

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division**

In re: Michael D. Vick,

Case Number 08-50775

Chapter 11

Debtor.

**INTERIM APPLICATION FOR COMPENSATION OF FEES AND REIMBURSEMENT
OF EXPENSES FOR THE JAMES MINTZ GROUP, INC.**

This Interim Application for Compensation of Fees and Reimbursement of Expenses (the “Interim Application”) is submitted on behalf of the James Mintz Group, Inc. (the “Mintz Group”), as Investigative Financial Consultant to the Official Committee of Unsecured Creditors in the chapter 11 case of Michael D. Vick (the “Committee”). Through this Interim Application, the Mintz Group seeks the allowance of compensation for professional services rendered and reimbursement of expenses incurred by the Mintz Group during the fee period commencing September 4, 2008 and ending January 31, 2009 (the “Interim Fee Period”). And for its Interim Application, the Mintz Group respectfully states as follows:

Background

1. On July 7, 2008, Michael D. Vick (the “Debtor”) filed, in the United States Bankruptcy Court for the Eastern District of Virginia, Newport News Division, a petition for relief under chapter 11 of title 11 of the United States Code. No trustee has been appointed and the Debtor remains in possession and control of his assets and affairs pursuant to 11 U.S.C.

§ 1107.

2. On July 15, 2008, the Norfolk, Virginia office of the United States Trustee convened a meeting for purposes of organizing a committee of unsecured creditors in this case. The United States Trustee officially formed the Committee at that meeting. *See* Appointment of Unsecured Creditors Committee, docket entry # 37.

3. Soon after its appointment, the Committee determined the need to engage counsel and selected Willcox & Savage, P.C. (“W&S”) to serve as its counsel in this case. *See* Application to Authorize Employment of Counsel, docket entry # 38. By Order dated July 29, 2008, this Court approved the employment of W&S as counsel for the Committee. *See* Order, docket entry # 75.

4. The Committee also determined the need to hire financial consultants, and selected the firm of Protiviti, Inc. (“Protiviti”) to act as its Financial Advisor and the Mintz Group to act as its Investigative Financial Consultant. *See* Application to Authorize Employment of a Financial Advisor, docket entry # 153, and Application to Authorize Employment of an Investigative Financial Consultant, docket entry # 155. By Orders dated September 22, 2009, this Court approved the employment of Protiviti and the Mintz Group. *See* Orders, docket entry # 209 (Protiviti) and # 208 (the Mintz Group).

Representations and Disclosures

5. The Mintz Group has not and will not share compensation with any other person or parties other than among members and regular associates of the Mintz Group to the extent and manner permitted by Rule 2016(a) of the Federal Rules of Bankruptcy Procedure.

6. The Mintz Group has no agreement, express or otherwise, with any other person for the sharing of compensation to be received for the services rendered in these cases.

7. The Mintz Group has not received a retainer, periodic payments, or security in connection with these chapter 11 proceedings from the Debtor's estate or from any person or entity.

8. In this Interim Application, the Mintz Group seeks approval of compensation for investigative services rendered, and reimbursement for certain expenses incurred, during the Interim Fee Period. The Mintz Group's services are described below and broken down by specific task in the statement (the "Mintz Group Statement") attached hereto and marked as **Exhibit A**. In the Mintz Group Statement, detailed time entries are reported on a daily basis in tenths of an hour. The expenses incurred by the Mintz Group during the Interim Fee Period are also listed the Mintz Group Statement. Pursuant to the terms of its engagement, the Mintz Group has not charged for travel time or expenses. The Mintz Group has voluntarily cut nearly \$23,000 in fees from its bills, and the Committee has reviewed and approved the Mintz Group Statement and the compensation sought under this Interim Fee Application.

Narrative Summary of Services and Expenses During the Interim Fee Period

9. The Mintz Group has at all times in these chapter 11 proceedings endeavored to restrict its professional services rendered on behalf of the Committee to matters suited to its role as Investigative Financial Consultant. In that regard, the Mintz Group generated fees only on issues for which the Committee determined that the Mintz Group's efforts were likely to add value to the Debtor's estate or were necessary or helpful to the representation of the Committee.

10. In particular, the Mintz Group Statement for the Interim Fee Period reflects that the Mintz Group devoted significant time to reviewing documents related to the Debtor's assets and asset transfers, conducting searches of public databases, and conducting interviews and other investigations regarding the Debtor's assets and/or asset transfers. The Mintz Group also responded to inquiries of the Committee and its counsel and investigated specific entities and

assets upon request. The Mintz Group kept the Committee and its counsel informed of its findings on a regular basis, including by participating in regular telephone conferences and by producing memoranda, charts, and spreadsheets to summarize its findings. *See* Exhibit A.

11. Based on the foregoing, the Mintz Group seeks allowance of fees in the amount of \$176,115.00, to compensate the investigators and professionals who devoted a total of 542.2 hours to the investigation of the Debtor's assets and asset transfers during the five (5) months included in the Interim Fee Period. *See* Exhibit A. Professionals at the Mintz Group also accrued \$3,331.25 in out-of-pocket expenses during the Interim Fee Period, including copy, postage, and database access charges, and the Mintz Group seeks allowance of reimbursement for those expenses. *See* Exhibit A.

Professional Services Rendered During the Interim Fee Period

12. The Mintz Group, consistent with the terms of its engagement and at the direction of the Committee, provided investigative services in relation to the search for Michael Vick's assets and the circumstances of certain pre-petition transactions. The nature of services provided is summarized generally in paragraph 10, *supra*, and in more detail in the attached Exhibit A. In all matters, the Mintz Group has undertaken to render its services only where appropriate and only in a fashion not duplicative of the efforts and responsibilities of other professionals, especially Protiviti. In that regard, Mintz Group has restricted its specific efforts to matters directed and approved by the Committee, which has resulted in reasonable and appropriate fees.

13. Section 331 of the Bankruptcy Code permits professionals employed pursuant to 11 U.S.C. § 327 to apply for interim compensation for services rendered if such compensation is consistent with the guidelines set forth in § 330. Section 330(a)(3) of the Bankruptcy Code and Johnson v. Georgia Highway Express, Inc., 548 F.2d 715 (5th Cir. 1974), set forth the factors the Court must consider in awarding compensation to professional persons, including financial

consultants. *See In re Robinson*, 368 B.R. 492, 498 (Bankr. E.D. Va. 2007); *Barber v. Kimbrell's, Inc.*, 577 F. 2d 216, 226 (4th Cir. 1978). Pursuant to § 330(a)(3), the Mintz Group presents the following information in support of the reasonableness of the compensation requested:

- A. **Time and Labor Expended.** The Mintz Group is seeking compensation for 542.2 hours of services provided in connection with its investigation of the Debtor's assets and asset transfers during the five (5) months comprising the Interim Fee Period, as indicated in the attached Mintz Group Statement. *See* Exhibit A.
- B. **Rates Charged for Services Rendered.** The billable rates charged by the Mintz Group in connection with its investigation of the Debtor's assets are standard billable rates charged by the Mintz Group. The Mintz Group strived to assign duties to the investigator or professional with the lowest billing rate commensurate with the services being performed, resulting in considerable savings for the Debtor's estate. *See* Exhibit A (indicating that investigators and professionals with rates of \$300 to \$325 per hour completed approximately 75% of the work related to this matter whereas investigators and professionals with rates of \$400 to \$425 per hour completed approximately 19% of the work related to this matter). As per the terms of its engagement, the Mintz Group does not seek to recoup travel time or expenses. The Mintz Group has voluntarily cut nearly \$23,000 in fees from its bills.
- C. **Necessity of Services Rendered.** All services rendered by the Mintz Group were beneficial to the Committee, and were undertaken at the express direction of the

Committee after appropriate consideration of the anticipated expenses and benefits. The compensation sought by the Mintz Group does not reflect: (i) time spent by staff in performing services of a firm-overhead nature rather than a professional nature; (ii) duplication of efforts among the professionals at the Mintz Group and Protiviti; (iii) services that were not necessary or beneficial to the Committee; (iv) travel time or travel expenses; or (v) associate training.

- D. **Timing of Services Rendered and Complexity of Issues.** The Mintz Group has attempted to perform all services within a reasonable amount of time, commensurate with the complexity of the task at hand and in light of the relative chaos of the Debtor's financial affairs at the commencement of this case.
- E. **Skill and Experience.** The Mintz Group investigators and professionals who rendered services to the Committee are reputable, highly qualified, and experienced in asset investigation.
- F. **Customary Fee for Like Work.** The billable rates charged by the Mintz Group in connection with its representation of the Committee are standard billable rates charged by the Mintz Group. Billable rates are based on the experience of the individual investigator or professional, and are comparable to or less than the rates charged by investigators in the field. The Mintz Group does not in this Application seek any compensation in excess of the "lodestar" of hourly rates.

WHEREFORE, Willcox & Savage, P.C. respectfully requests that this Honorable Court enter an Order (i) granting the compensation of fees for the James Mintz Group, Inc. in the amount of \$176,115.00 and reimbursement of expenses in the amount of \$3,331.25 for the period

commencing September 4, 2008 and ending January 31, 2009; and (ii) granting such further relief as it deems equitable, just, and proper.

Respectfully submitted on behalf of

THE JAMES MINTZ GROUP, INC.

By: /s/ Laura C. Pyle
Of Counsel

Ross C. Reeves (VSB Number 13628)
John D. McIntyre (VSB Number 35925)
Laura C. Pyle (VSB Number 73338)
WILLCOX & SAVAGE, P.C.
One Commercial Place, Suite 1800
Norfolk, Virginia 23510
757-628-5500 (T)
757-628-5566 (F)
Counsel for the Official Committee of Unsecured Creditors

CERTIFICATE OF SERVICE

Pursuant to Rule 2002(a)(6), I hereby certify that on this 26th day of February, 2009, I served a copy of the foregoing Interim Application for Compensation of Fees and Reimbursement of Expenses of the James Mintz Group, Inc. on the following parties by U.S. Mail:

Michael D. Vick
USP Leavenworth
P.O. Box 100
Leavenworth, Kansas 66048

Paul K. Campsen, Esquire
Dennis T. Lewandowski, Esquire
KAUFMAN & CANOLES, P.C.
150 West Main Street, Suite 2100
Norfolk, Virginia 23510

Peter R. Ginsberg, Esquire
Michael V. Blumenthal, Esquire
CROWELL & MORING, LLP
590 Madison Ave, 20th floor
New York, New York 10022-2524

Kenneth N. Whitehurst, III, Esquire
OFFICE OF THE U.S. TRUSTEE
200 Granby Street, 625 Federal Building
Norfolk, Virginia 23510

All creditors on this Court's mailing matrix will receive a separate notice of the filing of the Interim Application for Compensation of Fees and Reimbursement of Expenses of the James Mintz Group, Inc.

/s/ Laura C. Pyle

Laura C. Pyle