

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

IN RE:	)	
	)	
MADISON PARK CHURCH OF GOD, INC.	)	Case No. 13-07430-RLM-11
d/b/a MADISON PARK CHURCH OF GOD,	)	
	)	
Debtor.	)	
_____	)	

**APPLICATION FOR ORDER UNDER 28 U.S.C. § 156(c) AUTHORIZING  
THE RETENTION OF THE BMC GROUP, INC. AS  
NOTICE, BALLOTING, AND CLAIMS AGENT FOR THE DEBTOR**

Madison Park Church of God, Inc. d/b/a Madison Park Church of God, as debtor and debtor-in-possession (the “Debtor”), by counsel, hereby makes this application pursuant to 28 U.S.C. § 156(c) and Southern District of Indiana Local Rule B-1007-2 for authority to employ BMC Group, Inc. (“BMC”) to be the Debtor’s noticing, balloting, and claims agent (the “Application”), and in support thereof, states:

**Summary of Relief Requested**

1. By this Application, the Debtor requests the Court enter an order under 28 U.S.C. § 156(c) and Local Rule B-1007-2 appointing BMC as its noticing, balloting, and claims agent (collectively, the “Claims Agent”) in the above-captioned case pursuant to the Agreement for Services (the “Agreement”) attached hereto as Exhibit A.

**Jurisdiction**

2. On July 12, 2013 (the “Petition Date”), the Debtor filed a voluntary petition under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtor continues to operate its business as a debtor-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

3. No trustee or examiner has been appointed, and no committee has yet been appointed or designated.

4. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409.

5. The statutory bases for the relief sought herein are Sections 105(a) and 521 of the Bankruptcy Code and Local Rule B-1007-2.

### **Background**

6. Almost all of the Debtor's obligations arise from the issuance in July 2007 of bonds in the aggregate principal amount of \$17,454,000 (the "Bonds").

7. The Bonds were sold by various brokers throughout the United States. There currently are approximately 350 registered bondholders. A significant number of these bonds are held in "street name" and, therefore, the beneficial owners are unknown to the Debtor.

### **Relief Requested and Applicable Authority**

8. As a result of the Bonds and the process necessary to affect notice to the holders of such Bonds, the noticing and plan balloting involved in the Debtor's Chapter 11 case may impose heavy administrative and other burdens on the Court and the Office of the Clerk of the Court (the "Clerk's Office"). To relieve the Clerk's Office of these burdens, the Debtor proposes to engage BMC to act as its official notice, claims, and balloting agent.

9. BMC is one of the country's premier Chapter 11 administrators with experience in noticing, claims processing, claims reconciliation, balloting and distribution. BMC has substantial experience in the matters upon which it is to be engaged. BMC has acted as official

notice, claims and/or balloting agent in several cases in this and other judicial districts. *See, e.g., In re Eastern Livestock Co., LLC*, No. 10-93904 (Bankr. S.D. Ind. March 17, 2011); *In re Kiel Bros. Oil Co., et al.*, No. 04-11121 (Bankr. S.D. Ind., June 15, 2004), *In re Am. Commercial Lines, LLC et al.*, No. 03-90305 (Bankr. S.D. Ind., January 31, 2003); *In re Startec Global Commc'ns Corp.*, No. 01-25013 (Bankr. D. Md. January 8, 2002); *In re Chiquita Brands Int'l*, No. 01-18812 (Bankr. S.D. Ohio November 28, 2001); *In re Quality Stores, Inc.*, No. 01-10662 (Bankr. W.D. Mich. November 1, 2001); *In re Webvan Group, Inc.*, No. 01-2404 (Bankr. D. Del. July 13, 2001); *In re Synadyne III, Inc.*, No. LA 01-28160 (Bankr. C.D. Cal. June 11, 2001); and *In re Teligent, Inc.*, No. 01-12974 (Bankr. S.D.N.Y. May 21, 2001).

10. By appointing BMC as the Claims Agent in this Chapter 11 case, the Debtor's estate and particularly the creditors will benefit from BMC's significant experience in acting as a claims agent in other cases and the efficient and cost-effective methods that BMC has developed.

11. BMC is fully equipped to handle the volume involved in properly sending the required notices to and processing the claims of creditors and other interested parties in this Chapter 11 case. BMC will follow the notice and claim procedures that conform to the guidelines promulgated by the Clerk of the Bankruptcy Court and the Judicial Conference and as may be entered by this Court's order.

12. BMC, at the request of the Debtor or the Clerk's Office, will provide various services as the Claims Agent, including, without limitation, the following services:

- a. prepare and serve required notices in this Chapter 11 case, which may include:
  - i. notice of the commencement of this Chapter 11 case and the initial meeting of creditors 11 U.S.C. § 341(a);

- ii. notice of the claims bar date, if any;
  - iii. notice of objections to claims;
  - iv. notice of any hearings on a disclosure statement and confirmation of a plan of reorganization; and
  - v. other miscellaneous notices to any entities, as the Debtor or the Court may deem necessary or appropriate for an orderly administration of this Chapter 11 case;
- b. after the mailing of a particular notice, file with the Clerk's Office a certificate or affidavit of service that includes a copy of the notice involved, an alphabetical list of persons to whom the notice was mailed and the date and manner of mailing;
- c. reconcile and resolve claims;
- d. receive and record original proofs of claim and proofs of interest filed;
- e. create and maintain official claims registers, including, among other things, the following information for each proof of claim or proof of interest:
- i. the Debtor;
  - ii. the name and address of the claimant and any agent thereof, if the proof of claim or proof of interest was filed by an agent;
  - iii. the date received;
  - iv. the claim number assigned; and
  - v. the asserted amount and classification of the claim;
- f. implement necessary security measures to ensure the completeness and

- integrity of the claims registers;
- g. transmit to the Clerk's Office a copy of the claims registers upon request and at agreed upon intervals;
  - h. act as balloting agent which will include, without limitation, the following services:
    - i. print ballots including the printing of creditor and shareholder specific ballots;
    - ii. prepare voting reports by plan class, creditor or shareholder and amount for review and approval by the Debtor and their counsel;
    - iii. coordinate mailing of ballots, disclosure statement and plan of reorganization or other appropriate materials to all voting and non-voting parties and provide affidavit of service;
    - iv. establish a toll-free "800" number to receive questions regarding voting on the plan; and
    - v. receive ballots and record ballots, inspect ballots for conformity to voting procedures, date stamp and number ballots consecutively and tabulate and certify the results;
  - i. maintain an up-to-date mailing list for all entities that have filed a proof of claim or proof of interest, which list shall be available upon request of a party in interest or the Clerk's Office;
  - j. provide access to the public for examination of copies of the proofs of claim or interest without charge during regular business hours;
  - k. record all transfers of claims pursuant to Federal Rules of Bankruptcy

Procedure (the “Bankruptcy Rules”) Bankruptcy Rule 3001(e) and provide notice of such transfers as required by Bankruptcy Rule 3001(e);

- l. comply with applicable federal, state, municipal, and local statutes, ordinances, rules, regulations, orders and other requirements;
- m. provide temporary employees to process claims, as necessary;
- n. promptly comply with such further conditions and requirements as the Clerk’s Office or the Court may at any time prescribe; and
- o. perform such other administrative and support services related noticing, claims, docketing, solicitation and distribution as the Debtor or the Clerk’s Office may request.

**BMC’S DISINTERESTEDNESS**

13. To the best of the Debtor’s knowledge and as more fully set forth in the *Declaration of Tinamarie Feil in Support of Application to Employ BMC Group*, attached hereto as Exhibit B, BMC is a “disinterested person” within the meaning of § 101(14) of the Bankruptcy Code and holds no interest adverse to the Debtor and its estate for the matters for which BMC is to be employed.

14. BMC will conduct an ongoing review of its files to ensure that no conflicts or other disqualifying circumstances exist or arise. If any new facts or relationships are discovered, BMC will supplement its disclosure to the Court.

15. In connection with its appointment Claims Agent, BMC represents, among other things, that:

- a. BMC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the notice agent and claims agent in this Chapter 11 case;

- b. by accepting employment in this Chapter 11 case, BMC waives any rights to receive compensation from the United States government;
- c. in its capacity as the notice agent and claims agent in this Chapter 11 case, BMC will not be an agent of the United States and will not act on behalf of the United States; and
- d. BMC will not employ any past or present employees of the Debtor in connection with its work as the notice agent and claims agent in this Chapter 11 case.

**BMC'S COMPENSATION**

16. The Debtor proposes to engage BMC at the rates set forth in the Agreement. The cost of BMC's services will be paid from the Debtor's estate as provided by 28 U.S.C. § 156(c) and § 503(b)(1)(A) of the Bankruptcy Code. The Debtor believes that the proposed rates to be charged by BMC are reasonable and appropriate for services of this nature. The Debtor reviewed the rates of other firms prior to selecting BMC and believes BMC's rates are reasonable given the quality of their services.

17. The Debtor requests that the fees and expenses of BMC incurred in the performance of the above services be treated as an administrative expense of the Debtor's Chapter 11 estate and be paid by the Debtor in the ordinary course of business without further application to the Court.

18. BMC shall perform the duties within the scope of its appointment under 28 U.S.C. § 156(c) regardless of whether BMC has received payment in accordance with the Agreement. To the extent BMC requires redress for non-payment of its fees and expenses, it will seek relief from the Court.

19. BMC will comply with all requests of the Clerk's Office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c).

20. Proposed counsel for the Debtor conferred with Kevin P. Dempsey, Clerk of the U.S. Bankruptcy Court for the Southern District of Indiana (the “Clerk”) regarding the employment of BMC pursuant to its usual terms as required by S.D. Ind. L.R. B-1007-2 and the Clerk had no objection to the engagement.

WHEREFORE, the Debtor respectfully requests that the Court enter an Order:

(1) authorizing the retention of BMC as notice, claims and balloting agent for the Debtor *nunc pro tunc* to the petition date; and (2) granting such further relief as is just and proper.

DATED: July 18, 2013

MADISON PARK CHURCH OF GOD, INC. d/b/a  
MADISON PARK CHURCH OF GOD,  
as debtor and debtor-in-possession,

By: /s/ Jerald I. Ancel  
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