

FILED & JUDGMENT ENTERED
Steven T. Salata

August 18 2020

Clerk, U.S. Bankruptcy Court
Western District of North Carolina



J. Craig Whitley
J. Craig Whitley
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

In re

ALDRICH PUMP LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 20-30608 (JCW)

(Jointly Administered)

**AMENDED ORDER AUTHORIZING THE DEBTORS TO RETAIN AND EMPLOY
BATES WHITE, LLC AS ASBESTOS CONSULTANTS AS OF THE PETITION DATE**

This matter coming before the Court on the *Ex Parte Application of the Debtors for an Order Authorizing Them to Retain and Employ Bates White, LLC as Asbestos Consultants as of the Petition Date* [Dkt. No. 21] (the "Application"),² filed by the above-captioned debtors and debtors in possession (together, the "Debtors"); the Court having reviewed the Application and the Mullin Declaration, and having considered the statements of counsel and evidence adduced with respect to the Application; and the Court having found that (a) the Court has

¹ The Debtors are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): Aldrich Pump LLC (2290) and Murray Boiler LLC (0679). The Debtors' address is 800-E Beaty Street, Davidson, North Carolina 28036.

² Capitalized terms not otherwise defined herein have the meanings given to them in the Application or the exhibits thereto.



jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (c) this is a core proceeding pursuant to 28 U.S.C. § 157(b), (d) notice of the Application was sufficient under the circumstances, and (e) Bates White neither holds nor is engaged by any interest materially adverse to the Debtors' estates and is a "disinterested person," as defined in section 101(14) of the Bankruptcy Code and as required by section 327 of the Bankruptcy Code; and the Court having determined that the legal and factual bases set forth in the Application and the Mullin Declaration establish just cause for the *ex parte* relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Application is GRANTED.
2. This Order supersedes the *Ex Parte Order Authorizing the Debtors to Retain and Employ Bates White, LLC as Asbestos Consultants as of the Petition Date* [Dkt. No. 64].
3. The Debtors are authorized to retain and employ Bates White as asbestos consultants in these Chapter 11 Cases, pursuant to section 327(a) of the Bankruptcy Code and Bankruptcy Rule 2014 on the terms and conditions set forth in the Application and the Engagement Letter, as of the Petition Date.
4. Bates White shall be compensated for its services and reimbursed for any related expenses as set forth in the Application and the exhibits thereto, and in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, the Interim Compensation Order, and any other applicable orders or procedures of this Court.

5. Bates White shall: (a) complete its reconciliation of prepetition fees and expenses actually incurred for the period prior to the Petition Date no later than the filing of its first interim fee application in these Chapter 11 Cases; (b) make a corresponding adjustment to the amount of the Retainers on or about that date, as described in the Application and the exhibits thereto; and (c) disclose such adjustment in its first interim fee application. Subject to the foregoing adjustment and the terms of the Interim Compensation Order, Bates White is authorized to hold any remaining amount of the Retainers following such reconciliation as security for the payment of postpetition fees and expenses.

6. Bates White shall not apply any portion of the Retainers to fees and expenses incurred from and after the Petition Date unless and until authorized to do so by a further order of this Court, including the Interim Compensation Order.

7. Notwithstanding any contrary provision of the Engagement Letter, the Court shall have jurisdiction over, hear, and adjudicate any dispute that may arise under the Engagement Letter among the parties to the Engagement Letter during the pendency of these Chapter 11 Cases.

8. Notwithstanding any contrary provision of the Engagement Letter, Bates White's liability will not be limited or released by the Engagement Letter for any claim or expense where: (a) such claim or expense is judicially determined to have arisen from Bates White's gross negligence, willful misconduct, fraud, or bad faith; (b) with respect to a contractual dispute in which the Debtor alleges the breach of Bates White's contractual obligations, the Court determines that such release or limitation would not be permissible under applicable law; or (c) such claim or expense is 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 Bates White should

not have its liability released or limited under the terms of the Engagement Letter, as modified by this Order.

9. Paragraph 17 of the Engagement Letter (the “Limitation of Liability Provision”) is hereby MODIFIED to read as follows:

The parties shall not be liable to one another, whether sounding in contract, tort (including but not limited to malpractice), or otherwise, including the breach, termination, enforcement, interpretation, or validity of this agreement, for indirect, special, consequential, or exemplary damages, nor shall Bates White be liable for direct damages in excess of the fees paid with respect to services performed under this letter.

10. To the extent that this Order is inconsistent with the Engagement Letter, the terms of this Order shall govern.

11. This Order shall immediately be effective and enforceable upon its entry.

12. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order in accordance with the Application.

13. This Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

This Order has been signed electronically.
The Judge's signature and Court's seal appear
at the top of the Order.

United States Bankruptcy Court