 11 of the United States Code (the “**Bankruptcy Code**”), authorizing the Debtors to employ and retain Alvarez & Marsal North America, LLC, together with employees of its affiliates (all of which are wholly-owned by its parent company and employees), its wholly owned subsidiaries, and independent contractors (collectively, “**A&M**”) as financial advisors, nunc pro tunc to November 8, 2009 (the “**Petition Date**”) on the terms set forth in the engagement letter (the “**Engagement Letter**”) annexed to the Application as Exhibit A; and

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upon the Declaration of Joseph A. Bondi in support of the Application annexed thereto as Exhibit B; and due and adequate notice of the Application having been given; and the Court being satisfied that A&M is a “disinterested person” as such term is defined under section 101(14) of the Bankruptcy Code; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by this Application is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED, ADJUDGED AND DECREED that:

1. The Application is granted to the extent set forth herein.
2. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Application.
3. Pursuant to sections 327(a) and 328 of the Bankruptcy Code, the Debtors are hereby authorized to retain A&M as financial advisors to the Debtors, nunc pro tunc to the Petition Date on the terms set forth in the Engagement Letter.
4. The terms of the Engagement Letter, including without limitation, the compensation provisions and the indemnification provisions, as modified by the Application and this Order, are reasonable terms and conditions of employment and are hereby approved.
5. The indemnification obligations of the Debtors set forth in the Engagement Letter, as modified by the Application, are approved, subject during the pendency of these chapter 11 cases to the following:
 - (a) A&M shall not be entitled to indemnification, contribution or reimbursement pursuant to the Engagement Letter for services, unless such services and the indemnification, contribution or reimbursement therefore are approved by the Court;

(b) The Debtors shall have no obligation to indemnify A&M, or provide contribution or reimbursement to A&M, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from A&M's gross negligence, willful misconduct, breach of fiduciary duty, if any, bad faith or self-dealing; (ii) for a contractual dispute in which the Debtors allege the breach of A&M's contractual obligations unless the Court determines that indemnification, contribution or reimbursement would be permissible pursuant to *In re United Artists Theatre Company, et al.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination as to A&M's gross negligence, willful misconduct, breach of fiduciary duty, or bad faith or self-dealing but determined by this Court, after notice and a hearing to be a claim or expense for which A&M should not receive indemnity, contribution or reimbursement under the terms of the Agreement as modified by this Order;

(c) If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing these chapter 11 cases, A&M believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Agreement (as modified by this Order), including without limitation the advancement of defense costs, {A&M must file an application therefore in this Court, and the Debtors may not pay any such amounts to A&M before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by A&M for indemnification, contribution or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify A&M. All parties in interest shall

retain the right to object to any demand by A&M for indemnification, contribution or reimbursement; and

(d) The limitation on amounts to be contributed under Subpart (D) of the Indemnification Agreement attached to the Engagement Letter is hereby eliminated; and

(e) Notwithstanding anything to the contrary in this Order, the U.S. Trustee and the Official Committee of Unsecured Creditors (the “Committee”) shall retain the right and be entitled to object to the fees of A&M based on the reasonableness standard under Bankruptcy Code sections 330 and 331. This Order and the record relating to the Court’s consideration of the Application shall not prejudice or otherwise affect the rights of the U.S. Trustee or the Committee to challenge the reasonableness of A&M’s compensation under Bankruptcy Code sections 330 and 331. Accordingly, nothing in this Order or the record shall constitute a finding of fact or conclusion of law binding the U.S. Trustee or the Committee, on appeal or otherwise, with respect to the reasonableness of A&M’s compensation

6. To the extent there is inconsistency between the terms of the Engagement Letter, the Application, and this Order, the terms of this Order shall govern.

7. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Dated: _____, 2009
Wilmington, Delaware

THE HONORABLE KEVIN J. CAREY
CHIEF UNITED STATES BANKRUPTCY JUDGE

Comparison Details	
Title	pdfDocs compareDocs Comparison Results
Date & Time	12/2/2009 8:03:03 PM
Comparison Time	6.47 seconds
compareDocs version	v3.2.1.25

Sources	
Original Document	[#3511029] [v1] Advanta - (Org.) Application to Retain Alvarez.doc
Modified Document	[#3511508] [v1] Advanta - Revised Order Relating to Application to Retain Alvarez.doc

Comparison Statistics	
Insertions	3
Deletions	2
Changes	6
Moves	0
TOTAL CHANGES	11

Word Rendering Set Markup Options	
Name	Standard
<u>Insertions</u>	
Deletions	
<u>Moves / Moves</u>	
Inserted cells	
Deleted cells	
Formatting	Color only.
Changed lines	Mark left border.
Comments color	ByAuthor
Balloons	False

compareDocs Settings Used	Category	Option Selected
Open Comparison Report after Saving	General	Always
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Include Headers / Footers	Word	True
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Include Moves	Word	False
Show Track Changes Toolbar	Word	True
Show Reviewing Pane	Word	False
Update Automatic Links at Open	Word	False
Summary Report	Word	End
Include Change Detail Report	Word	Separate
Document View	Word	Print
Remove Personal Information	Word	False