

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
www.flmb.uscourts.gov

In re:	Chapter 11
STEIN MART, INC. ¹	Case No. 3:20-bk-2387
STEIN MART BUYING CORP.	Case No. 3:20-bk-2388
STEIN MART HOLDING CORP.,	Case No. 3:20-bk-2389
Debtors.	Joint Administration Requested

**DEBTORS' APPLICATION FOR ENTRY OF AN ORDER
PURSUANT TO 28 U.S.C. § 156(C) (I) APPROVING THE RETENTION
AND APPOINTMENT OF STRETTO AS NOTICE, CLAIMS, AND SOLICITATION
AGENT TO THE DEBTORS, EFFECTIVE *NUNC PRO TUNC* TO THE PETITION
DATE, AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors (together, the "Debtors") submit this application (the "Application") to the Court for entry of an order pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules"), 28 U.S.C. § 156(c) and section 105(a) of the Bankruptcy Code, authorizing the appointment of Stretto ("Stretto")² as notice, claims, and solicitation agent (the "Claims and Noticing Agent"), effective *nunc pro tunc* to August 12, 2020 (the "Petition Date"), in these chapter 11 cases in accordance with the terms of the engagement agreement, dated August 5, 2020 (the "Engagement Agreement").³ In support of this Application,

¹ The tax identification numbers of the Debtors are as follows: Stein Mart, Inc. 6198; Stein Mart Buying Corp. 1114; and Stein Mart Holding Corp. 0492. The address of the Debtors' principal offices: 1200 Riverplace Blvd., Jacksonville, FL 32207. The Debtors' claims agent maintains a website, <https://cases.stretto.com/SteinMart>, which provides copies of the Debtors' first day pleadings and other information related to the case.

² Stretto is the trade name of Bankruptcy Management Solutions, Inc., and its subsidiaries.

³ A copy of the Engagement Agreement is attached hereto as Exhibit A and is incorporated herein by reference. Any description of any provision of the Engagement Agreement contained in this Application is intended to be a

the Debtors incorporate the statements contained in the Debtors' Chapter 11 Case Management Summary and the Declaration of Hunt Hawkins in Support of the Debtors' Chapter 11 Petitions and Requests for First Day Relief (the "First Day Declaration") filed contemporaneously herewith and the Declaration of Sheryl Betance, Managing Director of Stretto (the "Betance Declaration"), a copy of which is attached hereto as Exhibit B and incorporated herein, and respectfully represent as follows:

Jurisdiction and Venue

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409. The statutory bases for the relief requested herein are section 156(c) of title 28 of the United States Code, section 105(a) and Bankruptcy Rule 2002.

Background

2. On the Petition Date, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

3. The Debtors are operating its businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases.

Relief Requested

5. The Debtors seek entry of an order, substantially in the form attached hereto as Exhibit C, approving the Engagement Agreement and the Debtors' retention of Stretto as Claims

summary of the applicable provisions of the Engagement Agreement and is qualified in its entirety by the actual terms of the Engagement Agreement.

and Noticing Agent for the Debtors in these chapter 11 cases pursuant to the Engagement Agreement, effective *nunc pro tunc* to the Petition Date.

Stretto's Qualifications

6. Stretto is comprised of leading industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. Stretto's professionals have experience in noticing, claims administration, solicitation, balloting and facilitating other administrative aspects of chapter 11 cases and experience in matters of this size and complexity. Stretto has acted as the official claims and noticing agent in numerous other large bankruptcy cases. Stretto's active cases include: *In re Alpha Guardian, a Nevada Corporation*, Case No. 20-11016 (MKN) (Bankr. D. Nev. Mar. 6, 2020); *In re Harshorne Holdings, LLC*, Case No. 20-40133 (Bankr. W.D. Ken. Feb. 27, 2020); *In re SD-Charlotte, LLC*, Case No. 20-30149 (JCW) (Bankr. W.D.N.C. Feb. 11, 2020); *In re API Americas Inc.*, Case No. 20-10239 (CSS) (Bankr. D. Del. Feb. 4, 2020); *In re REVA Medical, Inc.*, Case No. 20-10072 (JTD) (Bankr. D. Del. Jan. 16, 2020); *In re Seabras 1 USA, LLC*, Case No. 19-14006 (SMB) (Bankr. S.D.N.Y. Dec. 27, 2019); *In re Clover Technologies Group, LLC*, Case No. 19-12680 (KBO) (Bankr. D. Del. Dec. 23, 2019); *In re MTE Holdings LLC*, Case No. 19-12269 (KBO) (Bankr. D. Del. Nov. 15, 2019); *In re Fleetwood Acquisition Corp.*, Case No. 19-12330 (KG) (Bankr. D. Del. Nov. 5, 2019); *In re Zenergy Brands, Inc.*, Case No. 19-42886 (Bankr. E.D. Tex. Oct. 31, 2019); *In re Agera Energy LLC*, Case No. 19-23802 (RDD) (Bankr. S.D.N.Y. Oct. 9, 2019); *In re The News-Gazette, Inc.*, Case No. 19-11901 (KBO) (Bankr. D. Del. Sept. 4, 2019); *In re Loot Crate, Inc.*, Case No. 19-11791 (BLS) (Bankr. D. Del. Aug. 14, 2019); *In re Barneys New York, Inc.*, Case No. 19-36300 (CGM) (Bankr. S.D.N.Y. Aug. 7, 2019).

7. Prior to selecting Stretto, the Debtors obtained and reviewed engagement proposals from additional court-approved claims and noticing agents to ensure selection through a competitive process. Following their review of competing proposals, the Debtors selected Stretto based on Stretto's expertise and qualifications and the competitive and reasonable rates proposed. By appointing Stretto as the Claims and Noticing Agent in these chapter 11 cases, the distribution of notices, the processing of claims, and the solicitation and balloting of votes will be expedited, and the Clerk of the Court (the "Clerk") will be relieved of the administrative burden of noticing what may be numerous documents on various parties in interest.

Services to Be Provided

8. Stretto will perform, to the extent the Debtors request, the following services in its role as Claims and Noticing Agent (the "Services"), as well as all quality control relating thereto:

- a. preparing and serving required notices and documents in these chapter 11 cases in accordance with the Bankruptcy Code and the Bankruptcy Rules in the form and manner directed by the Debtors and/or the Court, including, if applicable, (i) notice of the commencement of the cases and the initial meeting of creditors under section 341(a) of the Bankruptcy Code, (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 Debtors' chapter 11 plan, including under Bankruptcy Rule 3017(d), (vi) notice of the effective date of any plan, (vii) notices of hearings on motions filed by the Debtors and (viii) all other notices, orders, pleadings, publications, and other documents as the Debtors and/or the Court may deem necessary or appropriate for an orderly administration of the chapter 11 cases;
- b. preparing and filing or causing to be filed with the Clerk an affidavit or certificate of service for all notices, motions, orders, other pleadings, or documents served within seven business days of service that 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;
- c. assisting with the preparation of the Debtors' schedules of assets and liabilities and statements of financial affairs (collectively, the "Schedules") and gathering data in conjunction therewith; and

- d. maintaining an official copy of the Debtors' Schedules listing the Debtors' known creditors and the amounts owed thereto;
- e. maintaining (i) a list of all potential creditors, equity holders, and other parties in interest, and (ii) 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;
- f. furnishing 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 said 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;
- g. maintaining a post office box or address for the purpose of receiving claims and returned mail, and processing all mail received;
- h. processing all proofs of claim received, including those received by the Clerk's office, and checking said processing for accuracy, and maintaining the original proofs of claim in a secure area;
- i. maintaining the official claims register for each Debtor (the "Claims Registers") on behalf of the Clerk and upon the Clerk's request, providing the Clerk with certified, duplicate unofficial Claims Registers; and specifying in the Claims Registers 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.); (vi) the applicable Debtor; and (vii) any disposition of the claim;
- j. implementing necessary security measures to ensure the completeness and integrity of the Claims Registers and the safekeeping of the original claims;
- k. recording all transfers of claims and providing any notices of such transfers as required by Bankruptcy Rule 3001(e);
- l. Maintain an electronic platform for purposes of filing proofs of claim;
- m. Provide public access to the Claims Registers, if any, including complete proofs of claim with attachments, if any, without charge;
- n. Upon completion of the docketing process for all claims received to date for each case, turn over to the Clerk copies of the claims register for the Clerk's review (upon the Clerk's request);

- o. upon completion of the docketing process for all claims received to date for each case, turning over to the Clerk copies of the Claims Registers for the Clerk's review (upon the Clerk's request);
- p. monitoring the Court's docket for all notices of appearance, address changes, and claims-related pleadings and orders filed, and making necessary notations on and/or changes to the Claims Registers and any service or mailing lists, including to identify and eliminate duplicative names and addresses from such lists;
- q. assisting in the dissemination of information to the public and responding to requests for administrative information regarding the cases, as directed by the Debtors and/or the Court, including through the use of a case website and/or call center;
- r. thirty days prior to the close of these cases, to the extent practicable, requesting that the Debtors submit to the Court a proposed order dismissing Stretto and terminating Stretto's services upon completion of its duties and responsibilities and upon the closing of these cases;
- s. within seven days' notice to Stretto of entry of an order closing the chapter 11 cases, providing to the Court the final version of the Claims Registers as of the date immediately before the close of the cases;
- t. at the close of these chapter 11 cases, boxing and transporting all original documents, in proper format, as provided by the Clerk's office, to (i) the Federal Archives Record Administration, located at 5780 Jonesboro Road, Morrow, Georgia 30260 or (ii) any other location requested by the Clerk's office
- u. assisting with, among other things, solicitation, balloting and tabulation of votes, and prepare any related reports, as required in support of confirmation of a chapter 11 plan, and in connection with such services, processing requests for documents from parties in interest, including, if applicable, brokerage firms, bank back-offices and institutional holders;
- v. preparing an official ballot certification and, if necessary, testifying in support of the ballot tabulation results;
- w. Manage and coordinate any distributions pursuant to a chapter 11 plan; and
- x. providing such other claims processing, noticing, plan solicitation and related administrative services as may be requested from time to time by the Debtors.

9. The Claims Registers shall be open to the public for examination without charge during regular business hours and on a case-specific website maintained by Stretto. Stretto shall

not employ any past or present employee of the Debtors for work that involves the Debtors' bankruptcy cases.

10. Stretto will follow the notice, claims and solicitation procedures that conform to the guidelines promulgated by the Clerk, the Judicial Conference of the United States and as may be ordered by the Court.

Compensation and Representation of Disinterestedness

11. The Debtors respectfully request that the undisputed fees and expenses incurred by Stretto in the performance of the Services be treated as administrative expenses of the Debtors' estates 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. Stretto agrees to maintain records of all services showing dates, categories of services, fees charged, and expenses incurred, and to serve monthly invoices on the Debtors, the United States Trustee, counsel for the Debtors, counsel for any official committee monitoring the expenses of the Debtors, and any party in interest who specifically requests service of the monthly invoices. If any dispute arises relating to the Engagement Agreement or monthly invoices, the parties shall 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.

12. Prior to the Petition Date, the Debtors provided Stretto a retainer in the amount of \$35,000.00. Stretto seeks to first apply the retainer to all pre-petition invoices, which retainer shall be replenished to the original retainer amount, and thereafter, Stretto may hold such retainer under the Engagement Agreement during these chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

13. Additionally, under the terms of the Engagement Agreement, the Debtors have agreed to indemnify, defend and hold harmless Stretto and its affiliates, members, directors, officers, employees, consultants, subcontractors and agents under certain circumstances specified in the Engagement Agreement, except in circumstances resulting solely from Stretto's gross negligence, fraud or willful misconduct or as otherwise provided in the Engagement Agreement or any order authorizing the employment and retention of Stretto. The Debtors believe that such an indemnification obligation is customary, reasonable and necessary to retain the services of a claims and noticing agent in these chapter 11 cases.

14. Although the Debtors do not propose to employ Stretto under section 327 of the Bankruptcy Code, Stretto has nonetheless reviewed its electronic database to determine whether it has any relationships with the creditors and parties-in-interest provided by the Debtors, and, to the best of the Debtors' knowledge, information and belief, and except as disclosed in the Betance Declaration, Stretto has represented that it neither holds nor represents any interest materially adverse to the Debtors' estates in connection with any matter on which it would be employed.

15. In connection with its retention as the Claims and Noticing Agent, Stretto represents in the Betance Declaration, among other things, that:

- a. Stretto is not a creditor of the Debtors;
- b. Stretto is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code;
- c. Stretto will not consider itself employed by the United States government and will not seek any compensation from the United States government in its capacity as the claims and noticing agent in these chapter 11 cases;
- d. by accepting employment in these chapter 11 cases, Stretto waives any rights to receive compensation from the United States government in connection with these chapter 11 cases;

- e. in its capacity as the claims and noticing agent in these chapter 11 cases, Stretto will not be an agent of the United States and will not act on behalf of the United States;
- f. Stretto will not employ any past or present employees of the Debtors in connection with its work as the claims and noticing agent in these chapter 11 cases;
- g. in its capacity as claims and noticing agent in these chapter 11 cases, Stretto will not intentionally misrepresent any fact to any person;
- h. Stretto 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. Stretto 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 Stretto as claims and noticing agent in these chapter 11 cases shall be at the expense of the Clerk's office.

16. To the extent that there is any inconsistency between this Application, the Engagement Agreement, and the Court's order approving the foregoing (the "Order"), the Debtors respectfully submit that the Order shall govern.

Basis for Relief

17. Bankruptcy Rule 2002 describes certain notices that must be provided to creditors and other parties in interest in bankruptcy cases. Under Bankruptcy Rule 2002, the Court may direct that some person other than the Clerk of the Court provide notice of the various matters described therein. In addition, 28 U.S.C. § 156(c) expressly authorizes the use of non-court services: "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. 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).

18. Therefore, Stretto's provision of the Services as the Claims and Noticing Agent is expressly authorized under Bankruptcy Rule 2002 and 28 U.S.C. § 156(c).

19. For all the foregoing reasons, the Debtors believe that the appointment of Stretto as the Claims and Noticing Agent is appropriate and in the best interest of the Debtors' estates.

20. The Debtors anticipate that there will be more than 5,000 entities to be noticed. In view of the number of anticipated claimants and the complexity of the Debtors' businesses, the Debtors submit that the appointment of Stretto as the Claims and Noticing Agent is both necessary and in the best interests of the Debtors' estates and their creditors because the Debtors will be relieved of the burdens associated with the Services. Accordingly, the Debtors will be able to devote their full attention and resources to the restructuring efforts described above.

Nunc Pro Tunc Relief Is Appropriate

21. Pursuant to the Debtors' request, Stretto has acted as the Claims and Noticing Agent since the Petition Date with assurances that the Debtors would seek approval of its employment and retention, effective as of the Petition Date, so that Stretto may be compensated for its pre-application services. The Debtors believe that no party in interest will be prejudiced by the granting of the *nunc pro tunc* employment of Stretto, because Stretto has provided and continues to provide valuable services to the Debtors' estates in the interim period.

Notice

22. No trustee, examiner, or creditors' committee has been appointed in these Chapter 11 Cases. Debtors have served notice of the Motion on: (i) the Office of the United States Trustee for the Middle District of Florida and (ii) all parties who have requested notice in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002, and submits that, given the nature of the relief

requested, no other or further notice need be given. No previous application for the relief requested herein has been made by Debtors to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially attached hereto as Exhibit C, granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: August 12, 2020

Respectfully submitted,
FOLEY & LARDNER LLP

/s/ Gardner F. Davis

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Pro hac vice admission pending

*Proposed Counsel for Debtors
and Debtors in Possession*

Services Agreement

This Services Agreement (this "Agreement") is entered into as of August 5, 2020 between Bankruptcy Management Solutions, Inc. d/b/a Stretto ("Stretto") and Stein Mart, Inc. (together with its affiliates and subsidiaries, the "Company").¹

In consideration of the promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Services

- (a) Stretto agrees to provide the Company with consulting services regarding (i) legal noticing and maintenance of claims registers, creditor mailing matrices, an electronic platform for filing proofs of claim, and plan solicitation, balloting, disbursements, and tabulation of votes, administrative support in preparation of schedules of assets and liabilities and statements of financial affairs ("Claims Administration, Noticing, and Solicitation Services"); and (ii) crisis communications, claims analysis and reconciliation, contract review and analysis, case research, public securities, depository management, treasury services, confidential online workspaces or data rooms (publication to which shall not violate the confidentiality provisions of this Agreement), and any other services agreed upon by the parties or otherwise required by applicable law, governmental regulations or court rules or orders (all such services collectively, the "Services").
- (b) The Company acknowledges and agrees that Stretto will often take direction from the Company's representatives, employees, agents and/or professionals (collectively, the "Company Parties") with respect to providing Services hereunder. The parties agree that Stretto may rely upon, and the Company agrees to be bound by, any requests, advice or information provided by the Company Parties to the same extent as if such requests, advice or information were provided by the Company.
- (c) The Company agrees and understands that Stretto shall not provide the Company or any other party with legal advice.

2. Rates, Expenses and Payment

- (a) Stretto will provide the Services on an as-needed basis and upon request or agreement of the Company, in each case in accordance with Stretto's Rate Structure. The Company agrees to pay for reasonable out of pocket expenses incurred by Stretto in connection with providing Services hereunder.
- (b) Stretto will bill the Company no less frequently than monthly. All invoices shall be due and payable upon receipt. Where an expense or group of expenses to be incurred is expected to exceed \$10,000 (e.g., publication notice), Stretto may require advance or direct payment from the Company before the performance of Services hereunder; provided that Stretto shall first obtain the written approval of the Company with regards to such expense or expenses, which shall not be unreasonably withheld and may be provided by email. If any amount is unpaid as of 30 days after delivery of an invoice, the Company agrees to pay a late charge equal to 1.5% of the total amount unpaid every 30 days.

¹ The Company shall include, to the extent applicable, the Company, as debtor and debtor in possession in any chapter 11 case, together with any affiliated debtors and debtors in possession whose chapter 11 cases are jointly administered with the Company's chapter 11 case.

- (c) In the case of a dispute with respect to an invoice amount, the Company shall provide a detailed written notice of such dispute to Stretto within 10 days of receipt of the invoice.
- (d) The undisputed portion of the invoice will remain due and payable immediately upon receipt thereof. Late charges shall not accrue on any amounts disputed in good faith.
- (e) The Company shall pay any reasonable and documented fees and expenses for Services relating to, arising out of or resulting from any error or omission made by the Company or the Company Parties.
- (f) The Company shall pay or reimburse any taxes that are applicable to Services performed hereunder or that are measured by payments made hereunder and are required to be collected by Stretto or paid by Stretto to a taxing authority; provided, however, that the Company shall not pay or reimburse any taxes on the net income of Stretto that are required to be paid by Stretto.
- (g) Upon execution of this Agreement, the Company shall pay Stretto an advance of \$35,000. Stretto may use such advance against unpaid fees and expenses hereunder. Stretto may use the advance against all prepetition fees and expenses. Company shall upon Stretto's request, which request may take the form of an invoice, replenish the advance to the original advance amount. Stretto may also, at its option hold such advance to apply against unpaid fees and expenses hereunder.
- (h) Stretto reserves the right to make reasonable increases to the Rate Structure on an annual basis effective on the first business day of each year. If such annual increases represent an increase greater than 10% from the previous year's levels, Stretto shall provide 30 days' notice to the Company of such increases.
- (i) Payments to Stretto under the terms of this Agreement for services rendered, may be remitted by Client using either (or both) of the following methods:

Wire Transmission

Bank Name – Pacific Western Bank

Bank Address – 110 West A Street, Suite 100, San Diego, CA 92101

ABA – 122238200

Account Number – 1000681781

Account Name – Bankruptcy Management Solutions, Inc.

Check

Stretto

Attn: Accounts Receivable

410 Exchange, Suite 100

Irvine, CA 92602

3. Retention in Bankruptcy Case

- (a) If the Company commences a case pursuant to title 11 of the United States Code (the "Bankruptcy Code"), the Company promptly shall file any necessary application with the Bankruptcy Court to retain Stretto to provide the Services. The form and substance of such applications and any order approving them shall be reasonably acceptable to Stretto.
- (b) If any Company chapter 11 case converts to a case under chapter 7 of the Bankruptcy Code, Stretto will continue to be paid for Services pursuant to 28 U.S.C. § 156(c) and the terms hereunder.

4. Confidentiality

- (a) The Company and Stretto agree to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the Services provided hereunder; provided, however, that if any such information was publicly available, already in the receiving party's possession or known to it, independently developed by the receiving party, lawfully obtained by the receiving party from a third party or required to be disclosed by law, then the receiving party shall bear no responsibility for publicly disclosing such information.
- (b) If either party reasonably believes that it is required to disclose any confidential information pursuant to an order from a governmental authority, (i) such party shall provide written notice to the other party promptly after receiving such order, to allow the other party sufficient time, if possible, to seek any remedy available under applicable law to prevent disclosure of the information; and (ii) such party will limit such disclosure to the extent the such party's counsel in good faith determines such disclosure can be limited.

5. Property Rights

Stretto reserves to itself and its agents all property rights in and to all materials, concepts, creations, inventions, works of authorship, improvements, designs, innovations, ideas, discoveries, know-how, techniques, programs, systems, specifications, applications, processes, routines, manuals, documentation and any other information or property (collectively, "Property") furnished by Stretto for itself or for use by the Company hereunder. The foregoing definition of Property shall include any and all data, from any source, downloaded, stored and maintained by Stretto's technology infrastructure. Fees and expenses paid by the Company do not vest in the Company any rights in such Property. Such Property is only being made available for the Company's use during and in connection with the Services provided by Stretto hereunder.

6. Bank Accounts

At the request of the Company or the Company Parties, Stretto shall be authorized to establish accounts with financial institutions in the name of and as agent for the Company to facilitate distributions pursuant to a chapter 11 plan or other transaction. To the extent that certain financial products are provided to the Company pursuant to Stretto's agreement with financial institutions, Stretto may receive compensation from such institutions for the services Stretto provides pursuant to such agreement.

7. Term and Termination

- (a) This Agreement shall remain in effect until terminated by either party: (i) on 30 days' prior written notice to other party; or (ii) immediately upon written notice for Cause (as defined herein). "Cause" means (i) bad faith, gross negligence, or willful misconduct of Stretto that causes material harm to the Company's restructuring under chapter 11 of the Bankruptcy Code, (ii) the failure of the Company to pay Stretto invoices for more than 60 days from the date of invoice or (iii) the accrual of invoices or unpaid Services in excess of the advance held by Stretto where Stretto reasonably believes it likely will not be paid except due to any delay in payment by the Company pending approval and allowance of such amounts by the Bankruptcy Court during the Company's chapter 11 case.
- (b) If this Agreement is terminated after Stretto is retained pursuant to Bankruptcy Court order, the Company promptly shall seek entry of a Bankruptcy Court order discharging Stretto of its duties under such retention, which order shall be in form and substance reasonably acceptable to Stretto.

- (c) If this Agreement is terminated, the Company shall remain liable for all amounts then accrued and/or due and owing to Stretto hereunder.
- (d) If this Agreement is terminated, Stretto shall coordinate with the Company and, to the extent applicable, the clerk of the Bankruptcy Court, to maintain an orderly transfer of record keeping functions, and Stretto shall provide the necessary staff, services and assistance required for such an orderly transfer. The Company agrees to pay for such Services pursuant to the Rate Structure.

8. No Representations or Warranties

Stretto makes no representations or warranties, express or implied, regarding the services and products sold or licensed to the Company hereunder or otherwise with respect to this Agreement, including, without limitation, any express or implied warranty of merchantability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity. Notwithstanding the foregoing, if the above disclaimer is not enforceable under applicable law, such disclaimer will be construed by limiting it so as to be enforceable to the extent compatible with applicable law.

9. Indemnification

- (a) To the fullest extent permitted by applicable law, the Company shall indemnify and hold harmless Stretto and its members, directors, officers, employees, representatives, affiliates, consultants, subcontractors and agents (collectively, the "Indemnified Parties") from and against any and all losses, claims, damages, judgments, liabilities and expenses, whether direct or indirect (including, without limitation, counsel fees and expenses) (collectively, "Losses") resulting from, arising out of or related to Stretto's performance hereunder. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third parties against any Indemnified Party unless caused by bad faith, gross negligence, and/or willful misconduct of the Indemnified Party.
- (b) Stretto and the Company shall notify each other in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that either party becomes aware of with respect to the Services provided hereunder.
- (c) The Company's indemnification of Stretto hereunder shall exclude Losses resulting from Stretto's bad faith, gross negligence, or willful misconduct.
- (d) The Company's indemnification obligations hereunder shall survive the termination of this Agreement.

10. Limitations of Liability

Except as expressly provided herein, Stretto's liability to the Company for any Losses, unless due to Stretto's bad faith, gross negligence, or willful misconduct, shall be limited to the total amount paid by the Company to Stretto for the portion of the particular work that gave rise to the alleged Loss. In no event shall Stretto 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 hereunder.

11. Company Data

- (a) The Company is responsible for, and Stretto does not verify, the accuracy of the programs, data and other information it or any Company Party submits for processing to Stretto and for the output of such information, including, without limitation, with respect to preparation of statements of financial affairs and schedules of assets and liabilities (collectively, "SOFAs and Schedules"). Stretto bears no responsibility for the accuracy and content of SOFAs and

Schedules, and the Company is deemed hereunder to have approved and reviewed all SOFAs and Schedules filed on its behalf.

- (b) The Company agrees, represents and warrants to Stretto that before delivery of any information to Stretto: (i) the Company has full authority to deliver such information to Stretto; and (ii) Stretto is authorized to use such information to perform Services hereunder and as otherwise set forth in this Agreement.
- (c) Any data, storage media, programs or other materials furnished to Stretto by the Company may be retained by Stretto until the Services provided hereunder are paid in full. The Company shall remain liable for all reasonable and documented fees and expenses incurred by Stretto under this Agreement as a result of data, storage media or other materials maintained, stored or disposed of by Stretto. Any such disposal shall be in a manner requested by or acceptable to the Company; provided that if the Company has not utilized Stretto's Services for a period of 90 days or more, Stretto may dispose of any such materials in a manner to be determined in Stretto's sole reasonable discretion, and be reimbursed by the Company for the expense of such disposition, after giving the Company 30 days' notice. The Company agrees to initiate and maintain backup files that would allow the Company to regenerate or duplicate all programs, data or information provided by the Company to Stretto.
- (d) Notwithstanding the foregoing, if Stretto is retained pursuant to Bankruptcy Court order, disposal of any Company data, storage media or other materials shall comply with any applicable court orders and rules or clerk's office instructions.

12. Non-Solicitation

The Company agrees that neither it nor any of its subsidiaries or affiliates shall directly or indirectly solicit for employment, employ or otherwise retain as employees, consultants or otherwise, any employees of Stretto during the term of this Agreement and for a period of 12 months after termination thereof unless Stretto provides prior written consent to such solicitation or retention.

13. Force Majeure

Whenever performance by Stretto of any of its obligations hereunder is materially prevented or impacted by reason of any act of God, government requirement, strike, lock-out or other industrial or transportation disturbance, fire, flood, epidemic, lack of materials, law, regulation or ordinance, act of terrorism, war or war condition, or by reason of any other matter beyond Stretto's reasonable control, then such performance shall be excused.

14. Choice of Law

The validity, enforceability and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California.

15. Arbitration

Any dispute arising out of or relating to this Agreement or the breach thereof shall be finally resolved by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction. There shall be three arbitrators named in accordance with such rules. The arbitration shall be conducted in the English language in Irvine, California in accordance with the United States Arbitration Act. Notwithstanding the foregoing, upon commencement of any chapter

11 case(s) by the Company, any disputes related to this Agreement shall be decided by the bankruptcy court assigned to such chapter 11 case(s).

16. Integration: Severability; Modifications: Assignment

- (a) 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, agreements and communications between the parties relating to the subject matter hereof.
- (b) 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.
- (c) This Agreement may be modified only by a writing duly executed by an authorized representative of the Company and an officer of Stretto.
- (d) This Agreement and the rights and duties hereunder shall not be assignable by the parties hereto except upon written consent of the other; provided, however, that Stretto may assign this Agreement to a wholly-owned subsidiary or affiliate without the Company's consent.

17. Effectiveness of Counterparts

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which shall constitute one and the same agreement. This Agreement will become effective when one or more counterparts have been signed by each of the parties and delivered to the other party, which delivery may be made by exchange of copies of the signature page by fax or email.

18. Notices

All notices and requests in connection with this Agreement shall be sufficiently given or made if given or made in writing via hand delivery, overnight courier, U.S. Mail (postage prepaid) or email, and addressed as follows:

If to Stretto: Stretto
 410 Exchange, Ste. 100
 Irvine, CA 92602
 Attn: Sheryl Betance
 Tel: 714.716.1872
 Email: sheryl.betance@stretto.com

If to the Company: Stein Mart, Inc.
 1200 Riverplace Blvd.
 Jacksonville, FL 32207
 Attn: James Brown
 Tel: 904-346-1500
 Email: jbrown@steinmart.com

With a copy to:

Foley & Lardner LLP
1 Independent Drive, Suite 1300
Jacksonville, FL 32202
Attn: Gardner F. Davis
Tel: 904-359-2000
Email: gdavis@foley.com

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first above written.

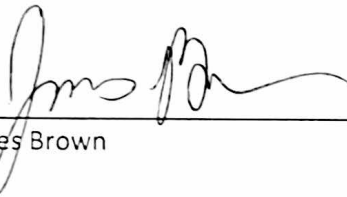
Stretto



By: Travis Vandell

Title: Managing Director

Stein Mart, Inc.



By: James Brown

Title: Executive Vice President and Chief Financial Officer

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
www.flmb.uscourts.gov

In re:	Chapter 11
STEIN MART, INC. ¹	Case No. 3:20-bk-2387
STEIN MART BUYING CORP.	Case No. 3:20-bk-2388
STEIN MART HOLDING CORP.,	Case No. 3:20-bk-2389
Debtors.	Joint Administration Requested

**DECLARATION OF SHERYL BETANCE IN
SUPPORT OF DEBTORS' APPLICATION FOR ENTRY OF AN ORDER
PURSUANT TO 28 U.S.C. § 156(C) (I) APPROVING THE RETENTION
AND APPOINTMENT OF STRETTO AS NOTICE, CLAIMS, AND SOLICITATION
AGENT TO THE DEBTORS, EFFECTIVE NUNC PRO TUNC TO THE PETITION
DATE, AND (II) GRANTING RELATED RELIEF**

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

1. I am a Managing Director of Corporate Restructuring at Stretto ("Stretto"),² a chapter 11 administrative services firm with offices at 410 Exchange, Ste. 100, Irvine, CA 92602. 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 is made in support of the *Debtors' Application for Entry of an Order Pursuant to 28 U.S.C. § 156 (C) (I) Approving the Retention of Stretto as Notice, Claims*

¹ The tax identification numbers of the Debtors are as follows: Stein Mart, Inc. 6198; Stein Mart Buying Corp. 1114; and Stein Mart Holding Corp. 0492. The address of the Debtors' principal offices: 1200 Riverplace Blvd., Jacksonville, FL 32207. The Debtors' claims agent maintains a website, <https://cases.stretto.com/SteinMart>, which provides copies of the Debtors' first day pleadings and other information related to the case.

² Stretto is the trade name of Bankruptcy Management Solutions, Inc., and its subsidiaries.

and Solicitation Agent for the Debtors, Effective Nunc Pro Tunc to the Petition Date and (II) Granting Related Relief, to which this declaration is attached (the “Application”).³

1. **Qualifications**

3. Stretto is a chapter 11 administrator comprised of leading industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. Stretto’s professionals have experience in noticing, claims administration, solicitation, balloting, and facilitating other administrative aspects of chapter 11 cases and experience in matters of this size and complexity. Stretto’s professionals have acted as debtor’s counsel or official claims and noticing agent in many large bankruptcy cases in this district and in other districts nationwide. Stretto has developed efficient and cost-effective methods to handle the voluminous mailings associated with the noticing and claims processing portions of chapter 11 cases to ensure the efficient, orderly and fair treatment of creditors, equity security holders, and all parties in interest. Stretto’s active cases include: *In re Alpha Guardian, a Nevada Corporation*, Case No. 20-11016 (MKN) (Bankr. D. Nev. Mar. 6, 2020); *In re Harshorne Holdings, LLC*, Case No. 20-40133 (Bankr. W.D. Ken. Feb. 27, 2020); *In re SD-Charlotte, LLC*, Case No. 20-30149 (JCW) (Bankr. W.D.N.C. Feb. 11, 2020); *In re API Americas Inc.*, Case No. 20-10239 (CSS) (Bankr. D. Del. Feb. 4, 2020); *In re REVA Medical, Inc.*, Case No. 20-10072 (JTD) (Bankr. D. Del. Jan. 16, 2020); *In re Seabras 1 USA, LLC*, Case No. 19-14006 (SMB) (Bankr. S.D.N.Y. Dec. 27, 2019); *In re Clover Technologies Group, LLC*, Case No. 19-12680 (KBO) (Bankr. D. Del. Dec. 23, 2019); *In re MTE Holdings LLC*, Case No. 19-12269 (KBO) (Bankr. D. Del. Nov. 15 2019); *In re Fleetwood Acquisition Corp.*, Case No. 19-12330 (KG) (Bankr. D. Del. Nov. 5, 2019); *In re Zenergy Brands, Inc.*, Case No. 19-42886 (Bankr. E.D. Tex. Oct. 31, 2019);

³ Capitalized terms used but not otherwise defined herein have the meanings set forth in the Application.

In re Agera Energy LLC, Case No. 19-23802 (RDD) (Bankr. S.D.N.Y. Oct. 9, 2019); *In re The News-Gazette, Inc.*, Case No. 19-11901 (KBO) (Bankr. D. Del. Sept. 4, 2019); *In re Loot Crate, Inc.*, Case No. 19-11791 (BLS) (Bankr. D. Del. Aug. 14, 2019); *In re Barneys New York, Inc.*, Case No. 19-36300 (CGM) (Bankr. S.D.N.Y. Aug. 7, 2019).

2. **Services to be Rendered**

4. As agent and custodian of Court records pursuant to 28 U.S.C. § 156(c), Stretto will perform, at the request of the Office of the Clerk of the Bankruptcy Court (the “Clerk”), the noticing, solicitation and claims-related services specified in the Application and the Engagement Agreement, and, at the Debtors’ request, any related administrative, technical, and support services as specified in the Application and the Engagement Agreement. In performing such services, Stretto will charge the Debtors the rates set forth in the Engagement Agreement.

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

- (a) Stretto is not a creditor, equity security holder, or insider of the Debtors;
- (b) Stretto 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 these chapter 11 cases;
- (c) By accepting employment in these chapter 11 cases, Stretto waives any rights to receive compensation from the United States government in connection with these chapter 11 cases;
- (d) In its capacity as the Claims and Noticing Agent in these chapter 11 cases, Stretto will not be an agent of the United States and will not act on behalf of the United States;
- (e) Stretto will not employ any past or present employees of the Debtors in connection with its work as the Claims and Noticing Agent in these chapter 11 cases;
- (f) Stretto 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 to be engaged;
- (g) In its capacity as Claims and Noticing Agent in these chapter 11 cases, Stretto will not intentionally misrepresent any fact to any person;

- (h) Stretto 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) Stretto 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 Stretto as Claims and Noticing Agent in these chapter 11 cases shall be at the expense of the Clerk's office.

6. I caused to be submitted for review by our conflicts system the names of known potential parties-in-interest (the "Potential Parties in Interest") in these chapter 11 cases. The list of Potential Parties in Interest was provided by the Debtors. The results of the conflict check were compiled and reviewed by Stretto professionals under my supervision. At this time, and as set forth in further detail herein, Stretto is not aware of any connection that would present a disqualifying conflict of interest. Should Stretto discover any new relevant facts or connections bearing on the matters described herein during the period of its retention, Stretto will use reasonable efforts to promptly file a supplemental declaration.

7. To the best of my knowledge, and based solely upon information provided to me by the Debtors, and except as provided herein, neither Stretto, nor any of its personnel, has any materially adverse connection to the Debtors, their creditors, or other relevant parties with respect to any matter for which Stretto will be employed. Stretto may have relationships with certain of the Debtors' creditors as vendors or in connection with cases in which Stretto serves or has served in a neutral capacity as claims and noticing agent and/or administrative advisor for another chapter 11 debtor. However, to the best of my knowledge, such relationships are materially unrelated to these chapter 11 cases.

8. Certain of Stretto's professionals were partners of or formerly employed by firms that are providing or may provide professional services to parties in interest in these cases. Except as may be disclosed herein, these professionals did not work on any matters involving the Debtors

while employed by their previous firms. Moreover, these professionals were not employed by their previous firms when these chapter 11 cases were filed.

9. Stretto has and will continue to represent clients in matters unrelated to these chapter 11 cases. In addition, in matters unrelated to these chapter 11 cases, Stretto and its personnel have and will continue to have relationships personally or in the ordinary course of business with certain vendors, professionals, financial institutions, and other parties in interest that may be involved in the Debtors' chapter 11 cases. Stretto may also provide professional services to entities or persons that may be creditors or parties in interest in these chapter 11 cases, which services do not directly relate to, or have any direct connection with, these chapter 11 cases or the Debtors.

10. Stretto and its personnel in their individual capacities regularly utilize the services of law firms, investment banking and advisory firms, accounting firms, and financial advisors. Such firms engaged by Stretto or its personnel may appear in chapter 11 cases representing the Debtors or parties in interest. All engagements where such firms represent Stretto or its personnel in their individual capacities are unrelated to these chapter 11 cases.

11. In April 2017, Stretto was acquired by the Trident VI Funds managed by private equity firm Stone Point Capital LLC ("Stone Point"). Stone Point is a financial services-focused private equity firm based in Greenwich, Connecticut. The firm has raised and managed eight private equity funds – the Trident Funds – with aggregate committed capital of approximately \$25 billion. Stone Point targets investments in the global financial services industry, including investments in companies that provide outsourced services to financial institutions, and related sectors.

12. The following disclosure is made out of an abundance of caution in an effort to comply with the Bankruptcy Code and Bankruptcy Rules. However, neither the Trident VI Funds

nor Stone Point have been identified on the parties in interest list in these chapter 11 cases as of the date hereof.

13. Stretto has searched the name of the Debtor and the names of the Potential Parties in Interest against Stone Point, its funds, and their respective investments as set forth in the list most recently provided to Stretto by Stone Point's internal compliance department. Based solely on the foregoing search, Stretto has determined, to the best of its knowledge, that one company owned by a separate Trident Fund – Gordon Brothers Finance Company – is identified as one of the Debtors' lenders. However, to the best of Stretto's knowledge, Stretto's relationship to this entity does not create any adverse interest against the Debtors' estates that would present a disqualifying conflict of interest, and there are no other connections that require disclosure. To the extent Stretto learns of any additional relevant facts or connections between Stone Point's funds or investments included in the above-described conflicts search and the Debtor that bear on this chapter 11 case, Stretto will promptly file a supplemental disclosure. Stretto may have had, may currently have, or may in the future have business relationships unrelated to the Debtor with one or more Stone Point entities including, among others, portfolio companies of Stone Point.

14. From time to time, Stretto partners or employees personally invest in mutual funds, retirement funds, private equity funds, venture capital funds, hedge funds and other types of investment funds (the "Investment Funds"), through which such individuals indirectly acquire a debt or equity security of many companies, one of which may be one of the Debtors or their affiliates, often without Stretto's or its personnel's knowledge. Each Stretto partner or employee generally owns substantially less than one percent of such Investment Fund, does not manage or otherwise control such Investment Fund and has no influence over the Investment Fund's decision to buy, sell, or vote any particular security. Each Investment Fund is generally operated as a blind

pool, meaning that when the Stretto partners or employees make an investment in the particular Investment Fund, he, she or they do not know what securities the blind pool Investment Fund will purchase or sell, and have no control over such purchases or sales.

15. From time to time, Stretto partners or employees may personally directly acquire a debt or equity security of a company that may be one of the Debtors or their affiliates. Stretto has a policy prohibiting its partners and employees from using confidential information that may come to their attention in the course of their work. In this regard, subject to paragraph 14, all Stretto partners and employees are barred from trading in securities with respect to matters in which Stretto is retained. Subject to paragraph 14, upon information and belief, and upon reasonable inquiry, Stretto does not believe that any of its partners or employees own any debt or equity securities of a company that is a Debtor or of any of its affiliates.

16. Based on the foregoing, I believe that Stretto 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 to be engaged. Moreover, to the best of my knowledge and belief, neither Stretto nor any of its employees hold or represent any interest materially adverse to the Debtors’ estates with respect to any matter upon which Stretto is to be employed.

[Remainder of page intentionally left blank.]

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 knowledge, information, and belief.

Dated: August 12, 2020

A handwritten signature in cursive script, reading "Sheryl Betance", is positioned above a horizontal line.

Sheryl Betance
Managing Director, Corporate Restructuring
Stretto
410 Exchange, Ste. 100,
Irvine, CA 92602

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
www.flmb.uscourts.gov

In re:	Chapter 11
STEIN MART, INC. ¹	Case No. 3:20-bk-2387
STEIN MART BUYING CORP.	Case No. 3:20-bk-2388
STEIN MART HOLDING CORP.,	Case No. 3:20-bk-2389
Debtors.	Joint Administration Requested

ORDER (I) APPROVING THE RETENTION OF STRETTO AS THE NOTICE, CLAIMS, AND SOLICITATION AGENT TO THE DEBTORS, EFFECTIVE NUNC PRO TUNC TO THE PETITION DATE, AND (II) GRANTING RELATED RELIEF

This matter coming before the Court on the “Debtors’ Application for Entry of an Order Pursuant to 28 U.S.C. § 156(c) (I) Appointing Stretto as Notice, Claims, and Solicitation Agent Effective *Nun Pro Tunc* to the Petition Date, and (II) Granting Related Relief” (the “Application”),² filed by the Debtors; the Court having reviewed the Application, the First Day

¹ The tax identification numbers of the Debtors are as follows: Stein Mart, Inc. 6198; Stein Mart Buying Corp. 1114; and Stein Mart Holding Corp. 0492. The address of the Debtors’ principal offices: 1200 Riverplace Blvd., Jacksonville, FL 32207. The Debtors’ claims agent maintains a website, <https://cases.stretto.com/SteinMart>, which provides copies of the Debtors’ first day pleadings and other information related to the case.

² Capitalized terms not otherwise defined herein have the meanings given to them in the Application.

Declaration and the Betance Declaration and having considered the statements of counsel and the evidence adduced with respect to the Application at a hearing before the Court (the "Hearing"); the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) venue is proper in this district pursuant to 28 U.S.C. § 1409, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), and (iv) notice of the Application is sufficient under the circumstances, it is hereby

ORDERED:

1. The Application is granted as set forth herein.
2. Pursuant to Bankruptcy Rule 2002, 28 U.S.C. § 156(c), and section 105(a) of the Bankruptcy Code, Stretto is hereby appointed as the Claims and Noticing Agent to the Debtors in these chapter 11 cases and authorized to provide the Services on the terms and conditions set forth in the Application and the Engagement Agreement, *nunc pro tunc* to the Petition Date.
3. Stretto shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these chapter 11 cases and is authorized and directed to maintain official claims registers for each of the Debtors and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.
4. Stretto is authorized and directed to provide an electronic interface for filing proofs of claim and to obtain a post office box or address for the receipt of proofs of claim.
5. Stretto is authorized to take such other action to comply with all duties and services set forth in the Application.
6. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of Stretto under this Order shall be an administrative expense of the Debtors' estates and the Debtors are authorized to pay such fees and expenses without further application to or order of the Court.

Stretto may apply its retainer under the Engagement Agreement to all pre-petition invoices, which retainer shall be replenished by the Debtors to the original retainer amount, and, thereafter, Stretto may hold such retainer in a segregated, non-trust account during the chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

7. The Debtors shall indemnify Stretto under the terms of the Engagement Agreement, as modified pursuant to this Order.

8. Stretto 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.

9. Notwithstanding anything to the contrary in the Engagement Agreement, the Debtors shall have no obligation to indemnify Stretto, or provide contribution or reimbursement to Stretto, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from Stretto's gross negligence, willful misconduct, or fraud; (ii) for a contractual dispute in which the Debtors allege the breach of Stretto's contractual obligations if the Court determines that indemnification, contribution, or reimbursement would not be permissible under applicable law; or (iii) settled prior to a judicial determination under (i) or (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which Stretto should not receive indemnity, contribution, or reimbursement under the terms of the Engagement Agreement as modified by this Order.

1. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these chapter 11 cases (that order having become a final order no longer subject to appeal), or (ii) the entry of an order closing these chapter 11 cases, Stretto believes that it is entitled to the payment

of any amounts by the Debtors on account of the Debtors' indemnification, contribution, and/or reimbursement obligations under the Engagement Agreement (as modified by this Order), including the advancement of defense costs, Stretto must file an application therefor in this Court, and the Debtors may not pay any such amounts to Stretto before the entry of an order by this 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 Stretto for indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify Stretto. All parties in interest shall retain the right to object to any demand by Stretto for indemnification, contribution, or reimbursement.

10. In the event Stretto is unable to provide the services set out in this order, Stretto will immediately notify the Clerk and the Debtors' attorneys and, upon approval of the Court, cause to have all original proofs of claim and computer information turned over to an-other claims and noticing agent with the advice and consent of the Clerk and the Debtors' attorneys.

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

12. The Debtors and Stretto are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

13. Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

14. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and enforceable upon its entry.

15. Stretto shall not cease providing claims processing services during the chapter 11 case(s) for any reason, including nonpayment, without an order of the Court.

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

Debtor's counsel is directed to serve a copy of this order on interested parties who do not receive service by CM/ECF and file a proof of service within three days of entry of this order.