

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

In re:

AMERICAN VIRTUAL CLOUD  
TECHNOLOGIES, INC., *et al.*,

Debtors.<sup>1</sup>

Chapter 11

23-10020 (MFW)

(Jointly Administered)

**Re: Docket Nos. 53 & 68**

**ORDER ESTABLISHING PROCEDURES FOR INTERIM  
COMPENSATION AND REIMBURSEMENT OF EXPENSES OF PROFESSIONALS**

Upon consideration of the motion (the “Motion”)<sup>2</sup> of the of the above-captioned debtors and debtors in possession (the “Debtors”) for entry for entry of an order (this “Order”) pursuant to sections 105(a), 330 and 331 of the Bankruptcy Code, Bankruptcy Rule 2016 and Local Rule 2016-2, establishing procedures for interim compensation and reimbursement of the expenses of professionals; and the Court having jurisdiction to consider the Motion and the relief requested therein 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 the matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and the Court being able to issue a final order consistent with Article III of the United States Constitution; and venue of this proceeding and the Motion being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and due and sufficient notice of the Motion having been given under the particular circumstances; and it appearing that no other or further notice is necessary; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other

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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, are: American Virtual Cloud Technologies, Inc. (2421), AVCtechnologies USA, Inc. (8886), and Kandy Communications LLC (5853). The Debtors’ corporate headquarters is 1720 Peachtree Road, Suite 629, Atlanta, Georgia 30309.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings scribed to such terms in the Motion.

parties-in-interest; and after due deliberation thereon; and good and sufficient cause appearing therefor; it is hereby

**ORDERED, ADJUDGED, AND DECREED** that:

1. The Motion is GRANTED as set forth herein.
2. Except as otherwise provided in an order of this Court authorizing the retention of a Retained Professional, Retained Professionals may seek interim payment of compensation and reimbursement of expenses in accordance with the following compensation procedures (the “Compensation Procedures”):

**A. Monthly Fee Applications**

- a. On or after the twentieth (20th) day of each calendar month following the month for which compensation is sought, each Retained Professional seeking interim allowance of its fees and expenses will file with the Court an application, which will include the relevant time entries and descriptions and expense details for interim allowance of compensation for services rendered and reimbursement of expenses incurred during the preceding month (a “Monthly Fee Application”). The Retained Professionals’ first Monthly Fee Applications will cover the period from the Petition Date through January 31, 2023.
- b. Each Retained Professional that files a Monthly Fee Application will serve a copy of such Monthly Fee Application on the following parties (collectively, the “Fee Notice Parties”):
  - i. The Debtors, c/o American Virtual Cloud Technologies, Inc., 4880 Lower Roswell Rd., Suite 165-#129, Marietta, GA 30068 (Attn: Thomas King (tking@AVCTechnologies.com));
  - ii. proposed counsel for the Debtors, Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, Delaware 19801 (Attn: Patrick J. Reilley (PREilley@coleschotz.com)) and Court Plaza North, 25 Main Street, Hackensack, NJ 07601 (Attn: Michael D. Sirota (MSirota@coleschotz.com) and David M. Bass (DBass@coleschotz.com));
  - iii. the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Joseph Cudia (Joseph.Cudia@usdoj.gov)); and
  - iv. proposed counsel for the Official Committee of Unsecured Creditors, Saul Ewing LLP, 1201 N. Market Street, Suite 2300, P.O. Box 1266,

Wilmington, Delaware 19899-1266 (Attn: Lucian B. Murley (luke.murley@saul.com)).

- c. Any Retained Professional that fails to file a Monthly Fee Application for a particular month or months may subsequently submit a consolidated Monthly Fee Application that includes a request for compensation earned or expenses incurred during previous months. All Monthly Fee Applications will comply with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and any applicable orders of this Court.
- d. The deadline to object to any Monthly Fee Application is 4:00 p.m. (prevailing Eastern Time) on the twenty-first (21st) day (or the next business day if such day is not a business day) following the date the Monthly Fee Application is served (the "Objection Deadline").
- e. To object to a Retained Professional's Monthly Fee Application, the objecting party must (i) file with the Court a written objection (an "Objection") on or before the Objection Deadline and (ii) serve the Objection upon the affected Retained Professional and each of the Fee Notice Parties. Thereafter, the objecting party and the Retained Professional will attempt to resolve the Objection on a consensual basis.
- f. Upon the expiration of the Objection Deadline, a Retained Professional may file a certificate of no objection (a "CNO") with the Court with respect to any fees and expenses not subject to an Objection. After a Retained Professional files a CNO, the Debtors will promptly pay the Retained Professional 80% of the fees and 100% of the expenses requested in the applicable Monthly Fee Application that are not subject to an Objection.
- g. If a portion of the fees and expenses requested in a Monthly Fee Application is subject to an Objection and the parties are unable to reach a consensual resolution, the Retained Professional may either (i) file with the Court a response to the Objection, together with a request for payment of any portion of the amounts subject to the Objection, or (ii) forgo payment of the amount subject to such objection until the next hearing to consider interim or final fee applications, at which time the Court will adjudicate any unresolved Objections. If the parties reach a consensual resolution, the Debtors will promptly pay 80% of the agreed upon fees and 100% of the agreed-upon expenses.

## **B. Interim Fee Applications**

- a. Unless a chapter 11 plan of reorganization or liquidation has become effective, at three-month intervals, each Retained Professional will file with the Court an application (an "Interim Fee Application") for interim approval and allowance of compensation and reimbursement of expenses sought by such Retained Professional in its Monthly Fee Applications, including any amounts requested in Monthly Fee Applications but yet unpaid, filed during the preceding interim period

(each such period, an “Interim Fee Period”). The initial Interim Fee Period will include the period from the Petition Date through March 31, 2023.

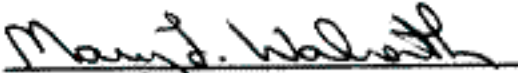
- b. Retained Professionals will file their applicable Interim Fee Applications on or before the thirtieth (30th) day, or the next business day if such day is not a business day, following the end of each Interim Fee Period.
- c. The Interim Fee Application will include a brief description identifying the following:
  - i. The Monthly Fee Applications that are the subject of the request;
  - ii. The amount of fees and expenses requested;
  - iii. The amount of fees and expenses paid to date or subject to an Objection;
  - iv. The deadline for parties to file objections to the Interim Fee Application (such objections, the “Additional Objections”); and
  - v. Any other information requested by the Court or required by the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules.
  - vi. For attorneys, in each Interim Fee Application Request and each final fee application, all attorneys who have been or are hereafter retained pursuant to sections 327 or 1103 of the Bankruptcy Code shall (a) make a reasonable effort to comply with the U.S. Trustee’s requests for information and additional disclosures as set forth in the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases Effective as of November 1, 2013*; and (b) provide their billing records (detailed time entries and expenses) for the time period covered by each Interim Fee Application and final fee application in LEDES format or other open and searchable electronic data format to the U.S. Trustee, any fee examiner or fee auditor appointed in the chapter 11 cases, and upon request, to this Court.
- d. Additional Objections to any Interim Fee Application will be filed with the Court on or before 4:00 p.m. (prevailing Eastern Time) on the fourteenth (14th) day (or next business day if such day is not a business day) following service of the applicable Interim Fee Application, and served upon the affected Retained Professional and each of the Fee Notice Parties.
- e. The Debtors may request that the Court schedule a hearing on Interim Fee Applications at least once every three months or at such other intervals as the Court deems appropriate. If no Objections are pending and no Additional Objections are timely filed, the Court may approve and allow an Interim Fee Application without a hearing.

- f. Each Retained Professional will serve its Interim Fee Application and final fee application upon the Fee Notice Parties. Each Retained Professional will serve a notice of hearing on its Interim Fee Application and final fee application on all parties that have requested notice in the Chapter 11 Cases pursuant to Bankruptcy Rule 2002. No further notice is necessary.
  - g. A pending Objection to compensation or reimbursement of a Retained Professional will not disqualify the Retained Professional from future compensation or reimbursement.
  - h. Neither (i) the payment of, or the failure to pay, in whole or in part, any interim compensation and reimbursement to a Retained Professional nor (ii) the filing of, or failure to file, an Objection will bind any party-in-interest or the Court with respect to the final allowance of any compensation of fees for services rendered or reimbursement of expenses incurred by a Retained Professional. All fees and expenses paid to Retained Professionals under these Compensation Procedures are subject to disgorgement until final allowance by the Court.
  - i. Any member of the Committee may submit statements of expenses (excluding the fees and expenses of an individual Committee member's third-party counsel or any other third-party advisors) and supporting vouchers to the Committee's counsel, which counsel will collect and submit the Committee members' requests for reimbursement in accordance with the Compensation Procedures; provided that payment of such expenses is not authorized to the extent that such authorization does not exist under the Bankruptcy Code, applicable Third Circuit law, the Bankruptcy Rules, the Local Rules or the procedures and practices of this Court.
  - j. A Retained Professional may file a Monthly Fee Application or Interim Fee Application prior to the Court's entry of an order approving the retention of such Professional pursuant to sections 327 or 1103 of the Bankruptcy Code; *provided, however*, that such Professional shall not be authorized to receive payment on account of any such Monthly Fee Application or Interim Fee Application until the Court approves the retention of such Professional.
3. The amount of fees and expenses sought in any request for compensation and reimbursement of expenses shall be stated in U.S. dollars (if applicable, calculated at the prevailing exchange rate on the date of submission of the relevant fee application).
  4. The Debtors shall include all payments to Professionals in their monthly and quarterly operating reports, identifying the amount paid to each Professional.
  5. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

6. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

7. The Court retains jurisdiction over any matter arising from or related to this Order, including its interpretation, construction, implementation and enforcement.

Dated: February 3rd, 2023  
Wilmington, Delaware

  
MARY F. WALRATH  
UNITED STATES BANKRUPTCY JUDGE