

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

In re:	)	Chapter 11
	)	
EVERYWARE GLOBAL, INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 15-10743 (LSS)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	Related Docket Nos. 116, 151, 164

**CERTIFICATION OF COUNSEL REGARDING  
PROPOSED ORDER (A) AUTHORIZING THE DEBTORS TO  
RETAIN AND EMPLOY JEFFERIES LLC AS INVESTMENT BANKER,  
NUNC PRO TUNC TO THE PETITION DATE, (B) WAIVING CERTAIN  
REQUIREMENTS OF LOCAL RULE 2016-2, AND (C) GRANTING RELATED RELIEF**

The undersigned hereby certifies the following:

1. On April 25, 2015, the debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned cases, filed the *Application of EveryWare Global, Inc. et al. for Entry of an Order (A) Authorizing the Debtors to Retain and Employ Jefferies LLC as Investment Banker, Nunc Pro Tunc to the Petition Date, (B) Waiving Certain Requirements of Local Rule 2016-2, and (C) Granting Related Relief* (the “Application”) [Docket No. 116].
2. The deadline to object to the Application was May 13, 2015 at 4:00 p.m. Eastern Time.
3. The Debtors received informal comments from the United States Trustee (the “UST”).

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Anchor Hocking, LLC (6923); Buffalo China, Inc. (9731); Delco International, Ltd. (7553); EveryWare, LLC (2699); EveryWare Global, Inc. (4553); Kenwood Silver Company, Inc. (2286); Oneida Food Service, Inc. (7321); Oneida International Inc. (4774); Oneida Ltd. (5700); Oneida Silversmiths Inc. (6454); Sakura, Inc. (9359); THC Systems, Inc. (9103); Universal Tabletop, Inc. (4265). The location of the Debtors’ service address is: 519 North Pierce Avenue, Lancaster, Ohio 43130.

4. On May 13, 2015, the Prepetition Ad Hoc Term Lender Committee filed the *Limited Objection of the Prepetition Ad Hoc Term Lender Committee to Application of EveryWare Global, Inc. et al. for Entry of an Order (A) Authorizing the Debtors to Retain and Employ Jefferies LLC as Investment Banker, Nunc Pro Tunc to the Petition Date, (B) Waiving Certain Requirements of Local Rule 2016-2, and (C) Granting Related Relief* (the “Objection”) [Docket No. 151].

5. On May 18, 2015, the Debtors and Jefferies LLC filed the *Joint Response of EveryWare Global, Inc. et al. and Jefferies LLC to the Limited Objection of the Prepetition Ad Hoc Term Lender Committee to Application for Entry of an Order (A) Authorizing the Debtors to Retain and Employ Jefferies LLC as Investment Banker, Nunc Pro Tunc to the Petition Date, (B) Waiving Certain Requirements of Local Rule 2016-2, and (C) Granting Related Relief* [Docket No. 164].

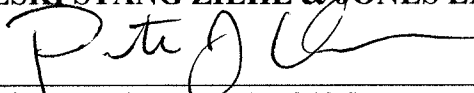
6. Attached hereto as Exhibit A is a revised proposed form of order (the “Proposed Order”) that resolves the Objection and the UST comments. Attached hereto as Exhibit B is a blackline showing changes to the Proposed Order from the version filed with the Application.

7. Accordingly, the Debtors respectfully request entry of the Proposed Order at the Court’s earliest convenience.

Wilmington, Delaware

Dated: May 20, 2015

**PACHULSKI STANG ZIEHL & JONES LLP**



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*Attorneys for the Debtors and Debtors in Possession*

**Exhibit A**

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

In re:	)	
	)	Chapter 11
EVERYWARE GLOBAL, INC., <i>et al.</i> , <sup>1</sup>	)	
	)	Case No. 15-10743 (LSS)
Debtors.	)	(Jointly Administered)
	)	

**ORDER (A) AUTHORIZING THE DEBTORS  
TO RETAIN AND EMPLOY JEFFERIES LLC AS INVESTMENT  
BANKER, *NUNC PRO TUNC* TO THE PETITION DATE, (B) WAIVING CERTAIN  
REQUIREMENTS OF LOCAL RULE 2016-2, AND (C) GRANTING RELATED RELIEF**

Upon the application (the “Application”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”), (a) authorizing the Debtors to retain and employ Jefferies as its investment banker, *nunc pro tunc* to the Petition Date, pursuant to the Engagement Letter, (b) waiving certain of the information requirements of Local Rule 2016-2, and (c) granting related relief, all as more fully described in the Application; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Anchor Hocking, LLC (6923); Buffalo China, Inc. (9731); Delco International, Ltd. (7553); EveryWare, LLC (2699); EveryWare Global, Inc. (4553); Kenwood Silver Company, Inc. (2286); Oneida Food Service, Inc. (7321); Oneida International Inc. (4774); Oneida Ltd. (5700); Oneida Silversmiths Inc. (6454); Sakura, Inc. (9359); THC Systems, Inc. (9103); Universal Tabletop, Inc. (4265). The location of the Debtors’ service address is: 519 North Pierce Avenue, Lancaster, Ohio 43130.

<sup>2</sup> Each capitalized term used but not otherwise defined herein shall have the meaning ascribed to such term in the Application.

proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having determined that the Debtors' notice of the Application and opportunity for a hearing on the Application were appropriate under the circumstances and no other notice need be provided; and this Court having determined that the Debtors' employment of Jefferies is necessary and in the best interests of the Debtors' estates and that the terms of compensation set forth in the Engagement Letter are reasonable; and this Court being satisfied that Jefferies does not hold or represent any entity having an interest adverse to the interests of the Debtors' estates or of any class of creditors or equity security holders and is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code; and all objections (if any) to the requested relief having been withdrawn or overruled on the merits; and this Court having reviewed the Application and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and upon all of the proceedings had before this Court, and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Application is granted as set forth herein.
2. The Debtors are authorized to retain and employ Jefferies as their investment banker in these chapter 11 cases, pursuant to the terms and subject to the conditions set forth in the Engagement Letter, *nunc pro tunc* to the Petition Date, as modified by the Application and this Order.
3. Except to the extent set forth herein, the Engagement Letter, including, without limitation, the Fee and Expense Structure, is approved pursuant to section 328(a) of the Bankruptcy Code, and the Debtors are authorized to pay, reimburse, and indemnify Jefferies in

accordance with the terms and conditions of, and at the times specified in, the Engagement Letter.

4. Jefferies shall file applications for allowance of compensation and reimbursement of expenses pursuant to the procedures set forth in sections 330 and 331 of the Bankruptcy Code, such Bankruptcy Rules or Local Rules as may then be applicable, and any other applicable orders and procedures of this Court; provided, however, that notwithstanding anything to the contrary in the Bankruptcy Code, the Bankruptcy Rules, the U.S. Trustee Guidelines, Local Rules 2014-1 and 2016-2, and any other applicable orders or procedures of the Court, Jefferies' professionals shall be required only to keep reasonably detailed summary time records in one-half hour increments, which time records shall provide sufficient description of the work performed to enable review for reasonableness as provided for in Paragraph 6 below but shall not be required to keep time records on a project category basis.

5. Notwithstanding anything to the contrary in the Application or Engagement Letter, Jefferies' fees in connection with these cases (including the \$125,000 Monthly Fee paid prior to the commencement of these cases) shall be capped at \$2.5 million. In addition, Jefferies agrees that it shall not seek reimbursement of any legal fees relating to seeking approval of the Application.

6. The fees and expenses payable to Jefferies pursuant to the Engagement Letter shall be subject to review pursuant to the standards set forth in section 328(a) of the Bankruptcy Code and shall not be subject to the standard of review set forth in section 330 of the Bankruptcy Code, except by the U.S. Trustee, who, for the avoidance of doubt, shall have the right to object to Jefferies' requests for payment of fees and expenses based on the reasonableness standard in section 330 of the Bankruptcy Code. This Order and the records relating to the Court's

consideration of the Application shall not prejudice or otherwise affect the rights of the U.S. Trustee to challenge the reasonableness of Jefferies' compensation and expense reimbursements under sections 330 and 331 of the Bankruptcy Code. Accordingly, nothing in this Order or on the record shall constitute a finding of fact or conclusion of law binding on the U.S. Trustee, on appeal or otherwise, with respect to the reasonableness of Jefferies' compensation.

7. The indemnification, contribution, and reimbursement provisions included in the Engagement Letter are approved, subject to the following modifications during the pendency of these chapter 11 cases:

- a. subject to the provisions of subparagraphs (b) and (d) below, the Debtors are authorized to indemnify the Indemnified Persons in accordance with the Engagement Letter for any claim arising from, related to, or in connection with their performance of the services described in the Engagement Letter; provided, however, that the Indemnified Persons shall not be indemnified for any claim arising from services other than the services provided under the Engagement Letter, unless such services and the indemnification, contribution, or reimbursement therefor are approved by this Court;
- b. notwithstanding anything to the contrary in the Engagement Letter, the Debtors shall have no obligation to indemnify any person or provide contribution or reimbursement to any person for any claim or expense that is either (i) judicially determined (the determination having become final) to have arisen primarily from that person's gross negligence or willful misconduct, (ii) for a contractual dispute in which the Debtors allege breach of Jefferies' obligations under the Engagement Letter unless this Court determines that indemnification, contribution, or reimbursement would be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003), or (iii) settled prior to a judicial determination as to sub-clauses (i) or (ii) above, but determined by this Court, after notice and a hearing, to be a claim or expense for which that person should not receive indemnity, contribution, or reimbursement under the terms of the Engagement Letter as modified by this Order;
- c. if, during the pendency of these chapter 11 cases, the indemnification provided in the Engagement Letter is held unenforceable by reason of the exclusions set forth in paragraph (b) above (i.e. gross negligence, willful misconduct, or for a contractual dispute in which the Debtors allege the breach of Jefferies' obligations under the Engagement Letter, unless the Court determines that indemnification would be permissible pursuant to



*United Artists*), and Jefferies makes a claim for the payment of any amounts by the Debtors on account of the Debtors' contribution obligations, then the limitations on Jefferies' contribution obligations set forth in the second and third sentences of the fifth paragraph of Schedule A to the Engagement Letter shall not apply; and

- d. if, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these chapter 11 cases (that order having become a final order no longer subject to appeal) and (ii) the entry of an order closing these chapter 11 cases, Jefferies believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution or reimbursement obligations under the Engagement Letter (as modified by this Order), including, without limitation, the advancement of defense costs, Jefferies must file an application before this Court and the Debtors may not pay any such amounts before the entry of an order by this Court approving the payment; provided, however, that for the avoidance of doubt, this subparagraph (d) is intended only to specify the period of time under which this Court shall have jurisdiction over any request for fees and expenses for indemnification, contribution, or reimbursement and not a provision limiting the duration of the Debtors' obligation to indemnify Jefferies.

8. To the extent that there may be any inconsistency between the terms of the Application, the Engagement Letter, and this Order, the terms of this Order shall govern.

9. The Debtors are authorized and empowered to take all actions necessary to effectuate the relief granted by this Order.

10. Notwithstanding the possible applicability of Bankruptcy Rules 6004, 7062, 9014 or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

11. This Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Order during the pendency of this case.

Dated: May 20, 2015  
Wilmington, Delaware

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LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit B**

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

In re:	)	
	)	Chapter 11
EVERYWARE GLOBAL, INC., <i>et al.</i> , <sup>1</sup>	)	
	)	Case No. 15-10743 (LSS)
Debtors.	)	
	)	(Jointly Administered)

**ORDER (A) AUTHORIZING THE DEBTORS  
TO RETAIN AND EMPLOY JEFFERIES LLC AS INVESTMENT  
BANKER, *NUNC PRO TUNC* TO THE PETITION DATE, (B) WAIVING CERTAIN  
REQUIREMENTS OF LOCAL RULE 2016-2, AND (C) GRANTING RELATED RELIEF**

Upon the application (the “Application”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”), (a) authorizing the Debtors to retain and employ Jefferies as its investment banker, *nunc pro tunc* to the Petition Date, pursuant to the Engagement Letter, (b) waiving certain of the information requirements of Local Rule 2016-2, and (c) granting related relief, all as more fully described in the Application; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this

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<sup>2</sup> Each capitalized term used but not otherwise defined herein shall have the meaning ascribed to such term in the Application.

proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having determined that the Debtors' notice of the Application and opportunity for a hearing on the Application were appropriate under the circumstances and no other notice need be provided; and this Court having determined that the Debtors' employment of Jefferies is necessary and in the best interests of the Debtors' estates and that the terms of compensation set forth in the Engagement Letter are reasonable; and this Court being satisfied that Jefferies does not hold or represent any entity having an interest adverse to the interests of the Debtors' estates or of any class of creditors or equity security holders and is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code; and all objections (if any) to the requested relief having been withdrawn or overruled on the merits; and this Court having reviewed the Application and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and upon all of the proceedings had before this Court, and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Application is granted as set forth herein.
2. The Debtors are authorized to retain and employ Jefferies as their investment banker in these chapter 11 cases, pursuant to the terms and subject to the conditions set forth in the Engagement Letter, *nunc pro tunc* to the Petition Date, as modified by the Application and this Order.
3. Except to the extent set forth herein, the Engagement Letter, including, without limitation, the Fee and Expense Structure, is approved pursuant to section 328(a) of the Bankruptcy Code, and the Debtors are authorized to pay, reimburse, and indemnify Jefferies in

accordance with the terms and conditions of, and at the times specified in, the Engagement Letter.

4. Jefferies shall file applications for allowance of compensation and reimbursement of expenses pursuant to the procedures set forth in sections 330 and 331 of the Bankruptcy Code, such Bankruptcy Rules or Local Rules as may then be applicable, and any other applicable orders and procedures of this Court; provided, however, that notwithstanding anything to the contrary in the Bankruptcy Code, the Bankruptcy Rules, the U.S. Trustee Guidelines, Local Rules 2014-1 and 2016-2, and any other applicable orders or procedures of the Court, Jefferies' professionals shall be required only to keep reasonably detailed summary time records in one-half hour increments, which time records shall provide sufficient description of the work performed to enable review for reasonableness as provided for in Paragraph 6 below but indicate the total hours incurred by each professional for each day and provide a brief description of the nature of the work performed and shall not be required to keep time records on a project category basis.

5. Notwithstanding anything to the contrary in the Application or Engagement Letter, Jefferies' fees in connection with these cases (including the \$125,000 Monthly Fee paid prior to the commencement of these cases) shall be capped at \$2.5 million. In addition, Jefferies agrees that it shall not seek reimbursement of any legal fees relating to seeking approval of the Application.

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5.6. The fees and expenses payable to Jefferies pursuant to the Engagement Letter shall be subject to review pursuant to the standards set forth in section 328(a) of the Bankruptcy Code and shall not be subject to the standard of review set forth in section 330 of the Bankruptcy Code, except by the U.S. Trustee, who, for the avoidance of doubt, shall have the right to object

to Jefferies' requests for payment of fees and expenses based on the reasonableness standard in section 330 of the Bankruptcy Code. This Order and the records relating to the Court's consideration of the Application shall not prejudice or otherwise affect the rights of the U.S. Trustee to challenge the reasonableness of Jefferies' compensation and expense reimbursements under sections 330 and 331 of the Bankruptcy Code. Accordingly, nothing in this Order or on the record shall constitute a finding of fact or conclusion of law binding on the U.S. Trustee, on appeal or otherwise, with respect to the reasonableness of Jefferies' compensation.

6-7. The indemnification, contribution, and reimbursement provisions included in the Engagement Letter are approved, subject to the following modifications during the pendency of these chapter 11 cases:

- a. subject to the provisions of subparagraphs (b) and (d) below, the Debtors are authorized to indemnify the Indemnified Persons in accordance with the Engagement Letter for any claim arising from, related to, or in connection with their performance of the services described in the Engagement Letter; provided, however, that the Indemnified Persons shall not be indemnified for any claim arising from services other than the services provided under the Engagement Letter, unless such services and the indemnification, contribution, or reimbursement therefor are approved by this Court;
- b. notwithstanding anything to the contrary in the Engagement Letter, the Debtors shall have no obligation to indemnify any person or provide contribution or reimbursement to any person for any claim or expense that is either (i) judicially determined (the determination having become final) to have arisen primarily from that person's gross negligence or willful misconduct, (ii) for a contractual dispute in which the Debtors allege breach of Jefferies' obligations under the Engagement Letter unless this Court determines that indemnification, contribution, or reimbursement would be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003), or (iii) settled prior to a judicial determination as to sub-clauses (i) or (ii) above, but determined by this Court, after notice and a hearing, to be a claim or expense for which that person should not receive indemnity, contribution, or reimbursement under the terms of the Engagement Letter as modified by this Order;
- c. if, during the pendency of these chapter 11 cases, the indemnification provided in the Engagement Letter is held unenforceable by reason of the

exclusions set forth in paragraph (b) above (i.e. gross negligence, willful misconduct, or for a contractual dispute in which the Debtors allege the breach of Jefferies' obligations under the Engagement Letter, unless the Court determines that indemnification would be permissible pursuant to *United Artists*), and Jefferies makes a claim for the payment of any amounts by the Debtors on account of the Debtors' contribution obligations, then the limitations on Jefferies' contribution obligations set forth in the second and third sentences of the fifth paragraph of Schedule A to the Engagement Letter shall not apply; and

- d. if, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these chapter 11 cases (that order having become a final order no longer subject to appeal) and (ii) the entry of an order closing these chapter 11 cases, Jefferies believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution or reimbursement obligations under the Engagement Letter (as modified by this Order), including, without limitation, the advancement of defense costs, Jefferies must file an application before this Court and the Debtors may not pay any such amounts before the entry of an order by this Court approving the payment; provided, however, that for the avoidance of doubt, this subparagraph (d) is intended only to specify the period of time under which this Court shall have jurisdiction over any request for fees and expenses for indemnification, contribution, or reimbursement and not a provision limiting the duration of the Debtors' obligation to indemnify Jefferies.

7.8. To the extent that there may be any inconsistency between the terms of the Application, the Engagement Letter, and this Order, the terms of this Order shall govern.

8.9. The Debtors are authorized and empowered to take all actions necessary to effectuate the relief granted by this Order.

10. Notwithstanding the possible applicability of Bankruptcy Rules 6004, 7062, 9014 or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

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~~40:11.~~ This Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Order during the pendency of this case.

Dated: \_\_\_\_\_ May 20,,  
2015

Wilmington, Delaware

\_\_\_\_\_  
LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE