



UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)
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Debtors-in-Possession

In re:

RIH ACQUISITIONS NJ, LLC, *et al.*,¹

Debtors-in-Possession.

Case No. 13-34483
Judge:
Chapter 11
(Joint Administration Pending)
Hearing Date and Time:
_____, 2013, at __:__.m.

ORDER APPROVING THE DEBTORS' RETENTION OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT PURSUANT TO 28 U.S.C § 156(c)

The relief set forth on the following pages, numbered two (2) through seven (8), is hereby **ORDERED**.

11/8/13

C. U.S.B.J.

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal identification number are: RIH Acquisitions NJ, LLC d/b/a The Atlantic Club Casino Hotel (1695) and RIH Propco NJ, LLC (5454).



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THIS MATTER having been opened to the Court by RIH Acquisitions NJ, LLC d/b/a The Atlantic Club Casino Hotel and RIH Propco NJ, LLC, the within debtors and debtors-in-possession (the "**Debtors**"), by and through their proposed counsel, Cole, Schotz, Meisel, Forman & Leonard, P.A., upon motion for entry of an Order approving the Debtors' retention of Kurtzman Carson Consultants LLC ("**KCC**") as the official claims and noticing agent (the "**Notice and Claims Agent**") pursuant to 28 U.S.C. § 156(c) (the "**Motion**"); and it appearing that good and sufficient notice of the Motion having been provided in accordance with the Order Regarding Application for Expedited Consideration of First Day Matters previously entered by the Court, as evidenced by the Affidavit of Service filed with the Court; and the Court having considered all the motion papers, the opposition thereto, if any, and the arguments of counsel, if any; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates and creditors; and other good cause having been shown,

IT IS ORDERED as follows:

1. Notwithstanding the terms of the Services Agreement attached as Exhibit B to the Application, the Application is approved solely as set forth in this Order.

2. The Debtors are authorized to retain the Notice and Claims Agent effective as of the date of the commencement of these cases under the terms of the Services Agreement² (except

² Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Application.

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as otherwise set forth in this Order), and the Notice and Claims Agent is authorized and directed to perform noticing services and to receive, maintain, record and otherwise administer the proofs of claim filed in these chapter 11 cases, and all related tasks, all as described in the Application (the "**Claims and Noticing Services**").

3. The Notice and Claims Agent shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these chapter 11 cases and is authorized and directed to maintain official claims registers for each of the Debtors and to provide the Clerk's Office with a certified duplicate thereof upon the request of the Clerk.

4. The Notice and Claims Agent is authorized and directed to obtain a post office box or address for the receipt of proofs of claim.

5. The Notice and Claims Agent is authorized to take such other action to comply with all duties set forth in the Application.

6. Subject to paragraphs 7 and 8 of this Order, the Debtors are authorized to compensate the Notice and Claims Agent in accordance with the terms of the Services Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by the Notice and Claims Agent and the rates charged for each, and to reimburse the Notice and Claims Agent for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for the Notice and Claims Agent to file fee

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applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

7. The Notice and Claims Agent shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtors, the office of the United States Trustee, counsel for the Debtors, counsel for any official committee, if any, monitoring the expenses of the Debtors and any party-in-interest who specifically requests service of the monthly invoices.

8. Parties shall have ten (10) days from receipt of the invoice to review such invoice and raise any objections, either formally through the filing of an objection with the Court or informally through a writing served on KCC, to the fees and expenses being requested by KCC. If an objection is interposed, the parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Services Agreement or monthly invoices. The parties may seek resolution of the matter from the Court if resolution is not achieved. The Debtors are authorized to pay KCC the full amount of the requested fees and expenses upon expiration of the ten (10) day review if no objection has been raised without further order of the Court. If an objection has been raised, the Debtors may not pay the objected to amount pending agreement of the parties or an order of this Court authorizing payment.

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9. Pursuant to Section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of the Notice and Claims Agent under this Order shall be an administrative expense of the Debtors' estates.

10. KCC may apply its retainer to all pre-petition invoices, which retainer shall be replenished to the original retainer amount of \$25,000, and thereafter, KCC may hold its retainer under the Services Agreement during the chapter 11 cases as security for the payment of fees and expenses incurred under the Services Agreement.

11. The Debtors shall indemnify the Notice and Claims Agent under the terms of the Services Agreement.

12. The Notice and Claims Agent shall not be entitled to indemnification, contribution or reimbursement pursuant to the Services Agreement for services other than the services provided under the Services Agreement, unless such services and the indemnification, contribution or reimbursement therefore are approved by the Court.

13. Notwithstanding anything to the contrary in the Services Agreement, the Debtors shall have no obligation to indemnify the Notice and Claims Agent, or provide contribution or reimbursement to the Notice and Claims Agent, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from the Notice and Claims Agent's gross negligence, willful misconduct, or fraud; (ii) for a contractual dispute in which the Debtors allege the breach of the Notice and Claims Agent's contractual obligations if

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the Court determines that indemnification, contribution or reimbursement would not be permissible pursuant to *In re United Artists Theatre Co., et al.*, 315 F.3d 217 (3d Cir. 2003), or (iii) settled prior to a judicial determination under (i) or (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which the Notice and Claims Agent should not receive indemnity, contribution or reimbursement under the terms of the Services Agreement as modified by this Order.

14. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal), or (ii) the entry of an order closing these chapter 11 cases, the Notice and Claims Agent believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Services Agreement (as modified by this Order), including without limitation the advancement of defense costs, the Notice and Claims Agent must file an application therefor in this Court, and the Debtors may not pay any such amounts to the Notice and Claims Agent before the entry of an order by this Court approving the payment. This paragraph is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by the Notice and Claims Agent for indemnification, contribution or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify the Notice and Claims Agent. All parties in

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interest shall retain the right to object to any demand by the Notice and Claims Agent for indemnification, contribution or reimbursement.

15. In the event the Notice and Claims Agent is unable to provide the services set out in this order, the Notice and Claims Agent will immediately notify the Clerk's Office and Debtors' attorney and 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 Debtors' attorney.

16. The Debtors may submit a separate retention application, pursuant to 11 U.S.C. § 327 and/or any applicable law, for work that is to be performed by the Notice and Claims Agent but is not specifically authorized by this Order.

17. The Debtors and the Notice and Claims Agent are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

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

19. The Notice and Claims Agent shall not cease providing claims processing services during the chapter 11 case(s) for any reason, including nonpayment, without an order of the Court.

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20. In the event of any inconsistency between the Services Agreement, the Application and the Order, the Order shall govern.

21. The Debtors and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

22. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

23. A true copy of this Order shall be served on all parties-in-interest within seven (7) days of the date hereof.