

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

In re:  
  
BRIGGS & STRATTON  
CORPORATION, *et al.*,<sup>1</sup>  
  
Debtors.

Chapter 11  
  
Case No. 20-43597-399  
  
(Jointly Administered)  
  
Re: Docket No. 35  
  
Response Deadline: August 13, 2020 at 4:00 pm (CT)<sup>2</sup>  
Hearing Date: August 18, 2020 at 10:00 am (CT)

**MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS  
FOR LEAVE TO REDACT CERTAIN CONFIDENTIAL INFORMATION IN ITS  
OBJECTION TO MOTION OF DEBTORS FOR INTERIM AND FINAL ORDERS (I)  
AUTHORIZING DEBTORS TO OBTAIN POSTPETITION FINANCING, (II)  
AUTHORIZING DEBTORS TO USE CASH COLLATERAL, (III) GRANTING LIENS  
AND SUPERPRIORITY CLAIMS, (IV) GRANTING ADEQUATE PROTECTION TO  
PREPETITION SECURED PARTIES, (V) MODIFYING AUTOMATIC STAY, (VI)  
SCHEDULING FINAL HEARING AND (VII) GRANTING RELATED RELIEF**

The Official Committee of Unsecured Creditors (the “Committee”) appointed in the above-captioned Chapter 11 cases of Briggs & Stratton Corporation (with its affiliated debtors and debtors-in-possession, collectively, the “Debtors”) in connection with its objection (the “Objection”) to the *Motion Of Debtors For Interim And Final Orders (I) Authorizing Debtors To Obtain Postpetition Financing, (II) Authorizing Debtors To Use Cash Collateral, (III) Granting Liens And Superpriority Claims, (IV) Granting Adequate Protection To Prepetition Secured Parties, (V) Modifying Automatic Stay, (VI) Scheduling Final Hearing And (VII) Granting Related Relief* [Dkt. No. 35] (the “DIP Motion”), respectfully states as follows:

<sup>1</sup> The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: 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.

<sup>2</sup> As extended by agreement between the Committee and the Debtors.



### **RELIEF REQUESTED**

1. The Committee seeks entry of an order: (a) authorizing the Committee to redact in the Objection certain material non-public information of the Debtors (the “Confidential Information”) in order to maintain, as insisted by the Debtors, the asserted confidentiality of that information; (b) directing that the Confidential Information shall be redacted from the Objection, including any Exhibits or Declarations related thereto, and shall remain under seal, confidential, and not be made available to anyone without the consent of the Debtors, except for (i) the Court; (ii) the United States Trustee for the Eastern District of Missouri (the “United States Trustee”) (iii) the Debtors; and (iv) such other entities designated by the Court; (c) authorizing that any portion of the hearing pertaining to such information be conducted *in camera*, to the extent the hearing on this Motion requires disclosure of the Confidential Information; and (d) granting such other and further relief as the Court deems just, proper, and equitable.

### **Jurisdiction and Venue**

2. The United States Bankruptcy Court for the Eastern District of Missouri (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and Rule 81-9.01(B)(1) of the Local Rules of the United States District Court for the Eastern District of Missouri. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are sections 105(a) and 107(b) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), Bankruptcy Rule 9018, and rule 9037 of the Local Rules of Bankruptcy Procedure for the Eastern District of Missouri (the “Local Bankruptcy Rules”).

### **BACKGROUND**

4. On July 20, 2020 (the “Petition Date”), each of the Debtors filed a voluntary

petition under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. Contemporaneously herewith, the Committee is filing the Objection in redacted form. By this Motion, the Debtors seek authorization to make those redactions of certain material non-public information in order to maintain the confidential status of that information as requested by the Debtors.

### **ARGUMENT**

6. Section 107(b) of the Bankruptcy Code authorizes bankruptcy courts to protect parties in interest from potentially harmful disclosures of certain information. Specifically, information that is confidential and in the category of confidential “research, development, or commercial information” may be protected from public dissemination. *See also In re Farmland Indus., Inc.* 290 B.R. 364, 369 (Bankr. W.D. Mo. 2003) (Rule 9018 of the Bankruptcy Rules authorizes the court to prohibit disclosures where “necessary to protect the bankruptcy estate”).

7. Rule 9018 of the Bankruptcy Rules also provides:

On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information....

Fed. R. Bankr. P. 9018;

8. Furthermore, section 105(a) of the Bankruptcy Code empowers a bankruptcy court to issue “any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105. Accordingly, this Court has the power

to protect the Confidential Information and authorize it to be redacted in accordance with the Bankruptcy Code.

9. The Committee understands from the Debtors that the Confidential Information qualifies as commercially sensitive and material non-public financial information that merits protection under section 107(b)(1) of the Bankruptcy Code.

10. Accordingly, the Committee believes the requested relief strikes a balance among any need for public disclosure and minimizing the impact of harm of the release of non-public information. Therefore, the Confidential Information satisfies the “commercial information” threshold for redaction.

11. Bankruptcy courts in this District have granted numerous such motions to redact to protect confidential commercial information. See, e.g., *In re Peabody Energy Corp.*, Case No. 16-42529 (Bankr. E.D. Mo. Jan. 27, 2017) (Docket No. 2224) (authorizing the debtors to file information related to the debtors’ exit financing under seal); *In re Peabody Energy Corp.*, No. 16-42529 (Bankr. E.D. Mo. Apr. 15, 2016) (Docket No. 138) (authorizing the debtors to file a document relating to securitization facility under seal); *In re Arch Coal, Inc., et al.*, Case No. 16-40120 (Bankr. E.D. Mo. Jan. 14, 2016) (Docket Nos. 1348, 1592) (authorizing the movant to file certain coal-supply contracts under seal); *In re Noranda Aluminum, Inc., et al.*, Case No. 16-10083 (Bankr. E.D. Mo. Feb. 12, 2016) (Docket Nos. 577, 1399) (authorizing the movants to file confidential supply agreements under seal). Accordingly, this Court should grant the relief requested herein.

#### **NOTICE**

12. Notice of this Motion will be provided to (i) the United States Trustee; (ii) the Debtors; and (iii) 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).

[End of Text]

**CONCLUSION**

**WHEREFORE**, the Committee requests that the Court enter an order granting the relief requested by this Motion and such further relief as may be just, proper and equitable under the circumstances.

Dated: August 13, 2020

Respectfully submitted,

Official Committee of Unsecured Creditors

*By /s/ Alexander L. Moen* \_\_\_\_\_

Gregory D. Willard, #30192MO

Alexander L. Moen, #68279MO

**DOSTER ULLOM & BOYLE, LLC**

16150 Main Circle Drive, Suite 250

St. Louis, Missouri 63017

T: 636-532-0042

F: 636-532-1082

gwillard@dubllc.com

amoen@dubllc.com

- and -

**BROWN RUDNICK LLP**

Robert J. Stark (*admitted pro hac vice*)

Oksana P. Lashko (*admitted pro hac vice*)

Andrew M. Carty (*pro hac vice pending*)

Seven Times Square

New York, New York 10036

T: (212) 209-4800

rstark@brownrudnick.com

olashko@brownrudnick.com

acarty@brownrudnick.com

*Proposed Counsel to the*

*Official Committee of Unsecured Creditors*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was filed electronically using the Court's CM/ECF system and was served electronically on all parties on the Court's Electronic Mail Notice List on the date set forth above.

/s/ Alexander L. Moen