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16 **UNITED STATES BANKRUPTCY COURT**

17 **FOR THE DISTRICT OF ARIZONA**

18 In re ) Case No. 2:09-bk-09488-RTBP  
19 DEWEY RANCH HOCKEY, LLC, ) (Jointly Administered)  
20 COYOTES HOLDINGS, LLC, ) Chapter 11  
21 COYOTES HOCKEY, LLC, and ) **NATIONAL HOCKEY LEAGUE'S**  
22 ARENA MANAGEMENT GROUP, LLC, ) **SUPPLEMENT TO ITS REPLY IN**  
23 Debtors. ) **SUPPORT OF DETERMINATION**  
24 ) **THAT DEBTORS' NHL MEMBERSHIP**  
25 ) **RIGHTS MAY NOT BE**  
26 ) **TRANSFERRED TO PSE OR AN**  
27 ) **AFFILIATE THEREOF**  
28 )

26 This filing applies to:

- 27 ☐ All Debtors  
28 ☐ Specified Debtors

1 The National Hockey League (the "NHL") hereby submits this Supplement to its Reply in  
2 support of its motion for an order determining that the Debtors' NHL membership rights may not  
3 be transferred to PSE, and states as follows:

4 The NHL demonstrated in its moving papers and reply brief that it did not violate any duty  
5 of good faith and fair dealing to Mr. Moyes in rejecting PSE and Mr. Balsillie as a potential owner  
6 of the Phoenix Coyotes. (Dkt. # 584, 863.) In PSE's reply in support of its related Motion for  
7 Determination that the Debtors' Interests May Be Transferred to PSE Notwithstanding the NHL's  
8 Refusal to Consent (Dkt. # 852), PSE claims that testimony of Craig Leipold relating to how  
9 Commissioner Bettman suggested that he handle a potential leak of his confidential negotiations  
10 with Mr. Balsillie – in Mr. Rodier's words, the "cease and desist order" – supports its assertion that  
11 the NHL's rejection of Mr. Balsillie on character and integrity grounds was a pretext for its alleged  
12 dislike of Mr. Balsillie or a claimed desire to keep a team out of Hamilton. In making this  
13 erroneous argument, PSE omitted to provide the Court with the following key testimony:

14 Q So Gary Bettman told you not to negotiate with Balsillie?

15 A No. He –

16 Q Well, I'm trying to understand what he told you.

17 A Okay. What Gary – what Gary was concerned about – in our  
18 business, public leaks can be very damaging to a franchise. And  
19 when they come out in the press and, you know, the fans are reading  
20 it, they're wondering what's going on. Immediately I have a  
microphone sitting in my face, "What – are you going to sell the  
team?" We're unprepared with any statement, we have no plan how  
we're going to deal with this.

21 Those are the kinds of embarrassing situations that can implode a  
22 franchise. So that's where he was concerned that we not be put into  
23 that situation. So he correctly says, "First of all, find out where the  
leaks are. You know, quiet this thing down." Not stop it, not shut it  
down. Just freeze it right now in the hopes that we can get past this  
Darren Dreger situation.

24 And that was the – that was the extent of Gary's conversation. It was  
25 never, "Don't negotiate with Balsillie. I don't like Balsillie. Do not  
26 talk with him." It was never any of that. His concern was clearly the  
27 issue of this being reported and embarrassing the League and  
28 damaging my team.

Leipold Dep. at 125-26 (emphasis added), attached hereto as Exhibit A.

Respectfully submitted this 1<sup>st</sup> day of September, 2009.

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**Exhibit A**

1 in our business, public leaks can be very damaging to  
2 a franchise. And when they come out in the press  
3 and, you know, the fans are reading it, they're  
4 wondering what's going on. Immediately I have a  
5 microphone sitting in my face, "What -- are you going  
6 to sell the team?" We're unprepared with any  
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17 And that was the -- that was the  
18 extent of Gary's conversation. It was never, "Don't  
19 negotiate with Balsillie. I don't like Balsillie.  
20 Do not talk with him." It was never any of that.  
21 His concern was clearly the issue of this being  
22 reported and embarrassing the League and damaging my  
23 team.

24 Q But what was he asking you to freeze in your words?

25 A To freeze the -- to halt the discussion for a couple

1 days. To not -- you know, you want to have  
2 deniability. All right. And as -- just, you know,  
3 don't talk to the press, just slow this process down  
4 and make sure the other side is aware of that as  
5 well.

6 Q Certainly-- Strike that.

7 Did he tell you at that time in words  
8 or substance you shouldn't be negotiating with  
9 Mr. Balsillie because he can't be trusted?

10 A No.

11 MR. BADINI: All right. Let's take a look  
12 at what we'll mark as the next exhibit, Leipold 7, an  
13 email from Richard Rodier dated May 6, 2007 and at  
14 the bottom of the page one from Craig Leipold to  
15 Richard Rodier also of that date.

16 (Exhibit 7 marked for identification.)

17 BY MR. BADINI:

18 Q So my question, sir, is Leipold 7 Mr. Rodier's --

19 MR. GOLDFEIN: I have two copies of this.

20 MS. LISTER: I'll take it.

21 BY MR. BADINI:

22 Q Is Leipold 7 Mr. Rodier's response to your email that  
23 we just talked about -- not -- no. Strike that.

24 There is an intervening email.

25 Look at the bottom of Leipold 7. Is

1 that an email from you to Richard Rodier explaining  
2 the cease and desist language?

3 A Yes. That is correct.

4 Q Okay. And above that is that Mr. Rodier's response  
5 to your email?

6 A Yes. I believe this is his response to my cease and  
7 desist analogy that indicates that's not Gary's  
8 language.

9 Q Okay. And your previous testimony you said that you  
10 thought that Mr. Rodier had admitted to you that it  
11 was a RIM employee that leaked the story?

12 A Yes.

13 Q Is there any such reference in this email?

14 A I don't see it in this email.

15 Q Do you recall any communication from Mr. Rodier where  
16 he made that admission?

17 A Yes. Frankly, I do.

18 Q What --

19 A I don't know --

20 Q What communication?

21 A I don't know where it is, but I -- it -- he -- it is  
22 a document, something that -- it would have been an  
23 email that said that -- that you are correct, there  
24 were two RIM employees at this game.

25 Q And what are you -- do you have that email?

1 A I -- I apologize. I don't have it with me. I don't  
2 know --

3 Q Do you know whether you have it at home?

4 A I don't know. I do not know.

5 Q Or in your office?

6 A I don't know.

7 Q What about -- maybe I'm missing something. What does  
8 the fact that two RIM employees may have been at a  
9 hockey game have to do with negotiations between you  
10 and Balsillie?

11 A Nothing.

12 Q What's the connection?

13 A The issue is the leak. The -- the issue is that we  
14 have information of the possibility of a franchise  
15 being sold to someone else, anybody. Joe Schmo. And  
16 the fact that there is no plan in place, if this were  
17 to leak out, there is no plan in place for that to  
18 happen.

19 The issue of -- that it was leaked out  
20 by two RIM employees is not a big issue here. The  
21 issue -- other than the fact that's how it got  
22 leaked. It got leaked from their side, not mine.  
23 And they're the ones who wanted all the  
24 confidentiality.

25 So, I mean, you know, they wanted the

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2 2009, to:

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