

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

mgm 3024

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In Re:

SUFFOLK READY MIX, LLC,

Chapter 11
Case No. 09-75473-reg

Debtor.

APPLICATION

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TO THE HONORABLE ROBERT E. GROSSMAN, U.S. BANKRUPTCY JUDGE:

The above named debtor (the "Debtor") respectfully shows this Honorable Court and represents:

1. On July 23, 2009, the Debtor filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. Section 101-et seq.

2. No trustee has been appointed in the Debtor's case.

Consequently, the Debtor is continuing in the operation of its business and the management of its property as a Debtor in Possession, with all the rights, duties, and obligations set forth at §§1107(a) and 1108 of the Bankruptcy Code.

3. The Debtor desires to immediately retain and employ Wagner & Zwerman, LLP, 450 Wireless Blvd., Hauppauge, NY 11788, phone no: 631-777-1000, Fax No: 631-777-1008 (the "W&Z Firm") to act as its accountant in this case.

4. The Debtor selected the W&Z Firm for the reason that said Firm has been the accountant for the Debtor since 1998 and, as such, is fully familiar with the Debtor's operations, said Firm has extensive experience in matters of this character, and the Debtor believes that said Firm is well qualified to represent it herein.

5. The professional services which the W&Z Firm as the Debtor's accountant is to render herein will include the following:

a. Assisting the Debtor to prepare its monthly operating

statements to be filed with this Court;

- b. Preparing quarterly compilations and reports for the Debtor as necessary for filing with the relevant taxing authorities;
- c. Assisting the Debtor to prepare year end financial reports and all required federal, state, and local income tax returns;
- d. Assisting the Debtor as necessary to formulate and develop chapter 11 Plan(s) of Reorganization; and
- e. Assisting the Debtor in setting up its post-Filing Date books and records and in imposing controls on their operations and;
- f. Performing such other, further services as may be necessary as accountant for the Debtor, and/or that may be requested by the Debtor or its counsel.

6. To the best of the Debtor's knowledge, the W&Z Firm is a disinterested person as that term is defined in Section 101 of the Bankruptcy Code; and the W&Z Firm does not hold, or represent any entity with, an adverse interest in or in connection with this case, except that the W&Z Firm is being sought to be retained as the accountant for two related debtors, being: (a) Antonio Enterprises, Inc. (chapter 11 case No. 09-75485-reg) and (b) Anthony T. Persico, the principal of the Debtor (chapter 11 case no. 09-75484-reg). The Debtor does not believe that the simultaneous representation of the three debtors will result in any conflict of interest on the part of W&Z Firm in the services to be rendered to each of the Debtors by said Firm.

7. The Debtor desires to employ the W&Z Firm under a general retainer because of the extent of the accounting services required. The normal billing rates of the W&Z Firm, which will be employed in this case, are as follows: Partners - \$225.00 per hour; Certified Public Accountants - \$175.00; Staff/paras -\$75.00 - \$125.00

per hour.

8. The W&Z Firm has not received a retainer from the Debtor for this matter.

9. The Debtor has not previously applied to this or any other Court for the relief sought herein.

WHEREFORE, the Debtor hereby respectfully requests this Court to immediately enter the annexed proposed Order in its entirety, together with such other, further relief as is just and proper.

Dated: Melville, New York
September 24, 2009

SUFFOLK READY MIX, LLC

By: 
Anthony T. Persico, President

Prepared and reviewed by:
The Mc Auliffe Firm, LLC


By: 
Michael G. Mc Auliffe, Esq.
48 South Service Road, Suite 102
Melville, NY 11747
(631) 465-0044

EXHIBIT "A"

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

mgm 3024

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In Re:

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AFFIDAVIT

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STATE OF NEW YORK)

SS:

COUNTY OF SUFFOLK)

VINCENT J. PRETO, CPA, being duly sworn, deposes and says under penalties of perjury:

1. I am a Certified Public Accountant and am a partner in the firm of Wagner & Zwerman, LLP, 450 Wireless Blvd., Hauppauge, NY 11788, phone no: 631-777-1000, Fax No: 631-777-1008 (the "W&Z Firm").

2. To the best of my knowledge, information, and belief, the W&Z Firm is a disinterested person as that term is defined in the Bankruptcy Code, and neither I nor my Firm nor any other member, partner, or associate thereof represents professionally, or is associated with, the Debtor, any of the Debtor's creditors, any other party in interest, or his attorneys and accountants, except as set forth in the following paragraph. Additionally, to the best of my knowledge, information, and belief, neither I, nor my Firm, nor any other member, partner, or associate thereof has any relationship with any of the employees of the Office of the United States Trustee.

3. The W&Z Firm does not hold, or represent any entity which holds, an adverse interest in this case, and I know of no reason why my Firm cannot act as accountants for the Debtor herein, except that the W&Z Firm is being sought to be

retained as the accountant for two related debtors, being: (a) Antonio Enterprises, Inc. (chapter 11 case No. 09-75485-reg) and (b) Anthony T. Persico, the principal of the Debtor (chapter 11 case no. 09-75484-reg). I do not believe that the simultaneous representation of the three debtors will result in any conflict of interest on the part of W&Z Firm in the services to be rendered to each of the Debtors by my Firm.

4. During the pendency of this case, my Firm will not represent any other entity in connection with this case, except as set forth above.

5. I swear that:

-I am the accountant who will bear primary responsibility for the representation which is sought herein;


- I have read and am generally familiar with Operating Guidelines promulgated by the Office of the United States Trustee.

- I believe that my Firm and I are competent and qualified to represent the debtor in connection with this case.

6. My Firm shall act in this case under a general retainer due to the extent of the accounting services required. I understand that My Firm's compensation and reimbursement herein shall be in accordance with the terms set forth in the Application and in this Affidavit and pursuant to 11 U.S.C. Sections 330 and 331. I presently estimate that my Firm's fee for its work in this case shall be approximately \$1,000.00 per month, with an additional \$1,500.00 at years end for closing and tax returns.


VINCENT J. PRETO, CPA

Sworn to before me this
23 day of September, 2009


Notary Public

CAROLANN MAISANO
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01MA6187134
QUALIFIED IN SUFFOLK COUNTY
COMMISSION EXPIRES 05-12-2012

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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ORDER

UPON the annexed application dated September 24, 2009 (the "Application") of SUFFOLK READY MIX, LLC, the above-named chapter 11 debtor in possession (the "Debtor"), seeking an Order under 11 U.S.C. Sections 327(a) and 328 and Local Rule 2014-1 of this Court, authorizing the Debtor to retain and employ Wagner & Zwerman, LLP, 450 Wireless Blvd., Hauppauge, NY 11788, phone no: 631-777-1000, Fax No: 631-777-1008 (the "W&Z Firm") as its accountant herein effective as of the filing date of the Debtor's bankruptcy case herein for the reasons set forth in the Application; and

UPON the affidavit duly sworn to on September 23, 2009 by Vincent J. Preto, CPA, a partner in the W&Z Firm, which is annexed to the Application at Exhibit "A"; and

NO ADVANCE notice of or hearing on the Application being required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or the Local Rules of this Court; and no adverse interest having been represented; and after due deliberation, it appearing to the satisfaction of this Court that; (a) the Debtor's retention and employment of the W&Z Firm as of the filing date of its chapter 11 petition herein is in the interests of the Debtor and its creditors and the Estate, (b) the W&Z Firm is a disinterested person within the meaning of that term in 11 U.S.C. Section 101, and (c) the W&Z Firm does not hold or represent any interest adverse to the

Debtor or to the creditors or the Estate herein with respect to the matters upon which it is to be engaged; it is hereby

ORDERED, under 11 U.S.C. Sections 327(a) and 328 and Local Rule 2014-1 of this Court:

1. The Debtor is authorized to employ and retain the W&Z Firm as it's accountant of record herein as of the filing date of its chapter 11 petition under a general retainer.

2. The W&Z Firm's compensation and reimbursement in connection with its services as accountant for the Debtor shall be subject to approval of this Court, after notice and a hearing, under 11 U.S.C. Sections 330 and/or 331; Federal Rules of Bankruptcy Procedure 2002, 2016, and 2017; the applicable Local Rules and Orders of this Court.

Dated: Central Islip, New York
October ____, 2009

United States Bankruptcy Judge

NO OBJECTION:

Office of the U.S. Trustee