UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

Laurie Selber Silverstein
Judge

824 N. Market Street
Wilmington, DE 19801
(302) 252-2900

May 5, 2026

VIA CM/ECF

Re: ***In re Apple Tree Life Sciences, Inc.*, et al., Case No. 25-12177 (LSS)**
Debtors' Application for an Order Authorizing the Retention and Employment of Quinn Emanuel Urquhart & Sullivan, LLP as Co-Counsel for the Debtors Effective as of the Petition Date, Dkt. No. 132

Dear Counsel:

I am writing in connection with Debtors' Application for an Order Authorizing the Retention and Employment of Quinn Emanuel Urquhart & Sullivan, LLP as Co-Counsel for the Debtors Effective as of the Petition Date.[1] For the reasons set forth below, I will approve the application.

The parties are familiar with the background, which I will not repeat here in any depth. Debtors seek to retain and employ Quinn Emanuel Urquhart & Sullivan, LLP (the "Firm") as co-counsel under 11 U.S.C. § 327(a). As disclosed in their application, on August 4, 2025, ATP Life Science Ventures, L.P. (the "Fund") paid the Firm a $20 million retainer in connection with the Chancery Court litigation. From August 6 to December 8, 2025, the Firm drew down the retainer for fees, expenses, and payments incurred during that period, leaving a $0 balance in its trust account.

[1] Debtors' Application for an Order Authorizing the Retention and Employment of Quinn Emanuel Urquhart & Sullivan, LLP as Co-Counsel for the Debtors Effective as of the Petition Date, Dkt. No. 132.

The Rigmora LPs objected to the Firm's retention on multiple bases but have since limited their objection to one: the Firm is conflicted because it received the $20 million retainer.[2]

Bankruptcy Code § 327(a) provides that the "trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title."[3] A "disinterested person" is defined in the Code. It is one who does not have an interest materially adverse to the interest of the estate, by reason of any direct or indirect relationship with the debtor, or for any other reason.[4] An interest adverse to the estate may arise when a professional has "a competing economic interest tending to diminish estate values or to create a potential or actual dispute in which the estate is a rival claimant."[5] While the two prongs of section 327 are "formally distinct . . . in many cases . . . they effectively collapse into a single test."[6]

In *In re Marvel Entertainment Group*, the Third Circuit places conflicts into three categories relative to disqualification:

> (1) Section 327(a), as well as § 327(c), imposes a per se disqualification as trustee's counsel of any attorney who has an actual conflict of interest; (2) the district court may within its discretion—pursuant to § 327(a) and consistent with § 327(c)—disqualify an attorney who has a potential conflict of interest and (3) the district court may not disqualify an attorney on the appearance of conflict alone.[7]

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[2] Limited Objection of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP to Debtors' Application for an Order Authorizing the Retention and Employment of Quinn Emanuel Urquhart & Sullivan, LLP as Co-Counsel for the Debtors Effective as of the Petition Date, Dkt. Nos. 224 (sealed), 226 (redacted); Supplemental Statement of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP Regarding Matters Scheduled for the April 28, 2026 Hearing, Dkt. No. 589.

[3] 11 U.S.C. § 327(a).

[4] 11 U.S.C. § 101(14)(e).

[5] *In re Boy Scouts of Am.*, 35 F.4th 149, 158–59 (3d Cir. 2022) (quoting *In re First Jersey Sec., Inc.*, 180 F.3d 504, 509 (3d Cir. 1999)).

[6] *In re Boy Scouts of Am.*, 35 F.4th at 157.

[7] 140 F.3d 463, 476 (3d Cir. 1998).

The term "actual conflict of interest" is not defined in the Code.[8] Rather, it "has been given meaning largely through a case-by-case evaluation of particular situations arising in the bankruptcy context."[9] "Pragmatically," an actual conflict arises "when the specific facts before the bankruptcy court suggest that it is likely that a professional will be placed in a position permitting it to favor one interest over an impermissibly conflicting interest."[10]

The Rigmora LPs argue that Debtors' application to retain the Firm cannot be approved because the Firm will need to return the $20 million retainer to the Fund.[11] Presumably relying on section 99 of the Companies Act,[12] the Rigmora LPs contend that the Firm has a conflict if the winding up proceeding in the Grand Court is successful and the General Partner does not seek a validation order or such order is denied. In that event, they assert the Fund may bring a "claw back" claim to recover the transfer of the retainer.[13] When asked at argument for the most analogous decision, the Rigmora LPs point to *In re Pillowtex, Inc.*,[14] where the UST objected to the retention of proposed counsel based on alleged receipt of preferential payments. There, the Third Circuit held that "when there has been a facially plausible claim of a substantial preference, the district and/or bankruptcy court cannot avoid the clear mandate of the statute by the mere expedient of approving retention conditional on a later determination of the preference issue."[15] Accordingly, the Third Circuit remanded the case to determine whether the payments at issue were avoidable preferential transfers and if so, whether the receipt of such payments posed a conflict with the debtors' respective estates or creditors. *Pillowtex* supports the general principle that the

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[8] *In re Boy Scouts of Am.*, 35 F.4th at 158.

[9] *In re BH & P Inc.*, 949 F.2d 1300, 1315 (3d Cir. 1991).

[10] *In re Boy Scouts of Am.*, 35 F.4th at 158 (quoting *In re Pillowtex*, 304 F.3d 246, 251 (3d Cir. 2002)).

[11] As the Rigmora LPs put it: "[t]o preview this issue for this Court, if the winding up proceeding in the Cayman Court is successful and the GP does not seek a validations order (as it has thus far failed to do) or such order is not granted, the Fund is entitled to bring a claw back claim to recover its assets under Cayman law." Supplemental Statement n.17.

[12] Section 99 of the Companies Act provides:

> **Avoidance of property dispositions, etc.**
> When a winding up order has been made, any disposition of the company's property and any transfer of shares or alteration in the status of the company's members made after the commencement of the winding up is, unless the Court otherwise orders, void.

[13] The Rigmora LPs do not cite to any section of the Companies Act or the ELP Act for the existence of a "claw back" claim.

[14] 304 F.3d 246 (3d Cir. 2022).

[15] *In re Pillowtex, Inc.*, 304 F.3d at 255.

presence of a "facially valid," "substantial" claim against proposed counsel may pose an actual conflict of interest requiring disqualification.

Unlike in *Pillowtex*, there is not presently a facially valid, substantial claim against the Firm. For there to be a facially valid claim, all of the elements of the claim must exist. First, there is not an on-going winding up petition that could lead to a winding up order. As the parties are aware, the automatic stay prevents the entry of a winding up order. My Order granting limited relief from stay did not permit the entry of a winding up order; it only permitted the winding up petition to proceed to determine whether (i) the Rigmora LPs can prove that they have justifiably and irretrievably lost all trust and confidence in the General Partner's ability to manage the Fund; and/or (ii) whether the Fund has lost its substratum and the possible appointment of joint official liquidators. Second, even assuming relief from stay, there would need to be the entry of winding up order for the transfer of the $20 million to be void. Third, even in those circumstances, the General Partner could seek a validation order permitting the retention of the retainer. Only if denied, would the transfer of the retainer be definitively void and thus subject to some sort of suit for recovery.[16]

Because there is a potential conflict of interest, disqualification is discretionary. Under the circumstances here, I decline to exercise that discretion in favor of disqualification.[17] As the relevant time period under the Companies Act runs from the filing up of a winding up petition to the entry of a winding up order, all transfers during this period may be void. The logical extension of the Rigmora LPs' argument is that no law firm can be retained because any payments in this bankruptcy case to that law firm would automatically trigger the same conflict (i.e., the receipt of a post-winding up petition transfer, which may or may not give rise to a claw back claim). This yields an unworkable situation that even counsel for the Rigmora LPs tacitly acknowledged.[18]

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[16] *See supra* n.11. Debtors argue that there are defenses to any claw back litigation because the Fund is solvent and the debt paid was legitimate.

[17] *Compare In re Marvel Ent. Grp.*, 140 F.3d at 476 (while generally a court should disapprove a professional with a potential conflict, there are exceptions, such as: (x) a case that is so large that every competent professional is already employed by a creditor and thus all counsel would have potential conflicts and (y) situations where the potential for the conflict to become actual is remote (citing *BH & P*, 949 F.2d at 1316–17)).

[18] THE COURT: Let's say I were to disqualify Quinn Emanuel and somebody else would get retained, another law firm would get retained. Why aren't they in the same position as Quinn Emanuel? They haven't received anything in the past, but let's say two months from now I approve fees and they get paid, or just pursuant to the monthly ordinary payment of professionals order, they get paid. How are they not in the same position?

MS. LABOVITZ: It's the right question to ask, Your Honor. I think a couple of points. The first is something I hadn't expected to bring up today but I will, which is that we

I am therefore unpersuaded by the Rigmoras LPs' limited objection and do not believe it provides a sufficient basis to disqualify the Firm. I will approve the application. A separate order will enter.

Very truly yours,

Laurie Selber Silverstein

LSS/cmb

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really think it would be appropriate for there to be a protocol between this Court and the Cayman Court to allow for discussion of exactly those items.

Ms. Tomasco is correct in saying that payments are presumptively void, but that doesn't mean that they will be voided. And I think a path forward to address that issue would be for the two courts to coordinate on exactly the question of payment of administrative expenses of the Chapter 11 case. So that is my initial answer.

And then regarding, I think I will also just note, I have been trying to steer clear of the details of the $20 million payment and whether and how it would be treated in the Cayman Islands, because I do believe that's for Justice Asif to decide. But I will note that the $20 million that was paid during the winding-up proceeding may be viewed with specific and distinct perspective by Justice Asif, because it was used to pay the GP's fees for that proceeding.

Again, Justice [sic] McCormick has determined that the propriety of all of that is something for Justice Asif to decide. And while we don't know what's in Justice Asif's mind, he has made comments in certain statements that have been critical of certain actions of this particular law firm.

And Your Honor, I am trying to answer your question without going deep into that long history, which is not very familiar to me. And also, I frankly am trying to be conciliatory and friendly today in this courtroom. But I believe that the $20 million payment might attract particular scrutiny in the Cayman Court.

Hr'g Tr. 34:2–35:15, Apr. 28, 2026, Dkt. No. 614.