



U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
**ENTERED**  
TAWANA C. MARSHALL, CLERK  
THE DATE OF ENTRY IS  
ON THE COURT'S DOCKET

**The following constitutes the ruling of the court and has the force and effect therein described.**

*Hay G. C. Jones*  
\_\_\_\_\_  
**United States Bankruptcy Judge**

**Signed November 24, 2009**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**In re:** § **CASE NO. 09-37010**  
§  
**ERICKSON RETIREMENT** § **CHAPTER 11**  
**COMMUNITIES, LLC, et al.**<sup>1</sup> §  
§ **Jointly Administered**  
§  
**Debtors.** §

**ORDER PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a) AND 363(b) FOR AUTHORIZATION TO (A) EMPLOY AND RETAIN ALVAREZ & MARSAL HEALTHCARE INDUSTRY, LLC TO PROVIDE THE DEBTORS A CHIEF RESTRUCTURING OFFICER, AN EXECUTIVE VICE PRESIDENT OF RESTRUCTURING, AND ADDITIONAL PERSONNEL AS CRISIS MANAGERS, AND (B) TO DESIGNATE GUY SANSONE AS THE CHIEF RESTRUCTURING OFFICER AND PAUL RUNDELL AS EXECUTIVE VICE PRESIDENT OF RESTRUCTURING FOR THE DEBTORS NUNC PRO TUNC TO THE COMMENCEMENT DATE**

Upon the application, dated October 20, 2009 (the "Application"),<sup>2</sup> of the above-captioned debtors and debtors in possession (the "Debtors"), for authority pursuant to 105(a) and

<sup>1</sup> The Debtors in these chapter 11 cases are Erickson Retirement Communities, LLC, Ashburn Campus, LLC, Columbus Campus, LLC, Concord Campus GP, LLC, Concord Campus, LP, Dallas Campus GP, LLC, Dallas Campus, LP, Erickson Construction, LLC, Erickson Group, LLC, Houston Campus, LP, Kansas Campus, LLC, Littleton Campus, LLC, Novi Campus, LLC, Senior Campus Services, LLC, Warminster Campus GP, LLC, Warminster Campus, LP.

363(b), (i) to employ and retain Alvarez & Marsal Healthcare Industry, LLC (“A&M”) to provide the Debtors a chief restructuring officer, an executive vice president of restructuring, and additional personnel as Crisis Managers, and (ii) to appoint Guy Sansone as Chief Restructuring Officer and Paul Rundell as Executive Vice President of Restructuring, all nunc pro tunc to the Petition Date, and all as more fully set forth in the Application; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. §157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409, and due and proper notice of the Application having been provided to the necessary parties, and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Application (the “Hearing”); and the appearances of all interested parties having been noted in the record of the Hearing; and upon the record of the Hearing, and all of the proceedings had before the Court; and the Court having determined that the relief sought in the Application is in the best interests of the Debtors, their creditors, and all parties in interest; and the Court having determined that the legal and factual bases set forth in the Application 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 therefore, it is hereby

ORDERED that the Application is GRANTED to the extent provided herein; and it is further

ORDERED that in accordance with Bankruptcy Code section 363(b), the Debtors are authorized to employ and retain A&M, nunc pro tunc to the Petition Date, pursuant to the terms and conditions of the Engagement Letter; and it is further

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<sup>2</sup> Unless otherwise noted, capitalized terms used but not defined herein shall have the meanings provided in the Application.

ORDERED that the Debtors are authorized to designate Guy Sansone as the CRO and Paul Rundell as the Executive Vice President of Restructuring, nunc pro tunc to the Petition Date; and it is further

ORDERED that the terms of the Engagement Letter, including without limitation, the fee provisions and the indemnification provisions, are, subject and without prejudice to the rights of parties under section 330 of the Bankruptcy Code as further set forth herein, reasonable terms and conditions of employment and are approved provided however that (i) Guy Sansone shall work a minimum of 80 hours per month in connection with his engagement as Chief Restructuring officer and that A&M Shall be compensated for Mr. Sansone's services the amount of \$65,000 per month; should Mr. Sansone work fewer than 80 hours per month on average for any given quarter the estate shall receive a credit in the amount of \$812.50 per hour for any such shortfall, and (ii) any success/transaction fees, payable post petition, provided in the Engagement Letter and described in Paragraph 21 of the Application are capped at the amount of \$1,500,000; and it is further

ORDERED that, notwithstanding anything to the contrary in the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, orders of this Court, or the United States Trustee Guidelines or any other guidelines regarding submission and approval of fee applications, in light of the services to be provided by A&M and the structure of A&M's compensation pursuant to the Engagement Letter, A&M and its professionals shall be required to maintain time records, as set forth below, in connection with the services to be rendered pursuant to the Engagement Letter; A&M shall file monthly reports identifying each A&M professional (including Sansone) engaged in performing services for the Debtors, the number of hours worked that month by each respective professional, a brief description of the tasks performed by each individual and the

total of compensation earned, and parties-in-interest in these Chapter 11 cases shall, subject to the time periods set forth in the Interim Fee Procedures Order, have the right to object to fees paid and expenses reimburse to A&M. Further, A&M shall file Quarterly Fee Applications listing time in increments of 1/10th of an hour identified by task code (with the exception of Sansone who is retained on a fixed fee arrangement), pursuant to a list of task codes submitted to and approved by the US Trustee;

ORDERED that other than with respect to the Success/Transaction Fee set forth below, A&M's fees and expenses shall be evaluated under the reasonableness standards set forth in section 330 of the Bankruptcy Code. The Court, the Official Committee of Unsecured Creditors (the "Committee"), and the United States Trustee (the "U.S. Trustee") shall be permitted to review the Success/Transaction Fees (as defined in the Agreement) pursuant to the reasonableness standards set forth in section 330 of the Bankruptcy Code; provided, however, that in determining the reasonableness of the Success/Transaction Fees under section 330, among other factors that the Court, the Committee, and the U.S. Trustee should consider is whether the Transaction Fees are comparable to the range of fees paid to crisis managers in comparable transactions both in and outside of court in this and other Districts, as provided in section 330(a)(3)(F) of the Bankruptcy Code. Neither the U.S. Trustee nor A&M shall rely upon this provision as binding precedent in any other chapter 11 proceedings; and it is further

ORDERED that nothing in this Order shall prejudice the later allocation of A&M's fees and expenses among the Debtors' various estates, if such is necessary; and it is further

ORDERED that the Debtors are authorized to pay A&M in such amounts and at such times as is provided in the Engagement Letter and the Interim Compensation Order without further order of this Court; and it is further

ORDERED, that the indemnification provisions of the Indemnification Agreement are approved; and it is further

ORDERED, that if, before the entry of an order closing these chapter 11 cases, any Indemnified Party 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 Indemnification Agreement, including without limitation the advancement of defense costs, such Indemnified Party must file an application therefor in this Court, and the Debtors may not pay any such amounts to the Indemnified Party before the entry of an order by this Court approving the payment. 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 Indemnified Parties for indemnification, contribution or reimbursement, and is not a provision limiting the duration of the Debtors' obligation to indemnify Indemnified Parties; and it is further

ORDERED, that no party may bring against any Indemnified Party any suit, proceeding or other action relating in any way to the Debtors or these chapter 11 cases in any court located in any jurisdiction without an application to and order of this Court; and it is further

ORDERED that this Court hereby retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

###End of Order###