

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

In re:

HMH MEDIA, INC., *et al.*,

Reorganized Debtors.¹

Chapter 11

Case No. 17-12881 (LSS)

(Substantively Consolidated)

RE: D.I. 503, 519, 521, 613

**CERTIFICATION OF COUNSEL REGARDING REVISED PROPOSED
ORDER APPROVING AGREEMENT REGARDING
CLAIMS OF MULTIEMPLOYER PENSION PLANS AND PATRICK J. PURCELL**

The undersigned counsel for HMH Media, Inc. and its affiliates (following substantive consolidation, the “Reorganized Debtors”) in the above-captioned chapter 11 cases (the “Chapter 11 Cases”), hereby certifies as follows regarding the revised proposed *Order Approving Agreement Regarding Claims of Multiemployer Pension Plans and Patrick J. Purcell* (the “Revised Proposed Order”) attached hereto as **Exhibit A**:

1. On December 8, 2017 (the “Petition Date”), the Debtors commenced the Chapter 11 Cases by filing voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”).
2. At all relevant times, Patrick J. Purcell has been an officer and director of the Debtors and Reorganized Debtors.
3. After a Court-approved sale process, the Debtors closed the sale of substantially all of their assets (the “Sale”) to MNG-BH Acquisition LLC (the “Buyer”) on March 19, 2018 (the “Sale Closing Date”). The purchase price consisted of, among other things,

¹ The Reorganized Debtors in these Chapter 11 Cases and the last four digits of each Reorganized Debtor’s taxpayer identification number are as follows: HMH Media, Inc. (5048); HM Media, Inc. (1468); BH Media, Inc. (5341) and HIA Media, Inc. (2359).

(i) \$9.6 million in unrestricted cash, (ii) a “PTO Cash Payment” of \$1.0 million to be paid to employees in respect of accrued paid time off, and (iii) certain non-cash considerations.

4. On January 26, 2018, the Court entered the *Order (I) Establishing Bar Dates for Filing Proofs of Claim, (II) Approving Proof of Claim Form, Bar Date Notices, and Mailing Procedures; (III) Implementing Uniform Procedures Regarding 503(b)(9) Claims; and (IV) Providing Certain Supplemental Relief* (D.I. 201) (the “Bar Date Order”), which, subject to certain contingencies later fulfilled, established (a) April 8, 2018, as the deadline for all employees of the Debtors holding or wishing to assert a Claim against any of the Debtors that arose before the Petition Date to file proof of such Claim in writing; and (b) April 9, 2018 for those executory contracts and unexpired leases rejected on the Sale Closing Date as required by the Sale.

5. On April 6, 2018, the Debtors filed the *Debtors’ Plan of Liquidation Under Chapter 11 of the Bankruptcy Code* and *Disclosure Statement for Debtors’ Plan of Liquidation Under Chapter 11 of the Bankruptcy Code* (respectively, and each as subsequently amended and modified, the “Plan” and “Disclosure Statement”). See D.I. 319, 320.

6. On July 23, 2018, the Bankruptcy Court entered an order confirming the Plan. D.I. 447, 451. On August 1, 2018 (the “Plan Effective Date”), the Plan went effective by its terms. D.I. 465.

7. On the Sale Closing Date and pursuant to orders of the Court, the Debtors rejected certain collective bargaining agreements and related agreements regarding participation in Multiemployer Plans, thus effectuating “complete withdrawals” the plans as defined at 29 U.S.C. § 1383. As a result, the Debtors incurred “withdrawal liability” within the meaning of 29 U.S.C. § 1381.

8. Each of the Multiemployer Plans filed claims identified on Schedule 1 of Exhibit B of the Motion (inclusive of certain additional claims defined in Part B below, the “Multiemployer Plan Claims”), in the column labeled “Claim Amount” for amounts asserted as due in respect of withdrawal liabilities. As detailed in the Motion, Reorganized Debtors have indicated grounds for disagreement with the interpretations of ERISA embodied in a number of the asserted Multiemployer Plan Claims and desire to resolve the Multiemployer Plan Claims without further administrative expense and by establishing a uniform framework for claims valuation such that all of the Multiemployer Plan Claims can be resolved by a single, global Agreement affording roughly equivalent treatment to each Multiemployer Plan.

9. As further set forth in the Motion, each of the Multiemployer Plans have asserted additional claims relating to their and their constituents’ activities during these cases, which are likewise identified on Schedule 1 of Exhibit B of the Motion (the “Priority Claims”). On August 31, 2018, the CWA/ITU filed the *Application of CWA/ITU Negotiated Pension Plan for Payment of Administrative Expense Claims* [D.I. 503] (the “CWA/ITU Application”) which is an application for administrative expense reimbursement filed by the CWA/ITU Negotiated Pension Plan (the “CWA/ITU”) on the basis of its substantial contribution to these Chapter 11 Cases. The Reorganized Debtors and United States Trustee have filed objections to the CWA/ITU Application on legal grounds. *See* D.I. 519, 521.

10. Finally, as provided in the Motion, pursuant to various board resolutions and agreements, Mr. Purcell was entitled to compensation for his services as an officer and director, which included compensation in the nature of severance and indemnification. In these Chapter 11 Cases, Mr. Purcell timely filed Claim Nos. 140-143 against the Debtors for amounts owed in respect of such obligations (the “Purcell Claims”).

11. On August 15, 2019, the Reorganized Debtors filed the *Reorganized Debtors' Motion for Approval of Agreement Regarding Multiemployer Pension Plan and Insider Claims* (the "Motion") [D.I. 613]. The Motion sought approval of a global Agreement resolving the Multiemployer Plan Claims, the Priority Claims and the Purcell Claims.

12. The deadline to file objections to the Motion was August 29, 2019 at 4:00 p.m. (ET), which was extended for the U.S. Trustee to September 9, 2019. The Reorganized Debtors received informal comments to the Motion from the U.S. Trustee and no other parties.

13. The Revised Proposed Order attached hereto as **Exhibit A** provides that the CWA/ITU Application shall be Allowed as an Administrative Claim under the Plan in the reduced amount of \$26,241.41. This amount reflects an allocation of \$22,000 for the CWA/ITU's substantial contribution claim and \$4,241.41 for amounts owed pursuant to postpetition accruals of liability.

14. The U.S. Trustee and counsel for the CWA/ITU have reviewed the Revised Proposed Order and agreed to the revised treatment of the CWA/ITU Application. The U.S. Trustee has stated that the revisions resolve their objection to the CWA/ITU Application.

15. A redline comparing the Revised Proposed Order to the proposed order originally attached to the Motion is attached hereto as **Exhibit B**.

WHEREFORE, the Reorganized Debtors respectfully request that the Court enter the Revised Proposed Order at its earliest convenience and grant such other relief as may be just and proper.

Dated: September 10, 2019
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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13088505.2

Exhibit A

Revised Proposed Order

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

In re:

HMH MEDIA, INC., et al.,
Reorganized Debtors.¹

Chapter 11

Case No. 17-12881 (LSS)

Substantively Consolidated

Re: D.I. 613

**[REVISED PROPOSED] ORDER APPROVING AGREEMENT REGARDING
CLAIMS OF MULTIEMPLOYER PENSION PLANS AND PATRICK J. PURCELL**

Upon the *Reorganized Debtors' Motion for Approval of Agreement Regarding Multiemployer Pension Plan and Insider Claims* dated August 15, 2019 [D.I. 613] (the "Motion") filed by HMH Media, Inc. and its substantively consolidated affiliates (collectively, the "Reorganized Debtors;" prior to the Plan Effective Date, the "Debtors")² in the above-captioned Chapter 11 Cases pursuant to Bankruptcy Rule 9019(a) and Sections 502, 503 and 105(a) of the United States Bankruptcy Code; the Court having reviewed the Motion and the Certification of Counsel filed at D.I. ____ in support of the Reorganized Debtors' revised proposed order; and having considered, if applicable, the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (if any, the "Hearing"); the Court finding that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (iii) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409, and (iv) sufficient notice was given of the

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² Capitalized terms used but not defined herein shall have the definitions contained in the Motion.

Motion and the Hearing; the Court finding that the relief requested is fair and reasonable under the circumstances; and finding good cause exists to grant the Motion;

IT IS HEREBY ORDERED that:

1. The Motion is GRANTED;
2. The Agreement is APPROVED and all terms and provisions of the Agreement are incorporated fully herein except as provided in this Order;
3. Each Multiemployer Plan Claim shall be Allowed as a Claim under the Plan in the amount set forth in the “Allowed Claim Amount (Class)” column of **Schedule 1** of the Agreement, except that where the “Allowed Claim Amount (Class)” for such claim is listed as “\$0,” such claim shall be disallowed. In full and final satisfaction of each Allowed Claim, each respective claimant shall receive the treatment set forth in Article III of the Plan with respect to the Class of Claims indicated in the “Allowed Claim Amount (Class)” column;
4. The CWA/ITU Application [D.I. 503] shall be Allowed as an Administrative Claim under the Plan in the amount of \$26,241.41. In full and final satisfaction of the CWA/ITU Application, the allowed amount shall be paid in full not later than fourteen (14) days after the Effective Date.
5. Except as set forth in the Agreement, any claims scheduled by the Debtors on behalf of any Multiemployer Plan or Mr. Purcell are deemed withdrawn and all claims filed by the Multiemployer Plans and Mr. Purcell are disallowed;
6. Epiq Bankruptcy Solutions, LLC is authorized to update the claims register to reflect the relief granted in this Order;

7. The Reorganized Debtors and Epiq Bankruptcy Solutions, LLC are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the terms and provisions of the Agreements;

8. The Reorganized Debtors are further authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the terms and provisions of the Agreements; and

9. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: _____, 2019
Wilmington, Delaware

The Honorable Laurie Selber Silverstein
United States Bankruptcy Judge

Exhibit B

Redline

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

In re:

Chapter 11

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HMH MEDIA, INC., et al.,
Reorganized Debtors.¹

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Re: D.I. ~~—~~613

**[REVISED PROPOSED] ORDER APPROVING AGREEMENT REGARDING
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Upon the *Reorganized Debtors' Motion for Approval of Agreement Regarding Multiemployer Pension Plan and Insider Claims* dated August 15, 2019 [D.I. 613] (the "Motion") filed by HMH Media, Inc. and its substantively consolidated affiliates (collectively, the "Reorganized Debtors;" prior to the Plan Effective Date, the "Debtors")² in the above-captioned Chapter 11 Cases pursuant to Bankruptcy Rule 9019(a) and Sections 502, 503 and 105(a) of the United States Bankruptcy Code; the Court having reviewed the Motion and the Certification of Counsel filed at D.I. _____ in support of the Reorganized Debtors' revised proposed order; and having considered, if applicable, the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (if any, the "Hearing"); the Court finding that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (iii) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409, and (iv) sufficient notice was given of the

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² Capitalized terms used but not defined herein shall have the definitions contained in the Motion.

Motion and the Hearing; the Court finding that the relief requested is fair and reasonable under the circumstances; and finding good cause exists to grant the Motion;

IT IS HEREBY ORDERED that:

1. The Motion is GRANTED ~~as set forth herein~~.
2. The Agreement is APPROVED and all terms and provisions of the Agreement are incorporated fully herein ~~except as provided in this Order~~.
3. Each Multiemployer Plan Claim shall be Allowed as a Claim under the Plan in the amount set forth in the "Allowed Claim Amount (Class)" column of **Schedule 1** of the Agreement, except that where the "Allowed Claim Amount (Class)" for such claim is listed as "\$0," such claim shall be disallowed. In full and final satisfaction of each Allowed Claim, each respective claimant shall receive the treatment set forth in Article III of the Plan with respect to the Class of Claims indicated in the "Allowed Claim Amount (Class)" column.
4. The CWA/ITU Application [D.I. 503] shall be Allowed as an Administrative Claim under the Plan in the amount of \$26,241.41. In full and final satisfaction of the CWA/ITU Application, the allowed amount shall be paid in full not later than fourteen (14) days after the Effective Date.
5. ~~4.~~ Except as set forth in the Agreement, any claims scheduled by the Debtors on behalf of any Multiemployer Plan or Mr. Purcell are deemed withdrawn ~~and all claims filed by the Multiemployer Plans and Mr. Purcell are disallowed~~.
6. ~~5.~~ Epiq Bankruptcy Solutions, LLC is authorized to update the claims register to reflect the relief granted in this Order.

7. ~~6.~~ The Reorganized Debtors and Epiq Bankruptcy Solutions, LLC are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the terms and provisions of the Agreements~~;~~.

8. ~~7.~~ The Reorganized Debtors are further authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the terms and provisions of the Agreements~~;~~ and

9. ~~8.~~

This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: _____, 2019

~~Wilmington, Delaware~~

Wilmington, Delaware

The Honorable Laurie Selber Silverstein
United States Bankruptcy Judge

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