

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

In re:

Medley LLC,¹

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

Docket Nos. 324, 328, 371, 376

**DECLARATION OF ADAM M. ROSEN
IN SUPPORT OF CONFIRMATION OF THE THIRD AMENDED COMBINED
DISCLOSURE STATEMENT AND CHAPTER 11 PLAN OF MEDLEY LLC**

I, Adam M. Rosen, pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury under the laws of the United States of America, that to the best of my knowledge, information and belief, the following is true and correct:

1. I am a Managing Director of B. Riley Securities, Inc. ("B. Riley Securities"), an investment bank which has its principal office at 11100 Santa Monica Blvd., Suite 800, Los Angeles, CA 90025 and other locations. B. Riley Securities has been retained as the investment banker to the above-captioned debtor (the "Debtor") in the above-captioned chapter 11 case (the "Chapter 11 Case"). I submit this Declaration in support of confirmation of the *Third Amended Combined Disclosure Statement and Chapter 11 Plan of Medley LLC* [Docket No. 324] (as may be amended, modified, or supplemented from time to time, the "Plan").² Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, my review of the relevant documents, and/or my opinion based upon my experiences, knowledge, and information concerning the Debtor and provided to me by the Debtor's and its subsidiaries management team, others with B. Riley Securities, and/or the Debtor's other professionals.

¹ The last four digits of the Debtor's taxpayer identification number are 7343. The Debtor's principal executive office is located at 280 Park Avenue, 6th Floor East, New York, New York 10017.

² Defined terms used, but not otherwise defined, herein shall have the same meanings ascribed to them in the Plan.



2. I have been a Managing Director at B. Riley since April 2016. Prior to joining B. Riley, I was a Director at PricewaterhouseCoopers LLP from 2009 to 2016. I have over 16 years of experience in the field of rendering financial advisory and corporate finance related services in bankruptcy, workouts and restructuring transactions. During the course of my career, I have advised debtors, creditors and acquirors in financial restructurings, distressed mergers and acquisitions and raised capital for troubled companies. I received by M.B.A. from Fordham University and B.S. from Union College.

3. I am authorized to submit this declaration (the "Declaration") in my capacity as the investment banker of the Debtor. If I were called upon to testify, I would testify competently to the facts set forth herein.

4. On March 7, 2021, the Debtor filed its voluntary Chapter 11 petition in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

5. The Debtor has continued in possession of its property and has continued to operate and manage its business as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. On May 15, 2021, the Bankruptcy Court entered an *Order Authorizing the Debtor to Employ B. Riley Securities, Inc. as Debtor's Investment Banker Nunc Pro Tunc to March 7, 2021* [Docket No. 164]. I am a senior member of the B. Riley Securities team leading this engagement and am familiar with the Debtor's books and records, including financial records and the books and records of certain of the Debtor's subsidiaries, including financial records of Medley Capital LLC.

7. This Declaration is made in support of the Plan and the liquidation analysis, filed as Exhibit A to the Plan, as amended and filed as Exhibit B to *the Notice of Plan Supplement* [Docket No. 371].

The Liquidation Analysis

8. Based on my review of the Debtor's books and records, the books and records of the Debtor's subsidiaries, my understanding of the Debtor's business and the operations of the Debtor's subsidiaries including Medley Capital, and my understanding of the Debtor's historical financial performance, I believe that the Liquidation Analysis includes a reasonable estimate of what could be expected to be available for creditors in a hypothetical chapter 7 liquidation.

9. More specifically, among other things, the Liquidation Analysis shows that in a hypothetical chapter 7 liquidation, there would be an estimated deficiency of \$764,011 to an estimated surplus of \$67,289, meaning that holders of general unsecured claims would not receive any distribution, excluding any potential recoveries resulting from litigation claims. The only potential distribution in a hypothetical chapter 7 liquidation would be a de minimis distribution to holders of allowed administrative expense claims, excluding any potential recoveries resulting from litigation claims.

10. Under the proposed Plan, however, it is estimated that between \$3,066,023 and \$4,344,065 may be available for distribution, excluding any potential recoveries resulting from litigation claims. The estimated amounts would satisfy administrative expense claims in full. In addition, Holders of general unsecured claims in Class 3 (Note Claims) are estimated to receive between \$1,092,880 and \$2,381,142 in distributions and Holders of general unsecured claims in Class 4 (General Unsecured Claims) are estimated to receive between \$147,538 and \$157,757 in distributions. The estimated recoveries to Class 3 (Note Claims) and Class 4 (General Unsecured

Claims) are exclusive of any potential recoveries resulting from litigation claims. The estimated recoveries under the proposed Plan is far greater than the estimated recoveries under a hypothetical chapter 7 liquidation.

Consideration of Restructuring Alternatives

11. After appointment of Michelle Dreyer, as the independent manager, the Debtor and its advisors, Ms. Dreyer and B. Riley, began exploring all potential restructuring alternatives to bring the Debtor's chapter 11 case to conclusion. One option was conversion of the case to a liquidation under chapter 7. We analyzed this alternative but ultimately, the Debtor determined that conversion of the case would create material risk that employees would leave Medley Capital LLC ("Medley Capital") or clients would terminate their investment management agreements. Both of those potential issues would be value destructive and the Debtor determined in the exercise of its business judgement that conversion of the case was not in the best interest of the Debtor's estate or its creditors.

12. The Debtor also considered the possibility of having its non-Debtor subsidiaries sell the investment management agreements to generate additional proceeds. The Debtor concluded that this consideration was not possible because a sale of the investment management agreements would give clients a termination right, and thereby materially reducing or eliminating any potential value that could have been received through a sale. Additionally, the Debtor considered reorganization around its investment advisory business. Unfortunately, in order to operate profitably and maintain a viable employee base to provide the investment advisory and administrative services, SIC Advisors would need to retain its investment management agreement with Sierra. I understand that Sierra did invite SIC Advisors and Medley Capital to participate in

its bidding process but the Debtor and Medley Capital determined that they did not have the capital necessary to successfully compete for a new contract with Sierra.

13. After contemplation of these alternatives and negotiations with the Committee and Medley Capital, the Debtor determined, in the sound exercise of its business judgement, that the profitably winding down the Remaining Company Contracts as set forth in the Plan was the best alternative available to maximize value for the Debtor, its estate and creditors.

Payment Professional Fees in the Wind-Down Budget

14. The Wind-Down Budget includes line items for payments by Medley Capital for certain professionals. First, Paul Hastings LLP (“Paul Hastings”) is legal counsel exclusively to Medley Capital and certain non-debtor affiliates, including SIC Advisors LLC. It is not counsel to the Debtor. Paul Hastings fees are included as a line item in the Wind-Down Budget as an obligation and payment from Medley Capital. Second, Lowenstein Sandler’s fees are included as a line item in the Wind-Down Budget which was and remains subject to negotiation and settlement between the parties. . Neither Paul Hastings nor Lowenstein Sandler’s fees are not shown in the Wind-Down Budget as obligations of the Debtor and have not and will not be paid by the Debtor or from assets of the Debtor’s Estate.

15. Finally, the Wind-Down Budget provides for payment of certain fees of the Notes Trustee. This amount is estimated to be approximately \$716,375 for the period March 1, 2021 through June 30, 2021. The payment of the Notes Trustee Fees is a term of the Global Settlement and was important in the negotiations of the Plan. While the Notes Trustee Fees may be paid by Medley Capital as agreed by the Plan Proponents and the Notes Trustee has rights to exercise a charging lien against Distributions to Class 3 Notes Claims for payment of any remaining Notes Trustee Fees.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: October 1, 2021
New York, New York

/s/ Adam M. Rosen
Adam Rosen, Managing Director
B. Riley Securities, Inc