

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
PROSKAUER ROSE LLP AS CO-COUNSEL TO THE
TRUSTEE EFFECTIVE *nunc pro tunc* AS OF SEPTEMBER 22, 2016**

Deborah J. Caruso, the chapter 7 trustee in this case (the “Trustee”), by counsel, pursuant 11 U.S.C. § 327(a) and Rule 2014 of the Federal Rules of Bankruptcy Procedure, requests the Court enter an order authorizing the Trustee to employ Proskauer Rose LLP (“Proskauer”) as co-counsel to the Trustee in this case, effective *nunc pro tunc* as of September 22, 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 section 327(a) of Title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”) and Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

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, collectively, with ITT and ESI, 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. Thereafter, the Trustee filed an application to employ Rubin & Levin, P.C. (“Rubin & Levin”) as counsel to the Trustee, effective *nunc pro tunc* as of September 16, 2016.

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. ITT is a publicly held company that, as of June 30, 2016, employed over 8,000 employees at its Carmel, Indiana headquarters. ITT offered master, bachelor, and associate degree programs to approximately 40,000 students at its campus locations and online programs to students located in all 50 states and the District of Columbia. All of ITT’s campus locations were authorized by applicable education authorities of the states in which they operate, and were accredited by an accrediting commission recognized by the U.S. Department of Education (the “DOE”).

8. Webster College was founded in 1965 in Nashua, New Hampshire, as the New England Aeronautical Institute (NEAI). In 1978, the NEAI was merged with its junior-college division to form Daniel Webster College, a private institution with a focus on business education.

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.

9. ITT announced on September 6, 2016, that it would permanently discontinue academic operations. ITT also announced that it had eliminated the positions of the overwhelming majority of its more than 8,000 employees.

10. ITT is a defendant in multiple federal and state regulatory and consumer protection actions and investigations initiated by the DOE, Securities and Exchange Commission (the “SEC”), Consumer Financial Protection Bureau (the “CFPB”) as well as multiple Attorneys General, and other similarly situated parties and agencies, in various states and jurisdictions in which the Affiliated Debtors operated (collectively, the “Investigations and Regulatory Actions”).

11. While a suggestion of bankruptcy has been filed, or will be filed, in each of the pending regulatory actions, the Trustee anticipates the non-debtor parties involved in the Investigations and Regulatory Actions, including certain government agencies and regulators, will seek to continue their actions and investigations against the Affiliated Debtors during the pendency of the Affiliated Debtors’ bankruptcy cases. The Trustee anticipates that she will need the assistance of counsel to coordinate and respond to these Investigations and Regulatory Actions.²

12. In addition, the Trustee will need the assistance of counsel to review and analyze the Affiliated Debtors’ insurance coverage and provide the Trustee with insurance related advice, including insurance related litigation (collectively, the “Insurance Related Matters”).

13. Moreover, the Trustee will need the assistance of co-counsel to assist Rubin & Levin in providing general bankruptcy, corporate, and litigation services and to provide

² As a publicly-held and traded company, ITT must satisfy certain reporting requirements to the SEC. On September 22, 2016, the Trustee filed an application to retain Faegre Baker Daniels LLP as special counsel with respect to employee benefits, reporting to the SEC, and other special matters as requested and directed by the Trustee.

additional resources to the Trustee during the pendency of the Affiliated Debtors' bankruptcy cases.

14. To assist the Trustee in the administration of the Affiliated Debtors' bankruptcy cases, the Trustee has determined to retain Proskauer to serve as co-counsel to the Trustee and the Affiliated Debtors' bankruptcy estates pursuant to section 327(a) of the Bankruptcy Code. The Trustee requires counsel to advise and assist the Trustee and the Affiliated Debtors' bankruptcy estates with respect to the Investigations and Regulatory Actions, the Insurance Related Matters, and all other issues that will arise in these bankruptcy cases and has selected Proskauer.

III. RELIEF REQUESTED

15. The Trustee requests the Court enter an order, pursuant to section 327(a) of the Bankruptcy Code and Bankruptcy Rule 2014, authorizing the Trustee to employ and retain Proskauer her co-counsel, effective *nunc pro tunc* as of September 22, 2016.

A. Proskauer's Qualifications.

16. The Trustee selected Proskauer because its attorneys have extensive experience, knowledge and resources in the area of debtors' and creditors' rights, and, in addition to a national bankruptcy practice, have extensive experience with litigation, claims, and dispute resolution and insurance recovery.

17. In addition, Proskauer has the ability to commit substantial resources to legal problems on an urgent, and as-needed, basis. Because of the sheer size and complexity of the Affiliated Debtors' prepetition operations (137 locations in 39 states, 40,000 students, 8,000 employees), the Trustee cannot readily anticipate all the matters that will need to be addressed in the coming weeks and months. Because Proskauer has substantial expertise in large, complex

bankruptcy matters, the Trustee believes that Proskauer is well qualified to assist in the Affiliated Debtors' bankruptcy cases, without duplication of services.

14. Proskauer is well suited to serve as co-counsel to the Trustee and the Affiliated Debtors' bankruptcy estates in these cases. As an initial matter, Proskauer has extensive experience in handling large and complex bankruptcy cases, including the following:

- a. The *Bayou Group of Hedge Funds* chapter 11 case, in which Proskauer partner Jeff Marwil was the court-appointed independent fiduciary and trustee, and pursued more than 100 fraudulent conveyance actions;
- b. *Pacific Exploration and Production Company*, one of the largest international oil and gas bankruptcy filings of 2016, in which Proskauer represented the company through its international reorganization process, culminating in a consensual restructuring of more than \$5 billion in debt;
- c. *Energy Future Holdings Corp.*, one of the largest chapter 11 cases ever filed, in which Proskauer serves as counsel to debtor EFH Corp.;
- d. *Caesars Entertainment Operating Company, Inc.*, the largest bankruptcy filing of 2015 (\$18.4 billion in debt), in which Proskauer represents the Statutory Unsecured Claimholders' Committee;
- e. the *Ocala Funding* chapter 11 case, in which Proskauer represented the debtor in pursuit of massive litigation claims (based on fraud), including claims against auditors;
- f. *MF Global*, the largest bankruptcy filing of 2011 and the eighth-largest in U.S. history (\$41 billion in assets), in which Proskauer represented the Statutory Creditors' Committee;
- g. the chapter 11 and 7 cases of *Enron Corp.*, *NewPage*, *Capmark*, *Ambac*, *G-I Holdings*, *Rotech Healthcare*, *TLC Vision Corporation*, *USI Senior Holdings, Inc.*, *Philadelphia Newspapers, LLC*, *G.I. Joe's, Inc.*, *Caritas Health Care, Inc.*, *Whitehall Jewelers, Inc.*, among many others, in which Proskauer attorneys represented the debtors; and
- h. numerous other corporations and clients for which Proskauer has provided services similar to those described herein.

18. Moreover, and as discussed below, Proskauer is a full-service, national law firm with expertise in litigation and specialists in insurance litigation, which the Trustee expects to be a significant issue in these cases. In addition, the Trustee will need counsel with bankruptcy and regulatory knowledge to assist the Trustee in coordinating its response to the multiple demands of various regulators in the context of the Investigations and Regulatory Actions, including assisting the Trustee in coordinating the defense and liquidation of claims asserted by regulators and other litigants. Proskauer's attorneys have the requisite experience in these areas to assist the Trustee.

19. Thus, Proskauer has the requisite bankruptcy and other expertise on matters which have already and/or are likely to arise in the Affiliated Debtors' bankruptcy cases.

20. The primary attorneys anticipated to work on this engagement are Jeff Marwil, Timothy Karcher, and Marc Rosenthal. Jeff Marwil is a partner at Proskauer with over 30 years of experience specializing in bankruptcy and creditors' rights. Mr. Marwil has extensive experience in serving as a court-appointed fiduciary, including as trustee for the Bayou Hedge Fund Litigation Trust, chapter 11 trustee in the Life Funds bankruptcy cases pending in the Northern District of Illinois, and as receiver for the Church Extension of the Church of God. Mr. Karcher is a partner at Proskauer with over 15 years of experience specializing in bankruptcy and creditors' rights. In addition, Mr. Karcher is a co-author of a treatise covering the Consumer Financial Protection Bureau, and has experience working with prudential regulators in and out of bankruptcy cases. Mr. Rosenthal is a partner at Proskauer with over 25 years of experience as a litigator and insurance litigator.

B. Services to be Provided.

22. The Trustee requires Proskauer to act as co-counsel to the Trustee and the Affiliated Debtors' bankruptcy estates and to assist the Trustee with matters involved in these cases, as specifically directed by the Trustee, including the Investigations and Regulatory Actions and Insurance Related Matters, without duplication of those services provided by Rubin & Levin, or any other counsel retained in these cases. Proskauer will render legal services as requested by the Trustee relating to the controlled and orderly liquidation of the Affiliated Debtors' bankruptcy estates and the myriad problems that may arise in this case, including, without limitation, the following services:

- a. advising the Trustee of her powers under the Bankruptcy Code and duties to parties in interest in connection with these cases and the Affiliated Debtors' estates, including the Investigations and Regulatory Actions and the Insurance Related Matters, and all other matters as requested by the Trustee;
- b. advising the Trustee and the Affiliated Debtors' estates regarding matters of bankruptcy law;
- c. representing the Trustee and the Affiliated Debtors' estates in proceedings and hearings in the United States District and Bankruptcy Courts for the Southern District of Indiana and elsewhere;
- d. preparing on behalf of the Trustee and the Affiliated Debtors' estates any necessary motions, applications, orders and other legal papers;
- e. providing assistance, advice and representation concerning distributions to holders of claims as authorized by the Court, consistent with chapter 7 of the Bankruptcy Code;
- f. providing assistance, advice and representation concerning any investigation of the assets, liabilities and financial condition of the Affiliated Debtors and their estates that may be required under local, state, or federal law;
- g. analyzing, at the request of the Trustee, any assets of the Affiliated Debtors' estates, including but not limited to causes of action, and

determining how to liquidate such assets, and assisting the Trustee and the estates in that process;

- h. at the request of the Trustee, reviewing, administering, and resolving claims against the Affiliated Debtors' estates;
- i. as requested by the Trustee, prosecuting and defending litigation matters and such other matters that might arise during these cases; and
- j. performing such other legal services as may be necessary and appropriate for the efficient and economical administration of these cases.

C. Professional Compensation.

23. The Trustee has determined to seek authority from this Court to employ Proskauer at Proskauer's customary hourly rates and under Proskauer's customary reimbursement policies, as set forth in the *Declaration of Disinterestedness of Jeff J. Marwil* (the "Marwil Declaration"), attached hereto as Exhibit "1."

24. Subject to this Court's approval, Proskauer will charge for its legal services on an hourly basis in accordance with its hourly rates in effect on the date such services are rendered and for its actual, reasonable, and necessary out-of-pocket disbursements incurred in connection therewith, as set forth in the Marwil Declaration. For the information of the Court, the range of hourly rates charged by Proskauer nationwide, subject to periodic adjustment, is:

Partner	\$825 - \$1,395
Senior Counsel	\$795 - \$1,050
Associate	\$445 - \$950
Paraprofessionals	\$195 - \$410

The range of hourly rates set forth above include Proskauer's highest standard hourly rates (subject to annual standard hourly rate increases). However, historically, in other similar cases, Proskauer's blended hourly rates, per case, have ranged between \$650 and \$800, per hour.

Moreover, the hourly rate for Mr. Marwil will be \$1,200 per hour. Proskauer does not anticipate any attorney with a higher hourly rate working on the Affiliated Debtors' bankruptcy cases.

23. Proskauer intends to apply to the Court for allowance of compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the local rules of the United States Bankruptcy Court for the Southern District of Indiana, general orders of this Court, guidelines established by the Office of the United States Trustee, and such other procedures as may be fixed by order of the Court. Proskauer intends to seek payment of compensation in compliance with the above rules, on an hourly basis, plus reimbursement of actual and necessary expenses incurred.

D. Proskauer's Disinterestedness.

24. Based upon the Marwil Declaration, the Trustee believes that, except as set forth therein, Proskauer's partners and associates do not hold or represent any interest adverse to the Affiliated Debtors and that Proskauer and each of its partners and associates is a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code.

25. Based upon the Marwil Declaration, the Trustee believes that Proskauer's partners and associates have no connection with the Affiliated Debtors, the Affiliated Debtors' directors and executive management and the Affiliated Debtors' professionals, except as set forth in the Marwil Declaration.

IV. GROUNDS FOR GRANTING RELIEF

26. Section 327(a) of the Bankruptcy Code provides that a trustee, subject to court approval:

[M]ay employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the [debtor] in carrying out the [debtor's] duties under [the Bankruptcy Code].

11 U.S.C. § 327(a).

27. Section 327(d) of the Bankruptcy Code permits the Court to “authorize the [T]rustee to act as an attorney... for the estate if such authorization is in the best interest of the estate.” 11 U.S.C. § 327(d).

28. Bankruptcy Rule 2014(a) requires that an application for retention include:

[S]pecific facts showing the necessity for the employment, the name of the [firm] to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant’s knowledge, all of the [firm’s] connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

Fed. R. Bankr. P. 2014(a).

29. Based on the foregoing, the Trustee submits that the Trustee has satisfied the requirements of the Bankruptcy Code and the Bankruptcy Rules to support entry of an order authorizing the employment and retention of Proskauer as co-counsel to the Trustee and the Affiliated Debtors’ bankruptcy estates in these cases.

30. The Trustee believes that the employment of Proskauer would be in the best interests of the Affiliated Debtors’ bankruptcy estates and desires to employ Proskauer, effective as of the September 22, 2016, the date the Trustee asked Proskauer to assist the Trustee, with compensation to be determined upon application to this Court.

V. NOTICE

31. The Trustee will serve a copy of this application, along with the attached Exhibit “1,” on the following: (a) the Office of the United States Trustee; (b) the Affiliated 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.

WHEREFORE, the Trustee respectfully requests entry of an Order, pursuant to section 327 of the Bankruptcy Code and Bankruptcy Rule 2014: (i) authorizing the employment of Proskauer as her co-counsel in the Affiliated Debtors' bankruptcy cases, effective *nunc pro tunc* as of September 22, 2016, upon the terms outlined in this application; and (ii) granting 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.
135 N. Pennsylvania Street, Suite 1400
Indianapolis, Indiana 46204
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 26, 2016, a copy of the foregoing *Trustee's Application to Employ Proskauer Rose LLP as Co-Counsel to the Trustee Effective Nunc Pro Tunc as of September 22, 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
Deborah J. Caruso trusteeucaruso@rubin-levin.net,
DJC@trustesolutions.net;mcruser@rubin-levin.net
Dustin R. DeNeal dustin.deneal@faegrebd.com,
cindy.wondra@faegrebd.com;sarah.herendeen@faegrebd.com
John C. Hoard johnh@rubin-levin.net, marie@rubin-levin.net;atty_jch@trustesolutions.com
Jay Jaffe jay.jaffe@faegrebd.com, sarah.herendeen@faegrebd.com
Ronald J. Moore Ronald.Moore@usdoj.gov
Whitney L Mosby wmosby@bgdlegal.com, floyd@bgdlegal.com
James E Rossow jim@rubin-levin.net, ATTY_JER@trustesolutions.com;robin@rubin-levin.net;lisa@rubin-levin.net
Thomas C Scherer tscherer@bgdlegal.com, rjenkins@bgdlegal.com
Meredith R. Theisen mtheisen@rubin-levin.net, dwright@rubin-levin.net;mcruser@rubin-levin.net
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 Proskauer Rose LLP as Co-Counsel to the Trustee Effective Nunc Pro Tunc as of September 22, 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

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 JEFF J. MARWIL

Jeff J. Marwil affirms under the penalties of perjury as follows:

1. I am a partner of the firm of Proskauer Rose LLP (“Proskauer”), which maintains an office for the practice of law at 70 West Madison Street, Suite 3800, Chicago, Illinois 60602. I am an attorney duly licensed in and am a member in good standing of the bar for the State of Illinois and am admitted to practice before the United States District Court for the Northern District of Illinois. I submit this Declaration in support of the *Trustee’s Application to Employ Proskauer Rose LLP as Co-Counsel to the Trustee Effective Nunc Pro Tunc as of September 22, 2016* (the “Application”), requesting entry of an order authorizing the retention of Proskauer as co-counsel for the Trustee¹ and the Affiliated Debtors’ bankruptcy estates, effective *nunc pro tunc* as of September 22, 2016.

Services To Be Rendered

2. The Affiliated Debtors are three related entities. Each of the Affiliated Debtors filed chapter 7 petitions on September 16, 2016 (the “Petition Date”) and the cases are pending in this district. 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.

3. According to pleadings filed the Affiliated Debtors’ bankruptcy cases, prior to the Petition Date, the Affiliated Debtors were as a whole were engaged in the for-profit enterprise of

¹ Capitalized terms used but not otherwise defined herein shall have the meanings used in the Application.

providing postsecondary degree programs in 137 campus locations in 39 states and through online services.

4. Upon information and belief, ITT is a defendant in multiple federal and state regulatory and consumer protection actions and/or the subject of investigations initiated by the Department of Education, Securities and Exchange Commission, Consumer Financial Protection Bureau as well as multiple Attorneys General, and other similarly situated parties and/or agencies, in various jurisdictions (collectively, the “Investigations and Regulatory Actions”).

5. I understand from the Trustee that a suggestion of bankruptcy has been filed, or will be filed, in each of the pending regulatory actions. However, the non-debtor parties involved in the Investigations and Regulatory Actions, including certain government agencies and regulators, may seek to continue their actions and investigations during the pendency of the Affiliated Debtors’ bankruptcy cases. The Trustee anticipates that she will need the assistance of counsel to coordinate and respond to these Investigations and Regulatory Actions. In addition, the Trustee will need the assistance of counsel to review and analyze the Affiliated Debtors’ insurance coverage and provide the Trustee with insurance related advice, including insurance related litigation (collectively, the “Insurance Related Matters”).

6. The Trustee has filed an application to retain Rubin & Levin, P.C. (“Rubin & Levin”) as her counsel. The Trustee believes she will need the assistance of co-counsel to assist Rubin & Levin in providing general bankruptcy, corporate, and litigation services and to provide additional resources to the Trustee during the pendency of these cases.

7. The Trustee has asked Proskauer to act as co-counsel to the Trustee and the Affiliated Debtors’ bankruptcy estates and to assist the Trustee with matters involved in these cases, as specifically directed by the Trustee, including the Investigations and Regulatory

Actions and Insurance Related Matters, without duplication of those services provided by Rubin & Levin, or any other counsel retained in these cases. Proskauer will render legal services as requested by the Trustee relating to the controlled and orderly liquidation of the Affiliated Debtors' bankruptcy estates and the myriad problems that may arise in these cases, including, without limitation, the following services:

- a. advising the Trustee of her powers under the Bankruptcy Code and duties to parties in interest in connection with these cases and the Affiliated Debtors' estates, including the Investigations and Regulatory Actions and the Insurance Related Matters, and all other matters as requested by the Trustee;
- b. advising the Trustee and the Affiliated Debtors' estates regarding matters of bankruptcy law;
- c. representing the Trustee and the Affiliated Debtors' estates in proceedings and hearings in the United States District and Bankruptcy Courts for the Southern District of Indiana and elsewhere;
- d. preparing on behalf of the Trustee and the Affiliated Debtors' estates any necessary motions, applications, orders and other legal papers;
- e. providing assistance, advice and representation concerning distributions to holders of claims as authorized by the Court, consistent with chapter 7 of the Bankruptcy Code;
- f. providing assistance, advice and representation concerning any investigation of the assets, liabilities and financial condition of the Affiliated Debtors and their estates that may be required under local, state, or federal law;
- g. analyzing, at the request of the Trustee, any assets of the Affiliated Debtors' estates, including but not limited to causes of action, and determining how to liquidate such assets, and assisting the Trustee and the estates in that process;
- h. at the request of the Trustee, reviewing, administering, and resolving claims against the Affiliated Debtors' estates;
- i. as requested by the Trustee, prosecuting and defending litigation matters and such other matters that might arise during these cases; and

j. performing such other legal services as may be necessary and appropriate for the efficient and economical administration of these cases.

8. Proskauer will take care not to duplicate the efforts of any other counsel or professionals engaged in these cases.

Statement of Connections

9. I understand that the entire creditor matrix in these cases is in excess of 4,000 pages, and includes the names of students and former students enrolled in the Affiliated Debtors' schools.

10. Proskauer has not reviewed every name on the 4,000 page creditor matrix, and does not believe it is practical to do so under the circumstances because of the nature of Proskauer's practice, which is primarily related to representing companies and businesses, rather than individuals. Proskauer has taken certain measures to ensure that it does not represent any interest adverse to the Affiliated Debtors' bankruptcy estates in the matters upon which the Trustee seeks to engage Proskauer. As explained in further detail below, Proskauer has run the names of Potential Parties in Interest (as defined below) through Proskauer's conflict database.

11. Neither the firm of Proskauer, any partner or associate thereof, nor I, insofar as I have been able to ascertain, represents any interest adverse to that of the Affiliated Debtors' bankruptcy estates in the matters upon which the Trustee seeks to engage Proskauer, and I believe the firm to be a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code.

12. Except as otherwise set forth herein, neither the firm of Proskauer, any partner or associate thereof, nor I, insofar as I have been able to ascertain, has any connection with the Potential Parties in Interest (as defined below), except that the firm, its partners, and associates and I: (a) may appear, may have appeared and may in the future appear in case or proceedings

under the Bankruptcy Code or otherwise not related to the Affiliated Debtors where one or more of the aforesaid parties may have been or may be involved; and (b) may represent, may have represented or may in the future represent certain creditors and Potential Parties in Interest of the Affiliated Debtors in matters not related to the Affiliated Debtors.

13. Neither the firm of Proskauer, any partner or associate thereof, nor I, insofar as I have been able to ascertain, is so connected with any Judge of the United States Bankruptcy Court for the Southern District of Indiana (Indianapolis Division), the United States Trustee (Region 10) or the Assistant Trustees or Trial Attorneys for the office of the United States Trustee, as to render the appointment of Proskauer, as counsel for the Trustee, inappropriate under Bankruptcy Rule 5002(b).

14. Neither the firm of Proskauer, any partner or associate thereof, nor I, insofar as I have been able to ascertain, is or was a creditor, an equity holder, or insider of the Affiliated Debtors.

15. Neither the firm of Proskauer, any partner or associate thereof, nor I, insofar as I have been able to ascertain, is or was a director, officer, or employee of the Affiliated Debtors as defined in section 101(14)(B) or (C) of the Bankruptcy Code within two years before the date of this filing.

16. Except as described herein, neither the firm of Proskauer, any partner or associate thereof, nor I, insofar as I have been able to ascertain, has an interest materially adverse to the interest of the Affiliated Debtors' bankruptcy estates or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Affiliated Debtors.

17. On the basis of the above, I believe the firm of Proskauer to be a “disinterested person” within the meaning of section 101(14) of the Bankruptcy Code.

18. Relationships between Proskauer (on the one hand) and the Affiliated Debtors and/or their creditors or affiliates (on the other hand) may presently exist, may have existed in past years, and may exist in the future. Any such contacts or relationships do not relate to the Affiliated Debtors’ bankruptcy cases and thus do not create any conflicts with respect to Proskauer’s representation of the Trustee. Proskauer is a large law firm with more than 700 attorneys in thirteen offices; as such, the firm’s conflict clearance procedures are understandably complex. Nonetheless, as of the date of this Declaration, the firm believes it has materially completed its investigation of its contacts with these cases, based on the information provided to Proskauer by the Trustee, and based upon Proskauer’s review of publicly available material, including the notices of appearance filed in these cases as of September 26, 2016 and annual and quarterly reports. If additional information arises, Proskauer will further pursue its investigation.

19. The firm has conducted, and continues to conduct, research into its relationships with the Affiliated Debtors and various parties in interest.

20. In addition to the above investigation, the Trustee provided to Proskauer, or Proskauer otherwise procured, the names on the list attached hereto as Exhibit “A,” including the following individuals or entities who may be parties in interest to these cases: the Affiliated Debtors, the Affiliated Debtors’ executive management and certain of the Affiliated Debtors’ professionals; those parties who have filed notices of appearance in these cases; and the Affiliated Debtors’ lenders (if known) (collectively, the “Potential Parties in Interest”).

21. Proskauer then entered the names of the Potential Parties in Interest into a computer database containing the names of all clients and conflict information concerning such

clients of Proskauer. Through the information generated from the above-mentioned computer inquiry, and through follow-up inquiries with Proskauer's attorney(s) as described herein, it was determined that Proskauer had represented no party adverse to the Affiliated Debtors or the Affiliated Debtors' bankruptcy estates with respect to the matters on which Proskauer is to be employed. None of Proskauer's representations constitutes a conflict with Proskauer's representation as co-counsel to the Trustee.

22. Based on the conflicts clearance process identified above, certain Potential Parties in Interest, who may be designated as creditors of the Affiliated Debtors, were revealed to be a current or former client of Proskauer or an affiliate of a current or former client of Proskauer, as set forth in Exhibit "B" attached hereto, in connection with matters wholly unrelated to the Affiliated Debtors and these cases. With respect to any creditor or other party in interest that Proskauer represents in matters not related to the Affiliated Debtors, in the event that the Affiliated Debtors assert claims or causes of action against such entities, Rubin & Levin will represent the Trustee/Affiliated Debtors' estates and/or conflict counsel will be employed, as appropriate, and Proskauer lawyers working for such clients will not work on the matter.

23. None of such current or former representations constitutes a conflict with Proskauer's representation of the Trustee.

24. The aforementioned matters are subject to the same restrictions Proskauer places on all such representations in the context of a chapter 7 debtor or trustee representation. Without obtaining appropriate waivers, if necessary, Proskauer will not represent the Trustee in an adversary proceeding against any client. In addition, Proskauer will not represent any client on any matter involving the Affiliated Debtors while engaged as the Trustee's co-counsel in these cases.

25. While Proskauer has undertaken, and continues to undertake, efforts to identify connections with the Affiliated Debtors and other parties in interest, it is possible that connections with some parties in interest have not yet been identified. Should Proskauer, through its continuing efforts, learn of any new connections of the nature discussed herein, Proskauer will so advise the Court.

26. Since all representations of the Potential Parties in Interest are not related to the Affiliated Debtors' bankruptcy cases, none of such representations constitutes a conflict with Proskauer's representation of the Trustee.

27. Proskauer has a large and diversified legal practice that encompasses the representation of many financial institutions, companies, and commercial corporations, including entities that have interests in distressed debt and/or distressed entities. Proskauer has in the past represented, currently represents, and may in the future represent, entities that are claimants of, or interest holders in, the Affiliated Debtors, in matters unrelated to the Affiliated Debtors' cases. Further, Proskauer represents a number of financial institutions, hedge funds, and investment banks, and/or similar entities that may hold and/or trade claims or interests in the Affiliated Debtors. Some of these entities are, may become, or may consider themselves to be, creditors or parties in interest in the Affiliated Debtors' cases or may otherwise have interests in these cases. Proskauer will not represent any such entities in connection with the Affiliated Debtors' cases.

28. Proskauer will not, while employed by the Trustee, represent any other entity having an adverse interest in the matters upon which the Trustee seeks to engage Proskauer during the pendency of these cases.

Statement Under Sections 329 and 504 of the Bankruptcy Code and Under Federal Rule of Bankruptcy Procedure 2016

29. In accordance with sections 329 and 504 of the Bankruptcy Code and Bankruptcy Rule 2016, I hereby state that neither I nor Proskauer has entered into any agreements, express or implied, with any other party in interest, including the Affiliated Debtors, any creditor or investor of the Affiliated Debtors, or any attorney for such party in interest in these cases, for the purpose of sharing or fixing fees or other compensation to be paid to any such party in interest or its attorneys for services rendered in connection therewith.

30. A schedule of the range of Proskauer's current standard hourly rates is attached hereto as Exhibit "C." The hourly rates charged by Proskauer's professionals in these cases are at or below the rates charged for work on other matters. The hourly rates charged by Proskauer's professionals differ based on, among other things, the professional's level of experience and the rates normally charged in the location of the office in which the professional is resident. It is Proskauer's policy to adjust these rates periodically to reflect economic and other conditions.

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

Date: September 26, 2016

/s/ Jeff J. Marwil
Jeff J. Marwil

Exhibit "A"

[Potential Parties in Interest]

1. Access Group, Inc.
2. Bingham Greenebaum Doll LLP
3. Cerberus Business Finance, LLC.
4. Consumer Financial Protection Bureau
5. Deutsche Bank
6. Faegre Baker Daniels LLP
7. First Associates Loan Servicing, LLC
8. Hal F Morris
9. John C. Hoard
10. Meredith R. Theisen
11. Peaks Trust 2009-1
12. Pension Benefit Guaranty Corporation
13. Providence Melrose Vista, LLC.
14. Rubin & Levin, P.C.
15. Simon Property Group, Inc.
16. Student CU Connect CUSO, LLC
17. Texas Higher Education Coordinating Board
18. Trustee Deborah J. Caruso.
32. Thomas I. Morgan
33. Vin Weber

Directors, Executive Officers and Corporate Governance (FORM 10-K)
For the fiscal year ended December 31, 2015

19. Angela K. Knowlton
20. C. David Brown II
21. Eugene W. Feichtner
22. Glenn E. Tanner
23. Jerry M. Cohen
24. Joanna T. Lau
25. John E. Dean
26. John F. Cozzi
27. June M. McCormack
28. Kevin M. Modany
29. Rocco F. Tarasi, III
30. Ryan L. Roney
31. Samuel L. Odle

Exhibit "B"

[Potential parties in interest that are (or are affiliates of) current or former clients (or potential clients) of Proskauer Rose LLP in unrelated matters (from search results as September 23, 2016)]

All entities listed on this exhibit represent less than 1% of Proskauer's annual revenues for the past five (5) years.

1. Simon Property Group
2. Cerberus Business Finance
3. Deutsche Bank
4. Access Group, Inc.

Exhibit “C”

[Proskauer Range of Hourly Billing Rates]

<u>Professionals</u>	<u>2016 Hourly Rates²</u>
Partners	\$825 - \$1,395
Senior Counsel	\$795 – \$1,050
Associates	\$445 - \$950
Paraprofessionals	\$195 - \$410

The range of hourly rates set forth above include Proskauer’s highest standard hourly rates (subject to annual standard hourly rate increases). However, historically, in other similar cases, Proskauer’s blended hourly rates, per case, have ranged between \$650 and \$800, per hour. Moreover, the hourly rate for Jeff J. Marwil will be \$1,200 per hour. Proskauer does not anticipate any attorney with a higher hourly rate working on the Affiliated Debtors’ bankruptcy cases.

² Proskauer periodically adjusts its firmwide billing rates to reflect economic changes in the market in which it operates. While no such adjustment will be applied specifically to the Affiliated Debtors’ bankruptcy estates alone, Proskauer anticipates that any such firmwide adjustment will also apply to the Affiliated Debtors’ bankruptcy estates and will be reflected in the fee applications submitted to the Court.