

**EXHIBIT B**

**ENGAGEMENT LETTER**

**ATTORNEY CLIENT PRIVILEGED CORRESPONDENCE**  
**Confidential**

Michael H. Weaver

**October 5, 2018**

mweaver@mcnair.net  
T (803) 799-9800  
F (803) 753-3277

Cafe Enterprises, Inc.  
Attn: Eric Easton  
4324 Wade Hampton Blvd., Ste. B  
Taylors, SC 29687

Dear Eric:

This letter will confirm our mutual understanding relating to your retention of McNair Law Firm, P.A. (“McNair” or “we” or “our”) to render legal services on behalf of Cafe Enterprises, Inc. and its related affiliates and subsidiaries listed on Exhibit A attached hereto (collectively, “Cafe” or the “Company”) and to serve as its local counsel.<sup>1</sup>

**Nature of Representation**

McNair has initially been retained to represent Cafe in connection with a financial restructuring, or sale of the Company or its assets. The restructuring or sale might be accomplished through a Chapter 11 bankruptcy filing and McNair has been retained to serve as its local counsel and prepare for such a filing and to represent Cafe in such a case if one is filed. Unless otherwise stated in this letter, McNair has not been retained to represent the Company generally or in connection with any other matter. Although the Company may engage McNair for other services in the future, McNair has not agreed to represent Cafe in any future specific matter at this time. If Cafe wishes to engage McNair in connection with any additional matters, Cafe will conduct a conflict of interest inquiry with respect to the parties involved. If those inquiries disclose no conflict, future engagements may be evidenced by additional engagement letters.

**McNair Contact**

I, Michael H. Weaver, will initially be responsible for coordinating McNair’s services under this engagement, but other McNair attorneys, including Robin Stanton and Weyman Carter, as well as paralegals and other staff may assist in this matter. Please feel free to call any of us if you have questions.

McNAIR LAW FIRM, P.A.  
1221 Main Street  
Suite 1800  
Columbia, SC 29201

Mailing Address  
Post Office Box 11390  
Columbia, SC 29211

mcnair.net

<sup>1</sup> McNair understands that the Company has also retained King & Spalding to assist it in connection with its financial restructuring or sale of the Company or its assets.

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Legal Fees

Our fees will be based on the reasonable value of our services as determined in accordance with the American Bar Association and South Carolina Rules of Professional Conduct. Our fees will be based primarily on the hourly rates in effect from time to time for attorneys, paralegals, and law clerks of this Firm. Presently, the hourly billing rates for the Firm's attorneys who are likely to be involved in this matter range from \$275.00 to \$500.00 per hour for shareholders, \$140.00 to \$300.00 per hour for associates, of counsel, and special counsel attorneys, and \$100.00 to \$150.00 for paralegals. Specifically, my hourly rate is \$350.00 per hour, the hourly rate for Robin Stanton (a shareholder in our Columbia office) is \$350.00 per hour, and the hourly rate for Weyman Carter (a shareholder in our Greenville office) is \$325.00 per hour. The Firm's billing rates are subject to adjustment from time to time by the Firm, which normally occurs on or about January 1<sup>st</sup> of each year.

In addition, Cafe agrees to pay out-of-pocket costs and disbursements incurred in connection with this representation, such as photocopying, courier and hand delivery charges, long distance telephone, transcription charges, filing fees, travel charges, litigation support, etc. If we have to incur a significant expense on Cafe's behalf, we may ask the Company to provide those funds to McNair in advance or to pay that expense directly.

Our acceptance of this engagement is conditioned on our receipt of an evergreen retainer of \$50,000. We have attached wiring instructions for your convenience. As we have explained, it is important that the Firm not become a creditor of Cafe, and therefore prior to any bankruptcy filing bills will be submitted and we will require a weekly payment. We may pay the fees and expenses from the retainer on a periodic basis in our discretion. McNair is not obligated to commence activities on this engagement prior to the collection of that retainer and may withdraw from this matter if subsequent payments are not made as required. Cafe's delivery of that retainer fee and execution and return of this letter will confirm the Company's acceptance of and agreement to this letter.

In the event Cafe decides to file a bankruptcy case, all of McNair's fees and expenses accrued through the filing must be paid current from the retainer prior to filing, and the retainer replenished to \$75,000 prior to the filing. The Company also would need to provide the Firm with the applicable court filing fees and costs prior to the filing (*e.g.*, the filing for a Chapter 11 case is currently \$1,717 per debtor). Any fees proposed to be paid by any party other than Cafe must be fully disclosed to us prior to delivery and may be subject to Bankruptcy Court approval.

Statements for legal fees, costs, and disbursements will typically be mailed or emailed periodically in our discretion, to the address stated above unless you advise us in writing to use another address. Balances as shown on those statements are payable in full upon receipt, subject to Bankruptcy Court approval if there is a bankruptcy filing. Cafe agrees to pay these balances timely and promptly. The Company acknowledges and agrees that the Firm has reserved the right to seek approval from the Bankruptcy Court for additional compensation from the Chapter 11 estate beyond the retainer amount. If a bankruptcy case is filed, we will petition the court to authorize

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the Company to reimburse our costs and pay our fees on a monthly basis. The pre-petition retainer will be held by us in trust and applied when we receive a final order from the Bankruptcy Court authorizing the payment of post-petition fees and expenses. Any sums remaining in our retainer account after payment in full of all fees and expenses at the end of the case will be refunded to the Company.

The fees and costs relating to this engagement are not precisely predictable and are not within McNair's control. Although McNair will endeavor to control the expenses consistent with a quality representation of the Company, McNair makes no commitment as to maximum costs for this engagement. Cafe's commitment to pay McNair's invoices timely is not contingent on the ultimate outcome of this engagement.

Our bills would include any time and expenses incurred if anyone at McNair is compelled to produce documents or testify about the subject matter of McNair's representation. Further, while we do not anticipate that it would be an issue, our bills would include any time and expense incurred in collecting amounts due to McNair under this engagement, including completion of fee applications as required by the Bankruptcy Court.

#### **Client's Additional Duties**

To enable McNair to render services effectively, the Company must cooperate with us, be honest with us, tell us all facts that may be relevant to this engagement, and report to us promptly all developments relating to this engagement. The Company should also approve general negotiation, discovery, and litigation strategy; causes of action, defenses and parties to litigation, key business terms, and acceptable terms of any compromise, settlement, or other agreement. In addition, the Company must tell us promptly if any document we send you for review or approval fails to reflect adequately any key terms of Cafe's strategy, agreement, or expectations.

McNair must be able to contact Cafe's designated agent at all times to consult regarding this engagement; therefore, the Company agrees to inform McNair, in writing, of any changes in the contact person or contact information regarding this engagement. Whenever McNair needs the Company's instructions or authorization to proceed with legal work on its behalf, McNair will attempt to contact the Company's designated contact person at the latest address received from Cafe, unless the Company contact has previously deferred a particular matter to another employee or board member, in which case that person will be contacted.

If there is a bankruptcy filing, Cafe agrees that it will perform fully and conscientiously all of the statutory duties of the debtor and debtor-in-possession under the Bankruptcy Code, and that it will timely comply with all reasonable requests for information or reports requested by the Bankruptcy Court or the United States Trustee, who is charged with monitoring the performance of the debtor and debtor-in-possession in a Chapter 11 case. These duties include gathering and reviewing all of the information necessary for filing a complete and accurate list of all of Cafe's creditors (by name, address and amount owed), a schedule of executory contracts and unexpired leases, the

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statement of financial affairs, the statement of current income and expenses, and the monthly financial statements in the form required by the Bankruptcy Court or the United States Trustee.

Cafe acknowledges that if the requirements of the Bankruptcy Court or the United States Trustee are not followed, the Bankruptcy Court may dismiss the bankruptcy case or convert it to a Chapter 7 case. The Company acknowledges that it is aware of the consequences of having the bankruptcy case dismissed or converted to Chapter 7. Cafe acknowledges that the filing and pursuit of a successful bankruptcy reorganization requires extensive participation by the Company and its employees, including but not limited to providing complete and accurate information, which is the responsibility of the Company.

Cafe agrees to immediately provide to the Firm a complete list of its creditors by name and address in order for the Firm to complete its conflict of interest due diligence.

We will keep you apprised of the status of this engagement and will consult you concerning all significant strategic decisions where reasonably permitted by the pertinent circumstances.

#### **McNair's Internal Consultations**

During the course of this engagement a lawyer or other McNair employee may express an opinion or give advice, or deliver a memorandum of law, concerning the engagement, courses of action, or possible results. Any such statement is intended to express only that individual's expectation or judgment, based on information known to that person at that time, and is not a guarantee or promise. Further, no such statement should be considered a legal opinion unless the same is delivered as a formal written legal opinion of McNair.

McNair will be legal counsel only for the Company. In this engagement, McNair will not be counsel for any investor, director, or officer of the Company (the "Other Persons"). McNair's responsibility to protect Cafe's interests may mean taking action that might disadvantage one or more of the Other Persons. If the Other Persons believe that they need legal advice to protect their interests, McNair strongly encourages them to retain separate counsel. If a dispute arises among the Company and the Other Persons, McNair shall have the right to represent the Company in that dispute, if the Company so chooses.

There will be no confidences among the Other Persons regarding the work McNair does for the Company in this engagement. In other words, if we receive information from or about one Other Person that is relevant to our engagement, we are allowed to give the Company that information and we could be compelled to reveal such unprotected statements or documents. McNair recommends that each Other Person obtain advice from independent counsel. Cafe acknowledges the existence of these other relationships.

Cafe is McNair's only client for the purpose of this engagement.

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We have informed you that McNair has previously represented and currently represents Cherokee County, Greenville County, Horry County, Oconee County, and Spartanburg County, (collectively, the "Counties") as well as the Board of Public Works for Gaffney, Board of Public Works for Greer, Charleston Water System, and the City of Rock Hill (collectively, the "Utility Providers") in unrelated matters. The McNair attorneys who work on matters for the Counties and Utility Providers will not be involved in this matter and, likewise, the attorneys who work on this matter will not work on matters for the Counties or Utility Providers. After careful consideration, we have determined that we will be able to provide competent and diligent representation to both Cafe, the Counties and the Utility Providers in these unrelated matters. As a result, while we do not believe that the above constitutes a conflict that prohibits us from representing Cafe, we wanted to inform you of the foregoing and seek your written consent and waiver. Notwithstanding the above, McNair notes that it would not represent Cafe, the Counties or Utility Providers in connection with any directly adverse matters (*e.g.*, a claim objection or negotiating adequate assurance for a utility) and understand that Cafe would use King & Spalding or other conflicts counsel for that purpose. We have been granted a similar consent and waiver by the Counties and Utility Providers related to the representation of Cafe.<sup>2</sup> By executing this engagement letter, Cafe waives any apparent, potential, or other conflict that McNair would have relative to the foregoing representations. We would encourage you to seek advice from independent counsel if any questions exist or arise concerning this matter.

#### Termination

Cafe may terminate this representation at any time upon written notice to my attention, although the Company may also be required by others outside McNair to confirm that termination. McNair may terminate this representation by written notice to the Company if the Company fails to cooperate with any reasonable request from McNair relating to this representation, or to make full and timely payment of McNair's invoices, or if McNair determines that the continuation of this representation would be or may be unethical.

If McNair terminates this engagement, McNair will, at Cafe's request, attempt to suggest one or more possible successor counsel. If permission for withdrawal is required by any court or administrative agency, McNair will apply for such permission promptly and Cafe will engage successor counsel promptly. The Company will pay, upon Bankruptcy Court approval, all invoices on this matter unpaid as of the date of termination, as well as all other charges and costs incurred on this matter through the date of termination.

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<sup>2</sup> McNair notes that the waiver and consent obtained from Horry County contains what purports to be a reservation of right to withdraw its consent at a later time. In addition, we have received an initial favorable indication that the City of Rock Hill will provide its consent and waiver to McNair on or before Tuesday, October 9<sup>th</sup>, and I will confirm with you once it has been received. Lastly, we understand that Cafe might have utility providers that were not creditors at the time McNair's conflicts search was run or may not be creditors at the time of any potential bankruptcy filing that are current clients of McNair and from whom McNair has not obtained a consent and waiver. Please note that to the extent McNair represents such a utility provider on unrelated matters, it will not be able to represent Cafe in any negotiations for adequate assurance or any other directly adverse matters with respect to the utility provider.

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Please sign, date, and return a copy of this letter to McNair to confirm Cafe's agreement to the terms of our representation.

We appreciate this opportunity and look forward to working with you.

Sincerely,

McNAIR LAW FIRM, P.A.

*Michael H. Weaver*

Michael H. Weaver

MHW/khh

**AGREED AND ACCEPTED:**

**CAFE ENTERPRISES, INC.**

By: \_\_\_\_\_

*Eric Easton*  
**Eric Easton**

Date: October 5, 2018

**ITS: Chief Financial Officer**

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**EXHIBIT A**

**Subsidiaries/Affiliates:**

Cafe Holdings Corp.

CE Sportz LLC

CES Gastonia LLC