

Provisionally granted until an order is entered after the final hearing on this document.

No later than two (2) business days after entry of this Order, the Debtors shall serve a copy of this Order, and shall file a certificate of service no later than 24 hours after service.

Jul 20, 2020

*Barry S. Schermer*

BARRY S. SCHERMER  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

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

**APPLICATION OF DEBTORS PURSUANT TO  
11 U.S.C. § 327(a), FED R. BANKR. P. 2014(a) AND 2016, AND  
LOCAL RULES 2014 AND 2016-1 FOR AUTHORITY TO RETAIN  
AND EMPLOY WEIL, GOTSHAL & MANGES LLP AS ATTORNEYS  
FOR THE DEBTORS EFFECTIVE AS OF THE PETITION DATE**

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 application (the “Application”):

**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 their

<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.



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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 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**”),<sup>2</sup> 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, 1334, and Local Rule 1001 (D). 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 Application, pursuant to section 327(a) of the Bankruptcy Code, Bankruptcy Rules 2014(a) and 2016, and Local Rules 2014 and 2016-1, the Debtors request

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<sup>2</sup> 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.

authority to retain and employ Weil, Gotshal & Manges LLP (“Weil” or the “Firm”) as attorneys for the Debtors effective as of the Petition Date.

5. The Debtors request that the Court approve the retention of Weil, under a general retainer, as their attorneys to perform the extensive legal services that will be required during these chapter 11 cases in accordance with Weil’s normal hourly rates in effect when services are rendered and Weil’s normal reimbursement policies. In support of this Application, the Debtors submit the declaration of Ronit J. Berkovich, a partner of Weil, which is attached hereto as Exhibit A (the “Berkovich Declaration”), and the declaration of Kathryn M. Buono, the Debtors’ Vice President, Corporate Counsel & Secretary, (the “Buono Declaration”) which is attached hereto as Exhibit B.

#### Weil’s Qualifications

6. In April, 2020, Weil began advising the Debtors in connection with exploring and implementing various strategic alternatives to deleverage the Debtors’ balance sheet as well as preserve and maximize the Debtors’ enterprise value. Since that time, Weil has extensively involved in prepetition negotiations with the Stalking Horse Bidder and the Debtors’ prepetition creditors, which resulted in the execution of the Stalking Horse Agreement and the DIP Credit Agreement.

7. As a result of its prepetition representation of the Debtors, Weil acquired an in-depth knowledge of the Debtors’ capital structure and has extensive additional insight into the current condition of the Debtors’ business operations. In addition, Weil was extensively involved in prepetition negotiations with many of the Debtors’ key economic stakeholders and in analyzing strategic alternatives with respect to the Debtors’ capital structure and restructuring alternatives, including the commencement of this chapter 11 case. Accordingly, Weil possesses the necessary

background to address the potential legal issues that may arise in the context of the Debtors' chapter 11 cases.

8. In addition to Weil's knowledge of the Debtors' business and financial affairs, the Debtors selected Weil as their attorneys because of the Firm's extensive, diversified experience and expertise, including Weil's recognized expertise in the field of debtors' protections, creditors' rights, and the administration of cases under chapter 11 of the Bankruptcy Code. For example, Weil currently represents or has represented, among others, the following debtors and their affiliates: Brooks Brothers Group, Inc.; Vivus, Inc.; NPC International, Inc.; Speedcast International Limited; Skillsoft Corporation; Chinos Holdings, Inc.; Chisholm Oil & Gas Operating, LLC; 24 Hour Fitness Worldwide, Inc.; Fairway Group Holdings Corp.; Gavilan Resources Holdings, Inc.; Exide Holdings, Inc.; Kingfisher Midstream LLC; EP Energy Corporation; Halcon Resources Corporation; Fusion Connect, Inc.; Insys Therapeutics, Inc.; CTI Foods, LLC; Ditech Holding Corporation; PG&E Corporation and Pacific Gas and Electric Company; Checkout Holding Corp.; Waypoint Leasing Holdings Ltd.; LBI Media, Inc.; Sears Holdings Corporation; Tops Holding Company LLC; Southeastern Grocers, LLC; Claire's Inc.; Walter Inv. Mgmt. Corp.; Fieldwood Energy LLC; Westinghouse Electric Company LLC; TK Holdings Inc.; Angelica Corp.; Azure Midstream Partners, LP; Memorial Production Partners LP; CHC Group Ltd.; Breitburn Energy Partners LP; Basic Energy Services, Inc.; American Gilsonite Company; and Aéropostale, Inc. Accordingly, the Debtors believe that Weil is both well qualified and uniquely able to represent the Debtors in their chapter 11 cases in an efficient and timely manner. The Debtors have been informed that Ronit J. Berkovich, Partner at Weil and Debora A. Hoehne, counsel to Weil, as well as other partners at, counsel to, and associates of Weil who will be employed in these chapter 11 cases, are members in good standing of, among others, the Bar of the State of New York and the United States District Court for the Southern District of New York. Applications for *pro hac vice* for Ronit J. Berkovich and

Debora A. Hoehne to practice before this Court are being filed simultaneously with this Application.

**Scope of Services**

9. The services to be performed by Weil are appropriate and necessary to enable the Debtors to execute faithfully their duties as debtors and debtors in possession and to prosecute their chapter 11 cases. Subject to further order of this Court, it is proposed that Weil be employed to render the professional services listed below, on the terms of this Application and the parties' engagement letter, dated April 8, 2020 (the "**Engagement Letter**"), a copy of which is attached hereto as **Exhibit C**.<sup>3</sup>

- a. prepare on behalf of the Debtors, as debtors in possession, all necessary motions, applications, answers, orders, reports and other papers in connection with the administration of the Debtors' estates;
- b. take all necessary actions in connection with any chapter 11 plan and related disclosure statement and all related documents, and such further actions as may be required in connection with the administration of the Debtors' estates;
- c. take all necessary action to protect and preserve the Debtors' estates, including the prosecution of actions on the Debtors' behalf, the defense of any actions commenced against the Debtors, the negotiation of disputes in which the Debtors are involved, and the preparation of objections to claims filed against the Debtors' estates;
- d. perform all other necessary legal services in connection with the prosecution of these chapter 11 cases; provided, however, that to the extent Weil determines that such services fall outside of the scope of services historically or generally performed by Weil as lead debtors' counsel in a bankruptcy case, Weil will file a supplemental declaration.

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<sup>3</sup> Any references to, or descriptions of, the Engagement Letter are qualified by the express terms of the Engagement Letter, which shall govern if there is any conflict between the Engagement Letter and the descriptions provided herein.

10. It is necessary for the Debtors to employ attorneys to render the foregoing professional services. Weil has stated its desire and willingness to act in these cases and render the necessary professional services as attorneys for the Debtors.

11. In addition to this Application, the Debtors have filed, or expect to file shortly, applications to employ: (i) Carmody MacDonald P.C. (“**Carmody**”), as co-counsel, (ii) Foley & Lardner LLP (“**Foley**”), as special corporate counsel (iii) Kurtzman Carson Consultants, LLC, as claims and noticing agent; (iv) Houlihan Lokey Capital, Inc. as investment banker; (v) Deloitte & Touche LLP, as independent auditors, and (vi) Ernst & Young LLP as financial advisor. The Debtors may also file applications to employ additional professionals. Rather than resulting in any extra expense to the Debtors’ estates, it is anticipated that the efficient coordination of efforts of the Debtors’ attorneys and other professionals will greatly add to the progress and effective administration of these chapter 11 cases.

#### **No Duplication of Services**

12. As described in the Berkovich Declaration, Weil will work with Carmody and the Debtors’ other professionals to ensure a clear delineation of each firm’s respective roles in connection with representation of the Debtors in these chapter 11 cases to prevent duplication of services and ensure the case is administered in the most efficient fashion possible. In that regard, Weil and Carmody have informed the Debtors that Weil will take the lead on, among other tasks: (i) preparing on behalf of the Debtors, as debtors in possession, necessary motions, applications, answers, orders, reports, and other papers in connection with the administration of the Debtors’ estates; (ii) taking necessary actions in connection with any chapter 11 plan and related disclosure statement and all related documents, and such further actions as may be required in connection with the administration of the Debtors’ estates; (iii) taking all necessary action to protect and preserve the Debtors’ estates, including the prosecution of actions on the Debtors’ behalf, the

defense of any actions commenced against the Debtors, the negotiation of disputes in which the Debtors are involved, and the preparation of objections to claims filed against the Debtors' estates; and (iv) performing other necessary legal services in connection with the prosecution of these chapter 11 cases. Carmody's duties will include, among other tasks: (a) providing Missouri law expertise, including advising the Debtors and Weil on issues of local practice and the Local Rules; (b) communicating with the Court and the Office of the United States Trustee for the Eastern District of Missouri (the "U.S. Trustee") with respect to the Debtors' filings and the chapter 11 cases; (c) reviewing, commenting on, and coordinating the filing of various pleadings; and (d) serving as lead counsel to the Debtors with respect to matters or parties as to which Weil has a conflict and determines that it cannot (or should not) represent the Debtors (where Carmody does not similarly have a conflict).

#### **Weil's Disinterestedness**

13. To the best of the Debtors' knowledge, the partners of, counsel to, and associates of Weil do not have any connection with or any interest adverse to the Debtors, their creditors, or any other party in interest, or their respective attorneys and accountants, except may be set forth in the Berkovich Declaration.

14. Based upon the Berkovich Declaration, Weil is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code as modified by section 1107(b) of the Bankruptcy Code. The Debtors have been informed that Weil will conduct an ongoing review of its files to ensure that no disqualifying circumstances arise. If any new material relevant facts or relationships are discovered, Weil will supplement its disclosure to the Court accordingly.

#### **Professional Compensation**

15. As set forth in the Berkovich Declaration, for the 90 days prior to the Petition Date, Weil received payments and advances in the aggregate amount of \$8,962,940.50 for

professional services performed and to be performed, and expenses incurred and to be incurred, including the commencement and prosecution of these chapter 11 cases. Weil has a remaining credit balance in favor of the Debtors for professional services performed and to be performed, and expenses incurred and to be incurred, in connection with these chapter 11 cases in the amount of \$1,127,475.76 (the “**Fee Advance**”). An accounting summary of payments invoiced and received by Weil in the 90 days before the Petition Date is set forth in **Exhibit 4** attached to the Berkovich Declaration. As of the Petition Date, the Debtors did not owe Weil any fees for professional services performed or expenses incurred. Weil intends to apply the Fee Advance to any outstanding amounts relating to the period prior to the Petition Date that were not processed through Weil’s billing system as of the Petition Date. Weil intends to also retain any remaining balance of the Fee Advance on account of services rendered and expenses incurred subsequent to the Petition Date.

16. The Debtors understand and have agreed that Weil hereafter will apply to the Court for allowances of compensation and reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the *U.S. Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases*, effective November 1, 2013 (collectively, the “**Fee Guidelines**”), and any further orders of the Court (the “**Orders**”) for all professional services performed and expenses incurred after the Petition Date.

17. Subject to the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Fee Guidelines, and the Orders, the Debtors propose to compensate Weil for services rendered at Weil’s customary hourly rates that are in effect from time to time, as set forth in the Berkovich Declaration, and to reimburse Weil according to its customary reimbursement



policies. The Debtors respectfully submit that Weil's rates and policies stated in the Berkovich Declaration are reasonable.

**Notice**

18. Notice of this Application 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, and (v) 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).

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

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

Dated: July 20, 2020  
Wauwatosa, Wisconsin

Respectfully submitted,

Briggs & Stratton Corporation (for itself and on behalf of each of its affiliated debtors as Debtors and Debtors in Possession)

/s/ Kathryn M. Buono

Name: Kathryn M. Buono

Title: Vice President, Corporate Counsel & Secretary