



ENTERED  
10/09/2020

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>In re:</b>	§	<b>Chapter 11</b>
<b>UTEX INDUSTRIES, INC., et al.,</b>	§	<b>Case No. 20-34932 (DRJ)</b>
<b>Debtors.<sup>1</sup></b>	§	<b>(Jointly Administered)</b>
	§	<b>Re: Docket No. <u>16</u></b>

**ORDER (I) AUTHORIZING RETENTION  
AND APPOINTMENT OF OMNI AGENT SOLUTIONS AS CLAIMS,  
NOTICING, AND SOLICITATION AGENT, AND (II) GRANTING RELATED RELIEF**

Upon the Application, dated October 8, 2020 (the “**Application**”)<sup>2</sup> of UTEX Industries, Inc. and its affiliated debtors in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the “**Debtors**”), for entry of an order pursuant to 28 U.S.C. § 156(c), sections 105(a) and 327 of the Bankruptcy Code, and Rule 2014-1 of the Bankruptcy Local Rules for the United States Bankruptcy Court for the Southern District of Texas (the “**Local Rules**”), authorizing (i) appointment of Omni Agent Solutions (“**Omni**”) as claims, noticing, and solicitation agent (“**Claims, Noticing, and Solicitation Agent**”) for the Debtors and their chapter 11 cases, effective as of the Petition Date, and granting related relief, all as more fully set forth in the Application; and upon consideration of the Sanchez Declaration and the Deutch Declaration; and this Court having jurisdiction to consider the Application and the relief requested

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: UTEX Industries, Inc. (9867), RSH Utex Holdings, LLC (4048), Industrial Sealing Solutions Holdings Inc. (0104), UI Sealing Technologies Intermediate Holdings, Inc. (9553), UTEX Holding, Inc. (8260), Applied Rubber Technology, Inc. (1790), CAM Specialty Intermediate Holdings, Inc. (9099), CAM Specialty Products, Inc. (8342), Duraquest, Inc. (7017), Work Manufacturing, L.L.C. (5341), Energy Products LLC (8160), and Arefco Seals, Inc. (5258). The Debtors’ mailing address is 10810 Katy Freeway, Suite 100, Houston, TX 77043.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Application and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Application having been provided; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Application; and this Court having held a hearing to consider the relief requested in the Application; and all objections, if any, to the Application have been withdrawn, resolved, or overruled; and this Court having determined that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and it appearing that the relief requested in the Application is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003 and is in the best interests of the Debtors and their respective estates and creditors; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT**

1. The Application is granted to the extent set forth herein.
2. Notwithstanding the terms of the Engagement Agreement attached to the Application, the Application is approved solely as set forth in this Order.
3. The Debtors are authorized, but not directed, pursuant to 28 U.S.C. § 156(c), sections 105(a) and 327 of the Bankruptcy Code, and Rule 2014-1 of the Local Rules, to retain and appoint Omni as Claims and Noticing Agent under the terms of the Engagement Agreement as set forth in this Order, and Omni is authorized and directed to perform noticing and balloting services and to receive, maintain, record, and otherwise administer the proofs of claim filed in these chapter 11 cases, and other related tasks as described in the Application, the

Engagement Agreement, and this Order. The Clerk shall provide Omni with ECF credentials that allow Omni to receive ECF notifications and file certificates and affidavits of service.

4. 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 official claims registers for each of the Debtors and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.

5. Omni is authorized and directed to provide an electronic interface for filing of proofs of claim and to obtain a post office box or address for the receipt of proofs of claim. Omni shall provide public access to the claims register, including complete proofs of claim with attachments, if any, without charge.

6. Omni is authorized to take such other action to comply with all duties and Services set forth in the Application.

7. Notwithstanding sections 330 and 331 of the Bankruptcy Code and Bankruptcy Rule 2016, 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 for each, 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.

8. Notwithstanding the Application or Engagement Agreement, to the extent the Debtor wishes to expand the scope of Omni's services beyond those services set forth in the Application and Engagement Agreement, the Debtors shall be required to seek further approval from this Court.

9. 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 monitoring the expenses of the Debtors, and any party in interest who specifically requests service of the monthly invoices.

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

11. Without further order of the Court, pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of Omni under this Order shall be an administrative expense of the Debtors' estates.

12. Omni may apply its advance to all prepetition invoices, which advance may be replenished to the original advance amount, and thereafter, Omni may hold its advance under the Engagement Agreement during these chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

13. The Debtors shall indemnify Omni under the terms of the Engagement Agreement, as modified pursuant to this Order.

14. Omni shall not be entitled to indemnification, contribution, or reimbursement pursuant to the Engagement Agreement for services other than the services provided under the Engagement Agreement, unless such services and the indemnification, contribution, or reimbursement therefor are approved by this Court.

15. Notwithstanding anything to the contrary in the Engagement Agreement, the Debtors shall have no obligation to indemnify Omni, or provide contribution or reimbursement

to Omni, for any claim or expense that is either: (a) judicially determined (the determination having become final) to have arisen solely from Omni's gross negligence, willful misconduct, fraud, bad faith, self-dealing, or breach of fiduciary duty (if any) as provided in this Order; (b) for a contractual dispute in which the Debtors allege the breach of Omni's contractual obligations if this Court determines that indemnification, contribution, or reimbursement would not be permissible under applicable law; or (c) of any type for which the Court determines that indemnification, contribution, or reimbursement would not be permissible pursuant to *In re Thermadyne Holdings Corp.*, 283 B.R. 749, 756 (B.A.P. 8th Cir. 2002); or (d) settled prior to a judicial determination under (a) or (b), but determined by this Court, after notice and a hearing, to be a claim or expense for which Omni should not receive indemnity, contribution, or reimbursement under the terms of the Engagement Agreement as modified by this Order.

16. If, before the earlier of (a) the entry of an order confirming a chapter 11 plan in these chapter 11 cases (that order having become a final order no longer subject to appeal), or (b) the entry of an order closing these chapter 11 cases, Omni believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution, and/or reimbursement obligations under the Engagement Agreement (as modified by this Order), including the advance of defense costs, Omni must file an application therefor in this Court, and the Debtors may not pay any such amounts to Omni before the entry of an order by this Court approving the payment. If Omni seeks reimbursement from the Debtors for attorneys' fees and expenses in connection with the payment of an indemnity claim pursuant to the Engagement Agreement, 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. This paragraph is intended only to specify the period of time under which

the Court shall have jurisdiction over any request for fees and expenses by Omni for indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify Omni. All parties in interest shall retain the right to object to any demand by Omni for indemnification, contribution, or reimbursement.

17. In the event Omni is unable to provide the Services set out in this order, Omni will immediately notify the Clerk and the Debtors' attorney and, upon approval of this Court, 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 the Debtors' attorney.

18. After entry of an order terminating Omni's services, upon the closing of these cases, or for any other reason, Omni shall be responsible for archiving all proofs of claim with the Federal Archives Record Administration, if applicable, and transmitting to the Clerk's office all claims in an electronic format, if applicable and shall be compensated by the Debtors in connection therewith.

19. Omni shall not cease providing claims processing services during the chapter 11 case(s) for any reason, including nonpayment, without an order of the Court.

20. In the event the Chapter 11 Cases are converted to cases under chapter 7 of the Bankruptcy Code and if claims agent representation would be necessary in the converted chapter 7 cases, Omni shall continue to be paid in accordance with 28 U.S.C. § 156(c) under the terms set forth herein.

21. In the event of any inconsistency between the Engagement Agreement, the Application, the Deutch Declaration, and this Order, this Order shall govern.

22. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

23. Notice of the Application as provided therein shall be deemed good and sufficient notice of such Application and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

24. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

25. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Application.

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

27. Notwithstanding anything to the contrary contained in the Motion or this Order, any payment to be made and any relief or authorization granted hereunder shall not be inconsistent with, and shall be subject to, the requirements imposed on the Debtors in any orders entered by this Court authorizing the Debtors to obtain debtor-in-possession financing and authorizing the use of cash collateral (any such order, a "DIP Order"). To the extent that there may be any inconsistency between the terms of this Order and the terms of any DIP Order, the terms of the DIP Order will govern.

**Signed: October 09, 2020.**

  
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**DAVID R. JONES**  
**UNITED STATES BANKRUPTCY JUDGE**