

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
(Baltimore Division)**

In re	*	Case No. 05-____ () through
	*	05-____ ()
The Boyds Collection, Ltd., et al.¹	*	
Debtors.	*	Chapter 11
	*	(Jointly Administered under
	*	Case No. 05-____ ())
	*	

* * * * *

REQUEST FOR DESIGNATION AS COMPLEX CHAPTER 11 BANKRUPTCY CASES

The Boyds Collection, Ltd., *et al.*, the debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors”), by counsel, file this Request for Designation as Complex Chapter 11 Bankruptcy Cases (the “Motion”), and in support thereof state:²

- (i) There is a need for emergency consideration of “first day” motions regarding, among other things, joint administration, use of cash collateral, restrictions on transfers of certain claims against or equity interests in the Debtors, cash management, employee benefits, and utilities;
- (ii) As of June 30, 2005, the Debtors’ consolidated books and records reflected liabilities totaling approximately \$101.7 million;
- (iii) As of June 30, 2005, the Debtors’ consolidated books and records reflected assets totaling approximately \$66.9 million;
- (iv) The Debtors have approximately 1,000 actual and potential creditors;
- (v) The lead Debtor, The Boyds Collection, Ltd., is a publicly traded company; and
- (vi) There is a need for simplification of noticing and hearing procedures to reduce delays and expense.

¹ The Debtors in the proposed jointly administered cases include: The Boyds Collection, Ltd.; The Boyds Collection, Ltd., LP; Boyds Operations Inc.; The Boyds Collection - Pigeon Forge, LLC; The Boyds Collection - Myrtle Beach, LLC; The Boyds Collection - Branson, LLC; J&T Designs and Imaginations, Inc.; HC Accents & Associates, Inc.; and Boyds Bear and Company, LP.

² The facts and circumstances supporting this Motion are set forth in the Affidavit of Jan L. Murley in Support of First Day Motions filed contemporaneously herewith.

1. Attached hereto as Exhibit A is a draft complex case order that the Debtors request that the Court enter in these cases. Attached hereto as Exhibit B is a blacklined version of Form CCP-2, showing the modifications to the form of the complex case order that the Debtors propose are appropriate in these cases. The Debtors have conferred with the office of the United States trustee regarding the proposed changes and believe the changes will help facilitate the administration of these cases. Additionally, the Debtors note that the changes requested are substantially similar to the modifications approved by the United States Bankruptcy Court for the District of Maryland in In re Nat'l Energy & Gas Transmission, Inc., Case No. 03-30459 (PM) (July 9, 2003) and In re MCSi, Inc., Case No. 03-80169 (JFS) (June 4, 2003).

Memorandum of Law

2. This Motion includes citations to the applicable authorities and a discussion of their application to this Motion. Accordingly, the Debtors respectfully submit that such citations and discussion satisfy the requirement that the Debtors submit a separate memorandum of law in support of this Motion pursuant to Rule 9013-2 of the Local Bankruptcy Rules for the District of Maryland.

Notice

3. Notice of this Request has been given to (a) the office of the United States trustee; (b) counsel to the Agent to the Debtors' Pre-Petition Lenders; (c) counsel for the indenture trustee for the Debtors' 9% Senior Subordinated Notes due 2008; and (d) each of the Debtors' top twenty (20) unsecured creditors.

No Prior Request

4. No prior motion for the relief requested herein has been made to this or any other court.

Conclusion

WHEREFORE, the Debtors respectfully request entry of an order substantially in the form attached hereto as Exhibit A granting the relief requested by this Motion and such other and further relief as is just and proper.

Washington, D.C.
Dated: October 16, 2005

Respectfully submitted,

SWIDLER BERLIN LLP

/s/ Monique D. Almy
Monique D. Almy (Bar No. 04479)
Kimberly E. Neureiter (Bar No. 27167)
The Washington Harbour
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Phone: (202) 424-7500
Fax: (202) 424-7643
mdalmy@swidlaw.com
keneureiter@swidlaw.com

-and-

KIRKLAND & ELLIS LLP
Richard M. Cieri (NY RM 6062)
Matthew A. Cantor (NY MC 7727)
(*Pro hac vice* admissions pending)
Citigroup Center
153 East 53rd Street
New York, New York 10022-4611
Phone: (212) 446-4800
Fax: (212) 446-4900
rcieri@kirkland.com
mcantor@kirkland.com

Proposed Counsel for the Debtors and Debtors in Possession

EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
(Baltimore Division)**

In re The Boyds Collection, Ltd., et al.¹ Debtors.	* * * * * * * *	Case No. 05-____ (____) through 05-____ (____) Chapter 11 (Jointly Administered under Case No. 05-____ (____))
* * * * * * *	* * * * *	

ORDER FOR COMPLEX CHAPTER 11 BANKRUPTCY CASES

These bankruptcy cases were filed on October 16, 2005. A Request for Designation as Complex Chapter 11 Cases was filed on October 16, 2005. After review of the initial pleadings filed in these cases, the Court concludes that these cases appear to be Complex Chapter 11 Cases and issues this scheduling order, subject to rescission, revision, or modification as provided below:

¹ The Debtors in the proposed jointly administered cases include: The Boyds Collection, Ltd.; The Boyds Collection, Ltd., LP; Boyds Operations Inc.; The Boyds Collection - Pigeon Forge, LLC; The Boyds Collection - Myrtle Beach, LLC; The Boyds Collection - Branson, LLC; J&T Designs and Imaginations, Inc.; HC Accents & Associates, Inc.; and Boyds Bear and Company, LP.

1. **Service List and Limitation on Service:** The Debtors shall maintain a service list (“Service List”), identifying the parties that must be served whenever a motion or other pleading requires notice. Upon establishment of such a list, notices of motions and other matters will be limited to the parties on the Service List.

(a) The Service List shall initially include the following:

(i) Debtors’ counsel;

(ii) The combined thirty (30) largest unsecured creditors of The Boyds Collection, Ltd. and The Boyds Collection - Pigeon Forge, LLC, together with all of the unsecured creditors of the remaining debtors, on a consolidated basis, or their respective counsel; provided, however, that once an official committee of unsecured creditors or other official committee is appointed in these cases, notice hereunder will be limited to (a) one representative of each member of such committee(s), or its respective counsel and (b) counsel to such committee(s);

(iii) The Office of the United States Trustee for the District of Maryland (Baltimore);

(iv) All secured creditors known by the Debtors to assert interests in alleged cash collateral, if any;

(v) Any party that requests notice;

(vi) Any such additional parties as the Debtors may add to such list.

The entities listed above shall comprise the “Initial Service List.” Notices of any motions or other pleadings must also be sent to any party whose rights are directly affected by the pleading. The limited notice to the parties on the Initial Service List shall apply to all motions, notices and other requests for relief, except: (a) matters specified in Federal Rules of Bankruptcy Procedure 2002(a)(1), 2002(a)(4), 2002(a)(7), 2002(b) and 2002(d); and (b) matters in which the applicable rules or orders of this Court permit service on fewer parties than those included on the Initial Service List.

(b) Any party in interest that wishes to receive notice, other than as listed on the Initial Service List, shall be added to the Service List by request filed in the case and served on the Debtors’ counsel, and any party that wishes to be removed from the Service List may do so by sending such request to Debtors’ counsel, but said request need not be filed with the Court;

(c) Parties on the Service List are encouraged to provide a facsimile number or e-mail address for service, and parties are encouraged to authorize service by facsimile or e-mail; consent to facsimile or e-mail service may

be included in the party's notice of appearance and request for service; notwithstanding consent to e-mail service, "hard copy" shall also be served by facsimile, regular mail or by overnight mail;

- (d) The Initial Service List shall be filed within three (3) days after entry of this Order. A revised list shall be filed within fifteen (15) days after the Initial Service List is filed. The Debtors shall update the Service List, and shall file in the case a copy of the updated Service List at least once a month thereafter, unless no changes to the Service List have occurred since the last time an updated Service List was filed with the Court;
- (e) Notwithstanding any provision in the Order Implementing Procedures for Complex Chapter 11 Cases entered by the Judges of this Court on July 31, 2002, the Debtors need not serve First Day Motions (as this term is defined in the July 31 order) prior to filing said motions with the Court. The Debtors shall serve notice of the filing of the First Day Motions on the parties included on the Initial Service List prior to filing said motions with the Court, which notice shall advise: (i) that copies of the First Day Motions are being served by first class mail, and (ii) that any party wishing to receive a copy of any First Day Motion by facsimile, e-mail or overnight mail may request same from Debtors' counsel, which contact information shall be provided in said notice;
- (f) Debtors shall serve hard copies of all pleadings filed within the first seven days of the commencement of these cases on the Judge assigned to these cases, directly to chambers, and on the Office of the United States Trustee for the District of Maryland.

2. **Hearing Days:** The Court hereby will, from time to time, establish dates ("Hearing Day") for considering motions and other matters in these cases, which may be noted in the docket for these cases or which the Court may publish on the Court's internet site, available at:

<http://www.mdb.uscourts.gov>

3. **Setting Hearings and Giving Notice for Matters that Do Not Require Emergency or Expedited Treatment:**

All motions and other matters requiring hearing (including motions for relief from the automatic stay, but NOT including claims objections and adversary proceedings) shall be noticed for hearing on the next Hearing Day that is at least twenty three (23) days after the notice is mailed. As a preface to each pleading filed more than three days after the entry of this order, just below the case caption, the pleading shall state in capital letters:

A HEARING WILL BE CONDUCTED ON THIS MATTER ON ____ AT ____ M.
IN COURTROOM ____ OF THE UNITED STATES BANKRUPTCY COURT FOR
THE DISTRICT OF MARYLAND, 101 W. LOMBARD STREET, BALTIMORE,

MARYLAND 21201. IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING, SPECIFICALLY STATING YOUR OBJECTION AND ALL FACTS AND LAW YOU BELIEVE SUPPORT YOUR OBJECTION. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN SEVENTEEN(17)/TWENTY(20) DAYS FROM THE DATE THIS PLEADING WAS SERVED, AS INDICATED ON THE CERTIFICATE OF SERVICE AT THE END OF THIS PLEADING. IN ADDITION TO FILING YOUR RESPONSE WITH THE CLERK, YOU MUST SERVE A COPY OF YOUR RESPONSE ON THE PERSON WHO SENT YOU THIS PLEADING AND TO THE PARTIES ON THE SERVICE LIST. ABSENT A TIMELY OBJECTION, THE COURT MAY TREAT THIS PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED WITH OR WITHOUT A HEARING.

In the alternative, a party filing a motion may include the above language in a separate notice filed with the pleading. The Court will set separate hearings for claims objections and adversary proceedings.

4. **Setting Hearings and Giving Notice of a Motion Requiring Emergency or Expedited Relief:**

If a motion requires emergency or expedited relief:

- (a) The motion shall state with specificity the reason why an emergency exists or why there is a need for expedited treatment. No separate motion for an emergency hearing is required.
- (b) Movant shall serve notice of the motion and of the hearing as set forth above, (including the language above giving notice of the hearing date and the necessity to file a response). However, the movant may choose a Hearing Day that is less than twenty three (23) days after notice is given. Movant should choose a date that allows as much time as possible for consideration and response by parties receiving the notice. The motion may be set for the next Hearing Day only if absolutely necessary. The notice shall provide that responses may be filed and served *via* facsimile by the earlier of seventeen/twenty days from service of the motion or 24 hours before the hearing.
- (c) When the motion is called for hearing on the designated Hearing Day, the Court will first consider whether expedited treatment is required, whether adequate notice has been given, and whether there has been adequate opportunity for parties to be heard. The Court may decide to hear the matter at that time or the Court may issue other scheduling orders as the Court determines to be appropriate after consideration of the nature of the emergency, the adequacy of the notice, the impact of delay, the nature of the relief sought, and such other matters as the Court may consider to be cogent.

- (d) **Extraordinary Circumstances**: In very rare circumstances, a party may need relief that cannot be delayed until the next Hearing Day. In such circumstances, the movant may, by separate motion, request a hearing to be held prior to the next Hearing Day. If the Court grants such emergency treatment, the Court will direct the requisite notice and will set a hearing date and time. When the matter is called for hearing, the Court will first consider the propriety of emergency treatment as described in subparagraph (c) above.
- (e) Parties are encouraged to authorize opposing parties to serve them by facsimile or e-mail to facilitate notice of emergency and expedited hearings. If provided, it must be used.

5. **Proposed Hearing Agenda**: Before noon on the day that is at least two (2) business days prior to each Hearing Day, Debtors' counsel shall hand deliver to the judge's chambers a Proposed Hearing Agenda and also shall file the Proposed Hearing Agenda with the clerk. Debtors' counsel shall contemporaneously provide the Proposed Hearing Agenda to counsel for the party against whom relief is requested and all parties on the Service List by facsimile, e-mail, overnight mail or hand-delivery.

- (a) The Proposed Hearing Agenda, whether or not served on parties, is merely a proposal for the convenience of the Court and counsel. It is NOT determinative of the matters to be heard on that day and is not determinative of whether there will be a settlement or continuance.
- (b) The Proposed Hearing Agenda shall include:
 - (i) The docket number and title of each matter to be scheduled for hearing on the next Hearing Day, including all related pleadings;
 - (ii) Whether the matter is contested or uncontested;
 - (iii) An estimate of the time required to hear each matter;
 - (iv) Other comments that will assist the Court in organizing its docket for the day (for example, if a request for continuance or withdrawal of the matter is expected); and
 - (v) A suggested order in which the matters should be addressed.
- (c) Before noon on the day that is at least three (3) business days prior to each Hearing Day, other parties in interest may request in writing that Debtors' counsel add matters to the Proposed Hearing Agenda. If such a request is made, the Proposed Hearing Agenda should include the matter requested or, if Debtors' counsel disagrees that the matter should be included, disclose the request and the basis for the Debtors' disagreement.

(d) On the Hearing Day, the Court may, or may not, accept the Hearing Agenda proposed by the Debtors.

6. **Participation in Some Hearings By Telephone:** Emergency and expedited hearings (and other hearings in limited circumstances) in this case may be conducted by telephone conference. Parties must request permission to participate by telephone by calling the judge's courtroom deputy at 410-962-____.
7. **Case Captions:** Complex cases usually involve hundreds of motions. To facilitate motion tracking by the Clerk, each answer, reply, objection, and order filed or provided by a party in this case should contain, in its title or first paragraph, a reference to the docket number of the pleadings to which it responds.

EXAMPLE:

Response by XYZ Bank to Debtor's Motion For Use of Cash Collateral
[This pleading responds to Docket # ____]

8. **Noticing Agent and/or Claims Agent:** Debtors' counsel shall contact the Clerk immediately to discuss the anticipated workload with respect to sending notices to parties in interest and with respect to filing proofs of claim. If the Clerk concludes that the requirements for these functions will put unacceptable burdens on the Clerk's resources, the Debtors shall forthwith propose the appointment of a claims agent or noticing agent, or the Debtors shall propose another solution acceptable to the Clerk.
9. **Administrative Fee Procedure:** After notice and a hearing, the Court may enter an administrative order establishing procedures for interim compensation and reimbursement of professionals (Form CCP-4). The form may be modified as the circumstances of the case require.
10. **Procedures for Omnibus Objection to Claims:** Where the Debtors (or other party in interest) files an Omnibus Objection to Claims, the following procedures will apply:
 - (a) The Objection shall include an alphabetical list of creditors whose claims are objected to together with a cross-reference to the claim number of each such claim. If the objection to a claim is based on more than one ground, the alphabetical list shall include a cross-reference to the location of each ground within the omnibus objection.
 - (b) If the Objection is on a non-substantive basis that is clearly apparent from the claims docket (e.g., duplicate claims, amended or suspended claims, late-filed claims), copies of the proofs of claim need not be provided to the Court.
 - (c) Where the Objection is that the proof of claim does not contain any invoices or other documents supporting the claim, a declaration to that effect (together with a hard copy of the proof of claim) shall be filed with the Court at the time the Objection is filed.

- (d) Without leave of court, no omnibus objection to claims is permitted on substantive grounds. A separate objection to each claim is required.
- (e) At least 48 hours before the hearing on an Objection based on substantive grounds, a Notice of Submission of Copies of Proofs of Claim shall be filed stating that copies of the claims together with any attachments have been delivered to chambers and that copies can be requested from the Debtors' counsel.
- (f) Any claimant may request to participate telephonically in a hearing on an Objection to proofs of claim by calling the courtroom deputy at least 24 hours prior to the scheduled hearing time. If more than one party is appearing, the Debtors' counsel shall conference all interested parties and place a call to the Court.
- (g) Where a hearing on an Objection to a claim will involve substantial time, the Court may schedule it for a separate hearing date.

11. **Debtor in Possession Bank Accounts:**

- (a) **Bank Accounts and Checks:** Where the Debtors use pre-printed checks, upon motion of the Debtors, the Court may, without notice and hearing, permit the Debtors to use their existing checks without the designation "Debtor in Possession" and use their existing bank accounts. However, once the Debtors' existing checks have been used, the Debtors shall, when reordering checks, require the designation of "Debtor in Possession" and the jointly administered case number on all such checks.
- (b) **Section 345 Waiver:** No waiver of the investment requirements of 11 U.S.C. § 345 shall be granted by the Court, except on notice with an opportunity for hearing. However, if a motion for such a waiver is filed within the first thirty (30) days of the Petition Date, the Court may grant an interim waiver until a hearing on the Debtors' motion can be held.

12. **Cash Collateral and Financing Orders:**

- (a) **Motions.** Except as provided herein, all cash collateral and financing requests under 11 U.S.C. §§ 363 and 364 shall be heard by motion filed pursuant to Federal Bankruptcy Rule 2002, 4001 and 9014 ("Financing Motions").
 - (i) **Provisions to be Highlighted.** All Financing Motions must (1) recite whether the proposed form of order and/or underlying cash collateral stipulation or loan agreement contains any provision of the type indicated below, (2) identify the location of any such provision in the proposed form of order, cash collateral stipulation and/or loan agreement, and (3) the justification for the inclusion of such provision.

