

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 7

BUTH-NA-BODHAIGE, INC.,

Case No.: 24-10392 (DSJ)

Debtor.
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**ORDER APPOINTING KURTZMAN CARSON
CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT FOR THE TRUSTEE**

Upon the application of Kenneth P. Silverman, Esq., the chapter 7 trustee (the “Trustee”) for the bankruptcy estate of Buth-Na-Bodhaidge, Inc. (the “Debtor”), for an order appointing Kurtzman Carson Consultants LLC (“KCC”) as claims and noticing agent (“Claims and Noticing Agent”) pursuant to 28 U.S.C. § 156(c), sections 105(a) and 503(b)(1)(A) of the Bankruptcy Code, Bankruptcy Rule 2002(f), and Local Rule 5075-1 to, among other things, (a) distribute required notices to parties in interest, (b) receive, maintain, docket, and otherwise administer the proofs of claim filed in this chapter 7 case, and (c) provide such other administrative services—as required by the Trustee that would fall within the purview of services to be provided by the Clerk’s office; and upon consideration of the *Declaration of Evan Gershbein in Support of the Trustee’s Application for Entry of an Order Appoint Kurtzman Carson Consultants LLC as Claims and Noticing Agent for the Trustee* (the “Gershbein Declaration”); and the Trustee having estimated that there are in excess of 250 creditors to be noticed in this chapter 7 case; and it appearing that the receiving, docketing, and maintaining of proofs of claim to be filed in this chapter 7 case would be unduly time consuming and burdensome for the Clerk; and this Court being authorized under 28 U.S.C. § 156(c) to utilize outside agents and facilities to provide notices to parties and to receive, docket, maintain, photocopy, and transmit proofs of claim; and this Court being satisfied that KCC has the capability and experience to provide such services and that KCC



does not hold an interest adverse to the Debtor's estate respecting the matters upon which it is to be engaged; and due and sufficient notice of the Application having been given; and it appearing that no other or further notice is necessary; and it appearing that the relief requested in the Application is in the best interests of the Debtor's estate, its creditors, and other parties in interest; and this Court having reviewed the Application and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Application and at the Hearing establish just cause for the relief granted herein; and after due deliberation thereon; and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. Notwithstanding the terms of the Engagement Agreement attached to the Application, the Application is approved solely as set forth in this Order.
2. The Trustee is authorized to retain KCC as Claims and Noticing Agent as of the Petition Date under the terms of the Engagement Agreement, and KCC is authorized and directed to perform noticing services and to receive, maintain, record and otherwise administer the proofs of claim filed in this chapter 7 case, and all related tasks, all as described in the Application, as modified herein.
3. KCC shall serve as the **interim** custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in this chapter 7 case and is authorized and directed to maintain official claims registers for the Trustee, to provide public access to every proof of claim unless otherwise ordered by the Court and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk **who remains the official custodian of court records under 28 U.S.C. § 156(e). [DSJ 4/10/2024]**

4. KCC is authorized and directed to provide an electronic interface for filing proofs of claim and to obtain a post office box or address for the receipt of proofs of claim.

5. KCC is authorized to take such other action to comply with all duties set forth in the Application, as modified herein.

6. For all notices, motions, orders or other pleadings or documents served, KCC is authorized to prepare and file or cause to be filed with the Clerk an affidavit or certificate of service in accordance with Local Rule 9078-1 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.

7. The Trustee is authorized to compensate KCC 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.

8. KCC shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Trustee, the U.S. Trustee, and any party in interest who specifically requests service of the monthly invoices.

9. The parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Engagement Agreement or monthly invoices; provided that the parties may seek resolution of the matter from this Court if resolution is not achieved.

10. Pursuant to Bankruptcy Code section 503(b)(1)(A), the fees and expenses of KCC under this Order shall be an administrative expense of the Debtor's estate.

11. The Trustee shall indemnify KCC under the terms of the Engagement Agreement, as modified pursuant to this Order.

12. All requests by KCC for the payment of indemnification as set forth in the Engagement Agreement shall be made by means of an application to the Court and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Engagement Agreement and is reasonable under the circumstances of the litigation or settlement in respect of which indemnity is sought; provided, however, that in no event shall KCC be indemnified in the case of its own bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence, willful misconduct, or fraud.

13. In the event that KCC seeks reimbursement for attorneys' fees and expenses in connection with the payment of an indemnity claim pursuant to the Engagement Agreement, the invoices and supporting time records for the attorneys' fees and expenses shall be included in KCC's own applications, both interim and final, but determined by this Court after notice and a hearing.

14. Additionally, such invoices and time records shall be subject to the Fee Guidelines and the approval of the Court under the standards of sections 330 and 331 of the Bankruptcy Code without regard to whether such attorney has been retained under section 327 of the Bankruptcy Code and without regard to whether such attorneys' services satisfy section 330(a)(3)(C) of the Bankruptcy Code.

15. In the event KCC is unable to provide the services set out in this Order, KCC will immediately notify the Clerk and the Trustee's counsel and, upon approval of this 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 the Trustee's counsel.

16. The Trustee may submit a separate retention application, pursuant to 11 U.S.C. § 327 or any applicable law, for work that is to be performed by KCC but is not specifically authorized by this Order.

17. KCC shall not cease providing claims processing services during this chapter 7 case for any reason, including nonpayment, without an order of this Court.

18. The limitation of liability section in paragraph IX of the Engagement Agreement is deemed to be of no force or effect with respect to the services to be provided pursuant to this Order.

19. The Trustee and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

20. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

21. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and enforceable upon its entry.

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

Dated: New York, New York
April 10, 2024

s/ David S. Jones
Honorable David S. Jones
United States Bankruptcy Judge

Dated: New York, New York
April 4, 2024

NO OBJECTION:

s/ Mark Bruh
Office of the United States Trustee