

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

In re:	§	Chapter 11
	§	
BRIGGS & STRATTON CORPORATION, et al.,	§	Case No. 20-43597-399
	§	
Debtors.	§	(Jointly Administered)
	§	
	§	Related Docket No. 5

ORDER (I) AUTHORIZING PAYMENT OF PREPETITION CLAIMS OF SHIPPERS, WAREHOUSEMEN, IMPORT/EXPORT PROVIDERS, AND OTHER LIEN CLAIMANTS, (II) CONFIRMING ADMINISTRATIVE ADMINISTRATIVE EXPENSE PRIORITY OF UNDISPUTED PREPETITION ORDERS, (III) AUTHORIZING PAYMENT OF SUCH OBLIGATION IN THE ORDINARY COURSE OF BUSINESS, AND (IV) GRANTING RELATED RELIEF

Upon the motion (the “**Motion**”)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 to sections 105(a) and 363 of the Bankruptcy Code authorizing the Debtors to pay (i) Shipping and Warehousing Charges, (ii) Import/Export Charges, and (iii) Other Lien Claims (each as defined in the Motion) to suppliers and other related relief, all as more fully set forth in the Motion; and upon consideration of the Ficks Declaration; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion 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 adequate and proper notice of the Motion has been given and that no other or further notice need be given; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and this Court having determined that

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



the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003 and 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 in that:**

1. The Debtors are authorized, but not directed, pursuant to sections 105(a) and 363 of the Bankruptcy Code to pay (i) Shipping and Warehousing Charges, (ii) Import/Export Charges, and (iii) Other Lien Claims (each as defined in the Motion) to suppliers, in an aggregate amount not to exceed \$7,250,000.

2. If a Lien Claimant accepts payment pursuant to the relief granted in this Order, such party is deemed to have agreed to release any liens it may have on the Debtors' Goods or any other property.

3. The Debtors may condition, in their sole discretion, any payments made to the Shippers, Warehousemen, and Other Lien Claimant on the agreement of such parties to continue supplying services to the Debtors on the same trade terms given to them prior to the Petition Date or upon new trade terms (to the extent agreed to by the applicable Lien Claimant, the "**Agreed Terms**").

4. If any Shipper, Warehouseman, or Other Lien Claimant that has been paid pursuant to this Order fails to comply with the Agreed Terms, the Debtors shall have the right to seek appropriate relief to (i) cause any payment made to such Lien Claimant on account of its Lien Claim to be deemed to have been in payment of then outstanding postpetition obligations owed to such party and (ii) require such party to immediately repay to the Debtors any payments made, to

the extent the aggregate amount of such payments exceeds the postpetition obligations then outstanding, without the right of any setoffs, claims, provision for payment of reclamation or trust fund claims, or otherwise.

5. Prior to making a payment to a party pursuant to this Order, the Debtors may, in their absolute discretion and in consultation with the DIP Agent, settle all or part the prepetition claims of such party for less than their face amount, without further notice or hearing. The Debtors may elect to only pay part of a prepetition claim, leaving the remainder of the claim to be addressed pursuant to the Debtors' chapter 11 plan.

6. The Debtors shall maintain a matrix (the "**Lien Claimant Payment Matrix**") summarizing (i) the name of each Lien Claimant the Debtors seek to pay on account of the terms set forth in any order approving this Motion, (ii) the amount of each made payment, and (iii) a brief description of the goods and services provided by the Lien Claimant for which such payment will be made. Upon entry of this Order, the Debtors shall provide the full Lien Claimant Payment Matrix to (a) the United States Trustee for the Eastern District of Missouri; (b) counsel to any official committee of unsecured creditors that may be appointed in these chapter 11 cases (if any committee has been appointed); and (c) counsel to the lenders under the Debtors' postpetition debtor in possession secured credit facility. Upon entry of this Order, the Debtors shall provide a list of any changes to the Lien Claimant Payment Matrix to the above parties every two weeks during the first month of these chapter 11 cases and monthly thereafter. Provision of the Lien Claimant Payment Matrix and any subsequent changes by email shall be sufficient. Recipients of the Lien Claimant Payment Matrix shall keep the Lien Claimant Payment Matrix strictly confidential with access to the actual details limited to attorneys and financial advisors and

shall not disclose the Lien Claimant Payment Matrix or any portion thereof to any individual or entity without the Debtors' prior written consent.

7. Neither the Debtors nor any other party in interest concedes that any liens (contractual, common law, statutory or otherwise) satisfied pursuant to this Order are valid, and the Debtors expressly reserve the right to contest the extent, validity or perfection or seek the avoidance of all such liens.

8. The Banks are authorized to receive, process, honor, and pay any and all checks issued, or to be issued, and electronic funds transfers requested, or to be requested, by the Debtors relating to such obligations, to the extent that sufficient funds are on deposit in available funds in the applicable bank accounts to cover such payments. The Banks are authorized to accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of this Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

9. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases with respect to any prepetition amounts that are authorized to be paid pursuant to this Order.

10. Notwithstanding anything contained in the Motion or this Order, any payment made, and any authorization of the Debtors contained herein shall be subject to the terms and conditions contained in any orders entered by this Court authorizing the Debtors to obtain debtor-in-possession financing and/or authorizing the use of cash collateral (each such order, a

“**DIP Order**”), the documentation in respect of any such debtor-in-possession financing or use of cash collateral, and any budget in connection with any such debtor-in-possession financing and/or use of cash collateral. To the extent there is any inconsistency between the terms of any DIP Order and any action taken or proposed to be taken by the Debtors hereunder, the terms of the DIP Order shall control.

11. Nothing contained in the Motion or this Order or any payment made pursuant to the authority granted by this Order is intended to be or shall be deemed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors’ or any party in interest’s rights to dispute the amount of, basis for, or validity of any claim, (iii) a waiver of the Debtors’ rights under the Bankruptcy Code or any other applicable nonbankruptcy law, (iv) an agreement or obligation to pay any claims, (v) a waiver of any claims or causes of action which may exist against any creditor or interest holder, (vi) an admission as to the validity of any liens satisfied pursuant to this Motion, or (vii) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy under section 365 of the Bankruptcy Code.

12. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

13. Notice of the Motion is adequate under Bankruptcy Rule 6004(a).

14. Notwithstanding the provisions of Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

15. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Order.

16. Not later than two (2) business days after the date of this Order, the Debtors

shall serve a copy of the Order and shall file a certificate of service no later than twenty-four (24) hours after service.

DATED: July 22, 2020
St. Louis, Missouri

cks


Barry S. Schermer
United States Bankruptcy Judge

Order Prepared By:

Robert E. Eggmann, #37374MO
Christopher J. Lawhorn, #45713MO
Thomas H. Riske, #61838MO
CARMODY MACDONALD P.C.
120 S. Central Avenue, Suite 1800
St. Louis, Missouri 63105
Telephone: (314) 854-8600
Facsimile: (314) 854-8660
Email: ree@carmodymacdonald.com
cjl@carmodymacdonald.com
thr@carmodymacdonald.com

*Proposed Local Counsel to the Debtors
and Debtors in Possession*

-and-

Ronit J. Berkovich (*pro hac vice* pending)
Debra A. Hoehne (*pro hac vice* pending)
Martha E. Martir (*pro hac vice* pending)
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007
Email: Ronit.Berkovich@weil.com
Debra.Hoehne@weil.com
Martha.Martir@weil.com

*Proposed Counsel to the Debtors
and Debtors in Possession*