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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

In re: )  
)  
)  
ESSENTIAL.COM, INC., )  
)  
)  
Debtor. )  
)

Chapter 11  
Case No. 01-15339-WCH

**FINAL APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES BY HANIFY & KING PROFESSIONAL CORPORATION**

To the Honorable William C. Hillman, Chief United States Bankruptcy Judge:

Pursuant to 11 U.S.C. §§ 328, 330 and 331, Fed. R. Bankr. P. 2016 and MLBR 2016-1, Hanify & King Professional Corporation ("H&K"), counsel to the debtor Essential.com, Inc. ("Debtor"), respectfully submits this Final Application for Compensation and Reimbursement of Expenses ("Final Fee Application") in connection with the above-referenced proceeding. By this Final Fee Application, H&K seeks an award of its actual fees of \$13,352.50 and actual expenses of \$1,684.49 for the period from December 3, 2001 through December 21, 2001 ("Application Period"). In support of this Final Fee Application, H&K states as follows:

1. On June 29, 2001 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code ("Code") in this Court.

2. On December 21, 2001, this Court entered an order confirming the Joint Plan of

Liquidating ("Plan") of the Debtor and the Official Committee of Unsecured Creditors. The Effective Date, as defined in the Plan, subsequently occurred. The Plan provides for, among other things, the vesting of all assets of the estate in the Debtor and Plan Trustee upon the Effective Date. Charles A. Dale, III has been appointed Plan Trustee.

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FPSC-COMMISSION CLERK

3. On July 10, 2001, the Debtor filed an application to employ H&K as its counsel. On July 19, 2001, the Court entered an Order approving the retention of H&K. A copy of the Court's Order authorizing H&K's employment is attached as Exhibit A. H&K received a retainer of \$50,000 from the Debtor for its services in this case.

4. On December 11, 2001, H&K filed its First Fee Application requesting the sum of \$193,396.50 on account of services rendered and \$26,842.05 on account of expenses incurred for the period between June 8, 2001 through November 31, 2001. On December 21, 2001, H&K was awarded fees of \$190,209.50 and expenses of \$26,842.05 on account of the First Fee Application.

5. On December 19, 2001, H&K filed a Supplemental Fee Application requesting the sum of \$9,240.00 on account of services rendered and \$9,544.00 on account of expenses incurred. On January 8, 2002, the Court entered an Order approving the payment of fees and expenses sought in the Supplemental Fee Application.

#### **FINAL FEE APPLICATION**

6. A detailed summary of the services rendered by H&K as counsel to the Debtor during the Application Period is attached as Exhibit B. In general, these services related to:

- A. Responding to administrative claims issues regarding various contracts and leases between the Debtor and third parties.
- B. Responding to inquiries from former customers of the Debtor, State Attorney Generals and Public Utilities Commissions regarding the sale of the Debtor's Customer Base and its impact on the Debtor's Telecommunications Licenses and other Regulatory Concerns.
- C. Finalization of a settlement agreement ("Settlement Agreement") between the Debtor and United Systems Access, Inc. regarding certain disputes between the parties related to the acquisition of the Debtor's Customer Base. H&K also prepared a Motion to Approve the Settlement Agreement which was filed and

served on all parties to this proceeding on December 14, 2001. The Settlement Agreement was subsequently approved by the Court.

- D. Attention to issues with respect to confirmation of the Plan including resolving a filed objection to confirmation of the Plan and preparation for and attendance at the hearing on Confirmation.
- E. Preparation of the First Fee Application and Supplemental Fee Application.
- F. Certain miscellaneous services customary to cases of this size.

7. During the Application Period, H&K has expended a total of 75 hours in this matter for total requested compensation of \$13,352.50 at its customary and usual hourly rates. The compensation sought by H&K reflects an average hourly rate of approximately \$178 per hour.

8. In accordance with MLBR 2016-1(a), a statement containing the full names, initials, rates and total amount of services provided by each attorney or paraprofessional who provided services in this matter is incorporated as part of Exhibit B. A biographical description of each H&K attorney who provided services is attached as Exhibit C.

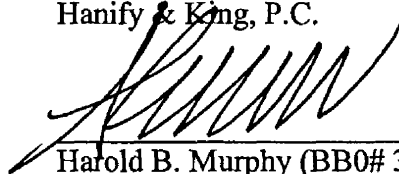
9. During the Application Period, H&K has incurred actual expenses totaling \$1,684.49. A summary of the expenses incurred for which reimbursement is herein sought is attached as Exhibit D. Reimbursement for expenses and all other disbursements in this case is sought in accordance with MLBR 2016-1 and In re Bank of New England, 134 B.R. 450 (Bankr. D. Mass. 1991).

10. H&K submits that the compensation for the services and reimbursement of expenses both actual and anticipated incurred in this matter is reasonable based on (i) the time and labor required, (ii) the complexity of the legal questions presented, (iii) the skill required to perform the legal services, (iv) the customary compensation in this District, (v) the experience and ability of the attorneys providing services and (vi) the results achieved.

WHEREFORE, Hanify & King Professional Corporation respectfully moves this Court for an Order:

- (i) Approving payment to H&K in actual fees of \$13,352.50 and actual expenses of \$1,684.49 for the period from December 3, 2001 through December 21, 2001;
- (ii) Authorizing and compelling the Plan Trustee to pay H&K such amounts; and
- (iii) Providing such other and further relief as is just and appropriate.

Hanify & King, P.C.



Harold B. Murphy (BB0# 363610)

Alex M. Rodolakis (BBO#567781)

C. Nathan Dee (BBO#646261)

HANIFY & KING

Professional Corporation

One Federal Street

Boston, MA 02110

(617) 423-0400

Telefax: (617) 556-8985

Dated: January 28, 2002

322711

# **EXHIBIT A**

**DOCKETED**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

In re:

ESSENTIAL.COM, INC.,

Debtor.

Chapter 11  
Case No. 01-15339 WCH

**APPLICATION OF DEBTOR TO EMPLOY HAROLD B. MURPHY AND HANIFY & KING, P.C. AS COUNSEL TO THE DEBTOR**

Pursuant to 11 U.S.C. § 327, Fed. R. Bankr. P. 2014 and MLBR 2014-1, Essential.com, Inc. ("Essential"), the debtor and debtor-in-possession ("Debtor"), respectfully requests this Court to enter an order authorizing it to employ Harold B. Murphy and the firm of Hanify & King, P.C. ("H&K") as counsel in this matter. In further support thereof, the Debtor states as follows:

**I. Factual Background**

1. On June 29, 2001 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code ("Code") in this Court.
2. The Debtor continues to operate as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Code.
3. The United States Trustee has not yet appointed an unsecured creditors' committee in this case.
4. Essential, a privately held Delaware corporation, is based in Burlington, Massachusetts and has 39 full-time employees. The company, which launched its award

Compensation is subject to the last sentence of 11 U.S.C. § 328(a).

*William J. ...*  
7/19/01

*Allowed.*

*7/14*

# **EXHIBIT B**

Category: General Advice

Date	Atty	Description	Hours
12/03/01	HBM	Conference with A. Rodolakis re: confirmation/fee application and related issues; telephone call from creditor re: case status	.30
12/03/01	CND	Prepare draft of Essential fee application	5.40
12/03/01	CND	Review and Revise draft fee application	2.80
12/04/01	HBM	Review emails re: USA dispute/issues to be resolved; letter from US Trustee; memo to A. Rodolakis re: same	.30
12/04/01	CND	Review prebill for November and categorize time	.40
12/04/01	CND	Revise fee application prepare exhibit on expenses	.50
12/04/01	CND	Revise fee application narrative and categories 1-4	4.20
12/04/01	MXC	Conferences w/ K. Regan re: wire of funds; update form 2	.30
12/05/01	CND	Revise categories five through eight of draft fee application revise expense exhibit and confer with V. Lay re: expenses	3.40
12/05/01	MXC	Draft & fax letter to BFSB requesting UST check; update form 2	.40
12/05/01	MXC	Draft & fax letter to BFSB requesting Pallone check; update form 2	.40
12/06/01	CND	Attention to Essential fee application; revise expense exhibit; review and revise exhibit B; review and revise fee app fact statement through category 2	3.80
12/07/01	CND	Revise Essential fee application per AMR comments	3.50
12/07/01	CND	Revise fee application categories 3-8 per AMR comments; review exhibit re: attorney rates, confer with K. Lay re: same; review exhibits	3.60
12/10/01	HBM	Review and revise draft fee application; several conferences with A. Rodolakis re: same	1.50
12/10/01	MXC	Attention to fee application	8.00
12/11/01	MXC	Attention to fee application	3.50
12/11/01	MXC	Deposit checks; update form 2	.30
12/12/01	JJM	Conference with A. Rodolakis regarding status; review settlement agreement; review post-pleadings regarding status; initial preparation of motion to approve settlement agreement	5.00
12/12/01	CND	Attention to customer complaint issue, prepare letter re: same; telephone call counsel to exodus re: motion to reject, plan, bar date and confirmation hearing; confer with Ann re: same; prepare stmt re: B. Pallone admin claim	1.80
12/13/01	JJM	Prepare motion to approve settlement; conferences with A. Rodolakis regarding changes to motion and agreement on "true-up" provision; revise motion to approve settlement	4.70



Category: General Advice

Page 2

Date	Atty	Description	Hours
12/13/01	CND	Revise statement in regard to request by B. Pallone for payment of administrative expense	.20
12/14/01	AGL	Analysis of United settlement agreement and motion	.60
12/14/01	MXC	Deposit various a/r checks; update form 2	.30
12/14/01	MXC	Request checks re: administrative fees & storage fees; fax to BFSB re: same; update form 2	.40
12/14/01	JJM	Prepare stipulation of dismissal; conference with A. Rodolakis regarding stipulation and status	1.00
12/17/01	HBM	Review objections to confirmation; conference with A. Rodolakis re: same	.30
12/17/01	MXC	Draft summary of ballots; update same	1.00
12/18/01	AMR	Telephone call w/ B. Pallone re: bank accounts	.10
12/18/01	MAS	Obtained updated docket sheet	.10
12/19/01	AMR	Telephone call w/ B. Pallone re: confirmation issue; telephone call w/ A. Mattera re: same; finalize vote & affidavit	.70
12/20/01	MXC	Travel to Bankruptcy Court; review file; copy documents	1.00
12/20/01	AMR	Attention to confirmation issues; review docket re: administrative claims; attention to confirmation order; telephone call w/ counsel to committee; attention to objection by Pallone; telephone call w/ counsel to Pallone; review amendment to confirmation order; prepare for confirmation hearing	3.50
12/20/01	AMR	Attention to supplemental fee application; conference w/ C. Nathan Dee re: same	.70
12/20/01	CND	Prepare supplemental fee application; review time sheets re: same	3.40
12/20/01	CND	Review and revise supplemental fee application per AMR comments	1.20
12/21/01	AMR	Attention to hearing on confirmation; prepare for same; prepare stipulation re: B. Pallone objection; telephone call w/ A. Mattera re: same; travel to and attend hearing; attention to confirmation issues and payment of fees	4.10
12/21/01	CND	Prepare for confirmation hearing; review fee apps; prepare package for court	1.70
12/21/01	CND	Telephone call with T. Gaye re: administrative claim	.20
12/21/01	HBM	Conference with A. Rodolakis re: hearing/issues; review administrative claims assented	.40
Total Services			13,352.50

Category: General Advice  
TIME SUMMARY

Attorney	Hours	Rate	Amount
ANDREW G. LIZOTTE	.60	265.00	159.00
ALEX M. RODOLAKIS	9.10	240.00	2,184.00
CRAIG NATHAN DEE	36.10	165.00	5,956.50
HAROLD B. MURPHY	2.80	375.00	1,050.00
JAMES J. MOYNIHAN	10.70	220.00	2,354.00
MARY ANN SAMSON	.10	110.00	11.00
MANDY CASPERSON	15.60	105.00	1,638.00
Total	<u>75.00</u>		<u>\$13,352.50</u>

# **EXHIBIT C**

## EXHIBIT C

### LAWYERS

**HAROLD B. MURPHY**, born Boston, Massachusetts, August 7, 1955; admitted to bar, 1981, Massachusetts. Education: Harvard College (A.B., cum laude, 1977); Suffolk University Law School (J.D., 1981). Law Clerk: to the U.S. Trustee, Districts of Maine, New Hampshire, Massachusetts and Rhode Island, 1980-1981; to the Hon. Thomas W. Lawless, Chief Judge, U.S. Bankruptcy Court, Boston, Massachusetts, 1981-1984. Panelist, N.E. Annual Conference, Commercial Law League, 1983 and 1984. Member: Boston, Massachusetts and American Bar Associations. **PRACTICE AREAS:** Bankruptcy Law and Creditor's Rights.

**ANDREW G. LIZOTTE**, born Framingham, Massachusetts, 1965; admitted to bar, 1991, Massachusetts; 1992, U.S. District Court, District of Massachusetts and U.S. District Court, District of Connecticut. **Education:** Bryant College (B.S., 1986); Suffolk University (J.D., 1991). Summer Author, Suffolk University Law Review. Member, Suffolk Transnational Law Journal. Law Clerk to the Honorable James F. Queenan, Jr., U.S. Bankruptcy Court, District of Massachusetts. Certified Public Accountant, Rhode Island, 1988. Member: Massachusetts and American Bar Associations. **PRACTICE AREAS:** Bankruptcy Law; Workouts.

**ALEX M. RODOLAKIS**, born, Worcester, Massachusetts, 1968; admitted to bar, 1994, Massachusetts, 1995, U.S. District Court of Massachusetts. **Education:** Tufts University (B.A. 1990); Boston University School of Law (J.D. 1994). Law Clerk in the Office of the United States Trustee, 1992-1994. Member, Massachusetts and Boston Bar Associations, where he serves on the Bankruptcy Section's Young Lawyers' Committee. **PRACTICE AREAS:** Bankruptcy Law; Workouts.

**JAMES J. MOYNIHAN**, born Shrewbury, Massachusetts, 1967; admitted to bar: 1995 Connecticut, 1996 Massachusetts. **Education:** University of Maine (B.A. with high distinction, 1989); Boston University (J.D., 1995). Assistant Corporation Counsel, Waterbury, CT, 1996-1997. **PRACTICE AREAS:** Commercial Litigation, Civil Litigation.

**C. NATHAN DEE**, born Massachusetts, 1966; admitted to bar 1999, Massachusetts; 2000, U.S. District Court of Massachusetts. **Education:** Hamilton College (B.A. 1988), Suffolk University (J.D., cum laude, 1999). Member: Boston and Massachusetts Bar Associations. **PRACTICE AREAS:** Bankruptcy and Creditor's Rights.

### PARALEGALS

**MARY ANN F. SAMSON**, born June 1953. Education: B.S.B.A., 1975; Boston University/Metropolitan College (Paralegal Certificate), 1990. Legal Assistant, (Bankruptcy, Civil Litigation).

**AMANDA A. CASPERSON**, born Stoughton, Massachusetts, December 4, 1972. Education: Northeastern University (Paralegal Certificate); Legal Assistant (Bankruptcy).

# **EXHIBIT D**

## EXHIBIT D

During the Application Period, H&K has incurred the following expenses in connection with the Debtor's proceedings:

<u>Category</u>	<u>Amount</u>
Duplicating (In-House)	\$ 1,381.50
Telephone	40.78
Postage	185.90
Courier/Federal Express	20.25
Westlaw Research	<u>56.06</u>
TOTAL	\$ 1,684.49

**A. Duplicating (In-House)**

H&K requests reimbursement in the amount of \$1,381.50, representing in-house copying charges at a rate of 15¢ per page as provided for in Appendix 2 of the MLBR.

**B. Telephone**

H&K requests reimbursement in the amount of \$40.78 for long-distance telephone charges actually paid by H&K. H&K's request does not include any base telephone charges incurred by H&K.

**C. Postage**

H&K requests reimbursement in the amount of \$185.90, representing postage actually paid by H&K in connection with correspondence and service of pleadings.

**D. Courier Service/Federal Express**

H&K requests reimbursement in the amount of \$20.25 related to courier and Federal Express service charges actually paid by H&K in connection with the Debtor's proceedings. H&K sought during the Debtor's proceedings to deliver correspondence and serve pleadings by first-class mail. In some situations, however, H&K found it necessary to deliver correspondence or pleadings by hand or by Federal Express.

**E. Westlaw Research**

H&K requests reimbursement in the amount of \$56.06 related to Westlaw charges actually paid by H&K in connection with the Debtor's proceedings. H&K and the legal community in general consider such legal research tools to be effective and efficient research tool.

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION**

<b>In re:</b>	)	
	)	
<b>ESSENTIAL.COM, INC.,</b>	)	<b>Chapter 11</b>
	)	<b>Case No. 01-15339-WCH</b>
<b>Debtor.</b>	)	
	)	

**ORDER ON FINAL APPLICATION FOR COMPENSATION AND REIMBURSEMENT  
OF EXPENSES BY HANIFY & KING PROFESSIONAL CORPORATION**

This matter coming before the Court on *Final Application For Compensation And Reimbursement Of Expenses By Hanify & King Professional Corporation* (“Final Fee Application”); the Court having reviewed the Final Fee Application and after notice and opportunity for hearing; the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and (c) notice of the Final Fee Application was sufficient under the circumstances;;

**IT IS HEREBY ORDERED THAT:**

- (i) Pursuant to the Final Fee Application, Hanify & King Professional Corporation (“H&K”) is awarded fees of \$ \_\_\_\_\_ and reimbursement of expenses of \$ \_\_\_\_\_;
- (ii) The Plan Trustee is authorized and directed to pay H&K such amounts..

\_\_\_\_\_  
HONORABLE WILLIAM C. HILLMAN  
CHIEF UNITED STATES BANKRUPTCY JUDGE

Dated: \_\_\_\_\_, 2002

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION**

In re:	)	
	)	
ESSENTIAL.COM, INC.,	)	Chapter 11
	)	Case No. 01-15339-WCH
Debtor.	)	
	)	

**MOTION TO LIMIT NOTICE OF FINAL FEE APPLICATION OF  
HANIFY & KING PROFESSIONAL CORPORATION**

To the Honorable William C. Hillman, Chief United States Bankruptcy Judge:

Pursuant to Fed. R. Bankr. P. 2002 and MLBR 2002-1(b), Hanify & King Professional Corporation (“H&K”), former counsel to the above-referenced debtor Essential.com, Inc. (“Debtor”) in its confirmed chapter 11 proceeding, hereby moves this Court for an Order limiting the notice required with respect to H&K’s *Final Application For Compensation And Reimbursement Of Expenses* (“Final Fee Application”) filed contemporaneously with this Motion. H&K requests that service of Final Fee Application, and notice of any hearing thereon, be limited to the United States Trustee, the Plan Trustee, the twenty (20) largest unsecured creditors, and all parties who have filed a notice of appearance and request for service. In the Final Fee Application, H&K requests payment for services rendered and expenses incurred of less than \$16,000. In support of this Motion, H&K states as follows:

1. On June 29, 2001 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (“Code”) in this Court.
2. On December 21, 2001, this Court entered an order confirming the Joint Plan of Liquidating (“Plan”) of the Debtor and the Official Committee of Unsecured Creditors. The



Effective Date, as defined in the Plan, subsequently occurred. The Plan provides for, among other things, the vesting of all assets of the estate in the Debtor and Plan Trustee upon the Effective Date. Charles A. Dale, III has been appointed Plan Trustee.

3. The Debtor has an extensive list of over 700 creditors and parties in interest, many of whom have had little or no participation in this case and are unlikely to have an interest in or respond to the Final Fee Application. The cost of mailing notices to the full creditor list is substantial and would unnecessarily deplete the resources of the estate.

4. Pursuant to Fed. R. Bankr. P. 2002(m), the Court has authority to limit notice.

5. Accordingly, H&K requests that the Court limit the notice required with respect to the Final Fee Application to the United States Trustee, the Plan Trustee, the twenty (20) largest unsecured creditors, and all parties who have filed a notice of appearance and request for service. H&K further requests that notice of any hearings and response and/or objection deadlines thereto be similarly limited. H&K believes that the notice contemplated herein will be sufficient to provide notice to all persons or entities reasonably likely to respond and will allow for sufficient creditor review of the Final Fee Application.

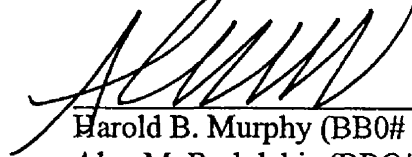
6. H&K requests that the notice proposed herein be deemed sufficient and that no further notice be required.

**WHEREFORE**, Hanify & King Professional Corporation respectfully requests that this Court enter an Order:

- (i) Granting this Motion to Limit Notice;
- (ii) Finding that notice with respect to the Final Fee Application, including notice of any hearings and response and/or objection deadlines, will be deemed sufficient if served as set forth in this Motion;

(iii) Granting it such other and further relief as is just and proper.

HANIFY & KING,  
Professional Corporation



Harold B. Murphy (BB0# 363610)

Alex M. Rodolakis (BBO#567781)

HANIFY & KING  
Professional Corporation  
One Federal Street  
Boston, MA 02110  
(617) 423-0400  
Telefax: (617) 556-8985

Dated: January 28, 2002

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