

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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

**TRUSTEE’S APPLICATION TO EMPLOY
RUST CONSULTING/OMNI BANKRUPTCY AS CLAIMS AND
NOTICING AGENT EFFECTIVE *NUNC PRO TUNC* AS OF SEPTEMBER 16, 2016**

Deborah J. Caruso, the chapter 7 trustee in this case (the “Trustee”), by counsel, pursuant to 28 U.S.C. § 156(c) and 11 U.S.C. § 105(a), requests the Court enter an order authorizing the Trustee to employ and retain Rust Consulting/Omni Bankruptcy, a division of Rust Consulting, Inc. (“Rust Omni”) as the claims and noticing agent in this case, effective *nunc pro tunc* as of September 16, 2016, on the following grounds:

I. JURISDICTION

1. This Court has jurisdiction over this application 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 28 U.S.C § 156(c) and section 105(a) of Title 11 of the United States Code (the “Bankruptcy Code”).

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.¹ 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 programs in 137 campus locations in 39 states and through online services.

7. There are over 200,000 potential creditors in the Affiliated Debtors’ bankruptcy cases. The numerous creditors and other parties in interest involved in the Affiliated Debtors’ bankruptcy cases would impose heavy administrative and other burdens on the Court and the Office of the Clerk of the Court (the “Clerk’s Office”). Accordingly, the Trustee proposes to retain Rust Omni as the claims and noticing agent in the Affiliated Debtors’ bankruptcy cases to alleviate the burden on the Clerk’s Office and simplify access to public information about the Affiliated Debtors’ bankruptcy cases.

III. RELIEF REQUESTED

8. The Trustee requests the Court enter an order, pursuant to 28 U.S.C. § 156(c) and section 105(a) of the Bankruptcy Code, authorizing the Trustee to employ and retain Rust Omni as the claims and noticing agent in the Affiliated Debtors’ bankruptcy cases, effective *nunc pro tunc*, as of the Petition Date. The Trustee has requested an order granting joint administration of the Affiliated Debtors’ bankruptcy cases, and the Trustee anticipates that, if the Court grants this application, Rust Omni will provide services for all of the Affiliated Debtors’ bankruptcy cases.

¹ 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.

A. Rust Omni's Qualifications.

9. Rust Omni is a leading provider of administrative support services whose professional team has experience in both the legal and administrative aspects of large, complex bankruptcy cases. Rust Omni's professionals have experience in noticing, claims administration and other administrative aspects of complex bankruptcy cases, including in matters of this size and complexity. Specifically, Rust Omni was retained and served as the claims, noticing and administrative agent in the chapter 11 cases of one of the largest for-profit postsecondary education companies in the United States and Canada. *In re Corinthian Colleges, Inc., et al.*, Case No. 15-10952 (Bankr. D. Del. May 4, 2015). Rust Omni also was retained and employed by the chapter 7 trustee for the bankruptcy estate of Mission Group Kansas, Inc. d/b/a Wright Career College, another for-profit postsecondary education company. *See In re Mission Group Kansas, Inc. d/b/a Wright Career College*, Case No. 16-20656 (Bankr. D. Kan. Apr. 15, 2016).

10. Rust Omni's professionals have also acted as officials claims, noticing and/or balloting agent in many other large bankruptcy cases throughout the nation. *See In re Karmaloo, Inc.*, Case No. 15-10635 (Bankr. D. Del. Mar. 25, 2015); *In re Phoenix Payment Systems*, Case No. 14-11848 (Bankr. D. Del. Aug. 4, 2014); *In re Gridway Energy Holdings, et al.*, Case No. 14-10833 (Bankr. D. Del. Apr. 10, 2014); *In re Restora Healthare Holdings, LLC, et al.*, Case No. 14-10367 (Bankr. D. Del. Feb. 24, 2014); *In re First Mariner Bancorp*, Case No. 14-11952 (Bankr. D. Md. Feb. 10, 2014); *In re HDOS Enterprises*, Case No. 14-12028 (Bankr. C.D. Cal. Feb. 3, 2014); *In re FAH Liquidating Corp., et al.*, Case No. 13-13087 (Bankr. D. Del. Nov. 22, 2013); *In re SGK Ventures, LLC*, Case No. 13-37603 (Bankr. N.D. Ill. Sep. 24, 2013); *In re Allied Sys. Holdings, Inc.*, Case No. 12-11654 (Bankr. D. Del. June 6, 2012); *In re Perkins & Marie Callender's Inc.*, Case No. 11-11795 (Bankr. D. Del. June 14, 2011); *In re Innkeepers*

USA Trust, Case No. 10-13800 (Bankr. S.D.N.Y. July 19, 2010); *In re AGT Crunch Acquisition, LLC*, Case No. 09-12889 (Bankr. S.D.N.Y. May 6, 2009); *In re Pacific Energy Res., Ltd.*, Case No. 09-10785 (Bankr. D. Del. Mar. 10, 2009); *In re Estate Fin. Mortgage Fund LLC*, Case No. 08-11535 (Bankr. C.D. Cal. Oct. 8, 2008); *In re Mervyn's Holdings, LLC*, et al., Case No. 08-11586 (Bankr. D. Del. July 29, 2008); *In re Com Unity Lending, Inc.*, Case No. 08-50030 (Bankr. N.D. Cal. Jan. 22, 2008); *In re Refco Commodity Mgmt., Inc.*, Case No. 06-12435 (Bankr. S.D.N.Y. Nov. 15, 2006); *In re Owens Corning Sales, LLC*, Case No. 00-3837 (Bankr. D. Del. Oct. 5, 2000).

11. The retention of Rust Omni as the claims and noticing agent in the Affiliated Debtors' bankruptcy cases will expedite the distribution of notices and the processing of claims, make it easier for creditors to obtain information about the Affiliated Debtors' bankruptcy cases, facilitate other administrative aspects of the Affiliated Debtors' bankruptcy cases, and relieve the Clerk's Office of these administrative burdens.

B. Prepetition Services Provided to Affiliated Debtors.

12. Prior to the Petition Date, Rust Omni was engaged by the Affiliated Debtors with respect to certain prepetition and postpetition services related to the preparation of the Affiliated Debtors' schedules of assets and liabilities and statements of financial affairs (collectively, the "Schedules"). The Affiliated Debtors' paid Rust Omni, prepetition, \$40,000 for its services in connection with the preparation of the Affiliated Debtors' Schedules, as well as any other prepetition costs and fees incurred by Rust Omni.

C. Services to be Provided.

13. The Trustee seeks to retain Rust Omni as the claims and noticing agent in the Affiliated Debtors' bankruptcy cases, pursuant to the terms of the *Retention Letter* dated

September 23, 2016 (the “Retention Letter”), attached hereto as Exhibit “1,” to provide, to the extent requested by the Trustee or the Clerk’s Office, the following bankruptcy administration services (the “Claims and Noticing Services”), including:

- (a) Prepare and serve required notices and documents in the Affiliated Debtors’ bankruptcy cases in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedures (the “Bankruptcy Rules”) and in accordance to any notice procedures established by the Court, in the form and manner directed by the Trustee and/or the Court, including but not limited to: (i) the notice of meeting of creditors; (ii) the notice of any additional claims bar date; (iii) notices of transfers of claim (if any); (iv) notices of objections to claims and objections to transfers of claims (if any); (v) notices of hearings; and (vi) all other notices, orders, pleadings, publications, and other documents as the Trustee or the Court may deem necessary or appropriate for an orderly administration of the Affiliated Debtors’ bankruptcy cases;
- (b) Manage the publication of legal notices;
- (c) Maintain an official copy of the Affiliated Debtors’ Schedules, listing the Affiliated Debtors’ known creditors and the amounts owed;
- (d) Maintain (i) a list of all potential creditors and any parties in interest and (ii) a “core” mailing list consisting of all parties described in Bankruptcy Rule 2002, any notice procedure established by the Court and those parties that have filed a notice of appearance under Bankruptcy Rule 9010, and update and make those lists available upon request by any party in interest or the Clerk’s Office;
- (e) For all notices, motions, orders or other pleadings or documents served, prepared and filed or caused to be filed with the Clerk’s Office an affidavit or certificate of service within seven (7) business days of service that includes: (i) either a copy of the notice served or the docket number(s) and title(s) of the documents(s) served; (ii) an alphabetical list of persons to whom it was mailed with their addresses; (iii) the manner of service; and (iv) the date served;
- (f) Process any proofs of claim received, including those received by the Clerk’s Office, check processing for accuracy, and maintain the original proofs of claim in a secure area;
- (g) Maintain the official claims register (if any) for each of the Affiliated Debtors (collectively, the “Claims Register”) on behalf of the Clerk’s Office, provide the Clerk’s Office, upon request, with certified, duplicate

Claims Registers, and specify in the Claims Registers 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, who filed the claim; (iv) the amount asserted; (v) the asserted classification(s) of the claim (*e.g.*, secured, unsecured, priority); (vi) the applicable Affiliated Debtor; and (vii) any disposition of the claim;

- (h) Implement necessary security measures to ensure the completeness and integrity of the Claims Registers and the safekeeping of the original claims;
- (i) Record any transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);
- (j) Relocate, by messenger or overnight delivery, any court-filed proofs of claim to Rust Omni's offices, not less than weekly;
- (k) Upon completion of the docketing process for any claims received to date for each case, provide to the Clerk's Office copies of the Claims Register for review (upon the Clerk's Office request);
- (l) Monitor the Court's docket for all notices of appearance, address changes, and claims-related pleadings and orders filed and make necessary notations on or changes to the Claims Register (if any) and any service or mailing lists, including the identification and elimination of duplicative names and addresses from such lists;
- (m) Identify and correct any incomplete or incorrect addresses in any mailing or service lists;
- (n) Assist in the dissemination of information to the public and respond to requests for administrative information on the Affiliated Debtors' bankruptcy cases as directed by the Trustee or the Court, including through the case website or call center;
- (o) If one or more of the Affiliated Debtors' bankruptcy cases is converted to another chapter of the Bankruptcy Code, contact the Clerk's Office within three (3) days of notice to Rust Omni of entry of the order converting the case;
- (p) Thirty (30) days before the close of the Affiliated Debtors' bankruptcy cases, to the extent practicable, request that the Trustee submit to the Court a proposed order dismissing Rust Omni as Claims and Noticing Agent and terminating its services in such capacity upon completion of its duties and responsibilities and upon the closing of the Affiliated Debtors' bankruptcy cases;

- (q) Within seven (7) days of notice to Rust Omni of entry of an order closing one or more of the Affiliated Debtors' bankruptcy cases, provide to the Court the final version of the Claims Registers as of the date immediately before the close of such case; and
- (r) At the close of the Affiliated Debtors' bankruptcy cases, box and transport all original documents, in proper format, as provided by the Clerk's Office, to (i) the Federal Archives Record Administration, located at Great Lakes Region, 7358 South Pulaski Road, Chicago, IL 60629-5898 or (ii) any other location requested by the Clerk's Office.

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

D. Professional Compensation.

15. Rust Omni will be compensated based on the services it provides at the rates set forth in the Retention Letter. Rust Omni shall be paid on a monthly basis for those services performed by Rust Omni during the preceding calendar month, subject to the availability of funds (as determined by the Trustee)

16. The Trustee believes that the proposed rates to be charged by Rust Omni are reasonable and appropriate for services of this nature. The Trustee believes that Rust Omni's rates are reasonable in this market, based on the quality of its services and its expertise.

17. The Trustee requests that the undisputed fees and expenses incurred by Rust Omni in the performance of the above services be treated as administrative expense of the Affiliated Debtors' bankruptcy estates as provided by 28 U.S.C. § 156(c) and section 503(b)(1)(A) of the Bankruptcy Code and be paid in the ordinary course of business, subject to the availability of funds (as determined by the Trustee), without further application to or order of the Court. Rust Omni agrees to maintain records of all services showing dates, categories of services, fees charged, and expenses incurred, and to serve monthly invoices on: (i) the Trustee;

(ii) the Office of the United States Trustee; (iii) Trustee's counsel; and (iv) any party in interest that specifically request service of the monthly invoices. If any dispute arises relating to the Retention Letter or monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute; if they are unable to achieve resolution on their own, the parties may seek the Court's intervention.

18. Rust Omni shall perform the duties within the scope of its appointment under 28 U.S.C. § 156(c) regardless of whether Rust Omni has received payment in accordance with the Retention Letter. To the extent Rust Omni requires redress for nonpayment of its fees and expenses, it will seek relief from the Court.

E. Representation of Disinterestedness.

19. Although the Trustee does not propose by this application to employ Rust Omni under section 327 of the Bankruptcy Code, Rust Omni has nonetheless reviewed its electronic database to determine whether it has any relationships with the Affiliated Debtors' creditors and other parties in interest. To the best of the Trustee's knowledge, information and belief, and except as disclosed in the *Declaration of Disinterestedness of Paul H. Deutch* (the "Declaration"), attached hereto as Exhibit "2," Rust Omni has represented that it neither holds nor represents any interest materially adverse to the Affiliated Debtors' bankruptcy estates in connection with any matter on which it would be employed.

20. Rust Omni 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 relationships are discovered, Rust Omni will supplement the Declaration to the Court.

21. Moreover, in connection with its retention as claims and noticing agent, Rust Omni represents in the Declaration, among other things, that:

- (a) Rust Omni is not a creditor of the Affiliated Debtors;
- (b) Rust Omni will not consider itself employed by the United States government and will not seek any compensation from the United States government in its capacity as claims and noticing agent in the Affiliated Debtors' bankruptcy cases;
- (c) By accepting employment in the Affiliated Debtors' bankruptcy cases, Rust Omni waives any rights to receive compensation from the United States government in connection with the bankruptcy cases;
- (d) In its capacity as claims and noticing agent in the Affiliated Debtors' bankruptcy cases, Rust Omni will not be an agent of the United States and will not act on behalf of the United States;
- (e) Rust Omni will not employ any past or present employees of the Affiliated Debtors in connection with its work as claims and noticing agent in the bankruptcy cases;
- (f) Rust Omni is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code for the matters on which it is engaged;
- (g) In its capacity as claims and noticing agent in the Affiliated Debtors' bankruptcy cases, Rust Omni will not intentionally misrepresent any fact to any person;
- (h) Rust Omni's receipt and recordation of claims (if any) and claim transfers will fall under the supervision and control of the Clerk's Office;
- (i) Rust Omni 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); and
- (j) The Clerk's office will bear none of the costs of Rust Omni's services as claims and noticing agent in the Affiliated Debtors' bankruptcy cases.

IV. GROUNDS FOR GRANTING RELIEF

A. Retention and Employment of Rust Omni as Claims and Noticing Agent is Permitted.

22. Under 28 U.S.C. § 156(c) and section 105(a) of the Bankruptcy Code, the Trustee is permitted to retain and employ Rust Omni as the claims and noticing agent in the Affiliated Debtors' bankruptcy cases in order for Rust Omni to assume full responsibility for the

distribution of notices and other administrative aspects of the Affiliated Debtors' bankruptcy cases.

23. The authority to employ the services of a claims and noticing agent is found in 28 U.S.C. § 156:

Any court may utilize facilities for 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. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

28 U.S.C. § 156(c).

24. Section 105 of the Bankruptcy Code also provides:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by any party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

11 U.S.C. § 105(a).

25. The Trustee anticipates that the Affiliated Debtors' bankruptcy cases will require approximately 200,000 creditors and parties in interest to be noticed. In view of that large number and the complexity of the Affiliated Debtors' bankruptcy cases, the Trustee submits that the employment and retention of a claims and noticing agent is in the best interests of the Affiliated Debtors' bankruptcy estates and creditors. Relieved of the burdens associated with the Claims and Noticing Services, the Trustee will be able to devote her full attention and resources to maximizing value for the creditors and facilitating the orderly administration of the Affiliated Debtors' bankruptcy cases.

B. Nunc Pro Tunc Relief is Appropriate.

26. In accordance with the Trustee's request, Rust Omni has agreed to serve as claims and noticing agent on or after the Petition Date with assurances that the Trustee would seek approval of its employment and retention, effective *nunc pro tunc* to the Petition Date, so that Rust Omni can be compensated for services rendered before approval of this application. The Trustee believes that no party in interest will be prejudiced by the granting of the *nunc pro tunc* employment, as proposed in this application, because Rust Omni has provided and continues to provide valuable services to the Affiliated Debtors' bankruptcy estates in the interim period.

27. Prior to filing this application, the Trustee's counsel provided the Clerk's Office with a copy of this application, including Exhibits "1" and "2," and the proposed order granting this application.

V. NOTICE

28. The Trustee will serve a copy of this application, along with the attached Exhibits "1" and "2," on the following: (a) the Office of the United States Trustee; (b) the Debtor's counsel; and (c) those parties who have appeared pursuant to Bankruptcy Rule 9010 or who have requested notice pursuant to Bankruptcy Rule 2002.

29. The Trustee is contemporaneously filing herewith a *Motion to Shorten Notice on the Trustee's Application to Employ Rust Consulting/Omni Bankruptcy as Claims and Noticing Agent Effective Nunc Pro Tunc as of September 16, 2016*, requesting the notice period for this application be shortened to seven (7) days.

WHEREFORE, the Trustee respectfully requests entry of an Order, pursuant to 28 U.S.C. § 156(c) and section 105(a) of the Bankruptcy Code: (i) authorizing the employment and retention of Rust Omni as the claims and noticing agent in the Affiliated Debtors' bankruptcy

cases, effective *nunc pro tunc* as of September 16, 2016, upon the terms outlined in this application and the Retention Letter; and (ii) granting the Trustee 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

Deborah J. Caruso (Atty. No. 4273-49)
John C. Hoard (Atty. No. 8024-49)
James E. Rossow, Jr. (Atty. No. 21063-29)
Meredith R. Theisen (Atty. No. 28804-49)
RUBIN & LEVIN, P.C.
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Tel: (317) 634-0300
Fax: (317) 263-9411
Email: dcaruso@rubin-levin.net
johnh@rubin-levin.net
jim@rubin-levin.net
mtheisen@rubin-levin.net

CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2016, a copy of the foregoing *Trustee's Application to Employ Rust Consulting/Omni Bankruptcy as Claims and Noticing Agent Effective Nunc Pro Tunc as of September 16, 2016* was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

Kayla D. Britton kayla.britton@faegrebd.com,
cindy.wondra@faegrebd.com;sarah.herendeen@faegrebd.com
Deborah Caruso dcaruso@rubin-levin.net, dwright@rubin-levin.net;mcruser@rubin-levin.net
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U.S. Trustee ustpreion10.in.ecf@usdoj.gov

I further certify that on September 26, 2016, a copy of the foregoing *Trustee's Application to Employ Rust Consulting/Omni Bankruptcy as Claims and Noticing Agent Effective Nunc Pro Tunc as of September 16, 2016* was mailed by first-class U.S. Mail, postage prepaid, and properly address to the following:

None.

/s/ Meredith R. Theisen
Meredith R. Theisen

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September 23, 2016

Deborah J. Caruso
Chapter 7 Trustee
135 N. Pennsylvania Street, Suite 1400
Indianapolis, IN 46204

Re: Rust Omni Retention letter

Ms. Caruso:

This letter (the "Agreement") will acknowledge that solely, in your capacity as chapter 7 trustee (the "Trustee"), you have requested Rust Consulting/Omni Bankruptcy, a division of Rust Consulting, Inc. ("Rust Omni") to provide post-petition administrative services to the bankruptcy estates of ITT Educational Services, Inc., ESI Service Corp., and Daniel Webster College, Inc. (collectively, the "Debtors") in connection with the Debtors' pending chapter 7 cases. Rust Omni will make itself available to the Trustee, as requested, for the purposes of assisting the Trustee with post-petition case administration matters including data entry, management of the creditor matrix, claims management, noticing, the development and maintenance of an informational website, the development and maintenance of a toll-free call center or voicemail system, the development and maintenance of a virtual data room, and any other services as may be requested by the Trustee.

The services to be rendered by Rust Omni will be billed at rates ranging from \$20.00 to \$120.00 per hour as per the attached rate sheet. In addition, Rust Omni will provide the Debtors' bankruptcy estates with an additional discount of up to \$100,000. Such discount will be effectuated by a voluntary reduction of each monthly § 156(c) invoice (excluding postage, publication and other pass-through charges) by ten (10%) percent until the aforementioned \$100,000 is reached. Prior to the commencement of the Debtors' chapter 7 cases, Rust Omni received a payment of \$40,000 from the Debtors. The purpose of such payment is to satisfy all fees and costs incurred by Rust Omni, both pre- and post-petition, with respect to the Debtors' bankruptcy schedules and statements of financial affairs, as well as any other prepetition costs and fees incurred by Rust Omni. In no event shall Rust Omni be entitled to payment from the Debtors' estates for the Debtors' services (the "Debtors' Services").

Deborah J. Caruso
September 23, 2016
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Rates are adjusted annually on January 2nd of each year, and are subject to increases not to exceed ten (10%) percent per annum. Increases greater than ten (10%) percent per annum will be discussed with you, and be subject to your prior approval, before becoming effective. All charges will be on a portal to portal basis plus out-of-pocket expenses. Rust Omni shall be compensated on a monthly basis for those services performed by Rust Omni during the preceding calendar month, subject to the availability of funds (as determined by the Trustee). Invoices are payable within 7 days of receipt by the Trustee.

Each of Rust Omni and the Trustee, 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.

The parties understand that the software programs and other materials furnished by Rust Omni pursuant to this Agreement and/or developed during the course of this Agreement by Rust Omni are the sole property of Rust Omni. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, and documentation. The Trustee 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. The Trustee further agrees that any ideas, concepts, know-how or techniques relating to data processing or Rust Omni's performance of its services developed during the course of its Agreement by Rust Omni shall be the exclusive property of Rust Omni.

This Agreement is terminable at will by the parties hereto upon thirty (30) days written notice. Notwithstanding the foregoing, either party may terminate this Agreement immediately upon written notice in the event of a breach by the other party. In the event that this Agreement is terminated, regardless of the reason for such termination, Rust Omni shall cooperate with the Trustee to maintain an orderly transfer of all records, data and information and record keeping functions, and shall provide all necessary staff, services and assistance required for an orderly transfer. The Trustee agrees to pay for such services in accordance with Rust Omni's then existing prices for such services.

Deborah J. Caruso, Esq.
September 23, 2016
Page 3

The Trustee and Rust Omni acknowledge that this Agreement is subject to approval of the Bankruptcy Court.

Please acknowledge the above by signing and returning a copy of this letter. Should you have any questions regarding the above, please do not hesitate to call me.

Sincerely,



Paul H. Deutch
Executive Managing Director

Enc.

cc: Brian Osborne

**ITT EDUCATIONAL SERVICES, INC.
ESI SERVICE CORP.
DANIEL WEBSTER COLLEGE, INC.**

Date: September 27, 2016 By: Deborah J. Caruso

Ms. Deborah J. Caruso,
In her sole capacity as the duly appointed,
qualified and acting Chapter 7 Trustee for the
bankruptcy estates of ITT Educational
Services, Inc., ESI Service Corp. and Daniel
Webster Colleges, Inc., and not in her
individual capacity.



Rate Sheet

WWW.OMNIMGT.COM

▲ Hourly Rates for Standard and Custom Services

RATE/COST

Clerical Support	\$20.00 per hour
Project Specialists	\$40.00 per hour
Project Supervisors	\$60.00 per hour
Consultants	\$75.00 per hour
Technology/Programming	\$85.00 per hour
Senior Consultants	\$120.00 per hour

▲ Printing and Noticing Services

Copy	\$.08 per image
Document folding and insertion	No Charge
Labels/Envelope printing	\$.035 each
E-mail noticing	No charge
Bulk E-Mail (Over 10,000)	Quote upon request
Certified email	Quote upon request
Facsimile noticing	\$.08/image
Postage	At cost (Advance payment required for postage charges over \$10,000)
Envelopes	Varies by size

▲ Newspaper and Legal Notice Publishing

Coordinate and publish legal notice	Quote prior to publishing
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▲ Claims Management

Inputting proofs of claim	Hourly rates (No per claim charges)
Scanning	\$.08/image
Remote Internet access for claims management	
Setup	No charge
Access	No Charge

▲ Creditor Database

Data storage	No charge
Per image storage	No charge

▲ Informational Website

Creation, configuration, and initial setup	No charge
Data entry/requested updates	\$40.00 per hour
Programming and customization	\$85.00 per hour
Court Docket and Claim Docket Updates	No charge
Debtor website hosting	No charge
Committee website hosting	No charge
Shareholder website hosting	No charge
Scanning	\$.08/image



Rate Sheet

WWW.OMNIMGT.COM

▲ Virtual Data Rooms Quote upon request

▲ Call Centers / Dedicated Line

Creation, configuration and initial setup	No charge
Hosting fee	\$5.50 per month
Usage	\$.0825 per minute
Service rates (actual talk and log-entry time)	\$40.00 - \$60.00 per hour

▲ Case Docket / Claims Register No charge

▲ Solicitation and Tabulation

Plan and disclosure statement mailings	Quoted prior to printing
Ballot tabulation	Standard hourly rates apply

▲ Public Debt and Equities Securities and/Rights Offerings Services

Noticing Services	Standard hourly rates apply
Solicitation, Balloting and Tabulation	Standard hourly rates apply
Rights Offerings	Standard hourly rates apply
Security Position Identification Reports	Standard hourly rates apply

▲ Schedules / SoFA

Preparation and updating of schedules and SoFAs	\$20.00 - \$120.00 per hour
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▲ Pre-Petition Consulting Services

(e.g., preparation of cash flow, analysis of cash management system, evaluation of insurance coverage, assist with payroll, assist procurement and distribution of cashiers checks)	Standard hourly rates apply
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▲ UST Reporting Compliance

(e.g., assist debtors to meet satisfy jurisdictional requirements, preparation of monthly operating and post-confirmation reports)	Standard hourly rates apply
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▲ Liquidating / Disbursing Agent

(e.g., comply with Plan requirements, preparation of disbursement reports, payout calculations, check generation, bank reconciliations)	Standard hourly rates apply
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▲ Miscellaneous

Telephone charges	At cost
Delivery	At cost
Archival DVD/CD-Rom	\$40.00 per copy



Rate Sheet

WWW.OMNIMGT.COM

▲ Real-Time Reports

Claims dashboard	No charge
Claim reports	\$25.00
Solicitation dashboard	No charge
Tabulation dashboard	No charge
Solicitation reports	\$25.00
Service list manager	\$0.05 per party, per generated list

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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

DECLARATION OF DISINTERESTEDNESS OF PAUL H. DEUTCH

Paul H. Deutch affirms under penalties of perjury as follows:

1. I am the Executive Managing Director of Rust Consulting/Omni Bankruptcy, a division of Rust Consulting, Inc. (“Rust Omni”), an administrative services firm that specializes in the administration of large bankruptcy cases. 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. This Declaration is made in support of the *Trustee’s Application to Employ Rust Consulting/Omni Bankruptcy as Claims and Noticing Agent Effective Nunc Pro Tunc as of September 16, 2016* (the “Application”).

3. Rust Omni is an industry leader whose professionals have significant experience in both the legal and administrative aspects of large, complex bankruptcy cases. Rust Omni’s professionals have experience in noticing, claims administration and facilitating other administrative aspects of bankruptcy cases, including in matters of this size and complexity. Rust Omni’s professionals have acted as official claims and noticing agent in many large bankruptcy cases nationwide, including: *In re Mission Group Kansas, Inc. d/b/a Wright Career College*, Case No. 16-20656 (Bankr. D. Kan. Apr. 15, 2016); *In re Corinthian Colleges, Inc., et al.*, Case No. 15-10952 (Bankr. D. Del. May 4, 2015); *In re Karmaloop, Inc.*, Case No. 15-10635

(Bankr. D. Del. Mar. 25, 2015); *In re Phoenix Payment Systems*, Case No. 14-11848 (Bankr. D. Del. Aug. 4, 2014); *In re Gridway Energy Holdings, et al.*, Case No. 14-10833 (Bankr. D. Del. Apr. 10, 2014); *In re Restora Healthare Holdings, LLC, et al.*, Case No. 14-10367 (Bankr. D. Del. Feb. 24, 2014); *In re First Mariner Bancorp*, Case No. 14-11952 (Bankr. D. Md. Feb. 10, 2014); *In re HDOS Enterprises*, Case No. 14-12028 (Bankr. C.D. Cal. Feb. 3, 2014); *In re FAH Liquidating Corp., et al.*, Case No. 13-13087 (Bankr. D. Del. Nov. 22, 2013); *In re SGK Ventures, LLC*, Case No. 13-37603 (Bankr. N.D. Ill. Sep. 24, 2013); *In re Allied Sys. Holdings, Inc.*, Case No. 12-11654 (Bankr. D. Del. June 6, 2012); *In re Perkins & Marie Callender's Inc.*, Case No. 11-11795 (Bankr. D. Del. June 14, 2011); *In re Innkeepers USA Trust*, Case No. 10-13800 (Bankr. S.D.N.Y. July 19, 2010); *In re AGT Crunch Acquisition, LLC*, Case No. 09-12889 (Bankr. S.D.N.Y. May 6, 2009); *In re Pacific Energy Res., Ltd.*, Case No. 09-10785 (Bankr. D. Del. Mar. 10, 2009); *In re Estate Fin. Mortgage Fund LLC*, Case No. 08-11535 (Bankr. C.D. Cal. Oct. 8, 2008); *In re Mervyn's Holdings, LLC, et al.*, Case No. 08-11586 (Bankr. D. Del. July 29, 2008); *In re Com Unity Lending, Inc.*, Case No. 08-50030 (Bankr. N.D. Cal. Jan. 22, 2008); *In re Refco Commodity Mgmt., Inc.*, Case No. 06-12435 (Bankr. S.D.N.Y. Nov. 15, 2006); *In re Owens Corning Sales, LLC*, Case No. 00-3837 (Bankr. D. Del. Oct. 5, 2000).

4. As agent and custodian of court records under 28 U.S.C. § 156(c), Rust Omni will perform, at the request of the Office of the Clerk of the Bankruptcy Court (the “Clerk’s Office”), the services specified in the Application and the Retention Letter,¹ and, at the Trustee’s request, any related administrative, technical, and support services as specified in the Application and Retention Letter. In performing such services, Rust Omni will charge the Affiliated Debtors’ bankruptcy estates the rates set forth in the Retention Letter, which is attached as Exhibit “1” to the Application.

¹ Capitalized terms used but not otherwise defined in this Declaration have the meanings used in the Application.

5. Rust Omni represents that:
 - (a) Rust Omni is not a creditor of the Affiliated Debtors;
 - (b) Rust Omni will not consider itself employed by the United States government and will not seek any compensation from the United States government in its capacity as claims and noticing agent in the Affiliated Debtors' bankruptcy cases;
 - (c) By accepting employment in the Affiliated Debtors' bankruptcy cases, Rust Omni waives any rights to receive compensation from the United States government in connection with the bankruptcy cases;
 - (d) In its capacity as claims and noticing agent in the Affiliated Debtors' bankruptcy cases, Rust Omni will not be an agent of the United States and will not act on behalf of the United States;
 - (e) Rust Omni will not employ any past or present employees of the Affiliated Debtors in connection with its work as claims and noticing agent in the bankruptcy cases;
 - (f) Rust Omni is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code for the matters on which it is engaged;
 - (g) In its capacity as claims and noticing agent in the Affiliated Debtors' bankruptcy cases, Rust Omni will not intentionally misrepresent any fact to any person;
 - (h) Rust Omni's receipt and recordation of claims (if any) and claim transfers will fall under the supervision and control of the Clerk's Office;
 - (i) Rust Omni 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); and
 - (j) The Clerk's Office will bear none of the costs of Rust Omni's services as claims and noticing agent in the Affiliated Debtors' bankruptcy cases.

6. Although the Trustee does not propose to retain Rust Omni under section 327 of the Bankruptcy Code, I authorized a review of our conflict system for the names of all known potential parties in interest (the "Potential Parties in Interest") in the Affiliated Debtors' bankruptcy cases. The list of Potential Parties in Interest included, among other parties, the

Affiliated Debtors, known non-debtor affiliates, directors and officers of the Affiliated Debtors and known secured creditors. Rust Omni professionals under my supervision compiled and reviewed the results of the conflicts check. As set forth in further detailed herein, Rust Omni is not currently aware of any relationship that would present a disqualifying conflict of interest. Should Rust Omni discover any new relevant facts or relationships bearing on the matters described herein during the period of its retention, Rust Omni will use reasonable efforts to promptly file a supplemental declaration.

7. To the best of my knowledge, and except as detailed herein, neither Rust Omni nor any of its professionals has any materially adverse connections to the Affiliated Debtors or the Potential Parties in Interest. Rust Omni may have relationships with certain of the Affiliated Debtors' creditors as vendors or in connection with cases in which Rust Omni serves or has served in a neutral capacity as claims and noticing agent or administrative advisor for another debtor/trustee or as class action settlement administrator.

8. Rust Omni has and will continue to represent clients in matters unrelated to the Affiliated Debtors' bankruptcy cases. In addition, Rust Omni has and will continue to have relationships in the ordinary course of its business with certain vendors, professionals, and other parties in interest that may be involved in the Affiliated Debtors' bankruptcy cases. There is also a possibility that Rust Omni will provide professional services to entities or persons that may be creditors or parties in interest in the Affiliated Debtors' bankruptcy cases—though such services would not directly relate to, or have any direct connection with these bankruptcy cases or the Affiliated Debtors.

9. Rust Omni and its personnel in their individual capacities regularly use the services of law firms, accounting firms and financial advisors. Such firms engaged by Rust

Omni or its personnel may appear in the Affiliated Debtors' bankruptcy cases representing the Affiliated Debtors or parties in interest. All engagements where such firms represent Rust Omni or its personnel in their individual capacities are unrelated to the Affiliated Debtors' bankruptcy cases.

10. To the best of my knowledge, neither Rust Omni nor any of its partners or employees represents any interest materially adverse to the Affiliated Debtors' bankruptcy estates with respect to any matter on which Rust Omni is to be engaged. Based on the foregoing, I believe that Rust Omni is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code.

I affirm under penalties for perjury that the foregoing statements are true.

Date: September 23, 2016

/s/ Paul H. Deutch
Paul H. Deutch
Executive Managing Director