

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

In re § Chapter 11  
§  
BRIGGS & STRATTON § Case No. 20-43597-399  
CORPORATION, *et al.*, §  
§ (Jointly Administered)  
Debtors.<sup>1</sup> §

**MOTION OF DANTHERM S.P.A. FOR ALLOWANCE OF  
ADMINISTRATIVE EXPENSE CLAIM PURSUANT TO 11 U.S.C. § 503(b)(9)  
AGAINST ALLMAND BROS., INC. AND FOR RELATED RELIEF**

NOW COMES Dantherm S.p.A. (“**Dantherm**”), by and through its undersigned counsel, and for its Motion for Allowance of Administrative Expense Claim Pursuant to 11 U.S.C. § 503(b)(9) against Allmand Bros., Inc. and for Related Relief (the “**Motion**”) respectively states as follows:

**Jurisdiction, Core Nature, and Venue**

1. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

**Background and Request for Relief**

1. These chapter 11 cases were commenced on July 20, 2020 (the “**Petition Date**”) by Briggs & Stratton Corporation and certain of its affiliates (collectively, the “**Debtors**”).

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<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.



2. Prior to the Petition Date, Dantherm had an extensive business relationship with the Debtors, particularly Allmand Bros., Inc. (“**Allmand**”). Dantherm sold to Allmand a large volume of specially-manufactured goods used by Allmand in the manufacture of its products. Prior to the closing of the Court-approved auction sale, Allmand was one of the largest manufacturers in the world of trailers with diesel air heaters (the “**Maxi Heat trailer**”). The Maxi Heat trailer was one of Almand’s principal product lines.

3. Beginning in 1948, Dantherm, based in Italy, was a pioneer of the design and manufacture of diesel portable air heaters. Dantherm designed and manufactured a unique heater for use only with Maxi Heat trailers. Since 2014, all of Allmand’s Maxi Heat trailers had been equipped with air heaters manufactured by Dantherm. Dantherm owns several United States and international patents on the air heaters it specially designed for Allmand.

4. On July 20, 2020, the Debtors filed their *Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to Pay Prepetition Obligations in the Ordinary Course of Business to (A) Critical Vendors, (B) Foreign Creditors, and (C) 503(b)(9) Claimants; and (II) Granting Related Relief* (the “**Critical Vendor Motion**”) [Docket No. 30]. The Critical Vendor Motion requested, *inter alia*, authority to pay prepetition amounts owed to Vendor Claimants (as defined in the Critical Vendor Motion) in order to preserve the continuity of, and avoid disruption to, the Debtors’ international operations. The Critical Vendor Motion defined three categories of Vendor Claimants: Critical Vendors, Foreign Creditors, and 503(b)(9) Claimants.

5. On August 11, 2020, Dantherm filed its *Limited Objection and Reservation of Rights of Dantherm S.p.A. to Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to Pay Prepetition Obligations in the Ordinary Course of Business to (A) Critical*

*Vendors, (B) Foreign Creditors, and (C) 503(b)(9) Claimants; and (II) Granting Related Relief* (the “**Limited Objection**”) [Docket No. 356].

6. Appended to the Limited Objection are copies of bills of lading and invoices evidencing over \$3 million in goods manufactured and delivered by Dantherm to Allmand prior to the Petition Date which remained unpaid. Of this amount, Dantherm asserted more than \$1.3 million was entitled to allowance as an administrative claim pursuant to § 503(b)(9) of the Bankruptcy Code. Thus, Dantherm asserted, *inter alia*, that it was a 503(b)(9) Claimant as defined in the Critical Vendor Motion. A copy of the Limited Objection is incorporated herein by this reference.

7. On August 20, 2020, this Court entered its *Final Order (I) Authorizing Debtors to Pay Prepetition Obligations in the Ordinary Course of Business to (A) Critical Vendors, (B) Foreign Creditors, and (C) 503(b)(9) Claimants; and Granting Related Relief* (the “**Final Critical Vendor Order**”) [Docket No. 534].

8. After consideration of the Limited Obligation, the Court directed counsel for the Debtors and Dantherm to collaborate on language for inclusion in the Final Critical Vendor Order in respect to the Limited Objection. Accordingly, counsel agreed to the language set forth in paragraph 16 of the Final Critical Vendor Order, which reads as follows: “Not later than August 25, 2020, the Debtors shall use reasonable best efforts to (a) reconcile the amount of Dantherm S.p.A.’s (“**Dantherm**”) prepetition claim and (b) determine whether Dantherm is a Critical Vendor, Foreign Vendor, and/or 503(b)(9) Claimant, and in each case, notify Dantherm of their determination.”

9. In compliance with the Final Critical Vendor Order, on August 24, 2020, the Debtors communicated their determination to Dantherm as set forth in **Exhibit A** hereto.

Specifically, the Debtors determined, *inter alia*, that Dantherm's prepetition claim is allowable in the amount of \$3,008,153.61 and that Dantherm holds an allowable 503(b)(9) claim in the amount of \$1,323,611.22.

10. Dantherm agreed with the Debtors' determination. On October 7, 2020, Dantherm timely filed a proof of claim against Allmand in the amount of \$3,008,153.61 and asserted that \$1,323,611.22 of that amount is allowable as a 503(b)(9) claim [Claim No. 53]. A copy of Dantherm's proof of claim is incorporated herein by this reference.

11. Since the auction sale transaction has closed, the Debtors' estates have sufficient funds with which to pay Dantherm's 503(b)(9) claim in full.

WHEREFORE, Dantherm S.p.A. respectfully requests that this Motion be granted; that Dantherm be allowed an administrative priority claim pursuant to § 503(b)(9) of the Bankruptcy Code in the amount of \$1,323,611.22; that the Debtors be directed to pay Dantherm \$1,323,611.22 upon confirmation of the Debtors' pending chapter 11 plan, as may be modified or amended; and that Dantherm be granted such further and additional relief as may be equitable and just under the circumstances presented.

Dated: December 4, 2020

Respectfully submitted,

DANTHERM S.P.A.

By: /s/ Robert W. Stephens  
Robert W. Stephens (MO #57505)  
Swanson Martin & Bell, LLP  
800 Market Street, Suite 2100  
St. Louis, MO 63101  
T: 314-241-7100  
F: 314-242-0990  
rstephens@smbtrials.com

and

Charles S. Stahl, Jr.  
Swanson, Martin & Bell, LLP  
2525 Cabot Drive, Suite 204  
Lisle, IL 60532  
T; 630-799-6990  
F: 630-799-6901  
cstahl@smbtrials.com

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that on this 4th day of December, 2020, a true and correct copy of the above and foregoing MOTION FOR ALLOWANCE OF ADMINISTRATIVE EXPENSE CLAIM PURSUANT TO 11 U.S.C. § 503(b)(9) AGAINST ALLMAND BROS., INC. AND FOR RELATED RELIEF was filed electronically with the United States Bankruptcy Court for the Eastern District of Missouri and has been served on the parties in interest via e-mail using the Court's CM/ECF System as listed on the Court's Electronic Mail Notice List.

/s/ Robert W. Stephens

# **EXHIBIT A**

## Charlie Stahl

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**From:** Martir, Martha <Martha.Martir@weil.com>  
**Sent:** Monday, August 24, 2020 1:04 PM  
**To:** Charlie Stahl; Robert W. Stephens  
**Subject:** Briggs - Critical Vendor Order: Dantherm  
**Attachments:** Dantherm - Trade Agreement (503(b)(9))\_WEIL\_97602187\_1.DOC

Charles, Robert,

Pursuant to Paragraph 16 of the Final Critical Vendor Order [Docket No. 534], this email is to notify Dantherm S.p.A. ("Dantherm") of the following:

1. The Debtors' believe Dantherm's prepetition amount to be \$3,008,153.61, of which \$1,323,611.22 is pursuant to section 503(b)(9) of the Bankruptcy Code.
  - a. Note: The amount asserted in Dantherm's objection, \$3,015,792.84, does not include a payment of \$7,639.33 made on March 9, 2020.
2. Pursuant to the Final Critical Vendor Order, the Debtors propose to pay the section 503(b)(9) portion of Dantherm's prepetition claim, as a 503(b)(9) Claimant. Dantherm is important to the debtors' operations, but given the competing demands for limited funds, at this time the Debtors are not in a position to make payments on Dantherm's non-503(b)(9) amounts.

To that end, the attached Trade Agreement provides for payment by the Debtors to Dantherm of the aforementioned 503(b)(9) amount in the ordinary course of business (instead of at the end of the chapter 11 cases) and obligates Dantherm to continue supplying goods to the Debtors on the terms that existed prior to the chapter 11 cases for the Duration of the Cases (as defined in the Trade Agreement). The Trade Agreement also provides that Dantherm may file a proof of claim for the non-503(b)(9) amounts. Please let us know of comments.

The Debtors have complied with their obligations pursuant to Paragraph 16 of the Final Critical Vendor Order.

Best,  
Martha

The logo for Weil, featuring the word "Weil" in a white, sans-serif font inside a dark grey rectangular box.

**Martha E. Martir**

Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, NY 10153  
[martha.martir@weil.com](mailto:martha.martir@weil.com)  
+1 212 310 8228 Direct  
+1 703 889 7716 Mobile  
+1 212 310 8007 Fax