

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

In re:)	
)	
RC SOONER HOLDINGS, LLC, <i>et al.</i> , ¹)	Case No. 10–12185-R
)	Chapter 11
)	
Debtors.)	(Jointly Administered)
_____)	
)	
RC SOONER HOLDINGS, LLC, <i>et al.</i>)	
and OLD SOUTH APARTMENTS, LLC,)	
)	
Plaintiffs,)	
vs.)	Adv. Pro. No. 10–01070-R
)	
BANK OF THE WEST, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	
)	
RC SOONER HOLDINGS, LLC, <i>et al.</i>)	
and OLD SOUTH APARTMENTS, LLC,)	
)	
Plaintiffs,)	
vs.)	Adv. Pro. No. 10–01071-R
)	
REMYCO., INC., <i>et al.</i> ,)	
)	
Defendants.)	

**DEBTORS’ APPLICATION FOR ORDER AUTHORIZING
EMPLOYMENT AND RETENTION OF SNEED LANG HERROLD PC
AS COUNSEL FOR DEBTORS AND DEBTORS-IN-POSSESSION**

Pursuant to 11 U.S.C. §§ 327(a) and 328(a), Fed.R.Bankr.P. 2014(a) and Bankr.N.D.Okla. LR 2014–1, Debtor and Debtor-In-Possession RC Sooner Holdings, LLC (“RC Sooner”) and its affiliated Debtors and Debtors-In-Possession in the above-captioned and jointly

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.

administered Chapter 11 cases (collectively, the “Debtors”) hereby request this Court enter an Order authorizing and approving the employment and retention of the law firm Sneed Lang Herrold PC (“SLH”) as counsel for them in their Chapter 11 bankruptcy cases and associated adversary proceedings (the “*Application*”). In support hereof, Debtors submit the *Declaration of David H. Herrold*, a shareholder of SLH, as Exhibit “A” (the “Declaration”) and would show the Court as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the Debtors, their Chapter 11 cases and associated adversary proceedings and this *Application* pursuant to 28 U.S.C. §§ 157 and 1334 and N.D.Okla.LCvR 84.1(a). Venue of these Chapter 11 cases and this *Application* is proper in this District pursuant to 28 U.S.C. §§ 1408-09 and pursuant to that certain *Order Transferring Cases and Adversary Proceedings* (the “Transfer Order”) entered June 14, 2010 by the United States Bankruptcy Court for the District of Delaware in Bankr.D.Del. Nos. 10–10528 (BLS) (jointly administered) and Bankr.D.Del. Adv. Pro. Nos. 10–50723 (BLS) and 10–50719 (BLS). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

2. The statutory predicates for the relief sought herein are provided for in 11 U.S.C. §§ 327(a) and 328(a).

FACTUAL & PROCEDURAL BACKGROUND OF THE CASES

3. On February 22, 2010 (the “Petition Date”), the Debtors each filed their respective voluntary Petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware. The Debtors thereafter have continued to manage their business and properties as debtors-in-possession pursuant to 11 U.S.C. §§ 1107(a) and 1108.

4. On February 24, 2010, the Court entered an order directing joint administration of those cases [Dkt. #1-19], and the cases remain jointly administered before this Court after being transferred under the Transfer Order.

5. The Debtors own, and have heretofore operated and maintained, a portfolio of 796 multi-family residential units divided among eight separate apartment complexes (collectively, the “Apartments”) for lease in Tulsa, Oklahoma. RC Sooner is the direct parent of eight 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 existing Oklahoma limited liability companies that own the Apartments (collectively, the “Apartment LLCs”³). The purchase price of the acquisition of the Apartments 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”).

6. Unbeknownst to the Purchasers, 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, and these misrepresentations included the failure to inform the Purchasers that the Loans and

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.

Mortgages had been in default since approximately September 2, 2009, and remained in default as of the closing on or about October 29, 2009.

7. Fannie Mae was also 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 RC Sooner as recently as the final week of January, 2010.

8. 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 RC Sooner and the Apartment LLCs without Fannie Mae's consent. Fannie Mae subsequently initiated state court actions in Tulsa County, Oklahoma District Court against the Apartment LLCs and certain of the sellers petitioning for foreclosure and the appointment of a receiver against all of the Apartments. Hearings for the appointment of a receiver with respect to the Apartment LLCs were scheduled for February 23, 2010.

9. 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 attempt to negotiate a resolution of the Loan and Mortgage defaults with Fannie Mae, which would enable the Debtors to preserve and maximize the value of their business for the benefit of their creditors and other interested parties.

10. Additional factual background regarding the Debtors, including their current and historical business operations and the events precipitating these Chapter 11 filings, was set forth

in detail in the *Affidavit Of Daniel Gordon In Support Of Chapter 11 Petitions And First Day Pleadings* (the “Gordon Affidavit”) filed with the Delaware Bankruptcy Court. [Dkt. # 1-3].

11. On June 29, 2010, all of the jointly administered bankruptcy cases were transferred pursuant to the Transfer Order to this Court. [Dkt. # 1], and a status conference is currently scheduled for Wednesday, July 14, 2010, at 10:00 a.m.

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

RELIEF REQUESTED

13. By this *Application* Debtors seek to employ and retain SLH as general bankruptcy counsel in each of these jointly administered Chapter 11 cases and associated adversary proceedings; SLH will assume a “local counsel” role and will be moving the Court for *pro hac vice* admission of lawyers from the law firm of Ballard Spahr, LLP, who have represented Debtors in the bankruptcy cases since the Petition Date, to serve as lead bankruptcy counsel in these cases and proceedings. Accordingly, Debtors respectfully request the entry of an Order, pursuant to 11 U.S.C. §§ 327(a) and 328(a), authorizing them to employ and retain SLH as their local counsel to perform the legal services that will be necessary during and in all aspects of these cases.

14. The Debtors seek to retain SLH as local counsel herein because: (a) SLH has substantial experience and knowledge in the field of debtors’ and creditors’ rights and business reorganizations under Chapter 11 of the Bankruptcy Code; (b) SLH is familiar with and has knowledge and information regarding the Debtors and their business operations and affairs and potential legal issues that may arise; and (c) Debtors believe that SLH is well-qualified and well-equipped to represent the Debtors in the Chapter 11 cases and the adversary proceedings associated therewith in an efficient and timely manner, and such retention will be cost effective

for the Debtors' estates. SLH will provide Debtors with its proficiency and experience with respect to bankruptcy, Chapter 11-related issues, and adversary proceedings and will act as local counsel for the Debtors.

15. SLH is suited for the type of representation required by the Debtors in these cases and proceedings. It is a mid-sized law firm within the Northern District of Oklahoma with experience in most, if not all, aspects of law that may arise in these cases and proceedings for the Debtors. SLH has substantial proficiency and debtors' and creditors' rights experience in bankruptcy matters. In particular, SLH attorneys presently represent as general bankruptcy counsel fifteen debtors and debtors-in-possession in the jointly administered cases styled *In re Roma Foods of Oklahoma*, Case Nos. 09-12488 *et al.* (post-confirmation), now pending before the Hon. Niles Jackson in the United States Bankruptcy Court for the Western District of Oklahoma. Additionally, SLH lawyers is also serving as counsel for the Unsecured Creditors Committee in the jointly administered Chapter 11 cases styled *In re Ramsey Holdings, Inc.*, Case Nos. 09-13998 *et al.* (post-confirmation), now pending before the Hon. Terrence Michael in this Court. SLH attorneys have also served as counsel to numerous trustees in cases under Chapters 11 and 7 of the Bankruptcy Code, including, *inter alia*, the Chapter 7 case of Arrow Trucking Company (Bankr.N.D.Okla. 10-10041-R; present counsel for Trustee), the Chapter 11 case of Nucorp Energy, Inc. (Bankr.S.D.Cal. 82-03106); the Chapter 7 case of William R. Bartmann, *et al.* (Bankr.N.D.Okla. 03-04975); the Chapter 7 case of 4 Front Petroleum, Inc. (Bankr.N.D.Okla. 04-10797); the Chapter 7 case of Erhan Ozey (Bankr.N.D.Okla. 93-04157); the Chapter 7 case of O.K. Bingo Supply, Inc. (Bankr.N.D.Okla. 95-01704); the Chapter 7 case of Craig A. Coulter (Bankr.N.D.Okla. 94-02644); *see also* the Chapter 11 case of Git-n-Go, Inc. (Bankr.N.D.Okla. 04-10509 [counsel to professional person and Chief Restructuring Officer Alvarez & Marsal]).

In addition, SLH lawyers have represented numerous secured and unsecured creditors in bankruptcy cases filed under Chapters 7, 11, 12 and 13 of the Bankruptcy Code.

SERVICES TO BE PROVIDED BY SLH

16. The professional services to be provided by SLH include, but are not limited to:
- (a) Providing assistance to Debtors' lead bankruptcy counsel 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) Assisting Debtors' lead bankruptcy counsel 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.

**NO ADVERSE INTERESTS, DISINTERESTEDNESS
AND DISCLOSURE OF CONNECTIONS**

17. To the best of SLH's knowledge, information, and belief, and based upon the Declaration and any supplemental declarations that may be filed, and after conducting an investigation of potential conflicts of interest arising for SLH's representation of the Debtors

herein, except as set forth herein or the Declaration, SLH and the attorneys comprising or employed by it:

(a) SLH has no material connections with the Debtor, Debtor's creditors or any other party in interest or their respective attorneys and accountants, any bankruptcy judge of the Northern District of Oklahoma, the United States Trustee, or any person employed in the office of the United States Trustee for Region 20 that would render the appointment of SLH as counsel for the Debtors inappropriate under Fed.R.Bankr.P. 5002(b); any connections SLH may have with Debtors or Debtors' creditors, as best SLH can tell, are fully set out in the Declaration;

(b) SLH neither holds nor represents any interest adverse to Debtors' estates; and

(c) SLH is a 'disinterested party' within the meaning of 11 U.S.C. § 101(14), in the Debtors' bankruptcy cases.

18. As more fully set forth in the Declaration, SLH has informed the Debtors through their lead Delaware bankruptcy counsel that based upon its results of reviewing any and all inquiries and conflict checks, to the best of SLH's knowledge, information and belief, SLH does not hold or represent any interest adverse to the Debtors' estates and believes it to be a 'disinterested person' pursuant to 11 U.S.C. § 101(14) and as used in 11 U.S.C. § 328(c). SLH will continue its inquiry and conflicts checks to ensure this Court and all parties in interest are apprised of any and all connections. If at any time SLH becomes aware of any additional connections, it will promptly supplement the Declaration.

19. Finally, neither SLH nor any of its shareholders have divided, paid over or shared, or agreed to divide, pay over or share: (a) any compensation it or they has or have

received or may receive for services rendered or expenses incurred in connection with this case with another party or person (except as among the shareholders and employees of SLH) or (b) any compensation another party or person has received or may receive for services rendered or expenses incurred in connection with this case.

PROFESSIONAL COMPENSATION

20. SLH requests that all legal fees and related costs and expenses incurred by the Debtors on account of the services rendered by SLH in the case be paid pursuant to 11 U.S.C. §§ 330-331, the Federal Rules of Bankruptcy Procedure, this Court's Local Rules, the applicable orders previously entered by the Delaware Bankruptcy Court, any subsequent orders entered by this Court and the United States Trustee Guidelines.

21. Subject to Court approval, and in accordance with 11 U.S.C. § 330(a), compensation will be payable to SLH 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 Declaration, pursuant to Bankr. Rule 2014(a). The hourly rates set forth in the Declaration are the rates that SLH charges to bankruptcy and non-bankruptcy clients. These rates are set at a level designed to compensate fairly SLH for the work of its attorneys and paralegals to cover fixed routine overhead expenses. It is SLH'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. SLH will charge the Debtors’ estates for these expenses in a manner and at rates consistent with charges made generally to SLH’s bankruptcy and non-bankruptcy clients, and subject to applicable rules and guidelines of the Court and the U.S. Trustee.

22. The principal attorneys expected to represent the Debtors in this matter and its current hourly rates are: David H. Herrold, a shareholder of the firm whose current hourly rate for bankruptcy matters is \$250.00, Emily M. Jones, an associate of the firm whose current hourly rate for bankruptcy matters is \$200.00, and G. Steven Stidham, a shareholder of the firm whose current hourly rate in matters such as are involved in the RemyCo. adversary proceeding is \$300.00. In addition, other attorneys and paraprofessionals may from time to time provide services to the Debtors in connection with these Chapter 11 Cases. The range of SLH’s hourly rates for its attorneys and paraprofessionals is as follows:

Attorneys (associates, of counsel, shareholders):	\$130 - \$300
Paralegals:	\$85 - \$100

SLH’s hourly billing rates are subject to periodic adjustments to reflect economic and other conditions.

23. SLH will maintain detailed records of attorneys’ fees and expenses incurred in connection with the rendition of legal services for the Debtors in the bankruptcy cases and adversary proceedings, in accordance with applicable law, rules and Guidelines. The Debtors request that SLH be allowed compensation for its services and reimbursement for its expenses in accordance with 11 U.S.C. §§ 330-31 and Rule 2016, upon submission of appropriate

Applications seeking compensation and reimbursement, in compliance with all applicable orders, rules and guidelines, subject to the review and approval of this Court.

WHEREFORE, Debtors respectfully request that the Court enter an Order authorizing and approving the Debtors to retain and employ Sneed Lang Herrold PC as counsel, ultimately local counsel herein, 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.

Respectfully submitted,

SNEED LANG HERROLD PC

By s/ David H. Herrold

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**PROPOSED COUNSEL FOR THE
DEBTORS AND DEBTORS-IN-
POSSESSION**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 13th day of July, 2010, he caused a true and correct copy of the above and foregoing instrument to be electronically filed through the CM/ECF System maintained by the U.S. Bankruptcy Court for the Northern District of Oklahoma and **believes** said CM/ECF System **should generate** a ‘Notice of Electronic Filing,’ transmitting a true and correct copy of said filing to the following counsel for parties in the Delaware bankruptcy proceeding who consented to such electronic service pursuant to Fed.R.Bankr.P. 7005 and 9036, Fed.R.Civ.P. 5(b)(2)(E) and 5(d)(3); **however, in an abundance of caution, the undersigned has, in addition, caused the foregoing instrument to be delivered electronically to listed e-mail addressees to ensure electronic service on the date stated above:**

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The undersigned further certifies that on this same date, he caused a true and correct copy of the above and foregoing instrument to be deposited into the U.S. Mails, all postage prepaid thereon, addressed to the following counsel of record not currently receiving Notices of Electronic Filing through the CM/ECF System maintained by the U.S. Bankruptcy Court for the Northern District of Oklahoma:

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