

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:) Chapter 11
GULF PACKAGING, INC.,)
Debtor.) Case No. 15-15249 (PSH)
) Honorable Pamela S. Hollis
)
) **Hearing Date: August 18, 2015**
) **Hearing Time: 10:00 a.m.**
) **Court Room: 644**

NOTICE OF MOTION

PLEASE TAKE NOTICE that on **August 18, 2015 at 10:00 a.m.**, or as soon thereafter as counsel may be heard, we shall appear before the Honorable Pamela S. Hollis of the United States Bankruptcy Court for the Northern District of Illinois, 219 South Dearborn Street, Chicago, Illinois, Courtroom No. 644, or whomever may be sitting in her place and stead, and then and there present the **Application for Order Authorizing the Employment of University Management Associates & Consultants Corp. as Debtor’s Collection Agent Pursuant to Sections 327, 328 and 504 of the Bankruptcy Code and Rule 2014 of the Federal Rules of Bankruptcy Procedure, Effective as of August 7, 2015**, a copy of which is attached hereto and hereby served upon you.

Dated: August 10, 2015

Respectfully submitted,

GULF PACKAGING, INC.

By: /s/ Joseph D. Frank
One of its attorneys

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
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)	
In re:)	Chapter 11
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GULF PACKAGING, INC., ¹)	Case No. 15-15249 (PSH)
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APPLICATION FOR ORDER AUTHORIZING THE EMPLOYMENT OF UNIVERSITY MANAGEMENT ASSOCIATES & CONSULTANTS CORP. AS DEBTOR’S COLLECTION AGENT PURSUANT TO SECTIONS 327, 328 AND 504 OF THE BANKRUPTCY CODE AND RULE 2014 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, EFFECTIVE AS OF AUGUST 7, 2015

Gulf Packaging, Inc., the above-captioned debtor and debtor in possession (the “Debtor,” “GPI” or the “Company”) for its Application for Order Authorizing the Employment of University Management Associates & Consultants Corp. (“UMAC”) as Debtor’s Collections Agent Banker Pursuant to Sections 327, 328 and 504 of the Bankruptcy Code and Rule 2014 of the Federal Rules of Bankruptcy Procedure, Effective as of August 7, 2015 (the “Application”), respectfully represents:

JURISDICTION

1. The Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of this Application is a core proceeding under 28 U.S.C. § 157(b)(2)(A).
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

INTRODUCTION

3. On April 29, 2015 (the “Petition Date”), GPI filed its voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). GPI continues to

¹ The last four digits of the Debtor’s tax identification number are 5030.

operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. On May 11, 2015, the Office of the United States Trustee appointed an official committee of unsecured creditors (the "Committee"). No request has been made for the appointment of a trustee or examiner.

BACKGROUND

5. GPI is a national distributor of packaging equipment and supplies, which sells its product by and through several independent entities ("Affiliates").² When GPI is combined with the Affiliates, as of the Petition Date, there were over twenty (20) warehousing locations to better serve GPI's customer base. Additional information about the Debtor, its business and corporate and capital structure is set forth in the *Declaration of Edward T. Gavin, CTP in Support of Chapter 11 Petition and First Day Pleadings* [Docket No. 14] (the "Gavin Declaration"), filed on the Petition Date.

6. As set forth more fully in the Gavin Declaration, GPI is liquidating and winding down its business. In connection with liquidation efforts, GPI has approximately \$4 million of accounts receivable from customers, including certain of GPI's affiliates.

RELIEF REQUESTED

7. By this Application, the Debtor respectfully requests entry of an order authorizing the retention of UMAC as collections agent, effective as of August 7, 2015, the date the Services Agreement was signed.

² As used herein, "Affiliate" means a company that has a relationship – formal or informal – to the Debtor, and sells packaging products under a variation of the Gulf name. Unless otherwise set forth, use of the term "Affiliate" is not intended to have the same meaning as the "affiliate" term of art defined in section 101(2) of the Bankruptcy Code. All rights with respect to this issue are reserved.

BASIS FOR RELIEF

8. Due to the UMAC's expertise and experience in a variety of industries, including but not limited to, manufacturing, processing, retailing and wholesale distributing, as well as its reputation for providing effective collections services to distressed companies and debtors in the bankruptcy context, UMAC is well qualified to act as the Debtor's collection agent.

9. UMAC's compliance with the requirements of sections 327, 328 and 504 of the Bankruptcy Code and Rule 2014 of the Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules") is set forth in greater detail in the Statement of University Management Associates & Consultants, Corp. and Declaration of Paul Rome Pursuant to Rule 2014 of the Federal Rules of Bankruptcy Procedure and Sections 327, 328 and 504 of the Bankruptcy Code, filed concurrently herewith and attached hereto as Exhibit "A" (the "Rome Declaration").

10. GPI believes that the employment and retention of UMAC as collections agent is necessary and in the best interests of the Debtor's estate.

A. Services to Be Rendered

11. As described more fully in the services agreement attached as Exhibit "B" (the "Services Agreement"), the services to be rendered to GPI by UMAC will include the following:

- (a) Inspect documentation pertaining to a pool of accounts receivable from and as identified by GPI (the "Accounts Receivable") and determine whether such documentation is necessary in the collection of the Accounts Receivable.
- (b) Dispose of documentation pertaining to the Accounts Receivable that it deems no longer required or necessary in the collection of the Accounts Receivable.
- (c) Communicate with GPI's customers in the name of UMAC.

(d) Maintain confidentiality and refrain from divulging information received and obtained from GPI, unless disclosure is necessary to resolve any fee disputes that may arise between UMAC and GPI.

(e) Advise GPI's customers to remit payments directly to GPI's lockbox.

B. Disclosures Concerning Conflicts of Interest

12. To the best of GPI's knowledge, information and belief, UMAC does not represent any of GPI's creditors or other parties in interest, or their respective attorneys or representatives, in connection with this chapter 11 case or in any matter which is adverse to the interests of the Debtor.

13. To the best of GPI's knowledge and belief, UMAC is "disinterested" as such term is defined in section 101(14) of the Bankruptcy Code. Similarly, UMAC does not hold any interest adverse to the Debtor, as a debtor in possession, or its estate in the matters upon which UMAC is to be engaged.

C. Compensation

14. The Debtor proposes, pursuant to the terms of the Services Agreement, and subject to Court approval, that UMAC be compensated as follows: (a) GPI will remit fees owing to UMAC no later than fourteen (14) days after receipt of payment via GPI's lockbox; (b) UMAC will be assigned approximately \$2.5 Million of the accounts receivable to collect. UMAC will be entitled to a fee on only the amount collected.³ UMAC's compensation for such services will, as set forth more fully in the Services Agreement and in the Rome Declaration, be: 3% of amounts collected up to \$750,000 of Accounts Receivable; 6% of amounts collected in excess of \$750,000 up to \$1,500,000; and 10% on amounts collected in excess of \$1,500,000.

³ GPI has a total of \$4 million in Accounts Receivable, some of which is owing from certain GPI Affiliates. GPI estimates that of the total Accounts Receivable, UMAC will handle collections on approximately \$2.5 million, which will exclude certain amounts owing from Affiliates and non-Affiliates.

15. The Debtor believes that the Services Agreement, generally, and the fee arrangement reflected therein, provide reasonable and market-based terms that are the result of arm's length negotiations and discussions between the Debtor, the Debtor's Chief Restructuring Officer and UMAC. The fee structure is designed to motivate and fairly compensate UMAC for its work by basing compensation on results. And, because UMAC's compensation is contingent on the occurrence of collections and to be calculated based on the total amount of such collections, UMAC requests that it not be required to file time records in accordance with the United States Trustee Guidelines.⁴

16. Section 328 of the Bankruptcy Code permits a debtor to pay court approved professionals on a "fixed percentage" or "contingency" fee basis. 11 U.S.C. § 328(a). And, fee arrangements have been approved and implemented pursuant to section 328 of the Bankruptcy Code in chapter 11 cases in this District. *See, e.g., In re Caesars Entm't Operating Company*, No. 15-01145 (ABG) (Bankr. N.D. Ill. March 25, 2015) [Docket No. 1004] (approving employment subject to section 328 standard); *In re Hartmarx Corp.*, No. 09-02046 (BWB) (Bankr. N.D. Ill. Feb. 19, 2009) [Docket No. 145] (same); *In re Kmart Corp.*, No. 02-02474 (SPS) (Bankr. N.D. Ill. April 23, 2002) [Docket No. 2554] (same).

NOTICE

17. Notice of this Application has been provided to (i) the office of the United States Trustee for the Northern District of Illinois, (ii) the holders of the twenty (20) largest unsecured claims against the Debtor, (iii) counsel to the Debtor's secured lenders, (iv) counsel to the Committee and (v) all other parties requesting notice in this chapter 11 case. The Debtor respectfully submits that such notice is appropriate and that no other or further notice need be provided.

⁴ UMAC does not customarily maintain time records because clients are not charged based on hourly rates.

NO PRIOR REQUEST

18. No prior request for the relief sought in this Application has been made in this or any other court.

WHEREFORE, the Debtor respectfully requests that this Court enter an Order (i) granting the relief requested herein and (ii) granting such other and further relief as may be just and proper.

Respectfully submitted this 10th day of August, 2015.

FRANK GECKER LLP

/s/ Joseph D. Frank

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