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8 Attorneys for Heller Ehrman LLP,
9 Debtor and Debtor in Possession

10 **UNITED STATES BANKRUPTCY COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 In re:
14 Heller Ehrman LLP,¹
15 Debtor.

Case No.: 08-32514

Chapter 11

**MOTION FOR ORDER EXTENDING
DEADLINE UNDER 11 U.S.C. §
365(D)(4) FOR DEBTOR TO ASSUME
OR REJECT UNEXPIRED LEASES
FOR NONRESIDENTIAL REAL
PROPERTY RELATING TO THE
DEBTOR'S CHINA OFFICES**

Date: April 24, 2009

Time: 10:00 a.m.

Place: U. S. Bankruptcy Court
235 Pine Street, 22nd Floor
San Francisco, CA

Judge: Honorable Dennis Montali

23 **TO: (I) THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY**
24 **JUDGE, (II) THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, (III) THE**
25 **OFFICE OF THE UNITED STATES TRUSTEE, (IV) THE DEBTOR'S SECURED**
26 **CREDITORS, (V) THE NON-DEBTOR PARTIES TO THE CHINA LEASES, AND (VI)**
27 **OTHER PARTIES REQUESTING NOTICE PURSUANT TO BANKRUPTCY RULE 2002:**

28 Heller Ehrman, LLP, formerly known as Heller Ehrman White & McAuliffe LLP, a
California limited liability partnership, the debtor and debtor-in-possession in the above-captioned

¹ The Debtor's address is 333 Bush Street, San Francisco, CA 94104, Federal Tax I.D. No. 94-1217308.

1 case (the “Debtor”), hereby moves this Court (the “Motion”) for entry of an Order extending the
2 deadline under § 365(d)(4) for the Debtor to assume or reject unexpired leases for nonresidential real
3 property relating to the Debtor’s offices in Beijing and Shanghai, China (the “China Leases”), which
4 are identified on the attached **Exhibit A**. This Motion is supported by the Declaration of Lynn
5 Loacker in Support of Motion to Extend Deadline under § 365(d)(4) to Assume or Reject Certain
6 Leases, together with the memorandum of points and authorities filed and served herewith, and such
7 evidence and argument as may be presented at the hearing.

8 **WHEREFORE**, the Debtor respectfully requests that the Court grant this Motion in its
9 entirety and enter the Order:

10 1. Extending the deadline under 11 U.S.C. § 365(d)(4) for the Debtor to assume or reject
11 the China Leases, pursuant to section 365(d)(4)(B) of the Bankruptcy Code, from April 27, 2009, for
12 an additional ninety (90) days, through and including July 26, 2009; and

13 2. Providing that this Court shall retain jurisdiction with respect to all matters arising
14 from or related to the implementation and interpretation of the Order.

15 Dated: April 4, 2009

PACHULSKI STANG ZIEHL & JONES LLP

16 By /s/ John D. Fiero

17 John D. Fiero
18 Kenneth H. Brown
19 Miriam P. Khatiblou
20 Teddy M. Kapur
21 Attorneys for Heller Ehrman LLP,
22 Debtor and Debtor in Possession
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EXHIBIT A

Lease	Landlord Contact
Office Lease for Beijing, China (Expires November 30, 2010)	China World Trade Center Company Limited 1 Jian Guo Men Wai Avenue 320 China World Tower 1 Beijing, China 100004 Contact: Helen Chen Fax: 86 10 65051009 E-mail: chenhanghai@cwtc.com
Office Lease for Shanghai, China (Expires November 30, 2009)	Kerry Properties Development Management (Shanghai) Co., Ltd. 1515 Nanjing Road, West Shanghai, China 200040 Contact: Ms. Carol Wei Fax: 62891116 E-mail: carolwei@kerryprops.com.cn <u>with a copy to:</u> Shanghai Xincihou Properties Co., Ltd. No. 1515 Nanjing West Rd. Shanghai Kerry Business Center, Unit 200 Shanghai, China

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8 Attorneys for Heller Ehrman LLP,
9 Debtor and Debtor in Possession

10 **UNITED STATES BANKRUPTCY COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 In re:
14 Heller Ehrman LLP,¹
15 Debtor.

Case No.: 08-32514

Chapter 11

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR ORDER EXTENDING
DEADLINE UNDER 11 U.S.C. §
365(D)(4) FOR DEBTOR TO ASSUME
OR REJECT UNEXPIRED LEASES
FOR NONRESIDENTIAL REAL
PROPERTY RELATING TO THE
DEBTOR'S CHINA OFFICES**

Date: April 24, 2009, 2009

Time: 10:00 a.m.

Place: U. S. Bankruptcy Court
235 Pine Street, 22nd Floor
San Francisco, CA

Judge: Honorable Dennis Montali

24 **I.**

25 **INTRODUCTION**

26 Prior to its chapter 11 filing, the Debtor operated several foreign offices for the practice of
27 law, including representative offices in Beijing and Shanghai, China (together, the "China Offices").
28

¹ The Debtor's address is 333 Bush Street, San Francisco, CA 94104, Federal Tax I.D. No. 94-1217308.

1 After the Debtor adopted its Plan of Dissolution in September, 2008, certain attorneys in the China
2 Offices, along with several attorneys in the Debtor’s Washington, D.C. office, moved their practices
3 to Winston & Strawn, LLP (“Winston”) effective as of November 1, 2008.

4 Because Winston did not possess licenses to operate representative offices in China, the
5 Debtor and Winston entered into an *Asset Operation and Purchase Agreement* (the “Operating
6 Agreement”). Under that agreement, among other things, Winston (i) took over operations of the
7 China Offices effective as of November 1, 2008 (using Heller’s licenses), (ii) assumed and paid
8 approximately \$250,000 in pre-November 1, 2008 liabilities of the Debtor, and made additional
9 advances of approximately \$75,000 for the Debtor to pay other expenses of the China Offices,² and
10 (iii) assumed substantially all of the ongoing and future liabilities relating to the China Offices,
11 including, without limitation, office lease payments and employee obligations, through the term of
12 the Operating Agreement.

13 Winston will cease operating the China Offices pursuant to the Operating Agreement when
14 Winston obtains licenses in its own name to operate the China Offices -- either by approval for
15 assignment of the Debtor’s licenses (which must be approved by the Ministry of Justice in Beijing
16 and the Bureau of Justice in Shanghai (collectively, the “MOJs”)), or by obtaining new licenses
17 issued by the MOJs. At such time (and subject to this Court’s approval), the Debtor will seek to
18 assume and assign to Winston various licenses, contracts and leases relating to the China Offices.
19 Winston has recently filed applications in Beijing and Shanghai, requesting that the MOJs either
20 change the name of the Debtor’s China Offices to be Winston representative offices, or alternatively,
21 issue new licenses in the name of Winston. Winston believes it will soon have MOJ approval to
22 operate the China Offices in its own name, and the Debtor will soon be filing a motion seeking Court
23 approval to assume and assign the licenses, leases and contracts relating to the China Offices to
24 Winston.

25 To accomplish the transition of the China Offices to Winston, in the Motion, the Debtor
26 seeks an extension of the deadline under section 365(d)(4) of the Bankruptcy Code for the Debtor to
27

28 ² Under the Operating Agreement, the Debtor must repay these advances to Winston, but only after all of the Debtor’s
unsecured creditors have been paid in full.

1 assume or reject the unexpired leases for nonresidential real property relating to the China Offices,³
2 pursuant to Sections 365(d)(4)(B) of the Bankruptcy Code, from April 27, 2009, for an additional
3 ninety (90) days, through and including July 26, 2009. Significantly, Winston has been performing
4 all of the Debtor's obligations under the leases since November 1, 2008, and the landlords under
5 those leases have been accepting performance from Winston during that time. The Debtor believes
6 that granting the requested relief will allow the parties to complete a smooth transition of the
7 Debtor's China Offices to Winston as contemplated under the Operating Agreement, which in turn,
8 will relieve the estate of potentially substantial liabilities (including, under the Operating Agreement
9 and China Leases) if the China Leases were deemed rejected under Section 365(d)(4) of the
10 Bankruptcy Code. For these reasons, the Debtor believes that cause exists to grant the relief
11 requested in the Motion.

12 **II.**

13 **JURISDICTION AND VENUE**

14 The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is
15 proper pursuant to 28 U.S.C. §§ 1408 and 1409. The matter is a core proceeding pursuant to 28
16 U.S.C. § 157(b)(2). The statutory predicate for the relief sought herein is Section 365 of the
17 Bankruptcy Code.⁴

18 **III.**

19 **STATEMENT OF FACTS**

20 **A. Procedural Background.**

21 On December 28, 2008 (the "Petition Date"), the Debtor filed a voluntary petition for relief
22 under Chapter 11 of the Bankruptcy Code. The Debtor has continued in possession of its property
23 and is operating and managing its business as debtor-in-possession pursuant to Sections 1107(a) and
24 1108 of the Bankruptcy Code.

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28 ³ A list of the leases (the "China Leases") is attached to the Motion as **Exhibit A**.

⁴ The Bankruptcy Code refers to title 11 of the United States Code, 11 U.S.C. §§ 101-1532.

1 On January 5, 2009, the United States Trustee for this district appointed an official
2 committee of unsecured creditors (the “Committee”). No request has been made for the appointment
3 of a trustee or examiner.

4 **B. The Debtor’s China Offices.**

5 At the time the Debtor adopted its Plan of Dissolution in September 2008, the Debtor
6 operated representative offices in Beijing and Shanghai, China. Several attorneys and other
7 employees in the China Offices supported an international trade practice, led by shareholders in the
8 Debtor’s Washington, D.C. office. After the Plan of Dissolution was adopted, most of these
9 attorneys moved their practices to Winston, and certain of the attorneys in the China Offices became
10 Winston attorneys (and their clients became Winston clients) as of November 1, 2008. *See*
11 Declaration of Lynn Loacker in Support of Motion (“Loacker Declaration”) at ¶ 3.

12 **C. Winston’s Operation of the China Offices.**

13 The Debtor and Winston entered into the Operating Agreement, among other reasons, (i) to
14 allow Winston to continue operating the China Offices until it could obtain the necessary licenses
15 from the MOJ to operate law offices in Beijing and Shanghai in Winston’s own name, and (ii) to
16 help the Debtor avoid potentially significant claims that would arise from abruptly closing the China
17 Offices and terminating its various contracts, leases and employees. The Operating Agreement
18 covers two general areas: (i) continued operation of the China Offices (and assumption of all
19 ongoing liabilities) by Winston until it obtains licenses from the MOJs, and (ii) the acquisition by
20 Winston of certain miscellaneous assets relating to the China Offices. *See* Loacker Declaration at ¶
21 4.

22 Winston has been performing the Debtor’s obligations under the China Leases since
23 approximately November 1, 2008, and the non-debtor parties to the China Leases have been
24 accepting performance from Winston. No non-debtor party to the China Leases has raised any
25 opposition to date with respect to Winston’s operation of the China Offices or performing under the
26 China Leases. *See* Loacker Declaration at ¶ 5.

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1 **D. Summary of Relief Requested.**

2 Winston is in the process of submitting its applications to the MOJs in Beijing and Shanghai
3 to obtain licenses in its own name to operate the China Offices, either by obtaining a name change of
4 the Debtor's licenses, or alternatively, by being issued new licenses from the MOJ. Winston has
5 indicated that it believes that its applications will be acted upon and approved by the applicable
6 MOJs within the next three (3) months. *See* Locker Declaration at ¶ 6.

7 As contemplated under the Operating Agreement, once Winston has received the necessary
8 approvals from the applicable MOJs, Winston wishes to take an assignment of the China Leases,
9 which Winston will require to continue operating the China Offices and servicing its clients going
10 forward. To that end, the Debtor seeks an order from this Court extending the deadline under
11 section 365(d)(4) for the Debtor to assume and assign or reject the China Leases. As set forth in the
12 Locker Declaration, Winston has indicated that it will agree to assume liability for, and to promptly
13 pay, all cure and compensation amounts required for the Debtor to assume and assign the China
14 Leases to Winston. Winston has further indicated that it will agree to indemnify, defend, and hold
15 the Debtor harmless for all such cure and compensation amounts that may be asserted or allowed
16 against the Debtor's estate. *See* Locker Declaration at ¶ 7.

17 The Debtor believes that the requested relief will help to complete a smooth transition of the
18 China Offices to Winston, while at the same time, protecting the estate from liabilities arising from
19 the China Offices or under the China Leases. Winston will continue to honor its payment and
20 indemnity obligations under the Operating Agreement, including after the term of the Operating
21 Agreement expires. Winston also has indicated that it will agree (i) to assume all liabilities arising
22 from or related to the continued operation of the China Offices after bankruptcy court approval of
23 the assignment of the China Leases (regardless of whether such liabilities arise under the China
24 Leases), and (ii) to indemnify, defend and hold the Debtor harmless for any and all liabilities or
25 losses which may be asserted against or incurred by the Debtor's estate arising from or related to the
26 continued operation of the China Offices after bankruptcy court approval of the assignment of the

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1 China Leases (regardless of which such liabilities or losses arise under the China Leases).⁵ Based on
2 the foregoing, the Debtor believes that the requested relief will provide significant protection against
3 the Debtor's estate being subject to any liabilities arising from the China Offices (including those
4 arising from the China Leases). *See* Loacker Declaration at ¶ 8.

5 **IV.**

6 **LEGAL DISCUSSION**

7 The Debtor believes that cause exists here because, among other things, it will facilitate the
8 eventual assignment of the China Leases to Winston and thereby relieve the estate of all ongoing
9 obligations under those agreements (including any rejection damages claims). The Debtor believes
10 that the China Leases have no significant value to any party other than Winston, which has been
11 operating the China Offices pursuant to the Operating Agreement since November 1, 2008. Further,
12 allowing the Debtor to complete the transition of the China Offices to Winston, as contemplated in
13 the Operating Agreement, will allow the Debtor to complete its performance under that agreement,
14 and thus, avoid potential claims by Winston if the Debtor either failed to perform under, or otherwise
15 had to reject, the Operating Agreement. For these reasons, the Debtor believes that cause exists to
16 extend the deadline for the Debtor to assume and assign the China Leases to Winston because such
17 an extension will help the Debtor avoid significant potential liabilities against the Debtor's estate.
18 *See* Loacker Declaration at ¶ 9.

19 Section 365(d)(4)(A) of the Bankruptcy Code provides that an unexpired lease of
20 nonresidential real property under which a debtor is the lessee shall be deemed rejected if the debtor
21 does not assume or reject such lease by the earlier of (i) the date that is 120 days from the order for
22 relief or (ii) the date of entry of an order confirming a plan. The Court may extend this period for 90
23 days for "cause" if the debtor moves for such an extension prior to the expiration of the initial 120-
24 day period. *See* 11 U.S.C. §365(d)(4)(B). Factors considered in determining whether to extend the
25 section 365(d)(4) time period include "[w]hether the debtor has had time to intelligently appraise its
26 financial situation and potential value of its assets in terms of the formulation of a plan; [w]hether
27

28 ⁵ Under the Operating Agreement, Winston already has the obligation to assume and indemnify the estate for all liabilities arising from the China Offices since November 1, 2008.

1 the debtor has failed or is unable to formulate a plan when it has had more than enough time to do
2 so; and [a]ny other factors bearing on whether the debtor has had a reasonable amount of time to
3 decide to assume or reject the lease.” *In re Muir Training Technologies, Inc.*, 120 B.R. 154, 158-59
4 (Bankr. S.D. Cal. 1990). Courts regularly grant extensions of time to assume or reject leases to give
5 the debtor time to take the appropriate action that is in the best interests of the estate. *See, e.g.*,
6 *Willamette Waterfront, Ltd. v. Victoria Station, Inc. (In re Victoria Station, Inc.)*, 875 F.2d 1380,
7 1381-82 (9th Cir. 1989); *In re Channel Home Ctrs., Inc.*, 989 F.2d 682, 683-84 (3d Cir. 1993);
8 *Chapman Investment Assocs. v. American Healthcare Mgmt. (In re American Healthcare Mgmt.,*
9 *Inc.)*, 900 F.2d 827, 828-29 (5th Cir. 1990). Courts also consider whether lessors will suffer
10 prejudice from the requested extension. *See In re Bon Ton Restaurant & Pastry Shop, Inc.*, 52 B.R.
11 850, 855 (Bankr. N.D. Ill. 1986) (observing that lessors who receive continuing monthly rent
12 payments generally are not prejudiced by an extension of the section 365(d)(4) deadline).

13 Here, a 90-day extension of the deadline for the Debtor to assume or reject the China Leases
14 is warranted because it will facilitate the eventual assumption and assignment of the China Leases to
15 Winston, once Winston has received the necessary approval from the MOJs, which is expected to
16 occur within the timeframe of the extension. First, each of the China Leases relates exclusively to
17 Winston’s operation of the China Offices (which has been taking place since November 1, 2008),
18 and thus, each has little to no value to any third parties. Second, assigning the China Leases to
19 Winston will relieve the Debtor and its estate of all ongoing and future obligations under those
20 agreements (including rent payments, real estate taxes and maintenance charges). On the other hand,
21 if the China Leases were deemed rejected before the Debtor can assign them to Winston in
22 compliance with Chinese law, then rejection damages and other claims would accrue against the
23 estate. Finally, assigning the China Leases to Winston will allow the Debtor to complete its
24 obligations to Winston under the Operating Agreement and complete the smooth transition of the
25 China Offices to Winston. As a result, the Debtor will avoid potential claims by Winston under the
26 Operating Agreement (including claims based on Winston’s payment of nearly \$250,000 in assumed
27 liabilities as well as potential consequential and other damage claims). Winston also agrees to
28 assume, and to indemnify, defend and hold the Debtor harmless from, any claims or liabilities that

1 could otherwise be asserted against the Debtor arising out of the ongoing operation of the China
2 Offices. The lessors under the China Leases will not be prejudiced by an extension of the deadline
3 for the Debtor to assume or reject the China Leases because the lessors have received rent from
4 Winston since November 1, 2008, and will continue to receive rent from Winston for the duration of
5 the extension. In sum, because a 90-day extension will not cost anything and will facilitate the likely
6 elimination of potentially significant claims against the estate by Winston and the non-debtor parties
7 to the China Leases, the Debtor believes that cause exists to grant the requested relief.

8 Dated: April 4, 2009

PACHULSKI STANG ZIEHL & JONES LLP

9
10 By /s/ John D. Fiero

John D. Fiero
Kenneth H. Brown
Miriam P. Khatiblou
Teddy M. Kapur
Attorneys for Heller Ehrman LLP,
Debtor and Debtor in Possession

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10 **UNITED STATES BANKRUPTCY COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
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13 In re:
14 Heller Ehrman LLP,¹
15 Debtor.

Case No.: 08-32514

Chapter 11

**DECLARATION OF LYNN LOACKER
IN SUPPORT OF MOTION FOR
ORDER EXTENDING DEADLINE
UNDER 11 U.S.C. § 365(D)(4) FOR
DEBTOR TO ASSUME OR REJECT
UNEXPIRED LEASES FOR
NONRESIDENTIAL REAL
PROPERTY RELATING TO THE
DEBTOR'S CHINA OFFICES**

Date: April 24, 2009

Time: 10:00 a.m.

Place: U. S. Bankruptcy Court
235 Pine Street, 22nd Floor
San Francisco, CA

Judge: Honorable Dennis Montali

24 I, Lynn Loacker, do hereby declare:

25 1. I am a member of the Dissolution Committee of Heller Ehrman LLP (the "Debtor")
26 and I am authorized to submit this declaration on behalf of the Debtor. Except where indicated

28 _____
¹ The Debtor's address is 333 Bush Street, San Francisco, CA 94104, Federal Tax I.D. No. 94-1217308.

1 otherwise, I have personal knowledge of the facts set forth below, and if called to testify, I would
2 testify competently thereto.

3 2. This declaration is provided in support of the *Motion for Order Extending Deadline*
4 *Under 11 U.S.C. § 365(d)(4) for Debtor to Assume or Reject Certain Unexpired Leases for*
5 *Nonresidential Real Property Relating to the Debtor's China Offices* (the "Motion") filed
6 concurrently herewith and incorporated herein by reference. Capitalized terms not otherwise defined
7 herein will have the meanings provided for such terms in the Motion or in the memorandum of
8 points and authorities filed in support of the Motion.

9 3. At the time the Debtor adopted its Plan of Dissolution in September 2008, the Debtor
10 operated representative offices in Beijing and Shanghai, China. Several attorneys and other
11 employees in the China Offices supported an international trade practice, led by shareholders in the
12 Debtor's Washington, D.C. office. After the Plan of Dissolution was adopted, most of these
13 attorneys moved their practices to Winston & Strawn, LLP ("Winston"), and certain of the attorneys
14 in the China Offices became Winston attorneys (and their clients became Winston clients) as of
15 November 1, 2008.

16 4. The Debtor and Winston entered into the Operating Agreement, among other reasons,
17 (i) to allow Winston to continue operating the China Offices until it could obtain the necessary
18 licenses from the MOJ to operate law offices in Beijing and Shanghai in Winston's own name, and
19 (ii) to help the Debtor avoid potentially significant claims that would arise from abruptly closing the
20 China Offices and terminating its various contracts, leases and employees. The Operating
21 Agreement covers two general areas: (i) continued operation of the China Offices (and assumption
22 of all ongoing liabilities) by Winston until it obtains licenses from the MOJs, and (ii) the acquisition
23 by Winston of certain miscellaneous assets relating to the China Offices.

24 5. Winston has been performing the Debtor's obligations under the China Leases since
25 approximately November 1, 2008, and the non-debtor parties to the China Leases have been
26 accepting performance from Winston. No non-debtor party to the China Leases has raised any
27 opposition to date with respect to Winston's operation of the China Offices or performing under the
28 China Leases.

1 6. Winston is in the process of submitting its applications to the MOJs in Beijing and
2 Shanghai to obtain licenses in its own name to operate the China Offices, either by obtaining a name
3 change of the Debtor's licenses, or alternatively, by being issued new licenses from the MOJ.
4 Winston has indicated that it believes that its applications will be acted upon and approved by the
5 applicable MOJs within the next three (3) months.

6 7. As contemplated under the Operating Agreement, once Winston has received the
7 necessary approvals from the applicable MOJs, Winston wishes to take an assignment of the China
8 Leases, which Winston will require to continue operating the China Offices and servicing its clients
9 going forward. To that end, the Debtor seeks an order from this Court extending the deadline under
10 section 365(d)(4) for the Debtor to assume and assign or reject the China Leases. Winston has
11 indicated that it will agree to assume liability for, and to promptly pay, all cure and compensation
12 amounts required for the Debtor to assume and assign the China Leases to Winston. Winston further
13 has indicated that it will agree to indemnify, defend, and hold the Debtor harmless for all such cure
14 and compensation amounts that may be asserted or allowed against the Debtor's estate.

15 8. The Debtor believes that the requested relief will help to complete a smooth transition
16 of the China Offices to Winston, while at the same time, protecting the estate from liabilities arising
17 from the China Offices or under the China Leases. Winston will continue to honor its payment and
18 indemnity obligations under the Operating Agreement, including after the term of the Operating
19 Agreement expires. Winston also had indicated that it will agree (i) to assume all liabilities arising
20 from or related to the continued operation of the China Offices after bankruptcy court approval of
21 the assignment of the China Leases (regardless of whether such liabilities arise under the China
22 Leases), and (ii) to indemnify, defend and hold the Debtor harmless for any and all liabilities or
23 losses which may be asserted against or incurred by the Debtor's estate arising from or related to the
24 continued operation of the China Offices after bankruptcy court approval of the assignment of the
25 China Leases (regardless of which such liabilities or losses arise under the China Leases).² Based on
26 the foregoing, the Debtor believes that the requested relief will provide significant protection against
27

28 ² Under the Operating Agreement, Winston already has the obligation to assume and indemnify the estate for all liabilities arising from the China Offices since November 1, 2008.

1 the Debtor's estate being subject to any liabilities arising from the China Offices (including those
2 arising from the China Leases).

3 9. The Debtor believes that cause exists to extend the deadline under section 365(d)(4)
4 for the Debtor to assume and assign the China Leases to Winston because, among other things, it
5 will facilitate the eventual assignment of the China Leases to Winston and thereby relieve the estate
6 of all ongoing obligations under those agreements (including any rejection damages claims). The
7 Debtor believes that the China Leases have no significant value to any party other than Winston,
8 which has been operating the China Offices pursuant to the Operating Agreement since November 1,
9 2008. Further, allowing the Debtor to complete the transition of the China Offices to Winston, as
10 contemplated in the Operating Agreement, will allow the Debtor to complete its performance under
11 that agreement, and thus, avoid potential claims by Winston if the Debtor either failed to perform
12 under, or otherwise had to reject, the Operating Agreement. For these reasons, the Debtor believes
13 that cause exists to extend the deadline for the Debtor to assume and assign the China Leases to
14 Winston because such an extension will help the Debtor avoid significant potential liabilities against
15 the Debtor's estate.

16 I declare under penalty of perjury under the laws of the United States of America that the
17 foregoing is true and correct.

18 Executed this 3rd day of April, 2009, at New York, New York.

19
20 /s/ Lynn Loacker
21 Lynn Loacker
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