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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA**

In re

DEWEY RANCH HOCKEY, LLC,

COYOTES HOLDINGS, LLC,

COYOTES HOCKEY, LLC, and

ARENA MANAGEMENT GROUP, LLC,

Debtors.

Case No. 2:09-bk-09488-RTB  
(Jointly Administered)

Chapter 11

**DECLARATION OF JEFF  
SHUMWAY**

This Filing Applies to:

- ☒ All Debtors  
☐ Specified Debtors

Jeff Shumway, under penalty of perjury, states:

1. From April 2006 through January 2009, I was affiliated with the Phoenix Coyotes hockey team. On or about April 13, 2006, I was named Chief Executive Officer (“CEO”) of Coyotes Hockey, LLC (“Coyotes Hockey” or “Phoenix Coyotes”), which owns, manages and operates the hockey team. I was also a manager of Coyotes Holdings, LLC (“Coyotes Holdings”), which is the managing member of Coyotes Hockey.

2. On or about September 27, 2006, I became Chairman of Coyotes Hockey. For purposes of the Coyotes' participating in the National Hockey League ("NHL"), I was the Governor of Coyotes Hockey from September 2006 until January 2009. I resigned from my positions with Coyotes Hockey and Coyotes Holdings on January 23, 2009.
3. As Chairman, CEO, and Governor of Coyotes Hockey until January 23, 2009, I was familiar with the operation, management, and financial affairs of the Phoenix Coyotes hockey team, as well as with its relationship and communications with the NHL. I oversaw the daily operations of the Phoenix Coyotes hockey team and was specifically involved in strategic decisions and funding, including requesting financial assistance from the NHL.
4. From September 2006 until I left the Phoenix Coyotes in January 2009, I reported exclusively to the Board of Managers of Coyotes Holdings, of which Jerry Moyes and I were the sole members, and which is the sole managing member of Coyotes Hockey.

#### **The 2006 Consent Agreement**

5. As part of the transactions whereby the Phoenix Coyotes hockey team was acquired by entities owned or controlled by Jerry and Vickie Moyes (the "Moyes Entities") in September, 2006, various parties to the transactions, including Mr. Moyes and Steve Ellman, entered into a Consent Agreement dated September 27, 2006 with the NHL. *See* Consent Agreement, Exhibit E to Daly Declaration. In Section 7(f) of the Consent Agreement, Mr. Moyes (as manager and member of

MemberCo and co-trustee of the Trust), Mrs. Moyes (as member of MemberCo and co-trustee of the Trust), the Trust, and Coyotes Holdings gave the NHL Commissioner a conditional proxy as to the powers they possessed “to vote or express consent or dissent in the sole discretion of such proxy in respect of any or all of any MemberCo Interests, Coyotes Holdings Interests and/or Club Party Interests to the extent they are entitled to vote or express consent or dissent ....” See Consent Agreement, Exhibit E to Daly Declaration at ¶ 7F.

6. This proxy was conditional, and could not be exercised “until such time as a Trigger Event (as defined below) has occurred ....” *Id.*

#### **The August, 2008 Advances from the NHL**

7. In the spring of 2008, after the Phoenix Coyotes hockey team experienced consecutive years of substantial financial losses, including approximately \$37.3 million in 2006 and approximately \$36.3 million in 2007, I, on behalf of Coyotes Hockey, sought assistance and advice from the NHL regarding operating more efficiently and stemming such losses. In connection with my request, the NHL reviewed Coyotes Hockey’s financial books and records and gave Coyotes Hockey advice regarding cash management. The NHL has a club services group, which visits member hockey clubs and gives them advice regarding “best practices” in various areas.

8. By the summer of 2008, the Moyes Entities had invested, either as equity or as loans, approximately \$300 million in the operations of the Phoenix Coyotes, and they were not willing to continue to fund the Phoenix Coyotes’ shortfall in

operating revenue. On behalf of Coyotes Hockey, Mr. Moyes and I therefore asked for financial assistance from the NHL, as described below. In connection with our request for assistance I met with David Zimmerman, General Counsel for the NHL, Gary Bettman, Commissioner of the NHL, and William L. Daly, Deputy Commissioner of the NHL, at the NHL offices in New York on three or four occasions, beginning in June 2008, regarding the financial condition of the Phoenix Coyotes.

9. Part of the funding for a hockey team in the NHL consists of payments from the NHL of shared television revenues and shared league revenues. The revenue sharing is paid to each team near the end of October each year for the season ended that previous June 30, or fiscal year. In August 2008, I and others associated with Coyotes Hockey, including Mr. Moyes and Mike Nealy, Chief Financial Officer of Coyotes Hockey, believed that Coyotes Hockey would be entitled to approximately \$14 million in October 2008 from the NHL in revenue sharing.<sup>1</sup> At a meeting in the NHL offices in New York, I proposed to Messrs. Bettman, Zimmerman and Daly that the NHL advance a portion of that amount to Coyotes Hockey to enable Coyotes Hockey to meet its operating expenses. This was money that was owed and would soon be payable to Coyotes Hockey

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<sup>1</sup> The Phoenix Coyotes had originally expected to receive nearly \$14 million in shared revenues for the 2007-2008 season. However, the NHL has a system whereby teams that do not attain certain benchmarks will be penalized. For the 2007-2008 hockey season, teams were required to sell an average of 13,500 tickets, and the team's revenue had to increase at a rate commensurate with the average revenue growth in the league. A team that did not meet these benchmarks was penalized 25% of its revenue sharing amounts. If a team missed its benchmarks for two seasons in a row, the team would be penalized 40% for the second season. The Coyotes missed the benchmarks for the 2007-2008 season and were penalized at the 25% level. This penalty reduced the amount owed to Coyotes Hockey from approximately \$14 million to approximately \$10.4 million, which was due in October 2008.

resulting from revenue sharing for the 2007-2008 season, which was part of the revenue structure for all teams in the NHL. The NHL would subsequently be repaid by offsetting the amount of the advances against the money NHL owed to Coyotes Hockey.

10. After some negotiations, the NHL agreed to the requested advances, which Coyotes Hockey received in two installment payments: (1) \$2 million on August 28, 2008 and (2) \$4 million on or about October 10, 2008. After the NHL completed its calculation for the 2007-2008 season, the Phoenix Coyotes did not meet the league benchmarks and were penalized by losing 25% of the shared revenue to which Coyotes Hockey was otherwise entitled. Thus, the total amount payable to Coyotes Hockey was only approximately \$10.4 million.

11. The NHL offset the \$6 million in advances against the \$10.4 million owed. The remainder of the revenue sharing owed by the NHL, \$4.4 million, was paid in accordance with the NHL's normal schedule, on October 24, 2008.

#### **The October 14, 2008 Meeting in Glendale**

12. On October 14, 2008, I convened and led a meeting at the Glendale Civic Center that included, among others, Earl Scudder, Ryan Beach, and William Strait who attended telephonically as attorneys with the Scudder Law Firm; Jerry Moyes; Rob Platek of MSD Capital who also attended telephonically; John Breslow; Ed Beasley; David Zimmerman; Steve Elmann; Bob Kaufman; Tim Wright; and others, regarding my attempts to renegotiate the lease at the Jobing.com Arena with the City of Glendale.

13. Prior to the October 14 meeting, I circulated a power-point agenda and slides related to the discussion topics for the meeting to Mr. Zimmerman. A true and correct copy of that power-point agenda is attached hereto as Exhibit A.

14. Prior to the meeting, I had conversations with Mr. Zimmerman about the goals of the meeting and how to achieve those goals. Ultimately, the goal of the meeting, as I stated to Mr. Zimmerman, was to have the City of Glendale make concessions that make playing in Jobing.com Arena more viable and would lighten the financial burden on the Coyotes. Despite repeated meetings with the City of Glendale, the Coyotes had been unable to get the City of Glendale to take seriously the team's request to restructure the Jobing.com Arena lease. Mr. Zimmerman and I agreed that the only way the City of Glendale would fully understand the need for the City to make such concessions would be for Mr. Moyes to express that he was no longer willing to fund the Phoenix Coyotes. Mr. Zimmerman encouraged me to speak with Mr. Moyes and have Mr. Moyes express this to the group. Mr. Moyes then did so at the beginning of the meeting ultimately stating that if the City of Glendale and Westgate did not restructure the contracts under which the team operated, he would have no choice but to put the team into bankruptcy in order to carry out a restructuring.

15. I understand the NHL now contends that this was a trigger under the 2006 proxy agreement. In fact, Mr. Zimmerman and I discussed this on numerous occasions and in no way agreed that it was a triggering event. In particular, we discussed that Mr. Moyes had not failed to fund the Coyotes. Indeed, the funding

the Coyotes had received in August and October consisted of monies already owed to the Coyotes as the result of its shared revenues for the 2007-2008 hockey season. As such, Mr. Zimmerman and I agreed that no triggering event had occurred.

16. Part of the October 14, 2008, Glendale meeting was discussion of my four possible options for moving the Phoenix Coyotes forward and resolving the then-pending financial problems of the team.

17. As set forth in Exhibit A hereto, the four options I presented included: 1) do nothing, which I stated was not a viable option; 2) let the NHL take over operations and attempt to sell the team; 3) put the team into a Chapter 11 reorganization, avoid the lease with the City of Glendale, Arizona (the “City of Glendale”), and move the team; or 4) do what I described as the “right thing,” which included renegotiating the lease by the Phoenix Coyotes for Jobing.com Arena (the “Arena”), for which the City of Glendale is the lessor, obtaining financial support from Westgate City Center, and restructuring the equity of Coyotes Hockey.

18. The conference lasted over an hour and became heated when Mr. Scudder suggested that SOF Investments, L.P., the primary lender to Coyotes Hockey (“SOF”), agree to restructure its secured debt, including taking a payment in kind financing interest. As a result of SOF’s sensitivity to this proposal, Mr. Zimmerman then walked the attendees through each of the hockey clubs that had previously filed for bankruptcy – the Pittsburgh Penguins, Buffalo Sabers, and

Ottawa Senators -- and explained that in each situation, the first secured creditor was paid in full. The call ended with my recommendation that the parties go home and consider what concessions they were willing to make to keep the Phoenix Coyotes in Phoenix.

### **The November 2008 Advances**

19. By early November 2008, Coyotes Hockey had exhausted the revenue-sharing advances from the NHL as well as other available funds. Coyotes Hockey had attempted to cut costs, including unsuccessful efforts to reduce the lease and other payments to the City of Glendale for Arena, but could not generate sufficient savings to cover the costs of operating the hockey team. I therefore had several meetings with at least Messrs. Bettman, Zimmerman, and Daly at the NHL offices in New York to explore the possibility of advances on the following year's revenue sharing. I told the NHL representatives that without additional funds, the Phoenix Coyotes would not be able to continue to operate, as the Moyes Entities were unable to continue to fund the Phoenix Coyotes.

20. On or about November 3, 2008, Mr. Bettman convened a meeting, at NHL's offices in New York, of representatives of the Phoenix Coyotes; the City of Glendale represented by its City Manager, Ed Beasley and others; and other individuals and entities associated with the Phoenix Coyotes and involved in financing the Phoenix Coyotes. Mr. Moyes, Mr. Nealy, Doug Moss, the President of Coyotes Hockey, and I attended on behalf of the Phoenix Coyotes.



21. Mr. Bettman conducted a discussion with all persons in the room, and then conducted separate discussions with each group. During the main meeting among all persons involved, Mr. Bettman focused on obtaining concessions from the City of Glendale. Mr. Bettman eventually convinced Ed Beasley, City Manager for the City of Glendale, to agree to provide concessions in the range of \$12 - \$15 million to a new group of investors or a new purchaser of the Phoenix Coyotes.

22. I understand that the NHL now asserts that at this meeting Mr. Bettman stated that the League had assumed operation and managerial control of the Phoenix Coyotes because Mr. Moyes was no longer able to fund the Coyotes. This is not true. Mr. Bettman, at the beginning of the meeting, stated that he and the NHL had experience selling and restructuring teams and that, therefore, he believed he was in the best position to sell the Team and would make his services available to the Coyotes.

23. Mr. Bettman then called Mr. Moyes and me into a private meeting with him and Mr. Daly. At this meeting, Mr. Moyes and I questioned how the City of Glendale's concessions would help the Coyotes for the near term. Mr. Bettman responded that he thought he could gain more favorable concessions from the City and requested that we allow him to negotiate with the City on behalf of the Coyotes because he had had good experiences in the past negotiating with cities. Mr. Moyes and I, while expressing our frustration that we were leaving without real concessions from the City of Glendale, agreed to let him negotiate with the City.

24. After the meeting, I was upset that negotiations with the City of Glendale were going to proceed through the NHL. I did not believe it a prudent course for the Coyotes to give up the opportunity to conduct such negotiations and I expressed the same to Messrs. Nealy, Moss, and Breslow, all of whom had been present at the meeting in the NHL offices. I in no way suggested, or understood, that the NHL had taken over the operation of the Phoenix Coyotes. Rather, I stated that we were now “out of” the process with the City and that any discussions with the City would run through Bettman and the NHL.

25. During these meetings in New York in early November 2008, Coyotes Hockey and the NHL agreed that the NHL would make additional advances to Coyotes Hockey against the team’s future right to payment of revenue sharing, television revenues, and possible distributions under the league’s Player Compensation Cost Redistribution System for the 2008-2009 hockey season.

26. These additional advances continued to be of monies that would be owed to the Phoenix Coyotes in the future.

#### **The November 2008 Proxies**

27. After the meeting in New York in which the agreement was reached for the advances against these 2008-2009 revenues, the NHL and its counsel prepared documentation of this agreement without any input from the Coyotes. Part of the documentation was a request by the NHL that the Moyes Entities sign new proxies. That request came in the form of silent attachments to an email of the various documents. Until this time the NHL had never discussed the alleged need for new

proxies with me or to my knowledge anyone else at Coyotes Hockey. After receiving drafts of the proxies, I discussed the documentation for the advances with Mr. Zimmerman. Thomas Gowan, a partner with Skadden, Arps, Slate, Meagher & Flom, L.L.P. in New York, the NHL's outside counsel, may have been on one or more of my phone calls with Mr. Zimmerman regarding this subject. I obtained legal advice from Jonathan Bernstein and Adam Kleinman, attorneys with the Bingham McCutchen LLP law firm in Boston.

28. In particular, the NHL requested that Coyotes Holdings as sole managing member of Coyotes Hockey, the Trust as member of Coyotes Holding, MemberCo as member of Coyotes Holding, and Jerry and Vickie Moyes as members of MemberCo, re-execute the proxy that was included in the Consent Agreement they signed in 2006. I agreed to this arrangement, in principal, on behalf of Coyotes Hockey.

29. A few days before November 10, 2008, Mr. Zimmerman sent me draft proxies. I reviewed the drafts and concluded, despite Mr. Zimmerman's prior representations to me to the contrary, that these 2008 proxies appeared significantly different from the 2006 proxy in the Consent Agreement because the new proxies purported to be effective immediately and did not appear to have a trigger provision, as had been in the 2006 proxy.

30. In an email dated November 11, 2008, I informed Mr. Zimmerman that the proxies were "much broader than I anticipated and, frankly, I am quite uneasy with some of the language." I further told Mr. Zimmerman in the email that I had

asked Mr. Bernstein to review them. A copy is attached hereto as Exhibit B. I understood the language used in the proxies was not negotiable; the NHL was unwilling to allow the Coyotes to modify them; and the NHL would refuse to fund payroll if the Coyotes refused to execute the proxies as delivered.

31. Mr. Zimmerman, General Counsel of the NHL, responded, on the same day, that the “proxies track the proxy language in the Owners Consent Agreement previously executed by all parties.” *See* Exhibit B.

32. Around this same time, I had one or more telephone conversations with Mr. Zimmerman, in which we discussed the breadth and effect of this language. Mr. Zimmerman, on behalf of the NHL, represented to me that the NHL was not trying to expand any rights that it already had. The NHL was merely reaffirming the rights it had obtained under the 2006 proxy contained in the Consent Agreement. He explicitly told me that the new proxies did not change anything, and that they did not amount to any exercise of proxy rights by the NHL. Mr. Zimmerman in fact told me the situation would be the same as it had been since 2006, and the new proxies would have no effect. Mr. Zimmerman’s representations were important to me and I believed him.

33. Mr. Zimmerman also discussed the 2008 proxies with my counsel, Mr. Kleinman, at about this time. On November 11, 2008, Mr. Kleinman sent me an email regarding his conversation that day with Mr. Zimmerman and Mr. Gowan regarding the new proxies, with copies to Mr. Zimmerman, Mr. Gowan and others. A copy is attached as Exhibit C. On November 12, 2008, Mr. Zimmerman

confirmed the accuracy of Mr. Kleinman's email memorializing his discussion with Mr. Zimmerman regarding the 2008 proxies. *See* Exhibit C. In this email, Mr. Zimmerman confirmed that he had informed Mr. Kleinman that the notice and trigger provisions were removed only for purposes of the appearance of the 2008 proxies to "third-parties." As reflected in the emails, the conversation between Messrs. Zimmerman and Kleinman included that the proxies, without the trigger provision, would be used to demonstrate to outside persons that the NHL and the Phoenix Coyotes were working together and were not adversarial.

34. Mr. Zimmerman specifically told me that the new proxies were for the benefit of the NHL's negotiations with the City of Glendale, and that no exercise of the proxies was contemplated.

35. While discussing the 2008 proxies, Mr. Zimmerman and I also discussed whether Coyotes Hockey was in default under the 2006 Consent Agreement. Mr. Zimmerman said that arguably there was an issue as to whether there had been a triggering event; and I told him there was no issue and that no triggering event had occurred. The NHL never gave any notice of a triggering event under the 2006 Consent Agreement proxies. Nor did it provide any notice, verbal or written, of default or express its intent to exercise its proxy rights to the Phoenix Coyotes as long as I was Chairman, CEO, and Governor of the Coyotes through late January, 2009.

36. Based upon my explicit conversations with Mr. Zimmerman, as well as his written confirmation of Mr. Kleinman's description of the 2008 proxies, I believed

and understood that the 2008 proxies did not alter the terms of the 2006 proxy and did not serve to immediately convey any additional proxy rights to the NHL or its Commissioner, much less exercise any.

37. After news articles raised concerns related to the NHL's monetary advances to the Coyotes, I received inquiries from the media asking who was in control of the Phoenix Coyotes. I responded that Mr. Moyes and I were in control of all decision making for the Coyotes. On at least two telephone conversations with Messrs. Bettman and Zimmerman, I told them what I had said to the media and Mr. Bettman acknowledged that I had accurately represented to the media the relationship between the Coyotes and the NHL.

38. I would not have signed the 2008 proxies if Messrs. Zimmerman and Bettman had told me that the NHL thought it was taking over control of the Phoenix Coyotes through the 2008 proxies. The NHL did not commit itself to anything in the 2008 proxies, and the proxies gave Coyotes Hockey nothing. The Letter Agreement dated November 21, 2008, which was the basis for advances by the NHL after the proxies were signed, also did not obligate the NHL in any way. The NHL could have refused to make any advances, and Coyotes Hockey could not have forced the NHL to advance money to Coyotes Hockey.

39. I understand that the NHL now contends that it took over Coyotes Hockey through the 2008 proxies. That position (a) directly contradicts what Mr. Zimmerman told me before and after signing the proxy and what Mr. Bettman told me after I signed the proxy, and (b) is not in fact true.

**The Moyes Entities Have Continuously Controlled  
the Coyotes Since 2006**

40. From the date of the Consent Agreement in 2006 until the new proxies were signed in November 2008, and thereafter at least until I resigned in late January 2009, the NHL did not run, manage, operate, control, or direct Coyotes Hockey, the Phoenix Coyotes hockey team, or any of their affiliates, nor, to my knowledge, did it ever attempt to do so. Rather, the Moyes Entities ran, managed, operated, controlled and directed the hockey and related operations. Because of my positions with the Moyes Entities, I would have known if the NHL had attempted to assert control over Coyotes Hockey, the Phoenix Coyotes hockey team, or any related operations.

41. I approached Mr. Moss in early November, 2008, instructing him to reduce the Coyotes' non-player expenses by 20%. The NHL was not involved in this decision. Ultimately, Mr. Moss provided me with a revised budget and a staff reduction to comply with my instructions. Among other things, we determined that we would reduce non-player staff by 18 people. The NHL reviewed the persons we intended to lay-off because they said they were sensitive about potential claims of discrimination. The NHL did not suggest, demand, or control the timing of the lay-offs which the Coyotes undertook in early January 2009.

42. On December 23, 2008, I spoke with Mr Zimmerman regarding the lay-offs of Coyotes Hockey's personnel that was upcoming. Mr. Zimmerman acknowledged that the Coyotes had decided to have these lay-offs and that it was the Coyotes' decision. He further acknowledged that it was the Coyotes' decision to postpone the lay-offs until after the beginning of 2009. This was the last conversation I had with anyone at the NHL for any reason on any topic.

43. The same Coyotes Hockey employees who had been running the team and related operations before the 2008 proxies were signed continued to make decisions and conduct the business of Coyotes Hockey.

44. The same Coyotes Hockey employees continued in their same offices in the Coyotes Hockey offices at 6751 North Sunset Blvd, Suite 200, in Glendale, Arizona.

45. No NHL employees came to the Coyotes Hockey offices to take over operations, and no NHL employees were ever present in the Coyotes Hockey offices except for the NHL's "Best Practices" group in the summer of 2008. During the time that I was the Governor, Chairman and CEO of the team, Messrs. Bettman, Zimmerman, and/or Daly were never in the Coyotes' offices.

46. Coyotes Hockey continued to be the employer of those running the hockey operations, the lessee in the company's offices, liable on the utility accounts, owners of on the bank accounts, committed to the media contracts, owners of on the sponsorship accounts, parties to the players and coaches' contracts, obligated on the hockey team charge cards, responsible for the agreements for hotels and



transportation for games, parties to vendor agreements, beneficiaries of the insurance policies, sponsors of the employee benefit plans, holders of government permits, and sellers of tickets. The NHL did not take over any of these business operations, did not attempt to do so, or ever tell me that it was doing so or intended to do so.

47. There is no doubt whatsoever in my mind that the Moyes Entities were in control of Coyotes Hockey, and that the NHL had not exercised, or tried to exercise, rights under the proxies up to and including at least the time that I left the hockey operation in late January 2009. As manager of Coyotes Holdings and CEO of Coyotes Hockey, I was never told the NHL had removed me from my positions, taken away any voting rights I may have had, taken over control of the entities, or was exercising its proxy rights in any way or at any time.

48. Never, either before and after the 2008 proxies were signed, did Messrs Zimmerman, Bettman, and Daly assert to me that the NHL was controlling the Coyotes. Indeed, Mr. Bettman specifically told me in a conversation on September 16, 2008, that the NHL was not interested in taking over the Phoenix Coyotes because it would then owe Mr. Moyes certain fiduciary duties as ultimate owner of the Phoenix Coyotes.

49. As a result of the advances the NHL made to the Phoenix Coyotes, the agreements associated with those advances, including the August 28, 2008 and the November 21, 2008 letter agreements, required that the Phoenix Coyotes have weekly meetings with the NHL in order for the NHL to review the weekly cash

flow projections and intended accounts payable for the week. *See* August and November letter agreements attached hereto as Exhibit D. The parties would then decide the amount of the advances Coyotes Hockey needed at that time, and the NHL would advance that amount. As CEO of the Phoenix Coyotes, I never believed such actions on the part of the NHL comprised control or management of the Phoenix Coyotes. Rather, I believed the NHL's actions confirmed its status as an involved creditor that was carefully analyzing the need for, and use of, funds it advanced to the Phoenix Coyotes.

50. After the 2008 proxies were signed, the Phoenix Coyotes continued, as before, to make its business and operating decisions without seeking or obtaining prior NHL approval. The Phoenix Coyotes negotiated trade possibilities, negotiated contracts with players, called players up from the minors, and reassigned players to the minors without any consent, dissent, or input from the NHL. Had the NHL attempted to interfere in any way with the operations of the Phoenix Coyotes, I would have disputed such attempts because it was contrary to the negotiated and agreed-upon terms of the documents previously executed, including 2008 proxies and the very specific representations made by Messrs. Zimmerman, Bettman, and Daly. Coyotes Hockey did provide financial information to the NHL, in the NHL's capacity as creditor, as is often required and appropriate for a lender.

51. During the period from November 2008 through my departure in January 2009, Coyotes Hockey had very frequent conversations with other teams, agents

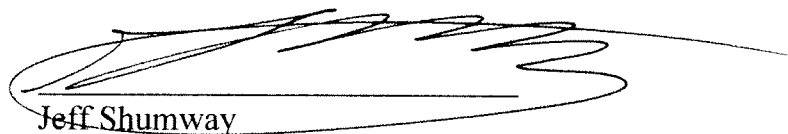
and individuals regarding possible trades, free agent signings, minor league players, and other aspects of hockey operations. The NHL played no significant role in any of these discussions.

52. I understand Deputy Commissioner Daly has asserted the NHL removed me from my positions, both executive and managerial, in Coyotes Hockey and its affiliate entities, as well as my position as Governor of the Phoenix Coyotes. This is not true. I voluntarily resigned all of the positions listed above on January 23, 2009. I was neither removed by the NHL, nor did I seek approval from the NHL of my resignation. It was a decision made between me and Mr. Moyes with no input whatsoever from, or on behalf of, the NHL.

53. I am over the age of 18 years and am, in all respects, competent to make this declaration. This declaration is based on my personal knowledge, except when stated to be on information or belief and as to those matters I believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein.

54. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: May 15<sup>th</sup>, 2009.

  
Jeff Shumway

# EXHIBIT A

# Glendale Meeting

October 14<sup>th</sup>, 2008

# Historical Financial Information

	<u>2006-2007</u>	<u>% Chg</u>	<u>2007-2008</u>	<u>% Chg</u>	<u>Budget</u> <u>2008-2009</u>	<u>% Chg</u>
Hockey Revenue	59.4	6.4%	55.2	-7.1%	65.5	18.6%
Hockey Expenses	69.6	26.2%	59.4	-14.7%	67.8	14.2%
Business Ops. Expense	22.8	5.1%	25.3	11.1%	26.8	6.0%
Hockey Operating Profit/(Loss)	(32.9)	-57.0%	(29.5)	10.4%	(29.2)	1.0%
Arena Profit/(Loss)	(7.0)	-20.7%	(7.5)	-7.1%	(7.1)	5.3%
Lacrosse Profit/(Loss)	(1.4)	-27.3%	(0.3)	78.6%	-	100.0%
Total Operating Profit/(Loss)	(41.3)	-48.3%	(37.3)	9.8%	(36.3)	2.7%

Arena Management Group, LLC

	FY 06/07 Actual	FY 07/08 Actual	FY 08/09 Budget
Revenue			
Expenses	6,498,997	6,816,294	7,202,426
Net Loss	13,465,014	14,365,456	14,276,495
	(6,966,017)	(7,549,162)	(7,074,069)
Revenue	6,498,997	6,816,294	7,202,426
Expenses	4,413,164	4,999,588	4,730,339
Event Net Income	2,085,833	1,816,706	2,472,087
# of Events	136	99	106
Revenue per Event	47,787	68,851	67,947
Income per Event	15,337	18,351	23,322
Capital Investment	1,717,227	1,672,008	953,230

Net w/o CapX, Parking Fee, Renewal & Replacement, Miscellaneous City Fees

Total CapX and City Pmts	4,375,589.00	4,209,360.00	4,598,510.00
Net Loss	(2,590,428.00)	(3,339,802.00)	(2,475,559.00)



**"Player Compensation"**  
(in millions)

	<u>2006-2007</u>	<u>2007-2008</u>	<u>Forecast 2008-2009</u>	<u>FY07 - FY09 Change</u>
CBA Minimum	28.0	34.3	40.7	45.4%
CBA Maximum	44.0	50.3	56.7	28.9%
Coyotes	43.3	39.5	44.6	3.0%
% of Cap	98.4%	78.5%	78.7%	(19.7) pts
% Above Floor	54.6%	15.2%	9.6%	(45.1) pts

# Competitive Nature of Market

(Sports)

- All Four Major Franchises
- All Four Have Own Arena/Stadium
  - Cardinals/University of Phoenix Stadium
  - Suns/US Airways
  - Diamondbacks/Chase Field
  - Coyotes/Jobing.com
- Arizona State University
- NASCAR – Two Events
- Second Tier Franchises
  - WNBA/Mercury
  - AFL/Rattlers
  - ECHL/Roadrunners
- FBR Open

# Competitive Nature of Market

(Concerts / Other Events)

- Eighteen Concert Venues
  - Jobing.com
  - USAirways
  - Cricket
  - Dodge
  - Celebrity
  - University of Phoenix
  - Gammage
  - Etc.

# PHOENIX COYOTES REVENUE POTENTIAL

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	<u>Budget</u> <u>2008-2009</u>	<u>Full Inventory</u> <u>Potential</u>	<u>Incremental</u>
Tickets	18.8	35.1 *	16.3
Sponsorship	13.0	25.0	12.0
Suites	6.6	9.8	3.2
Concession/Merch	2.1	2.9	0.8
Local TV	4.5	5.0	0.5
Revenue Sharing	14.0	14.0	0.0
League Revenue	9.3	9.3	0.0
Other	<u>2.2</u>	<u>2.4</u>	<u>0.2</u>
Total	70.5	103.5	
Estimated Potential:			33.0

\* Does not include potential net of \$500K per home playoff game

## Assumptions

# ticket sold (per game)	14,000	17,300 Assumes pricing adjustment also
Suites Sold	53	89 At current rates
F&B per cap (net)	3.34	3.34
Merchandise per cap (net)	0.45	0.45

# Our Options

# Option 1

(Everything stays the same)

- Not An Option
  - No money to fund losses
  - Without substantial changes, Team not viable in Glendale, Arizona
  - If Team is not viable it cannot be sold to someone who will keep it in Glendale

## Option 2

(NHL takes over operations and attempts to sell Team)

- See Option 1
  - Without substantial changes, Team not viable in Glendale, Arizona and cannot be sold to someone who will keep it here
  - Ultimately NHL will conclude that Team must be moved

## Option 3

(Move the Team)

- A. Team and City negotiate a buyout of Lease that permits Team to be moved (for example – Team agrees to continue making lease payments for 10 years after moving to another city)
- B. Team files for bankruptcy reorganization and rejects the lease; thus permitting Team to be moved



## Option 4

(Do the right thing – right now)

1. Renegotiate Lease with the City
2. Financial support from Westgate
3. Restructure Equity

## City Restructure

Cover Arena Operation's Losses	\$7.5
Management Fee Payment	\$2.0
Eliminate Parking Fee	\$2.5
Eliminate Lease Payment	\$0.5
Garage Built by 09/10 Season	<u>\$0.0</u>
Total	\$12.5

# Westgate

Advertising Payment	\$5.0
-Based on number of "eyeballs"	
-Will consider transferring "some" of the Arena outdoor advertising rights	
Tenant Support Payment	\$1.0
-Based on number of Arena patrons who also spend money in Westgate	
Arena Cooperation	\$3.5
-Will consider restricting restaurant/retail in Arena	
Team Control of Parking/Parking Concession	<u>\$2.5</u>
Total	\$12.0

Projected Loss Fiscal Year 2008-2009

	<u>Operating</u>	<u>Cash</u>
Team	(22.0)	(40.5)
Arena	<u>(7.1)</u>	<u>(7.1)</u>
Total	(29.1)	(47.6)
City of Glendale	12.5	12.5
Cover Arena Management Losses	7.5	7.5
Mgmt Fee Payment	2.0	2.0
Retain Parking Fee	2.5	2.5
Elimination of Rent Pmt	0.5	0.5
WDG Impact	6.0	3.0
Westgate	12.0	12.0
Business Ops Savings	2.0	2.0
Jerry's Contribution	-	10.0
Financing	-	4.0
	<u>          </u>	<u>          </u>
Net	3.4	(4.1)

# Impact of Options 1,2 and 3

# Economic Impact Study

(Team's impact on City of Glendale)

- 540 jobs
- \$119 million industry output
- \$38 million value added
  - Labor income
  - Property Type income
  - Business taxes
- \$1.2 million sales tax revenue

# Economic Impact Study

(Team's impact on Maricopa County)

- 770 jobs
- \$140 million industry output
- \$54 million value added
  - Labor income
  - Property type income
  - Business taxes

# Economic Impact Study

(Team's impact on Westgate)

- High sales correlation to Arena events
- Incremental employment base
- Incremental sales tax
- Incremental business tax



# Summary

Jerry Moyes has carried the Team, Arena and surrounding development for over six years. Now is the time that the people and entities that have gained from Jerry's sacrifices to carry their fair share of the cost of progress.

# EXHIBIT B

**From:** Jeff Shumway [mailto:JShumway@swiftaviationgroup.com]  
**Sent:** Tuesday, November 11, 2008 5:42 PM  
**To:** DZimmerman@nhl.com; Bernstein, Jonathan K.  
**Subject:** Re: Status Update

David,  
I completely understand. Jon is looking at that very issue now. We won't delay this.

-----Original Message-----

From: DZimmerman@nhl.com <DDZimmerman@nhl.com>  
To: Jeff Shumway  
Sent: Tue Nov 11 15:40:23 2008  
Subject: RE: Status Update

Jeff -

I was hoping to have this matter resolved by now. As I think John and you will note, the proxies track the proxy language in the Owners Consent Agreement previously executed by all parties. I understand that you need to go through the process at your end, but we really need to get this sorted out as soon as possible.

---

1185 Avenue of the Americas  
New York, New York 10036  
212-789-2118 (T)  
212-789-2050 (F)

---

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"Jeff Shumway" <JShumway@swiftaviationgroup.com>

"Jeff Shumway" <JShumway@swiftaviationgroup.com>

11/11/2008 04:01 PM

5/8/2009

To

<DZimmerman@nhl.com>

cc

Subject

RE: Status Update

David,

I just had my first chance to review the proxies. They are much broader than I anticipated and, frankly, I am quite uneasy with some of the language. I have asked Jonathon Bernstein to look at them and then I will have a discussion with him about them. I will get back to you as soon as I can. Thanks, JEFF

---

From: DZimmerman@nhl.com [mailto:DZimmerman@nhl.com]  
Sent: Monday, November 10, 2008 1:07 PM  
To: Jeff Shumway  
Subject: RE: Status Update

Thanks Jeff.

---

1185 Avenue of the Americas  
New York, New York 10036  
212-789-2118 (T)  
212-789-2050 (F)

-----  
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"Jeff Shumway" <JShumway@swiftaviationgroup.com>

"Jeff Shumway" <JShumway@swiftaviationgroup.com>

11/10/2008 02:59 PM

To

<DZimmerman@nhl.com>

cc

Subject

5/8/2009

RE: Status Update

MSD did release about 4 mill. I will double check with Nealy as to how far that will get us but it will certainly help. I am out of the office today but will go over the proxies with Jerry tomorrow late morning. Thanks.

---

From: DZimmerman@nhl.com [mailto:DZimmerman@nhl.com <mailto:DZimmerman@nhl.com> ]  
Sent: Monday, November 10, 2008 12:03 PM  
To: Jeff Shumway  
Subject: Status Update

Jeff-

Touching base on two items.

1. I understand MSD released funds Friday or this morning so the Club can meet its staff payroll and some other critical expenses.
2. Also, can you let me know the status of the proxies?

Best regards.

---

1185 Avenue of the Americas  
New York, New York 10036  
212-789-2118 (T)  
212-789-2050 (F)

---

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---

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---

5/8/2009

# EXHIBIT C

**From:** DZimmerman@nhl.com [mailto:DZimmerman@nhl.com]  
**Sent:** Wednesday, November 12, 2008 10:41 AM  
**To:** Kleinman, Adam M.  
**Cc:** Bernstein, Jonathan K.; Jeff Shumway; Furlong, Matthew F.; Klaus, Michael D; Thomas Gowan  
**Subject:** Re: Coyotes Proxies

Adam -

I think you have fairly captured the essence of our discussion last evening in your first four sentences below. While we had not discussed the notion articulated in your last sentence of that paragraph, I would agree with that concept as well. Best regards.

---

1185 Avenue of the Americas  
 New York, New York 10036  
 212-789-2118 (T)  
 212-789-2050 (F)

---

-----  
 This message is intended to be confidential and may be legally privileged. It is intended solely for the addressee. If you are not the intended recipient, please delete this message from your system and notify us immediately. Any disclosure, copying or distribution of this message by an unintended recipient is prohibited and may be unlawful.

"Kleinman, Adam M." <adam.kleinman@bingham.com>

"Kleinman, Adam M."  
 <adam.kleinman@bingham.com>

11/11/2008 06:56 PM

To "Jeff Shumway"  
 <JShumway@swiftaviationgroup.com>  
 cc DZimmerman@nhl.com, "Thomas Gowan"  
 <TGOWAN@skadden.com>, "Klaus, Michael  
 D" <Michael.Klaus@skadden.com>, "Bernstein,  
 Jonathan K." <jon.bernstein@bingham.com>,  
 "Furlong, Matthew F."  
 <matthew.furlong@bingham.com>

Subject: Coyotes Proxies

Jeff

5/8/2009

I just spoke to David Zimmerman and Tom Gowan regarding the draft proxies. David's concern was that although such proxies mirror the proxy language in the owners consent, the trigger and notice provisions required to exercise the proxy under the consent could make the process appear more "adversarial" to third parties. The difference here is that the stand alone proxies are exercisable without condition. It is the hope of the League that these "clean" proxies will demonstrate to third parties that the owner and the League are working cooperatively to resolve the current issues (which I understand to be the case). The request for the "clean" proxies was not designed to permit the League to undercut or back away from whatever understandings were reached at your recent meeting in New York regarding a resolution of the Team's issues.

David - please let me know if I have misrepresented your views or left anything out.

Best, Adam

Adam M. Kleiman  
*Executive*  
T 617/951.8312  
F 617/951.8736  
adam.kleiman@bingham.com

B I N G H A M  
Bingham McCutchen LLP  
One Federal Street  
Boston, MA 02110-1726

=====

Bingham McCutchen LLP Circular 230 Notice: To ensure compliance with IRS requirements, we inform you that any U.S. federal tax advice contained in this communication is not intended or written to be used, and cannot be used by any taxpayer, for the purpose of avoiding any federal tax penalties. Any legal advice expressed in this message is being delivered to you solely for your use in connection with the matters addressed herein and may not be relied upon by any other person or entity or used for any other purpose without our prior written consent.

=====



# EXHIBIT D

**Letter Agreement**, dated as of August <sup>28<sup>th</sup></sup>, 2008, by and among the National Hockey League, a joint venture organized as an unincorporated association not for profit (the "NHL"), Coyotes Holdings MemberCo, LLC, a Delaware limited liability company, Coyotes Holdings, LLC, a Delaware limited liability company, Coyotes Hockey, LLC, a Delaware limited liability company (the "Club"), Arena Management Group, LLC, a Delaware limited liability company; Jerry C. Moyes, an individual, Vickie Moyes, an individual, and The Jerry and Vickie Moyes Family Trust, dated December 11, 1987, a trust organized under the laws of the State of Arizona (collectively, other than the NHL, the "Requesting Parties").

**WHEREAS:**

The Requesting Parties have advised the NHL that the Club currently has insufficient funds to pay certain of its upcoming obligations; and

The Club has certain rights and benefits in respect of certain payments relating to the: (1) NHL's League-generated television revenues on account of the 2008/09 NHL season and (2) distributions under the League's Player Compensation Cost Redistribution System on account of the 2007/2008 NHL season, none of which are yet payable to the Club (collectively, the "Funds"); and

The Requesting Parties have requested that the NHL now advance to the Club a portion of the Funds in order that the Club may timely pay certain of its operating expenses; and

The NHL is prepared to advance to the Club up to, but not in excess of, \$6 million of the Funds so as to enable the Club to continue to pay expenses reasonably required to permit the continued sound operation and management of the Club, in the ordinary course, consistent with past practice, subject to the terms and conditions as hereinafter provided; and

The Requesting Parties understand that any advance of Funds by the NHL will be set off against any Funds and/or other sums that the Club may be entitled to receive from the NHL; and

The parties hereto have entered into this Letter Agreement with the intention that the advance provided for herein will provide the Club with sufficient time and opportunity to obtain necessary operating funds (in addition to the Funds) so as to enable the Club to continue to operate on an ongoing basis, in the ordinary course, consistent with past practice, either by way of a cash infusion (debt or equity) from current ownership or that the Club will be sold or a significant investment therein will be obtained.

**Accordingly, the parties hereto hereby acknowledge and agree as follows:**

1. The NHL shall have the right, but shall not be obligated, to from time to time advance, on a priority basis (in terms of return to the NHL) up to a maximum advanced amount of \$6 million of the Funds to the Club during the 2008/2009 NHL season from the sources set forth on Exhibit A hereto (such amounts

advanced by the NHL together with the accrued interest thereon collectively, the "NHL Priority Advances"). The NHL Priority Advances are for purposes of providing the Club with sufficient time and opportunity to obtain necessary operating funds (in addition to the Funds) so as to enable the Club to continue to pay expenses reasonably required to permit the continued sound operation and management of the Club, in the ordinary course, consistent with past practice, either by way of a cash infusion (debt or equity) from current ownership or that the Club will be sold or a significant investment therein will be obtained. For purposes of clarity, the Requesting Parties acknowledge and agree that the NHL has no obligation whatsoever to make any advances to the Club, and this Letter Agreement creates no obligation whatsoever on the NHL to make any advances to the Club, and the NHL expressly reserves the right in its sole discretion to not make advances, and might not make advances, to the Club.

2. To the extent made, the NHL Priority Advances are made: (i) on a "non-revolving" basis, (ii) only to the extent such amounts are not otherwise available to the Club from operations or other sources, as so confirmed to the NHL by the Club, which confirmation the NHL shall be entitled to rely upon and (iii) each such advance shall bear interest for the period beginning on the date such advance is made and ending on the date on which such sum is set off against amounts from time to time owing from the NHL to the Club at a per annum rate equal to the regular interest rate applicable to the revolving "Tranche A Loans" under the NHL's Credit Agreement.
3. The Requesting Parties hereby represent, warrant and covenant that: (a) attached hereto as Exhibit B is a true, correct and complete budget reflecting the budgeted revenues and expenses for the Club for the 2008/09 NHL Season, (b) they will immediately advise the NHL of any changes thereto, and (c) the NHL Priority Advances will be used solely and exclusively to pay the Club's operating expenses in accordance with such budget, which expenses the Requesting Parties hereby represent, warrant and covenant are reasonably required to permit the continued sound operation and management of the Club, in the ordinary course, consistent with past practice. On each Friday the Requesting Parties shall provide the NHL with Club weekly cash flow schedules detailing actual and budgeted information for the immediately preceding two (2) week period and the next succeeding two week period, highlighting all changes from the prior week's submission, all financial projections, if any, and a weekly reconciliation of cash-on-hand against budgeted items for the succeeding two (2) week period. The Requesting Parties shall further provide the NHL with weekly updates regarding the status of any potential sale of or investment in the Club. The Requesting Parties will give the NHL access, at the NHL's request on reasonable notice, to such Requesting Party's premises and books and records in order to verify the accuracy of the foregoing financial statements or any other financial information provided to the NHL.
4. The Requesting Parties acknowledge and agree that the NHL's rights with respect to the NHL Priority Advances shall be expressly senior to and shall have priority

over all secured and other indebtedness owing by the Club to any other party. The Requesting Parties agree to execute, deliver and file such other instruments as the NHL shall reasonably request to evidence and confirm the seniority and priority of the NHL Priority Advances pursuant to this Letter Agreement.

5. The Requesting Parties jointly and severally covenant and agree, in accordance with the third paragraph of Article 3.5 of the NHL Constitution, that all legal and accounting fees, costs and other expenses incurred by the NHL with respect to the transactions contemplated by this Letter Agreement shall be charged to the Club and shall be the obligation thereof.
6. Nothing contained in this Letter Agreement shall be or be construed or deemed to be a subordination by the NHL of the NHL's rights: (i) to receive payments on account of indebtedness or liabilities now or hereafter owing to it by the Club or any other entity, or (ii) to defer or off-set any distribution to the Club, all of which rights, and the seniority thereof, are hereby confirmed and affirmed by each of the Requesting Parties. The Requesting Parties acknowledge and agree that any NHL Priority Advances advanced by the NHL to the Club from time to time pursuant to this Letter Agreement are payments of Funds being made by the NHL to the Club in advance of the dates such Funds are otherwise payable to the Club and, accordingly, the NHL shall not be obligated to pay any Funds or any other sums otherwise due from the NHL to the Club from time to time until after such time, and then only to the extent, that the aggregate amount of such Funds and other sums exceeds the aggregate amount of the NHL Priority Advances. The Requesting Parties acknowledge and agree that the NHL shall have the right and is hereby authorized at any time and from time to time, without notice to any Requesting Party (any such notice being expressly waived by the Requesting Parties), to set off and apply any sums credited by or due from the NHL (including, without limitation, the Funds) to the Club against: (x) any amounts advanced to the Club pursuant to the NHL Priority Advances and (y) any other amounts owed to the NHL which are in any way related to the NHL Priority Advances. Nothing in this Letter Agreement shall be construed in any respect as a guaranty or indemnity by the NHL, or any of the NHL Member Clubs, of any debts, liabilities or obligations whatsoever of the Club or any other Requesting Party.
7. The Requesting Parties acknowledge and agree that any proceeds realized from the sale of the Club shall first be utilized to return the NHL Priority Advances to the extent such amounts have not been set off pursuant to paragraph 6 of this Letter Agreement.
8. The Requesting Parties hereby represent, warrant and covenant that: (i) the execution and delivery of this Letter Agreement, and compliance with the terms hereof by the Requesting Parties, will not conflict with, or result in the breach of, any of the terms, conditions or provisions of, or constitute a default under (except for conflicts, breaches or defaults for which waivers have been obtained), or result in the creation of any lien, charge or encumbrance upon any of the properties or

assets of any of them pursuant to any indenture, mortgage, lease, agreement or other instrument to which any of them is a party or by which they are bound and (ii) each of them has the power and authority to execute and deliver this Letter Agreement and to perform its, his or her, as applicable, obligations hereunder and (iii) the execution, delivery and performance of this Letter Agreement by each Requesting Party constitutes a valid and binding obligation of each such Requesting Party enforceable in accordance with its terms except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability and (iv) each of them shall do and perform any and all acts and execute any and all further documents and instruments required or requested by the NHL to effect the purposes of this Letter Agreement.

9. The Requesting Parties hereby authorize the NHL Commissioner or his designee to enter into discussions with third parties for purposes of determining interest in acquiring the Club or investing in the Club, and/or providing additional financing to the Club, including without limitation debtor-in-possession financing or its equivalent; provided that the NHL shall, subject to the execution by the Requesting Parties of reasonable and customary confidentiality agreements: (i) inform the Club of any such discussions that in the sole discretion of the Commissioner extend beyond preliminary discussions and are appropriate to be disclosed under the circumstances and (ii) provide to the Club copies of any materials which are provided by the NHL to any potential purchasers or investors in connection with the sale of the Club to such potential purchasers or investors and which relate directly to the Club; provided, further, that the foregoing shall not abrogate the right of the Requesting Parties to withhold their consent to any such acquisition, investment or financing.
10. As partial consideration for the NHL providing the NHL Priority Advances, the Requesting Parties, on their own behalf and on behalf of their respective subsidiaries and other affiliates and the heirs, executors, administrators, trustees, beneficiaries, representatives, successors and assigns of each such person or entity, hereby forever release and discharge the NHL and each of the NHL Member Clubs and each of their respective subsidiaries and other affiliates and each of their respective predecessors, successors and assigns and each of their respective past, present or future, direct or indirect, owner, partners, members, shareholders, directors, officers, agents, trustees, employee and governors (but only to the extent they are acting as agents for, or acting for or on behalf of, any such entity or in their individual capacities) (collectively, "Affiliated NHL Parties") from any and all claims, demands, causes of action, and liabilities of any kind whatsoever (upon any legal or equitable theory, whether contractual, common-law, statutory, decisional, Canadian, United States, state, provincial, local or otherwise), whether known or unknown ("Claims"), arising out of, attributable to or relating to, any act, omission, transaction or occurrence taken (or not taken) or occurring (or not occurring) at any time up to and including the date of the execution of this Letter Agreement, except for those amounts, if any, which may be due to the Club in the ordinary course of NHL business.

11. The Affiliated NHL Parties shall have no liability whatsoever for actions taken (or not taken) following the date hereof on behalf of any NHL entity or affiliate or an NHL Member Club, provided that such actions do not constitute willful misconduct.. Accordingly, the Requesting Parties on their own behalf and on behalf of their heirs, executors, administrators, trustee, beneficiaries, legal representatives, successors and assigns, hereby: (i) release and covenant not to sue in connection with or assert, and agree to cause their respective subsidiaries and other affiliates not to sue in connection with or assert, any Claims which they or any other party may hereafter have in connection with any acts taken (or not taken) following the date of this Letter Agreement by any Affiliated NHL Party, provided that such actions are taken by the Affiliated NHL Party on behalf of the NHL or an NHL Member Club and do not constitute willful misconduct on the part of the Affiliated NHL Party and (ii) jointly and severally agree to indemnify the Affiliated NHL Parties, and agree to cause their respective subsidiaries and affiliates to release and indemnify, the Affiliated NHL Parties from such Claims.
12. The Requesting Parties hereby jointly and severally agree to indemnify and hold harmless the Affiliated NHL Parties from and against any and all losses, obligations, claims, liabilities, fines, penalties, damages, costs and expenses (including without limitation, reasonable costs of investigation and settlement and attorneys' fees, including in actions with Affiliated NHL Parties) (collectively, "Losses") incurred or required to be paid by an Affiliated NHL Party, arising out of, attributable to or relating to: (i) the transactions contemplated in this Letter Agreement, or (ii) any act, omission, liability, breach or obligation (including, without limitation, all obligations set forth in this Letter Agreement) of any Requesting Party, any of their subsidiaries or other affiliates or any of their respective former or present shareholders, partners, members, managers, investors, directors, officers, employees, representatives or agents.
13. This Letter Agreement shall be governed by and in accordance with the internal laws of the State of New York, without reference to its conflict of laws provisions.
14. The terms of this Letter Agreement may be waived, altered or amended only by an instrument in writing duly executed by the NHL and the Requesting Parties and such amendment, alteration or waiver shall be binding upon the NHL and the Requesting Parties and their successors and assigns.
15. This Letter Agreement may be executed in a number of counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same instrument. In case any one or more of the provisions contained in this Letter Agreement shall be found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

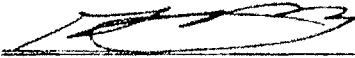
16. This Letter Agreement is solely for the benefit of and shall bind the parties hereto and their respective successors and permitted assigns, and no other person shall have any right, benefit or priority under or because of this Letter Agreement.
17. This Letter Agreement shall be interpreted neutrally and without regard to the party that drafted it and, in particular, no rule of construction shall be applied as against any party hereto that would result in the resolution of an ambiguity contained herein against the drafting party. The Requesting Parties represent and warrant that in entering into this Letter Agreement they have proceeded with the advice of attorneys or their own respective choosing, that they have read the terms of this Letter Agreement, that the terms of this Letter Agreement have been fully and completely read and explained to them by their respective attorneys, and that those terms are fully understood and voluntarily accepted by them under no compulsion or duress of any kind whatsoever.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to us the enclosed duplicate thereof, whereupon this Letter Agreement and your acceptance hereof shall constitute a valid and binding agreement between the NHL and the Requesting Parties.

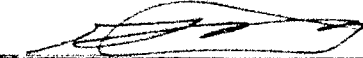
NATIONAL HOCKEY LEAGUE

By: \_\_\_\_\_  
Name: David Zimmerman  
Title: Executive Vice President and General Counsel

COYOTES HOCKEY, LLC

By: \_\_\_\_\_  
Name: Jeff A. Shumway  
Title: Chairman and CEO

COYOTES HOLDINGS, LCC

By: \_\_\_\_\_  
Name: Jeff A. Shumway  
Title: Chief Executive Officer

ARENA MANAGEMENT GROUP, LLC

By: 

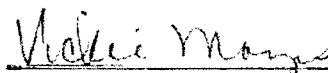
Name: Jeff A. Shumway

Title: Chairman and CEO

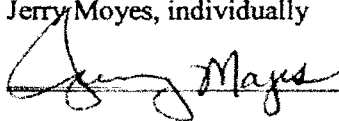


JERRY AND VICKIE MOYES FAMILY  
TRUST

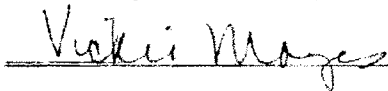
By:   
Jerry Moyes, Trustee

By:   
Vickie Moyes, Trustee

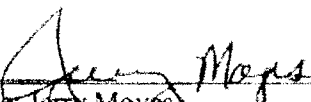
Jerry Moyes, individually



Vickie Moyes, individually



COYOTES HOLDINGS MEMBERCO,  
LLC

By:   
Name: Jerry Moyes  
Title: Manager

# **EXHIBIT A**

Anticipated Source and Estimated Payment Date	Estimated Amount
Sept. 15, 2008 Broadcasting	\$331,650
Oct. 15, 2008 Broadcasting	\$343,750
Nov. 1, 2008 Player Compensation Redistribution	\$5,324,600

**EXHIBIT B**  
**CLUB BUDGET**

**Letter Agreement**, dated as of November \_\_, 2008, by and among the National Hockey League, a joint venture organized as an unincorporated association not for profit (the "NHL"), Coyotes Holdings MemberCo, LLC, a Delaware limited liability company, Coyotes Holdings, LLC, a Delaware limited liability company, Coyotes Hockey, LLC, a Delaware limited liability company (the "Club"), Arena Management Group, LLC, a Delaware limited liability company; Jerry C. Moyes, an individual, Vickie Moyes, an individual, and The Jerry and Vickie Moyes Family Trust, dated December 11, 1987, a trust organized under the laws of the State of Arizona (collectively, other than the NHL, the "Requesting Parties").

**WHEREAS:**

The Requesting Parties have advised the NHL that the Club currently has insufficient funds to pay certain of its upcoming obligations; and

The Club has certain rights and benefits in respect of certain payments relating to (1) the NHL's League-generated television revenues on account of the 2008/09 NHL season and (2) potential distributions under the NHL's Player Compensation Cost Redistribution System on account of the 2008/2009 NHL season, none of which are yet payable to the Club (collectively, the "Funds"); and

The Requesting Parties have requested that the NHL now advance to the Club a portion of the Funds in order that the Club may timely pay certain of its operating expenses; and

The NHL is prepared to advance to the Club up to, but not in excess of, \$15,000,000 of the Funds so as to enable the Club to continue to pay expenses reasonably required to permit the continued sound operation and management of the Club, in the ordinary course, consistent with past practice, subject to the terms and conditions as hereinafter provided; and

The Requesting Parties understand that any advance of Funds by the NHL will be set off against any Funds and/or other sums that the Club may be entitled to receive from the NHL; and

The parties hereto have entered into this Letter Agreement with the intention that the advance provided for herein will provide the Club with sufficient time and opportunity to obtain necessary operating funds (in addition to the Funds) so as to enable the Club to continue to operate on an ongoing basis, in the ordinary course, consistent with past practice, either by way of a cash infusion (debt or equity) from current ownership or that the Club will be sold or a significant investment therein will be obtained.

**Accordingly, the parties hereto hereby acknowledge and agree as follows:**

1. The NHL shall have the right, but shall not be obligated, to from time to time advance, on a priority basis (in terms of return to the NHL) up to a maximum advanced amount of \$15,000,000 of the Funds to the Club during the 2008/2009 NHL season from the sources set forth on Exhibit A hereto (such amounts

advanced by the NHL together with the accrued interest thereon collectively, the "NHL Priority Advances"). The NHL Priority Advances are for purposes of providing the Club with sufficient time and opportunity to obtain necessary operating funds (in addition to the Funds) so as to enable the Club to continue to pay expenses reasonably required to permit the continued sound operation and management of the Club, in the ordinary course, consistent with past practice, either by way of a cash infusion (debt or equity) from current ownership or that the Club will be sold or a significant investment therein will be obtained. For purposes of clarity, the Requesting Parties acknowledge and agree that the NHL has no obligation whatsoever to make any advances to the Club, and this Letter Agreement creates no obligation whatsoever on the NHL to make any advances to the Club, and the NHL expressly reserves the right in its sole discretion to not make advances, and might not make advances, to the Club.

2. To the extent made, the NHL Priority Advances are made: (i) on a "non-revolving" basis, (ii) only to the extent such amounts are not otherwise available to the Club from operations or other sources, as so confirmed to the NHL by the Club, which confirmation the NHL shall be entitled to rely upon and (iii) each such advance shall bear interest for the period beginning on the date such advance is made and ending on the date on which such sum is set off against amounts from time to time owing from the NHL to the Club at a per annum rate equal to the regular interest rate applicable to the revolving "Tranche A Loans" under the NHL's Credit Agreement.
3. The Requesting Parties hereby represent, warrant and covenant that: (a) attached hereto as Exhibit B is a true, correct and complete budget reflecting the budgeted revenues and expenses for the Club for the 2008/09 NHL Season, (b) they will immediately advise the NHL of any changes thereto, and (c) the NHL Priority Advances will be used solely and exclusively to pay the Club's operating expenses in accordance with such budget, which expenses the Requesting Parties hereby represent, warrant and covenant are reasonably required to permit the continued sound operation and management of the Club, in the ordinary course, consistent with past practice. On each Friday the Requesting Parties shall provide the NHL with Club weekly cash flow schedules detailing actual and budgeted information for the immediately preceding two (2) week period and the next succeeding two week period, highlighting all changes from the prior week's submission, all financial projections, if any, and a weekly reconciliation of cash-on-hand against budgeted items for the succeeding two (2) week period. The Requesting Parties shall further provide the NHL with weekly updates regarding the status of any potential sale of or investment in the Club. The Requesting Parties will give the NHL access, at the NHL's request on reasonable notice, to such Requesting Party's premises and books and records in order to verify the accuracy of the foregoing financial statements or any other financial information provided to the NHL.
4. The Requesting Parties acknowledge and agree that the NHL's rights with respect to the NHL Priority Advances shall be expressly senior to and shall have priority

over all secured and other indebtedness owing by the Club to any other party. The Requesting Parties agree to execute, deliver and file such other instruments as the NHL shall reasonably request to evidence and confirm the seniority and priority of the NHL Priority Advances pursuant to this Letter Agreement.

5. The Requesting Parties jointly and severally covenant and agree, in accordance with the third paragraph of Article 3.5 of the NHL Constitution, that all legal and accounting fees, costs and other expenses incurred by the NHL with respect to the transactions contemplated by this Letter Agreement shall be charged to the Club and shall be the obligation thereof.
6. Nothing contained in this Letter Agreement shall be or be construed or deemed to be a subordination by the NHL of the NHL's rights: (i) to receive payments on account of indebtedness or liabilities now or hereafter owing to it by the Club or any other entity, or (ii) to defer or off-set any distribution to the Club, all of which rights, and the seniority thereof, are hereby confirmed and affirmed by each of the Requesting Parties. The Requesting Parties acknowledge and agree that any NHL Priority Advances advanced by the NHL to the Club from time to time pursuant to this Letter Agreement are payments of Funds being made by the NHL to the Club in advance of the dates such Funds are otherwise payable to the Club and, accordingly, the NHL shall not be obligated to pay any Funds or any other sums otherwise due from the NHL to the Club from time to time until after such time, and then only to the extent, that the aggregate amount of such Funds and other sums exceeds the aggregate amount of the NHL Priority Advances. The Requesting Parties acknowledge and agree that the NHL shall have the right and is hereby authorized at any time and from time to time, without notice to any Requesting Party (any such notice being expressly waived by the Requesting Parties), to set off and apply any sums credited by or due from the NHL (including, without limitation, the Funds) to the Club against: (x) any amounts advanced to the Club pursuant to the NHL Priority Advances and (y) any other amounts owed to the NHL which are in any way related to the NHL Priority Advances. Nothing in this Letter Agreement shall be construed in any respect as a guaranty or indemnity by the NHL, or any of the NHL Member Clubs, of any debts, liabilities or obligations whatsoever of the Club or any other Requesting Party.
7. The Requesting Parties acknowledge and agree that any proceeds realized from the sale of the Club shall first be utilized to return the NHL Priority Advances to the extent such amounts have not been set off pursuant to paragraph 6 of this Letter Agreement.
8. The Requesting Parties hereby represent, warrant and covenant that: (i) the execution and delivery of this Letter Agreement, and compliance with the terms hereof by the Requesting Parties, will not conflict with, or result in the breach of, any of the terms, conditions or provisions of, or constitute a default under (except for conflicts, breaches or defaults for which waivers have been obtained), or result in the creation of any lien, charge or encumbrance upon any of the properties or

assets of any of them pursuant to any indenture, mortgage, lease, agreement or other instrument to which any of them is a party or by which they are bound and (ii) each of them has the power and authority to execute and deliver this Letter Agreement and to perform its, his or her, as applicable, obligations hereunder and (iii) the execution, delivery and performance of this Letter Agreement by each Requesting Party constitutes a valid and binding obligation of each such Requesting Party enforceable in accordance with its terms except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability and (iv) each of them shall do and perform any and all acts and execute any and all further documents and instruments required or requested by the NHL to effect the purposes of this Letter Agreement.

9. As partial consideration for the NHL providing the NHL Priority Advances, the Requesting Parties, on their own behalf and on behalf of their respective subsidiaries and other affiliates and the heirs, executors, administrators, trustees, beneficiaries, representatives, successors and assigns of each such person or entity, hereby forever release and discharge the NHL and each of the NHL Member Clubs and each of their respective subsidiaries and other affiliates and each of their respective predecessors, successors and assigns and each of their respective past, present or future, direct or indirect, owner, partners, members, shareholders, directors, officers, agents, trustees, employee and governors (but only to the extent they are acting as agents for, or acting for or on behalf of, any such entity or in their individual capacities) (collectively, "Affiliated NHL Parties") from any and all claims, demands, causes of action, and liabilities of any kind whatsoever (upon any legal or equitable theory, whether contractual, common-law, statutory, decisional, Canadian, United States, state, provincial, local or otherwise), whether known or unknown ("Claims"), arising out of, attributable to or relating to, any act, omission, transaction or occurrence taken (or not taken) or occurring (or not occurring) at any time up to and including the date of the execution of this Letter Agreement, except for those amounts, if any, which may be due to the Club in the ordinary course of NHL business.
10. The Affiliated NHL Parties shall have no liability whatsoever for actions taken (or not taken) following the date hereof on behalf of any NHL entity or affiliate or an NHL Member Club, provided that such actions do not constitute willful misconduct. Accordingly, the Requesting Parties on their own behalf and on behalf of their heirs, executors, administrators, trustee, beneficiaries, legal representatives, successors and assigns, hereby: (i) release and covenant not to sue in connection with or assert, and agree to cause their respective subsidiaries and other affiliates not to sue in connection with or assert, any Claims which they or any other party may hereafter have in connection with any acts taken (or not taken) following the date of this Letter Agreement by any Affiliated NHL Party, provided that such actions are taken by the Affiliated NHL Party on behalf of the NHL or an NHL Member Club and do not constitute willful misconduct on the part of the Affiliated NHL Party and (ii) jointly and severally agree to indemnify

the Affiliated NHL Parties, and agree to cause their respective subsidiaries and affiliates to release and indemnify, the Affiliated NHL Parties from such Claims.

11. The Requesting Parties hereby jointly and severally agree to indemnify and hold harmless the Affiliated NHL Parties from and against any and all losses, obligations, claims, liabilities, fines, penalties, damages, costs and expenses (including without limitation, reasonable costs of investigation and settlement and attorneys' fees, including in actions with Affiliated NHL Parties) (collectively, "Losses") incurred or required to be paid by an Affiliated NHL Party, arising out of, attributable to or relating to: (i) the transactions contemplated in this Letter Agreement, or (ii) any act, omission, liability, breach or obligation (including, without limitation, all obligations set forth in this Letter Agreement) of any Requesting Party, any of their subsidiaries or other affiliates or any of their respective former or present shareholders, partners, members, managers, investors, directors, officers, employees, representatives or agents.
12. This Letter Agreement shall be governed by and in accordance with the internal laws of the State of New York, without reference to its conflict of laws provisions.
13. The terms of this Letter Agreement may be waived, altered or amended only by an instrument in writing duly executed by the NHL and the Requesting Parties and such amendment, alteration or waiver shall be binding upon the NHL and the Requesting Parties and their successors and assigns.
14. This Letter Agreement may be executed in a number of counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same instrument. In case any one or more of the provisions contained in this Letter Agreement shall be found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
15. This Letter Agreement is solely for the benefit of and shall bind the parties hereto and their respective successors and permitted assigns, and no other person shall have any right, benefit or priority under or because of this Letter Agreement.
16. This Letter Agreement shall be interpreted neutrally and without regard to the party that drafted it and, in particular, no rule of construction shall be applied as against any party hereto that would result in the resolution of an ambiguity contained herein against the drafting party. The Requesting Parties represent and warrant that in entering into this Letter Agreement they have proceeded with the advice of attorneys or their own respective choosing, that they have read the terms of this Letter Agreement, that the terms of this Letter Agreement have been fully and completely read and explained to them by their respective attorneys, and that those terms are fully understood and voluntarily accepted by them under no compulsion or duress of any kind whatsoever.



If the foregoing is in accordance with your understanding of our agreement, please sign and return to us the enclosed duplicate thereof, whereupon this Letter Agreement and your acceptance hereof shall constitute a valid and binding agreement between the NHL and the Requesting Parties.

NATIONAL HOCKEY LEAGUE

By: \_\_\_\_\_  
Name: David Zimmerman  
Title: Executive Vice President and General Counsel

COYOTES HOCKEY, LLC

By: \_\_\_\_\_  
Name: Jeff A. Shumway  
Title: Chairman and CEO

COYOTES HOLDINGS, LCC

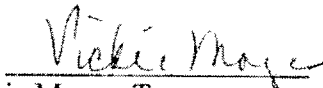
By: \_\_\_\_\_  
Name: Jeff A. Shumway  
Title: Chief Executive Officer

ARENA MANAGEMENT GROUP, LLC

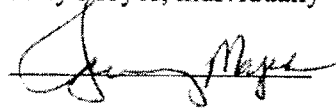
By: \_\_\_\_\_  
Name: Jeff A. Shumway  
Title: Chairman and CEO

JERRY AND VICKIE MOYES FAMILY  
TRUST

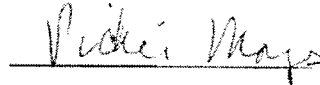
By:   
Jerry Moyes, Trustee

By:   
Vickie Moyes, Trustee


Jerry Moyes, individually



Vickie Moyes, individually



COYOTES HOLDINGS MEMBERCO,  
LLC

By:   
Name: Jerry Moyes  
Title: Manager

## EXHIBIT A

Anticipated Source and Estimated Payment Date

Estimated Amount

[TO COME]

**EXHIBIT B**  
**CLUB BUDGET**