

**IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE:)	Chapter 11
)	
SMALL LOANS, INC., et al ¹)	Case No.: 11-12254 (WRS)
)	
Debtors.)	
)	

**APPLICATION OF THE DEBTORS FOR ENTRY OF AN ORDER AUTHORIZING
THE RETENTION OF MORRISANDERSON & ASSOCIATES, LTD. AS CHIEF
RESTRUCTURING OFFICER OF THE DEBTORS
PURSUANT TO SECTIONS 327, 328 AND 1107(a) OF THE BANKRUPTCY CODE**

NOW INTO COURT, through undersigned counsel, come Small Loans, Inc. ("Small Loans"), The Money Tree Inc. ("The Money Tree"), The Money Tree of Louisiana, Inc. ("The Money Tree LA"), The Money Tree of Florida Inc. ("The Money Tree FLA"), and The Money Tree of Georgia Inc. ("The Money Tree GA"), as debtors and debtors in possession ("Debtors"), who hereby submit this *Application For Entry of an Order Authorizing the Employment and Retention of MorrisAnderson & Associates, Ltd. as Chief Restructuring Officer (the "CRO Candidate") for Debtors pursuant to Sections 327, 328 and 1107(a) of The Bankruptcy Code* (the "Application"), pursuant to sections 327, 328 and 1107(a) of Chapter 11 of title 11 of the United States Code, and Federal Rule of Bankruptcy Procedure 2014(a). By separate motion filed contemporaneously herewith, the Debtors have requested that the Court hear the Motion on an expedited basis contemporaneously with the evidentiary hearing scheduled for April 26-27. The Debtors are not seeking approval of this application under the

¹ The related Debtors along with the last four digits of each Debtors' federal tax identification number and respective case numbers are Small Loans, Inc. (3224) Case No. 11-12254, The Money Tree Inc. (1386) Case No. 11-12255, The Money Tree of Georgia Inc. (9228) Case No. 11-12258, The Money Tree of Florida Inc. (5315) Case No. 11-12257, and The Money Tree of Louisiana, Inc. (2592) Case No. 11-12256. Case information and the Debtors' respective addresses can be found at the dedicated website for these cases: <http://www.kccllc.net/SmallLoansInc>.

negative notice procedures of Local Rule 9007-1. In support of this Application, the Debtors respectfully state as follows:

Jurisdiction

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

2. The statutory predicate for the relief sought herein are sections 327, 328 and 1107(a) of the Bankruptcy Code, Bankruptcy Rules 2014(a), 2016 and 5002.

Background

3. On December 16, 2011, (the “Petition Date”), the Debtors filed for relief under chapter 11 of the Bankruptcy Code. The Debtors intend to continue to operate their businesses and manage their properties as debtors in possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code.

4. On the Petition Date, the Debtors requested that the Court enter an order directing the Debtors’ chapter 11 cases be jointly administered and consolidated for procedural purposes only.

5. This Court is referred to the Application for Order Directing Joint Administration of Cases Rule 1015(b) (“Joint Administration Motion”) [Docket No. 5] and the Bellville Affidavit [Docket No. 17] for a detailed discussion of the factual background and circumstances surrounding the Debtors’ commencement of this chapter 11 case. Capitalized terms not defined herein are as defined in the Joint Administration Motion.

6. On February 27, 2012, just over two months into the cases, the Consolidated Official Committee of Unsecured Creditors of The Money Tree Inc. and The Money Tree of

Georgia Inc. (the "Committee") filed a Motion to Appoint Chapter 11 Trustee (the "Trustee Motion"). The Court has scheduled an evidentiary hearing on the Trustee Motion for April 26-27, 2012 (the "Trustee Hearing").

Relief Requested

7. By this Application, subject to this Court's approval and in lieu of appointment of a chapter 11 trustee or examiner, Debtors seek to retain and employ the CRO Candidate as Chief Restructuring Officer for the Debtors, with the responsibilities and authority described herein, to assist the Debtors' reorganization process and develop the terms of an amended chapter 11 plan to be filed shortly. Accordingly, Debtors respectfully request the entry of an order pursuant to section 327 of the Bankruptcy Code and Fed. R. Bankr. P. 2014(a) authorizing the Debtors to retain and employ the CRO Candidate, as more fully described below.

8. In support of this Application, Debtors submit the affidavit of Mark Iammartino, a Director with the turnaround and workout firm MorrisAnderson & Associates, Ltd. ("MorrisAnderson") (the "Affidavit").

Basis for Relief

9. After reviewing the Trustee Motion and participating in the discovery process in preparation for the Trustee Hearing, the Debtors have concluded that while the Committee cannot demonstrate grounds for appointment of a Trustee (whether for cause or in the best interests of creditors), it is nevertheless apparent that the Committee and its counsel do not have faith that the Debtors' current management can lead the Debtors through their chapter 11 cases and maximize the return to creditors and that the Committee is unwilling to work with the Debtors' current management to do so.

10. The Debtors have determined that it is in the best interests of the Estates to retain an independent Chief Restructuring Officer for the Debtors. In addition to hopefully mending the working relationship with the Committee, the Debtors believe that the employment of the CRO Candidate will enhance the Debtors' ability to develop a plan of reorganization, to explore possible exit financing options, and with the expertise of the CRO Candidate further improve the Debtors operations. The Debtors have used their business judgment to determine that retaining a CRO Candidate will benefit the Debtors and their Estates while at the same time fulfilling the policy of chapter 11 of the Bankruptcy Code to allow the Debtors the chance, as debtors-in-possession, to control their own reorganization process. *See In re Blue Stone Real Estate, Construction & Dev. Corp.*, 392 B.R. 897, 905 (Bankr. M.D. Fla. 2008).

11. A bankruptcy court may approve the debtor-in-possession's retention of a professional to act as Chief Restructuring Officer if the professional satisfies the requirements of Bankruptcy Code Section 327. *Blue Stone*, 392 B.R. at 906-907; *see also, In re First Merchants Acceptance Corp.*, No. 97-1500 JJF, 1997 WL 873551, at *3 (D. Del. Dec. 15, 1997); *In re Bartley Lindsay Co.*, 120 B.R. 507, 512 (Bankr. D. Minn. 1990); *cf. In re Marion Carefree Ltd. P'ship*, 171 B.R. 584 (Bankr. N.D. Ohio 1994); *In re Madison Mgmt. Group, Inc.*, 137 B.R. 375 (Bankr. N.D. Ill. 1992).

12. Under Section 327(a), a debtor-in-possession "with the court's approval, may employ one or more . . . professional persons, that do not hold or represent an interests adverse to the estate, and that are disinterested persons, to represent or assist the [debtor-in-possession] in carrying out the [debtor-in-possession's] duties under this title." 11 U.S.C. § 327(a). As fully discussed herein, the CRO Candidate meets these requirements and is therefore due to be approved.

13. Furthermore, the Debtors seek preapproval by the Court of the terms and conditions of the CRO Candidates employment, as described in detail below, under Bankruptcy Code Section 328(a). Section 328(a) allows the Debtors, as debtors-in-possession, to "employ or authorize the employment of a professional person under section 327 . . . on any reasonable terms and conditions of employment, including . . . on an hourly basis[.]" 11 U.S.C. § 328(a); *see In re High Voltage Eng'g Corp.*, 311 B.R. 320, 333 (Bankr. D. Del. 2004) (discussing cases interpreting Section 328(a) and concluding that bankruptcy court's obligation in an application under Section 328(a) is "to determine the reasonableness of the proposed terms and conditions" up front).

14. Alternatively, courts have also held that a bankruptcy court may approve a Chief Restructuring Officer under Bankruptcy Code Section 363. *See, e.g., In re Colad Group, Inc.*, 324 B.R. 208, 215 (Bankr. W.D.N.Y. 2005); *see also In re Rangers Equity Holdings, L.P.*, No. 10-43624 (DML) (Bankr. N.D. Tex. June 28, 2010) (a copy of this unreported opinion is attached hereto). In approving a decision under Section 363, courts look to whether the debtor has "a good business reason" in seeking approval of the application. *Committee of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983).

15. The Debtors have determined in their business judgment that retention of the CRO Candidate to act as Chief Restructuring Officer is in the best interests of creditors and of the Estates. Among other things, the CRO Candidate will allow the Debtors to reduce the adversarial nature of these cases and will greatly assist the Debtors in formulating and implementing an amended plan; accordingly, retention of the CRO Candidate is due to be approved.

Services to be Provided

16. As Chief Restructuring Officer, the CRO Candidate will provide the following services:

- a) Manage the Debtors' businesses as debtors-in-possession, including making decisions related to the Debtors' authority, duties and responsibilities as debtors-in-possession;
- b) Retain, remove, and set or adjust compensation for all officers and other employees of the Debtors;
- c) Retain, remove, and set or adjust compensation for all professionals acting on behalf of the Debtors;
- d) Negotiate with and verify the financial capacity of all potential purchasers of any of the Debtors' assets;
- e) Represent the Debtor in dealings and negotiations with creditors (including, without limitation, the Committee);
- f) Review the Debtors' books and records and conduct any investigations necessary to assert claims of the Debtors under the Bankruptcy Code;
- g) With the assistance of counsel, pursue any action of the Debtors that the Debtors as debtors-in-possession are authorized to pursue under the Bankruptcy Code and, with the assistance of counsel, defend any action against the Debtors in the Bankruptcy Court or otherwise.
- h) With the assistance of counsel, formulate and direct the filing of chapter 11 plans, amended plans, disclosure statements and amended disclosure statements;
- i) Oversee and monitor the liquidation of the Debtors' assets and the distribution of the proceeds of such liquidation to creditors; and
- j) Do all of the above as the authorized representative of the Debtors with full authority to act independently on behalf of the Debtors, without the necessity of seeking approval from the current officers and boards of directors of the Debtors in order to obtain such authority.

17. Subject to the Court's approval of the Application, the CRO Candidate is willing to serve and to perform the services described above for the remaining duration of these cases.

18. With the assistance of the CRO Candidate, the Debtors are prepared to evaluate the current plan to sell the Debtors' businesses as going concerns and determine whether and what amendments are necessary, seek out a qualified investor to consummate the transaction, provide for payment of the proceeds to creditors as described in the plan.

Qualifications of CRO Candidate

19. The CRO Candidate has significant experience in turnaround management and consumer financing. Among other experience, the CRO Candidate has:

- Managed the liquidation of a portfolio of consumer security system contracts as part of an engagement where MorrisAnderson is the CRO overseeing the process;
- Developed an operational review and assessment of a Baton Rouge-based subprime automobile lender with an \$8 million loan portfolio;
- Worked on assessment and implementation of strategies for large conduit securitization facilities providing wholesale financing to a wide range of consumer creditors;
- Advised a \$50 million business services company in a partial divestiture and in restructuring, liquidity management and strategic planning initiatives;
- Provided investment banking services, including the sourcing of the acquirer, to a \$40 million auto-parts manufacturer;
- Performed financial forecasting and managed relations with vendors for a \$45 million building products distributor; and
- Served on the unsecured creditors' committees for several companies including Accuride, a \$700 million truck-parts manufacturer; Arclin a \$500 million building materials supplier; and FormTech Industries, a \$40 million auto-parts manufacturer.

20. The CRO Candidate has the experience necessary to provide significant benefits to the Debtors as their Chief Restructuring Officer. The CRO Candidate will also be able to access the resources of MorrisAnderson, a full-service consulting firm with experience and

expertise in all facets of corporate financial and restructuring practice, including complex business and commercial litigation and corporate reorganization.

Disinterestedness of CRO Candidate

21. To the best of Debtors' knowledge and based upon the Affidavit, the CRO Candidate is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code.

22. To the best of the Debtors' knowledge and based upon the Affidavit, the CRO Candidate does not hold or represent an interest adverse to the Debtors or their estates, in accordance with section 327 of the Bankruptcy Code.

23. To the best of Debtors' and the CRO Candidate's knowledge, information, and belief, and based upon the Affidavit, (a) the CRO Candidate has no connection with Debtors, creditors of the Debtors, except as noted below, the United States Bankruptcy Administrator for the Middle District of Alabama (the “U.S. Bankruptcy Administrator”), any person employed in the office of the U.S. Bankruptcy Administrator, or any other party with an actual or potential interest in this chapter 11 case or its respective attorneys or accountants; (b) the CRO Candidate is not a creditor, equity security holder, or insider of Debtors; (c) none of the CRO Candidate's partners or associates are, or were, within two years of the Petition Date, a director, officer, or employee of Debtors; and (d) the CRO Candidate neither holds nor represents an interest adverse to Debtors, their estate, or any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, Debtors, or for any other reason.

24. Debtors submit that their retention of the CRO Candidate would be in the best interest of the Debtors, their Estates, and creditors. Among other things, the CRO Candidate can

provide independent management of the Debtors during the pendency of these cases without the additional expense of a chapter 11 trustee.

Terms of Retention

25. Pursuant to the terms of the Engagement Letter attached to the Affidavit as Exhibit A-1, and subject to the Court's approval of this Application, the CRO Candidate intends to (a) charge for its services on an hourly basis in accordance with ordinary and customary hourly rates in effect on the date services are rendered and as set forth in the Engagement Letter and (b) seek reimbursement of actual and necessary expenses and other charges that the CRO Candidate incurs.

26. The CRO Candidate's hourly rates are set at a level designed to fairly compensate it for the work of its professionals and to cover fixed and routine overhead expenses. Hourly rates vary with the experience and seniority of the individuals assigned. These hourly rates are subject to periodic adjustments to reflect economic and other conditions and are consistent with the rates charged elsewhere. The CRO Candidate's hourly fees are comparable to those charged by financial advisors and restructuring professionals of similar experience and expertise for engagements of scope and complexity similar to those services outlined above.

27. Mr. Iammartino's standard hourly billing rate currently is \$325 per hour; however, he has agreed to a discounted rate of \$300 per hour for this engagement. The following professionals at MorrisAnderson are presently expected to assist Mr. Iammartino in providing services to the Debtors with current applicable rates as follows:

Name:	Title:	Hourly Rate:
David Bagley	Principal	\$375 (discount off of standard rate of \$400)
Other Directors/Associate Directors as necessary		\$275

28. The CRO Candidate will also seek reimbursement for all expenses, including administrative costs, reasonably incurred in the performance of services (*e.g.*, telephone conference call charges, faxes, overnight delivery charges, mileage, air fare, hotel expenses, meals, miscellaneous travel expenses, etc.) at the actual cost to the CRO Candidate's for charges by third-party vendors without markup.

29. The CRO Candidate will record the time of its members and staff who provide services to the Debtors to the nearest one-tenth of an hour. The CRO Candidate's fees will be subject to a cap of \$30,000 per week for the first two weeks of service. The CRO Candidate will not bill for travel time (but will be entitled to recover the actual cost of travel expenses).

30. The Debtors propose that the CRO Candidate be compensated weekly in accordance with the terms of the Engagement Letter without further order of the Court, subject to review under the standards of section 328 upon the request of a party-in-interest for such review. The Debtors submit that the CRO Candidate's compensation is reasonable under the circumstances.

No Prior Request

31. No previous application for the relief requested herein has been made to this or any other Court.

WHEREFORE, the Debtors respectfully request that this Court approve the retention and employment of MorrisAnderson as Chief Restructuring Officer for the Debtors and for such other and further relief as may be just and equitable.

This 24th day of April, 2012.

/s/ Max Anderson Moseley

Max A. Moseley

Jan M. Hayden

Bill D. Bensinger

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