

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In re:)	
)	Case No. 20-02092-hb
)	
Foxwood Hills Property Owners)	CHAPTER 11
Association, Inc.,)	
)	
Debtor.)	
_____)	

ORDER AUTHORIZING THE DEBTOR TO RETAIN AMERICAN LEGAL CLAIM SERVICES, LLC AS CLAIMS AND NOTICING AGENT FOR THE DEBTOR IN ACCORDANCE WITH 28 U.S.C. §156(c), PURSUANT TO SC LBR 2081-1, *NUNC PRO TUNC* TO THE PETITION DATE

THIS MATTER came before the Court on the application (the “Application”) of Foxwood Hills Property Owners Association, Inc. (the “POA”), the debtor and debtor-in-possession in this case, for authorization to retain and employ American Legal Claim Services, LLC (“ALCS”) as the claims and noticing agent in this case in accordance with 28 U.S.C. §156(c), pursuant to SC LBR 2081-1, *nunc pro tunc* to the commencement of the case. The services ALCS is to provide as the claims and noticing agent include, among other things, (i) serving required notices to creditors and parties in interest, (ii) receiving, maintaining, docketing and otherwise administering the proofs of claim filed in the case, and (iii) providing such other administrative services as necessary or appropriate that would otherwise fall within the purview of services to be provided by the Clerk of this Court (the “Clerk”).

Based upon the Application, the terms set forth in the Services Agreement attached to the Application, and the Affidavit of Jeffrey L. Pirrung (the “ALCS Affidavit”) filed in support of the Application, the Court finds that (a) the Court has jurisdiction over this matter pursuant to 28

U.S.C. §§ 1334 and 157(b) and Local Civ. Rule 83.IX.01 (D.S.C.), (b) venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409, and (c) this matter is a core proceeding pursuant to 28 U.S.C. §157(b). Furthermore, based upon the Application and the ALCS Affidavit, the Court finds that the POA estimates that there are approximately 2,350 creditors and parties in interest in this Chapter 11 case, many of which are expected to file proofs of claim; that numerous notices will be required in this case together with the receipt, docketing and maintaining of proofs of claim, which would be unduly time consuming and burdensome to the Clerk; that, pursuant to SC LBR 2081-1, in Chapter 11 cases in which there are 500 or more creditors and/or parties in interest, unless otherwise ordered, the debtor shall seek to employ a claims and noticing agent in accordance with 28 U.S.C. §156(c), to perform the services that the POA proposes that ALCS provide in this case; that ALCS has the capability and experience to provide such services and does not hold an interest adverse to the POA or the POA's estate in matters upon which ALCS is to be engaged; that good and sufficient notice of the Application has been given and no other or further notice is required; that the employment of ALCS is in the best interests of the POA, its estate and creditors; and that good and sufficient cause exists for authorization of the POA's employment of ALCS as the claims and noticing agent in this case.

Therefore, it is hereby ORDERED that:

1. The Application is GRANTED as set forth herein.
2. Notwithstanding the terms of the Services Agreement attached to the Application, the Application is approved solely as set forth in this Order.
3. The POA is authorized to retain ALCS as the claims and noticing agent in this Chapter 11 case, in accordance with 28 U.S.C. §156(c), pursuant to SC LBR 2081-1, on the terms

and conditions set forth in the Application and Services Agreement, *nunc pro tunc*, to the date of the filing of this case.

4. As the claims and noticing agent in this Chapter 11 case, ALCS is authorized and directed to perform noticing services and to receive, maintain, record and otherwise administer the proofs of claim filed in this Chapter 11 case, and perform all related tasks as described in the Application and the Services Agreement.

5. ALCS shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in this Chapter 11 case, and is authorized and directed to maintain an official claims register for this case and to provide the Clerk of Court with a certified duplicate of the claims register, and/or any of the claims identified in it, upon request of the Clerk.

6. ALCS is authorized and directed to obtain a post office box or address for the receipt of proofs of claim, if necessary or appropriate for the proper and efficient provision of its services in this case.

7. ALCS is authorized to take such other action to comply with its duties set forth in the Application.

8. The POA is authorized to compensate ALCS in the ordinary course of business in accordance with the terms of the Services Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by ALCS and the rates charged for each, and to reimburse ALCS for all reasonable and necessary expenses ALCS may incur, upon the presentation of appropriate documentation, without the need for ALCS to file a fee application or otherwise seek Court approval for the compensation of its services and reimbursement of expenses.

9. ALCS shall maintain records of all services performed, showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the POA, the United States Trustee, counsel for the POA, counsel for any official committee appointed in the cases, and any party-in-interest who specifically requests service of the monthly invoices.

10. In the event that a dispute arises relating to the Services Agreement or monthly invoices, the parties to the dispute shall meet and confer in an attempt to resolve such dispute; provided, however, that the parties may seek a determination of the dispute by the Court if resolution is not achieved.

11. Pursuant to 11 U.S.C. §503(b)(1)(A), the fees and expenses of ALCS under this Order shall be an administrative expense of the POA's estate.

12. ALCS may hold its retainer under the Services Agreement during the Chapter 11 case as security for the payment of fees and expenses incurred under the Services Agreement.

13. The POA shall indemnify ALCS under the terms of the Services Agreement, as modified pursuant to this Order.

14. All requests by ALCS for payment of indemnification as set forth in the Services Agreement shall be made by means of an application to the Court and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Services Agreement and is reasonable under the circumstances of the litigation or settlement in respect of which indemnity is sought; provided, however, that in no event shall ALCS be indemnified in the case of its own bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence or willful misconduct.

15. In the event that ALCS seeks reimbursement from the POA for attorney's fees and

expenses in connection with the payment of an indemnity claim pursuant to the Services Agreement, the invoices and supporting time records for the attorney's fees and expenses shall be included in ALCS's own applications, both interim and final, but determined by the Court after notice and a hearing.

16. In the event that ALCS is unable to provide the services set out in this Order, ALCS will immediately notify the Clerk and the POA's attorneys and, upon approval of the Court, shall cause all original proofs of claim and computer information to be turned over to another claims and noticing agent with the advice and consent of the Clerk and the POA's attorneys.

17. The POA may submit a separate retention application, pursuant to 11 U.S.C. §327 and or any applicable law, for work that is performed by ALCS but is not specifically authorized by this Order.

18. The POA and ALCS are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

19. At the conclusion of the case, ALCS shall (i) box and transport all original documents, in proper format, as provided by the Clerk's Office, to the location requested by the Clerk, and (ii) docket a completed SF-135 Form indicating the accession and location numbers of the archived claims.

20. ALCS shall not cease providing claims processing services during the Chapter 11 case for any reason, including nonpayment, without an Order of the Court.

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

22. Notwithstanding the possible applicability of Rule 6004(h) of the Federal Rules of

Bankruptcy Procedure, this Order shall be immediately enforceable upon its entry.

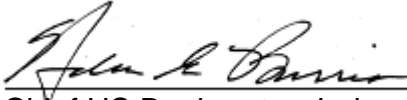
23. Notwithstanding any term in the Services Agreement to the contrary, the Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

IT IS SO ORDERED.

FILED BY THE COURT
05/11/2020



Entered: 05/11/2020


Chief US Bankruptcy Judge
District of South Carolina

Notice Recipients

District/Off: 0420-7

User: admin

Date Created: 5/11/2020

Case: 20-02092-hb

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Recipients of Notice of Electronic Filing:

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