

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
The SCO GROUP, INC., <u>et al.</u> , ¹)	Case No. 07-11337 (KG)
)	(Jointly Administered)
Debtors.)	

**DECLARATION OF DARL C. MCBRIDE,
CHIEF EXECUTIVE OFFICER
IN SUPPORT OF FIRST DAY PLEADINGS**

My name is Darl C. McBride. I am over the age of 18 years and, unless otherwise indicated, make the following representations based upon my personal knowledge and in support of the relief sought in the various pleadings filed with the Court herewith (the "First Day Pleadings"):

A. General Background

1. I am the chief executive officer of The SCO Group, Inc. ("SCO Group" or the "Company"), as well as of SCO Operations, Inc. ("Operations"). Collectively SCO Group and Operations are referred to as "SCO" or "Debtors."

2. SCO Group and Operations are each a Delaware corporation headquartered in Lindon, Utah.

¹ The Debtors and the last four digits of each of the Debtors' federal tax identification numbers are as follows: (a) The SCO Group, Inc., a Delaware corporation, Fed. Tax Id. #2823; and (b) SCO Operations, Inc., a Delaware corporation, Fed. Tax ID. #7393. The address for both Debtors is 355 South 520 West, Lindon, UT 84042.

3. Operations is wholly owned by SCO Group and operates the research, development, sales and implementation of technology owned by SCO Group as further described hereinbelow.

4. In addition to Operations, SCO Group has the following subsidiaries located both in and outside the United States as follows:

- a. SCO Global, Inc. (U.S.);
- b. Me, Inc. (U.S.);
- c. Me Software Limited (U.S.);
- d. Cattleback Holdings, Inc. (U.S.);
- e. SCO Canada, Inc. (Canada);
- f. SCO Software (UK) Ltd. (United Kingdom);
- g. SCO Japan, Ltd. (Japan);
- h. The SCO Group (Deutschland) GmbH (Germany);
- i. The SCO Group (France) Sarl (France); and
- j. SCO Software (India) Private Ltd. (India).

5. SCO Group's common stock is publicly traded on the NASDAQ stock market under the ticker symbol "SCOX." As of September 10, 2007, there were 21,782,164 shares of common stock outstanding and the closing price for the Company's common stock, as reported by The Nasdaq Capital Market, was \$0.71. As of September 10, 2007, there were 402 holders of common stock of record.

6. As of September 10, 2007, SCO and their foreign subsidiaries and affiliates had a total of 123 full and part-time equivalent employees employed in various

capacities including, but not limited to, finance, human resources, executive management and information systems. SCO also regularly engages independent contractors to support the Companies' professional services, product development, sales and marketing organizations. SCO's employees are not represented by any labor union and are not subject to a collective bargaining agreement, and SCO has never experienced a work stoppage. In general, SCO believes that relations with its employees are good.

7. SCO leases administrative, sales and marketing and product development facilities in Lindon, Utah; Scotts Valley, California and Murray Hill, New Jersey.

i. UNIX Business

8. SCO's core business focus is to serve the needs of small-to-medium sized businesses and branch offices and franchisees of Fortune 1000 companies, by providing reliable, cost-effective UNIX software technology for distributed, embedded and network-based systems. SCO also provides a full range of pre- and post-sales technical support for all of its products, primarily focusing on OpenServer and UnixWare. Additionally, SCO provides UNIX-based technical support services and consulting services.

9. SCO's largest source of revenue for its core UNIX business is derived from its worldwide, indirect, leveraged channel of partners, which includes distributors and independent solution providers (collectively, "resellers"). SCO has employees or contractors in a number of countries that provide support and services to customers and resellers. The other principal channel for selling and marketing SCO's products is through large corporations, which have a large number of branch offices or franchisees. SCO accesses these corporations

through its information technology or purchasing departments. In addition, SCO also sells its UNIX products to original equipment manufacturers (“OEMs”).

10. The original UNIX operating system was conceived on the premise that an operating system should be easily adapted to a broad range of hardware platforms and should provide a simple way of developing programs. Over the years, the UNIX operating system has been adapted for almost every OEM’s hardware architecture, and today UNIX has achieved the goal of seamlessly sharing data across heterogeneous environments. SCO owns certain intellectual property rights relating to the UNIX operating system, which is enforced and protected through the Company’s SCOSource business.

11. UNIX has had a long history of business implementation, and has a large and loyal base of both customers and vendors that provide solutions and applications. On the Intel platform, the Company’s OpenServer and UnixWare products represent a low-cost UNIX operating system available for businesses. The Company’s UNIX product offerings allow its customers to take advantage of the reliability of UNIX at a relatively low cost. Today, SCO continues to focus and generate revenue from small-to-medium business resellers as well as from large corporations, including numerous Fortune 1000 companies. SCO also has continuing relationships with hardware vendors and have received certifications on many of the industry’s top hardware platforms.

12. The Company anticipates that the OpenServer and UnixWare products will continue to provide a future revenue stream for SCO’s UNIX business. Both of these UNIX products have a strong and loyal existing customer base of small-to-medium businesses

and enterprise customers and constitute a well-known brand with a reputation for quality and reliability.

13. SCO also has a seasoned, mature sales channel of resellers focused on the small-to-medium sized business market. This channel is a unique asset that should allow SCO to continue to provide reliable UNIX operating systems for small-to-medium sized business customers.

14. SCO plans to continue to focus its UNIX development resources on current UNIX products. In addition, SCO will focus other engineering resources on mobility products and services for personal and professional productivity. The Company expects that these mobility products and services will enable easy, secure, real-time mobile access to all kinds of information stored in enterprise and web-based systems without the need for direct connection between end-point devices and those systems.

Products and Services

ii. *OpenServer*

15. OpenServer is a UNIX-based offering targeted at small-to-medium businesses. Businesses use OpenServer to simplify and speed business operations, better understand and respond to their customers' needs and achieve a competitive advantage. OpenServer excels at running multi-user, transaction and business applications, communications gateways, and mail and messaging servers in both host and client/server environments. The Company continues to fully support existing users of OpenServer, keeping the operating system current as well as obtaining certain hardware certifications.

iii. *UnixWare*

16. UnixWare is a UNIX-based offering targeted at medium-size businesses and enterprise customers. UnixWare is an advanced deployment platform for industry standard Intel processor systems. UnixWare is a foundation for solutions where proven scalability, reliability and affordability are critical. UnixWare includes enhancements and refinements to the UNIX platform, representing added value for existing UnixWare customers.

iv. *Other Products*

17. In addition to OpenServer and UnixWare, SCO offers product maintenance and additional UNIX-related products, such as SCOofficeServer, a UNIX-based e-mail and collaboration system and other UNIX system add-ons.

v. *Technical Support Services*

18. The Company provides a full range of pre- and post-sale technical support for all of its products, primarily focusing on OpenServer and UnixWare.

19. SCO also provides technical support to its partners, including resellers, hardware and software vendors and solution providers, as well as directly supporting SCO's end-user customers. SCO's partners have the option to direct their customers to SCO for technical support or to provide first-level customer support themselves and utilize our technical expertise for second-tier support.

20. Technical support services include a range of options from single incident e-mail and telephone support to dedicated "enterprise" level support agreements. Customers seeking additional technical support directly from SCO may enter into service agreements that best suit their needs.

vi. *Other Services*

21. SCO provides other services, including software development and programming, migration tools and services and assisting customers with modernizing and integrating legacy applications with web services. SCO assists its end-user customers and solution providers in planning, creating, implementing and deploying business application solutions.

vii. *Mobility Products and Services*

22. SCO's new Mobility Server product provides a secure, reliable connection point between handheld devices and corporate infrastructure applications and servers; a HipCheck Service which enables pro-active mobile administration for UNIX and Windows servers; a Shout product which enables users to communicate multimedia messaging to groups of any size via a mobile smart phone or rich media web landing page; and a Shout Postcard product which allows users to send virtual postcards from their smart phone.

23. The Company has business alliances with a number of key global industry partners. These relationships encompass product integration, two-way technology transfers, product certification, channel partnerships and revenue generating initiatives in areas of product bundling, OEM agreements and training and education. The Company also has alliances with a number of solution providers who write and develop custom applications to run on UNIX operating systems. Most of SCO's small business customers that cannot afford high-end solutions or an information technology staff rely on one of SCO's channel partners for these services. Maintaining these strategic alliances for the year ending October 31, 2007 will be critical to the success of SCO's UNIX business. The Company intends to continue to

keep relationships with key partners in certain vertical markets such as retail, medical/pharmaceutical, manufacturing and accounting where the Company's UNIX operating systems have an existing presence. The Company's efforts to maintain or expand industry partnerships may be adversely impacted by issues related to the Litigation (defined hereinafter).

24. The Company's UNIX sales and marketing and field operations are organized by geographic area: SCO's Americas division and its International division. Each division includes a sales organization, field marketing, pre- and post-sales technical support, and local professional services personnel.

25. The Americas team has field sales and support personnel located around the United States, Latin America and Canada. This region delivered approximately 54% of the total revenue for the year ended October 31, 2006.

26. The International region delivered approximately 46% of the total revenue for the year ended October 31, 2006 and includes EMEA (Europe, the Middle East and Africa) and Asia Pacific. SCO has resources, employees or contractors in the United Kingdom, Germany, France, Israel, Italy, China, Korea, Netherlands, Eastern Europe, India, Japan, Australia, and Taiwan.

27. SCO considers its indirect sales channel as one of its most valuable assets. In addition to the current revenue this channel produces, SCO's reseller partners are valuable for the influence they wield on the purchasing decisions of small and medium businesses. SCO's resellers are often not only the primary point of contact for their business customers' purchasing decisions, but are their customers' outsourced information technology

department. The reach of SCO's network of resellers into the small and medium business community is broad as evidenced by its large install base of servers running various versions of SCO's OpenServer and UnixWare operating systems..

28. SCO's marketing efforts support its sales and distribution efforts, promotions and product introductions, and include marketing activities to promote our UNIX and mobile products. Marketing is focused on branding, solutions, advertising, tradeshow, press releases, white papers and marketing literature. In particular, marketing strategy consists of:

- a. branding SCO's UNIX and mobile products through public relations and advertising activities;
- b. maintaining an effective partner program to generate brand awareness and promote SCO's UNIX and mobile products; as well as
- c. increasing public awareness of SCO's UNIX and mobile products by participating in strategic tradeshow, conferences and technology forums.

Software Engineering and Development

29. The Company has taken steps to improve its UNIX software products to maintain system reliability, maintain backward compatibility, increase application support, provide broad hardware support, better integrate widely used internet applications, improve usability, and increase system performance. While the Company believes that these product enhancements will extend the lives and improve the functionality of SCO's UNIX products, they will not result in significant revenue increases in the short-term due to the long adoption

cycle for new operating system purchases and the length of SCO's operating system product sales cycle as well as the competition in the Company's markets.

30. The Company also deploys engineering resources for its mobility products and services for personal and professional productivity, as well as custom services for business, government and consumer users. The Company expects these mobility products and services will enable easy, secure, real-time mobile access to all kinds of information stored in enterprise and web-based systems without the need for direct connection between end-point devices and those systems.

31. The Company's product development process is modeled to standard, commercial software engineering practices and it applies these practices to ensure consistent product quality. As a result, SCO is able to offer its platform products to OEM customers in several configurations without significant additional effort. The Company incurred \$8,045,000, \$8,337,000 and \$10,661,000 in research and development expense during the years ended October 31, 2006, 2005 and 2004, respectively.

SCOsourc ***Business***

32. The Company acquired certain rights relating to the UNIX (including UnixWare) source code and derivative works and other intellectual property rights when it purchased substantially all of the assets and operations of the server and professional services groups of The Santa Cruz Operation, Inc. in May 2001. The Santa Cruz Operation had previously acquired such UNIX source code and other intellectual property rights from Novell in 1995, which Novell acquired from UNIX System Laboratories, a subsidiary of AT&T.

Through this process, the Company acquired all UNIX source code, source code license

agreements with thousands of UNIX vendors, certain UNIX intellectual property, all claims for violation of the above mentioned UNIX licenses and copyrights and other claims, and the control over UNIX derivative works. The UNIX licenses the Company obtained has led to the development of several UNIX-based operating systems, including but not limited to UnixWare and OpenServer products, IBM's AIX, Sequent's DYNIX/Ptx, Sun's Solaris, SGI's IRIX and Hewlett-Packard's HP-UX. These operating systems are all derivatives of the original UNIX source code owned by the Company.

33. The success of the Company's SCOSource business depends on its ability to protect and enforce SCO's rights to proprietary UNIX source code, copyrights and other intellectual property rights. To protect SCO's proprietary rights, the Company relies primarily on a combination of copyright laws, contractual rights and related claims.

B. Events Leading to SCO's Filing of Chapter 11 Case

i. *Competition*

34. Sales of SCO's UNIX-based products and services have been declining over the last several years. This decline in revenue has been primarily attributable to significant competition from alternative operating systems, particularly Linux.

35. The Company faces direct competition in the operating system market from Linux

36. operating system providers, other non-UNIX operating system providers and other UNIX-based operating system providers. In the operating system market, some of the Company's competitors include International Business Machines Corporation ("IBM"), Red Hat Inc. ("Red Hat"), Novell Inc. ("Novell"), Microsoft Corporation ("Microsoft"), and Sun

Microsystems ("Sun"). Operating systems, including Linux, are aggressively taking market share away from UNIX and SCO's UNIX revenue has declined over the last several years.

37. SCO believes that it competes favorably with many of its operating system competitors in a number of respects, including product performance, functionality and networking capability.

38. Notwithstanding these factors, the Company's revenue has declined over the last several years. Many of SCO's competitors are significantly larger than SCO and have much greater access to funding, technical expertise, marketing, and research and development. In addition, many of SCO's competitors have established brand recognition and market presence that may prevent SCO from obtaining or retaining market share. Additionally, there has been negative publicity surrounding the litigation relating to the Company's ownership of UNIX and related copyrights that has, to some degree, hampered SCO's ability to compete favorably.

39. The success of SCO's UNIX business will, in large measure, depend on the level of commitment and certification it receives from industry partners and developers. In recent years, the Company has seen hardware and software vendors as well as software developers turn their certification and application development efforts toward Linux and elect not to continue to support or certify SCO's UNIX operating system products. This trend continued for the Company's fiscal year ended October 31, 2006, and it continue during the year ending October 31, 2007. If this trend continues, SCO's competitive position will be adversely impacted and future revenue from UNIX business will decline. The decline in SCO's UNIX business may be accelerated if industry partners withdraw their support from the

Company as a result of the litigation between the Company and IBM, Novell and Red Hat (collectively the “Litigation”).

40. The market for mobility products and services is relatively young, and the Company believes it is poised for rapid growth. Competition is strong and takes numerous forms, including database vendors who are providing mobile extensions of their current offerings as well as start-up companies and other large corporations who are focusing on custom solutions based on proprietary middleware. The Company believes that the landscape and competition will change rapidly and that no single company has established firm leadership. The success of SCO’s mobility products and services offerings will depend in part, on the level of commitment and resources SCO is able to devote to these offerings, the partnerships SCO is able to establish, SCO’s ability to attract and retain new customers and partners, and the strength of our mobility offerings.

ii. Litigation

a. IBM Corporation

41. On or about March 6, 2003, SCO filed a civil complaint against International Business Machines Corporation (“IBM”). The case is pending in the United States District Court for the District of Utah, under the caption *The SCO Group, Inc. v. International Business Machines Corporation*, Case No. 2:03CV0294 (the “IBM Litigation”). In this action SCO claims that IBM breached its UNIX source code licenses (both the IBM and Sequent Computer Systems, Inc. “Sequent” licenses) by disclosing restricted information concerning the UNIX source code and derivative works and related information in connection with its efforts to promote the Linux operating system. The complaint includes, among other

things, claims for breach of contract, unfair competition, tortious interference and copyright infringement. SCO is seeking damages in an amount to be proven at trial and injunctive relief.

42. On or about March 6, 2003, SCO notified IBM that IBM was not in compliance with SCO's UNIX source code license agreement and on or about June 13, 2003, SCO delivered to IBM a notice of termination of that agreement, which underlies IBM's AIX software. On or about August 11, 2003, SCO sent a similar notice terminating the Sequent source code license. IBM disputes SCO's right to terminate those licenses. If the validity of SCO's termination of those licenses is upheld the Company believes that IBM is exposed to substantial damages and injunctive relief based on its continued use and distribution of the AIX operating system. On June 9, 2003, Novell sent SCO a notice purporting to waive SCO's claims against IBM regarding its license breaches. The Company does not believe that Novell had the right to take any such action relative to our UNIX source code rights.

43. February 27, 2004, SCO filed a second amended complaint which added a claim for copyright infringement, and removed the claim for misappropriation of trade secrets. IBM filed an answer and 14 counterclaims. IBM's counterclaims include claims for breach of contract, violation of the Lanham Act, unfair competition, intentional interference with prospective economic relations, unfair and deceptive trade practices, promissory estoppel, patent infringement and a declaratory judgment claim for non-infringement of copyrights. On October 6, 2005, IBM voluntarily dismissed with prejudice its claims for patent infringement.

44. At the present time, IBM and SCO have filed expert reports and substantially completed expert discovery. IBM has filed six motions for summary judgment that, if granted in whole or in substantial part, could substantially reduce SCO's claims. SCO

has filed three motions for summary judgment. The summary judgment motions have not, as yet, been decided. “Several of SCO’s claims against IBM have been effectively dismissed pursuant to a summary judgment entered in the Novell case on August 10, 2007. The court ruled that Novell had the right to direct SCO to waive certain of its contractual claims against IBM.”

b. Novell, Inc.

45. On January 20, 2004, SCO filed a lawsuit in Utah state court against Novell, Inc. (“Novell”) asserting slander of title and seeking relief for Novell’s alleged bad faith effort to interfere with SCO’s ownership of copyrights related to the Company’s UNIX source code and derivative works and UnixWare product. The case was removed by Novell to the United States District Court for the District of Utah and is styled *The SCO Group, Inc. v. Novell, Inc.*, Case No. 2:04CV00139. In the lawsuit, SCO seeks preliminary and permanent injunctive relief as well as damages. Specifically, SCO requests the court to compel Novell to assign to SCO all copyrights wrongfully registered to Novell, preclude Novell from claiming any ownership interest in such copyrights, and require Novell to retract or withdraw all representations it has made regarding its purported ownership of such copyrights and UNIX itself.

46. Novell filed two motions to dismiss, which were denied. Thereafter, Novell filed its answer and asserted counterclaims alleging breaches of the Asset Purchase Agreement between Novell and SCO’s predecessor-in-interest, The Santa Cruz Operation, for slander of title, restitution/unjust enrichment, an accounting related to Novell’s retained binary royalty stream, and for declaratory relief regarding Novell’s alleged rights under the Asset

Purchase Agreement. On or about December 30, 2005, SCO filed a motion for leave to amend the complaint against Novell to assert additional claims including copyright infringement, unfair competition and a breach of Novell's limited license to use SCO's UNIX code. Novell consented to the filing of the additional claims.

47. On or about April 10, 2006, Novell filed a motion to stay the case pending a request for arbitration that Novell and SuSE Linux, GmbH ("SuSE") filed (on the same date) in the International Court of Arbitration in France (the "SuSE Arbitration"). The SuSE Arbitration concerns claims by Novell that SCO granted SuSE the right to use SCO's intellectual property through SCO's participation in the UnitedLinux initiative in 2002 and through Novell's subsequent acquisition of SuSE, Novell acquired SuSE's rights as a member of UnitedLinux. The District Court ordered that portions of claims relating to the SuSE Arbitration should be stayed but the other portions of claims in the case should proceed. The three-person arbitration panel has been selected for the SuSE Arbitration in Switzerland, and that process has commenced. The arbitration has been scheduled for December 2007 but is stayed due to SCO's bankruptcy.

48. Meanwhile, in September 2006, Novell filed an Amended Counterclaim seeking, in relevant part, imposition of a constructive trust over certain revenue the Company collected from Sun Microsystems and Microsoft Corporation in 2003. Novell moved for a preliminary injunction, which was denied. However, on August 10, 2007, SCO's motions for summary judgment were denied and Novell's was granted in part. Partial summary judgment was granted to Novell on its claims for breach of fiduciary duty and conversion. While the district court held that imposition of a constructive trust was warranted in theory, the court

denied that part of the motion for partial summary judgment seeking the imposition of a constructive trust until it could determine the appropriate amount of SVRX Royalties, and left this determination for trial. Another ruling by the court was that SCO's predecessor's 1995 Asset Purchase Agreement with Novell did not include Novell's Unix and Unixware copyrights, which, the court ruled, are still owned by Novell. This ruling puts a large part of the Company's future business model in jeopardy as noted by several media that follow the industry.

49. The court's summary judgment in favor of Novell held that Novell was entitled to receive at least some portion of the funds received by SCO in 2003 from the Sun and Microsoft Agreements. The trial previously set to commence on September 17, 2007 in the District Court on SCO's claims and Novell's counterclaims is, therefore, now limited to determining the amount of SVRX Royalties to be awarded to Novell and whether a declaratory judgment should be issued that SCO was not authorized to enter into these agreements. Novell claims that it is entitled to the full amount of the Microsoft and Sun payments and to all other SCOSource agreements, which, collectively constitute a principal amount in excess of \$26 million, and, with claimed interest, in excess of \$37 million. Novell also seeks the imposition of a constructive trust on whatever such funds are currently in the Debtors' possession can be properly traced backed to those transactions. The entry of a substantial judgment against SCO would likely impair the Debtors' ability to conduct their business in the ordinary course and the value of SCO's litigation claims relating to infringement of its intellectual property rights in UNIX.

c. *Red Hat, Inc.*

50. On August 4, 2003, Red Hat, Inc. filed a complaint against the Company. The action is pending in the United States District Court for the District of Delaware under the case caption, *Red Hat, Inc. v. The SCO Group, Inc.*, Civil No. 03-772. Red Hat seeks a declaratory judgment for non-infringement of copyrights and no misappropriation of trade secrets, asserting that the Linux operating system does not infringe on SCO's UNIX intellectual property rights. In addition, Red Hat claims that SCO had engaged in false advertising in violation of the Lanham Act, deceptive trade practices, unfair competition, tortious interference with prospective business opportunities, trade libel and disparagement. The Delaware court has stayed the case pending the outcome of the IBM Litigation and requires reports every 90 days on the status thereof.

d. *Other Matters*

51. There is a lawsuit pending in India that was filed in April, 2007 by a former Indian distributor claiming that SCO is responsible to repurchase certain software products and to reimburse the distributor for certain other operating costs. The Company does not believe that it is responsible to reimburse the distributor for any operating costs and also believes that the return rights related to any remaining inventory has lapsed. The distributor requested that the Indian courts grant pre-judgment attachment of SCO assets located in India. The request was denied and hearings on the main claims are ongoing. The Debtors are vigorously defending this action.

C. Relief Requested in First Day Pleadings

i. *Emergency Relief*

a. *Motion for Order Authorizing The Debtors, Inter Alia, to Pay Prepetition Wages, Compensation and Employee Benefits (“Prepetition Wage Motion”)*

52. The Debtors seek, *inter alia*, entry of an order authorizing, but not directing, them to: (a) (i) pay prepetition wages, salaries, commissions, employee benefits and other compensation; (ii) remit withholding obligations; (iii) maintain employee benefits programs and pay related administrative obligations; and (iv) authorizing the Debtors’ banks and other financial institutions to receive, process, honor and pay certain checks presented for payment and to honor certain fund transfer requests related to the foregoing (collectively, the “Prepetition Employee Obligations”), (b) authorizing, but not directing, the Debtors to continue their practices, programs and policies in effect as of the Petition Date with respect to all Prepetition Employee Obligations as of the Petition Date, and (c) authorizing, but not directing the Debtors to issue new postpetition checks or effect postpetition transfers in respect of Prepetition Employee Obligations, if necessary.

53. As set forth above, the Company and its subsidiaries and affiliates employ approximately 123 employees (including independent contractors who, to the best of my knowledge and belief, earned at least 75% of their total earnings for the 12 months preceding the Petition Date from SCO). While the U.S. salaried Employees have been paid current through the Petition Date, I have been advised by counsel that in the absence of an order of the Court providing otherwise, the Debtors will be prohibited from paying or otherwise satisfying its prepetition obligations to its U.S. Commissioned and all Foreign

Employees - the Prepetition Employee Obligations. In addition, checks, wire transfers and direct deposit transfers issued in respect of the Prepetition Employee Obligations will be dishonored. To ensure that Employees do not terminate their employment at this critical time for SCO, and to minimize the personal hardship the Employees would suffer if prepetition employment-related obligations are not paid or honored when due, the Debtors seek authority to honor, in their discretion, such obligations, including those described above.

54. In the ordinary course of its business, SCO funds the payroll of foreign affiliates/subsidiaries on a monthly basis. SCO also funds the payroll for the foreign subsidiaries, which Employees are paid current, on a monthly basis on the 25th of each month. SCO's payroll obligations are transferred approximately three days before the upcoming payday from Operations' payroll account. The next foreign payroll obligation is due September 25, 2007. While these payroll amounts do not need to be funded until after the filing of the petitions for relief, I have been informed by counsel that the Debtors cannot, absent Court authorization, transfer funds representing payment of wages earned prior to the Petition Date. Accordingly, the Debtors seek permission by the Prepetition Wage Motion to pay such amounts (or have the appropriate foreign payroll processing entity pay such amounts on their behalf) in the ordinary course of business. The aggregate amount to be paid to the U.S. Commissioned Employees and Foreign Employees, including foreign Commissioned Employees, on account of the September 21, 2007 and September 25, 2007 foreign payroll, for the month of September 2007 is approximately \$467,160.

55. I believe that the filing of SCO's bankruptcy petitions will very likely cause the Employees to question their future employment prospects with the Company and its

affiliates. While the Employees have demonstrated loyalty to SCO during the years prior to the commencement of these cases, their search for a sense of stability with regard to compensation and benefits may lead to an epidemic of Employee departures. SCO is a company whose assets are comprised principally of intellectual property and therefore its Employees are critical to the continued successful operations. I believe that a significant deterioration in morale among Employees at this critical time undoubtedly would have a devastating impact on SCO, the value of their assets and business, their ability to maximize value and would result in immediate and irreparable harm to the creditors and the estates.

56. As part of the Debtors' Prepetition Employee Obligations, SCO have also established a variety of benefit plans and programs (the "Employee Benefits") designed to assist the Employees and the Employees' eligible dependents in meeting certain financial burdens, including those that arise from illness, disability and death. The Employee Benefits include a choice of medical and dental plans, employee life and other insurance plans, a flexible spending benefits program, dependent care accounts, and a 401(k) savings and retirement plan. The Debtors believe that all amounts and obligations related to Employee Benefits accrued prior to the Petition Date have been paid in full except as otherwise noted in the Prepetition Wage Motion. However, out of an abundance of caution, the Debtors seek authorization, but not direction, to pay or otherwise honor these Employee Benefits in the ordinary course of business.

57. I am informed by counsel that as a result of the commencement of the SCO's Chapter 11 cases, and in the absence of an order of the Court providing otherwise, SCO will be prohibited from paying or otherwise satisfying prepetition obligations regarding

Prepetition Employee Obligations, and the checks, wire transfers and direct deposit transfers issued in respect of the Prepetition Employee Obligations will be dishonored. To maintain Employee morale at this critical time for the Debtors, and to minimize the personal hardship the Employees would suffer if prepetition Employee-related obligations are not paid or honored when due, the Debtors seek authority to honor in their discretion such obligations.

58. I am informed by counsel that pursuant to section 507(a)(4) of the Bankruptcy Code, the Employees' claims for wages and salaries, including vacation, severance and sick leave pay earned within 180 days before the Petition Date are afforded unsecured priority status to the extent of \$10,950 per Employee. Counsel also informed me that, generally, such claims must be paid in full pursuant to section 1129(a)(9) of the Bankruptcy Code in order to confirm a plan of reorganization and/or liquidation. Therefore, payment of such obligations at this time merely affects the timing of such payments. The Company does not have any prepetition salary or wage claims in excess of the statutory cap.

59. With respect to the accrued and unpaid Prepetition Employee Obligations, the Debtors request that, to the extent practicable, the applicable banks be directed to honor checks or fund transfer requests regardless of whether they were issued before or after the Petition Date. I believe that the Debtors have or will have on deposit sufficient funds in its disbursement accounts to satisfy all the Prepetition Employee Obligations so that the banks will not be prejudiced by an order directing them to honor the Debtors' checks or fund transfer requests with respect to such amounts.

60. Finally, authorization of the payment of the Prepetition Employee Obligations shall not be deemed to constitute postpetition assumption or adoption of any

policy, plan, program or employee agreement pursuant to section 365 of the Bankruptcy Code. The Debtors are in the process of reviewing these matters and reserve all of their rights under the Bankruptcy Code with respect thereto.

b. Debtors' Motion for Authority to (I) Maintain Existing Bank Accounts, (II) Continue To Use Existing Business Forms, (III) Continue To Use Existing Cash Management System, And (IV) To Excuse Section 345(B) Deposit And Investment Requirements ("Cash Management Motion")

61. By the Cash Management Motion, the Debtors seek entry of an order authorizing them to (i) maintain existing bank accounts, (ii) continue to use existing business forms, (iii) continue to use the existing cash management system, and granting them a limited waiver of 11 U.S.C. § 345(b) deposit and investment guidelines.

62. The Debtors also seek authorization to continue using their prepetition bank accounts and business forms, including relief from the requirement that the legend "debtor in possession" be imprinted on any existing business forms and checks printed from the Debtors' check printing software (until the necessary programming changes can be implemented), and to continue its use of the existing cash management system.

63. Finally, the Debtors seek an extension of time to comply with the investment guidelines provided for in section 345(b) of the Bankruptcy Code. The Debtors seek this authorization to insure their orderly entry into bankruptcy and to help efficiently administer their business and avoid the disruptions and distractions that would inevitably divert their attention from urgent matters during the initial stages of these Chapter 11 cases.

64. I am informed by counsel that one provision of the U.S. Trustee Guidelines requires a debtor in possession to open new bank accounts and close all existing

accounts and that new bank accounts be opened in certain financial institutions designated as authorized depositories by the U.S. Trustee.

65. SCO, as well as the Company's foreign affiliates/subsidiaries maintain a number of bank accounts in the ordinary course of business. The bank accounts include, without limitation, depository, credit card, lockbox, operating, payroll, sweep, money market and investment accounts (collectively, the "Bank Accounts"). Currently Operations has bank accounts at Zions Bank (the "Principal Bank"), as well as Allied Irish Bank and an investment accounts at Wells Fargo Brokerage Services (Operations) and Credit Suisse First Boston (SCO Group). The Company's affiliates/subsidiaries maintain bank accounts in the respective countries in which they operate, namely, the United Kingdom, France, Germany, Japan and India.

66. The Debtors seek relief from the requirement that the debtor-in-possession bank accounts be opened to replace all of their existing Bank Accounts because the requirement would unnecessarily disrupt the Debtors' business, distract attention from the reorganization process and would not provide any significant benefit to the Debtors' estates, their creditors or parties in interest. For example, the Employees would suffer significant hardship if SCO were required to substitute a new debtor in possession payroll account for the existing payroll account and would face attendant delays, confusion and disruption. It is critical to the continued operation of the Debtors' business and the preservation of the value of their assets that the existing cash management system and Bank Accounts continue to be utilized without disruption.

67. In addition, the filing of SCO's bankruptcy petition will undoubtedly be publicized and place a strain on the Company's relationships with its customers, vendors and other parties that are essential to the Company's continued operations. If the Debtors are required to substitute new debtor in possession bank accounts for existing Bank Accounts, these relationships will be further strained by the payment delays and confusion that would result from opening the new accounts. Consequently, I believe that it is imperative that the Debtors be permitted to continue using the existing Bank Accounts to avoid such unnecessary disruption of business, efficiently administer these Chapter 11 cases and devote their efforts to a successful reorganization.

68. The Debtors also request authority to continue to use all existing correspondence and business forms (including, but not limited to letterhead, purchase orders, invoices, etc.), as well as checks, without reference to its "debtor in possession" status, in order to minimize expense to the estates.

69. In the ordinary course of business, the Debtors use many pre-printed correspondence and business forms. The nature and scope of SCO's business requires that the Debtors be permitted to continue using existing pre-printed correspondence and business forms without alteration or modification. Changing correspondence and business forms would be unnecessary and burdensome to the estates, as well as expensive and disruptive to the Debtors' business operations. Parties doing business with SCO undoubtedly will be aware of these Chapter 11 cases and SCO's status as debtors in possession. Furthermore, modifying existing business forms would be a significant burden due to the number of forms that the Debtors maintain.

70. The majority of SCO's accounts are maintained with the Principal Bank including SCO's credit card, lockbox, operating, payroll, sweep and money market accounts.

71. Except as described below, SCO's cash from operations flows as summarily described below.

72. Collections and Deposits. The Company derives revenues and cash flows primarily from the payment by customers for products or services purchased from the Company or, in limited instances, on-site services provided by its foreign affiliates/subsidiaries. Revenue and cash flows derived from the Company's U.S. operations are initially deposited into Operations' lockbox account with Zions Bank in Lindon, Utah, then transferred into Operations' operating and payroll account with Zions Bank as needed. Excess funds are transferred into Operations' high-yield money market or investment accounts with either Zions Bank or Citibank Smith Barney. Revenue and cash flows from the Debtors' international operations are deposited into the Allied Irish Bank Accounts. The accounts of the Debtors' foreign subsidiaries/affiliates are maintained in local currency with various banks. Funds are transferred as necessary between the Debtors' accounts to maximize cash flow. The Debtors propose to continue using these Bank Accounts after the Petition Date.

73. Disbursements. The Company makes operating and payroll disbursements in connection with its U.S. and Canadian operations from the Zions Bank operating and payroll accounts, respectively. Once expenditures are authorized through the Company's headquarters in Utah, the Company funds the approved disbursements to its foreign affiliates/subsidiaries through Operations' Allied Irish Bank accounts and local subsidiary bank accounts. The subsidiary accounting bureaus, in turn, make disbursements to

vendors from bank accounts in the name of the respective foreign affiliate/subsidiary in the local currency. The foreign Bank Accounts are located in the United Kingdom (Allied Irish Bank), France (Barclays Bank PLC), Germany (Deutsche Bank), Japan (Sumitomo Bank) and India (Bank of America). The Company has pre-petition established procedures in place whereby the foreign accounting bureaus must seek approval from the Company's Vice President of Finance and Controller (located in Lindon, Utah) prior to making any disbursements over certain threshold amounts (approximately US \$2,500). The Company proposes to continue using these disbursement accounts (the "Disbursement Accounts") after the Petition Date.

74. The Company maintains current and accurate accounting records of daily cash transactions, and submit that maintenance of this Cash Management System will prevent undue disruption to the Company's U.S. and foreign operations, while protecting the Company's cash for the benefit of their estates. Additionally, in the ordinary course of business, the Company deposits and withdraws funds from the Bank Accounts routinely by check, wire transfer or other electronic funds transfer method.

75. The Cash Management System described herein constitutes the Company's ordinary, usual and essential business practices. The Cash Management System is similar to those commonly employed by corporate enterprises comparable to the Debtor in size and complexity. The widespread use of such systems is attributable to the numerous benefits they provide, including the ability to: (a) tightly control corporate funds; (b) insure cash availability; and (c) reduce administrative expenses by facilitating the movement of funds and the development of timely and accurate account balance and presentment information.

76. In addition, given the corporate and financial structure of the Company, it would be difficult, if not impossible, for the Company to establish entirely new accounts and a new cash management system. Thus, under the circumstances, maintenance of the Company's Cash Management System is not only essential to the Debtors, it is also in the best interests of their estates and creditors. Of course, the Company will continue to maintain strict records with respect to all transfers of cash, so that all transactions can be readily ascertained, traced and recorded properly on applicable intercompany accounts.

77. If the Debtors are not permitted to continue to use the Cash Management System in its current form, business operations will be severely and perhaps irreparably impaired. Accordingly, the Court should authorize the Debtors' continued use of the existing Cash Management System.

78. I am informed by counsel that section 345(a) of the Bankruptcy Code authorizes deposits or investments of money of the estate, such as the Company's cash, only in a manner that will yield the maximum reasonable net return on such funds, taking into account the safety of each deposit or investment. Counsel informs me that, if deposits or investments are not insured or guaranteed by the United States or backed by the full faith and credit of the United States, section 345(b) of the Bankruptcy Code provides that, unless the Court for cause orders otherwise, the estate must require the entity with which the money is deposited or invested to obtain a bond in favor of the United States that is secured by the undertaking of an adequate corporate surety.

79. I am also informed by counsel that it is within the Court's discretion to extend or grant relief from the investment guidelines requirement of section 345(b) of the

Bankruptcy Code for cause. The Debtors submit that a 45 day extension within which to come into compliance with such requirement is warranted given the size and complexity of these Chapter 11 cases.

c. *Motion for Authority to Pay Prepetition Use, Franchise, Certain Trust Fund, And Other Taxes and Similar Obligations*

80. By this motion the Debtors seek authority, but not direction, to pay prepetition use, franchise, trust fund and other taxes and similar obligations. The Debtors also requests that, to the extent that they (i) have paid taxes which should not have been paid they are authorized to seek refunds, and (ii) dispute such prepetition tax. The Debtors also request the Court to authorize them to set aside, in segregated accounts, funds to pay the tax until a final determination is made as to whether it is obligated to pay such tax.

81. In connection with the operation of business, the Debtors (i) incur certain taxes and collect or incur payroll and employment-related taxes (collectively the "Taxes") on behalf of various taxing authorities; (ii) are charged fees, licenses, and other similar charges and assessments by various licensing authorities, and collect certain fees from customers (collectively the "Fees"). The Taxes and Fees are paid to various taxing and licensing authorities (the "Authorities") on a periodic basis (whether monthly, quarterly, or yearly) that is established for each particular Tax or Fee.

82. Based upon amounts paid during fiscal year ending October 31, 2006, I estimate I estimate that the Debtors owe to the Authorities, on a pre-bankruptcy basis, up to \$63,000 in Taxes and Fees.

83. I believe that the failure to pay the Taxes and Fees could have a material adverse impact on SCO's ability to operate in the ordinary course of business. SCO operates across the United States and disputes relating to Taxes and Fees could impair the Debtors' ability to conduct business in a particular jurisdiction, which would in turn adversely affect the Debtors' ability to operate as a whole.

84. If the Taxes and Fees are not paid immediately, I believe that some, if not all, of the Authorities may cause the Debtors to be audited and subjected to various administrative proceedings. Such audits and administrative proceedings and the accompanying disruption in business activities would materially and adversely affect the Debtors' reorganization prospects and unnecessarily divert their attention away from these cases. Moreover, while reserving the right to argue to the contrary in particular cases, the Debtors believe that they generally do not have any legal or equitable interest under section 541(a)(1) of the Bankruptcy Code in funds held to pay the Taxes or Fees.

85. Accordingly, the Debtors request that the Court authorize, but not direct, them to pay the Taxes and Fees to the relevant Authorities in the ordinary course of business. The Debtors request that an Order granting this relief will not preclude the Debtors from contesting, in their sole discretion, the validity and amount of any Taxes and Fees under bankruptcy or non-bankruptcy law.

86. Lastly, the Debtors further request that all depositories on which checks were drawn in payment of pre-bankruptcy amounts to the Authorities be directed to clear such checks as and when presented for payment. This relief is consistent with, and will further, the primary form of relief sought herein.

d. Motion for an Order Under Section 366 of the Bankruptcy Code (I) Prohibiting Utilities From Altering or Discontinuing Service; (II) Deeming Utilities Adequately Assured of Future Performance; and (III) Establishing Procedures for Determining Adequate Assurance of Payment.

87. In the normal course of their business, the Debtors have relationships with certain utility providers (each, a “Utility Provider” and, collectively, the “Utility Providers”) for the provision of electricity and other services (the “Utility Services”). The Utility Providers include, without limitation, the following entities: Jersey Central Power & Light, P.O. Box 3687, Akron, OH 44309-3687; PSE&G, P.O. Box 14105, New Brunswick, NJ 08906-4105; and Utah Power, 1033 N.E. 6th Avenue, Portland, OR 97256-0001.

88. Because uninterrupted Utility Services are critical to the Debtors’ ongoing operations, the Debtors, by this Motion and pursuant to sections 105(a) and 366 of the Bankruptcy Code, seek the entry of an order: (a) prohibiting the Utility Providers from altering, refusing or discontinuing services; (b) deeming Utility Providers adequately assured of future performance; and (c) establishing procedures for determining adequate assurance of future payment.

89. In order to provide adequate assurance of payment for future services to the Utility Providers, the Debtors propose to make a deposit (a “Utility Deposit”) equal to 50% of the Debtors’ estimated cost of their monthly utility consumption to each Utility, which totals approximately \$6,000 in aggregate deposits for the Utility Providers (or such amount otherwise negotiated by the Debtors and the Utility). The Debtors propose to make Utility Deposits to each of the Utility Providers within 10 days after the entry of an interim order granting this

Motion, pending further order of the Court, for the purpose of providing each Utility Provider with adequate assurance of payment of their postpetition date services to the Debtors.

90. In addition, the Debtors seek to establish reasonable procedures (the “Procedures”) by which a Utility Provider may request additional adequate assurance of future payment, in the event that such Utility Provider believes that its Utility Deposit does not provide it with adequate assurances. Such Procedures are described in the Motion. in particular, would provide that:

a. If a Utility Provider is not satisfied with the assurance of future payment provided by the Debtors, the Utility Provider must serve a written request (the “Request”) upon the Debtors setting forth the location(s) for which Utility Services are provided, the account number(s) for such location(s), the outstanding balance for each account, a summary of the Debtors’ payment history on each account, and an explanation of why the Utility Deposit is inadequate assurance of payment;

b. the Request must be actually received by Debtors’ counsel, Laura Davis Jones, Esquire, Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, P.O. Box 8705, Wilmington, Delaware 19899-8705 (Courier 19801) and Arthur J. Spector, Esq., Berger Singerman, P.A., 350 East Las Olas Blvd., Ste. 1000, Fort Lauderdale, Florida 33301 within 45 days after the date of the order granting this Motion (the “Request Deadline”);

c. Without further order of the Court, the Debtors may enter into agreements granting additional adequate assurance to a Utility Provider serving a timely Request, if the Debtors, in their discretion, determine that the Request is reasonable;

d. If the Debtors believe that a Request is unreasonable, then they shall, within 30 days after the Request Deadline date, file a motion pursuant to section 366(c)(2) of the Bankruptcy Code (a “Determination Motion”), seeking a determination from the Court that the Utility Deposit, plus any additional consideration offered by the Debtors, constitutes adequate assurance of payment. Pending notice and a hearing on the Determination Motion, the Utility Provider that is the subject of the unresolved Request may not alter, refuse, or discontinue services to the Debtors nor recover or setoff against a pre-Petition Date deposit; and

e. Any Utility Provider that fails to make a timely Request shall be deemed to be satisfied that the Utility Deposit provided to it supplies adequate assurance of payment.

91. In addition, the proposed form of Order also allows the Debtors to supplement the list of Utility Providers. The Debtors reserve the right, without further order of the Court, to supplement the list if any Utility Provider has been inadvertently omitted. If the Debtors supplement the list subsequent to the filing of this Motion, the Debtors will serve a copy of this Motion, and the signed order granting the Motion (the “Order”), on any Utility Provider that is added to the list by such a supplement (the “Supplemental Service”). In addition, the Debtors will also provide a Utility Deposit in the amount of 50% of the estimated cost of monthly utility consumption for the added Utility Provider. Concurrently with the Supplemental Service, the Debtors will file with the Court a supplement adding the name of the Utility Provider so served. The added Utility Provider shall have 30 days from the date of service of this Motion and the Order to make a Request.

92. Finally, the Debtors request that the Order provide that Utility Providers must immediately refund any Utility Deposit in the event that the Debtors terminate the services of any Utility Provider. The Debtors believe that the immediate refund of a Utility Deposit by a Utility Provider whose services are terminated is fair and appropriate under the circumstances because the Utility Provider would no longer require adequate assurances of future performance by the Debtors.

ii. *Retention of Professionals and Other Administrative Matters*

a. *Application for Approval of Employment of Berger Singerman, P.A. and Pachulski Stang Ziehl & Jones LLP as Main and Local Bankruptcy Counsel for Company Nunc Pro Tunc to the Petition Date*

93. The Debtors seek the approval of the Court for the employment of the law firm of Berger Singerman, P.A. ("Berger Singerman"), as general counsel, and Pachulski Stang Ziehl & Jones LLP ("Pachulski") as bankruptcy co-counsel in the Debtors' Chapter 11 cases. The Debtors understand that the attorneys of Pachulski working on their Chapter 11 cases are qualified to practice in this Court and that the attorneys of Berger Singerman working on the Company's Debtors' Chapter 11 cases are seeking admission to practice before this Court. The Debtors further understand that both Berger Singerman and Pachulski are qualified to advise them on their relations with, and responsibilities to, the creditors and other interested parties. The professional services that Berger Singerman and Pachulski provide will not materially overlap and will include the following:

a. To give advice to the Debtors with respect to their powers and duties as debtors-in-possession and the continued management of their business operations;

b. To advise the Debtors with respect to their responsibilities in complying with the United States Trustee's Operating Guidelines and Reporting Requirements and with the rules of the Court;

c. To prepare motions, pleadings, orders, applications, adversary proceedings, and other legal documents necessary in the administration of these cases;

d. To protect the interests of the Debtors in all matters pending before the Court; and

e. To represent the Debtors in negotiations with their creditors and in the preparation of plans of reorganization.

94. To the best of the Debtors' knowledge, except as disclosed in the *Declaration of Arthur J. Spector in Support of Debtor's Application, Pursuant to 11 U.S.C. § 327(a) and Fed. R. Bankr. P. 2014(a) and 2016, for Approval of Employment of Berger Singerman, P.A. as General Counsel for the Debtor Nunc Pro Tunc to the Petition Date* (the "Spector Declaration"), neither Arthur J. Spector ("Spector") nor Berger Singerman has any connection with the Debtors' creditors or other parties in interest or their respective attorneys, accountants, the United State trustee or any person employed in the office of the United States trustee. Furthermore, as set forth in the Spector Declaration, to the best of Spector's knowledge, neither Spector nor Berger Singerman represents any interest adverse to the Debtors.

95. Likewise, except as disclosed in the *Declaration of Laura Davis Jones in Support of Debtors' Application, Pursuant to 11 U.S.C. § 327(a) and Fed. R. Bankr. P. 2014(a) and 2016, for Approval of Employment of Pachulski Stang Ziehl & Jones LLP as Co-*

Counsel for the Debtor Nunc Pro Tunc to the Petition Date (the “Jones Declaration”), neither Laura Davis Jones (“Jones”) nor Pachulski has any connection with the Debtors’ creditors or other parties in interest or their respective attorneys, accountants, the United States trustee or any person employed in the office of the United States trustee. Furthermore, as set forth in the Jones Declaration, to the best knowledge of Jones’ knowledge, neither Jones nor Pachulski represents any interest adverse to the Debtors.

b. Application to Employ Boies Schiller & Flexner LLP as Special Litigation Counsel

96. The Company intends to seek the approval of the Court for the employment of the law firm of Boies Schiller & Flexner LLP (“BSF”) as special litigation counsel in the Company’s Chapter 11 case.

97. BSF previously represented the Company in connection with the litigation referenced in Section B, subparagraph ii, hereinabove, as well as other litigation matters more fully described in the application to retain BSF (collectively, the “Litigation”).

98. The professional services that BSF will be more detailed in the application and will provide include the following:

- a. To give advice to the Company with respect to the Litigation;
- b. To prepare motions, pleadings, orders, applications, adversary proceedings, and other legal documents necessary in the prosecution, defense or appeal of administration of the Litigation;
- c. To represent the Company at all hearings or arbitration proceedings with respect to the Litigation and SuSE Arbitration; and

d. To protect the interests of the Company with respect to the
Litigation.

99. To the best of the Company's knowledge, to be more fully disclosed in the application to retain BSF, BSF does not represent any interest adverse to the Company.

c. Application to Employ Dorsey & Whitney as Special Corporate Counsel

100. The Debtors intend to seek the approval of the Court for the employment of Dorsey & Whitney as their special corporate counsel.

d. Application to Employ Financial Advisor

101. The Debtors intend to seek the approval of the Court for the employment of Mesirow Financial Services as their financial advisor in connection with their Chapter 11 cases.

e. Application to Employ Claims and Noticing Agent

102. The Debtors intend to seek the approval of the Court for the employment of Epiq Bankruptcy Solutions, LLC ("Epiq") to assist it in connection with claims noticing, management and related services.

f. Motion for Entry of an Administrative Order Establishing Procedure for Monthly and Interim Compensation and Reimbursement of Expenses for Professionals

103. I am advised that professionals retained by a debtor can, in certain circumstances, seek interim compensation and reimbursement of expenses on a monthly basis. The Debtors, therefore, seek entry of an order establishing a procedure to compensate and reimburse professionals on a monthly basis, comparable to those established in other chapter 11 cases in this and other districts. In this way, the Court and parties-in-interest can more

effectively monitor the fees incurred, and the Debtors will be able to spread out their payments of professional fees, rather than suffer larger depletions to their cash flows on an irregular basis.

104. In connection with these Chapter 11 cases, the Debtors are, or will be, filing applications to retain Berger Singerman, P.A. and Pachulski as bankruptcy co-counsel, BSF as special litigation counsel, Dorsey & Whitney as corporate and regulatory counsel, Mesirow Financial Services as financial advisor and Epiq as notice and claims agent. Because of the likelihood that the Debtors may seek to employ additional professionals, and that official committees, if appointed, will do the same, the process of such professional fee applications may well be burdensome on the Debtors, these professionals and the Court. Thus, implementation of compensation procedures will provide a streamlined and otherwise efficient method for compensating professionals and, as stated, such procedures will allow the Court and parties-in-interest to monitor fees sought by and paid to such professionals.

105. In summary, the requested monthly compensation procedure would require all professionals retained with Court approval in these Chapter 11 cases (the “Professionals”) to present to counsel for the Debtors, counsel for the official committees, if any are appointed, the United States trustee, and any other appointed committee, a detailed statement of services rendered and expenses incurred for the prior month. If no timely objection is filed, the Debtors would promptly pay 80% of the amount of fees incurred for the month, with a 20% holdback, and 100% of out-of-pocket expenses for the month. These payments would be subject to the Court’s subsequent approval as part of the normal interim fee application process (approximately every 120 days).

106. The Debtors propose that the monthly payment of compensation and reimbursement of expenses of the Professionals be structured as follows:

- a. On or before the 25th day of each month, beginning with October 2007, each of Professional seeking interim compensation will file with the Court an application (the “Monthly Fee Application”) for interim approval and allowance of compensation for services rendered and reimbursement of expenses incurred during the immediately preceding month (the “Monthly Compensation Period”);
- b. A copy of such Monthly Fee Application shall be served on: (i) the Debtors, at The SCO Group, Inc., 355 South 520 West, Suite 1000, Lindon, Utah 84041, Attention: Ryan Tibbitts, General Counsel; (ii) proposed co-counsel for the Debtors, Berger Singerman, P.A., 350 E. Las Olas Boulevard, Suite 1000, Fort Lauderdale, Florida 33301, Attention: Arthur J. Spector, Esq.; (iii) proposed co-counsel for the Debtors, Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, P.O. Box 8705, Wilmington, Delaware 19899-8705 (Courier 19801), Attention: James O’Neill, Esq.; (iv) Office of the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801; and (iv) counsel to any Official Committee appointed in these cases (subsequent to such appointment) (collectively, the “Notice Parties”);
- c. All Monthly Fee Applications shall comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), applicable Third Circuit law, the Local Rules of this Court, and the Guidelines established by the Office of the U.S. Trustee;
- d. Each Notice Party will have 20 days after filing and service of a Monthly Fee Application to object to such application (the “Objection Deadline”). Upon the expiration of the Objection Deadline, each Professional may file a certificate of no objection or a certificate of partial objection with the Court, whichever is applicable, after which the Debtors are authorized to pay each Professional an amount (the “Actual Payment”) equal to the lesser of (i) 80% of the fees and 100% of the expenses requested in the Monthly Fee Application (the “Maximum Payment”), and (ii) 80% of the fees and 100% of the expenses not subject to an objection pursuant to subparagraph e. below;
- e. If any Notice Party objects to a Professional’s Monthly Fee Application, it must file with the Court and serve on the affected Professional and each of the Notice Parties a written objection (the

“Objection”), which must be filed with the Court and received by the affected Professional and the Notice Parties on or before the Objection Deadline. Thereafter, the objecting party and the affected Professional may attempt to resolve the Objection on a consensual basis. If the parties are unable to reach a resolution of the Objection within 20 days after service of the Objection, the affected Professional may either: (i) file a response to the Objection with the Court, together with a request for payment of the difference, if any, between the Maximum Payment and the Actual Payment made to the affected Professional (the “Incremental Amount”); or (ii) forgo payment of the Incremental Amount until the next interim or final fee application hearing, at which time the Court will consider and dispose of the Objection if requested by the parties;

- f. Each Professional may submit the first Monthly Fee Application on or about November 25, 2007, and such Monthly Fee Application shall be for the period from the Petition Date through October 31, 2007;
- g. Beginning with the period ending December 31, 2007, at three-month intervals or at such other intervals convenient to the Court (the “Interim Fee Period”), each Professional shall file with the Court and serve on the Notice Parties a request for interim Court approval and allowance, pursuant to section 331 of the Bankruptcy Code, of the compensation and reimbursement of expenses sought in the Monthly Fee Applications filed during the Interim Fee Period (an “Interim Fee Application”). The Interim Fee Application must include a summary of the Monthly Fee Applications that are the subject of the request and any other information requested by the Court or required by the Local Rules of this Court. Each Professional must file and serve its Interim Fee Application within 45 days after the conclusion of the Interim Fee Period for which the request seeks allowance of fees and reimbursement of expenses. The first Interim Fee Application shall cover the time between the Petition Date through and including December 31, 2007, and shall be filed on or before February 14, 2008. Any Professional who fails to file an Interim Fee Application when due will be ineligible to receive further interim payments of fees or expenses under the Compensation Procedures until such time as the Interim Fee Application is submitted.
- h. The Debtors shall request a hearing on the pending Interim Fee Applications at least every six months. The Debtors may, however, request that a hearing be held every three months or at such other intervals as the Court deems appropriate;

- i. The pendency of an objection to payment of compensation or reimbursement of expenses will not disqualify a Professional from the future payment of compensation or reimbursement of expenses, unless the Court orders otherwise;
- j. Neither (i) the payment of or the failure to pay in whole or in part monthly interim compensation and reimbursement of expenses nor, (ii) the filing of or failure to file an objection will bind any party in interest or the Court with respect to the allowance of interim or final applications for compensation and reimbursement of expenses of the Professionals. All fees and expenses paid to the Professionals are subject to disgorgement until final allowance by the Court.

107. The Debtors further request that (i) only the Notice Parties be entitled to receive both the Monthly Fee applications and the notice of hearing thereon (the "Hearing Notice") and (ii) all other parties who have filed a request for service pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure be entitled to receive only the Hearing Notice. Such notice should reach the parties most active in these cases and will save the expense of undue duplication and mailing of lengthy fee applications.

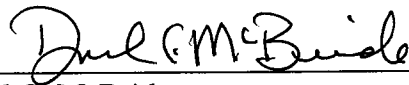
108. Further, the Debtors request that each member of any Committee appointed in these cases (once appointed) be permitted to submit statements of expenses (excluding fees and expenses of the Committee member's counsel) and supporting vouchers to counsel for the Committee, who will collect and submit such requests for reimbursement in accordance with the foregoing procedure for monthly and interim compensation and reimbursement of Professionals.

109. The Debtors will include all payments made to Professionals in accordance with the compensation procedures in their monthly operating reports identifying the amount paid to each of the Professionals.

110. The Debtors believe that the procedures requested in this Motion will relieve the burden on the Court imposed by alternative interim compensation procedures that require monthly court orders, while preserving all rights of objection, enabling the parties to closely monitor costs of administration, and enabling Professionals to maintain a level cash flow.

I DECLARE UNDER PENALTY OF PERJURY THAT FOREGOING IS TRUE AND
CORRECT TO THE BEST OF MY KNOWLEDGE.

Signed this 13 day of September, 2007.



Darl C. McBride
Chief Executive Officer