

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
The SCO GROUP, INC., <u>et al.</u> , ¹)	Case No. 07-11337 (KG)
)	(Jointly Administered)
)	
Debtors.)	

**DEBTORS’ APPLICATION TO APPROVE THE RETENTION
AND EMPLOYMENT OF TANNER LC AS ACCOUNTANTS TO THE
DEBTORS NUNC PRO TUNC TO OCTOBER 2, 2007**

The SCO Group, Inc. (“SCO Group”) and SCO Operations, Inc. (“SCO Operations”), debtors-in-possession herein (collectively, the “Debtors”), submit this application (the “Application”) for entry of an order, pursuant to sections 327(a), 328 and 1107(a) of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), approving the retention and employment of Tanner LC (“Tanner”), as accountants to the Debtors *nunc pro tunc* to October 2, 2007. In support of this Application, the Debtors rely upon the declaration of Kent M. Bowman (the “Bowman Declaration”), which is attached hereto as **Exhibit A** and incorporated herein by reference, and respectfully represent as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334.

¹ The Debtors and the last four digits of each of the Debtors’ federal tax identification numbers are as follows: (a) The SCO Group, Inc., a Delaware corporation, Fed. Tax Id. #2823; and (b) SCO Operations, Inc., a Delaware corporation, Fed. Tax ID. #7393.

2. The statutory predicates for the relief sought herein are sections 327(a), 328 and 1107(a) of the Bankruptcy Code, Bankruptcy Rules 2014(a), 2016 and 5002.

Background

3. On September 14, 2007 (the “Petition Date”), the Debtors commenced these cases (the “Chapter 11 Cases”) by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

4. Parties are referred to the *Declaration of Darl C. McBride, Chief Executive Officer of the Debtors, in Support of First Day Motions* (the “McBride Declaration”) filed on the Petition Date and incorporated herein by reference for the factual background relating to the Debtors’ business and their commencement of these Chapter 11 Cases.

Relief Requested

5. By this Application, the Debtors request the Court’s approval of the retention and employment of Tanner as their accountants in these Chapter 11 cases *nunc pro tunc* to October 2, 2007 in accordance with the terms of that certain engagement letter dated October 2, 2007 (the “Agreement”), attached hereto as **Exhibit B**. Specifically, the Debtors respectfully request entry of an order pursuant to section 327(a) of the Bankruptcy Code approving Tanner to perform an audit of the Debtors’ consolidated financial statements as of and for the year ending October 31, 2007, and to assist the Debtors in reviewing their financial statements and other documents in preparation for the necessary submissions to the Securities and Exchange Commission (the “SEC”).

6. In performing these services for the Debtors, Tanner will not be assuming the role of management; Tanner’s role will be advisory only. It is understood that any decision

to implement Tanner's recommendations or to act on Tanner's advice will be solely in the Debtors' discretion.

7. The Debtors believe that Tanner is qualified to perform the services described herein and in the Bowman Declaration and that the retention of Tanner is in the best interest of the estates.

8. The professional services that Tanner will render include, but are not limited to, the following:

a. Audit of Debtors' consolidated financial statements as of and for the fiscal year ending October 31, 2007 in accordance with generally accepted accounting principles in accordance with standards established by the Public Company Accounting Oversight Board; and

b. Review of the Debtors' interim financial information included in SCO Group's 10-Q's to be filed for the fiscal quarters ending January 31, 2008, April 30, 2008 and July 31, 2008.

9. Tanner's requested compensation for audit services rendered to the Debtors will be based upon the hours actually expended by each assigned staff member at each staff member's hourly billing rate. Tanner estimates that its fees for audit services to the Debtors will approximate \$196,000. The Debtors have agreed to compensate Tanner for audit services rendered at its normal and customary hourly rates. Further, Tanner's reviews of the 10-Q's shall be billed at a fixed fee of \$22,500 per 10-Q report. All other services, as requested by the Debtors, and agreed to by Tanner, shall be billed at the normal and customary rate.

10. Tanner will also seek reimbursement for necessary expenses incurred, which shall include, but not be limited to, travel, photocopying, delivery service, postage, vendor charges and other out-of-pocket expenses incurred in providing professional services.

11. Tanner intends to apply to the Court for the allowance of compensation for professional services rendered and reimbursement of expenses incurred in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules. Tanner has agreed to accept as compensation such sums as may be allowed by the Court. Tanner understands that interim and final fee awards are subject to approval by this Court.

12. Tanner has not been paid a retainer for post-petition services. Tanner is not a prepetition creditor of the Debtors' estates.

Authority for Relief

13. A debtor-in-possession, with the Court's approval, is permitted to employ one or more accountants "that do not hold or represent and interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a).

14. To the best of the Debtors' knowledge and based upon the Bowman Declaration, Tanner is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code as modified by section 1107(b) of the Bankruptcy Code.

15. To the best of the Debtors' knowledge and based upon the Bowman Declaration, (i) Tanner does not hold or represent any interest adverse to the estates and that Tanner is "disinterested" as that term is defined in 11 U.S.C. § 101(14); and (ii) the Tanner professionals working on this matter do not have any connection with the creditors, other parties in interests or their respective attorneys, the United States Trustee of the District of Delaware or

of any known employee in the office thereof, or any United States Bankruptcy Judge of the District of Delaware.

16. Tanner has not provided, and will not provide, any professional services to any of the creditors, other parties-in-interest, or their respective attorneys or accountants with regard to any matter related to these Chapter 11 cases.

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17. Tanner will apply for compensation and reimbursement of costs, pursuant to Sections 330 and 331 of the Bankruptcy Code for services rendered and costs incurred on behalf of the Debtors consistent with the terms of the Agreement.

Notice

18. Notice of this Motion has been or will be given to the following parties or, in lieu thereof, to their counsel, if known: (i) the Office of the United States Trustee; (ii) the creditors holding the 20 largest unsecured claims against the Debtors' estates (on a consolidated basis); and (iii) any party which has filed a request for notices with this Court prior to the date of this Motion. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Debtors respectfully request that the Court enter an Order, substantially in the form attached hereto, (i) granting this Application *nunc pro tunc* to October 2, 2007, (ii) authorizing the Debtors to retain and employ Tanner as their accountant to perform the services set forth herein, and (iii) granting such other and further relief as is just and proper.

Dated: October 23, 2007

THE SCO GROUP, INC.

By: Ken R. Nielsen
Name: KEN R. NIELSEN
Title: CFO

SCO OPERATIONS, INC.

By: Ken R. Nielsen
Name: KEN R. NIELSEN