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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In re:

JAGGED PEAK, INC., A Nevada
Corporation,

Debtor.

THIS FILING:
☐ Affects Specified Debtors
☒ Affects All Debtors

Case No.: 19-15959-mkn
Chapter 11

LEAD CASE

**FIRST INTERIM APPLICATION FOR
COMPENSATION AND REIMBURSEMENT
OF EXPENSES OF MCDONALD CARANO
LLP**

(October 28, 2019 through December 31, 2019)

Total Requested Fees: \$21,922.50
Total Requested Expenses: \$277.04
Total: \$22,199.54

Hearing Date: February 19, 2020
Hearing Time: 10:30 a.m.

Foley Federal Building
300 Las Vegas Boulevard South,
Las Vegas, Nevada, 89101, Courtroom 2

In re:

TRADEGLOBAL, LLC, A Delaware
limited liability company,

Debtor.

Jointly Administered with:

Case No.: 19-15960-mkn
Chapter 11

In re:

TRADEGLOBAL NORTH AMERICA
HOLDING, INC., A Delaware corporation,

Debtor.

Case No.: 19-15961-mkn
Chapter 11

McDonald Carano LLP (“MC” or the “Applicant”), counsel for the Official Committee of Unsecured Creditors (the “Committee”) of Jagged Peak, Inc. and Trade Global North America Holding, Inc. (the “Debtors”), hereby submits its *First Interim Application for Approval of Compensation for Fees and Expenses of McDonald Carano LLP* (the “Application”) for allowance and payment of compensation for professional services rendered and for reimbursement of actual and necessary expenses incurred for the period commencing October 28, 2019 through December 31, 2019 (the “Application Period”) pursuant to the *Order Establishing Procedures for Interim Monthly Compensation and Reimbursement of Expenses of Professionals* [ECF No. 360] (the “Interim Compensation Procedures Order”).

By and through this Application, McDonald Carano requests an order approving of and directing payment of incurred professional fees totaling **\$21,922.50** and expenses totaling **\$277.04** for a total award of **\$22,199.54** to McDonald Carano for the Application Period. This Application is made pursuant to 11 U.S.C. §§ 330(a) and 331 and Bankruptcy Rule 2016¹. This Application is made and based on the Memorandum of Points and Authorities, the Declaration of Amanda M. Perach, Esq. (the “Perach Decl.”) and any argument to be made at the hearing on this matter.

I. JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. Venue of this proceeding and this First Interim Application is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

¹ Including this Court’s Local Rule (“LR”) 2016 and the U.S. Trustee’s Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses filed under 11 U.S.C. § 330.

3. The statutory predicates for the relief sought herein are sections 327, 328, 330 and 331 of the Bankruptcy Code and Bankruptcy Rule 2014.

4. Pursuant to Local Rule 9014.2, the Committee consents to entry of final order(s) or judgment(s) by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders for judgment consistent with Article III of the United States Constitution.

II. BACKGROUND

1. On September 16, 2019 (the “Petition Date”), the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code commencing the Debtors’ chapter 11 cases (the “Chapter 11 Cases”).

2. The Debtors continue to operate their businesses and manage their properties pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code as debtors in possession.

3. On October 24, 2019 the United States Trustee formed the Committee in the in the Chapter 11 Cases appointing the following parties as members of the Committee: (i) DI Overnite, LLC; (ii) Simple VMS, Inc.; (iii) The Job Center, LLC; (iv) Supply One, Inc.; (v) Nesco Resource [ECF No. 158].

III. TERMS AND CONDITIONS OF EMPLOYMENT

4. McDonald Carano has represented the Committee since October 28, 2019 when it was formally employed at the direction of the Chair of the Committee, Jeff Cooke.

5. On or about November 25, 2019, the Committee submitted its *Application For Order Pursuant To 11 U.S.C. §§ 327, 328, 330, And 331 Authorizing And Approving The Employment Of McDonald Carano LLP As Counsel to the Official Committee of Unsecured Creditors Nunc Pro Tunc As Of October 28, 2019* [ECF No. 335] (“Application for Employment”).

6. The Application for Employment was heard on December 23, 2019 and this Court entered an order, on December 26, 2019, approving the Application for Employment *nunc pro tunc* as of October 28, 2019 [ECF No. 401] (the “Employment Order”).

7. Subject to the Employment Order and in accordance with Section 330(a) of the Bankruptcy Code, compensation for professional services is payable to McDonald Carano on an hourly basis, plus reimbursement of actual, necessary and reasonable expenses.

8. Pursuant to the Interim Compensation Procedures Order, McDonald Carano timely submitted its Fee Statement for the period of October 28, 2019 to November 30, 2019 on December 6, 2019. In addition, on January 14, 2019, McDonald Carano also submitted its Fee Statement for the period ending December 31, 2019. As of the date of this filing \$14,600.04 has been paid to McDonald Carano towards its fees and costs.

9. During the Application Period, McDonald Carano represented the Committee in various aspects of these Chapter 11 Cases, including:

- a. Conferring with lead counsel regarding issues relating to the administration of the case;
- b. representing the Committee at hearings held before the Court and communicating with the Debtor regarding issues raised, as well as the decisions of the Court;
- c. assisting and advising the Committee and lead counsel in the examination and analysis of the conduct of the Debtor's affairs;
- d. reviewing and analyzing all applications, motions, orders, statements of operations filed with the Court by the Debtor or third parties, advising the Committee and lead counsel as to the same, and, after consultation with the Committee, taking appropriate action;
- e. assisting the Committee in preparing applications, motions and orders in support of positions taken by the Debtor, as well as reviewing documents in this regard;
- f. assisting the Committee in its negotiations with the Debtors and other parties-in-interest;
- g. assisting lead counsel in preparing a disclosure statement, plan of reorganization and related filings and advising as to the requirements for the same;
- h. advising and assisting the Committee in evaluating any claims that the estate has against third parties and others; and

i. assisting the Committee in performing such other services as was in the interest of creditors, the Debtor and the Debtor's estate.

10. McDonald Carano incurred professional fees and expenses with respect to all of the above activities, among others.

IV. PERSONNEL PRIMARILY ASSIGNED TO THIS MATTER

The personnel assigned to this matter and their hourly rates are set forth below:

Application Period:	October 28, 2019 through December 31, 2019
Hourly Rate of Professionals:	
- Ryan J. Works, Esq.	\$450.00 per hour
- Amanda M. Perach, Esq.	\$400.00 per hour
- Brian Grubb	\$225.00 per hour

11. The compensation sought is based on compensation charged by comparably skilled practitioners in Nevada cases other than cases under Title 11 and is in accordance with the hourly rates set forth in McDonald Carano's Application for Employment.

V. SUMMARY OF FEES AND EXPENSES

12. The summary of the services provided by McDonald Carano, rendered by category, during the Application Period is set forth below as follows:

TASK CODE	DESCRIPTION	HOURS	AMOUNT
		(Blended Rate)	
B110	Case Administration	12.70	\$5,087.50
B130	Asset Disposition	13.20	\$5,315.00
B160	Fee/Employment Applications	14.40	\$6,030.00
B170	Fee/Employment Objections	12.20	\$4,880.00
B185	Assumption/Rejection of Leases/Contracts	1.10	\$440.00
B320	Plan and Disclosure Statement	.20	\$80.00
B410	General Bankruptcy Advice/Opinions	.20	\$90.00
	Total Fees	54.00	\$21,922.50

VII. DETAILED SUMMARY OF FEES

The services performed by McDonald Carano during this Application Period related to, *inter alia*, (1) preparation of motions, declarations in support of motions, oppositions, and general papers and pleadings in the Chapter 11 cases; (3) preparing for and participating in court hearings and conferences with counsel for Debtors and other creditors; (4) participating in meetings and the auction for the disposition of the Debtors' assets; and (5) conferring with lead counsel regarding a disclosure statement and plan of reorganization.

Details regarding McDonald Carano's time devoted to each of these matters is set forth below and reflected on the invoices and spreadsheet attached to the Perach Declaration in support of the Application, filed concurrently herewith. *See, e.g., Exhibit "1"* attached to the Perach Decl.

Task Code B110 – Case Administration.

The time incurred in this task code reflects time spent on the administration of the Chapter 11 case, including preparing for and attending the 341 meeting of creditors, attending telephone conferences with committee members and lead counsel, conducting multiple conferences strategizing and performing all administrative duties regarding the bankruptcy case.

B110 - Grubb, Brian	.3	\$67.50
B110 - Perach, Amanda	11.2	\$4,480.00
B110 - Works, Ryan J.	1.2	\$540.00

Task Code B130 – Asset Disposition.

The time incurred in this task code reflects time reviewing filings relating to auction and bid procedures, attending the auction, reviewing related order, attending sale hearings and conferring with lead counsel regarding the same.

B130 - Perach, Amanda	12.50	\$5,000.00
B130 - Works, Ryan J.	0.70	\$315.00

Task Code B160 – Fee/Employment Applications.

The time incurred in this task code reflects time spent reviewing fee statements, drafting the application for employment of McDonald Carano and reviewing the applications for employment of Brown Rudnick and Dundon and attendant orders, attending the respective hearings for the same, and related communications.

B160 - Perach, Amanda	9.00	\$3,600.00
B160 - Works, Ryan J.	5.40	\$2,430.00

Task Code B170 – Fee/Employment Objections.

The time incurred in this task code reflect time spent reviewing various retention applications, drafting stipulations relating the same, attending hearings on retention applications, conferring with Committee members and lead counsel regarding objection to Cowen application and revising the same.

B170 - Perach, Amanda	12.20	\$4,880.00
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Task Code B185 – Assumption/Rejection of Leases/Contracts.

The time incurred in this task code reflect communications regarding cure notices and reviewing motion to extend time to assume or reject lease.

B185 - Perach, Amanda	1.10	\$440.0
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Task Code B320 – Plan and Disclosure Statement.

The time incurred in this task code reflects time conferring with lead counsel about the plan of reorganization and disclosure statement.

B320 - Perach, Amanda	.20	\$80.0
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Task Code B410 –General Bankruptcy Advice/Opinions.

The time incurred in this task code reflects time spent conferring with co-counsel regarding issues relating to Cowen retention application.

B410 - Works, Ryan J.	.20	\$90.0
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VIII. DETAILED SUMMARY OF EXPENSES

McDonald Carano seeks reimbursement for costs incurred in the amount of \$277.04. All of these types of costs are customarily charged to non-bankruptcy clients of McDonald Carano. Deliveries were made when signatures were required, and for documents delivered (principally to the Court). All costs from outside parties, such as Bankruptcy Court filing fees, are charges at the unit rate charged by the vendors. The expenses are broken down in the invoices and spreadsheet contained in the Perach Decl. at **Exhibit 1**. The summary of requested expenses incurred is as follows:

DESCRIPTION	AMOUNT
Filing Fees	\$250.00
Mileage ²	\$4.64
Postage	\$18.40
Parking	\$4.00
Total Expenses	\$277.04

IX. COMPLIANCE WITH GUIDELINES AND ORDER ESTABLISHING INTERIM COMPENSATION PROCEDURES

In accordance with 11 U.S.C. § 330, this fee application was calculated using the hourly rate for the attorneys involved.³ The hourly rate under Bankruptcy Code requires that the hourly rate used must be based on the rate that would be charged for comparable services in a non-bankruptcy

² McDonald Carano couriers and mileage charges are for the reimbursement of in-house couriers for local deliveries. The amount charged per mile for deliveries is based on the current Internal Revenue Service mileage rate and therefore may vary.

³ See also *In Re Yermakov*, 718 F.2d 1465, 1471 (9th Cir. 1983)(quoting *Southwestern Media, Inc. v. Rau*, 708 F.2d 419, 427 (9th Cir. 1983))("The primary method used to determine a reasonable attorneys' fee in a bankruptcy case is to multiply the number of hours expended by an hourly rate").

case.⁴ The Ninth Circuit, in *In Re Powerine Oil Company*⁵, made specific reference to twelve (12) factors adopted in *Johnson v. Georgia Highway Express, Inc.*⁶ which should be considered in determining the reasonableness of attorneys' fees. The Ninth Circuit additionally held that the primary method for determining a reasonable attorney fee is to utilize the basic fee, or "lodestar" (the number hours expended by an hourly rate). This rate may then be adjusted upward or downward, if warranted.⁷ This "hybrid approach" was later expressed by the U.S. Supreme Court in other contexts providing for statutory attorneys' fees and has been widely utilized by several courts in determining the reasonableness of attorneys' fees.⁸

Additionally, 11 U.S.C. § 330(a)(3) states that "in determining the amount of reasonable compensation to be awarded. . .the court shall consider the nature, the extent, and the value of such services, taking into consideration all relevant factors." Further §330(a)(3) requires any compensation awarded by the court take into consideration: (1) the time spent on such services; (2) the rates charged for such services; (3) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title; (4) the skill and expertise of the professional; (5) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than the cases under this title; and (6) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue or task addressed.

McDonald Carano believes that every professional employed on behalf of a Chapter 11 case has a responsibility to control fees and expenses by providing services in an efficient and effective manner. To this end, McDonald Carano has worked to coordinate and facilitate the efficient prosecution of the matters on which it is employed. Staffing of matters within the case is done with the objective of providing the level of representation appropriate to the significance, complexity, or

⁴ 11 U.S.C. § 330(a)(1); *see also Yermakov*, 718 F.2d at 1471.

⁵ 71 B.R. 767, 771 (1986)(*citing Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714,717-719(5th Cir. 1974)).

⁶ 488 F.2d 714, 717-19 (5th Cir. 1974).

⁷ *Powerine*, 71 B.R. at 770-771.

⁸ *Id.* at 771, (*citing Hensley v. Eckerhart*, 461 U.S. 424, 432-34 (1983)).

1 difficulty of the particular matter. On certain occasions, when more than one attorney attended a
 2 meeting or hearing, the attendance was necessary due to subject matter. All client billings are
 3 reviewed for reasonableness and adjusted by McDonald Carano so that the charges are consistent
 4 with the value of services provided.

5 Furthermore, McDonald Carano has taken great efforts to ensure that all services rendered
 6 by them during the time frame of this application were provided in a timely basis; necessary to the
 7 administration of the case; not billed in contravention with U.S. Bankruptcy Code; and performed
 8 within a reasonable amount of time commensurate with the complexity, importance and nature of
 9 the problem, issue or task addressed.

10 **X. CONCLUSION**

11 McDonald Carano submits that the fees and costs sought in this Application are appropriate,
 12 reasonable and necessary in light of the circumstances of these Chapter 11 cases and the scope and
 13 difficulty of the business and legal issues involved.

14 **WHEREFORE**, McDonald Carano respectfully requests the Court enter an Order:

15 1. Approving of the actual, necessary and reasonable professional fees of **\$21,922.50**,
 16 and the actual, necessary and reasonable expenses in the amount of **\$277.04** for an order authorizing
 17 and approving payment to McDonald Carano in the total amount of **\$22,199.54**;

18 2. Approving prior payments made to McDonald Carano from the Debtors in the
 19 amount of \$14,600.04.

20 3. Authorizing payment of all fees and expenses remaining due from the Debtors; and

21 4. For such other relief that this Court deems just and proper under the circumstances.

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1 RESPECTFULLY SUBMITTED this 14th day of January, 2020.

2 McDONALD CARANO LLP

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16 *Attorneys for Official Committee*
17 *Of Unsecured Creditors*

**CERTIFICATION OF COUNSEL PURSUANT TO
GUIDELINES FOR COMPENSATION AND
EXPENSE REIMBURSEMENT OF PROFESSIONALS**

I certify that I have read the foregoing Application and, to the best of my knowledge, information and belief, the request for reimbursement of compensation is in compliance with the 11 U.S.C. §330. All fees paid to McDonald Carano from, or on behalf of, the Debtors have not been and will not be divided or shared with any other person.

DATED: January 14, 2020.

McDONALD CARANO LLP

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