

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

Dynamic Aerostructures LLC, *et al.*,
Debtors.¹

Chapter 11

Case No. 25-10292 (LSS)

(Jointly Administered)

Related Docket No. 74

**CERTIFICATION OF COUNSEL REGARDING DEBTORS' APPLICATION FOR
ENTRY OF AN ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT OF
BERKELEY RESEARCH GROUP, LLC AS FINANCIAL ADVISOR FOR THE
DEBTORS, EFFECTIVE AS OF THE PETITION DATE**

The undersigned counsel for the above-captioned debtors and debtors in possession (the “**Debtors**”) hereby certifies as follows:

1. On March 4, 2025, the Debtors filed the *Debtors' Application for Entry of an Order Authorizing the Retention and Employment of Berkeley Research Group, LLC as Financial Advisor for the Debtors, Effective as of the Petition Date* [Docket No. 74] (the “**Application**”).

2. Pursuant to the notice of Application, the deadline to file objections regarding the relief requested in the Application was set for March 18, 2025, at 4:00 p.m. (Eastern Time).

3. Prior to the Objection Deadline, the Debtors received comments from the United States Trustee (the “**U.S. Trustee**”).

4. On March 21, 2025, the Debtors filed the *Supplemental Declaration of Bob Butler in Support of Debtors' Application for Entry of an Order Authorizing the Retention and*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Dynamic Aerostructures LLC (3076); Dynamic Aerostructures Intermediate LLC (9800); and Forrest Machining LLC (3421). The Debtors' service address is 27756 Avenue Mentry, Valencia, California 91355.



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Employment of Berkeley Research Group, LLC, as Financial Advisor for the Debtors, Effective as of the Petition Date [Docket No. 141].

5. The Debtors hereby submit a revised form of order (the “**Revised Order**”), attached hereto as **Exhibit A**, which reflects changes in response to the comments received. The Revised Order has been reviewed by counsel to the U.S. Trustee and is acceptable to the U.S. Trustee.

6. Attached as **Exhibit B** is a blackline of the Revised Order against the order filed with the Motion.

WHEREFORE, the Debtors respectfully request that the Court enter the Revised Order attached hereto as **Exhibit A** at its earliest convenience.

Dated: March 21, 2025

CHIPMAN BROWN CICERO & COLE, LLP

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*Proposed Counsel to the Debtors and Debtors in
Possession*

EXHIBIT A

Order

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

In re:

Dynamic Aerostructures LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 25-10292 (LSS)

(Jointly Administered)

Related Docket No. 74

**ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT OF BERKELEY
RESEARCH GROUP, LLC AS FINANCIAL ADVISOR FOR THE DEBTORS,
EFFECTIVE AS OF THE PETITION DATE**

Upon the application (the “Application”)² of the above-captioned debtors and debtors in possession (collectively the “Debtors”), for entry of an order pursuant to sections 105(a), 327(a), 328(a), and 1107 of the Bankruptcy Code, Bankruptcy Rule 2014(a), and Local Rule 2014-1, authorizing the Debtors to retain and employ BRG as their financial advisor, on the terms and conditions of the Engagement Letter, effective as of the Petition Date, and granting related relief; all as more fully set forth in the Application; and this Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 1334 and 157 and the Standing Order; 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 proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court being satisfied, based on the representations made in the Application and the Butler Declaration that BRG is

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² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

“disinterested” as such term is defined in section 101(14) of the Bankruptcy Code, and that BRG represents no interest adverse to the Debtors’ estates with respect to the matters upon which it is to be engaged, all as more fully set forth in the Application; that BRG is not a “creditor” within the meaning of section 101(11) of the Bankruptcy Code; and any objections to the Application having been resolved or overruled; and this Court having determined that the relief requested in the Application is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and it appearing that proper and adequate notice of the Application has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and this Court having determined that there is good and sufficient cause for the relief granted in this Order, therefore,

IT IS HEREBY ORDERED THAT:

1. The Application is GRANTED as set forth herein.
2. The Debtors are authorized to retain and employ BRG as their financial advisor pursuant to Bankruptcy Code sections 105(a), 327(a), 328(a), and 1107, Bankruptcy Rule 2014(a), and Local Rule 2014-1, effective as of the Petition Date, on the terms and conditions set forth in the Engagement Letter and the Application, including, without limitation, the Indemnification Provisions set forth therein, as modified herein.
3. Notwithstanding anything to the contrary in the Engagement Letter, BRG shall file applications for allowance of compensation and reimbursement of expenses pursuant to and in accordance with the procedures set forth in Bankruptcy Code sections 330 and 331, the Bankruptcy Rules, the Local Rules, and any other applicable orders and procedures of this Court.
4. In the event that BRG seeks reimbursement from the Debtors for fees and/or expenses of its attorneys related to its retention or fee applications, the invoices and supporting

time records from such attorneys shall be included in BRG's own application; *provided, however*, that BRG shall not seek reimbursement of any fees incurred defending any of BRG's fee applications in these Cases.

5. The terms of the Engagement Letter, as modified herein, are approved and the indemnification, contribution, and reimbursement provisions as set forth therein are approved, subject, during the pendency of these Cases, to the following modifications:

- (a) The Indemnified Parties shall not be entitled to indemnification, contribution, or reimbursement pursuant to the Engagement Letter, unless the indemnification, contribution, or reimbursement is approved by the Court.
- (b) Notwithstanding any provision of the Engagement Letter or Application to the contrary, the Debtors shall have no obligation to indemnify the Indemnified Parties or provide contribution or reimbursement to the Indemnified Parties, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from the Indemnified Parties' gross negligence, willful misconduct, bad faith, self-dealing, or fraud, (ii) for a contractual dispute in which the Debtors allege the breach of BRG'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 (iii) settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by the Court, after notice and a hearing pursuant to subparagraph (c) to be a claim or expense for which the Indemnified Parties should not receive indemnity, contribution, or reimbursement under the terms of the Engagement Letter and Application as modified by this Order.
- (c) If, before the earlier of (i) the entry of a final, non-appealable order confirming a Chapter 11 plan in these Cases, and (ii) the entry of an order closing these Cases, the Indemnified Parties believe they are 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 this Order), including without limitation the advancement of defense costs, the Indemnified Parties must file an application therefor in this Court, and the Debtors may not pay any such

amounts to Indemnified Parties before the entry of an order by this Court approving the payment. 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 the Indemnified Parties for indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify the Indemnified Parties. All parties in interest shall retain the right to object to any demand by the Indemnified Parties for indemnification, contribution, or reimbursement.

- (d) Any limitation of liability or limitation on any amounts to be contributed by the parties to the Engagement Letter under the terms of the Engagement Letter shall be eliminated. Any limitation of liability as to third-party non Debtors in the Engagement Letter shall be of no force and effect with respect to the services approved under this Order. Any limitation of liability pursuant to the terms and conditions set forth in the Application, the Engagement Letter, or any ancillary documents thereto shall not apply as to losses, claims, damages, or liabilities for which the Indemnified Parties would not be entitled to indemnification under the provisions of this Order.
- (e) Notwithstanding the section of the Engagement Letter entitled "Conflicts of Interests," BRG's retention shall be subject to, and governed by, section 327(a) of the Bankruptcy Code.

6. BRG is hereby authorized to apply the Cash on Account to satisfy any unbilled or other remaining prepetition fees and expenses BRG becomes aware of during its ordinary course billing review and reconciliation. The Cash on Account shall be treated as an evergreen retainer and BRG will maintain the remaining Cash on Account until the conclusion of its representation of the Debtors, at which time BRG will apply the Cash on Account to its final invoices or otherwise return the funds.

7. To the extent BRG uses the services of Contractors in these Cases and seeks to pass through the fees and/or costs of the Contractors to the Debtors, BRG shall: (a) pass through the fees of such Contractors to the Debtors at the same rate that BRG pays the Contractors; (b) seek reimbursement for the actual costs of the Contractors only; (c) ensure that the Contractors are

subject the same conflict checks as required for BRG; and (d) file with the Court such disclosures required by the Bankruptcy Code, Bankruptcy Rules, Local Rules, order of the Court, and applicable law. For a period of three years after conclusion of the engagement, BRG shall not make any investments in the Debtors or the reorganized debtors.

8. During the pendency of these Cases, the arbitration provision in the Engagement Letter shall not be applicable.

9. During the pendency of these Cases, the Fees and Expenses provision of the Engagement Letter shall be revised to provide that the 1% interest per month late charge, weekly billing, and seven (7) day review of invoices will not be applicable.

10. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this Order shall be effective and enforceable immediately upon entry hereof.

11. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this order.

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

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

EXHIBIT B

Redline Order

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

In re:

Dynamic Aerostructures LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 25-10292 (LSS)

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**ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT OF BERKELEY
RESEARCH GROUP, LLC AS FINANCIAL ADVISOR FOR THE DEBTORS,
EFFECTIVE AS OF THE PETITION DATE**

Upon the application (the “Application”)² of the above-captioned debtors and debtors in possession (collectively the “Debtors”), for entry of an order pursuant to sections 105(a), 327(a), 328(a), and 1107 of the Bankruptcy Code, Bankruptcy Rule 2014(a), and Local Rule 2014-1, authorizing the Debtors to retain and employ BRG as their financial advisor, on the terms and conditions of the Engagement Letter, effective as of the Petition Date, and granting related relief; all as more fully set forth in the Application; and this Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 1334 and 157 and the Standing Order; 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 proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court

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² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

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being satisfied, based on the representations made in the Application and the Butler Declaration that BRG is “disinterested” as such term is defined in section 101(14) of the Bankruptcy Code, and that BRG represents no interest adverse to the Debtors’ estates with respect to the matters upon which it is to be engaged, all as more fully set forth in the Application; that BRG is not a “creditor” within the meaning of section 101(11) of the Bankruptcy Code; and any objections to the Application having been resolved or overruled; and this Court having determined that the relief requested in the Application is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and it appearing that proper and adequate notice of the Application has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and this Court having determined that there is good and sufficient cause for the relief granted in this Order, therefore,

IT IS HEREBY ORDERED THAT:

1. The Application is GRANTED as set forth herein.
2. The Debtors are authorized to retain and employ BRG as their financial advisor pursuant to Bankruptcy Code sections 105(a), 327(a), 328(a), and 1107, Bankruptcy Rule 2014(a), and Local Rule 2014-1, effective as of the Petition Date, on the terms and conditions set forth in the Engagement Letter and the Application, including, without limitation, the Indemnification Provisions set forth therein, as modified herein.
3. Notwithstanding anything to the contrary in the Engagement Letter, BRG shall file applications for allowance of compensation and reimbursement of expenses pursuant to and in accordance with the procedures set forth in Bankruptcy Code sections 330 and 331, the Bankruptcy Rules, the Local Rules, and any other applicable orders and procedures of this Court.

~~4. BRG is entitled to reimbursement of actual and necessary expenses, including, subject to paragraphs 5 and 6 hereof, legal fees related to this retention application and future fee applications as approved by the Court.~~

4. ~~5.~~ In the event that BRG seeks reimbursement from the Debtors for fees and/or expenses of its attorneys related to its retention or fee applications, the invoices and supporting time records from such attorneys shall be included in BRG's own application; *provided, however,* that BRG shall not seek reimbursement of any fees incurred defending any of BRG's fee applications in these Cases.

5. ~~6.~~ The terms of the Engagement Letter, as modified herein, are approved and the indemnification, contribution, and reimbursement provisions as set forth therein are approved, subject, during the pendency of these Cases, to the following modifications:

(a) The Indemnified Parties shall not be entitled to indemnification, contribution, or reimbursement pursuant to the Engagement Letter, unless the indemnification, contribution, or reimbursement is approved by the Court.

(b) ~~(a)~~ Notwithstanding any provision of the Engagement Letter or Application to the contrary, the Debtors shall have no obligation to indemnify the Indemnified Parties or provide contribution or reimbursement to the Indemnified Parties, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from the Indemnified Parties' gross negligence, willful misconduct, bad faith, self-dealing, or fraud, (ii) for a contractual dispute in which the Debtors allege the breach of ~~the Indemnified Parties~~ BRG'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 (iii) settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by the Court, after notice and a hearing pursuant to subparagraph (c) to be a claim or expense for which the Indemnified Parties should not receive indemnity, contribution, or

reimbursement under the terms of the Engagement Letter and Application as modified by this Order.

(c) ~~(b)~~ If, before the earlier of (i) the entry of a final, non-appealable order confirming a Chapter 11 plan in these Cases, and (ii) the entry of an order closing these Cases, the Indemnified Parties believe they are 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 this Order), including without limitation the advancement of defense costs, the Indemnified Parties must file an application therefor in this Court, and the Debtors may not pay any such amounts to Indemnified Parties before the entry of an order by this Court approving the payment. 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 the Indemnified Parties for indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify the Indemnified Parties. All parties in interest shall retain the right to object to any demand by the Indemnified Parties for indemnification, contribution, or reimbursement.

(d) ~~(e)~~ Any limitation of liability or limitation on any amounts to be contributed by the parties to the Engagement Letter under the terms of the Engagement Letter shall be eliminated. Any limitation of liability as to third-party non Debtors in the Engagement Letter shall be of no force and effect with respect to the services approved under this Order. Any limitation of liability pursuant to the terms and conditions set forth in the Application, the Engagement Letter, or any ancillary documents thereto shall not apply as to losses, claims, damages, or liabilities for which the Indemnified Parties would not be entitled to indemnification under the provisions of this Order.

(e) Notwithstanding the section of the Engagement Letter entitled "Conflicts of Interests," BRG's retention shall be subject to, and governed by, section 327(a) of the Bankruptcy Code.

6. ~~7.~~ BRG is hereby authorized to apply the Cash on Account to satisfy any unbilled or other remaining prepetition fees and expenses BRG becomes aware of during its ordinary course billing review and reconciliation. The Cash on Account shall be treated as an evergreen

retainer and BRG will maintain the remaining Cash on Account until the conclusion of its representation of the Debtors, at which time BRG will apply the Cash on Account to its final invoices or otherwise return the funds.

7. ~~8.~~ To the extent BRG uses the services of Contractors in these Cases and seeks to pass through the fees and/or costs of the Contractors to the Debtors, BRG shall: (a) pass through the fees of such Contractors to the Debtors at the same rate that BRG pays the Contractors; (b) seek reimbursement for the actual costs of the Contractors only; (c) ensure that the Contractors are subject the same conflict checks as required for BRG; and (d) file with the Court such disclosures required by the Bankruptcy Code, Bankruptcy Rules, Local Rules, order of the Court, and applicable law. For a period of three years after conclusion of the engagement, BRG shall not make any investments in the Debtors or the reorganized debtors.

8. ~~9.~~ During the pendency of these Cases, the arbitration provision in the Engagement Letter shall not be applicable.

9. ~~10.~~ During the pendency of these Cases, the Fees and Expenses provision of the Engagement Letter shall be revised to provide that the 1% interest per month late charge, weekly billing, and seven (7) day review of invoices will not be applicable.

10. ~~11.~~ Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this Order shall be effective and enforceable immediately upon entry hereof.

11. ~~12.~~ The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this order.

12. ~~13.~~ To the extent that there may be any inconsistency between the terms of the Application, the Butler Declaration, the Engagement Letter, and this Order, the terms of this Order shall govern.

| 13. ~~14.~~ This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Document comparison by Workshare Compare on Friday, March 21, 2025
9:16:09 AM

Input:	
Document 1 ID	netdocuments://4920-4920-7335/1
Description	FMI - BRG FA Retention Order
Document 2 ID	netdocuments://4920-4920-7335/3
Description	FMI - BRG FA Retention Order
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	21
Deletions	22
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	43