

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

In re:

QLESS, INC.,

Debtor.

Chapter 11, Subchapter V

Case No. 24-11395 (BLS)

Hearing Date: July 19, 2024 at 10:30 a.m. (ET)
Objection Deadline: July 12, 2024 at 4:00 p.m. (ET)

**DEBTOR'S MOTION FOR ENTRY OF
AN ORDER (I) AUTHORIZING THE DEBTOR TO
RETAIN AND COMPENSATE PROFESSIONALS UTILIZED IN THE
ORDINARY COURSE OF BUSINESS AND (II) GRANTING RELATED RELIEF**

The above-captioned debtor and debtor in possession (the “**Debtor**”) respectfully states as follows in support of this motion (the “**Motion**”):

Relief Requested

1. The Debtor seeks entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Order**”): (a) authorizing, but not directing, the Debtor to retain and compensate the OCPs (as defined herein) on a postpetition basis pursuant to the procedures set forth herein (the “**OCP Procedures**”), without the need for each OCP to file a formal application for retention and compensation; and (b) granting related relief.

Jurisdiction and Venue

2. The United States District Court for the District of Delaware has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, which was referred to the United States Bankruptcy Court for the District of Delaware (the “**Court**”) under 28 U.S.C. § 157 pursuant to the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Debtor confirms its consent pursuant to Rule 9013-1(f) of the Local Rules of



Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”) to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

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

4. The statutory bases for the relief requested herein are sections 105(a), 327, 328, 330, and 363 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Local Rules 2002-1 and 9013-1.

Background

5. On June 19, 2024 (the “**Petition Date**”), the Debtor commenced this case (the “**Case**”) by filing a voluntary petition for relief under subchapter V of chapter 11 of the Bankruptcy Code. The Debtor is authorized to continue to operate its business and manage its properties as debtor in possession under section 1182(2) of the Bankruptcy Code.

6. Information regarding the Debtor’s business and capital structure, and the circumstances leading to this Case, is set forth in the *Declaration of James Harvey in Support of Chapter 11 Petition and First Day Relief* [Docket No. 9] (the “**First Day Declaration**”),¹ which is incorporated herein by reference.

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the First Day Declaration.

The Ordinary Course Professionals

7. The Debtor employs various attorneys, accountants, consultants, and other professionals (collectively, the “OCPs”) in the ordinary course of the Debtor’s business. The OCPs provide services for the Debtor in a variety of matters unrelated to this Case. A nonexclusive list of the Debtor’s current OCPs is attached as Exhibit 2 to the Order (the “OCP List”).²

8. The continued employment and compensation of the OCPs is in the best interests of the Debtor’s estate, creditors, and other parties in interest. The OCPs have significant knowledge, expertise, and familiarity with the Debtor and its operations. Although the Debtor anticipates that the OCPs will continue to represent the Debtor during this Case, many will not do so if the Debtor cannot pay them on a regular basis. The Debtor undoubtedly would incur additional and unnecessary expenses in educating and retaining replacement professionals without the knowledge, expertise, and familiarity that the OCPs have. Accordingly, the Debtor’s estate and its creditors are best served by avoiding any disruption in the professional services that are required to facilitate the administration of this Case. Moreover, in light of the costs associated with the preparation of employment applications for professionals who will receive relatively modest fees, it would be impractical, inefficient, and costly for the Debtor and its legal advisors to prepare and submit individual applications and proposed retention orders for each OCP.

9. The Debtor is not requesting authority to pay prepetition amounts owed to OCPs. Although some of the OCPs may hold unsecured claims against the Debtor relating to services rendered to the Debtor prepetition, the Debtor does not believe that any of the OCPs have an interest materially adverse to the Debtor, its creditors, or other parties in interest.

² The Debtor reserves the right to retain additional OCPs from time to time during this Case, as the need arises, by filing a list or lists of such additional professionals and complying with the notice requirements set forth in the OCP Procedures.

The OCP Procedures

10. The Debtor requests that the Court approve the following OCP Procedures for retention and payment of the OCPs:

- a. Within thirty days after the later of: (i) the date of entry of the Order; or (ii) the date on which an OCP commences work for the Debtor, such OCP shall file, or cause to be filed, a declaration of disinterestedness, substantially in the form attached as Exhibit 1 to the Order (each, a “**Declaration of Disinterestedness**”), with the Court and served upon: (a) proposed counsel to the Debtor, Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, Wilmington, Delaware 19801, Attn: James E. O’Neill (joneill@pszjlaw.com), Jeffrey N. Pomerantz (jpomerantz@pszjlaw.com), Jordan A. Kroop (jkroop@pszjlaw.com), Maxim B. Litvak (mlitvak@pszjlaw.com), and Greg V. Demo (gdemo@pszjlaw.com); (b) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Malcolm M. Bates (malcolm.m.bates@usdoj.gov); and (c) the subchapter V Trustee, David M. Klauder, Bielli & Klauder LLC, 1204 N. King Street, Wilmington, DE 19801 (dklauder@bk-legal.com) (collectively, the “**Notice Parties**”).
- b. Parties in interest shall have 14 days after the date of filing of each OCP’s Declaration of Disinterestedness (the “**Objection Deadline**”) to object to the retention of such OCP. The objecting party shall file any such objection and shall serve such objection upon the Notice Parties and the respective OCP on or before the Objection Deadline. If any such objection cannot be resolved within 14 days of its receipt, the matter shall be scheduled for hearing before the Court at the next regularly scheduled omnibus hearing date that is no less than 14 days from that date or on a date otherwise agreeable to the parties. The Debtor shall not be authorized to compensate such OCP until all outstanding objections have been withdrawn, resolved, or overruled by order of the Court.
- c. If no objection is received from any of the Notice Parties by the Objection Deadline with respect to any particular OCP, the Debtor shall be authorized, but not directed, to: (i) retain such OCP as of the date such OCP commenced providing services to the Debtor; and (ii) compensate such OCP as set forth below.
- d. The Debtor shall be authorized, but not directed, to pay, without formal application to the Court by any OCP, 100% of fees and disbursements to each of the OCPs retained by the Debtor pursuant to the OCP Procedures upon submission to the Debtor of an appropriate invoice setting forth in reasonable detail the nature of the services rendered after the Petition Date; *provided* that fees paid to each OCP set forth on Exhibit 2 to the Order, excluding costs and disbursements, may not exceed \$35,000 per month per OCP, calculated as an average over a rolling three-month period, while this Case is pending (the

“**OCP Monthly Cap**”), *provided, further*, that the total amount disbursed per quarter, for each OCP set forth on Exhibit 2 to the Order, does not exceed \$105,000 per OCP (the “**OCP Quarterly Cap**” and together with the OCP Monthly Cap, the “**OCP Caps**”).

- e. To the extent that fees payable to any OCP exceed the applicable OCP Cap, the OCP shall file a fee application (a “**Fee Application**”) with the Court for the amount in excess of the applicable OCP Cap pursuant to sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of the Court.
- f. The Debtor reserves the right to retain additional OCPs from time to time during this Case by including such OCPs on an amended version of the OCP List that is filed with the Court and served on the Notice Parties and having such OCPs comply with the OCP Procedures.

Basis for Relief

11. Section 327 of the Bankruptcy Code requires court approval for the employment of “professional persons” retained to represent or perform services for the estate. In determining whether an entity is a “professional” within the meaning of section 327 of the Bankruptcy Code and accordingly must be retained by express court approval, courts generally consider whether such entity is involved in the actual reorganization effort, rather than a debtor’s ongoing business operations. *See, e.g., Comm. of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 619 (Bankr. S.D.N.Y. 1986) (“[T]he phrase ‘professional persons,’ as used in § 327(a), is a term of art reserved for those persons who play an intimate role in the reorganization of a debtor’s estate.”). In making this determination, courts often consider the following factors in determining whether an entity is a “professional” within the meaning of section 327 of the Bankruptcy Code:

- a. whether the entity controls, manages, administers, invests, purchases, or sells assets that are significant to the debtor’s reorganization;
- b. whether the entity is involved in negotiating the terms of a plan of reorganization;

- c. whether the entity's employment is directly related to the type of work carried out by the debtor or to the routine maintenance of the debtor's business operations;
- d. whether the entity is given discretion or autonomy to exercise its own professional judgment in some part of the administration of the debtor's estate;
- e. the extent of the entity's involvement in the administration of the debtor's estate; and
- f. whether the entity's services involve some degree of special knowledge or skill, such that it can be considered a "professional" within the ordinary meaning of the term.

See, e.g., In re First Merchs. Acceptance Corp., No. 97-1500 (JJF), 1997 WL 873551, at *3 (D. Del. Dec. 15, 1997) (listing factors); *see also In re Am. Tissue, Inc.*, 331 B.R. 169, 174 (Bankr. D. Del. 2005) (applying the *First Merchants* factors and holding that a litigation consulting firm was not a "professional" for purposes of section 327 of the Bankruptcy Code as the litigation consulting firm "did not play a central or significant role in the overall administration of the [d]ebtors' estate"); *In re Riker Indus., Inc.*, 122 B.R. 964, 973 (Bankr. N.D. Ohio 1990) (finding that the fees of a management and consulting firm that performed only "routine administrative functions" and whose "services were not central to [the] bankruptcy case" did not require approval under section 327 of the Bankruptcy Code); *In re Fretheim*, 102 B.R. 298, 299 (Bankr. D. Conn. 1989) (noting that only those professionals involved in the "administration of the debtor's estate," rather than the debtor's ongoing business, require approval under section 327 of the Bankruptcy Code). The foregoing factors must be considered as a whole when determining if an entity is a "professional" within the meaning of section 327 of the Bankruptcy Code. None of the factors alone is dispositive. *See First Merchs.*, 1997 WL 873551, at *3 ("In applying these factors, the Court stresses that no one factor is dispositive and that the factors should be weighed against each other and considered in total.").

12. Upon consideration of all the factors, and because the OCPs will not be involved in the administration of this Case, the Debtor does not believe that the OCPs are “professionals” requiring formal retention proceedings under section 327 of the Bankruptcy Code. Instead, the OCPs will provide services in connection with the Debtor’s business operations, which services are ordinarily provided by non-bankruptcy professionals. Nevertheless, to provide clarity and an opportunity for oversight, the Debtor seeks the relief requested herein to establish clear mechanisms for retention and compensation of the OCPs pursuant to the OCP Procedures and thereby to avoid any subsequent controversy with respect thereto.

13. Retaining the OCPs as provided herein is reasonably necessary for the cost-efficient operation of the Debtor’s business during this Case. The Debtor will closely monitor expenses for the OCPs. Moreover, the OCPs will not perform substantial bankruptcy-related services without filing an application with the Court for separate retention as a non-ordinary course professional.

14. Moreover, in light of the number of OCPs and the costs associated with the preparation of retention applications for professionals who will receive relatively modest fees, it would be impractical, inefficient, and extremely costly for the Debtor and its legal advisors to prepare and submit individual applications and proposed retention orders for each OCP. Therefore, it is in the best interests of all creditors and parties in interest to retain the OCPs in accordance with the OCP Procedures and avoid any disruption in the professional services that are required for the day-to-day operation of the Debtor’s business.

15. Although some of the OCPs may hold unsecured claims against the Debtor relating to services rendered to the Debtor prepetition, the Debtor does not believe that any of the OCPs have an interest materially adverse to the Debtor, its creditors, or other parties in interest. In any

event, the OCP Procedures include a requirement that each OCP file a Declaration of Disinterestedness before an OCP can be compensated.

16. The relief requested herein is commonly granted by courts in this district. *See, e.g., In re Am. Physician Partners, LLC*, No. 23-11469 (BLS) (Bankr. D. Del. Oct. 16, 2023) (approving comparable OCP procedures); *In re Yellow Corp.*, No. 23-11069 (CTG) (Bankr. D. Del. Sept. 20, 2023) (same); *In re Amyris, Inc.*, No. 23-11131 (TMH) (Bankr. D. Del. Sept. 13, 2023) (same); *In re PGX Holdings*, No. 23-10718 (CTG) (Bankr. D. Del. July 19, 2023) (same); *In re SiO2 Med. Prods., Inc.*, No. 23-10366 (JTD) (Bankr. D. Del. Apr. 24, 2023) (same); *In re Carestream Health, Inc.*, No. 22-10778 (JKS) (Bankr. D. Del. Sept. 22, 2022) (same); *In re Riverbed Tech., Inc.*, No. 21-11503 (CTG) (Bankr. D. Del. Nov. 18, 2021) (same); *In re Alex & Ani, LLC*, No. 21-10918 (CTG) (Bankr. D. Del. July 14, 2021) (same).

17. For the reasons set forth herein, the relief requested is in the best interests of the Debtor, its estate, its creditors, and other parties in interest and should be granted.

Waiver of Bankruptcy Rule 6004(a) and 6004(h)

18. To implement the foregoing successfully, the Debtor seeks a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

Notice

19. The Debtor will provide notice of this Motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the holders of the 20 largest unsecured claims against the Debtor; (c) counsel to the DIP Lender; (d) counsel to the Prepetition Lender; (e) the United States Attorney's Office for the District of Delaware; and (f) any party that requests service under Bankruptcy Rule 2002. The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

20. No prior request for the relief sought in this Motion has been made to this Court or any other court.

WHEREFORE, the Debtor respectfully requests entry of the Order, substantially in the form attached hereto as **Exhibit A**, (a) granting the relief requested herein, and (b) granting such other relief as is just and proper.

Dated: June 28, 2024

PACHULSKI STANG ZIEHL & JONES LLP

/s/ James E. O'Neill

James E. O'Neill (DE Bar No. 4042)
Jeffrey N. Pomerantz (admitted pro hac vice)
Jordan A. Kroop (admitted pro hac vice)
Greg V. Demo (admitted pro hac vice)
919 North Market Street, 17th Floor
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jpomerantz@pszjlaw.com
jkroop@pszjlaw.com
gdemo@pszjlaw.com

Proposed Counsel to the Debtor in Possession

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

In re:

QLESS, INC.,

Debtor.¹

Chapter 11, Subchapter V

Case No. 24-11395 (BLS)

Hearing Date: July 19, 2024 @ 10:30 A.M. (ET)

Objection Deadline: July 12, 2024 @ 4:00 PM (ET)

**NOTICE OF HEARING ON DEBTOR'S MOTION FOR ENTRY OF
AN ORDER (I) AUTHORIZING THE DEBTOR TO
RETAIN AND COMPENSATE PROFESSIONALS UTILIZED IN THE
ORDINARY COURSE OF BUSINESS AND (II) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that on June 28, 2024 the above-captioned debtor and debtor in possession (the “**Debtor**”) filed attached *Debtor’s Motion for Entry of an Order (I) Authorizing the Debtor to Retain and Compensate Professionals Utilized in the Ordinary Course of Business and (II) Granting Related Relief* (the “**Motion**”).

PLEASE TAKE FURTHER NOTICE that a hearing to consider the Motion has been scheduled for **July 19, 2024 at 10:30 a.m. (ET)** before the Honorable Brendan L. Shannon at the United States Bankruptcy Court for the District of Delaware (the “**Court**”), located at 824 North Market Street, 6th Floor, Courtroom #1, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE that any response or objection to the entry of the order with respect to the relief sought in the Motion must be filed with the Court on or before **July 12, 2024 at 4:00 p.m. (ET)**.

¹ The Debtor’s principal place of business and service address is 21 Miller Alley, Suite 210, Pasadena CA 91105.
LA:4894-9192-3917.2 72746.00002

PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED BY THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

PLEASE TAKE FURTHER NOTICE that a copy of the Motion can be obtained for a fee through the Court's website at www.deb.uscourts.gov, referencing Case No. 24-11395 (BLS), or may be obtained for free by accessing the Debtor's restructuring website at <http://www.veritaglobal.net/QLess>.

Dated: June 28, 2024

PACHULSKI STANG ZIEHL & JONES LLP

/s/James E. O'Neill

James E. O'Neill (DE Bar No. 4042)
Jeffrey N. Pomerantz (admitted *pro hac vice*)
Jordan A. Kroop (admitted *pro hac vice*)
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Proposed Counsel to the Debtor and Debtor in Possession

Exhibit A

Proposed Order

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

In re:

QLESS, INC.,

Debtor.

Chapter 11, Subchapter V

Case No. 24-11395 (BLS)

Ref. Docket No. _____

**ORDER (I) AUTHORIZING THE DEBTOR TO
RETAIN AND COMPENSATE PROFESSIONALS UTILIZED IN THE
ORDINARY COURSE OF BUSINESS AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)¹ of the above-captioned debtor (the “Debtor”) for entry of an order (this “**Order**”): (a) authorizing, but not directing, the Debtor to retain and compensate professionals utilized in the ordinary course of business; and (b) granting related relief, all as more fully set forth in the Motion; and the United States District Court for the District of Delaware having jurisdiction over this matter pursuant to 28 U.S.C. § 1334, which was referred to this Court under 28 U.S.C. § 157 pursuant to 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 is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that it may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtor’s estates, their creditors, and other parties in interest; and the Court having found that the Debtor’s notice of the Motion and opportunity for a hearing on the Motion were appropriate and no other notice need be provided; and the Court having reviewed the Motion and determined that the legal and factual bases set forth in the Motion establish just cause

¹ Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

2. The Debtor is authorized, but not directed, to retain and compensate the professionals identified on the OCP List (collectively, the “OCPs”), attached hereto as **Exhibit 2**, in the ordinary course of business pursuant to the following OCP Procedures:

- a. Within thirty days after the later of: (i) the date of entry of the Order; or (ii) the date on which an OCP commences work for the Debtor, such OCP shall file, or cause to be filed, a declaration of disinterestedness, substantially in the form attached hereto as **Exhibit 1** (each, a “**Declaration of Disinterestedness**”), with the Court and served upon: (a) proposed counsel to the Debtor, Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, Wilmington, Delaware 19801, Attn: James E. O’Neill (joneill@pszjlaw.com), Jeffrey N. Pomerantz (jpomerantz@pszjlaw.com), Jordan A. Kroop (jkroop@pszjlaw.com), Maxim B. Litvak (mlitvak@pszjlaw.com), and Greg V. Demo (gdemo@pszjlaw.com); (b) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Malcolm M. Bates (malcolm.m.bates@usdoj.gov); and (c) the subchapter V Trustee, David M. Klauder, Bielli & Klauder LLC, 1204 N. King Street, Wilmington, DE 19801 (dklauder@bk-legal.com) (collectively, the “**Notice Parties**”) (collectively, the “**Notice Parties**”).
- b. Parties in interest shall have 14 days after the date of filing of each OCP’s Declaration of Disinterestedness (the “**Objection Deadline**”) to object to the retention of such OCP. The objecting party shall file any such objection and serve such objection upon the Notice Parties and the respective OCP on or before the Objection Deadline. If any such objection cannot be resolved within 14 days of its receipt, the matter shall be scheduled for hearing before the Court at the next regularly scheduled omnibus hearing date that is no less than 14 days from that date or on a date otherwise agreeable to the parties. The Debtor shall not be authorized to compensate such OCP until all outstanding objections have been withdrawn, resolved, or overruled by order of the Court.
- c. If no objection is received from any of the Notice Parties by the Objection Deadline with respect to any particular OCP, the Debtor shall be authorized, but not directed, to: (i) retain such OCP as of the date such OCP commenced providing services to the Debtor; and (ii) compensate such OCP as set forth below.

- d. The Debtor shall be authorized, but not directed, to pay, without formal application to the Court by any OCP, 100% of fees and disbursements to each of the OCPs retained by the Debtor pursuant to the OCP Procedures upon submission to the Debtor of an appropriate invoice setting forth in reasonable detail the nature of the services rendered after the Petition Date; *provided* that fees paid to each OCP set forth on Exhibit 2 attached hereto, excluding costs and disbursements, may not exceed \$35,000 per month per OCP, calculated as an average over a rolling three-month period, while this Case is pending (the “**OCP Monthly Cap**”), *provided, further*, that the total amount disbursed per quarter, for each OCP set forth on Exhibit 2, does not exceed \$105,000 per OCP (the “**OCP Quarterly Cap**” and together with the OCP Monthly Cap, the “**OCP Caps**”).
- e. To the extent that fees payable to any OCP exceed the applicable OCP Cap, the OCP shall file a fee application (a “**Fee Application**”) with the Court for the amount in excess of the applicable OCP Cap pursuant to sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of the Court, unless the United States Trustee agrees otherwise.
- f. The Debtor reserves the right to retain additional OCPs from time to time during this Case by including such OCPs on an amended version of the OCP List that is filed with the Court and served on the Notice Parties and having such OCPs comply with the OCP Procedures.

3. The Debtor is authorized, but not directed, to supplement the OCP List as necessary to add or remove OCPs from time to time, without the need for any further hearing and without the need to file individual retention applications for newly added OCPs; *provided* that the fees paid to any additional OCPs do not exceed the OCP Caps. The Debtor shall file any amended OCP List with the Court and shall serve such list on the Notice Parties. Each additional OCP listed in the OCP List shall file with the Court and serve a Declaration of Disinterestedness on the Notice Parties as provided in the OCP Procedures. If no objections are filed within 14 days to any such additional OCP’s Declaration of Disinterestedness, then retention of such OCPs shall be deemed approved by the Court pursuant to this Order without a hearing or further order.

4. Nothing contained herein shall affect the Debtor’s or any appropriate party in interest’s ability to dispute any invoice submitted by an OCP, and nothing contained herein shall

preclude the Debtor from seeking authority to pay any OCP in an amount greater than the OCP Caps, subject to the rights of any party in interest to oppose any such request.

5. This Order shall not apply to any professional retained by the Debtor pursuant to a separate order of the Court.

6. Nothing contained in the Motion or this Order, and no action taken pursuant to the relief requested or granted (including any payment made in accordance with this Order), is intended as or shall be construed or deemed to be: (a) an admission as to the amount, validity, or priority of, or basis for, any claim against the Debtor under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtor's or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication, admission, or finding that any particular claim is an administrative expense claim, other priority claim, or otherwise of a type specified or defined in the Motion or this Order; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtor's estates; or (g) a waiver or limitation of any claims, causes of action, or other rights of the Debtor or any other party in interest against any person or entity under the Bankruptcy Code or any other applicable law.

7. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

8. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

9. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

10. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Exhibit 1

Form of Declaration of Disinterestedness

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

In re:

QLESS, INC.,

Debtor.

Chapter 11, Subchapter V

Case No. 24-11395 (BLS)

**DECLARATION OF DISINTERESTEDNESS
OF [ENTITY] PURSUANT TO THE ORDER
AUTHORIZING THE DEBTOR TO RETAIN AND COMPENSATE
PROFESSIONALS UTILIZED IN THE ORDINARY COURSE OF BUSINESS**

I, [NAME], declare under penalty of perjury:

1. I am a [POSITION] of [ENTITY], located at [STREET, CITY, STATE, ZIP CODE] (the “**Firm**”).

2. QLess, Inc., as debtor and debtor in possession (the “**Debtor**”), has requested that the Firm provide [SPECIFIC DESCRIPTION] services to the Debtor, and the Firm has consented to provide such services.

3. The Firm may have performed services in the past, may currently perform services, and may perform services in the future in matters unrelated to this chapter 11 case for persons that are parties in interest in this chapter 11 case. However, the Firm does not perform services for any such person relating to this chapter 11 case or have any relationship with any such person, their attorneys, or their accountants that would be adverse to the Debtor or its estate.

4. As part of its customary practice, the Firm is retained in cases, proceedings, and transactions involving many different parties, some of whom may represent or be employed by the Debtor, claimants, and parties in interest in this chapter 11 case.

5. Neither I nor any principal, partner, director, or officer of, or professional employed by, the Firm has agreed to share or will share any portion of the compensation to be received from the Debtor with any person other than the principal and regular employees of the Firm.

6. Neither I nor any principal, partner, director, or officer of, or professional employed by, the Firm, insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtor or its estate with respect to the matter(s) upon which the Firm is to be employed.

7. [The Debtor owes the Firm \$[●] for prepetition services, the payment of which is subject to the limitations contained in title 11 of the United States Code, 11 U.S.C. §§ 101–1532.]

8. As of the Petition Date, which was the date on which the Debtor commenced this chapter 11 case, the Firm [was/was not] party to an agreement for indemnification with the Debtor. [A copy of such agreement is attached as **Exhibit 1** to this Declaration.]

9. The Firm is conducting further inquiries regarding its retention by any creditors of the Debtor, and upon conclusion of that inquiry, or at any time during the period of its employment, if the Firm should discover any facts bearing on the matters described herein, the Firm will supplement the information contained in this Declaration.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Date: _____, 2024

[DECLARANT'S NAME]

Exhibit 2**OCP List**

<u>Name of Professional</u>	<u>Address</u>	<u>Services to Be Rendered</u>
Joseph Balice	Haynes and Boone, LLP 600 Anton Blvd., Suite 700 Costa Mesa, CA 92626	Coverage Counsel
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