

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Newport News Division**

**In re:**

**MICHAEL D. VICK,**  
  
**Debtor.**

) **Case No. 08-50775**  
) **Chapter 11**  
)  
)

**MOTION OF THE DEBTOR FOR AN ORDER (A) GRANTING AN EXTENSION OF TIME TO FILE STATEMENTS OF FINANCIAL AFFAIRS AND SCHEDULES OF ASSETS AND LIABILITIES, CURRENT INCOME AND EXPENDITURES AND EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND (B) AUTHORIZING THE SCHEDULING OF THE MEETING OF CREDITORS AS SET FORTH HEREIN**

Michael D. Vick, the above-captioned Debtor (“Vick” or the “Debtor”), hereby moves the Court, pursuant to this Motion (the “Motion”), for the entry of an Order, substantially in the form of Exhibit A hereto, (a) granting the Debtor an extension of time to file his statements of financial affairs and schedules of assets and liabilities, current income and expenditures and executory contracts and unexpired leases (collectively, the “Statements and Schedules”) and (b) to the extent such relief is necessary, authorizing the Office of the United States Trustee for the Eastern District of Virginia (the “U.S. Trustee”) to schedule the meeting with the creditors under Section 341 of the Bankruptcy Code, 11 U.S.C. § 101-1532 (the “Bankruptcy Code”), more than

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40 days following the date hereof (the “Commencement Date”). In support of this Motion, the Debtor respectfully states as follows:

### **JURISDICTION**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory bases for the relief requested herein are Sections 105(a) and 521 of the Bankruptcy Code, Rules 1007, 2003(a) and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 1007-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Eastern District of Virginia (the “Local Bankruptcy Rules”).

### **BACKGROUND**

4. On the date hereof (the “Commencement Date”), the Debtor filed a Petition with the Court under Chapter 11 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in this Chapter 11 case, and no committees have been appointed or designated.

5. The Debtor is an individual and a resident of Hampton, Virginia. He is a suspended National Football League quarterback formerly under contract with the Atlanta Falcons. On or about August 27, 2007, he pleaded guilty to conspiracy to travel in interstate commerce in aid of unlawful activities and to sponsor a dog in an animal fighting venture, under 18 U.S.C. § 371. The Debtor is currently serving a 23-month prison sentence at the United States Penitentiary at Leavenworth, Kansas and is expected to be released in or about summer

2009. Upon his release, the Debtor will return to his home in Hampton, Virginia and will seek to rebuild his life and career.

6. The precipitating factor leading to the Debtor's filing of this Chapter 11 case is that one of the Debtor's creditors, Joel Enterprises ("Joel"), docketed a judgment against Vick in various counties in which he owns real estate and other personal property and has commenced collection activities. Although the Debtor's goal was to avoid bankruptcy and work out consensual resolutions with each of his creditors who, other than Joel, have been quite cooperative, Vick and his trusted advisor, David Talbot ("Talbot"), who has been placed in charge of Vick's affairs by pursuant to a general power of attorney<sup>1</sup>, determined to, in the interests of creditors and the estate, file for bankruptcy petition within 90 days of the docketing of Joel's judgment in order to avoid the judgment and its impact on other creditors. Now that it has been commenced, the bankruptcy case may be beneficial to creditors and the estate by providing a single forum in which the Debtor may effectuate a global resolution of all of the claims against him. Finally, the bankruptcy case may provide a mechanism for the Debtor to recover assets from certain third-parties who may have taken advantage of the Debtor during the pre-petition period. These assets, if recovered and brought into the estate, will benefit all legitimate creditors.

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<sup>1</sup> Concurrently herewith, the Debtor has filed a motion to appoint Talbot as a responsible person to act on his behalf during the bankruptcy case. As more fully set forth in the responsible person motion, while the Debtor is incarcerated Talbot, the Debtor's designee, will, with guidance and input from the Debtor, have the delegatable rights, powers and duties of the Debtor under the Bankruptcy Code.

## RELIEF REQUESTED

7. Pursuant to Section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, the Debtor ordinarily would be required to file the Statements and Schedules no later than 15 days after the Commencement Date. By this Motion, the Debtor seeks entry of an Order (a) extending the time within which he is required to file his Statements and Schedules for an additional 30 days to August 21, 2008, without prejudice to the Debtor's ability to request additional time should it become necessary and (b) to the extent that such relief is necessary, authorize the U.S. Trustee to schedule the meeting with the creditors under Section 341 of the Bankruptcy Code more than 40 days following the Commencement Date notwithstanding Bankruptcy Rule 2003(a).

## BASIS FOR RELIEF

### **A. Extending Deadline for Statements and Schedules**

8. Pursuant to Bankruptcy Rule 1007(a)(5)<sup>2</sup> and (c),<sup>3</sup> a bankruptcy court may extend a debtor's time within which to file its Statements and Schedules.

9. Section 105(a) of the Bankruptcy Code also provides this Court with the power to grant the relief requested by the Debtor herein. Section 105(a) states that a bankruptcy court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of the [Bankruptcy Code]."

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<sup>2</sup> Bankruptcy Rule 1007(a)(5) provides a bankruptcy court with the ability to extend a debtor's time to file its list of equity security holders "on motion for cause shown and on notice to the United States trustee and to any trustee, committee ... appointed pursuant to § 1102 of the [Bankruptcy] Code, or other party as the court may direct."

<sup>3</sup> Bankruptcy Rule 1007(c) provides a bankruptcy court with the ability to extend a debtor's time to file its statement of financial affairs and schedules of assets and liabilities, current income and expenditures and executory contracts and unexpired leases "on motion for cause shown and on notice to the United States trustee and to any committee ... appointed under § 1102 of the [Bankruptcy] Code, trustee, examiner, or other party as the court may direct."

10. As set forth above, the Debtor is incarcerated and has authorized Talbot, his manager, through a power of attorney, to act as a responsible person in connection with the conduct and administration of the Chapter 11 case. Given the exigencies of the filing of this case and the understandably difficult logistics of coordinating the bankruptcy filing and gathering information about the Debtor's assets and liabilities from several of the Debtor's former advisors and his partners and other participants in various investments, Talbot requires more than the initially allotted 15-day period to review the Debtor's files and verify all of the information concerning his assets and liabilities and financial affairs and finalize the Schedules and Statements. As noted above, because the Debtor is currently serving a 23-month sentence in prison in Kansas, he does not have the customary access and availability to work with Talbot in this process of gathering and verifying financial information. A 30-day extension of time would provide the Debtor and Talbot an opportunity to gather the necessary information to prepare the required Statements and Schedules.

11. Moreover, creditors and other parties in interest will not be harmed by the proposed extension of the filing deadline, because, even under the extended deadline, the Statements and Schedules would be filed in advance of any planned bar date or other significant event in this Chapter 11 case. Accordingly, the Debtor submits that his request for a 30-day extension of time to file his Statements and Schedules is consistent with precedent and is appropriate and warranted under the circumstances.

12. Local Bankruptcy Rule 1007-1(c), pertaining to motions to extend the time for a debtor to file its "lists of schedules and statements," provides, in relevant part, as follows:

Where no objections to the motion to extend time are timely filed with the Court, the Clerk shall enter an order extending time for filing to not later than the fourth business day prior to the scheduled meeting of creditors. If the lists, Statements and

Schedules are not filed by said date, the Clerk shall enter an order dismissing the case.

Local Bankruptcy Rule 1007-1(c).

13. Courts in this district and other districts have regularly granted similar relief to the relief requested herein. *See, e.g., In re The Rowe Cos., Case No. 06-11142* (SSM) (Bankr. E.D. Va. Sept. 20, 2006) (granting 15-day extension); *In re US Airways, Inc., Case No. 04-13819* (SSM) (Bankr. E.D. Va. Sept. 13, 2004) (granting 30-day extension); *In re NTELOS, Inc., Case No. 03-32094* (DOT) (Bankr. E.D. Va. Mar. 4, 2003) (granting 30-day extension); *In re AMF Bowling Worldwide, Inc., Case No. 01-61119* (DHA) (Bankr. E.D. Va. July 9, 2001) (granting 30-day extension); *In re Heilig-Meyers Co., Case No. 00-34533* (DOT) (Bankr. E.D. Va. Aug. 16, 2000) (granting 60-day extension); *see also In re Kaiser Aluminum Corp., Case No. 02-10429* (Bankr. D. Del. Mar. 5, 2002) (granting 90-day extension); *In re Fleming Cos., Inc., Case No. 03-10945* (Bankr. D. Del. May 19, 2003) (granting 61-day extension); *In re Calpine Corp., Case No. 05-60200* (Bankr. S.D.N.Y. Dec. 21, 2005) (granting 60-day extension).

**B. Providing Authority, if Necessary, Regarding the Scheduling of the Creditors Meeting Required by Section 341 of the Bankruptcy Code**

14. Bankruptcy Rule 2003(a) provides that in a Chapter 11 case the United States trustee shall call a meeting of creditors to be held no fewer than 20 and no more than 40 days after the Order for relief. The Debtor anticipates that the U.S. Trustee soon will schedule the meeting of creditors required by Section 341 of the Bankruptcy Code, which the U.S. Trustee may desire to call after such 40-day period. To the extent such relief is necessary and in an abundance of caution, the Debtor requests that the Court authorize the U.S. Trustee to schedule such 341 meeting after the 40-day deadline.

15. In this district and in other districts, especially in large, complex cases, the Section 341 Meeting is often scheduled more than 40 days after the commencement date. *See, e.g., In re US Airways, Inc.*, Case No. 04-13819 (SSM) (Bankr. E.D. Va. Sept. 13, 2004) (section 341 meeting convened 54 days after commencement date); *In re Calpine Corp.*, Case No. 05-60200 (Bankr. S.D.N.Y. Dec. 21, 2005) (Section 341 meeting convened approximately 90 days after commencement date).

**WAIVER OF MEMORANDUM OF POINTS AND AUTHORITIES**

16. The Debtor respectfully requests that this Court treat this Motion as a written memorandum of points and authorities or waive any requirement that this Motion be accompanied by a written memorandum of points and authorities as described in Local Bankruptcy Rule 9013-1(G).

WHEREFORE, for the reasons set forth herein, the Debtor respectfully requests that the Court enter an order: (a) granting the Debtor an extension of 30 additional days to file his Statements and Schedules, which will provide the Debtor with a total of 45 days after the Commencement Date to file his Statements and Schedules, (b) authorizing the scheduling of the 341 Meeting as set forth herein, and (c) granting such other and further relief as is just and proper.

Dated: July 7, 2008  
Norfolk, Virginia

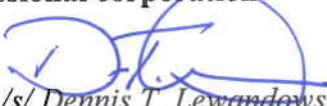
Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing pleading was mailed first-class, postage prepaid U.S. Mail and/or by electronic-mail, this 7<sup>th</sup> day of July, 2008, to:

Office of the U.S. Trustee  
Room 625, Federal Building  
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Norfolk, VA 23510

those parties listed on **Schedule 1**

and to all creditors and parties-in-interest who are included in the Bankruptcy Court's ECF e-mail notification system.

  
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*/s/ Dennis T. Lewandowski*

:13835962

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