

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

RESTAURANTS ACQUISITION I, LLC,¹

Debtor.

Chapter 11

Case No. 15-12406 (____)

**DEBTOR'S APPLICATION FOR ENTRY OF
ORDER (I) AUTHORIZING EMPLOYMENT AND RETENTION OF
BMC GROUP, INC. AS CLAIMS AND NOTICING AGENT EFFECTIVE
NUNC PRO TUNC TO PETITION DATE AND (II) GRANTING RELATED RELIEF**

Restaurants Acquisition I, LLC (the "Debtor"), debtor and debtor-in-possession in the above-captioned chapter 11 case (the "Chapter 11 Case"), by and through its undersigned counsel, hereby files this application (the "Application") for entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Order"), pursuant to section 156(c) of title 28 of the United States Code (the "Judicial Code"), section 105(a) of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002-1(f) and 9013-1(m) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), and the Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c) dated February 1, 2012 (the "Claims Agent Protocol") instituted by the Clerk of Court (the "Clerk"), (i) authorizing the employment and retention of BMC Group, Inc. ("**BMC**") as the claims and noticing agent (the "Claims and Noticing Agent") in this Chapter 11 Case, effective *nunc pro tunc* to the Petition Date (defined herein), and (ii) granting such other and further relief as requested herein or as the Court (defined herein) otherwise deems necessary or appropriate. In support of this Application, the Debtor relies upon the *Declaration of W. Craig*

¹ The Debtor's mailing address is 313 East Main Street, Suite 2, Hendersonville, TN and the last four digits of its tax identification number are 8761.

Barber in Support of Chapter 11 Petition and First Day Pleadings of Restaurants Acquisition I, LLC (the “First Day Declaration”) and, in addition thereto, submits the *Declaration of Tinamarie Feil* (the “Feil Declaration”), attached hereto as **Exhibit B**. In further support of this motion, the Debtor respectfully states as follows:

JURISDICTION

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware* dated as of February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2) and, pursuant to Rule 9013-1(f) of the Local Rules, the Debtor consents to the entry of a final order by the Court in connection with this Application to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

2. Venue in the Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are section 156(c) of the Judicial Code, section 105(a) of the Bankruptcy Code, Local Rules 2002-1(f) and 9013-1(m), and the Claims Agent Protocol instituted by the Clerk.

BACKGROUND

4. On the date hereof (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor continues to operate its businesses and manage its property as a debtor and debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee has been appointed in the Chapter 11 Case.

5. The Debtor operates a chain of full-service restaurants throughout Texas, largely located in the Dallas-Fort Worth and Houston metropolitan area, operating under the trade-names Black-eyed Pea and Dixie House. As of January 1, 2015, the Debtor operated thirty (30) restaurant locations (generally, the “Prepetition Stores”).

6. Since late 2013, the Debtor has experienced a decline in its cash flow performance. At the same time, the Debtor’s occupancy costs outpaced its revenues over the same period, further eroding the Debtor’s profitability. Under these circumstances, and despite the Debtor’s best efforts, the Debtor began to fall behind on its obligations to creditors. The Debtor’s liquidity crisis also caused it to fall behind on its payments to various taxing authorities, including the federal government.

7. In December 2013 and again in April 2015, the Debtor engaged investment bankers to address a recapitalization or sale of the Debtor. The Debtor received no offers as a result of this process. Due to its lack of liquidity and its inability to attract new capital, the Debtor has not be able to maintain all of the Prepetition Stores. As of the Petition Date, the Debtor has ceased operations at and/or closed fifteen (15) of its Prepetition Stores; it continues to operate fourteen (14) Black-eyed Pea restaurants and one (1) Dixie House restaurant.²

8. Additional details regarding the Debtor’s business, assets, capital structure, and the circumstances leading to the filing of the Chapter 11 Case are set forth in the First Day Declaration, which is being filed contemporaneously herewith and incorporated herein by reference as though set forth in full.

² As of the Petition Date, the Debtor has been locked out of one of these operating Prepetition Stores.

RETENTION OF BMC AS CLAIMS AND NOTICING AGENT

A. BMC's Qualifications

9. BMC is comprised of leading industry professionals with significant experience in both the legal and administrative aspects of complex chapter 11 cases. BMC's professionals have experience in noticing, claims administration, solicitation, balloting, and facilitating other administrative aspects of chapter 11 cases. BMC's professionals have acted as official Claims and Noticing Agent in many bankruptcy cases in this district and in other districts nationwide. BMC's experience in matters of this size and complexity (or greater) in which it has acted as the official notice and claims agent in this district is extensive. *See, e.g., In re Orchard Supply Hardware Stores Corp.*, No. 13-11565 (CSS); *In re Coach AM Group Holdings Corp.*, No. 12-10010 (KG); *In re Graceway Pharmaceuticals, LLC*, No. 11-13036 (MFW); *In re Regen Biologics, Inc.*, No. 11-11083 (PJW); *In re Urban Brands, Inc.*, No. 10-13005; *In re Ultimate Escapes Holdings, Inc.*, No 10-12915 (BLS).³ The Claims and Noticing Agent has also acted as the official notice, claims and balloting agent in large chapter 11 cases outside of this District. *See, e.g., In re Atari, Inc.*, No. 13-10176 (JMP) (Bankr. S.D.N.Y. Feb. 15, 2013); *In re Jennifer Convertibles, Inc.*, No. 10-13779 (ALG) (Bankr. S.D.N.Y. July 22, 2010).

10. At the Debtor's request, BMC has agreed to serve as Claims and Noticing Agent on and after the Petition Date with assurances that the Debtor would seek approval of its employment and retention, effective *nunc pro tunc* to the Petition Date, so that BMC may be compensated for its pre-application services. The Debtor believes that no party-in-interest will be prejudiced by the granting of the *nunc pro tunc* employment, as provided in this Application,

³Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Application. Copies of these orders are available upon request of the Debtor's proposed counsel.

because BMC has provided and continues to provide valuable services to the Debtor's estate in the interim period.

11. Courts in this district have routinely approved *nunc pro tunc* employment similar to that requested herein in matters comparable to this matter. *See, e.g., In re MIG, LLC and ITC Cellular, LLC*, No. 14-11605 (KG) (Bankr. D. Del. Jul. 2, 2014); *In re Mach Gen, LLC*, No. 14-10461 (MFW) (Bankr. D. Del. Mar. 27, 2014); *In re Fisker Auto. Holdings*, No. 13-13087 (KG) (Bankr. D. Del. Nov. 26, 2013). Accordingly, to help manage claims and noticing tasks with respect to the approximately 3,000 notice parties that are expected to be involved in this Chapter 11 Case, the Debtor respectfully requests entry of an order authorizing the Debtor to retain and employ BMC as Claims and Noticing Agent, effective *nunc pro tunc* to the Petition Date.

B. Services to Be Provided by BMC

12. Subject to Court approval, at the request of the Debtor, and to the extent necessary, BMC has agreed to perform the following tasks in its role as the Claims and Noticing Agent in the Chapter 11 Case (collectively, the "Claims and Noticing Services"), as well as quality control relating thereto:

- a. Prepare and serve required notices and documents in the Chapter 11 Case in accordance with the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") in the form and manner directed by the Debtor and/or the Court, including without limitation, (i) notice of the commencement of the case and the initial meeting of creditors under Bankruptcy Code § 341(a), (ii) notice of any claims bar date, (iii) notices of transfers of claims, (iv) notices of objections to claims and objections to transfers of claims, (v) notices of any hearings on a disclosure statement and confirmation of the Debtor's plan of reorganization, including under Bankruptcy Rule 3017(d), (vi) notice of the effective date of any plan, and (vii) all other notices, orders, pleadings, publications and other documents as the Debtor or Court may deem necessary or appropriate for an orderly administration of the Chapter 11 Case;
- b. maintain an official copy of the Debtor's schedules of assets and liabilities and statement of financial affairs (collectively, the "Schedules") as

applicable, listing the Debtor's known creditors and the amounts owed thereto;

- c. (i) maintain (A) a list of all potential creditors, equity holders and other parties-in-interest and (B) a "core" mailing list consisting of all parties described in Bankruptcy Rule 2002 and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010 and (ii) update and make said lists available upon request by a party-in-interest or the Clerk;
- d. as necessary, furnish a notice to all potential creditors of the last date for filing proofs of claim and a form for filing a proof of claim, after such notice and form are approved by the Court, and notifying such potential creditors of the existence, amount and classification of their respective claims as set forth in the Schedules, which may be effected by inclusion of such information (or the lack thereof, in cases where the Schedules indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors;
- e. maintain a post office box or address for the purpose of receiving claims and returned mail, and process all mail received;
- f. for all notices, motions, orders or other pleadings or documents served, prepare and file or cause to be filed with the Clerk an affidavit or certificate of service within 7 business days of service 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;
- g. process all proofs of claim received, including those received by the Clerk, check such processing for accuracy and maintain the original proofs of claim in a secure area;
- h. maintain the official claims register for the Debtor (the "Claims Register") on behalf of the Clerk; upon the Clerk's request, provide the Clerk with a certified, duplicate unofficial Claims Register; and specify in the Claims Register the following information for each claim docketed: (i) the claim number assigned; (ii) the date received; (iii) the name and address of the claimant and agent, if applicable, who filed the claim; (iv) the amount asserted; (v) the asserted classification(s) of the claim (*e.g.*, secured, unsecured, priority, *etc.*); and (vi) any disposition of the claim;
- i. implement necessary security measures to ensure the completeness and integrity of the Claims Register and the safekeeping of the original claims;
- j. record all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);

- k. relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to their offices, not less than weekly;
- l. upon completion of the docketing process for all claims received to date, turn over to the Clerk copies of the Claims Register for the Clerk's review, upon the Clerk's request;
- m. monitor the Court's docket in the Chapter 11 Case for all notices of appearance, address changes, and claims-related pleadings and orders filed and make necessary notations on and/or changes to the Claims Register and any service or mailing lists, including to identify and eliminate duplicative names and addresses from such lists;
- n. assist in the dissemination of information to the public and respond to requests for administrative information regarding the Chapter 11 Case as directed by the Debtor and/or the Court, including through the use of a case website and/or call center;
- o. monitoring the Court's docket in the Chapter 11 Case and, when filings are made in error or containing errors, alert the filing party of such error and work with them to correct any such error;
- p. if the Chapter 11 Case is converted to a case under chapter 7 of the Bankruptcy Code, contact the Clerk's office within three days of notice to BMC of entry of the order converting the case;
- q. thirty days prior to the close of the Chapter 11 Case, to the extent practicable, request that the Debtor submit to the Court a proposed order dismissing BMC as Claims and Noticing Agent and terminating its services in such capacity upon completion of its duties and responsibilities and upon the closing of the Chapter 11 Case;
- r. within 7 days of notice to BMC of entry of an order closing the Chapter 11 Case, provide to the Court the final version of the Claims Register as of the date immediately before the close of the Chapter 11 Case; and
- s. at the close of the Chapter 11 Case, box and transport all original documents, in proper format, as provided by the Clerk's Office, to (i) the Philadelphia Federal Records Center, 14470 Townsend Road, Philadelphia, PA 19154 or (ii) any other location requested by the Clerk's Office.

13. The Claims Register shall be open to the public for examination, without charge, during regular business hours at BMC's office located at 300 Continental Boulevard, Suite 570,

El Segundo, CA 90245. The Claims Register shall also be maintained on a case-specific website maintained by BMC at www.bmcgroup.com/RAI.

14. BMC shall not employ any past or present employee of the Debtor for work that involves the Debtor's bankruptcy case.

C. BMC's Compensation

15. The Debtor respectfully requests that the undisputed fees and expenses incurred by BMC in the performance of the above services be treated as administrative expenses of the Debtor's estate pursuant to section 503(b)(1)(A) of the Bankruptcy Code and be paid in the ordinary course of business without further application to or order of the Court.

16. BMC has agreed to maintain records of all services showing dates, categories of services, fees charged, and expenses incurred, and to serve monthly invoices on the Office of the United States Trustee for District of Delaware (the "U.S. Trustee"), the Debtor, counsel for the Debtor, counsel for any official committee monitoring the expenses of the Debtor and any party-in-interest who specifically requests service of the monthly invoices. If any dispute arises relating to the engagement agreement, a copy of which is attached hereto as **Exhibit C** (the "Engagement Agreement"), or monthly invoices, the parties will meet and confer in an attempt to resolve the dispute. If resolution is not achieved, the parties may seek resolution of the matter from the Court.

17. Prior to the Petition Date, the Debtor provided BMC a retainer in the amount of \$10,000.00. BMC seeks to first apply the retainer to all prepetition invoices, and thereafter, to have the retainer replenished to the original retainer amount, and thereafter, to hold the retainer under the Engagement Agreement during the Chapter 11 Case as security for the payment of fees and expenses incurred under the Engagement Agreement. Following termination of the Engagement Agreement, BMC will return to the Debtor any amount of the retainer that remains.

18. Additionally, under the terms of the Engagement Agreement, the Debtor has agreed to indemnify, defend and hold harmless BMC and its members, officers, employees, representatives, and agents under certain circumstances specified in the Engagement Agreement, provided that the Debtor shall have no obligation to indemnify BMC, or provide contribution or reimbursement to BMC, for any claim or expense that is either (a) judicially determined (the determination having become final) to have arisen from BMC's gross negligence, willful misconduct or fraud, (b) for a contractual dispute in which the Debtor alleges the breach of BMC's contractual obligations if the Court determines that indemnification, contribution, or reimbursement would not be permissible pursuant to *In re United Artists Theatre Co. v. Walton* (*In re United Artists Theatre Co.*), 315 F.3d 217 (3d Cir. 2003), or (c) settled prior to a judicial determination under (a) or (b), but determined by the Court, after notice and a hearing, to be a claim or expense for which BMC should not receive indemnity, contribution or reimbursement under the terms of the Engagement Agreement as modified by such determination. The Debtor believes that such an indemnification obligation is customary, reasonable, and necessary to retain the services of a Claims and Noticing Agent in chapter 11 cases.

D. BMC's Disinterestedness

19. In connection with its retention as Claims and Noticing Agent, BMC represents in the Feil Declaration, 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 Claims and Noticing Agent in the Chapter 11 Case;
- b. by accepting employment in the Chapter 11 Case, BMC waives any rights to receive compensation from the United States government in connection with the Chapter 11 Case;
- c. in its capacity as the Claims and Noticing Agent in the 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 is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code with respect to the matters upon which it is engaged.

20. The Debtor has been advised that, to the best of BMC’s knowledge, and except as set forth in the Feil Declaration, based on BMC’s results of their search performed to date, BMC and its personnel:

- a. are not creditors, equity security holders, or insiders of the Debtor;
- b. are not and were not, within two 2 years before the Petition Date, directors, officers or employees of the Debtor; and
- c. do not have an interest materially adverse to the interests of the Debtor’s estate or any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtor.

21. BMC will supplement its disclosure to the Court if any facts or circumstances are discovered that would require such additional disclosure.

E. Compliance with Claims Agent Protocol

22. The Debtor represents that this Application complies with the Claims Agent Protocol and substantially conforms to the standard section 156(c) application used in the Court.

23. The Debtor’s selection of BMC to act as the Claims and Noticing Agent has satisfied the Claims Agent Protocol, in that the Debtor has obtained and reviewed engagement proposals from at least two other court-approved claims and noticing agents to ensure selection through a competitive process. Moreover, the Debtor submits, based on all engagement proposals obtained and reviewed, that BMC’s rates are competitive and reasonable given BMC’s quality of services and expertise.

RELIEF REQUESTED

24. The Debtor seeks entry of an Order substantially in the form attached hereto as **Exhibit A**, authorizing the employment and retention of BMC as the Claims and Noticing Agent

in the Chapter 11 Case, effective *nunc pro tunc* to the Petition Date. The terms of BMC's retention are set forth in the Engagement Agreement, a copy of which is attached hereto as **Exhibit C**; provided, however, that BMC is seeking approval solely of the terms and provisions as set forth in section 156(c) of the Judicial Code and the proposed Order attached hereto. To the extent that there is any inconsistency between this Application, the Order, and the Engagement Agreement, the Debtor respectfully requests that the Order govern.

25. By separate motion, the Debtor may seek authorization to retain and employ BMC as administrative advisor in the Chapter 11 Case pursuant to section 327(a) of the Bankruptcy Code because the administration of the Chapter 11 Case may require BMC Group, Inc. to perform duties outside the scope of 28 U.S.C. § 156(c).

BASIS FOR RELIEF

26. Section 156(c) of the Judicial Code, section 105(a) of the Bankruptcy Code, Local Rule 2002-1(f), and the Claims Agent Protocol permit the retention and employment of BMC as the Claims and Noticing Agent in the Chapter 11 Case in order to assume full responsibility for the distribution of notices and the maintenance, processing, and docketing of proofs of claim filed in the Chapter 11 Case.

27. Section 156 of the Judicial Code, in relevant part, provides:

Any court may utilize facilities or services, either on or off the court's premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

28 U.S.C. § 156(c).

28. Section 105 of the Bankruptcy Code, in relevant part, provides:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party-in-interest shall be construed to preclude the court from, *sua sponte*, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

11 U.S.C. § 105(a).

29. Local Rule 2002-1(f) provides:

Upon motion of the debtor or trustee, at any time without notice or hearing, the Court may authorize the retention of a notice and/or claims clerk under 28 U.S.C. § 156(c). In all cases with more than 200 creditors or parties-in-interest listed on the creditor matrix, unless the Court orders otherwise, the debtor shall file such motion on the first day of the case or within seven (7) days thereafter. The notice and/or claims clerk shall comply with the Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c) (which can be found on the Court's website) and shall perform the Claims and Noticing Services.

Del. Bankr. L.R. 2002-1(f).

30. The Debtor anticipates that there will be approximately 3,000 entities to be noticed in the Chapter 11 Case. In view of the number of anticipated parties-in-interest and the relative complexity of the Debtor's business, the Debtor submits that the employment and retention of a Claims and Noticing Agent is required by Local Rule 2002-1(f) and is otherwise in the best interests of the Debtor's estate and creditors, because the Debtor will be relieved of the burdens associated with the Claims and Noticing Services. Accordingly, the Debtor will be able to devote its full attention and resources to maximize value for its stakeholders and facilitate the orderly administration of the Chapter 11 Case.

31. The Debtor believes the retention of BMC is in the best interests of the Debtor, the Debtor's estate and all parties-in-interest. As set forth more fully in the Feil Declaration,

BMC is fully equipped to handle the volume of mailing involved in properly sending the notices to, and processing the claims (if necessary) of, creditors and other interested parties in the Chapter 11 Case. Additionally, BMC has expertise in noticing and claims processing. BMC has acted as the Claims and Noticing Agent in many chapter 11 cases, including several cases which are currently pending in the United States Bankruptcy Court for the District of Delaware.

NOTICE

32. The Debtor will provide notice of this Application to: (a) the Office of the U.S. Trustee; (b) the holders of the 20 largest unsecured claims against the Debtor; (c) the United States Attorney's Office for the District of Delaware; (d) the Internal Revenue Service; (e) Grove Family Investments, L.P and its counsel.; (f) CNL Financial Group, Inc. and its counsel; (g) American Express Bank, FSB and its counsel; and (h) any party that has requested notice pursuant to Bankruptcy Rule 2002. As this Application is seeking "first day" relief, within two business days of the hearing on this Application, the Debtor will serve copies of this Application and any order entered with respect to this Application as required by Local Rule 9013-1(m). The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

[Remainder of Page Left Intentionally Blank]

WHEREFORE, for the reasons set forth above and in the First Day Declaration, the Debtor respectfully requests that the Court enter the Order substantially in the form annexed hereto as **Exhibit A** (i) authorizing the employment and retention of BMC as the Claims and Noticing Agent in this Chapter 11 Case, effective *nunc pro tunc* to the Petition Date and (ii) granting such other and further relief as requested herein or as the Court otherwise deems necessary or appropriate.

Respectfully submitted,

Dated: December 2, 2015

DUANE MORRIS LLP

/s/ Sommer L. Ross

Sean J. Bellew (DE 4072)

Sommer L. Ross (DE 4598)

Jarret P. Hitchings (DE 5564)

222 Delaware Avenue, Suite 1600

Wilmington, DE 19801-1659

Telephone: 302.657.4900

Facsimile: 302.657.4901

sjbellew@duanemorris.com

slross@duanemorris.com

jphitchings@duanemorris.com

Proposed Counsel to Debtor and Debtor-in-Possession Restaurants Acquisition I, LLC

Exhibit A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

RESTAURANTS ACQUISITION I, LLC,¹

Debtor.

Chapter 11

Case No. 15-12406 (____)

Related to Docket No. ____

**ORDER (I) AUTHORIZING EMPLOYMENT AND RETENTION
OF BMC GROUP, INC. AS CLAIMS AND NOTICING AGENT EFFECTIVE
NUNC PRO TUNC TO PETITION DATE AND (II) GRANTING RELATED RELIEF**

Upon consideration of the application (the “Application”)² of Restaurants Acquisition I, LLC (the “Debtor”), debtor and debtor-in-possession in the above-captioned chapter 11 case (the “Chapter 11 Case”), seeking entry of an Order (the “Order”), pursuant to section 156(c) of the Judicial Code, section 105(a) of the Bankruptcy Code, Local Rules 2002- 1(f) and 9013-1(m), and the Claims Agent Protocol instituted by the Clerk authorizing the employment and retention of BMC Group, Inc. (“BMC”) as the Claims and Noticing Agent in the Chapter 11 Case, effective *nunc pro tunc* to the Petition Date, all as more fully set forth in the Application; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found 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 the Court having found that the Debtor’s notice of the

¹ The Debtor’s mailing address is 313 East Main Street, Suite 2, Hendersonville, TN and the last four digits of its tax identification number are 8761.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Application or the First Day Declaration, as applicable.

Application and opportunity for a hearing on the Application were appropriate under the circumstances and no other notice need be provided; and the Court having reviewed and considered the Application and the First Day Declaration; and the Court having heard the statements in support of the relief requested in the Application at a hearing before the Court (the “Hearing”); and the 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 upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Application is granted as set forth herein.
2. Notwithstanding the terms of the Engagement Agreement, a copy of which is attached to the Application, the Application is approved solely as set forth in this Order.
3. The Debtor is authorized to employ and retain BMC as the Claims and Noticing Agent, effective *nunc pro tunc* to the Petition Date, under the terms of the Engagement Agreement, and BMC is authorized and directed to perform the Claims and Noticing Services, and all related tasks as described in the Application.
4. BMC shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in the Chapter 11 Case and is authorized and directed to maintain official claims registers for the Debtor and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.
5. BMC is authorized and directed to obtain a post office box or address for the receipt of proofs of claim.
6. BMC is authorized to take such other action to comply with all duties set forth in the Application.

7. The Debtor is authorized to compensate BMC in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by BMC and the rates charged for each, and to reimburse BMC for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for BMC to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

8. BMC shall maintain records of all services showing dates, categories of services, fees charged, and expenses incurred, and shall serve monthly invoices on the Office of the U.S. Trustee, the Debtor, counsel for any official committee monitoring the expenses of the Debtor 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 that may arise relating to the Engagement Agreement or monthly invoices, and the parties may seek resolution of the matter from the Court if resolution is not achieved.

10. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the undisputed fees and expenses of BMC under the Engagement Agreement as approved by this Order shall be an administrative expense of the Debtor's estate.

11. BMC may apply its retainer to all services rendered prepetition and BMC may hold its retainer under the Engagement Agreement during the Chapter 11 Case as security for the payment of fees and expenses under the Engagement Agreement.

12. The Debtor shall indemnify BMC under the terms of the Engagement Agreement, as modified by this Order.

13. BMC shall not be entitled to indemnification, contribution, or reimbursement pursuant to the Engagement Agreement for services other than the services provided under the

Engagement Agreement, unless such services and the indemnification, contribution, or reimbursement therefor are approved by the Court.

14. Notwithstanding anything to the contrary in the Engagement Agreement, the Debtor shall have no obligation to indemnify BMC, or provide contribution or reimbursement to BMC, for any claim or expense that is either (a) judicially determined (the determination having become final) to have arisen from BMC's gross negligence, willful misconduct or fraud, (b) for a contractual dispute in which the Debtor alleges the breach of BMC's contractual obligations if the Court determines that indemnification, contribution or reimbursement would not be permissible pursuant to *United Artists Theatre Co. v. Walton (In re United Artists Theatre Co.)*, 315 F.3d 217 (3d Cir. 2003), or (c) settled prior to a judicial determination under (a) or (b), but determined by the Court, after notice and a hearing, to be a claim or expense for which BMC should not receive indemnity, contribution or reimbursement under the terms of the Engagement Agreement as modified by this Order.

15. If, before the earlier of (a) the entry of an order confirming a chapter 11 plan in the Chapter 11 Case (that order having become a final order no longer subject to appeal) or (b) the entry of an order closing the Chapter 11 Case, BMC believes that it is entitled to the payment of any amounts by the Debtor on account of the Debtor's indemnification, contribution, and/or reimbursement obligations under the Engagement Agreement as modified by this Order, including without limitation the advancement of defense costs, BMC must file a motion therefor with the Court, and the Debtor may not pay any such amounts to BMC before the entry of an order by the Court approving the payment. This paragraph is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by BMC for indemnification, contribution, or reimbursement, and is not a provision limiting the

duration of the Debtor's obligation to indemnify BMC. All parties-in-interest shall retain the right to object to any demand by BMC for indemnification, contribution, or reimbursement.

16. In the event that BMC is unable to provide the services set out in this Order, BMC will immediately notify the Clerk and the Debtor's counsel and 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 Debtor's counsel.

17. BMC shall not cease providing claims processing services during the Chapter 11 Case for any reason, including nonpayment, without prior order of the Court.

18. After entry of an order terminating BMC's services, upon the closing of the Chapter 11 Case, or for any other reason, BMC shall be responsible for archiving all proofs of claim with the Federal Archives Record Administration, if applicable, and shall be compensated by the Debtor in connection therewith.

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

20. The Debtor and BMC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application and Engagement Agreement.

21. Notwithstanding any provision in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: December __, 2015
Wilmington, Delaware

United States Bankruptcy Judge

Exhibit B

Feil Declaration

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

RESTAURANTS ACQUISITION I, LLC,¹

Debtor.

Chapter 11

Case No. 15-12406 (____)

**DECLARATION OF TINAMARIE FEIL IN SUPPORT OF
DEBTOR'S APPLICATION FOR ENTRY OF ORDER AUTHORIZING
EMPLOYMENT AND RETENTION OF BMC GROUP, INC. AS CLAIMS
AND NOTICING AGENT, EFFECTIVE *NUNC PRO TUNC* TO PETITION DATE**

I, Tinamarie Feil, hereby declare, under penalty of perjury, as follows:

1. I am the President of BMC Group, Inc. ("BMC"), a chapter 11 administrative services firm whose offices are located at 300 Continental Boulevard, Suite 570, El Segundo, CA 90245. Except as otherwise noted, I have personal knowledge of the matters set forth herein, and if called and sworn as a witness, I could and would testify competently thereto.

2. This declaration (the "Declaration") is made in support of the application (the "Application")² of the above-captioned debtor and debtor-in-possession (the "Debtor") seeking authorization for the retention and employment of BMC as Claims and Noticing Agent, to which this Declaration is attached as an exhibit.

3. BMC is comprised of leading industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. BMC professionals have experience in noticing, claims administration, solicitation, balloting, and facilitating other administrative aspects of chapter 11 cases. BMC's professionals have acted as debtor's counsel

¹ The Debtor's mailing address is 313 East Main Street, Suite 2, Hendersonville, TN and the last four digits of its tax identification number are 8761.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Application or the First Day Declaration, as applicable.

or official Claims and Noticing Agent in many large bankruptcy cases in this district and in other districts nationwide. BMC's experience in matters of this size and complexity (or greater) in which it has acted as the official notice and claims agent in this District is extensive and includes the following cases: *In re Orchard Supply Hardware Stores Corp.*, No. 13-11565 (CSS); *In re Coach AM Group Holdings Corp.*, No. 12-10010 (KG); *In re Graceway Pharmaceuticals, LLC*, No. 11-13036 (MFW); *In re Regen Biologics, Inc.*, No. 11-11083 (PJW); *In re Urban Brands, Inc.*, No. 10-13005; *In re Ultimate Escapes Holdings, Inc.*, No. 10-12915 (BLS).³ The Claims and Noticing Agent has also acted as the official notice, claims and balloting agent in large chapter 11 cases outside of this District. *See, e.g., In re Atari, Inc.*, No. 13-10176 (JMP) (Bankr. S.D.N.Y. Feb. 15, 2013); *In re Jennifer Convertibles, Inc.*, No. 10-13779 (ALG) (Bankr. S.D.N.Y. July 22, 2010).

4. As agent and custodian of Court records pursuant to 28 U.S.C. § 156(c), BMC will perform, at the request of the Office of the Clerk of the Bankruptcy Court (the "Clerk"), the services specified in the Section 156(c) Application and the Engagement Agreement, and, at the Debtor's request, any related administrative, technical and support services as specified in the Section 156(c) Application and the Engagement Agreement. In performing such services, BMC will charge the Debtor the rates set forth in the Engagement Agreement, which is attached as **Exhibit C** to the Application.

5. BMC represents, among other things, the following:

- (a) BMC is not a creditor of the Debtor;
- (b) 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 Claims and Noticing Agent in this chapter 11 case;

³Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Application. Copies of these orders are available upon request of the Debtor's proposed counsel.

- (c) By accepting employment in this chapter 11 case, BMC waives any rights to receive compensation from the United States government in connection with this Chapter 11 Case;
- (d) In its capacity as the Claims and Noticing 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;
- (e) BMC will not employ any past or present employees of the Debtor in connection with its work as the Claims and Noticing Agent in this Chapter 11 Case;
- (f) BMC is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code with respect to the matters upon which it is engaged;
- (g) In its capacity as Claims and Noticing Agent in this Chapter 11 Case, BMC will not intentionally misrepresent any fact to any person;
- (h) BMC shall be under the supervision and control of the Clerk’s office with respect to the receipt and recordation of claims and claim transfers;
- (i) 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); and
- (j) None of the services provided by BMC as Claims and Noticing Agent in this Chapter 11 Case shall be at the expense of the Clerk’s office.

6. Although the Debtor does not propose to retain BMC under section 327 of the Bankruptcy Code pursuant to the Application (such retention may be sought by separate application), I caused to be submitted for review by our conflicts system the names of all known potential parties-in-interest (the “Potential Parties-in-Interest”) in this Chapter 11 Case. The list of Potential Parties-in-Interest was provided by the Debtor and included, among other parties, the Debtor, any secured creditors, the Debtor’s 20 largest unsecured creditors and other parties. The results of the conflict check were compiled and reviewed by BMC professionals under my supervision. At this time, and as set forth in further detail herein, BMC is not aware of any relationship that would present a disqualifying conflict of interest. Should BMC discover any

new relevant facts or relationships bearing on the matters described herein during the period of its retention, BMC will use reasonable efforts to file promptly a supplemental declaration

7. To the best of my knowledge, neither BMC nor any of its personnel have any relationship with the Debtor that would impair BMC's ability to serve as Claims and Noticing Agent. BMC may have relationships with certain of the Debtor's creditors as vendors or in connection with cases in which BMC serves or has served in a neutral capacity as claims and noticing agent for another chapter 11 debtor. To the best of my knowledge, such relationships are completely unrelated to the Debtor's Chapter 11 Case. BMC's personnel may have relationships with some of the Debtor's creditors or other parties-in-interest. To the best of my knowledge, however, such relationships, to the extent they exist, are of a personal financial nature and completely unrelated to the Debtor's Chapter 11 Case. BMC has, and will continue to represent clients in matters unrelated to the Debtor's Chapter 11 Case. In addition, BMC has had, and will continue to have, relationships in the ordinary course of its business with certain vendors, professionals, and other parties-in-interest that may be involved in the Debtor's Chapter 11 Case in matters unrelated to the case.

8. BMC and its personnel in their individual capacities regularly utilize the services of law firms, accounting firms and financial advisors. Such firms engaged by BMC or its personnel may appear in chapter 11 cases representing debtors or parties-in-interest. All engagements where such firms represent BMC or its personnel in their individual capacities are unrelated to this Chapter 11 Case.

9. If any new facts or relationships are discovered, BMC will supplement its disclosure to the Court. Based on the foregoing, I believe that BMC is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief.

Executed on December 1, 2015

Tinamarie Feil

Tinamarie Feil
President, Client Services
BMC Group, Inc.
300 Continental Boulevard #570
El Segundo, CA 90245

Exhibit C

Engagement Agreement



AGREEMENT FOR SERVICES

This Agreement dated as of November 25, 2015, is entered between **Restaurants Acquisition I, LLC** (the "Customer") and **BMC Group, Inc.** ("BMC"). The services rendered by BMC pursuant to this Agreement will commence on the date first set forth above and will continue until the Agreement is terminated as set forth below.

TERMS AND CONDITIONS

SERVICES

In accordance with the terms and conditions contained in this Agreement and in the Fee Schedule annexed hereto, BMC agrees to provide upon request one or more of the services as follows: (a) assisting the Customer, Counsel and Office of the Clerk with noticing and claims docketing and (b) assisting Customer with the compilation, administration, evaluation and production of documents and information necessary to support a restructuring effort. At Customer', Counsel's or the Clerk's Office's direction, as the case may be, and in accordance with any court orders or rules in the bankruptcy case(s) (including any court order authorizing BMC's engagement), BMC will (1) prepare and serve those notices required in the bankruptcy cases; (2) receive, record and maintain copies of all proofs of claim and proofs of interest filed in the bankruptcy cases; (3) create and maintain the official claims register(s); (4) receive and record all transfers of claims pursuant to Bankruptcy Rule 3001(e); (5) maintain an up-to-date mailing list for all entities who have filed proofs of claim and/or requests for notices in the bankruptcy cases; (6) assist Customer and Counsel with the administrative management, reconciliation and resolution of claims; (7) print, mail and tabulate ballots for purposes of plan voting; (8) assist with the preparation and maintenance of Customer' Schedules of Assets and Liabilities, Statements of Financial Affairs and other master lists and databases of creditors, assets and liabilities, (9) assist with the production of reports, exhibits and schedules of information or use by the Customer, Counsel or to be delivered the Court, the Clerk's Office, the U.S. Trustee or third parties; and (10) provide other technical and document management services of a similar nature requested by Customer or the Clerk's office; (11) facilitate or perform distributions, and (12) assist Customer with all analyses and/or collections of avoidance actions pursuant to Chapter 5 of the United States Bankruptcy Code.

TECHNOLOGY SUPPORT

BMC agrees to provide computer software support and to educate and train Customer in the use of the support software, provide BMC's standard reports as well as consulting and programming support for Customer requested reports, program modifications, database modification, and/or other features.

PRICES, CHARGES AND PAYMENT

- A. BMC agrees to charge, and Customer agrees to pay, BMC's standard prices for its services, expenses and supplies at the rates or prices in accordance with the schedule annexed hereto adjusted as follows: BMC will waive principal hourly fees, case website monthly hosting fees and physical document storage fees. A negotiated blended hourly rate cap of \$110 and a top hourly rate of \$175 will apply.
- B. BMC shall be provided with an advance payment retainer of \$10,000.00. BMC will be compensated at its stated rates for services rendered and reimbursed for expenses necessarily incurred. Wire transfer information for the transmission of payments is as follows:

Bank Name -	Bridge Bank, N.A.
ABA/Routing # -	121143260
Account Name -	BMC Group, Inc.
Account # -	██████████



- C. BMC raises its rates from time to time and generally does so each January.
- D. Customer agrees to pay BMC for any necessarily incurred out-of-pocket reasonable expenses for transportation, lodging, meals and related items.
- E. In connection with noticing services, upon BMC's request, Customer agrees to prepay BMC estimated postage amounts with respect to each notice or shall authorize BMC to cause the courier's charges (such as UPS or FedEx) to be stated to Customer's own account with such courier.
- F. BMC agrees to invoice Customer for fees and expenses and Customer agrees that the amount invoiced is due and payable upon its receipt of the invoice. If any amount is unpaid as of thirty (30) days from the receipt of the invoice, Customer further agree to pay a late charge, calculated as one and one-half percent (1-1/2%) per month on the amount unpaid, accruing from the invoice date. In the case of a dispute in the invoice amount, notice shall be given to BMC within twenty (20) days of receipt of the invoice by Customer. Late charges shall not accrue on any amounts in dispute. The balance of the invoice amount is due and payable in the normal course.
- G. BMC will look only to the Customer for payment of invoices and in no event shall Counsel be liable for any of BMC's invoices in connections with this Services Agreement.

WARRANTY

The BMC warranty under the Agreement shall be limited to the re-running, at its expense, of any inaccurate reports, provided that such inaccuracies were caused solely as a result of BMC performance hereunder and provided further that BMC shall receive written notice of such inaccuracies within thirty (30) days of delivery of such report. If said notice is not made to BMC within the prescribed time limit Customer are liable for all charges. Customer agrees that the foregoing constitutes the exclusive remedy available with respect to inaccurate reports.

RIGHTS OF OWNERSHIP

- A. The parties understand that the software programs and other similar proprietary materials furnished by BMC pursuant to this Agreement and/or developed during the course of this Agreement by BMC are the sole property of BMC. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, sub-routines, procedural manuals, and documentation. Customer agrees not to copy or permit others to copy for unauthorized use the source code from the support software or any other programs or similar proprietary materials furnished pursuant to this Agreement.
- B. Customer further agrees that any ideas, concepts, know-how or techniques relating to data processing or BMC's performance of its services developed during the course of its Agreement by BMC shall be exclusive property of BMC.
- C. Upon Customer' request at any time or times while this Agreement is in effect, BMC shall immediately deliver to Customer at Customer' sole expense, any or all of the non-proprietary data, information and records held or controlled by BMC pursuant to this Agreement, in the form requested by Customer. Any information, data and records, in whatever form existing, whether provided to BMC by Customer or developed by BMC for Customer under this Agreement, may be retained by BMC until all amounts due under this Agreement are paid in full, it being understood that neither party asserts rights of ownership in the official claims register or materials filed with BMC as an agent of the court.
- D. Customer shall remain liable for all charges imposed under this Agreement as a result of data or physical media maintained by BMC. BMC shall dispose of the data and media in the manner requested by Customer. Customer agrees to pay BMC for reasonable expenses incurred as a result of the disposition of the data or media. After giving Customer thirty (30) days advance notice, BMC reserves the right to



dispose of data or media maintained by BMC for Customer if Customer have not utilized the services provided herein for a period of at least ninety (90) days or if Customer have not paid all charges due to BMC.

NON-SOLICITATION

Customer agrees that they shall not, directly or indirectly, solicit for employment, employ or otherwise retain staff of BMC during the term of this Agreement, nor for a period of twelve (12) months after termination of this Agreement unless mutually agreed upon by both parties.

CONFIDENTIALITY

BMC agrees to, and shall cause its servants, agents, employees, licensees, and subcontractors to, safeguard and keep confidential all data, records, information and communications of any sort or form, regardless of whether written, oral, visual or otherwise recorded or transmitted, with respect to Customer, but excluding such data, records, information and communications that exist in the public domain by reason other than a breach of BMC's obligations under this Section "Confidentiality" (the "Confidential Information"). BMC will use the Confidential Information only for the benefit of Customer in connection with the provision of services under this Agreement. Customer agrees to, and will cause its servants, agents, employees, licensees, and subcontractors to, keep all information with respect to BMC's system, procedures and software confidential; provided, however, that if either party is required to produce any such information by order of any governmental agency or other regulatory body, it may, upon not less than five business days' written notice to the other party, release the required information. The obligations set forth in this paragraph shall survive termination of this Agreement.

TERMINATION

- A. This Agreement shall remain in force until terminated by Customer, or, by BMC upon thirty (30) days' prior written notice to the other party.
- B. In the event that this contract is terminated, regardless of the reason for such termination, BMC shall cooperate with Customer to orderly transfer to Customer or their designee (or destroy, at Customer' direction) data, records and information in its possession or control and to effect an orderly transition of record-keeping functions. BMC shall provide all necessary staff, services and assistance required for an orderly transfer and transition. Customer agrees to pay for such services in accordance with BMC's then existing prices for such services.

SYSTEM IMPROVEMENTS

BMC's policy is to provide continuous improvements in the quality of service to the Customer. BMC, therefore, reserves the right to make changes in operations procedures, operating systems, programming languages, general purpose library programs, application programs, time period of accessibility, types of terminal and other equipment and the BMC data center serving the Customer.

LIMITATIONS OF LIABILITY AND INDEMNIFICATION

Except with respect to breaches under Section "Confidentiality" above, Customer shall indemnify and hold BMC, its officers, employees and agents harmless against any losses, claims, damages, judgments, liabilities and expense (including reasonable counsel fees and expenses) resulting from action taken or permitted by BMC in good faith with due care and without negligence in reliance upon instructions or orders received from Customer as to anything arising in connection with its performance under this Agreement. Except with respect to breaches under Section "Confidentiality" above, BMC shall be without liability to Customer with respect to any performance or non-performance, in accordance with the terms of this Agreement or instructions properly received pursuant hereto, if done in good faith and without negligence or willful or wanton misconduct. Except with respect to breaches



under Section "Confidentiality" above, in no event shall liability to Customer for any losses or damages, whether direct or indirect, arising out of this Agreement exceed the total amount billed or billable to Customer for the portion of the particular work which gave rise to the loss or damage. Except with respect to breaches under Section "Confidentiality", in no event shall BMC be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the services provided for in this Agreement.

NOTICES

All notices in connection with this Agreement shall be given or made upon the respective parties in writing by facsimile or overnight courier and shall be deemed as given, if by facsimile, on the business day immediately following confirmed transmission, or if by courier, on the day it is delivered by such courier to the appropriate address set forth below:

<p>BMC Group, Inc. Attn: Tinamarie Feil 600 1st Avenue Suite 623 Seattle, WA 98104</p> <p>E-Mail: tfeil@bmcgroup.com Tel: 206.499.2169 Fax: 206.374.2727</p>	<p><u>RAI, LLC</u> <u>Attn: Phillip Purcell</u> <u>313 E. Main St Suite 2</u> <u>Hendersonville, TN 37075</u></p> <p>E-mail: <u>phil.purcell@dynamicusa.com</u> Tel: <u>615-277-1224</u> Fax: <u>866-257-8734</u></p>
--	--

Or to such other address as the party to receive the notice or request so designates by written notice to the other.

APPLICABLE LAW

This agreement shall be construed in accordance with the laws of the State of Washington and may be modified only by a written instrument duly executed by an authorized representative of Customer and an officer of BMC.

ENTIRE AGREEMENT/ MODIFICATIONS

Each party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes and merges all prior proposals, understandings and other agreements, oral and written between the parties relating to the subject matter of this Agreement. The Agreement may not be modified or altered by written instrument duly executed by both parties. Customer represent that they have the authority to enter into this Agreement, may be subject to bankruptcy court approval, and the Agreement is non-dischargeable under any applicable statute or law. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. In the event of any conflict between a term of this Agreement and any order of the court exercising jurisdiction over the Customer' bankruptcy cases, the term of the order shall govern.



ASSIGNMENT

This Agreement and the rights and duties hereunder shall not be assignable by the parties hereto except upon written consent of the other, with the exception that this Agreement can be assigned by BMC to a wholly owned subsidiary of BMC.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

BMC Group, Inc.

By: Tinamarie Feil
Name: Tinamarie Feil
Title: President, Client Services
Date: November 25, 2015

By: Phillip A Purcell
Name: Phillip A Purcell
Title: General Counsel for RAI
Date: November 30, 2015



Pricing and Expenses

The total charge for BMC to support this project will be based on time spent plus payment of print/mail costs and any other out-of-pocket reimbursable items.

Noticing Management

Data Entry/Call Center/ Admin Support	\$25/45/65 /hr
Analysts	\$85 /hr
Noticing Manager	\$100 /hr

Claims Management

Claim Receipt, Process & Docketing	\$2.50 per claim (no hourly rates) / > 1,000 @ \$1.50
b-Linx Database & Systems Access - monthly	\$0.085 per record / \$250 min \$850 max
Detailed Claim Analysis and Reconciliation	upon request at applicable Project Management rates

Project Management

Analysts	\$85 - \$110 /hr
Consultants - Directors	\$125 - \$185 /hr
Principals	\$200 - \$225 /hr
No surcharge for overtime, weekends or holiday hours required to support your case	

Print Mail and Noticing Services

Finishing (Includes: Fold/Collate, Insert, Envelope, To/From Address Print & Post)	\$.13 per standard or \$.20 per catalogue sized package
Copy/Print	\$.09 per page subject to volume discount
Postage, Courier	At cost (includes optimization recommendations)
Certified Electronic Noticing Service	\$40 per 1000 (no per page charge; incl receipt tracking)
Certified Fax Noticing Service	\$0.10 per image (includes delivery acknowledgment)
Legal Notice Experts / Publication	Quote (leverage BMC negotiated discounts)

Document and Information Management

Electronic Document Imaging	\$0.12 per image – includes linking images to database
Live Operator Call Center	\$45 per hour
Public Case Website Hosting	\$250 per month
Public Case Website Set Up Fees	Waived
Physical Document Storage	\$1.45 per box/month
Document Analysis & Call Center Management	at applicable rates
Secure Virtual Data Room	Set up + \$.10/page per month

Distribution

Distribution Consulting	At applicable Project Management rates
Check Issuance	Quote prior to printing
Tax Reporting (1099, W-2)	Quote