

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

In re:

Sand Castle South Timeshare Owners
Association, Inc.,

Debtor.

Case No. 19-02764-jw

Chapter 11

**APPLICATION OF DEBTOR-IN-POSSESSION FOR
AUTHORIZATION TO EMPLOY COUNSEL**

Sand Castle South Timeshare Owners Association, Inc., as the debtor and debtor-in-possession (the “Debtor”), hereby applies to the Court for authorization to employ Nexsen Pruet, LLC (“Nexsen Pruet”) as counsel for the Debtor in this case, pursuant to 11 U.S.C. §§ 327(a) and 1107(b) and Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure.¹ In support of the authorization sought herein, the Debtor respectfully would show to the Court that:

BACKGROUND

1. On May 22, 2019, the Debtor filed a petition (the “Petition”) for relief under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. §§ 101 *et seq.*), commencing this case. The Debtor is in possession and control of its property as a Chapter 11 debtor-in-possession pursuant to 11 U.S.C. §§ 1107(a) and 1108.

2. The Debtor is engaged in the operation and management of a timeshare regime and business for the owners of timeshare units in Sand Castle South Horizontal Property Regime (the

¹ Hereinafter, references to the Federal Rules of Bankruptcy Procedure shall be made as “Bankruptcy Rule” and the cited rule number.

“Regime”) in Horry County, South Carolina. The Regime was created by Sand Castle South Condo, LLC, f/k/a Sand Castle South Condo Conversion, LLC, pursuant to that certain Master Deed for Sand Castle South Horizontal Property Regime recorded in Deed Book 3114, Page 478, *et seq.*, of the records of the Register of Deeds, Horry County, South Carolina (as amended and supplemented, the “Master Deed”), and pursuant to Title 27, Chapter 31, South Carolina Code of Laws (1976, as amended). The Regime includes two floors of a building located at 2207 South Ocean Boulevard, Myrtle Beach, South Carolina.

This Chapter 11 case is filed for the purposes of addressing an operating fund deficiency, and to provide value to timeshare owners for their existing units in the Regime.

JURISDICTION

3. The Court has jurisdiction over this application pursuant to 28 U.S.C. §§ 157 and 1334 and Local Civil Rule 83.IX.01, DSC. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A). Venue of these proceedings is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The Debtor seeks relief herein under 11 U.S.C. §§ 327(a) and 1107(b) and Bankruptcy Rules 2014 and 2016.

RELIEF REQUESTED

5. The Debtor, as debtor-in-possession, wishes to employ Nexsen Pruet to represent it in this case. Nexsen Pruet has attorneys who are admitted to practice in this Court, and who have extensive experience in matters of the type that will be involved in this case. Moreover, the Debtor is informed and believes that Nexsen Pruet has attorneys in a wide range of practice areas, which will enable it to address other matters or issues as may be necessary or appropriate.

6. The professional services that Nexsen Pruet will render to the Debtor may include, but shall not be limited to, the following:

- a. Advising the Debtor of its rights, powers and duties;
- b. Attending meetings with the Debtor's representatives and hearings before the Court;
- c. Assisting other professionals retained by the Debtor in the investigation of the acts, conduct, assets, liabilities and financial condition of the Debtor, and any other matters relevant to the case or to the formulation of a plan of reorganization or liquidation;
- d. Reviewing and investigating the validity, extent and priority of any secured claims against the Debtor's estate, and reviewing and investigating the acts and conduct of such secured creditors and other parties to determine whether any causes of action may exist;
- e. Advising the Debtor with regard to the preparation and filing of all necessary and appropriate applications, motions, pleadings, draft orders, notices, schedules and other documents; drafting, preparing and filing such documents; and reviewing all financial and other reports to be filed in these matters;
- f. Advising the Debtor with regard to the preparation and filing of responses to applications, motions, pleadings, notices and other papers that may be filed and served in these Chapter 11 cases, and drafting, preparing and filings such responses; and
- g. Performing other legal services for and on behalf of the Debtor that may be necessary or appropriate in the administration and progress of this Chapter 11 case.

7. Nexsen Pruet intends to apply for approval of compensation for its professional services rendered and reimbursement of expenses it incurs in connection with this Chapter 11 case, in compliance with the applicable provisions of the United States Bankruptcy Code (11 U.S.C. § 101, *et seq.*), the Local Rules of this Court, orders of this Court and the Guidelines of the Office of the United States Trustee. Nexsen Pruet will charge its normal and customary hourly rates for legal services consistent with the current rates Nexsen Pruet charges in comparable bankruptcy and non-bankruptcy matters.

8. Prior to the commencement of this case, the Debtor provided a retainer to Nexsen Pruet in the amount of \$75,000.00. The retainer was to be used for payment prepetition services

in connection with this Chapter 11 case, and, after payment of the prepetition fees and expenses due to Nexsen Pruet, for application towards payment to Nexsen Pruet for post-petition services and costs incurred. With regard to the unused portion of the retainer existing at the filing of this case, Nexsen Pruet shall not use such retainer unless and until it has obtained authorization of the Court. At the filing of this case, the unused portion of the retainer was in the amount of \$37,825.70. After deducting the case filing fee of \$1,717.00, the retainer balance is now \$36,108.70.

BASIS FOR RELIEF

9. The Debtor is informed and believes that Nexsen Pruet is a disinterested person as that term is defined by 11 U.S.C. § 101(14), and that Nexsen Pruet does not hold or represent an interest adverse to the estate.

10. To the best of the Debtor's knowledge, Nexsen Pruet has no connection with the Debtor, its creditors, or any party in interest in the Debtor's case, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except as follows:

a. Nexsen Pruet has represented the Debtor in preparations for the filing of this case.

b. Nexsen Pruet has represented Zealandia Holding Company, Inc., which is an affiliate of several companies whose services the Debtor uses, in unrelated litigation matters. Specifically, Zealandia Holding Company, Inc. is an affiliate of the management company, LaTour Hotels and Resorts, Inc., the timeshare exchange company, Resort Travel and Xchange, Inc., and the collection services company, Zealandia Capital, Inc., used by the Debtor. Upon information and belief, Nexsen Pruet's representation of Zealandia Holding Company, Inc. in those other matters will not adversely impact Nexsen Pruet's representation of the Debtor in this case.

c. Nexsen Pruet and its attorneys and staff have worked with numerous attorneys, accountants, other professionals, staff persons, and other persons who may, or may not, appear in this and other cases, and Nexsen Pruet's attorneys, staff and employees may have social and professional relationships with various other attorneys and professionals who from time to time appear in matters before this Court, and with members of the Court and Court personnel. Any such relationships or connections are unrelated to this case.

d. From time to time during the course of any given period, Nexsen Pruet, its attorneys, its staff, and its other employees may be a creditor or a debtor of the United States of America, the State of South Carolina, the State of North Carolina and/or another state, depending upon whether tax payments exceed or are less than the tax liability owed by such person. For example, at a given point in the year, an individual might be due a tax refund or owe an additional amount of taxes. These matters are unrelated to this case.

e. Upon further review of the mailing matrix, Nexsen Pruet will supplement this information if it determines that relationships with creditors of the bankruptcy estate exist. The Debtor is informed and believes that any such relationship, if it exists, is not adverse to the bankruptcy estate.

11. The Debtors and Nexsen Pruet have agreed that Nexsen Pruet's attorneys and paralegals will bill at their customary hourly rates for their services rendered in connection with Nexsen Pruet's representation of the Debtors in this case. These rates are as follows:²

² The list of attorneys and paralegals included in this Application is not intended to preclude or limit the use of other Nexsen Pruet attorneys or paralegals in this case. The attorneys and paralegal listed herein are the persons expected to be most involved in the representation of the Debtors in this case.

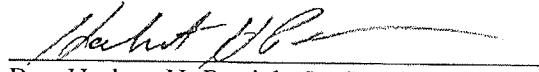
<u>Attorney/Paralegal</u>	<u>Hourly Rate</u>
Julio E. Mendoza, Jr.	\$480.00
J. Ronald Jones, Jr.	\$430.00
Kyle A. Brannon	\$295.00
Janette P. Carter (Paralegal)	\$220.00

12. The Debtor and Nexsen Pruet understand that Nexsen Pruet's compensation for its representation of the Debtor in this case will be determined by the Court pursuant to 11 U.S.C. § 330(a) and that the amount of compensation set by the Court may differ from the compensation agreed by the Debtor and Nexsen Pruet.

WHEREFORE, the Debtor prays that it be authorized to employ Nexsen Pruet, LLC as its attorney in this case with compensation to be set by the Court upon application.

RESPECTFULLY SUBMITTED on this 22 day of May, 2019, at Columbia, South Carolina.

SAND CASTLE SOUTH TIMESHARE
OWNERS ASSOCIATION, INC.


By: Herbert H. Patrick, Jr., President

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

In re:

Sand Castle South Timeshare Owners
Association, Inc.,

Debtor.

Case No. 19-02764-jw

Chapter 11

**STATEMENT OF NEXSEN PRUET, LLC PURSUANT TO
RULE 2014 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

Julio E. Mendoza, Jr., who, being duly sworn, deposes and says that:

1. I am a duly licensed and practicing attorney in the State of South Carolina and I am a member of the law firm of Nexsen Pruet, LLC (“Nexsen Pruet”), which has offices in Charleston, Columbia, Greenville, Hilton Head Island and Myrtle Beach, South Carolina, and in Charlotte, Greensboro and Raleigh, North Carolina. I am authorized to make this statement on behalf of Nexsen Pruet.

2. Nexsen Pruet is organized and existing pursuant to the laws of the State of South Carolina for the purpose of the practice of law. Its attorneys regularly appear in matters before this Court.

3. Both Nexsen Pruet and I are disinterested persons in this case as that term is defined in 11 U.S.C. § 101(14). Neither I nor Nexsen Pruet hold or represent any interest adverse to the estate.

4. Sand Castle South Timeshare Owners Association, Inc., the debtor and debtor-in-possession in this case (the “Debtor”), has requested that Nexsen Pruet serve as its attorney in this case.

5. I am in the process of reviewing the lists of parties in this case and, to the best of my knowledge and belief, Nexsen Pruet has no connection with the Debtor, its creditors, any other parties in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except as follows:

a. Nexsen Pruet has represented the Debtor in preparations for the filing of this case.

b. Nexsen Pruet has represented Zealandia Holding Company, Inc., which is an affiliate of several companies whose services the Debtor uses, in unrelated litigation matters. Specifically, Zealandia Holding Company, Inc. is an affiliate of the management company, LaTour Hotels and Resorts, Inc., the timeshare exchange company, Resort Travel and Xchange, Inc., and the collection services company, Zealandia Capital, Inc., used by the Debtor. Upon information and belief, Nexsen Pruet’s representation of Zealandia Holding Company, Inc. in those other matters will not adversely impact Nexsen Pruet’s representation of the Debtor in this case.

c. Nexsen Pruet and its attorneys and staff have worked with numerous attorneys, accountants, other professionals, staff persons, and other persons who may, or may not, appear in this and other cases, and Nexsen Pruet’s attorneys, staff and employees may have social and professional relationships with various other attorneys and professionals who from time to time appear in matters before this Court, and with members of the Court and Court personnel. Any such relationships or connections are unrelated to this case.

d. From time to time during the course of any given period, Nexsen Pruet, its attorneys, its staff, and its other employees may be a creditor or a debtor of the United States of America, the State of South Carolina, the State of North Carolina and/or another state, depending upon whether tax payments exceed or are less than the tax liability owed by such person. For example, at a given point in the year, an individual might be due a tax refund or owe an additional amount of taxes. These matters are unrelated to this case.

e. Upon further review of the mailing matrix, Nexsen Pruet will supplement this information if it determines that relationships with creditors of the bankruptcy estate or other parties in interest exist. The Debtor is informed and believes that any such relationship, if it exists, is not adverse to the bankruptcy estate.

6. Prior to the filing of this case, the Debtor provided a retainer in the amount of \$75,000.00 to Nexsen Pruet for use in payment of Nexsen Pruet's fees and expenses incurred in the preparations for the filing of this case, and for the post-petition services (subject to Court approval). After payment to Nexsen Pruet for its prepetition fees and expenses, and after deducting the case filing fee of \$1,717.00, the balance of the retainer is \$36,108.70.

7. The Debtors and Nexsen Pruet have agreed that Nexsen Pruet's attorneys and paralegals will bill at their customary hourly rates for their services rendered in connection with Nexsen Pruet's representation of the Debtors in this case. These rates are as follows:¹

<u>Attorney/Paralegal</u>	<u>Hourly Rate</u>
Julio E. Mendoza, Jr.	\$480.00
J. Ronald Jones, Jr.	\$430.00

¹ The list of attorneys and paralegals included in this Application is not intended to preclude or limit the use of other Nexsen Pruet attorneys or paralegals in this case. The attorneys and paralegal listed herein are the persons expected to be most involved in the representation of the Debtors in this case.

Kyle A. Brannon \$295.00
Janette P. Carter (Paralegal) \$220.00

8. The Debtor and Nexsen Pruet understand that Nexsen Pruet's compensation for its representation of the Debtor in this case will be determined by the Court pursuant to 11 U.S.C. § 330(a) and that the amount of compensation set by the Court may differ from the compensation agreed by the Debtor and Nexsen Pruet.

/s/ Julio E. Mendoza, Jr.
Julio E. Mendoza, Jr., Court ID No. 3365
NEXSEN PRUET, LLC
1230 Main Street, Suite 700 (29201)
Post Office Drawer 2426
Columbia, SC 29202
Telephone: 803-540-2026
E-mail: rmendoza@nexsenpruet.com

Attorneys for Debtor Sand Castle South
Timeshare Owners Association, Inc.

May 22, 2019
Columbia, South Carolina

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Case Number: 19-02764-jw

ORDER AUTHORIZING THE EMPLOYMENT OF NEXSEN PRUET, LLC
AS COUNSEL FOR THE DEBTOR EFFECTIVE MAY 22, 2019

The relief set forth on the following pages, for a total of 2 pages including this page, is hereby **ORDERED.**

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

In re:

Sand Castle South Timeshare Owners
Association, Inc.,

Debtor.

Case No. 19-02764-jw

Chapter 11

**ORDER AUTHORIZING THE EMPLOYMENT OF NEXSEN PRUET, LLC
AS COUNSEL FOR THE DEBTOR EFFECTIVE MAY 22, 2019**

THIS MATTER came before the Court upon the application (the “Application”) of Sand Castle South Timeshare Owners Association, Inc. (the “Debtor”), for authority to employ Nexsen Pruet, LLC (“Nexsen Pruet”) as counsel for the Debtor in this case, pursuant to 11 U.S.C. §§ 327(a) and 1107(b) and Rule 2014 of the Federal Rules of Bankruptcy Procedure. Upon the Application, it is hereby

ORDERED that the Debtor is authorized to employ Nexsen Pruet for the purposes described in the Application. The Debtor filed the Application on May 22, 2019 and pursuant to SC LBR 2014-1, the employment shall be effective from that date. The compensation shall be set by the Court according to 11 U.S.C. § 330(a) and, therefore, may be different from the terms of compensation discussed by the Debtor and Nexsen Pruet.

AND IT IS SO ORDERED.