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UNITED STATES BANKRUPTCY COURT
FOR THE 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 (Jointly Administered) **OMNIBUS RESPONSE TO OBJECTIONS OF THE DEBTORS, THE OFFICIAL JOINT COMMITTEE OF UNSECURED CREDITORS, AND JERRY AND VICKIE MOYES TO ICE EDGE OFFER TO PURCHASE THE ASSETS OF COYOTES HOCKEY AND ARENA MANAGEMENT**

This Filing Applies to:

☒ All Debtors
☐ Specified Debtors

Ice Edge Team, LLC and Ice Edge Arena, LLC (collectively, "Ice Edge"), by and through its undersigned counsel, hereby submits this omnibus response to various objections filed on September 1, 2009[1] to the bid made by Ice Edge (the "Ice Edge Bid") for substantially all of the assets of Dewey Ranch Hockey, LLC, Coyotes Holdings, LLC, Coyotes Hockey, LLC, and Arena Management Group, LLC (collectively, the "Debtors"), debtors-in-possession in the above-captioned Chapter 11 cases, and respectfully represent as follows:

BACKGROUND

1. On August 13, 2009, the United States Bankruptcy Court for the District of Arizona (the "Court") entered the Amended Order Approving Bid Procedures For Auction/Sale of Phoenix Coyotes National Hockey Team and Related Assets and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases [Docket No. 638] (the "Amended Bid Procedures"). The Amended Bid Procedures set a date of September 10, 2009 (the "Auction Date") for the auction of the Acquired Business or Relocation Assets (as those terms are defined in the Amended Bid Procedures), as the case may be (the "Auction").

2. Pursuant to the Amended Bid Procedures, Ice Edge submitted a revised form of purchase agreement (the "Ice Edge Purchase Agreement") for the acquisition of the Acquired Business. Ice Edge Holdings, LLC ("Ice Edge Holdings"), parent of Ice Edge, and certain of its affiliated investors, also established an escrow account on behalf of Ice Edge, funded by the investors in the aggregate amount of $10,000,000 as a good faith deposit pursuant to Section II(B) of the Amended Bid Procedures. Further, on August 31, 2009, Ice Edge Holdings

[1] The objections consist of: (I) 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 (the "Debtor Objection") [Docket No. 878]; (II) The Official Joint Committee Of Unsecured Creditors' Statement of Position Regarding Offers to Purchase Debtors' Assets (the "Committee Objection") [Docket No. 880]; and (III) 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 (the "Moyes Objection," and together with the Debtor Objection and Committee Objection, the "Objections") [Docket No. 881] filed by Jerry and Vickie Moyes ("Moyes").

submitted to the Debtors a form of limited guarantee (the "Limited Guarantee"), guaranteeing the performance of the obligations of Ice Edge under the Ice Edge Purchase Agreement on the closing date.

3. On September 1, 2009, Ice Edge Holdings submitted evidence to the Debtors of its financial capability to meet its obligations under the Limited Guarantee in the form of a binding equity commitment letter (the "Commitment Letter"). The Commitment Letter obligates certain investors to commit, at a minimum, $44 million to finance the Ice Edge Bid and provide working capital for the operation of Ice Edge Holdings and Ice Edge, as required by the Amended Bid Procedures. See Amended Bid Procedures, ¶ 15. Each of the investors to the Commitment Letter represented to Ice Edge that such investor has the full amount of its subscribed equity commitment available in cash, and is ready, willing, and able to fund such equity commitment, subject to the satisfaction of the conditions precedent contained in the Ice Edge Purchase Agreement.

4. Since the submission of the Ice Edge Purchase Agreement, Ice Edge has continued to engage all parties in interest, including the Debtors, the Official Joint Committee of Unsecured Creditors (the "Creditors Committee"), the National Hockey League ("NHL"), the City of Glendale ("Glendale"), SOF Investments, L.P. ("SOF"), and certain parties to key executory contracts that Ice Edge deems necessary for the on-going operations of the Phoenix Coyotes NHL team (the "Team") in Glendale. Ice Edge did not enter into the bidding process until July 24, 2009, and since that time has worked tirelessly to ensure the Ice Edge Bid is satisfactory to all parties in interest in this case.

5. After several weeks of prolonged negotiations, Ice Edge has entered into and executed a Memorandum of Understanding with Glendale (the "Glendale MOU"). Pursuant to the terms of the Glendale MOU, Ice Edge and Glendale have agreed to negotiate definitive

documentation regarding the transactions and agreements contemplated therein, including an amended Arena Management, Use and Lease Agreement (the "AMULA") for the use of the Arena. In fact, certain key principals of Ice Edge have been in Phoenix the better part of this week attempting to finalize negotiations of the amended AMULA with Glendale representatives. Upon execution of the amended AMULA, and the other agreements contemplated in the Glendale MOU, Ice Edge believes it can remove certain contingencies in connection with the Auction contained in the Ice Edge Bid that have been the subject of certain of the Objections.

6. Since submission of the Ice Edge Purchase Agreement, Ice Edge has continued negotiations with SOF and the NHL, both holders of secured debt of the Debtors. Ice Edge has reached a non-binding agreement in principle with SOF, which would result in a substantial reduction of the principal amount of the loan with the remaining obligations under the loan paid in full at closing (the "SOF Agreement").[2] Pursuant to the SOF Agreement, Ice Edge bears the entirety of the obligations owed to SOF after assumption and assignment of the SOF loan documents, and the Debtors' estates are relieved entirely of all claims arising from the assigned SOF loan documents. Further, Ice Edge continues to negotiate with the NHL, and is confident it can quickly memorialize a consensual deal regarding the NHL's secured debt once the terms of the Glendale MOU and SOF Agreement are finalized. Glendale, the NHL, and other parties in interest, have been supportive of Ice Edge's effort to purchase the Acquired Business, as all parties in interest, including the Debtors' estates and their creditors, are best served by the efforts of Ice Edge to maximize the price received for the Acquired Business, create a competitive bidding process at the Auction, and keep the Team in Glendale.

[2] SOF has confirmed this nonbinding agreement in principle with Ice Edge. See Statement of Disclosure of Witnesses, Exhibits and Issues For September 2nd Hearing [Docket No. 834].

RESPONSE TO THE OBJECTIONS

7. On September 1, 2009, the Debtors, Creditors Committee, and Moyes (the "Objecting Parties") filed the Objections. As set forth more fully in the Appendix attached hereto, the contentions in the Objections are factually inaccurate in many aspects and wholly inconsistent with applicable law, specifically with chapter 11 of title 11 of the United States Code (as amended, the "Bankruptcy Code"). Therefore, the Court should overrule the Objections and allow Ice Edge to participate in the Auction.

8. Indeed, the Objecting Parties, namely the Debtors, miscast the Amended Bid Procedures, and argue that the Ice Edge Bid "is not the highest and best offer" for the Acquired Business. See Debtors Objection, pg. 4. However, it is premature to address this issue at this point in time, as the Auction is intended to create competitive bidding to determine the highest and best offer. The Debtors seem intent on circumventing the Auction process by dismissing the Ice Edge Bid before Ice Edge has the opportunity to participate in the Auction. Such an attempt to minimize the amount of "players at the table" at the Auction seems wholly inconsistent with the Debtors' obligation to maximize recoveries for all creditors in these cases.

9. Prior to submitting the Ice Edge Purchase Agreement, Ice Edge engaged the Debtors in order to receive comments and feedback on the Ice Edge Bid. The Debtors had many opportunities to address the objections contained in the Debtor Objection directly to Ice Edge, but the Debtors chose not to, and instead provided Ice Edge with limited comments on the Ice Edge Purchase Agreement. Indeed, the Debtors must have felt that all parties in interest would be better served by addressing any so-called deficiencies in an objection after submission of the Ice Edge Purchase Agreement, rather than working with Ice Edge prior to the submission to correct them. If there are deficiencies contained in the Ice Edge Bid that concern the Debtors, or any other party in interest, it would be the expectation of Ice Edge that such concerns be addressed at the Auction

as part of continuing negotiations, rather than through the filing of the Objections with the goal of dissuading Ice Edge from participating in the Auction at all.

10. In addition, a number of the legal arguments set forth by the Debtors are entirely inaccurate. The Debtors mischaracterize the presently accepted standard for a sale under section 363 of the Bankruptcy Code, which considers whether the proposed sale is supported by sound business judgment.[3] The Debtors have not attempted to establish, and cannot establish, that a sale under the Ice Edge Purchase Agreement would not be supported by sound business judgment. Further, a 363 sale that provides for payments to cure defaults under assumed executory contracts ahead of other creditors with higher priority is proper, and does not constitute a sub rosa plan.[4]

11. Likewise, the Debtors' belief that rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") applies to the assumption or rejection of contracts in a sale pursuant to section 363 of the Bankruptcy Code is entirely misplaced and incorrect.[5] In a settlement under Bankruptcy Rule 9019(a), a debtor remains obligated for some portion of a claim (or reduces its potential recovery from a third party). In the context of an assignment of contracts under section 365 of the Bankruptcy Code, such as contemplated in the Ice Edge Bid, the assignee bears the entirety of the obligation owed to the counterparty of those contracts after assumption and assignment. The Debtors' estates are relieved entirely of all claims arising from the assigned

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[3] See In re Lionel Corp., 722 F.2d 1063, 1070 (2d Cir. 1983); Official Comm. of Unsecured Creditors of LTV Aerospace and Def. Co. v. LTV Corp. (In re Chateaugay Corp.), 973 F.2d 141, 143 (2d Cir. 1992); Stephens Indus. v. McClung, 789 F.2d 386, 389-90 (6th Cir. 1986); In re Continental Air Lines, Inc., 780 F.2d 1223, 1226 (5th Cir. 1986); In re Chrysler LLC, 405 B.R. 84, 95 (Bankr. S.D.N.Y. 2009); In re Global Crossing Ltd., 295 B.R. 726, 743 (Bankr. S.D.N.Y. 2003); In re 240 North Brand Partners, 200 B.R. 653, 659 (9th Cir. BAP 1996).

[4] See In re Chrysler LLC, 405 B.R. at 99 (creditors entitled to cure payments on account of contracts assumed under section 365 "may receive more favorable treatment than other creditors either in their class or a higher priority class" and "such treatment is not considered a violation of the priority rules nor does it transform a sale of assets into a sub rosa plan.").

[5] See In re Chrysler LLC, Case No. 09-2311, 2009 WL 2382766 (2d Cir. Aug. 5, 2009) (approving assumption of contracts pursuant to section 365 of the Bankruptcy Code under a sale of the debtor's assets pursuant to section 363 of the Bankruptcy Code); (Hal Roach Studios, Inc. v. Qintex Entm't, Inc. (In re Qintex Entm't, Inc.), 950 F.2d 1492 (9th Cir. 1991) (same); In re Egghead.com, Inc., Case No. 01-32125-SFC-11, 2001 WL 35671549 (Bankr. N.D.Cal. Sept. 21, 2001) (same).

contracts. There is no more favorable outcome for the Debtors' estates than the unequivocal reduction of claim liability to zero and the corresponding increase in funds, which then become available for distribution to remaining creditors. Accordingly, the Court need not evaluate the terms of the contracts proposed to be assumed by Ice Edge pursuant to the Ice Edge Bid, which have been consensually agreed upon by non-debtor parties. Even if such need for review arises, it is clearly premature at this time.

CONCLUSION

12. None of the Objections set forth legitimate grounds to disqualify Ice Edge from participating in the Auction. Rather, the Objections assume any deficiencies currently present in the Ice Edge Bid are somehow incurable between now and the Auction Date. Clearly, the Objections filed by parties in interest are premature, and Ice Edge intends to press forward with its good faith efforts to submit the highest and best bid in the interest of all parties in these cases.

WHEREFORE, Ice Edge respectfully request that the Court overrule the Objections, and allow Ice Edge to participate in the Auction.

Dated: Phoenix, Arizona
September 4, 2009

By: */s/ Scott J. Greenberg*

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APPENDIX A

Objection Argument	Ice Edge Response
Ice Edge Purchase Agreement is not an irrevocable offer to purchase the Acquired Business because of several material contingencies contained therein, and accordingly, does not comply with the Amended Bid Procedures.	Ice Edge stands ready, willing, and able to execute the Ice Edge Purchase Agreement on the terms set forth therein and does not intend to revoke or materially change its offer. In the Ice Edge Purchase Agreement, Ice Edge has covenanted to use commercially reasonable efforts to cause all conditions to closing to be timely satisfied, to perform and fulfill its obligations, and to execute, deliver, and record any other instruments necessary to carry out the purposes of the Ice Edge Purchase Agreement. With respect to the financing contingency, in addition to providing the Debtors with a form of Limited Guarantee and evidence of its executed Commitment Letter, Ice Edge continues to negotiate to secure additional debt and equity commitments. With respect to the "Successor Contracts" contingency, Ice Edge has reached a non-binding agreement with SOF regarding their secured debt, executed the Glendale MOU, continues to negotiate with the NHL regarding its secured debt, and is in the final stages of negotiations with Glendale regarding an amended AMULA. The Debtors conveniently ignore the glaring contingencies contained in the PSE asset purchase agreement, namely that PSE's purported bid is conditioned upon NHL ownership approval, NHL consent to transfer to the Team to Hamilton, Ontario, and PSE's successful negotiation of a relocation fee. These contingencies stand almost no reasonable chance of being resolved by the Auction Date.[1] Ice Edge's contingencies (other than those in the control of the Debtors or the Court), on the other hand, clearly have a reasonable chance of being satisfied or waived prior to the Auction Date, thereby allowing consummation of the sale of the Acquired Business to Ice Edge by a date certain.
Proposed sale to Ice Edge pursuant to section 363(b) of the Bankruptcy Code cannot be approved because it "attempts to achieve what cannot be approved through a Chapter 11 plan."[2]	The presently accepted standard for approving sales under section 363 is not whether the sale could be approved under a reorganization plan, but rather whether the sale is consistent with the exercise of sound business judgment.[3] The leading decision on the business judgment standard highlighted whether the debtor's assets are increasing or decreasing in value as the most important factor relevant to this analysis.[4] The Debtors make no mention of business judgment. It is undisputed that the value of the Debtors' assets are in decline, and the Ice Edge Bid is the only bid which would provide long term stability to the Team. As such, the sale would likely be approved under the business judgment standard.

[1] The NHL has repeatedly stated that the NHL Board of Governors has unanimously voted that Mr. Balsillie is not qualified to be the owner of an NHL team and that the relocation application is moot. See Motion of National Hockey League for a Determination that Debtors' NHL Membership Rights May Not Be Transferred to PSE or an Affiliate Thereof [Docket No. 584].

[2] Debtor Objection, pg. 7.

[3] See In re Chrysler LLC, Case No. 09-2311, 2009 WL 2382766, at *3-7 (2d Cir. Aug. 5, 2009); In re Lionel Corp., 722 F.2d 1063 (2d Cir. 1983); In re 240 North Brand Partners, 200 B.R. 653, 659 (9th Cir. BAP 1996).

[4] Lionel, 722 F.2d at 1071.

Objection Argument	Ice Edge Response
Assumption and payment of "Assumed Liabilities" would discriminate amongst similarly situated creditors in violation of section 1123(a)(4) of the Bankruptcy Code and the absolute priority rule in section 1129(a)(9) of the Bankruptcy Code.	As noted by the bankruptcy court in Chrysler, the ability to designate which contracts a debtor will assume is a "valuable right" bargained for under the section 363 process. Further, the court recognized that creditors entitled to cure payments on account of contracts assumed under section 365 "may receive more favorable treatment than other creditors either in their class or a higher priority class" and that such favorable treatment "is not considered a violation of the priority rules nor does it transform a sale of assets into a sub rosa plan."[5]
The Ice Edge Purchase Agreement constitutes a de facto disallowance of the unpaid administrative, priority, and general unsecured claims in violation of section 502(c) of the Bankruptcy Code.	The Debtors failed to provide a good faith estimate of the amount of money necessary to wind down the Debtors' estates, and failed to provide any comments to Ice Edge's proposed schedules of acquired assets, excluded assets, assumed liabilities and excluded liabilities. The Ice Edge Purchase Agreement contains good faith estimates given the amount of information received to date, and does not represent a final offer. Ice Edge remains committed to working with all interested parties in the coming weeks and at the Auction. Further, the amount of claims which the Debtors purport to total over $139 million includes a claim belonging to Moyes in the amount of approximately $104 million. Both the Debtors and Moyes contend that Moyes is a bona fide creditor of the Debtors' estates. However, Ice Edge agrees with the NHL's position that Moyes is not a creditor of the Debtors' estates, but rather an equity holder.[6] Glendale has already commenced litigation challenging the validity of Moyes' claim and accordingly, because the claim is disputed, Ice Edge has not accounted for it in the Ice Edge Bid.
Bankruptcy Rule 9019(a) is applicable to the assignment and subsequent modification of the Successor Contracts.	In accordance with section 365 of the Bankruptcy Code, the Ice Edge Purchase Agreement proposes assumption of certain executory contracts, and the subsequent assignment to Ice Edge of those contracts. The Debtors' contention that Bankruptcy Rule 9019(a), not section 365 of the Bankruptcy Code, governs is incorrect. Through assumption and assignment, the Debtors' estates are relieved entirely of all claims arising from the assigned contracts; there is no more favorable outcome for the Debtors' estates than the unequivocal reduction of claim liability to zero and the corresponding increase in funds that become available for distribution to remaining creditors. Accordingly, there is no requirement for the Court under Bankruptcy Rule 9019(a) to evaluate the terms of the Successor Contracts between non-debtor Ice Edge and the non-debtor counterparties, and no need to interfere with the consensual resolution of such claims between two non-debtor parties. In any event, such an argument is clearly premature at this time.

[5] In re Chrysler, 405 B.R. 84, 95 (Bankr. S.D.N.Y. 2003).

[6] See NHL's Brief in Support of the Sale of Assets to and Assumption of Liabilities by Coyotes Newco, LLC and Arena Newco, LLC [Docket No. 820], ¶64.