

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

IN RE: § CASE NO. 19-20497  
HIDALGO COUNTY EMERGENCY §  
SERVICE FOUNDATION, §  
Debtor. § CHAPTER 11

**EMERGENCY APPLICATION FOR ORDER AUTHORIZING RETENTION OF  
RICHARD S. SCHMIDT AS CHIEF RESTRUCTURING OFFICER**

**This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file and serve your response within 21 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.**

**Represented parties should act through their attorney.**

**Emergency relief has been requested. If the court considers the motion on an emergency basis, then you will have less than 21 days to answer. If you object to the requested relief or if you believe that the emergency consideration is not warranted, you should file an immediate response.**

Hidalgo County Emergency Service Foundation (“**Debtor**”) files this Emergency Application for Order Authorizing Retention of Richard S. Schmidt (“**Schmidt**”) as Chief Restructuring Officer (“**CRO**”) of the Debtor and would show the Court as follows:

1. On October 8, 2019, the Debtor filed a Voluntary Petition under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101 et seq. Since the date of the bankruptcy filing, the Debtor has managed its assets and operated its businesses as a Debtor-in-Possession.

2. The Debtor has selected Schmidt to become CRO with full authority over the Debtor on the terms set forth in the engagement letter attached as Exhibit 1. Schmidt's affidavit in support of retention is attached as Exhibit 2.

3. Schmidt has extensive legal, business and management experience and is well qualified to serve in this capacity. Schmidt is well known to this Court and to many of the parties in this case due to his 28-year tenure as a bankruptcy judge in this District, his numerous presentations at continuing education seminars, and his participation in various capacities in multiple bankruptcy cases since his retirement from the bench.

4. As previously disclosed to the Court, as of the end of January, 2020, the Debtor's current CRO, Omar X. Romero and his consulting company Government Asset Services, stopped providing the Debtor with CRO and other services as an outside professional, and instead were hired by the Debtor as employees. Mr. Romero retained the title of CRO, but will relinquish that title as of the date Schmidt commences his services as CRO. Mr. Romero's ongoing responsibilities for the Debtor, and any title, will be determined by Schmidt.

5. Schmidt's proposed compensation arrangement includes a retainer to secure payment of his future fees, a blend of flat-rate billing and hourly billing, and standard expense reimbursements, as follows:

- a. \$30,000 retainer paid upon Court approval
- b. \$500.00 per hour, and non-working travel \$250.00 per hour
- c. \$30,000 flat fee paid at the end of the first month
- d. \$20,000 flat fee paid at the end of the second month
- e. \$15,000 flat fee paid at the end of the third month
- f. Flat fees will be paid without the need to maintain or provide hourly time records, and without the need for any further fee applications or Court approval
- g. Schmidt may maintain hourly time records during this flat rate period and shall be entitled to seek an order of the court granting additional compensation based on his hourly rate if the hourly amount is greater than the flat rate

- h. After the end of the 90-day flat-rate period, all compensation shall be based on Schmidt's time and hourly rates and is subject to court approval, including the Court's order governing interim compensation procedures, see Doc. #84
  - i. In addition, Schmidt will be reimbursed for reasonable third-party out-of-pocket expenses incurred in connection with this assignment, such as travel, lodging, duplicating, and messenger and telephone charges.
  - j. All fees and expenses will be billed and payable monthly.
6. Additionally, the Debtor will indemnify Schmidt except for gross negligence, and will add him as a named insured under the Debtor's D&O Policy.
7. Based on Schmidt's attached affidavit, Schmidt does not represent any interest adverse to the Debtor, or to the Estate of the Debtor, known to him. To the best of the Debtor's knowledge and belief, Schmidt represents no interest adverse to the Debtor, or to the estate of the Debtor. Debtor therefore believes Schmidt is disinterested within the meaning of the Bankruptcy Code.
8. Except as stated in Schmidt's attached affidavit, Debtor is not aware of any other connections of any kind or nature that Schmidt has with the creditors or other parties to this case, the office of the U.S. Trustee, or their respective attorneys.
9. The retention and employment of Schmidt on the terms stated in the attached engagement letter would be to the material benefit of the Debtor.
10. Schmidt has requested a 90-day period within which to conduct his due diligence and analysis of the company to determine the best path forward for the estate, within which time he would expect to either file a plan or commence a sale process. Debtor therefore requests that the Court carry the USA's motion to appoint a trustee without setting hearing for a period of 90 days.

For the foregoing reasons, Debtor requests this Court approve its retention and employment of Richard S. Schmidt as Chief Restructuring Officer for the Debtor on the terms set forth herein and in the attached engagement letter, carry the USA's Motion, and for such other

and further relief as may be just and equitable.

Respectfully submitted,

/s/ Nathaniel Peter Holzer

Nathaniel Peter Holzer

State Bar. No 00793971

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served via the Court's ECF system and/or by U.S. First Class mail, postage prepaid, to those parties on the attached service lists as shown on September 25, 2020. The service lists are not included in this mailout, but may be obtained by contacting Debtor's counsel.

/s/ Nathaniel Peter Holzer

Nathaniel Peter Holzer

## ECF Service List

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