

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

IN RE: )  
 )  
RED TOP RENTALS, INC. ) CAUSE NO. 09-05229-JKC-11  
 )  
DEBTOR. )  
\_\_\_\_\_)  
 )  
 )  
 )

**DEBTOR’S APPLICATION FOR  
AUTHORITY TO EMPLOY COUNSEL**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

In support of the above-entitled application (the “Application”), Red Top Rentals, Inc., (the “Debtor”), by and through its proposed undersigned counsel, respectfully states as follows:

1. The above-captioned case was commenced by the filing of a voluntary petition (the “Petition”) for relief under Title 11, Chapter 11 of the United States Bankruptcy Code on April 20, 2009 (the “Petition Date”). Since the Petition Date, the Debtor has continued in the possession of its property pursuant to 11 U.S.C. §§1107 and 1108.

2. The Debtor has engaged proposed counsel, the law firm of Tucker | Hester, LLC (“Counsel”), attorneys duly admitted to practice before this Court, as the Debtor’s general counsel for provision of legal services regarding the performance of its duties in this Chapter 11 bankruptcy case, and hereby seeks Court approval of such employment from the date of first services performed as counsel for the Debtor.

3. Because of the immediate need for legal services after the filing of the Debtor’s Chapter 11 Petition herein, the Debtor informally retained Counsel to represent it in this matter,

and Counsel has provided necessary legal services to the Debtor prior to the filing of this Application.

4. The Debtor has selected Counsel for the reason that Counsel has considerable experience and knowledge in both corporate transactional work and in litigation, and in particular, because of Counsel's recognized expertise in bankruptcy and restructuring credit, corporate finance, taxes, and other areas. Counsel has been actively involved in a wide variety of Chapter 11 cases. Accordingly, the Debtor believes that said counsel is well qualified to represent the Debtor in this proceeding. Counsel is also familiar with the Debtor's business and financial affairs and is well qualified to provide the services required by the Debtor in its Chapter 11 case. In November 2008, Debtor engaged Counsel to assist and advise it with respect to formulating, evaluating, and implementing various restructuring, reorganization and other strategic alternatives. Accordingly, Counsel has significant, relevant experience with the Debtor to deal effectively and efficiently with the primary legal issues and problems likely to arise in the context of the Debtor's Chapter 11 case.

5. The legal services that Counsel has rendered and will render are appropriate and necessary to enable the Debtor to execute its duties as a debtor and debtor in possession faithfully and to implement the restructuring and reorganization of the Debtor, and include:

A. taking necessary or appropriate actions to protect and preserve the Debtor's estate, including the prosecution of actions on the Debtor's behalf, the defense of any actions commenced against the Debtor, the negotiation of disputes in which the Debtor is involved, and the preparation of objections to claims filed against the Debtor's estate;

B. preparing on behalf of the Debtor, as debtor in possession, necessary or appropriate motions, applications, answers, orders, reports and other papers in connection with the administration of the Debtor's estate;

C. providing advice, representation, and preparation of necessary documentation and pleadings regarding debt restructuring, statutory bankruptcy issues, post-petition financing, securities laws, real estate, employee benefits, environmental, business and commercial litigation, tax, and, as applicable, asset dispositions;

D. counseling the Debtor with regard to its rights and obligations as debtor in possession, and its powers and duties in the continued management and operations of its businesses and properties;

E. taking necessary or appropriate actions in connection with a plan or plans of reorganization and related disclosure statement(s) and all related documents, and such further actions as may be required in connection with the administration of the Debtor's estate; and

F. acting as general bankruptcy counsel for the Debtor and perform all other necessary or appropriate legal services in connection with the Chapter 11 case.

It is necessary for the Debtor to employ Counsel for such legal services.

6. To the best of the Debtor's knowledge, Counsel: (a) has no connection with the Debtor other than the attorney/client relationship as disclosed herein; and (b) does not represent or have any relationship with any party having an adverse interest to the Debtor or the estate regarding the matters upon which Counsel is to be engaged to provide legal services to the Debtor.

7. Attached hereto and incorporated herein by reference as **Attachment A** is an Affidavit of Disinterestedness by Counsel indicating that Counsel does not hold or represent an interest adverse to the estate, and that it is a disinterested person as required by 11 U.S.C. §327.

8. To the best of Counsel's knowledge, it has no actual or potential conflicts of interests with any creditor of the Debtor. Counsel does not represent any creditor in this case.

9. Counsel understands that in accordance with 11 U.S.C. §328, the Court may allow compensation in a different manner from the compensation provided for under the terms and conditions set out herein, after the conclusion of Counsel's employment, if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.

10. The following is a current fee schedule for Counsel and other professional and paraprofessional members of Counsel's firm is as follows: William J. Tucker, Member \$425/hr;

John K. McDavid, of counsel, \$350/hr.; Jeffrey M. Hester, Member \$325/hr; Edward B. Hopper, II, Associate \$325/hr; Steven K. Dick, Of Counsel \$315/hr; Niccole R. Sadowski, Associate Attorney \$275/hr; Lara B. O'Dell, Associate Attorney \$275/hr; Kathy Shamblin, Legal Assistant \$120/hr; Tracy Wilkerson, Legal Assistant \$120/hr; Beth Adams, Legal Assistant \$120/hr; Christina Cremeans, Legal Assistant \$120/hr; Lisa Bierman, Legal Assistant \$120/hr (the "Fee Rate Schedule"). The Fee Rate Schedule is subject to change. (Generally, Counsel's billable rate structure is reviewed annually and any changes in the Fee Rate Schedule become effective as of January of each year.)

11. The following is a current schedule of expenses charged by Counsel for expenses advanced and incurred in relation to the provision of legal services to its clients: (a) Long distance phone calls: charged at attorney's cost; (b) Postage: the official rate charged by the United States Postal Service; (c) Photocopying: \$.10 per page; (d) Miscellaneous office supplies: charged at the attorney's cost only when used in extraordinary circumstances; (e) Filing fees and costs of administration: charged at attorney's cost; (f) Travel expenses: charged at attorney's cost - mileage charge at the expense rate allowed by the Internal Revenue Service; (g) Travel time billed at one-half of the attorney's hourly rate; (h) Courier service; charged at attorney's cost; and (i) Computer access charges for legal research: specific billing rate quoted by computer library (the "Expense Schedule").

12. Fee Rate Schedule and the Expense Schedule are provided for informational purposes only. The Debtor and Counsel acknowledge that all aspects of fees for legal services (including rates) and reimbursement of expenses will be finally determined and allowed by the Court, after notice to interested parties, upon proper application.

13. Prior to the Filing Date, the Debtor paid an initial retainer to Counsel in the sum

of \$160,000.00 (the “Retainer”). The Retainer was drawn upon by Counsel prior to the filing of the Petition in the sum of \$32,389.20 for services and expenses as provided and incurred by Counsel on behalf of the Debtor up to the point of the Petition Date. There remains \$127,610.80 in the Retainer. Counsel was also paid from Debtor’s operations for most pre-filing billing, in the amount of \$218,588.02.

14. Payment of the Retainer was disclosed in the Disclosure of Fees under Fed. R. Bankr. P. 2016(b) filed with this Court at the time of filing Debtor’s Statement and Schedules. Counsel understands that all fees are subject to approval of the Court and an application for final approval by the Court will be required.

14. It is in the best interest of the estate that the Debtor be authorized to employ Counsel.

#### **REQUEST FOR RELIEF**

The Debtor respectfully requests that this Court grant it all just and proper relief in the premises on this Application in accordance with the terms in the uploaded order.

Respectfully submitted,

/s/ John E. Dowden  
John E. Dowden,  
*Red Top Rentals, Inc.*

William J. Tucker  
Jeffrey M. Hester  
Niccole R. Sadowski  
TUCKER | HESTER, LLC  
429 N. Pennsylvania Street, Suite 100  
Indianapolis, Indiana 46204-1816  
317.833.3030  
jeff@tucker-hester.com