

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

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In re:	)	Chapter 11
	)	
Forward Foods LLC,	)	Case No. 09-10545 (KJC)
	)	
Debtor.	)	Hearing Date: March 18, 2009 at 4:30 p.m. (ET)
	)	Objection Deadline: March 11, 2009 at 4:00 p.m. (ET)

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**APPLICATION FOR ORDER PURSUANT TO SECTION 327(a) OF THE  
BANKRUPTCY CODE AUTHORIZING NUNC PRO TUNC EMPLOYMENT AND  
RETENTION OF GETZLER HENRICH & ASSOCIATES LLC AS MANAGEMENT  
CONSULTANT TO DEBTOR AND DEBTOR IN POSSESSION**

Forward Foods LLC (“Forward Foods” or the “Debtor”), the debtor and debtor in possession in the above-captioned chapter 11 case, hereby applies (the “Application”) for an order authorizing the employment and retention of Getzler Henrich & Associates, LLC “Getzler” or the “Firm”) as management consultant to the Debtor, effective as of February 20, 2009, under section 327(a) of Title 11 (the “Bankruptcy Code”) of the United States Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and 2014-1 of the Local Rules of Bankruptcy Practice and Procedure (the “Local Rules”). In support of this Application, Debtor relies upon the *Verified Statement of William Henrich* (the “Henrich Affidavit”) and the *Affidavit of J. Patrick Muldoon in Support of First Day Motions* (the “Muldoon Affidavit”), and respectfully represents as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The venue of the Debtor’s chapter 11 case and this Application is proper pursuant to 28 U.S.C. §§ 1408 and 1409. Sections

105(a), 327(a) and 1107 of the Bankruptcy Code, Bankruptcy Rule 2014 and Local Rule 2014-1 provide the statutory predicates for the relief sought herein.

### **BACKGROUND**

2. On February 17, 2009 (the “Petition Date”), the Debtor filed with this Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtor is continuing to operate its business and manage its property and assets as debtor in possession. No trustee, examiner or committee of creditors has yet been appointed in the Debtor’s chapter 11 case.

3. The Debtor seeks the employment of Getzler to perform an assessment of alternative manufacturing strategies and processes to facilitate the Debtor’s objective of achieving cost-effective, quality production and timely delivery of goods. *See* the Engagement Letter dated February 20, 2009, attached hereto as Exhibit B.

### **RELIEF REQUESTED AND REASONS THEREFOR**

4. By this Application, Debtor seeks to employ and retain Getzler as the Debtor’s management consultant for the course of the Debtor’s chapter 11 case with Getzler’s focus being on assessment of alternative manufacturing strategies and processes. Accordingly, Debtor respectfully requests entry of an order under section 327(a) of the Bankruptcy Code authorizing the Debtor to employ and retain Getzler as the Debtor’s management consultant to perform the management and advisory services that will be necessary to evaluate the Debtor’s operations as more fully described below.

5. The Debtor has selected Getzler as its management consultant because of, among other reasons, the Firm’s extensive experience in and knowledge of the management and transactional aspects of business reorganizations under chapter 11 of the Bankruptcy Code. Getzler is well suited for the type of representation required by the Debtor, inasmuch as the Firm

possesses substantial turnaround consulting, investment banking, debt restructuring, and finance expertise, and Getzlers's management professionals have had significant roles in many large bankruptcy cases and reorganizations under the Bankruptcy Code. Moreover, Getzler is familiar with many of the potential management issues that may arise in the context of this reorganization case. Accordingly, the Debtor believes that Getzler is well qualified and able to represent the Debtor in this case in a most efficient and responsive manner.

**NECESSITY FOR EMPLOYMENT AND  
PROFESSIONAL SERVICES TO BE RENDERED**

6. The services of a management consultant are necessary to enable the Debtor to discharge its duties as debtor in possession. Subject to the jurisdiction and further order of this Court, Getzler will undertake to perform an assessment of alternative manufacturing strategies and processes to facilitate the Debtor's objective of achieving cost-effective, quality production and timely delivery.

7. It is necessary and essential that the Debtor, as debtor in possession, employ the Firm to render the foregoing professional services so that the Debtor may engage in a more cost-effective production in order to successfully reorganize.

8. Getzler has indicated a willingness to act on behalf of the Debtor in such capacity.

**NECESSITY FOR NUNC PRO TUNC ORDER**

9. In order to maintain critical customer relationships, the Debtor must develop and implement a strategy within the next few weeks to achieve its objective of a more cost-effective, quality production with timely delivery. Getzler has made itself immediately available to work with the Debtor's management to develop an effective plan to meet the needs of the Debtor's customers while permitting the Debtor to stay within its operating budget.

10. The Debtor acknowledges its duty to give all parties in interest notice of this intended engagement and therefore requests the Court to authorize the employment of Getzler nunc pro tunc to February 20, 2009.

**CONNECTIONS WITH THE DEBTOR, ITS  
CREDITORS, ITS INSIDERS, AND ITS  
RESPECTIVE ATTORNEYS AND ACCOUNTANTS**

11. To the best of the Debtor's knowledge, the partners and associates of Getzler do not have any connection with the Debtor, its creditors, its insiders, its shareholders, or its respective attorneys or accountants, except as set forth in the Henrich Affidavit, a true and accurate copy of which is annexed hereto as Exhibit A.

12. As set forth in the Henrich Affidavit:

- a. Neither Getzler nor any professional at the Firm holds or represents an interest adverse to the Debtor's estate.
- b. Neither Getzler nor any professional at the Firm is or was a creditor, an equity security holder or an insider of the Debtor.
- c. Neither Getzler nor any professional at the Firm is or was, within two years before the Petition Date, a director, officer, or employee of the Debtor.
- d. Getzler does not have an interest materially adverse to the interests of the Debtor's estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, or connection with, or interest in the Debtor, or for any other reason.

13. No professional at Getzler is related to any United States District Judge or United States Bankruptcy Judge for the District of Delaware or to the United States Trustee for such district or to any known employee in the office thereof.

**PROPOSED COMPENSATION**

14. During the 90 days prior to the commencement of this case, Getzler received no payments from the Debtor. Getzler has further waived its customary requirement of a retainer.

15. Subject to allowance by the Court, Getzler will charge the Debtor for its management services on an hourly basis in accordance with its ordinary and customary hourly rates as in effect on the date services are rendered up to a maximum amount of \$65,000. The current hourly rates charged by the primary or lead Getzler professionals who are expected to provide services to the Debtor are as follows:<sup>1</sup>

Vice Chairman	William H. Henrich	\$550
Managing Director	Mark Samson	\$495
Managing Director	Frederick Langer	\$465
Senior Director	Jeffrey Hageness	\$415

16. The Debtor understands that Getzler will bill its customary reimbursements as charged generally to bankruptcy and non-bankruptcy clients alike, and in accordance with applicable guidelines. Getzler is customarily reimbursed for all expenses incurred by it in connection with the representation of a client in a given matter. Such expenses include, without limitation, travel costs, long distance calls, express mail, special or hand deliveries, copying costs, document processing and, in general, all identifiable expenses that would not have been incurred except for representation of a particular client.

17. Getzler intends to apply to this Court for allowance of compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules and orders of this Court.

### **NOTICE**

18. No trustee, examiner, or creditors' committee has been appointed in this chapter 11 case. Notice of this Motion has been given to: (a) the United States Trustee for this region, (b) the Debtor's twenty largest unsecured creditors; and (c) counsel to (i) The CIT

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<sup>1</sup> It has been the historical practice of Getzler to reset its hourly rates from time to time.

Group/Commercial Services, Inc., (ii) Emigrant Capital Corporation, and (iii) Next Proteins, Inc. In light of the nature of the relief requested herein, the Debtor submits that no other or further notice is required.

WHEREFORE, Debtor requests entry of an order, authorizing the Debtor to employ and retain Getzler to represent the Debtor as its management consultant in this chapter 11 case effective as of February 20, 2009, and that the Court grant the Debtor such other and further relief as is just and proper.

Dated: February 26, 2009

Forward Foods LLC  
Debtor and Debtor in Possession

By: /s/ J. Patrick Muldoon  
J. Patrick Muldoon  
Chief Executive Officer

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

In re:	)	Chapter 11
	)	
Forward Foods LLC,	)	Case No. 09-10545 (KJC)
	)	
Debtor.	)	<b>Hearing Date: March 18, 2009 at 4:30 p.m. (ET)</b>
	)	<b>Objection Deadline: March 11, 2009 at 4:00 p.m. (ET)</b>
	)	

**NOTICE OF APPLICATION**

To: Office of the United States Trustee, the Debtor's Top Twenty Creditors and all parties requesting notice pursuant to Bankruptcy Rule 2002

The Debtor, by and through its undersigned counsel, has filed an Application for Order Pursuant to Sections 327(a) of the Bankruptcy Code Authorizing Nunc Pro Tunc Employment and Retention of Getzler Henrich & Associates LLC as Management Consultant to Debtor and Debtor In Possession (the "Application").

You are required to file a response, if any, to the attached Application on or before **March 11, 2009 at 4:00 pm. (ET)**.

At the same time, you must serve a copy of the response upon movant's attorneys:

Bradford J. Sandler, Esq.  
Benesch, Friedlander, Coplan & Aronoff  
LLP  
222 Delaware Ave., Suite 801  
Wilmington, DE 19801

William I. Kohn, Esq.  
Kari Coniglio, Esq.  
Benesch, Friedlander, Coplan & Aronoff,  
LLP  
200 Public Square, St. 2300  
Cleveland, OH 44114-2378

A HEARING ON THIS MATTER WILL BE HELD ON **MARCH 18, 2009 AT 4:30 P.M. (ET)** BEFORE THE HONORABLE KEVIN J. CAREY AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 MARKET STREET, WILMINGTON, DELAWARE, COURT ROOM NO. 5.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT  
MAY GRANT THE RELIEF REQUESTED WITHOUT FURTHER NOTICE OR HEARING.

February 26, 2009

BENESCH, FRIEDLANDER, COPLAN &  
ARONOFF LLP

/s/ Bradford J. Sandler  
Bradford J. Sandler, Esq. (No. 4142)  
222 Delaware Ave., Suite 801  
Wilmington, DE 19801  
302-442-7010  
302-442-7012  
bsandler@beneschlaw.com

Proposed Counsel to the Debtor and Debtor  
In Possession

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

In re

FORWARD FOODS, LLC,

Debtor.

Chapter 11

Case No. 09- 10545

**DECLARATION OF WILLIAM H. HENRICH**

STATE OF NEW YORK            )  
  ) ss:  
COUNTY OF NEW YORK        )

Pursuant to Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), William H. Henrich, declares:

1. I am Vice Chairman of the firm of Getzler Henrich & Associates LLC ("Getzler Henrich") and am duly authorized to make this Declaration on behalf of Getzler Henrich. I make this Declaration in support of the *Debtor's Application Pursuant to Section 327(A) of the Bankruptcy Code, Bankruptcy Rule 2014(A) and Local Bankruptcy Rule 2014-1 for an Order Authorizing Retention and Employment of Getzler Henrich & Associates LLC as Management and Financial Consultants* (the "Application").<sup>1</sup> The facts set forth in this Declaration are personally known to me and, if called as a witness, I could and would testify thereto.

2. Subject to the Court's approval of this Application, Getzler Henrich intends to (a) charge for its services on an hourly basis in accordance with its ordinary and customary hourly rates in effect on the date services are rendered and (b) seek reimbursement of

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings given to them in the Application.

actual and necessary out-of-pocket expenses. The ranges of current standard hourly rates, based on position, for Getzler Henrich professionals are attached to the Henrich Declaration as Schedule 1. These hourly rates are also reflected in the attached Engagement Letter, and may change from time to time in accordance with Getzler Henrich's established billing practices and procedures. Getzler Henrich's hourly fees are comparable to those charged by restructuring and operational consultants of similar experience and expertise for engagements of scope and complexity similar to this Chapter 11 case and are, accordingly, reasonable.

3. Getzler Henrich intends to maintain detailed, contemporaneous time records and apply to the Court for payment of compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules and any additional procedures that may be established by the Court in this chapter 11 case. Getzler Henrich has agreed to accept as compensation such sums as may be allowed by the Court. Getzler Henrich understands that interim and final fee awards are subject to approval by this Court.

4. I have reviewed the list of parties in interest as they are currently known, and have determined, to the best of my knowledge, information and belief, insofar as I have been able to ascertain after reasonable inquiry, other than in connection with these cases, neither I, nor Getzler Henrich, nor any of its principals, employees, agents or affiliates, have any connection with the Debtor, its creditors, the U.S. Trustee or any other party with an actual or potential interest in these chapter 11 cases or their respective attorneys or accountants, except as set forth below:

(a) Getzler Henrich is not employed by, and has not been employed by any entity in matters related to this chapter 11 case.

(b) From time to time, Getzler Henrich may have provided services, and may currently be providing services, to certain creditors of the Debtor and various other parties adverse to the Debtor in matters unrelated to this chapter 11 case. As described below, however, Getzler Henrich has undertaken a detailed search to determine, and to disclose, whether it is providing or has provided services to any significant creditors, equity security holders, insiders or other parties in interest in such unrelated matters.

(c) Getzler Henrich provides services in connection with numerous cases, proceedings and transactions unrelated to these chapter 11 cases. These unrelated matters involve numerous attorneys, financial advisors and creditors, some of which may be claimants or parties with actual or potential interests in these cases or may represent such parties. For example, Getzler Henrich does provide services to unrelated companies on unrelated matters for which The CIT Group is their secured lender.

(d) Getzler Henrich personnel may have business associations with certain creditors of the Debtor unrelated to these chapter 11 cases. In addition, in the ordinary course of its business, Getzler Henrich may engage counsel or other professionals in unrelated matters who now represent, or who may in the future represent, creditors or other interested parties in these cases.

5. Getzler Henrich searched its client database to determine whether they had any relationships with the following (collectively, the "Interested Parties"):

- (a) the Debtor and its affiliates;
- (b) the Debtor's secured and unsecured creditors;
- (c) the Debtor's present and past officers and directors;
- (d) the Debtor's shareholders;
- (e) professionals involved in the Debtor's chapter 11 case; and
- (f) various other potential parties-in-interest, as identified by the Debtor.

6. Getzler Henrich is a management and financial consultant and crisis manager providing services and advice specifically in the areas of operational and financial restructuring and distressed debt. As a result, Getzler Henrich may currently and may in the future represent certain Interested Parties or other parties with business affiliations with certain

Interested Parties in matters unrelated to these chapter 11 cases, either individually or as part of representation of a committee of creditors or interest holders.

7. To the best of my knowledge, information and belief, insofar as I have been able to ascertain after reasonable inquiry, except as reflected herein, neither I, nor Getzler Henrich, nor any of its principals, employees, agents or affiliates:

- (a) Holds or represents an interest adverse to Debtor's estate;
- (b) Is a creditor, an equity security holder, or an insider of the Debtor;
- (c) Except as set forth herein, is or was within two (2) years before the Order for Relief was entered, a director, officer, or employee of the Debtor or of an investment banker of the Debtor;
- (d) Has an interest materially adverse to the interest of Debtor's estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in the Debtor's or an investment banker of the Debtor, or for any other reason.

Accordingly, I believe Getzler Henrich to be a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code.

8. Despite the efforts described above to identify and disclose Getzler Henrich's connections with parties in interest in these cases, because the numerous creditors and other relationships of the Debtor, Getzler Henrich is unable to state with certainty that every client relationship or other connection has been disclosed. In this regard, Getzler Henrich reserves the right to supplement this Declaration in the event that Getzler Henrich discovers any facts bearing on matters described in this Declaration regarding Getzler Henrich's employment by the Debtor.

9. Consistent with turnaround industry practice, as well as consulting practices in general, Getzler Henrich augments its full time professional staff from time to time with qualified professionals as independent contractors and other service providers who assist

Getzler Henrich in the performance of the services to be provided to their clients. Financial advisory firms, such as Getzler Henrich, hire independent contractors and other service providers for various reasons ranging from the need for specialized industry or functional expertise to the manpower needs of a particular engagement. Financial advisory firms also use independent contractors and third party service providers to manage their payroll cost, the single largest cost of a professional service firm. In addition, many times it is the qualified professional's choice to be an independent contractor instead of an employee in order to maintain lifestyle flexibility.

10. With respect to any independent contractor or third party service provider used by Getzler Henrich in connection with a client engagement, Getzler Henrich bears complete responsibility for both (a) the performance of the independent contractor or third party service provider and (b) the payment of all amounts due and owing to such independent contractor or third party service provider for the services rendered, regardless of whether Getzler Henrich is paid by the ultimate client. The obligations are evidenced by contracts entered into by Getzler Henrich and the independent contractor or third party service provider, as applicable.

11. In this case, the Debtor has retained Getzler Henrich to perform services on behalf of, and render advice to the Debtor with respect to the matters described in the Application to retain Getzler Henrich. If the Debtor's request to retain Getzler Henrich to perform these services is approved, I will be the person from Getzler Henrich ultimately responsible for the engagement, and will be responsible for assuring that all services are performed in a professional and timely manner consistent with the dictates of this Court, the applicable provisions of the Bankruptcy Code and Rules of Bankruptcy Procedure. If at some presently unforeseeable time Getzler Henrich should consider an independent contractor to assume this principal role, Getzler Henrich will provide advance notice to the Debtor as well as

file a supplemental affidavit with the Court to notify the Court of such change and of this individual's disinterestedness.

12. No agreement exists between Getzler Henrich or any other person (other than the employees of Getzler Henrich) for the sharing of compensation to be received by Getzler Henrich in connection with services rendered in these cases.

13. I understand that the indemnification provisions of the Engagement Letter are subject to the following:

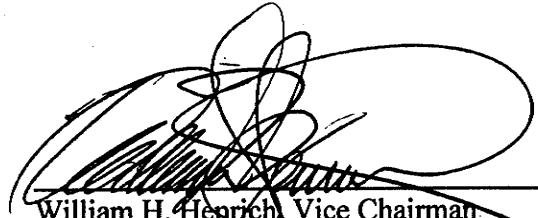
a. subject to the provisions of subparagraph (c) *infra*, the Debtor indemnifies Getzler Henrich in accordance with the Engagement Letter, for any claim arising from, related to, or in connection with the management consulting and financial advisory services, but not for any claim arising from, relating to or in connection with Getzler Henrich's post-petition performance of any services other than management consulting and financial advisory services unless such post-petition services and indemnification therefor are approved by the Court;

b. notwithstanding any provision of the Engagement Letter to the contrary, the Debtors shall have no obligation to indemnify Getzler Henrich, or provide contribution or reimbursement to Getzler Henrich, for any claim or expense that is either (a) judicially determined (the determination having become final) to have arisen solely from Getzler Henrich's gross negligence or willful misconduct, or (b) settled prior to a judicial determination as to Getzler Henrich's gross negligence or willful misconduct, but determined by this Court, after notice and a hearing, to be a claim or expense for which Getzler Henrich should not receive indemnity, contribution or reimbursement under the terms of the Engagement Letter; and

c. if, before the earlier of (i) the entry of an order confirming a Chapter 11 plan in this case (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing this Chapter 11 case, Getzler Henrich believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtor's indemnification, contribution and/or reimbursement obligations under the Engagement Letter, including without limitation the advancement of defense costs, Getzler Henrich will file an application therefor in this Court, and the Debtor will not pay any such amounts to Getzler Henrich before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by Getzler Henrich for indemnification, contribution or reimbursement and not a provision limiting the duration of the Debtor's obligation to indemnify Getzler Henrich.

14. With respect to Getzler Henrich's provision of post-petition services, Getzler Henrich hereby irrevocably and unconditionally submits to the exclusive jurisdiction of this Court over any suit, action or proceeding arising out of or relating to the Engagement Letter or this Court's order, and over the approval of its requests for any fees and expenses (including any request for indemnification, contribution or reimbursement) accruing through confirmation of a plan of reorganization in this Chapter 11 case or, in the event that no plan of reorganization is confirmed in the case, fees and expenses accruing prior to the last day of Getzler Henrich's employment pursuant to the Engagement Letter, this Affidavit and this Court's order. This Court will retain jurisdiction to construe and enforce the terms of the Application, the Engagement Letter, and this Court's order.

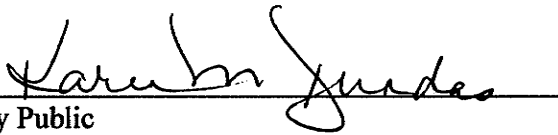
Dated: February 20, 2009



William H. Henrich, Vice Chairman  
GETZLER HENRICH & ASSOCIATES LLC  
295 Madison Avenue, 20th Floor  
New York, New York 10017

Sworn to and subscribed

before me this 26<sup>th</sup> day of February 2009.



Notary Public

**KAREN M DUNDAS**  
**NOTARY PUBLIC-STATE OF NEW YORK**  
**No. 01DU6141132**  
**Qualified in Queens County**  
**My Commission Expires February 13, 2010**

**SCHEDULE 1**

**RANGE OF RATES**

<b><u>Position</u></b>	<b><u>2009 Hourly Rate</u></b>
Principal/Managing Director	\$445-\$550
Director/Specialist	\$345-\$495
Associate/Paraprofessional	\$150-\$345

February 20, 2009

Patrick Muldoon  
Chief Executive Officer  
Forward Foods, LLC  
2542 Business Parkway  
Minden, NV 89423

Sent via email to: [pmuldoon@detourbar.com](mailto:pmuldoon@detourbar.com)

Dear Pat:

We appreciate the opportunity for Getzler Henrich & Associates LLC to work with you and your management team in connection with Forward Foods, LLC and its subsidiaries and affiliates, if any (collectively, "FF" or "Company" or "Debtor").

We believe it is important for you to have confidence in our firm and the ability of our professionals to deliver the services you require. Accordingly, this engagement letter has been structured to explain our qualifications and resources.

#### **OUR FIRM**

Getzler Henrich & Associates LLC ("Getzler Henrich") was founded in 1968 by our Chairman, Abe Getzler. We are one of the nation's oldest corporate turnaround and restructuring firms, having successfully restructured hundreds of companies throughout the U.S., Latin America and Asia. In addition to our operational restructuring focus, we have in-depth financial restructuring, lender/creditor relationship management and financing experience. Engagements have spanned more than fifty industries in diverse product areas. Our extensive experience in advising middle market companies enables us to adapt our approach to the precise needs of each individual client and make practical proposals to address issues.

#### **OUR PEOPLE**

Assignments are always managed with a proactive, results-oriented approach. We believe in order to provide valuable guidance and advice to our clients, our staff must have first-hand experience at running a business. Therefore, prior to joining the firm, each team leader at Getzler Henrich gained valuable experience in managing companies. Experiences range from top executive positions at middle market companies to senior management positions at major divisions of multinationals.

The management team for this project will consist of Mark Samson and Jeff Hageness, whose biographies have been provided under separate cover. They will be supported as required by Fred Langer and William Henrich.

#### *William Henrich*

William Henrich is a nationally recognized expert and brings to the firm twenty-five years of experience in corporate restructuring and in helping stakeholders maximize their recovery in distressed company situations. Mr. Henrich was previously Managing Director of a competitive middle market turnaround firm's New York office, where he served clients in

domestic and cross-border turnaround and crisis management, loan workouts and bankruptcy. Earlier he was with Arthur Andersen, where he launched its New York Bankruptcy and Restructuring Practice in 1982. Mr. Henrich is a Certified Public Accountant with an M.B.A. from Harvard Business School. He is a former President of the Turnaround Management Association's New York chapter and is a member of the Association for Corporate Growth and the American Bankruptcy Institute. Bill is widely published and lectures frequently on corporate restructuring.

## **OUR SERVICES**

### *Consulting Services*

Albeit not all Getzler Henrich's capabilities are required in this particular case, our breadth of services is briefly summarized below for your reference:

- **Financial**

As financial difficulties are frequently the most urgent issue confronting companies in distress, Getzler Henrich's financial consulting services are focused on the priorities of ensuring financing, establishing controls, and improving overall financial management. Specifically, Getzler Henrich will facilitate relationships with companies' lending institutions and investors; help restructure company debt and other obligations; assist with valuations and due diligence if a sale or purchase of a company or specific division is required; work to optimize cash flow and cash management; assemble projections of financial performance; and, monitor ongoing performance.

- **Operations**

Building on Getzler Henrich's successful turnaround and crisis management track record, the firm has built deep operational consulting capabilities to also help healthy and underperforming organizations leverage Lean Manufacturing and Six Sigma techniques to achieve operational excellence.

Our methodology focuses on systematically eliminating or minimizing waste, maximizing productivity and efficiency from existing processes, people and systems, and optimizing manual systems. We do all this before recommending a company to automate or make substantial investments in technology solutions...creativity before capital. This means a company has a strategic roadmap before any capital investments are even considered.

Globally our executives have led Six Sigma and Lean Management projects. From the assessment phase through execution, this group brings a distinct hands-on approach to drive operational and performance improvements.

- **Rapid Return on Investment** – with a tailored, rapid methodology, we bring a pragmatic approach to achieve quick gains while building a longer-term culture focused on operational improvement.

- Sustainable Results – we understand that sustainability will only be achieved if necessary organizational and process changes are facilitated – not dictated. That is why we have created a results-oriented, team-driven approach.
- Effective Implementation – our approach begins with an operational assessment that establishes a credible fact-base and leads to a series of kaizen events focused on areas where the biggest gains can be achieved.

The operations consulting services that Getzler Henrich provides focus on managing a company's operations to maximize cash flow, improve efficiency and help alleviate the strain on a company's financial situation. Our staff is experienced in strategic operational improvement by focusing on such factors as personnel utilization, organizational structure, product portfolios and overhead. We also devote particular attention to improving tactical operational issues such as, improving service performance, responsiveness to customer requirements/disputes, company position with respect to industry standards and requirements, and IT systems and reporting effectiveness.

- Strategy

Our professionals have extensive experience working with clients to develop and refine their corporate strategy by assessing their business units, the resources allocated to each and the competitive dynamics of the marketplace. We conduct a comprehensive analysis to determine how to bolster high performers, minimize the impact of underperformers (or those misaligned with the overall strategy) while improving organizational structure to support these efforts. Consistent with our straightforward approach and focus on results, we work with executives to develop strategic plans with a clear path to improve operations and increase shareholder value.

Typically, our framework for strategic planning involves:

- Mission & Objectives – we work with leadership to articulate the company's mission that defines its broader purpose and goals, reflects core values, galvanizes employees to achieve the defined objectives, and provides a vision of success for organization.
- Market Analysis – we examine the company's internal and external environments, as it is and how it may develop in the future. The internal analysis serves to identify the company's unique strengths and weaknesses while the external analysis reveals opportunities and threats. The analysis will include evaluation of pricing, distribution and production trends, as well as traditional five-forces analysis: entry barriers, suppliers, customers, substitute products and major competitors.
- Strategy Formulation – our approach combines any market insights gained with a rigorous operational assessment that establishes a credible fact-base for applying its strengths to opportunities that are identified and

create competitive advantages to maximize value. In the meantime, the company must address any significant weaknesses and external threats.

- Strategy Implementation – we understand that sustainability will only be achieved if necessary organizational and process changes are facilitated – not dictated. That is why we have created a results-oriented, team-driven approach to implement the defined strategy by organizing the necessary resources, leading the required programs, budgets and initiatives, and achieving the desired results in cooperation with leadership.
- Evaluation & Control – our approach insures that the implementation of the strategy is effectively monitored and any adjustments made as needed. In this way, we define which parameters are to be measured, establish target values, and provide for measurement systems to monitor and get feedback from implemented processes to fully control the operation.
- M&A Integration

We view the ability to successfully integrate acquired companies as the single most important factor in M&A success. Developing the right integration plan, and implementing it appropriately, is essential to achieving synergies, building value and delivering superior returns. Our experienced professionals, who have personally led and/or advised on merger integrations for Fortune 500 companies, highly acquisitive mid-market businesses and leading private equity firms, bring proven integration frameworks, M&A best practices and a straightforward approach that consistently deliver results and successful M&A outcomes for our clients.

Structured in three key areas, our services are flexible to meet your needs:

#### Capability Development

We help companies organize and develop M&A and Merger Integration competencies by achieving better alignment throughout the M&A process from deal sourcing to integration

- Performance metrics and milestones
- Post-close, 30-day and 100-day plans
- “End-to-End” M&A alignment
- Integration leadership training

#### Integration Planning & Execution

We assist companies to plan and execute successful merger integrations while resolving key operating and financial issues specific to each transaction

- Communication rhythms and reviews
- Digital and web-based integration tools
- Merger integration management
- Cultural and leadership integration

#### Performance Improvement

We help companies dramatically increase enterprise value through increased sales, improved profitability and greater operating efficiencies

- Business process outsourcing
- Lean manufacturing and workouts
- Sales force integration & effectiveness
- Cross-selling and customer retention

- Sales and Marketing

The sales and marketing consulting services that Getzler Henrich provides focus on assisting or managing a company to position it for growth, improve profitability, and maximize cash flow. Our staff is experienced in enhancing sales and improving marketing effectiveness by focusing on such factors as competitive positioning, strategic marketing plan development, growth opportunity exploitation, control /expansion of margins, product/service offerings and life cycle management, personnel utilization, sales management, organizational structure and overhead.

- Technology

Getzler Henrich has developed an accelerated approach to take advantage of technology for integrating businesses, streamlining organizational processes, and boosting technological value through strategic use. We have decades of experience in technology consulting specializing in financial data integrity and reporting systems; inventory costing and unit controls; manufacturing and distribution systems; IT project management, systems, and software integration/ implementation; and IT security. This means, in a short amount of time, Getzler Henrich can assess, recommend, and implement IT solutions that immediately result in accurate, meaningful, and timely reporting with strengthened company-wide processes and controls.

Our team can investigate client IT systems to determine if they are functional and cost-effective. We also can establish the need and value proposition for the funding of IT systems and infrastructure, which means we can project IT investment amounts or devalue company systems that are outdated or dysfunctional. Lastly, we can upgrade client systems to ensure they are integrated and scalable to meet current and future needs.

### *Management Services*

- Crisis Management

Professionals from Getzler Henrich are often requested to function as corporate management, for a period, during times of extreme crisis. Getzler Henrich staff may assume senior management functions until the crisis is successfully managed or until longer-term management is in place.

- Interim Management

Getzler Henrich professionals are sometimes asked to serve as CEO, CFO, CRO, or COO of client companies for a longer time period to help ensure the success of a turnaround situation.

#### *Investment Banking Services*

Getzler Henrich provides a broad range of investment banking services including valuations, refinancing (senior debt, mezzanine debt and new equity) and the purchase and sale of companies, divisions or specific assets. Getzler Henrich has excellent research and target identification capabilities to enhance management's knowledge of potential acquirers or targets. Getzler Henrich also has strong relationships with relevant financial institutions to execute transactions in a timely and efficient fashion.

#### **SCOPE & TERMS OF ENGAGEMENT**

We understand you desire Getzler Henrich to perform an assessment of alternative manufacturing strategies and processes to facilitate management's objective of achieving cost-effective, quality production and timely delivery.

#### **TERMS OF ENGAGEMENT**

Company will make available financial and operational information and data as required by Getzler Henrich (all such information so furnished being the "Information") and agrees to have discussions with FF's personnel that Getzler Henrich might reasonably require in connection with this engagement. Company represents that all Information furnished will be complete and correct in all material respects, to the best of your knowledge, and that until the expiration of Getzler Henrich's engagement hereunder, you will advise Getzler Henrich immediately of the occurrence of any event or any other change known by Company which results in the Information ceasing to be complete and correct in all material respects.

Company recognizes and confirms that Getzler Henrich (a) will use and rely primarily on the Information and on information available from generally recognized public sources in performing the services contemplated hereby without having independently verified any of the same and (b) does not assume responsibility for accurateness or completeness of the Information and such other information and (c) will not make an appraisal of any of the assets or liabilities of the Borrower.

Getzler Henrich shall retain in strict confidence and not disclose to any third party hereto or use, other than in conjunction with the performance of its services, any Confidential Information received from the Company without their prior approval, unless the information sought to be disclosed or used (i) is otherwise publicly known at the time of its disclosure and not through a breach of this agreement by Getzler Henrich; (ii) is lawfully received by Getzler Henrich from a third party not bound in a confidential relationship to Company; or (iii) is required to be disclosed pursuant to any applicable law, governmental rule or regulation, court order, subpoena or similar judicial or regulatory process.

#### **FEES**

All work performed will be billed on an hourly basis. Our hourly rates are as follows:

Principal / Managing Director	\$445-550
Vice President / Director	\$345-495
Associate Professionals and Consultants	\$250-345

Project consulting fees to be limited to \$50,000, except as otherwise agreed to by Company and such agreement will not be unreasonably withheld, between the Company and Getzler Henrich. Of course, we will strive to perform the analysis in a most expeditious but comprehensive fashion minimizing the project cost, which will be dependent in part on the quality and sophistication of FF's analyses/plans and quality/access to underlying cost data to be reviewed. Hourly rates are revised periodically. We will notify you of any such changes to our rates. Note that we do not provide assurance regarding the outcome of our work and our fees will not be contingent on the results of such work.

Getzler Henrich will bill the Debtor for fees and reasonable out-of-pocket expenses incurred by Getzler Henrich in connection with the services rendered herein. Such expenses include, but are not limited to, out-of-pocket coach travel and lodging, local travel, telephone calls, delivery services, and photocopying, if incurred. Payments when made may be wired to Getzler Henrich & Associates LLC c/o JP Morgan Chase Bank, account # 621505952665, routing/ABA # 021 0000 21. If an invoice is not paid on a timely basis, Getzler Henrich reserves the right to cease work until the matter is settled.

Getzler Henrich understands that it will be retained as of the earlier date of when Getzler Henrich commences work or the Court approves Getzler Henrich's retention. Should work commence prior to Court authorization being retained (as requested by the Debtor), the Debtor will seek Court approval for Getzler Henrich's retention to be *nunc pro tunc* as of the date work commenced. In accordance with the Bankruptcy Code, interim and final compensation and reimbursement of costs expended are subject to approval by the Bankruptcy Court. Fee applications will be submitted to the Court for its consideration in accordance with the Bankruptcy Code or the Court approved administrative order modifying terms of payments to professionals, if any.

To the extent that any services outside the scope of this engagement are required or requested, the extent of these services, and the additional compensation to be paid to Getzler Henrich for such services, shall be agreed upon prior to Getzler Henrich beginning to perform such services. These services will be entered into under a separate engagement letter and Bankruptcy Court approval will be sought.

A retainer is normally required prior to beginning work. However, we understand that our retention is being considered on a post-petition basis. Accordingly, we will waive the requirement in this instance.

Except for the services to be provided by Getzler Henrich pursuant to this agreement, during the term of this engagement and for a period of two (2) years thereafter, Company shall not utilize, whether as employee or independent consultant, and whether directly, or indirectly, the services of any person who is, was, or had been employed by Getzler Henrich during the term of this engagement.

Company will indemnify, defend and hold harmless Getzler Henrich and its affiliates and their respective shareholders, directors, officers, employees, and agents, (each an "Indemnified Party"), from and against any and all claims, liability, loss, cost, damage, or expense (including reasonable attorneys' fees) asserted against or incurred by any indemnified Party, by reason of, or arising out of or in connection with, this agreement or performance under this agreement, whether such claim, liability, loss, cost, damage, or expense is asserted by Company or any other person or entity, except for matters which are judicially determined to be caused by Getzler Henrich's willful misconduct or gross negligence. Company also agrees to pay Getzler Henrich a fee at regular hourly rates for it or any other Indemnified Party preparing for, or testifying in, any legal proceedings.

If Getzler Henrich is requested or required to appear and/or testify before any tribunal by Company, whether or not pursuant to lawful process, all time spent and out-of-pocket expenditures by Getzler Henrich, including for legal counsel, shall be considered to have been performed under the terms of this Engagement Agreement, and Getzler Henrich shall be entitled to receive payment of fees and reimbursement of expenses therefore.

Either Company or Getzler Henrich can terminate this agreement upon one week's written notice, except for the indemnification paragraph and payment provisions above which shall survive any termination. Outstanding amounts due Getzler Henrich, if any, are to be paid promptly upon receipt of a final invoice that will be provided immediately upon notice of termination by Debtor or Court approved order, as applicable.

This Engagement Letter contains the entire agreement among the parties relating to the subject herein. Any modification or other changes to this Engagement Letter must be in writing and signed by the parties hereto to be enforceable.

If the foregoing is in accordance with our understanding, please sign the attached copy and forward it to our office.

We look forward to working with you. Please feel free to contact me for any additional information or clarification.

Sincerest regards,

**GETZLER HENRICH & ASSOCIATES LLC**

By: *William H. Henrich*  
William H. Henrich  
Vice Chairman

Dated: *2/20/09*

**FORWARD FOODS, LLC (and its subsidiaries and affiliates, if any)**  
**Agreed to and Accepted:**

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

**Print Name:** \_\_\_\_\_

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

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

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

\_\_\_\_\_  
In re: ) Chapter 11  
)  
Forward Foods LLC, ) Case No. 09-10545 (KJC)  
)  
Debtor. ) Re: Docket No. \_\_\_\_  
)  
\_\_\_\_\_ )

**ORDER PURSUANT TO SECTION 327(a) OF THE BANKRUPTCY CODE  
AUTHORIZING NUNC PRO TUNC EMPLOYMENT AND RETENTION OF GETZLER  
HENRICH & ASSOCIATES LLC AS MANAGEMENT CONSULTANT TO DEBTOR  
AND DEBTOR IN POSSESSION**

Upon the application (the “Application”) of Forward Foods LLC (“Forward Foods” or the “Debtor”), for entry of an order authorizing the employment and retention of the firm of Getzler Henrich & Associates LLC (“Getzler” or the “Firm”) as management consultant to the Debtor pursuant to section 327(a) of Title 11 (the “Bankruptcy Code”) of the United States Code; and the Court having reviewed the verified statement of William Henrich (the “Henrich Affidavit”), a Principal of the Firm; and the Court being satisfied based on the representations made in the Application and the Henrich Affidavit that the Firm’s professionals represent no interest adverse to the Debtor’s estate with respect to matters upon which they are to be engaged, that they are disinterested persons as that term is defined under section 101(14) of the Bankruptcy Code; that notice of the Application was provided to the Office of the United States Trustee for this region and requisite parties in interest and that such notice is sufficient, and that employment of the Firm is necessary and would be in the best interests of the estate; and sufficient cause appearing therefor, it is hereby

**ORDERED THAT:**

1. The Application is granted.

2. In accordance with section 327(a) of the Bankruptcy Code, the Debtor, as debtor in possession, shall be and hereby is authorized to employ and retain the firm of Getzler as management consultant on the terms generally set forth in the Application, effective as of February 20, 2009.

Dated: \_\_\_\_\_, 2009  
Wilmington, Delaware

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Kevin J. Carey  
Chief United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

In re:	)	Chapter 11
	)	
Forward Foods LLC,	)	Case No. 09-10545 (KJC)
	)	
Debtor.	)	
	)	
	)	

**CERTIFICATION OF SERVICE**

I, Bradford J. Sandler, Esquire, hereby certify that on February 26, 2009 a true and correct copy of the foregoing document was served via Electronic Notification, Hand Delivery and/or First Class Mail upon the parties on the attached list.

Dated: February 26, 2009

Benesch, Friedlander, Coplan & Aronoff LLP

/s/ Bradford J. Sandler  
Bradford J. Sandler, Esquire (No. 4142)  
222 Delaware Ave., Suite 801  
Wilmington, DE 19801  
302 442 7010  
302-442-7012  
[bsandler@beneschlaw.com](mailto:bsandler@beneschlaw.com)

Proposed Counsel to Debtor

Forward Foods  
2002 Service List

<p>Forward Foods LLC Attn: Nancy Huber 2542 Business Parkway, Unit 2 Minden, NV 89423 Phone: 775-267-9014 xt. 220 Fax: 775-267-9057 (Debtor) <b>(First Class Mail)</b></p>	<p>U.S. Trustee: 844 King Street Suite 2207 Lockbox 35 Wilmington, DE 19801 Phone: 302-573-6491 Fax: 302-573-6497 (UST) <b>(First Class Mail)</b></p>	<p>CH Robinson Worldwide PO Box 9121 Minneapolis, MN 55480- 9121 T 952-937-8500 F 952-937-7840 (Top Twenty Creditor) <b>(First Class Mail)</b></p>
<p>Gelita USA PO Box 1796 Sioux City, IA 51102 T 712-943-5516 F 712-943-3372 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>Hire Dynamics LLC PO Box 890858 Charlotte, NC 28289-0858 T 678-482-8041 F 678-482-8799 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>Firmenich Inc. PO Box 7247-8502 Philadelphia, PA 19170- 8502 T 609-919-0652 T 609-452-1000 F 609-452-6077 (Top Twenty Creditor) <b>(First Class Mail)</b></p>
<p>Malnove Incorporated of Utah 13434 F. Street Omaha, NE 68137 T 402-330-1100 (Toll-free 800-228-9877) F 402-330-2941 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>Fonterra USA Inc. 100 Corporate Center Drive, Suite 101 Camp Hill, PA 17011-1758 T 847-928-1600 F 847-928-1606 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>Clasen Quality Coatings, Inc. JP Morgan Chase Lockbox Processing Box 681072 Madison, WI 53718 T 608-467-1130 (Toll-free 877-459-4500) F 608-249-4573 (Top Twenty Creditor) <b>(First Class Mail)</b></p>
<p>Golden Select Foods Company 5743 Smithway Street, #305 City of Commerce, CA 90040 T 323-721-1882 F 323-721-4526 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>Farbest-Tallman Foods Corp. 160 Summit Avenue Montvale, NJ 07645 T 201-573-4900 F 201-573-0404 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>Premium Ingredients, Ltd. 285 E. Fullerton Avenue Carol Stream, IL 60188 T 630-868-0300 F 630-868-0310 (Top Twenty Creditor) <b>(First Class Mail)</b></p>

<p>St. Louis Lithographing Co. 6880 Heege Road St. Louis, MO 63123 T 314-352-1300 F 314-352-1659 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>American Casein Company 109 Elbow Lane Burlington, NJ 08016 T 609-387-3130 F 609-387-7204 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>The Pantry, Inc. PO Box 601819 Charlotte, NC 28260-1819 T 919-774-6700 F 919-774-3329 (Top Twenty Creditor) <b>(First Class Mail)</b></p>
<p>Crossroad Ingredients LLC 271 Route 46W, Suite H206 Fairfield, NJ 07004 T 973-244-0899 F 973-244-0809 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>Osio International, Inc. 2550 E. Cerritos Avenue Anaheim, CA 92806 T 714-935-9700 F 714-935-9911 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>Univar USA Inc. File 56019 Los Angeles, CA 90074-6019 T 425-889-3400 F 425-889-4100 (Top Twenty Creditor) <b>(First Class Mail)</b></p>
<p>Constantine Cannon 450 Lexington Avenue New York, NY 10017 T 212-350-2700 F 212-350-2701 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>Emigrant Capital Corp. Attn: Ed Burns and Ken Walters 6 East 43<sup>rd</sup> Street, 8<sup>th</sup> Floor New York, NY 10017 T 212-850-4869 F 212-850-3394 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>Comerica Bank 500 Woodward Avenue One Detroit Center, 5<sup>th</sup> Floor Detroit, MI 48226 (Top Twenty Creditor) <b>(First Class Mail)</b></p>
<p>Citibank, Commercial Banking Group Attn: Christopher Myers 2121 Palomar Airport Road Suite 150 Carlsbad, CA 92011 (Top Twenty Creditor) <b>(First Class Mail)</b></p>	<p>Bernard D. Bollinger, Jr., Esq. Buchalter Nemer 1000 Wilshire Blvd., Suite 1500 Los Angeles, CA 90017-2457 T 213-891-5009 F 213-896-0400 <a href="mailto:bbollinger@buchalter.com">bbollinger@buchalter.com</a> <a href="mailto:ifs_filing@buchalter.com">ifs_filing@buchalter.com</a> (CIT) <b>(First Class Mail)</b></p>	<p>Debra A. Riley, Esq. Allen Matkins Leck Gamble Mallory &amp; Natsis, LLP 501 West Broadway, 15<sup>th</sup> Floor San Diego, CA 92101 T 619-235-1520 F 619-233-1158 <a href="mailto:driley@allenmatkins.com">driley@allenmatkins.com</a> (Next Proteins) <b>(First Class Mail)</b></p>

<p>Michael G. Busenkell, Esq.  Womble Carlyle Sandridge  &amp; Rice, PLLC  222 Delaware Avenue,  Suite 1501  P.O. Box 2031  Wilmington, DE 19899  T 302-252-4324  F 302-252-4330  mbusenkell@wcsr.com  (Next Proteins)  <b>(First Class Mail)</b></p>	<p>Kurt F. Gwynne, Esq.  Kimberley E. C. Lawson,  Esq.  Reed Smith LLP  1201 N. Market Street,  Suite 1500  Wilmington, DE 19801  T 302-778-7500  F 302-778-7575  <a href="mailto:kgwynne@reedsmith.com">kgwynne@reedsmith.com</a>  <a href="mailto:klawson@reedsmith.com">klawson@reedsmith.com</a>  (CIT)  <b>(First Class Mail)</b></p>	<p>William I. Kohn, Esq.  Kari Coniglio, Esq.  Benesch, Friedlander,  Coplan &amp; Aronoff, LLP  200 Public Square, St. 2300  Cleveland, OH 44114-2378  T 216-363-4500  F 216-363-4588  <a href="mailto:wkohn@beneschlaw.com">wkohn@beneschlaw.com</a>  <a href="mailto:kconiglio@beneschlaw.com">kconiglio@beneschlaw.com</a>  (Debtor's Counsel)  <b>(First Class Mail)</b></p>
<p>Emigrant Capital Corp.,  Ed Burns, Esq.  Ken Walters, Esq.  6 E. 43<sup>rd</sup>  New York, NY 10017  <b>(First Class Mail)</b></p>	<p>Comerica Bank  David J. Nowaczewski,  Esq.  1901 St. Antoine Street, 6<sup>th</sup>  Floor at Ford Field  Detroit, MI 48226  <b>(First Class Mail)</b></p>	<p>David A. Jenkins  Next Proteins, Inc.  5050 Avenida Encinas #350  Carlsbad, CA 92008  <b>(First Class Mail)</b></p>