

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

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In re:)	
)	Chapter 11
)	
TOUSA, INC., <i>et al.</i> , ¹)	Case No. 08-10928-JKO
)	
Debtors.)	(Jointly Administered)
)	
)	

**SUMMARY OF THIRD INTERIM APPLICATION OF MOELIS & CO. LLC AS
FINANCIAL ADVISOR AND INVESTMENT BANKER TO THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS FOR THE PERIOD JANUARY 1, 2009
THROUGH APRIL 30, 2009**

- | | |
|--|---|
| 1. Name of applicant: | Moelis & Co. LLC (“Moelis”) |
| 2. Role of applicant: | Financial Advisor and Investment Banker to
the Official Committee of Unsecured Creditors |
| 3. Name of certifying professional: | William Q. Derrough |
| 4. Date case filed: | January 29, 2008 (the “Petition Date”) |
| 5. Date of application for employment: | August 8, 2008 |
| 6. Date of order approving employment: | August 27, 2008, <i>nunc pro tunc</i> to July 15,
2008 |
| 7. Date of this application: | June 30, 2009 |
| 8. Dates of services covered: | January 1, 2009 through April 30, 2009 (the
“Compensation Period”) |

Fees:

- | | |
|--|-----------|
| 9. Total fees incurred during this period: | \$600,000 |
| 10. Total fee requested for this period: | \$480,000 |
| 11. Holdback fees requested from prior period
– (10% of total Compensation Period): | \$60,000 |

12. Balance remaining in fee retainer account, not yet awarded:	\$0
13. Fees paid or advanced for this Compensation Period, by other sources:	\$0
14. Net amount of fees requested for payment with respect to this period:	\$540,000¹
15. Net amount of fees already paid by the Debtors with respect to this period:	\$480,000
Expenses:	
16. Total expense reimbursement requested for this Compensation Period:	\$31,179.71
17. Balance remaining in expense retainer account, not yet received:	\$0
18. Expenses paid or advanced for this Compensation Period by other sources:	\$0
19. Net amount of expense reimbursements requested for payment with respect to this period:	\$31,179.71²
20. Net amount of expense reimbursements already paid by the Debtors with respect to this period:	\$31,179.71
21. Gross award requested for this Compensation Period (#14 + #19):	\$571,179.71
22. Net award requested for this Compensation Period:	\$571,179.71
23. If <u>Final Fee Application</u> , amounts of net awards requested in interim Applications, but <u>not previously awarded</u> (total from History of Fees and Expenses, following pages):	N/A

¹ Moelis has been paid 80% of its total fees of \$600,000 for this Compensation Period—\$480,000. Moelis also requests half of the holdback fees from this Compensation Period—\$60,000 (10% of total). This application seeks approval of such payments. Moelis shall seek the remaining 10% of its fees for this Compensation Period, \$60,000, at a later date.

² Moelis has been reimbursed for the full amount of its expenses for this Compensation Period—\$31,179.71. This application seeks approval of such reimbursement.

**24. Total fee and expense award requested \$571,179.71
for this Compensation Period:**

History of Fees and Expenses

1. Dates, sources, and amounts of retainers received:

None.

2. Dates, sources, and amounts of third party payments received:

None.

3. Prior fee and expense awards:

Moelis' first and second interim fee applications have been approved by the Court.

Fee Application

Moelis, financial advisor and investment banker to the Official Committee of Unsecured Creditors (the "Committee"), applies for interim compensation for services rendered and costs incurred in this Chapter 11 proceeding. This application is filed pursuant to 11 U.S.C. § 328 and Bankruptcy Rule 2016, and meets all the requirements set forth in the Guidelines incorporated in Local Rule 2016-1(B)(1), except to the extent waived by the Court in its Order Authorizing the Official Committee of Unsecured Creditors of Tousa, Inc. Et Al. to Retain Moelis & Company LLC as Successor Financial Advisor and Investment Banker Pursuant to 11 U.S.C. §§ 328(a) and 1103 *Nunc Pro Tunc* to July 15, 2008, entered on August 27, 2008 (Docket No. 1702) (the "Moelis Retention Order"). The exhibits attached to this application, pursuant to the Guidelines are:

Exhibit "1": Summary of Professional Time.

Exhibit "2": Summary of Requested Fees and Reimbursements of Expenses.

Exhibit "3": The applicant's time records for this Compensation Period. Pursuant to the Moelis Retention Order, Moelis may submit post-petition time records for its restructuring professionals in half-hour increments and is not be required to provide or conform to any schedule of hourly rates is are not required to maintain time records on a "project category" or similar basis. Moelis' non-restructuring professionals are not required to maintain any time records.

Exhibit "4": Engagement Letter

UNITED STATES BANKRUPTCY COURT
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TOUSA, INC., <i>et al.</i> , ¹)	
)	Case No. 08-10928-JKO
Debtors.)	(Jointly Administered)
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**THIRD INTERIM APPLICATION OF MOELIS & CO. LLC AS FINANCIAL ADVISOR
AND INVESTMENT BANKER TO THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS FOR THE PERIOD JANUARY 1, 2009 THROUGH APRIL 30, 2009**

Pursuant to sections 328, 331 and 503(b) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 2016-1 of the Local Rules for the United States Bankruptcy Court for the Southern District of Florida (the “Local Rules”) and the Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals (the “Interim Compensation Order”) (Docket No. 103), Moelis & Company LLC (“Moelis”), financial advisor and investment banker to the Official Committee of Unsecured Creditors (the “Committee”), hereby files this third interim application (the “Third Interim Application”) for the allowance of compensation for services rendered in the amount of \$480,000, representing 80 percent of Moelis’ total fees of \$600,000 for the period commencing January 1, 2009, through and including April 30, 2009 (the “Compensation Period”), half of the holdback fees from this Compensation Period representing \$60,000 (10% of total) and reimbursement for actual and necessary expenses incurred in the amount of \$31,179.71 for the Compensation Period. In support of the Third Interim Application, Moelis respectfully states as follows:

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
2. Venue in the Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

3. On January 29, 2008 (the "Petition Date"), the Debtors commenced these cases under chapter 11 of the Bankruptcy Code. On February 13, 2008, the Official Committee of Unsecured Creditors was appointed in these cases.

4. On August 27, 2008, the Court entered an Order Approving the Official Committee of Unsecured Creditors of Tousa, Inc. Et Al. to Retain Moelis & Company LLC as Successor Financial Advisor and Investment Banker Pursuant to 11 U.S.C. §§ 328(a) and 1103 *Nunc Pro Tunc* to July 15, 2008 (Docket No. 1702) (the "Moelis Retention Order"). The Moelis Retention Order authorizes Moelis to be compensated for its services with payment of the Monthly Fee and the Transaction Fee set forth in the engagement letter and annexes thereto, as modified by the Moelis Retention Order (the "Engagement Letter"), attached as Exhibit 4 to this Third Interim Application. Furthermore, the Moelis Retention Order provides that all interim and final fee applications shall be subject to review and approval by the Court pursuant to the standards set forth in section 328(a) of the Bankruptcy Code, and not subject to the standards of review set forth in section 330 of the Bankruptcy Code.

DISCLOSURE OF COMPENSATION AND REQUESTED AWARD

5. Pursuant to the Interim Compensation Order, the Debtors have paid Moelis \$480,000, which is equal to 80 percent of Moelis' fees for services rendered during the

Compensation Period. Additionally, the Debtors have reimbursed Moelis \$31,179.71, on account of actual and necessary expenses paid by Moelis in connection with services rendered during the Compensation Period.

6. Moelis submits this Third Interim Application, pursuant to sections 328, 331 and 503(b) of the Bankruptcy Code, Bankruptcy Rule 2016, the Guidelines for Fee Applications for Professionals in the Southern District of Florida in Bankruptcy Cases (the "Local Guidelines"), the United States Trustee Guidelines for Reviewing Applications for Compensation (the "UST Guidelines") and together with the Local Guidelines, the "Guidelines") and the Interim Compensation Order. Moelis requests an approval of aggregate payments of (a) \$480,000 for services rendered during the Compensation Period, representing 80 percent of total fees of \$600,000 during the Compensation Period (b) \$60,000 representing half of the holdback fees from this Compensation Period (10% of total) and (c) \$31,179.71 as reimbursement for actual and necessary expenses Moelis incurred during the Compensation Period. A detailed description of fees owed to Moelis and expenses for which reimbursement is sought is provided in Exhibit 2. Moelis will request at a later date payment of the remaining \$60,000 owed to Moelis for fees during the Compensation Period and for reimbursement for any unbilled expenses not included in this Third Interim Application.

7. This is Moelis' third interim request for compensation for services rendered and reimbursement of expenses incurred as financial advisor and investment banker to the Committee. No undertaking exists between Moelis and any other person for the sharing of compensation sought by Moelis in this Third Interim Application, except among the principals, directors, members, employees and equityholders of Moelis.

8. In accordance with the Guidelines, the following exhibits are attached to this Third Interim Application:

Exhibit 1: Summary of Professional Time

Exhibit 2: Summary of Requested Fees and Reimbursement of Expenses

Exhibit 3: Time Records for the Compensation Period

Exhibit 4: Engagement Letter

SERVICES PROVIDED

9. Moelis has summarized the tasks that it performed during the Compensation Period below and provided a summary of professional time in Exhibit 1 and a detailed breakdown of time records in Exhibit 3. The summary is not intended to be a detailed description of the work performed, as those day-to-day services and the time expended in performing such services are fully set forth in Moelis' invoices to the Debtors. Rather, the summary is merely a guideline offered to the Court and other interested parties with respect to the services performed by Moelis during the Compensation Period.

10. During the Compensation Period, Moelis' services to the Committee were focused on a number of different facets of the process, which include:

- a. Attended meetings with Committee counsel;
- b. Attended Committee conference calls;
- c. Conducted meetings with special litigation counsel;
- d. Prepared expert report and rebuttal report in support of litigation;
- e. Reviewed expert reports of Debtors' experts;

- f. Conducted due diligence, analyzed and reviewed potential restructuring plan proposals;
- g. Participated on calls to discuss pending bulk sales with the Debtors;
- h. Conducted calls with Committee counsel to discuss outstanding motions;
- i. Reviewed discovery production;
- j. Provided litigation support to the Committee's counsel;
- k. Analyzed the business, business plan, assets, financial condition and prospects of the Debtors;
- l. Advised the Committee on the current state of the restructuring and capital markets;
- m. Maintained an active and ongoing dialogue with the Debtors' advisors and stayed abreast of critical issues;
- n. Attended meetings to discuss business plan diligence and operational performance with the Debtors; and
- o. Reviewed materials prepared for Committee conference calls.

11. Moelis believes that this Third Interim Application, together with the attachments hereto, substantially comply in all material respects with the Guidelines, except that the Moelis Retention Order allows Moelis to submit time records for restructuring professionals in half-hour increments, rather than tenth of an hour increments, does not require Moelis to provide any schedule of hourly rates, does not require Moelis to maintain time records on a "project category" or similar basis, and does not require Moelis to maintain any time records for non-restructuring professionals. To the extent this Third Interim Application does not comply in

every respect with the requirements of the Guidelines that were not waived by the Moelis Retention Order, Moelis respectfully requests a waiver for any such technical non-compliance.

12. Moelis has reviewed the requirements of Local Bankruptcy Rule 2016-1 and the Guidelines and believes that this Third Interim Application complies with the requirements of the same.

WHEREFORE, Moelis respectfully requests (i) allowance of compensation for professional services rendered during the Interim Application Period in the amount of \$480,000.00, representing 80 percent of the total \$600,000 due to Moelis for fees during the Compensation Period, half of the holdback fees from this Compensation Period in the amount of \$60,000 (10% of total) and reimbursement for actual and necessary expenses Moelis incurred during the Interim Application Period in the amount of \$31,179.71, for a total of \$571,179.71; (ii) that the allowance of such fees and expenses be without prejudice to Moelis's right to seek further compensation, including \$60,000 that will be requested at a later date; and (iii) that the Court grant Moelis such other and further relief as is just.

Moelis & Company

A handwritten signature in black ink, consisting of a stylized 'W' followed by a large, loopy 'D' and a long horizontal line extending to the right.

William Q. Derrough

May 29, 2009

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

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In re:)	
)	Chapter 11
TOUSA, INC., <i>et al.</i> , ¹)	
)	Case No. 08-10928-JKO
Debtors.)	(Jointly Administered)
)	
)	

CERTIFICATION OF WILLIAM Q. DERROUGH IN SUPPORT OF THE THIRD INTERIM APPLICATION OF MOELIS & CO. LLC AS FINANCIAL ADVISOR AND INVESTMENT BANKER TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR THE PERIOD JANUARY 1, 2009 THROUGH APRIL 30, 2009

1. I have been designated by Moelis & Company LLC (the “Applicant”) as the professional with responsibility in this case for compliance with the “Guidelines for Fee Applications for Professionals in the Southern District of Florida in Bankruptcy Cases” (the “Guidelines”).

2. I have read the Applicant’s application for compensation and reimbursement of expenses (the “Application”). To the best of my knowledge, information and belief formed after reasonable inquiry, the Application complies with the Guidelines, except as modified by the order approving the Applicant’s retention and except as specifically noted in this certification and described in the Application. To the best of my knowledge, information and belief formed after reasonable inquiry, the fees and expenses sought fall within the Guidelines, except as specifically noted in this certification and described in the Application.

3. The fees and expenses sought are billed at rates in accordance with the practices customarily employed by the Applicant and generally accepted by the Applicant’s clients, and approved by this Court under section 328 of title 11 of the United States Code (the “Bankruptcy”).

Code”) pursuant to its Order Authorizing the Official Committee of Unsecured Creditors of Tousey, Inc. Et Al. to Retain Moelis & Company LLC as Successor Financial Advisor and Investment Banker Pursuant to 11 U.S.C. §§ 328(a) and 1103 *Nunc Pro Tunc* to July 15, 2008, entered on August 27, 2008 (Docket No. 1702) (the “Moelis Retention Order”).

4. In seeking reimbursement for the expenditures described on Exhibit 2, the Applicant is seeking reimbursement only for its actual expenditures and has not marked up the actual costs to provide a profit or to recover the amortized cost of investment in staff time or equipment or capital outlay (except to the extent that the Applicant has elected to charge for in-house photocopies and outgoing facsimile transmissions at the maximum rates permitted by the Guidelines).

5. In seeking reimbursement for any services provided by a third party, the Applicant is seeking reimbursement only for the amount actually paid by the Applicant to the third party.

6. The chair of the official committee of unsecured creditors, the Debtors, the U.S. Trustee, and the respective counsel for the foregoing, have all been provided, simultaneously with the filing of the Application with the Court, with a complete copy of the relevant Application (together with all exhibits).

7. The following are the variances with the provisions of the Guidelines, the date of each Court order approving the variance, and the justification for the variance:

- a. The Applicant has submitted time records for its restructuring professionals in half-hour increments, rather than tenth of an hour increments, has not submitted a schedule of hourly rates for restructuring professionals and has not submitted time records on a “project category”

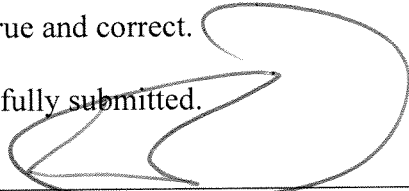
or similar basis for restructuring professionals, all as approved by the Court in the Moelis Retention Order on August 27, 2008.

- b. Moelis' non-restructuring professionals have not maintained time records, as approved by the Court in the Moelis Retention Order on August 27, 2008, in light of industry practice.

I hereby certify that the foregoing is true and correct.

Dated: June 30, 2009

Respectfully submitted.



Moelis & Company LLC
William Q. Derrough