

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

In re:

Medley LLC,¹

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

Re: Docket No. 610

Hearing Date: November 14, 2023 at 3:00 p.m. (ET)

Objection Deadline: November 7, 2023 at 4:00 p.m. (ET)

**MEDLEY LLC LIQUIDATING TRUST’S MOTION
PURSUANT FEDERAL RULE OF BANKRUPTCY PROCEDURE 9019
TO APPROVE SETTLEMENT WITH EVERSHEDES SUTHERLAND (US) LLP**

The Medley LLC Liquidating Trust (the “Liquidating Trust”), established by the confirmed combined disclosure statement and plan (the “Plan”)² in this case (the “Case”) of the above-captioned debtor (the “Debtor”), by and through its undersigned counsel, hereby files this motion (the “Motion”) for the entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), pursuant to Federal Rule of Bankruptcy Procedure 9019, approving a settlement agreement (the “Settlement Agreement”), attached as **Exhibit 1** to the Proposed Order, with Eversheds Sutherland (US) LLP (“Eversheds”) in connection with the Liquidating Trust’s *Motion Pursuant to Federal Rule of Civil Procedure 60(b) to Vacate (I) the Order Retaining Eversheds Sutherland (US) LLP, and (II) That Portion of the Amended Omnibus Order Awarding the Final Fee Application to Eversheds Sutherland (US) LLP* (the “Motion to Vacate”).³ In support of the Motion, the Liquidating Trust respectfully states as follows:

¹ The Debtor’s current mailing address is c/o Medley LLC Liquidating Trust, c/o Saccullo Business Consulting, LLC, 27 Crimson King Drive, Bear, DE 19701.

² Docket No. 445-1.

³ Docket No. 610.



PRELIMINARY STATEMENT

1. The Liquidating Trust has alleged, among other things, that the Final Fee Application (as defined below) of Eversheds, the Debtor's former law firm in the Securities and Exchange investigation, contained legal services that Eversheds performed for entities other than the Debtor and that Eversheds improperly charged the Debtor's estate for those services. Eversheds denies the Liquidating Trust's allegations.

2. After extensive arm's-length negotiations, the Liquidating Trust and Eversheds have entered into the Settlement Agreement to avoid the costs of litigation and an uncertain outcome. The Settlement Agreement reduces Eversheds' Final Fee Award (as defined below) from \$2,080,055.19 to \$436,673.28, and Eversheds shall seek payment of its legal fees from the Debtor's insurance companies. To the extent Eversheds receives payment for its legal fees from any insurance company, the Liquidating Trust will receive a dollar-for-dollar credit against the \$436,673.28 for every dollar Eversheds recovers.

3. The Settlement Agreement should be approved under Bankruptcy Rule 9019 as being fair, equitable, and in the best interests of the bankruptcy estate, its creditors, and other parties-in-interest.

JURISDICTION AND VENUE

4. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. § 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

STATUTORY BASIS FOR RELIEF

5. The basis for granting the requested relief is Bankruptcy Rule 9019.

6. Pursuant to Local Rule 9013-1(f), the Liquidating Trust and Eversheds consent to the entry of a final order with respect to the Motion.

BACKGROUND

7. On March 7, 2021, the Debtor filed for bankruptcy. On April 6, 2021, the Debtor filed an application to retain Eversheds as special counsel (the “Retention Application”).⁴ On May 17, 2021, the Court entered an order approving the Retention Application pursuant to section 327(e) of the Bankruptcy Code.

8. On October 18, 2021, the Court entered order confirming the Plan, which went effective on the same day. On December 1, 2021, Eversheds filed its final fee application (the “Final Fee Application”), seeking fees in the amount of \$2,715,049.00 and expenses of \$568,570.50 for a total of \$3,283,619.50. On January 26, 2022, the Bankruptcy Court entered the amended omnibus final fee order (the “Amended Omnibus Final Fee Order”) approving the Final Fee Application.⁵ The Amended Omnibus Final Fee Order awarded Eversheds an administrative claim in the amount \$2,080,055.19 (the “Final Fee Award”).⁶

9. On January 23, 2023, the Liquidating Trust filed the Motion to Vacate. On February 13, 2023, Eversheds filed its objection to the Motion.⁷ On September 18, 2023, the Liquidating Trust filed its *Motion to Supplement in Support of its Motion to Vacate* (the Motion to Supplement).⁸

⁴ Docket No. 87.

⁵ Docket No. 610.

⁶ Eversheds received a payment from an insurance carrier after it filed its Final Fee Application, reducing the amount owed.

⁷ Docket No. 617.

⁸ Docket No. 672.

10. In the Motion to Supplement, the Liquidating Trust alleged that Eversheds sought payment from the estate in the Final Fee Application for legal services performed on behalf of Medley Management, Inc. and on behalf of several of the former directors and officers of Medley Management, Inc..

11. Specifically, on October 14, 2022, Eversheds sent a letter to Travelers Casualty and Surety Company of America (the “Coverage Letter”).⁹ In the Coverage Letter, Eversheds asserted it was owed \$3,493,386.21 for legal services rendered to Medley Management, Inc., the Debtor, Brook Taube, Seth Taube, Jeffrey Tonkel, John Fredericks, Samuel Anderson and Richard Allorto equally, thus resulting in \$436,673.28 that was owed from the Debtor:

Eversheds represented Medley Management and Medley LLC from day one, and each of Brook Taube, Seth Taube, Jeffrey Tonkel, John Fredericks, Samuel Anderson and Richard Allorto from the time each was subpoenaed for testimony . . . with no one client being “primary” over another. . . . Our fees totaling \$3,493,386.21 . . . should therefore be viewed as incurred by each Respondent equally, resulting in an allocated amount of \$436,673.28 per Respondent . . . Travelers should also issue payment to our firm of at least 25% of the properly allocated portion of Medley LLC fees of \$436,673.28.¹⁰

A. The Proposed Settlement

12. After filing the Motion to Vacate and the Motion to Supplement, the Liquidating Trust engaged in negotiations that resulted in the Settlement Agreement. The Settlement Agreement contains the following provisions:

- a. The Liquidating Trust shall withdraw the Motion to Vacate with prejudice;
- b. Eversheds shall reduce the Final Fee Award to \$436,673.28 (the “Revised Final Fee Award”);

⁹ See Exhibit A to Motion to Supplement.

¹⁰ See *id.*

- c. The Revised Final Fee Award is the most that Eversheds can recover from the Debtor's estate;
- d. Eversheds agrees to make a formal written demand against the Debtor's insurers on or before October 20, 2023. In the event that demand does not lead to a resolution between Eversheds and the Debtor's insurers, Eversheds agrees it will file a lawsuit to collect from the Debtor's insurers on or before March 29, 2024.
- e. The Liquidating Trust shall receive a dollar-for-dollar credit against the Revised Final Fee Award for every dollar Eversheds recovers from the Debtor's insurers.

LEGAL ARGUMENT

A. Standard for Bankruptcy Rule 9019

13. Pursuant to Bankruptcy Rule 9019(a), the Court, after appropriate notice and a hearing, may approve a compromise or settlement so long as the proposed settlement is fair, reasonable, and in the best interest of the estate.¹¹ Compromises are favored in bankruptcy to “minimize litigation and expedite the administration of a bankruptcy estate.”¹² “Ultimately, the decision whether or not to approve a settlement agreement lies within the sound discretion of the Court.”¹³

14. The Third Circuit applies a four-factor balancing test under which proposed settlements are analyzed. These factors are: (1) the probability of success in litigation; (2) the

¹¹ See Fed. R. Bankr. P. 9019(a); *In re Marvel Entm't Group, Inc.*, 222 B.R. 243, 249 (D. Del. 1998) (“[T]he ultimate inquiry [is] whether ‘the compromise is fair, reasonable, and in the interest of the estate.’”) (citation omitted); *In re Northwestern Corp.*, No. 03-12872, 2008 WL 2704341, *6 (Bankr. D. Del. July 10, 2008) (“[T]he bankruptcy court must determine whether the compromise is fair, reasonable, and in the best interests of the estate.”) (citation omitted); *In re Key3Media Group, Inc.*, 336 B.R. 87, 92 (Bankr. D. Del. 2005) (“[T]he bankruptcy court has a duty to make an in-formed, independent judgment that the compromise is fair and equitable.”).

¹² *Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996); see also *Will v. Northwestern Univ. (In re Nutraquest, Inc.)*, 434 F.3d 639, 644 (3d Cir. 2006) (“[s]ettlements are favored [in bankruptcy]”); *In re Adelpia Commc'n Corp.*, 361 B.R. 337, 348 (Bankr. D. Del. 2007) (same).

¹³ *In re Nortel Networks, Inc.*, 522 B.R. 491, 510 (Bankr. D. Del. 2014).

likely difficulties in collection; (3) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (4) the paramount interest of the creditors.¹⁴ Consideration of these factors requires the Court to make an objective, informed comparison of the results of litigation versus the benefits of compromise.¹⁵ A settlement need not be the best possible compromise, but only that it falls “within the reasonable range of litigation possibilities somewhere above the lowest point in the range of reasonableness.”¹⁶

B. The Probability of Success In Litigation

15. To prevail on the Motion to Vacate, the Liquidating Trust would need to establish that Eversheds engaged in a misrepresentation or other misconduct in connection with the Final Fee Application, and that this conduct “prevented the moving party from fully and fairly presenting his case.”¹⁷ While the Liquidating Trust believes it could have proved Eversheds’ misrepresentation and misconduct, Eversheds contested these assertions, creating risk on vacating the entire Final Fee Award. Additionally, even if the Liquidating Trust was successful, Eversheds may have been entitled to file a revised fee application for \$436,673.28 —the amount Eversheds has alleged was the Debtor’s allocated amount of legal fees. As such, the litigation risk and possible ultimate outcome supports reducing the Final Fee Award to the Revised Final Fee Award.

¹⁴ *In re Martin*, 91 F.3d at 393.

¹⁵ *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry Inc. v. Anderson*, 390 U.S. 414, 424 (1968).

¹⁶ *In re Nutritional Sourcing Corp.*, 398 B.R. 816, 833 (Bankr. D. Del. 2008); *see also In re W.R. Grace & Co.*, 475 B.R. 34, 77–78 (Bankr. D. Del. 2012) (“In analyzing the compromise or settlement agreement under the Martin factors, courts should not have a ‘mini-trial’ on the merits, but rather should canvass the issues and see whether the settlement falls below the lowest point in the range of reasonableness.”).

¹⁷ *Stridiron v. Stridiron*, 698 F.2d 204, 207 (3d Cir. 1983).

C. Difficulties in Collection

16. The Motion to Vacate does not seek to collect any amount from Eversheds but instead seeks to vacate the Amended Omnibus Fee Order as it pertains to Eversheds. If the Liquidating Trust prevails on the Motion to Vacate, Eversheds would likely appeal any order by the Court, which would further delay the administration of the estate. Given this possibility, this factor supports approving the Settlement Agreement.¹⁸

D. Complexity, Expense, and Delay of Litigation

17. The Liquidating Trust would face a complex, lengthy, and expensive process in prosecuting the Motion to Vacate. The Motion to Vacate raises difficult questions of fact concerning the Debtor's corporate governance and complex enterprise. Fact issues would require a voluminous discovery record and fact witnesses. These questions would require a lengthy, expensive trial. Accordingly, this factor supports approving the Settlement Agreement.

E. Paramount Interest of Creditors

18. The Liquidating Trust believes that the paramount interest of creditors would be served by the Settlement Agreement. The Settlement Agreement would avoid substantial costs, delays, and risks of litigating against Eversheds and also reduces a substantial administrative claim against the estate.

NOTICE

19. The Liquidating Trust has provided notice of this Motion to the following parties: (a) the United States Trustee for the District of Delaware; (b) counsel to Eversheds; and

¹⁸ See, *In re Key3Media Grp.*, 336 B.R. 87, 97 (Bankr. D. Del. 2005) (noting how “collection of a judgment could be further delayed by the potential for appeal by the Defendant” in weighing the “difficulties in collection” factor), *aff'd*, No. 03-10323, 2006 WL 2842462 (D. Del. Oct. 2, 2006).

(c) all parties entitled to notice under Federal Rule of Bankruptcy Procedure 2002. In light of the relief requested in the Motion, the Liquidating Trust submits that no other or further notice is necessary.

CONCLUSION

WHEREFORE, the Liquidating Trust respectfully requests that the Court grant the Motion, and provide for such other and further relief as the Court deems appropriate.

Dated: October 26, 2023
Wilmington, Delaware

Respectfully submitted,

/s/ Sameen Rizvi

Christopher M. Samis (No. 4909)
Sameen Rizvi (No. 6902)
POTTER ANDERSON & CORROON LLP
1313 N. Market Street, 6th Floor
Wilmington, Delaware 19801
Telephone: (302) 984-6000
Facsimile: (302) 658-1192
Email: csamis@potteranderson.com
srizvi@potteranderson.com

-and-

James S. Carr, Esq. (admitted *pro hac vice*)
Sean T. Wilson, Esq. (admitted *pro hac vice*)
KELLEY DRYE & WARREN LLP
3 World Trade Center
175 Greenwich Street
New York, New York 10007
Telephone: (212) 808-7800
Facsimile: (212) 808-7897
Email: jcarr@kelleydrye.com
swilson@kelleydrye.com

Counsel for the Liquidating Trust

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

In re:

Medley LLC,¹

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

Hearing Date: November 14, 2023 at 3:00 p.m. (ET)

Objection Deadline: November 7, 2023 at 4:00 p.m. (ET)

**NOTICE OF MEDLEY LLC LIQUIDATING TRUST'S MOTION
PURSUANT FEDERAL RULE OF BANKRUPTCY PROCEDURE 9019
TO APPROVE SETTLEMENT WITH EVERSHEDES SUTHERLAND (US) LLP**

PLEASE TAKE NOTICE that the Medley LLC Liquidating Trust (the "Liquidating Trust") established in the above-referenced case filed the *Medley LLC Liquidating Trust's Motion Pursuant to Federal Rule of Bankruptcy Procedures 9019 to Approve Settlement with Eversheds Sutherland (US) LLP* (the "Motion").

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion must be in writing, filed with the Clerk of the Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801 and served upon and received by the undersigned counsel on or before **November 7, 2023 at 4:00 p.m. (ET)** (the "Objection Deadline").

PLEASE TAKE FURTHER NOTICE that, if any objections or responses are received, a hearing with respect to the Motion will be held on **November 14, 2023 at 3:00 p.m. (ET)** before The Honorable Karen B. Owens, United States Bankruptcy Judge, at the Court, 824 Market Street, 6th Floor, Courtroom No. 3, Wilmington, Delaware 19801.

¹ The Debtor's current mailing address is c/o Medley LLC Liquidating Trust, c/o Saccullo Business Consulting, LLC, 27 Crimson King Drive, Bear, DE 19701.

IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: October 26, 2023
Wilmington, Delaware

Respectfully submitted,

/s/ Sameen Rizvi

Christopher M. Samis (No. 4909)

Sameen Rizvi (No. 6902)

POTTER ANDERSON & CORROON LLP

1313 N. Market Street, 6th Floor

Wilmington, Delaware 19801

Telephone: (302) 984-6000

Facsimile: (302) 658-1192

Email: csamis@potteranderson.com

srizvi@potteranderson.com

-and-

James S. Carr, Esq. (admitted *pro hac vice*)

Sean T. Wilson, Esq. (admitted *pro hac vice*)

KELLEY DRYE & WARREN LLP

3 World Trade Center

175 Greenwich Street

New York, New York 10007

Telephone: (212) 808-7800

Facsimile: (212) 808-7897

Email: jcarr@kelleydrye.com

swilson@kelleydrye.com

Counsel for the Liquidating Trust

EXHIBIT A

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

In re:

Medley LLC,¹

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

Re: Docket No. ____

**ORDER GRANTING MEDLEY LLC LIQUIDATING TRUST'S MOTION
PURSUANT FEDERAL RULE OF BANKRUPTCY PROCEDURE 9019
TO APPROVE SETTLEMENT WITH EVERSHEDES SUTHERLAND (US) LLP**

Upon the Motion (the "Motion")² of Saccullo Business Consulting, LLC, in its capacity as trustee of the Medley LLC Liquidating Trust for Medley LLC, for entry of an order, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, seeking approval of the settlement attached hereto as **Exhibit 1**; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S. C. §§ 157 and 1334; and consideration of the Motion 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 Motion having being provided to the parties identified in the Certificate of Service filed with the Motion, and it appearing that no other or further notice need be provided; and the Court having considered the objections, if any, filed in opposition of the Motion; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtor, its creditors, the estate, and all parties in interest; and the Court having determined that the legal

¹ The Debtor's current mailing address is c/o Medley LLC Liquidating Trust, c/o Saccullo Business Consulting, LLC, 27 Crimson King Drive, Bear, DE 19701.

² Capitalized terms not defined herein are defined in the Motion.

and factual basis set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceeding had before the Court and after due deliberation and sufficient cause appearing therefore, **IT IS HEREBY ORDERED THAT:**

1. Pursuant to Bankruptcy Rule 9019, the Motion is GRANTED.
2. The settlement agreement attached hereto **Exhibit 1** and incorporated by reference and made part of this Order as if fully set forth herein.
3. This Court shall retain jurisdiction to hear and determine all matters arising from or related to implementation, interpretation and/or enforcement of this Order.

EXHIBIT 1

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

In re:

MEDLEY LLC,¹

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

**SETTLEMENT STIPULATION BETWEEN MEDLEY LLC LIQUIDATING TRUST
AND EVERSHEDES SUTHERLAND (US) LLP**

Medley LLC Liquidating Trust (the “**Liquidating Trust**”) and Eversheds Sutherland (US) LLP (“**Eversheds**”, together with the Liquidating Trust, the “**Parties**,” and each individually, a “**Party**”), hereby stipulate and agree (this “**Stipulation**”) to the following:

RECITALS

WHEREAS, on March 7, 2021 (the “**Petition Date**”), the Debtor commenced a voluntary case (the “**Chapter 11 Case**”) under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”);

WHEREAS, on April 6, 2021, the Debtor filed an application to retain Eversheds as special counsel (the “**Retention Application**”) [Docket No. 87] pursuant to section 328(a) and 327(e) of the Bankruptcy Code;

WHEREAS, on May 17, 2021 the Bankruptcy Court entered an Order Retaining Eversheds Sutherland (US) LLP as Special Counsel to the Debtor (the “**Retention Order**”) [Docket No. 167];

¹ Debtor’s current mailing address is c/o Medley LLC Liquidating Trust, c/o Saccullo Business Consulting, LLC, 27 Crimson King Drive, Bear, DE 19701.

WHEREAS, on October 18, 2021, the Court entered an Amended Order confirming the Debtor’s liquidation plan (the “**Plan**”) [Docket No. 445], which went effective on the same day (the “**Effective Date**”) [Docket No. 449]. Among other things, the Plan provided for the creation of the Liquidating Trust to liquidate remaining estate assets and pursue potential claims and causes of action. All estate assets, including avoidance actions, were transferred to the Liquidating Trust on the Effective Date;

WHEREAS, on December 1, 2021, Eversheds filed its final fee application (the “**Final Fee Application**”) [Docket No. 515];

WHEREAS, on January 26, 2022, the Bankruptcy Court entered the Amended Omnibus Final Fee Order awarding the Final Fee Applications (the “**Amended Omnibus Final Fee Order**”) [Docket No. 569]. The Amended Omnibus Final Fee Order awarded Eversheds an administrative claim in the amount \$2,080,055.19;

WHEREAS, on January 23, 2023, the Liquidating Trust filed Medley LLC Liquidating Trust’s Motion Pursuant to Federal Rule of Civil Procedure 60(b) to Vacate (i) the Order Retaining Eversheds Sutherland (US) LLP, and (ii) that Portion of the Amended Omnibus Order Awarding the Final Fee Application to Eversheds Sutherland (US) LLP (the “**Motion to Vacate**”) [Docket No. 610];

WHEREAS, on February 13, 2023, Eversheds filed Eversheds Sutherland (US) LLP’s Response in Opposition to Medley LLC Liquidating Trust’s Motion Pursuant to Federal Rule of Civil Procedure 60(b) to Vacate Two Orders (the “**Response**”) [Docket No. 617];

WHEREAS, on September 18, 2023, the Liquidating Trust filed Medley LLC Liquidating Trust’s Supplement in Support of its Motion Pursuant Federal Rule of Civil Procedure 60(b) to Vacate (i) the Order Retaining Eversheds Sutherland (US) LLP, and (ii) that Portion of the

Amended Omnibus Order Awarding the Final Fee Application to Eversheds Sutherland (US) LLP (the “**Supplement**”) [Docket No. 672];

WHEREAS, after arm’s length negotiations, the Parties have reached an agreement on the terms of a settlement, as set forth in this Stipulation and subject to the Bankruptcy Court’s approval, to resolve, among other things, the Motion to Vacate;

NOW THEREFORE, in consideration of the promises, agreements, and covenants contained herein, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

STIPULATION

1. Each of the Recitals set forth above is incorporated herein by reference.
2. The Motion to Vacate has been resolved and shall be withdrawn with prejudice by the Liquidating Trust.
3. Eversheds shall pursue the Debtor’s insurers for the entire amount of its post-petition fees and expenses.
4. Eversheds has agreed to reduce the final fee award it was granted in the Amended Omnibus Final Fee Order to \$436,673.28 (the “**Revised Final Fee Award**”). The Revised Final Fee Award is the most that Eversheds can seek to collect directly from the Debtor’s estate.
5. Eversheds agrees to make formal written demand against the Debtor’s insurers on or before October 20, 2023. In the event the written demand does not lead to a resolution between Eversheds and the Debtor’s insurers, Eversheds agrees it will file a lawsuit to collect from the Debtor’s insurers on or before March 29, 2024 (the “**Insurance Lawsuit**”).
6. The Liquidating Trust shall receive a dollar-for-dollar credit against the Revised Final Fee Award for every dollar Eversheds recovers from the Debtor’s insurers (the “**Credit**”).

while the Liquidating Trust remains open. Notwithstanding the Credit set forth above, to the extent the Liquidating Trust is closed prior to the Insurance Lawsuit being finally resolved, the Liquidating Trust shall pay the Revised Final Fee Award to Eversheds, and the Credit will be forfeited by the Liquidating Trust.

7. This Stipulation shall become effective on the date upon which all of the following have occurred: (a) this Stipulation has been executed by the Parties; and (b) the Bankruptcy Court has entered a final, non-appealable order which has not been stayed authorizing and approving this Stipulation (such date, the “**Settlement Effective Date**”).

8. Within five business days of the Parties’ execution of this Stipulation, the Liquidating Trust shall move for approval of this Stipulation by the Bankruptcy Court pursuant to Bankruptcy Rule 9019.

9. This Stipulation, the Revised Final Fee Award, and all negotiations, statements, and proceedings in connection herewith shall not be deemed to be evidence of, an admission of, or concession of any liability or wrongdoing by either Party, and shall not be offered or received in any action or proceeding (except an action to enforce this Stipulation), or be used in any way as an admission, concession, or evidence of any liability or wrongdoing of any nature by either Party. This Stipulation involves the settlement of disputed claims, and nothing contained in this Stipulation shall be construed as an admission by any Party. Pursuant to Federal Rule of Evidence 408 and any applicable state rules of evidence, this Stipulation shall not, and no negotiations relating to this Stipulation shall be, admissible into evidence in any proceeding, including the adversary proceeding pending against Eversheds in the Chapter 11 Case (Adversary Proceeding # No. 23-50121), other than to prove the existence of this Stipulation or in a proceeding to enforce the terms of this Stipulation.

10. The Parties represent and warrant to each other that the signatories to this Stipulation have the full power and authority to enter into this Stipulation on behalf of their respective clients or Parties and have had an opportunity to review the Stipulation with counsel of their choosing.

11. This Stipulation shall be governed by and construed in accordance with the Bankruptcy Code and the laws of the State of Delaware, without regard to the conflict of laws principles thereof. The Bankruptcy Court shall retain exclusive jurisdiction over any disputes arising out of or otherwise relating to this Stipulation and the Parties acknowledge and consent to the exclusive jurisdiction of the Bankruptcy Court with respect to all matters relating to the interpretation and enforcement of the terms of this Stipulation.

12. This Stipulation contains the entire agreement between the Parties and supersedes any prior agreements and understandings, written or oral, between the Parties pertaining to the subject matter hereof. No modification of this Settlement shall be binding or enforceable unless in writing and signed by the Parties. The Parties acknowledge that this Stipulation was the product of negotiations between them and that any rule of construction that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Stipulation. The invalidity or unenforceability of any provision of this Stipulation shall not affect the validity or enforceability of any one or more of the other provisions.

13. This Stipulation shall survive any dismissal of the Case, conversion of the Case to a case under chapter 7 of the Bankruptcy Code, or confirmation and consummation of any chapter 11 plan in the Case, and shall be binding on (a) any trustee appointed in this Case at any time, whether pursuant to a plan or any chapter of the Bankruptcy Code, including without limitation any chapter 7 trustee, (b) any successor of the Debtor or the Liquidating Trustee, (c) any person

claiming by, through, under right of or on behalf of the Debtor or its estate; and (d) all creditors of the Debtor. Any reference herein to the "Debtor" shall include any chapter 7 trustee or successor to the Debtor or its estate following conversion or dismissal of this Case.

14. This Stipulation may be executed in multiple counterparts, any of which may be transmitted electronically, and each of which should be deemed an original and all of which together shall constitute one and the same instrument. The signatories hereto may execute this Stipulation by digital signature or other electronic means in lieu of an ink signature.


15. Each of the Parties hereto shall be solely responsible for their respective legal fees and costs in connection with this matter.

WHEREFORE, the undersigned have executed and delivered this Stipulation on behalf of the Parties as of the date first written above.

MEDLEY LLC LIQUIDATING TRUST

EVERSHEDS SUTHERLAND (US) LLP

By:



By:



Partner & General Counsel