

**ENTERED**

March 22, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

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

Debtors.

)  
) Chapter 11  
)  
) Case No. 23-90088 (DRJ)  
)  
) (Jointly Administered)  
)  
) (Docket No. 286)

**ORDER AUTHORIZING THE RETENTION AND  
EMPLOYMENT OF PRICEWATERHOUSECOOPERS LLP AS AUDIT  
SERVICES PROVIDER TO THE DEBTORS, EFFECTIVE AS OF FEBRUARY 14, 2023**

Upon the application (the “Application”)<sup>2</sup> of Avaya Inc. and certain of its affiliates as debtors and debtors-in-possession (collectively, the “Debtors”), for entry of an order authorizing the Debtors to employ and retain PricewaterhouseCoopers LLP (“PwC”) as audit services provider to the Debtors, effective as of February 14, 2023, pursuant to the terms and conditions of the Engagement Letters, subject to the limitations and modifications provided for herein; and it appearing that this Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b); and it appearing that venue of these chapter 11 cases and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having determined that the relief requested in the Application is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and it appearing that PwC does not hold or represent an interest adverse to the Debtors or their estates and is disinterested under 11 U.S.C. § 101(14); and

<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <http://www.kccllc.net/avaya>. The location of Debtor Avaya Inc.’s principal place of business and the Debtors’ service address in these chapter 11 cases is 350 Mount Kemble Avenue, Morristown, New Jersey 07960.

<sup>2</sup> All capitalized terms used but otherwise not defined herein shall have the meanings set forth in the Application.



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it appearing that proper and adequate notice of the Application has been given and that no other or further notice is necessary; and any objections (if any) to the Application having been withdrawn, resolved or overruled on the merits; and upon the record of the hearing (if any held) to consider the relief requested in the Application and all proceedings had before this Court; and the Klemm Declaration, filed contemporaneously with the Application; and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

The Application is GRANTED to the extent provided for herein.

1. The Debtors are authorized, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, Bankruptcy Rules 2014(a) and 2016(a) and Bankruptcy Local Rules 2014-1, 2016-1 and 9013-1(a), to employ and retain PwC as audit services provider to the Debtors, effective as of February 14, 2023, in accordance with the terms and conditions set forth in the Engagement Letters, as limited and modified by this Order.

2. The terms and conditions of PwC's employment as provided in the Engagement Letters are reasonable and are hereby approved as set forth herein.

3. Further, the Fee and Expense Structures, as set forth in the Engagement Letters, are approved.

4. Other than for services under the 2022 Audit Engagement Letter, PwC shall file fee applications for allowance of its compensation and reimbursement of its expenses with respect to future services rendered in these chapter 11 cases with this Court in accordance with the Bankruptcy Code sections 330 and 331, the Bankruptcy Rules, the Bankruptcy Local Rules, ~~the XXXXXXXXXX~~ and any applicable orders of this Court; *provided, however*, that solely as to the fixed fee portion of the engagement, PwC shall be excused from keeping time records for

services rendered in one-tenth (0.1) of an hour increments and instead shall keep reasonable detailed records of time in half-hour (0.5) increments for fixed fee engagements. With respect to the fixed fee portion of its engagements, PwC's fee applications and any related objections filed in these cases shall be subject only to the standard of review set forth in section 328 of the Bankruptcy Code, and shall not be subject to the standard of review in section 330 of the Bankruptcy Code or any other standard of review, *provided, however*, the U.S. Trustee retains all rights to respond or object to PwC's interim and final applications for compensation and requests for reimbursement of out-of-pocket expenses on all grounds, including, but not limited to, reasonableness pursuant to section 330 of the Bankruptcy Code, and the Court retains jurisdiction to consider the U.S. Trustee's response or objection to PwC's interim and final fee applications on all grounds, including, but not limited to, reasonableness pursuant to section 330 of the Bankruptcy Code.

5. In the event, during the pendency of these cases, PwC seeks reimbursement pursuant to the Engagement Letters for any attorney's fees and/or expenses related to the production (as authorized by the Debtors or required by government regulation, subpoena or other legal process) of PwC's working papers and/or its personnel as witnesses with respect to PwC's engagement for the Debtor the invoices supporting time records from such attorneys shall be included in PwC's fee application and such invoices and time records shall be in compliance with the Bankruptcy Local Rules, and shall be subject to ~~the U.S. Trustee's Guidelines and~~ approval of the Court under the standards of Bankruptcy Code sections 330 and 331, without regard to whether such attorney has been retained under Bankruptcy Code section 327, *provided however*, that PwC shall not seek reimbursement from the Debtors' estates for any fees incurred in defending any of PwC's fee applications in these bankruptcy cases.

6. If the Debtors request and PwC agrees to provide additional services, PwC and the Debtors may enter into statements of work or amendments with respect to the Engagement Letters or additional agreements. Any additional agreements, statements of work or amendments will be filed with the Court and served on the applicable notice parties, and, absent any objections filed within ten (10) days after the filing and service of such supplemental declaration, PwC's employment and retention, including as to the additional agreements, statements of work, amendments and/or services, shall continue as authorized pursuant to this Order.

7. Prior to any increases in PwC's rates for any individual retained by PwC and providing services in these cases, PwC shall file a supplemental declaration with this Court and provide ten (10) business days' notice to the Debtors, and the U.S. Trustee. The supplemental declaration shall explain the basis for the requested rate increases in accordance with section 330(a)(3)(F) of the Bankruptcy Code and state whether the Debtors have consented to the rate increase. The U.S. Trustee retains all rights to object to any rate increase on all grounds including the reasonableness standard provided for in section 330 of the Bankruptcy Code and all rates and rate increases are subject to review by this Court.

8. To the extent that the provisions of this Order are inconsistent with the provisions of the Application, the Engagement Letters or the Klemm Declaration, the provisions of this Order shall govern.

9. The Debtors and PwC are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

10. Notwithstanding any provision to the contrary in the Application, the Engagement Letters or the Klemm Declaration, the Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation and enforcement of this Order. For

the avoidance of doubt, during the pendency of the Debtors' bankruptcy cases, any provision of the unmodified Engagement Letters that provides for mediation or arbitration shall not be applicable unless this Court lacks or declines to exercise jurisdiction.

**Signed: March 22, 2023.**



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DAVID R. JONES  
UNITED STATES BANKRUPTCY JUDGE