

IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF ARKANSAS

IN THE MATTER OF:	§	
	§	CASE NO. 4:08-BK-17646
	§	JOINTLY ADMINISTERED
EQUITY MEDIA HOLDINGS CORPORATION, <u>et al.</u>	§	
	§	CHAPTER 11
	§	
DEBTORS.	§	

**INTERIM STIPULATION AND AGREED ORDER (I) RESOLVING SILVER POINT'S MOTION TO CONVERT CASE TO CHAPTER 7, (II) AUTHORIZING APPOINTMENT OF CHIEF RESTRUCTURING OFFICER PURSUANT TO 11 U.S.C §§ 105, 363 AND 1107, (III) ALLOWING LIMITED USE OF CASH COLLATERAL PURSUANT TO 11 U.S.C § 363 AND (IV) PROVIDING SECURED LENDERS ADEQUATE PROTECTION PURSUANT TO 11 U.S.C. §§ 361 AND 363**

This interim stipulation and consent order (the "Stipulation") is entered into by and between (i) Equity Media Holdings Corp. ("EMHC") and its affiliated and subsidiary debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Subsidiary Debtors" and, together with EMHC, the "Debtors"), on the one hand, and (ii) Silver Point Finance, LLC ("Silver Point" and, together with the Debtors, the "Parties"), in its capacity as the Administrative Agent and Collateral Agent under that certain Third Amended and Restated Credit Agreement, dated as of February 13, 2008 (as amended and supplemented from time to time, the "Credit Agreement"), by and among EMHC and the other Debtor signatories thereto, as borrowers (the "Borrower Debtors"),<sup>1</sup> Silver Point, as Administrative Agent and Collateral Agent, and the lenders party thereto from time to time (together with Silver Point, the "Secured Lenders").

<sup>1</sup> The Borrower Debtors consist of all of the Debtors other than H&H Properties Limited Partnership, Montana Broadcasting Group, Inc., Montana License Sub, Inc., and Equity Broadcasting Corporation (collectively, the "Non-Borrower Debtors").

RECITALS

WHEREAS, on December 8, 2008, EMHC filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “Bankruptcy Code”) in the United States Bankruptcy Court for the Eastern District of Arkansas (the “Bankruptcy Court”), and on December 16, 2008, the Subsidiary Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court; and

WHEREAS, on December 9, 2008, Silver Point filed the Emergency Motion for Order, Pursuant to 11 U.S.C. § 1112(b), Converting this Case to Chapter 7 or Dismissing this Case or, Alternatively, Pursuant to 11 U.S.C. § 362(d), Lifting Automatic Stay To Permit Exercise of Remedies, or, in Further Alternative, Pursuant to 11 U.S.C. §1104(a), Appointing Chapter 11 Trustee (the “Conversion Motion”) [Docket No. 14] and on December 19, 2008, Silver Point filed the Conversion Motion in each of the Subsidiary Debtors’ cases; and

WHEREAS, on December 10, 2008, EMHC filed the Emergency Motion of Debtor for Order Authorizing (I) Payment of (A) Prepetition Employee Wages, Salaries and Related Items; (B) Prepetition Employee Business Expenses; (C) Prepetition Contributions to and Benefits Under Employee Benefit Plans; and (D) All Costs and Expenses Incident to the Foregoing Payments and Contributions, and (II) Use of Cash Collateral, if any, To Pay Such Obligations (the “Employee Wage Motion”) [Docket No. 24]; and

WHEREAS, on December 12, 2008, the Bankruptcy Court entered an emergency Order authorizing use of certain Cash Collateral (as defined below) pursuant to the terms of the Employee Wage Motion (the “Employee Wage Order”) [Docket No. 41]; and

WHEREAS, on December 15, 2008, EMHC objected to the Conversion Motion;  
and

WHEREAS, a hearing on the Conversion Motion and Silver Point's request for adequate protection in connection with the Employee Wage Motion was scheduled before this Court for December 16, 2008, and then adjourned due to inclement weather to December 22, 2008; and

WHEREAS, prior to the Petition Date, Silver Point tendered term sheets with respect to potential debtor-in-possession financing for the Debtors' chapter 11 cases, and the Debtors believe that they likely will need debtor-in-possession financing; and

WHEREAS, Silver Point and the Debtors desire to have discussions regarding potential debtor-in-possession financing and to facilitate the exchange of information necessary to enable Silver Point to conduct its due diligence in connection with a potential offer for debtor-in-possession financing, and

WHEREAS, the Parties have agreed to resolve the Conversion Motion and Silver Point's request for adequate protection in connection with the Employee Wage Motion and to provide for the additional use of Cash Collateral (as defined below), in each case, as provided herein; and

WHEREAS, the Board (as defined below) has determined that entry into this Stipulation is in the best interests of the Debtors, the Debtors' estates and all parties in interest; and

WHEREAS, the relief granted herein is appropriate and authorized under the Bankruptcy Code (including, without limitation, sections 105, 361, 363 and 1107 thereof); and

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth in this Stipulation, in an effort to avoid unnecessary expenses and litigation, and with

the intent to be legally bound, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed between the Parties as follows:

**AGREEMENT**

**THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

A. **Jurisdiction and Venue.** This Court has jurisdiction over these proceedings, pursuant to 28 U.S.C. §§ 157(b) and 1334, and over the persons and property affected hereby. Consideration of the Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2). Venue for these cases and proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

B. **Committee Formation.** A statutory committee of unsecured creditors has not yet been appointed in the above-captioned cases.

C. **Notice.** Due to (i) the interim nature of the relief granted herein (except as set forth herein), (ii) the opportunity for any party in interest to object prior to the Final Hearing (as ~~that term is defined below~~) on January 23, 2009 to this Stipulation, and (iii) Debtors' counsel's representations that this Stipulation will be served on all known creditors of each of the Debtors, the United States Trustee, and any other party directed by the Court, and in order to prevent immediate and irreparable harm to the Debtors' estates, the Court finds that due and sufficient notice of this proposed Stipulation has been provided to warrant entry of this Stipulation on an interim basis.

D. **Pre-Petition Secured Facility.** The Borrower Debtors are party to the Credit Agreement. Pursuant to separate Third Amended and Restated Pledge and Security Agreements (as each may be amended, restated, or supplemented, the "Pledge Agreements") and together with any and all other security agreements, pledge agreements, mortgages, fixture filings, transmitting

utility filings, deeds of trust, financing statements, assignments, account control agreements, or other security documents, the "Collateral Documents") dated as of February 13, 2008 by and between each of the Borrower Debtors and Wells Fargo Foothill, Inc. ("Wells Fargo") as Collateral Agent, the Credit Agreement was secured by a first lien on the Collateral (as that term is defined in the Collateral Documents), which includes all or substantially all of the Borrower Debtors' assets (for purposes of this Stipulation, the Collateral is referred to hereafter as the "Existing Collateral") including all of its accounts, bank deposits, deposit accounts, checking accounts, certificates of deposit, cash, money, accounts receivable and rights to receive payment of money as well as any other "cash collateral" as such term is defined under section 363(a) of the Bankruptcy Code (collectively, the "Cash Collateral"). Silver Point subsequently succeeded Wells Fargo as Collateral Agent.

E. **Liens**. Subject to Paragraph 12, the liens and security interests granted to Silver Point for the benefit of the Secured Lenders (the "Prepetition Liens") pursuant to the Collateral Documents are (i) valid, binding, properly perfected, enforceable, first priority liens on and security interests in the Existing Collateral, and (ii) not subject to avoidance, setoff, counterclaim, disallowance, recharacterization or subordination (whether contractual, equitable or otherwise, or other challenge) pursuant to the Bankruptcy Code or applicable nonbankruptcy law.

F. **Adequate Protection for Secured Lenders**. As a result of the use of Cash Collateral authorized herein and as previously authorized in the Employee Wage Motion (such Cash Collateral, the "Consented Cash Collateral"), the Secured Lenders are entitled to receive adequate protection pursuant to sections 361, and 363 of the Bankruptcy Code for any decrease in the value of their respective interest in the Existing Collateral resulting from the Borrower

Debtors' use of the Consented Cash Collateral. As adequate protection, the Collateral Agent (for the benefit of the Secured Lenders) will receive, solely to the extent of the diminution in value of the Existing Collateral, the Adequate Protection Liens and the Superpriority Claims (each as defined below).

G. **Entry of Stipulation and Agreed Order.** The Parties have requested immediate entry of this Stipulation pursuant to Sections 105(a), 363(b)(1) and 363(c)(2) of the Bankruptcy Code and rules 4001(b), 6004 and 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

**NOW, THEREFORE, IT IS ORDERED** that:

1. **Disposition.** Except as set forth herein, the relief granted herein shall be on an interim basis, and any objections thereto that have not previously been withdrawn are hereby overruled. This order is valid immediately and is fully effective upon its entry.

2. **Appointment of CRO.** On the Effective Date hereof, Kim D. Kelly is appointed as Chief Restructuring Officer of each of the Debtors (the "CRO"), which retention is hereby authorized pursuant to sections 105(a), 363 and 1107(a) of the Bankruptcy Code. The CRO shall be paid a monthly compensation of \$30,000, in arrears (the "Salary"), plus reasonable expenses and such additional compensation provided for under the terms of the engagement letter (if any) with the CRO (the "Success Fee"); provided, however that the Success Fee shall be payable only upon further order of the Court, upon notice and a hearing.

3. **Scope of CRO's Authority.** The CRO shall have sole authority and control over all of the affairs and operations of each of the Debtors or their subsidiaries and affiliates (including, without limitation, all sales of the assets of each of the Debtors or their subsidiaries and affiliates) and, pursuant to section 1107(a) of the Bankruptcy Code, shall have all of the

powers, rights and duties vested or ascribed to the Boards of Directors of the Debtors (collectively referred to hereinafter as the "Board"), and the CRO shall have sole authority to exercise such powers and rights in a manner consistent with the fiduciary duties owed by a debtor-in-possession or a chapter 11 trustee and shall be deemed a fiduciary as if the CRO were the Board or a chapter 11 trustee. The CRO shall not be required to request or seek any approval from the Board before taking any action (or omission) with respect to any of the Debtors or their subsidiaries and affiliates. Without limiting the foregoing, the CRO shall have sole authority to direct the Debtors to:

- (a) take any action in the above-captioned cases or in any other proceeding before any court or tribunal or otherwise (including, without limitation, making appearances, filing pleadings or being heard by this Court, any other court or otherwise);
  - (b) hire and terminate employees, agents, representatives, officers, brokers, accountants and legal or financial advisers, consultants or other such persons or entities;
  - (c) move the Court upon notice and a hearing to convert some or all of these cases to cases under chapter 7 of the Bankruptcy Code; and
- 
- (d) take any and all stockholder actions needed to replace the Boards of Directors and management of any of the Debtors' subsidiaries and affiliates in the CRO's discretion and is hereby authorized to take such action.

4. **Termination of CRO.** The CRO shall not be terminated except "for cause" in accordance with section 1104(a)(1) of the Bankruptcy Code including, without limitation, failure to take reasonable efforts to maintain officer and director liability insurance ("D&O Insurance"), as follows:

The Board of Directors of EMHC shall be authorized to terminate the CRO by providing a written notice to all parties in interest (a "CRO Termination Notice") setting forth the basis in detail for such termination including a description of all facts relied upon by the Board of Directors of EMHC in support of such termination.

5. **Limitations on Board Powers.** Except as set forth expressly in paragraph 4 of this Stipulation, pursuant to section 1107(a) of the Bankruptcy Code, the Board shall not have any power or rights with respect to the Debtors or their subsidiaries or affiliates or with respect to the CRO and shall have no ability to control or direct the affairs of the Debtors or their subsidiaries or affiliates.

6. **Use of Cash Collateral.** Pursuant to the terms and conditions of this Stipulation, the Borrower Debtors are authorized to use the Consented Cash Collateral of the Secured Lenders commencing upon the Effective Date until 5:00 p.m. (central time) on the date that is 14 days from the Effective Date (i.e., through 5:00 p.m. (central time) on January 5, 2009) (such date, the "Termination Date"), which period may be extended by the Secured Lenders in writing in their sole discretion; provided, however, that the Non-Borrower Debtors are prohibited from utilizing (or receiving from any Borrower Debtor) the Consented Cash Collateral or the proceeds, products, offspring, or profits thereof. The Borrower Debtors' authorization to use Cash Collateral under this paragraph shall be in an aggregate amount equal to (A) the \$311,473.68 of Cash Collateral (the "Initial Cash Collateral") that the Court authorized EMHC to use for the purpose of paying the payroll due on December 12, 2008 by the Employee Wages Order, with the terms of this Stipulation applying to the Initial Cash Collateral as if EMHC's use of such Cash Collateral was authorized hereunder, (B) an additional \$500,000 of Cash Collateral, and (C) any other Cash Collateral authorized by the Secured Lenders in writing in their sole discretion. Notwithstanding the foregoing or anything else contained in this Stipulation, nothing contained herein shall prevent the Borrower Debtors from seeking additional relief from the Court regarding the use of Cash Collateral; provided, however, that in advance of seeking any such additional relief from the Court, the Debtors shall (i) discuss in good faith with the Secured

Lenders any such requested relief and (ii) provide the Secured Lenders three (3) business days' notice before making any such request of the Court.

7. **Grant of Adequate Protection.** As adequate protection for the interest of the Secured Lenders in the Existing Collateral on account of the Borrower Debtors' use of Consented Cash Collateral, the Secured Lenders shall receive adequate protection as follows:

(a) **Adequate Protection Liens.** Solely to the extent of the diminution of the value of the interest of the Secured Lenders in the Existing Collateral, the Secured Lenders are hereby granted, subject to the terms and conditions set forth below, pursuant to sections 361 and 363(e) of the Bankruptcy Code additional and replacement security interests and liens (the "**Adequate Protection Liens**") in the Existing Collateral and the Borrower Debtors' now owned or after-acquired real and personal property, assets and rights, of any kind or nature, wherever located (other than all causes of action arising under chapter 5 of the Bankruptcy Code (the "**Avoidance Claims**")), and the proceeds, products, rents and profits thereof, which Adequate Protection Liens shall be subject only to (i) the valid and properly perfected liens of any prepetition secured creditor that are superior to those of the Secured Lenders, and (ii) the Carve-Out (defined below). It is the purpose and intent of this Stipulation to provide the Secured Lenders with the Adequate Protection Liens solely to the extent that the Secured Lenders held valid liens as of the Petition Date, so that their interests therein will not be diminished by the use of Consented Cash Collateral.

(b) **Superpriority Claims.** Solely to the extent of the diminution of the value of the interest of the Secured Lenders in the Existing Collateral, the Secured Lenders shall have allowed superpriority administrative expense claims (the "**Superpriority Claims**") which shall have priority in any case (whether under chapter 11 or chapter 7) over all administrative expense claims and unsecured claims against the Borrower Debtors and their estates, now existing or hereafter arising, of any kind or nature whatsoever; which Superpriority Claims shall be subject to the Carve-Out (defined below).

; provided, however, that the adequate protection provided to the Secured Lenders in this Stipulation applies solely with respect to the authorized use of Cash Collateral provided for hereunder and not with respect to any subsequent or additional usage of Cash Collateral that may be authorized by the Secured Lenders in their sole discretion at a later date and the Secured

Lenders reserve all rights with respect to any such subsequent authorization of the usage of Cash Collateral including, without limitation, the right to seek to deny additional usage of Cash Collateral. Notwithstanding anything to the contrary herein, the adequate protection provided the Secured Lenders hereunder with respect to any Cash Collateral actually used by the Debtors prior to the Final Hearing shall be final as of the date of the Debtors' usage thereof and the Court shall not re-consider thereafter, including, without limitation, at the Final Hearing, the grant of adequate protection provided hereunder with respect to such Cash Collateral.

8. **Adequate Protection Lien Perfection.** This Stipulation shall be sufficient and conclusive evidence of the validity, perfection, and priority of the Adequate Protection Liens without the necessity of filing or recording any financing statement, deed of trust, mortgage, or other instrument or document which may otherwise be required under the law of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement) to validate or perfect the Adequate Protection Liens or to entitle the Secured Lenders to the priorities granted herein.

9. **Access to Debtors.** The CRO and the Debtors shall reasonably permit representatives, agents and employees of the Secured Lenders access to inspect books and records, conduct diligence and keep apprised of the status of any asset sales and to reasonably consult with the CRO, in each case with respect to the Debtors and their subsidiaries and affiliates and their operations.

10. **Limitation on Charging Against Existing Collateral.** Except to the extent of the Carve Out (defined below), no expenses of administration of this case (or of any subsequent case under chapter 7) or any future proceeding that may result therefrom shall be charged against or otherwise recovered or payable from the Existing Collateral or any property covered by the

Adequate Protection Liens (including sale proceeds or other proceeds, products, offspring, or profits of the Existing Collateral or any property covered by the Adequate Protection Liens) or pursuant to any provision of the Bankruptcy Code or any similar principle of law or otherwise, without the express prior written consent of the Secured Lenders, and no such consent shall be implied from any other action, inaction, or acquiescence by the Secured Lenders. "Carve Out" shall mean (i) amounts payable pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Bankruptcy Court (the "UST/Clerk's Fees"); and (ii) \$150,000 in aggregate for fees and expenses for professional services rendered to the Debtors by (i) Neligan Foley LLP, or such other national law firm serving as general bankruptcy counsel to the Debtors, and (ii) The Dowden Law Firm, or such other local Arkansas law firm serving as local counsel to the Debtors, but solely to the extent that such firm(s) are retained pursuant to section 327 of the Bankruptcy Code and such fees and expenses are allowed by one or more applicable orders of the Bankruptcy Court pursuant to sections 330 or 331 of the Bankruptcy Code.

11. Limitation on Use of Proceeds of Existing Collateral. Notwithstanding anything herein or in any other order of this Court to the contrary, no funds borrowed under the Credit Agreement nor Existing Collateral (including Cash Collateral) nor any proceeds, products, offspring, or profits resulting from the disposition of any property covered by the Adequate Protection Liens may be used by any party in interest to (a) object, contest or raise any defense to, the validity, perfection, priority, extent or enforceability of any amount due under the Credit Agreement or the Collateral Documents, or the liens or claims granted under this Stipulation, the Credit Agreements or the Collateral Documents or with respect to any stipulations set forth herein, (b) assert any causes of action against the Secured Lenders or their respective agents, members, partners, affiliates, subsidiaries, directors, officers, representatives, employees,

attorneys or advisors, (c) prevent, hinder or otherwise delay the Secured Lender's rights to enforce or realize on the Existing Collateral, (d) seek to modify or terminate any of the rights granted to the Secured Lenders hereunder or under the Credit Agreement or the Collateral Documents, or (e) pay any amount on account of any claims arising prior to the Petition Date unless such payments are approved by an Order of this Court and consented to by the Secured Lenders.

12. **Effect of Stipulations on Third Parties.** Notwithstanding anything herein to the contrary, for a period expiring on the date that is thirty (30) days from the date of service (as reflected in the certificate of service) of this order (the "Investigation Termination Date"), any party in interest with standing to challenge the Secured Lenders' liens, security interests or claims (other than the Debtors or their affiliates or subsidiaries or the Board or equity holders) shall be entitled to investigate the validity, perfection and enforceability of the Secured Lenders' liens and security interests and the obligations arising under the Credit Agreement and the Collateral Documents. If such party in interest determines by the Investigation Termination Date that there may be a challenge to the liens, security interests or claims of the Secured Lenders and such party in interest has standing to do so, such party shall have only until the Investigation Termination Date to file a motion with the Bankruptcy Court setting forth the basis of any such challenge. If such motion is not filed on or before the Investigation Termination Date (or such other later date as extended by the written consent of the Secured Lenders in their sole discretion or as extended by the Court upon a showing of cause), the stipulations contained in paragraphs D and E of this Stipulation shall be irrevocably binding on all parties in interest in this case without further action by any party or this Court; provided further that any provisions of paragraphs D and E of this Stipulation which are not specifically challenged in any such motion shall

nonetheless be irrevocably binding and preclusive on all other parties despite the pendency of a challenge to the other stipulations. During the period from the filing of a motion to the liens, security interests or claims of the Secured Lenders by any such party in interest through and until the entry of a final, non-appealable order in favor of such party sustaining its challenge in such timely filed motion, the stipulations of the Debtors provided herein, and the relief afforded the Secured Lenders herein, shall continue to be binding and effective. Except as expressly set forth above, the stipulations set forth in paragraphs D and E shall be immediately permanently and irrevocably binding upon all parties in interest (including the Debtors and their affiliates and subsidiaries, the Board and equity holders); provided, however, that such stipulations shall not bind any chapter 11 or chapter 7 trustee appointed in the Debtors' cases. Upon request in writing to counsel for the Secured Lenders (which may be at the email addresses set forth below), the Secured Lenders will provide copies of the loan documentation to such requesting party.

13. **Events of Default.** The failure of the Debtors or the Board to comply with any term of this Stipulation shall, after written notice by the Secured Lenders and three (3) days to cure without doing so, immediately terminate the Borrower Debtors' right to use Consented Cash Collateral pursuant to the terms of this Order; provided, further, however, and notwithstanding anything to the contrary herein, any termination of the CRO (whether with cause or without cause), shall, upon written notice by the Secured Lenders, immediately terminate the Borrower Debtors' right to use Cash Collateral pursuant to the terms of this Order.

14. **Enforceability.** This Stipulation shall constitute findings of fact and conclusions of law pursuant to the Bankruptcy Rule 7052.

15. **Waiver of the Ten (10) Day Stay Under Bankruptcy Rule 6004(h)**. The ten (10) day stay provisions of Bankruptcy Rule 6004(h) are waived and shall not apply to this Stipulation.

16. **Binding Nature**. This Stipulation (a) shall inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns and (b) shall be binding upon and enforceable against the Parties and their respective successors and assigns.

17. **Authority**. The Parties hereto represent and warrant to each other that: (a) the signatories to this Stipulation are authorized to execute this Stipulation; (b) each has full power and authority to enter into this Stipulation; and (c) this Stipulation is duly executed and delivered, and constitutes a valid and binding agreement in accordance with its terms. The Parties further represent and agree that they have each had the opportunity to consult with their respective attorneys regarding this Stipulation, including, but not limited to, the opportunity for counsel to review this Stipulation. The Parties represent and agree that they have each carefully read and each fully understands all the provisions of this Stipulation and that the Stipulation is entered into voluntarily. The Parties additionally represent and agree that the terms and provisions of this Stipulation are the product of arm's-length negotiation and equal input by all Parties such that they shall not be construed against any party as the drafter of the Stipulation.

18. **Effective Date**. This Stipulation may be executed in one or more counterparts and by facsimile, all of which shall be considered one and the same agreement, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to all Parties, and the Bankruptcy Court has "so ordered" this Stipulation and entered it on the docket of the Bankruptcy Court (the "**Effective Date**").

19. **Entire Agreement.** This Stipulation constitutes the entire agreement between the Parties hereto and supersedes all prior agreements and understandings, written and oral, between the Parties with respect to the subject matter hereof. All representations, warranties, promises, inducements or statements of intention made by the Parties hereto are embodied in this Stipulation, and no Party hereto shall be bound by, or liable for, any alleged representation, warranty, inducement or statement of intention that is not expressly embodied herein. The Parties represent and warrant that this Stipulation discloses all of the terms of the Parties' agreement with respect to the subject matter hereof.

20. **Bankruptcy Court Approval.** This Stipulation is expressly subject to and contingent upon its approval by the Bankruptcy Court.

21. **Retention of Jurisdiction.** The Bankruptcy Court shall retain exclusive jurisdiction to interpret, implement and enforce the provisions of this Stipulation and the Parties hereby consent to exclusive jurisdiction of the Bankruptcy Court with respect thereto. The Parties waive arguments of lack of personal jurisdiction or forum non-conveniens with respect to the Bankruptcy Court.

22. **Non-Severability.** The provisions of this Stipulation are mutually interdependent, indivisible and non-severable.

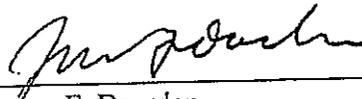
23. **Governing Law.** This Stipulation shall be governed by, and construed in accordance with, the Bankruptcy Code and the laws of the State of Arkansas, without regard to any principles of choice of law thereof which would require the application of the law of any other jurisdiction.

24. **Headings.** The descriptive headings of the several sections of this Stipulation are inserted for convenience of reference only and do not constitute a part of this Stipulation.

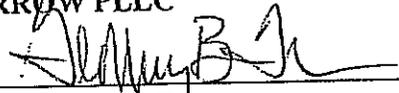
25. **Final Hearing**. Objections, if any, to this Stipulation must be filed in writing and served on undersigned counsel for the Debtors and Secured Lenders on January 23, 2009 prior to the Final Hearing (as that term is defined below). A final hearing with respect to this Stipulation is scheduled for January 23, 2009, at 10:00 a.m. (central time) (the "Final Hearing") in the courtroom of the Honorable James G. Mixon, United States Bankruptcy Courthouse, 300 W. 2<sup>nd</sup> Street, Room 310, Little Rock, Arkansas.

IN WITNESS WHEREOF, the Parties have executed this Stipulation on December 22, 2008.

**THE DOWDEN LAW FIRM**

By:   
James F. Dowden  
212 Center Street, Tenth Floor  
Little Rock, Arkansas 72201  
501-324-4700  
Facsimile 501-374-5463  
JFDowden@swbell.net

**QUATTLEBAUM, GROOMS, TULL &  
BURROW PLLC**

By:   
Geoffrey B. Treece  
111 Center Street, Suite 1900  
Little Rock, Arkansas 72201  
(501) 379-1735 (Telephone)  
(501) 379-1701 (Facsimile)  
gtreece@qgtb.com

- and -

- and -

**NELIGAN FOLEY LLP**

Patrick J. Neligan, Jr.  
Texas State Bar No. 14866000  
pneligan@neliganlaw.com  
James P. Muenker  
Texas State Bar No. 24002659  
jmuenker@neliganlaw.com  
325 N. St. Paul, Suite 3600  
Dallas, Texas 75201  
Telephone: (214) 840-5300  
Facsimile: (214) 840-5301

**MILBANK, TWEED, HADLEY & McCLOY LLP**

David S. Cohen  
Abhilash M. Raval  
Aaron Renenger  
Peter K. Newman  
1 Chase Manhattan Plaza  
New York, New York 10005-1413  
(212) 530-5000 (Telephone)  
(212) 530-5219 (Facsimile)  
dcohen@milbank.com  
araval@milbank.com  
arenenger@milbank.com  
pnewman@milbank.com

**Counsel for Debtors**

**Counsel for Silver Point Finance, LLC**

SO ORDERED by the Bankruptcy Court this \_\_\_\_\_ day of December, 2008.

  
The Honorable United States Bankruptcy Judge

12/22/08