

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

In re:) Chapter 11
)
RC SOONER HOLDINGS, LLC, et al.,¹) Case No. 10-10528()
)
Debtors.) (Jointly Administered)

**APPLICATION OF THE DEBTORS FOR AN ORDER AUTHORIZING
THE RETENTION AND EMPLOYMENT OF BALLARD SPAHR LLP
AS COUNSEL TO THE DEBTORS AND DEBTORS IN POSSESSION
PURSUANT TO 11 U.S.C. § 327(a), FED. R. BANKR. P. 2014(a) AND
DEL. BANKR. L.R. 2014-1 NUNC PRO TUNC TO THE PETITION DATE**

RC Sooner Holdings, LLC (“RC Sooner” or the “Company”) and its affiliated debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors”) file this application (the “Application”) pursuant to section 327(a) of title 11 of the United States Code (the “Bankruptcy Code”), Fed. R. Bankr. P. 2014(a) and Del. Bankr. L.R. 2014-1 to employ Ballard Spahr LLP (“Ballard Spahr”) as attorneys for the Debtors and Debtors in Possession *Nunc Pro Tunc* to the Petition Date, and state as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this application pursuant to 28 U.S.C. §§ 157 and 1334. Venue of these chapter 11 cases and this Application is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

¹ The Debtors and the last four digits of their taxpayer identification numbers are: RC Sooner Holdings, LLC (7904); RC Brixton Square Owner, LLC (8002); RC Cedar Crest Owner, LLC (7914); RC Fulton Plaza Owner, LLC (8011); RC Magnolia Owner, LLC (7998); RC Pomeroy Park Owner, LLC (7939); RC Salida Owner, LLC (7947); RC Savannah South Owner, LLC (7983); RC Southern Hills Owner, LLC (7958); Brixton Square Apartments, LLC (1844); CC Apartments, LLC (1798); Fulton Plaza Apartments, LLC (4344); Magnolia Manor Apartments, LLC (4486); Pomeroy Park Apartments, LLC (1649); Salida Apartments, LLC (1915); Savannah South Apartments, LLC (8586); and Southern Hills Villa Apartments, LLC (1721). The business address for each of the Debtors where notices should be sent is 1515 Broadway, 11th Floor, New York, New York 10036-8901.

2. The statutory predicate for the relief sought herein is section 327(a) of the Bankruptcy Code.

Factual Background

3. On or about February 22, 2010 (the “Petition Date”), each of the Debtors filed their respective voluntary petitions for relief under the Bankruptcy Code. The Debtors thereafter have continued to manage their business and properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. The Debtors own, operate and maintain a portfolio of 796 multi-family residential units divided among eight (8) separate apartment complexes (collectively, the “Apartments”) for lease in Tulsa, Oklahoma. RC Sooner is the direct parent of eight (8) Oklahoma limited liability companies (collectively, the “RC LLCs”², and together with RC Sooner, the “Purchasers”) that were formed in October 2009 for the purpose of acquiring 100% of the membership interests of eight (8) existing Oklahoma limited liability companies that own the Apartments (collectively, the “Apartment LLCs”³). The purchase price of the acquisition included the assumption of approximately \$27 million in outstanding loans and mortgages (the “Loans and Mortgages”) currently held by the Federal National Mortgage Association (“Fannie Mae”).

2 The RC LLCs consist of the following co-debtor subsidiaries of RC Sooner: Brixton Square Owner, LLC; RC Cedar Crest Owner, LLC; RC Fulton Plaza Owner, LLC; RC Magnolia Owner, LLC; RC Pomeroy Park Owner, LLC; RC Salida Owner, LLC; RC Savannah South Owner, LLC and RC Southern Hills Owner, LLC. RC Sooner is also the direct parent of non-filing entity RC Old South Owner, LLC, whose real estate assets are not subject to loans held by the Federal National Mortgage Association.

3 The Apartment LLCs consist of the following co-debtor indirect subsidiaries of RC Sooner: Brixton Square Apartments, LLC; CC Apartments, LLC; Fulton Plaza Apartments, LLC; Magnolia Manor Apartments, LLC; Pomeroy Park Apartments, LLC; Salida Apartments, LLC; Savannah South Apartments, LLC and Southern Hills Villa Apartments, LLC. RC Sooner is also the ultimate parent of non-filing entity Old South Apartments, LLC, whose loan is not held by the Federal National Mortgage Association.

5. Unbeknownst to the Purchasers, however, the sellers of the Apartment LLCs and their brokers had engaged in a pattern of intentional misconduct and fraudulent misrepresentation from the very outset of negotiations for the sale of the Apartments and the Apartment LLCs, which misrepresentations included the failure to inform the Purchasers that the Loans and Mortgages had been in default since approximately September 2, 2009, and remained in default as of the closing on or about October 29, 2009.

6. Fannie Mae was not informed of the Purchasers' purchase of the Apartment LLCs until late January, 2010, and the Company was not made aware of the existence of the defaults under the Loans and Mortgages until that same time, the sellers having actively concealed such facts from both Fannie Mae and the Company as recently as the final week of January, 2010.

7. Upon learning of the purchase of the Apartment LLCs, Fannie Mae declared a non-monetary default on account of the transfer of the Loans and Mortgages to the Company without Fannie Mae's consent. Fannie Mae subsequently initiated state court actions in Oklahoma against the Apartment LLCs and certain of the sellers petitioning for foreclosure and the appointment of a receiver against all the Apartments. Hearings for the appointment of a receiver with respect to the Apartment LLCs have been scheduled for February 23, 2010.

8. Due to the imminent threat of Fannie Mae's state court actions, the Debtors commenced these cases on the Petition Date in order to provide sufficient time for them to, among other things, pursue claims against the sellers and their brokers and negotiate a resolution of the Loan and Mortgage defaults with Fannie Mae, all of which efforts will enable the Debtors to preserve and maximize the value of their business for the benefit of their creditors and other interested parties.

9. Additional factual background regarding the Debtors, including their current and historical business operations and the events precipitating these chapter 11 filings, is set forth in detail in the Affidavit Of Daniel Gordon In Support Of Chapter 11 Petitions And First Day Pleadings (the "Gordon Affidavit"), and is incorporated herein by reference.

10. No trustee, examiner, or committee has been appointed in any of the Debtors' cases.

Relief Requested

11. By this Application, the Debtors seek to employ and retain Ballard Spahr as counsel in these chapter 11 cases, *nunc pro tunc* to the Petition Date. Accordingly, the Debtors respectfully request the entry of an order pursuant to section 327(a) of the Bankruptcy Code authorizing them to employ and retain Ballard Spahr as their counsel under a general retainer to perform the legal services that will be necessary during these cases.

12. The Debtors seek to retain Ballard Spahr as counsel because of the firm's extensive experience and knowledge in the field of debtors' and creditors' rights and business reorganizations under chapter 11 of the Bankruptcy Code. In preparing for these chapter 11 cases, Ballard Spahr has become familiar with the Debtors' business and affairs and the potential legal issues that may arise. Accordingly, the Debtors believe that Ballard Spahr is well qualified and uniquely able to represent them in an efficient and timely manner, and such retention will be cost effective for the Debtors' estates.

13. Subject to Court approval, and in accordance with section 330(a) of the Bankruptcy Code, compensation will be payable to Ballard Spahr on an hourly basis, plus reimbursement of actual, necessary expenses incurred by the firm. The attorneys and paralegals presently designated to represent the Debtors and their current hourly rates are set forth in the

unsworn declaration of Tobey M. Daluz, Esquire, a partner in Ballard Spahr, pursuant to Fed. R. Bankr. P. 2014(a) (the "Declaration"), which is attached as Exhibit A hereto. The hourly rates set forth in the Declaration are the rates that Ballard Spahr charges to bankruptcy and non-bankruptcy clients. These rates are set at a level designed to compensate fairly Ballard Spahr for the work of its attorneys and paralegals to cover fixed routine overhead expenses. It is Ballard Spahr's policy to charge its clients in all areas of practice for all other expenses incurred in connection with each client's case. The expenses charged to clients include, without limitation, long-distance telephone charges, telecopier and other charges, mass mailing postage, messenger and express mail charges, special or hand delivery charges, document processing, photocopying charges, filing fees, travel expenses, expenses for "working meals," the catering of meetings and business meetings, computerized research, transcription costs, as well as non-ordinary overhead expenses such as secretarial and other overtime and late night transportation, where necessary to meet deadlines or client expectations. Ballard Spahr will charge the Debtors' estates for these expenses in a manner and at rates consistent with charges made generally to Ballard Spahr's bankruptcy and non-bankruptcy clients.

14. The professional services that Ballard Spahr will render include, but are not limited to:

(a) Providing legal advice with respect to the Debtors' powers and duties as debtors in possession in the continued operation of their business and management of their property, including negotiations with creditors and parties in interest;

(b) Advising the Debtors concerning, and assisting in the negotiation and preparation of, all necessary applications, motions, answers, orders, reports, plan documents, and other legal papers;

(c) Appearing in Court to protect the interests of the Debtors and their estates, including, when necessary, representing the Debtors in litigation, contested matters and adversary proceedings;

(d) Advising on local practices and procedures and determinative case law within the jurisdiction; and

(e) Performing all other legal services for the Debtors that may be necessary or appropriate in the administration of these cases.

Ballard Spahr is Disinterested and Does Not Hold or Represent An Interest Adverse to the Debtors' Estates

15. Section 101(14) of the Bankruptcy Code defines a "disinterested person" as a person that:

- (A) is not a creditor, an equity security holder, or an insider;
- (B) is not and was not, within 2 years before the date of filing of the petition, a director, officer, or employee of the debtor; and
- (C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason.

11 U.S.C. § 101(14).

16. To the best of the knowledge of the Debtors, and except as disclosed in the Declaration attached hereto, Ballard Spahr has not represented the Debtors, their creditors, equity security holders, or any other parties in interest, or their respective attorneys, in any matters relating to the Debtors or their estates.

17. Ballard Spahr has received a payment in the week prior to the Petition Date in the amount of \$100,000.00 from the Debtors in connection with its prepetition

representation of the Debtors. Ballard Spahr's fees are current as of the Petition Date. Ballard Spahr is not holding a security retainer for postpetition services.

WHEREFORE, the Debtors respectfully request that this Court enter an order, in the form submitted by the Debtors, authorizing the Debtors to employ Ballard Spahr as their counsel, *nunc pro tunc* to the Petition Date, on an hourly-rate basis, plus properly reimbursable expenses, as an expense of administration, subject to approval by this Court, to represent the Debtors in these chapter 11 bankruptcy cases.

Dated: February 22, 2010
Wilmington, Delaware

Respectfully Submitted,

BALLARD SPAHR LLP

By: /s/ Christopher S. Chow
Tobey M. Daluz, Esquire (No. 3939)
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- and -

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Proposed Counsel for the Debtors and Debtors in
Possession

⁴ Admitted in Maryland. Admission to Delaware pending. A motion seeking *pro hac vice* admission in this case will be filed.

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

In re:) Chapter 11
)
RC SOONER HOLDINGS, LLC, et al.,¹) Case No. 10-10528()
)
Debtors.) (Jointly Administered)

**UNSWORN DECLARATION PURSUANT TO
28 U.S.C. § 1746(2) AND FED. R. BANKR. P. 2014(a) OF
TOBEY M. DALUZ, ESQUIRE, A PARTNER IN BALLARD SPAHR LLP**

I, TOBEY M. DALUZ, ESQUIRE, declare as follows:

1. I am a partner in the law firm of Ballard Spahr LLP ("Ballard Spahr"). As such, I am duly authorized to execute this Declaration on behalf of Ballard Spahr.
2. I am an attorney at law, duly admitted to practice law in the State of Delaware, the State of Pennsylvania, the United States District Court for the District of Delaware, and the United States District Court for the Eastern District of Pennsylvania.
3. I submit this Declaration in support of the Application of the Debtors for an Order Authorizing the Retention and Employment of Ballard Spahr as Counsel to the Debtors and Debtors in Possession Pursuant to 11 U.S.C. § 327(a), Fed. R. Bankr. P. 2014(a) and Del. Bankr. L.R. 2014-1 *Nunc Pro Tunc* to the Petition Date (the "Application").

¹ The Debtors and the last four digits of their taxpayer identification numbers are: RC Sooner Holdings, LLC (7904); RC Brixton Square Owner, LLC (8002); RC Cedar Crest Owner, LLC (7914); RC Fulton Plaza Owner, LLC (8011); RC Magnolia Owner, LLC (7998); RC Pomeroy Park Owner, LLC (7939); RC Salida Owner, LLC (7947); RC Savannah South Owner, LLC (7983); RC Southern Hills Owner, LLC (7958); Brixton Square Apartments, LLC (1844); CC Apartments, LLC (1798); Fulton Plaza Apartments, LLC (4344); Magnolia Manor Apartments, LLC (4486); Pomeroy Park Apartments, LLC (1649); Salida Apartments, LLC (1915); Savannah South Apartments, LLC (8586); and Southern Hills Villa Apartments, LLC (1721). The business address for each of the Debtors where notices should be sent is 1515 Broadway, 11th Floor, New York, New York 10036-8901.

4. As set forth below, neither I, Ballard Spahr, nor any partner, counsel or associate thereof, insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors' estates in the matters upon which Ballard Spahr is to be engaged.

5. Neither I, Ballard Spahr, nor any of its partners, counsel or associates, insofar as I have been able to ascertain:

- (i) is a creditor of any of the Debtors, equity security holder or insider of any of the Debtors;
- (ii) is or has been a director, officer, or an employee of any of the Debtors;
- (iii) except as set forth below, presently represents a creditor or security holder of the Debtors, or a person otherwise adverse or potentially adverse to the Debtors or their estates, on any matter that is related to the Debtors or their estates or that is unrelated to the Debtors or their estates;
- (iv) except as set forth below, previously represented a creditor or equity security holder of the Debtors, or person who is otherwise adverse or potentially adverse to the Debtors or the Debtors' estates, on any matter substantially related to the Debtors' bankruptcy cases;
- (v) except as described in this Declaration, has any other connection with the Debtors, creditors of the Debtors, the Office of the United States Trustee or any employee of that office, or any other parties in interest; or
- (vi) has any other interest, direct or indirect, which may affect or be affected by the proposed representation.

6. Except as set forth below, neither Ballard Spahr nor I have any "connections," as contemplated within Fed. R. Bankr. P. 2014(a), with any of the Debtors, their creditors, or any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee.

7. To check and clear potential conflicts of interest in this case, Ballard Spahr researched its client database to determine whether Ballard Spahr had any relationships with the following entities: (i) the Debtors, (ii) the Debtors' secured lenders, (iii) the unsecured creditors

holding the twenty (20) largest unsecured claims against the Debtors, (iv) non-debtor parties to pending litigation matters to which one or more of the Debtors is a party, and (v) non-debtor parties to executory contracts and unexpired leases to which one or more of the Debtors is a party.

8. Through the foregoing research, Ballard Spahr has determined that it currently represents or has represented, in matters unrelated to the Debtors or these cases, the following four (4) entities (or their subsidiaries or affiliates) among the holders of the Debtors' twenty largest unsecured claims: Admiral Insurance Company, AT&T, Oklahoma Natural Gas and Lloyds of London. Ballard Spahr has also represented: Allstar Capital, Inc., the sole member of RC Sooner Holdings, LLC, and Bank of the West in matters unrelated to the Debtors or these cases. Ballard Spahr has not and will not represent any of the aforementioned entities, or any of their respective subsidiaries or affiliates, in relation to the Debtors or their chapter 11 cases. None of the aforementioned entities represents more than 1% of Ballard Spahr's annual revenues.

9. Ballard Spahr and certain of its partners, counsel and associates may have in the past represented, may currently represent, and likely in the future will represent creditors of the Debtors in connection with matters unrelated to the Debtors and the Debtors' pending chapter 11 cases. At this time, Ballard Spahr is unaware of such representations. Ballard Spahr will make further disclosures to identify with specificity any such persons or entities when Ballard Spahr's relationship with all of the Debtors' approximately 700 creditors has been researched.

10. If an actual conflict arises between the Debtors and an existing client of Ballard Spahr with respect to a particular matter in these cases, Ballard Spahr will not represent

or render legal advice or services to the Debtors in connection with such matter, and the Debtors will engage conflicts counsel for the purpose of handling such matter.

11. Based on the foregoing, to the best of my knowledge, Ballard Spahr is a “disinterested person” as that term is defined in 11 U.S.C. § 101(14).

12. No agreement or understanding exists between Ballard Spahr or any other person for any division or sharing of compensation which is prohibited by statute.

13. In accordance with its billing practices in both bankruptcy and non-bankruptcy matters, Ballard Spahr will bill at its normal hourly rates, plus office services, advances, and expenses, subject to the approval of the Court. Ballard Spahr periodically raises its hourly rates, usually in January. The current rates for Ballard Spahr’s paralegals and attorneys is as follows: \$160.00 to \$345.00 for paralegals; \$230.00 to \$575.00 for associates, and \$435.00 to \$1050.00 for partners. The current hourly rates for the paralegals and attorneys that will be primarily responsible for Ballard Spahr’s representation of the Debtors are as follows:

Paralegals: Kelly G. Iffland - \$205.00

Associates: David A. Felice - \$420.00
David T. May - \$270.00
Matthew G. Summers - \$450.00
Joshua Zugeran - \$300.00

Of Counsel: Sean J. Bellew - \$565.00
Christopher S. Chow - \$525.00

Partners: Tobey M. Daluz - \$600.00

14. The hourly rates set forth above are Ballard Spahr’s current hourly rates billed to and paid by existing bankruptcy and non-bankruptcy clients for work of this nature. These rates are set at a level designed to compensate fairly Ballard Spahr for the work of its attorneys and paralegals and to cover fixed and routine overhead expenses. In addition to the

hourly rates, it is Ballard Spahr's policy to charge its clients in all areas of practice for all other expenses incurred in connection with the client's case, including, among other things, long-distance telephone charges, telecopier and other charges, mass mailing postage, messenger and express mail charges, special or hand delivery charges, document processing, photocopying charges, filing fees, travel expenses, expenses for "working meals," the catering of meetings and business meetings, computerized research, transcription costs, as well as non-ordinary overhead expenses such as secretarial and other overtime and late night transportation, where necessary to meet deadlines or client expectations.

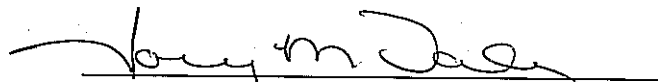
15. Ballard Spahr is not a creditor of the Debtors. On February 19, 2010, the Debtors paid to Ballard Spahr the sum of \$100,000.00 to be held as a retainer for professional services rendered and charges and disbursements incurred (the "Retainer"), which amount was applied in its entirety toward the payment of prepetition fees, charges and disbursements. Any remaining amounts due and owing on account of prepetition services rendered or charges and disbursements incurred in excess of the Retainer have been written off by Ballard Spahr, and payment of such amounts will not subsequently be sought by Ballard Spahr. Ballard Spahr's fees are current as of the Petition Date.

16. By reason of the foregoing, I believe that Ballard Spahr is eligible for employment and retention by the Debtors pursuant to 11 U.S.C. § 327 and Fed. R. Bankr. P. 2014(a).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February 22, 2010

FOR BALLARD SPAHR LLP:



TOBEY M. DALUZ (DE Bar I.D. No. 3939)