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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

SAM ASH MUSIC CORPORATION, *et al.*

Debtors.¹

Chapter 11

Case No. 24-14727 (SLM)

(Jointly Administered)

**DEBTORS' APPLICATION FOR ENTRY OF AN ORDER (I) AUTHORIZING THE
RETENTION AND EMPLOYMENT OF CAPSTONE CAPITAL MARKETS, LLC AS
INVESTMENT BANKER TO THE DEBTORS AND DEBTORS IN POSSESSION
EFFECTIVE AS OF THE PETITION DATE, (II) WAIVING CERTAIN
TIMEKEEPING REQUIREMENTS, AND (III) GRANTING RELATED RELIEF**

TO THE HONORABLE STACEY L. MEISEL
UNITED STATES BANKRUPTCY JUDGE:

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Sam Ash Music Corporation (3915); Samson Technologies Corp. (4062); Sam Ash Megastores, LLC (9955); Sam Ash California Megastores, LLC (3598); Sam Ash Florida Megastores, LLC (7276); Sam Ash Illinois Megastores, LLC (8966); Sam Ash Nevada Megastores, LLC (6399); Sam Ash New York Megastores, LLC (7753); Sam Ash New Jersey Megastores, LLC (8788); Sam Ash CT, LLC (5932); Sam Ash Music Marketing, LLC (2024); and Sam Ash Quikship Corp. (7410). The location of debtor Sam Ash Music Corporation's principal place of business is 278 Duffy Avenue, P.O. Box 9047, Hicksville, NY 11802.

The above-captioned debtors and debtors in possession (collectively, the “Debtors”)² state as follows in support of this application (the “Application”):

Relief Requested

1. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”): (a) authorizing the Debtors to retain and employ Capstone Capital Markets, LLC (“Capstone”) as their investment banker, effective as of the Petition Date (as defined below), in accordance with that certain engagement agreement, dated as of April 5, 2024 (the “Engagement Agreement”), a copy of which is attached as Exhibit 1 to the Order, pursuant to sections 327(a) and 328(a) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rules 2014-1 and 2016-1 of the Local Rules for United States Bankruptcy Court for the District of New Jersey (the “Local Rules”); (b) waiving certain timekeeping requirements of Local Rule 2016-1, the guidelines (the “U.S. Trustee Guidelines”) of the Office of the United States Trustee for the District of New Jersey, and any other applicable procedures and orders of the Court (as defined herein) in connection with Capstone’s engagement; and (c) granting related relief. In support of this Application, the Debtors submit the *Declaration of Jamie Lisac, Managing Director of Capstone Capital Markets, LLC, in Support of the Debtors’ Application for Entry of an Order (I) Authorizing the Retention and Employment of Capstone Capital Markets, LLC as Investment Banker to the Debtors and Debtors in Possession Effective as of the Petition Date, (II) Waiving Certain Timekeeping Requirements, and (III) Granting*

² A detailed description of the Debtors, their business, and the facts and circumstances supporting these chapter 11 cases is set forth in the *Declaration of Jordan Meyers, Chief Restructuring Officer of the Debtors, in Support of Debtors’ Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”) [Docket No. 17]. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the First Day Declaration.

Related Relief, attached hereto as **Exhibit B** and incorporated by reference herein (the “Lisac Declaration”).

Jurisdiction and Venue

2. The United States Bankruptcy Court for the District of New Jersey (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11*, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.). The Debtors confirm their consent to the Court’s entering a final order 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 in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 327(a) and 328(a) of the Bankruptcy Code, rules 2014(a) and 2016 of the Bankruptcy Rules, and Local Rules 2014-1 and 2016-1.

Background

5. As set forth in the First Day Declaration, the Debtors are “The World’s Favorite Music Store®” having served thousands of musicians since 1924 as a family-owned manufacturer and specialty retailer of musical instruments and related equipment. As of May 8, 2024 (the “Petition Date”), the Debtors operated 42 stores and 4 distribution centers throughout the United States. The Debtors also operate an ecommerce business that primarily conducts sales domestically. Further, the Debtors operate a wholesale business, Samson, which designs, markets, distributes, and sells products to musical instrument and consumer electronic retailers, distributors, and sound contractors both domestically and internationally. The Debtors are headquartered in Hicksville, New York.

6. On the Petition Date, each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors' cases are being jointly administered under lead Case No. 24-14727 pursuant to Bankruptcy Rule 1015 [Docket No. 39]. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases. On May 21, 2024, the Office of the United States Trustee for the District of New Jersey (the "U.S. Trustee") appointed the official committee of unsecured creditors pursuant to section 1102(a) of the Bankruptcy Code [Docket No. 107] (the "Committee").

Capstone's Qualifications

7. The Debtors submit this Application because they require a qualified investment banker to assist them in the critical tasks associated with guiding the Debtors through these chapter 11 cases, including their proposed sale process. The Debtors believe that their retention of an investment banker is necessary and appropriate to enable them to evaluate the financial and economic issues raised by these chapter 11 cases, to successfully consummate one or more transactions, and to fulfill certain of their statutory duties. The Debtors selected Capstone as their investment banker in connection with these chapter 11 cases because of the firm's diverse experience and extensive knowledge in the restructuring of troubled companies.

8. As detailed in the Lisac Declaration, Capstone has a dedicated restructuring investment banking group of various professionals with extensive experience advising companies, creditors' committees, and other constituents in complex situations involving underperforming or unsuitably capitalized businesses facing difficult financing conditions, liquidity crises, out-of-court restructurings, and bankruptcy proceedings. Investment bankers at Capstone have advised on, or been involved with, numerous restructuring-related or distressed transactions, both out-of-court and in chapter 11 cases, including, without limitation, sale, restructuring, reorganization,

financing, and special situation transactions. Some representative engagements that investment bankers at Capstone have led or served in key roles in prior chapter 11 cases and restructurings include: *In re Inronnet, Inc.*, No. 23-11710 (Bankr. D. Del. Nov. 9, 2023); *In re Allegiance Coal USA Limited*, No. 23-10234 (Bankr. D. Del. Feb. 21, 2023); *In re Party City Holdco Inc*, No. 23-90005 (Bankr. S.D. TX. Jan. 17, 2023); *In re Taronis Fuels Inc.*, No. 22-11121 (Bankr. D. Del. Nov. 11, 2022); *In re Red River Waste Solutions, LP*, No. 21-42423 (ELM) (Bankr. N.D. TX. Oct. 14, 2021); *In re Interlogic Outsourcing, Inc.*, No. 19-31445 (HCD) (Bankr. N.D. Ind.); *In re Lee Steel Corporation*, No. 15-45784 (MBM) (Bankr. E.D. Mich.); *In re Motors Liquidation Company*, No. 09-50026 (REG) (Bankr. S.D.N.Y. Aug. 18, 2009); *In re Calpine Corporation*, No. 05-6200 (BRL) (Bankr. S.D.N.Y.); *In re Lyondell Chemical Company*, 09-10023 (REG) (Bankr. S.D.N.Y.). As such, Capstone is well qualified to perform the work required in these chapter 11 cases.

9. The resources, capabilities, and experience of Capstone are important to the Debtors' efforts to maximize value for their stakeholders. An investment banker with Capstone's resources, capabilities, and experience to assist them in pursuing the sale process are crucial to the success of these chapter 11 cases. An investment bank, such as Capstone, fulfills a critical service that complements the services provided by the Debtors' other professionals. The Debtors seek to retain Capstone as their investment banker because, among other things, Capstone has considerable expertise and experience and an excellent reputation in providing high quality financial advice and investment banking services to financially distressed companies and to creditors, purchasers, bondholders, and other constituencies in chapter 11 as well as in out-of-court proceedings.

10. Capstone has familiarized itself with the Debtors' corporate and capital structure, management, operations, and various other aspects of their businesses. Capstone has knowledge of the Debtors' financial history and business operations and is well suited to provide the Debtors with the investment banking services contemplated by the Engagement Agreement. For these reasons, the Debtors submit that the retention of Capstone as investment banker is in the best interests of the Debtors' estates and is important to the Debtors' efforts to maximize value for their stakeholders.

Services to Be Provided

11. Subject to further order of the Court, and consistent with the terms of the Engagement Agreement, Capstone's anticipated services in these chapter 11 cases will, to the extent necessary, appropriate, feasible, and as may be requested by the Debtors, include the following services (the "Transaction Services"): ³

- i. formulating a market strategy for a Transaction;
- ii. preparing a Confidential Information Memorandum, management presentations, and other marketing materials for use in the Transaction process;
- iii. identifying and contacting potential strategic and/or financial acquirers ("Prospective Acquirers");
- iv. coordinating the receipt and comparison of any offers or proposals forthcoming from Prospective Acquirers;
- v. assessing and analyzing proposed valuations, transaction structures and related terms and conditions;
- vi. providing the Company (and its stakeholders) with periodic status reports and be available to the Company and its advisors at all reasonable times to discuss any matters relating to the Transaction;
- vii. conducting an auction, if necessary, under Section 363 of the Bankruptcy Code;
- viii. negotiating and consummating definitive agreements, including where appropriate, responding to the Company's reasonable requests for assistance

³ Capitalized terms in this paragraph shall have the meaning ascribed in the Engagement Letter.

in coordinating the due diligence and transaction closing processes;

- ix. providing Bankruptcy Court (as hereinafter defined) testimony and/or witness services with respect to the Transaction process and its completeness; and
- x. provide such other advisory services as are customarily provided in connection with the analysis and negotiation of a transaction similar to a potential Transaction, as requested and mutually agreed.

See Engagement Agreement, Section 2.

No Duplication of Services

12. Capstone's services are intended to complement, and not duplicate, the services to be rendered by any other professional retained by the Debtors in these chapter 11 cases. Capstone has informed the Debtors that it understands that the Debtors have retained, and may retain, additional professionals during the term of the engagement and will use its reasonable efforts to work cooperatively with such professionals to integrate any respective work conducted by the professionals on behalf of the Debtors.

Professional Compensation

13. Capstone's decision to advise and assist the Debtors in connection with these chapter 11 cases is subject to its ability to be retained in accordance with the terms of the Engagement Agreement pursuant to section 328(a), and not section 330, of the Bankruptcy Code.

14. In consideration of the services to be provided by Capstone, and as more fully described in the Engagement Agreement, subject to this Court's approval, the Debtors and Capstone have agreed that Capstone shall, in respect of its services, be compensated under the following fee structure (the "Fee Structure"): ⁴

- a. Engagement Retainer: a non-refundable retainer of \$75,000 payable upon the execution of this Agreement (the "Retainer"). The Retainer paid by the Company to Capstone shall be fully credited against the Transaction Fee (as

⁴ Capitalized terms in this paragraph shall have the meaning ascribed to them in the Engagement Letter.

defined in (b) below); provided, however, that Capstone shall be entitled to the Minimum Transaction Fee (as defined below) or the Alternative Minimum Transaction Fee (as defined below), as applicable.

- b. Transaction Fee: In the case of an out-of-court restructuring, upon the closing of a Transaction, or in the case of an in-court restructuring, upon the consummation of a Transaction pursuant to an Order of the Bankruptcy Court or other applicable court, Capstone shall receive a cash fee (the “Transaction Fee”) equal to the following:
 - a) 3.0% of the Aggregate Transaction Value; provided, that, under no circumstances shall the Transaction Fee be less than \$850,000 even after the application of any Retainer credit (the “Minimum Transaction Fee”);
 - b) In the event that a Prospective Acquirer listed on Appendix B is successful in consummating the Transaction, the Transaction Fee shall be reduced by 25% provided that under no circumstances shall the Transaction Fee payable at closing be less than \$700,000 even after the application of any Retainer credit if one of the Prospective Acquirers on Appendix B is the successful acquirer (the “Alternative Minimum Transaction Fee”).
 - c) In the event that the Company’s senior secured lender, Tiger Finance, LLC (“Tiger”) (or its designee) is successful in consummating a Transaction as a credit bidder in the Company’s bankruptcy proceedings, and no other party outbids Tiger in connection with consummation of that Transaction, the Transaction Fee shall be the Retainer plus \$300,000. If a party outbids Tiger, but Tiger is nonetheless the successful bidder and consummates a Transaction as a credit bidder in the Company’s bankruptcy proceedings, the Transaction Fee shall be determined pursuant to subsections a) or b), above as applicable.
- c. Expert Valuation Work Fee: To the extent a scope of work is requested by the Company outside of the Transaction Services, Capstone shall be separately compensated at its current hourly rates described below for, by way of example, any expert valuation work, including diligence and drafting an expert valuation report in connection therewith.

Managing Director	\$775 - \$875
Director	\$675 - \$725
Vice President	\$625 - \$675
Associate	\$550 - \$625
Analyst	\$450 - \$500

- d. In addition, the Company agrees to reimburse Capstone for all reasonable and documented out-of-pocket expenses incurred related to the Transaction Services and Transaction described in the Engagement Agreement.

See Engagement Agreement, Section 3.

15. Further, Capstone affirms that it shall not receive any compensation on account of any transactions related to the disposition of any leases by A&G Realty Partners, LLC.

Indemnification

16. The Debtors have agreed to certain indemnification, contribution, and reimbursement obligations set forth in the Engagement Agreement (the “Indemnification”). *See* Engagement Agreement, Section 7. The Indemnification provides, among other things, that the Debtors will indemnify and hold Capstone and its officers, directors, members, managers, employees, affiliates, consultants and agents or assignees (collectively the “Capstone Indemnified Persons”) harmless, from and against losses, claims, damages or liabilities (collectively, the “Losses”), in connection with any matter in any way relating to or referred to in the Engagement Letter. The Indemnification also provides that the Debtors will reimburse each Capstone Indemnified Person for all legal and other expenses reasonably incurred by it in connection with investigating, preparing to defend or defending, or providing evidence in or preparing to serve or serving as a witness with respect to, any lawsuits, investigations, claims or other proceedings arising in any manner out of or in connection with the rendering of services by Capstone under the Engagement Agreement. The terms of the Engagement Letter and Indemnification were negotiated at arm’s-length and the Debtors submit that the indemnification and reimbursement provisions are reasonable and appropriate under the circumstances.

17. The Debtors request that the Court approve the indemnification, contribution, and reimbursement provisions set forth in the Indemnification, subject, during the pendency of these chapter 11 cases, to the following:

- a. Capstone shall not be entitled to indemnification, exculpation, contribution, or reimbursement set forth in the Engagement Letter and/or Indemnification, unless such indemnification, contribution, or reimbursement is approved by this Court;
- b. Notwithstanding any provision of the Engagement Letter and/or the Indemnification to the contrary, the Debtors shall have no obligation to indemnify Capstone, or provide contribution or reimbursement to Capstone, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from Capstone's gross negligence, fraud, willful misconduct, bad faith or self-dealing to which the Debtors have not consented; (ii) for a contractual dispute in which the Debtors allege breach of Capstone's obligations under the Engagement Letter and/or Indemnification, 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 without the Debtors' consent prior to a judicial determination as to Capstone's gross negligence, fraud, willful misconduct, bad faith or self-dealing but determined by this Court, after notice and a hearing, to be a claim or expense for which Capstone should not receive indemnity, contribution or reimbursement under the terms of the Engagement Letter and/or the Indemnification, as modified by this Order;
- c. 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) and (ii) the entry of an order closing these chapter 11 cases, Capstone or the Capstone Indemnified Person 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 Indemnification (as modified by the Order approving this Application), including without limitation, the advancement of defense costs, Capstone or the applicable Capstone Indemnified Person must file an application therefor in this Court, and the Debtors may not pay any such amounts to Capstone before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time during which this Court shall have jurisdiction over

any request for indemnification, contribution, and/or reimbursement by Capstone or any Capstone Indemnified Person, and is not a provision limiting the duration of the Debtors' obligation to indemnify, or make contributions or reimbursements to, Capstone or the applicable Capstone Indemnified Person; and

- d. Any limitation of liability provisions in the Engagement Letter and/or the Indemnification shall not apply as to any losses, claims, damages, or liabilities for which the Capstone Indemnified Person would not be entitled to indemnification under the provisions of this Order. Notwithstanding any provision in the Indemnification to the contrary, the contribution obligation of the Capstone shall not be limited to the aggregate amount of fees actually received by Capstone from the Debtors pursuant to the Engagement Letter.

18. The Debtors believe that the provisions of the Indemnification, as modified by the proposed Order, are appropriate under the circumstances, consistent with recent orders entered in this jurisdiction, and should be approved. The Debtors believe that such an indemnification obligation is customary, reasonable, and necessary to retain the services of an investment banker in these chapter 11 cases.

19. To the best of the Debtors' knowledge, information, and belief, no promises have been received by Capstone as to compensation in connection with these chapter 11 cases other than as outlined in the Engagement Agreement, and Capstone has no agreement with any other entity to share any compensation received with any person other than the principals and employees of Capstone.

20. Capstone will apply to the Court for allowance of compensation for professional services rendered and reimbursement of expenses incurred in connection with these chapter 11 cases, subject to the Court's approval and in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any orders entered in these chapter 11 cases regarding

professional compensation and reimbursement of expenses (to the extent compliance is not waived).

21. Capstone will maintain records in support of any actual, necessary costs and expenses incurred in connection with the rendering of its services in these chapter 11 cases. However, because (a) it is not the general practice of investment banking firms such as Capstone to keep detailed time records similar to those customarily kept by attorneys, (b) Capstone does not ordinarily keep time records on a “project category” basis, and (c) Capstone’s compensation is based on a Transaction Fee, the Debtors request that Capstone’s professionals only be required to maintain records (in summary format) of the services rendered for the Debtors, including summary descriptions of those services, the approximate time expended in providing those services (in one-half hour increments), and the identity of the professionals who provided those services. Capstone will present such records to this Court in its fee applications. The Debtors request that Capstone’s professionals not be required to keep time records on a “project category” basis, that its non-investment banking professionals and personnel in administrative departments (including legal) not be required to maintain any time records, and that it not be required to provide or conform to any schedule of hourly rates. To the extent that Capstone would otherwise be required to submit more detailed time records for its professionals by the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, or other applicable procedures and orders of the Court, the Debtors request that this Court waive or excuse compliance with such requirements or guidelines.

22. The Debtors believe that the Fee Structure described above and in the Engagement Letter is consistent with, and typical of, compensation arrangements entered into by Capstone and other comparable firms in connection with the rendering of similar services under similar circumstances and is reasonable, market-based, and merited by Capstone’s restructuring expertise.

After discussions and arm's-length negotiations, the Debtors believe that the Fee Structure is reasonable, market-based, and designed to compensate Capstone fairly for its work and to cover customary expenses.

23. Capstone's strategic and financial expertise, together with its capital markets knowledge, financing skills, and restructuring capabilities, some or all of which have and will be required by the Debtors during the term of Capstone's engagement were all important factors to the Debtors in determining the Fee Structure. The Debtors believe that the ultimate benefit of Capstone's services hereunder cannot be measured by reference to the number of hours to be expended by Capstone's professionals in the performance of such services. The Debtors and Capstone have agreed upon the Fee Structure in anticipation that a substantial commitment of professional time and effort will be required of Capstone and its professionals in connection with these chapter 11 cases and in light of the fact that: (a) such commitment may foreclose other opportunities for Capstone and (b) the actual time and commitment required of Capstone and its professionals to perform its services under the Engagement Agreement may vary substantially from week-to-week and month-to-month.

Capstone's Disinterestedness

24. Capstone has reviewed the list of parties-in-interest provided by the Debtors. To the best of Capstone's knowledge, as of the date hereof, and except to the extent disclosed herein or in the Lisac Declaration, Capstone: (a) is a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, as required by section 327(a) of the Bankruptcy Code; (b) does not hold or represent an interest adverse to the Debtors' estate; and (c) has no connection to the Debtors, their creditors, or related parties.

25. Given the large number of parties-in-interest in these chapter 11 cases, and despite the efforts to identify and disclose Capstone's relationships with parties-in-interest in these chapter 11 cases, Capstone is unable to state with certainty that every client relationship or other connection has been disclosed in the Lisac Declaration. Capstone will make continued inquiries following the filing of the Application, on a periodic basis, with additional disclosures to this Court if necessary or otherwise appropriate.

26. During the ninety-day (90) period before the Petition Date, Capstone did not receive any payments from the Debtors for fees or expenses. Prior to the Petition Date, Capstone had also received advance payments from the Debtors in the aggregate amount of \$75,000.00. Given the timing of the filing, Capstone may not yet have accounted for all expenses it incurred before the Petition Date. In the event Capstone subsequently becomes aware of additional prepetition expenses incurred on behalf of the Debtors, Capstone will reduce its advance by such amounts. To the extent that amounts paid by the Debtors to Capstone prior to the Petition Date exceed amounts incurred by Capstone prepetition, such excess will be held by Capstone as security throughout these chapter 11 cases until Capstone's fees and expenses are fully paid.

27. The Debtors are informed that Capstone will not share any compensation to be paid by the Debtors, in connection with services to be performed after the Petition Date, with any other person, other than other principals and employees of Capstone, to the extent required by section 504 of the Bankruptcy Code.

Basis for Relief

I. The Debtors Should be Permitted to Retain and Employ Capstone on the Terms of the Engagement Letter Pursuant to Sections 327 and 328 of the Bankruptcy Code.

28. The Debtors seek approval of the retention and employment of Capstone pursuant to sections 327(a) and 328(a) of the Bankruptcy Code. Section 327(a) of the Bankruptcy Code

authorizes a debtor in possession to employ professionals that “do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the [Debtors] in carrying out the [Debtors’] duties under this title.” 11 U.S.C. § 327(a). As discussed above and in the Lisac Declaration, Capstone satisfies the disinterestedness standard of section 327(a).

29. In addition, the Debtors seek approval of the Engagement Agreement (including the Fee Structure set forth therein) and the Indemnification, pursuant to section 328(a) of the Bankruptcy Code. Section 328(a) of the Bankruptcy Code provides, in relevant part, that debtors “with the court’s approval, may employ or authorize the employment of a professional person under section 327 . . . on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis.” 11 U.S.C. § 328(a). Section 328 of the Bankruptcy Code permits the compensation of professionals, including investment bankers and financial advisors, on more flexible terms that reflect the nature of their services and market conditions.

30. As set forth above, notwithstanding approval of the Engagement Letter under section 328(a) of the Bankruptcy Code, Capstone intends to apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with these cases, subject to the Court’s approval and in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the U.S. Trustee Guidelines, and any other applicable procedures and orders of the Court (to the extent compliance is not waived) and consistent with the Fee Structure set forth in the Engagement Letter.

31. The Debtors believe that the Fee Structure appropriately reflects the nature and scope of services to be provided by Capstone in these chapter 11 cases, Capstone’s substantial experience with respect to investment banking services, and the fee structures typically utilized by

Capstone and other leading investment banks that do not bill their client on an hourly basis. In agreeing to seek Capstone's retention under section 328(a) of the Bankruptcy Code, the Debtors acknowledge that: (a) they believe that Capstone's general restructuring experience and expertise, its knowledge of the capital markets, and its merger and acquisition capabilities will inure to the benefit of the Debtors in pursuing any Transaction, Restructuring, or Capital Raise; (b) that the value to the Debtors of Capstone's services under the Engagement Letter derives in substantial part from that expertise and experience; (c) that, accordingly, the Fee Structure is reasonable regardless of the number of hours to be expended by Capstone's professionals in the performance of the services to be provided under the Engagement Letter; and (d) that any deferred fees earned by Capstone pursuant to the Engagement Letter should not be considered to be "bonuses" or fee enhancements under applicable law.

32. Indeed, similar fixed and contingency fee arrangements in other large chapter 11 cases have been regularly approved and implemented by courts in this circuit and elsewhere. *See, e.g., In re Careismatic*, No. 24-10561 (VFP) (Bankr. D.N.J. Feb. 26, 2024); *In re Rite Aid Corporation*, No. 23-18993 (MBK) (Bankr. D.N.J. Jan. 29, 2024); *In re WeWork, Inc.*, No. 23-19865 (JKS) (Bankr. D.N.J. Dec. 28, 2023); *In re Cyxtera Technologies, Inc.*, No. 23-14853 (JKS) (Bankr. D.N.J. June 4, 2023); *In re Redwood Liquidating Co.*, No. 22-10621 (BLS) (Bankr. D. Del. Aug. 17, 2022); *In re Alto Maipo SpA*, No. 21-11507 (KBO) (Bankr. D. Del. Dec. 17, 2021); *In re Insys Therapeutics, Inc.*, No. 19-11292 (KG) (Bankr. D. Del. July 15, 2019); *In re Claire's Stores, Inc.*, No. 18-10584 (MFW) (Bankr. D. Del. Apr. 4, 2018); *In re GST AutoLeather, Inc.*, No. 17-12100 (LSS) (Bankr. D. Del. Oct. 27, 2017); *In re Standard Register Co.*, No. 15-10541 (BLS) (Bankr. D. Del. Apr. 13, 2015); *In re AWI Delaware, Inc.*, No. 14-12092 (KJC) (Bankr. D.

Del. Sep. 17, 2014); *In re Longview Power, LLC*, No. 13-12211 (BLS) (Bankr. D. Del. Sept. 24, 2013).⁵

33. The Debtors also believe that employment of Capstone effective as of the Petition Date is warranted by the circumstances presented by these chapter 11 cases. The Third Circuit has identified “time pressure to begin service” and absence of prejudice as factors favoring retroactive retention. *See In re Ark. Co.*, 798 F.2d 645, 650 (3d Cir. 1986) (“[T]he bankruptcy courts have the power to authorize retroactive employment of counsel and other professionals under their broad equity power.”) (collecting cases). The complexity, compressed timing, and intense activity relating to the preparation and filing of these chapter 11 cases necessitated that the Debtors and Capstone, as well as the Debtors’ other professionals, focus their immediate attention on time-sensitive matters, and promptly devote substantial resources to the affairs of the Debtors to comply with the pending submission and approval of this Application.

II. The Provisions of the Indemnification Are Appropriate.

34. The Debtors and Capstone believe that the provisions set forth in the Indemnification are customary and reasonable for investment banking engagements, both out of court and in chapter 11 cases, and (as modified by the proposed Order) reflect the qualifications and limitations on indemnification provisions in this district, and others. *See, e.g., In re Careismatic*, No. 24-10561 (VFP) (Bankr. D.N.J. Feb. 26, 2024) (approving similar indemnification provisions as set forth in the Indemnification); *In re Rite Aid Corporation*, No. 23-18993 (MBK) (Bankr. D.N.J. Jan. 29, 2024) (same); *In re WeWork, Inc.*, No. 23-19865 (JKS) (Bankr. D.N.J. Dec. 28, 2023) (same); *In re Cyxtera Technologies, Inc.*, No. 23-14853 (JKS)

⁵ Because 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 Debtors’ proposed counsel.

(Bankr. D.N.J. June 4, 2023) (same); *In re Redwood Liquidating Co.*, No. 22-10621 (BLS) (Bankr. D. Del. Aug. 17, 2022)(same); *In re Insys-Therapeutics, Inc.*, No. 19-11292 (KG) (Bankr. D. Del. July 15, 2019) (same); *In re Claire's Stores, Inc.*, No. 18-10584 (MFW) (Bankr. D. Del. Apr. 4, 2018) (same); *In re GST AutoLeather, Inc.*, No. 17-12100 (LSS) (Bankr D. Del. Oct. 27, 2017) (same); *In re Standard Register Co.*, No. 15-10541 (BLS) (Bankr. D. Del. Apr. 13, 2015) (same); *In re AWI Delaware, Inc.*, No. 14-12092 (KJC) (Bankr. D. Del. Sep. 17, 2014) (same).

35. In light of the foregoing, and given the numerous issues that Capstone may be required to address in the performance of its services under the Engagement Letter, Capstone's commitment to the variable level of time and effort necessary to address all such issues as they arise, and the market prices for Capstone's services for engagement of this nature, the Debtors believe that the terms and conditions of the Engagement Letter are fair, reasonable, and market-based under the standards set forth in section 328(a) of the Bankruptcy Code.

III. The Retention of Capstone is Critical to the Debtors' Chapter 11 Efforts.

36. The Debtors submit that the retention of Capstone is in the best interests of all parties in interest in these chapter 11 cases. As set forth above, Capstone has extensive experience in matters involving complex financial restructurings and an excellent reputation for the services that it has rendered in chapter 11 cases on behalf of debtors and creditor constituencies throughout the United States. Capstone is a preeminent investment banking firm that is intimately familiar with the Debtors' businesses. Denial of the relief requested herein will deprive the Debtors of the assistance of Capstone's uniquely qualified professionals who have provided services to them over approximately the last five months and have continued to assist them following the Petition Date. Indeed, if the Debtors were forced to engage a new investment banker who lacks a thorough understanding of the Debtors' businesses, such change would mandate the commitment of significant resources to educate a replacement, causing significant delay and increased cost. Based

on services performed to date, Capstone was integral in preparing the Debtors for these chapter 11 cases.

37. Based on the foregoing, the Debtors submit that they have satisfied the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules to support entry of an order authorizing the Debtors to retain and employ Capstone in these chapter 11 cases on the terms described herein and in the Engagement Letter.

Request of Waiver of Stay

38. To the extent that the relief sought in this Application constitutes a use of property under section 363(b) of the Bankruptcy Code, the Debtors seek a waiver of the fourteen-day stay under Bankruptcy Rule 6004(h). Further, to the extent applicable, the Debtors request that the Court find that the provisions of Bankruptcy Rule 6003 are satisfied. As explained herein, the relief requested in this Application is immediately necessary for the Debtors to be able to continue to operate their business and preserve the value of their estates.

No Prior Request

39. No prior Application for the relief sought in this Application has been made to this Court or any other court.

Notice

40. The Debtors will provide notice of this Motion to the following parties or their respective counsel: (a) the Office of the U.S. Trustee for the District of New Jersey, Attn: Fran B. Steele, Esq. and Peter J. D'Auria, Esq.; (b) the holders of the thirty (30) largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel for the Committee, Porzio, Bromberg & Newman, P.C., Brett S. Moore, Kelly D. Curtin, and Rachel A. Parisi; (d) counsel for Tiger Finance LLC, Riemer & Braunstein LLP, Anthony B. Stumbo, Esq. and Steven E. Fox, Esq. with a copy to local counsel, Mandelbaum Barret PC, Three Becker Farm Road, Suite 105, Roseland,

New Jersey 07068, Attn: Vincent J. Roldan, Esq.; (e) the office of the attorney general for each of the states in which the Debtors operate; (f) the United States Attorney's Office for the District of New Jersey; (g) the Internal Revenue Service; and (h) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Debtors request that the Court enter an order, in substantially the form submitted herewith, granting the relief requested herein and such other relief as is just and proper under the circumstances.

DATED: June 7, 2024

/s/ Jordan Meyers
Jordan Meyers
Chief Restructuring Officer
Sam Ash Music Corporation, *et al.*

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)
COLE SCHOTZ P.C.
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
(201) 489-3000
(201) 489-1536 Facsimile
Michael D. Sirota, Esq.
msirota@coleschotz.com
Ryan T. Jareck, Esq.
rjareck@coleschotz.com
Matteo Percontino, Esq.
mpercontino@coleschotz.com
Proposed Counsel to Debtors and Debtors in Possession

In re:

SAM ASH MUSIC CORPORATION, *et al.*

Debtors.¹

Chapter 11

Case No. 24-14727 (SLM)

Judge: Stacey L. Meisel

(Jointly Administered)

ORDER GRANTING DEBTORS' APPLICATION FOR ENTRY OF AN ORDER (I) AUTHORIZING THE RETENTION AND EMPLOYMENT OF CAPSTONE CAPITAL MARKETS, LLC AS INVESTMENT BANKER TO THE DEBTORS AND DEBTORS IN POSSESSION EFFECTIVE AS OF THE PETITION DATE, (II) WAIVING CERTAIN TIMEKEEPING REQUIREMENTS, AND (III) GRANTING RELATED RELIEF

The relief set forth on the following pages, number two (2) through eleven (11), is
ORDERED.

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Sam Ash Music Corporation (3915); Samson Technologies Corp. (4062); Sam Ash Megastores, LLC (9955); Sam Ash California Megastores, LLC (3598); Sam Ash Florida Megastores, LLC (7276); Sam Ash Illinois Megastores, LLC (8966); Sam Ash Nevada Megastores, LLC (6399); Sam Ash New York Megastores, LLC (7753); Sam Ash New Jersey Megastores, LLC (8788); Sam Ash CT, LLC (5932); Sam Ash Music Marketing, LLC (2024); and Sam Ash Quikship Corp. (7410). The location of debtor Sam Ash Music Corporation's principal place of business is 278 Duffy Avenue, P.O. Box 9047, Hicksville, NY 11802.

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Debtors: SAM ASH MUSIC CORPORATION, *et al.*

Case No. 24-14727 (SLM)

Caption of Order: Order (I) Authorizing the Retention and Employment of Capstone Capital Markets, LLC as Investment Banker to the Debtors and Debtors in Possession Effective as of the Petition Date, (II) Waiving Certain Timekeeping Requirements, and (III) Granting Related Relief

Upon the *Debtors Application for Entry of an Order (I) Authorizing the Retention and Employment of Capstone Capital Markets, LLC as Investment Banker to the Debtors and Debtors in Possession Effective as of the Petition Date, (II) Waiving Certain Timekeeping Requirements, and (III) Granting Related Relief* (the “Application”)¹ of the above-captioned debtors and debtors in possession (collectively, the “Debtors”),² for entry of an order (this “Order”): (a) authorizing the Debtors to retain and employ Capstone Capital Markets, LLC (“Capstone”) as their investment banker, effective as of the Petition Date, in accordance with that certain engagement letter, dated as of April 16, 2024, a copy of which is attached hereto as **Exhibit 1**; (b) waiving certain timekeeping requirements pursuant to Local Rule 2016-1, the U.S. Trustee Guidelines, and any other applicable procedures and orders of this Court in connection with Capstone’s engagement; and (c) granting related relief, all as more fully set forth in the Application; and upon the Lisac Declaration; and this Court having jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the Standing Order of Reference to the Bankruptcy Court Under Title 11 of the United States District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.); and this Court having found that venue of this proceeding and the Application in this district is proper pursuant to

¹ Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Application.

² A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://www.donlinrecano.com/careismatic>. The location of Debtor Careismatic Brands, LLC’s principal place of business and the Debtors’ service address in these chapter 11 cases is: 1119 Colorado Avenue, Santa Monica, California 90401.

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Debtors: SAM ASH MUSIC CORPORATION, *et al.*

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28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Application was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Application and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Application 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** on a basis as set forth herein.
2. Pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, Bankruptcy Rules 2014(a) and 2016, and Local Rules 2014-1 and 2016-1, the Debtors are hereby authorized to retain Capstone as investment banker to the Debtors in these chapter 11 cases effective as of the Petition Date on the terms and conditions set forth in the Application and the Engagement Letter attached hereto as **Exhibit 1**, to the extent approved herein.
3. Capstone shall be compensated for fees and reimbursed for its reasonable, documented out-of-pocket expenses by the Debtors in accordance with the terms of the Engagement Letter (together with all attachments thereto), as modified herein, and all fees and out-of-pocket expense reimbursements to be paid to Capstone, including the Transaction Fee and Expert Valuation Work Fee, are approved pursuant to section 328(a) of the Bankruptcy Code, and the Debtors are authorized and directed to perform their payment, reimbursement, contribution, and indemnification obligations and their non-monetary obligations in accordance with the terms and conditions, and at the times specified, in the Engagement Letter. All compensation and

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reimbursement of expenses payable under the Engagement Letter shall be subject to review only pursuant to the standards set forth in section 328(a) of the Bankruptcy Code, except as expressly set forth herein.

4. Notwithstanding anything in the Application, Lisac Declaration, or Engagement Letter to the contrary, Capstone shall apply any remaining amounts of any prepetition retainers or advances as a credit toward postpetition fees and expenses, after such postpetition fees and expenses are approved pursuant to an order of the Court awarding fees and expenses to Capstone. Capstone is authorized without further order of the Court to apply amounts from any prepetition retainer or advance that would otherwise be applied toward payment of postpetition fees and expenses as are necessary and appropriate to compensate and reimburse Capstone for fees or expenses incurred on or prior to the Petition Date consistent with its ordinary course billing practices. At the conclusion of Capstone's engagement by the Debtors, if the amount of any prepetition retainer or advance held by Capstone is in excess of the amount of Capstone's outstanding and estimated fees, expenses, and costs, Capstone will pay to the Debtors the amount by which any prepetition advance or retainer exceeds such fees, expenses, and costs, in each case in accordance with the Application and Engagement Letter.

5. Notwithstanding anything to the contrary contained herein or in the Application and/or Engagement Letter, Capstone shall file interim and final fee applications for allowance of compensation and reimbursement of its out-of-pocket expenses incurred pursuant to sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the U.S. Trustee Guidelines and any other procedures or orders of the Bankruptcy Court; *provided, however*, the

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Debtors: SAM ASH MUSIC CORPORATION, *et al.*

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compensation, fees, and expenses payable to Capstone pursuant to the Engagement Agreement shall be subject to review only pursuant to the standards set forth in section 328(a) of the Bankruptcy Code, and shall not be subject to any other standard of review set forth in section 330 of the Bankruptcy Code, except, notwithstanding any provisions to the contrary in this Order, the U.S. Trustee shall retain the right and be entitled to object to Capstone's fees, expenses and other compensation based on the reasonableness standard provided for in section 330 of the Bankruptcy Code. Capstone shall be entitled to seek interim allowance and payment of any Capital Raising Fee and/or Restructuring Fee by filing an application in accordance with the "Compensation Procedures" set forth in paragraph 2.A. of the any order granting the *Debtors' Motion for Entry of an Administrative Fee Order Establishing Procedures for the Allowance and Payment of Interim Compensation and Reimbursement of Expenses of Professionals Retained by Order of this Court* [Docket No. 70] (the "Interim Compensation Order"), provided that Capstone shall be entitled to file and serve such application in respect of any Transaction Fee immediately upon the consummation of such transaction. Notwithstanding the foregoing, the full amount of each Transaction Fee will be escrowed upon the consummation of the applicable transaction until such amounts are permitted to be paid to Capstone pursuant to this Order, the Interim Compensation Order or a further order of this Court. Capstone shall not be required to file monthly fee statements as required by the Interim Compensation Order.

6. Notwithstanding paragraphs 3 and 5 hereof, the U.S. Trustee shall retain the right to object to the compensation, fees, and expenses to be paid to Capstone pursuant to the Application and the Engagement Agreement, including the Transaction Fee, based on the

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Debtors: SAM ASH MUSIC CORPORATION, *et al.*

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reasonableness standard provided for in section 330 of the Bankruptcy Code; *provided*, that reasonableness for this purpose shall include, among other things, an evaluation by comparing the fees payable in this case to the fees paid to other investment banking firms for comparable services in other chapter 11 cases and outside of chapter 11 cases, and shall not be evaluated solely on the basis of time committed or the length of these cases. Accordingly, nothing in this Order or the record shall constitute a finding of fact or conclusion of law binding on the U.S. Trustee, on appeal or otherwise, with respect to the reasonableness of Capstone's compensation. This Order and the record relating to this Court's consideration of the Application shall not prejudice or otherwise affect the rights of the U.S. Trustee to challenge the reasonableness of Capstone's compensation, fees, and expenses under the standard set forth in the preceding sentence. Accordingly, nothing in this Order or such record shall constitute a finding of fact or conclusion of law binding the U.S. Trustee, on appeal or otherwise, with respect to the reasonableness of Capstone's fees.

7. Capstone shall file interim and final fee applications for the allowance of compensation for services rendered and reimbursement of expenses incurred in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of this Court. Capstone is hereby authorized to keep reasonably detailed time records in half-hour increments, and shall not be required to keep time records on a "project category" basis or conform to any schedule of hourly rates, and will submit, with any interim or final fee application, together with the time records, a narrative summary of services rendered and will identify each professional rendering services and the total amount of compensation requested by Capstone.

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Debtors: SAM ASH MUSIC CORPORATION, *et al.*

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8. Capstone will review its files periodically during the pendency of these chapter 11 cases to ensure that no conflicts or other disqualifying circumstances exist or arise. If any new relevant facts or relationships are discovered or arise, Capstone will promptly file a supplemental declaration, as required by Bankruptcy Rule 2014(a).

9. The indemnification, contribution, and reimbursement provisions set forth in the Indemnification are approved, subject, during the pendency of these chapter 11 cases, to the following modifications:

- a. Capstone shall not be entitled to indemnification, exculpation, contribution, or reimbursement set forth in the Engagement Letter and/or Indemnification, unless such indemnification, contribution, or reimbursement is approved by this Court;
- b. Notwithstanding any provision of the Engagement Letter and/or the Indemnification to the contrary, the Debtors shall have no obligation to indemnify Capstone, or provide contribution or reimbursement to Capstone, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from Capstone's gross negligence, fraud, willful misconduct, bad faith or self-dealing to which the Debtors have not consented; (ii) for a contractual dispute in which the Debtors allege breach of Capstone's obligations under the Engagement Letter and/or Indemnification, 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 without the Debtors' consent prior to a judicial determination as to Capstone's gross negligence, fraud, willful misconduct, bad faith or self-dealing but determined by this Court, after notice and a hearing, to be a claim or expense for which Capstone should not receive indemnity, contribution or reimbursement under the terms of the Engagement Letter and/or the Indemnification, as modified by this Order;

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- c. 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) and (ii) the entry of an order closing these chapter 11 cases, Capstone or the Capstone Indemnified Person 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 Indemnification (as modified by the Order approving this Application), including without limitation, the advancement of defense costs, Capstone or the applicable Capstone Indemnified Person must file an application therefor in this Court, and the Debtors may not pay any such amounts to Capstone before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time during which this Court shall have jurisdiction over any request for indemnification, contribution, and/or reimbursement by Capstone or any Capstone Indemnified Person, and is not a provision limiting the duration of the Debtors' obligation to indemnify, or make contributions or reimbursements to, Capstone or the applicable Capstone Indemnified Person; and
- d. Any limitation of liability provisions in the Engagement Letter and/or the Indemnification shall not apply as to any losses, claims, damages, or liabilities for which the Capstone Indemnified Person would not be entitled to indemnification under the provisions of this Order. Notwithstanding any provision in the Indemnification to the contrary, the contribution obligation of the Capstone shall not be limited to the aggregate amount of fees actually received by Capstone from the Debtors pursuant to the Engagement Letter.

10. Capstone shall use its best efforts to avoid any duplication of services provided by any of the Debtors' other retained professionals in these chapter 11 cases.

11. Notwithstanding anything to the contrary in the Application, Lisac Declaration or the Engagement Letter, all fees paid to Capstone by the Debtors pursuant to the Engagement Letter

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during these chapter 11 cases are subject to disgorgement unless and until they are approved by the Court on a final basis, after submission of Capstone's final fee application.

12. Notwithstanding anything to the contrary in the Application, the Lisac Declaration or the Engagement Letter, this Court shall have exclusive jurisdiction over Capstone's engagement during the pendency of these chapter 11 cases.

13. To the extent there is any inconsistency between the terms of the Engagement Letter, the Application, the Lisac Declaration, and this Order, the terms of this Order shall govern.

14. To the extent the Debtors wish to expand the scope of Capstone's services beyond those services set forth in or contemplated in the Engagement Letter or this Order (and as to which additional compensation would otherwise be payable), the Debtors shall be required to seek further approval from this Court. The Debtors shall file notice of any proposed additional services and any underlying engagement agreement with the Court and serve such notice on the U.S. Trustee, counsel for any committee appointed in these chapter 11 cases, and any party requesting notice under Bankruptcy Rule 2002. If no such party files an objection within fourteen days of the Debtors filing such notice, such additional services and any underlying engagement agreement may be approved by the Court by further order without further notice or hearing.

15. Notwithstanding anything in the Application, the Lisac Declaration, or the Engagement Letter to the contrary: (a) Capstone shall, to the extent that Capstone uses the services of independent contractors or subcontractors (collectively, the "Contractors") in these cases, (i) pass through the cost of such Contractors to the Debtors at the same rate that Capstone pays the Contractors, (ii) seek reimbursement for actual costs only, (iii) ensure that the Contractors perform

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Debtors: SAM ASH MUSIC CORPORATION, *et al.*

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the conflicts check required by Bankruptcy Rule 2014 , (iv) file such disclosures required by Bankruptcy Rule 2014 with the Court; and (v) attach any such Contractor invoices to its interim fee applications and/or final fee applications filed in these cases. In the event Capstone seeks to use any of its affiliates to perform services for the Debtors (separate for the services being provided under the Engagement Letter), the Debtors shall seek the separate retention of any such affiliates.

16. In the event that, during the pendency of these cases, Capstone seeks reimbursement for any attorneys' fees and/or expenses, the invoices and supporting time records from such attorneys, appropriately redacted to preserve applicable privileges, shall be included in Capstone's fee applications and such invoices and time records shall be in compliance with the Local Rules, the U.S. Trustee Guidelines, and approval of the Court under the standards of sections 330 and 331 of the Bankruptcy Code, without regard to whether such attorney has been retained under section 327 of the Bankruptcy Code and without regard to whether such attorney's services satisfy section 330(a)(3)(C) of the Bankruptcy Code.

17. Notwithstanding the foregoing, Capstone shall only be reimbursed for any legal fees incurred in connection with these chapter 11 cases to the extent permitted under applicable law; provided, however, that Capstone shall not seek reimbursement from the Debtors' estates for any fees incurred in defending any of Capstone's fee applications in these chapter 11 cases.

18. Notwithstanding anything in the Application or any supporting declarations to the contrary, Capstone shall seek reimbursement from the Debtors' estates for its engagement-related expenses at the firm's actual cost.

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Debtors: SAM ASH MUSIC CORPORATION, *et al.*

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19. None of the fees payable to Capstone shall constitute a “bonus” or fee enhancement under applicable law.

20. Such services other than set forth in the Application that the Debtors may request that Capstone provide during the course of these chapter 11 cases, and as agreed to by Capstone, shall be subject to separate application and order of this Court.

21. To the extent that there may be any inconsistency between the terms of the Engagement Letter, the Application, the Lisac Declaration, and this Order, the terms of this Order shall govern.

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

23. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this Order shall be effective and enforceable immediately upon entry hereof.

24. Notice of the Application as provided therein shall be deemed good and sufficient notice of such Application and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

25. Notwithstanding anything to the contrary in the Application, the Lisac Declaration or the Engagement Letter, this Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of the Engagement Letter and this Order.

Exhibit 1

Engagement Letter



TRANSACTION ENGAGEMENT AGREEMENT

This Transaction Engagement Agreement (the “Agreement”) dated April 5, 2024 (the “Effective Date”) is made by and between Sam Ash Music Corporation, including all related subsidiaries and affiliates outlined below in **Appendix A**, whose principal place of business is 278 Duffy Ave, Hicksville, NY 11801 (together with all of its related subsidiaries, affiliates, successors and assigns, the “Company” or “its”), and Capstone Capital Markets, LLC, whose headquarters is located at 176 Federal St., 3rd Floor, Boston, MA 02110 (“Capstone”). In consideration of the mutual promises set forth below, the Company and Capstone agree as follows:

Section 1: Engagement. The Company hereby engages Capstone to act as its sole and exclusive investment banking advisor in connection with the sale of all or substantially all of the Company (including some or all of its subsidiaries) by means of a merger, consolidation, recapitalization, business combination, reorganization pursuant to a Chapter 11 plan, including as a result of a credit bid issued in accordance with section 363(k) of title 11 of the United States Code (the “Bankruptcy Code”), spin-off, exchange offer, tender offer, sale of stock or assets, or other similar transactions (any of the foregoing, a “Transaction”); provided, that, for the avoidance of doubt, other than a credit bid as set forth in Section 3.(ii)(c), the Transaction shall not include any fee-based or equity/guarantee third-party inventory liquidation and/or store closing sales.

Section 2: Scope of Services. Capstone’s services may include assisting and advising the Company with:

- (i) formulating a market strategy for a Transaction;
- (ii) preparing a Confidential Information Memorandum, management presentations, and other marketing materials for use in the Transaction process;
- (iii) identifying and contacting potential strategic and/or financial acquirers (“Prospective Acquirers”);
- (iv) coordinating the receipt and comparison of any offers or proposals forthcoming from Prospective Acquirers;
- (v) assessing and analyzing proposed valuations, transaction structures and related terms and conditions;
- (vi) providing the Company (and its stakeholders) with periodic status reports and be available to the Company and its advisors at all reasonable times to discuss any matters relating to the Transaction;
- (vii) conducting an auction, if necessary, under Section 363 of the Bankruptcy Code;
- (viii) negotiating and consummating definitive agreements, including where appropriate, responding to the Company’s reasonable requests for assistance in coordinating the due diligence and transaction closing processes;
- (ix) providing Bankruptcy Court (as hereinafter defined) testimony and/or witness services with respect to the Transaction process and its completeness; and
- (x) provide such other advisory services as are customarily provided in connection with the analysis and negotiation of a transaction similar to a potential Transaction, as requested and mutually agreed (collectively, the “Transaction Services”).

The Company understands that by this Agreement, Capstone does not guarantee the consummation of a Transaction. Capstone, for all purposes hereunder, shall be an independent contractor and any duties of Capstone arising out of its engagement pursuant to this Agreement shall be owed solely to the Company. This Agreement is not intended in any way to create the relationship of principal or agent between the Company and Capstone, nor shall this Agreement be deemed to have established a partnership or joint venture. The Company shall have the sole and absolute right to accept or reject any offer received from Prospective Acquirers, and any Transaction Fee (as defined in Section 3 below) payable hereunder shall be paid by the Company to Capstone only if a Transaction is consummated.



The Company acknowledges that Capstone has been retained hereunder solely as an advisor to the Company, and not as an advisor to or agent of any other person, and that the engagement of Capstone is as an independent contractor and not in any other capacity including as a fiduciary. Neither this agreement nor Capstone's performance hereunder nor any previous or existing relationship between Capstone and the Company will be deemed to create any fiduciary relationship. The Company further acknowledges that it is not relying on the advice of Capstone for tax, legal or accounting matters, and will rely on the advice of its own professionals and advisors for such matters and will make an independent analysis and decision regarding any Transaction based upon such advice.

It is understood that any information or advice rendered by Capstone or any of its representatives in connection with this Transaction is for the confidential use of the Company and its Board of Directors and will not be reproduced, disseminated, summarized, described, quoted or referred to or given to any other person at any time, in any manner or for any purpose without Capstone's prior written consent.

Section 3: Professional Fees. As compensation for the Transaction Services rendered hereunder by Capstone, the Company agrees to pay Capstone:

- (i) **Engagement Retainer:** a non-refundable retainer of \$75,000 payable upon the execution of this Agreement (the "Retainer"). The Retainer paid by the Company to Capstone shall be fully credited against the Transaction Fee (as defined in (ii) below); provided, however, that Capstone shall be entitled to the Minimum Transaction Fee (as defined below) or the Alternative Minimum Transaction Fee (as defined below), as applicable.
- (ii) **Transaction Fee:** In the case of an out-of-court restructuring, upon the closing of a Transaction, or in the case of an in-court restructuring, upon the consummation of a Transaction pursuant to an Order of the Bankruptcy Court or other applicable court, Capstone shall receive a cash fee (the "Transaction Fee") equal to the following:
 - a. 3.0% of the Aggregate Transaction Value (as defined in Section 4 below); provided, that, under no circumstances shall the Transaction Fee be less than \$850,000 even after the application of any Retainer credit (the "Minimum Transaction Fee");
 - b. In the event that a Prospective Acquirer listed on **Appendix B** is successful in consummating the Transaction, the Transaction Fee shall be reduced by 25% provided that under no circumstances shall the Transaction Fee payable at closing be less than \$700,000 even after the application of any Retainer credit if one of the Prospective Acquirers on **Appendix B** is the successful acquirer (the "Alternative Minimum Transaction Fee").
 - c. In the event that the Company's senior secured lender, Tiger Finance, LLC ("Tiger") (or its designee) is successful in consummating a Transaction as a credit bidder in the Company's bankruptcy proceedings, and no other party outbids Tiger in connection with consummation of that Transaction, the Transaction Fee shall be the Retainer plus \$300,000. If a party outbids Tiger, but Tiger is nonetheless the successful bidder and consummates a Transaction as a credit bidder in the Company's bankruptcy proceedings, the Transaction Fee shall be determined pursuant to subsections a. or b., above as applicable.
- (iii) **Expert Valuation Work Fee:** To the extent a scope of work is requested by the Company outside of the Transaction Services, Capstone shall be separately compensated at its current hourly rates described below for, by way of example, any expert valuation work, including diligence and drafting an expert valuation report in connection therewith.

Managing Director	\$775 - \$875
Director	\$675 - \$725



Vice President	\$625 - \$675
Associate	\$550 - \$625
Analyst	\$450 - \$500

During the Term (as defined below) of this Agreement, the Transaction Fee, if earned by Capstone pursuant to the terms herein, shall be payable to Capstone regardless of whether or not the Prospective Acquirer was introduced to the Company by Capstone or otherwise.

In addition, the Company agrees to reimburse Capstone for all reasonable and documented out-of-pocket expenses incurred related to the Transaction Services and Transaction described herein.

The Company acknowledges that there are no brokers, financial representatives, or other persons who have an interest in compensation due to Capstone from the Transaction Services and Transaction contemplated herein. During the term of this Agreement, the Company agrees not to hire or authorize any other person or party to act as investment banking advisor to the Company in connection with the Transaction Services and/or related matters covered by this Agreement.

Section 4: Transaction Value. For the purpose of calculating the Transaction Fee, the Transaction Value shall be the gross proceeds and other consideration paid to, or received by, or to be paid to or received by, any entity comprising the Company, or any of its equity or debt holders, or other parties in interest, including, without limitation, holders of warrants and convertible securities, and holders of options or stock appreciation rights, whether or not vested (collectively “Constituents”), in connection with the relevant Transaction. Such proceeds and consideration shall be deemed to include, without limitation, the following to the extent paid or assumed by purchaser: amounts in escrow and any deposits or other amounts forfeited by any investor; cash, notes, securities, and other property; payments made in installments; change of control bonuses, retention payments, or similar arrangements; Contingent Payments (as defined below); and/or insurance proceeds upon the occurrence of an insurable event that diminishes the consideration paid for the Company. Upon the closing of a Transaction in which less than 100% of the ownership of the equity interests are sold, the Transaction Value shall be calculated as if 100% of the ownership of the equity interests of the Company on a fully diluted basis had been sold by dividing (i) the total consideration, whether in cash, securities, notes or other forms of consideration, received or receivable by the Company and/or its Constituents by (ii) the percentage of ownership which is sold. If, in the Transaction, no consideration is being paid in respect of the existing equity, Transaction Value of the retained equity shall be determined by the good faith agreement of the parties as to the value of such retained equity implied by the Transaction. In addition, if any of the liabilities of any entity comprising the Company are assumed, decreased (but only to the extent of such decrease), reinstated, satisfied or otherwise paid off in conjunction with a Transaction (by any entity comprising the Company or any investor, in the form of “cure” payments or otherwise), or any of the assets of any entity comprising the Company are sold or otherwise transferred outside of the Company’s ordinary course of business to another party prior to the closing of a Transaction (including, without limitation, any dividends or distributions paid to security holders or amounts paid to repurchase any securities) or are retained by any entity comprising the Company after the closing of the Transaction, the Transaction Value will be increased to reflect the face value of any such liabilities and the fair market value of any such assets (adjusted as appropriate so as not to double count any reduction in the face value of liabilities to the extent such liabilities are (i) paid off in cash using gross proceeds from a Transaction or (ii) already included in the calculation of Transaction Value pursuant to this Section 4). For purposes of calculating the Transaction Fee, the term “Contingent Payments” shall mean the consideration received by the Company, or any of its Constituents and/or any other parties in the form of deferred performance-based payments, “earn-outs”, or other contingent payments based upon the performance of any entity comprising the Company, or any of its businesses or assets. For the sake of clarity, Contingent Payments shall only be included in the Transaction Value if the Contingent Payments are actually made to and received by, the Company.

Section 5: Term and Termination. This Agreement shall be in effect from the Effective Date and will continue until the earlier of consummation of a Transaction or thirty (30) days after either Company or Capstone shall have notified the other party in writing of the termination of this Agreement; termination for cause by either party will occur



immediately following such written notice (the “Term”). The Company and Capstone expressly acknowledge and agree that the provisions of Sections 3 through 12, inclusive, shall survive any termination of this Agreement.

Notwithstanding the termination of this Agreement for any reason, the Company will remain obligated to pay to Capstone the Transaction Fee if the Company within 12 months after the date of such termination, enters into an agreement with respect to a Transaction that subsequently is consummated involving a Prospective Acquirer that prior to termination of this Agreement had been: (a) contacted with respect to a Transaction; (b) made aware of a Transaction through the efforts of or material produced by Capstone, either directly or indirectly; (c) identified as a potential interested party and the Company instructed Capstone not to contact that party; or (d) otherwise expressed interest in a Transaction with the Company (the “Tail Fee”). All Prospective Acquirers referred to in the preceding sentence shall be listed in a report given to the Company within 10 days of termination of this Agreement and no Transaction Fee shall be payable with respect to any acquirer not listed; provided, that, (x) no Tail Fee shall be payable pursuant to the foregoing sentence in the event Capstone is terminated in writing for Cause; “Cause” shall mean a final judicial determination of the gross negligence, willful misconduct, fraud or bad faith of Capstone in performing the services that are the subject of this Agreement; and (y) no Tail Fee shall be payable to Capstone following the occurrence of a restructuring and payment of the Transaction Fee to Capstone.

Section 6: Representations. The Company represents and warrants that the Company, to the best of its knowledge, is now and shall remain in material compliance with all local, state, and federal laws, rules, and regulations materially affecting the operation of the Company. The Company further represents and warrants, to the best of its knowledge, that all facts, figures, information and additional supporting documentation pertaining to the Company that have been or will be provided to Capstone by the Company are true and accurate in all material respects. The Company understands that Capstone will rely on such facts, figures and other information when describing and promoting a Transaction to potential Prospective Acquirers without making an investigation into the accuracy of such representations by the Company. As such, the Company will actively participate in the preparation of any descriptive materials related to a Transaction and assume sole responsibility for the content of said materials.

In the event that during the Term of this Agreement, the Company or any of its officers, directors, employees or agents is contacted by or on behalf of any prospective purchaser or other third party concerning the possibility of a Transaction, the Company will promptly so inform Capstone and will refer any such persons to Capstone.

Section 7: Indemnification. The Company, or its survivor, shall: (i) indemnify and hold harmless Capstone, its officers, directors, members, managers, employees, affiliates, consultants and agents or assignees (collectively the “Capstone Indemnified Persons”) from and against any and all losses, claims, damages or liabilities to which any Capstone Indemnified Person may become subject arising in any manner out of or in connection with the rendering of services by Capstone hereunder unless it is finally determined by a court or arbitral tribunal that such losses, claims, damages or liabilities are solely the result of Capstone’s gross negligence or willful misconduct; and (ii) reimburse each Capstone Indemnified Person promptly for all legal and other expenses reasonably incurred by it in connection with investigating, preparing to defend or defending, or providing evidence in or preparing to serve or serving as a witness with respect to, any lawsuits, investigations, claims or other proceedings arising in any manner out of or in connection with the rendering of services by Capstone hereunder.

The Company agrees that the indemnification and reimbursement commitments set forth in this Section 8 shall apply whether or not Capstone or any Capstone Indemnified Person is a formal party to any lawsuit, investigation, claim or other proceeding and whether or not any such Capstone Indemnified Person is at the time affiliated with Capstone. The Company further agrees that, without Capstone’s prior written consent, such consent not to be unreasonably withheld or delayed, the Company will not enter into any settlement of a lawsuit, claim or other proceeding arising out of the transactions contemplated by this Agreement to which Capstone or any Capstone Indemnified Person is an actual party or, in the reasonable judgment of such party, is a potential party, unless such settlement includes an explicit and unconditional release from the party bringing such lawsuit, claim or other proceeding of Capstone and/or all Capstone Indemnified Persons.

If indemnification is to be sought hereunder, then the party seeking indemnification shall notify the Company of the



commencement of any action or proceeding in respect thereof; provided, however, that the failure to so notify the Company shall not relieve the Company from any liability that it may have to such party seeking indemnification pursuant to this Section 8 except to the extent the Company has been prejudiced in any material respect by such failure or from any liability that the Company may have to the party seeking indemnification other than pursuant to this Section 8. Notwithstanding the above, following such notification, the Company may elect in writing to assume the defense of such action or proceeding, and, upon such election, the Company shall not be liable for any legal costs subsequently incurred by such party seeking indemnification (other than reasonable costs of investigation and providing evidence) in connection therewith, unless (i) the Company has failed to provide counsel reasonably satisfactory to such party seeking indemnification in a timely manner, (ii) counsel which has been provided by the Company reasonably determines that its representation of such party seeking indemnification would present it with a conflict of interest or (iii) the party seeking indemnification reasonably determines that there may be legal defenses available to it which are different from or in addition to those available to the Company and such party seeking indemnification reasonably determines that the counsel which has been provided by the Company would have a conflict of interest with respect to such legal defenses.

The Company and Capstone agree that if any indemnification or reimbursement sought pursuant to the preceding paragraph is for any reason unavailable or insufficient to hold it harmless, then the Company and Capstone shall contribute to the losses, claims, damages, judgments, assessments, costs and other liabilities and related expenses for which such indemnification is held unenforceable as is appropriate to reflect (i) the relative benefits to the Company on the one hand and Capstone on the other hand, in connection with the transaction to which such indemnification or reimbursement relates, (ii) the relative fault of the parties, and (iii) other equitable considerations; provided, however, that in no event shall the amount to be contributed by Capstone exceed the fees actually received by Capstone under this engagement. The Company agrees that for the purposes of this paragraph the relative benefits to the Company and any Indemnified Party shall be deemed to be in same proportion that the aggregate cash consideration and value of securities or any other property payable, exchangeable or transferable in such transaction bears to the fees paid or payable to Capstone under this Agreement.

Section 8: Disclosure. The Company agrees that upon consummation of the Transaction contemplated herein, Capstone may, at Capstone's expense, advertise and otherwise disclose its role in effecting the Transaction.

Subject to the Company's guidance and approval, the Company authorizes Capstone to negotiate on the Company's behalf confidentiality agreements with potential parties to a Transaction and to deliver confidential memoranda or other data furnished to Capstone by the Company for distribution to such parties.

Section 9: Important Information about Establishing a Relationship with Capstone. To help the government fight the funding of terrorism and money laundering activities, FINRA Rule 3310 (Anti-Money Laundering Compliance Program) requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. (<https://www.finra.org/rules-guidance/rulebooks/finra-rules/3310>) For purposes of this federal law, engaging Capstone as an investment banker is considered the equivalent of opening an account. Accordingly, in connection with the Company's engagement of Capstone, Capstone will ask for the Company's formation documents and other information that will allow Capstone to verify its identity. Capstone will also ask for the name, address, date of birth and other information for certain individual beneficial owners of the Company that will allow Capstone to identify those individuals. Capstone may also ask to see the driver's license or other identifying documents for those individuals. The 2023 Report on FINRA's new material findings and effective practices can be reviewed using the following link and more specifically on page 10 as it relates to the establishment of a relationship with a client. (<https://www.finra.org/media-center/finra-unscripted/podcast-2023-report-exam-risk-monitoring-program>)

Section 10: Forbearance. Any forbearance by Capstone or the Company in exercising any of its rights under this Agreement shall not be considered a waiver of such right(s). Any waiver must be expressly granted in writing and a waiver on any one occasion shall not be construed as a waiver on any future occasion.



Section 11: Notification. Any notices pursuant to this Agreement shall be in writing and shall be deemed sufficiently given when sent and on the date of posting, by certified mail, return receipt requested, overnight delivery or similar messenger service, to the respective addresses of the Company and Capstone set forth above, or to any other address specified by any party by written notice to the other party.

Section 12: Governance. This Agreement incorporates the entire understanding between the Company and Capstone and supersedes all previous agreements relating to the subject matter hereof. This Agreement may not be amended or modified except in a writing signed by the Company and Capstone. This Agreement shall be binding upon and inure to the benefit of the Company and Capstone and their respective successors and assigns. If any term or provision of this Agreement shall to any extent be deemed illegal, invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York. The Company and Capstone hereby irrevocably and unconditionally consent to submit to the exclusive jurisdiction of the United States District Court located in the City of New York City and, in the event such United States District Court does not have jurisdiction over the parties hereto, then to the courts of New York City for any lawsuits, actions or other proceedings arising out of or relating to this Agreement and agree not to commence any such lawsuit, action or other proceeding except in such courts. The Company and Capstone further agree that service of any process, summons, notice or document by mail to their respective addresses set forth above shall be effective service of process for any lawsuit, action or other proceeding brought against either party in any such court. The Company and Capstone hereby irrevocably and unconditionally waive any objection to the laying of venue of any lawsuit, action or other proceeding arising out of or relating to this Agreement in the courts of New York City or the United States District Court located in the City of New York City, and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such lawsuit, action or other proceeding brought in any such court has been brought in an inconvenient forum. Any right to trial by jury with respect to any lawsuit, claim or other proceeding arising out of or relating to this Agreement or the services to be rendered by Capstone hereunder is expressly and irrevocably waived.

This Agreement has been and is made solely for the benefit of the Company, Capstone and their respective successors and assignees, and no other person shall acquire or have any right under or by virtue of this Agreement. By signing below, both parties hereby understand and agree to the full terms, conditions and provisions of this Agreement and further represent and warrant that the undersigned constitute all, or the authorized representative of all, of the owners, partners and shareholders of the Company and Capstone, respectively, and that they are duly authorized to enter into this Agreement which shall be binding and enforceable in accordance with its terms.

Section 13: Chapter 11. In the event that the Company is or becomes a debtor under Chapter 11:

(i) the Company shall use its best efforts to promptly apply to the bankruptcy court having jurisdiction over the Chapter 11 case or cases (the "Bankruptcy Court") for the approval pursuant to sections 327 and 328 of the Bankruptcy Code of (A) this Agreement, and (B) Capstone's retention by the Company under the terms of this Agreement and subject to the standard of review provided in section 328(a) of the Bankruptcy Code and not subject to any other standard of review under section 330 of the Bankruptcy Code. The Company shall supply Capstone with a draft of such application and any proposed order authorizing Capstone's retention sufficiently in advance of the filing of such application and proposed order to enable Capstone to review and comment thereon.

(ii) Capstone shall have no obligation to provide any services under this Agreement in the event that the Company becomes a debtor under Chapter 11 unless Capstone's retention under the terms of this Agreement is approved under section 328(a) of the Bankruptcy Code by a final order entered by the Bankruptcy Court that is no longer subject to appeal, rehearing, reconsideration or petition for certiorari, and which order is acceptable to Capstone in all respects.

(iii) The Company will use its commercially reasonable efforts to ensure that Capstone's post-petition compensation and expense reimbursements shall be entitled to priority as expenses of administration under sections




503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code; provided, however, Capstone shall not be entitled to receive any such compensation or expense reimbursements until Tiger has either: (A) successfully consummated a transaction pursuant to a credit bid in the bankruptcy case, (B) provided written consent to a Transaction which results in less than full payment of all obligations owed by the Company to Tiger, or (C) confirmed receipt of payment in full for all of the obligations owed by the Company to Tiger.

(iv) Capstone acknowledges that in the event that the Bankruptcy Court approves its retention by the Company, Capstone's fees and expenses shall be subject to the jurisdiction and approval of the Bankruptcy Court under section 328(a) of the Bankruptcy Code and any applicable fee and expense guideline orders; provided, however, that, to the extent time records are required, Capstone will keep them in one-half hour increments.

Section 14: Communications with Tiger as Senior Secured Lender. Capstone acknowledges that Tiger is the Company's senior secured lender. Capstone further acknowledges and agrees that the Company has authorized, and hereby does direct, Capstone to communicate directly with Tiger regarding all matters relating to the Transaction, including but not limited to providing Tiger with copies of all reports, term sheets, letters of intent (whether preliminary, interim or final in form and content) and other information prepared, received or reviewed by Capstone in connection with the Transaction.



SAM ASH MUSIC CORPORATION

By: 

Name: jordan meyers

Title: CRO

Date: 4/16/2024

CAPSTONE CAPITAL MARKETS, LLC

By: _____

Name: Paul E. Janson

Title: Head of Investment Banking

Date: _____

By: _____

Name: Jamie Lisac

Title: Managing Director

Date: _____



SAM ASH MUSIC CORPORATION

DocuSigned by:
By: David Charles Ash
D59DA7723A3642D...

Name: David Ash

Title: Chief Executive Officer & General Counsel

Date: April 16, 2024

CAPSTONE CAPITAL MARKETS, LLC

DocuSigned by:
By: Paul E Janson
729368FFEB31460...

Name: Paul E. Janson

Title: Head of Investment Banking

Date: April 16, 2024

By: _____

Name: Jamie Lisac

Title: Managing Director

Date: April 16, 2024



SAM ASH MUSIC CORPORATION

By: _____

Name: _____

Title: _____

Date: _____


CAPSTONE CAPITAL MARKETS, LLC

By: _____

Name: Paul E. Janson

Title: Head of Investment Banking

Date: _____

By:  _____

Name: Jamie Lisac

Title: Managing Director

Date: April 16, 2024 _____



Appendix A

Sam Ash CT, LLC

Samson Technologies Corp

Sam Ash Megastores, LLC

Sam Ash Nevada Megastores, LLC

Sam Ash Florida Megastores, LLC

Sam Ash New York Megastores, LLC

Sam Ash Illinois Megastores, LLC

Sam Ash New Jersey Megastores, LLC

Sam Ash Quikship Corp.

Sam Ash California Megastores, LLC

Sam Ash Music Marketing, LLC



Appendix B

Atar Capital LLC

Balmoral Funds LLC

Regent, LP

Providence Equity LLC

DCC PLC

Stern Partners Inc.

Architect Equity Management, LLC

BBRC Private Equity

Exhibit B

Lisac Declaration

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re:

SAM ASH MUSIC CORPORATION, *et al.*

Debtors.¹

Chapter 11

Case No. 24-14727 (SLM)

(Jointly Administered)

DECLARATION OF JAMIE LISAC, MANAGING DIRECTOR OF CAPSTONE CAPITAL MARKETS, LLC, IN SUPPORT OF THE DEBTORS' APPLICATION FOR ENTRY OF AN ORDER (I) AUTHORIZING THE RETENTION AND EMPLOYMENT OF CAPSTONE CAPITAL MARKETS, LLC AS INVESTMENT BANKER TO THE DEBTORS AND DEBTORS IN POSSESSION EFFECTIVE AS OF THE PETITION DATE, (II) WAIVING CERTAIN TIMEKEEPING REQUIREMENTS, AND (III) GRANTING RELATED RELIEF

I, Jamie Lisac, hereby declare as follows:

1. I am a Managing Director in the Restructuring and Special Situations Group at Capstone Capital Markets, LLC ("Capstone") and one of the lead restructuring advisors in these chapter 11 cases. Capstone is the proposed investment banker for the debtors and debtors-in-possession (collectively, the "Debtors") in the above-captioned chapter 11 cases. I submit this declaration (the "Declaration") on behalf of Capstone in support of the *Debtors' Application for Entry of an Order (I) Authorizing the Retention and Employment of Capstone Capital Markets, LLC as Investment Banker to the Debtors and Debtors in Possession Effective as of the Petition*

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Sam Ash Music Corporation (3915); Samson Technologies Corp. (4062); Sam Ash Megastores, LLC (9955); Sam Ash California Megastores, LLC (3598); Sam Ash Florida Megastores, LLC (7276); Sam Ash Illinois Megastores, LLC (8966); Sam Ash Nevada Megastores, LLC (6399); Sam Ash New York Megastores, LLC (7753); Sam Ash New Jersey Megastores, LLC (8788); Sam Ash CT, LLC (5932); Sam Ash Music Marketing, LLC (2024); and Sam Ash Quikship Corp. (7410). The location of debtor Sam Ash Music Corporation's principal place of business is 278 Duffy Avenue, P.O. Box 9047, Hicksville, NY 11802.

Date, (II) Waiving Certain Timekeeping Requirements, and (III) Granting Related Relief (the “Application”),² filed by the Debtors in these chapter 11 cases.

2. Unless otherwise indicated, all facts set forth in this Declaration are based on my personal knowledge, my discussions with the Debtors’ senior management, other members of the Capstone team, or other interested parties, my review of relevant documents, or my opinion based upon my experience, knowledge, and information concerning the Debtors’ operations and financial affairs. If I were called to testify, I would testify competently to the facts set forth herein.

Capstone’s Qualifications

3. Capstone’s professionals have considerable expertise and experience in providing investment banking services to financially distressed companies and to creditors, purchasers, bondholders, and other constituencies in chapter 11 as well as out of court proceedings. Representative engagements that investment bankers at Capstone have led in prior chapter 11 cases and restructurings include: *In re Inronnet, Inc.*, No. 23-11710 (Bankr. D. Del. Nov. 9, 2023); *In re Allegiance Coal USA Limited*, No. 23-10234 (Bankr. D. Del. Feb. 21, 2023); *In re Party City Holdco Inc.*, No. 23-90005 (Bankr. S.D. TX. Jan. 17, 2023); *In re Taronis Fuels Inc.*, No. 22-11121 (Bankr. D. Del. Nov. 11, 2022); *In re Red River Waste Solutions, LP*, No. 21- 42423 (ELM) (Bankr. N.D. TX. Oct. 14, 2021); *In re Interlogic Outsourcing, Inc.*, No. 19-31445 (HCD) (Bankr. N.D. Ind.); *In re Lee Steel Corporation*, No. 15-45784 (MBM) (Bankr. E.D. Mich.); *In re Motors Liquidation Company*, No. 09-50026 (REG) (Bankr. S.D.N.Y. Aug. 18, 2009); *In re Calpine Corporation*, No. 05-6200 (BRL) (Bankr. S.D.N.Y.); *In re Lyondell Chemical Company*, 09-10023 (REG) (Bankr. S.D.N.Y.).

² Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Application.

4. Capstone was initially engaged by the Debtors on or around April 16, 2024, to provide certain advisory and investment banking services in connection with a possible Transaction. In the lead-up to the filing of these chapter 11 cases, Capstone entered into the Engagement Letter pursuant to which Capstone has been continuing to provide services to the Debtors in connection with a Transaction.

5. As a result of the prepetition and postpetition work performed by Capstone on behalf of the Debtors since its initial engagement, Capstone has acquired significant knowledge of the Debtors' financial affairs, business operations, capital structure, assets, key stakeholders, financing documents, and other related materials and information. Over the past several months, Capstone has engaged in extensive due diligence of the Debtors' business, including its operations, assets, market dynamics, capital structure, contractual arrangements, cash flows, and liquidity to build a foundation for a restructuring strategy. In providing services to the Debtors, Capstone's professionals have worked closely with the Debtors' management and the Debtors' other advisors. If this Application is approved, several of Capstone's professionals, all with substantial expertise in the areas discussed above, will continue to provide services to the Debtors and will work closely with the Debtors' management and the Debtors' other professionals throughout the reorganization process.

6. Since April 2024, Capstone has spent a significant amount of time and effort evaluating the Debtors assets in preparation for marketing and conducting an in-court sales process. As a result of Capstone's representation of the Debtors prior to and since the commencement of these chapter 11 cases and Capstone's extensive experience representing chapter 11 debtors, Capstone is well-qualified to provide its services to and represent the Debtors during these chapter 11 cases.

Services Provided by Capstone

7. Subject to further order of the Court, and consistent with the terms of the Engagement Letter, Capstone's anticipated services in these chapter 11 cases will, to the extent necessary, appropriate, feasible, and as may be requested by the Debtors, include the following Transaction Services:

- i. formulating a market strategy for a Transaction;
- ii. preparing a Confidential Information Memorandum, management presentations, and other marketing materials for use in the Transaction process;
- iii. identifying and contacting potential strategic and/or financial acquirers ("Prospective Acquirers");
- iv. coordinating the receipt and comparison of any offers or proposals forthcoming from Prospective Acquirers;
- v. assessing and analyzing proposed valuations, transaction structures and related terms and conditions;
- vi. providing the Company (and its stakeholders) with periodic status reports and be available to the Company and its advisors at all reasonable times to discuss any matters relating to the Transaction;
- vii. conducting an auction, if necessary, under Section 363 of the Bankruptcy Code;
- viii. negotiating and consummating definitive agreements, including where appropriate, responding to the Company's reasonable requests for assistance in coordinating the due diligence and transaction closing processes;
- ix. providing Bankruptcy Court (as hereinafter defined) testimony and/or witness services with respect to the Transaction process and its completeness; and
- x. provide such other advisory services as are customarily provided in connection with the analysis and negotiation of a transaction similar to a potential Transaction, as requested and mutually agreed.

8. In consideration of the services to be provided by Capstone, and as summarized in the Application and more fully described in the Engagement Letter, the Debtors and Capstone have agreed that Capstone shall, in respect of its services, be compensated under the Fee Structure.

Capstone affirms that it shall not receive any compensation on account of any transactions related to the disposition of any leases by A&G Realty Partners, LLC.

9. The Fee Structure is consistent with Capstone's typical fees for work of this nature and set at a level designed to fairly compensate Capstone for the work of its professionals and assistants and to cover fixed and routine overhead expenses. It is Capstone's policy to charge its clients for all disbursements and expenses incurred in the rendition of services.

10. The Fee Structure is comparable to those generally charged by investment banking firms of similar stature to Capstone and for comparable engagements, both in- and out-of-court.

11. The Engagement Letter was negotiated at arm's length and in good faith, and I believe that the provisions contained therein are reasonable terms and conditions of Capstone's employment by the Debtors.

12. With respect to the provisions of the Indemnification, as summarized in the Application and more fully described in the Engagement Letter, unlike the market for other professionals that a debtor may retain, indemnification is a standard market term for investment bankers. The indemnity, moreover, is comparable to those generally obtained by investment banking firms of similar stature to Capstone and for comparable engagements, both in- and out-of-court. The Indemnification was fully negotiated by the Debtors and Capstone at arm's length and in good faith, and I believe that the Indemnification contained in the Engagement Letter is reasonable.

13. Other than as set forth above, there is no proposed arrangement between the Debtors and Capstone for compensation to be paid in these chapter 11 cases. Capstone has no agreement with any other entity to share any compensation received, nor will any be made, except as permitted under section 504(b)(1) of the Bankruptcy Code.

14. Capstone is willing to be retained by the Debtors as their investment banker and will make appropriate applications to this Court pursuant to the Bankruptcy Code for compensation and reimbursement of out-of-pocket expenses, all in accordance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any orders of this Court.

15. Capstone has requested, pursuant to section 328(a) of the Bankruptcy Code, payment of its fees on a fixed-rate, contingent, and/or fixed-percentage basis. It is not the general practice of investment banking firms to keep detailed time records similar to those customarily kept by attorneys. Capstone's restructuring professionals, when formally retained in chapter 11 cases, and when required by local rules, do, and in these chapter 11 cases will, keep time records in half-hour increments describing their daily activities and the identity of persons who performed such tasks. In addition, apart from the time-recording practices described above, Capstone's personnel do not maintain their time records on a "project category" basis. As such, I understand the Debtors have requested modification of such requirements under the Local Rules.

16. During ninety-day (90) period before the Petition Date, Capstone did not receive any payments from the Debtors for fees or expenses. Prior to the Petition Date, Capstone had also received advance payments from the Debtors in the aggregate amount of \$75,000.00. Given the timing of the filing, Capstone may not yet have accounted for all expenses it incurred before the Petition Date. In the event Capstone subsequently becomes aware of additional prepetition expenses incurred on behalf of the Debtors, Capstone will reduce its advance by such amounts. To the extent that amounts paid by the Debtors to Capstone prior to the Petition Date exceed amounts incurred by Capstone prepetition, such excess will be held by Capstone as security throughout these chapter 11 cases until Capstone's fees and expenses are fully paid.

No Duplication of Efforts

17. Capstone's services are intended to complement, and not duplicate, the services to be rendered by any other professional retained by the Debtors in these chapter 11 cases. Capstone understands that the Debtors have retained, and may retain, additional professionals during the term of the engagement and will use its reasonable efforts to work cooperatively with such professionals to integrate any respective work conducted by such professionals on behalf of the Debtors.

Capstone's Disinterestedness

18. In connection with its proposed retention by the Debtors in these chapter 11 cases, Capstone obtained from the Debtors' counsel a list of potential parties-in-interest (the "PII" and such list, the "PII List") in these chapter 11 cases. A copy of the PII List is attached hereto as **Schedule 1**. Capstone then compared the names of the PII with the names of entities that have entered into investment banking engagement agreements with Capstone in the last three (3) years. To the extent that this inquiry revealed that any of the PII (or their apparent affiliates or entities that Capstone believes to be affiliates, as the case may be) entered into any such engagement agreements that Capstone within the last three years, such parties are set forth in **Schedule 2** annexed hereto. To the best of my knowledge and belief, Capstone's representation of each entity listed on **Schedule 2** (or their apparent affiliates or entities that Capstone believes to be affiliates, as the case may be) was or is only on matters that are unrelated to the Debtors and these chapter 11 cases, except as stated herein. Other than as listed on Schedule 2, I am unaware of any investment banking engagements of Capstone by the PII within the last three (3) years. Given the size of the firm and the breadth of Capstone's client base, it is possible that Capstone may now or in the future be retained by one or more of the PII in unrelated matters without my knowledge. To

the extent Capstone discovers any, or enters into any new, material relationship with PII relating to the Debtors or these chapter 11 cases, it will supplement this declaration.

19. In addition to the parties listed on Schedule 1, Capstone or its affiliates may also represent, or may have represented affiliates, equity holders, creditors or sponsors of PII, and may have worked with, continue to work with, have or had mutual clients with, been represented by or advised certain accounting and law firms that are PII (and in the case of law firms, may have entered into engagement agreements in which the law firm was named as client although the work was performed for a mutual client of the applicable law firm). Capstone may also represent, or may have represented in the past, committees or groups of lenders or creditors in connection with certain restructuring or refinancing engagements, which committees or groups include, or included, entities that are PII. Certain of the PII may also be vendors or have other non-investment banking relationships with Capstone.

20. Except as otherwise disclosed in connection with this Application, at this time, Capstone is not aware of any other adverse interest or other connection it has with the Debtors, their creditors, the Office of the United States Trustee for the District of New Jersey, or any PII herein in the matters upon which Capstone is to be retained.

21. Although Capstone has researched the PII List, the Debtors may have customers, creditors, competitors, and other parties with whom they maintain business relationships that are not included as PII and with whom Capstone may maintain business relationships. Although it is possible that employees or certain affiliates may assist Capstone in connection with Capstone's engagement, as only Capstone is being retained by the Debtors, we have researched only the electric client files and records of Capstone, not of all of its affiliates, to determine connections with any PII.

22. As of the date hereof, Capstone has approximately 200 financial advisors and investment bankers nationwide. It is possible that Capstone and certain of its respective directors, officers, and employees may have had in the past, may currently have, or may in the future have connections to (a) the Debtors, (b) PII in these chapter 11 cases, or (c) funds or other investment vehicles that may own debt or securities of the Debtors or other PII.

23. Capstone does not believe that its involvement with any of the parties included in the PII List will adversely affect the Debtors in any way. Capstone does not believe that any potential relationship it may have with any of the PII would interfere with or impair Capstone's representation of the Debtors.

24. Other than as disclosed herein, Capstone has no relationship with the Debtors of which I am aware of after due inquiry.

25. Based upon the foregoing, except as otherwise set forth herein, to the best of my knowledge, information, and belief, Capstone (a) is not a creditor, equity security holder or an insider of the Debtors and (b) is not or was not, within two (2) years before the Petition Date, a director, officer, or employee of any of the Debtors. For the reasons set forth above, Capstone believes that it is disinterested as defined in the Bankruptcy Code and does not hold or represent any interest materially adverse to the estate.

26. No agreement or understanding exists between Capstone and any other person, other than as permitted by section 504 of the Bankruptcy Code, to share compensation received for services rendered in connection with these chapter 11 cases.

27. The foregoing constitutes the statement of Capstone pursuant to Bankruptcy Rule 2014(a).

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.

Dated: June 6, 2024

/s/ Jamie Lisac

Jamie Lisac
Managing Director
Capstone Capital Markets, LLC

Schedule 1
Parties-in-Interest

Debtors

Sam Ash Music Corporation
Samson Technologies Corporation
Sam Ash Megastores, LLC
Sam Ash Nevada Megastores, LLC
Sam Ash Florida Megastores, LLC
Sam Ash New York Megastores, LLC
Sam Ash Illinois Megastores, LLC
Sam Ash New Jersey Megastores, LLC
Sam Ash Quikship Corporation
Sam Ash California Megastores, LLC
Sam Ash CT, LLC

Non-Debtor Affiliates

Sam Ash Properties Corporation
Samson Trading (Shenzeng Co. Ltd)

Related Parties

The 1997 Ash Family Trust
Marcia A. Abrams
The Estate of Paul Ash
Sam Ash
The 2012 David Ash Family Trust
The 2012 Richard Ash Family Trust
The 2012 Sam Ash Family Trust

Current Directors and Officers

David Ash
Richard Ash
Benjamin Ash
Robert Seith
Howie Mendelson
Barry Horowitz
Derek Ash
Jack Knight

Professionals

Reimer & Braunstein LLP
Cole Schotz PC
BDO USA LLP

SierraConstellation Partners
Capstone Capital Markets, LLC

Banks

JP Morgan Chase
Wells Fargo
Synchrony

Insurance

Chubb
Marsh & Mc Lennan Agency LLC
Cincinnati Insurance Company
Axis Insurance Company
CUMIS Specialty Insurance Company, Inc.
General Security Indemnity Company of Arizona
Palomar Excess and Surplus Insurance Company
Zurich American Insurance Company
Travelers Insurance Companies
Great American
Axis Insurance Company
ACE American Insurance Company
Travelers Property Casualty Company of America
Homesite Insurance
The Continental Insurance Company
Continental Casualty Company

Utilities

AT&T
AT&T GLOBAL NETWORK SERVICES
Verizon
LIPA
PSE&G
National Grid
Con Edison
FPL
Duke Energy
Altafiber
American Electric Power
AMEX
APS
AT & T Business Services
AT & T Interstate Private

AT & T Mobility
ATHENS SERVICES
BASIN HAULAGE
BEST WAY DISPOSAL
BPREP 333 W 34TH LLC
BROAD STREET FF, LLC (Included in CAM)
Cablevision Lightpath
Century Link
Citizens Energy Group
City Of Charlotte
City of Clearwater Utilities
City of Dallas
City of Margate
City of Raleigh
City Of San Diego
City of Westminster
City of White Plains
City of Winter Park
Clark County Water
Cobb County Water
Columbia Gas
Con Edison
CORPORATE SERVICES CONSULTANTS
CPS Energy
CR&R INCORPORATED
Dolphin Mall Associates
DOLPHIN MALL ASSOCIATES
Dominion East Ohio
Dominion Virginia Power
Duke Power
Engie Resources
FORD KARLIN PARTNERSHIP
FRANKLIN MILLS - CAM
Franklin Mills-Assoc Utility
Frontier California
Georgia Natural Gas
Georgia Power
GFL ENVIRONMENTAL
Granite Telecommunications
Greater Cincinnati Water
GROOT INC
Indianapolis Power & Light
JAMAICA ASH & RUBBISH CO., INC
JEA
Jersey Central Power & Light
Kapok Pavilion

KIMBLE RECYCLING & DISPOSAL
LA DWP
Las Vegas Valley Water District
LAWSON ENVIRONMENTAL SERVICES
LIBERTY ASHES & RUBBISH CO.
Long Island Industrial Group, LLC
Madison Utility District
MCUCS
Metro Water Service
Miami Dade Water & Sewer
Mitel Cloud Services
Morse Plaza
Nashville Electric Service
Nashville Gas
National Grid
Nevada Power
Ontario Mills L.P.- Utilities
Orlando Utilities Commission
Peco Energy
PSE&G
REGIONAL INDUSTRIES
REPUBLIC SERVICES
REPUBLIC SERVICES OF FLORIDA
Rowland Water District
RUMPKE OF OHIO
San Diego Gas & Electric
SCG
Skellig - Fuel Escalation
Southern California Edison
STAT Energy
SUBURBAN CARTING
The Illuminating Company
T-Mobile
United Illuminating
VALLEY VISTA SERVICES
Village of Buffalo Grove
Village of Lombard
Wald & Fisher
WALLACE REAL ESTATE (Included in CAM)
WASTE CONNECTIONS OF FLORIDA
WASTE CONNECTIONS OF NORTH CAROLINA
WASTE INDUSTRIES
WASTE MANAGEMENT
WASTE MANAGEMENT OF EL CAJON
WASTE MANAGEMENT OF FLORIDA
WASTE MANAGEMENT OF NEW JERSEY

WASTE PRO OF FLORIDA
WESTBURY PAPER STOCK
Windstream Holdings
WINTER BROS HAULING OF LI
WM CORPORATE SERVICES

Landlords

Armadillo Enterprises
ICER Properties
Wareco Enterprises, Inc.
Stiles
JSL Plaza Puente Hills, LLC
ROOKER
Fields-Realty
JBAD Limited Partnership
Steel OCR, LLC
RIPCO
Harbour Commercial Real Estate
Brookfield
Sam Ash Properties Corp.
Urban Edge
National Shopping Plazas, Inc.
Pine Tree
Bergen Springfield Associates, LLC
IMC Equity Group
Sovereign Property Management
Greens of Lyndhurst, Ltd. (Wald & Fisher Inc.)
The Stonehenge Company
Eden Plaza
Simon
Pompanette LLC.
A2Z Real Estate
Cutwater Capital
Magnolia Palms Daphne, LLC
Donald Rothenberg Family Limited Partnership
Taubman
Laurich Properties
RVG Management
NAI Bergman
Winbrook Management
Kimco
ACF Property Management
MIMCO
Ford Karlin Partnership
Iroquois Investment Company

10838 NCX, LLC
Ultimate Capital LLC
American Realty Group
The Martin Family Trust
Long Island Industrial Management LLC

Secured Creditors

Tiger Finance, LLC

Consultants

Gordon Brothers
Tiger Capital Group, LLC

Litigation Parties

Damien Duvalier
Alexandria Southgate
Daniel Bitton
Aisha McKinney
Rafael Santiago
Edward Knieriem
Susan Esparza

Major Suppliers, Vendors, and Other Parties

YAMAHA CORPORATION OF AMERICA
ROLAND CORP US
BOSCH SECURITY SYSTEMS INC
ALPHA THETA MUSIC AMERICAS INC
HOSHINO USA INC
FENDER MUSICAL INSTRUMENTS
GIBSON BRANDS INC.
FEDERAL EXPRESS
INMUSIC BRANDS INC
D'ADDARIO CO
WORLDWIDE EXPRESS
SHURE BROS INC
PRS GUITARS
THE ESP GUITAR CO.
LOUD AUDIO, LLC.
SENNHEISER ELEC CORP
YAMAHA GUITAR GROUP, NC.
CONN-SELMER, INC
GATOR CASES INC

HAL LEONARD PUBLISHING CORP.
QSC, LLC
DRUM WORKSHOP, INC.
CF MARTIN & CO INC
A & G REALTY PARTNERS LLC
KAWAI AMERICA CORP
HARMAN PROFESSIONAL INC
BRINK'S INCORPORATED
DUNLOP MFG INC
KORG USA INC
KING OF PRUSSIA CENTER, LLC
CORDOBA MUSIC GROUP INC
AMERICAN MUSIC & SOUND
HOWARD CORE COMPANY LLC
RHC HOLDING CORP DBA THE RAPCO
AVEDIS ZILDJIAN CO
TAYLOR-LISTUG, INC. DBA:TAYLOR
GOOGLE
KHS AMERICA INC
TMP, DIVISION OF JAM IND. USA
MEINL
SLJ REALTY LLC
SCHECTER GUITAR RESEARCH
ERNIE BALL
CHAUVET INC.
MAGENTO, INC.
PRAXIS MUSICAL INSTRUMENTS INC
CANNONBALL
AT&T INTERSTATE PRIVATE LINE S
BAD CAT AMPS
CASIO INC.
DAMAGE CONTROL ENGINEERING DBA
NEW SENSOR CORPORATION
AUDIO-TECHNICA
AMERICAN WAY MARKETING LLC
HOSA TECHNOLOGY INC
ALFRED PUB CO
MARSH USA INC.
XVIVE USA
WB MASON COMPANY
1998 AUGUSTUS PARTNERS LP
ROBERT HALF
ARTURIA CORP.
UNIVERSAL AUDIO, INC.
BPREP 333 W 34TH LLC
ALGOLIA, INC.

REMO INC
W.L. GORE ASSOCIATES
RAKUTEN MARKETING LLC
FISHMAN TRANSDUCERS
BOUTIQUE AMPS DISTRIBUTION
IK MULTIMEDIA US LLC
TRUETONE AKA VISUAL SOUND
BOSE CORPORATION
SEQUENTIAL, LLC.
FENDER MUSICAL INSTRUMENTS COR
ASSOCIATED PAPER & SUPPLY OF F
JACKSON LEWIS PC
EXTEND RECEIVABLES 7289
BUFFET CRAMPON USA, INC
NATIVE INSTRUMENTS NORTH AMERI
DANIEL SCHIOPUCIE
RODE MICROPHONES LLC
GALLIEN - KRUEGER
JHS PEDALS
KMC MUSIC AKA JAM IND USA, LLC
RADIAL ENGINEERING LTD
EVETS CORPORATION
EXERTIS ALMO
BEYER DYNAMIC INC.
GROUP ONE, LTD.
ALBERT URESTI/BEXAR CTY TAX CO
ASHUN SOUND MACHINES
PRO STAGE GEAR LLC
SEYMOUR DUNCAN PICKUP
MIMCO, LLC/AP GROWTH PROPERTIE
MISSION & FIELDS / 2 VISIONS
BIG BANG DISTRIBUTION
AT&T
AT&T GLOBAL NETWORK SERVICES
TEAC AMERICA, INC.
JOHN M CONNOLLY COINC
CITRUS FRESH CARPET CARE
PERRI'S LEATHERS LTD.
EARTHQUAKER DEVICES LLC
STAGE NINJA LLC
ENVIRO-MASTER OF ATLANTA
CYBERSOURCE CORPORATION
ANTHEM LIFE & DISABILITY INSUR
BEST BOXES PACKING SHIPPING LL
ODYSSEY INNOVATIVE DESIGN AKA
NEIL KJOS

10 TO 1 PUBLIC RELATIONS
DUKE ENERGY
K-PACK INC.
GFI MUSICAL PRODUCTS
ADAM HALL NORTH AMERICA, INC.
KYSER MUSICAL PRODUCTS
AURALEX ACOUSTICS INC.
SAGE NET LLC
EMD MUSIC
VURSOR
TRYCO OF INDIANA
MARK OF THE UNICORN
WALRUS PRODUCTIONS
NORTEK SECURITY & CONTROL, LLC
BERGANTINO AUDIO SYSTEMS, INC.
HBW HEATING & AIR CONDITIONING
ALLPARTS
DATA PRINT TECHNOLOGIES INC.
CITIGUARD INC.
STERLING INFOSYSTEMS, INC.
HOWARD PAVING & EXCAVATING CO.
BLUE YONDER, INC.
THE MCMINN EMPLOYMENT LAW FIRM
ROC -N- SOC
TECH SERVICES ELECTRIC LLC
AVALARA, INC.
WILMINGTON FIBRE
ACE PRODUCTS ENTERPRISES, INC.
PREMIER GRAPHICS, INC.
LINGK, INC.
KEELEY ELECTRONICS , INC.
PAISTE AMERICA, INC
DIVERSIFIED MECHANICAL SOLUTIONS
ULINE
LEGACY
HAMMOND SUZUKI USA, INC.
ILIO ENTERPRISES LLC
SCHILKE MUSIC PROD
RAINBOW MAINTENANCE & CLEANING
S & H WEST COAST OF FLORIDA
CON EDISON OF NEW YORK, INC.
GIVEX USA CORPORATION
TELEFUNKEN USA
SKEPTICAL GUITARIST PUBL AKA B
ENVIRONMENTAL ENGINEERING, INC
MEL BAY PUBLICATIONS

HK SECURITY SERVICES, INC.
C. E. MECHANICAL, INC.
DAS COMPANIES
RUPERT NEVE DESIGNS LLC
NICHOLS PLUMBING & HEATING
MILLENNIA MEDIA
SHIFT4 CORPORATION
A&G BUILDING CORP.
AIR CONDITIONING BY JAY
HENRY REBMANN PLUMBING & HEATI
TRIPLE S
GOLD TONE INC
WASTE CONNECTIONS OF NEW YORK
YORKVILLE GROUP
RCF - USA INC
ST.LOUIS MUSIC AKA US BAND & O
CINTAS FAS LOCKBOX 636525
ACCELERATED SERVICES INC.
WALRUS AUDIO LLC
REVEREND GUITAR
TRAFFIC TECH, INC.
PAPER SYSTEMS INCORPORATED
PEAVEY ELECTRONICS CORPORATION
AVANTONE PRO LLC
IRISH MECHANICAL SERVICES, INC
UNITED ILLUMINATING
C.A. SEYDEL SOHNE GMDH GERMANY
COM ED
WM CORPORATE SERVICES, INC.
MUSIC NOMAD LLC
MARSHALL ELECTRONICS, INC.
SAFE AND SOUND ARMoured CAR
STEWART-MACDONALD
YELP, INC.
ACCU-NET LLC
WARM AUDIO LLC.
DELUCIA HOME IMPROVEMENT
ALL AMERICAN WASTE, LLC
R & L LAWN CARE, INC.
THE HILLER COMPANIES, LLC
BASIN HAULAGE, INC.
ALLIED SUPPLY CORP
MAYFAIR POWER SYSTEMS INC.
GLASSTECH SPECIALIST, INC.
TITAN HQ C/O COPPERFASTEN TECH
SYNTHAX

VIBES, LLC.
GLOBAL EQUIPMENT CO.
E&S SECURITY & LOCKSMITH, INC
WASTE MANAGEMENT
VERIZON
NEW GENERATION MECHANICAL LLC
MANATEE COUNTY UTILITIES DEPT.
PARADIGM MECHANICAL CORP.
SKB CORPORATION
GODIN GUITAR CO.
ATTENTIVE MOBILE INC.
SAN DIEGO GENERAL CONTRACTING
GROOT INC.
DR MUSIC
KALA BRAND MUSIC CO
EVERY THING AIR LLC
VATER'S PERCUSSION
KYOCERA DOCUMENT SOLUTIONS WES
PREFERRED ELECTRIC, LLC
E & O MARI, INC.
ADT COMMERCIAL LLC
J.L. SMITH & CO. INC.
TAMPA ELECTRIC
SABIAN, INC.
LIFE SAFETY ENGINEERED SYSTEMS
PIEDMONT NATURAL GAS
PMI
STAMPS.COM
AUDIX CORPORATION
MARSHALL AMPL USA DIV AKA US M
HIGHTEC HVAC, INC.
AMERICAN PLASTICS SUPPLY , MFG
P.O. MICHAEL BELL
SUBURBAN CARTING
YELLOW MATTER ENTERTAINMENT LL
CHARLOTTE TEMPERATURE CONTROLS
TREETWORKS CHIMES
WASTE INDUSTRIES, LLC
JODI HEAD
WASTE MANAGEMENT OF FLORIDA
LAWSON ENVIRONMENTAL SERVICES,
MUSIC MEDIC.COM
TOTAL FIRE CONTROL
LENNY LOWE ENTERPRISES, LLC
GEMEINHARDT MUSICAL INSTRUMENT
AIRECOM, INC.

BALCO INDUSTRIES INC.
FERREE'S TOOLS, INC.
VILLAGE OF BUFFALO GROVE
LR BAGGS CO.
NICOR GAS
MO AIR CONDITIONING LLC
MOODLE US LLC
COLUMBIA GAS
CR&R INCORPORATED
UNIVERSAL IFM
PERFECTION GROUP, INC.
PROFESSIONAL BUILDING SERVICES
VECTOR SECURITY, INC.
MUSIC MARKETING
ADVANCED MAINTENANCE SERVICE I
REGIONAL INDUSTRIES, LLC
CITIZENHAWK INC.
DAYSMART APPOINTMENTS
TITO'S GENERAL LANDSCAPING COR
JAMAICA ASH & RUBBISH REMOVAL
ORKIN PEST CONTROL
CROWN EQUIPMENT CORP.
FIRST FLASH JANITORIAL SERVICE
STAFFORD ASSOCIATES COMPUTER S
RUMPKE OF OHIO, INC.
GREENCARE BY OUTDOOR EXPRESSIO
GREENTOUCH ENTERPRISES, INC.
ORTOFON, INC.
PROTEC
THOMSON REUTERS
JBL BAGS
DEERING BANJOS
STRING SWING MFG.
GROVER/TROPHY MUSICAL PRODUCTS
TECH 21
LOOMIS ARMORED US, LLC
VOCOPRO
DANA B. GOODS
GEMINI CLEANING SERVICES
P.O. RICHARD GARCIA
P.O. NAYELY HERNANDEZ
P.O. AMER KAMAL
P.O. ERIC KIM
P.O. JOSE LOPEZ
P.O. BRANDON ROMAN
P.O. MAHDI SUEIDAN

CABLEVISION/OPTIMUM
GRIGNARD CO. LLC.
J.JOHNSON MUSIC PUB. AKA JULIE
PHOENIX POLICE DEPT.
GENERAL LAWN MAINTENANCE INC.
EXCELCIA MUSIC PUBLISHING, LLC
SWITCHCRAFT INC.
RHYTHM BAND INC.
HUMES & BERG MFG CO
DIMARZIO, INC.
UPGRADE SERVICES, LLC
CINTAS CORPORATION
JANI-KING OF PHILADELPHIA,INC.
ALCOR ELECTRIC INC.
MADISON SUBURBAN UTILITY DISTR
P.O. ANTHONY BASORA
ARMADILLO ENTERPRISES
BAM FRANCE
XSTATIC PRO, INC.
A-DIAMOND DELIVERY SERVICE, IN
GILBERT'S LAWN CARE
HONZ TECH, LLC.
ATMOS ENERGY CORP.
TOWNSHIP OF EDISON
JODY JAZZ INC
ALTERMAN, INC.
SAM ASH HOUSTON/PETTY CASH
NATIONAL GRID
VSC FIRE AND SECURITY, INC.
CARL FISCHER LLC
DAVID DYER
ICONNECTIVITY AKA IKINGDOM COR
ACCURATE PAPER RECYCLING,INC.
GRAPH TECH GUITAR LABS
CITY OF RALEIGH
WILLSCOT/MOBILE MINI
JAN-PRO CLEANING SYSTEMS
CITY OF INDIANAPOLIS
HILLSBOROUGH COUNTY FIRE MARSH
CAM IMPORTS
MOJOTONE
MEDICI MUSIC
PETERSON ELC MUSICAL
SPRATT MUSIC PUB
ARROW ENVIRONMENTAL SERVICES L
ALBERT ELOVITZ INC./AIM

SHER MUSIC
AIRGAS USA, LLC
PLANT IT EARTH
MITCH THE MILKMAN
TRICK PERCUSSION PROUCTS, INC.
ROLLS CORPORATION
DELKIN DEVICES
CITY OF PHILADELPHIA
ISOACOUSTICS INC
OSIAMO LLC
KELLER'S PEST CONTROL, INC.
CHARLES DUMONT & SON, INC.
INTERNATIONAL BUSINESS MACHINE
APOGEE ELECTRONICS
FISH WINDOW CLEANING
STEDMAN CORPORATION
S2E, INC. DBA MEE AUDIO
GHS CORP
LONG BEACH MUSIC CO.
GOLD LINE CONNECTOR
MISSION ENGINEERING, INC.
STATE OF NORTH CAROLINA-EPROC
NEKTAR TECHNOLOGY INC
AQUARIAN DRUMHEADS.COM
GIA PUBLICATIONS
TWO OLD HIPPIES LLC
THE MUSIC LINK CORPORATION
EARBYTE INC
ORANGE MUSIC ELECT CO INC DBA
MANLEY LABORATORIES, INC.
AVIOM, INC.
ADJ PRODUCTS LLC
FOCUSRITE GROUP US, INC.
WINBROOK MANAGEMENT, LLC

United States Bankruptcy Judges in the District of New Jersey

The Honorable Rosemary Gambardella
The Honorable John K. Sherwood
The Honorable Vincent F. Papalia
The Honorable Stacey L. Meisel
The Honorable Michael B. Kaplan
The Honorable Christine M. Gravelle
The Honorable Andrew B. Altenburg, Jr.
The Honorable Vincent F. Papalia
The Honorable John K. Sherwood

The Honorable Jerrold N. Poslusny, Jr.

Members of US Trustee's Office

Alfaro, Adela
Ardelean, Kirsten K.
Arendas, Francyne D.
Artis, Michael
Bielskie, Lauren
D'Auria, Peter J.
Gerardi, David
Green, Tia
Hildebrandt, Martha
Kern, Joseph C.
Kropiewnicki, Daniel C.
McGee, Maggie
Nikolinos, Alexandria
Oppelt, Tina L.
Ortiz-Ng, Angeliza
Schneider, Robert J. Jr.
Shaarawy, Adam
Sponder, Jeffrey
Steele, Fran B.
Stives, James
Vara, Andrew
Ziemer, William J.

Key BK Staff Members

Thomas C. Walsh
Lucy Veloz-Jimenez
Robert Heim
Sharon Moore
Charlene Richardson
Zelda Haywood
Maria Figueria
Juan Filgueiras
Mariela Primo
Ntorian Pappas
Nancy Figueroa
Bruce Jackson
Michael Gilmore
Diane Lipcsey
Rachel Stillwell
Michael Brown
Wendy Quiles
Kiya Martin

Sean Quigley
Margie McGettigan
Marie Flynn
Chris Fowler
Kathleen Ryan
Catherine McAuley
Heather Renye
Andrew Dickson

Taxing Authorities

Alabama Department of Revenue
Alaska Department of Revenue
Arizona Department of Revenue
Arkansas Department of Finance and Administration
California Department of Tax and Fee Administration
Colorado Department of Revenue
Connecticut Department of Revenue Services
State of Delaware - Division of Corporations
District of Columbia Office of Tax and Revenue
Florida Department of Revenue
Georgia Department of Revenue
State of Hawaii – Department of Taxation
Idaho State Tax Commission
Illinois Department of Revenue
Indiana Department of Revenue
Iowa Department of Revenue
Kansas Department of Revenue
Kentucky Department of Revenue
Louisiana Department of Revenue
Maine Revenue Services
Maryland Department of Revenue
Massachusetts Department of Revenue
Michigan Department of Treasury
Minnesota Department of Revenue
Mississippi Secretary of State
Missouri Department of Revenue
Montana Department of Revenue
Nebraska Department of Revenue
Nevada Department of Revenue
New Hampshire Department of Revenue Administration
New Jersey Division of Taxation
New Mexico Tax and Revenue Department
New York State Department of Taxation and Finance
North Carolina Department of Revenue
NYC Department of Finance

North Dakota Office of State Tax Commissioner
Ohio Department of Taxation
Oklahoma Tax Commission
Oregon Department of Revenue
Pennsylvania Department of Revenue
Rhode Island Division of Taxation
South Carolina Department of Revenue
South Dakota Department of Revenue
Tennessee Department of Revenue
Texas Comptroller
Utah State Tax Commission
Vermont Department of Taxes
Virginia Department of Taxation
Washington State Department of Revenue
West Virginia State Tax Department
Wisconsin Department of Revenue
Wyoming Department of Revenue
Puerto Rico Department of the Treasury
US Customs & Border Protection
Internal Revenue Service

Benefits Providers

Anthem HealthChoice Assurance, Inc.
Anthem Blue Cross
Anthem Life & Disability Insurance Company
OCA Benefit Services, LLC
LegalShield
IDShield
Spot Pet Insurance
Symetra Life Insurance Company

Contract Parties

BPREP 333 W 34th LLC
Iroquois Investment Company
North Freeway Partners, LLC
10838 NCX, LLC
National Shopping Plazas, Inc.
Steel OCR, LLC
Magnolia Palms Daphne, LLC
Sam Ash Properties Corp.
UE 2100 Route 38, LLC
Springdale Kemper Associates, Ltd.
1998 Augustus Partners, LP
Greater Orlando Aviation Authority
NMRD3 Limited
Caseleton Plaza Shopping Center, LLC

G Rack Fields, LLC
Kapok Pavilion I, Ltd
King of Pruss Center, LLC
Karen MM, LLC
Pines Plaza, LLC
Greens of Lyndhurst, Lts
Peppertree Plaza, LLC
Dolphin Mall Associates Limited Partnership
Wareco Enterprises, Inc
BAI Rivergate, LLC
JBAD Limited Partnership
Larry Scott Karlin and Debra Lisa Karlin Trustees of the Karlin Family Trust
Ontanio Mills II, LP
Lee Road Partners LP
AP Growth Properties, LP
JSL Plaza Puente Hills, LLC
Three Mac Properties, LLC
WRI/Raleigh LP
Broad Street FF, LLC
Pavilions North Shopping Center 18, LLC
Ultimate Capital LLC
Pamela Robinson
Bergen Springfield Associates, LP
Pompanette, LLC
An Tang Dao dba Eden Plaza
Skellig Realty, Inc.
Chrysler Capital
Benzel-Busch Motor Car Corp
Rallye BMW
Darcars of Englewood Inc
Porsche Audi Warrington
Tiger Finance LLC
Fiserv

Other

Katten Muchin Rosenman LLP
Jackson Lewis PC

Surety Bonds/Beneficiaries

Travelers Casualty and Surety Company of America
Platte River Insurance Company
U.S. Customs and Border Control
Town of North Hempstead
City of New York
Suffolk County
City of White Plains

City of New Haven
State of New Jersey
State of Georgia

Schedule 2

List of Potential Parties in Interest as to Which Capstone Has a Connection

a. N/A