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*Proposed Attorneys for The Official Committee of Unsecured
Creditors of LandAmerica 1031 Exchange Services, Inc.*

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:	:	Chapter 11
	:	
LANDAMERICA FINANCIAL GROUP, INC., <u>et</u>	:	Case No. 08-35994-KRH
<u>al.</u> ,	:	(Jointly Administered)
	:	
Debtors.	:	
	:	

**APPLICATION FOR ORDER AUTHORIZING RETENTION AND
EMPLOYMENT OF TAVENNER & BERAN, PLC, AS LOCAL COUNSEL
TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF
LANDAMERICA 1031 EXCHANGE SERVICES, INC.**

The Official Committee of Unsecured Creditors of LandAmerica 1031 Exchange Services, Inc. (“LES”) respectfully submits this application (the “Application”) pursuant to §§ 327, 328 and 1103(a) of Title 11 of the United States Code (the “Bankruptcy Code”) and Rules

2014 and 5002 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for an Order retroactive to December 8, 2008, authorizing it to retain and employ Tavenner & Beran, PLC (“Tavenner & Beran”) as its local counsel in these cases and, in support of its Application, respectfully represents as follows:

Background

1. On November 26, 2008 (the “Petition Date”), LES filed voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code. LES continues to operate its business and manage its properties as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

2. On November 28, 2008, the Court entered an order jointly administering the chapter 11 case of LES with the chapter 11 case of LandAmerica Financial Group, Inc. (“LFG,” and together with LES, the “Debtors”) for procedural purposes only.

3. On December 3, 2008, the Office of the United States Trustee (the “U.S. Trustee”) appointed the Official Committee of Unsecured Creditors for LandAmerica 1031 Exchange Services, Inc. (the “LES Committee”)

4. The LES Committee is presently composed of the following five creditors: (i) Millmar Holdings, LLC (ii) Endless Ocean, LLC (iii) MB Venture, Ltd. (iv) Amarillo Tower Limited, and (v) Petaluma Southpoint, LLC.

5. The LES Committee has held its organizational meeting, and, on or about December 8, 2008, decided to retain Akin Gump Strauss Hauer & Feld LLP (“Akin Gump”) as its lead counsel and Tavenner & Beran as its local counsel.

Relief Requested And Reasons Therefore

6. To the best of Applicant’s knowledge, the members of Tavenner & Beran do not have any connection with the Debtors, their creditors or any other party in interest, or its

respective attorneys, except as set forth herein and in the Affidavit of Lynn L. Tavenner, a member of Tavenner & Beran, which is attached hereto as Exhibit A (the "Affidavit"). The Applicant is satisfied that Tavenner & Beran represents no adverse interest to the LES Committee, the Debtors, their creditors or other parties in interest, which would preclude it from acting as counsel to the LES Committee in matters upon which it is to be engaged and that its employment will be in the best interest of the estates.

7. Subject to further order of this Court, Tavenner & Beran is expected to assist Akin Gump in connection with rendering, among other services, the following services to the LES Committee:

(a) assisting, advising and representing the LES Committee in its consultations with the Debtors regarding the administration of these cases;

(b) assisting, advising and representing the LES Committee in analyzing the Debtors' assets and liabilities, investigating the extent and validity of liens and participating in and reviewing any proposed asset sales, any asset dispositions, financing arrangements and cash collateral stipulations or proceedings;

(c) assisting, advising and representing the LES Committee in any manner relevant to reviewing and determining the Debtors' rights and obligations under leases and other executory contracts;

(d) assisting, advising and representing the LES Committee in investigating the acts, conduct, assets, liabilities and financial condition of the Debtors, the Debtors' operations and the desirability of the continuance of any portion of those operations, and any other matters relevant to these cases or to the formulation of a plan;

(e) assisting, advising and representing the LES Committee in its participation in the negotiation, formulation and drafting of a plan of liquidation or reorganization;

(f) advising the LES Committee on the issues concerning the appointment of a trustee or examiner under Section 1104;

(g) assisting, advising and representing the LES Committee in understanding its powers and its duties under the Bankruptcy Code and the

Bankruptcy Rules and in performing other services as are in the interests of those represented by the LES Committee;

(h) assisting, advising and representing the LES Committee in the evaluation of claims and on any litigation matters, including avoidance actions; and

(i) providing such other services to the LES Committee as may be necessary in these cases.

8. Although at this juncture it is impossible to set forth with precision all of the areas in which counsel will be required to render necessary legal services, it is apparent that counsel with recognized expertise in the handling of bankruptcy matters and procedures based in Richmond, Virginia, is required in these Chapter 11 cases.

9. After due consideration and deliberation, the LES Committee has concluded that its interests and the interests of the Debtors' creditors would best be served by the retention, pursuant to §§ 327, 328 and 1103 of the Bankruptcy Code, of Tavenner & Beran as local counsel to the LES Committee to render such legal services as are necessary and appropriate to the LES Committee in connection with the matters set forth above and to render such additional legal services as may be required from time to time during the pendency of these cases.

10. Members of Tavenner & Beran have extensive experience in handling Chapter 11 cases and have provided services similar to those described herein to other creditors' committees. In addition, members of Tavenner & Beran have had a Virginia practice and have played significant roles in cases in this region of similar or greater size and/or complexity. Tavenner & Beran is also familiar with the local rules of this Court, including but not limited to the requirements associated with the electronic nature of these cases.

11. Consequently, the retention of Tavenner & Beran as the LES Committee's local counsel is in the best interest of the LES Committee and the Debtors' creditors, as such retention will further the efficiency and economic administration of these cases.

12. Tavenner & Beran has indicated its willingness to be retained to render the aforesaid services and to be compensated therefore in accordance with its normal hourly rates upon applications to be submitted to this Court and any additional procedures established in these cases. The LES Committee has been advised that the rates of Tavenner & Beran for the services rendered in these cases will be at the same rates charged to its clients for non-bankruptcy work. At present, subject to periodic revisions in accordance with said firm's general billing procedures, services shall be provided at rates in the range of between \$315.00 and \$325.00 per hour for partners and \$85.00 to \$95.00 for paralegals. For this particular engagement, the matter will be handled primarily by Lynn L. Tavenner, whose current hourly rate is \$325.00 and Paula S. Beran, whose current hourly rate is \$315.00.¹ Any necessary paralegal services for these cases will be performed primarily by David L. Leadbeater, whose current hourly rate is \$95.00. Tavenner & Beran also will seek reimbursement of all out-of-pocket disbursements.

13. In light of and based on the Affidavit, Tavenner & Beran submits that it does not represent any interest materially adverse to the LES Committee, the Debtors' estates, or their creditors with respect to the matters upon which it is to be engaged. Accordingly, Tavenner & Beran is a "disinterested person" within the meaning of §§ 101(14) and 327 of the Bankruptcy Code.

14. No previous application for the relief requested herein has been made to this or any other Court.

15. Pursuant to Local Rule 9013-1(G), and because there are no novel issues of law presented in the Application, the LES Committee requests that the requirement that all applications be accompanied by a written memorandum of law be waived.

¹These rates will increase effective January 1, 2008 to \$340.00/hour for Lynn L. Tavenner and \$330.00/hour for Paula S. Beran.

WHEREFORE, the LES Committee respectfully requests entry of an Order attached hereto as Exhibit B, authorizing the retention retroactive to December 8, 2008, pursuant to §§ 327, 328 and 1103(a) of the Bankruptcy Code and Rules 2014 and 5002 of the Bankruptcy Rules, of Tavenner & Beran, as local counsel to the Official Committee of Unsecured Creditors of LandAmerica 1031 Exchange Services, Inc. to render the legal services in connection with the day-to-day representation of the LES Committee regarding the administration of these Chapter 11 cases, as more fully described herein, whose compensation will be in accordance with 11 U.S.C. § 330 in compliance with Rules 2016 and 5004 and any additional procedures established by this Court, and such other and further relief as is just and proper under the circumstances.

OFFICIAL COMMITTEE OF
UNSECURED CREDITORS

Dated: December 29, 2008

By: /s/ Richard F. Giacomo
Richard F. Giacomo, Chairperson

/s/ Lynn L. Tavenner

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Proposed Counsel for Official Committee of Unsecured Creditors Holding
Unsecured Claims of LandAmerica 1031 Exchange Services, Inc.

(j) assisting, advising and representing the LES Committee in its consultations with the Debtors regarding the administration of these cases;

(k) assisting, advising and representing the LES Committee in analyzing the Debtors' assets and liabilities, investigating the extent and validity of liens and participating in and reviewing any proposed asset sales, any asset dispositions, financing arrangements and cash collateral stipulations or proceedings;

(l) assisting, advising and representing the LES Committee in any manner relevant to reviewing and determining the Debtors' rights and obligations under leases and other executory contracts;

(m) assisting, advising and representing the LES Committee in investigating the acts, conduct, assets, liabilities and financial condition of the Debtors, the Debtors' operations and the desirability of the continuance of any portion of those operations, and any other matters relevant to these cases or to the formulation of a plan;

(n) assisting, advising and representing the LES Committee in its participation in the negotiation, formulation and drafting of a plan of liquidation or reorganization;

(o) advising the LES Committee on the issues concerning the appointment of a trustee or examiner under Section 1104;

(p) assisting, advising and representing the LES Committee in understanding its powers and its duties under the Bankruptcy Code and the Bankruptcy Rules and in performing other services as are in the interests of those represented by the LES Committee;

(q) assisting, advising and representing the LES Committee in the evaluation of claims and on any litigation matters, including avoidance actions; and

(r) providing such other services to the LES Committee as may be necessary in these cases.

3. The firm of Tavenner & Beran has the requisite expertise in the areas referred to above and is able to handle representation of the LES Committee in bankruptcy and reorganization cases of the type involved here and the attendant legal matters arising therein. Tavenner & Beran is cognizant that the LES Committee has selected Akin Gump as its primary

counsel. Tavenner & Beran will make every effort to ensure that it does not perform services that are duplicative of efforts of Akin Gump.

4. For services rendered, Tavenner & Beran shall charge the LES Committee its established hourly rates for attorneys and paralegal personnel rendering such services. At present, subject to periodic revisions in accordance with the firm's general billing procedures, services shall be provided at rates in the range of approximately \$315.00 and \$325.00 per hour for partners, and \$85.00 to \$95.00 for paralegals plus reimbursement of all out-of-pocket expenses.³

5. Insofar as I have been able to ascertain after due inquiry, my law firm is not connected with the Debtors, their creditors, other parties-in-interest or the United States Trustee and Tavenner & Beran does not represent and has not represented, any other parties other than the LES Committee, except that:

- (i) I am a member of the panel of Chapter 7 trustees appointed to serve before this Court;
- (ii) a former employee of the law firm of Tavenner & Beran, Ms. Shannon Franklin Pecoraro, is currently employed with the Richmond Office of the Office of the United States Trustee;
- (iii) Tavenner & Beran has worked (and is currently working) with Protiviti, Inc. (the LES Committee's proposed financial advisor) on matters unrelated to these Chapter 11 cases;
- (iv) Tavenner & Beran has worked (and is currently working) with McGuire Woods LLP, the Debtors' counsel, on matters unrelated to these Chapter 11 cases;

³ The hourly rates charged by Tavenner & Beran professionals differ based on, among other things, such professionals' level of experience. These rates may change from time to time in accordance with Tavenner & Beran's established billing practices and procedures. Currently the rates are as follows: Lynn L. Tavenner (Partner) \$325.00, Paula S. Beran (Partner) \$315.00, David L. Leadbeater (Paralegal) \$95.00. These rates will increase effective January 1, 2008 to \$340.00/hour for Lynn L. Tavenner and \$330.00/hour for Paula S. Beran.

(v) Tavenner & Beran has served and/or is currently serving as debtor's counsel and/or counsel to the Official Committee of Unsecured Creditors in cases unrelated to these Chapter 11 cases (the "Unrelated Cases") where one or more of the creditors in these Chapter 11 cases are also creditors in the Unrelated Cases; and

6. Based on the foregoing, I believe my law firm is a "disinterested person" within the meaning of §§ 101(14) and 327 of the Bankruptcy Code.

7. In accordance with the Rule 2016 of the Federal Rules of Bankruptcy Procedure, I hereby certify that (a) my law firm has received no payment or promise of payment for services rendered in these cases, (b) no agreement or understanding exists between myself and any other person for the sharing of compensation received or to be received for services rendered in connection with these cases, and (c) no division of compensation will be made by my firm.

/s/ Lynn L. Tavenner
Lynn L. Tavenner

Sworn to and subscribed before me this 29th day of December, 2008 by Lynn L. Tavenner.

/s/ Denise H. Morris
Notary Public

My Commission expires: 3/31/09

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:	:	Chapter 11
	:	
LANDAMERICA FINANCIAL GROUP, INC., <u>et</u>	:	Case No. 08-35994-KRH
<u>al.</u> ,	:	(Jointly Administered)
	:	
Debtors.	:	
	:	

**ORDER AUTHORIZING RETENTION AND EMPLOYMENT OF
TAVENNER & BERAN, PLC, AS LOCAL COUNSEL TO THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF LANDAMERICA 1031
EXCHANGE SERVICES, INC.**

This matter came before the Court upon the Application For Order Authorizing Retention of Tavenner & Beran, PLC As Local Counsel To The Official Committee Of Unsecured Creditors of LandAmerica 1031 Exchange Services, Inc. (the "Application"). The Court having reviewed (i) the Application and (ii) the Affidavit of Lynn L. Tavenner, a partner/member in the law firm of Tavenner & Beran, PLC ("Tavenner & Beran"), attached to the Application as Exhibit A (the "Affidavit"); and the Court being fully advised in the premises and having determined that the legal and factual bases set forth in the Application and the Affidavit establish just cause for the relief granted herein;

THE COURT HEREBY FINDS THAT:

- A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
- B. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
- C. Notice of the Application (and service of the proposed order) was sufficient under the circumstances.

D. The Application and the Affidavit are in full compliance with all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules of this Court.

E. Tavenner and Beran does not hold or represent any interest materially adverse to the LES Committee, the Debtors' estate, or its creditors with respect to the matters upon which said law firm is to be engaged, and Tavenner & Beran is a "disinterested person," as defined in § 101(14) of the Bankruptcy Code and as required by § 327(a) of the Bankruptcy Code.

F. The retention and employment of Tavenner & Beran in accordance with the Application and this Order is in the best interest of the LES Committee and the Debtors' estates.

IT IS HEREBY ORDERED THAT:

1. The Application is hereby APPROVED.
2. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Application.
3. The LES Committee is authorized to retain and employ Tavenner & Beran as its counsel, pursuant to §§ 327, 328 and 1103 of the Bankruptcy Code, retroactive to December 8, 2008.
4. Tavenner & Beran shall be compensated for such services and reimbursed for any related expenses as provided in the Application, and in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and any additional procedures that may be established by this Court.

Dated:

UNITED STATES BANKRUPTCY JUDGE

We ask for this:

Lynn L. Tavenner, Esquire (Va. Bar No. 30083)
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Proposed Co-Counsel for the Official
Committee of Unsecured Creditors of LandAmerica 1031 Exchange Services, Inc.

Seen and No Objection:

Robert B. Van Arsdale
Office of the United States Trustee
701 East Broad Street, Suite 4304
Richmond, Virginia 23219

Assistant United States Trustee

CERTIFICATION

I hereby certify that the foregoing proposed Order Authorizing Retention And Employment Of Tavenner & Beran, PLC As Local Counsel To The Official Committee of Unsecured Creditors of LandAmerica 1031 Exchange Services, Inc. has been either served on or endorsed by all necessary parties.

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