

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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In re:	)	
	)	Chapter 11
Forward Foods, LLC	)	Case No. 09-10545 (KJC)
	)	
Debtor.	)	Jointly Administered
	)	
	)	Hearing Date: April 23, 2009 at 3:00 p.m.
	)	Objection Deadline: March 30, 2009 at 4:00 p.m.

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**APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS FOR AN ORDER UNDER BANKRUPTCY CODE SECTIONS  
328(a) AND 1103(a) AND BANKRUPTCY RULES 2014(a) AND 2016(b)  
APPROVING THE EMPLOYMENT AND RETENTION OF CIARDI CIARDI &  
ASTIN AS CO-COUNSEL FOR THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS *NUNC PRO TUNC* TO FEBRUARY 27, 2009**

The Official Committee of Unsecured Creditors (the “Creditors’ Committee”), appointed on February 27, 2009 in the chapter 11 case of the above-captioned debtor (the “Debtor”), hereby submits this application (the “Application”) pursuant to Sections 328(a) and 1103(a) of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2014(a) and 2016(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for an order authorizing the retention and employment of Ciardi Ciardi & Astin (“Ciardi”) as co-counsel to the Creditors’ Committee, *nunc pro tunc* to February 27, 2009. The Declaration of Albert A. Ciardi, III in support of this Application is attached hereto as Exhibit A (the “Ciardi Declaration”). In further support of this Application, the Creditors’ Committee respectfully represents as follows:

**Background**

1. On February 17, 2009 (the “Petition Date”), the Debtor commenced this case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

2. The Debtor continues to operate its businesses and manage its properties as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. On February 27, 2009, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) formed the Creditors’ Committee.

4. Immediately thereafter, the Creditors’ Committee held meetings, and, subject to this Court’s approval, decided to retain the law firm of Jager Smith P.C. (“Jager”) as its lead counsel and to retain Ciardi as its Delaware counsel.

5. The Court has jurisdiction over this Application pursuant to title 28 of the United States Code, sections 157 and 1334. This is a core proceeding pursuant to title 28 of the United States Code, section 157(b)(2). Venue in this District of this case and the Application is proper pursuant to title 28 of the United States Code, sections 1408 and 1409. The statutory predicates for the relief sought herein are sections 328(a) and 1103 of the Bankruptcy Code.

**Relief Requested**

6. By this Application, and pursuant to sections 328(a) and 1103(a) of the Bankruptcy Code, the Creditors’ Committee respectfully requests the entry of an order approving the employment and retention of Ciardi as its co-counsel to perform services in connection with the Debtor’s chapter 11 case *nunc pro tunc* to February 27, 2009.

**Basis for Relief**

7. Section 328(a) of the Bankruptcy Code provides, in relevant part, “[t]he trustee, or a committee appointed under section 1103 of this title, with the court’s approval, may employ or authorize the employment of a professional person under section 327 or 1103 of this title.” *See* 11 U.S.C. § 328(a). Pursuant to section 1103(b) of the Bankruptcy Code, an attorney employed to represent a committee may not, while

employed by such committee, represent any other entity having an adverse interest in connection with the case. 11 U.S.C. § 1103(b). To the best of the Creditors' Committee's knowledge, information and belief, and except as disclosed herein and in the Ciardi Declaration, neither Ciardi nor any of its partners, counsel or associates have had or presently have any connection with the Debtor, their creditors, equity security holders, or any other party in interest, or their respective attorneys, accountants, the U.S. Trustee, or any person employed in the Office of the United States Trustee, in any matters related to the Debtor or its estate.

8. The Creditors' Committee has selected Ciardi because of its attorneys' experience and knowledge and because of the absence of any conflict of interest. Ciardi has advised the Creditors' Committee that Ciardi may have in the past represented or opposed, may currently represent or oppose, and may in the future represent or oppose, in matters wholly unrelated to the Debtor's pending chapter 11 case, entities that are claimants of the Debtor or other parties in interest (or service providers thereto) in this chapter 11 case. Ciardi has not (except as disclosed in the Ciardi Declaration) and will not represent any such parties, or any of their affiliates or subsidiaries, in relation to the Creditors' Committee, the Debtor, or the chapter 11 case. The Creditors' Committee believes Ciardi is qualified to represent the Creditors' Committee in this chapter 11 case.

9. The services Ciardi has rendered and may be required to render for the Creditors' Committee include, without limitation, the following:

(a) providing legal advice with respect to its powers and duties as the Creditors' Committee, an official committee appointed under section 1102 of the Bankruptcy Code;

(b) assisting in the investigation of the acts, conduct, assets, liabilities, and financial condition of the Debtor, the operation of the Debtor's business, and any other matter relevant to this case or to the formulation of a plan or plans of reorganization or liquidation;

(c) preparing on behalf of the Creditors' Committee necessary applications, motions, complaints, answers, orders, agreements and other legal papers;

(d) reviewing, analyzing and responding to all pleadings filed by the Debtor and appearing in Court to present necessary motions, applications and pleadings and to otherwise protect the interest of the Creditors' Committee;

(e) consulting with the Debtor, its professionals and the U.S. Trustee concerning the administration of the Debtor's estate;

(f) representing the Committee in hearings and other judicial proceedings;

(g) advising the Committee on practice and procedure in the Bankruptcy Court for the District of Delaware; and

(h) performing all other legal services for the Creditors' Committee in connection with this chapter 11 case.

10. Section 328(a) of the Bankruptcy Code authorizes the employment of a professional person on any reasonable terms and conditions of employment, including on an hourly basis. 11 U.S.C. § 328(a). Subject to this Court's approval and in accordance with sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, the Creditors' Committee requests that Ciardi be compensated

on a hourly basis, plus reimbursement of the actual and necessary expenses that Ciardi incurs, in accordance with the ordinary and customary rates which are in effect on the date the services are rendered.

11. Ciardi has advised the Creditors' Committee that Ciardi's hourly rates range from \$225 to \$450 per hour for attorneys, from \$120 to \$180 per hour for paraprofessionals. These hourly rates are subject to periodic adjustment to reflect economic and other conditions.

12. Ciardi has not received any retainer from the Debtor, the Creditors' Committee, or any other entity in this case.

13. By separate application, the Creditors' Committee is also seeking approval to employ Jager to serve as lead counsel in this case. The Creditors' Committee believes that if the employment of Jager and Ciardi are approved by this Court, these firms will allocate their delivery of services to the Creditors' Committee so as to avoid any unnecessary duplication of services. Moreover, the Creditors' Committee believes that the efficient allocation of responsibility for legal matters in this case between Jager and Ciardi will reduce the cost of monitoring these proceedings, as well as the time and expense associated with travel by Jager with respect to matters that can be handled as effectively by Delaware counsel. It is the carefully considered view of the Creditors' Committee that, considering the size and complexity of this case and the various interests involved, representation of the Creditors' Committee by Jager and Ciardi is necessary, advisable, and in the best interests of the Creditors' Committee.

Notice

14. The Creditors' Committee has provided notice of this Application to (a) the U.S. Trustee, (b) counsel to the Debtor, and (c) all parties requesting notices pursuant to Bankruptcy Rule 2002.

15. The Creditors' Committee submits that, in light of the nature of the relief requested herein, no other or further notice is necessary.

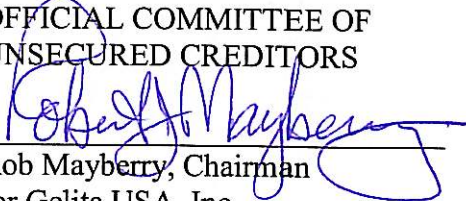
16. No previous application for the relief requested herein has been made to this or any other court.

WHEREFORE, the Creditors' Committee respectfully requests that this Court enter an order substantially in the form of the annexed order and grant such other and further relief as is just and proper.

Dated: March 9, 2009

OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS

By:

  
\_\_\_\_\_  
Rob Mayberry, Chairman  
for Gelita USA, Inc.



under section 1103 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2014(a) and 2016(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Rule 2014-1 of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the “Local Rules”).

3. All terms not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

4. In connection with its proposed retention by the Creditors’ Committee in this case, Ciardi researched its client database to determine whether it has any relationships with the Debtor, and key parties in interest in this case. Insofar as I have been able to ascertain, the members of Ciardi, the attorneys who are of counsel to Ciardi, and associates thereof do not represent any other parties in interest, or their attorneys and accountants, in this chapter 11 case. Furthermore, Ciardi has no connection (as such term is used in section 101(14) of the Bankruptcy Code and Rule 2014(a) of the Bankruptcy Rules) with the Debtor, their respective creditors, any other party in interest, the Debtor’s current respective attorneys or professionals, the United States Trustee, or any person employed in the Office of the United States Trustee, and does not hold or represent any entity having an adverse interest in connection with the Debtor’s cases. For so long as Ciardi represents the Creditors’ Committee, Ciardi will not represent any entity other than the Creditors’ Committee in connection with this case.

5. Ciardi is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code in that Ciardi, its members, counsel and associates:

(a) are not creditors, equity security holders or insiders of the Debtor;

(b) are not and were not, within two years before the date of the filing of the involuntary petition, a director, officer, or employee of the Debtor; and

(c) do not have an interest materially adverse to the interest of the 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 for any other reason.

6. Ciardi has certain relationships with and has represented, is representing or will represent certain creditors, other parties in interest, other professionals and service providers in connection with unrelated matters, but has not represented any such party in connection with matters relating to the Debtor.

7. It is my understanding that the Creditors' Committee has selected the law firm of Jager Smith P.C. ("Jager") as its lead counsel. Ciardi intends to work closely with Jager to ensure that there is no unnecessary duplication of services performed for or charged to the Debtor's estate.

8. Ciardi intends to apply for this Court's approval of compensation for professional services rendered in connection with this chapter 11 case and, in compliance with applicable provision of the Bankruptcy Code, Bankruptcy Rules and Order of this Court, seeks compensation on an hourly basis, plus reimbursement of actual and necessary expenses and other charges that Ciardi incurs. Ciardi has advised the Creditors' Committee that Ciardi's hourly rates range from \$225 to \$450 per hour for attorneys, from \$120 to \$180 per hour for paraprofessionals. These hourly rates are subject to periodic adjustment to reflect economic and other conditions.

9. The hourly rates set forth above are Ciardi's standard hourly rates for work of this nature. These rates are set at a level designed to fairly compensate Ciardi for

the work of its attorneys and paralegals and to cover fixed and routine overhead expenses. It is Ciardi's policy to charge its clients in all areas of practice for all other expenses incurred in connection with the client's case. The expenses charged to clients include, among other things, telephone and telecopier charges, printing charges, toll charges, mail and express mail charges, special or hand delivery charges, document processing, photocopying charges, travel expenses, expenses for "working meals," computerized research, and transcription costs, as well as non-ordinary overhead expenses such as overtime for secretarial personnel and other staff. Ciardi will charge for these expenses in a manner and at rates consistent with charges made generally to the firm's other clients and with the Local Rules.

10. The professional services that Ciardi has rendered and will render to the Committee include, but shall not be limited to, the following:

(a) providing legal advice with respect to its powers and duties as the Creditors' Committee, an official committee appointed under section 1102 of the Bankruptcy Code;

(b) assisting in the investigation of the acts, conduct, assets, liabilities, and financial condition of the Debtor, the operation of the Debtor's business, and any other matter relevant to this case or to the formulation of a plan or plans of reorganization or liquidation;

(c) preparing, on behalf of the Creditors' Committee, necessary applications, motions, complaints, answers, orders, agreements and other legal papers;

(d) reviewing, analyzing, and responding to all pleadings filed by the Debtor and appearing in Court to present necessary motions, applications, and pleadings, and to otherwise protect the interests of the Creditors' Committee;

(e) consulting with the Debtor, their professionals and the United States Trustee concerning the administration of the Debtor's respective estate;

(f) representing the Committee in hearings and other judicial proceedings;

(g) advising the Committee on practice and procedure in the Bankruptcy Court for the District of Delaware; and

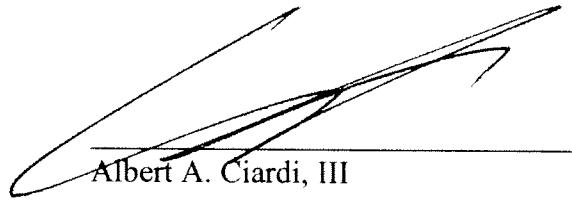
(h) performing all other legal services for the Creditors' Committee in connection with these chapter 11 cases.

11. No promises have been received by Ciardi nor by any members, counsel, or associates thereof as to compensation in connection with this case other than in accordance with the provisions of the Bankruptcy Code. Ciardi has, in connection with this chapter 11 case, no agreement regarding the sharing of compensation with any other entity, other than with the members of Ciardi.

12. Neither Ciardi nor any member, counsel, or associate thereof, insofar as I have been able to ascertain, represents any interest adverse to the Creditors' Committee in the matters upon which Ciardi is to be engaged.

13. By reason of the foregoing, I believe Ciardi is eligible for employment and retention by the Creditors' Committee pursuant to sections 328(a) and 1103 of the Bankruptcy Code and the applicable Bankruptcy Rules.

I certify under penalty of perjury under the laws of the United States that, to the best of my knowledge and after reasonable inquiry, the foregoing is true and correct.



Albert A. Ciardi, III

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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

**ORDER AUTHORIZING EMPLOYMENT AND RETENTION OF CIARDI  
CIARDI & ASTIN AS CO-COUNSEL TO THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS *NUNC PRO TUNC* TO FEBRUARY 27, 2009**

Upon the application of the official committee of unsecured creditors (the “Creditors’ Committee”) appointed in the chapter 11 case of the above-captioned debtor and debtor in possession (the “Debtor”) for an order, pursuant to sections 3328(a) and 1103 of title 11 of the United States Code (the “Bankruptcy Code”), authorizing the Creditors’ Committee to employ and retain Ciardi Ciardi & Astin (“Ciardi”) as the Creditors’ Committee’s co-counsel in this case, *nunc pro tunc* to February 27, 2009 (the “Application”); and upon the declaration of Albert A. Ciardi, III (the “Ciardi Declaration”), a member of Ciardi, which is annexed to the Application; and it appearing that due and proper notice of the Application has been given; and after due deliberation, and sufficient cause appearing therefor; it is hereby

ORDERED that the Application is approved; and it is further

ORDERED that pursuant to sections 328(a) and 1103 of the Bankruptcy Code, the Creditors’ Committee is hereby authorized and empowered to employ Ciardi as its co-counsel in this chapter 11 case, *nunc pro tunc* to February 27, 2009, and Ciardi is authorized to perform the services set forth in the Application and the Ciardi Declaration; and it is further

ORDERED that Ciardi shall be compensated in accordance with the procedures set forth in sections 328, 330 and 331 of the Bankruptcy Code, and applicable Federal Rules of Bankruptcy Procedure, the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware, and such other procedures as may be fixed by order of this Court; and it is further

ORDERED that this Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: April\_\_\_\_, 2009

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The Honorable 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.	:	<b>Hearing Date: April 23, 2009 at 3:00 p.m.</b>
	:	<b>Objection Deadline: March 30, 2009 at 4:00 p.m.</b>

**NOTICE OF APPLICATION**

PLEASE TAKE NOTICE that on March 10, 2009, the Official Committee of Unsecured Creditors (the “Committee”) of Forward Foods LLC (the “Debtor”) filed the **Application of the Official Committee of Unsecured Creditors for an Order under Bankruptcy Code Sections 328(a) and 1103(a) and Bankruptcy Rules 2014(a) and 2016(b) Approving the Employment and Retention of Ciardi Ciardi & Astin as Co-Counsel for the Official Committee of Unsecured Creditors *nunc pro tunc* to February 27, 2009** (the “Application”) with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 3<sup>rd</sup> Floor, Wilmington, Delaware 19801 (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that any objections to the Application must be made in writing, filed with the Bankruptcy Court, and served upon, so as to actually be received by the undersigned, on or before **March 30, 2009, at 4:00 p.m. (Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that if an objection is filed, a hearing on the Application may be held before The Honorable Kevin J. Carey in the Bankruptcy Court, 824 Market Street, 5<sup>th</sup> Floor, Courtroom 5, Wilmington, Delaware 19801, on **April 23, 2009, at 3:00 p.m. (Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that if no objection to the Application is timely filed in accordance with the above procedures, the Bankruptcy Court may enter an Order granting the relief sought in the Motion without further notice or hearing.

Dated: March 10, 2009  
Wilmington, Delaware

CIARDI CIARDI & ASTIN

/s/ Mary E. Augustine

Daniel K. Astin (No. 4068)  
Shannon D. Leight (No. 4115)  
Mary E. Augustine (No. 4477)  
919 Market Street, Suite 700  
Wilmington, DE 19803  
Telephone: (302) 658-1100  
Facsimile: (302) 658-1300  
dastin@ciardilaw.com  
sleight@ciardilaw.com  
maugustine@ciardilaw.com

-and-

Thomas D. Bielli  
One Commerce Square  
2005 Market Street  
Suite 1930  
Philadelphia, PA 19103  
Telephone: (215) 557-3550  
Facsimile: (215) 557-3551  
tbielli@ciardilaw.com

*Proposed Co-Counsel to the Official  
Committee of Unsecured Creditors*

**CERTIFICATE OF SERVICE**

I, Mary E. Augustine, hereby certify that on this 10th day of March, 2009, I caused a true and correct copy of the foregoing **Application of the Official Committee of Unsecured Creditors for an Order under Bankruptcy Code Sections 328(a) and 1103(a) and Bankruptcy Rules 2014(a) and 2016(b) Approving the Employment and Retention of Ciardi Ciardi & Astin as Co-Counsel for the Official Committee of Unsecured Creditors *nunc pro tunc* to February 27, 2009** to be served upon the parties set forth on the attached service list as indicated.

*/s/ Mary E. Augustine*  
Mary E. Augustine (No. 4477)

SERVICE LIST – 2002 FORWARD FOODS

**Via Electronic Mail**

Forward Foods LLC  
Attn: Nancy Huber  
2542 Business Parkway  
Unit 2  
Minden, NV 89423  
nhuber@detourbar.com

Office of the U.S. Trustee  
844 King Street, Room 2207  
Lockbox #35  
Wilmington, DE 19899-0035  
USTPREGION03.WL.ECF@USDOJ.GOV

Bradford J. Sandler  
Benesch Friedlander Coplan & Aronoff  
222 Delaware Avenue  
Suite 801  
Wilmington, DE 19801  
bsandler@beneschlaw.com

Kari B. Coniglio  
William I. Kohn  
Benesch Friedlander Coplan & Aronoff  
200 Public Square, Suite 2300  
Cleveland, OH 44114  
kconiglio@beneschlaw.com  
wkohn@beneschlaw.com

Michael J. Fencer  
Steven C. Reingold  
Jager Smith P.C.  
1 Financial Center  
Boston, MA 02111  
mfencer@jagersmith.com  
sreingold@jagersmith.com

J. Scott Douglass  
909 Fannin, Suite 1800  
Houston Texas 77010  
jsdlaw@msn.com

Michael G. Busenkell  
Womble Carlyle Sandridge & Rice, PLLC  
222 Delaware Avenue - Suite 1501  
Wilmington, DE 19801  
mbusenkell@wcsr.com

Debra A. Riley  
Allen Amtkins Leck Gamble Mallory &  
Natsis  
501 West Broadway, 15<sup>th</sup> Floor  
San Diego, CA 92101  
driley@allenmatkins.com

Kurt F. Gwynne  
Reed Smith LLP  
1201 Market Street  
15th Floor  
Wilmington, DE 19801  
kgwynne@reedsmith.com

Bernard D. Bollinger, Jr.  
BUCHALTER NEMER  
1000 Wilshire Blvd., Suite 1500  
Los Angeles, CA 90017  
bbollinger@buchalter.com  
IFS\_filing@buchalter.com

Dale G. Haake  
Katz, Huntoon & Fieweger, P.C.  
1000 36<sup>th</sup> Avenue  
dhaake@katzlawfirm.com

Bodman LLP  
Attn: David J. Nowaczewski  
6th Floor at Ford Field  
1901 St. Antoine Street  
Detroit, MI 48226  
dnowaczewski@bodmanllp.com

Stephen V. Falanga  
Christopher M. Hemrick  
Connell Foley LLP  
85 Livingston Avenue  
Roseland, NJ 07068  
sfalanga@connellfoley.com  
chemrick@connellfoley.com

Ed Burns and Ken Walters  
Emigrant Capital Corp.  
6 East 43rd Street, 8th Floor  
New York, NY 10017  
burns@emigrant.com  
walters@emigrant.com

**Via Facsimile**

Brad Johnson  
Crossroad Ingredients LLC  
271 Route 46 West  
Suite H206  
Fairfield, NJ 07004  
Fax: 973-244-0809

Tim Gzehoviak  
Malnove Incorporated of Utah  
Freeport Center  
Building A-16 F  
Clearfield, UT 84015-0128  
Phone: 402-778-0568  
Fax: 402-334-4963

Robert J. Mayberry  
Gelita USA, Inc.  
2445 Portneal Road  
PO Box 1796  
Sioux City, IA 51102  
Phone: 712-943-1660  
Fax: 712-943-1671