

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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In re:) Chapter 11
)
CONEXANT SYSTEMS, INC., <i>et al.</i> , ¹) Case No. 13-10367 (MFW)
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)
	Debtors.) Jointly Administered
)
) Related to Docket No. 90
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**ORDER APPROVING THE RETENTION
AND EMPLOYMENT OF BMC GROUP, INC. AS ADMINISTRATIVE AGENT
FOR THE DEBTORS, EFFECTIVE *NUNC PRO TUNC* TO THE PETITION DATE**

Upon the Application² of the above-captioned debtors (collectively, the “*Debtors*”) for entry of the Order pursuant to section 327(a) of title 11 of the Bankruptcy Code, Rule 2014 of the Bankruptcy Rules and Local Rule 2014-1, approving the retention of BMC Group, Inc. (“*BMC*”) as Administrative Agent in these chapter 11 cases, effective *nunc pro tunc* to the Petition Date, on the terms and conditions set forth on the agreement by and between the Debtors and BMC (the “*Services Agreement*”), all as more fully set forth in the Application; and upon the Feil Declaration; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal taxpayer-identification number, are: Conexant Systems, Inc. (9439); Conexant CF, LLC (6434); Brooktree Broadband Holding, Inc. (5436); Conexant, Inc. (8218); and Conexant Systems Worldwide, Inc. (0601). The Debtors’ main corporate address is 4000 MacArthur Blvd., Newport Beach, California 92660.

² Capitalized terms used but not defined herein have the meanings ascribed to them in the Application.

relief requested in the Application is in the best interests of the Debtors' estates, their creditors and other parties in interest; and the Court having found that the Debtors' notice of the Application and opportunity for a hearing on the Application was appropriate and no other notice need be provided; and the Court having reviewed the Application and having heard the statements in support of the relief requested therein at a hearing before the Court (the "*Hearing*"); and the Court having determined that the legal and factual bases set forth in the Application and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Application is granted to the extended provided herein.
2. The Debtors are authorized to retain BMC as their Administrative Agent in accordance with the terms and conditions set forth in the Application and the Services Agreement, effective *nunc pro tunc* to the Petition Date.
3. BMC shall apply to the Court for allowance of compensation and reimbursement of out-of-pocket expenses incurred in these cases under the Application after the Petition Date in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the guidelines established by the United States Trustee for the District of Delaware and further orders of this Court.
4. Any late charges provided for in the Services Agreement are inapplicable when payment of said late charges is prohibited by the fee application process.
5. The indemnification provisions of the Services Agreement are approved, subject to the following clarifications:
 - a. Subject to the provisions of subparagraphs (c) and (d) below, the Debtors are authorized to indemnify, and shall indemnify, BMC in accordance

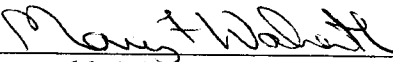
with the Services Agreement and to the extent permitted by applicable law, for any claim arising from, related to, or in connection with BMC's performance of the services described in the Services Agreement;

- b. BMC shall not be entitled to indemnification, contribution or reimbursement for services other than the services provided under the Services Agreement, unless such services and the indemnification, contribution or reimbursement therefore are approved by the Court;
- c. BMC shall not be entitled to late charges provided under section III, paragraph G of the Services Agreement during the pendency of these chapter 11 cases;
- d. Notwithstanding anything to the contrary in the Services Agreement, the Debtors shall have no obligation to indemnify any person, or provide contribution or reimbursement to any person, for any claim or expense to the extent that it is either (i) judicially determined (the determination having become final and no longer subject to appeal) to have arisen from that person's gross negligence or willful misconduct; (ii) for a contractual dispute in which the Debtors allege the breach of BMC's contractual obligations unless the Court determines that indemnification, contribution, or reimbursement would be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which that person should not receive indemnity, contribution or reimbursement under the terms of the Services Agreement as modified by the Court's Order;
- e. Notwithstanding anything to the contrary in the Services Agreement, neither BMC nor the Debtors will be entitled to any limitation of liability with respect to any claims related to or arising out of the Retention Agreement. Any such limitation of liability provisions contained in the Retention Agreement are null and void; and
- f. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal) and (ii) the entry of an order closing these chapter 11 cases, BMC believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution or reimbursement obligations under the Services Agreement, including without limitation the advancement of defense costs, BMC must file an application before this Court, and the Debtors may not pay any such amounts to BMC before the entry of an order by this Court approving the payment. This subparagraph (d) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for payment by BMC for indemnification, contribution or reimbursement, and

not a provision limiting the duration of the Debtors' obligation to indemnify BMC.

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

Dated: April 18, 2013
Wilmington, Delaware



Honorable Mary F. Walrath
United States Bankruptcy Judge