

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:)	
)	Chapter 11
)	
THE LASALLE GROUP, INC., et al.,¹)	Bankr. Case No. 19-31484-sgj-11
)	
Debtors)	(Jointly Administered)
)	

**APPLICATION PURSUANT TO FED. R. BANKR. P. 2014(a) FOR
ORDER UNDER SECTION 1103 OF THE BANKRUPTCY CODE
AUTHORIZING THE EMPLOYMENT AND RETENTION OF
DUNDON ADVISERS LLC AS FINANCIAL ADVISER TO THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS
NUNC PRO TUNC TO JULY 3, 2019**

The Official Committee of Unsecured Creditors (the “**Committee**”) of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) moves the Court for entry of an order under sections 328(a) and 1103 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”), and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), substantially in the form attached hereto as Exhibit A, authorizing the retention and employment of the consulting firm of Dundon Advisers LLC (“**Dundon**”) as financial adviser to the Committee. In support of this application (the “**Application**”), the Committee respectfully states as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this proceeding and this Application is proper in this district pursuant to 28 U.S.C.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are as follows: The LaSalle Group, Inc. (0143); West Houston Memory Care, LLC (2760); Cinco Ranch Memory Care, LLC (2716); Pearland Memory Care, LLC (5311); and Riverstone Memory Care, LLC (5407). The Debtors’ mailing address is 545 E. John Carpenter Freeway, Suite 500, Irving, Texas 75062.

§§ 1408 and 1409. The statutory predicates for the relief sought herein are sections 328(a) and 1103 of the Bankruptcy Code. This Application is a core proceeding pursuant to 28 U.S.C. § 157.

BACKGROUND

2. On May 2, 2019 (the “**Petition Date**”), the Debtors filed with this Court their voluntary petitions for relief under chapter 11 the Bankruptcy Code. Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtors are continuing to operate their businesses and manage their properties and assets as debtors in possession.

3. On July 3, 2019, the Office of the United States Trustee appointed the Committee pursuant to section 1102 of the Bankruptcy Code consisting of three members: Ms. Aracelis Ruffolo, Ms. ShaQuaz Wilder, and Ms. Vilora Williams. On the same date the Committee held a meeting at which it elected Ms. Ruffolo as its Chair. At the same meeting, the Committee selected Drinker Biddle & Reath LLP as its counsel and Dundon as its Financial Adviser, subject in each case to Court approval. Immediately upon its selection, Dundon commenced work on several time-sensitive matters and promptly devoted substantial resources to these cases pending submission and approval of this Application.

RELIEF REQUESTED

4. By this Application, the Committee seeks to retain and employ Dundon pursuant to sections 328(a) and 1103(a) of the Bankruptcy Code to perform financial advisory services for the Committee in these chapter 11 cases, *nunc pro tunc* to July 3, 2019.

5. The Committee is familiar with the professional standing and reputation of Dundon. The Committee understands and recognizes that Dundon has a wealth of experience in providing financial advisory services in restructurings and reorganizations and enjoys an excellent reputation for services it has rendered in chapter 11 cases on behalf of debtors and creditors throughout the

United States.

6. The services of Dundon are deemed necessary to enable the Committee to assess and monitor the efforts of the Debtors and their professional advisors to maximize the value of their estates and to reorganize successfully. Further, Dundon is well qualified and able to represent the Committee in a cost-effective, efficient and timely manner.

SCOPE OF SERVICES

7. Subject to order of this Court, Dundon will provide such financial advisory services to the Committee as it, in consultation with its counsel, deems appropriate and feasible in order to advise the Committee in the course of these chapter 11 cases, including but not limited to the following:

- a. Assistance in the review of financial-related disclosures required by the Court, including the Schedules of Assets and Liabilities, the Statement of Financial Affairs and Monthly Operating Reports;
- b. Assistance in the preparation of analyses required to assess any proposed Debtor-In-Possession financing or use of cash collateral;
- c. Assistance with the assessment and monitoring of the Debtors' short term cash flow, liquidity, and operating results;
- d. Assistance with the review of the Debtors' analysis of core business assets and the potential disposition or liquidation of non-core assets;
- e. Assistance with the review of the Debtors' cost/benefit analysis with respect to the affirmation or rejection of various executory contracts and leases;
- f. Assistance in the review and monitoring of any asset sale process, including, but not limited to an assessment of the adequacy of the marketing process, completeness of any buyer lists, review and quantifications of any bids;
- g. Assistance with review of any tax issues associated with, but not limited to, claims/stock trading, preservation of net operating losses, refunds due to the Debtors, plans of reorganization, and asset sales;
- h. Assistance in the review of the claims reconciliation and estimation process;
- i. Assistance in the review of other financial information prepared by the Debtors, including, but not limited to, cash flow projections and budgets,

business plans, cash receipts and disbursement analysis, asset and liability analysis, and the economic analysis of proposed transactions for which Court approval is sought;

- j. Attendance at meetings and assistance in discussions with the Debtors, potential investors, banks, other secured lenders, the Committee and any other official committees organized in these chapter 11 proceedings, the U.S. Trustee, other parties-in-interest and professionals hired by the same, as requested;
- k. Assistance in the review of insider compensation and management fee arrangements and payments made thereunder, related party transactions, and other management conduct from which causes of action may arise;
- l. Assistance in the review and/or preparation of information and analysis necessary for the confirmation of a plan and related disclosure statement in these chapter 11 proceedings;
- m. Assistance in the evaluation and analysis of avoidance actions, including fraudulent conveyances and preferential transfers;
- n. Assistance in the prosecution of Committee responses/objections to the Debtors' motions, including attendance at depositions and provision of expert reports/testimony on case issues as required by the Committee; and
- o. Render such other general business consulting or such other assistance as the Committee or its counsel may deem necessary that is consistent with the role of a financial adviser and not duplicative of services provided by other professionals in this proceeding.

DUNDON'S ELIGIBILITY FOR EMPLOYMENT

8. Dundon has informed the Committee that, except as may be set forth in the Declaration of Matthew Dundon, Principal (the "**Dundon Declaration**"), attached hereto as Exhibit B, it does not hold or represent any interest adverse to the Committee, the Debtors, their estates, or any other party in interest in the matters upon which it is to be engaged, and therefore believes it is eligible to represent the Committee under section 1103(b) of the Bankruptcy Code. To the best of the Committee's knowledge and based upon the Dundon Declaration, (a) Dundon has identified no disclosable connections with the Debtors, creditors, any other party-in-interest, or their respective attorneys; and (b) the Dundon professionals working on this matter are not

relatives of, nor do they otherwise have any connection with, the United States Trustee or any known employee in the office thereof, or any United States Bankruptcy Judge of the District of Northern District of Texas, Dallas Division. Dundon has not provided, and will not provide any professional services to the Debtors, any of the creditors, other parties-in-interest, or their respective attorneys and accountants with regard to any matter related to these chapter 11 cases. Based upon and subject to the disclosures made in the Dundon Declaration, Dundon is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code, and the Committee is satisfied that Dundon’s employment is in the best interests of the Committee, the Debtors, and their estates.

9. Dundon will conduct an ongoing review of its files to ensure that no conflicts or other disqualifying circumstances exist or arise. If any new material facts or relationships are discovered, Dundon will supplement its disclosure to the Court.

10. Dundon has agreed not to share with any person or firm the compensation to be paid for professional services rendered in connection with these cases.

TERMS OF RETENTION

11. Dundon is not owed any amounts with respect to pre-petition fees and expenses.

12. The Committee understands that Dundon intends to apply to the Court for allowances of compensation and reimbursement of expenses for its financial advisory services in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, corresponding local rules, orders of this Court and the guidelines established by the United States Trustee.

13. Dundon seeks to be compensated on an hourly fee basis, plus reimbursement of actual and necessary expenses incurred by Dundon. Actual and necessary expenses would include

any reasonable legal fees incurred by Dundon related to Dundon's retention and defense of fee applications in these cases, subject to Court approval.

14. Dundon has advised the Committee that its fees will be commensurate with the fees charged to its other clients and in other cases of this size (provided such clients are billed hourly). The customary hourly rates, charged by Dundon professionals who may be assigned to these cases are as follows:

- a. Principals: \$675 to \$700 per hour
- b. Managing Directors: \$675 per hour
- c. Directors: \$475 to \$575 per hour
- d. Associates: \$300 to \$400 per hour

15. Dundon's customary hourly rates are subject to periodic adjustment, which shall be noted on the invoices for the first time period in which the revised rates become effective. Dundon's next annual rate adjustment is expected to occur in June 2020 with effect July 1, 2020.

16. Dundon has advised the Committee that it intends to apply to the Court for allowance of its compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the local rules of this Court, and the terms of any order establishing procedures for interim compensation that may be entered in these cases. Dundon understands that interim and final fee awards are subject to approval by this Court.

INDEMNIFICATION

17. In addition to the foregoing, and as a material part of the consideration for the agreement of Dundon to furnish services to the Committee pursuant to the terms of this Application, Dundon believes that the following indemnification terms are customary and reasonable for financial advisers in chapter 11 cases and, therefore, should apply in these cases:

- a. subject to the provisions of subparagraphs (b) and (c) below and approval of the Court, the Debtors are authorized to indemnify, and shall indemnify, Dundon for any claims arising from, related to, or in connection with Dundon's engagement under this Application, but not for any claim arising from, related to, or in connection with Dundon's post-petition performance of any other services other than those in connection with the engagement, unless such post-petition services and indemnification therefore are approved by this Court;
- b. the Debtors shall have no obligation to indemnify Dundon for any claim or expense that is either (i) judicially determined (the determination having become final) to have arisen primarily from Dundon's gross negligence, willful misconduct or fraud unless the Court determines that indemnification would be permissible pursuant to *In re United Artists Theatre Company, et al.*, 315 F.3d 217 (3d Cir. 2003), or (ii) settled prior to a judicial determination as to Dundon's gross negligence, willful misconduct or fraud, but determined by this Court, after notice and a hearing, to be a claim or expense for which Dundon is not entitled to receive indemnity under the terms of this Application; and
- c. if, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these chapter 11 cases (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing these chapter 11 cases, Dundon believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification obligations under the Application, including, without limitation, the advancement of defense costs, Dundon must file an application in this Court, and the Debtors may not pay any such amounts to Dundon before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by Dundon for indemnification, and not as a provision limiting the duration of the Debtors' obligation to indemnify Dundon

18. The Committee believes that indemnification is customary and reasonable for financial advisers for engagements of this type in cases in this and other districts and should be approved in these chapter 11 cases. *See In re Joan & David Halpern, Inc.*, 248 B.R. 43 (Bankr. S.D.N.Y. 2000). Dundon will not seek any indemnification improper under the holding of *Bank of N.Y. Trust Co. v. Off'l Unsecured Creditors' Comm. (In re Pacific Lumber Co.)*, 584 F.3d 229 (5th Cir. 2009) or under Bankruptcy Code section 524(e).

NO PRIOR REQUEST

19. No prior Application for the relief requested herein has been made to this or any other Court.

NOTICE

20. Notice of this Application has been given to (i) counsel to the Debtors; (ii) the Office of the United States Trustee for the Northern District of Texas; (iii) all known or alleged secured creditors; (iv) the creditors set forth in the Debtors' *Chapter 11 or Chapter 9 Cases Non-Individual List of Creditors Who Have 20 Largest Unsecured Claims Against You and Are Not Insiders* pleading dated May 3, 2019 [ECF No. 22]; (v) any state attorneys general and regulatory agencies charged with oversight of the Debtors; and (vi) all parties requesting notice in these chapter 11 cases pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure. The Committee submits that, in light of the nature of the relief requested, no other or further notice need be given.

CONCLUSION

WHEREFORE, the Committee respectfully requests that the Court enter an order, substantially in the form attached hereto as Exhibit A, authorizing the Committee to employ and retain Dundon as financial advisers for the Committee for the purposes set forth above, effective as of July 3, 2019, and grant such further relief as is just and equitable.

Dated: July 25, 2019

Respectfully Submitted,
The Official Committee of Unsecured
Creditors of The LaSalle Group, Inc., *et al.*
By: /s/ Aracelis Ruffolo
Aracelis Ruffolo, in her capacity as
Chairperson of the Official Committee
of Unsecured Creditors of The LaSalle
Group, Inc., *et al.*