

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

**Jointly Administered under  
Case No. 08-45257**

Petters Company, Inc., et al.,

Court File No. 08-45257

Debtors.

Court File Nos.:

(includes:

Petters Group Worldwide, LLC;

08-45258 (GFK)

PC Funding, LLC;

08-45326 (GFK)

Thousand Lakes, LLC;

08-45327 (GFK)

SPF Funding, LLC;

08-45328 (GFK)

PL Ltd., Inc.;

08-45329 (GFK)

Edge One, LLC;

08-45330 (GFK)

MGC Finance, Inc.;

08-45331 (GFK)

PAC Funding, LLC;

08-45371 (GFK)

Palm Beach Finance Holdings, Inc.)

08-45392 (GFK)

Chapter 11 cases  
Judge Gregory F. Kishel

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**APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS  
TO EMPLOY HURON CONSULTING GROUP INC.**

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TO: The Honorable Gregory F. Kishel and the United States Trustee:

The Official Committee of Unsecured Creditors (the “Committee”) of Petters Company, Inc., et al. (“Debtors”), hereby makes an application (“Application”) to this Court for entry of an order, under 11 U.S.C. §§ 328 and 1103, and Rules 2014 and 5002 of the Federal Rules of Bankruptcy Procedure, authorizing the Committee to retain and employ the consulting firm of Huron Consulting Group, Inc. (“Huron”) as its financial advisor in connection with the above-captioned Chapter 11 cases (“Chapter 11 Cases”). In support of this Application, the Committee

relies on the attached Affidavit of Michael Kennelly, the Regional Managing Director for Huron (“Kennelly Affidavit”). In addition, the Committee respectfully represents:

1. Jurisdiction. The Court has jurisdiction to consider this Application pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b), and venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. Debtors. The Chapter 11 Debtors in these cases are Petters Company, Inc. (“PCI”), Petters Group Worldwide, LLC (“PGW”), PC Funding, LLC (“PC Funding”), Thousand Lakes, LLC (“Thousand Lakes”), SPF Funding, LLC (“SPF Funding”), PL Ltd., Inc. (“PL Ltd.”), Edge One, LLC (“Edge One”), MGC Finance, Inc. (“MGC Finance”), PAC Funding, LLC (“PAC Funding”) and Palm Beach Finance Holdings, Inc. (“Palm Beach”). The petitions commencing the Chapter 11 cases of PCI and PGW were filed on October 11, 2008. The petitions commencing the Chapter 11 cases of PC Funding, Thousand Lakes, SPF Funding, PL Ltd, Edge One and MGC Finance were filed on October 15, 2008. The petitions commencing the Chapter 11 cases of PAC Funding and Palm Beach were filed on October 17, 2008 and October 19, 2008, respectively. These cases are now pending in this Court.

3. Committee. On November 21, 2008, the Office of the United States Trustee appointed the Committee. Currently, the Committee is comprised of the following members: (a) Ronald R. Peterson, in his capacity as chapter 7 trustee on behalf of Colossus Capital Fund, L.P., Colossus Capital Fund, Ltd., Lancelot Investors Fund II, L.P., Lancelot Investors Fund, L.P., Lancelot Investors Fund, Ltd., and related entities; (b) Arrowhead Capital Management, L.L.C.; and (c) Taunton Ventures, L.P.

4. Selection of Huron Consulting. At a duly and properly noticed meeting of the members of the Committee held on December 3, 2008, attended telephonically by all of the

members of the Committee, the Committee selected Huron to serve as financial advisor to the Committee.

5. Relief Requested. By this Application, the Committee seeks to employ Huron as its financial advisor to provide advice and guidance on the complex financial issues presented by these Chapter 11 Cases. The Committee respectfully requests entry of an order under sections 1103(a) and 328 of the Bankruptcy Code, and Local Rules of Bankruptcy 2014-1 and 9013-1, authorizing the Committee to retain and employ Huron as its financial advisor to provide necessary financial advice during these Chapter 11 Cases pursuant to the terms of the letter agreement (“Letter Agreement”) entered into by the parties and attached hereto as Exhibit A, and as more fully described below.

6. Qualifications of Huron Consulting. Based upon a careful review, the Committee believes that Huron possesses extensive knowledge regarding the financial issues relevant to these Chapter 11 Cases, and that Huron is well qualified to represent the Committee as its financial advisor. Specifically, Huron has provided or is providing financial advisory services in several recent bankruptcy actions, and Huron has also provided complex financial advisory services to clients outside the context of bankruptcy. Huron’s qualifications and relevant experience are set forth more specifically in the Kennelly Affidavit.

7. Services to Be Rendered. Huron is expected to render financial services (“Services”) in these Chapter 11 Cases as requested by the Committee and the Committee’s legal counsel. The Services that Huron will provide to the Committee are necessary to enable the Committee to maximize the value of recovery to unsecured creditors. The Committee believes that these Services will not duplicate the services of other professionals. Huron will execute unique functions and the Committee will use reasonable efforts to coordinate Huron’s Services

with the services of the Committee's other retained professionals. Specifically, the Committee respectfully submits that it will be necessary to employ and retain Huron with respect to, among other things:

- (a) Advising the Committee regarding the Debtors' business plans, cash flow forecasts, financial projections and cash flow reporting;
- (b) Advising the Committee with respect to available capital restructuring, sale and financing alternatives, including recommending specific courses of action and assisting with the design, structuring and negotiation of alternative restructuring and/or transaction structures;
- (c) Advising the Committee regarding financial information prepared by the Debtors, and in its communication with interested parties and their respective advisors;
- (d) Advising the Committee in preparing for, meeting with, and presenting information to interested parties and their respective advisors;
- (e) Assisting the Committee in the development and/or analysis of a plan of reorganization for the Debtors and negotiation with parties-in-interest or in any sale of a portion or substantially all of the assets of the Debtors, whether structured as a stock transfer, merger, purchase and assumption transaction or otherwise;
- (f) Advising the Committee as to proposals from third parties for new sources of capital or any sale of the Debtors;

- (g) Assisting the Committee and its counsel in the development, evaluation and documentation of any plan of reorganization or strategic transaction, including any related negotiations;
- (h) Providing testimony in the Bankruptcy Court on any relevant issues, including issues related to items (a) through (g), above;
- (i) Other services as might be reasonably requested from time to time by the Committee and its counsel and agreed to by Huron.

8. Fees. Huron will be compensated at its standard hourly rates for engagements of this nature. These fees are based upon, among other things, the level and sophistication of each professional's experience, and each professional's track-record for efficiency and effectiveness. Currently, the hourly rate for professionals at Huron ranges from \$235 to \$650, as set forth in the following table.

<u>Title</u>	<u>Hourly Rate</u>
Managing Director	\$650
Director	\$450
Manager	\$400
Associate	\$320
Analyst	\$235

- (a) Reasonableness of Fees. The Committee believes that Huron's fees are competitive with those charged by companies of similar size, level of expertise and experience. Huron's fees also comply with the United States Trustee's Guidelines and orders of this Court.
- (b) Changes to the Fee Structure. Huron's hourly rates are subject to periodic adjustments in the ordinary course of practice. Such adjustments are generally made on an annual basis, and premised upon changes in the

financial services market and the increased sophistication and effectiveness of specific professionals.

9. Costs. It is Huron's policy to charge clients for certain expenses incurred in connection with the client's case. The Committee requests that all fees and related expenses incurred by the Debtors on account of services rendered by Huron in these cases be paid as administrative expenses of the estates pursuant to Section 328, 330(a), 331, 503(b) and 507(a)(1) of the Bankruptcy Code. The expenses to be charged to the Debtors include, among other things, certain telephone and telecopier charges, certain mail and express mail charges, special or hand delivery charges, certain photocopy charges, travel expenses, and computerized research expenses. Huron will charge the Debtors for these expenses in a manner and at a rate consistent with charges made generally to Huron's other clients, and consistent with the United States Trustee's Guidelines and Local Bankruptcy Rules.

10. Compensation Subject to Court's Approval. The Committee and Huron understand and agree that the proposed compensation arrangement shall be subject to Section 328(a) of the Bankruptcy Code which authorizes this Court to modify Huron's compensation if the fee arrangement appears in retrospect to have been improvident in light of developments unanticipated as of the time of this Application.

11. Interim Compensation. Pursuant to Article 8(c) of the Instructions for Filing a Chapter 11 Case, as adopted by this Court effective January, 27, 2003, the Committee hereby requests that the professionals employed by the Committee be permitted to submit invoices to the Committee (with copies to the Debtors) on a monthly basis, and that the Debtors be authorized to pay eighty percent (80%) of fees and one hundred percent (100%) of costs owing pursuant to such monthly invoices. The Committee and Huron acknowledge that, if any fees or costs

distributed to Huron or other professionals are subsequently disallowed, the professionals must agree that such fees and costs are subject to disgorgement, and the professionals must assure their ability and willingness to disgorge the same.

12. Timing of Fee Applications. The Committee requests that the fee applications for Huron be approved by the Court on 90-day intervals as provided in Instruction 8(b) of this Court's published Instructions for Filing a Chapter 11 Case.

13. Final Compensation. At the conclusion of these Chapter 11 cases, Huron will file an appropriate application seeking final allowance of its fees and costs, regardless of whether interim compensation has been paid to Huron. Upon allowance of such fees and costs, the Debtors' estates will pay to Huron the difference between the amounts allowed to Huron and any interim compensation already distributed to Huron.

14. Possible Disgorgement. Both the Committee and Huron understand and agree that, if aggregate interim payments made to Huron exceed the amount that is ultimately allowed to Huron, Huron will be required to, and will, promptly repay the entire difference to the Debtors' estate(s).

15. Huron Is Not a Creditor. Huron has informed the Committee that it does not hold or assert a pre-petition claim against the Debtors, and that Huron is not otherwise a creditor of the Debtors. As described in Paragraph 8(c) of the attached Kennelly Affidavit, Huron does hold a pre-petition claim in the amount of \$218,088.01 against Polaroid Corporation, a subsidiary of the Debtors.

16. Disinterestedness. As set forth in the Kennelly Affidavit, Huron has informed the Committee that it does not represent any interest adverse to the Debtors' estate or its creditors in connection with these Chapter 11 cases, and that Huron is disinterested within the meaning of

sections 327(a), 328 and 1103(b) of the Bankruptcy Code and Bankruptcy Rule 2014. Huron has further assured the Committee that neither Huron nor its agents have any connection with the Debtors, its estate or any other party in interest, its representative attorneys and accountants, the United States Trustee for Region 12, or any person employed in the Office of the United States Trustee for Region 12.

17. Notice. Notice of this Application has been provided via facsimile, hand delivery, or overnight courier to (i) counsel for the Debtors, James A. Lodoen, Lindquist & Vennum, P.L.L.P., 4200 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402; and (ii) all other parties listed on the attached service list.

18. United States Trustee. This Application has been provided to the United States Trustee for review and recommendation.

19. No Prior Request for Relief. No previous request for the relief sought by the Application has been made to this or any other court.





# **EXHIBIT A**



**PROPRIETARY AND CONFIDENTIAL**

December 3, 2008

Official Committee of Unsecured Creditors  
of Petters Group Worldwide, Petters Company Inc., et al  
c/o Connie A. Lahn  
Fafinski Mark & Johnson  
Flagship Corporate Center  
775 Prairie Center Drive, Suite 400  
Eden Prairie, MN 55344

Dear Ms. Lahn:

I am pleased to confirm, on behalf of Huron Consulting Services LLC, our engagement to provide Financial advisory services to the Official Committee of Unsecured Creditors (the "Committee") of Petters Group Worldwide, Petters Company Inc., et al (along with its debtor affiliates, collectively referred to as "Petters" or the "Debtor").

Objectives and Scope

We understand the engagement objectives and scope (the "Engagement") include without limitations, providing support, analysis and advice to the Committee, its counsel and any other professionals that the Committee may retain, with regard to the Debtor's financial affairs or operations. Huron will support the Committee in its negotiations in an effort to maximize recoveries for the Committee's constituents and to successfully conclude these bankruptcy proceedings. In performing this Engagement, Huron will endeavor to avoid unnecessary cost and/or expense, as well as duplication of services provided by any other advisor to the Committee.

Our Services

In performing the Engagement, Huron's services (the "Services") will include the following:

1. The monitoring and analysis of the Debtor's operations and financial condition, and cash expenditures.
2. Forensic Analysis of current and prior transactions, cash transfers, purchases and acquisitions involving the Debtor.
3. Attendance at meetings of the Committee, Petters, and their respective professionals, bankruptcy court hearings and participation in such other matters and on such occasions as the Committee may, from time-to-time, request.
4. Analysis of any divestitures proposed by the Debtor.
5. Review and analysis of any recommendations regarding any proposed disposition of assets of the Debtor, and debtor in possession financing.

6. Review and analysis of any other proposed transactions for which the Debtor seeks Court Approval.
7. The review and analysis of the financial information prepared by the Debtor, its accountants and/or financial advisors and the review of reports as to Debtor's business and operations.
8. Analysis with respect to the pre-petition property, liabilities and financial condition of the Debtor, and the transfers to and accounts with and among Debtor's affiliates.
9. Support for any bankruptcy court proceedings necessary or appropriate to the maximization of recovery by the Committee's constituents, including expert witness or other testimony.
10. The provision of valuation with respect to financial, business and economic issues, as requested by the Committee.
11. The provision of such other services as the Committee may, from time-to-time, deem necessary or appropriate.

Please note that in performing the foregoing Services, Huron will not audit any financial statements or perform attest procedures with respect to information in conjunction with this engagement. Huron's services are not designed, nor should they be relied upon, to disclose weaknesses in internal controls, financial statement errors, irregularities, illegal actors or disclosure deficiencies.

Fees and Expenses

Huron's charge for the above-described services will be based on time and materials. We will bill on an hourly basis based on actual hours worked and the following billing rates (which may be subject to adjustment from time-to-time.):

<u>Title</u>	<u>Hourly Rate</u>
Managing Director	\$650
Director	\$450
Manager	\$400
Associate	\$320
Analyst	\$235

Additionally, Huron's reasonable out of pocket expenses (including transportation, lodging, meals, communications, supplies, copying, etc.) will be billed at the actual amounts incurred. Payments of Huron's invoices shall be subject to approval by the Bankruptcy Court, and we will bill in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the local rules and orders of the Bankruptcy Court, and review for reasonableness, including any order establishing procedures from interim compensation and reimbursement of expenses of professionals (collectively the "Compensation Procedures").

We understand that our bills should be sent to:

Official Committee of Unsecured Creditors  
of Petters Group Worldwide, Petters Company Inc., et al  
c/o Connie A. Lahn  
Fafinski Mark & Johnson  
Flagship Corporate Center  
775 Prairie Center Drive, Suite 400  
Eden Prairie, MN 55344

Please remit payment as follows:

Mail check to:

Huron Consulting Services LLC  
4795 Paysphere Circle  
Chicago, IL 60674

Or wire transfer to:

Bank of America, N.A.  
Chicago, Illinois  
Routing No. 0260-0959-3  
Account Title: Huron Consulting Services LLC  
Account Number: 5800297276  
Comments: (Include Invoice Number to ensure proper credit)

Monthly and Quarterly Fee Applications will be filed on our behalf in order to gain payment by the Debtor of our invoices pursuant to Compensation Procedures. Neither the Committee, its constituents, nor any of its advisors or professionals shall be liable for the fees, expenses or other amounts payable to Huron under this Agreement or General Business Terms. Notwithstanding such arrangements, Huron's duties hereunder run solely to the Committee, and Huron is not authorized to be, and will not purport to be, an agent of the Debtor for any purpose unless otherwise agreed to by the Committee and the Debtor.

Business Terms

The attached General Business Terms apply to this engagement.

\* \* \* \* \*

Connie Lahn  
Page 4  
December 3, 2008

Please indicate your agreement with these terms by signing and returning to me the enclosed copy of this letter. We appreciate the opportunity to be of service to you and look forward to working with you on this engagement.

Sincerely,

HURON CONSULTING SERVICES LLC



By: \_\_\_\_\_

Attachments: General Business Terms

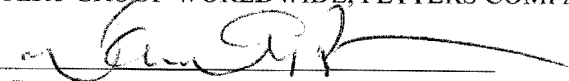
Acknowledged and Accepted:

OFFICIAL COMMITTEE OF UNSECURED CREDITORS  
OF PETERS GROUP WORLDWIDE, PETERS COMPANY, INC. ET AL

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



David E. Runck, Attorney for Committee  
12/24/08

**Attachment to Engagement Letter dated December 3, 2008 between Huron Consulting Group and Official Committee of Unsecured Creditors of Petters Group Worldwide, Petters Company Inc., et al**

**GENERAL BUSINESS TERMS**

These General Business Terms, together with the Engagement Letter (including any and all attachments, exhibits and schedules) constitute the entire understanding and agreement (the "Agreement") between us with respect to the services and deliverables described in the Engagement Letter. If there is a conflict between these General Business Terms and the terms of the Engagement Letter, these General Business Terms will govern, except to the extent the Engagement Letter explicitly refers to the conflicting term herein.

**1. Our Services and Deliverables** We will provide the services and furnish the deliverables (the "Services") as described in our Engagement Letter and any attachments thereto, as may be modified from time to time by mutual consent.

**2. Independent Contractor** We are an independent contractor and not your employee, agent, joint venturer or partner, and will determine the method, details and means of performing our Services. We assume full and sole responsibility for the payment of all compensation and expenses of our employees and for all of their state and federal income tax, unemployment insurance, Social Security, payroll and other applicable employee withholdings.

**3. Fees and Expenses** (a) Our fees and payment terms are set out in our Engagement Letter. Those fees do not include taxes and other governmental charges (which will be separately identified in our invoices.)

(b) You acknowledge that where out-of-town personnel are assigned to any project on a long-term basis (as defined from time to time in the applicable provisions of the Internal Revenue Code and related IRS regulations, and currently defined, under IRC Section 162, as a period of time reasonably expected to be greater than one year), the associated compensatory tax costs applied to out-of-town travel and living expenses also shall be calculated on an individual basis, summarized, and assessed to such personnel. In such cases, the expenses for which you shall reimburse us hereunder shall be deemed to include the estimated incremental compensatory tax costs associated with the out-of-town travel and living expenses of our personnel, including tax gross-ups. We shall use reasonable efforts to limit such expenses.

(c) We reserve the right to suspend Services if invoices are not timely paid, in which event we will not be liable for any resulting loss, damage or expense connected with such suspension.

**4. Taxes (a)** You will be responsible for and pay all applicable sales, use, excise, value added, services, consumption and other taxes and duties associated with our performance or your receipt of our Services, excluding taxes on our income generally.

(b) If you are required by the laws of any foreign tax jurisdiction to withhold income or profits taxes from our payment, then the amount payable by you upon which the withholding is based shall be paid to us net of such withholding. You shall pay any such withholding to the applicable tax authority. However, if after 120 days of the withholding, you do not provide us with official tax certificates documenting remittance of the taxes, you shall pay to us an amount equal to such withholding. The tax certificates shall be in a form sufficient to document qualification of the taxes for the foreign tax credit allowable against our corporation income tax.

**5. Confidentiality and Privacy (a)** With respect to any information supplied in connection with this engagement and designated by either of us as confidential, or which the other should reasonably believe is confidential based on its subject matter or the circumstances of its disclosure ("Confidential Information"), the other agrees to protect the confidential information in a reasonable and appropriate manner, and use confidential information only to perform its obligations under this engagement and for no other purpose. This will not apply to information which is: (i) publicly known, (ii) already known to the recipient, (iii) lawfully disclosed by a third party, (iv) independently developed, (v) disclosed pursuant to legal requirement or order, or (vi) disclosed to taxing authorities or to representatives and advisors in connection with tax filings, reports, claims, audits and litigation.

(b) Confidential Information made available hereunder, including copies thereof, shall be returned or destroyed upon request by the disclosing party; provided that the receiving party may retain other archival copies for recordkeeping or quality

assurance purposes and receiving party shall make no unauthorized use of such copies.

(c) We agree to use any personally identifiable information and data you provide us only for the purposes of this engagement and as you direct, and we will not be liable for any third-party claims related to such use. You agree to take necessary actions to ensure that you comply with applicable laws relating to privacy and/or data protection, and we are not providing legal advice on compliance with the privacy and/or data protection laws of any country or jurisdiction.

(d) We may also mention your name and provide a general description of the engagement in our client lists or marketing materials.

**6. Our Deliverables and Your License** Upon full and final payment of all amounts due us in connection with this engagement, all right, title and interest in the deliverables set out in our Engagement Letter will become your sole and exclusive property, except as set forth below. We will retain sole and exclusive ownership of all right, title and interest in our work papers, proprietary information, processes, methodologies, know how and software (“Huron Property”), including such information as existed prior to the delivery of our Services and, to the extent such information is of general application, anything which we may discover, create or develop during our provision of Services for you. To the extent our deliverables to you contain Huron Property, upon full and final payment of all amounts due us in connection with this engagement, we grant you a non-exclusive, non-assignable, royalty-free, perpetual license to use it in connection with the deliverables and the subject of the engagement and for no other or further use without our express, prior written consent. If our deliverables are subject to any third party rights in software or intellectual property, we will notify you of such rights. Our deliverables are to be used solely for the purposes intended by this engagement and may not be disclosed, published or used in whole or in part for any other purpose.

**7. Your Responsibilities.** To the extent applicable, you will cooperate in providing us with office space, equipment, data and access to your personnel as necessary to perform the Services. You shall provide reliable, accurate and complete information necessary for us to adequately perform the Services and will promptly notify us of any material changes in any information previously provided. You acknowledge

that we are not responsible for independently verifying the truth or accuracy of any information supplied to us by or on behalf of you.

**8. Our Warranty** We warrant that our Services will be performed with reasonable care in a diligent and competent manner. Our sole obligation will be to correct any non-conformance with this warranty, provided that you give us written notice within 10 days after the Services are performed or delivered. The notice will specify and detail the non-conformance and we will have a reasonable amount of time, based on its severity and complexity, to correct the non-conformance.

We do not warrant and are not responsible for any third party products or services. Your sole and exclusive rights and remedies with respect to any third party products or services are against the third party vendor and not against us.

THIS WARRANTY IS OUR ONLY WARRANTY CONCERNING THE SERVICES AND ANY DELIVERABLE, AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE, ALL OF WHICH ARE HEREBY DISCLAIMED.

**9. Liability and Indemnification** (a) This engagement is not intended to shift risk normally borne by you to us. To the fullest extent permitted under applicable law, you agree to indemnify and hold us and our personnel, agents and contractors harmless against all costs, fees, expenses, damages, and liabilities (including reasonable defense costs and legal fees), associated with any legal proceeding or other claim brought against us by a third party, including a subpoena or court order, arising from or relating to any Services that you use or disclose, or this engagement generally. This indemnity shall not apply to the extent a claim arises out of our gross negligence or willful misconduct, as finally adjudicated by a finder of fact.

(b) We will not be liable for any special, consequential, incidental, indirect or exemplary damages or loss (nor any lost profits, savings or business opportunity). Further, our liability relating to this engagement will in no event exceed an amount equal to the fees (excluding taxes and expenses) we



receive from you for the portion of the engagement giving rise to such liability.

(c) Neither of us will be liable for any delays or failures in performance due to circumstances beyond our reasonable control.

**10. Non-Solicitation** During the term of this engagement, and for a period of one year following its expiration or termination, you will not directly or indirectly solicit, employ or otherwise engage any of our employees (including former employees) or contractors who were involved in the engagement.

**11. Termination**

(a) Termination for Convenience. Either party may terminate this Agreement for convenience at any time on 30 days' prior written notice to the other.

(b) Termination for Breach. Either party may terminate this Agreement for breach if, within 15 days' notice, the breaching party fails to cure a material breach of this Agreement.

(c) To the extent you terminate this Agreement for convenience, you will pay us for all Services rendered, effort expended, expenses incurred, contingent fees (if any), or commitments made by us to the effective date of termination. To the extent you terminate this Agreement for breach, you will pay us for all conforming Services rendered and reasonable expenses incurred by us to the effective date of the termination.

(d) Further, we reserve the right to terminate this Agreement at any time, upon providing written notice to you, if conflicts of interest arise or become known to us that, in our sole judgment, would impair our ability to perform the Services objectively.

(e) The terms of this Agreement which relate to confidentiality, ownership and use, limitations of liability and indemnification, non-solicitation and payment obligations shall survive its expiration or termination.

**12. General** (a) This Agreement supersedes all prior oral and written communications between us, and may be amended, modified or changed only in a writing when signed by both parties.

(b) No term of this Agreement will be deemed waived, and no breach of this agreement excused, unless the waiver or consent is in writing signed by the party granting such waiver or consent.

(c) We each acknowledge that we may correspond or convey documentation via Internet e-mail and that neither party has control over the performance, reliability, availability, or security of Internet e-mail. Therefore, neither party will be liable for any loss, damage, expense, harm or inconvenience resulting from the loss, delay, interception, corruption, or alteration of any Internet e-mail due to any reason beyond our reasonable control.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without giving effect to conflict of law rules. The parties hereto agree that any and all disputes or claims arising hereunder shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Any arbitration will be conducted in Chicago, Illinois. Any arbitration award may be entered in and enforced by any court having jurisdiction thereof, and the parties consent and commit themselves to the jurisdiction of the courts of the State of Illinois for purposes of any enforcement of any arbitration award. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

(e) If any portion of this Agreement is found invalid, such finding shall not affect the enforceability of the remainder hereof, and such portion shall be revised to reflect our mutual intention.

(f) This Agreement shall not provide third parties with any remedy, cause, liability, reimbursement, claim of action or other right in law or in equity for any matter governed by or subject to the provisions of this Agreement

\* \* \*

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

**Jointly Administered under  
Case No. 08-45257**

Petters Company, Inc., et al.,

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08-45392 (GFK)

Chapter 11 cases  
Judge Gregory F. Kishel

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**AFFIDAVIT OF MICHAEL KENNELLY  
IN SUPPORT OF APPLICATION  
PURSUANT TO RULE 2014**

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STATE OF ILLINOIS        )  
  ) ss.  
COUNTY OF COOK        )

Michael Kennelly, being first duly sworn, states on oath in support of the Application (“Application”) of the Official Committee of Unsecured Creditors (“Committee”) for retention of Huron Consulting Group Inc. (“Huron”) as financial advisor for the Committee in the above-referenced case as follows:

1. I am a Regional Managing Director for the Central Region for Huron, with offices located at 550 W. Van Buren, Chicago, IL, 60607.

2. The Committee in the Debtors' above-captioned Chapter 11 cases seeks approval of its retention of Huron as its financial advisor for the purpose of rendering the professional services set forth in the Application.

3. To the best of my knowledge, information and belief, Huron has never represented the Debtors, does not hold or assert any pre-petition claim against the Debtors, and is not an unsecured creditor of the Debtors.

4. To the best of my knowledge, information and belief, Huron is a disinterested person as defined in 11 U.S.C. § 101(14):

- a. Huron is not a creditor, an equity security holder, or an insider;
- b. Huron is not, and was not, an investment banker for any outstanding security of the Debtors;
- c. Huron has not been, within three years before the date of the filing of the petitions, an investment banker for a security of the Debtors, or an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the Debtors;
- d. Huron is not, and was not at any time during the two years prior to the filing of the Debtors' bankruptcy petitions, a director, officer or employee of the Debtors; and
- e. Huron does not have an interest materially adverse to the interests of the Debtors' estates, or an interest adverse to any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other reason.

5. The undersigned and Huron have no connection with the Debtors, creditors, or any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the Office of the United States Trustee, except as set forth in this Affidavit. The undersigned has informed the Committee that, except as set forth in this Affidavit, neither the undersigned nor Huron are aware of any interest they hold or entities they represent that currently holds a claim or interest adverse to the Committee or the estate or which would otherwise interfere with the performance of the services to be provided by Huron to the Committee.

6. Although Huron may represent one or more creditors of the Debtors in other totally unrelated matters, I am not aware of any conflict that would exist. There may also be other persons or entities within the scope of Bankruptcy Rule 2014 that, unknown to me, Huron has represented in the past. To the extent that the Debtors' schedules, once filed, or other factors require further disclosures, Huron will supplement this Affidavit accordingly and take such other action as may be necessary and appropriate to comply with the requirements of the Bankruptcy Code, the Bankruptcy Rules and Local Rules.

7. In connection with the Application, Huron conducted a conflict check on each of the following:

- (a) the Debtors, their professionals and their non-debtor affiliates;
- (b) the 20 largest unsecured creditors of each of the Debtors; and
- (c) each of the other creditors and/or interested parties listed on the document attached to this Affidavit as Exhibit A.

8. Based upon Huron's conflict search, and to the best of my personal knowledge, information and belief, Huron makes the following disclosures:

- (a) Huron is not, and has not been employed by the Debtors, or any other entity, in matters related to these Chapter 11 cases.
- (b) Approximately one year ago, Huron was retained by the law firm Steptoe & Johnson to provide accounting and financial consulting services in connection with a dispute between Huizenga Capital Management (“Huizenga”), a Steptoe & Johnson client, and Ritchie Capital Management, LLC, Ritchie Capital Management, Ltd., and other Ritchie entities (collectively the “Ritchie Entities”). Ritchie Capital Management, LLC, and Ritchie Capital Management, Ltd. are creditors of the bankruptcy estate in these Chapter 11 Cases. Huron interacts primarily with attorneys from Steptoe & Johnson on this matter; however, Huron has communicated directly from time to time with Huizenga personnel. Nevertheless, the dispute between Huizenga and the Ritchie Entities concerns a decline in the value of Huizenga investments in the Ritchie Entities that substantially pre-dates any of the events and revelations which gave rise to these Chapter 11 cases. Moreover, Huron’s provision of services to Steptoe & Johnson in the litigation between Huizenga and the Ritchie Entities does not relate to the Debtors or to these Chapter 11 cases, and it is not adverse to the interests of the Committee or to the unsecured creditors as a class.
- (c) In January 2007, Huron was retained by Kirkland & Ellis LLP in connection with that firm’s representation of the Polaroid Corporation (“Polaroid”) in litigation pending between Polaroid and Hewlett-Packard

(“HP”). Polaroid Corporation is an affiliate of the debtors in these Chapter 11 Cases. In December 2006, Polaroid filed a patent infringement action against HP in the United States District Court for the District of Delaware. In its complaint, Polaroid alleged, among other things, that certain HP products contained Polaroid technology, and Polaroid sought monetary relief in the form of royalties. Huron’s role in the litigation was limited to preparing an expert damages report, and providing expert deposition testimony on Polaroid’s behalf. The litigation between Polaroid and HP settled in October 2008, and Huron has since closed the engagement. Huron’s provision of services to Polaroid in its lawsuit against HP did not relate to the Debtors or to these Chapter 11 cases. Based on this representation, Huron is currently owed the sum of \$218,088.01 from Polaroid.

- (d) Huron provides services in connection with numerous cases, proceedings and transactions, including representing debtors and creditor’s committees in Chapter 11 proceedings and in out-of-court restructurings. These matters involve numerous attorneys, professionals and creditors, some of whom are attorneys, professionals and creditors of the Debtors or creditors in these Chapter 11 cases; however, each of these cases, proceedings and transactions is wholly unrelated to these Chapter 11 cases.
- (e) Huron personnel may have business associations with certain creditors of the Debtors unrelated to these Chapter 11 cases. In addition, in the ordinary course of its business, Huron has worked with and engaged legal

counsel and other professionals in unrelated matters that now represent, or in the future may represent, creditors and/or other parties identified as “interested” in these Chapter 11 cases. However, Huron is not currently providing services, and has not provided services in the past, to any creditor and/or other “interested” party in any matter relating to these Chapter 11 cases.

(f) Huron has thousands of clients, past and present, located throughout the United States, in a variety of industries, including certain parties who are identified as creditors of the Debtors in these Chapter 11 cases. As far as Huron has been able to determine, however, it has not advised any of these parties, or any other party-in-interest, in connection with these Chapter 11 cases.

9. Huron is well qualified to represent the Committee as its financial advisor.

(a) Huron has provided or is providing financial advisory services in several recent bankruptcy actions:

(i) Huron recently served as Chief Restructuring Officer in the bankruptcy action *In re The 1031 Tax Group, LLC, et al.* in the United States Bankruptcy Court for the Southern District of New York. The debtor in the *1031 Tax Group* case faced a liquidity crisis and filed for Chapter 11 protection. Huron reconstructed all relevant books and records, including customer accounts, and assisted in litigation against various institutions. Huron also assisted in settlement negotiations.

- (ii) Huron recently served as financial advisor to the Official Committee of Unsecured Creditors in the bankruptcy action *In re Conseco, Inc., et al.* in the United States Bankruptcy Court for the Northern District of Indiana. Huron's efforts in the *Conseco* case contributed to a substantial increase in the auction price of a broad range of assets and increased recovery to the unsecured creditors by approximately 60 percent.
  - (iii) Huron also served as financial advisor to United Airlines in the Chapter 11 bankruptcy case *In re UAL Corporation, et al.* in the United States Bankruptcy Court for the Northern District of Illinois. Among other things, Huron worked closely with the debtor's investment bankers and attorneys, assisted with first-day orders, and played a major role in structuring and negotiating financing at all stages.
- (b) Huron has also provided, or is providing, financial advisory services to clients outside the context of bankruptcy:
- (i) Huron recently served as forensic accountant and financial advisor to the Receiver of AA Capital Partners. In the course of its duties, Huron reconstructed 5 years of detailed cash flows and complex accounting transactions and drafted a voluminous final report for submission to the United States District Court for the Northern District of Illinois.



- (ii) Huron recently served as accounting restatement advisor to Navistar. Over the course of the project, Huron worked closely with management to assess and restate the accounting for hundreds of complex transactions.
- (iii) Huron recently assisted counsel to a special committee of the Board of Directors of a large specialty food manufacturer, American Pasta, in connection with a special SEC investigation. Huron's work on the project included computer forensic services, forensic and investigative accounting, and assisting in the interpretation of GAAP related to cost capitalization, inventory valuation, realization of accounts receivable and promotional allowances.

10. The fees for services rendered to the Committee shall be the usual and customary hourly rate charged by Huron for comparable work, and such fees are competitive with those charged by firms of similar size, level of expertise and experience. The professionals primarily responsible for rendering services to the Committee in this case, and the hourly rates for their services, which rates are adjusted on an annual basis, are currently as follows:

<u>Title</u>	<u>Hourly Rate</u>
Managing Director	\$650
Director	\$450
Manager	\$400
Associate	\$320
Analyst	\$235

11. Huron acknowledges that all compensation is subject to court approval upon notice to the United States Trustee and interested parties and a hearing. Huron may, from time to

time, as described in more detail below, apply to the Court for interim compensation in conformity with Section 331 of the Bankruptcy Code. At the conclusion of these cases, Huron will file an appropriate application seeking allowance of all fees and costs to date, regardless of whether interim compensation has been paid. Huron understands and agrees that the proposed compensation arrangement shall be subject to Section 328(a) of the Bankruptcy Code which authorizes this Court to modify Huron's compensation if the fee arrangement appears in retrospect to have been improvident in light of developments unanticipated as of the time of the Application.

12. Huron requests that fee applications for professionals employed by the Committee (as approved by the Court) be heard on intervals of ninety (90) days, with such intervals to be concurrent with the intervals for hearings on fee applications by professionals employed by the Debtors.

13. Huron requests that professionals employed by the Committee be permitted to submit invoices to the Debtors on a monthly basis, and that the Debtors be required to pay eighty percent (80%) of fees and one hundred percent (100%) of costs owing pursuant to such monthly invoices, all as provided in No. 8(c) of the Instructions for Filing a Chapter 11 Case, as adopted by this Court, effective January 27, 2003. Huron agrees that if any fees and costs are subsequently disallowed by the Court after application for allowance of the same, and previously paid, but disallowed fees and costs are subject to disgorgement, Huron will disgorge the same, and Huron will have the ability to disgorge the same.

14. Huron is not a party to any agreement that would violate the prohibitions of Section 504(a) of the Bankruptcy Code or Bankruptcy Rule 2016(b) regarding the division or sharing of any fees that may be awarded in these Chapter 11 cases.

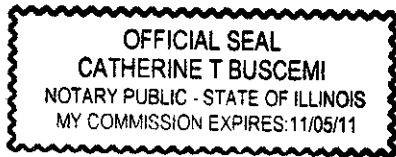
15. To the best of my knowledge, no member of employee of Huron is a relative of a bankruptcy judge or United States Trustee involved in these Chapter 11 cases.

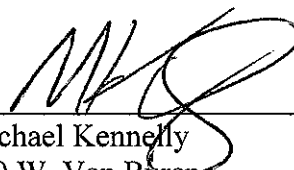
16. Upon approval, the undersigned and other members of Huron will perform services on behalf of the Committee according to the best of the skill and ability and agree, by execution hereof, to act in the capacity of legal counsel to the Committee in these proceedings.

FURTHER YOUR AFFIANT SAYETH NOT.

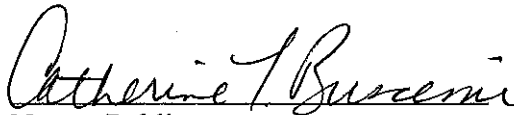
Dated: January 5<sup>th</sup>, 2009

HURON CONSULTING GROUP INC.



By:   
Michael Kenneally  
550 W. Van Buren  
Chicago, IL 60607

Subscribed and sworn before me  
this 5<sup>th</sup> day of January, 2009.

  
Notary Public

## **Exhibit A**

Thomas Joseph Petters  
Deanna Coleman a/k/a Deanna Munson  
Robert White  
James Wehmhoff  
Larry Reynolds  
Nationwide International Resources a/k/a NIR  
Michael Catain  
Enchanted Family Buying Company  
Frank E. Vennes, Jr.  
Metro Gem Finance  
Metro Gem, Inc.  
Grace Offerings of Florida, LLC  
Metro Property Financing, LLC  
38 E. Robinson, LLC  
55 E. Pine, LLC  
Orlando Rental Pool, LLC  
100 Pine Street Property, LLC  
Orange Street Tower, LLC  
Cornerstone Rental Pool, LLC  
2 South Orange Avenue, LLC  
Hope Commons, LLC  
Metro Gold, Inc.

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

**Jointly Administered under  
Case No. 08-45257**

Petters Company, Inc., et al.,

Court File No. 08-45257

Debtors.

Court File Nos.:

(includes:

Petters Group Worldwide, LLC;

08-45258 (GFK)

PC Funding, LLC;

08-45326 (GFK)

Thousand Lakes, LLC;

08-45327 (GFK)

SPF Funding, LLC;

08-45328 (GFK)

PL Ltd., Inc.;

08-45329 (GFK)

Edge One, LLC;

08-45330 (GFK)

MGC Finance, Inc.;

08-45331 (GFK)

PAC Funding, LLC;

08-45371 (GFK)

Palm Beach Finance Holdings, Inc.)

08-45392 (GFK)

Chapter 11 cases

Judge Gregory F. Kishel

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**UNSWORN CERTIFICATE OF SERVICE**

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I, Aong Moua, declare under penalty of perjury that on January 6, 2009, I caused the following documents:

1. Application of the Official Committee of Unsecured Creditors to Employ Huron Consulting Group Inc.;
2. Affidavit of Michael Kennelly In Support Of Application Pursuant To Rule 2014; and
3. Proposed Order;

to be served by e-mail/ECF or by U.S. Mail to the parties named below:

**Michael Fadlovich, Esq.**  
US Trustee's Office  
300 S 4th St Ste 1015  
Minneapolis, MN 55415

**James A. Lodoen, Esq.**  
Lindquist & Vennum P.L.L.P  
4200 IDS Center  
80 South Eight Street  
Minneapolis, MN 55402

**Douglas A. Kelley, Esq.**  
Kelley & Wolter, P.A.  
Centre Village Offices  
431 South Seventh Street, Suite 2530  
Minneapolis, MN 55415

*Via Mail*

Dated: January 6, 2009

By: /s/ Aong Moua  
Aong Moua

Fafinski Mark & Johnson, P.A.  
775 Prairie Center Drive, Suite 400  
Eden Prairie, MN 55344  
Telephone: 952.995.9500