

1 Carolyn J. Johnsen – 011894

2 cjjohnsen@jsslaw.com

3 Peter W. Sorensen – 007506

4 psorensen@jsslaw.com

5 **JENNINGS, STROUSS & SALMON, P.L.C.**

6 A Professional Limited Liability Company

7 The Collier Center, 11th Floor

8 201 East Washington Street

9 Phoenix, Arizona 85004-2385

10 Telephone: (602) 262-5911

11 Facsimile: (602) 495-2696

12 *Attorneys for Jerry Moyes*

13 **IN THE UNITED STATES BANKRUPTCY COURT**

14 **FOR THE DISTRICT OF ARIZONA**

15 In re:

Chapter 11 Proceedings

16 DEWEY RANCH HOCKEY, LLC

Case No. 2:09-bk-09488-RTBP

17 COYOTES HOLDINGS, LLC

(Jointly Administered)

18 COYOTES HOCKET, LLC and

**RESPONSE TO CITY OF GLENDALE'S
OBJECTION TO ANY RELOCATION
SALE**

19 ARENA MANAGEMENT GROUP,
20 LLC,

Date: September 10, 2009

Time: 9:00 a.m.

21 Debtors.

22 Jerry and Vickie Moyes (“Moyes”) respond to the City of Glendale’s Objection to
23 Any Relocation Sale.

24 Surely, at some point the real question must be addressed: What offer to purchase
25 the Coyotes Hockey Team maximizes the value to all creditors? No one disputes the fact
26 that the Team is hemorrhaging and must be sold. The City’s - and, for that matter, the
NHL’s - continued vilification of all the parties involved contributes nothing to this issue.
In fact, its Objection is yet another tiresome regurgitation of its previous pleadings somehow
trying to tie the dearth of buyers to trumped-up bad acts of the Debtors, Moyes, Balsillie and
their representatives.

1 After months and months of multiple participants trying to negotiate a sale, there
2 are two offers, PSE and the NHL. It strains credulity for the City and the NHL to continue to
3 proclaim that the process has been “chilled” by anyone. All the parties who have, at one
4 time or another,¹ been at the negotiation table are sophisticated and have had extensive
5 experience with the purchase and sale of major league sports teams. If any other deal had
6 been viable, the check books would have surfaced. They have not. There are two current
7 bids and those are what should be considered, not the vitriolic side-shows.

8 In this, its most recent excursion, the City sets an interesting conundrum for itself.
9 It is objecting to any bid that contemplates a relocation of the Team. But, both of the offers
10 contemplate a move out of Glendale, it is just that the NHL’s is delayed. So, the City must
11 be objecting to any sale at all. Now who will pay creditors, including the City?
12 Consequently, the City’s position should simply be disregarded.

13 Be that as it may, the real decision to be made here is hardly a contest: \$212.5
14 million from PSE and \$140 million from the NHL. Despite the NHL’s amendment of its bid
15 to turn over to the Debtors 100% of the profit upon a sale of the Team, nothing in the asset
16 purchase documents it has proposed suggests that there will ever be a realization of any
17 recovery.² The NHL’s pointed subordination of a host of unsecured claims (not just Moyes
18 and Gretsky) does nothing to enhance its bid. It is \$80 million short of the ticket to buy this
19 Team. And make no mistake about it, the NHL can control this outcome. If, as the
20 Commissioner has loudly proclaimed, the unfettered ability to decide who is an owner and
21 who is not is the linchpin of continued viability of not only the NHL but other professional
22 sports leagues as well, then the NHL should step up to the bar. If the NHL really wants to

23
24 ¹ And this must include the plethora of buyers, potential buyers, investors and
25 investigators who have engaged the Team since 2008 – a year or more before the
26 bankruptcy proceedings were filed.

² In fact, the NHL’s ability to control this calculation through the assessment of a
relocation fee, among other things, confirms that this claimed “return” of profit is
illusory.

1 avoid the parade of horrors that it claims will befall it, all it has to do is propose a bid that
2 is better for all of the estates' creditors than the one proposed by PSE. It really is that
3 simple.

4 As this Court has already recognized, the specific quantification of the amount of
5 any unsecured claim, whether it is Moyes' \$104 million claim or the \$500 claim of a trade
6 vendor, is appropriately reserved for another day. It has no bearing on whether a bid is
7 higher and better.³ The City's pontifications attempting to persuade some sort of resolution
8 in this regard should be disregarded as well. There is little question that the City lacks
9 standing to raise any issues of recharacterization, subordination or avoidance (matters
10 alleged in its adversary complaint) against Moyes. It obviously clings to these issues in
11 hopes that it will somehow prejudice Moyes in the overall proceeding. Plainly, that should
12 have no bearing in the Court's determination of the sale issues.⁴ Finally, nothing in the
13 City's Objection to Any Relocation Sale is new. It is simply a retread of baseless arguments
14 and groundless, inflammatory allegations that are not calculated to assist the Court in
15 reaching a decision. Rather it is a continuation of the City's efforts to gratuitously savage
16 Mr. Moyes and his reputation, despite the uncontested fact that Mr. Moyes has spent more
17 than \$300 million of his own money in an effort to make the Coyotes a success in Glendale.⁵

18
19 ³ The Debtors have now assigned the Committee the right to bring any purported
20 actions against Moyes. Those matters will be appropriately resolved -- as in any claims
21 resolution process—with due process, discovery, and trial.

22 ⁴ The Debtors have now assigned the Committee the right to bring any purported
23 actions against Moyes. Those matters will be appropriately resolved -- as in any claims
24 resolution process—with due process, discovery, and trial.

25 ⁵ These baseless allegations have been countered by citation to the record over and over
26 again in papers filed by the Debtors and by Mr. Moyes. To the extent that the City's *ad
hominem* remarks require further response, Moyes incorporates by reference each of the
following filings: *Moyes' Objection to Sale of Assets to Ice Edge Group or NHL Affiliates*; and
Response to NHL's Brief in Support of the Sale to Its Affiliates (DE 881); *Debtors' Objection to
the National Hockey League's Offer to Purchase the Assets of Coyotes Hockey and Arena
Management* (DE 878); *Debtors' (1) Statement of Position Regarding Bid of PSE Sports*; and (2)
*Objection to the Offer to Purchase the Assets of Coyotes Hockey and Arena Management
Submitted by Ice Edge Team, LLC, and Ice Edge Arena Management Group, LLC* (DE 877);
Supplemental Evidence in Support of Debtors' Response to NHL's (A) Renewed Motion for

1 In conclusion, Moyes would urge the Court to consider only the evidence and
2 arguments which bear on the acceptance of a bid and confirmation of a sale which
3 maximizes value to the creditor body as a whole.

4 Dated this 5th day of September, 2009.

5 JENNINGS, STROUSS & SALMON, P.L.C.

6 By /s/ Carolyn J. Johnsen - 011894
7 Carolyn J. Johnsen
8 Peter W. Sorensen
9 Attorneys for Jerry Moyes

10 COPY of the foregoing mailed and/or e-mailed
11 this 5th day of September, 2009, to all parties listed below:

12 Thomas J. Salerno
13 Squire, Sanders & Dempsey
14 40 N. Central, #2700
15 Phoenix, AZ 85004
16 Attorneys for Debtor
17 tsalerno@ssd.com

18 Edward M Zachary
19 Bryan Cave
20 2 N. Central Ave #2200
21 Phoenix, AZ 85004
22 Attorneys for Debtor
23 edward.zachary@bryancave.com

24 *Determination of (I) Authority to Manage the Business and Affairs of the Debtors, and (II) That*
25 *William Daly is the Representative of the Estates or (B) In the Alternative, Motion for*
26 *Appointment of A Chapter 11 Trustee (DE 859); Debtors' Reply to City of Glendale's Reply*
Memorandum of Points and Authorities in Support to Debtors' Motion for an Order Approving
Rejection of the Arena Lease Under Bankruptcy Code § 365(a) Effective as of the Closing Date
of a Relocation Sale (DE 853); Declaration of Kelly Singer (DE 782); Declaration of Carrie Ann
Sitren (DE 781); Declaration of Earl H. Scudder (DE 780); Debtors' Response to NHL's (A)
Renewed Motion for Determination of (I) Authority to Manage the Business and Affairs of the
Debtors, and (II) That William Daly is the Representative of the Estates or (B) In the Alternative,
Motion for Appointment of A Chapter 11 Trustee (DE 778); Response and Objection of the
Official Joint Committee of Unsecured Creditors to National Hockey League's (A) Renewed
Motion for Determination of (I) Authority to Manage the Business and Affairs of the Debtors,
and (II) That William Daly is the Representative of the Estates or (B) In the Alternative, Motion
for Appointment of A Chapter 11 Trustee (DE 763); Moyes' Statement of Position (DE 278).

1 Larry L. Watson
2 U.S. Trustee
3 Office of the U.S. Trustee
4 230 North First Ave., Suite 204
5 Phoenix, AZ 85003
6 larry.watson@usdoj.gov

7 C. Taylor Ashworth
8 Stinson Morrison Hecker
9 1850 N Central Ave #2100
10 Phoenix, AZ 85004
11 Attorneys for National Hockey League
12 tashworth@stinson.com

13 James E. Cross
14 Osborn Maledon
15 2929 N. Central Ave. #2100
16 Phoenix, AZ 85012
17 Attorneys for National Hockey League Players' Assoc.
18 jcross@omlaw.com

19 Susan M. Freeman
20 Lewis And Roca
21 40 N. Central Ave.
22 Phoenix, AZ 85004-4429
23 smf@lrlaw.com

24 Donald L. Gaffney
25 Snell & Wilmer L.L.P.
26 One Arizona Center
Phoenix, AZ 85004-2202
Attorneys for Donatello Investments
dgaffney@swlaw.com

Shane D. Gosdis
Allison L. Kierman
DLA Piper
2525 E Camelback Rd #100
Phoenix, AZ 85016
Attorneys for Lease Group Resources, Inc.
shane.gosdis@dlapiper.com
allison.kierman@dlapiper.com

1 Richard Henry Herold, Jr
2 Hinshaw & Culbertson
3 3200 N Central Ave #800
4 Phoenix, AZ 85012-2428
5 Aramark Sports and Entertainment Services
6 rherold@hinshawlaw.com

7 Alan A. Meda
8 Stinson Morrison Hecker
9 1850 N Central Ave #2100
10 Phoenix, AZ 85004
11 Attorneys for National Hockey League
12 ameda@stinson.com

13 Sean P. O'Brien
14 Gust Rosenfeld
15 201 E. Washington, #800
16 Phoenix, AZ 85004-2327
17 Attorneys for Drawbridge Special Opportunities Fund
18 spobrien@gustlaw.com

19 Cathy L. Reece
20 Fennemore Craig
21 3003 N. Central Ave., #2600
22 Phoenix, AZ 85012-2913
23 Attorneys for City of Glendale, Arizona
24 creece@fclaw.com

25 Dale C. Schian
26 Schian Walker
3550 N. Central Ave. #1700
Phoenix, AZ 85012-2115
ecfdocket@swazlaw.com

Scott B. Cohen
Engelman Berger
3636 N. Central Ave., #700
Phoenix, AZ 85012
Attorneys for John Breslow
sbc@engelmanberger.com

1 Lori Lapin Jones
2 98 Cutter Mill Road, #201 North
3 Great Neck, NY 11021
4 Attorney for BWD Group
5 ljones@jonespllc.com

6 William Novotny
7 Mariscal, Weeks, McIntyre & Friedlander
8 2901 N. Central Avenue, Suite 200
9 Phoenix, AZ 85012-2705
10 Attorneys for Coyote Center Development, LLC
11 William.novotny@mwmf.com

12 Ivan L. Kallick
13 Carl L. Grumer
14 Ileana M. Hernandez
15 Manatt, Phelps & Phillips
16 11355 W. Olympic Blvd.
17 Los Angeles, CA 90064
18 Attorneys for Ticketmaster
19 ikallick@manatt.com
20 cgrumer@manatt.com
21 ihernandez@manatt.com

22 Facility Merchandising, Inc.
23 c/o Arthur E. Rosenberg
24 Holland & Knight
25 195 Broadway
26 New York, NY 10007-3189
Arthur.rosenberg@hklaw.com

Facility Merchandising, Inc.
c/o Louis T.M. Conti
Holland & Knight
100 North Tampa Street, Suite 4100
Tampa, FL 33602
Louis.conti@hklaw.com

Thomas H. Allen
Paul Sala
Allen, Sala & Bayne, PLC

1 1850 N. Central Avenue, Suite 1150
2 Phoenix, AZ 85004
3 Attorneys for Official Joint Committee
4 Of Unsecured Creditors
5 tallen@asbazlaw.com
6 psala@asbazlaw.com

7 Jonathan K. Bernstein
8 Andrew J. Gallo
9 Bingham McCutchen LLP
10 One Federal Street
11 Boston, MA 02110
12 jon.bernstein@bingham.com
13 andrew.gallo@bingham.com

14 William R. Baldiga
15 Andrew M. Sroka
16 Brown Rudnick LLP
17 One Financial Center
18 Boston, MA 02111
19 Attorneys for City of Glendale, AZ
20 wbaldiga@brownrudnick.com
21 asroka@brownrudnick.com

22 J. Gregory Milmoe
23 Shepard Goldfein
24 Skadden, Arps, Slate, Meagher & Flom
25 4 Times Square
26 New York, NY 10036
Attorneys for National Hockey League
gregory.milmoe@skadden.com
shepard.goldfein@skadden.com

Anthony W. Clark
Skadden, Arps, Slate, Meagher & Flom
One Rodney Square
Wilmington, DE 19899
Attorneys for National Hockey League
anthony.clark@skadden.com

Steven M. Ambramowitz
Vinson & Elkins

1 666 Fifth Ave., 26th Floor
2 New York, NY 10103-0040
3 Attorneys for SOF Investments/Donatello Investments
4 sabramowitz@velaw.com

5 Jeffrey A. Krieger
6 Greenberg Glusker Fields Claman & Machtinger
7 1990 Avenue of the Stars, #2100
8 Los Angeles, CA 90067
9 Attorneys for Wayne Gretzky
10 jkrieger@greenbergglusker.com

11 ///

12 Jonathan P. Ibsen
13 Laura A. Rogal
14 Jaburg & Wilk, PC
15 3200 N. Central Avenue, #2000
16 Phoenix, AZ 85012-2440
17 Attorneys for Wayne Gretzky
18 jpi@jaburgwilk.com
19 lar@jaburgwilk.com

20 John J. Rapisardi
21 Scott J. Greenberg
22 Cadwalader, Wickersham & Taft
23 One World Financial Center
24 New York, New York 10281
25 Attorneys for Ice Edge Holdings, LLC
26 john.rapisardi@cwt.com
scott.greenberg@cwt.com

27 Mark C. Dangerfield
28 Dean C. Short
29 Gallagher & Kennedy
30 2575 East Camelback Road
31 Phoenix, AZ 85016-9225
32 Attorneys for Arizona Cardinals Football Club
33 mcd@gknet.com
34 dcs@gknet.com

1 Albert Turi
2 BWD Group, LLC
3 BWD Plaza
4 P. O. Box 9050
5 Jericho, NY 11753-8950

6 /s/ Jeannie Baker

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26