

Ira S. Dizengoff (ID-9980)  
David H. Botter (DB-2300)  
AKIN GUMP STRAUSS HAUER & FELD LLP  
590 Madison Avenue  
New York, New York 10022-2524  
(212) 872-1000 (Telephone)  
(212) 872-1002 (Facsimile)

Counsel to the Official Committee of Unsecured  
Creditors of Quebecor World (USA) Inc., et al.

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

Quebecor World (USA) Inc., et al.,

Debtors.

Chapter 11

Case No. 08-10152 (JMP)  
Jointly Administered

Honorable James M. Peck

**REPLY OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS  
TO LIMITED OBJECTION OF THE AD HOC GROUP OF QUEBECOR  
NOTEHOLDERS TO APPLICATIONS OF THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS FOR ORDERS AUTHORIZING THE EMPLOYMENT  
AND RETENTION OF (I) MESIROW FINANCIAL CONSULTING, LLC, AS  
FORENSIC ACCOUNTANT AND FINANCIAL ADVISOR AND  
(II) JEFFERIES & COMPANY INC., AS INVESTMENT BANKER**

The Official Committee of Unsecured Creditors (the “Committee”) of Quebecor World (USA) Inc., et al. (collectively, the “Debtors”), by its undersigned counsel, hereby replies (the “Reply”) to the Limited Objection of the Ad Hoc Group of Quebecor Noteholders (the “Ad Hoc Noteholder Group”) to Applications of the Official Committee of Unsecured Creditors for Orders Authorizing the Employment and Retention of (I) Mesirow Financial Consulting, LLC (“Mesirow”) as Forensic Accountant and Financial Advisor and (II) Jefferies & Company Inc. (“Jefferies”), as Investment Banker (the “Objection”). In support of this Reply, the Committee respectfully represents as follows:

## PRELIMINARY STATEMENT

1. The Ad Hoc Noteholder Group seeks to prevent the Committee – the statutory representative for all unsecured creditors of the Debtors – from obtaining the professional assistance it deems necessary to acquit its fiduciary duty to the Debtors’ unsecured creditors. In support of its Objection, the Ad Hoc Noteholder Group posits that (i) other stakeholders have already hired their own financial advisors who will be “mindful of the interests of unsecured creditors,” such that the Committee does not need its own financial advisors, and “two more financial advisors can only lead to duplication of effort and wasted resources,” and (ii) it is the Committee’s burden to demonstrate that it needs two financial advisors in these cases. Objection at ¶¶ 15, 3. Both bases for the Objection lack merit.

2. First, the Committee, in the careful exercise of its business judgment after interviewing several firms, concluded that it needs the services of both a sophisticated forensic accounting and financial advisory firm with significant international experience (Mesirow) and an investment banking firm with significant capital market experience (Jefferies).

3. The advisory services to be provided by Mesirow and Jefferies are discreet and independent from each other. Indeed, each firm’s responsibilities have been carefully negotiated to avoid duplication, appropriately make use of such firm’s abilities and ultimately assist the Committee in analyzing the Debtors’ business operations, financial results and reorganization efforts. Together, Mesirow and Jefferies will provide invaluable services to the Committee in executing its statutorily mandated fiduciary duties to unsecured creditors.

4. Second, the Committee cannot and should not, as the Ad Hoc Noteholder Group suggests, abdicate its fiduciary responsibilities to the Ad Hoc Noteholder Group, the Prepetition Bank Group (as defined herein) or the Monitor (as defined herein). While it is a laudable goal to

coordinate and avoid duplication of efforts among constituents, the Committee must acquit its fiduciary responsibilities. Toward that end, many processes have been streamlined in these cases (i.e., joint weekly professional calls with the Monitor, the Prepetition Bank Group, the Ad Hoc Noteholder Group and the Committee; organized DIP objections; frequent joint diligence calls with the advisors for the Debtors, the Ad Hoc Noteholder Group and the Committee, etc.) but this cannot diminish or reduce the role and function of the Committee. The Ad Hoc Noteholder Group cannot hold the Committee (or its retention of professionals) hostage to its demand that there be an agreed upon process on who takes a leading role on a particular issue. While the Ad Hoc Noteholder Group is free to rely on its fiduciary representatives (the Committee), the reverse is not true.

5. Finally, while these cases are complex and dynamic, the circumstances here are no different from other bankruptcy proceedings, national and cross-border, where creditors' committee's and ad hoc committee's co-exist, each with their own professionals. Accordingly, the Objection should be overruled.

### **BACKGROUND**

6. On or about January 21, 2008 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Court").

7. On January 20, 2008, the Debtors' corporate parent, Quebecor World Inc., ("QWI") together with each of the Debtors, commenced a proceeding before the Superior Court, Commercial Division, for the Judicial District of Montreal (the "Canadian Proceeding") for a plan of compromise or arrangement under the Canadian Companies' Creditors Arrangement Act

(“CCAA”). Each of the Debtors was joined in the Canadian Proceeding in order that each Debtor may obtain the protection of a stay under the CCAA as well as under the Bankruptcy Code. Ernst & Young Inc. was appointed as the monitor (the “Monitor”) in the Canadian Proceedings.

8. Since the Petition Date, the Debtors have continued in possession of their property and have continued to operate and manage their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On January 23, 2008, the Court entered an order jointly administering these chapter 11 cases pursuant to Bankruptcy Rule 1015(b) for procedural purposes only.

9. The Ad Hoc Noteholder Group has been involved in the Debtors’ restructuring efforts in the United States and Canada. Upon information and belief, professionals for the Ad Hoc Noteholder Group and the largely unsecured prepetition bank group (the “Prepetition Bank Group”) have negotiated an arrangement with the Canadian Debtor for the direct payment of their fees without seeking approval of such fees from this Court. *See* Objection at ¶¶ 9, 10. The Committee wanted to bring to the Court’s attention that the Debtors in these chapter 11 proceedings have become obligated on a postpetition basis under the engagement letters for both the Ad Hoc Noteholder Group’s and the Prepetition Bank Group’s professionals’ fees, in contravention of the Bankruptcy Code.

10. On January 31, 2008 (the “Committee Formation Date”), pursuant to section 1102 of the Bankruptcy Code, the United States Trustee for the Southern District of New York appointed the Committee. The Committee currently consists of seven members.<sup>1</sup> On the

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<sup>1</sup> The Committee is comprised of the following entities: Abitibi Consolidated Sales Corp.; Catalyst Pulp & Paper Sales, Inc.; Cellmark Paper, Inc.; MEGTEC Systems Inc.; Pension Benefit Guaranty Corporation; The Bank of New York Mellon; and Wilmington Trust Company.

Committee Formation Date, pursuant to section 1103(a) of the Bankruptcy Code, the Committee selected Akin Gump Strauss Hauer & Feld LLP (“Akin Gump”) to serve as lead counsel to the Committee. On February 21, 2008, the Court approved the Committee’s retention of Akin Gump.

11. In early February 2008, after interviewing several potential financial advisory firms and investment banks, the Committee elected to retain both Mesirow and Jefferies<sup>2</sup> to advise it with respect to the myriad challenges facing the Debtors. The Committee determined that Jefferies’ principal focus would be on capital market type issues and Mesirow would focus on forensic accounting and financial advisory issues.

12. Following the Committee’s retention of Mesirow and Jefferies, the advisors for the Ad Hoc Noteholder Group questioned the need of the Committee to retain the financial professionals and requested a meeting to discuss a division of labor. The Ad Hoc Noteholder Group suggested that in light of its retention of Houlihan Lokey Howard & Zukin and the Prepetition Bank Group’s retention of PricewaterhouseCoopers, the Committee’s professionals should defer to the Ad Hoc Noteholder Group’s professionals for certain critical analyses. The Committee’s counsel expressed significant concern with the Ad Hoc Noteholder Group’s suggestion but indicated a desire to find a way to streamline the process to the extent that the Debtors were not being pulled in three directions at the same time.

13. On February 27, 2008, the Committee filed the Application of the Official Committee of Unsecured Creditors of Quebecor World (USA) Inc., et al., for Entry of an Order Authorizing the Retention and Employment of Mesirow Financial Consulting, LLC as its Financial Advisors, *Nunc Pro Tunc* to February 1, 2008 (the “Mesirow Application”). On

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<sup>2</sup> Mesirow was retained by the Committee on February 1, 2008, while Jefferies was retained on February 5, 2008.

February 28, 2008, the Committee filed the Application of the Official Committee of Unsecured Creditors of Quebecor World (USA) Inc., et al., for an Order Approving Retention of Jefferies & Company, Inc. as Investment Banker to the Committee, *Nunc Pro Tunc* to February 5, 2008 (the “Jefferies Application” and, together with the Mesirow Application, the “Applications”). The Applications set forth the proposed terms of Mesirow’s and Jefferies’ engagements by the Committee, and detail the scope of the services to be provided by each firm.

14. Subsequent to the filing of the Applications, the Committee, at the request of the Office of the United States Trustee (the “U.S. Trustee”), formalized a protocol for the division of labor among the two firms to avoid duplication of effort (see paragraph 23 herein). On March 13, 2008, the U.S. Trustee stated that it “has been advised of the specific tasks to be performed by each of the firms, and the division of responsibilities between them...[and] has no objection to that allocation...” Statement of the U.S. Trustee Regarding the Applications [Docket No. 406] (emphasis added).

15. On February 13, 2008, the Ad Hoc Noteholder Group filed the Objection.

### **RESPONSE**

#### **I. The Committee Has a Fiduciary Duty to Unsecured Creditors and Has the Right to Retain the Professionals that it Believes Will Help Acquit that Duty**

16. A creditors’ committee, as the fiduciary representative of unsecured creditors, has the primary duty of advising unsecured creditors of their rights and the proper course of action in the debtor’s bankruptcy case. See *In re Caldor, Inc. N.Y.*, 193 B.R. 165, 169-170 (Bankr. S.D.N.Y. 1996) (citations omitted); *In re Baldwin-United Corp.*, 45 B.R. 375, 376 (Bankr. Ohio 1983) (“those who serve on a creditors’ committee owe a fiduciary duty to all creditors which they fulfill by advising creditors of their rights and of the proper course of action in the bankruptcy proceeding.”) (internal citations omitted).

17. “To that end, an official committee may ‘select and authorize the employment ... of one or more attorneys, accountants, or other agents, to represent or perform services for such committee. Public policy favors permitting parties to retain professionals of their choice.’” *Caldor*, 193 B.R. at 170 (emphasis added); *In re Advisory Comm. of Major Funding Corp.*, 109 F.3d 219, 224 (5th Cir. 1997) (holding that a “creditors’ committee not only has, with the court’s approval, the power to employ attorneys, accountants, and other agents to represent or perform services for the committee, it has the duty to determine what assistance it requires in order to perform its duties, when such assistance is required, and to select those best qualified to render such assistance.”); *In re Brennan*, 187 B.R. 135, 150 (Bankr. D.N.J. 1995), *rev’d on other grounds*, 180 F.3d 504 (holding that there is a presumption in favor of party’s right to choose the accountant of its choice); *see also In re Codesco, Inc.*, 18 B.R. 997, 999 (Bankr. S.D.N.Y. 1982) (holding that “[o]nly in the rarest cases should the trustee be deprived of the privilege” of selecting its own professional) (internal citations omitted).

18. While not the norm, the retention of more than one non-legal consultant by a creditors’ committee is not unique. Creditors’ committee’s often require the services of two financial type advisory firms to serve different functions for the Committee by providing: forensic accounting, operational analyses, technical expertise, capital markets expertise or industry experience (*see* Exhibit “A” for a list of major chapter 11 cases where a creditors’ committee has retained two non-legal advisors). Here, the Committee has determined that it needs the forensic accounting and financial advisory services of Mesirov, as well as the investment banking services of Jefferies. As such, the Committee must be permitted to employ those professionals to allow it to acquit its fiduciary duties and help maximize recoveries for its constituency.

## II. The Committee Cannot Abdicate its Fiduciary Obligations to Other Stakeholders

19. The Ad Hoc Noteholder Group suggests that the Committee's retention of Mesirov and Jefferies is not necessary because the Prepetition Bank Group, the Ad Hoc Noteholder Group and the Monitor have all retained financial advisors who will be "mindful of the interests of unsecured creditors." Objection at ¶ 15. This argument lacks merit.

20. The Committee cannot, as the Ad Hoc Noteholder Group implies, abdicate its fiduciary obligations to the professionals for unrestricted creditors. The Committee is the *only* fiduciary representative of the Debtors' unsecured creditors and has an obligation to ensure that the Debtors' actions are in the best interests of the estates and unsecured creditors. The Ad Hoc Noteholder Group and the Prepetition Bank Group (and their advisors) have no such fiduciary obligation. The engagement letters for the professionals for these creditor groups highlight this very point ("the [Ad Hoc] Group is our client and...we will *act in accordance with the best interests of the [Ad Hoc] Group and its members*"; "[Our] clients are the Administrative Agent and the Bank Syndicate....[and we] will *act in accordance with directions from the Administrative Agent...and...the Bank Syndicate.*").

21. Similarly, the Committee cannot abdicate its fiduciary obligations to the Monitor. If that were the case, there would *never* be a need for a creditors' committee in a cross-border proceeding. The Monitor is not a creature of the Bankruptcy Code with clearly defined duties to U.S. unsecured creditors. Given that the U.S. estates are responsible for more than 80% of the EBITDA contribution to the enterprise, the Committee cannot simply sit back and *hope* that the Monitor appropriately protects the interests of unsecured creditors. *See also In re AppliedTheory Corp.*, (SDNY 02-11868); *In re Marketxt Holdings Corp.* (SDNY 04-12078) (even where a



chapter 11 trustee is appointed, the creditors’ committee is not relieved of its fiduciary obligations).

**III. The Committee Requires the Services of Mesirow and Jefferies to Acquit its Fiduciary Obligations to Unsecured Creditors**

22. In these cases, the Committee has been charged with a formidable task. The Debtors’ businesses are dynamic and complex, and the Committee requires the assistance of experienced and sophisticated forensic accounting and financial consultants as well as investment bankers to guide it through the chapter 11 process.

23. Mesirow and Jefferies are uniquely qualified to provide the Committee with the financial advisory and investment banking services that it requires, and the tasks they have already commenced and, during the pendency of these cases, the tasks that they will endeavor to undertake, are distinct and tailored towards their respective experience and expertise. The following chart delineates each firm’s respective role.

<b>Division of Labor</b>	
<b>Jefferies &amp; Co. (Investment Banking Services)</b>	<b>Mesirow Financial (Forensic Accounting / Financial Advisory Services)</b>
<ul style="list-style-type: none"> <li>■ Fraudulent transfers including lien pledge to pre-petition lenders               <ul style="list-style-type: none"> <li>– Capital Markets analysis</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>■ Fraudulent transfers including lien pledge to pre-petition lenders               <ul style="list-style-type: none"> <li>– Forensic analysis</li> <li>– Facts analysis</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>■ DIP objection / amendments</li> </ul>	<ul style="list-style-type: none"> <li>■ Preference and avoidance actions including repayment of private notes</li> </ul>
<ul style="list-style-type: none"> <li>■ Major asset sales               <ul style="list-style-type: none"> <li>– M&amp;A transactions</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>■ Review and analysis of plant closures               <ul style="list-style-type: none"> <li>– Cost analysis</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>■ Non-public (i.e. management monthly operating reports, by business and geographic region)</li> </ul>	<ul style="list-style-type: none"> <li>■ 13 week cash flow analysis               <ul style="list-style-type: none"> <li>– Cash receipts and disbursements</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>■ Publicly filed Monthly Operating Reports</li> </ul>	<ul style="list-style-type: none"> <li>■ AR securitization facility</li> </ul>

<b><u>Jefferies &amp; Co.</u></b> <b>(Investment Banking Services)</b>	<b><u>Mesirow Financial</u></b> <b>(Forensic Accounting / Financial Advisory Services)</b>
■ Executory contracts – To be determined	■ Executory contracts – To be determined
■ Employee retention and compensation plans	■ Pension funding status
■ Business plan analysis and review	■ Intercompany transactions
■ Advise on current state of the restructuring / capital markets	■ Critical vendor / reclamation
■ Analyzing any potential or proposed strategy for restructuring or adjusting the Debtors' outstanding indebtedness or overall capital structure	■ Creditor claims resolution
■ Valuation analysis and testimony	■ Liquidation analysis
■ Exit financing – Lender selection and economics	■ Exit financing – Cash flow and covenants – Collateral analysis
■ Debt capacity analysis	

24. As evidenced by the foregoing, the Committee and its professionals have clearly and appropriately delineated the professional services to be provided by each firm to avoid *any* unnecessary duplication of effort.

**IV. The Committee Will Use Its Best Efforts, Where Appropriate, to Work With Other Constituents to Avoid Duplication of Effort Among Professionals**

25. The Committee recognizes that there will be times in these cases where it may be appropriate for the Committee to coordinate the efforts of its professionals with the other constituents' advisors. The Committee and its professionals welcome all such opportunities and will work hard to create efficiencies for the benefit of these estates and their unsecured creditors. Indeed, many processes have already been streamlined in these cases to avoid duplication of

effort among the various constituents.<sup>3</sup> However, the Committee (and its retention of professionals) will not be held hostage to the Ad Hoc Noteholder Group's demand that a formal process be put in place that identifies which constituency will undertake specific tasks. The Committee was statutorily created, and its members appointed, for the very purpose of representing and *actively* defending the interests of unsecured creditors – including members of the Ad Hoc Noteholder Group. Thus, while the members of the Ad Hoc Noteholder Group are free to rely on the actions of the Committee (as their fiduciary representative), the same is not true for the members of the Committee.

26. The Ad Hoc Noteholder Group has failed to raise *any* legitimate reason why the Committee should not be entitled to retain the professionals that it deems necessary to assist it in acquitting its fiduciary duty to unsecured creditors. Accordingly, the Objection should be overruled.

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<sup>3</sup> Among other joint efforts, the Committee's professionals worked closely with the professionals for the Ad Hoc Noteholder Group and the Prepetition Bank Group to coordinate the presentation of joint comments to the DIP lenders, and together negotiated certain critical postpetition financing issues on behalf of all unsecured creditors. Additionally, the Committee along with the Ad Hoc Noteholder Group, the Monitor and the Prepetition Bank Group established and participate in a weekly update call with Debtors' management to facilitate a single forum for the distribution of critical case information.

**CONCLUSION**

For all the foregoing reasons, the Committee respectfully requests that this Court (i) deny the Objection, (ii) approve the retention and employment of Mesirow and Jefferies as advisors to the Committee as set forth in their retention applications, and (iii) grant the Committee such other and further relief as the Court deems just, proper and equitable.

Dated: March 18, 2008

Respectfully Submitted,

By: /s/ Ira S. Dizengoff

AKIN GUMP STRAUSS HAUER & FELD LLP  
Ira S. Dizengoff (ID-9980)  
David H. Botter (DB-2300)  
590 Madison Avenue  
New York, New York 10022-2524  
(212) 872-1000 (Telephone)  
(212) 872-1002 (Facsimile)

Counsel for the Official Committee of  
Unsecured Creditors

# EXHIBIT A

## Cases Where a Creditors' Committee Retained Two Financial Professionals

Debtor	Creditors' Committee's Advisors
<b>Allegiance Telecom</b>	<b>Operational Advisor</b> CTA <b>Financial Advisor</b> Houlihan Lokey
<b>Calpine</b>	<b>Forensic Accountant</b> FTI Consulting <b>Investment Banker</b> Lazard
<b>Collins &amp; Aikman Corp.</b>	<b>Operational Advisor</b> Alvarez & Marsal <b>Financial Advisor</b> Chanin
<b>Conseco Inc.</b>	<b>Financial Advisor</b> Houlihan <b>Financial Advisor</b> Greenhill
<b>Dana Corp.</b>	<b>Financial Advisor</b> UBS <b>Financial Advisor</b> FTI Consulting
<b>Delphi Corporation</b>	<b>Financial Advisor</b> Mesirow <b>Investment Banker</b> Jefferies
<b>Delta Air Lines</b>	<b>Financial Advisor</b> Houlihan <b>Financial Advisor</b> Mesirow
<b>Dictaphone</b>	<b>Financial Advisor</b> Chanin <b>Restructuring &amp; Accounting Advisor</b> Crossroads
<b>Enron Corp.</b>	<b>Financial Advisor</b> Houlihan Lokey <b>Operational Advisor</b> Ernst & Young Corporate Finance
<b>Federal-Mogul</b>	<b>Financial Advisor</b> Jefferies <b>Accountant &amp; Financial Advisor</b> KPMG LLP
<b>Fruit of the Loom, Inc.</b>	<b>Restructuring Advisor</b> Arthur Anderson LLP <b>Financial Advisor</b> Chanin

<b>Debtor</b>	<b>Creditors' Committee's Advisors</b>
<b>Global Crossing Ltd.</b>	<b>Financial Advisor</b> Chanin <b>Accountants &amp; Restructuring Advisor</b> Deloitte & Touche
<b>Mirant Corp.</b>	<b>Financial Advisor</b> Miller Buckfire <b>Energy Consulting Advisor</b> PA Consulting Group
<b>Pacific Gas &amp; Electric Company</b>	<b>Financial Advisor</b> Saybrook Capital <b>Utility Accounting &amp; Tax Advisor</b> PricewaterhouseCoopers
<b>RCN Corp.</b>	<b>Financial Advisor</b> Chanin <b>Operational Advisor</b> CTA
<b>Spiegel, Inc.</b>	<b>Financial Advisor</b> Capstone Advisory Group, LLC <b>Investment Banker</b> PJ Solomon
<b>Sunterra Financial Services, Inc.</b>	<b>Financial Advisor</b> Jefferies <b>Real Estate Consultant</b> A&P Corporate Advisors
<b>UAL Corporation</b>	<b>Financial Advisor</b> Saybrook Capital <b>Accountants &amp; Restructuring Advisor</b> KPMG / Mesirow
<b>Winn-Dixie Stores, Inc.</b>	<b>Financial Advisor</b> Houlihan Lokey <b>Operational Advisor</b> Alvarez & Marsal