

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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In re:	:	Chapter 11
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EXIDE TECHNOLOGIES,	:	Case No. 13-11482 (KJC)
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Debtor. ¹	:	Related Docket No. <u>16</u>
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**ORDER AUTHORIZING EMPLOYMENT AND RETENTION OF GCG, INC. AS
CLAIMS AND NOTICING AGENT, PURSUANT TO 28 U.S.C. § 156(C), 11 U.S.C.
§ 105(A) AND FED. R. BANKR. P. 2002 AND DEL. BANKR. L.R. 2002-1(F),
NUNC PRO TUNC TO THE PETITION DATE**

Upon the application (the “Section 156(c) Application”)² of the above-captioned debtor and debtor in possession (the “Debtor”) for entry of an order pursuant to section 156(c) of title 28 of the United States Code and section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”), Rule 2002 of the Federal Rules of Bankruptcy Procedure, and Rule 2002-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, appointing GCG, Inc. (“GCG”) as claims and noticing agent in the Debtor’s chapter 11 case *nunc pro tunc* to the Petition Date; and upon the declaration of Emily Gottlieb, attached to the Section 156(c) Application as Exhibit B; and the Debtor having estimated that there are in excess of 20,000 creditors in the Chapter 11 Case, many of which are expected to file proofs of claim; and it

¹ The last four digits of the Debtor's taxpayer identification number are 2730. The Debtor’s corporate headquarters are located at 13000 Deerfield Parkway, Building 200, Milton, Georgia 30004.

² Capitalized terms used but not otherwise defined herein have the meanings given to them in the Section 156(c) Application.

appearing that the receiving, docketing and maintaining of proofs of claim would be unduly time consuming and burdensome for the Clerk; and the Court being authorized under 28 U.S.C. §156(c) to utilize, at the Debtor's expense, outside agents and facilities to provide notices to parties in Bankruptcy Code cases and to receive, docket, maintain, photocopy and transmit proofs of claim; and the Court being satisfied (i) that GCG has the capability and experience to provide such services and (ii) that GCG does not hold an interest adverse to the Debtor or the Debtor's estate with respect to the matters upon which it is to be engaged; and the Court having jurisdiction to consider the Section 156(c) Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Section 156(c) Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Section 156(c) Application having been provided; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Section 156(c) Application (the "Hearing"); and upon the record of the Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Section 156(c) Application is in the best interests of the Debtor, its estate, creditors and other parties in interest; and that the legal and factual bases set forth in the Section 156(c) Application establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby:

ORDERED that, notwithstanding the terms of the Bankruptcy Administration Agreement, the Section 156(c) Application is approved solely as set forth in this Order; and it is further

ORDERED that the Debtor is authorized to retain GCG as the claims and noticing agent effective as of the Petition Date under the terms of the Bankruptcy Administration Agreement, and GCG, as the claims and noticing agent, is authorized and directed to perform noticing services and to receive, maintain, record and otherwise administer the proofs of claim filed in the Chapter 11 Case, and all related tasks, all as described in the Section 156(c) Application (the “Claims and Noticing Services”); and it is further

ORDERED that GCG shall serve as the custodian of Court records, shall be designated as the authorized repository for all proofs of claim filed in the Chapter 11 Case and is authorized and directed to maintain official claims register the Debtor and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk; and it is further

ORDERED that GCG is authorized and directed to obtain a post office box or address for the receipt of proofs of claim; and it is further

ORDERED that GCG is authorized to take such other action to comply with all duties set forth in the Section 156(c) Application; and it is further

ORDERED that the Debtor is authorized to compensate GCG in accordance with the terms of the Bankruptcy Administration Agreement for the Claims and Noticing Services upon the receipt of reasonably detailed invoices setting forth the Claims and Noticing Services provided by GCG and the rates charged for each, and to reimburse GCG for all reasonable and necessary expenses it may incur as the claims and noticing agent upon the presentation of appropriate documentation, without the need for GCG to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses; and it is further

ORDERED that GCG shall maintain records of all Claims and Noticing Services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtor, the office of the United States Trustee, counsel for the Debtor, Davis Polk & Wardwell LLP as counsel to the agent under the proposed debtor in possession financing, counsel for any official committee monitoring the expenses of the Debtor and any party-in-interest who specifically requests service of the monthly invoices; and it is further

ORDERED that the parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Bankruptcy Administration Agreement or monthly invoices, and that the parties may seek resolution of the matter from the Court if resolution is not achieved; and it is further

ORDERED that pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of GCG under this Order shall be an administrative expense of the Debtor's estate; and it is further

ORDERED that GCG shall first apply its retainer to all prepetition invoices, and second shall apply the retainer against the first bill issued to the Debtor for postpetition Claims and Noticing Services rendered under the Bankruptcy Administration Agreement; and it is further

ORDERED that the Debtor shall indemnify GCG under the terms of the Bankruptcy Administration Agreement; provided that GCG shall not be entitled to indemnification, contribution, or reimbursement pursuant to this paragraph for services other than the Claims and Noticing Services provided under the Bankruptcy Administration Agreement, unless such services and the indemnification, contribution, or reimbursement therefor are approved by the Court; and it is further

ORDERED that notwithstanding anything to the contrary in the Bankruptcy Administration Agreement, the Debtor shall have no obligation to indemnify GCG as the claims and noticing agent, or provide contribution or reimbursement to GCG, for any claim or expense that is: (i) judicially determined (the determination having become final) to have arisen from GCG's gross negligence, willful misconduct, or fraud; (ii) for a contractual dispute in which the Debtor alleges a breach of GCG's contractual obligations if the Court determines that indemnification, contribution, or reimbursement would not be permissible pursuant to *In re United Artists Theatre Co., et al.*, 315 F.3d 217 (3d Cir. 2003), or (iii) settled prior to a judicial determination under (i) or (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which GCG should not receive indemnity, contribution, or reimbursement under the terms of the Bankruptcy Administration Agreement as modified by this Order; and it is further

ORDERED that if, before the earlier of (i) the entry of an order confirming a chapter 11 plan in the Chapter 11 Case (that order having become a final order no longer subject to appeal), or (ii) the entry of an order closing the Chapter 11 Case, GCG believes that it is entitled to the payment of any amounts by the Debtor on account of the Debtor's indemnification, contribution, and/or reimbursement obligations under the Bankruptcy Administration Agreement (as modified by this Order), including without limitation the advancement of defense costs, GCG must file an application therefor in this Court, and the Debtor may not pay any such amounts to GCG before the entry of an order by this Court approving the payment; provided that this paragraph is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by GCG for indemnification, contribution, or reimbursement, and not a provision limiting the

duration of the Debtor's obligation to indemnify GCG. All parties in interest shall retain the right to object to any demand by GCG for indemnification, contribution, or reimbursement; and it is further

ORDERED that in the event GCG is unable to provide the services set out in this Order, GCG will immediately notify the Clerk and the Debtor's attorneys, and cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and the Debtor's attorneys; and it is further

ORDERED that the Debtor may submit a separate retention application, pursuant to 11 U.S.C. § 327 and/or any other applicable law, for work that is to be performed by GCG but is not specifically authorized by this Order; and it is further

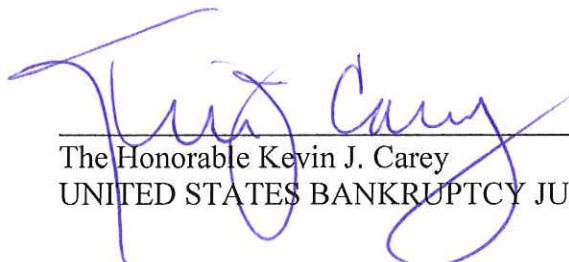
ORDERED that the Debtor and GCG are authorized to take such other and further actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Section 156(c) Application; and it is further

ORDERED that GCG shall not cease providing claims processing services during the Chapter 11 Case for any reason, including nonpayment, without an order of the Court; and it is further

ORDERED that to the extent that there may be any inconsistency between the terms of the Section 156(c) Application, the Bankruptcy Administration Agreement or this Order, the terms of this Order shall govern; and it is further

ORDERED that this Court retains jurisdiction with respect to all matters arising from, or related to, the implementation of this Order.

Dated: Wilmington, Delaware
June 11, 2013



The Honorable Kevin J. Carey
UNITED STATES BANKRUPTCY JUDGE