

CSD 1001A [07/01/18]

Docket #0055 Date Filed: 9/27/2022

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Order Entered on
 September 27, 2022
 by Clerk U.S. Bankruptcy Court
 Southern District of California

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA
 325 West F Street, San Diego, California 92101-6991

In Re
 BORREGO COMMUNITY HEALTH FOUNDATION,
 Debtor and Debtor In Possession.

Debtor.

BANKRUPTCY NO. 22-02384-11

Date of Hearing:
 Time of Hearing:
 Name of Judge: Honorable Laura S. Taylor

**ORDER ON
 DEBTOR'S EX PARTE APPLICATION FOR AN ORDER APPOINTING KURTZMAN CARSON
 CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT, EFFECTIVE AS OF THE PETITION DATE**

The court orders as set forth on the continuation pages attached and numbered 2 through 3 with exhibits, if any, for a total of 3 pages. Motion/Application Docket Entry No. 46.

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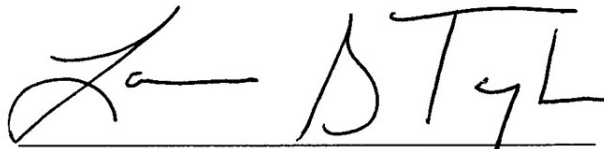
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DATED: September 27, 2022


 Judge, United States Bankruptcy Court



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ORDER ON DEBTOR'S EX PARTE APPLICATION FOR AN ORDER APPOINTING KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT, EFFECTIVE AS OF THE PETITION DATE

DEBTOR: BORREGO COMMUNITY HEALTH FOUNDATION,
Debtor and Debtor In Possession.

CASE NO: 22-02384-11

The Court having considered the Debtor's Ex Parte Application for an Order Appointing Kurtzman Carson Consultants LLC as Claims and Noticing Agent, Effective as of the Petition Date ("Application") filed by Borrego Community Health Foundation ("Debtor"), the Debtor and debtor in possession herein, the files and records in this Case, and the arguments presented at the hearing before the Court (if any); the Court having found that good and sufficient cause exists for granting the Application; it appearing that the relief requested is in the best interest of the Debtor's estate, its creditors, and other parties in interest; and it appearing that notice of the Application was adequate and proper under the circumstances of the Case and that no further or other notice need be given,

IT IS HEREBY ORDERED that:

1. The Application is granted as set forth herein. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Application.
2. The Debtor is hereby authorized to retain KCC as the Claims and Noticing Agent in this chapter 11 case effective as of the Petition Date pursuant to section 156(c) of the Judicial Code as provided in the Application, on the terms and conditions set forth in the KCC Agreement, which terms and conditions are hereby approved.
3. KCC is authorized to take all action as necessary to comply with the duties set forth in the Application and the KCC Agreement.
4. The Debtor is authorized to compensate KCC in accordance with the terms of the Application and the KCC Agreement without the need for KCC to file fee applications or otherwise to seek Court approval for the compensation for its services and reimbursement of its expenses.
5. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, KCC's fees and expenses under this Order shall be an administrative expense of the Debtor's estate.
6. KCC may apply its retainer to all prepetition invoices, which retainer may be replenished to the original retainer amount, and thereafter, KCC may hold its retainer under the KCC Agreement during this chapter 11 case as security for payment of fees and expenses incurred under the KCC Agreement.
7. To the extent the Debtor and KCC modify the KCC Agreement, the Debtor shall file with the Court a Notice of Modification of Agreement with KCC (the "Notice") and serve such Notice upon the Office of the United States Trustee, counsel for any statutory committee appointed in this chapter 11 case, and any other party requesting notice of matters herein; and, if no objections are filed with respect to the Notice, then the modifications set forth in the Notice shall be deemed approved without the necessity of a hearing or further order of this Court.
8. The Debtor shall indemnify KCC under the terms of the KCC Agreement; provided that KCC shall not be entitled to indemnification, contribution, or reimbursement pursuant to the KCC Agreement for services other than the services provided under the KCC Agreement, unless such services and the indemnification, contribution, or reimbursement therefor are approved by this Court.
9. Notwithstanding anything to the contrary in the KCC Agreement, the Debtor shall have no obligation to indemnify KCC, or provide contribution or reimbursement to KCC, for any claim or expense that is: (a) judicially determined (the determination having become final) to have arisen from KCC's gross negligence, willful misconduct, or fraud; (b) for a contractual dispute in which the Debtor alleges the breach of KCC's contractual obligations if this Court determines that indemnification, contribution, or reimbursement would not be permissible under applicable law; or (c) settled prior to a judicial determination under (a) or (b), but determined by this Court, after notice and a hearing, to be a claim or expense for which KCC should not receive indemnity, contribution, or reimbursement under the terms of the KCC Agreement, as modified by this Order.

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ORDER ON DEBTOR'S EX PARTE APPLICATION FOR AN ORDER APPOINTING KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT, EFFECTIVE AS OF THE PETITION DATE

DEBTOR: BORREGO COMMUNITY HEALTH FOUNDATION,

CASE NO: 22-02384-11

Debtor and Debtor In Possession.

10. If, before the earlier of (a) the entry of an order confirming a chapter 11 plan in this chapter 11 case (that order having become a final order no longer subject to appeal), or (b) the entry of an order closing this chapter 11 case, KCC believes that it is entitled to the payment of any amounts by the Debtor on account of the Debtor's indemnification, contribution, and/or reimbursement obligations under the KCC Agreement (as modified by this Order), including without limitation the advancement of defense costs, KCC must file an application therefor in this Court, and the Debtor may not pay any such amounts to KCC before, after notice and a hearing, the entry of an order by this Court approving the payment. This paragraph is intended only to specify the period of time under which this Court shall have jurisdiction over any request for fees and expenses by KCC for indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtor's obligation to indemnify KCC. All parties in interest shall retain the right to object to any demand by KCC for indemnification, contribution, or reimbursement.

11. In the event that KCC is unable to provide the services set out in this Order, KCC will immediately notify the Clerk's Office and Debtor's counsel and, upon approval of the Court, cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk's Office and Debtor's counsel.

12. The Debtor and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

13. Notwithstanding any term in the KCC Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

14. KCC shall not cease providing claims processing services during this chapter 11 case for any reason, including nonpayment, without an order of this Court.

15. The terms and conditions of this Order shall be immediately effective upon entry of this Order.

Notice Recipients

District/Off: 0974-3	User: Admin.	Date Created: 9/27/2022
Case: 22-02384-LT11	Form ID: pdf01	Total: 2

Recipients of Notice of Electronic Filing:

aty	Tania M. Moyron	tania.moyron@dentons.com
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TOTAL: 1

Recipients submitted to the BNC (Bankruptcy Noticing Center):
db BORREGO COMMUNITY HEALTH FOUNDATION,
Springs, CA 92004

587 Palm Canyon Dr.	Suite 208	Borrego
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TOTAL: 1