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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.

Chapter 11
Case No. 2:09-bk-09488-RTBP

**PSE'S SPORTS & ENTERTAINMENT
L.P.'S REPLY IN SUPPORT OF
MOTION TO SET BRIEFING
SCHEDULE WITH RESPECT TO
RELOCATION-RELATED ISSUES**

This Filing Applies to:

- ☒ All Debtors
☐ Specified Debtors

Hearing Date: September 2, 2009
Hearing Time: 9:00 a.m.

With respect to the NHL's opposition to PSE's request to set a briefing schedule for the September 10-11 hearing, PSE replies as follows:

1 A. PSE understands that the NHL hopes that it will win on the ownership issue
2 and thereby avoid the relocation-related issues currently set for hearing on September 10
3 and 11, even though the Court in its June 15 Order expressed skepticism about the NHL's
4 position. But merits aside, the NHL's hope that it will prevail on September 2 does not, as
5 the NHL claims, make it "premature" or a "waste of time" for the parties to set a briefing
6 schedule with respect to the rapidly approaching hearing on September 10. Whether the
7 NHL likes it or not, PSE's bid, and accompanying relocation-related issues, are set for
8 hearing on September 10-11 and, consequently, the parties need to submit their briefs
9 enough in advance of that hearing for the Court to review them.

10 B. In its motion, PSE proposed a reasonable briefing schedule. The NHL does
11 not quibble with particular dates or the proposed spacing between due dates for briefs.
12 Instead, the NHL's input regarding a briefing schedule for a hearing less than two weeks
13 away is for everyone to ignore the hearing until such time on or after September 2 as the
14 NHL loses on the ownership issue and then appeals and loses at every other appellate
15 level. The NHL's position is not a good faith proposal for briefing issues in advance of
16 the upcoming hearing, but instead is just a reiteration of its longstanding opposition to
17 PSE's bid being considered on September 10-11, a position the Court rejected in its
18 August 5 Order. *See* [DE 572].

19 C. Indeed, the NHL's refusal to agree to a briefing schedule is a violation of at
20 least the spirit, if not the letter, of the NHL's recent commitment to the Court that it would
21 be prepared to "jump through all the hoops" to quickly address the relocation issue by
22 September 10th once the ownership issue is resolved. August 11, 2009 Hearing Trn. at
23 37-38.

24 PSE's proposed briefing schedule is workable and reasonable and, in the absence of
25 any reasonable counter-proposal by the NHL, the Court should adopt PSE's proposed
26

1 schedule. Indeed, on August 28, PSE filed its relocation-related motions consistent with
2 the proposed schedule.

3 D. The NHL's strategy to try to moot PSE's bid by refusing to rule on the
4 relocation application until such time as the NHL can say that it is impossible for the team
5 to relocate for the upcoming season is, at this point, hardly a secret. It is worth noting,
6 however, that this refusal is at odds with the NHL's practice of simultaneously considering
7 ownership and relocation applications.¹ This strategy to undermine the Court's power
8 through unilateral delay is what compels the NHL to repeatedly tell the Court that it will
9 not respect any adverse ruling by the Court on the ownership issue or even begin to
10 process a relocation application until the NHL "has exhausted all available appeals." But
11 the NHL does not dictate the schedule in this Court, which has an independent duty, as the
12 guardian of the upcoming auction process and the rights of creditors, to ensure that it is in
13 a position to determine the highest and best bid on September 10-11. If the Court rules
14 with PSE on September 2 that it should be qualified as such a bidder, then it is essential
15 that a reasonable briefing schedule be set to resolve the relocation issues before the auction
16 process is completed.

17 E. Indeed, the NHL's assumption of the role of a competing bidder forfeits any
18 argument that it, rather than the Court, serves as the gatekeeper to the auction process. In
19 any event, the issues of whether the NHL has acted in good faith with respect to the PSE-
20 Debtors' relocation application, whether a § 363(f)(4) bona fide dispute exists, and what
21 relocation fee, if any, would be appropriate, are issues set for hearing on September 10 and
22 11. It is thus prudent and necessary to set a schedule to brief them.

23 F. The NHL's gratuitous argument that the record regarding relocation issues is
24 no different than it was at the time of the Court's June 15 order is both irrelevant to
25

26 ¹ In the two instances since 1993 when the NHL has considered an ownership transfer application
in the same year as a relocation application, it decided both applications simultaneously.

1 whether a briefing schedule should be set and patently inaccurate. The record is now clear
2 that the NHL has not acted reasonably and in good faith with respect to the Debtors' and
3 PSE's transfer of ownership and relocation applications (a basis having nothing to do with
4 an antitrust analysis for the Court to deem the NHL's consent rights to have been
5 forfeited) and that, at a minimum, a bona fide dispute exists as to whether the NHL's
6 opposition to Mr. Balsillie and PSE has been motivated not by Mr. Balsillie's allegedly
7 poor character, but instead by a bad faith desire to eliminate a competing bidder to the
8 NHL, punish any NHL team owner with the temerity to file a bankruptcy case, and to keep
9 another team out of southern Ontario.

10 For all these reasons, we ask that the Court issue an order at its earliest convenience
11 setting a briefing schedule as proposed for the September 10-11 hearing.

12 RESPECTFULLY SUBMITTED this 31st day of August 2009.

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