Docket #0046 Date Filed: 09/09/2021

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
PHILIPPINE AIRLINES, INC.,[1]	Case No. 21-11569 (SCC)
Debtor.	

ORDER APPOINTING KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT FOR THE DEBTOR PURSUANT TO 28 U.S.C. § 156(c), 11 U.S.C. § 105(a) AND S.D.N.Y. LBR 5075-1 *NUNC PRO TUNC* TO THE PETITION DATE

Upon the application (the "**Application**")[2] of Philippine Airlines, Inc., the debtor and debtor in possession (the "**Debtor**") in the above-captioned case (the "**Chapter 11 Case**"), for an order appointing Kurtzman Carson Consultants LLC ("**KCC**") as claims and noticing agent under 28 U.S.C. §156(c), Section 105(a) of the Bankruptcy Code and S.D.N.Y. LBR 5075-1 to, among other things, (a) distribute required notices to parties in interest, (b) receive, maintain, docket and otherwise administer the proofs of claim filed in the Debtor's Chapter 11 Case, and (c) provide such other administrative services—as required by the Debtor—that would fall within the purview of services to be provided by the Clerk's Office and upon the Gershbein Declaration submitted in support of the Application; and the Debtor having estimated that there are in excess of 1,600 creditors in this Chapter 11 Case, many of which are expected to file proofs of claim, and the receiving, docketing and maintaining of proofs of claim would be

[1] The Debtor in this chapter 11 case, along with its registration number in the Philippines, is Philippine Airlines, Inc. Philippine Securities and Exchange Commission Registration No. PW 37. The Debtor's corporate headquarters is located at PNB Financial Center, President Diosdado Macapagal Avenue, CCP Complex, Pasay City 1300, Metro Manila, Philippines.

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

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unduly time consuming and burdensome for the Clerk; and the Court being authorized under 28 U.S.C. §156(c) to utilize, at the Debtor's expense, outside agents and facilities to provide notices to parties in title 11 cases and to receive, docket, maintain, photocopy, and transmit proofs of claim; and the Court being satisfied that KCC has the capability and experience to provide such services and that KCC does not hold an interest adverse to the Debtor or the estate respecting the matters upon which it is to be engaged; and good and sufficient notice of the Application having been given; and no other or further notice being required; and the employment of claims and noticing agent being in the best interest of the Debtor, the estate and creditors; and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Application is approved solely as set forth in this Order.

2. The Debtor is authorized to retain KCC effective *nunc pro tunc* to the Petition Date under the terms of the Engagement Agreement attached to the Application as **Exhibit C**, and KCC is authorized and directed to perform noticing services and to receive, maintain, record and otherwise administer the proofs of claim filed in this Chapter 11 Case, and all related tasks, all as described in the Application (the "**Claims and Noticing Services**").

3. KCC shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in this Chapter 11 Case and is authorized and directed to maintain official Claims Registers for the Debtor, to provide public access to every proof of claim unless otherwise ordered by the Court and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.

4. KCC is authorized and directed to provide an electronic interface for filing proofs of claim and to obtain a post office box or address for the receipt of proofs of claim.

5. KCC is authorized to take such other action to comply with all duties set forth in the Application.

6. The Debtor is authorized to compensate KCC in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by KCC and the rates charged for each, and to reimburse KCC for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for KCC to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

7. KCC shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtor, the office of the United States Trustee, counsel for the Debtor and counsel for any official committee, if any, monitoring the expenses of the Debtor and any party-in-interest who specifically requests service of the monthly invoices.

8. The parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Engagement Agreement or monthly invoices, and that the parties may seek resolution of the matter from the Court if resolution is not achieved.

9. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of KCC under this Order shall be an administrative expense of the Debtor's estate.

10. KCC may apply its retainer to all prepetition invoices, which retainer shall be replenished to the original retainer amount, and thereafter, KCC may hold its retainer under the Engagement Agreement during the Chapter 11 Case as security for the payment of fees and expenses incurred under the Engagement Agreement.

11. The Debtor shall indemnify KCC under the terms of the Engagement Agreement.

12. To the extent applicable in the Engagement Agreement, all requests by KCC for the payment of indemnification shall be made by means of an application to the Court and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Engagement Agreement and is reasonable under the circumstances of the litigation or settlement in respect of which indemnity is sought, *provided however*, that in no event shall KCC be indemnified in the case of its own bad-faith, self-dealing, breach of fiduciary duty (if any), gross negligence or willful misconduct.

13. In the event KCC seeks reimbursement from the Debtor for attorneys' fees and expenses in connection with the payment of an indemnity claim, the invoices and supporting time records for the attorneys' fees and expenses shall be included in KCC's own applications, both interim and final, but determined by this Court after notice and a hearing.

14. The limitation of liability provision in section IX.B of the Engagement Agreement is deemed to be of no force or effect with respect to the services to be provided pursuant to this Order.

15. In the event KCC is unable to provide the services set out in this order, KCC will immediately notify the Clerk and Debtor's attorney and cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and Debtor's attorney.

16. The Debtor may submit a separate retention application, pursuant to 11 U.S.C. § 327 and/or any applicable law, for work that is to be performed by KCC that is not specifically authorized by this Order.

17. The Debtor and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

18. Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

19. KCC shall not cease providing claims processing services during the Chapter 11 Case for any reason, including nonpayment, without an order of the Court.

20. In the event of any inconsistency between the Engagement Agreement, the Application and the Order, the Order shall govern.

Dated: September 9, 2021
New York, New York

/S/ Shelley C. Chapman
THE HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE