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12 **UNITED STATES BANKRUPTCY COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **OAKLAND DIVISION**

15 In re
16 PREDIWAVE CORPORATION,
17 a California corporation,
18 Debtor.
19 Fed. Tax I.D. No. 77-0494328

Case No. 06-40547 (RJN)

Chapter 11

**FIRST MONTHLY APPLICATION FOR
INTERIM COMPENSATION AND
REIMBURSEMENT OF EXPENSES BY KLEE,
TUCHIN, BOGDANOFF & STERN LLP**

[MAY 29, 2006 THROUGH JULY 31, 2006]

No Hearing Required

1 **TO THE HONORABLE RANDALL J. NEWSOME, UNITED STATES**
2 **BANKRUPTCY JUDGE; THE OFFICE OF THE UNITED STATES TRUSTEE;**
3 **COUNSEL TO THE OFFICIAL COMMITTEE OF CREDITORS HOLDING**
4 **UNSECURED CLAIMS; AND OTHER PARTIES IN INTEREST:**

5 **PLEASE TAKE NOTICE THAT** Klee, Tuchin, Bogdanoff & Stern, LLP
6 ("KTB&S"), reorganization counsel for PrediWave Corporation, a California corporation, the
7 debtor and debtor in possession in the above-captioned case ("PrediWave" and the "Debtor"),
8 hereby requests payment of interim compensation and reimbursement of expenses for unpaid
9 amounts (the "Monthly Application") incurred during the period from May 29, 2006 to and
10 through July 31, 2006 (the "Application Period"). Pursuant to the "Order Approving Motion
11 for Authority to Establish Procedures for Interim Payment of Fees and Reimbursement of
12 Expenses" [Docket # 248] (the "Interim Fee Procedures Order"), this Monthly Application
13 also includes a narrative discussion of the various projects undertaken and tasks performed by
14 KTB&S, categorized by subject matter, for which compensation is sought (the "Narrative"), as
15 contemplated in Paragraph 3 of the "Guidelines for Compensation and Expense Reimbursement
16 of Professionals and Trustees" (the "Guidelines").

17 **PLEASE TAKE FURTHER NOTICE THAT,** in accordance with the Interim Fee
18 Procedures Order, KTB&S hereby requests payment of \$241,766.61 as interim compensation
19 for services rendered and expenses incurred during the Application Period, with \$236,042.50
20 attributable to fees and \$5,724.11 attributable to expenses incurred. The interim compensation
21 and reimbursement of expenses sought herein is on account and is not final. Upon conclusion
22 of this case, KTB&S will seek final allowance and payment of fees and expenses incurred for
23 the totality of the services rendered in this case. Any payment of interim fees or
24 reimbursement of expenses received by KTB&S will be credited against the final fees and
25 expenses allowed by this Court.

26 **PLEASE TAKE FURTHER NOTICE THAT,** in accordance with the Interim Fee
27 Procedures Order, KTB&S is serving a copy of this Monthly Application (with Exhibit "1")
28 on the Office of the United States Trustee (the "U.S. Trustee") and a copy of this Monthly
Application (without Exhibit "1") on the Debtor, counsel for the Official Committee of Unsecured

1 Creditors (the "Committee"), and parties that have filed and served on the Debtor requests for
2 special notice (collectively, the "Core Parties"). A copy of this Monthly Application (with
3 Exhibit "1") is available upon written request to Klee, Tuchin, Bogdanoff & Stern, LLP, Attn:
4 Jonathan S. Shenson, 2121 Avenue of the Stars, 33rd Floor, Los Angeles, California, 90067,
5 by email to jshenson@ktbslaw.com, or by facsimile to (310) 407-9090.

6 **PLEASE TAKE FURTHER NOTICE THAT** a detailed list of all services rendered
7 and expenses incurred by KTB&S during the period from May 29, 2006 to and through July
8 31, 2006 is attached as Exhibit "1" to the version of the Monthly Application filed with the
9 Court and served on the U.S. Trustee. This list describes: (a) the services rendered; (b) the
10 amounts so requested; (c) the total time expended; (d) the names of the specific individuals
11 who performed the services for which compensation is requested; (e) the hourly billing rate
12 for each such individual; (f) a detailed listing of the time entries relating to all individuals who
13 performed services, categorized by subject matter in compliance with Paragraph 11 of the
14 Guidelines and (g) a listing of all expenses incurred.

15 **PLEASE TAKE FURTHER NOTICE THAT**, unless a party in interest files an
16 objection to the requested payment within fifteen (15) days following the service of this
17 Monthly Application, requests a hearing on its objection, and serves its objection on the
18 following parties, PrediWave will be authorized, in the ordinary course of business and on an
19 interim basis, to pay the amounts requested herein in accordance with the terms and conditions
20 of the Interim Fee Procedures Order: counsel for PrediWave, Klee, Tuchin, Bogdanoff &
21 Stern, LLP, Attn: Jonathan S. Shenson, Esq., 2121 Avenue of the Stars, 33rd Floor, Los
22 Angeles, CA 90067; the Office of the United States Trustee, Attn: Minnie Loo, Esq., 1301
23 Clay Street, Suite 690-N Oakland, CA 94612; and counsel to Committee, John D. Fiero, Esq.,
24 Pachulski, Stang, Ziehl, Young & Weintraub, LLP, 150 California Street, 15th Floor, San
25 Francisco, CA 94111.

26 **PLEASE TAKE FURTHER NOTICE THAT**, the Narrative is set forth below:
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1 **Project Billing and Narrative Statement of Services Rendered**

2 In accordance with the Interim Fee Procedures Order, KTB&S classified all services
3 performed for which compensation is being sought into categories, as contemplated in the
4 Guidelines. KTB&S attempted to place the services performed in the category that best
5 relates to the service provided. However, because certain services may relate to one or more
6 categories, services pertaining to one category may, in fact, be included in another category.
7 KTB&S has established the following billing categories:

8

<u>Matter Number</u>	<u>Description</u>
010	Case Administration
020	Meetings & Communications
030	General Business Operations
040	Fee/ Employment Applications
050	Fee/ Employment Objections
070	Claims Administration/Objections
100	Plan/ Disclosure Statement
120	Litigation
200	Real Property Leases

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14 **1. Case Administration - 010.**

15 As a chapter 11 debtor, PrediWave is subject to a myriad of administrative and
16 procedural requirements imposed on a debtor in possession by the Title 11 of the United
17 States Code (the "Bankruptcy Code"), the Bankruptcy Rules, the Bankruptcy Local Rules for
18 the Northern District of California (the "Bankruptcy Local Rules") and the Guidelines of the
19 Office of the United States Trustee for Region 17 (the "UST Guidelines"). KTB&S
20 coordinates PrediWave's efforts to fulfill all of these and other obligations in a timely manner.
21 However, given that KTB&S became reorganization counsel to PrediWave post-petition, after
22 the Debtor's application to employ Latham & Watkins LLP ("Latham") as reorganization
23 counsel was denied, in order to do so, KTB&S has had to spend time transitioning from
24 Latham to KTB&S.

25 This category also includes, among other things, KTB&S's discussions with the
26 Court's staff and numerous administrative tasks which do not clearly fit into one of the other
27 nine activity categories.
28

1 Case Administration - Total hours for May through July: 24.00
2 Total fees for May through July: \$5,217.50

3 **2. Meetings and Communications - 020.**

4 Time billed to this category relates largely to communications with third parties about
5 scheduling and/or participating in meetings or phone calls. This category also includes certain
6 KTB&S meetings and phones calls which do not clearly fit into one of the other nine activity
7 categories.

8 Meetings and Communications - Total hours for May through July: 4.00
9 Total fees for May through July: \$2,040.00

10 **3. General Business Operations - 030.**

11 Time billed to this category relates largely to analyzing, addressing and conferring with
12 the Debtor on issues relating to PrediWave's business and operations in chapter 11. Among
13 other matters, KTB&S's services in this category include consultation on issues relating to (a)
14 the Debtor's corporate governance, management, operations, technology, finances (including
15 the management of its cash), financial accounting and reporting, personnel matters, and
16 litigation management and (b) the Debtor's compliance with the UST Guidelines, preparation
17 of amended Schedules and amended Statement of Financial Affairs, and filing of Monthly
18 Operating Reports and Verified Tax Statements. Because KTB&S was employed by the
19 Debtor and appointed as its reorganization counsel post-petition, time in this category
20 necessarily includes time spent educating itself and working with the Debtor and Latham to
21 understand the current posture of the many matters that had already taken place and that were
22 pending in the bankruptcy case (at the time), and to obtain and understand information
23 concerning the Debtor.

24 During the Application Period, time billed to this category also relates to analyzing,
25 addressing and conferring with the Debtor on matters relating to the Debtor's efforts to
26 enhance its reorganization and financial reporting capabilities. Among other things, KTB&S
27 advised the Debtor on matters relating to the integration of new members to its management
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1 team including Dennis Simon, as its chief restructuring officer, and Dawn Ragan, as its chief
2 financial officer, and XRoads Solutions Group, LLC ("XRoads"), as its restructuring and
3 financial advisor. KTB&S also advised the Debtor on the development and matters relating to
4 the development and implementation of the tasks to be performed by XRoads.

5 A portion of the time billed to this category relates to addressing matters relating to the
6 Debtor's relationship with its affiliated companies including, among other things, various
7 inter-company transactions and the inter-company allocations relating to the litigation
8 expenses incurred or to be incurred by the Debtor and its non-debtor affiliates in connection
9 with the pending litigation entitled *New World TMT Ltd v. PrediWave Corp. et. al.*, in the
10 Santa Clara Superior Court, case no. 04-CV020369 (the "Santa Clara Action").

11 Time billed to this category also relates to analyzing, addressing and conferring with
12 the Debtor on matters relating to the Debtor's efforts to continue to employ and compensate
13 certain professionals in the ordinary course of business. Among other things, KTB&S
14 prepared and prosecuted the Debtor's motion to employ and compensate certain foreign non-
15 restructuring professionals in the ordinary course of business (the "Foreign Professionals
16 Motion") and advised the Debtor on matters relating thereto. Time included in this category
17 also relates to KTB&S's efforts to elicit creditor support for the Foreign Professionals Motion
18 including, without limitation, negotiating and documenting a supplement to the relief
19 requested. While the Court denied the relief in part by requiring the Debtor to submit
20 employment applications for these professionals, the Court did authorize the Debtor to employ
21 these professionals effective as of April 14, 2006, pursuant to section 328 of the Bankruptcy
22 Code and compensate each of them in an amount not to exceed \$24,000 per year without
23 further application to or order from the Court.¹

24 General Business Operations - Total hours for May through July: 225.50

25 Total fees for May through July: \$109,870.00

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28 ¹ Going forward, time billed for work performed by KTB&S in assisting the Debtor in its efforts to employ these
professionals will be included in the "Fee/Employment Application" category.

1 creditors to file proofs of claim against PrediWave from August 14, 2006, to July 14, 2006
2 and (b) review and/or reconciliation of creditor claims.

3 Claims Administration/Objections - Total hours for May through July: 5.50

4 Total fees for May through July: \$2,752.50

5 **7. Plan/Disclosure Statement - 100.**

6 Time expended in this category relates mainly to KTB&S assisting PrediWave in its
7 successful effort to obtain entry of an order extending the exclusive periods in which it can file
8 and solicit acceptances to a plan of reorganization (the "Exclusivity Periods"). KTB&S
9 prepared and prosecuted the Debtor's motion to extend the Exclusivity Periods and advised the
10 Debtor on matters relating thereto. Time included in this category also relates to KTB&S's
11 efforts to elicit creditor support for the Debtor's request for said extension.

12 Plan/Disclosure Statement - Total hours for May through July: 33.90

13 Total fees for May through July: \$14,185.00

14 **8. Litigation - 120.**

15 This category contains services rendered by KTB&S in connection with analyzing,
16 addressing, and conferring with the Debtor, New World TMT Limited ("New World") and the
17 Committee on litigation matters in the bankruptcy case including a 2004 examination of its
18 responsible individual, a motion by New World to appoint a chapter 11 trustee or to convert
19 this case (the "Trustee Motion"), motions to remand the litigation matters involving New
20 World (the Santa Clara Action and another litigation matter in Los Angeles (the "Los Angeles
21 Action", and together with the Santa Clara Action, the "State Court Actions")), a motion for
22 relief from the automatic stay with regard to the Santa Clara Action, and a motion for
23 substantive consolidation.

24 With regard to the Trustee Motion, this category also contains time for services
25 rendered by KTB&S in connection with analyzing, addressing, and conferring with the Debtor
26 on substantive and other matters relating to the State Court Actions. While KTB&S is not
27 counsel to the Debtor in the State Court Actions, many of the claims and allegations raised by
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1 New World in the Trustee Motion are also the subject of the Santa Clara Action and,
2 accordingly, KTB&S needed to "get up to speed" on many substantive aspects of the State
3 Court Actions. KTB&S's services also included work performed by KTB&S in connection
4 with the negotiation and documentation of a stipulation with New World and the Committee --
5 approved by the Court -- which stays the litigation surrounding the Trustee Motion and 2004
6 examination, and puts in place an information sharing arrangement whereby the Debtor will
7 provide New World and the Committee with current information regarding its business
8 operations and financial condition.

9 With regard to the stay relief and remand matters relating to the State Court Actions,
10 KTB&S's services also included matters relating to the procedural posture of the State Court
11 Actions, and the preparation and filing of pleadings whereby the Debtor consented to the
12 lifting of the stay with regard to the Santa Clara Action and the remand of the Los Angeles
13 Action. KTB&S also spent time preparing and filing an opposition to New World's motion
14 for an order shortening time for a hearing on its motion to remand the Santa Clara Action, and,
15 ultimately, negotiating and documenting a stipulation with New World and the Committee --
16 which was approved by the Court -- to remand the Santa Clara Action, but which also relieved
17 the Debtor from the provisions of a preliminary injunction entered against it pre-petition.

18 With regard to the substantive consolidation motion, KTB&S's services also included
19 matters relating to the merits of the subject motion, and exploring whether a consensual
20 resolution of this matter (albeit on an interim basis).

21 Litigation - Total hours for May through July: 164.60

22 Total fees for May through July: \$56,230.00

23 **9. Real Property Leases - 200.**

24 This category serves as a "catch-all" for lease issues and includes services rendered by
25 KTB&S in connection with PrediWave's non-residential real property leases. Time expended
26 in this category relates mainly to KTB&S assisting PrediWave in its successful effort in obtain
27 entry of an order extending, by ninety (90) days, the date by which PrediWave must assume,
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1 assume and assign or reject non-residential real property leases (the motion together with the
2 related papers in support thereof, the "Extension Motion"). KTB&S prepared and prosecuted
3 the Extension Motion and advised the Debtor on matters relating thereto.

4 Real Property Leases - Total hours for May through July: 15.60

5 Total fees for May through July: \$7,620.00

6 DATED: August 11, 2006

7 /s/ Jonathan S. Shenson
8 JONATHAN S. SHENSON, a Member of
9 KLEE, TUCHIN, BOGDANOFF & STERN LLP
10 Reorganization Counsel for the Debtor
11 and Debtor in Possession