UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

In re:	§	**Chapter 11**
	§	
BRIGGS & STRATTON CORPORATION, *et al.*,	§	**Case No. 20-43597-399**
	§	
	§	**(Joint Administration Requested)**
	§	
Debtors.[1]	§	Hearing Date: July 21, 2020
	§	Hearing Time: 10:00 a.m. (Central Time)
	§	Hearing Location: Courtroom 5 North,
	§	111 S. 10th St., St. Louis, MO 63102

MOTION OF DEBTORS FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS TO (A) CONTINUE INSURANCE POLICIES AND PROGRAMS, (B) CONTINUE SURETY BOND PROGRAM, (C) PAY ALL INSURANCE AND SURETY OBLIGATIONS, (II) LIFTING THE AUTOMATIC STAY FOR WORKERS' COMPENSATION CLAIMS, AND (III) GRANTING RELATED RELIEF

Briggs & Stratton Corporation and its debtor affiliates in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the "**Debtors**"), respectfully represent as follows in support of this motion (the "**Motion**"):

Background

1. On the date hereof (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases. The Debtors have also filed a motion requesting joint administration of

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1 The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Briggs & Stratton Corporation (2330), Billy Goat Industries, Inc. (4442), Allmand Bros., Inc. (4710), Briggs & Stratton International, Inc. (9957), and Briggs & Stratton Tech, LLC (2102). The address of the Debtors' corporate headquarters is 12301 West Wirth Street, Wauwatosa, Wisconsin 53222.

their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 1015(b) of the Local Rules of the Bankruptcy Procedure for the Eastern District of Missouri (the "**Local Rules**").

2. The Debtors, combined with their non-Debtor affiliates (collectively, the "**Company**"), are the world's largest producer of gasoline engines for outdoor power equipment and a leading designer, manufacturer and marketer of power generation, pressure washer, lawn and garden, turf care and job site products. The Company's products are marketed and serviced in more than 100 countries on six continents through 40,000 authorized dealers and service organizations. Additional information regarding the Debtors' business and capital structure and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of Jeffrey Ficks, Financial Advisor of Briggs & Stratton Corporation, in Support of the Debtors' Chapter 11 Petitions and First Day Relief*, sworn to on the date hereof (the "**Ficks Declaration**"),[2] which has been filed with the Court contemporaneously herewith and is incorporated by reference herein.

Jurisdiction

3. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

4. By this Motion, the Debtors seek entry of an interim order (the "**Proposed Interim Order**") and, pending a final hearing on the relief requested herein, a final order (the "**Proposed Final Order**" and, together with the Proposed Interim Order, the "**Proposed**

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Ficks Declaration. All dollar ($) references in this Motion are to the U.S. dollar, unless stated otherwise.

Orders”),[3] pursuant to sections, 362(d), 363(b), 503(b), and 105(a) of the Bankruptcy Code, for (i) authority to (a) continue all Insurance Policies and Programs (as defined below), including extending, supplement, or otherwise modify their insurance coverage as needed in the ordinary course; (b) continue the Surety Bond Program (as defined below); (c) pay all Insurance and Surety Obligations (as defined below), whether arising prepetition or postpetition; (d) modify the automatic stay to permit the Debtors' employees to proceed with any claims they may have under the Workers' Compensation Program (as defined below); and (ii) related relief.

The Debtors' Insurance Programs

5. In connection with the operation of the Debtors' business, the Debtors participate in various insurance programs governed by several insurance policies (collectively, the “**Insurance Policies and Programs**,” and together with all premiums and other obligations related thereto, including broker or consultant fees, assessments, taxes, or fees, collectively, the “**Insurance Obligations**”) obtained through several insurance carriers (each, an “**Insurance Carrier**”).[4] The Insurance Policies and Programs include those listed on **Exhibit A** annexed hereto and described below:

(a) general coverage of workers' compensation and employer liability (the “**Workers' Compensation Program**”);

(b) general umbrella coverage for the Debtors' general liabilities, losses, costs, and expenses (the “**General Corporate Insurance Program**”);

(c) coverage for damage to commercial property and equipment arising from natural disasters, transportation, and other risks (the “**Property Program**”);

[3] Copies of the Proposed Orders will be made available on the Debtors' case information website at http://www.kccllc.net/Briggs.

[4] In addition to the Insurance Policies and Programs listed on **Exhibit A**, the Debtors maintain numerous insurance programs with respect to employee health, dental, disability, and life insurance benefits. These insurance policies are addressed in a separate motion filed in these cases pertaining to the employee wages and benefits programs.

(d) coverage for damage relating to data security and privacy (the "**Data Program**");

(e) general coverage of director and officer liability and indemnification (the "**D&O Program**");

(f) general coverage for liabilities relating to the Debtors' Employees, including acts of the Debtors' in-house counsel (the "**Employee Liability Program**");

(g) coverage for bodily injury and property damage relating to the use of the Debtors' owned and leased automobiles (the "**Auto Insurance Program**");

(h) coverage relating to the loss of the Debtors' goods or merchandise in transit (the "**Open Cargo Program**");

(i) coverage for losses of money, securities and other assets resulting from dishonesty, theft, or fraud (the "**Commercial Crime Program**");

(j) coverage liabilities and for claims of mismanagement of the Debtors' employee benefit plans (the "**Fiduciary Liability Program**");

(k) coverage to pay damages due to bodily injury or property damage on account of the handling or use or the existence of any condition in an aircraft product that is not in the possession of the Debtors, and is away from premises owned, rented, or controlled by the Debtors, and to pay all sums the Debtors shall become legally obligated to pay as damages for the loss of use of an aircraft (the "**Aviation Liability Policy**"); and

(l) coverage for the Debtors' portion of punitive damages in excess of a different, and applicable, policy limit (the "**Punitive Damages Program**").

A. Workers' Compensation Program

6. Under the laws of the states in which the Debtors operate, the Debtors must maintain workers' compensation insurance or equivalent coverage for employee claims arising from accident or disease related to employment by the Debtors (the "**Workers' Compensation Claims**"). Debtor Briggs & Stratton Corporation maintains the Workers' Compensation Program, which is primarily a self-funded plan, although a portion of the Workers' Compensation Program is fully insured.

7. The Debtors self-fund the Workers' Compensation Program in states where the Debtors maintain physical locations, which are Alabama, Georgia Kentucky, Missouri, Nebraska, New York, and Wisconsin.[5] This means the Debtors themselves pay all amounts due to holders of Workers' Compensation Claims as they become due (other than the insured amount discussed below). The average monthly amount the Debtors pay on account of Workers' Compensation Claims for which there is no insurance is approximately $300,000.

8. The self-funded portion of the Workers' Compensation Program is currently administered by Corvel Corporation ("**Corvel**"). Sentry Insurance ("**Sentry**") administers claims under the Workers' Compensation Program that arose prior to 2009. Though the program Sentry administers is characterized as a self-funded program, in practice it is essentially a high-deductible insurance program: Once the Debtors satisfy the deductible[6] for Workers' Compensation Claims, Sentry becomes financially obligated for any remaining amounts due. The Debtors pay Corvel and Sentry administrative fees of approximately $13,000 per month, in the aggregate, to administer these Workers' Compensation Programs. As of the Petition Date the Debtors have not paid the administrative fees for June or July.

9. Although the Debtors have primarily self-fund the Workers' Compensation Programs in the aforementioned states, the Debtors maintain a stop-loss, or excess insurance, policy through Safety National Casualty Corporation ("**Safety National**") with respect to Workers' Compensation Claims in such states. Pursuant to the Safety National insurance policy, the Debtors pay the first $500,000[7] for each Workers' Compensation Claim, and Safety National

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[5] The Debtors provide bonds to certain third parties, discussed in more detail at ¶¶ 39-41, to secure the Debtors' payment or performance of certain obligations in connection with the Workers' Compensation Program.

[6] The amount of the deductible varies based on the year the injury occurred. On a per-occurrence basis, the deductible is $250,000 for the years 2001 and 2002, $350,000 for 2003, and $500,000 for 2004 through 2008.

[7] In New York, the Debtors pay the first $600,000.

then pays any portion of a Workers' Compensation Claim in excess of $500,000, on a per claim basis. The coverage period for the Safety National coverage is December 31, 2019 through December 31, 2020. The annual premium for the Safety National coverage has been paid in full for the current coverage period.

10. From time-to-time, Corvel and Sentry submit a Standard Loss Run report to the Debtors. Among other things, this report lists the number of outstanding Workers' Compensation Claims and the associated amounts reserved for the outstanding claims. As of the Petition Date, there are approximately seven (7) open claims under the Workers' Compensation Program administered by Sentry, which the Debtors estimate, based on the amounts listed in the Standard Loss Run Report, aggregate to a total liability of approximately $810,000. Additionally, and also as of the Petition Date, there are approximately one-hundred sixty-nine (169) open claims under the Workers' Compensation Program administered by Corvel, which the Debtors estimate, based on the amounts listed in the Standard Loss Run Report, aggregate to a total liability of approximately $8.07 million, which amount is reduced to $5.5 million after the amount paid under the excess insurance policy. Both amounts include only the known open claims; the Debtors have not estimated an amount that may be owed on account of prepetition injuries that have occurred but not yet submitted as a Workers' Compensation Claim. In the aggregate, therefore, as of the Petition Date, the Debtors estimate the Debtors' true liability at approximately $6.3 million for known Workers' Compensation Claims that remain unresolved. As explained in more detail below, in each state, where the Debtors are required to provide surety bonds, the Debtors have posted collateral in excess of the amount of estimated liability for known Workers' Compensation Claims, except in Missouri where the Debtors have posted collateral that covers 99% of the estimated known liabilities.

11. Under the Workers' Compensation Program, in all states in which they are self-insured, except Alabama, the Debtors are required to provide surety bonds to the relevant state authority that oversees workers' compensation (the "**Workers' Compensation Authority**"), in an amount requested by the relevant Workers' Compensation Authority, to secure the Debtors' payment or performance of their obligations in connection with the Workers' Compensation Program. The Debtors have contracted Zurich American Insurance Company ("**Zurich**") to provide the surety bonds under the Surety Bond Program (as defined below). As part of the consideration to Zurich to issue these surety bonds, the Debtors provided Zurich with collateral in the combined form of letters of credit under the ABL Credit Facility (as defined in the Ficks Declaration) and cash collateral, such that Zurich is fully collateralized with respect to such surety bonds. The following chart illustrates the surety bonds Zurich posted in connection with the Workers' Compensation Program, the Workers' Compensation Authority that is the holder of each posted bond, and the outstanding liability by authority.

Bond Holder	Bond Amount	Estimated Uninsured Obligation for Open Workers' Compensation Claims	Estimated Insured Covered Liability Workers' Compensation Claims
Alabama Department of Labor	$0	$146,666	$0
Georgia Self-Insurers Guaranty Trust Fund	$700,000	$80,714	N/A
Commonwealth of Kentucky Department of Workers' Claims	$2,471,000	$244,173	$131,535
Missouri Division of Workers' Compensation	$1,855,000	$1,881,628	N/A

Bond Holder	Bond Amount	Estimated Uninsured Obligation for Open Workers' Compensation Claims	Estimated Insured Covered Liability Workers' Compensation Claims
State of Wisconsin Department of Workforce Development	$5,000,000	$2,298,029	$2,471,846
Nebraska Workers' Compensation Court	$754,239	$104,744	N/A
State of New York - Work Comp Bond	$1,494,706	$709,013	N/A
Total	$12,274,945	$5,464,967	$2,603,381

12. The Debtors also maintain limited, fully insured coverage through Transportation Insurance Company for states in which the Debtors have few employees, most of whom are sales employees. The Transportation Insurance Company Workers' Compensation Program is a joint Employee Liability-Workers' Compensation Program. The coverage period for the Transportation Insurance Company coverage is December 31, 2019 through December 31, 2020. The annual premium for the Transportation Insurance Company coverage has been paid in full for the current coverage period. The Debtors have also paid Transportation Insurance Company all amounts relating to surcharges, taxes and fees assessed by the states in which the Debtors have coverage.

B. General Corporate Insurance Program

13. The General Corporate Insurance Program covers liabilities regarding: commercial general liability, including bodily injury, property damage, personal injury, and advertising injury. The General Corporate Insurance Program also includes excess liability

coverage for losses beyond the primary policy. The Insurance Carriers under the General Corporate Insurance Program are located in further detail on **Exhibit A**. The Debtors maintain the General Corporate Insurance Program to help manage the various risks associated with their business, and to comply with by certain regulations, laws, and contracts that govern the Debtors' commercial activities. Continuation of these policies is necessary to the ongoing operation of the Debtors' business.

14. The coverage period for the General Corporate Insurance Program is April 1, 2020 through April 1, 2021. With respect to the General Corporate Insurance Program, on April 24, 2020, the Debtors entered into a premium finance agreement ("**Corporate Finance Agreement**") with Premium Funding Associates, Inc. ("**PFA**"). Pursuant to the Corporate Finance Agreement, in consideration of PFA's financing of the premium payments due under the General Corporate Insurance Program, the Debtors agreed to pay PFA total premiums in an aggregate amount of $1,386,891.57 payable in ten (10) monthly installments of $141,047.54 that began May 1, 2020.

C. Data Program

15. The Data Program covers liabilities regarding: (i) technological and professional liability, (ii) media liability, including liabilities assigned by law or assumed under contract, (iii) network security liability, (iv) privacy injury liability, and (v) damages and expense reimbursement related to privacy regulation proceedings alleging a privacy or security wrongful act.[8]

[8] With respect to each type of covered liability, the Data Program covers acts committed by the Debtors, a rogue employee, an outsourced provider, or a third party for whose privacy or security wrongful acts the Debtors are legally responsible.

16. The insurance carrier for the Data Program is Indian Harbor Insurance Company. The coverage period under the Data Program is October 27, 2019 through October 27, 2020. The annual premium for the Data Program has been paid in full for the current coverage period.[9] Accordingly, to the best of the Debtors' knowledge, there are no prepetition amounts outstanding on account of the Data Program.

D. Property Program

17. The Property Program covers liabilities and damages to the Debtors' commercial property and equipment arising from natural disasters, transportation, and other risks. The Insurance Carrier for the Property Program is XL Insurance America, Inc.

18. The coverage period for the Property Program is June 1, 2020, through June 1, 2021. In relation to the Property Program, on June 5, 2020, the Debtors entered into a premium finance agreement ("**Finance Agreement**") with PFA. Pursuant to the Finance Agreement, the Debtors, in consideration of PFA's financing of the premium payments due under the Property Program, agreed to pay PFA total premiums in an aggregate amount of $1,221,652.95 payable in in ten (10) monthly installments of $124,240.93 that began on July 1, 2020.

E. D&O Program

19. The D&O Program covers liabilities and indemnification for executives and losses to directors and officers after exhaustion of applicable underlying limits. The Insurance Carriers under the D&O Program are listed in further detail on **Exhibit A**.

20. The coverage period for the D&O Program is October 27, 2019 through October 27, 2021. The annual aggregate premium, including the six-year extension of the reporting

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[9] The Data Program contract is with an insurer which has not obtained a certificate of authority to transact a regular insurance business in the state of Wisconsin. Wisconsin law requires the Debtors to pay a three percent (3%) tax on the gross premium of surplus line coverage. *See* Wis. Stat. § 618.43(1). As such, the Debtors pay $2,850 for their Data Program Coverage, which represents the taxes in full for the current coverage period.

term of the D&O Program policies, was paid in full before the Petition Date. To the best of the Debtors' knowledge, there are no prepetition amounts outstanding on account of the D&O Program.

F. Fiduciary Liability Program

21. The Fiduciary Liability Program covers liabilities arising from (i) any actual or alleged violation by the Debtors of any of the responsibilities, obligations, or duties imposed by any employee benefit plan law on fiduciaries of such plan, (ii) any act or alleged negligent act, error, or omission in the administration of any benefits plan, or (iii) any matter claimed against the Debtor by reason of the Debtors' status as fiduciary of any benefits plan. The Fiduciary Liability Insurance also includes excess liability coverage for losses beyond the primary policy. The Insurance Carriers under the Fiduciary Liability Program are listed in further detail on **Exhibit A**.

22. The coverage period for the Fiduciary Liability Program is October 27, 2019 through October 27, 2021. The annual aggregate premium, including the six-year extension of the reporting term of the Fiduciary Liability Program policies, was paid in full before the Petition Date. To the best of the Debtors' knowledge, there are no prepetition amounts outstanding on account of the Fiduciary Liability Program.

G. Employee Liability Program

23. The Employee Liability Program covers liabilities arising from (i) wrongful acts committed by the Debtors or by an employee and (ii) wrongful acts performed by third parties for whom the Debtors may be liable. The insurance carriers for the Employee Liability Program are AXIS ("**AXIS**") Insurance Company and the Transportation Insurance Company.

24. The coverage period for the Employee Liability Program is October 27, 2019 through October 27, 2021. The annual aggregate premium, including the six-year extension

of the reporting term of the AXIS Employee Liability Program, was paid in full before the Petition Date. To the best of the Debtors' knowledge, there are no prepetition amounts outstanding on account of the Employment Liability Program.

H. Auto Insurance Program

25. The Auto Insurance Program covers liabilities arising from the use of the Debtors' owned and leased automobiles in the course of the Debtors' business, including coverage for bodily injury and property damage. The insurance carrier for the Auto Insurance Program is Continental Insurance Company ("**Continental**").

26. The coverage period for the Auto Insurance Program is December 31, 2019 through December 31, 2020. The annual premium has been paid in full for the current coverage period. The Debtors have also paid Continental all amounts relating to surcharges, taxes and fees assessed by the states in which the Debtors have coverage, on account of the Debtors' automobile usage in those states.[10] To the best of the Debtors' knowledge, there are no prepetition amounts outstanding on account of the Auto Insurance Program.

I. Open Cargo Program

27. The Marine Cargo Program covers liabilities arising from the loss of the Debtors' goods or merchandise in transit,[11] including, but not limited to, internal combustion engines, electric motors, law and garden finished goods, and generators. The insurance carrier for the Marine Cargo Program is Travelers Property Casualty Insurance Company ("**Travelers**").

28. The coverage period for the Marine Cargo Program is July 1, 2020 through July 1, 2021, and the annual premium been paid in full for the current coverage period. To the

[10] Such amounts were *de minimis*, totaling $518.14 in the aggregate.

[11] The policy covers shipments made by vessel, barge, truck, train, air, and land, including by mail. The policy excludes shipments within the borders of a single country, with the exception of Australia.

best of the Debtors' knowledge, there are no prepetition amounts outstanding on account of the Marine Cargo Program.

J. Commercial Crime Program

29. The Commercial Crime Program covers liabilities arising from the loss of the Debtors' money, securities, or other assets, including, but not limited to, losses related to theft, forgery, computer and funds transfer fraud, and counterfeiting, committed by employees or third parties. The insurance carrier for the Commercial Crime Program is Berkley Insurance Company ("**Berkley**").

30. The coverage period for the Commercial Crime Program is October 27, 2019 through October 27, 2020, and the annual aggregate premium of has been paid in full for the current coverage period. To the best of the Debtors' knowledge, there are no prepetition amounts outstanding on account of the Commercial Crime Program.

K. Aviation Liability Policy

31. The Aviation Liability Policy covers liabilities to pay damages due to bodily injury or property damage on account of the handling or use or the existence of any condition in an aircraft product, one which is not in the possession of the Debtors and is away from premises owned, rented, or controlled by the Debtors. The Aviation Liability Policy further covers the Debtors' liability to pay damages for the loss of use of a completed aircraft occurring after delivery to and acceptance for flight operations by a purchaser or purchasers or operator or operators of such aircraft, and caused by a grounding under certain circumstances. The insurer for Aviation Liability Policy is QBE Insurance Corporation.

32. The coverage period for the Aviation Liability Policy is April 1, 2020 through April 1, 2021, and the annual aggregate premium has been paid in full for the current

coverage period. To the best of the Debtors' knowledge, there are no prepetition amounts outstanding on account of the Aviation Liability Policy.

L. Punitive Damages Program

33. The Punitive Damages Program, generally, covers the portion of punitive damages that is in excess of retained limits in other policies as long as the punitive damages have been paid by the Debtors and that the relevant jurisdiction does not prohibit the insurability of punitive damages.

34. As of the Petition Date, the Debtors are an insured party under five (5) such punitive damages excess policies. The coverage period under each policy is April 1, 2020 through April 1, 2021, and the annual aggregate premium has been paid in full for the current coverage period. To the best of the Debtors' knowledge, there are no prepetition amounts outstanding on account of the Punitive Damages Program.

Combined Coverage with Certain Affiliates

35. As is common, the Debtors obtain insurance coverage for their entire enterprise, including certain non-Debtor foreign affiliates (the "**Foreign Affiliates**"). By obtaining the insurance coverage for themselves and the Foreign Affiliates on a combined basis, the Debtors have been able to realize cost savings as well as efficiencies in the management and procurement of the Insurance Programs across their businesses.

36. The Debtors also maintain an International Advantage Commercial Insurance Policy (the "**International Policy**") issued by ACE American Insurance Company ("**ACE**"). Pursuant to this policy, ACE provides insurance to the Debtors for the Debtors' foreign entities located in countries in which non-admitted insurance is permitted and for which a local policy is not purchased. The International Policy provides primary coverage for general liability,

contingent automobile, employers' responsibility coverage, kidnap and extortion, and accidental death and dismemberment.

37. The coverage period for the International Policy is April 1, 2020 through April 1, 2021. The annual aggregate premium has been paid in full for the current coverage period. To the best of the Debtors' knowledge, there are no prepetition amounts outstanding on account of the International Policy.

Insurance Broker Services

38. Marsh USA Inc. ("**Marsh**") and Willis Towers Watson ("**WTW**" and together with Marsh, the "**Insurance Brokers**") serve as the Debtors' insurance brokers for the Insurance Policies and Programs. The Insurance Brokers are compensated for their services through either commissions from the Insurance Carriers or payment by the Debtors of a set percentage of the policy premium reduced by any related commissions the Insurance Brokers receives from the Insurance Carriers. The Insurance Brokers must disclose any commissions collected to the Debtors. To the best of the Debtors' knowledge, they do not owe any prepetition fees to the Insurance Brokers.

Surety Bond Program

39. Pursuant to their surety bond program (the "**Surety Bond Program**" and together with the Insurance Policies and Programs, the "**Insurance and Surety Programs**"), in the ordinary course of business, the Debtors are required to provide surety bonds to certain third parties (the "**Obligees**"), including governmental units and other public agencies, to secure the Debtors' payment or performance of certain obligations in connection with the Workers' Compensation Program, the Exmark litigation appeal (as described in the Ficks Declaration), and certain other obligations (the "**Surety Bonds**"), including, but not limited to those listed on

Exhibit B hereto. The Surety Bonds are issued by Zurich and Fidelity and Deposit Company of Maryland (each, a "**Surety**").

40. Pursuant to the Surety Bond Program, the Debtors pay premiums based upon a fixed rate established and billed by each Surety (collectively, the "**Surety Premiums**"). The Surety Premiums are generally determined on an annual basis and total in the aggregate approximately $350,929, plus $12,000 (CAD) per year (the "**Surety Bond Obligations**" and together with the Insurance Obligations, the "**Insurance and Surety Obligations**"). The Debtors remit premium payments when the bonds are issued or renewed on an annual basis. The Debtors estimate that no Surety Premiums are outstanding as of the Petition Date. By this Motion, the Debtors seek authority, but not direction, to pay such Surety Premiums and any other Surety Premiums that may become due and owing during these chapter 11 cases.

41. As a condition to issuing the bonds, the Sureties require that the Debtors enter into indemnity agreements (collectively, the "**Indemnity Agreements**"), pursuant to which the Sureties are indemnified from any loss, cost, or expense that the Sureties may incur on account of the issuance of any bonds on behalf of the Debtors. Pursuant to certain contracts between the Debtors and the Sureties, the Sureties may demand cash collateral or letters of credit to secure the obligations under surety bonds at any point during the time the Surety Bonds remain outstanding. As of the Petition Date, the Debtors have posted cash collateral in an amount of approximately $14,415,545 in connection with the Surety Bonds, and have posted approximately $36,766,635 in letters of credit.

Basis for Relief Requested

A. Continuation of the Insurance and Surety Program and Payment of All Insurance and Surety Obligations Are Warranted

42. As set forth above, the Debtors seek authority to continue to maintain their Insurance Policies and Programs and to honor the Insurance Obligations in the ordinary course of business and to pay any outstanding prepetition Insurance Obligations for these programs the Debtors subsequently may discover. The Court may grant the relief requested herein pursuant to sections 105(a), 363(b) and 503(b) of the Bankruptcy Code.

43. Section 503(b) of the Bankruptcy Code provides that "[a]fter notice and a hearing, there shall be allowed, administrative expenses . . . , including . . . the actual, necessary costs and expenses of preserving the estate." 11 U.S.C. § 503(b)(1)(A). It is, therefore, within the Court's power to authorize the Debtors to use estate funds to pay any Insurance Obligations arising or relating to the period after the Petition Date.

44. The Court may grant the relief requested herein pursuant to section 363 of the Bankruptcy Code, which provides, in relevant part, that "[t]he [debtor], after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate . . . ." 11 U.S.C. § 363(b)(1). A debtor's request to use property of the estate outside of the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code must be supported by sound business reasons. *See, e.g.*, *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *In re Nine West Holdings, Inc.*, 588 B.R. 678, 686 (Bankr. S.D.N.Y. 2018). The business judgment rule is highly deferential to debtors and may be satisfied "'as long as the proposed action *appears* to enhance the debtor's estate.'" *Crystalin, LLC v. Selma* Props. *Inc. (In re Crystalin, LLC)*, 293 B.R. 455, 463–64 (B.A.P. 8th Cir. 2003) (quoting *Four B. Corp. v. Food Barn Stores, Inc. (In re Food Barn Stores, Inc.)*, 107 F.3d 558, 566 n.16 (8th Cir. 1997)).

45. In addition, under section 105(a) of the Bankruptcy Code, "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. §105(a); *see also In re NWFX, Inc.*, 864 F.2d 588, 590 (8th Cir. 1988) ("The overriding consideration in bankruptcy, however, is that equitable principles govern"); *In re Wehrenberg, Inc.*, 260 B.R. 468, 469 (Bankr. E.D. Mo. 2001) ("Pursuant to 11 U.S.C. § 105(a) the Court may authorize the payment of prepetition claims when such payments are necessary to the continued operation of the Debtor"). Moreover, Bankruptcy Rule 6003 itself implies that the payment of prepetition obligations may be permissible within the first 21 days of a case where doing so is "necessary to avoid immediate and irreparable harm." Fed. R. Bankr. 6003. Accordingly, the Bankruptcy Code authorizes the postpetition payment of prepetition claims where, as here, such payments are critical to preserving the going-concern value of a debtor's estate.

46. In a long line of well-established cases, courts have consistently permitted payment of prepetition obligations where necessary to preserve or enhance the value of a debtor's estate for the benefit of all creditors. *See, e.g.*, *Miltenberger v. Logansport, C&S W.R. Co.*, 106 U.S. 286, 312 (1882) (payment of pre-receivership claim prior to reorganization permitted to prevent "stoppage of the continuance of [crucial] business relations"); *In re Peabody Energy Corporation*, No. 16-42529 (BSS) (Bankr. E.D. Mo., May 17, 2016), Docket No. 519 (final order authorizing the debtor to maintain, continue, and renew their property, casualty, liability, workers' compensation and other insurance programs, policies and agreements, and honor certain prepetition obligations in respect thereof); *In re Peabody Energy Corporation*, No. 16-42529 (BSS) (Bankr. E.D. Mo., May 17, 2016) Docket No. 542 (final order authorizing the debtors to maintain, continue, and renew their surety bond program) *In re Lehigh & New Eng. Ry. Co.*, 657

F.2d 570, 581 (3d Cir. 1981) (holding that "if payment of a claim which arose prior to reorganization is essential to the continued operation of the . . . [business] during reorganization, payment may be authorized even if it is made out of [the] corpus"); *Dudley v. Mealey*, 147 F.2d 268, 271 (2d Cir. 1945) (extending doctrine for payment of prepetition claims beyond railroad reorganization cases), *cert. denied* 325 U.S. 873 (1945); *Mich. Bureau of Workers' Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 285–86 (S.D.N.Y. 1987) (approving lower court order authorizing payment of prepetition wages, salaries, expenses, and benefits).

47. This "doctrine of necessity" functions in a chapter 11 reorganization as a mechanism by which the Court can exercise its equitable power to allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code. *See In re O & S Trucking, Inc.*, No. 12-61003, 2012 WL 2803738, at *2 (Bankr. W.D. Mo. June 29, 2012) (authorizing payment to critical vendors on account of pre-petition claims pursuant to sections 105, 363, 363 and 1107 under the doctrine of necessity); *In re Just for Feet*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that section 105(a) of Bankruptcy Code provides statutory basis for payment of prepetition claims under the doctrine of necessity particularly when such payment is necessary for the debtor's survival during chapter 11); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (confirming that the doctrine of necessity is standard for enabling a court to authorize payment of prepetition claims prior to confirmation of a reorganization plan).

48. In these chapter 11 cases, the Debtors' use of estate funds to pay Insurance and Surety Bond Obligations is permitted under sections 105(a), 363(b), and 503(b) of the Bankruptcy Code because such obligations are necessary costs of preserving the Debtors' estates. The Insurance Policies and Programs are essential to the Debtors' operations, as the Debtors would

be exposed to significant liability if the Insurance Policies and Programs or the Surety Bonds were allowed to lapse or terminate. Such exposure could have a materially adverse impact on the Debtors' ability to reorganize successfully.

49. The Insurance Policies and Programs and Surety Bond Program are also vital to the Debtors' continued operations.

50. Additionally, applicable contracts between the Debtors and certain counterparties require the Debtors to maintain certain insurance coverage. The Debtors' failure to pay such obligations would not only expose the Debtors to significant risk, but could jeopardize relationships with contract counterparties, causing such contract counterparties to terminate contracts that are vital to the Debtors' ongoing operations. Accordingly, it is necessary for the Debtors to pay all obligations on account of their Insurance Policies and Programs and Surety Bond Program.

B. The Court should Grant Requested Relief with Respect to the Workers' Compensation Claims Including Lifting the Automatic Stay

51. Section 362(a)(1) of the Bankruptcy Code operates to stay:

> the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title . . . .

11 U.S.C. § 362(a)(1). Section 362(d)(1), however, permits a debtor or other party in interest to request a modification or termination of the automatic stay for "cause." *Id.*

52. To the extent that the Debtors' employees hold valid Workers' Compensation Claims, the Debtors seek authority, under section 362(d) of the Bankruptcy Code to permit those employees to proceed with their Workers' Compensation Claims to the extent covered by the Workers' Compensation Program, each in the appropriate judicial or administrative

forum. There is cause to modify the automatic stay because staying the Workers' Compensation Claims could cause employee-departure or otherwise harm employee morale, which could severely disrupt the Debtors' business and prevent a successful reorganization. Accordingly, the Court should (i) modify the automatic stay as it relates to valid Workers' Compensation Claims to allow claims, to the extent covered by the Workers' Compensation Program, to proceed to resolution and (ii) waive the corresponding notice requirements under Bankruptcy Rule 4001(d).

53. As discussed below, applicable state law mandates that certain Debtors maintain workers' compensation coverage for their employees. The Debtors' failure to pay their obligations under the Workers' Compensation Program could jeopardize their coverage and expose the Debtors to significant liability in fines by state workers' compensation boards. In addition, the risk that eligible workers' compensation claimants would not receive timely payments for prepetition employment-related injuries could negatively impact not only the financial well-being of those claimants, but also the morale of the Debtors' active employees. This could result in employee departures, causing a significant disruption in the Debtors' business with a materially adverse impact on the Debtors' operations, the value of their estates, and the interests of all parties in these chapter 11 cases.

54. The Court should grant the Debtors authority, but not direction, to pay any Workers' Compensation Claims and related obligations, to maintain their Workers' Compensation Programs in the ordinary course, and to purchase insurance to cover postpetition Workers' Compensation Claims. As the Debtors intend to sell substantially all of their assets, they intend to work with the various Workers' Compensation Authorities to transition the processing and payment of Workers' Compensation Claims to such authorities. As noted, the Debtors believe that the Workers' Compensation Authorities in the states that require surety bonds have sufficient

collateral to cover all prepetition open Workers' Compensation Claims, such that employees with such claims should be paid in full.[12] In any case, because the filing of the Debtors' Chapter 11 Cases is the reason the Debtors are not able to continue to pay prepetition Workers' Compensation Claims in the ordinary course, as the Debtors were in full compliance with their obligations under the state workers' compensation laws as of the Petition Date, the Debtors seek assurances that their directors and officers will not have liability for the Debtors' nonpayment of any prepetition Workers' Compensation Claims.

Reservation of Rights

55. Nothing contained herein is intended to be or shall be deemed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver or limitation of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim, (iii) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable nonbankruptcy law, (iv) an agreement or obligation to pay any claims, (v) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (vi) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

[12] With respect to Missouri, the Debtors have posted collateral that covers 99% of the estimated uninsured outstanding liabilities.

Applicable Financial Institutions
Should Be Authorized to Receive, Process, Honor, and Pay
Checks Issued and Transfers Requested to Pay Insurance and Surety Obligations

56. The Debtors further request that the Court authorize applicable financial institutions (the "**Banks**") to receive, process, honor, and pay any and all checks issued, or to be issued, and electronic funds transfers requested, or to be requested, by the Debtors relating to the Insurance and Surety Obligations to the extent that sufficient funds are on deposit in available funds in the applicable bank accounts to cover such payment. The Debtors also seek authority to issue new postpetition checks or effect new postpetition electronic funds transfers in replacement of any checks or fund transfer requests on account of prepetition Insurance and Surety Obligations dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

Bankruptcy Rule 6003(b) Has Been Satisfied

57. The Debtors respectfully request emergency consideration of this Motion under Bankruptcy Rule 6003, which provides that the Court may grant relief within the first 21 days after the Petition Date to the extent such relief is necessary to avoid immediate and irreparable harm. As described herein and in the Ficks Declaration, the relief requested is essential to avoid the immediate and irreparable harm that would be caused by the Debtors' inability to transition smoothly into chapter 11. Accordingly, the Debtors submit that the requirements of Bankruptcy Rule 6003 are satisfied.

Compliance with Bankruptcy Rule 6004(a)
and Waiver of Bankruptcy Rule 6004(h)

58. To implement the foregoing successfully, the Debtors request that the Court find that notice of the Motion satisfies Bankruptcy Rule 6004(a) and that the Court waive the 14-day period under Bankruptcy Rule 6004(h).

Notice

59. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the Eastern District of Missouri; (ii) the holders of the 30 largest unsecured claims against the Debtors on a consolidated basis; (iii) Latham & Watkins LLP (Attn: Peter P. Knight, Esq. and Jonathan C. Gordon, Esq.), as counsel to JPMorgan Chase Bank, N.A., as the administrative agent and collateral agent under the ABL Credit Facility and DIP Facility; (iv) Pryor Cashman LLP (Attn: Seth H. Lieberman, Esq. and David W. Smith, Esq.), as counsel to Wilmington Trust, N.A., as successor indenture trustee under the Unsecured Notes; (v) the Internal Revenue Service; (vi) the United States Attorney's Office for the Eastern District of Missouri; (vii) the Securities and Exchange Commission; (viii) the Banks; (ix) the Insurers listed on **Exhibit A** hereto; (x) the Sureties listed on **Exhibit B** hereto; (xi) PFA; (xii) the Workers' Compensation Authorities, (xiii) Sentry and Corvel; and (xiv) any other party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"). Notice of this Motion and any order entered hereon will be served in accordance with Local Rule 9013-3(A)(1).

No Previous Request

60. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Proposed Interim Order and Proposed Final Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: July 20, 2020
St. Louis, Missouri

Respectfully submitted,

CARMODY MACDONALD P.C.

/s/ Robert E. Eggmann

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-and-

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Proposed Counsel to the Debtors and Debtors in Possession

<u>Exhibit A</u>

Insurance Policies and Programs

Type of Coverage	Policy Number(s)	Policy Term	Insurer(s)	Annual Premium	Deductible
D&O Liability	287072639	Oct 27, 2019 - Oct 27, 2020	CNA/ Continental Casualty Company	$163,500	$2,000,000
D&O Liability	DFX3912024	Oct 27, 2019 - Oct 27, 2020	Great American Insurance Company	$98,100	$10m xs $10m
D&O Liability	105511036	Oct 27, 2019 - Oct 27, 2020	Travelers Casualty and Surety Company of America	$75,000	$10m xs $20m
D&O Liability	DOX30001313400	Oct 27, 2019 - Oct 27, 2020	Sompo International/ Endurance American Insurance Company	$73,125	$10m xs $30m
D&O Liability	8173-9098	Oct 27, 2019 - Oct 27, 2020	Chubb/ Federal Insurance Company	$60,050	$10m xs $40m
D&O Liability	DOX G25603370 004	Oct 27, 2019 - Oct 27, 2020	Chubb/ ACE American Insurance Company	$22,500	$5m xs $50m
D&O Liability	02-245-65-09	Oct 27, 2019 - Oct 27, 2020	AIG/ National Union Fire Insurance Company of Pittsburgh, PA	$37,296	$10m xs $55m
D&O Liability	MCN755559/01/2019	Oct 27, 2019 - Oct 27, 2020	Axis Insurance Company	$32,000	$10m xs $65m
Umbrella Excess Liability	B080116832U20	Apr 01, 2020 - Apr 01, 2021	Willis Limited / WNA London	$750,000	$75m xs $25m
AL, GA, KY, MO, NE, NY, WI Excess Workers' Compensation and Employers' Liability	SP 4061733	Dec 31, 2019 - Dec 31, 2020	Safety National Casualty Corporation	$248,532	$500,000

Type of Coverage	Policy Number(s)	Policy Term	Insurer(s)	Annual Premium	Deductible
Punitive Damages Excess Liability	MCPD206251	Apr 01, 2020 - Apr 01, 2021	Magna Carta Insurance, Ltd.	$17,500	$17.5m xs $75m
Punitive Damages Liability	C052145/002	Apr 01, 2020 - Apr 01, 2021	Allied World Assurance Company, Ltd.	$10,743	$15m xs $10m
Punitive Excess Liability (Occurrence Basis) $15M xs $10M	B080119223U20	Apr 01, 2020 - Apr 01, 2021	Allianz Global Corporate & Specialty SE	$354,500	$15m xs $10m
Punitive Damages Excess Liability	MCPD206250	Apr 01, 2020 - Apr 01, 2021	Magna Carta Insurance, Ltd.	$86,750	$10m xs $10m
Excess Fiduciary Liability $10 xs $20	FDX3120589	Oct 27, 2019 - Oct 27, 2020	Great American Insurance Group	$17,750	$10m xs $20m
Punitive Damages Excess $25M xs $100M	MCLI206264	Apr 01, 2020 - Apr 01, 2021	Magna Carta Insurance, Ltd.	$8,600	$25m xs $100m
Cyber Risk	MTP903715901	Oct 27, 2019 - Oct 27, 2020	Indian Harbor Insurance Company	$95,000	$100,000
Fiduciary Excess $10M xs $10M	425462686	Oct 27, 2019 - Oct 27, 2020	Continental Casualty Company	$27,300	$250,000
Commercial Umbrella Liability (Occurrence)	B080118136U20	Apr 01, 2020 - Apr 01, 2021	Willis Limited / WNA London	$780,750	$10,000
Excess Liability (Occurrence Basis) $75M xs $25M	B080120281U20	Apr 01, 2020 - Apr 01, 2021	Willis Limited / WNA London	$675,000	$250,000
Excess Liability (Occurrence Basis) $15M xs $10m	B080118607U20	Apr 01, 2020 - Apr 01, 2021	Willis Limited / WNA London	$322,273	$15m xs $10m

Type of Coverage	Policy Number(s)	Policy Term	Insurer(s)	Annual Premium	Deductible
Excess Liability $25M xs $100M	1000402162-01	Apr 01, 2020 - Apr 01, 2021	Ironshore	$86,000	$25m xs $100m
Employment Practices Liability	P-001-000191293-01	Oct 27, 2019 - Oct 27, 2020	Axis Employment Practices Liability	$70,681	$250,000
Workers Compensation and Employers' Liability	WC 6 45858871	Dec 31, 2019 - Dec 31, 2020	Transportation Insurance Company, a Stock Insurance Company	$23,349	Variable
International Advantage Commercial Insurance	CXC D37224765 007	Apr 01, 2020 - Apr 01, 2021	Ace American Insurance Company	$87,030	$0
Marine Open Cargo Policy	ZOC-81M82025-19-ND	Jul 01, 2020 - Jul 01, 2021	Travelers Property Casualty Company of America	$129,178	$5,000
Commercial Crime	BCCR-45002698-22	Oct 27, 2019 - Oct 27, 2020	Berkley Insurance Company	$32,424	$150,000
Fiduciary Liability	P-001-000193306-01	Oct 27, 2019 - Oct 27, 2020	Axis Insurance Company	$55,143	$250,000
Commercial Property	US00028738PR20A	Jun 01, 2020 - Jun 01, 2021	XL Insurance America, Inc.	$1,740,556	$1,000,000
Auto	BUA 6045858885	Dec 31, 2019 - Dec 31, 2020	CNA/ Continental Casualty Company	$147,301	$500
Commercial Excess Liability	MKLV3EUL100598	Dec 11, 2017 - Dec 11, 2020	Evanston Insurance Company	$12,000	$1,000,000

Type of Coverage	Policy Number(s)	Policy Term	Insurer(s)	Annual Premium	Deductible
Product Liability	VCGP081957	Dec 11, 2017 - Dec 11, 2022	Gemini Insurance Company	$46,000	$2,500
Aviation Liability	QML0000372	Apr 01, 2020 - Apr 01, 2021	QBE Insurance Corporation	$6,250	$0
Commercial Flood	0152563301	Dec 08, 2019 - Dec 08, 2020	The Hartford Insurance Company	$6,413	$5,000
Commercial Flood	241151922082-00	Feb 10, 2020 - Feb 10, 2021	Wright National Flood Insurance Company	$1,119	$5,000
Commercial Flood	241151940799-00	May 09, 2020 - May 09, 2021	Wright National Flood Insurance Company	$1,843	$5,000
Special Contingency	MA70340CR	Apr 23, 2019 - Apr 23, 2022	Great American Insurance Company	$13,033	$0

<u>Exhibit B</u>

Surety Bonds

Obligee	Surety(s)	Type of Bond	Bond Amount	Surety Bond Number	Total Premium
STATE OF MISSOURI	ZURICH AMERICAN INSURANCE COMPANY FIDELITY AND DEPOSIT COMPANY OF MARYLAND	WORKERS COMPENSATION	$200,000	9246420	$1,500
STATE OF FLORIDA	ZURICH AMERICAN INSURANCE COMPANY FIDELITY AND DEPOSIT COMPANY OF MARYLAND	FUEL TAX BOND	$3,000	9246419	$100
SENTRY INSURANCE A MUTUAL COMPANY	ZURICH AMERICAN INSURANCE COMPANY FIDELITY AND DEPOSIT COMPANY OF MARYLAND	WORKERS COMPENSATION	$300,000	LPM924640101	$3,000
STATE OF NEW YORK	ZURICH AMERICAN INSURANCE COMPANY FIDELITY AND DEPOSIT COMPANY OF MARYLAND	WORKERS COMPENSATION	$1,494,706	9246403	$8,561
STATE OF KENTUCKY	ZURICH AMERICAN INSURANCE COMPANY FIDELITY AND DEPOSIT COMPANY OF MARYLAND	WORKERS COMPENSATION	$2,471,000	09078748	$16,062
DEPARTMENT OF HOMELAND SECURITY / US CUSTOMS AND BORDER PROTECTION	AMERICAN ALTERNATIVE INSURANCE CORPORATION	CUSTOMS BOND	$3,000,000	19C001GXK	$8,813
DEPARTMENT OF HOMELAND SECURITY / US CUSTOMS AND BORDER PROTECTION	AMERICAN ALTERNATIVE INSURANCE CORPORATION	CUSTOMS BOND	$90,000	19C000A7M	$700
DEPARTMENT OF HOMELAND SECURITY / US CUSTOMS AND BORDER PROTECTION	AMERICAN ALTERNATIVE INSURANCE CORPORATION	CUSTOMS BOND	$200,000	17C004P07	$875
DEPARTMENT OF HOMELAND SECURITY / US CUSTOMS AND BORDER PROTECTION	AMERICAN ALTERNATIVE INSURANCE CORPORATION	CUSTOMS BOND	$50,000	17C004EQD	$313
CANADA BORDER SERVICES AGENCY	AON REED STENHOUSE, INC	CUSTOMS BOND	$250,000	TM5168080	$2,000 (CAD)
CANADA BORDER SERVICES AGENCY	AON REED STENHOUSE, INC	CUSTOMS BOND	$1,000,000	TM5089293	$10,000 (CAD)

Obligee	Surety(s)	Type of Bond	Bond Amount	Surety Bond Number	Total Premium
STATE OF NEBRASKA	ZURICH AMERICAN INSURANCE COMPANY FIDELITY AND DEPOSIT COMPANY OF MARYLAND	WORKERS COMPENSATION	$754,239	9246418	$4,903
EXMARK MANUFACTURING CO., INC	ZURICH AMERICAN INSURANCE COMPANY FIDELITY AND DEPOSIT COMPANY OF MARYLAND	APPEAL BOND	$34,724,235.48	9246421	$277,794
GEORGIA SELF-INSURERS GUARANTY TRUST FUND	ZURICH AMERICAN INSURANCE COMPANY FIDELITY AND DEPOSIT COMPANY OF MARYLAND	WORKERS COMPENSATION	$700,000	09078746	$4,550
STATE OF MISSOURI	ZURICH AMERICAN INSURANCE COMPANY FIDELITY AND DEPOSIT COMPANY OF MARYLAND	WORKERS COMPENSATION	$1,665,000	9246417	$10,758
STATE OF WISCONSIN	ZURICH AMERICAN INSURANCE COMPANY FIDELITY AND DEPOSIT COMPANY OF MARYLAND	WORKERS COMPENSATION	$5,000,000	9246416	$13,000