Proposed Hearing Date: September 29, 2017 at 10:00 a m. (ET)[1]
Proposed Objection Deadline: September 28, 2017 at 12:00 p m. (ET)

REDACTED

LOWENSTEIN SANDLER LLP
Kenneth A. Rosen, Esq.
Mary E. Seymour, Esq. (*pro hac vice*)
Andrew Behlmann, Esq. (*pro hac vice*)
One Lowenstein Drive
Roseland, New Jersey 07068
(973) 597-2500 (Telephone)
(973) 597-2400 (Facsimile)
Counsel to the Reorganized Debtors

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: BINDER & BINDER – THE NATIONAL SOCIAL SECURITY DISABILITY ADVOCATES LLC, Reorganized Debtors.	Chapter 11 Case No. 14-23728 (RDD)

REORGANIZED DEBTORS' MOTION FOR ENTRY OF AN ORDER APPROVING SALE OF CERTAIN ASSETS AND GRANTING RELATED RELIEF

Binder & Binder – The National Social Security Disability Advocates LLC and SSDI Holdings, Inc. (the "Reorganized Debtors"), submit this motion (the "Motion") pursuant to sections 105 and 363 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, 9007, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for entry of an order substantially in the form attached hereto as **Exhibit A** (the "Sale Order") (i) approving the sale (the "Sale") of the Reorganized Debtors' servicing rights with respect to, and any other interests in, certain of their SSA Cases (defined herein) (collectively, the "Acquired Assets") to Advocator Group, LLC ("Advocator"), as set forth in the Asset Acquisition Agreement dated September 12, 2017 attached hereto as **Exhibit B** (the

[1] Contemporaneously with this Motion, the Reorganized Debtors are filing a motion seeking to limit notice of this Motion to the Notice Parties (as defined below) and shorten the notice period with respect to this Motion (the "Motion to Shorten"). The hearing date and objection deadline reflected above are subject to change if the Court does not grant the Motion to Shorten. The Reorganized Debtors will promptly file and serve a notice of hearing reflecting any updated hearing date and objection deadline.

"Agreement"), free and clear of liens, claims, and encumbrances, (ii) approving the scope and manner of notice of the Sale, and (iii) granting related relief. In support of the Motion, the Reorganized Debtors respectfully state as follows:

JURISDICTION

1. This Court has jurisdiction over the Motion pursuant to Article X.A. of the *Second Amended Chapter 11 Plan Proposed By The Debtors* (the "Plan") [Docket No. 673] and 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (N), and (O). In addition, the Court has jurisdiction to approve the Sale as it is a matter that affects the implementation and consummation of the plan. *See In re Johns-Manville*, 7 F.3d 32, 34 (2d Cir. 1993). Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief sought herein are sections 105 and 363 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 9007, Rules 2002-1 and 9006-1 of the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules"), and the *Amended Guidelines for the Conduct of Asset Sales*, General Order M-383 of the Bankruptcy Court for the Southern District of New York.

BACKGROUND

A. The Chapter 11 Cases

1. On December 18, 2014 (the "Petition Date"), Binder & Binder – The National Social Security Disability Advocates (NY), LLC, and its debtor affiliates (collectively, the "Debtors") filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code (the "Chapter 11 Cases") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"). Until the Effective Date (as defined below), the Debtors

continued to operate their businesses and manage their property as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

2. On January 8, 2015, the United States Trustee for the Southern District of New York (the "U.S. Trustee") appointed an Official Committee of Unsecured Creditors (the "Committee") in the Chapter 11 Cases pursuant to 11 U.S.C. § 1102 [Docket No. 80]. The Committee was twice reconstituted.

3. On September 13, 2016, this Court conducted a hearing on confirmation of the Plan, and on October 3, 2016, entered the *Order Confirming Second Amended Chapter 11 Plan Proposed By The Debtors* (the "Confirmation Order")[Docket No. 676], which, among other things, confirmed the Plan and approved the appointment of Development Specialists, Inc. as the Plan Administrator (the "Plan Administrator").

4. The effective date of the Plan occurred on October 19, 2016 (the "Effective Date"). *See* Docket No. 683.

3. The Plan contemplates an orderly, controlled wind-down of the Reorganized Debtors' existing business over the course of approximately three years from the Effective Date (the "Wind-Down") in order to adjudicate to conclusion all of the Reorganized Debtors' existing disability cases (the "SSA Cases") under programs operated by the Social Security Administration (the "SSA"), monetize the Reorganized Debtors' other assets, and fund distributions to the holders of allowed claims against the Debtors in accordance with the classification and treatment thereof under the Plan.

4. Since the Effective Date, the Plan Administrator on behalf of the Reorganized Debtors has worked diligently to implement the Plan and effectuate the Wind-Down of the Reorganized Debtors' business, including servicing the SSA Cases. As of the filing of this

Motion, the Plan Administrator's performance and administration of the Wind-Down has exceeded the projections the Debtors formulated in connection with the Plan. Since the Effective Date, under the management of the Plan Administrator, the Reorganized Debtors have successfully adjudicated thousands of SSA Cases, made payments to their secured lenders (the "Lenders") from excess cash well ahead of forecasts, and timely made all other payments required under the Plan. While the Reorganized Debtors' performance since the Effective Date has exceeded projections, their rapid completion of remaining SSA Cases has dramatically accelerated the pace of the Wind-Down. At the time the Plan was formulated, negotiated, and confirmed, the Debtors anticipated that the Wind-Down would take approximately three years from the Effective Date (i.e., until the fourth quarter of 2019), at which time it would no longer be economical for the Debtors to continue servicing their then-remaining SSA Cases, which would then be transitioned to a third party purchaser for servicing to completion. The accelerated pace of the Wind-Down has instead brought the Reorganized Debtors near that efficient threshold, which they expect to reach in the fourth quarter of 2017.

5. Article IV.D.2(iii) of the Plan specifically provides that the Plan Administrator, on behalf of the Reorganized Debtors, shall have the authority and right to sell assets of the Reorganized Debtors as appropriate. However, because the Sale reflects a departure from the timeline contemplated in the Plan, the Debtors seek its approval by this Court. The Reorganized Debtors do not believe the Sale will adversely impact the treatment of any class of creditors under the Plan; rather, the Reorganized Debtors believe that the Sale will maximize recoveries by their estates and creditors.

6. Prior to entering into the Agreement, the Reorganized Debtors contacted and met with several potentially interested parties, each of which had previously submitted an indication

of interest in a potential transaction with the Debtors during the Chapter 11 Cases. The Debtors received term sheets from Advocator and another potentially interested party, and ultimately determined, in an exercise of their business judgment and in consultation with the Lenders, that the proposal from Advocator carried minimal execution risk and provided the best value to the Reorganized Debtors and their employees and other stakeholders. Advocator, which is a subsidiary of a publicly traded parent entity, has a robust infrastructure for servicing SSA Cases that will enable it to successfully assume the obligations inherent in servicing the thousands of SSA Cases that will remain at the consummation of the Sale. The Reorganized Debtors have consulted with and sought the input and approval of the Lenders throughout the Sale process.

B. The Sale

7. On September 12, 2017, the Reorganized Debtors and Advocator executed the Agreement. Pursuant to the Agreement, Advocator will purchase the Reorganized Debtors' servicing rights with respect to certain of the Debtors' existing SSA Cases (the "Acquired Cases"), along with all electronic records related to the Acquired Cases, each as more particularly described in the Agreement (the "Acquired Assets"). The Reorganized Debtors and the Plan Administrator, in consultation with the Lenders, believe that pursuing the Sale at this time will maximize the value realized by the Reorganized Debtors on account of the SSA Cases. Accordingly, the Reorganized Debtors request this Court's approval of the Sale notwithstanding the departure from the timeline originally contemplated in the Plan.

8. The substantive terms and conditions of the proposed Sale are outlined below:

Provision	Description
Assets to be Acquired	The Reorganized Debtors' right to service the Acquired Cases, along with all electronic records related to the Acquired Cases, each as more particularly detailed in Section 1(a) of the Agreement attached hereto as Exhibit B

Provision	Description
Assets to be Excluded	All other assets of the Reorganized Debtors.
Purchase Price	[redacted] (the "Earn-Out Payment"). [redacted]
Payment Terms	[redacted] on December 4, 2017 (the "Servicing Commencement Date Payment") The Earn-Out Payment will be paid in monthly installments on the fifteenth day of each month, [redacted]
Conditions to Closing	Delivery of Bill of Sale and Assignment with respect to Acquired Assets Independent Contractor Agreements executed by each of the Primary Representatives listed on Schedule 2 to Agreement Bankruptcy Court approval (subject to deemed waiver if the Court declines to exercise jurisdiction over this Motion)

RELIEF REQUESTED

9. The Reorganized Debtors request that this Court approve the Sale of the Acquired Assets in accordance with the terms of the Agreement, free and clear of all liens, claims, and interests in accordance with section 363 of the Bankruptcy Code.

BASIS FOR RELIEF

A. The Proposed Sale of the Acquired Assets is a Sound Exercise of the Reorganized Debtors' and Plan Administrator's Business Judgment and is Authorized by Section 363 of the Bankruptcy Code.

10. Section 363 of the Bankruptcy Code provides that a debtor-in-possession, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate . . . ." 11 U.S.C. § 363(b)(1). Although section 363 does not articulate a standard for authorizing the sale or disposition of a debtor's assets, courts in the Second Circuit have found that the decision to sell assets outside the ordinary course of business should be based

upon the sound business judgment of the debtor and, where that judgment has a reasonable basis, a court ordinarily should defer to that judgment in determining whether to approve a proposed transaction. *See In re Chrysler LLC*, 405 B.R. 84, 95-96 (Bankr. S.D.N.Y. 2009); *In re Chateaugay Corp.*, 973 F.2d 141, 143 (2d Cir. 1992); *see also Comm. of Equity Security Holders v. Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983); *In re Global Crossing Ltd.*, 295 B.R. 726, 742 (Bankr. S.D.N.Y. 2003); *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 678-79 (Bankr. S.D.N.Y. 1989); *Comm. of Asbestos-Related Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) ("Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor's conduct.").

11. As long as a valid business justification exists—as it does under the present circumstances—a debtor's decision to sell estate property is entitled to a strong presumption that "in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interest of the company." *In re Integrated Res., Inc.*, at 656 (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)). This presumption results in courts giving substantial deference to the business decisions of debtors. *See In re Global Crossing, Ltd.*, 295 B.R. 726, 744 n.58 (Bankr. S.D.N.Y. 2003) ("[T]he Court does not believe that it is appropriate for a bankruptcy court to substitute its own business judgment for that of the [d]ebtors and their advisors, so long as they have satisfied the requirements articulated in the caselaw.")

12. As part of this analysis, courts may also consider (a) whether fair and reasonable consideration is provided, (b) whether the transaction has been proposed and negotiated in good faith, and (c) whether reasonable notice has been provided. *See In re Condere*, 228 B.R. 615,

626 (Bankr. S.D. Miss. 1998); *see also In re Nicole Energy Servs., Inc.*, 385 B.R. 201, 210 (Bankr. S.D. Ohio 2008) (citations omitted); 3 COLLIER ON BANKRUPTCY ¶ 363.02[3] (15th ed. rev. 2009) ("It is now generally accepted that section 363 allows such sales [of substantial portions of the debtor's assets] in chapter 11, as long as the sale proponent demonstrates a good, sound business justification for conducting the sale before confirmation (other than appeasement of the loudest creditor), that there has been adequate and reasonable notice of the sale, that the sale has been proposed in good faith, and that the purchase price is fair and reasonable.").

13. These factors are satisfied in this case. First, as set forth in the Plan, as part of the Wind-Down, the Reorganized Debtors are no longer accepting new SSA Cases and all net cash received from the adjudication of existing SSA Cases is used to fund Distributions under the Plan. The Sale will help to ensure the eventual successful completion of the Wind-Down.

14. First, the Reorganized Debtors believe that selling the Acquired Assets at this time on the terms set forth in the Agreement will maximize the value generated for the benefit of the Reorganized Debtors' estates and creditors. The Plan Administrator and Reorganized Debtors, after consultation with the Lenders, have determined that Advocator has the financial wherewithal to close the Sale and continue to provide skilled representation to the clients in the Acquired Cases. Thus, the sale of the Acquired Assets constitutes a prudent exercise of the Reorganized Debtors' business judgment.

15. Second, the Reorganized Debtors are selling the Acquired Assets after seeking offers from multiple parties for the Acquired Assets in order to ensure the consideration received for the Acquired Assets is market-tested. The Reorganized Debtors received term sheets from Advocator and another interested party, reviewed and evaluated the term sheets with the Plan Administrator, counsel, and the Lenders, and ultimately determined, in consultation with the

Lenders, that the proposal from Advocator represented the best possible outcome for the Reorganized Debtors and their clients and other stakeholders and will best enable the Reorganized Debtors to satisfy their obligations under the Plan.

16. Third, the Sale is proposed in good faith. The Reorganized Debtors negotiated the Agreement at arms' length with Advocator and are pursuing the Sale to maximize the value realized for the Acquired Assets, ensure the clients in the Acquired Cases will receive skilled representation before the SSA, and continue the Wind-Down in a timely and orderly fashion.

17. Finally, reasonable notice of the Sale will have been provided. The Reorganized Debtors have provided notice of the Sale to the Office of the U.S. Trustee, counsel for the Lenders, counsel to Stellus, those parties who have filed a notice of appearance and request for service of pleadings in the Chapter 11 Cases pursuant to Bankruptcy Rule 2002, and counsel to the former Committee.

B. The Sale of the Acquired Assets Should Be Free and Clear of Liens, Claims and Encumbrances.

18. The Reorganized Debtors request that the Sale be approved free and clear of all liens, claims (including claims based on any theory of successor liability, alter ego, or veil piercing), encumbrances, and other interests, whether arising pre- or post-petition, with any such liens or interests attaching to the proceeds of the Sale, with the same validity, force, and effect that they now have as against the applicable Acquired Assets. Such relief is consistent with the provisions of section 363(f), which authorizes a debtor to sell assets free and clear of interests in property of an entity other than the estate if:

> (1) applicable nonbankruptcy law permits a sale of such property free and clear of such interest;
>
> (2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the value of all liens on such property;

(4) such interest is in *bona fide* dispute; or

(5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

19. Because section 363(f) of the Bankruptcy Code is drafted in the disjunctive, satisfaction of any one of its five (5) requirements will suffice to permit the sale of the Acquired Assets "free and clear" of interests. *See, e.g., Contrarian Funds, LLC v. Westpoint Stevens, Inc. (In re Westpoint Stevens, Inc.),* 333 B.R. 30, 50 (S.D.N.Y. 2005) ("Where ...a sale is to be free and clear of existing liens and interests other than those of the estate, one or more of the criteria specified in section 363(f) of the statute must also be met."); *see also Michigan Employment Sec. Comm'n v. Wolverine Radio Co. (In re Wolverine Radio Co.)*, 930 F.2d 1132, 1147 n.24 (6th Cir. 1991); *Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot),* 94 B.R. 343, 345 (E.D. Pa. 1988) ("[Section 363(f)] is written in the disjunctive, not the conjunctive. Therefore, if any of the five conditions of § 363(f) are met, the Trustee has the authority to conduct the sale free and clear of all liens."); *In re Dundee Equity Corp.*, No. 89-B-10233, 1992 WL 53743, at *4 (Bankr. S.D.N.Y. Mar. 6, 1992) ("[S]ection 363(f) is in the disjunctive, such that the sale free of the interest concerned may occur if any one of the conditions of § 363(f) have been met.").

20. The Court also may authorize the sale of a debtor's assets free and clear of any liens pursuant to section 105 of the Bankruptcy Code, even if section 363(f) of the Bankruptcy Code did not apply. *See In re Trans World Airlines, Inc.*, No. 01-0056, 2001 WL 1820325, at *3 (Bankr. D. Del. Mar. 27, 2001) ("Bankruptcy courts have long had the authority to authorize the sale of estate assets free and clear even in the absence of § 363(f)."); *see also Volvo White Truck Corp. v. Chambersburg Beverage, Inc. (In re White Motor Credit Corp.)*, 75 B.R. 944,

948 (Bankr. N.D. Ohio 1987) ("Authority to conduct such sales [free and clear of liens] is within the court's equitable powers when necessary to carry out the provisions of Title 11.").

21. Here, the Reorganized Debtors understand that the Lenders consent to the Sale of the Acquired Assets to Advocator, subject to the Lenders receiving a collateral assignment of the Reorganized Debtors' rights under the Agreement, which the Agreement expressly permits. The Reorganized Debtors are unaware of any other liens, claims, or encumbrances against the Acquired Assets. Accordingly, the Reorganized Debtors submit that the Sale should be approved free and clear pursuant to section 363(f)(2).

C. The Purchaser Should be Afforded All Protections Under Section 363(m) Of The Bankruptcy Code as a Good Faith Purchaser and the Proposed Sale Does Not Violate Section 363(n) Of The Bankruptcy Code

22. Section 363(m) of the Bankruptcy Code protects a good-faith purchaser's interest in property purchased from the debtor notwithstanding that the sale conducted under section 363(b) is later reversed or modified on appeal. Specifically, section 363(m) states that:

> The reversal or modification on appeal of an authorization under [section 363(b)] ... does not affect the validity of a sale ... to an entity that purchased ... such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale ... were stayed pending appeal.

11 U.S.C. § 363(m). Section 363(m) "fosters the 'policy of not only affording finality to the judgment of the bankruptcy court, but particularly to give finality to those orders and judgments upon which third parties rely.'" *In re Chateaugay Corp.*, No. 92 CIV. 7054 (PKL), 1993 WL 159969, at *3 (S.D.N.Y. May 10, 1993) (quoting *In re Abbotts Dairies of Penn., Inc.,* 788 F.2d 143 at 147); *see also Allstate Ins. Co. v. Hughes*, 174 B.R. 884, 888 (S.D.N.Y. 1994) ("Section 363(m) . . . provides that good faith transfers of property will not be affected by the reversal or modification on appeal of an unstayed order, whether or not the transferee knew of the pendency of the appeal."); *In re Stein & Day, Inc.*, 113 B.R. 157, 162 (Bankr. S.D.N.Y. 1990) ("pursuant

to 11 U.S.C. § 363(m), good faith purchasers are protected from the reversal of a sale on appeal unless there is a stay pending appeal").

23. The selection of Advocator as the purchaser and the execution of the Agreement was the product of extensive arm's-length, good-faith negotiations and Advocator is not an "insider" of the Reorganized Debtors. Thus, the Reorganized Debtors submit that Advocator is a good-faith purchaser entitled to the protections of section 363(m) of the Bankruptcy Code. Section 363(n) of the Bankruptcy Code allows a trustee to avoid a section 363 sale where there has been collusion among bidders. As the Agreement was negotiated at arms' length and in good faith, there can be no suggestion that the Sale is tainted by collusion. Accordingly, the Reorganized Debtors submit that section 363(n) is inapplicable.

WAIVER OF BANKRUPTCY RULES 6004(a) AND 6004(h) AND PROPOSED FORM AND MANNER OF NOTICE OF THE SALE

24. The Reorganized Debtors request that the Court modify the notice requirements under Bankruptcy Rule 6004(a), which provides that notice of a proposed sale of property, other than in the ordinary course of business, shall be given to all known creditors and parties-in-interest pursuant to Bankruptcy Rules 2002(a)(2), (c), (i), and (k).

25. Bankruptcy Rule 2002(a)(2) provides that not less than twenty-one (21) days' notice by mail shall be given of a proposed sale of property of an estate other than in the ordinary course of business. The Reorganized Debtors believe that it is critical to obtain Court approval of the Sale as soon as possible so that the Reorganized Debtors can immediately begin the process of transitioning the Acquired Cases to Advocator. Accordingly, the Reorganized Debtors anticipate filing a motion to shorten time seeking an expedited hearing on this Motion, subject to the Court's availability.

26. In addition, the Reorganized Debtors seek authority to limit notice of the proposed Sale. Bankruptcy Rule 2002(c)(1) governs the content of the notice of a proposed sale and requires that the notice include the time and place of any public sale, the terms and conditions of any private sale and the time fixed for filing objections. A general description of the property to be sold is also required. The costs of providing notice of the Sale to all creditors, whose recoveries under the Plan have already been established and approved by the Court, would be substantial and a waste of estate resources. Moreover, the Plan specifically provides authority for the Plan Administrator to sell assets post-confirmation. Accordingly, the Reorganized Debtors respectfully request that the Court waive the requirement of serving a notice of the Sale on all creditors and instead direct that providing notice to the Office of the U.S. Trustee, counsel for the Lenders, counsel to Stellus, those parties who have filed a notice of appearance and request for service of pleadings in the Chapter 11 Cases pursuant to Bankruptcy Rule 2002, and counsel to the former Committee is good and sufficient notice of the Sale and that no other or further notice be provided.

27. To implement the Sale successfully, the Reorganized Debtors also seek a waiver of the fourteen-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). Pursuant to Rule 6004(h), "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise."

28. The Reorganized Debtors seek a waiver of the fourteen-day stay to enable the Reorganized Debtors to begin the process of sending notifications to clients in the Acquired Cases to ensure servicing of the Acquired Cases can be effectively transitioned to Advocator by the Servicing Commencement Date, December 4, 2017. Accordingly, the Reorganized Debtors

submit that ample cause exists to justify a waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h), to the extent it applies.

NOTICE

29. Notice of this Motion has been given to (i) counsel to U.S. Bank National Association, Katten Muchin Rosenman LLP, 525 West Monroe Street, Chicago, Illinois 60661, Attn: Kenneth J. Ottaviano, Esq. (kenneth.ottaviano@kattenlaw.com); (ii) counsel for Capital One Bank, N.A., McCarter & English, LLP, Four Gateway Center, 100 Mulberry St., Newark, New Jersey 07102, Attn: Joseph Lubertazzi, Jr., Esq. (jlubertazzi@mccarter.com); (iii) counsel to Stellus Capital Investment Corporation, Moore & Van Allen PLLC, 100 North Tryon Street, Suite 4700, Charlotte, North Carolina 28202, Attn: Stephen E. Gruendel (stevegruendel@mvalaw.com); (iv) counsel to the former Committee, Klestadt Winters Jureller Southard Stevens, LLP, 200 West 41st Street, New York, New York 10036; (v) the Office of the United States Trustee for the Southern District of New York, 201 Varick Street, Suite 1006, New York, New York, 10014 Attn: Susan Golden, Esq.; and (vi) those parties who have filed a notice of appearance and request for service of pleadings in the Chapter 11 Cases pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**").

30. Accordingly, the Reorganized Debtors submit that good and sufficient notice of this Motion including as required by Bankruptcy Rule 2002, has been provided by service on the Notice Parties and no other or further notice need be provided.

NO PRIOR REQUEST

31. No previous motion for the relief sought herein has been made to this or to any other court.

WHEREFORE, the Reorganized Debtors respectfully request entry of an order granting the relief requested herein and such other and further relief as the Court deems just and proper.

Dated: September 21, 2017
New York, New York

LOWENSTEIN SANDLER LLP

By: *_/s/ Andrew Behlmann_*
Kenneth A. Rosen, Esq.
Mary E. Seymour, Esq. (*pro hac vice*)
Andrew Behlmann, Esq.(*pro hac vice*)
One Lowenstein Drive
Roseland, New Jersey 07068
(973) 597-2500 (Telephone)
(973) 597-2400 (Facsimile)

Counsel to the Reorganized Debtors

EXHIBIT B
AGREEMENT

ASSET ACQUISITION AGREEMENT

This **ASSET ACQUISITION AGREEMENT** (this "Agreement"), dated and effective as of September 12, 2017 (the "Agreement Date") is made and entered into by and between **THE ADVOCATOR GROUP, LLC**, a Florida limited liability company ("Buyer"); and **BINDER & BINDER – THE NATIONAL SOCIAL SECURITY DISABILITY ADVOCATES, LLC**, a Delaware limited liability company ("Seller"). Buyer and Seller are sometimes each referred to herein as a "Party" and collectively as the "Parties."

BACKGROUND

WHEREAS, the Parties each provide advocacy services to claimants in Social Security disability benefits cases ("Cases") pending before the Social Security Administration ("SSA").

WHEREAS, Seller wishes to sell, and Buyer wishes to acquire, all of Seller's rights with respect to and interests in certain of Seller's Cases.

WHEREAS, Seller is a reorganized debtor in the jointly administered chapter 11 proceedings styled as *In re Binder & Binder – The National Social Security Disability Advocates, LLC*, Case No. 14-23728 (RDD), pending in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court").

WHEREAS, Seller is the borrower under a secured post-confirmation credit facility with U.S. Bank National Association as agent (in such capacity, "Agent").

THEREFORE, the Parties, intending to be legally bound, hereby agree as follows, subject to approval by the Bankruptcy Court:

TERMS

1. Purchase and Sale.

(a) On the Closing (as defined below), Seller shall sell, convey and assign to Buyer all right, title and interest in and to the following assets (collectively, the "Acquired Assets"), free and clear of all liens, pledges, security interests, encumbrances, or other interests of any nature whatsoever to the greatest extent permitted by applicable law, in exchange for the purchase price described in **Section 2** below and subject to payment of the Servicing Commencement Date Payment (as defined below):

(i) Seller's right to service all of the Cases that, as of December 4, 2017 (the "Servicing Commencement Date"), meet one or more of the criteria set forth in **Section 1(b)** below (the "Acquired Cases"), and

(ii) All electronic records related to the Acquired Cases; provided that Seller is not selling, and Buyer is not purchasing, Seller's "CTSP" case management software, but rather, Buyer shall have only the right to export all records and other data relating to the Acquired Cases for use in Buyer's own case management systems; provided, further, that Seller makes no representation or warranty of any kind with respect to the technical feasibility or reliability of exporting such records and data. Seller shall, at Seller's cost and expense, maintain Seller's physical records with respect to the Acquired Cases until November 1, 2018 and shall destroy such physical records at Seller's cost and expense on or before December 31, 2018.

(b) Subject to **Section 1(c)** below, Acquired Cases include all Cases in which the primary representative is a primary representative listed on Schedule 2, and in which, as of the Servicing

Commencement Date:

(i) the SSA has not yet conducted a hearing;

(ii) the SSA has conducted a hearing but in which a supplemental hearing is necessary;

(iii) an initial claim has been denied within fifty days prior to the Servicing Commencement Date;

(iv) an initial claim has been denied between fifty-one and sixty days prior to the Servicing Commencement Date, for which Seller timely files or has timely filed an appeal (regardless of whether such appeal is filed on, before, or after the Servicing Commencement Date);

(v) an Appeals Council claim is pending;

(vi) an initial application remains pending with the SSA;

(vii) a reconsideration claim has been denied within fifty days prior to the Servicing Commencement Date;

(viii) a reconsideration claim has been denied between fifty-one and sixty days prior to the Servicing Commencement Date, for which Seller timely files or has timely filed an appeal (regardless of whether such appeal is filed on, before, or after the Servicing Commencement Date); and/or

(ix) a reconsideration claim is pending with the SSA.

(c) Notwithstanding the applicability of any of the criteria set forth in **Section 1(b)** above, the Acquired Cases specifically exclude all Cases that meet one or more of the following criteria (the "Excluded Cases") as of the Servicing Commencement Date:

(i) Cases in which the SSA has held a hearing and rendered a decision;

(ii) Cases in which the SSA has held a hearing but not yet rendered a decision, unless a supplemental hearing is necessary;

(iii) Cases on remand from a Federal District Court; and/or

(iv) Cases in which Charles Binder is currently designated as the primary representative.

(d) On the Servicing Commencement Date, Seller shall provide Buyer with an updated Schedule 1, as of close of business on the date immediately preceding the Servicing Commencement Date, identifying all of the Acquired Cases. If the Parties determine by mutual written consent that any Excluded Cases (or any cases that are not Acquired Cases as of the Servicing Commencement Date) will become Acquired Cases after the Servicing Commencement Date, then Seller will promptly provide Buyer with an updated Schedule 1 reflecting such additional Acquired Cases.

(e) Except for the obligation to service the Acquired Cases on and after the Servicing Commencement Date at Buyer's sole cost, obligation, and expense, Buyer is not assuming and will not be deemed to assume any obligations or liabilities of Seller whatsoever. Without limiting the foregoing, Buyer shall have no responsibility with respect to Seller's employees, office lease, leased vehicles, or leased equipment. The Parties recognize and agree that only the Acquired Assets and not any other assets of

Seller, including Seller's business, are being acquired by Buyer.

2. Purchase Price.

(a) The purchase price for the Acquired Assets (the "Purchase Price") is equal to [redacted] to be paid at the times and in the manner set forth in **Section 2(c)** below.

(b) As used in this Agreement with respect to any Acquired Case, [redacted]

(c) Buyer shall pay the Purchase Price to Seller via wire transfer of immediately available funds to an account designated by Seller (as Seller may update from time to time by providing advance written notice to Buyer), as follows:

(i) On the Servicing Commencement Date, [redacted] (the "Servicing Commencement Date Payment"); and

(ii) Subject to **Section 2(d)**, during the Earn-Out Period, on the fifteenth day of each calendar month after the calendar month in which the Servicing Commencement Date occurs, an amount equal to [redacted] (collectively, all such installments are the "Earn-Out Payment"), provided that [redacted].

(d) Contemporaneously with the payment of each monthly installment of the Earn-Out Payment, Buyer shall transmit to Seller a schedule setting forth the Acquired Cases to which such installment relates, [redacted] the calculation of Seller's portion thereof.

(e) In conjunction with and as a condition to Buyer's payment of the final installment of the Earn-Out Payment, the Parties will execute and deliver the Satisfaction Agreement and Release attached hereto as Exhibit A. Buyer will pay the final installment of the Earn-Out Payment within one (1) business day following Buyer's receipt of the Satisfaction Agreement and Release, executed by Seller.

(f) Seller and its agents and representatives shall be permitted reasonable access to Buyer's financial statements, books, records, general ledger, and such other documents, work papers and other records and materials as Seller may reasonably request in order to verify the accuracy of the calculation of the Earn-Out Payment or any installment thereof. The Parties will cooperate in good faith to resolve any disputes related to or arising out of the payment and/or calculation of the Earn-Out Payment or any installment thereof.

(g) Notwithstanding the foregoing, if Buyer has incurred an indemnifiable expense or liability under **Section** Error! Reference source not found., Buyer (i) shall give Seller written notice thereof (a "Buyer Indemnification Notice"), (ii) on the first business day that is not less than fifteen days after Buyer has delivered a Buyer Indemnification Notice (the "Indemnification Notice Period"), may set off the undisputed amount of such indemnifiable expense or liability against the Earn-Out Payment. If Seller, within the applicable Indemnification Notice Period, objects to all or any portion of an expense or liability asserted in a Buyer Indemnification Notice, (x) the Parties shall cooperate in good faith to resolve the dispute and (y) the disputed amount may not be set off against the Earn-Out Payment until the Parties have reached a consensual resolution or a court of competent jurisdiction has entered a final order in Buyer's favor.

(h) No portion of the Purchase Price will bear interest.

3. Closing; Termination.

(a) The closing of the purchase and sale of the Acquired Assets (the "Closing") shall take place on the Agreement Date.

(b) At or prior to the Closing, and each as a condition to the Closing, Seller shall deliver to Buyer:

(i) an executed Bill of Sale and Assignment with respect to the Acquired Assets, substantially in the form annexed hereto as Exhibit B, and

(ii) an IRS Form W-9, Request for Taxpayer Identification Number and Certification, completed and executed by Seller;

(iii) an Independent Contractor Agreement, executed by each of the primary representatives listed on Schedule 2; provided, that if any of the primary representatives listed on Schedule 2 does not execute an Independent Contractor Agreement, or otherwise terminates an Independent Contractor Agreement prior to the Servicing Commencement Date, Seller will use commercially reasonable efforts to transition such Acquired Cases to a representative designated by Buyer; and

(c) At or prior to the Servicing Commencement Date, and as a condition to Buyer's payment of the Servicing Commencement Date Payment on the Servicing Commencement Date and to the Parties' rights and obligations arising under this Agreement on and after the Servicing Commencement Date:

(i) The Bankruptcy Court shall have entered an order, in form and substance acceptable to the Parties and Agent, approving Seller's entry into this Agreement and consummation of the transactions contemplated hereby, provided that if the Bankruptcy Court declines to exercise jurisdiction over Seller's request for entry of such an order, the condition set forth in this **Section 3(c)(i)** shall be deemed waived without further action by the Parties; and

(ii) [redacted]

(d) From the Agreement Date through the Servicing Commencement Date, Seller shall (A) manage the Acquired Cases substantially in the manner such cases were managed by Seller prior to the Agreement Date, (B) use commercially reasonable efforts to preserve intact all of the Acquired Cases, (C) not dispose, encumber, agree to sell or otherwise take actions which materially impact ownership of the

Acquired Cases by Seller, or (D) not take any actions which would cause any of Seller's representations or warranties to be materially untrue.

(e) Buyer's obligation to pay the Servicing Commencement Date Payment on the Servicing Commencement Date, and the Parties' rights and obligations arising under this Agreement on and after the Servicing Commencement Date, may be terminated: (i) by mutual written consent of the Parties; (ii) by Buyer if there has been a material breach by Seller of any representation, warranty, covenant or agreement set forth in this Agreement that is not cured before the Servicing Commencement Date; (iii) by Seller if there has been a material breach by Buyer of any representation, warranty, covenant or agreement set forth in this Agreement that is not cured before the Servicing Commencement Date; or (iv) by any Party if any permanent injunction or other Order of a court or other competent authority preventing the any Party's performance under this Agreement. In the event of a termination pursuant to this Section 3(e), the conveyance of any of the Acquired Assets pursuant to this Agreement shall be null and void and of no further force or effect.

(f) At any time before the Closing and/or the Servicing Commencement Date, as applicable, the Parties may agree in writing to: (i) extend the time for the performance of any of their obligations or other acts required under this Agreement, (ii) waive any inaccuracies in the representations and warranties contained in this Agreement or in any document delivered pursuant hereto, and (iii) waive compliance with any of the agreements or conditions contained herein.

4. Revenue.

(a) For clarity, all Revenue earned before the Servicing Commencement Date on account of any services performed in any Acquired Case shall be the property of Seller, and all Revenue earned on or after the Servicing Commencement Date on account of any services performed in any Acquired Case shall be the property of Buyer. Any liability for the return of any Revenue earned on account of any Acquired Case before the Servicing Commencement Date shall be the liability of Seller, and any liability for the return of any Revenue earned on account of any Acquired Case on or after the Servicing Commencement Date shall be the liability of Buyer, provided that in the event any Revenue earned by Buyer after the Servicing Commencement Date on account of an Acquired Case is returned to the SSA or the client for any reason other than Buyer's gross negligence or willful misconduct, the Purchase Price shall be reduced by the product of (i) the amount so returned times (ii) the Earn-Out Multiplier.

(b) Each Party shall hold in trust and promptly pay over to the other Party any funds it receives that are the property of the other Party.

5. Representations and Warranties.

(a) Seller represents and warrants to Buyer as follows:

(i) Seller is a limited liability company organized and in good standing under the laws of the State of Delaware, and its status is active. Seller has all requisite corporate power and authority and all necessary governmental authorizations to own, lease and operate its properties, to carry on its business as now being conducted and to perform all its obligations under this Agreement and the Bill of Sale. Seller is duly qualified to do business and is in good standing as a foreign corporation in each jurisdiction where the conduct of its business requires it to be so qualified.

(ii) There is no suit, claim, action, proceeding, or investigation pending or threatened with respect to any of the Acquired Cases.

(iii) Seller is the sole owner of the Acquired Cases, free and clear of all liens (other than the liens and security interests held by Agent), encumbrances or other third-party claims, and may lawfully convey its interest in the Acquired Cases to Buyer pursuant to this Agreement.

(iv) Seller and its predecessors and affiliates have complied with all applicable laws with respect to the Acquired Cases and advocacy activities before the SSA and any other similar governmental agency, and no proceeding has been filed or commenced against any of them alleging any failure to so comply.

(v) The execution, delivery and performance of this Agreement and all other agreements or instruments contemplated hereby to which Seller is a party or by which Seller is bound have been duly authorized by Seller. This Agreement constitutes a valid and binding obligation of Seller, enforceable in accordance with its terms, and all other agreements and instruments contemplated hereby to which Seller is a party, when executed and delivered by Seller in accordance with the terms hereof, shall each constitute a valid and binding obligation of Seller, enforceable in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, or similar laws affecting creditors' rights generally or by general principles of equity.

(vi) Upon the execution and delivery by Seller of this Agreement and the Bill of Sale (collectively, "Seller's Documents"), each of Seller's Documents will constitute the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization or similar applicable legal requirements from time to time in effect relating to or affecting the enforcement of creditors' rights generally and general equitable principles. Seller has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and the Seller's Documents to which it is a party and to perform its obligations under this Agreement and the Seller's Documents, and such action has been duly authorized by all necessary action by Seller's shareholders and board of directors. The performance of Seller's obligations under the Seller's Documents will not violate the terms of any agreement or arrangement to which Seller is bound or to which the Acquired Cases may be bound.

(vii) Seller has had errors and omissions insurance coverage continuously in effect for at least the last four (4) years, with policy limits of at least $3 million per claim and a deductible no greater than $50,000 per claim.

(viii) There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement to which Seller or any affiliate of Seller is a party or to which Seller or any affiliate of Seller is subject for which Buyer could become liable or obligated.

(b) Buyer hereby represents and warrants to Seller as follows:

(i) Buyer is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Florida. Buyer possesses all requisite limited liability company power and authority necessary to own and operate its properties, to carry on its business as presently conducted, to execute and deliver this Agreement and to carry out the transactions contemplated by this Agreement.

(ii) The execution, delivery and performance of this Agreement and all other agreements or instruments contemplated hereby to which Buyer is a party or by which Buyer is bound have been duly authorized by Buyer. This Agreement constitutes a valid and binding obligation of Buyer, enforceable in accordance with its terms, and all other agreements and instruments contemplated hereby to which Buyer is a party, when executed and delivered by Buyer in accordance with the terms hereof, shall each constitute a valid and binding obligation of Buyer, enforceable in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or by general principles of equity.

(iii) Upon the execution and delivery by Buyer of this Agreement and the Bill of Sale (collectively, "Buyer's Documents"), each of Buyer's Documents will constitute the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization or similar applicable legal requirements from time to time in effect relating to or affecting the enforcement of creditors' rights generally and general equitable principles. Buyer has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and the Buyer's Documents to which it is a party and to perform its obligations under this Agreement and the Buyer's Documents, and such action has been duly authorized by all necessary action by Buyer's shareholders and board of directors. The performance of Buyer's obligations under the Buyer's Documents will not violate the terms of any agreement or arrangement to which Buyer is bound.

(iv) There are no actions pending or, to the knowledge of Buyer, threatened against or affecting Buyer, at law or in equity, or before any government entity, with respect to the transactions contemplated by this Agreement or that if adversely determined would have a material adverse effect on Buyer's ability to consummate the transactions contemplated hereby in a timely manner or perform its obligations hereunder.

(v) There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement to which Buyer or any affiliate of Buyer is a party or to which Buyer or any affiliate of Buyer is subject for which Seller could become liable or obligated.

The representations and warranties contained in this Agreement shall survive the Closing.

6. Indemnification.

(a) For a period of three (3) years from the Servicing Commencement Date, Seller agrees to indemnify, defend and hold Buyer and its parent company, affiliates, shareholders, directors, officers, employees, and agents (collectively, the "Buyer Indemnified Parties") harmless from and against any Adverse Consequences (as defined below) that any of such parties may suffer or incur resulting from, arising out of, relating to, or caused by (i) the breach of Seller's representations, warranties, obligations or covenants contained herein, or (ii) the operation of Seller's business before or after Servicing Commencement Date or ownership of the Acquired Cases by Seller on or prior to the Servicing Commencement Date, including, without limitation, any proceedings based on conduct of Seller occurring before the Servicing Commencement Date and any termination events for any employees of Seller. Notwithstanding the foregoing, as to any claim, litigation or other proceeding ("Proceeding") pending against Seller as of the Servicing Commencement Date, Seller's indemnity obligation shall continue through the final disposition of such Proceeding, either by settlement or by a final, non-appealable judgment issued by a court of competent jurisdiction. Notwithstanding the foregoing, Buyer will not be liable for any amounts under this **Section 6(a)** to the extent such indemnity payments would exceed (x) Buyer's offset rights under **Section 2(g)** above and (y) the proceeds of any applicable insurance, including the Required Tail Coverage.

(b) For a period of three (3) years from the Servicing Commencement Date, Buyer agrees to indemnify, defend and hold Seller and its affiliates, shareholders, officers, directors, employees and agents (collectively, the "Seller Indemnified Parties") harmless from and against any Adverse Consequences that any of such parties may suffer or incur resulting from, arising out of, relating to, or caused by (i) the breach of any of Buyer's representations, warranties, obligations or covenants contained herein, or (ii) the ownership of the Acquired Cases by Buyer after the Servicing Commencement Date, including, without limitation, any proceedings based on conduct of Buyer occurring after the Servicing Commencement Date. Notwithstanding the foregoing, as to any claim, litigation or other proceeding ("Proceeding") pending against Buyer as of the Servicing Commencement Date, Buyer's indemnity obligation shall continue through the final disposition of such Proceeding, either by settlement or by a final, non-appealable judgment issued by a court of competent jurisdiction.

(c) For purposes of this **Section 6**, the term "Adverse Consequences" means all charges, complaints, actions, suits, proceedings, hearings, investigations, claims, demands, judgments, orders, decrees, stipulations, injunctions, damages, dues, penalties, fines, costs, amounts paid in settlement, Liabilities (whether known or unknown, whether absolute or contingent, whether liquidated or unliquidated, and whether due or to become due), obligations, taxes, liens, losses, expenses, and fees, including all reasonable attorneys' fees and court costs.

7. Additional Agreements; Reasonable Efforts.

(a) *Expenses*. Except as otherwise expressly set forth in this Agreement, each Party shall be solely responsible for its own fees, costs, and expenses incurred in connection with the negotiation, execution, and implementation of this Agreement.

(b) *Further Assurances*. The Parties shall use their respective reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper, or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement, including cooperating fully with the other Party. Seller further agrees to provide reasonable assistance to Buyer in transitioning the Acquired Cases to Buyer and with preserving the good will and relationships of such accounts.

(c) *Taxes Resulting from Sale of Assets*. Seller will pay in a timely manner all taxes resulting from or payable in connection with (i) Seller's ownership or operation of the Acquired Cases before the Servicing Commencement Date and/or (ii) the sale of the Acquired Cases pursuant to this Agreement.

(d) *Primary Representatives*. Buyer may continue to utilize Seller's primary representatives in connection with the Acquired Cases pursuant to the terms of an Independent Contractor Agreement with each primary representative, substantially in the form annexed hereto as Exhibit D (the "ICA"). Seller shall use its reasonable efforts to assist Buyer in the negotiation and execution of the ICAs, to the extent Buyer reasonably so requests.

(e) *Data and Claim File Migration.* Subject to applicable law, following the Closing, each Party will reasonably cooperate with the other Party with respect to the migration of the data and files included in the Acquired Cases from Seller to Buyer.

(f) *Communication Transition.* Each Party will reasonably cooperate with the other Party with respect to all incoming communication, including checks, regarding the Acquired Cases, whether via telephone, email, fax, postal mail, or other. Seller shall promptly route all such communications to Buyer with respect to such Acquired Cases. At all times during the Earn-Out Period, Seller, at Seller's sole expense, will have designated personnel that will serve as the primary point of contact for Buyer to collaborate with regarding the routing of all such communications pursuant to this agreement. If Seller's designated personnel pursuant to this section shall change, Seller shall promptly notify Buyer of the change and the current primary point of contact.

(g) *Communication Strategy.* Following the Servicing Commencement Date, Seller and Buyer will reasonably collaborate on the contents of an initial outreach letter, and contents of any follow-up materials, required to inform the underlying claimant in the Acquired Cases that Seller is no longer servicing the Acquired Cases and that Buyer will further assist the Acquired Case; provided, that the Parties will equally share the costs incurred in generating such communications, and provided, further that any communications to clients in connection with the transition of the Acquired Cases using the "Binder & Binder" name and/or logo shall be sent only by Seller.

(h) *Errors and Omissions Tail Policy*. On or before the Servicing Commencement Date, Seller must arrange to purchase, at Seller's expense, extended reporting period ("tail") coverage extensions for Seller's E&O insurance policy (the "Required Tail Coverage"). The Required Tail Coverage will extend for a period of at least five (5) years from the Servicing Commencement Date, will have the same limits and deductibles currently in effect, and will otherwise be in form reasonably acceptable to Buyer. Evidence of Seller's arrangement to procure the Required Tail Coverage, satisfactory to Buyer in its commercially reasonable discretion, will be delivered to Buyer at or before Servicing Commencement Date. Without limiting the generality of the foregoing, the endorsement or policy evidencing the Required Tail Coverage will not contain an "other insurance" or other provision that purports to make the Required Tail Coverage excess rather than primary and non-contributory coverage as to any error or omission arising before the Servicing Commencement Date (an "Excess Coverage Provision"). If the Required Tail Coverage is procured as an endorsement to Seller's existing E&O policy, and the existing policy contains an Excess Coverage Provision, the Required Tail Coverage endorsement will amend the existing policy to (i) remove the Excess Coverage Provision and (ii) state expressly that the Required Tail Coverage will be primary and non-contributory as to any error or omission arising before the Closing.

(i) *Confidentiality*.

(i) Except to the extent necessary to obtain Bankruptcy Court approval as pursuant to **Section 3(c)(i)**, each of the Parties shall maintain the terms of this Agreement, including the consideration payable by Buyer, in strict confidence and shall not disclose such terms to any Third Party (except such Party's attorneys, accountants and other professional advisors, each with a business need to know such information) without the prior written Consent of all Parties to this Agreement. Despite the previous sentence, each Party has the right to disclose any information required by applicable Law. If any copy of this Agreement is required by such Law to be disclosed to any securities regulator, stock exchange or FINRA, the disclosing Party shall delete pricing and other confidential information to the maximum extent permitted by applicable rule, law, regulation, or stock exchange listing requirement.

(ii) For a period of three (3) years following the Servicing Commencement Date, Seller shall treat as confidential and hold as such all of the information, in any form, concerning the Acquired Cases that is not already generally available to the public, including without limitation, Acquired Case lists and records (collectively, "Confidential Information"), refrain from using any of the Confidential Information except in connection with this Agreement, and deliver promptly to Buyer or destroy, at the request and option of Buyer, all tangible embodiments (and all copies) of the Confidential Information that are in its possession (other than documents relating to this Agreement and the Acquisition). If Seller is requested or required (by oral or written question or request for information or documents in any Proceeding, interrogatory, subpoena, civil investigative demand, or similar process) to disclose any Confidential Information, Seller shall notify Buyer promptly of the request or requirement so that Buyer may seek an appropriate protective order or waive compliance with the provisions of this **Section 7(i)(ii)**. If, in the absence of a protective order or the receipt of a waiver hereunder, Seller is, on the advice of counsel, compelled to disclose any Confidential Information, Seller may disclose the Confidential Information solely in connection with such matter; provided, however, that Seller shall use its best efforts to obtain, at the request of Buyer, an order or other assurance that confidential treatment shall be accorded to such portion of the Confidential Information required to be disclosed as Buyer shall designate.

(j) *Retention of and Access to Records.* After the Servicing Commencement Date, Buyer shall retain, for a period consistent with Buyer's commercially reasonable record-retention policies and practices, those records of Seller delivered to Buyer. Buyer and Seller each agrees that it will make available to the other Party, upon reasonable advance written notice, all business records in its possession concerning the Acquired Cases for which the other Party has a legitimate business need (including but not limited to preparing tax returns, responding to tax audits, responding to SSA inquiries, and defending or otherwise responding to errors and omissions claims).

8. Non-Competition.

(a) *Covenant.* Seller agrees that Seller will not, for a period of five (5) years following the Servicing Commencement Date (the "Restricted Period"), engage in, or be or become the owner of an equity interest in, or otherwise consult with, be employed by, or participate in the business of any person or entity engaged in providing advocacy services to Cases pending before the SSA within the applicable Restricted Area, as defined below (the "Non-Compete Covenant"); provided, however, the following shall not constituted a violation of the Non-Compete Covenant: (i) ownership of less than one percent (1%) of the outstanding stock of any publicly traded corporation, or (ii) Seller undertaking any acts necessary or appropriate to finalize any Cases that are not Acquired Cases. The term "Restricted Area" means the United States of America.

(b) *Remedies.*

(i) In the event of a breach or threatened breach of the provisions of **Section 8** of this Agreement, Buyer will be entitled to injunctive relief as well as any other applicable remedies at law or in equity. Should a court of competent jurisdiction declare any of the covenants set forth in this Agreement unenforceable due to an unreasonable restriction, duration, geographical area or otherwise, the Parties agree that such court will be empowered and will grant Buyer or its affiliates injunctive relief to the extent reasonably necessary to protect their respective interests. Seller acknowledges that the covenants set forth in this Agreement represent an important element of the value of the Acquired Assets and are a material inducement for Buyer to enter into this Agreement. Seller further acknowledges that without such protection, Buyer's business would be irreparably harmed, and that the remedy of monetary damages alone would be inadequate.

(ii) If Seller will violate the restrictions contained in **Section 8** of this Agreement, and if any court action is instituted by Buyer to prevent or enjoin such violation, then the period of time during which Seller's business activities will be restricted as provided in this Agreement will be lengthened by a period of time equal to the period between the date upon which Seller is found to have first violated the restrictions, and the date on which the decree of the court disposing of the issues upon the merits will become final and not subject to further appeal.

(iii) In addition to the foregoing, any damages suffered by Buyer or its affiliates as a result of any breach by Seller of the provisions of **Section 8** of this Agreement will be subject to Seller's indemnity obligations set forth in this Agreement.

(iv) It is the Parties' intent that the terms and provisions of **Section 8** of this Agreement be enforceable to the maximum extent permitted by applicable law. If a court of competent jurisdiction declare any of the covenants set forth in **Section 8** of this Agreement unenforceable, then such court will be authorized to modify such covenants so as to render the remaining covenants and the modified covenants valid and enforceable to the maximum extent possible, and as so modified, to enforce **Section 8** of this Agreement in accordance with its terms. If any provision of this Agreement will be held to be excessively broad, it will be limited to the extent necessary to comply with applicable law.

(v) If any of the provisions of **Section 8** of this Agreement will otherwise contravene or be determined to be invalid or unenforceable under the laws of any state, country, or other jurisdiction in which this Agreement may be applicable, valid, and enforceable but for such contravention or invalidity or unenforceability, then (A) such contravention or invalidity or unenforceability (A) will not invalidate or otherwise affect the enforceability of all of the provisions of **Section 8** of this Agreement, but rather (B) **Section 8** of this Agreement (or the remaining provisions hereof, as applicable) will be construed, insofar as the laws of that state or other jurisdiction are concerned, as not containing the provision or provisions contravening or invalid under the laws of that state or jurisdiction, and (B) the rights and obligations created hereby will be construed and enforced to the maximum extent permitted under applicable law.

9. Intentionally omitted.

10. Notices. All notices, waivers and other communications required or permitted by this Agreement shall be in writing and shall be deemed given to a Party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (b) sent by facsimile or e-mail with confirmation of transmission by the transmitting equipment; or (c) received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses, facsimile numbers or e-mail addresses and marked to the attention of the person (by name or title) designated below (or to such other address, facsimile number, e-mail address, or person or entity as a Party may designate by notice to the other Parties). The Parties acknowledge that the telephone numbers set forth above are for convenience purposes only and telephonic notice alone shall not constitute valid notice under this Agreement:

Buyer:	The Advocator Group, LLC 101 Edgewater Drive, Suite 260 Wakefield, MA 01880 Attention: Julie Turpin Facsimile No.: (877) 286-1376
With a copy to:	Brown & Brown, Inc. 220 S. Ridgewood Avenue Daytona Beach, FL 32114 Attention: Robert W. Lloyd, General Counsel Facsimile No.: (386) 239-7293 E-mail: rlloyd@bbins.com
Seller:	Binder & Binder – The National Social Security Disability Advocates, LLC c/o Development Specialists, Inc. 110 East 42nd Street New York, New York 10017 Attention: Fred Caruso E-mail: fcaruso@dsi.biz
With a copy to:	Lowenstein Sandler LLP One Lowenstein Drive Roseland, New Jersey 07068 Attention: Mary E. Seymour, Esq. E-mail: mseymour@lowenstein.com Attention: Andrew Behlmann, Esq.

E-mail: abehlmann@lowenstein.com

11. Counterparts; Facsimile Signatures. This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Party, it being understood that all Parties need not sign the same counterpart. This Agreement and all other agreements, documents and instruments to be delivered in connection with this Agreement and the transactions contemplated hereby may be executed using facsimile or PDF signatures, and such facsimile or PDF signature pages shall in all respects be binding on all Parties hereto and thereto as if such signature pages were originally delivered. Original signature pages for all such facsimile signature pages shall be delivered to the Parties hereto within ten (10) days after the Closing. Seller may execute a collateral assignment of this Guaranty to Agent as security for Seller's obligations to Agent.

12. Entire Agreement. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof.

13. Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the Parties hereto (whether by operation of law or otherwise) without the prior written consent of the other Parties, provided, however, that Seller may execute a collateral assignment of its rights and obligations under this Agreement to Agent as security for Seller's obligations to Agent without Buyer's prior written consent. This Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns.

14. Severability. If any provision or covenant, or any part thereof, of this Agreement should be held by any court to be illegal, invalid or unenforceable, either in whole or in part, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of the remaining provisions or covenants, or any part thereof, all of which shall remain in full force and effect.

15. Attorneys' Fees. The prevailing party in any action brought to enforce the terms of this Agreement shall be entitled to an award of reasonable attorneys' fees incurred in enforcing its rights hereunder, including reasonable fees and costs incurred at the trial and appellate level.

16. Waiver of Jury Trial. The Parties hereby knowingly, voluntarily and intentionally waive any right either may have to a trial by jury with respect to any Proceeding related to or arising out of, under or in conjunction with this Agreement or any other agreement, note or instrument contemplated herein.

17. Governing Law. This Agreement and any other agreement, instrument or other document executed in connection herewith shall be governed by and construed and enforced in accordance with the laws of the State of New York without regard to its conflicts-of-laws principles. The Bankruptcy Court shall have exclusive jurisdiction over any and all disputes arising out of this Agreement or the interpretation or implementation thereof, provided that to the extent the Bankruptcy Court declines to exercise jurisdiction over any such dispute, the United States District Court for the Southern District of New York (or, solely in the event the amount in controversy is insufficient to establish federal diversity jurisdiction or such court otherwise declines to exercise jurisdiction, then the New York Supreme Court, New York County, Commercial Division) shall have exclusive jurisdiction with respect thereto.

*** * * * * * * * * ***

[Remainder of Page Intentionally Left Blank – Signature Page Follows]

IN WITNESS WHEREOF, the Parties have signed or caused this Asset Acquisition Agreement to be signed as of the date first written above.

BUYER:

THE ADVOCATOR GROUP, LLC

By: [redacted]
Name:
Title:

SELLER:

BINDER & BINDER – THE NATIONAL SOCIAL SECURITY DISABILITY ADVOCATES, LLC

By: [redacted]
Name:
Title: