

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
SEAL123, INC., <i>et al.</i> , ¹)	
)	Case No. 15-10081 (CSS)
)	
Debtors.)	Jointly Administered
)	
)	Hearing Date: May 26, 2015 at 11:00 a.m. (ET)
)	Objection Deadline: May 1, 2015 at 4:00 p.m. (ET)

**APPLICATION FOR AN ORDER AUTHORIZING THE DEBTORS
TO RETAIN AND EMPLOY PRICEWATERHOUSECOOPERS LLP, *NUNC
PRO TUNC* TO MARCH 31, 2015, FOR THE PURPOSE OF PROVIDING THE
DEBTORS WITH TAX COMPLIANCE SERVICES, AND, AS NECESSARY, TAX
CONSULTING SERVICES AND OTHER TAX SERVICES AND REQUEST FOR A
WAIVER OF THE INFORMATION REQUIREMENTS OF LOCAL RULE 2016-2**

Seal123, Inc. and its subsidiaries, the debtors and debtors in possession (the “Debtors”) in the above-captioned jointly administered chapter 11 cases (the “Cases”) hereby submit this application (the “Application”), pursuant to sections 327(a) and 328 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), for entry of an order, substantially in the form attached hereto as Exhibit A (the “Order”), authorizing the Debtors to retain and employ PricewaterhouseCoopers LLP (“PwC”) for the purposes of providing Tax Compliance Services (as defined below) and, as necessary, Tax Consulting Services (as defined below) and Other Tax Services (as defined below) to the Debtors, *nunc pro tunc* to March 31, 2015. Additionally, the Debtors request a waiver of the information requirements of Rule 2016-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the

¹ The Debtors and the last four digits of their respective federal taxpayer identification numbers are as follows: Seal123, Inc. (f/k/a The Wet Seal, Inc.) (5940); Seal123 Retail, Inc. (f/k/a The Wet Seal Retail, Inc.) (6265), Seal123 Catalog, Inc. (f/k/a Wet Seal Catalog, Inc.) (7604), and Seal123 GC, LLC (f/k/a Wet Seal GC, LLC (2855-VA). The Debtors’ address is 26972 Burbank, Foothill Ranch, CA 92610.

District of Delaware (the “Local Rules”), as more fully set forth below. In support of this Application, the Debtors rely upon the declaration of Lance Wood, a copy of which is attached hereto as **Exhibit B** (the “Wood Declaration”). In further support of this application, the Debtors respectfully state as follows:

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

2. Pursuant to Local Rule 9013(f), the Debtors consent to the entry of a final judgment or order with respect to the Application if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

3. The statutory and legal predicates for the relief requested herein are sections 327(a) and 328(a) of the Bankruptcy Code, Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Rules 2014-1 and 2016-2.

BACKGROUND

4. On January 15, 2015 (the “Petition Date”), each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code.

5. The Debtors continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. To date, no trustee or examiner has been appointed in these Cases by the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”). The U.S. Trustee appointed an official

committee of unsecured creditors (the “Creditors’ Committee”) on January 30, 2015. On April 1, 2015, the Court entered an order authorizing the sale of substantially all of the Debtors’ assets to Mador Lending, LLC [Docket No. 538].

6. The detailed factual background relating to the Debtors and the commencement of these Cases is set forth in the *Declaration of Thomas R. Hillebrandt in Support of First Day Motions* [Docket No. 19] filed on the Petition Date.

RELIEF REQUESTED

7. By this Application, the Debtors seek entry of an order authorizing the employment and retention of PwC, *nunc pro tunc* to March 31, 2015, for the purpose of providing Tax Compliance Services and, as necessary, Tax Consulting Services and Other Tax Services, pursuant to Sections 327(a), 328, and 1107 of the Bankruptcy Code, Bankruptcy Rule 2014, and Local Rule 2014-1, in accordance with the terms and conditions of the engagement letter dated March 30, 2015, and titled *The Wet Seal, Inc. Tax Compliance for the Year Ended January 31, 2015 and the Short Period Ending June 30, 2015*, attached hereto as **Exhibit C** (the “Engagement Letter”).

BASIS FOR RELIEF

8. The Debtors require an accounting firm to provide the tax services listed in the Engagement Letter. The Debtors have reviewed the qualifications and experience of PwC’s personnel and believe that such personnel have considerable experience in advising debtors with respect to federal, state, and local tax compliance services and tax consulting services and other tax services. PwC is a leading full-service, accounting, consulting, and financial services firm with over 75 offices and over 30,000 employees in the United States. PwC is the United States-based affiliate of a global network of separate and independent member firms that operate locally in countries around the world. PwC has considerable experience

providing accounting, tax, auditing, and financial advisory services to businesses in a chapter 11 environment. PwC has acted as tax and accounting advisors in both in court and out of court restructurings of companies of various sizes across a wide array of industries. PwC has considerable experience providing accounting, tax, auditing, and financial advisory services to businesses in a chapter 11 environment, and has been employed in numerous cases under the Bankruptcy Code, including the chapter 11 cases of *In re Trump Entertainment Resorts, Inc.*, Case No. 14-12103 (KG); *In re Source Home Entertainment, LLC.*, Case No. 14-11553 (KG); *In re EWGS Intermediary, LLC.*, Case No. 13-12876 (MFW); *In re NE Opco, Inc.*, Case No. 13-11483 (CSS); *In re Buffets Restaurants Holdings, Inc.*, Case No. 12-10237 (MFW); *In re Coach Am Group Holdings Corp.*, Case No. 12-10010 (KG); *In re Chef Solutions Holdings, LLC*, Case No. 11-13139 (KG); *In re Filene's Basement, LLC*, Case No. 11-13511 (KJC); and *In re Nassau Broadcasting Partners, L.P.*, Case No. 11-12934 (KG). PwC's depth of experience and breadth of service capabilities render it particularly well qualified and able to provide services to the Debtors during these Cases.

9. The Debtors have selected PwC, subject to the Court's approval, to provide Tax Compliance Services and, as necessary, Tax Consulting Services and Other Tax Services in connection with these Cases. The Debtors require the service of an experienced professional and have selected PwC to provide these services based upon, among other things, (a) the Debtors' need to retain an accounting, consulting, and financial services firm to provide those services, and (b) PwC's extensive experience and excellent reputation in providing investment banking and financial advisory services in complex chapter 11 cases.

SERVICES TO BE PROVIDED

10. Pursuant to the terms of the Engagement Letter, the Debtors anticipate that PwC's fee for Tax Compliance Services will be \$140,000, with fees for any necessary Tax Consulting Services to be billed at hourly rates and for any necessary Other Tax Services to be subject to the terms of a separate statement of work.

A. Tax Compliance Services

11. Pursuant to the terms of the Engagement Letter, PwC will provide the following tax compliance services, subject to approval of this Application (the "Tax Compliance Services"):²

- Prepare and sign as preparer the U.S. Corporation Income Tax Return, Form 1120 for the tax year beginning February 1, 2014 through January 31, 2015 and the short period beginning February 1, 2015 through June 30, 2015.
- Prepare and sign as preparer the Puerto Rico Corporation Income Tax Return for the tax year beginning February 1, 2014 through January 31, 2015 and the short period beginning February 1, 2015 through June 30, 2015.
- Prepare and sign as preparer the required state, city, and provincial corporate income tax returns for the tax year beginning February 1, 2014 through January 31, 2015 and the short period beginning February 1, 2015 through June 30, 2015, as more specifically laid out in Exhibit I to the Engagement Letter.
- Complete Schedule UTP, if applicable, subject to the execution of a separate engagement letter to the extent the Debtors require additional assistance to gather and analyze information for purposes of the Schedule UTP reporting.

² To the extent that this summary and the terms of the Engagement Letter are inconsistent, the terms of the Engagement Letter shall control.

B. Tax Consulting Services

12. Pursuant to the terms of the Engagement Letter, PwC will provide the following tax consulting services, subject to approval of this Application (the “Tax Consulting Services”):³

- Provide advice, answers to questions on federal, state, local, and international tax matters, including research, discussions, preparation of memoranda, and attendance at meetings relating to such matters, as mutually determined to be necessary.
- Provide advice and/or assistance with respect to matters involving the Internal Revenue Service and other tax authorities on as as-needed or as-requested basis.

C. Other Tax Services

13. PwC may also provide additional tax compliance and consulting services (the “Other Tax Services”) not specifically set forth in the Engagement Letter, as agreed to with the Debtors. Such services will be performed when one or more statements of work are issued under the Engagement Letter, a form of which is attached as Exhibit A to the Engagement Letter, as more fully set forth in the Engagement Letter.

DISINTERESTEDNESS OF PROFESSIONALS

14. In preparation of this Application, PwC informed the Debtors that it has undertaken a detailed search of the names of individuals and entities, obtained from the Debtors, which may be such parties in interest in these chapter 11 cases, and/or their representatives (collectively, the “Potential Parties-in-Interest”). The conflicts check and due inquiry included a search of possible relations with the Debtors, their significant creditors, and any other Potential

³ To the extent that this summary and the terms of the Engagement Letter are inconsistent, the terms of the Engagement Letter shall control.

Parties-in-Interest, and the U.S. Trustee. A summary of the parties in interest researched is reflected in Schedule 1 to the Wood Declaration.

15. To the best of the Debtors' knowledge, and except as may be set forth in the Wood Declaration, the Debtors believe that (a) PwC is a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, and holds no interest adverse to the Debtors or their estates, as required by section 327(a) of the Bankruptcy Code; and (b) PwC has no connection with the Debtors, their creditors, the U.S. Trustee, or other Potential-Parties-in-Interest in these chapter 11 cases.

16. Although PwC's partners and principals may have business associations with certain of the Debtors' creditors or parties-in-interest herein, such associations have no connection to these Cases.

17. PwC will conduct an ongoing review of its files to ensure that no conflicts or other disqualifying circumstances exist or arise. If any new facts or circumstances are discovered, PwC will supplement its disclosure to the Court.

18. The Debtors' knowledge, information, and belief regarding certain of the matters set forth in this Application are based on, and made in reliance upon, the Wood Declaration.

COMPENSATION AND EXPENSES

19. Bankruptcy Code section 327(a) provides, in relevant part, as follows:

[T]he trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

11 U.S.C. § 327(a).

20. Bankruptcy Code section 328(a) provides, in relevant part, as follows:

The trustee . . . with the court's approval, may employ or authorize the employment of a professional person under section 327 . . . of this title . . . on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis. Notwithstanding such terms and conditions, the court may allow compensation different from the compensation provided under such terms and conditions after the conclusion of such employment, if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.

11 U.S.C. § 328(a).

21. Bankruptcy Rule 2014 provides, in relevant part, as follows:

An order approving the employment of attorneys, accountants, appraisers, auctioneers, agents, or other professionals pursuant to § 327 . . . of the Code shall be made only on application of the trustee or committee.

Fed R. Bankr. P. 2014

22. As set forth more fully in the Engagement Letter and below, the Debtors understand that PwC intends to apply to the Court for allowances of compensation and reimbursement of expenses for Tax Compliance Services, Tax Consulting Services, and Other Tax Services in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, orders of this Court, and guidelines established by the U.S. Trustee.

A. *Tax Compliance Services*

23. Pursuant to the terms and conditions of the Engagement Letter, and subject to the Bankruptcy Court's approval, PwC will seek compensation for the Tax Compliance Services, but excluding the Tax Consulting Services and Other Tax Services, on a fixed fee basis. The fixed fee for such services is estimated to be \$140,000 for the Tax

Compliance Services described above, based on a discount of PwC's hourly rates as in effect on the date the Engagement Letter was executed (set forth below).

B. Tax Consulting Services

24. Pursuant to the Engagement Letter, and subject to the Bankruptcy Court's approval, PwC will seek compensation for any necessary Tax Consulting Services at the following customary hourly rates:

Professional Level	Hourly Rate
Partner	\$845 - \$975
Director	\$415 - \$450
Manager	\$320 - \$355
Senior Associate	\$245 - \$265
Associate	\$170 - \$190

25. In the normal course of business, PwC revises its regular hourly rates to reflect changes in responsibilities, increased experience, and increased costs of doing business. In the event that PwC's rates increase, PwC will file a notice detailing the new rate structure and serve such notice on the Debtors, the Debtors' counsel, the U.S. Trustee, counsel to the Creditors' Committee, and counsel to any other committee appointed in these Cases.

C. Other Tax Services

26. Pursuant to the Engagement Letter, and subject to the Bankruptcy Court's approval, PwC will seek compensation for any necessary Other Tax Services according to rates set by a separate statement of work. In addition, the Debtors have agreed to reimburse PwC for reasonable out of pocket expenses, any applicable sales, use, or value added tax, and PwC's internal per ticket charges for booking travel.

BILLING AND DISCLOSURE

27. All of PwC's fees and expenses in these Cases relating to the services described above will be subject to approval of the Court upon proper application by PwC in

accordance with sections 330 and 331 of the Bankruptcy Code, Bankruptcy Rules 2014 and 2016, the Local Rules, any orders of the Court, the fee and expense guidelines established by the U.S. Trustee, and all other applicable requirements. PwC will file monthly, interim, and final fee applications, if and as appropriate, for the allowance of compensation for services rendered and reimbursement of expenses incurred in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of the Court.

28. PwC will maintain reasonably detailed records of its hourly fees incurred in connection with its services. It is not the general practice of PwC professionals to keep detailed time records (i.e. six minute increments) similar to those customarily kept by attorneys who are compensated through a bankruptcy court. The Debtors request that, pursuant to Local Rule 2016-2(h), PwC be excused from compliance with such requirements and instead be required to deliver only a narrative summary, by project category, of services rendered to the Debtors as exhibits to each fee application that PwC files in these Cases. In such summary, PwC will identify each professional rendering services, the number of hours expended, and the amount of compensation requested. Detailed time records will be provided in half-hour (0.5) increments.

29. Given the nature of the services to be provided by PwC, such billing format and associated time detail will be sufficient for the Debtors and other parties in interest to make informed judgments regarding the nature and appropriateness of PwC's services and fees. The Debtors submit that recording and submission of detailed time entries for services rendered by PwC in this case is unnecessary and would be unduly burdensome to PwC. Therefore, pursuant to Local Rule 2016-2(h), PwC should be exempt from the detailed information requirements set forth in Local Rule 2016-2(d) and from any similar requirements in any order

establishing procedures for the interim compensation and reimbursement of professionals pursuant to section 331 of the Bankruptcy Code.

30. The PwC professionals providing tax consulting and compliance services will consult with internal PwC bankruptcy retention and billing advisors (the “PwC Retention Advisors”) to ensure compliance with the requirements of the Bankruptcy Code, as well as decrease the overall fees associated with the administrative aspects of PwC’s engagement. The services provided by these PwC Retention Advisors shall include, but are not limited to, assistance with the bankruptcy retention documents; assistance with the disinterestedness disclosures; assistance with completion of the requisite fee applications; and assistance with compliance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and the orders of the Court. Due to the specialized nature of these services, and consistency between bankruptcy venues, specific billing rates have been established for these PwC Retention Advisors.⁴

31. In accordance with section 504 of the Bankruptcy Code, there is no agreement or understanding between PwC and any other entity, other than a member, partner, or regular associate of PwC, for the sharing of compensation received or to be received for services rendered in connection with these proceedings.

32. The Debtors believe that the fees of PwC are fair and reasonable in light of industry practice, market rates both in and out of chapter 11 cases, PwC’s experience in reorganizations, the scope of work to be performed pursuant to PwC’s retentions, and PwC’s importance to these cases.

⁴ The rate per hour for these PwC Retention Advisors by level of experience will be as follows: Director: \$550; Manager: \$400; Senior Associate: \$290; Associate: \$225 and Paraprofessional: \$150. These rates are subject to periodic adjustments.

**DISPUTE RESOLUTION, INDEMNIFICATION AND
LIMITATION OF LIABILITY PROVISIONS**

33. Pursuant to the terms of the Engagement Letter, the Debtors have agreed to (i) indemnify PwC in connection with any services performed by PwC under the Engagement Letter, (ii) a limitation of liability in favor of PwC, and (iii) certain alternative dispute resolution procedures. Notwithstanding the terms of the Engagement Letter, the Debtors' indemnification obligations shall be modified as follows:

- a) PwC shall not be entitled to indemnification, contribution, or reimbursement pursuant to the Engagement Letter for services other than the services provided under the Engagement Letter, unless such services and the indemnification, contribution, or reimbursement therefore are approved by the Court.
- b) The Debtors shall have no obligation to indemnify PwC, or provide contribution or reimbursement to PwC, for any claim or expense that is either: (a) judicially determined (the determination having become final) to have arisen from PwC's gross negligence, willful misconduct, or fraud; (b) for a contractual dispute in which the Debtors allege the breach of PwC's contractual obligations unless the 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 (c) settled prior to a judicial determination as to the exclusions set forth in clauses (a) and (b) above, but determined by the Court, after notice and a hearing to be a claim or expense for which PwC should not receive indemnity, contribution, or reimbursement under the terms of the Engagement Letter as modified by the order granting this Application (the "Order").
- c) If, before the earlier of (a) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal), and (b) the entry of an order closing these Cases, PwC believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution, and/or reimbursement obligations under the Engagement Letter (as modified by the Order), including without limitation the advancement of defense costs, PwC must file an application therefore in this Court, and the Debtors may not pay any such amounts to PwC before the entry of an order by this Court approving the payment (that order having become a final order no longer subject to appeal). This subparagraph (c) is

intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by PwC for indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify PwC. All parties in interest shall retain the right to object to any demand by PwC for indemnification, contribution, or reimbursement.

- d) There shall be no limitation of liability in favor of PwC during the pendency of the Cases.

NOTICE

34. Notice of this Application will be given to: (a) the office of the U.S. Trustee; (b) counsel for the Creditors' Committee; (c) counsel for Mador Lending, LLC; (d) counsel for Bank of America, N.A.; (e) counsel for B. Riley Financial, Inc.; and (f) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice of this Application is necessary.

WHEREFORE, the Debtors respectfully request that the Court enter an order, in substantially the form attached hereto as Exhibit A, granting the requested relief and such other and further relief as the Court deems just and proper.

Date: April 16, 2015

SEAL123, INC., *et al.*,
Debtors and Debtors in Possession



William B. Langsdorf
Chief Executive Officer