

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

IN RE: )  
 )  
ESI SERVICE CORP., ) Case No. 16-07208-JMC-7A  
 )  
Debtor. )

**TRUSTEE’S MOTION FOR JOINT ADMINISTRATION OF CHAPTER 7 CASES**

Deborah J. Caruso, the chapter 7 trustee in this case (the “Trustee”), by counsel, pursuant to 11 U.S.C. § 105(a), Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rule B-1015-1(b), requests the Court enter an order directing the joint administration of this case and the cases of affiliated debtors, for procedural purposes only, on the following grounds:

**I. JURISDICTION**

1. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A).
2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for relief requested are section 105(a) of Title 11 of the United States Code (the “Bankruptcy Code”), Bankruptcy Rule 1015(b) and Local Rule B-1015-1.

**II. BACKGROUND**

4. On September 16, 2016 (the “Petition Date”), ESI Service Corp. (“ESI”) filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code.

5. ESI is one of three related entities. The related entities are ITT Educational Services, Inc. (“ITT”) and Daniel Webster College, Inc. (“Webster College,” and together with

ESI and ITT, the “Affiliated Debtors”). Each of the Affiliated Debtors filed chapter 7 petitions on the Petition Date, and the cases are pending in this district.<sup>1</sup> The Trustee was appointed as chapter 7 trustee in each of the Affiliated Debtors’ bankruptcy cases on the Petition Date pursuant to section 701(a)(1) of the Bankruptcy Code.

6. Prior to the Petition Date, the Affiliated Debtors as a whole were engaged in the for-profit enterprise of providing postsecondary degree program in locations throughout the United States and through online services.

**III. RELIEF REQUESTED**

7. The Trustee requests the Court enter an order, pursuant to section 105(a) of the Bankruptcy Code, Bankruptcy Rule 1015(b) and Local Rule B-1015-1, substantially in the form attached hereto as Exhibit “1,” directing procedural consolidation and joint administration of the Affiliated Debtors’ bankruptcy cases.

8. In addition, the Trustee requests that the caption of the Affiliated Debtors’ bankruptcy cases in all pleadings and notices in the jointly administered cases be as follows:

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

IN RE:	)	
	)	
ITT EDUCATIONAL SERVICES, INC., <i>et al.</i> <sup>1</sup>	)	Case No. 16-07207-JMC-7A
	)	
Debtors.	)	Jointly Administered

<sup>1</sup> The debtors in these cases, along with the last four digits of their respective federal tax identification numbers are ITT Educational Services, Inc. [1311]; ESI Service Corp. [2117]; and Daniel Webster College, Inc. [5980].

<sup>1</sup> The case numbers for the Affiliated Debtors are as follows: ITT Educational Services, Inc., Case No. 16-07207-JMC-7A; ESI Service Corp., Case No. 16-07208-JMC-7A; and Daniel Webster College, Inc., Case No. 16-07209-JMC-7A.

9. The Trustee also requests the Court make separate docket entries in the bankruptcy cases for ESI and Webster College, substantially similar to the following:

An order has been entered in this case consolidating this case with the case of ITT Educational Services, Inc. (Case No. 16-07207-JMC-7A) for procedural purposes only and providing for its joint administration in accordance with the terms thereof. The docket in Case No. 16-07207-JMC-7A should be consulted for all matters affecting this case.

### **III. RELIEF REQUESTED**

10. Bankruptcy Rule 1015(b) authorizes the Court to order the joint administration of the estates of two or more affiliated debtors. Joint administration is procedural in nature and meant to ease case administration; it creates no substantive rights. *See In re Reider*, 31 F.3d 1102, 1109 (11th Cir. 1994).

11. Section 101(2)(B) of the Bankruptcy Code, defines an affiliate, in pertinent part, as a “corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote . . . by an entity that directly or indirectly owns, controls or holds with power to vote, 20 percent or more of the outstanding securities of the debtor . . . .” Therefore, the definition of an affiliate under the Bankruptcy Code includes a structure reflecting a horizontal relationship between a debtor and another entity which share a common parent (or parent-like) entity that justifies treating the debtor and its “sibling” entity as affiliates. *In re Reichman Petroleum Corp.*, 364 B.R. 916, 920 (Bankr. E.D. Tex. 2007). *See also, In re Liberty Livestock Company*, 198 B.R. 365, 371 (Bankr. D. Kan. 1996).

12. The Affiliated Debtors are “corporations” under the Bankruptcy Code, all with the same two (2) shareholders owning more than 20.0% of the outstanding securities for each of the Affiliated Debtors. *See Corporate Disclosure Statements* filed by each of the Affiliated Debtors

along with their petitions for relief. Accordingly, the Affiliated Debtors are affiliates as defined under section 101(2)(B) of the Bankruptcy Code, and therefore the Affiliated Debtors' bankruptcy cases can be jointly administered pursuant to Bankruptcy Rule 1015(b).

13. The Trustee believes joint administration of the Affiliated Debtors' bankruptcy cases is warranted because it will ease the administrative burden on the Court and the parties. Joint administration of the Affiliated Debtors' bankruptcy cases will eliminate the need for duplicate filings, notices, and orders in each of the respective dockets and will save the Court, the Trustee, and other parties in interest substantial time and expense when preparing and filing such documents. Joint administration of the Affiliated Debtors' bankruptcy cases will also relieve the Court of conducting, and parties from attending, multiple hearings on the same matters and will simplify the administrative oversight by the Office of the United States Trustee.

14. Further, joint administration will protect parties in interest by ensuring that they will be apprised of the various motions filed with the Court with respect to each of the Affiliated Debtors' bankruptcy cases. Therefore, joint administration of these bankruptcy cases is appropriate under Bankruptcy Rule 1015(b) and Local Rule B-1015-1.

15. Moreover, joint administration will not adversely affect the Affiliated Debtors' respective constituencies because this Motion seeks only administrative, not substantive, consolidation of the Affiliated Debtors' estates. The relief requested will not only preserve individual creditors' rights, but also provide those creditors the benefit of cost reductions and efficiencies associated with joint administration. Accordingly, the Trustee submits that the joint administration of the Affiliated Debtors' bankruptcy cases is in the best interests of the Affiliated Debtors' estates, their creditors, and all other parties in interest.

#### IV. NOTICE

16. The Trustee is contemporaneously filing herewith the following motions: (i) *Motion to Shorten Notice on the Trustee's Motion for Joint Administration of Chapter 7 Cases* (the "Notice Motion"), requesting that the notice period for this motion be shortened to seven (7) days; and (ii) *Motion to Limit Notice on the Trustee's Motion for Joint Administration of Chapter 7 Cases* (the "Limit Motion"), requesting that notice for this motion be limited to the (a) the Office of the United States Trustee, (b) the Affiliated Debtors' counsel, and (c) those parties who have requested notice pursuant to Bankruptcy Rule 2002.

**WHEREFORE**, the Trustee respectfully requests entry of an Order, pursuant to section 105(a) of the Bankruptcy Code, Bankruptcy Rule 1015 and Local Rule B-1015-1, in a form substantially similar to the proposed order attached hereto as Exhibit "1," and for all other just and proper relief.

Respectfully submitted,

Proposed counsel to the Trustee  
RUBIN & LEVIN, P.C.

By: /s/ Meredith R. Theisen  
Meredith R. Theisen

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

IN RE: )  
 )  
ESI SERVICE CORP., ) Case No. 16-07208-JMC-7A  
 )  
Debtor. )

**ORDER GRANTING TRUSTEE’S MOTION  
FOR JOINT ADMINISTRATION OF CHAPTER 7 CASES**

This matter is before the Court on the *Trustee’s Motion for Joint Administration of Chapter 7 Cases* (the “Motion”) [Doc \_\_\_\_], filed by Deborah J. Caruso, the duly appointed, qualified and acting chapter 7 trustee in the above-referenced bankruptcy case (the “Trustee”). In the Motion, the Trustee requests entry of an Order, pursuant to 11 U.S.C. § 105(a), Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rule B-1015-1, directing the joint administration of the Affiliated Debtors’<sup>1</sup> bankruptcy cases for procedural purposes only.

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings used in the Motion.

The Court, having considered the Motion, and having found and determined that the relief requested in the Motion is in the best interests of the Affiliated Debtors, their estates and creditors, and any party interest, determines that the Motion should be, and hereby is, GRANTED. Accordingly,

IT IS THEREFORE ORDERED as follows:

1. The Motion is GRANTED in its entirety.
2. Each of the Affiliated Debtors’ bankruptcy cases are consolidated for procedural purposes only and shall be jointly administered under Case No. 16-07207-JMC-7A.
3. Nothing contained in the Motion or this Order shall be deemed or construed as directing or otherwise effecting a substantive consolidation of the Affiliated Debtors’ bankruptcy cases.
4. The caption of the Affiliated Debtors’ jointly administered bankruptcy cases shall read as follows:

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

IN RE:	)	
	)	
ITT EDUCATIONAL SERVICES, INC., <i>et al.</i> <sup>1</sup>	)	Case No. 16-07207-JMC-7A
	)	
Debtors.	)	Jointly Administered

<sup>1</sup> The debtors in these cases, along with the last four digits of their respective federal tax identification numbers are ITT Educational Services, Inc. [1311]; ESI Service Corp. [2117]; and Daniel Webster College, Inc. [5980].

5. All documents, except for proofs of claim and notices of meetings of creditors pursuant to 11 U.S.C. § 341, shall be captioned under the lead case name and number (*In re ITT Educational Services, Inc., et al.*, Case No. 16-07207-JMC-7A) followed by the words “Jointly

Administered.” A proof of claim shall provide only the case name and number of the case in which the claim is asserted.

6. A single case docket shall be maintained after the entry of this Order under the case number of the lead case. A docket entry shall be made in the bankruptcy cases for ESI and Webster College, substantially similar to the following:

An order has been entered in this case consolidating this case with the case of ITT Educational Services, Inc. (Case No. 16-07207-JMC-7A) for procedural purposes only and providing for its joint administration in accordance with the terms thereof. The docket in Case No. 16-07207-JMC-7A should be consulted for all matters affecting this case.

7. The Trustee is authorized and empowered to take all actions necessary or appropriate to implement the relief granted in this Order.

8. This Court shall retain jurisdiction over all matters arising from or related to the implementation or interpretation of this Order.

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