

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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In re : Chapter 11  
:   
The SCO GROUP, INC., *et al.*,<sup>1</sup> : Case No. 07-11337 (KG)  
: (Jointly Administered)  
Debtors. :   
: **Objection Deadline: 12/29/09 at 4:00 p.m.**  
----- : **Hearing Date: Only in the Event of an Objection**

**FIRST COMBINED MONTHLY FEE APPLICATION OF BLANK ROME LLP,  
COUNSEL TO THE CHAPTER 11 TRUSTEE OF THE SCO GROUP, INC., *ET AL.*,  
FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR THE  
PERIOD OF AUGUST 25, 2009 THROUGH OCTOBER 31, 2009**

*Name of Applicant:* Blank Rome LLP

*Authorized to Provide Professional Services to:* Chapter 11 Trustee of The SCO Group, Inc., *et al.*

*Date of Retention:* September 22, 2009, *nunc pro tunc* to August 25, 2009

*Period for which Compensation and Reimbursement is Sought:* August 25, 2009 through October 31, 2009

*Amount of Compensation Sought as Actual, Reasonable, and Necessary:* \$229,214.00 (80% of \$286,517.50)

*Amount of Expense Reimbursement Sought as Actual, Reasonable, and Necessary:* \$4,327.48

This is a:         Monthly         Quarterly         Final Application

No prior applications have been filed.

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<sup>1</sup> 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.

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PERIOD OF AUGUST 25, 2009 THROUGH OCTOBER 31, 2009**

This first combined monthly fee application for compensation and reimbursement of expenses (the “*Fee Application*”) is filed by Blank Rome LLP (“*Blank Rome*”) requesting payment for services rendered and reimbursement of costs expended as counsel for the Chapter 11 Trustee (the “*Trustee*”) of The SCO Group, Inc., *et al.* (the “*Debtors*”) for the period of August 25, 2009 through October 31, 2009 (the “*Consolidated Application Period*”). In support of this Fee Application, Blank Rome respectfully states as follows:

**Jurisdiction**

1. This Court has jurisdiction to consider the Fee Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. §§ 157(b)(2). The statutory predicates for the relief sought herein are 11 U.S.C. §§ 327, 328, 330 and 331, Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”) and Rules 2014-1 and 2016-2 of the Delaware Bankruptcy Local Rules (the “*Local Rules*”).

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## Background

2. On September 14, 2007 (the “*Petition Date*”), the Debtors commenced their bankruptcy cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors continued in the management and operation of their businesses and property as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108 until August 25, 2009 (the “*Appointment Date*”) when this Court appointed a chapter 11 trustee.

3. On October 5, 2007, this Court entered the Administrative Order Establishing Procedures for Interim Monthly Compensation of Professionals (the “*Administrative Order*”) [Docket No. 95].

4. In connection with contested motions to convert the Debtors’ chapter 11 cases to chapter 7 cases, on or about July 27, 2009, this Court directed the United States Trustee to appoint a chapter 11 trustee.

5. On the Appointment Date, the Office of the United States Trustee filed its Notice of Appointment of Edward N. Cahn, Esquire as Chapter 11 Trustee [Docket No. 898] and, on the same day, this Court entered an Order Approving Appointment of Chapter 11 Trustee [Docket No. 900].

6. On August 31, 2009, the Trustee filed the Application of Chapter 11 Trustee for Entry of an Order Pursuant to Sections 327(a), 328, 330 and 331 of the Bankruptcy Code, Bankruptcy Rule 2014(a) and 2016 and Local Rule 2014-1 Authorizing the Employment of Blank Rome LLP as Counsel to the Chapter 11 Trustee *Nunc Pro Tunc* to August 25, 2009 (the “*Blank Rome Retention Application*”) [Docket No. 902]. On September 22, 2009, the Court entered an order approving the Blank Rome Retention Application [Docket No. 914].

7. Blank Rome is a nationally recognized law firm with extensive experience and expertise in bankruptcy and reorganization proceedings. Presently, the attorneys at Blank Rome

having the day-to-day responsibility for representation of the Trustee in these chapter 11 cases are Bonnie Glantz Fatell, Regina Stango Kelbon and Stanley B. Tarr. Blank Rome has drawn and will draw upon the knowledge and skills of other firm attorneys to provide services as the need arises.

8. The Trustee is charged, not only with the statutory duties set forth in the Bankruptcy Code, including operating the Debtors' businesses, but also with the responsibility of reviewing and analyzing the litigation between the Debtors and Novell, IBM and others. Because the Trustee was appointed after nearly 24 months into the chapter 11 cases, immediately upon his appointment, the Trustee tasked Blank Rome with reviewing the chapter 11 proceedings to date, meeting with the Trustee and the officers of the company for background information on, *inter alia*, the company's history, financial performance, public filings, staffing, marketing and sales efforts, reviewing relevant documents and determining the status of various proceedings in the chapter 11 cases. Blank Rome also assisted the Trustee in several meetings with potential bidders, investors and shareholders. In addition, Blank Rome worked with the Trustee in meeting separately with legal counsel for the Debtors, Novell and IBM and reviewing certain pleadings, transcripts, court orders and opinions in connection with the litigation. In order to become familiar with the company and all the issues related to the litigation and the chapter 11 proceedings and provide advice to the Trustee, Blank Rome was required to expend a substantial amount of time during the Consolidated Application Period to ensure that the chapter 11 cases were running smoothly and all the issues were being identified and addressed. Following is a brief summary of the services performed during the Consolidated Application Period with detailed time records attached as exhibits hereto.

#### **Relief Requested**

9. Blank Rome submits this Fee Application pursuant to Bankruptcy Code sections

330 and 331, the Bankruptcy Rules, the Administrative Order, and Del. Bankr. LR 2016-2. By this Fee Application, Blank Rome seeks interim allowance of compensation for actual and necessary professional services rendered in the amount of \$286,517.50 for the Consolidated Application Period, and seeks payment of 80% of this amount, \$229,214.00, and seeks the allowance and payment of 100% of its actual and necessary expenses in the amount of \$4,327.48, in accordance with the terms of the Administrative Order.

#### Summary of Fees

10. The total number of hours expended by Blank Rome professionals and paraprofessionals in performing professional services for the Trustee during the Consolidated Application Period was 539.90 hours at a blended billing rate of \$530.69 per hour. The value of these services has been computed at the rates Blank Rome customarily charges for similar services provided to other clients.

11. A detailed chronological itemization of the services rendered by each attorney and paraprofessional during the Consolidated Application Period, calculated by tenths of an hour and categorized in accordance with the appropriate project code, is attached hereto as **Exhibit "A"**. Every effort has been made by Blank Rome to categorize daily time entries in accordance with the correct project code. However, in some instances, services overlap between project codes. Thus, some services may appear under more than one code, although in no instance is a specific time entry recorded more than once.

12. Specifically, the services rendered by Blank Rome to the Trustee during the Consolidated Application Period included the following:

(Project Code 1)      Chapter 11 Trustee Specific Matters:

Blank Rome researched and advised the Trustee on the duties and reporting requirements of a chapter 11 trustee. Blank Rome also researched and obtained a bond for the Trustee and

counseled the Trustee regarding his role with respect to the Debtors' operations, the chapter 11 proceedings and the restructuring and sale options. In addition, Blank Rome performed various tasks necessary to the appointment of the Chapter 11 Trustee, including interfacing with the Office of the United States Trustee on various administrative matters. Blank Rome confers with the Trustee routinely by email, in-person meetings or via telephone.

**Total Hours: 28.60      Total Fees: \$15,751.50**

(Project Code 2)      Blank Rome Fee/Employment Applications:

Blank Rome prepared, filed and served its retention application and Bankruptcy Rule 2014 verified statement.

**Total Hours: 6.70      Total Fees: \$2,512.00**

(Project Code 3)      Other Professionals' Fee/Employment Issues:

As counsel to the Trustee, Blank Rome reviewed the retention orders, as well as monthly and interim fee applications for professionals employed and retained by the Debtors prior to the Appointment Date, including a determination of whether such professionals possessed retainers and the post-Appointment Date need and scope of employment for Berger Singerman, P.A., Pachulski Stang Ziehl & Jones LLP, Dorsey & Whitney LLP, and ordinary course professionals. Blank Rome provided counsel to the Trustee on the status of the chapter 11 professionals and their services and interfaced with the attorneys from each of the firms on various matters.

Recognizing the company was in need of a financial advisor, Blank Rome considered the experience of various firms and the fees associated with retaining a financial advisor and after consultation with the Trustee, Blank Rome interviewed Ocean Park Advisors ("OPA") and on behalf of the Trustee, negotiated the terms of their engagement. Further, Blank Rome discussed the ongoing role and services to be performed by litigation counsel, Boies, Schiller and Flexner LLP ("*Boies Schiller*") and the accounting firm of Tanner LC. In connection with retaining these

professionals, Blank Rome gathered the relevant information and prepared, filed and served applications for the retention and/or expansion of the scope of services for each of these professionals to be retained by the Trustee.

**Total Hours: 65.60      Total Fees: \$28,210.00**

(Project Code 4)      Debtors' Business Operations:

As counsel to the Trustee, Blank Rome, among other things: (1) reviewed each Debtor's schedules and statements of financial affairs; (2) established the Trustee as the signatory for the Debtors' bank accounts; (3) closely analyzed the Debtors' financial information on an almost daily basis; (4) participated in several discussions with shareholders and/or potential investors; (5) engaged in numerous management discussions; (6) assisted and counseled the Trustee with respect to submissions to the SEC and public communications around such filings; (7) conducted a detailed review of operations for the various foreign subsidiaries; (8) negotiated and considered various proposals for debtor financing; (9) undertook an assessment of the Debtors' corporate governance; and (10) analyzed the Debtors' awarding of stock options. During this Consolidated Application Period, Blank Rome participated in regular telephonic meetings with the Debtors' management, the Trustee and OPA, conducted legal research on various issues, reviewed and analyzed pertinent documents, corresponded with various parties, visited the company's New Jersey offices and met with many of the engineers, and engaged in telephone calls and meetings to facilitate the Trustee's oversight and management of the Debtors' businesses.

**Total Hours: 227.30      Total Fees: \$128,866.50**

(Project Code 5)      Case Administration:

The time billed to this category includes services related to general administrative and case management matters, including, but not limited to, reviewing and filing pleadings, monitoring the docket, and reviewing pertinent pleadings and transcripts of court hearings, and

reviewing motions, objections, responses and orders. This category also includes time that otherwise might not comport with an identified project code.

**Total Hours: 18.60      Total Fees: \$7,839.00**

(Project Code 6)      IP Litigation:

The IP litigation is the main issue on which Judge Gross directed the Trustee to focus his attention. As counsel to the Trustee, Blank Rome has undertaken an extensive diligence of the causes of action and other facts related to the Debtors' respective litigation with IBM, Novell, and AutoZone, among others. During the Consolidated Application Period, the Trustee spent countless hours reviewing and studying the litigation cases. In order to provide support to the Trustee, Blank Rome reviewed certain transcripts and pleadings filed in each of the pending actions and various rulings and court opinions. In connection with the foregoing, Blank Rome professionals attended separate meetings with the Trustee and the attorneys for Novell and IBM, participated in negotiations with AutoZone to settle the pending litigation, coordinated with other professionals retained by the Debtors' estates, conducted legal research and participated in numerous conferences, telephone calls, and email correspondence in connection with providing strategic and procedural advice to the Trustee.

In connection with the AutoZone litigation, on behalf of the Trustee, Blank Rome negotiated and drafted a settlement agreement with AutoZone, a motion to approve the settlement and a motion to file the settlement under seal, coordinated with Boies Schiller on the facts and history of the litigation, the settlement strategy and preparation of the pleadings in the bankruptcy court as well as the non-bankruptcy court where the litigation was pending. Blank Rome also responded to inquiries regarding the seal motion and the settlement and negotiated confidentiality agreements with IBM and Novell and interacted



with the United States Trustee with respect to the settlement and issues related to filing the agreement under seal.

**Total Hours: 72.30      Total Fees: \$40,449.00**

(Project Code 9)      Employee Benefits / General Labor:

As counsel to the Trustee, Blank Rome counseled the Debtors' management team and had numerous conferences regarding various employee issues, including, among other things, reviewing and editing a letter to the employees, advising the Trustee regarding potential WARN Act claims, 401(k) pension and employee benefits, and compensation. In order to implement a restructuring plan to preserve the value of the business and effectuate cost savings, the Trustee determined, *inter alia*, that it was necessary to terminate a number of employees. This decision gave rise to multiple issues for the Trustee to consider and Blank Rome, utilizing its labor and pension attorneys, evaluated the facts and legal issues, worked closely with OPA and advised the Trustee on these issues, and then worked with the company and OPA to implement the reduction in force.

**Total Hours: 48.00      Total Fees: \$27,446.00**

(Project Code 10)      Plan and Disclosure Statement:

During this Consolidated Application Period, the Trustee and Blank Rome considered not only the litigation as a critical issue but also strategies and options for the company to emerge from bankruptcy. In connection with developing an exit strategy, Blank Rome reviewed creditor claims and assessed the priorities thereof, and discussed with the Trustee various scenarios including an asset sale and a stand alone plan, taking into consideration not only creditor claims but, in the event the sales and litigation outcome resulted in the company being solvent, a return on equity interests. In connection with the foregoing, Blank Rome performed legal research on discrete issues, prepared memoranda and engaged in discussions with the Trustee, OPA and

some senior management at the company.

**Total Hours: 34.70      Total Fees: \$13,020.00**

(Project Code 11)      Sale of Assets/Asset Purchase Agreements:

Time billed to this matter relates to the potential for a sale of the Debtors' assets. Blank Rome reviewed the asset purchase agreement and other documents related to a proposed sale of substantially all of the Debtors' assets filed prior to the appointment of the Chapter 11 Trustee. Blank Rome also revised and negotiated non-disclosure agreements and term sheets with several proposed purchasers of the Debtors' assets. In connection with the foregoing, Blank Rome prepared memos and summaries and participated in email and telephonic communications with various parties.

**Total Hours: 27.70      Total Fees: \$17,872.50**

(Project Code 13)      Tax Issues

Time billed to this matter relates to consideration of the implication of the Debtors' tax reporting.

**Total Hours: 1.10      Total Fees: \$759.00**

(Project Code 15)      Hearings - Attendance / Preparation:

Time billed to this matter relates to attendance at the October 23, 2009 omnibus hearing, in which the Trustee provided Judge Gross with a preliminary status report regarding, among other things, his analysis and assessment of the Debtors' causes of action against IBM and Novell and includes time spent in preparation for the same. Typically time billed to this matter involves hearings on multiple matters that cannot be efficiently segregated.

**Total Hours: 6.70      Total Fees: \$2,036.50**

(Project Code 16)      Non-Working Travel Time:

Time billed to this matter relates to non-working travel. In accordance with Del. Bankr.

LR 2016-2(d)(viii), only half of the actual non-working travel time was billed.

**Total Hours: 2.6            Total Fees: \$1,755.00**

**Actual and Necessary Costs and Expenses Incurred**

13. Reimbursement of expenses in the amount of \$4,327.48 is sought herein. A categorized summary of the actual and necessary costs and expenses incurred by Blank Rome during the Consolidated Application Period, and an itemization of each expense within each category, is attached as **Exhibit “B”**. Blank Rome reserves the right to request, in subsequent fee applications, reimbursement of any additional expenses incurred during the Consolidated Application Period, as such expenses may not have been captured to date in Blank Rome’s billing system.

**Compliance with the Bankruptcy Code, the Bankruptcy Rules and Local Rules**

14. In accordance with Del. Bankr. LR 2016-2, a summary schedule of hours and fees for each attorney and paraprofessional, and a summary of hours and fees categorized by project code follow the cover sheet to this Fee Application. The undersigned submits that this Fee Application complies with Del. Bankr. LR 2016-2.

15. Blank Rome submits that the services rendered and expenses incurred were actual and necessary and that the compensation sought is reasonable and in accordance with the standards of Bankruptcy Code section 330.

16. No agreement or understanding exists between Blank Rome and any other entity (other than members or employees of Blank Rome) for the sharing of compensation received or to be received for services rendered in or in connection with the chapter 11 cases.

**Notice**

17. As required by the Administrative Order, a copy of this Fee Application has been served upon: (a) the Debtors; (b) Debtors’ Counsel; and (c) the Office of the United States

Trustee. Notice of this Fee Application was served upon all parties requesting notice pursuant to Bankruptcy Rule 2002.

WHEREFORE, Blank Rome respectfully requests an award of compensation for professional services rendered as counsel to the Trustee during the Consolidated Application Period in the sum of \$229,214.00 (80% of \$286,517.50), together with the reimbursement of disbursements in the amount of \$4,327.48; and such other and further relief that the Court deems just and proper.

Dated: December 9, 2009  
Wilmington, Delaware

Respectfully submitted,

**BLANK ROME LLP**

*/s/ Bonnie Glantz Fatell*

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