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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-09-09488

(Jointly Administered)

Chapter 11

**JOINT MOTION OF DEBTORS AND  
PSE SPORTS & ENTERTAINMENT LP  
FOR ORDER REQUIRING  
PRODUCTION OF DOCUMENTS  
FROM THE NATIONAL HOCKEY  
LEAGUE**

This Filing Applies to:

- ☒ All Debtors  
☐ Specified Debtors

These cases continue to move rapidly, and the Court and the parties have responded accordingly. A hearing on the proposed sale of the Debtors' assets is scheduled to begin at 9:00 a.m. on September 10, 2009. As explained below, it is critical that the Debtors and PSE Sports & Entertainment, LP (jointly, the "**Movants**") obtain certain documents from the National

Hockey League (the “**NHL**”) on an expedited basis so that the Movants and their respective expert witnesses may adequately prepare for the sale hearing. Accordingly, Movants respectfully request that the Court enter an order requiring the NHL to produce all documents responsive to the requests set forth in Exhibit A hereto (the “**Documents**”) for inspection and copying at the Phoenix office of Squire, Sanders & Dempsey L.L.P. **no later than 2:00 p.m. (New York Time) on Friday, August 14, 2009** (the “**Production Deadline**”).

### **JURISDICTION**

1. The Court has jurisdiction over the Debtors’ Chapter 11 cases and the matters raised in this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. §§ 157(b)(2). Venue is proper in this District under 28 U.S.C. §§ 1408 and 1409(a).

2. The statutory predicates for the relief requested are section 105(a) of Title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 2004, 7026, 7034, and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

### **BACKGROUND AND ARGUMENT**

3. On July 6, 2009, the Court entered the “Order Approving Bid Procedures for Auction/Sale of Phoenix Coyotes National Hockey League Team and Related Assets and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases” (Docket No. 408) (the “**Bid Procedures Order**”). Under the Bid Procedures Order, and under the Court’s Minute Entry/Order filed on August 5, 2009, a sale of the Debtors’ assets to be relocated to a venue other than Glendale, Arizona is scheduled to begin at 9:00 a.m. on September 10, 2009 (the “**Sale Hearing**”).

4. The Movants anticipate they, as well as other parties in interest, will file declarations prior to the Sale Hearing (to serve as direct testimony of witnesses) and present evidence at the Sale Hearing, through expert testimony or otherwise, on (but not limited to) the following topics:

- a. Which offer is the highest or otherwise best bid for the Debtors' assets;
- b. The amount of a relocation fee and the methods for determining such fee, including a *Raiders II* computation;
- c. The existence of a bona fide dispute under Bankruptcy Code § 363(f);
- d. The reasonableness of the NHL's decision to deny the James Balsillie/PSE transfer application and the Coyotes/PSE relocation application; and
- e. The feasibility of relocation of the Coyotes for the 2009-2010 season.

5. The Documents requested in Exhibit A are relevant to the matters set forth above and, in particular, relevant to the Court's determination of the best bid for the sale of the Debtors' assets. Given the expedited nature of the auction procedures, it is critical that the Movants obtain the Documents no later than the Production Deadline so that the Movants, their counsel, and their expert witnesses have adequate time to analyze the Documents and prepare any reports or declarations that will be utilized or relied upon at the Sale Hearing. In addition, the Movants must receive the requested Documents no later than the Production Deadline so that the Movants (and the NHL, if it chooses to take discovery) have adequate time to schedule, prepare for, and take depositions of witnesses prior to the Sale Hearing. Obviously, the documents must be produced first, so that (a) the information can be analyzed and given to experts, (b) direct testimony declarations can be prepared, and (c) any needed depositions can take place, all before the September 10 hearing.

6. By separate motion, the Movants seek to take the depositions of Commissioner Bettman and Deputy Commissioner Daly regarding the Coyotes/PSE relocation application and the Balsillie/PSE transfer application. Messrs. Bettman and Daley are believed to be the most knowledgeable people regarding information exclusively within the possession and control of the NHL.

7. Document requests under Bankruptcy Rule 2004 may include within their scope any matter which may impact "the administration of the debtor's estate." *See* Bankruptcy Rule 2004(b) and (c). The Documents requested in Exhibit A relate to the Sale Hearing and the

Court's determination of the best bid. Accordingly, the Documents fall plainly within Rule 2004's broad scope.<sup>1</sup>

8. The Court also has the authority to grant this Motion under Bankruptcy Rules 7026(b) and 7034, which apply to contested matters through Bankruptcy Rule 9014(a). In particular, Bankruptcy Rule 7034(b)(2)(A) permits the Court to shorten the time period for responding to document requests:

*Time to Respond.* The party to whom the request is directed must respond in writing within 30 days after being served. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the court.

Bankruptcy Rule 7034(b)(2)(A) (emphasis added). Given the importance of the Documents to the Sale Hearing and the Movants' immediate need for such Documents, it is appropriate for the Court to require that the NHL produce the Documents no later than the Production Deadline. Moreover, most of the documents should be readily available in the files of the NHL.

9. A draft of this motion was provided to counsel for the NHL on August 5, 2009, after the Court's Minute Entry/Order of the same date, and counsel have been in communication regarding the requested discovery.

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<sup>1</sup> Moreover, the Sale Hearing and the Court's determination of the best bid are core proceedings. See 28 U.S.C. §§ 157(b)(2)(A), (M), (N), and (O). Accordingly, the Court's authority to grant this Motion under Rule 2004 is also evidenced by the fact that the Documents are relevant to core proceedings in which the Court will be issuing findings of facts and conclusions of law pursuant to its jurisdictional authority under 28 U.S.C. §§ 157 and 1334.

## **CONCLUSION**

For all of the reasons set forth above, the Movants respectfully request that the Court enter an order substantially in the form attached: (a) directing the NHL to produce all documents that are responsive to the requests set forth in Exhibit A no later than the Production Deadline; and (b) granting any other relief the Court deems appropriate.

RESPECTFULLY SUBMITTED this 7th day of August, 2009

### **SQUIRE, SANDERS & DEMPSEY L.L.P.**

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COPY of the foregoing mailed and/or e-mailed this  
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**EXHIBIT A**  
**INSTRUCTIONS**

A. Pursuant to Fed. R. Bankr. P. 2004 and Fed. R. Bankr. P. 7034, made applicable to this matter by Fed. R. Bankr. P. 9014, You are hereby requested to produce documents as they are kept in the usual course of business. Alternatively, the documents shall be organized and labeled to correspond with the categories in this request. In addition, documents are to be produced in their unexpurgated form; redacted documents will not constitute compliance with this request.

B. If You contend that the contents of a document requested to be produced for inspection and copying are protected from disclosure by virtue of a privilege, it is requested that You provide a description of each such documents which contains the following information so as to permit the Court to evaluate the claim of privilege: (a) each privilege whereby You contend that the contents of such writing are protected from disclosure; (b) each and every fact upon which You rely to support Your claim of privilege; (c) the type of writing (e.g., letter, memorandum, telegram, fax, notes, etc.); (d) the date of each such writing; (e) the author of each such writing; (f) the person to whom each such writing was directed; (g) person to whom copies of such document were supplied; and (h) the general subject matter of each writing.

C. In the event that any document called for by this request has been destroyed, lost, discarded or otherwise disposed of, any such document is to be identified as completely as possible, including, without limitation, the following information: (a) the date of such disposal; (b) the manner of such disposal; (c) the reason for such disposal; (d) the name of the person authorizing such disposal; (e) the name of the person who disposed of the document; and (f) the name of the custodian of the document at the time of its disposal.

D. The documents called for by this request are all documents believed to be in Your possession, custody or control or the possession, custody or control of your current or former members, managers, attorneys, accountants, officers, directors, shareholders, employees, agents, investigators, consultants or other representatives, and any of Your businesses. If any document responsive to this request is not produced as requested, with respect to each such document, please state the following: (a) responsibilities of the document's author, drafter or originator; each person who edited, corrected, revised, amended or reviewed

the document; each person who wrote any initials, comments or notations on the document, and each recipient of the document or a copy thereof; (b) the date of the document; (c) a description of the document's subject matter or general nature (i.e., opinion of counsel, report, letter, etc.); (d) the basis for not producing the document or copy thereof; and (e) the present location of the document and copies thereof and the name, address and telephone number of the person having custody or control of each copy of the document.

E. In the event that any document referred to in Your responses is not within Your possession, custody or control, please specify what this disposition was made of, and by whom the document is now possessed, held in custody or controlled.

F. The time period for the requested documents and communications is from July 1, 2008 to the date of Your production of documents.

#### DEFINITIONS

G. The term "You" and "Your" refers to the National Hockey League as referenced in Paragraph D of the Instructions.

H. The term "Documents" shall refer, without limitation, to contracts, agreements, letters of credit, notes, drafts, bills of exchange, communications, correspondence, faxes, telegrams, "writings" and "renderings" as those terms are defined in Federal Rules of Evidence, Rule 1001(1) and all "originals" and "duplicates", as those terms are defined in the Federal Rules of Evidence, Rule 1001(4), and all memoranda, e-mail communications, records, word processing files, spreadsheets, data bases, reports, contracts, amendments and addenda to contracts, invoices, ledgers, books of account, journals, vouchers, bank checks, charge slips, account reports, receipts, working papers, charts, graphs, indices, statistical records, reports, summaries or records of personal or telephonic conversations or interviews, diaries, drafts, charts, minutes or records of meetings or conferences, consultants reports, appraisals, brochures, offering memoranda, private placement documents, pamphlets, news articles or clippings, circulars, trade letters, press releases, notes, bills, invoices, photographs, computer diskettes or printouts, tape recordings, video tapes, notices of occurrences or claims, notices of losses, policy binders, demand letters, claims adjusters reports and all other

written, printed, recorded or other photographic matter or sound reproductions however produced or reproduced and whether in hard copy format or stored on computer or other digital media.

I. The singular shall include the plural and the past tense shall include the present tense, and vice versa. In addition: (i) the words "and" and "or" shall be both conjunctive and disjunctive; (ii) the word "all" shall mean "any and all"; (iii) the word "any" shall mean "any and all"; and (iv) the word "including" shall mean "including without limitation."

### DOCUMENT CATEGORIES

1. NHL summaries (whether those provided to the NHL Executive Committee or otherwise) of all purchase agreements for NHL teams since 2000 (whether the agreement at the time was executed or in draft form), whether prepared before or after a purchase was consummated. If summaries do not exist for any particular transaction, we request copies of the actual purchase agreements.

2. A list of or documents reflecting all relocation fees charged and received by the NHL with respect to the last ten NHL franchise relocations.

3. A list of or documents reflecting all indemnity or similar payments made to NHL teams as a result of teams either relocating or expanding into or near the territory of the team receiving the payment for the last ten NHL franchise relocations or expansions.

4. A list of or documents reflecting all expansion fees charged (and payment terms) and received by the NHL in connection with the last ten franchises it has granted.

5. All documents that set out the NHL's customary methodology or methodologies for establishing the amount of a relocation or indemnity fee as well as documents applying such methodology or methodologies in respect to any particular transaction.

6. Team financial statements (or, if such statements are not available, URO reports) for all NHL teams that were sold since 1996 for three years before and three years after the transaction.

7. Team financial statements (or, if such statements are not available, URO reports) for the Toronto Maple Leafs, Buffalo Sabres, L.A. Kings, Anaheim Ducks, New York Rangers, New York Islanders and New Jersey Devils for each year since 1996, as well as team financial statements (or, if such statements are not available, URO reports) for all other NHL teams for 2008 and 2009.

8. All documents reflecting or summarizing any expenditures that the Toronto Maple Leafs, the Buffalo Sabres or the NHL have made in order to develop goodwill in the market for NHL hockey in Hamilton, Ontario.

9. All documents pertaining to or discussing the prospect of another franchise entering the southern Ontario market since 1996, including but not limited to any correspondence with the Toronto Maple Leafs or the Buffalo Sabres or their respective representatives regarding the prospect of an NHL team in Hamilton.
10. Documents or data identifying payments by and receipts of funds by NHL franchises pursuant to NHL revenue-sharing and other financial support programs since 2000.
11. Data or summaries on the number of TV households in each local television market for all NHL teams, as defined by the League, in each of the 2008 and 2009 seasons.
12. Data on average ticket prices per season charged by each NHL team from 2000 to the present, with and without inclusion of premiums from luxury suites and club seats.
13. Please identify and produce documents establishing: (a) how many NHL Consent Agreements have been entered into since 1990; (b) how many of those had 7-year non-relocation covenants; and (c) for those that did have 7-year non-relocation covenants, the names of the teams and dates of those Agreements. Please produce copies of all Consent Agreements within subpart (a) of this request.
14. All documents reviewed or considered by the NHL's Board of Governors or Executive Committee underlying the conclusion on July 29, 2009 that Mr. Balsillie or any entity primarily owned by him (including PSE and its predecessors, together "Mr. Balsillie") is not a suitable owner for an NHL team. Please include all documents that the NHL claims supported its conclusion that Mr. Balsillie's character and integrity are inadequate for him to serve as an owner of an NHL franchise.
15. All written agreements between Mr. Balsillie on the one hand and the NHL (and/or any of its franchise holders) on the other that allegedly have been breached by Mr. Balsillie. Please identify the specific portions or provisions of the agreements that allegedly were breached, if any.
16. All documents created prior to May 5, 2009 in which the NHL or the Toronto Maple Leafs determined, recommended or acknowledged that Article 4.3 (including any portion thereof) of the NHL Constitution is no longer binding on the NHL or its franchise holders.
17. All documents created prior to May 5, 2009 in which the NHL or the Toronto Maple Leafs agreed or otherwise acknowledged that only a majority of the Board of Governors present and voting is required to approve a proposed franchise relocation and/or that no single Member club has veto power over a proposed franchise relocation.
18. All documents applying or analyzing NHL By-Laws 36.5 (in whole or in part) or 36.6 (in whole or in part) with respect to the potential relocation of the Coyotes to Hamilton, Ontario.

19. The February 23, February 25 and March 7, 2005 emails from Richard Rodier to the Director of Finance for Nashville referenced in Mr. Leopold's statement attached as Exhibit C to the Second Declaration of William L. Daly filed in this matter.

20. All reports prepared by, for or to the NHL or correspondence sent to the NHL by any private investigator with respect to PSE Sports & Entertainment LP or James Balsillie.

**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-09-09488  
(Jointly Administered)

Chapter 11

**ORDER DIRECTING THE NATIONAL  
HOCKEY LEAGUE TO PRODUCE  
DOCUMENTS**

This Filing Applies to:

- ☒ All Debtors  
☐ Specified Debtors

This Court, having considered the “Joint Motion of Debtors and PSE Sports & Entertainment LP for Order Requiring Production of Documents from the National Hockey League” (“Motion”),

IT IS HEREBY ORDERED:

1. The Motion is GRANTED.
2. The National Hockey League shall produce those documents responsive to the requests listed in Exhibit A to the Motion on or before 2:00 P.M. (New York Time) on August 14, 2009 at the following location (or such other location as the parties may agree upon):

Squire, Sanders & Dempsey L.L.P.  
30 Rockefeller Plaza  
New York, NY 10112  
(212) 872-9800  
Attn: Thomas J. Salerno

DATED AND SIGNED ABOVE