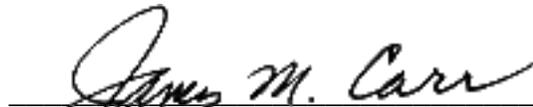


SO ORDERED: October 4, 2016.



  
James M. Carr  
United States Bankruptcy Judge

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

This matter is before the Court 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* (the “Application”) [Doc 25], filed by Deborah J. Caruso, the duly appointed, qualified and acting chapter 7 trustee in the above-referenced bankruptcy case (the “Trustee”). In the Application, the Trustee requests authority, pursuant to 28 U.S.C. § 156(c) and 11 U.S.C. § 105(a), to employ and retain Rust Consulting/Omni Bankruptcy, a division of

Rust Consulting, Inc. (“Rust Omni”) as the claims and noticing agent in the Affiliated Debtors’<sup>1</sup> bankruptcy cases, effective *nunc pro tunc* as of September 16, 2016.

The Court, having considered the *Declaration of Disinterestedness of Paul H. Deutch*, the Retention Letter and the Application, notes that Rust Omni represents no adverse interest to the Affiliated Debtors or to their bankruptcy estates and are disinterested persons. Accordingly, the Court determines that the Application should be, and hereby is, GRANTED. Accordingly,

IT IS THEREFORE ORDERED as follows:

1. The Application is GRANTED as set forth herein.
2. In the event of any inconsistency between the Retention Letter, the Application and this Order, this Order shall govern.
3. The Trustee, pursuant to 28 U.S.C. § 156(c) and 11 U.S.C. § 105(a), is authorized to employ and retain Rust Omni as the claims and noticing agent in the Affiliated Debtors’ bankruptcy cases, effective *nunc pro tunc* as of September 16 2016, under the terms of the Retention Letter.
4. Rust Omni is authorized and directed to perform the Claims and Noticing Services to receive, maintain, record and otherwise administer the proofs of claim filed in the Affiliated Debtors’ bankruptcy cases, and all related tasks, all as described in the Application.
5. Rust Omni will serve as the custodian of court records, will be designated as the authorized repository for all proofs of claim filed in the Affiliated Debtors’ bankruptcy cases and is authorized and directed to maintain the official claims registers in the Affiliated Debtors’ bankruptcy cases and to provide the Clerk’s Office with a certified duplicate thereof upon the request of the Clerk’s Office.

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

6. Rust Omni is authorized to take such other actions to comply with all duties set forth in the Application, including but not limited to, the following:

- (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.

7. 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.

8. The Trustee is authorized, subject to the availability of funds (as determined by the Trustee), to compensate Rust Omni in accordance with the terms of the Retention Letter upon the receipt of reasonably detailed invoices setting forth the services provided by Rust Omni and the rates charged for each, and to reimburse Rust Omni for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for Rust Omni to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

9. Rust Omni will maintain records of all services showing dates, categories of services, fees charged, and expenses incurred, and will serve monthly invoices on the Trustee, the Office of the United States Trustee, the Trustee's counsel and any party in interest that specifically requests service of the monthly invoices.

10. The parties shall meet and confer in an attempt to resolve any dispute that might arise relating to the Retention Letter or monthly invoices. If the parties, after meeting and conferring, are unable to resolve their dispute, they may seek resolution of the matter from the Court.

11. Pursuant to 11 U.S.C. § 503(b)(1)(A), the fees and expenses of Rust Omni under this Order will be treated as an administrative expense of the Affiliated Debtors' bankruptcy estates.

12. In the event Rust Omni is unable to provide the services set forth in this Order, Rust Omni will immediately notify the Clerk's Office, the Trustee and the Trustee's counsel and cause to have original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk's Office and the Trustee.

13. Rust Omni may not cease providing claims processing services during the Affiliated Debtors' bankruptcy cases for any reason, including nonpayment, without prior order of the Court authorizing Rust Omni to do so; provided, however, that Rust Omni may seek such an order on expedited notice by filing a request with the Court and serving notice of such request on the Trustee, the Office of the United States Trustee, counsel for the Trustee and the Clerk's Office, by facsimile or overnight delivery; provided further, that except as expressly precluded herein, the Trustee and Rust Omni under the Retention Letter may terminate or suspend other services.

14. After entry of an order terminating Rust Omni's services or upon the closing of the Affiliated Debtors' bankruptcy cases, Rust Omni will be responsible for archiving all proofs of claim with the Federal Record Administration, if applicable, and will be compensated by the Affiliated Debtors' bankruptcy estates for those costs.

15. Rust Omni shall comply with all applicable provisions of the Bankruptcy Code, Bankruptcy Rules, Local Rules, and any other general orders or applicable guidelines issued by this Court.

16. The Trustee and Rust Omni are authorized and empowered to take all actions necessary or appropriate to implement the relief granted in this Order in accordance with the Application.

17. Notwithstanding any term in the Retention Letter to the contrary, this Court will retain jurisdiction over all matters arising from or related to the implementation or interpretation of this Order.

18. Notwithstanding any provision of the Bankruptcy Rules to the contrary, this Order is immediately effective and enforceable upon its entry.

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