

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

In re:

HRI HOLDING CORP., *et al.*¹

Debtors.

Chapter 11

Case No. 19-12415 (MFW)

(Joint Administration Requested)

Ref. Nos. 44 & 116

ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF HILCO REAL ESTATE, LLC, AS REAL ESTATE ADVISOR TO THE DEBTORS, *NUNC PRO TUNC* TO THE PETITION DATE AND A WAIVER OF COMPLIANCE WITH CERTAIN OF THE REQUIREMENTS OF LOCAL RULE 2016-2

Upon the *Application of the Debtors for Entry of an Order Approving the Employment and Retention of Hilco Real Estate, LLC, as Real Estate Advisor to the Debtors, Nunc Pro Tunc to the Petition Date and a Waiver of Compliance with Certain of the Requirements of Local Rule 2016-2* (the “Application”);² and upon the *Declaration of Sarah K. Baker in Support of the Application of the Debtors for Entry of an Order Approving the Employment and Retention of Hilco Real Estate, LLC, as Real Estate Advisor to the Debtors, Nunc Pro Tunc to the Petition Date and a Waiver of Compliance with Certain of the Requirements of Local Rule 2016-2* (the “Application”) (the “Baker Declaration”); and the Court having jurisdiction over this matter

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: HRI Holding Corp. (4677), Houlihan’s Restaurants, Inc. (8489), HDJG Corp. (3479), Red Steer, Inc. (2214), Sam Wilson’s/Kansas, Inc. (5739), Darryl’s of St. Louis County, Inc. (7177), Darryl’s of Overland Park, Inc. (3015), Houlihan’s of Ohio, Inc. (6410), HRI O’Fallon, Inc. (4539), Algonquin Houlihan’s Restaurant, L.L.C. (0449), Geneva Houlihan’s Restaurant, L.L.C. (3156), Hanley Station Houlihan’s Restaurant, LLC (4948), Houlihan’s Texas Holdings, Inc. (5485), Houlihan’s Restaurants of Texas, Inc. (4948), JGIL Mill OP LLC (0741), JGIL Millburn, LLC (6071), JGIL Milburn Op LLC (N/A), JGIL, LLC (5485), JGIL Holding Corp. (N/A), JGIL Omaha, LLC (5485), HOP NJ NY, LLC (1106), HOP Farmingdale LLC (7273), HOP Cherry Hill LLC (5012), HOP Paramus LLC (5154), HOP Lawrenceville LLC (5239), HOP Brick LLC (4416), HOP Secaucus LLC (5946), HOP Heights LLC (6017), HOP Bayonne LLC (7185), HOP Fairfield LLC (8068), HOP Ramsey LLC (8657), HOP Bridgewater LLC (1005), HOP Parsippany LLC (1520), HOP Westbury LLC (2352), HOP Weehawken LLC (2571), HOP New Brunswick LLC (2637), HOP Holmdel LLC (2638), HOP Woodbridge LLC (8965), and Houlihan’s of Chesterfield, Inc. (5073). The Debtors’ corporate headquarters and the mailing address is 8700 State Line Road, Suite 100, Leawood, Kansas 66206.

² Capitalized terms used but not defined herein shall have the meanings set forth in the Application.



pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; and the Court having found that this Application is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution;³ and the Court having found that venue of this proceeding and this Application in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that Hilco Real Estate, LLC (“Hilco”) does not hold or represent any interest adverse to the Debtors’ estates and that it is a “disinterested person” as contemplated under Bankruptcy Code sections 327 and 328; and it appearing that sufficient notice of the Application has been given; and it appearing that the relief requested by the Application is in the best interests of the Debtors’ estates; and sufficient cause appearing therefor; it is hereby

ORDERED that the Application is APPROVED as set forth herein; and it is further

ORDERED that the Debtors are authorized, pursuant to Bankruptcy Code sections 327(a) and 328(a), to engage, effective as of the Petition Date, upon the terms and for the purposes set forth in the Application and in that certain engagement letter attached to the Application as **Exhibit B** (the “Engagement Agreement”), Hilco as real estate advisor to the Debtors in the above-captioned Chapter 11 Cases *nunc pro tunc* to the Petition Date; and it is further

ORDERED that the Debtors are authorized to compensate and reimburse Hilco pursuant to the terms of the Engagement Agreement and as set forth in the Application; and it is further

ORDERED that Hilco shall be compensated for 100% of all amounts due upon submission of an acceptable invoice to the Debtors for all services and expenses incurred in connection with the services provided under the Engagement Agreement. Hilco shall not be

³ Pursuant to Local Rule 9013-1(f), the Debtors hereby confirm their consent to entry of a final order by this Court in connection with this Application if it is later determine that this Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

required to submit interim fee applications for its services under the Engagement Agreement. Upon completion of its work for the Debtors, Hilco shall file a final fee application which shall be subject to the standard of review provided in Bankruptcy Code section 328(a) and not subject to any other standard of review under Bankruptcy Code section 330; provided, however, that the Office of the United States Trustee (the "U.S. Trustee") shall retain the right to object to the compensation and fees and expenses to be paid to Hilco pursuant to the Application and the Engagement Agreement based on the reasonableness standard provided for in Bankruptcy Code section 330, not Bankruptcy Code section 328(a), and the Court shall consider any such objection by the U.S. Trustee under Bankruptcy Code section 330; and it is further

ORDERED that in light of the services to be provided by Hilco and the compensation structure in the Engagement Agreement, Hilco and its professionals shall be excused from: (i) the requirement to maintain or provide detailed time records in accordance with Bankruptcy Rule 2016(a), Local Rule 2016-2 and the United States Trustee Fee Guidelines; and (ii) conforming with a schedule of hourly rates for its professionals, and Hilco shall instead submit a summary final fee application, detailing general services provided by Hilco as well as listing the transactions consummated and showing the calculation of any fees paid and expenses reimbursed to Hilco; and it is further

ORDERED that, to the extent requested in the Application, Hilco is excused from complying with the information requirements contained in Local Rule 2016-2(d); and it is further

ORDERED that the Indemnification Provisions of the Engagement Agreement are approved, subject during the pendency of these Chapter 11 Cases to the following:

- a) Hilco shall not be entitled to indemnification, contribution or reimbursement pursuant to the Engagement Agreement for services, unless such services and the indemnification, contribution or reimbursement therefore are approved by the Court; and

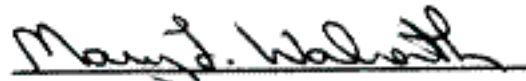
- b) The Debtors shall have no obligation to indemnify Hilco, or provide contribution or reimbursement to Hilco, for any claim or expense that is judicially determined (the determination having become final) to have arisen directly from Hilco's gross negligence, willful misconduct, or bad faith unless the Court determines that indemnification, contribution, or reimbursement would be permissible pursuant to *In re United Artists Theatre Company*, 315 F.3d 217 (3d Cir. 2003); or settled prior to such a judicial determination as to Hilco's gross negligence, willful misconduct, or bad faith but determined by this Court, after notice and a hearing to be a claim or expense for which Hilco should not receive indemnity, contribution, or reimbursement under the terms of the Engagement Agreement as modified by the Proposed Order; and
- c) If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal) and (ii) the entry of an order closing this chapter 11 case, Hilco believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution, and/or reimbursement obligations under the Engagement Agreement (as modified by this Application), including without limitation the advancement of defense costs, Hilco must file an application therefore in this Court, and the Debtors may not pay any such amounts to Hilco 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 Hilco for indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify Hilco. All parties in interest shall retain the right to object to any demand by Hilco for indemnification, contribution or reimbursement; and
- d) Notwithstanding anything to the contrary in the Engagement Agreement or the Application, any limitations on any amounts to be contributed by the parties to the Engagement Agreement shall be eliminated. The Indemnified Parties shall retain any rights they may have to contribution at common law; and it is further

ORDERED that the Debtors are authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Order; and it is further

ORDERED that this Court shall have exclusive jurisdiction over the engagement of Hilco by the Debtors until the earlier of the time these Chapter 11 Cases are closed, dismissed or converted; and it is further

ORDERED that this Court shall retain jurisdiction with respect to all matters related to the interpretation or implementation of this Order.

Dated: December 4th, 2019
Wilmington, Delaware


MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE