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Proposed Attorneys for the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

<p>In re: PolarityTE, Inc., a Delaware corporation Debtor</p>	<p>Case No. 23-bk-22358-KRA Case No. 23-bk-22360-KRA Case No. 23-bk-22361-KRA</p>
<p>In re: PolarityTE, MD Inc., a Nevada corporation Debtor</p>	<p>Chapter 11 Judge Kevin R. Anderson</p>
<p>In re: PolarityTE, Inc., a Nevada corporation Debtor</p>	<p>THIS DOCUMENT RELATES TO ALL DEBTORS¹</p>

**DEBTORS' APPLICATION FOR ORDER AUTHORIZING THE
EMPLOYMENT AND RETENTION OF ROCKY MOUNTAIN
ADVISORY, LLC AS ACCOUNTING AND FINANCIAL ADVISORS**

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are PolarityTE, Inc. (9524); PolarityTE MD, Inc. (1555); and PolarityTE, Inc. (6882). The location of the Debtors' service address is 1960 S. 4250 W., Salt Lake City, UT 84104.



By this motion (the “**Motion**”), the above captioned debtors and debtors in possession (the “**Debtors**”), hereby file this application (the “**Application**”) for entry of an order, substantially in the form attached as Exhibit A hereto, authorizing the retention and employment of Rocky Mountain Advisory, LLC (“**RMA**”) as accounting and financial advisors in the Debtors’ chapter 11 cases.

This Application is supported by the Declaration of John H. Curtis in Support of the Application (the “**Curtis Declaration**”), filed concurrently herewith, and incorporated herein by reference, and the entire record before the Court in these Chapter 11 Cases, the arguments of counsel, and other admissible evidence properly brought before the Court at or before the hearing on this Application.

I. JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are sections 327(a) and 328(a) of title 11 of the United States Code (the “**Bankruptcy Code**”) and rule 2014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

II. RELIEF REQUESTED

4. By this Application, the Debtors request entry an order, substantially in the form attached hereto as Exhibit A, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code authorizing the Debtors to employ and retain RMA as accounting and financial advisors in the Debtors’ chapter 11 cases.

III. GENERAL BACKGROUND

5. Debtors PolarityTE MD, Inc., a Nevada corporation (1555) (“**PTE MD**”); and PolarityTE, Inc., a Nevada corporation (6882) (“**PTE NV**”), are wholly owned subsidiaries of PolarityTE, Inc. (9524) (“**PTE**”), a Delaware corporation and publicly traded company.

The Debtors are a clinical stage biotechnology company with a promising product, SkinTE (“**SkinTE**”). SkinTE is a human cellular and tissue-based product derived and grown from a patient’s own skin to regenerate full-thickness skin with all of its layers (epidermis, dermis and hypodermis) and appendages (hair follicles and glands). SkinTE has been used to treat complex wounds, including both acute and chronic wounds, and can be used in addition to and/or in place of split-thickness skin grafting, full-thickness grafting, temporizing skin coverage and/or skin substitute products.

6. Previously the Debtors were selling SkinTE under the U.S. Food and Drug Administration’s (“**FDA**”) 361 HCT/P pathway governed by 21 C.F.R. 1271. SkinTE was earning revenue, which partially offset its operating expenses. However, based on FDA guidance, since May 2021, the Debtors have been conducting the first of two more-rigorous clinical trials under the FDA’s 351 Biologic pathway, from which they derive no revenue. On this pathway, the Debtors will not be generating revenue again until obtaining FDA approval, which it anticipates in 2026.

7. The Debtors cannot suspend their current clinical trial regime without jeopardizing FDA approval. But the Debtors are unable to continue to fund the clinical trials and will shortly run out of cash.

8. Rather than abandon the clinical trials and their promising product, on June 6, 2023 (the “**Petition Date**”), each of the Debtors filed a petition for relief under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”) in the United States Bankruptcy Court for the

District of Utah (the “**Bankruptcy Court**”). The Debtors will seek to sell their assets, including the ongoing clinical trials, to the highest bidder who can maximize the value of the assets and, presumably, will have funding to allow the clinical trials to go forward and eventually monetize the SkinTE product. Without this relief, the Debtors will be forced to close the clinical trials due to lack of funding, which will greatly reduce the potential value of their assets and delay, perhaps for years, the availability of the SkinTE product.

9. Additional information about the Debtors and their business and the facts and circumstances leading to the filing of the petition for relief are set forth in the Declaration of Richard Hague in Support of Chapter 11 Petition and First Day Motions (the “**First Day Declaration**”) filed on the Petition Date. Additional facts specific to the Motion are set forth below.

IV. BACKGROUND SPECIFIC TO THE MOTION

A. Services to Be Provided

10. The Debtors seek authority under sections 327(a) and 328(a) of the Bankruptcy Code to employ and retain RMA as their its accountant and financial advisor in connection with Debtors’ Chapter 11 Cases, and to pay RMA’s customary hourly rates. **All compensation will be subject to prior approval of this Court under section 330 of the Bankruptcy Code.** RMA will perform accounting and financial advisor services to the Debtors (collectively, the “**Services**”), including, as reasonably requested:

- (a) preparing financial disclosures;
- (b) assist with the prosecuting of any avoidance actions;
- (c) assist Debtors and their counsel in determining, litigating, and settling claims;
- (d) assist the Debtors with the preparation of monthly operating reports;

(e) assist the Debtors with their liquidity, financial, operational and strategic planning including aiding Debtors and their Counsel in the development their Chapter 11 Cases and strategies therein;

(f) assist the Debtors with the preparations of a Liquidation Analysis;

(g) assist in the development and negotiations of a plan of liquidation of the Debtors;

(h) assist the Debtors in administration of the bankruptcy filings;

(i) provide support in the development of a cash flow budget or other operational budgets and forecasts as requested; and

(j) preparation of tax returns and other tax work as needed.

11. The Debtors believe that RMA, a professional restructuring and financial advisory firm, possesses the requisite knowledge and expertise to provide these services. RMA has stated its desire and willingness to act in this capacity in this case and render the necessary professional services as restructuring advisor for the Debtors.

B. Terms of Engagement

12. RMA has agreed to charge its standard hourly rates and estimates that the fees for the Services will be charged at its customary hourly rates plus reimbursement of any reimbursable expenses. The terms and conditions of RMA's employment are set forth in the Engagement Agreement (the "**Engagement Agreement**"), attached as Exhibit B hereto.

C. Disinterestedness of RMA Under Bankruptcy Rule 2014

13. To the best of the Debtors' and RMA's knowledge, RMA does not have any connection with, or any interest adverse to, the Debtors, their creditors, or any other party in interest, or their respective attorneys and accountants.

14. In addition, to the best of the Debtors' and RMA's knowledge and information, RMA has no connection to any employee of the Office of the United States Trustee for the District of Utah (the "U.S. Trustee") or the Office of the Clerk of the United States Bankruptcy Court for the District of Utah.

15. The Debtors submit that RMA is a "disinterested person," as such term is defined in section 101(14) of the Bankruptcy Code as modified by section 1107(b) of the Bankruptcy Code.

D. Proposed Compensation of RMA

16. The Debtors request that all fees and related costs and expenses incurred by the Debtors on account of services rendered by RMA in the Chapter 11 cases be paid as administrative expenses of the estates pursuant to sections 328, 330(a), 331, 503(b), and 507(a)(1) of the Bankruptcy Code.

17. It is RMA's practice to perform its duties in the most prudent and efficient manner possible, and to use the associates that are best suited to do so at the most reasonable cost. In fulfilling its responsibilities, RMA may call upon other associates to assist as necessary, at their prevailing rates. The rates for the professionals likely to perform services in this case are as follows:

<u>Professional</u>	<u>Rate</u>
Managing Members	\$345
Directors	\$280
Managers	\$265
Senior Associates	\$250
Associates	\$240
Paraprofessionals	\$165
Administrative Staff	\$100

18. RMA will use and bill out other associates as necessary at their prevailing hourly rates. The Debtors believe that these rates are consistent with market rates for comparable services from comparable professionals.

19. The Debtors understand that RMA is customarily reimbursed for all expenses incurred in connection with work performed on behalf of a client in a given matter, including, without limitation, travel expenses, photocopying services, printing, delivery charges, filing fees, postage, and certain other customary expenses, and that RMA will apply for reimbursement of these expenses in this case also. RMA will maintain a record of actual and necessary costs and expenses incurred in connection with the services described above.

V. BASIS FOR RELIEF

A. Retention of RMA

20. The Debtors believe that RMA possesses extensive knowledge and expertise in the areas relevant to the Services, and that RMA is well qualified to perform the Services in this chapter 11. RMA provides a broad range of consulting and advisory services to its clients pertaining to, among other things, (a) general financial advice, (b) asset sales within the context of bankruptcy, and (c) DIP financing. RMA also has extensive experience in advising financially distressed companies.

21. By this Application, the Debtors request authority to employ RMA under section 327(a) of the Bankruptcy Code to perform the Services, and such other bankruptcy- and non-bankruptcy-related services as may be incidental thereto and that are requested by the Debtors with respect to this case.

22. The Debtors respectfully submit that it is necessary and appropriate for it to employ and retain RMA under section 327(a) of the Bankruptcy Code to provide the Services.

23. RMA has stated its desire and willingness to act in this case and render the Services as requested by the Debtors.

VI. AUTHORITY AND REQUEST FOR RELIEF

Under section 328(a) of the Bankruptcy Code, a debtor may retain professionals on any reasonable terms and conditions. The Debtors submit that the terms set forth in the Engagement Agreement and the rates charged by RMA to the Debtors and RMA's other clients in a competitive market are reasonable terms and conditions. The Debtors need the Services provided by RMA to successfully navigate Chapter 11, complete the proposed sale, and comply with the disclosure requirements in their Chapter 11 Cases. Accordingly, it is reasonable, necessary, and appropriate for the Debtors to employ RMA under the terms set forth in the Engagement Agreement to render the Services. RMA has stated its desire and willingness to act in these Chapter 11 Cases and render the Services to the Debtors. Thus, the Debtors seek approval as set forth in the Order to retain RMA after proper notice and a hearing no sooner than 21 days after the Petition Date. Bankruptcy Rule 6003(a)

VII. CONCLUSION

WHEREFORE, for the reasons set forth herein, the Debtors respectfully request that the Court grant the Application and enter the Order attached as Exhibit A after holding a hearing no sooner than 21 days after the Petition Date. Bankruptcy Rule 6003(a).

DATED June 6, 2023.

PARSONS BEHLE & LATIMER

/s/ Brian M. Rothschild

J. Thomas Beckett
Brian M. Rothschild
Darren Neilson

Proposed Attorneys for the Debtors

Exhibit A

Proposed Order

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Brian M. Rothschild, USB #15316
Darren Neilson, USB #15005
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Salt Lake City, Utah 84111
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re: PolarityTE, Inc., a Delaware corporation Debtor	Case No. 23-bk-22358-KRA Case No. 23-bk-22360-KRA Case No. 23-bk-22361-KRA
In re: PolarityTE, MD Inc., a Nevada corporation Debtor	Chapter 11 Judge Kevin R. Anderson
In re: PolarityTE, Inc., a Nevada corporation Debtor	THIS FILING RELATES TO ALL DEBTORS¹

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are PolarityTE, Inc. (9524); PolarityTE MD, Inc. (1555); and PolarityTE, Inc. (6882). The location of the Debtors' service address is 1960 S. 4250 W., Salt Lake City, UT 84104.

**ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION
OF ROCKY MOUNTAIN ADVISORY, LLC AS ACCOUNTING AND
FINANCIAL ADVISORS TO THE DEBTORS**

Upon the application (the “**Application**”)² filed by the above-captioned debtors (the “**Debtors**”) for entry of an order authorizing the Debtors to retain and employ Rocky Mountain Advisory, LLC (“**RMA**”) as accounting and financial advisors to the Debtors to provide the services described in the Application; and the Court, having reviewed the Application and having heard the statements of counsel in support of the relief requested in the Application at the hearing before the Court (the “**Hearing**”), and upon the Court’s consideration of the Declaration of John H. Curtis in Support of the Application (the “**Curtis Declaration**”), and upon the record of the proceedings before this Court, and the Court finding that it has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334, that this is a core matter under 28 U.S.C. § 157(b)(2), that notice of the Application and the Hearing were sufficient under the circumstances and that no further notice need be given for the interim relief sought herein; and the Court having found and determined that the relief sought in the Application is in the best interests of the Debtors, their estates and creditors, and all parties in interest; and it appearing that the professionals of RMA who will perform services on behalf of the Debtors in these Chapter 11 Cases are duly qualified to perform the requested services; and the Court finding, based on the advisements made in the Application and the Curtis Declaration that RMA does not represent any interest materially adverse to the Debtors or the Debtors’ estates with respect to the matters upon which it is to be engaged, that it is a “disinterested person,” as that term is defined in section 101(14) of the

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Application.

Bankruptcy Code as modified by section 1107(b) of the Bankruptcy Code, that its employment is necessary and in the best interests of the Debtors' estate, and sufficient cause appearing,

THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. The Application to employ RMA in these Chapter 11 Cases is APPROVED under section 327(a) of the Bankruptcy Code.

2. The terms of the Engagement Agreement, attached as Exhibit B to the Application, are approved in their entirety.

3. RMA shall apply for compensation and reimbursement of costs pursuant to sections 330 and 331 of the Bankruptcy Code for services rendered and costs incurred on behalf of the Debtor.

4. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

5. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

6. The entry of this Order is without prejudice to the Debtors or RMA to request additional or different relief if warranted.

[END OF DOCUMENT]

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Exhibit B

Engagement Agreement



May 2, 2023

Mr. Bruce White
Parsons Behle & Latimer, PC
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111

RE: Polarity TE Inc. Restructuring

Dear Mr. White:

Purpose of Letter

Thank you for selecting us to assist you in the above captioned matter. This letter constitutes an agreement between Rocky Mountain Advisory, LLC ("RMA" or "us" or "we"), Parsons Behle & Latimer, PC ("you") and Polarity TE Inc. ("your Client") under which we will provide advisory services and financial analyses in the above captioned matter. We expect to provide you and your Client with a report of our expert opinions in connection with this matter, if requested by you.

This firm will act as consultant only to you and your Client in connection with the matters described herein. We will not provide any consulting services to any of your Client's owners, officers, members, affiliates, creditors or any insiders. We shall have no duties of confidentiality to any persons other than you and your Client, and any work product that we produce shall be owned and controlled by your Client, and not any other persons.

We will be available for consultation, investigations, accounting, and other services in connection with this case.

Limitation of Distribution

The reports, data, worksheets, or other documents that we prepare in connection with this engagement will be submitted only to you unless you or a lawful court process directs us to do otherwise. Any report or working papers that we prepare in connection with this case are to be used only for this case. No other use, disclosure, or dissemination of them is to be made without our express written permission.

Conflicts of Interest

We performed an internal search for any potential conflicts of interest based upon the names of the parties that you have provided. We have not found any conflict of interest with respect to any of these parties.

Limitation of Responsibility

Our work will be performed in accordance with the Standards for Consulting Services issued by the American Institute of Certified Public Accountants. Although our work may involve analysis of financial statements, forecasts of future operations, or other accounting data, we will not audit, review, compile, or provide any form of assurance on them. Additionally, our engagement cannot be relied upon to disclose errors, irregularities, or illegal acts, including fraud or defalcations that may exist. You agree to indemnify us for any legal fees incurred by us as a result of false representations made to us by you.

Fees and Billing

Your Client will pay a retainer of \$20,000. The retainer is not intended to be an estimate for the total cost of the work to be performed. The retainer will be applied to the final bill for services or to interim bills, at our discretion, and additional retainer may be requested depending on the case. Our fees are based on the actual time spent at our standard hourly rates for this type of work, plus travel and other out-of-pocket costs such as report reproduction, industry reports, specialized software and database access, and other overhead expenses. They reflect the degree of

Mr. Bruce White
May 2, 2023
Page 2 of 3

responsibility assumed, complexity of the engagement, special skills needed to solve problems, and the value of services rendered. Our standard hourly rates vary according to the experience level of the personnel assigned to the engagement. Our current hourly rates are as follows:

<u>Professional</u>	<u>Rate</u>
Managing Members	\$345
Directors	\$280
Managers	\$265
Senior Associates	\$250
Associates	\$240
Paraprofessionals	\$165
Administrative Staff	\$100

Our rates are revised on an annual basis. Your Client is responsible for paying our fees. Invoices are due within 15 days of the invoice date. RMA reserves the right to stop work, not issue final or draft work product or testify with unpaid fees outstanding regardless of the status of your Client's case.

We reserve the right to resign from the engagement for any reason. Except to the extent finally determined to have resulted from our fraudulent behavior or willful misconduct, our maximum liability to you, for any reason, including our negligence relating to the services under this letter, shall be limited to the fees paid to us for the service or work product giving rise to liability.

Request for Signature

If this letter correctly expresses your understanding of our agreement, please sign the original copy of this letter and return it to us at your earliest convenience. When this letter has been returned, we will proceed forward on your behalf.

If you have any questions concerning the engagement, including any of the detailed contents of this letter, please contact John Curtis at (801) 428-1604.

Cordially,



John Curtis
Managing Member

ACKNOWLEDGED AND AGREED:

Polarity TE Inc.

Signature



President / CEO

Title

ACKNOWLEDGED AND AGREED:

Parsons Behle & Latimer, PC

Signature

Title

Mr. Bruce White
May 2, 2023
Page 3 of 3

PLEASE PROVIDE THE FOLLOWING INFORMATION FOR BILLING PURPOSES:

RMA will email invoices to the individuals below. Invoices will come directly from our billing system rather than from an individual at RMA. RMA's billing manager is Raani Ereksen and can be contacted at (801) 428-1618 or via email at rerekson@rockymountainadvisory.com.

Paying individual/organization information:

Direct Invoices to (Name): _____

Email Address: _____

Contact Phone Number: _____

Client Mailing Address: _____

If there are additional individuals (counsel, accounting, etc.) who should receive copies of the invoices for this engagement, please include their name and email address also.

Additional Recipient: _____

Email Address: _____

Additional Recipient: _____

Email Address: _____

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In PolarityTE, Inc., a Delaware corporation Debtor	re: Case No. 23-bk-22358-KRA Case No. 23-bk-22360-KRA Case No. 23-bk-22361-KRA
In PolarityTE, MD Inc., a Nevada corporation Debtor	re: Chapter 11 Judge Kevin R. Anderson
In PolarityTE, Inc., a Nevada corporation Debtor	THIS DOCUMENT RELATES TO ALL DEBTORS¹

**DECLARATION OF JOHN H. CURTIS IN SUPPORT OF
DEBTORS' APPLICATION FOR ORDER AUTHORIZING THE
EMPLOYMENT AND RETENTION OF ROCKY MOUNTAIN
ADVISORY, LLC AS ACCOUNTING AND FINANCIAL ADVISORS**

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are PolarityTE, Inc. (9524); PolarityTE MD, Inc. (1555); and PolarityTE, Inc. (6882). The location of the Debtors' service address is 1960 S. 4250 W., Salt Lake City, UT 84104.

John H. Curtis, being duly sworn, deposes and says:

1. I am a Managing Member of Rocky Mountain Advisory, LLC (“**RMA**”).
2. I am over the age of 18 and competent to testify as to the matters set forth herein.

The facts set forth herein are based upon my personal knowledge or upon my review of records and knowledge gained from other RMA personnel as applicable.

3. I submit this Declaration in support of the Application of the Debtors for an Order Authorizing the Employment and Retention of RMA as Financial Advisors (the “**Application**”), filed concurrently herewith, and to make certain disclosures required under Rule 2014 of the Federal Rules of Bankruptcy Procedure.

4. RMA maintains its principal offices at 215 South State, Suite 550, Salt Lake City, Utah 84111.

5. In connection with my responsibilities under Rule 2014 of the Federal Rules of Bankruptcy Procedure, I assert that I am not aware of any "connections" that RMA has with the foregoing parties.

6. To the best of my knowledge, RMA and I are “disinterested persons,” as defined in 11 U.S.C. § 101(14), and neither RMA nor I (i) has any connection with the Debtors, their creditors, any other party in interest, their respective advisors (including Parsons Behle & Latimer, the United States Trustee, or any person employed in the office of the United States Trustee, or (ii) hold or represent any interest adverse to the Debtors or their estates.

7. I will continue to monitor RMA’s and my own connections with parties in interest and our disinterestedness. If and when any other connections or issues pertaining to disinterestedness come to my attention, I will promptly supplement this declaration as required by Bankruptcy Rule 2019.

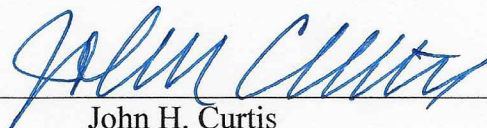
8. RMA and I represent no interest adverse to the Debtors or their estates in the matters upon which the RMA is to be engaged.

9. RMA hereafter intends to apply to the Court for allowance of compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the local rules and orders of this Court (the “**Local Rules**”), consistent with the Engagement Agreement and the Application, for all services performed for, and qualified reimbursable expenses incurred on behalf of, the Debtors by RMA.

10. No promises have been solicited or received by RMA or any of its employees as to any payment or compensation in connection with these cases other than in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and as described in the Engagement Agreement (as defined in the Application and referred to in the Engagement Agreement). RMA has no agreement with any other entity to share with such entity any compensation received by RMA.

I, John H. Curtis, hereby declare, under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

DATED June 6th, 2023.



John H. Curtis