

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	: Chapter 11
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1141 REALTY OWNER LLC, <u>et al.</u> ,	: Case No. 18-12341(SMB)
	:
Debtors.	: Joint Administration Pending
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**ORDER AUTHORIZING RETENTION AND APPOINTMENT OF OMNI
MANAGEMENT GROUP, INC. AS CLAIMS AND NOTICING AGENT
UNDER 28 U.S.C. § 156(c), 11 U.S.C. § 105(A) AND S.D.N.Y. LBR 5075-1
AND GRANTING RELATED RELIEF**

Upon the Application (the “Section 156(c) Application”)¹ of 1141 Realty Owner LLC (“Owner”) and Flatironhotel Operations LLC (“Operator”, and together with Owner the “Debtors”), debtors and debtors-in-possession in the above-captioned chapter 11 cases (the “Chapter 11 Cases”), for an order authorizing the retention and appointment of Omni Management Group, Inc. (“Omni”) as claims and noticing agent pursuant to 28 U.S.C. § 156(c), Section 105(a) of the Bankruptcy Code and Local Rule 5075-1 to, among other things, (i) distribute required notices to parties in interest, (ii) receive, maintain, docket and otherwise administer the proofs of claim filed in the Debtors’ Chapter 11 Cases, and (iii) provide such other administrative services as required by the Debtors that would fall within the purview of services to be provided by the Clerk’s Office, and upon the Deutch Declaration submitted in support of the Section 156(c) Application, and the Debtors having estimated that there are hundreds of creditors in the Chapter 11 Cases, many of which are expected to file proofs of claim, and it appearing that the receiving, docketing and maintaining of proofs of claim would be unduly time consuming and burdensome

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Section 156(c) Application.

for the Clerk; and the Court being authorized under 28 U.S.C. §156(c) to utilize, at the Debtors' expense, outside agents and facilities to provide notices to parties in title 11 cases and to receive, docket, maintain, photocopy and transmit proofs of claim; and the Court being satisfied that Omni has the capability and experience to provide such services and that Omni is disinterested as that term is defined under section 101(14) of the Bankruptcy Code and does not hold an interest adverse to the Debtors or the estate respecting the matters upon which it is to be engaged; and good and sufficient notice of the Section 156(c) Application having been given; and no other or further notice being required; and it appearing that the employment of Omni is in the best interests of the Debtors, the estates and creditors; and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. Notwithstanding the terms of the Engagement Letter attached to the Section 156(c) Application, the Section 156(c) Application is approved solely as set forth in this Order.
2. The Debtors are authorized to retain Omni as the claims and noticing agent effective as of the Petition Date under the terms of the Engagement Agreement, and Omni is authorized and directed to perform noticing services and to receive, maintain, record and otherwise administer the proofs of claim filed in the Chapter 11 Cases, and all related tasks, all as described in the Section 156(c) Application.
3. Omni shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these Chapter 11 Cases and is authorized and directed to maintain an official claims register for the Debtors, to provide public access to every proof of claim unless otherwise ordered by the Court, and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.

4. Omni is authorized and directed to obtain a post office box or address for the receipt of proofs of claim.

5. Omni is authorized to take such other action to comply with all duties set forth in the Section 156(c) Application.

6. The Debtors are authorized to compensate Omni in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by Omni and the rates charged, and to reimburse Omni for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for Omni to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

7. Omni shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtors, the Office of the United States Trustee, counsel for the Debtors, counsel for any official committee of unsecured creditors, if any, monitoring the expenses of the Debtors and any party-in-interest who specifically requests service of the monthly invoices.

8. The parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Engagement Agreement or monthly invoices and that the parties may seek resolution of the matter from the Court if resolution is not achieved.

9. Pursuant to Section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of Omni under this Order shall be treated as an administrative expense of the Debtors' chapter 11 estates.

10. Omni shall first apply its retainer to all pre-petition invoices, which retainer shall be replenished to the original retainer amount, and thereafter, Omni may hold the retainer under

the Engagement Agreement during the Chapter 11 Cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

11. In the event Omni is unable to provide the services set out in this Order, Omni will immediately notify the Clerk and Debtors' attorney and cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and Debtors' attorney.

12. The Debtors shall indemnify Omni under the terms of the Engagement Agreement.

13. All requests by Omni for the payment of indemnification as set forth in the Engagement Letter shall be made by means of an application to the Court and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Engagement Letter and is reasonable under the circumstances of the litigation or settlement in respect of which indemnity is sought, provided however, that in no event shall Omni be indemnified in the case of its own bad-faith, self-dealing, breach of fiduciary duty (if any), gross negligence or willful misconduct.

14. In the event that Omni seeks reimbursement from the Debtors for attorneys' fees and expenses in connection with the payment of an indemnity claim pursuant to the Engagement Letter, the invoices and supporting time records for the attorneys' fees and expenses shall be included in Omni's own applications, both interim and final, but determined by this Court after notice and a hearing.

15. The Debtors may submit a separate retention application, pursuant to 11 U.S.C. § 327 and/or any applicable law, for work that is to be performed by Omni but is not specifically authorized by this Order.

16. The Debtors and Omni are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Section 156(c) Application.

17. Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

18. Omni shall not cease providing claims processing services during the Chapter 11 Cases for any reason, including nonpayment, without an order of the Court.

19. Omni shall be discharged at the conclusion of the Chapter 11 Cases, or as otherwise provided by entry of an additional order by the Court, and at the conclusion of the Chapter 11 Cases, Omni may dispose of any records, documents and the like that have been provided or delivered to Rust Omni, whether in paper or electronic form, after holding and maintaining such records for a period of seven (7) years following the closing of the Chapter 11 Cases, subject to Omni's responsibility for archiving the claims with the Federal Archives Record Administration, if applicable.

20. This Order shall be immediately effective and enforceable upon its entry.

21. To the extent that there may be any inconsistency between the terms of the Section 156(c) Application, the Engagement Agreement or this Order, the terms of this Order shall govern.

Dated: New York, New York
August 8th, 2018

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE