IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In the Matter of:

JUDGE RUSS KENDIG

ROBY, JOHN S.

Debtors

Case No.:

Chapter 7 04-61365

MOTION TO APPOINT ATTORNEY FOR TRUSTEE

The undersigned Trustee in Bankruptcy for the above-named Debtor(s) moves the Court for an Order to employ the firm of MASON, MASON & KEARNS as his attorney in these proceedings at the rate of $125.00 per hour, effective June 28, 2004; and further alleges as follows:

1. That said firm is particularly qualified to act as such attorney having knowledge of bankruptcy practice and procedure;
2. That it is necessary to employ an attorney because in the proper performance of the duties as required by the Bankruptcy Code in the best interests of this estate, services of a qualified attorney will be required in the preparation of pleadings in the sale of property and services incident thereto, and/or preparation of pleadings incidental to the administration of this estate, and/or the conducting of examinations of Debtor(s) and examinations of others, and other possible services required of an attorney;
3. That the members of said firm are admitted to practice in the Bankruptcy Court of this District;
4. That to the best knowledge of the Trustee, said firm is a disinterested party and has no connection with the Debtor(s), creditors, or other parties in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee.
5. That this employment would not violate Rule 5002 of the Rules of Bankruptcy Procedure, and
6. That said employment is necessary for the reason that legal action may be required as a result of legal proceedings which are pending, and which may be necessary.

/s/ Josiah L. Mason
Josiah L. Mason, Trustee

PROOF OF SERVICE

A copy of the foregoing Motion was sent by ordinary U.S. Mail to the U. S. Trustee, BP America Building, 200 Public Square, 20th Floor, Suite 3300, Cleveland, Ohio 44114-2301, this June 28, 2004

/s/ Josiah L. Mason
Josiah L. Mason, Trustee

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AFFIDAVIT

STATE OF OHIO,
COUNTY OF ASHLAND, ss:

Josiah L. Mason, of the law firm of MASON, MASON & KEARNS, being first duly sworn, says that pursuant to Rule 2014(a) said firm is qualified and competent to act as Attorney for the Trustee in the within case, and that pursuant to Rule 5002 of the Rules of Bankruptcy Procedure, he, is not a relative of the bankruptcy judge making the appointment or approving the employment, the United States Trustee or a designee of the United States Trustee, nor is any member of said firm related to said judge, United States Trustee or a designee of the United States Trustee.

Affiant further states that neither he nor said firm has any connection with the Debtor(s), creditors, or other parties in interest, or their respective attorneys and accountants.

Josiah L. Mason

Sworn to before me and subscribed in my presence this June 28, 2004

Karon Summer
Notary Public

KARON SUMMER
NOTARY PUBLIC, STATE OF OHIO
My Commission Expires Mar. 3, 2008