

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:) Chapter 11
)
GULF PACKAGING, INC.,) Case No. 15-15249
)
Debtor.) Hon. Pamela S. Hollis
)
) Hearing Date: July 16, 2015 at 10:00 a.m.
)

NOTICE OF MOTION

PLEASE TAKE NOTICE that on July 16, 2015 at 10:00 a.m., the undersigned shall appear before the Honorable Pamela S. Hollis in Courtroom 644, or whomever may be sitting in her place and stead, at the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois and will then and there present the *Application of the Official Committee of Unsecured Creditors to Employ Crowe Horwath LLP as Financial Advisor* a copy of which is attached hereto and herewith served upon you.

Dated: July 8, 2015

**OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF GULF PACKAGING, INC.**

By: /s/ Shelly A. DeRousse
One of Its Proposed Attorneys

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CERTIFICATE OF SERVICE

I, Shelly A DeRousse, an attorney, hereby certify that on July 8, 2015, I caused a true and correct copy of the foregoing *Notice of Motion and Application of the Official Committee of Unsecured Creditors to Employ Crowe Horwath LLP as Financial Advisor*, to be filed with the Court and served upon the following parties by the manner listed.

/s/ Shelly A. DeRousse

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**APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS TO EMPLOY CROWE HORWATH LLP AS FINANCIAL ADVISOR**

The Official Committee of Unsecured Creditors (the “*Committee*”) of Gulf Packaging, Inc. (the “*Debtor*”), by and through its undersigned counsel, submits this application (the “*Application*”) pursuant to sections 328(a) and 1103 of title 11 of the United States Code (the “*Bankruptcy Code*”) and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”) authorizing the Committee to retain and employ Crowe Horwath LLP (“*Crowe*”) as financial advisor for the Committee, effective as of June 10, 2015 (the “*Retention Date*”). In support of this Application, the Committee submits the Affidavit of Michael Schwarzmann (the “*Schwarzmann Affidavit*”), which is attached hereto as Exhibit A, and further states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the Application pursuant to 28 U.S.C. § 1334.
2. Venue for this chapter 11 case and this Application is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This Application constitutes a core proceeding pursuant to 28 U.S.C. § 157(b).

BACKGROUND

3. On November 9, 2014 (the “*Petition Date*”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Illinois (the “*Court*”).

4. The Debtor is operating its businesses and managing its property as debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. No trustee or examiner has been appointed in this chapter 11 bankruptcy case.

6. On May 11, 2015, the Office of the United States Trustee filed a notice of appointment of the Committee as an official committee to represent the interests of unsecured creditors of the Debtor pursuant to section 1102 of the Bankruptcy Code.

7. On June 10, 2015, the committee selected Crowe as its financial advisor.

RELIEF REQUESTED

8. By this Application, the Committee seeks to employ and retain Crowe as its financial advisor, effective as of the Retention Date. Accordingly, the Committee respectfully requests the entry of an order pursuant to sections 328(a) and 1103(a) of the Bankruptcy Code and Bankruptcy Rule 2014(a), authorizing the Committee to employ and retain Crowe as its financial advisor to perform financial advisory services that will be necessary during this case.

9. Pursuant to section 328(a) of the Bankruptcy Code, the Committee requests that the Court approve the retention of Crowe on the terms and conditions set forth herein and in the Schwarzmann Affidavit, which, *inter alia*, provides that Crowe will be compensated in accordance with the hourly rates agreed upon between Crowe and the Committee and in accordance with Crowe’s normal reimbursement policies.

SERVICES TO BE RENDERED

10. The Committee contemplates that Crowe may render the following services in this case:

- a. Review and analysis of the Debtor's financial and cash flow performance as compared to its budget;
- b. Review of the Debtor's historical operating results, recent performance, business plan and associated restructuring initiatives and advise the Committee regarding the Debtor's business plans, cash flow forecasts, financial projections, cash flow reporting, claims, and plan alternatives;
- c. Advise the Committee with respect to available capital restructuring and sale and financing alternatives, including providing options regarding potential courses of action and assisting with the design, structuring and negotiation of alternative restructuring and/or transaction structures;
- d. Lead or assist in a sale process of the Debtor's assets and add strategic buyers to a sale process;
- e. Review and analyze any proposals the Debtor's receive from third parties in connection with a sale of the business or substantially all of its assets;
- f. Assist the Committee in identifying and valuing undisclosed assets, if any, and consult with the Debtor and its advisors on the progress of asset sales, locations, identification, and value;
- g. Preparation of estimated payout or distribution analyses;
- h. Assist the Committee and its counsel in developing strategies and related negotiations with the Debtor and other interested parties with respect to elements of the Debtor's treatment of the unsecured creditors under a proposed plan or such treatment under alternative proposals;
- i. Preparation of periodic reports and updates to the Committee regarding the status of the Debtor's post-petition operating performance, and various other issues as requested by the Committee to facilitate informed decisions;
- j. Advise the Committee regarding identity and value of avoidance actions; and
- k. Perform all other services as directed by the Committee or its counsel and as may be required in the interests of the creditors.

11. The Committee believes that Crowe's services are necessary to enable the Committee to fulfill its statutory duties and to otherwise maximize recovery for all creditors in

this case. Further, Crowe is well-qualified and able to represent the Committee in a cost-effective, efficient, and timely manner.

PROPOSED COMPENSATION

12. Pursuant to section 328(a) of the Bankruptcy Code, the Court may approve Crowe's retention on any reasonable terms. The Committee submits that the most reasonable terms and conditions are those agreed upon by Crowe and the Committee, which are substantially similar to those entered into between Crowe and other clients on a daily basis in a competitive market for financial advisory services. Subject to the Court's approval, Crowe will charge for its services on an hourly basis in accordance with its standard billing procedures.

13. The hourly rates applicable to anticipated professionals assigned to this are as follows: (i) Michael D. Schwarzmann (Director) - \$395/hour; (ii) Dennis Kalten (Senior Manager) - \$380/hour, and (iii) Jeffrey Fishel (Senior Manager) - \$310/hour.

14. In addition, from time to time, it may be necessary for other Crowe professionals to provide services to the Committee. For calendar year 2015, the standard hourly billing rates for additional Crowe professionals who may provide services on these cases are as follows: (i) Partner \$420-\$530; Director \$395-\$510; Senior Manager \$265-\$460; Manager \$190-\$325; Senior Staff \$160-\$230; and Staff \$135-\$215. In all appropriate circumstances, Crowe will employ the services of junior professionals in order to minimize administrative expenses to the estate. Crowe has agreed to cap the blended hourly bill rate for standard bankruptcy related services for this engagement at \$325. This cap does not apply to tax, valuation, fraud / forensic, expert witness, or other such services.

15. Crowe will also seek reimbursement, subject to the Court's approval, for all actual out-of-pocket expenses incurred by Crowe on the Committee's behalf, such as document reproduction and telecopier charges, mail and express mail charges, travel expenses, overnight

courier expenses, and other disbursements. Crowe will charge for these expenses in a manner and at rates consistent with charges made generally to Crowe's other clients. Crowe will make every effort to minimize expenses in this case.

16. Crowe will maintain detailed, contemporaneous records of time and any actual and necessary expenses incurred in connection with rendering the services described above by category and nature of the services rendered.

17. The Committee understands that Crowe intends to apply to the Court for compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, further orders of this Court, and the guidelines established by the Office of the United States Trustee for all services performed and expenses incurred on or after the Retention Date.

18. The Committee requests that all advisory fees and related costs incurred by the Committee on account of services rendered by Crowe in this case be paid as administrative expenses of the Debtor's estate in accordance with the Bankruptcy Code and applicable orders entered in this case.

DISINTERESTEDNESS

19. To the best of Crowe's knowledge, and except as disclosed in the Schwarzmann Affidavit, Crowe does not hold or represent any interest adverse to the Committee or the creditors of the Debtor's estate, and does not have any connection with the Debtor, its creditors, any other parties-in-interest, their respective attorneys and accountants, the U.S. Trustee, or any person employed in the Office of the U.S. Trustee, except as set forth herein.

20. Crowe Horwath has over 3,000 employees located in offices across the United States, in many disparate practice areas. As such, it is very common for a client in one office to be serviced out of that office and have no interaction with the other offices or the rest of the firm.

For example, a tax client of the Sherman Oaks, CA office will have no interaction with an audit partner in the Oak Brook, IL office. Crowe has in the past and may in the future perform services for Signode Packaging Systems, Illinois Tool Works, Intertape Polymer Corp., and Berry Plastics Group. None of the professionals who worked for these clients are in any way involved in the team servicing the Committee, and they will not be. No matters are discussed beyond the Crowe team specifically assigned to this engagement, and there is and will be no overlap in staffing. In addition, the members of the Crowe team assigned to the representation of the Committee understand their duties are to the Committee as a whole, and they will not provide advice specific to any particular creditor's claim or position.

21. As set forth in the Schwarzmann Affidavit, Crowe has no agreement with any other entity to share any compensation received. Accordingly, Crowe is a "disinterested person," as that phrase is defined in section 101(14) of the Bankruptcy Code, and Crowe's employment is necessary and in the best interests of the Committee.

RETROACTIVE RELIEF

22. The Committee requests that this Application be approved retroactive to June 10, 2015 – the date the Committee selected Crowe as its financial advisor. In proper circumstances, the equitable aspects of bankruptcy proceedings permit the court to retroactively approve the employment of professionals who rendered services for a debtor even absent strict compliance with § 327.” *Gowan v. Lefkas Gen. Partners No. 1017 (In re Lefkas Gen. Partners No. 1017)*, 153 B.R. 804, 808 (N.D. Ill. 1993) (internal quotation omitted). The Committee submits that retroactive approval of Crowe’s retention is appropriate under the circumstances because of: (1) the short duration of time between the retention of Crowe and the filing of this Application; and (2) the need for Crowe’s services immediately after its retention date by the Committee.

NOTICE

23. Pursuant to Bankruptcy Rule 2014(a), notice of a retention application need only be served on the Office of the United States Trustee. See 9 Collier on Bankruptcy § 201.02, at 2014-4 (15th ed. Rev. 2003) (“The [retention] application must be filed with the clerk of the court, and in cases other than those under chapter 9, served upon the United States trustee”). Nonetheless, notice of this Application has been sent to: (a) counsel for the Debtor; (b) the U.S. Trustee; (c) counsel to FFC, LLC d/b/a First Capital, the Debtor’s secured lender; and (d) all parties that have filed appearances and requested service of papers in this case.

WHEREFORE, the Committee respectfully requests that the Court: (a) authorize the Committee, pursuant to sections 328(a) and 1103 of the Bankruptcy Code and Bankruptcy Rule 2014, to retain and employ Crowe in accordance with the terms hereof, retroactive to June 10, 2015; and (b) grant such other and further relief as the Court deems just and proper.

Dated: July 8, 2015

**OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF GULF PACKAGING, INC.**

By: /s/ Shelly A. DeRousse
One of Its Attorneys

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