

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

In Re:	)	In Proceedings Under Chapter 11
	)	Hon. Barry S. Schermer
BRIGGS & STRATTON	)	
CORPORATION, <i>et. al.</i> ,	)	Case No. 20-43597-399
	)	(Jointly Administered)
Debtors.	)	
	)	

**APPLICATION FOR ALLOWANCE AND PAYMENT OF  
ADMINISTRATIVE EXPENSE PURSUANT TO 11 U.S.C. §503(b)(9)**

COMES NOW, A.B. Boyd Co. (“**AB**”), by and through its undersigned counsel, and for its *Application for Allowance and Payment of Administrative Expense Pursuant to 11 U.S.C. §503(b)(9)* (the “Application”), state to this Honorable Court as follows:

**I. JURISDICTION AND VENUE**

1. On July 20, 2020 (the "Petition Date"), Briggs & Stratton Corporation and several of its affiliates filed their voluntary petitions for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code (the "Code") in the United States Bankruptcy Court for the Eastern District of Missouri (the “Court”). The cases are being jointly administered under the above-captioned case number pursuant to this Court’s order of July 21, 2020 [Doc. #117].

2. This Court has jurisdiction over these proceedings and this Motion pursuant to 28 U.S.C. §§157 and 1334, 11 U.S.C. §105, 363, 502, 503, 1107, 1108, Rule 81- 9.01(B)(1) of the Local Rules for the United States District Court for the Eastern District of Missouri and Rule 4001 of the Federal Rules of Bankruptcy Procedure. Venue is proper in this Court pursuant to 28 U.S.C. §1408(1) and 28 U.S.C. §1409(a). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B), (M), and (O).



## II. ARGUMENT

3. AB has supplied certain breather tubes to Debtors to Briggs & Stratton Corporation, et. al. (“**Debtors**”) for decades. These products are necessary for Debtors’ manufacturing operations. Although Debtors have represented to AB that continued supply of the foregoing property is critical to Debtors’ ability to continue their manufacturing operations, Debtors have not designated AB as a “critical vendor” pursuant to the authority and discretion granted them by the Court under its orders of July 22, 2020 [Doc. #145] and August 20, 2020 [Doc. #534] granting on an interim, and then a final basis, Debtors’ motion to approve certain ordinary course operations and payment of critical vendors [Doc. #30].

4. Prior to the Petition Date, both AB sold and delivered to Debtor Briggs & Stratton Corporation certain breather tubes in the ordinary course of the parties’ business relationship. Debtors used these breather tubes in the ordinary course of Debtors’ manufacturing operations. The value of the foregoing goods is summarized on Declaration of John Monti, attached hereto as **Exhibit A**, which is incorporated herein and which shows that during the twenty (20) days prior to the Petition Date Debtor received \$65,835.00 in goods from AB. The invoices for said amounts remain unpaid.

5. Pursuant to 11 U.S.C. §503(a) an entity may request payment of an administrative expense. Pursuant to 11 U.S.C. §503(b)(9) the value of goods received by a debtor within 20 days before the date of the commencement of a case and sold in the ordinary course of the debtor’s business shall be allowed as an administrative expense.

6. This Application is timely in that the Court has not set a deadline for the filing of applications for administrative expenses or for allowance and payment of claims under 11 U.S.C. §503(b)(9). To the extent that administrative expense claimants are governed by the *Order (I)*

*Establishing Deadlines for Filing Proofs of Claim and Procedures Related Thereto and (II) Approving Form and Manner of Notice Thereof* entered on August 24, 2020 [Doc. #564] this Application is timely.

WHEREFORE, AB respectfully prays that, pursuant to 11 U.S.C. §§503(a), (b)(9), and 105, this honorable Court: (a) allow AB an administrative expense claim in the amount of \$65,835.00; (b) direct Debtors to tender payment of said claims within ten (10) days after the entry of an order allowing said claims; and (c) grant AB such additional and further relief as is just and proper.

GOLDSTEIN & PRESSMAN P.C.

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CORPORATION, <i>et. al.</i> ,	)	
	)	(Jointly Administered)
Debtor.	)	
	)	
	)	

**DECLARATION OF JOHN MONTI**

John Monti, being duly sworn, declares as follows:

1. I am a resident of the state of Arizona and am over the age of 18.
2. I am a Vice President of Corporate Finance for LTI Holdings, Inc. (dba Boyd Corporation) ("BoydCO"). A. B. Boyd Co. ("AB") is a wholly owned subsidiary of BoydCO.
3. I make this declaration based upon the books and records of BoydCo and AB.
4. I am familiar with the facts and circumstances set forth in this Declaration and, if called upon, I can testify to the facts and circumstances described in this Declaration which are true and accurate to the best of my knowledge, information and belief. BoydCo, through its wholly owned subsidiary AB manufactures and sells plastic/rubber tubing for Briggs & Stratton Corporation ("Debtor") which Debtor then uses to manufacture products for its customers.



5. As of July 20, 2020 (the "Petition Date"), AB was owed \$96,914.00 for goods sold to Debtor, of which \$65,835.00 was delivered to Debtor in the twenty (20) days before the commencement of these Chapter 11 proceedings.
6. The foregoing \$65,835.00 amount (the "503(b)(9) Claim") are set out in additional detail in the attached summary. No part of the 503(b)(9) Claim has been paid and the full amount remains due and owing, full credit having been given for all returns, disputes, etc. (if any).
7. After the commencement of these proceedings, Debtor has repeatedly informed AB that it is a "critical vendor" or "strategic vendor" but has declined to treat AB as such. Debtor has taken the position that any agreements, blanket purchase orders, or other relationships between Debtor and its affiliates and AB are not executory contracts such that said agreements are not capable of assumption and assignment.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 1, 2020

  
\_\_\_\_\_  
John Monti

**Summary of A.B. Boyd Co. 503(b)(9) Claims - Briggs & Stratton Corporation**

**A.B. Boyd Co.**

Reference Number	Customer PO number	Transaction Date	Day of Receipt	Day of Briggs Posting	
1450317	5502007156	6/29/2020	7/1/2020	7/7/2020	\$ 13,167.00
1450318	5502007156	6/29/2020	7/1/2020	7/7/2020	\$ 13,167.00
1450319	5502007156	6/29/2020	7/1/2020	7/7/2020	\$ 13,167.00
1451282	5502007156	7/7/2020	7/9/2020	7/13/2020	\$ 13,167.00
1453305	5502007156	7/17/2020	7/21/2020	Not posted	\$ 13,167.00
<b>Total 503(b)(9) Claim</b>					<b><u>\$ 65,835.00</u></b>