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PROPOSED ATTORNEYS FOR DEBTOR

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re: § Chapter 11
§
TPP ACQUISITION, INC. d/b/a The § Case No. 16-33437-hdh-11
Picture People, §
§
Debtor. §

DEBTOR’S APPLICATION FOR ENTRY OF AN ORDER, PURSUANT TO 28 U.S.C. § 156(c), AUTHORIZING THE RETENTION AND APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS, NOTICING, AND BALLOTING AGENT NUNC PRO TUNC TO THE PETITION DATE

TPP Acquisition, Inc. d/b/a The Picture People (“TPP” or the “Debtor”), files this *Debtor’s Application for Entry of an Order, Pursuant to 28 U.S.C. § 156(c), Authorizing the Retention and Appointment of Kurtzman Carson Consultants LLC as Claims, Noticing, and Balloting Agent Nunc Pro Tunc to the Petition Date* (the “Application”). In support of the Application, Debtor relies on the *Declaration of Evan Gershbein in Support of Debtor’s Application for Entry of an Order, Pursuant to 28 U.S.C. § 156(c), Authorizing the Retention and Appointment of Kurtzman Carson Consultants LLC as Claims, Noticing, and Balloting Agent*



Nunc Pro Tunc to the Petition Date (the “Gershbein Declaration”), which is attached hereto as **Exhibit A**. In further support of the Application, the Debtor respectfully represents as follows:

Jurisdiction and Venue

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§1408 and 1409.

Background

2. To preserve the value of its assets and restructure its financial affairs, on September 2, 2016 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) commencing the above captioned case (the “Chapter 11 Case”). The Debtor continues to manage and operate its business as a debtor-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108.

3. An official committee of unsecured creditors has yet to be appointed in this Chapter 11 Case. Further, no trustee or examiner has been requested or appointed in this Chapter 11 Case.

4. On September 2, 2016, in connection with the first day hearings in the Chapter 11 Case, the *Statement of Background Information and Declaration of Stuart Noyes, Chief Restructuring Officer of TPP Acquisition, Inc. d/b/a The Picture People, in Support of Debtor’s Chapter 11 Petition and First-Day Motions* (the “First Day Declaration”) was filed with the Court.

RELIEF REQUESTED

5. By this Application, the Debtor requests entry of an Order, substantially in the form attached hereto as **Exhibit C**, authorizing it to retain and appoint Kurtzman Carson Consultants LLC (“KCC”) as the official claims, noticing, and balloting agent (the “Claims and

Noticing Agent”) in this Chapter 11 Case in accordance with the terms and conditions of that certain services agreement between the Debtor and KCC dated as of August 23, 2016 (the “Engagement Agreement”), attached hereto as **Exhibit B**, *nunc pro tunc* to the Petition Date.

BASIS FOR RELIEF REQUESTED

6. Bankruptcy Code § 156(c), which governs the staffing and expenses of the bankruptcy court, authorizes the Court to use facilities other than those of the Clerk for the administration of chapter 11 cases, and provides as follows:

Any court may utilize facilities or services, either on or off the court’s premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States.

28 U.S.C. § 156(c).

7. Although the Debtor has not yet filed its schedule of assets and liabilities, it anticipates that there will be thousands of entities to be noticed. In view of the number of anticipated claimants, the Debtor submits that the appointment of a Claims and Noticing Agent is both necessary and in the best interests of the Debtor’s estate and its creditors. By appointing KCC as the Claims and Noticing Agent in this Chapter 11 Case, the distribution of notices and the processing of claims will be expedited and the Clerk’s office will be relieved of the administrative burden of processing what likely will be an overwhelming number of claims and notices.

8. The Debtor believes the retention of KCC is in the best interests of the Debtor, its estate, and all parties in interest. As set forth more fully in the Gershbein Declaration, KCC is fully equipped to handle the volume of mailing involved in properly sending the notices to, and processing the claims (if necessary) of, creditors and other interested parties in this Chapter 11

Case. Additionally, KCC has expertise in claims, notice, and ballot processing. KCC has acted as the Claims and Noticing Agent in many chapter 11 cases. *See* Gershbein Declaration at 3.

9. The Debtor's knowledge, information, and belief regarding the matters set forth in this Application are based on and made in reliance upon the Gershbein Declaration.

KCC's Qualifications

10. KCC is one of the country's leading chapter 11 administrators, with expertise in noticing, balloting, and claims processing. KCC has substantial experience and has provided services substantially similar to the Claims, Noticing, and Balloting Services (as hereinafter defined) to other chapter 11 debtors in Texas and other jurisdictions. *See, e.g., In re BPZ Resources, Inc.*, Case No. 15-60016 (Bankr. S.D. Tex. Mar. 26, 2015) (Docket No. 87); *In re ATP Oil & Gas Corp., et al.*, Case No. 12-36187 (Bankr. S.D. Tex. Aug. 21, 2012) (Docket No. 134); *In re Reddy Ice Holdings, Inc.*, Case No. 12-32349 (Bankr. N.D. Tex. Apr. 19, 2012) (Docket No. 106); *In re Seahawk Drilling, Inc., et al.*, Case No. 11-20089 (Bankr. S.D. Tex. Feb. 14, 2011) (Docket No. 26); *In re Idearc Inc., et al.*, Case No. 09-31828 (Bankr. N.D. Tex. Apr. 10, 2009) (Docket No. 13); *In re Pilgrim's Pride Corp., et al.*, Case No. 08-45664 (Bankr. N.D. Tex. Dec. 31, 2008) (Docket No. 54); *In re Paragon Offshore plc, et al.*, Case No. 16-10386 (Bankr. D. Del. Apr. 5, 2016) (Docket No. 226); *In re Endeavor Operating Corp., et al.*, Case No. 14-12308 (Bankr. D. Del. Nov. 6, 2016) (Docket No. 62).

Scope of Services to be Provided by KCC

11. Subject to Court approval, at the request of the Debtor, and to the extent necessary, KCC has agreed to perform the following tasks in its role as the Claims and Noticing Agent in this Chapter 11 Case (collectively, the "Claims, Noticing, and Balloting Services"), as well as quality control relating thereto:

- (a) prepare and serve required notices and documents in this Chapter 11 Case in accordance with the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) in the form and manner directed by the Debtor and/or the Court, including, without limitation, (i) notice of the commencement of this Chapter 11 Case and the initial meeting of creditors under section 341(a) of the Bankruptcy Code, (ii) notice of any claims bar date, (iii) notices of transfers of claims, (iv) notices of objections to claims and objections to transfers of claims, (v) notices of any hearings on a disclosure statement or confirmation of the Debtor’s plan of reorganization, (vi) notice of the effective date of any plan or plans of reorganization; and (vii) all other notices, orders, pleadings, publications and other documents as the Debtor or Court may deem necessary or appropriate for an orderly administration of this Chapter 11 Case;
- (b) assist the Debtor with plan-solicitation services including: (i) balloting, (ii) distribution of applicable solicitation materials, (iii) tabulation and calculation of votes, (iv) determining with respect to each ballot cast, its timeliness and its compliance with the Bankruptcy Code, Bankruptcy Rules, and procedures ordered by this Court, (v) generating an official ballot certification and testifying, if necessary, in support of the ballot tabulation results, and (vi) handling requests for documents from parties in interest;
- (c) assist with the preparation of the Debtor’s schedules of assets and liabilities and statement of financial affairs (collectively, “Schedules”), listing the Debtor’s known creditors and the amounts owed thereto;
- (d) maintain (i) a list of all known potential creditors, equity holders, and other parties in interest and (ii) a “core” mailing list consisting of all parties described in Bankruptcy Rule 2002(i), (j), and (k) and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010; and update such lists and make such lists available upon request by a party-in-interest or the Clerk;
- (e) furnish a notice to all known potential creditors of the Debtor of the last date for the filing of proofs of claim and a form for the filing of a proof of claim, after such notice and form are approved by this Court, and notify such potential creditors of the existence, amount, and classification of their respective claims as set forth in the Schedules, which may be effected by inclusion of such information (or the lack thereof, in cases where the Schedules indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors;

- (f) maintain a post office box or address for the purpose of receiving claims and returned mail, and process all mail received;
- (g) for each notice, motion, order, or other document served, prepare and file or caused to be filed with the Clerk an affidavit or certificate of service within seven (7) business days of service of such document which includes (i) either a copy of the notice served or the docket number and title of the document served, (ii) a list of persons to whom such document was mailed (in alphabetical order) with their addresses, (iii) a statement of the manner of service, and (iv) a statement of the date the service was effected;
- (h) process all proofs of claim received, including those received by the Clerk's Office, and check said processing for accuracy, and maintain the original proofs of claim in a secure area;
- (i) maintain an official claims register for the Debtor (the "Claims Register") on behalf of the Clerk; upon the Clerk's request, provide the Clerk with certified, duplicate unofficial Claims Register; and specify in the Claims Register the following information for each claim docketed: (i) the claim number assigned, (ii) the date received, (iii) the name and address of the claimant and agent, if applicable, that filed the claim, (iv) the amount asserted, (v) the asserted classification(s) of the claim (e.g., secured, unsecured, priority, etc.), and (vi) any disposition of the claim;
- (j) implement necessary security measures to ensure the completeness and integrity of the Claims Register and the safekeeping of the original claims;
- (k) record all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);
- (l) relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of Claims and Noticing Agent, not less than weekly;
- (m) upon completion of the docketing process for all claims received to date for each case, turn over to the Clerk copies of the Claims Register for the Clerk's review (upon the Clerk's request);
- (n) monitor the Court's docket for all notices of appearance, address changes, and claims-related pleadings and orders filed and make necessary notations on and/or changes to the Claims Register;
- (o) assist in the dissemination of information to the public and respond to requests for administrative information regarding the case as

directed by the Debtor or the Court, including through the use of a case website and/or call center;

- (p) if this Chapter 11 Case is converted to a case under chapter 7 of the Bankruptcy Code, contact the Clerk's Office within three (3) days of the notice to Claims and Noticing Agent of entry of the order converting this Chapter 11 Case;
- (q) thirty (30) days prior to the close of this Chapter 11 Case, to the extent practicable, request that the Debtor submit to the Court a proposed Order dismissing the Claims and Noticing Agent and terminating the services of such agent upon completion of its duties and responsibilities and upon the closing of this Chapter 11 Case;
- (r) within seven (7) days of notice to Claims and Noticing Agent of entry of an order closing this Chapter 11 Case, provide to the Court the final version of the Claims Register as of the date immediately before the close of this Chapter 11 Case;
- (s) at the close of this Chapter 11 Case, box and transport all original documents, in proper format, as provided by the Clerk's Office, to the Federal Archives Record Administration, located at Central Plains Region, 200 Space Center Drive, Lee's Summit, MO 64064 or (ii) such other location as may be requested by the Clerk's Office;
- (t) manage and coordinate any distributions pursuant to a chapter 11 plan; and
- (u) provide such other processing, solicitation, balloting, and other administrative services described in the Engagement Agreement that may be requested from time to time by the Debtor, the Court or the Clerk's Office.

The Claims Register shall be open to the public for examination without charge during regular business hours and on a case-specific website maintained by KCC.

KCC's Compensation

12. The Debtor respectfully requests that the undisputed fees and expenses incurred by KCC in the performance of the above services be treated as administrative expenses of the Debtor's estate pursuant to 28 U.S.C. §156(c) and 11 U.S.C. §503(b)(1)(A) and that they be paid in the ordinary course of business without further application to or order of the Court.

13. KCC agrees to maintain records of all services showing dates, categories of services, fees charged, and expenses incurred. KCC further agrees to serve monthly invoices on the Debtor, the Office of the United States Trustee, counsel for the Debtor, counsel for any official committee monitoring the expenses of the Debtor, and any party in interest who specifically requests service of the monthly invoices. If any dispute arises relating to the Engagement Agreement or monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute. If resolution is not achieved, the parties may seek resolution of the matter from the Court.

14. Prior to the Petition Date, the Debtor provided KCC a retainer in the amount of \$15,000. KCC will hold the retainer under the Engagement Agreement during this Chapter 11 Case as security for the payment of fees and expenses incurred pursuant to the Engagement Agreement. Following termination of the Engagement Agreement, KCC will return to the Debtor any amount of the retainer that remains.

Indemnification

15. Under the terms of the Engagement Agreement, the Debtor has agreed to indemnify and hold harmless KCC, its affiliates, members, directors, officers, employees, consultants, subcontractors, and agents under certain circumstances specified in the Engagement Agreement, to the extent permitted by applicable law and as set forth in the Order.

16. The terms of the Engagement Agreement were negotiated at arm's-length between the Debtor and KCC, and the Debtor respectfully submits that the indemnification provisions included therein are reasonable and in the best interest of the Debtor, its estate, creditors, and other parties in interest.

KCC's Disinterestedness

17. In connection with its retention as Claims and Noticing Agent, KCC represents in the Gershbein Declaration, among other things, that:

- (a) KCC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the Claims and Noticing Agent in this Chapter 11 Case;
- (b) By accepting employment in the cases, KCC waives any rights to receive compensation from the United States government in connection with the Debtor's Chapter 11 Case;
- (c) In its capacity as the Claims and Noticing Agent in this Chapter 11 Case, KCC will not be an agent of the United States and will not act on behalf of the United States;
- (d) KCC will not intentionally misrepresent any fact to the public;
- (e) KCC will not employ any past or present employee of the Debtor for work that involves the Debtor's bankruptcy proceedings;
- (f) KCC shall be under the supervision and control of the Clerk's Office with respect to the receipt and recordation of claims and claim transfers; and
- (g) None of the services provided by KCC as Claims and Noticing Agent shall be at the expense of the Clerk's Office.

18. The Debtor has been advised that, to the best of KCC's knowledge, and except as set forth in the Gershbein Declaration, based on KCC's results of their search performed to date,

KCC and its personnel:

- (a) Are not creditors, equity security holders, or insiders of the Debtor;
- (b) Are not and were not, within two (2) years before the date of the filing of this Chapter 11 Case, directors, officers, or employees of the Debtor; and
- (c) Do not have an interest materially adverse to the interests of the Debtor's estate or any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtor.

19. To the best of the Debtor's knowledge, KCC is a "disinterested person" as that term is defined in Bankruptcy Code § 101(14), as modified by Bankruptcy Code § 1107(b). KCC has represented to the Debtor that KCC will not represent any entities or individuals other than the Debtor in this Chapter 11 Case or in connection with any matters that would be adverse to the interests of the Debtor.

20. KCC has advised the Debtor that it will conduct an ongoing review of its files to ensure that no conflicts or other disqualifying circumstances exist or arise. If any new facts or circumstances are discovered, KCC will supplement its disclosure to the Court.

Notice

21. Notice of this Motion has been provided to: (i) the Office of the United States Trustee; (ii) the Debtor's secured creditors; (iii) any party whose interests are directly affected by this specific pleading; (iv) those persons who have formally appeared and requested notice and service in these proceedings pursuant to Bankruptcy Rules 2002 and 3017; (v) counsel for and the members of any official committees appointed by this Court; (vi) the 20 largest unsecured creditors of the Debtor; and (vii) all governmental agencies having a regulatory or statutory interest in this case. No other or further notice need be provided.

WHEREFORE, for the reasons set forth herein and in the Gershbein Declaration, the Debtor respectfully requests entry of an order authorizing the retention and employment of KCC as Claims, Noticing, and Balloting Agent *nunc pro tunc* to the Petition Date pursuant to 28 U.S.C. § 156(c).

RESPECTFULLY SUBMITTED this 2nd day of September, 2016.

**TPP ACQUISITION, INC. d/b/a THE
PICTURE PEOPLE**

By: /s/ Stuart Noyes

Name: Stuart Noyes

Title: Chief Restructuring Officer

EXHIBIT A
Gershbein Declaration

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Chapter 11
	§	
TPP ACQUISITION, INC. d/b/a The Picture People,	§	Case No. 16-33437-hdh-11
	§	
Debtor.	§	

**DECLARATION OF EVAN GERSHBEIN IN SUPPORT OF DEBTOR’S
APPLICATION FOR ENTRY OF AN ORDER, PURSUANT TO 28 U.S.C. § 156(c),
AUTHORIZING THE RETENTION AND APPOINTMENT OF KURTZMAN
CARSON CONSULTANTS LLC AS CLAIMS, NOTICING, AND BALLOTING AGENT
NUNC PRO TUNC TO THE PETITION DATE**

I, Evan Gershbein, being duly sworn, state the following under penalty of perjury:

1. I am the Senior Vice President of Corporate Restructuring for Kurtzman Carson Consultants LLC (“KCC”), a chapter 11 claims administrative services firm, whose offices are located at 2335 Alaska Avenue, El Segundo, California 90245. Except as otherwise noted, I have personal knowledge of the matters set forth herein and, if called and sworn as a witness, I could and would testify competently thereto.

2. I am authorized to make and submit this Declaration on behalf of KCC. This declaration is submitted in support of the application of the above-captioned the Debtor requesting entry of an order authorizing the retention and appointment of KCC as the Claims and Noticing Agent (the “Application”)¹ in accordance with the terms and conditions set forth in the Engagement Agreement.

3. KCC is one of the country’s leading chapter 11 administrators with expertise in noticing, balloting, and claims processing. KCC is well-qualified to provide experienced noticing, claims, and balloting services in connection with this Chapter 11 Case pursuant to

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Application.

28 U.S.C. § 156(c). KCC has provided identical or substantially similar services to other chapter 11 debtors in the Northern and Southern Districts of Texas, as well as in other jurisdictions. *See, e.g., In re BPZ Resources, Inc.*, Case No. 15-60016 (Bankr. S.D. Tex. Mar. 26, 2015) (Docket No. 87); *In re ATP Oil & Gas Corp., et al.*, Case No. 12-36187 (Bankr. S.D. Tex. Aug. 21, 2012) (Docket No. 134); *In re Reddy Ice Holdings, Inc.*, Case No. 12-32349 (Bankr. N.D. Tex. Apr. 19, 2012) (Docket No. 106); *In re Seahawk Drilling, Inc., et al.*, Case No. 11-20089 (Bankr. S.D. Tex. Feb. 14, 2011) (Docket No. 26); *In re Idearc Inc., et al.*, Case No. 09-31828 (Bankr. N.D. Tex. Apr. 10, 2009) (Docket No. 13); *In re Pilgrim's Pride Corp., et al.*, Case No. 08-45664 (Bankr. N.D. Tex. Dec. 31, 2008) (Docket No. 54); *In re Paragon Offshore plc, et al.*, Case No. 16-10386 (Bankr. D. Del. Apr. 5, 2016) (Docket No. 226); *In re Endeavor Operating Corp., et al.*, Case No. 14-12308 (Bankr. D. Del. Nov. 6, 2016) (Docket No. 62).

4. The Debtor has carefully selected KCC to serve as its Claims and Noticing Agent for the Debtor's estate, as set forth in more detail in the Application. To the best of my knowledge, neither KCC, nor any of its professional personnel, have any relationship with the Debtor that would impair KCC's ability to serve as the Claims and Noticing Agent in this case.

5. The Debtor has many creditors, and accordingly, KCC may have rendered and may continue to render services to certain of these creditors in matters unrelated to these cases, either as vendors or in cases where KCC serves in a neutral capacity as a bankruptcy claims and noticing agent or class action settlement administrator. KCC has not and will not represent the separate interests of any such creditor in this case. KCC has working relationships with certain of the professionals retained by the Debtor and other parties herein, but such relationships are completely unrelated to the Debtor's Chapter 11 Case. In addition, KCC personnel may have

relationships with some of the Debtor's creditors. Such relationships are, however, of a personal financial nature and are wholly unrelated to the Debtor's Chapter 11 Case. KCC has and will continue to represent clients in matters unrelated to the Debtor's cases and has had and will continue to have relationships in the ordinary course of its business with certain vendors and professionals in connection with matters unrelated to this Chapter 11 Case.

6. KCC is a "disinterested person," within the meaning of section 101(14) of the Bankruptcy Code, as modified by Bankruptcy Code § 1107(b), in that KCC (a) holds no interest adverse to the Debtor or its estate and (b) other than the services currently being provided for the Debtor, KCC has no connection with the Debtor, its creditors, the U.S. Trustee or other parties in interest in this Chapter 11 Case. Moreover, KCC or its professional personnel (a) are not creditors, equity security holders, or insiders of the Debtor, (b) are not and were not, within two (2) years before the date of the filing of this Chapter 11 Case, directors, officers, or employees of the Debtor, and (c) do not have an interest materially adverse to the interests of the Debtor's estate or any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtor.

7. KCC has not been retained to assist any entity or person other than the Debtor on matters relating to, or in connection with, this Chapter 11 Case. If KCC's proposed retention and employment is approved by this Court, KCC will not accept any engagement or perform any service for any entity or person other than the Debtor in this Chapter 11 Case. KCC may, however, provide services to entities or persons that may be creditors or parties in interest in this Chapter 11 Case, which services do not relate to, or have any direct connection with, this Chapter 11 Case or the Debtor.

8. Moreover, KCC represents, among other things, that:

- (a) KCC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the Claims and Noticing Agent in the case;
- (b) By accepting employment in the case, KCC waives any rights to receive compensation from the United States government in connection with the Debtor's case;
- (c) In its capacity as the Claims and Noticing Agent, KCC will not be an agent of the United States and will not act on behalf of the United States;
- (d) KCC will not intentionally misrepresent any fact to the public;
- (e) KCC will not employ any past or present employee of the Debtor for work that involves the Debtor's bankruptcy proceedings;
- (f) KCC shall be under the supervision and control of the Clerk's Office with respect to the receipt and recordation of claims and claim transfers; and
- (g) None of the services provided by KCC as Claims and Noticing Agent shall be at the expense of the Clerk's Office.

9. To the best of my knowledge and belief, and based solely upon information provided to me by the Debtor and except as provided herein, neither KCC, nor any employee of KCC, holds nor represents any interest materially adverse to the Debtor, its estate, creditors, or other relevant parties with respect to matters upon which KCC is to be engaged.

10. The Debtor has thousands of creditors and, from time to time, KCC may have represented certain of those creditors in completely unrelated matters. The Debtor's proposed bankruptcy counsel, Haynes and Boone, LLP, has provided me with a list of the Debtor's potential parties in interest (the "Potential Parties in Interest") attached hereto as **Schedule 1**. I have caused an examination of these records to be made to determine which, if any, of the Potential Parties in Interest KCC may have represented in the past or may be representing at the present time in totally unrelated matters. This search has disclosed that, to the best of my present

knowledge, KCC has not in the past represented and is not currently representing any of the Potential Parties in Interest.

11. Since the Debtor has not yet filed a full list of its creditors, there may be other creditors of the Debtor, that KCC may have or may be presently representing, but in no event is KCC representing any other creditor with respect to the Debtor's bankruptcy proceedings. To the extent I become aware of KCC having represented any other creditors of the Debtor, I will file a supplemental affidavit advising the Court of the same. To the extent that KCC discovers any facts bearing on matters described herein, KCC will supplement the information contained herein.

12. Notwithstanding anything contained herein, as part of its diverse business, KCC is the claims, noticing, and balloting agent for debtors or settlement administrators in numerous cases involving many different creditors (including taxing authorities), and professionals, including attorneys, accountants, investment bankers, and financial consultants, some of which may be creditors or represent creditors and parties in interest in this Chapter 11 Case. In addition, KCC has in the past and will likely in the future continue working with or against other professionals involved in this Chapter 11 Case in matters unrelated to this Chapter 11 Case. Based upon my current knowledge of the parties involved, and to the best of my knowledge, none of these business relations constitute interests adverse to that of the creditors, or the Debtor's estate, with respect to the matter upon which KCC is to be engaged. Additionally, KCC employees may, in the ordinary course of their personal affairs, have relationships with certain creditors of the Debtor. However, to the best of my knowledge, such relationships, to the extent they exist, are of a personal nature and completely unrelated to this Chapter 11 Case.

13. KCC is an indirect subsidiary of Computershare Limited. Computershare Limited is a financial services and technologies provider for the global securities industry. Within the Computershare corporate structure, KCC operates as a separate, segregated business unit. As such, any relationships that Computershare Limited and its affiliates maintain do not create an interest of KCC that would be materially adverse to the Debtor's estate or any class of creditors or equity security holders.

14. Subject to the Court's approval, the Debtor has agreed to compensate KCC for certain services rendered in connection with this Chapter 11 Case pursuant to the Engagement Agreement, a true and correct copy of which is attached as **Exhibit B** to the Application.

15. KCC understands that, solely with respect to the Claims, Noticing, and Balloting Services provided pursuant to the Engagement Agreement, the Debtor will compensate KCC in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by KCC and the rates charged for each, and will reimburse KCC for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for KCC to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses related to noticing and claim administration services. With respect to such services, KCC will maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and will serve monthly invoices on the Debtor, the U.S. Trustee, counsel for the Debtor, counsel for any official committee monitoring the expenses of the Debtor and any party in interest who specifically requests service of the monthly invoices.

16. KCC has received a retainer in the amount of \$15,000 from the Debtor. KCC will hold the retainer under the Engagement Agreement during this Chapter 11 Case as security for

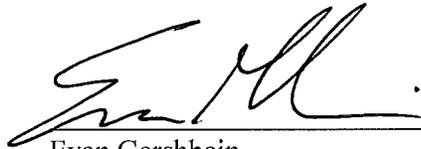
the payment of fees and expenses incurred pursuant to the Engagement Agreement. Following termination of the Engagement Agreement, KCC will return to the Debtor any amount of the retainer that remains.

17. KCC will comply with all requests of the Clerk's Office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c).

18. KCC will comply with any request of the Clerk of the Court.

19. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on September 2, 2016

A handwritten signature in black ink, appearing to read "Evan Gershbein", is written over a horizontal line.

Evan Gershbein
Senior Vice President
Corporate Restructuring Services
Kurtzman Carson Consultants LLC

SCHEDULE 1

Parties in Interest

In re: TPP Acquisition, Inc. d/b/a The Picture People

Debtor:

TPP Acquisition, Inc. d/b/a The Picture People

Parent Corporation:

TPP Holdings, LLC

Secured Creditors:

Monroe Capital Management Advisors LLC

Landlords:

General Growth Properties, Inc.
CBL & Associates
Simon Property Group
Westfield Corp.
Preit
Cafaro Company
Starwood
Macerich Co.
Forest City
JLL
Centennial Real Estate
Taubman Centers, Inc.
Pyramid Management Group, Inc.
DDR Corp
Urban Retail Properties
Bohannon Development
MG Herring
Long Pehrson Associates, LLC
Lerner Corporation
Kravco
Stoltz Management
WP Glimcher
Steadfast Properties
Alberta Development Partners
Edgewood Properties

DBO Development
Conroy Millenia Partners
Street Mac
Metro National

Officers & Directors:

Ian Gomar
Keith Spencer
Paul Traub
John Kolleng

Proposed Counsel:

Haynes and Boone, LLP

Proposed Claims & Noticing Agent:

Kurtzman Carson Consultants LLC

Proposed Chief Restructuring Officer

Winter Harbor LLC
Stuart Noyes

Proposed Investment Banker

SSG Advisors, LLC

Counsel for Monroe Capital:

Riemer & Braunstein, LLP

Top Unsecured Creditors:

Fed-Ex
American Express
Accordant Media, LLC
DFM Print Pak LLC
Identity Management
WB Mason Company
Federal Express
AAA Imaging Solutions
Noritsu America Corporation
Granite Telecommunications
RNOT, LLC

Google, Inc.
Denny Mfg. Company, Inc.
Brodnax Printing Company LLC
Imaging Spectrum, Inc.
XO Group Inc.
Nahan Printing Inc.
EarthLink Business
Lake Group Media, Inc.
Buy Buy Baby
Leiden Cabinet Company
RSM Maintenance LLC
Gemline Frame Co Inc.
Enchante
Dstillery, Inc.
Meritain Health
Muzak, LLC
Datalink Corporation
Entertainment Publications, LLC
Criteo Corp.
Quantcast Corporation

Other Parties in Interest:

Sears
Wal-Mart

EXHIBIT B
Engagement Agreement



KCC AGREEMENT FOR SERVICES

This Agreement is entered into as of the 23 day of August 2016, between The Picture People (together with its affiliates and subsidiaries, the “Company”),¹ and Kurtzman Carson Consultants LLC (together with its affiliates and subcontractors, “KCC”). In consideration of the premises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Terms and Conditions

I. SERVICES

A. KCC agrees to provide the Company with consulting services regarding noticing, claims management and reconciliation, plan solicitation, balloting, disbursements and any other services agreed upon by the parties or otherwise required by applicable law, government regulations or court rules or orders.

B. KCC further agrees to provide (i) computer software support and training in the use of the support software, (ii) KCC’s standard reports as well as consulting and programming support for the Company requested reports, (iii) program modifications, (iv) data base modifications, and/or (v) other features and services in accordance with the fees outlined in a pricing schedule provided to the Company (the “KCC Fee Structure”).

C. Without limiting the generality of the foregoing, KCC may, upon request by the Company, (i) provide a communications plan including, but not limited to, preparation of communications materials, dissemination of information and a call center staffed by KCC and/or (ii) provide confidential on-line workspaces or virtual data rooms and publish documents to such workspaces or data rooms (which publication shall not be deemed to violate the confidentiality provisions of this Agreement).

D. The price listed for each service in the KCC Fee Structure represents a bona fide proposal for such services, which may be accepted in whole or in part. Services will be provided when requested by the Company or required by applicable law, government regulations or court rules or orders. Services are mutually exclusive and are deemed delivered and accepted by the Company when provided by KCC.

E. The Company acknowledges and agrees that KCC will often take direction from the Company’s representatives, employees, agents and/or professionals (collectively, the “Company Parties”) with respect to the services being provided under this Agreement. The parties agree that KCC may rely upon, and the Company agrees to be bound by, any requests, advice or information provided by the Company Parties to the same extent as if such requests, advice or information were provided by the Company. The Company agrees and understands that KCC shall not provide the Company or any other party with any legal advice.

¹ The term Company shall include, to the extent applicable, the Company, as debtor and debtor in possession in its chapter 11 case, together with any affiliated debtors and debtors in possession whose chapter 11 cases are jointly administered with the Company’s chapter 11 case.



KCC AGREEMENT FOR SERVICES

II. PRICES, CHARGES AND PAYMENT

A. KCC agrees to charge and the Company agrees to pay KCC for its services at the rates and prices set by KCC that are in effect as of the date of this Agreement and in accordance with the KCC Fee Structure. KCC's prices are generally adjusted periodically to reflect changes in the business and economic environment and are inclusive of all charges. KCC reserves the right to reasonably increase its prices, charges and rates annually. If any price increases exceed 10%, KCC will give thirty (30) days written notice to the Company.

B. In addition to fees and charges for services, the Company agrees to pay KCC's reasonable transportation, lodging, and meal expenses incurred in connection with services provided under this Agreement.

C. In addition to all fees for services and expenses hereunder, the Company shall pay to KCC (i) any fees and charges related to, arising out of, or as a result of any error or omission made by the Company or the Company Parties, as mutually determined by KCC and the Company, and (ii) all taxes that are applicable to this Agreement or that are measured by payments made under this Agreement and are required to be collected by KCC or paid by KCC to a taxing authority.

D. Where the Company requires services that are unusual or beyond the normal business practices of KCC, or are otherwise not provided for in the KCC Fee Structure, the cost of such services shall be charged to the Company at a competitive rate.

E. KCC agrees to submit its invoices to the Company monthly and the Company agrees that the amount invoiced is due and payable upon the Company's receipt of the invoice. KCC's invoices will contain reasonably detailed descriptions of charges for both hourly (fees) and non-hourly (expenses) case specific charges. Where total invoice amounts are expected to exceed \$10,000 in any single month and KCC reasonably believes it will not be paid, KCC may require advance payment from the Company due and payable upon demand and prior to the performance of services hereunder. If any amount is unpaid as of thirty (30) days from the receipt of the invoice, the Company further agrees to pay a late charge, calculated as one and one-half percent (1-1/2%) of the total amount unpaid every thirty (30) days. In the case of a dispute in the invoice amount, the Company shall give written notice to KCC within ten (10) days of receipt of the invoice by the Company. The undisputed portion of the invoice will remain due and payable immediately upon receipt of the invoice. Late charges shall not accrue on any amounts in dispute or any amounts unable to be paid due to Court order or applicable law. Unless otherwise agreed to in writing, the fees for print notice and media publication (including commissions) must be paid at least three (3) days in advance of those fees and expenses being incurred.

F. In the event that the Company files for protection pursuant to chapter 11 of the United States Bankruptcy Code (a "Chapter 11 Filing"), the parties intend that KCC shall be employed pursuant to 28 U.S.C. § 156(c) to the extent possible and otherwise in accordance with applicable Bankruptcy law and that all amounts due under this Agreement shall, to the extent possible, be paid as administrative expenses of the Company's chapter 11 estate. As soon as practicable following a Chapter 11 Filing (and otherwise in accordance with applicable law and rules and orders of the Bankruptcy Court), the Company shall cause pleadings to be filed with the Bankruptcy Court seeking entry of an order or orders approving this Agreement (the "Retention



KCC AGREEMENT FOR SERVICES

Order”). The form and substance of the pleadings and the Retention Order shall be reasonably acceptable to KCC. If any Company chapter 11 case converts to a case under chapter 7 of the Bankruptcy Code, KCC will continue to be paid for its services in accordance with the terms of this Agreement. The parties recognize and agree that if there is a conflict between the terms of this Agreement and the terms of the Retention Order, the terms of the Retention Order shall govern during the chapter 11 or other proceeding.

G. To the extent permitted by applicable law, KCC shall receive a retainer in the amount of \$15,000 (the “Retainer”) that may be held by KCC as security for the Company’s payment obligations under the Agreement. The Retainer is due upon execution of this Agreement. KCC shall be entitled to hold the Retainer until the termination of the Agreement. Following termination of the Agreement, KCC shall return to the Company any amount of the Retainer that remains following application of the Retainer to the payment of unpaid invoices. KCC and the Company agree to a further 5% discount on all hourly fees for the lifetime of the chapter 11 case.

III. RIGHTS OF OWNERSHIP

A. The parties understand that the software programs and other materials furnished by KCC pursuant to this Agreement and/or developed during the course of this Agreement by KCC are the sole property of KCC. The term “program” shall include, without limitation, data processing programs, specifications, applications, routines, and documentation. The Company agrees not to copy or permit others to copy the source code from the support software or any other programs or materials furnished pursuant to this Agreement.

B. The Company further agrees that any ideas, concepts, know-how or techniques relating to data processing or KCC’s performance of its services developed or utilized during the term of this Agreement by KCC shall be the exclusive property of KCC. Fees and expenses paid by the Company do not vest in the Company any rights in such property, it being understood that such property is only being made available for the Company’s use during and in connection with the services provided by KCC under this Agreement.

IV. NON-SOLICITATION

The Company agrees that neither it nor its subsidiaries or other affiliated companies shall directly or indirectly solicit for employment, employ or otherwise retain employees of KCC during the term of this Agreement and for a period of twelve (12) months after termination of this Agreement unless KCC provides prior written consent to such solicitation or retention.

V. CONFIDENTIALITY

Each of KCC and the Company, on behalf of themselves and their respective employees, agents, professionals and representatives, agrees to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the services provided under this Agreement; provided, however, that if either party reasonably believes that it is required to produce any such information by order of any governmental agency or other regulatory body it may, upon not less than five (5) business days’ written notice to the other party, release the required information.



KCC AGREEMENT FOR SERVICES

VI. SUSPENSION OF SERVICE AND TERMINATION

A. This Agreement shall remain in force until terminated or suspended by either party (i) upon thirty (30) days' written notice to the other party or (ii) immediately upon written notice for Cause (defined herein). As used herein, the term "Cause" means (i) gross negligence or willful misconduct of KCC that causes serious and material harm to the Company's reorganization under chapter 11 of the Bankruptcy Code, (ii) the failure of the Company to pay KCC invoices for more than sixty (60) days from the date of invoice, or (iii) the accrual of invoices or unpaid services in excess of the retainer held by KCC where KCC reasonably believes it will not be paid.

B. In the event that this contract is terminated, regardless of the reason for such termination, KCC shall coordinate with the Company and, to the extent applicable, the clerk of the Bankruptcy Court, to maintain an orderly transfer of record keeping functions and KCC shall provide all necessary staff, services and assistance required for an orderly transfer. The Company agrees to pay for such services in accordance with KCC's then existing prices for such services. If such termination occurs following entry of the Retention Order, the Company shall immediately seek entry of an order (in form and substance reasonably acceptable to KCC) that discharges KCC from service and responsibility in the Company's bankruptcy case.

C. Any data, programs, storage media or other materials furnished by the Company to KCC or received by KCC in connection with the services provided under the terms of this Agreement may be retained by KCC until the services provided are paid for, or until this Agreement is terminated with the services paid in full. The Company shall remain liable for all fees and expenses imposed under this Agreement as a result of data or physical media maintained or stored by KCC. KCC shall dispose of the data and media in the manner requested by the Company. The Company agrees to pay KCC for reasonable expenses incurred as a result of the disposition of data or media. If the Company has not utilized KCC's services under this Agreement for a period of at least ninety (90) days, KCC may dispose of the data or media, and be reimbursed by the Company for the expense of such disposition, after giving the Company thirty (30) days' notice. Notwithstanding any term herein to the contrary, following entry of the Retention Order, the disposition of any data or media by KCC shall be in accordance with any applicable instructions from the clerk of the Bankruptcy Court, local Bankruptcy Court rules and orders of the Bankruptcy Court.

VII. SYSTEM IMPROVEMENTS

KCC strives to provide continuous improvements in the quality of service to its clients. KCC, therefore, reserves the right to make changes in operating procedure, operating systems, programming languages, general purpose library programs, application programs, time period of accessibility, types of terminal and other equipment and the KCC data center serving the Company, so long as any such changes do not materially interfere with ongoing services provided to the Company in connection with the Company's chapter 11 case.



KCC AGREEMENT FOR SERVICES

VIII. BANK ACCOUNTS

At the Company's request and subject to Court approval following any chapter 11 filing, KCC may be authorized to establish accounts with financial institutions in the name of and as agent for the Company. To the extent that certain financial products are provided to the Company pursuant to KCC's agreement with financial institutions, KCC may receive compensation from such financial institutions for the services KCC provides pursuant to such agreement.

IX. LIMITATIONS OF LIABILITY AND INDEMNIFICATION

A. The Company shall indemnify and hold KCC, its affiliates, members, directors, officers, employees, consultants, subcontractors and agents (collectively, the "Indemnified Parties") harmless, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, judgments, liabilities and expenses (including reasonable counsel fees and expenses) (collectively, "Losses") resulting from, arising out of or related to KCC's performance under this Agreement. Such indemnification shall exclude Losses resulting from KCC's gross negligence or willful misconduct. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third-parties against any Indemnified Party. The Company shall notify KCC in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that the Company becomes aware of with respect to the services provided by KCC under this Agreement. The Company's indemnification obligations hereunder shall survive the termination of this Agreement.

B. Except as provided herein, KCC's liability to the Company or any person making a claim through or under the Company for any Losses of any kind, even if KCC has been advised of the possibility of such Losses, whether direct or indirect and unless due to gross negligence or willful misconduct of KCC, shall be limited to the total amount billed or billable to the Company for the portion of the particular work which gave rise to the alleged Loss. In no event shall KCC be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the services provided for in this Agreement. In no event shall KCC's liability to the Company for any Losses, whether direct or indirect, arising out of this Agreement exceed the total amount billed to the Company and actually paid to KCC for the services contemplated under the Agreement; provided, however, that this limitation shall not apply to the Company during any chapter 11 case in which the Company is a debtor.

C. The Company is responsible for the accuracy of the programs, data and information it or any Company Party submits for processing to KCC and for the output of such information. KCC does not verify information provided by the Company and, with respect to the preparation of schedules and statements, all decisions are at the sole discretion and direction of the Company. The Company reviews and approves all schedules and statements filed on behalf of, or by, the Company; KCC bears no responsibility for the accuracy or contents therein. The Company agrees to initiate and maintain backup files that would allow the Company to regenerate or duplicate all programs and data submitted by the Company to KCC.

D. The Company agrees that except as expressly set forth herein, KCC makes no representations or warranties, express or implied, including, but not limited to, any implied or



KCC AGREEMENT FOR SERVICES

express warranty of merchantability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity.

X. FORCE MAJEURE

Whenever performance by KCC of any of its obligations hereunder is materially prevented or impacted by reason of any act of God, strike, lock-out or other industrial or transportation disturbance, fire, lack of materials, law, regulation or ordinance, war or war condition, or by reason of any other matter beyond KCC's reasonable control, then such performance shall be excused and this Agreement shall be deemed suspended during the continuation of such prevention and for a reasonable time thereafter.

XI. INDEPENDENT CONTRACTORS

The Company and KCC are and shall be independent contractors of each other and no agency, partnership, joint venture or employment relationship shall arise, directly or indirectly, as a result of this Agreement.

XII. NOTICES

All notices and requests in connection with this Agreement shall be given or made upon the respective parties in writing and shall be deemed as given as of the third day following the day it is deposited in the U.S. Mail, postage pre-paid or on the day it is given if sent by facsimile or electronic mail or on the day after the day it is sent if sent by overnight courier to the appropriate address set forth below:

Kurtzman Carson Consultants LLC	Company
2335 Alaska Ave.	Address
El Segundo, CA 90245	City, ST Zip
Attn: Drake D. Foster	Attn:
Tel: (310) 823-9000	Tel:
Fax: (310) 823-9133	Fax:
E-Mail: dfoster@kccllc.com	

Or to such other address as the party to receive the notice or request so designates by written notice to the other.

XIII. APPLICABLE LAW

The validity, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California.

XIV. ENTIRE AGREEMENT/ MODIFICATIONS

Each party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes and merges all prior proposals, understandings, other agreements, and communications oral and written between the parties relating to the subject



KCC AGREEMENT FOR SERVICES

matter of this Agreement. The Company represents that it has the authority to enter into this Agreement, and the Agreement is non-dischargeable under any applicable statute or law. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. This Agreement may be modified only by a written instrument duly executed by an authorized representative of the Company and an officer of KCC.

XV. COUNTERPARTS; EFFECTIVENESS

This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. This Agreement will become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, which delivery may be made by exchange of copies of the signature page by facsimile or electronic mail.

XVI. ASSIGNMENT

This Agreement and the rights and duties hereunder shall not be assignable by the parties hereto except upon written consent of the other, with the exception that this Agreement can be assigned without written consent by KCC to a wholly-owned subsidiary or affiliate of KCC.

XVII. ATTORNEYS' FEES

In the event that any legal action, including an action for declaratory relief, is brought to enforce the performance or interpret the provisions of this Agreement, the parties agree to reimburse the prevailing party's reasonable attorneys' fees, court costs, and all other related expenses, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which the prevailing party may be entitled.

[SIGNATURE PAGE FOLLOWS]



KCC AGREEMENT FOR SERVICES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the first date mentioned above.

Kurtzman Carson Consultants LLC

A handwritten signature in black ink, appearing to read 'Evan Gershbein', is written over a horizontal line.

BY: EVAN GERSHBEIN DATE: 8/23/16
TITLE: SVP, CORPORATE RESTRUCTURING

The Picture People

A handwritten signature in black ink, appearing to read 'Stuart W. Nye', is written over a horizontal line.

BY: _____ DATE: 8/03/2016
TITLE: Chief Restructuring Officer

EXHIBIT C
Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Chapter 11
	§	
TPP ACQUISITION, INC. d/b/a The Picture People,	§	Case No. 16-33437-hdh-11
	§	
Debtor.	§	

ORDER PURSUANT TO 28 U.S.C. § 156(c) AUTHORIZING THE RETENTION AND APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS, NOTICING, AND BALLOTING AGENT NUNC PRO TUNC TO THE PETITION DATE

On _____, 2016, the Court conducted a hearing to consider *Debtor’s Application for Entry of an Order, Pursuant to 28 U.S.C. § 156(c), Authorizing the Retention and Appointment of Kurtzman Carson Consultants LLC as Claims, Noticing, and Balloting Agent Nunc Pro Tunc to the Petition Date* (the “Application”) filed by the above-captioned Debtor (the “Debtor”). The Court finds that (i) it has jurisdiction over the matters raised in the Application pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. §

157(b)(2); (iii) the relief requested in the Application is in the best interests of the Debtor, its estate and creditors; (iv) proper and adequate notice of the Application and the hearing thereon has been given and that no other or further notice is necessary; (v) Kurtzman Carson Consultants LLC (“KCC”) (a) holds no interest adverse to the Debtor or its estate in the matters upon which it is sought to be engaged; (b) is a disinterested person as that term is defined pursuant to 11 U.S.C § 101(14); and (c) has disclosed any connections with the Debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee; (vi) none of the representations or engagements set out in the *Declaration of Evan Gershbein in Support of Debtor’s Application for Entry of an Order, Pursuant to 28 U.S.C. § 156(c), Authorizing the Retention and Appointment of Kurtzman Carson Consultants LLC as Claims, Noticing, and Balloting Agent Nunc Pro Tunc to the Petition Date* constitute a conflict-of-interest or impair the disinterestedness of KCC or otherwise preclude the Debtor’s retention of KCC in this case; and (vii) upon the record herein after due deliberation thereon, good and sufficient cause exists for the granting of the relief as set forth herein. Therefore,

IT IS HEREBY ORDERED THAT:

1. The Application is granted as set forth herein.
2. The Debtor is authorized to retain KCC and KCC is appointed as Claims and Noticing Agent, effective *nunc pro tunc* the Petition Date, under the terms and conditions of the Engagement Agreement, and KCC is authorized and directed to perform all noticing, claims docketing and processing, balloting, and all related tasks in this Chapter 11 Case, all as described in the Application (collectively, the “Claims, Noticing, and Balloting Services”).

3. KCC is directed to perform all of the noticing required to be performed by the Clerk pursuant to Rule 2002 and any other applicable Bankruptcy Rule.

4. KCC shall: (1) prepare and serve notices required in this Chapter 11 Case; (2) file a certificate of service within seven (7) days after each service, which includes a copy of the notice, a list of the persons to whom it was mailed in alphabetical order, and the date of mailing; (3) if requested by the Debtor, print, mail and tabulate ballots for purposes of voting on a chapter 11 plan to which a disclosure statement has been approved by the Court; (4) assist with the preparation, maintenance and updating of the Debtor's master service list and databases of creditors; (5) furnish a notice of bar date, approved by the Clerk, for the filing of a proof of claim or interest together with Official Form B410 to each creditor; (6) record all transfers of claims and provide notice of each transfer as required by Bankruptcy Rule 3001(e); (7) provide other technical and document management services of a similar nature requested by the Debtor or the Clerk; and (8) promptly comply with any further conditions and requirements as the Clerk or the Court may hereafter prescribe.

5. KCC shall serve as the agent for the Clerk and custodian of court records and, as such, shall be designated as the authorized repository for all proofs of claim or proofs of interest filed in these cases and is authorized and directed to maintain an official claims register for the Debtor and to provide the Clerk with a certified electronic duplicate thereof on a monthly basis, unless otherwise directed by the Clerk or the Court.

6. KCC will provide access to the public for examination of copies of the proofs of claim or proofs of interest filed without charge during regular business hours.

7. KCC is authorized and directed to obtain a post office box or address for the receipt of proofs of claim.

8. The Debtor is authorized to compensate KCC for Claims, Noticing, and Balloting Services in accordance with the terms of the Engagement Agreement, upon the receipt of reasonably detailed invoices setting forth the services provided by KCC and the rates charged for each, and to reimburse KCC for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for KCC to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses. However, to the extent that the Debtor objects to the reasonableness of any service, expense, and/or supply provided by KCC, the Debtor may contest the amount of any invoice presented to it for payment.

9. The parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Engagement Agreement or monthly invoices, and the parties may seek resolution of the matter from the Court if resolution is not achieved.

10. KCC shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtor, the United States Trustee for the Northern District of Texas, counsel for the Debtor, counsel for any official committee monitoring the expenses of the Debtor and any party in interest who specifically requests service of the monthly invoices.

11. If this Chapter 11 Case is converted to a case under chapter 7 of the Bankruptcy Code and if claims agent representation would be necessary in the converted chapter 7 case, KCC shall continue to be paid in accordance with 28 U.S.C. § 156(c) under the terms set forth in this Order and in the Engagement Agreement.

12. Pursuant to Bankruptcy Code § 503(b)(1)(A), the fees and expenses of KCC under this Order shall be an administrative expense of the Debtor's estate.

13. KCC may apply its retainer to all prepetition invoices and KCC may hold its retainer under the Engagement Agreement during the Chapter 11 Case as security for the payment of fees and expenses incurred under the Engagement Agreement.

14. The Debtor shall indemnify KCC under the terms of the Engagement Agreement and pursuant to this Order.

15. KCC shall not be entitled to indemnification, contribution, or reimbursement pursuant to the Engagement Agreement for services other than the Claims, Noticing, and Balloting Services, as provided under the Engagement Agreement, unless such services and the indemnification, contribution or reimbursement therefor are approved by the Court.

16. Notwithstanding anything to the contrary in the Engagement Agreement, the Debtor shall have no obligation to indemnify KCC, or provide contribution or reimbursement to KCC, for any losses, claims, damages, judgments, liabilities and expenses that are: (i) judicially determined (the determination having become final) to have resulted from, have arisen from, or be related to KCC's gross negligence or willful misconduct; (ii) for a contractual dispute in which the Debtor alleges the breach of KCC's contractual obligations if the Court determines that indemnification, contribution, or reimbursement would not be permissible under applicable law; or (iii) are settled prior to a judicial determination under (i) or (ii) of this paragraph 16, 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 Engagement Agreement as modified by this Order.

17. Before the earlier of (i) 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), and (ii) the entry of an order closing these cases, should KCC believe 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 Engagement Agreement (as modified by this Order), including, without limitation, the advancement of defense costs, KCC must file an application in this Court, and the Debtor may not pay any such amounts to KCC before the entry of an order by this Court approving such application and the payment requested therein. 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 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.

18. In the event KCC is unable or unwilling to provide the Claims, Noticing, and Balloting Services, KCC shall immediately notify the Clerk and the Debtor's counsel and cause to have all original proofs of claim and proofs of interest and computer information turned over to either (i) another claims and noticing agent who has been authorized by the Court order to act as substitute claims and noticing agent, or (ii) the Clerk.

19. KCC shall not cease providing claims processing services during the Chapter 11 Case for any reason, including nonpayment, without an order of the Court.

20. After entry of an order terminating KCC's services, upon the closing of these cases, or for any other reason, KCC shall be responsible for archiving all proofs of claim or proofs of interest with the Federal Archives Record Administration, if applicable, and shall be compensated by the Debtor in connection therewith.

21. Notwithstanding any term in the Engagement Agreement to the contrary, in no event will KCC's liability during the cases be limited to the amount billed to or paid by the Debtor for KCC's services.

22. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and enforceable upon its entry.

23. 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.

24. In the event of any inconsistency between the Engagement Agreement, the Application and this Order, this Order shall govern.

25. Notwithstanding any term in the Engagement Agreement to the contrary, this Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

###END OF ORDER###

Submitted by:

Robert D. Albergotti
State Bar No. 009790800
Ian T. Peck
State Bar No. 24013306
Jarom J. Yates
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PROPOSED ATTORNEYS FOR DEBTOR