

Motion of the Debtors for Relief from the Automatic Stay, to the Extent Applicable, to Permit Insurer to Advance Certain Defense Costs to the Debtors and Certain of the Debtors' Directors, Officers and Employees to Defend Securities Class Action (the "Federal Motion").

By the Federal Motion, the Debtors seek entry of an order granting relief from the automatic stay, to the extent applicable, to permit one of the Debtors' insurers, Federal Insurance Company ("Federal"), to advance and reimburse defense costs (the "Defense Costs") to certain defendants, including the Debtors, Technical Olympic S.A. ("TOSA") and certain of the Debtors' and/or TOSA's directors, officers and employees (collectively, the "Parties"), covered under the Debtors' \$15 million primary director and officer liability policy (the "Federal Policy") in effect from December 2005 through December 2006 (the "Coverage Period").

In late 2006, as a result of a decline in TOUSA, Inc.'s ("TOUSA") stock price, four plaintiffs (the "Plaintiffs") filed a federal securities class action complaint (the "Durgin Action") against the Parties. The Durgin Action alleges that the Debtors misled stockholders by failing to disclose liability for certain TOUSA entities in connection with the 2005 acquisition of the Transeastern assets by the Transeastern joint venture (the "Transeastern Acquisition"). Although the Durgin Action has been stayed as to the Debtors in connection with the commencement of the chapter 11 cases, the Plaintiffs have continued their suit against the other defendants, including certain members (the "Individual Defendants") of the Debtors' senior management team. As a result, certain of the Parties have incurred and continue to incur Defense Costs associated with defending against the Durgin Action.

Under TOUSA's Certificate of Incorporation, TOUSA is required to indemnify its directors and officers against all costs relating to litigation such as the Durgin Action. Additionally, the Individual Defendants are parties to indemnification agreements with TOUSA pursuant to which such defendants can demand reimbursement of expenses within ten (10) days of the date the expense is incurred. In light of the foregoing, the Debtors had comprehensive insurance policies in place, including seven layers of coverage aggregating \$100 million, to cover losses, costs, and expenses of the type incurred in connection with the Durgin Action. Notably, the Federal Motion only requests authority for Federal to pay the Defense Costs incurred by the Parties to the extent that such costs are covered under the first-level, \$15 million Federal Policy. The Debtors represent that the Parties have filed claims with Federal in accordance with the terms of the Federal Policy.

In a letter dated February 13, 2008, Federal advised the Debtors that it would not pay the Defense Costs without an order from the Bankruptcy Court either authorizing Federal to make such payments, or stating that such authorization is not required. The Debtors assert that Federal believes it may not be permitted to pay Defense Costs related to the covered Parties absent an order from the Bankruptcy Court, as some courts have held that liability policies issued to a debtor and the proceeds thereof are property of the estate and, therefore, subject to the automatic stay. Further, the Debtors assert that Federal has advised the Debtors that it does not object to the Debtors seeking relief from the automatic stay in order to ensure that Federal is authorized to make payments to the Parties in respect of the Defense Costs.

The Debtors maintain that sufficient cause exists to modify the automatic stay because any payments made by Federal will not harm the Debtors' estates or abridge the Debtors' contractual rights. The Debtors argue that their rights will be unaffected by such payments because the Federal Policy: (i) is a "claims made" policy that covers costs and liability associated with a claim made during the Coverage Period and (ii) subordinates the Debtors' potential rights to payment to the rights to payment of costs borne by the Debtors' directors and officers. The "claims made" nature of the Federal Policy means that only claims actually made against the covered parties during the Coverage Period, or subsequent claims related thereto ("related claims"), are covered. The Debtors represent that the claims asserted in connection with the Durgin Action are the only pending claims made within the Coverage Period. Accordingly, the Debtors believe that no new, unrelated claims can be made with respect to the Federal Policy and, thus, granting the requested relief will not deplete insurance proceeds that would otherwise be utilized in connection with other actions that might be asserted by the Debtors.

A hearing on the Federal Motion has been scheduled for April 9, 2008.