

Debtors' Motion for Entry of an Order Approving the (I) Termination of the Debtors' 401(k) Plan as of June 30, 2010 and (II) Entry into the Services Agreement Between TOUSA, Inc. and Millennium Trust Company to Rollover 401(k) Funds of Certain Former Employees with Unknown Whereabouts (the "Motion").

By the Motion, the Debtors seek entry of an order approving (i) the termination of the Debtors' 401(k) Plan (defined below) as of June 30, 2010, and (ii) entry into the Services Agreement (the "Services Agreement") between TOUSA, Inc. ("TOUSA") and Millennium Trust Company ("Millennium") to roll over 401(k) funds of certain former employees whom the Debtors cannot locate (the "Missing Participants").

Historically, the Debtors have maintained a 401(k) retirement savings plan for the benefit of eligible associates (the "401(k) Plan"). Subject to certain exclusions, associates of the Debtors who had completed 90 days of employment were eligible to participate in the 401(k) Plan.

Pursuant to a Court order dated February 28, 2008 (the "Final Wages Order"), the Debtors were authorized to, among other things (i) continue the 401(k) Plan, (ii) continue making certain matching contributions to employees' contributions under the 401(k) Plan, and (iii) honor obligations owing to employees under the 401(k) Plan to the extent necessary to keep the program in place.

Consistent with their wind down business plan, over the last two years, the Debtors have terminated over 950 employees. As a result, the Debtors currently employ only 29 individuals. Accordingly, the Debtors believe that the continuing costs of maintaining the 401(k) Plan outweigh the benefits and that it is, therefore, appropriate to avoid the accrual of any further obligations related to the 401(k) Plan. As such, the Debtors want to terminate their 401(k) Plan as of June 30, 2010 and distribute the vested account balances to participants (or beneficiaries, if applicable) who have an interest in the plan (the "Plan Participants").

According to the Motion, the Debtors contend that they will use their best efforts to advise all employees, both current and former, who are or were Plan Participants, of the 401(k) Plan termination and of the need to transfer their account balances. To that end, the Debtors will inform all Plan Participants of the 401(k) Plan termination using a form of notice attached to the Motion. The Debtors anticipate that some Plan Participants will either fail to receive (due to their unknown whereabouts) notice of the termination or fail to adequately respond and transfer their account balances. Consistent with federal employee benefits regulations, TOUSA intends to satisfy its fiduciary obligations by entering into the Services Agreement with Millennium, pursuant to which the account balances of Missing Participants will be rolled over from the 401(k) Plan into individual retirement accounts (each, an "IRA") with Millennium. Millennium will charge both a \$25 initiation fee per IRA and a \$35 annual maintenance fee per IRA. While the Debtors assert that the fees charged by Millennium will generally be charged against the applicable IRA accounts, the Debtors nevertheless seek permission to, in their discretion, pay a portion of Millennium's fees incurred in connection with the IRAs.

A hearing on the Motion has been scheduled for June 16, 2010, with a corresponding objection deadline of June 11, 2010.