

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

In re:

DBSI, INC., *et al.*,<sup>3</sup>

Debtors.

Chapter 11

Case No. 08-12687 (PJW)

Jointly Administered

Ref. Docket No. 4169

**ORDER APPROVING STIPULATION  
REGARDING APPOINTMENT OF A CHAPTER 11 TRUSTEE**

Upon consideration of the Stipulation Regarding Appointment of a Chapter 11 Trustee (the "Stipulation"), a copy of which is annexed hereto as Exhibit A resolving the *Motion for Entry of an Order Directing the Appointment of a Chapter 11 Trustee* (the "Trustee Motion") [Docket No. 4169] filed by the U.S. Trustee; and the Court having been advised that rather than undertaking costly litigation regarding the issues raised in the Trustee Motion, the parties have agreed to a resolution of the relief requested therein; and the Court having jurisdiction to approve the Stipulation in accordance with 28 U.S.C. §§ 157 and 1334; and due notice having been provided; and the Court having determined that approval of the Stipulation is in the best interests of the Debtors, their estates and all parties in interest; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED, that the Stipulation is approved; and it is further

ORDERED, that grounds exist for the appointment of a trustee pursuant to 11

U.S.C. §§ 1104(a); and it is further

<sup>3</sup>

The last four digits of DBSI Inc.'s federal tax identification number are 5037. The mailing address for DBSI Inc. is 12426 West Explorer Drive, Suite 220, Boise, Idaho 83713. Due to the large number of Debtors in these cases, for which the Debtors were granted joint administration, a complete list of the Debtors, the last four digits of their federal tax identification numbers and their addresses is not provided herein. A complete list of such information may be obtained on the website of the Debtors' noticing and claims agent at [www.kccllc.net/dbsi](http://www.kccllc.net/dbsi), or by contacting counsel for the Debtors.



ORDERED, that the U.S. Trustee is hereby directed to appoint a disinterested person as chapter 11 trustee in the Debtors' cases effective as of 4:00 p.m. (ET) on August 31, 2009; and it is further

ORDERED, that nothing set forth in this order or the Stipulation shall be considered an admission on the part of any party to the Stipulation or a concession of any fact asserted with respect to the matters set forth in the Trustee Motion, the Committee Motion, the Examiner Report or otherwise; and it is further

ORDERED, that nothing set forth in this order or the Stipulation shall be deemed an adjudication or finding of any fact alleged in the Trustee Motion, the Examiner Report or any document filed or statement made concerning the Trustee Motion or the Examiner Report; and it is further

ORDERED, that the hearing to consider the Trustee Motion currently scheduled for August 24, 2009 at 10:00 a.m. (ET) is hereby cancelled, solely as to the Trustee Motion; and it is further

ORDERED, that this Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order or the Stipulation.

Dated: August 14, 2009  
Wilmington, Delaware

  
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Peter J. Walsh  
United States Bankruptcy Judge

## **Exhibit A**

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

In re:

DBSI, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 08-12687 (PJW)

Jointly Administered

Ref. Docket No. 4169

**STIPULATION REGARDING APPOINTMENT OF A CHAPTER 11 TRUSTEE**

This stipulation (the "Stipulation") is entered into this 13th day of August, 2009, by and among the above-captioned debtors and debtors-in-possession (collectively, the "Debtors"<sup>2</sup>), the Office of the United States Trustee (the "U.S. Trustee") and the Official Committee of Unsecured Creditors appointed in these cases (the "Creditors' Committee," and together with the Debtors, the "Parties") in resolution of the U.S. Trustee's *Motion for Entry of an Order Directing the Appointment of a Chapter 11 Trustee* (the "Trustee Motion") [Docket No. 4169].

WHEREAS, on various dates beginning on November 10, 2008, the Debtors filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C.

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<sup>1</sup> The last four digits of DBSI Inc.'s federal tax identification number are 5037. The mailing address for DBSI Inc. is 12426 West Explorer Drive, Suite 220, Boise, Idaho 83713. Due to the large number of Debtors in these cases, for which the Debtors were granted joint administration, a complete list of the Debtors, the last four digits of their federal tax identification numbers and their addresses is not provided herein. A complete list of such information may be obtained on the website of the Debtors' noticing and claims agent at [www.kccllc.net/dbsi](http://www.kccllc.net/dbsi), or by contacting counsel for the Debtors.

<sup>2</sup> The defined term "Debtors" as used herein excludes DBSI Highlands & Southcreek LeaseCo LLC and those certain fifty-five (55) entities affiliated with DBSI, Inc. whose chapter 11 bankruptcy cases were converted to chapter 7 cases effective as of July 31, 2009 [see Docket No. 4171], and any other entity affiliated with DBSI, Inc. whose chapter 11 bankruptcy case is converted to chapter 7 on or before the Effective Date (defined below) pursuant to the provisions of the *Omnibus Order Re: (I) Debtors' Motion for an Order, Pursuant to Section 1112 of the Bankruptcy Code and Bankruptcy Rules 1017 and 1019, Converting the Chapter 11 Cases of Various LeaseCos to Chapter 7* [Docket No. 3988] (the "Omnibus Conversion Order").

§§ 101-1532 (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Court”); and

WHEREAS, on November 21, 2008, the U.S. Trustee appointed the Creditors’ Committee [Docket No. 138]; and

WHEREAS on March 25, 2009, the Court entered an order approving the appointment of an examiner in these cases [Docket No. 2974]; and

WHEREAS on April 14, 2009, the Court entered an order appointing Joshua R. Hochberg as the examiner in these cases (the “Examiner”) [Docket No. 3308]; and

WHEREAS, on June 9, 2009, the Creditors’ Committee filed the *Emergency Motion of the Official Committee of Unsecured Creditors for Order: (I)(A) Terminating the Debtors’ Exclusive Rights Pursuant to 11 U.S.C. § 1121(d) Solely to Allow the Committee to File and Solicit Acceptances of a Chapter 11 Plan; or, in the Alternative, (B) Directing the Appointment of a Trustee Pursuant to 11 U.S.C. §§ 1104(A)(1) or (2); And (II) Further Continuing the Hearing on Approval of the Debtors’ Disclosure Statement* (the “Committee Motion”) [Docket No. 3711]; and

WHEREAS, on July 19, 2009, the Court entered an order approving a stipulation which resolved the Committee Motion by providing for the termination of exclusivity as to the Committee and pursuant to which the Debtors expressly denied the statements made by the Creditors’ Committee in the Committee Motion that purportedly provided the bases for the relief requested therein [Docket No. 3820]; and

WHEREAS, on August 3, 2009, the Examiner filed his *First Interim Report of Examiner* (the “Examiner Report”) [Docket No. 4159]; and

WHEREAS, on August 3, 2009, the U.S. Trustee filed the Trustee Motion based, in part, on the contentions in the Examiner Report; and

WHEREAS, the Court held a hearing on August 4, 2009 (the "Hearing"), to consider, among other things, the scheduling of a hearing to consider the Trustee Motion; and

WHEREAS, at the Hearing, the Creditors' Committee reported to the Court that it supported the relief requested in the Trustee Motion.

NOW, THEREFORE, based upon the argument of counsel and the comments made by the Court at the Hearing and in order to avoid the significant cost associated with litigating the Trustee Motion, the Parties hereby agree as follows:

A. Grounds exist for the appointment of a trustee pursuant to 11 U.S.C. § 1104(a).

B. The U.S. Trustee shall be directed to appoint a disinterested person to serve as chapter 11 trustee in the Debtors' cases effective as of 4:00 p.m. (ET) on August 31, 2009.

C. Nothing set forth in this Stipulation shall be considered an admission on the part of any Party hereto or a concession of any fact asserted with respect to the matters set forth in the Trustee Motion, the Committee Motion, the Examiner Report or otherwise.

D. Nothing set forth in this Stipulation or in the order approving this Stipulation shall be deemed an adjudication or finding of any fact alleged in the Trustee Motion, the Examiner Report or any document filed or statement made concerning the Trustee Motion or the Examiner Report.

IN WITNESS WHEREOF, the Parties are executing this Stipulation as of the day  
and year first written above.

Dated: Wilmington, Delaware

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Dated: Wilmington, Delaware

ROBERTA A. DEANGELIS

ACTING UNITED STATES TRUSTEE

/s/ Richard L. Schepacarter

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