

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

In re:	§	Chapter 11
	§	
	§	Case No. 20-43597-399
BRIGGS & STRATTON CORPORATION, et al.,	§	(Jointly Administered)
	§	
Debtors.	§	Related Docket No. 4

**INTERIM ORDER AUTHORIZING RETENTION AND APPOINTMENT OF
KURTZMAN CARSON CONSULTANTS, LLC AS CLAIMS AND NOTICING AGENT
AND ADMINISTRATIVE ADVISOR**

Upon the application (the “**Application**”)¹ of Briggs & Stratton Corporation and its affiliated debtors in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the “**Debtors**”), for entry of an order pursuant sections 105(a) and 327(a) of the Bankruptcy Code, section 156(c) of title 28 of the United States Code, and Bankruptcy Rules 2002(f), 2014(a), and 2016, and Local Rule 2014(A) authorizing the Debtors to retain and employ Kurtzman Carson Consultants, LLC (“**KCC**”) as Claims and Noticing Agent and Administrative Advisor, in accordance with the terms and conditions set forth in the engagement agreement, all as more fully set forth in the Application; and upon consideration of the Ficks Declaration and the Gershbein Declaration submitted in support of this Application; and the Debtors having estimated that there are tens of thousands of creditors and parties in interest in these chapter 11 cases, many of which are expected to file proofs of claim; and it appearing that the receiving, docketing, and maintaining of proofs of claim would be unduly time consuming and burdensome for the Clerk; and the Court being authorized under 28 U.S.C. § 156(c) to utilize, at the Debtors’ expense, outside

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.



agents and facilities to provide notices to parties in title 11 cases and to receive, docket, maintain, photocopy and transmit proofs of claim; and the Court being satisfied that KCC has the capability and experience to provide such services; and this Court being satisfied, based on the representations made in the Application and in the Gershbein Declaration, that KCC is a “disinterested person” as such term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code; and this Court being satisfied, based on the representations made in the Application and the Gershbein Declaration, that KCC does not hold an interest adverse to the Debtors or their estates respecting the matters upon which it is to be engaged; and this Court having jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Application and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Debtors having represented that due and proper notice of the Application was provided, such notice was adequate and appropriate under the circumstances, and no other or further notice need be provided; and this Court having reviewed the Application; and this Court having held a hearing to consider the relief requested in the Application; and this Court having determined that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and it appearing that the relief requested in the Application is in the best interests of the Debtors and their respective estates and creditors; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor, **it is hereby ORDERED that the Motion is GRANTED on an interim basis in that:**

1. Notwithstanding the terms set forth in the Application and in the Engagement Agreement, the application is granted solely as set forth in this Interim Order, and the

Debtors are authorized to retain KCC as the Claims and Noticing Agent and Administrative Advisor under the terms of the Engagement Agreement. This Interim Order, to the extent it conflicts with the Engagement Agreement, shall take precedence.

2. KCC is authorized and directed to perform notice and claims processing services as set forth below and in this Interim Order and any non-conflicting provisions of the Application. Under the Engagement Agreement, KCC will perform the following services as the Claims and Noticing Agent pursuant to 28 U.S.C. § 156(c):

- (a) maintain copies of the Debtors' respective schedules of assets and liabilities and statements of financial affairs (collectively, the "**Schedules**"), listing the Debtors' known creditors and the other information required by the Schedules;
- (b) maintain (i) lists of all potential creditors, equity holders and other parties in interest and (ii) a "core" mailing list consisting of all parties described in Bankruptcy Rules 2002(i), (j) and (k) and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010(b) and update and make these lists available to the Clerk's Office and upon request by a party in interest;
- (c) furnish a notice to all potential creditors of the last date for filing proofs of claim and a form for filing a proof of claim, after such notice and form are approved by the Court, and notify such potential creditors of the existence, amount and classification of their respective claims as set forth in the Schedules, which may be effected by inclusion of such information (or the lack thereof in cases where the Schedules indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors;
- (d) maintain a post office box or address for the purpose of receiving claims and returned mail, and process all mail received;
- (e) for all notices, motions, orders or other pleadings or documents served, prepare and file or cause to be filed with the Clerk's Office, pursuant to Local Rule 9004(D)(3), a certificate of service within 24 hours of such service which includes: (i) either a copy of the notice served or the docket number(s) and title(s) of the pleading(s) served; (ii) a list of persons to whom it was mailed (in alphabetical order) with their addresses; (iii) the manner of service; and (iv) the date served;

- (f) upon receipt of claims not otherwise filed with the Clerk, KCC shall, using the Court's ECF system as instructed by the Clerk, electronically file with the Clerk within forty-eight (48) hours of receipt all proofs of claim that KCC has received or will receive, noting the claim number assigned by the Court; upon receipt of a proof of claim or a transfer of claim, KCC shall stamp the receipt date and time on the document before filing it with the Court; reconcile its records with the Court for all claims received to date for each case; and if the time deadline cannot be met due to volume or unforeseen circumstances, promptly notify the Clerk, and check said processing for accuracy and maintain the original proofs of claim in a secure area; the Clerk need not physically transfer any claim that she receives electronically to KCC; the Clerk may, by using KCC's overnight express account, transmit to KCC any paper proof of claim that she receives;
- (g) maintain a duplicate claims register for each Debtor (collectively, the "**Claims Registers**"); and specify in the Claims Registers the following information for each claim docketed: (i) the claim number assigned; (ii) the date received; (iii) the name and address of the claimant and agent, if applicable, who filed the claim; (iv) the amount asserted; (v) the asserted classification(s) of the claim (e.g., secured, unsecured, priority, etc.); (vi) the applicable Debtor against which the claim is filed; and (vii) any disposition of the claim;
- (h) implement necessary security measures to ensure the completeness and integrity of the Claims Registers and the safekeeping of the original claims;
- (i) as directed by the Clerk's Office, record all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);
- (j) relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of KCC not less than weekly;
- (k) upon completion of the docketing process for all claims received in each chapter 11 case, turn over to the Clerk's Office, at its request, copies of the Claims Registers for its review;
- (l) monitor the Court's docket for all: (i) notices of appearance; (ii) address changes; and (iii) claims-related pleadings and orders filed, and make, as directed by the Clerk's Office, notations on and/or changes to the applicable Claims Register(s) and any service or mailing lists, including identifying and eliminating duplicative names and addresses from such lists;

- (m) as directed by the Clerk's Office, identify and correct any incomplete or incorrect addresses in any mailing or service lists;
- (n) assist in the dissemination of information to the public and respond to requests for administrative information regarding these chapter 11 cases as directed by the Debtors or the Court, including through the use of a case website at <http://www.kccllc.net/Briggs> and/or call center;
- (o) periodically audit the claims information to assure the Clerk's Office that the claims information is being appropriately and accurately recorded in the Claims Registers, allow the Clerk's Office to independently audit the claims information during regular business hours, and allow the Clerk's Office to inspect KCC's premises at any time during regular business hours;
- (p) maintain a publicly accessible copy of the claims filed in these cases. KCC shall not unilaterally remove or alter any incorrect names or addresses from the claims register or mailing lists but shall file with the Court an updated creditor matrix along with a memorandum describing any change(s) thereto in accordance with Local Rule of Bankruptcy Procedure 1009 and pay any requisite fee;
- (q) file with and pay to the Clerk, any and all transfers of claim and accompanying filing fees received by KCC;
- (r) if these chapter 11 cases are converted to cases under chapter 7 of the Bankruptcy Code, contact the Clerk's Office within three days of notice to KCC of entry of the order converting these chapter 11 cases;
- (s) thirty (30) days prior to the close of these chapter 11 cases, to the extent practicable, request that the Debtors submit to the Court a proposed order dismissing KCC as Claims and Noticing Agent and terminating its services in such capacity upon completion of its duties and responsibilities and upon the closing of these chapter 11 cases;
- (t) within seven (7) days of notice to KCC of entry of an order closing these chapter 11 cases, provide to the Court the final version of the Claims Registers as of the date immediately before the close of the chapter 11 cases;
- (u) at the close of these chapter 11 cases and at the request of the Clerk, destroy all documents related to these chapter 11 cases and certify such destruction, in writing, to the Clerk's Office, specifying the method of destruction, the date of destruction, and any reference

number or other relevant information for the destruction of the paper proofs of claim; and

- (v) comply with applicable federal, state, municipal, and local statutes, ordinances, rules, regulations, orders, and other requirements.

3. KCC is authorized and directed to perform noticing services as set forth

below, and in this Interim Order, and any non-conflicting provisions of the Application:

- (a) assist the Debtors with the preparation and distribution of all required notices and documents in these chapter 11 cases in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules in the form and manner directed by the Debtors and/or the Court, including: (i) notice of the commencement of these chapter 11 cases and the initial meeting of creditors under section 341(a) of the Bankruptcy Code; (ii) notice of any claims bar date; (iii) notices of transfers of claims; (iv) notices of objections to claims and objections to transfers of claims; (v) notices of hearings on motions filed by the Office of the United States Trustee for the Eastern District of Missouri (the “**United States Trustee**”); (vi) notices of any hearings on a disclosure statement and confirmation of the Debtors’ plan or plans of reorganization, including under Bankruptcy Rule 3017(d); (vii) notice of the effective date of any plan; and (viii) all other notices, orders, pleadings, publications and other documents as the Debtors or Court may deem necessary or appropriate for an orderly administration of these chapter 11 cases;
- (b) serve notice of the commencement of these cases and the initial 11 U.S.C. § 341 meeting of the creditors using the current Official Form 309F notice as modified by the Court. KCC shall obtain this form notice from the Clerk and shall not modify the form notice it receives from the Clerk without the Clerk’s consent;
- (c) furnish a notice to all potential creditors of the last date for filing proofs of claim and a form for filing a proof of claim, after such notice and form are approved by the Clerk and the Court, and notify said potential creditors of the existence, amount, and classification of their respective claims as set forth in the Schedules, which may be affected by inclusion of such information (or the lack thereof, in cases where the Schedules indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors; Any claims bar date notice and customized proof of claim form, if any, must be approved by the Court prior to being issued by KCC.
- (d) for all notices, motions, orders, or other pleadings or documents served, prepare and file or cause to be filed with the Clerk a

certificate of service within twenty-four (24) hours of service, which includes (i) either a copy of the notice served or the docket number(s) and title(s) of the pleading(s) served, (ii) a list of persons to whom it was mailed (in alphabetical order) with their addresses, (iii) the manner of service, and (iv) the date served;

- (e) if these chapter 11 cases are converted to cases under chapter 7 of the Bankruptcy Code, contact the Clerk's Office immediately upon notice to KCC of entry of the order converting the cases; and
- (f) any contrary provision in the Application notwithstanding, and unless otherwise ordered by the Court, serve any document that KCC is required to serve pursuant to this Order, the Application, and/or Engagement Agreement within one business day of the document being entered on the Court's docket. KCC shall file a certificate of service for any such document within twenty-four (24) hours of the document being served. Notice of any hearing that KCC is required to serve pursuant to this Order must be served within one business day of the hearing being set. KCC shall file a certificate of service for any such notice within twenty-four (24) hours of notice being served.

4. KCC is authorized and directed to perform administrative advisor services as set forth below and in this Interim Order and any non-conflicting provisions of the Application. Under the Engagement Agreement, KCC will perform the following services as the Administrative Advisor pursuant to 11 U.S.C. § 327(a):

- (a) Assist the Debtors with plan-solicitation services including: (i) balloting, (ii) distribution of applicable solicitation materials, (iii) tabulation and calculation of votes, (iv) determining with respect to each ballot cast, its timeliness and its compliance with the Bankruptcy Code, Bankruptcy Rules, and procedures ordered by this Court; (v) preparing an official ballot certification and testifying, if necessary, in support of the ballot tabulation results; and (vi) in connection with the foregoing services, process requests for documents from parties in interest, including, if applicable, brokerage firms, bank back-offices and institutional holders;
- (b) Assist the Debtors with the preparation of the Debtors' Schedules and gather data in conjunction therewith (as needed);
- (c) Provide a confidential data room, if requested;

- (d) Manage and coordinate any distributions pursuant to a chapter 11 plan; and
- (e) Provide such other claims processing, noticing, plan solicitation, tabulation, and related administrative services as may be requested from time to time by the Debtors.

5. For services rendered under 11 U.S.C. § 327(a), KCC shall be compensated in accordance with and will file interim and final fee applications for allowance of its compensation and expenses which shall be subject to sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

6. The Clerk of the Bankruptcy Court shall:

- (a) Be the official record keeper for all information related to this case.
- (b) Pursuant to 28 U.S.C. § 156(e), perform her normal function as the custodian of Court records and shall maintain the official case docket and claims register for each of these Debtors. KCC shall work cooperatively with, assist, and support the Clerk in any way consistent with this Order. If KCC is unclear as to the application or applicability of any rule or procedure, it is to seek guidance from the Clerk.
- (c) Provide KCC with Electronic Case Filing (“ECF”) credentials that allow KCC to receive ECF notifications, file proofs of claim, and file certificates of service.
- (d) Retain exclusive responsibility to receive all transfers of claim.

7. Thirty (30) days prior to the close of these chapter 11 cases, to the extent practicable, KCC shall request that the Debtors submit to the Court a proposed order dismissing KCC as Claims and Noticing Agent and terminating its services in such capacity upon completion of its duties and responsibilities and upon the closing of these chapter 11 cases.

8. Once these cases have been closed, KCC shall seek permission of the Clerk to destroy any paper proofs of claim still in its possession that it has received in these cases and that have previously been filed with the Court. KCC shall file with the Court a certificate of

destruction specifying the method of destruction, the date of destruction, and any reference number or other relevant information for the destruction of the paper proofs of claim.

9. The Debtors are authorized to compensate KCC for its services as Claims and Noticing Agent pursuant to 28 U.S.C. § 156(c) in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by KCC and the rates charged for each, and to reimburse KCC for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for KCC to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

10. KCC shall maintain records of all services showing dates, categories of services, fees charged, and expenses incurred, and shall serve monthly invoices on the Debtors, the Office of the United States Trustee, counsel for the Debtors, the Clerk of the Court, counsel for any official committee monitoring the expenses of the Debtors, and any party in interest who specifically requests service of the monthly invoices.

11. The parties shall meet and confer in an attempt to resolve any dispute that might arise relating to the Engagement Agreement or monthly invoices. If the parties, after meeting and conferring, are unable to resolve their dispute, they may seek resolution of the matter from the Court.

12. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of KCC for its services as Claims and Noticing Agent pursuant to 28 U.S.C. § 156(c) under this Order shall be an administrative expense of the Debtors' estates.

13. KCC may apply its retainer to all prepetition invoices. KCC shall apply all pre-petition retainers, advance payments, and expense advances for payment of fees and costs

authorized by this Court to be paid before seeking compensation from the Debtors. KCC may bill and be paid monthly pursuant to Local Rule 2016-2(B).

14. In the event of any inconsistency between the Engagement Agreement, the Application, and the Interim Order, the Interim Order shall govern.

15. All time periods set forth in this Interim Order shall be calculated in accordance with Fed. R. Bankr. P. 9006(a).

16. If KCC is unable to provide the services set out in this Interim Order, KCC will immediately notify the Clerk and Debtors' counsel and, upon approval of the Court, cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and Debtors' counsel, or to the Court directly.

17. KCC shall not cease providing claims processing services during these chapter 11 cases for any reason, including nonpayment, without prior order of the Court. If these cases convert to cases under chapter 7 of the Bankruptcy Code, KCC shall cooperate with the Clerk to turn over to the Clerk or another agent any materials that the Clerk requests unless KCC continues as Claims and Noticing Agent following the conversion.

18. Nothing herein shall be construed to permit KCC to be allowed reimbursement or compensation for fees or expenses KCC incurs in defense of KCC's fees from legal challenge.


19. Notwithstanding any Bankruptcy Rule or Local Rule that might otherwise delay the effectiveness of this Order, the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

20. A final hearing (the “**Final Hearing**”) to consider the relief requested in the Motion shall be held on **August 18, 2020 at 10:00 (prevailing Central Time)**, in the United States Bankruptcy Court, Eastern District of Missouri, United States Courthouse, Thomas F. Eagleton Federal Building, 5th Floor, North Courtroom, 111 S. 10th Street, St. Louis, Missouri, 63102, and any objections or responses to the Motion shall be filed on or prior to **August 11, 2020 at 4:00 p.m. (prevailing Central Time)** and shall be served on: (i) Briggs & Stratton Corporation, 12301 West Wirth Street, Wauwatosa, Wisconsin 53222 (Attn: Kathryn M. Buono, Esq.); (ii) proposed counsel to the Debtors (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Ronit J. Berkovich, Esq., Debora A. Hoehne, Esq., and Martha E. Martir, Esq.) and (b) Carmody MacDonald P.C., 120 S. Central Avenue, Suite 1800, St. Louis, Missouri 63105 (Attn: Robert E. Eggmann, Esq., Christopher J. Lawhorn, Esq., and Thomas H. Riske, Esq.); (iii) the Office of the United States Trustee for the Eastern District of Missouri; (iv) the holders of the 30 largest unsecured claims against the Debtors on a consolidated basis; (v) 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; (vi) 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; (vii) the Internal Revenue Service; (viii) the United States Attorney’s Office for the Eastern District of Missouri; (ix) the Securities and Exchange Commission; and (x) any other party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively (iii) through (x), the “**Notice Parties**”). If no objection or response is timely filed and served, the Court may enter the Final Order without need for the Final Hearing.

Not later than two (2) business days after the date of this Interim Order, the Debtors shall serve a copy of the Interim Order and shall file a certificate of service no later than twenty-four (24) hours after service.

DATED: July 27, 2020
St. Louis, Missouri

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Barry S. Schermer
United States Bankruptcy Judge

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