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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

**SUPPLEMENTAL 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

Hours after Debtors and PSE Sports & Entertainment LP (“**PSE**”) filed their Joint Motion For Order Requiring Production of Documents From the National Hockey League (“**NHL**”) (Docket No. 579), the NHL filed a Motion for a Determination that Debtors’ NHL Membership

Rights May Not Be Transferred to PSE or an Affiliate Thereof (Docket 584). To adequately respond to this motion, Debtors and PSE must supplement their document requests, and accordingly, 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. On August 7, 2009, the NHL filed a Motion for a Determination that Debtors’ NHL Membership Rights May Not Be Transferred to PSE or an Affiliate Thereof (Docket 584) (“**Motion for Determination**”). The Motion for Determination seeks an order that Mr. Balsillie cannot become a Qualified Bidder within the meaning of the Bid Procedures Order.

5. The Documents requested in Exhibit A are relevant to the Court's determination of whether the NHL's denial of Mr. Balsillie's ownership transfer application was pretextual and without justification. 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 and their counsel have adequate time to analyze the Documents, respond to the NHL's Motion for Determination, and prepare any 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, (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 Craig Leipold (current owner of the Minnesota Wild and former owner of the Nashville Predators); Jeremy M. Jacobs (owner of the Boston Bruins and Chairman of the NHL Board of Governors); and Richard A. Peddie (president and CEO of the owner of the Toronto Maple Leafs). The testimony of Messrs. Leipold and Jacobs has been affirmatively put at issue by their declarations in support of the NHL's Motion for Determination. Mr. Peddie's testimony is relevant to whether the rejection of Mr. Balsillie is pretextual, information going to the heart of the NHL's Motion for Determination. Debtors and PSE will conduct these depositions at a time and place of the deponents' convenience, within the confines of the discovery schedule to be set by the Court.

7. Debtors and PSE also request that Messrs. Leipold, Jacobs, and Peddie produce all documents in their possession and/or control relating to the Applications and with respect to the other Applicants who were considered by the NHL in connection with the proposed sale of the Coyotes. Such documents should be produced no later than two days prior to their respective depositions, to enable the deposition questioning to be expeditious and to the point.

8. 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 whether to consider Mr. Balsillie’s bid. Accordingly, the Documents fall plainly within Rule 2004’s broad scope.¹

9. 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.

10. On August 10, 2009, the Debtors e-mailed counsel for the NHL, identifying the discovery sought by this motion. Counsel for the Debtors, counsel for PSE, and counsel for the NHL met and conferred regarding the discovery sought by this motion on August 11, 2009.

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

¹ Moreover, the Sale Hearing and the Court’s determination of whether to consider Mr. Balsillie’s 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.

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 11th day of August, 2009

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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. The unredacted memorandum to the NHL Executive Committee, copied to the NHL Board of Governors, titled "Historical Facts and Materials Relevant to the Applications of Jerry Reinsdorf, Jim Balsillie, and Anthony LeBlanc for the Transfer of Ownership of the Phoenix Coyotes," dated July 27, 2009 (hereafter "the NHL Coyotes Memorandum"), and all drafts thereof, along with documents sufficient to identify the author or authors of the NHL Coyotes Memorandum.

2. As to all applications to the NHL for ownership transfer submitted from December 31, 1998 to the present, whether the applications for ownership transfers were accepted or denied, the unredacted memoranda, reports or other documents summarizing such applications and submitted to the NHL Executive Committee and/or NHL Board of Governors, which documents are believed to be those materials for the respective applications which were comparable to or served the same purpose in those applications as the NHL Coyotes Memorandum here.

3. All notes, correspondence, memoranda, reports, and other documents received, transmitted, reviewed, created or considered by the NHL Executive Committee and/or the NHL Board of Governors or the members thereof relating to the ownership transfer application submitted by Jim Balsillie and/or PSE Sports & Entertainment LP with respect to the potential transfer of ownership of the Phoenix Coyotes.

4. Documents sufficient to identify the members of the NHL Board of Governors that were not present to vote and that abstained from voting on the application for ownership transfer submitted by Jim Balsillie and/or PSE Sports & Entertainment LP regarding the potential transfer of ownership of the Phoenix Coyotes.

5. All unredacted correspondence, memoranda, reports or other documents sent or prepared by Kroll, Inc. or sent to Kroll, Inc. regarding the ownership transfer application submitted in 2009 with respect to the potential transfer of ownership of the Phoenix Coyotes, and Kroll, Inc.'s investigation with regard to any transfer of ownership, and all drafts thereof.

6. Documents sufficient to identify all persons/entities that have had applications for ownership transfers denied as a result of a determination by the NHL Executive Committee, the

NHL Commissioner's Office, or the NHL Board of Governors that such person/entity lacked the necessary "good character and integrity" as that term is used in Section 35.1(b) of the NHL Bylaws.

7. All notes, correspondence, memoranda, reports or other documents relating to ownership transfer applications that have been denied by the NHL Executive Committee, the NHL Commissioner's Office, or the NHL Board of Governors on the grounds that the applicant lacked the necessary "good character and integrity" as that term is used in Section 35.1(b) of the NHL Bylaws.

8. All notes, correspondence, memoranda, reports or other documents relating to any actions taken by the NHL with regard to current or past owners of NHL member teams or any interest therein who have been determined by the NHL, whether by the NHL Office of the Commissioner, the NHL Executive Committee, the NHL Board of Governors or some other NHL entity, to lack the necessary "good character and integrity" (as that term is used in Section 35.1(b) of the NHL Bylaws) to be owners, including without limitation any persons who are presently, or have been at some time in the past, under indictment or the subject of federal/state investigations, or who have pled guilty to or been found guilty of felony violations of criminal laws.

9. All notes, correspondence, memoranda, reports or other documents relating to the meaning and interpretation of "good character and integrity" as that term is used in Section 35.1(b) of the NHL Bylaws, including without limitation any guidelines or factors to be considered when evaluating "good character and integrity."

10. The applications and related submissions of Messrs. Reinsdorf and LeBlanc, and their respective proposed co-owners, to become owners of the Phoenix Coyotes (except for financial information).

11. All documents not covered by other requests relating to the NHL's investigation or analysis of the qualifications or fitness of Messrs. Reinsdorf and LeBlanc, and their respective proposed co-owners, to serve as or become NHL team owners.