

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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In re: : Case No. 08-12606 (BLS)
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VERASUN ENERGY CORPORATION, et al., : Chapter 11
: Jointly Administered
Debtors. :
: **Ref. Docket No. 375**
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ORDER PURSUANT TO 11 U.S.C. §§ 328(a) AND 1103, FED. R. BANKR. P. 2014 AND 5002, AND LOCAL RULE 2014-1, AUTHORIZING RETENTION AND EMPLOYMENT OF HOULIHAN LOKEY HOWARD & ZUKIN CAPITAL, INC. AS FINANCIAL ADVISOR AND INVESTMENT BANKER TO OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF VERASUN ENERGY CORPORATION, ET AL., NUNC PRO TUNC, TO NOVEMBER 18, 2008

Upon consideration of the application (the "Application")¹ of the Official Committee of Unsecured Creditors (the "Creditors' Committee") for entry of an order, under sections 328(a) and 1103(a) of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2014 and 5002 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 2014-1 of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), authorizing the employment and retention of Houlihan Lokey Howard & Zukin Capital, Inc. ("Houlihan Lokey") as its financial advisor and investment banker pursuant to the terms of the engagement letter dated as of November 18, 2008 (the "Engagement Letter"); and the Court having considered the Application and the Declaration of Christopher R. Di Mauro dated December 11, 2008 in support of the Application; and the Court finding that (A) Houlihan Lokey (i) does not hold an interest adverse to the interest of the estates with respect to the matters on which Houlihan Lokey will be employed and (ii) is a "disinterested person" as that term is defined under section 101(14) of the Bankruptcy Code; (B) the Application and the

¹ Capitalized terms not defined in this Order shall have the meanings ascribed to them in the Application.

Declaration are in full compliance with all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules; (C) the relief requested in the Application is in the best interests of the Debtors, their estates and creditors; and (D) notice of the Application was due and proper under the circumstances; and after due deliberation, and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The Application is granted.
2. The retention and employment of Houlihan Lokey as financial advisor and investment banker to the Creditors' Committee pursuant to sections 328(a) and 1103 of the Bankruptcy Code, Bankruptcy Rules 2014 and 5002, and Local Rule 2014-1, nunc pro tunc, to November 18, 2008, on the terms and conditions set forth in the Engagement Letter (attached hereto) and the Application, is approved.
3. Houlihan Lokey's compensation shall be subject to the standard of review provided in section 328(a) of the Bankruptcy Code and not subject to any other standard of review under section 330 of the Bankruptcy Code.
4. The Creditors' Committee is authorized to employ and retain, and the Debtors are authorized to compensate and reimburse, Houlihan Lokey pursuant to the terms of the Engagement Letter.
5. The indemnification provisions of the Engagement Letter are approved, and the Debtors shall indemnify and hold harmless Houlihan Lokey and its affiliates, and their past, present, and future directors, officers, shareholders, partners, members, employees, agents, representatives, advisors, subcontractors and controlling persons, pursuant to and in accordance with the Engagement Letter.
6. To the extent requested in the Application, Houlihan Lokey is excused from complying with the information requirements contained in Local Rule 2016-2(d).

7. Houlihan Lokey shall be compensated in accordance with the procedures set forth in the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, this Order and any other applicable orders of this Court.

8. Monthly Fees and expenses incurred pursuant to this Order shall be allocated amongst the Debtors' three operating divisions (i.e., (a) the "US BioEnergy Division"² (b) the "ASA Division";³ and (c) the "VeraSun Division"⁴, each, a "Division", and, collectively, the "Divisions") in accordance with the allocable percentage of aggregate budgeted fees for each retained professional based on the operating capacity of each of the Divisions as set forth in the applicable debtor-in-possession financing budgets for each Division, whether or not individual plants within a Division are actually operating at full or partial utilization ("Nameplate Capacity"); provided, however, for inclusion in Nameplate Capacity, a plant must be capable of operating, fully-constructed and continue to be owned by the Debtors; provided, further, that each Division shall not be jointly and severally liable for the aggregate budgeted fees allocable to any other Division unless the budget for the applicable Division is subsequently amended to include allocations of other Divisions.

9. Notwithstanding anything contained in this Order, any Deferred Fee earned by Houlihan Lokey shall be payable only upon the earlier of the (i) disposition of substantially all of the assets or operations of the Debtors (a "Sale") or (ii) confirmation of a chapter 11 plan of reorganization or liquidation with respect to VeraSun Energy Corporation (a "Plan"); provided, however, that upon the occurrence of a Sale or the confirmation of a Plan, as the case may be, the

² For purposes of this Order, the US BioEnergy Division shall consist of: US Bio Marion, LLC; US BioEnergy Corporation; VeraSun Albert City, LLC; VeraSun Central City, LLC; VeraSun Dyersville, LLC; VeraSun Hankinson, LLC; VeraSun Ord, LLC; VeraSun Woodbury, LLC.

³ The ASA Division consists of: ASA Albion, LLC; ASA Bloomingburg, LLC; ASA Linden, LLC; ASA OpCo Holdings.

⁴ For purposes of this Order, the VeraSun Division shall consist of: VeraSun Aurora Corporation; VeraSun BioDiesel, LLC; VeraSun Charles City, LLC; VeraSun Fort Dodge, LLC; VeraSun Granite City, LLC; VeraSun Hartley, LLC; VeraSun Litchfield, LLC; VeraSun Marketing, LLC; VeraSun Tilton, LLC.

Deferred Fee (the full amount of which shall be due and payable at such time) shall be due and payable only by those Division(s) that are part of the Sale or Plan, as applicable.

10. This Court shall retain jurisdiction to construe and enforce the terms of this Order.

Dated: January 7, 2009


HON. BRENDAN L. SHANNON
UNITED STATES BANKRUPTCY JUDGE