

EXHIBIT A

Proposed Retention Order

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

In re:

SHARITY MINISTRIES, INC.,¹

Debtor.

Chapter 11 (Subchapter V)

Case No.: 21-11001 (___)

**ORDER AUTHORIZING EMPLOYMENT AND RETENTION OF BMC GROUP, INC.
AS ADMINISTRATIVE ADVISOR *NUNC PRO TUNC* TO THE PETITION DATE**

Upon the application (the “Application”)² of the above-captioned debtor (the “Debtor”) for entry of an order (this “Order”) authorizing the Debtor’s employment and retention of BMC Group, Inc. (“BMC”) as Administrative Advisor in this chapter 11 case *nunc pro tunc* to the Petition Date, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, Bankruptcy Rule 2014 and Local Rule 2014-1, on the terms and conditions set forth in the Engagement Agreement, all as more fully set forth in the Application; and upon the Feil Declaration; and upon due and sufficient notice of the Application having been provided under the particular circumstances, and it appearing that no other or further notice need be provided; and the Court having found that it has jurisdiction over this matter 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; and the Court having found that the Application is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that the Debtor consents to entry of a final order under Article III of the United States Constitution; and the Court having found that venue of this chapter 11 case and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and a hearing

¹ The last four digits of the Debtor’s federal tax identification number is 0344. The Debtor’s mailing address is 821 Atlanta Street, Suite 124, Roswell, GA 30075.

² Capitalized terms used but not otherwise defined in this Order have the meanings ascribed to such terms in the Application.

having been held to consider the relief requested in the Application (the “Hearing”); and upon the record of the Hearing, and all of the proceedings had before the Court; and the Court having found and determined that BMC has the capability and experience to provide the services described in the Application, that BMC does not hold an interest adverse to the Debtor or its estate with respect to the matters on which it is to be engaged, and that the employment and retention of BMC is in the best interests of the Debtor, its estate and creditors, and any parties in interest; and that the legal and factual bases set forth in the Application and at the Hearing establish just cause for the relief granted herein; and after due deliberation thereon and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT:**

1. The Application is granted as set forth herein.
2. The Debtor is authorized to retain and employ BMC as Administrative Advisor in this chapter 11 case *nunc pro tunc* to the Petition Date in accordance with the terms and conditions set forth in the Application and the Engagement Agreement.
3. This Order shall not apply to any services BMC is authorized to render pursuant to the Section 156(c) Application.
4. BMC shall apply to the Court for allowance of compensation and reimbursement of out-of-pocket expenses incurred in this case under the Application after the Petition Date in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and further orders of this Court.
5. BMC may apply its retainer to all pre-petition invoices, which retainer shall be replenished to the original retainer amount, and thereafter, BMC may hold its retainer under the Engagement Agreement during the chapter 11 case as security for the payment of fees and expenses incurred under the Engagement Agreement.

6. Any late charges provided for in the Engagement Agreement are inapplicable when payment of said late charges is prohibited by the fee application process.

7. The indemnification provisions of the Engagement Agreement are approved, subject to the following clarifications:

- a. Subject to the provisions of subparagraphs (c) and (d) below, the Debtor is authorized to indemnify, and shall indemnify, BMC in accordance with the Engagement Agreement and to the extent permitted by applicable law, for any claim arising from, related to, or in connection with BMC's performance of the services described in the Engagement Agreement;
- b. BMC shall not be entitled to indemnification, contribution or reimbursement for services other than services provided under the Engagement Agreement, unless such services and the indemnification, contribution or reimbursement therefore are approved by the Court;
- c. Notwithstanding anything to the contrary in the Engagement Agreement, the Debtor shall have no obligation to indemnify any person, or provide contribution or reimbursement to any person, for any claim or expense to the extent that it is either (i) judicially determined (the determination having become final and no longer subject to appeal) to have arisen from that person's gross negligence or willful misconduct; (ii) for a contractual dispute in which the Debtor alleges the breach of BMC's contractual obligations unless the Court determines that indemnification, contribution, or reimbursement would be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which that person should not receive indemnity, contribution or reimbursement under the terms of the Engagement Agreement as modified by the Court's Order;
- d. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in this case (that order having become a final order no longer subject to appeal) and (ii) the entry of an order closing this 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 or reimbursement obligations under the Engagement Agreement, including without limitation the advancement of defense costs, BMC must file an application before this Court, and the Debtor may not pay any such amounts to BMC before the entry of an order by this Court approving the payment. This subparagraph (d) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for payment by BMC for

indemnification, contribution or reimbursement, and not a provision limiting the duration of the Debtor's obligation to indemnify BMC.

8. Notwithstanding the terms of the Engagement Agreement attached to the Application, the Application is approved solely as set forth in this Order. In the event of any inconsistency between the Engagement Agreement, the Application, and this Order, this Order shall govern.

9. The Debtor and BMC are authorized and empowered to take all actions necessary or appropriate to implement the relief granted in this Order in accordance with the Application.

10. Notwithstanding any term in the Engagement Agreement to the contrary, this Court will retain jurisdiction over all matters arising from or related to the implementation, interpretation, and enforcement of this Order, and to the Debtor's engagement of BMC during the pendency of this chapter 11 case.

11. Notwithstanding Bankruptcy Rule 6004(h) or any provision in the Federal Rules of Bankruptcy Procedure to the contrary, this Order is immediately effective and enforceable upon its entry.

Dated: _____, 2021
Wilmington, Delaware

UNITED STATES BANKRUPTCY JUDGE