

**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 Files No.'s:

(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 DOUGLAS A. KELLEY, AS APPOINTED CHAPTER 11 TRUSTEE,  
FOR AN ORDER AUTHORIZING THE EMPLOYMENT OF THE LAW FIRM OF  
LINDQUIST & VENNUM P.L.L.P.**

TO: United States Bankruptcy Judge and the United States Trustee and other parties in interest identified in Local Rule 2014-1.

The appointed Chapter 11 Trustee, Douglas A. Kelley (the "Trustee"), hereby submits his application (the "Application") seeking an order pursuant to Sections 327 and 330 of the Bankruptcy Code and Rule 2014 of the Federal Rules of Bankruptcy Procedure, authorizing the employment and retention of Lindquist & Vennum P.L.L.P. ("Lindquist & Vennum") as counsel for the Trustee *nunc pro tunc* to December 24, 2008. In support thereof, the Trustee respectfully represents as follows:

## **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This matter is a core proceeding under 28 U.S.C. § 157(b)(2). Venue of the Debtors' Chapter 11 cases and this Application in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409

2. This Application arises under 11 U.S.C. §§ 327 and 328 and Fed.R.Bankr.P. 2014(a), 2016 and 5002, and Local Rule 2014-1.

## **BACKGROUND**

3. On October 6, 2008, the Honorable Ann D. Montgomery, United States District Judge for the District Court of Minnesota entered an Order For Entry Of Preliminary Injunction, Order Appointing Receiver, And Other Equitable Relief ("Order"), whereby Douglas A. Kelley was appointed as receiver (the "Receiver") for Petters Company, Inc., Petters Group Worldwide, LLC, and for all affiliates, subsidiaries, divisions, successors, or assigns owned 100% or controlled by the foregoing, but excluding Thomas Petters, Inc. and its subsidiaries, although Thomas Joseph Petters, Deanna Coleman aka Deanna Munson, Robert White, James Wehmhoff, Larry Reynolds and/or dba Nationwide International Resources, aka NIR, and Michael Catain, and/or dba Enchanted Family Buying Company, and any affiliates, subsidiaries, divisions, successors or assigns owned 100% or controlled by the foregoing, including but not limited to Thomas Petters, Inc., and its subsidiaries including but not limited to MN AIRLINES, LLC dba Sun Country Airlines were subsequently added to the entities over which Douglas A. Kelley is the Receiver (collectively all of the foregoing are the "Receiver Entities").

4. Certain of the above-captioned Receiver Entities filed petitions for reorganization under Chapter 11 of the Bankruptcy Code as follows:

- (a) Petters Company, Inc. (“PCI”) and Petters Group Worldwide, LLC commenced Chapter 11 cases on October 11, 2008;
- (b) PC Funding, LLC (“PC Funding”), Thousand Lakes, LLC (“Thousand Lakes”), SPF Funding, LLC, PL Ltd., Inc. (“PL”), Edge One LLC (“Edge One”) and MGC Finance, Inc. (“MGC”) commenced Chapter 11 cases on October 15, 2008;
- (c) PAC Funding, LLC (“PAC Funding”) commenced a Chapter 11 case on October 17, 2008; and
- (d) Palm Beach Finance Holdings, Inc. (“Palm Beach”) commenced a Chapter 11 case on October 19, 2008.

Hereafter, collectively referred to as the “Debtors.”

5. By order dated October 22, 2008, the Debtors’ Chapter 11 cases were administratively consolidated.

6. On December 24, 2008, Douglas A. Kelley was appointed by the United States Trustee as Chapter 11 Trustee for the administratively consolidated Debtors.

#### **RELIEF REQUESTED**

7. The Trustee seeks an order authorizing the employment of Lindquist & Vennum to perform legal services that will be necessary during these Chapter 11 cases as counsel for the Trustee, as more fully described below.

#### **LINDQUIST & VENNUM’S QUALIFICATIONS**

8. The Trustee has selected Lindquist & Vennum because the partners, counsel and associates of Lindquist & Vennum have considerable expertise in the fields of bankruptcy, insolvency, reorganization, liquidation, debtors’ and creditors’ rights, debt restructuring, corporate reorganization, as well as extensive experience and expertise in handling fraudulent transfer and “ponzi” scheme cases. Lindquist & Vennum also has a comprehensive understanding of the factual background, assets, creditor claims, and issues related to the Receiver Entities arising from its representation of him as the Receiver, including being a former

Receiver over the Debtors. Accordingly, the Trustee believes that Lindquist & Vennum is well-qualified to represent the Trustee in these cases in a most cost-effective, efficient and timely manner.

9. Lindquist & Vennum has indicated a willingness to act on behalf of the Trustee and to render the necessary professional services as attorneys for the Trustee.

### **SERVICES TO BE RENDERED**

10. The services rendered or to be rendered by Lindquist & Vennum as Chapter 11 counsel include the following:

- (a) Analyzing the Debtors' financial situations and rendering advice and assistance in determining how to proceed, which has included advice, negotiation and preparation of documents for a Chapter 11 filing;
- (b) Assisting with preparation and filing of the petition, exhibits, attachments, schedules, statements, and lists, and other documents required by the Bankruptcy Code, the Bankruptcy Rules, the Local Rules or the Court in the course of this bankruptcy case;
- (c) Representing the Trustee at meetings of creditors;
- (d) Negotiating with creditors and other parties in interest;
- (e) Making and responding to motions, applications and other requests for relief on behalf of the Trustee;
- (f) Working with the Trustee and other parties to obtain approval of a plan of reorganization and disclosure statement;
- (g) Advising the Debtors with respect to avoidance and other litigation and representing them in such litigation;
- (h) Negotiating and drafting documents to facilitate sales of the Debtors' assets and representing the Debtors through the sales processes; and
- (i) Performing other services requested by the Trustee or services reasonably necessary to represent the Trustee in these cases.

## PROFESSIONAL COMPENSATION

11. Lindquist & Vennum has agreed to be compensated in accordance with the provisions set forth in Section 330 of the Bankruptcy Code and will apply to the Court for allowance of compensation and reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules, this Court's Instructions for Filing a Chapter 11 Case and orders of this Court.

12. Subject to the Court's approval, Lindquist & Vennum will charge for its legal services on an hourly basis in accordance with its ordinary and customary hourly rates for services of this type and nature, and for this type of matter, in effect on the date such services are rendered, and for its actual, reasonable and necessary out-of-pocket disbursements incurred in connection therewith, as set forth more fully in the Verified Statement in Support of Application of Trustee for an Order Authorizing the Employment of the Law Firm of Lindquist & Vennum P.L.L.P. dated January 12, 2009, attached hereto as **Exhibit A** ("Verified Statement of Lindquist & Vennum"). The Trustee and Lindquist & Vennum reserve the right to seek a contingent or alternative fee compensation arrangement with respect to avoidance or other litigation which may be commenced.

13. In accordance with paragraph 9 of this Court's Instructions for Filing a Chapter 11 Case, the Trustee proposes that the Court: (i) authorize Lindquist & Vennum to schedule a hearing on its applications for allowance of fees and reimbursements of expenses not more than once every ninety (90) days; (ii) allow Lindquist & Vennum to submit regular monthly bills to the Trustee, with copies to the Committee of Unsecured Creditors and the Office of the United States Trustee; and (iii) authorize the Trustee to pay up to 80% of such fees and 100% of costs on a monthly basis, subject to later court approval.

14. All fees and costs incurred prior to December 24, 2008 have been or will be paid by the Receiver from non-estate funds.

**LINDQUIST & VENNUM DOES NOT HOLD OR REPRESENT  
ANY ADVERSE INTEREST AND IS DISINTERESTED**

15. The Trustee has reviewed the Verified Statement of Lindquist & Vennum and believe the attorneys selected by the Trustee do not represent any other entity in connection with this case, do not hold or represent any interest adverse to the estate, and are disinterested under § 327 of the Bankruptcy Code. In the event the United States Trustee, the Court, or other parties assert or are concerned that Lindquist & Vennum is not disinterested, the Trustee requests that a hearing be scheduled.

16. In the event material direct and adverse conflicts arise between or among the various Receiver Entities and the Debtors including litigation with respect to allowance or disallowance of claims among them, various alternatives can be utilized to address such concerns including but not limited to having separate counsel for a creditors' committee or conflict or other counsel handle such representation on behalf of the particular Debtor and the opposing entity. Most if not all of these issues would not materialize to the extent the various Debtors and subsidiaries are to one extent or another substantively consolidated.

**NOTICE AND PRIOR RELIEF**

17. No previous application has been made for employment of attorneys.

18. This Application has been served on the parties set forth in Local Rule 2014-1(a).

WHEREFORE, the Trustee requests an order approving the employment of the law firm of Lindquist & Vennum P.L.L.P. as Chapter 11 counsel for the Trustee.

DATED: Jan 12, 2009

DOUGLAS A. KELLEY, AS APPOINTED  
CHAPTER 11 TRUSTEE FOR THE  
DEBTORS

Douglas A. Kelley

**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 Files No.'s:

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08-45371 (GFK)

Palm Beach Finance Holdings, Inc.)

08-45392 (GFK)

Chapter 11 Cases  
Judge Gregory F. Kishel

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**VERIFIED STATEMENT IN SUPPORT OF APPLICATION OF APPOINTED  
CHAPTER 11 TRUSTEE FOR AN ORDER AUTHORIZING THE EMPLOYMENT OF  
THE LAW FIRM OF LINDQUIST & VENNUM P.L.L.P.**

The undersigned makes the following verified statement in support of the application of Douglas A. Kelley as Chapter 11 Trustee for the above-captioned Debtors to employ Lindquist & Vennum P.L.L.P. ("Lindquist & Vennum") as Chapter 11 counsel pursuant to Fed.R.Bankr.P. 2014, Local Rule 2014-1 and in compliance with 11 U.S.C. § 329(a), Bankruptcy Rule 2016(b) and Local Rule 1007-1.

1. I, James A. Lodoen, am a partner in the law firm of Lindquist & Vennum, and I am authorized to practice before the courts of the State of Minnesota, and the federal courts for the District of Minnesota. This verified statement is submitted in support of the Application of Douglas A. Kelley, as Appointed Chapter 11 Trustee for an Order Authorizing the Employment



of the Law Firm of Lindquist & Vennum as counsel in the administratively consolidated Chapter 11 cases (“Application”).

2. Lindquist & Vennum has performed a conflict check regarding the list of creditors furnished by the Trustee. To the best of my knowledge and except as set forth below, Lindquist & Vennum does not represent any of the major creditors or any other entity currently known to me in connection with these cases, with the exception of “Polaroid” (as defined below) and me as Receiver (as defined in the Application). Lindquist & Vennum further agrees not to represent any other entity in connection with these cases while employed by the Trustee, with the exception of Polaroid and the Receiver. Polaroid is a 100% wholly owned subsidiary of the Debtor Petters Group Worldwide, LLC.

3. In the event material direct and adverse conflicts arise between or among the various Receiver Entities and the Debtors including litigation with respect to allowance or disallowance of claims among them, various alternatives can be utilized to address such concerns including but not limited to having separate counsel for a creditors’ committee or conflict or other counsel handle such representation on behalf of the particular Debtor and the opposing entity. Most if not all of these issues would not materialize to the extent the various Debtors and subsidiaries are to one extent or another substantively consolidated.

4. No member of Lindquist & Vennum has ever been an officer or director of the Debtors or the Trustee, and no member of Lindquist & Vennum is an insider of the Debtors or the Trustee.

5. Based on the above-referenced conflicts check, and to the best of my knowledge, neither I nor Lindquist & Vennum have represented or had any connection with the Trustee, the Debtors, their creditors, or any other party in interest, their attorneys or accountants, the United

States Trustee, or any other person employed in the office of the United States Trustee within the meaning of Bankruptcy Rule 2014, except as stated below:

(a) The following are or may be creditors of the Debtors who have been identified as current clients of the firm on matters entirely unrelated to these Debtors or these cases. Each has been advised of the representation of the Debtors and has agreed or is expected to agree to waive any conflict that might arise from this representation—

- (i) BCBSM, Inc., d/b/a BlueCross BlueShield of Minnesota
- (ii) AT&T Company
- (iii) AmeriPride
- (iv) Washington Mutual, a division of JP Morgan
- (v) Home Federal Savings Bank
- (vi) Bridgette Bornstein
- (vii) Stanton Group
- (viii) Verizon Wireless
- (ix) R.L.Cooperman & Associates, LLC
- (x) Michael O'Shaughnessy and the following related entities owned and/or controlled by Michael O'Shaughnessy: (i) T&M Properties (MN), LLC ("T&M"); (ii) O'Shaughnessy Holding Company, an Ohio limited liability company; (iii) MLO Appliance Company, LLC, a Delaware limited liability company ("MLO"); (iv) Aaron Chang Lifestyle Brands, LLC, a Delaware limited liability company; (v) Element Electronics, LLC, a Delaware limited liability company ("Element Electronics")<sup>1</sup> (collectively with Michael O'Shaughnessy hereafter referred to as the "O'Shaughnessy Entities"). Thomas J. Petters ("TJP") also has an ownership interest in T&M and MLO. Lindquist & Vennum did not represent any party with regards to the acquisition or formation of T&M, MLO or any other O'Shaughnessy Entity. Since then, and for a short period of time, Lindquist & Vennum represented certain O'Shaughnessy Entities in matters involving TJP or entities owned and/or controlled by TJP, including but not limited to certain of the Receiver Entities. However, since the appointment

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<sup>1</sup> Lindquist & Vennum represents Element Electronics on a matter alleged to involve TJP. Specifically, a website named Petters-Fraud.com lists Element Electronics as a company connected to the Petters part of the Receiver Entities. However, upon information and belief, TJP does not currently own and never has owned any of the ownership interest in Element Electronics. Accordingly, Lindquist & Vennum has advised Petters-Fraud.com to cease and desist from including Element Electronics on its website. Lindquist & Vennum does not deem this representation to cause a conflict in this case

of Douglas A. Kelly as receiver for the Receiver Entities (“Receiver”), Lindquist & Vennum has not represented the O’Shaughnessy Entities in any claim they may have against the Receiver Entities.

- (b) The following are or may be creditors of the Debtors and are former clients of the firm—
  - (i) Richie Capital Management
  - (ii) American Stock Transfer & Trust Co.
  - (iii) Kirkland Ellis
  - (iv) Sentinel Capital Partners
  - (v) Baker McKenzie
  - (vi) BASF Corp.
  - (vii) Cybersource Corporation
  - (viii) Houlihan Lokey Howard & Zukin
  - (ix) Toyota Motor Credit Corp.
- (c) Lindquist & Vennum is frequently involved in Chapter 11 cases, representing debtors and creditors. As such, the firm is often adverse to the Office of the United States Trustee, and is often adverse to or allied with other law firms and the interests of their clients and other accountants and the interests of their clients.
- (d) U.S. Bank National Association (“U.S. Bank”) may be acting as custodian for certain entities that have loaned funds to one or more of the Receiver Entities, however U.S. Bank has no financial interest in said loans. In addition, one or more of the Receiver Entities maintain various bank accounts with U.S. Bank. Lindquist & Vennum will not represent U.S. Bank on any matters adverse to the Receiver Entities, including any matters adverse to the Debtors.
- (e) On December 18, 2008, Lindquist & Vennum prepared and filed Chapter 11 bankruptcy petitions for (i) Polaroid Corporation; (ii) Polaroid Holding

Company; (iii) Polaroid Consumer Electronics, LLC; (iv) Polaroid Capital, LLC; (v) Polaroid Latin America I Corporation; (vi) Polaroid Asia Pacific LLC; (vii) Polaroid International Holding LLC; (viii) Polaroid New Bedford Real Estate, LLC; (ix) Polaroid Norwood Real Estate, LLC; and (x) Polaroid Waltham Real Estate (collectively referred to as “Polaroid”). (*see In re Polaroid Corporation, et. al. Bky No. 08-46617*) Lindquist & Vennum’s employment application regarding the Polaroid bankruptcies is pending before this court.

These past and future relationships do not constitute conflicts, but may be “connections” within the meaning of Rule 2014, and are therefore disclosed. The Trustee has been advised of these “connections” and has waived any conflict arising out of the same.

6. There may be other persons within the scope of Bankruptcy Rule 2014 that, unknown to me, Lindquist & Vennum has represented in particular matters in the past. We agree not to represent such persons who are creditors or other parties in interest in these cases while representing the Trustee, without further disclosure, and we agree to disclose any connections that we may discover subsequent to the execution of this verified statement.

7. Except as the Court may determine from the circumstances disclosed above, Lindquist & Vennum does not hold or represent any interest adverse to the estate, and Lindquist & Vennum is a “disinterested person,” within the meaning of 11 U.S.C. § 327(a).

8. All fees and costs incurred prior to December 24, 2008 have been or will be paid by the Receiver from non-estate funds.

9. The compensation agreed to be paid by the Trustee to Lindquist & Vennum for its representation in these administratively consolidated bankruptcy cases is the hourly rate

customarily charged by Lindquist & Vennum, plus consideration for any risk that there may not be funds available to pay fees, any delay in payment of fees, and such other factors as may be appropriate, plus reimbursable expenses, all as may be allowed by the Court. At the present time, the range of hourly rates at Lindquist & Vennum is as follows:

<u>Title</u>	<u>Rate Per Hour</u>
Partner	\$300-\$600
Associates	\$200-\$300
Paralegals	\$150-210

The hourly rates at Lindquist & Vennum are subject to change from time to time by Lindquist & Vennum in its business judgment.

10. The filing fee paid by the Debtors in this case is \$1,039 per case, for a total of \$10,390.

11. The services rendered or to be rendered by Lindquist & Vennum as Chapter 11 counsel include the following:

- (a) Analyzing the Debtors' financial situation and rendering advice and assistance in determining how to proceed, which has included advice, negotiation and preparation of documents for a Chapter 11 filing;
- (b) Assisting with preparation of filing of the petition, exhibits, attachments, schedules, statements, and lists, and other documents required by the Bankruptcy Code, the Bankruptcy Rules, the Local Rules or the Court in the course of this bankruptcy case;
- (c) Representing the Trustee at the meetings of creditors;
- (d) Negotiating with creditors and other parties in interest;

- (e) Making and responding to motions, applications and other requests for relief on behalf of the Trustee;
- (f) Working with the Trustee and other parties to obtain approval of the pre-bankruptcy plan of reorganization and disclosure statement;
- (g) Negotiating and drafting document to facilitate sales of the Debtors' assets and representing the Debtors through the sales processes; and
- (h) Performing other services requested by the Trustee or services reasonably necessary to represent the Trustee in these cases.

12. The source of all payments to Lindquist & Vennum will be from available cash, earnings, loans, or other current income or recoveries of the Debtors. Lindquist & Vennum has not received and will not receive transfer of property other than such payments from the Trustee, except for payments from the Receiver for services and costs prior to December 24, 2008.

13. Lindquist & Vennum has not shared or agreed to share with any other person, other than with members of the firm, any compensation paid or to be paid.

14. Lindquist & Vennum requests that it be allowed to schedule fee applications at 90 day intervals and to receive monthly payment from the Trustee in accordance with the procedures set out in paragraph 9 of Court's Instructions for Filing a Chapter 11 Case, as requested by the Trustee in his Application herein.

15. Lindquist & Vennum is currently among the sixth largest law firms in Minnesota. The firm is experienced in representing debtors in Chapter 11 cases, and has the financial ability to disgorge fees if the Court so orders at any point in this case.

DATED: January 12, 2009

**LINDQUIST & VENNUM P.L.L.P.**

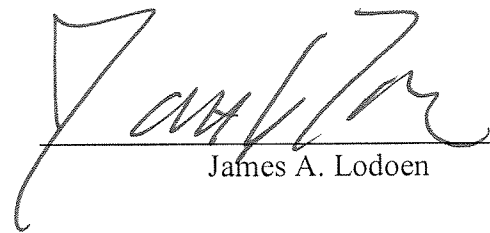
By e/ James A. Lodoen  
James A. Lodoen (#173605)  
George H. Singer (#262043)  
William P. Wassweiler (#232348)

4200 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402-2274  
(612) 371-3211  
(612) 371-3207 (facsimile)

**VERIFICATION**

I, James A. Lodoen, a partner in the firm of Lindquist & Vennum P.L.L.P., declare under the penalty of perjury, that I have read the foregoing Verified Statement and that the foregoing Verified Statement is true and correct according to the best of my knowledge, information and belief.

**DATED:** 1-12-09

  
\_\_\_\_\_  
James A. Lodoen



**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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**Jointly Administered under  
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Chapter 11 Cases  
Judge Gregory F. Kishel

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**ORDER AUTHORIZING TRUSTEE TO EMPLOY CHAPTER 11 COUNSEL  
(LINDQUIST & VENNUM P.L.L.P.)**

Upon the Application of Douglas Kelley as Appointed Chapter 11 Trustee of the above-captioned Debtors (the "Trustee") to employ the law firm of Lindquist & Vennum P.L.L.P. in these Chapter 11 cases, it appears that it is necessary for the Trustee to employ Chapter 11 counsel, it appears that the attorneys selected by the Trustee do not hold or represent an interest adverse to the estate's and that they are disinterested within the meaning of 11 U.S.C. § 327(a).

IT IS HEREBY ORDERED:

1. The Trustee may employ Lindquist & Vennum P.L.L.P. upon the basis set forth in the Application, *nunc pro tunc* to December 24, 2008, subject to the provisions of 11 U.S.C. §§ 328 and 330;

2. Lindquist & Vennum P.L.L.P. is authorized to schedule a hearing for allowance of its professional fees and expenses under 11 U.S.C. §§ 330 and 331 not more than once every ninety (90) days; and

3. Lindquist & Vennum P.L.L.P. may submit monthly requests for payment to the Trustee, with copies to the Committee of Unsecured Creditors or its counsel and to the Office of the United States Trustee, and the Trustee is authorized to pay 80% of such fees and 100% of costs on a monthly basis, subject to later allowance by the court as set out above.

DATED: \_\_\_\_\_, 2009

**BY THE COURT:**

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GREGORY F. KISHEL  
UNITED STATES BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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Chapter 11 Cases  
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**CERTIFICATE OF SERVICE**

Gretchen Luessenheide of the City of New Hope, County of Hennepin, State of Minnesota, being first duly sworn on oath, states that on January 12, 2009 she served the following documents:

1. Application of Douglas A. Kelley, as Appointed Chapter 11 Trustee, for an Order Authorizing the Employment of the Law Firm of Lindquist & Vennum P.L.L.P.;
2. Verified Statement in Support of Application of Appointed Chapter 11 Trustee for an Order Authorizing the Employment of the Law Firm of Lindquist & Vennum P.L.L.P.;  
and
3. Proposed Order Authorizing Trustee to Employ Chapter 11 Counsel (Lindquist & Vennum P.L.L.P.)

electronically by Notice of Electronic Filing, and upon all parties who have requested service in these cases by filing the same via ECF with the Bankruptcy Court in the District of Minnesota.

/e/ Gretchen Luessenheide  
Gretchen Luessenheide