



Order Filed on June 21, 2024
by Clerk,
U.S. Bankruptcy Court
District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)
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In re:

SAM ASH MUSIC CORPORATION, *et al.*

Debtors.¹

Chapter 11

Case No. 24-14727 (SLM)

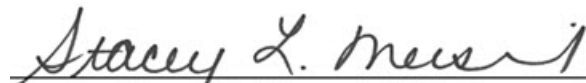
Judge: Stacey L. Meisel

(Jointly Administered)

ORDER (I) AUTHORIZING THE (A) RETENTION OF SIERRACONSTELLATION PARTNERS LLC AND (B) DESIGNATION OF JORDAN MEYERS AS CHIEF RESTRUCTURING OFFICER EFFECTIVE AS OF THE PETITION DATE AND (II) GRANTING RELATED RELIEF

The relief set forth on the following pages, numbered two (2) through seven (7), is **ORDERED.**

DATED: June 21, 2024


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.

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Upon the *Debtors' Application for Entry of an Order (I) Authorizing the (A) Retention of SierraConstellation Partners LLC, and (B) Designation of Jordan Meyers as Chief Restructuring Officer Effective as of the Petition Date and (II) 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 (i) retain and employ SierraConstellation Partners LLC ("Sierra") and (ii) designate Jordan Meyers as Chief Restructuring Officer ("CRO"), each pursuant to the terms of the engagement letter by and among the Debtors and Sierra, dated as of April 4, 2024 (the "Engagement Letter") effective as of the Petition Date and (b) granting related relief, all as more fully set forth in the Application; and upon consideration of the Meyers Declaration; and the 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 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; 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

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the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Application is **GRANTED** as set forth herein.
2. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Debtors are authorized to (i) retain and employ Sierra and (ii) designate Jordan Meyers as CRO, in each instance effective as of the Petition Date, and in accordance with the terms and conditions set forth in the Engagement Letter attached to the Application as **Exhibit B**.
3. The terms of the Engagement Letter including, without limitation, the indemnification provisions and compensation provisions, as modified by the Application and this Order, are reasonable and conditions of employment and are hereby approved.
4. Sierra is authorized to apply the Retainer and advanced payments to satisfy any unbilled or other remaining prepetition fees and expenses that Sierra becomes aware of during its ordinary course billing review and reconciliation. The balance of the Retainer and advanced payments held by Sierra shall be treated as an evergreen retainer and be held by Sierra as security throughout these Chapter 11 Cases until Sierra's fees and expenses are fully paid.
5. Upon employment and retention by the Debtors, the CRO shall be empowered and authorized to carry out all duties and responsibilities set forth in the Engagement Letter.
6. Notwithstanding anything to the contrary in the Application or the Engagement Letter, Sierra's engagement is subject to the following terms:

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- (a) Sierra shall not act in any other capacity (for example, and without limitation, as a financial advisor or investor/acquirer) in connection with these Chapter 11 Cases.
- (b) In the event the Debtors seek to have Sierra Personnel assume executive officer positions that are different than the position(s) disclosed in the Application, or to materially change the terms of the engagement by either (i) materially modifying the functions of personnel, (ii) adding new executive officers, or (iii) altering or expanding the scope of the engagement, a motion to modify the retention shall be filed.
- (c) Sierra shall file with the Court with copies to (i) the Office of the United States Trustee for the District of New Jersey (the “U.S. Trustee”), (ii) counsel to the Debtors and (iii) counsel to any official committee appointed in these Chapter 11 Cases (the “Notice Parties”), staffing reports on the engagement for the previous month. Such report shall include the names and functions filled of the individuals assigned (the “Staffing Reports”). The Notice Parties shall have 14 days after the date each Staffing Report is served to object to such Staffing Report. The Staffing Reports shall be subject to review by the Court in the event an objection is filed.
- (d) Sierra shall submit reports of compensation earned and expenses incurred on a monthly basis (the “Compensation Reports”) to the Court with copies to the Notice Parties. Compensation Reports shall summarize the services provided, and identify the compensation earned and expenses incurred by each executive officer and staff employee. Time records shall (i) be appended to the Compensation Reports, (ii) contain detailed time entries describing the task(s) performed, and (iii) be organized by project category. Where Sierra Personnel are providing services at an hourly rate, the time entries shall identify the time spent completing each task in 1/10 hour increments and the corresponding charge (time multiplied by hourly rate) for each task; where Sierra Personnel are providing services at a “flat” rate, the time entries shall be kept in .5 hour increments. Notwithstanding the above, from the Petition Date to the date this Order is entered, the time entries for all personnel that are providing services shall be kept daily and shall identify the individuals providing services, the amount of time spent, and set forth the services provided. The Notice Parties and the Debtors shall have 14 days after the date of each Compensation Report is served to object to such Compensation Report. The Compensation Reports shall be subject to Court review in the event an objection is filed. All fees and expenses paid

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to Sierra are subject to disgorgement to the extent an objection is filed and sustained after payment of any fees and expenses.

- (e) The Debtors may file each monthly Staffing Report and each monthly Compensation Report as one joint single report.
- (f) No principal, employee, or independent contractor of Sierra shall serve as a director of any of the above-captioned Debtors during the pendency of these Chapter 11 Cases.
- (g) Notwithstanding the terms of the Engagement Letter, any transaction fees, or any other back-end or success fees shall be subject to approval by the Court at the conclusion of the cases on a reasonableness standard and are not being pre-approved under section 328(a) of the Bankruptcy Code by entry of this Order and all parties' rights to object to any of the transaction fees, or any other back-end or success fees are fully reserved. No success fee, transaction fee or back-end fee shall be sought upon conversion of the cases, dismissal of the cases for cause, or appointment of a trustee.
- (h) Notwithstanding the terms of the Engagement Letter, the Debtors are permitted to indemnify only those persons serving as corporate officers on the same terms as provided to the Debtors' other officers and directors under the corporate bylaws and applicable state law, along with insurance coverage under the Debtors' D&O policy. There shall otherwise be no indemnification of Sierra.
- (i) To the extent Sierra uses the services of third party entity independent contractor entities or subcontractors (collectively, the "Contractors") in these Chapter 11 Cases, (i) Sierra shall pass through the cost of such Contractors to the Debtors at the same rate that Sierra pays the Contractors; (ii) seek reimbursement for actual costs only; (iii) ensure that the Contractors are subject to the same conflicts checks as required for Sierra; and (iv) file with this Court disclosures pertaining to such Contractors of the kind required by Bankruptcy Rule 2014.
- (j) For a period of three years after the conclusion of the engagement, neither Sierra nor any of its affiliates shall make any investments in the Debtors or the reorganized Debtors.
- (k) Sierra shall make appropriate disclosures of any and all facts that may have a bearing on whether Sierra, or any individuals working on the engagement

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hold/represent any interest adverse to, the Debtors, their creditors, or other parties in interest. The obligation to disclose identified in this subparagraph is a continuing obligation.

- (l) The limitation of liability section in the Engagement Letter will be eliminated for the duration of these Chapter 11 Cases.
- (m) Notwithstanding anything to the contrary contained in the Application or the Engagement Letter, during these Chapter 11 Cases, Sierra will only seek reimbursement of actual and necessary expenses.
- (n) Sierra shall not seek reimbursement of any fees or costs, including attorney fees and costs, arising from the defense of any of Sierra's fee applications in the cases.

7. The relief granted herein shall be binding upon any chapter 11 trustee appointed in these Chapter 11 Cases, or upon any chapter 7 trustee appointed in the event of a subsequent conversion of these Chapter 11 Cases to cases under chapter 7 subject to paragraph 6(g) of this Order. Notwithstanding the previous sentence, any trustee appointed in these cases shall be bound concerning Sierra's entitlement to fees earned, but a trustee shall not be obligated to continue such engagement.

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

9. Sierra shall use its reasonable efforts to avoid any unnecessary duplication of services provided by any retained professionals in these Chapter 11 Cases.

10. 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.

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11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

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

13. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.