Court File No. CV-16-11582-00CL

**ONTARIO**
**SUPERIOR COURT OF JUSTICE**
**COMMERCIAL LIST**

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| THE HONOURABLE MR. | ) | TUESDAY, THE 10th |
| | ) | |
| JUSTICE NEWBOULD | ) | DAY OF JANUARY, 2017 |

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PERFORMANCE SPORTS GROUP LTD., BAUER HOCKEY CORP., BAUER HOCKEY RETAIL CORP., BAUER PERFORMANCE SPORTS UNIFORMS CORP., BPS CANADA INTERMEDIATE CORP., BPS DIAMOND SPORTS CORP., EASTON BASEBALL/SOFTBALL CORP., KBAU HOLDINGS CANADA, INC., PERFORMANCE LACROSSE GROUP CORP., PSG INNOVATION CORP., BAUER HOCKEY RETAIL INC., BAUER HOCKEY, INC., BAUER PERFORMANCE SPORTS UNIFORMS INC., BPS DIAMOND SPORTS INC., BPS US HOLDINGS INC., EASTON BASEBALL/SOFTBALL INC., PERFORMANCE LACROSSE GROUP INC., PSG INNOVATION INC.

**(Applicants)**

**ORDER**
**(Re: KERP and KEIP Approval)**

**THIS MOTION**, made by Performance Sports Group Ltd. ("**PSG**"), Bauer Hockey Corp., Bauer Hockey Retail Corp., Bauer Performance Sports Uniforms Corp., BPS Canada Intermediate Corp., BPS Diamond Sports Corp., Easton Baseball/Softball Corp., KBAU Holdings Canada, Inc., Performance Lacrosse Group Corp., PSG Innovation Corp., Bauer Hockey Retail Inc., Bauer Hockey, Inc., Bauer Performance Sports Uniforms Inc., BPS Diamond Sports Inc., BPS US Holdings Inc., Easton Baseball/Softball Inc., Performance Lacrosse Group Inc., and PSG Innovation Inc. (collectively, the "**Applicants**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order approving the Key Employee Retention Plan and Key Employee Incentive Plan and granting a priority charge on the Applicants' property securing amounts payable under the KERP and KEIP, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Brian J. Fox sworn January 3, 2016 (the "**Fox Affidavit**") and the Exhibits thereto and the fourth report of Ernst & Young Inc. in its capacity as Court-appointed monitor (the "**Monitor**") to the Applicants, and on hearing the submissions of counsel for the Applicants, the Monitor, Sagard Capital Ltd., Fairfax Financial Holdings Limited, and the Official Committee of Unsecured Creditors, the Official Committee of Equityholders of Performance Sports Group Ltd., no one appearing for any other party although duly served as appears from the affidavit of service of Lee Nicholson, filed.

**KEY EMPLOYEE RETENTION PLAN AND KEY EMPLOYEE INCENTIVE PLAN**

1. **THIS COURT ORDERS** that the Key Employee Retention Plan (the "**KERP**") and Key Employee Incentive Plan (the "**KEIP**"), as described in the Fox Affidavit, the details of which are included in the Confidential Exhibit "B" of Fox Affidavit, are hereby approved and the Applicants are authorized and directed to make payments in accordance with the terms thereof.

2. **THIS COURT ORDERS** that each Key Employee (as such term is defined in the Fox Affidavit), subject their entitlements under the KERP or KEIP, shall be entitled to the benefit of and is hereby granted a charge (the "**Key Employee Charge**") on the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof of the Applicant responsible for making payments to such Key Employee pursuant to the KERP or KEIP, which charge shall not exceed an aggregate amount of USD $3.4 million, to secure the individual amounts payable to each Key Employee pursuant the KERP and KEIP pursuant to paragraph 1 of this Order; provided, however, that the Key Employee Charge on the assets, property and undertakings of each individual Applicant shall be limited to the amount of the obligations of such Applicant as determined in accordance with the KERP or KEIP, as applicable.

3. **THIS COURT ORDERS** that all capitalized terms contained in this paragraph not otherwise defined herein shall have the meaning ascribed to them in the Second Amended and Restated Initial Order dated October 31, 2015 (the "**Initial Order**") and that the priorities of the Key Employee Charge, as among the other Court-ordered priority charges granted under the Initial Order shall from this date forth be as follows:

(a) With respect to the Fixed Asset (Term) Priority Collateral:

First – the Administration Charge (to the maximum amount of USD $3.75 million plus all accrued and unpaid fees, disbursements, costs and expenses incurred by the Case Professionals and the CRO as at the date on which notice is delivered in the Chapter 11 Proceedings requiring the Applicants to fund the Carve-Out in respect of the Property specifically in respect of the Fixed Asset (Term) Priority Collateral);

Second – the Term Loan DIP Charge;

Third - the Pre-Filing Term Loan Charge;

Fourth – the ABL DIP Charge;

Fifth – the Pre-Filing ABL Facility Security;

Sixth – the Key Employee Charge;

Seventh – the Bid Protection Charge;

Eight – the Directors' Charge; and

Ninth – the Intercompany Charge.

(b) With respect to the ABL Priority Collateral:

First – the Administration Charge (to the maximum amount of USD $3.75 million plus all accrued and unpaid fees, disbursements, costs and expenses incurred by the Case Professionals and the CRO as at the date on which notice is delivered in the Chapter 11 Proceedings requiring the Applicants to fund the Carve-Out in respect of the Property specifically in respect of the ABL Priority Collateral);

Second – the ABL DIP Charge;

Third – the Pre-Filing ABL Facility Security;

Fourth – the Term Loan DIP Charge;

Fifth – the Key Employee Charge;

Sixth – the Directors' Charge (to the maximum amount of USD $7.5 million);

Seventh – the Intercompany Charge;

Eighth – the Pre-Filing Term Loan Charge; and

Ninth – the Bid Protection Charge.

(c) With respect to the assets, property and undertakings of PSG Innovation Corp. and PSG Innovation Inc. (the "**PSG Innovation Collateral**"):

First – the Administration Charge;

Second – the Term Loan DIP Charge;

Third – the ABL DIP Charge;

Fourth – the Key Employee Charge;

Fifth – the Bid Protection Charge;

Sixth – the Directors' Charge; and

Seventh – the Intercompany Charge.

(d) With respect to all other Property that is not Fixed Asset (Term) Priority Collateral or ABL Priority Collateral or PSG Innovation Collateral:

First – the Administration Charge;

Second – the Term Loan DIP Charge;

Third – the ABL DIP Charge;

Fourth – the Key Employee Charge;

Fifth – the Bid Protection Charge;

Sixth – the Directors' Charge; and

Seventh – the Intercompany Charge.

provided, however, that (i) as between the Pre-Filing ABL Lenders, the ABL DIP Lenders and the Term Loan DIP Lenders, nothing in this Order shall derogate from the priorities agreed to by them in the Post-Filing ICA; and (ii) to the extent the PSG Innovation Collateral or the Property described in Paragraph 57(d) of the Initial Order would otherwise constitute ABL Priority Collateral, it shall be treated as such (and otherwise shall be treated as Fixed Asset (Term) Priority Collateral as reflected above).

4. **THIS COURT ORDERS** that the Key Employee Charge shall rank in priority to all other security interests, trusts (including constructive trusts), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (including any deemed trust created under the Ontario *Pension Benefits Act*) (collectively, the "**Encumbrances**"), other than (a) any individual, form, corporation, governmental body or agency, or any other entity with a properly perfected purchase money security interest under the *Personal Property Security Act* (Ontario) or such other applicable provincial legislation that has not been served with notice of this Order; and (b) statutory super-priority deemed trusts and liens for unpaid employee source deductions.

5. **THIS COURT ORDERS** that the filing, registration or perfection of the Key Employee Charge shall not be required, and that the Key Employee Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Key Employee Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

6. **THIS COURT ORDERS** that the Key Employee Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Key Employees entitled to the benefit of the Key Employee Charge thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the

provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

(a) the creation of the Key Employee Charge shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party; and

(b) none of the Key Employees shall have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Key Employee Charge.

7. **THIS COURT ORDERS** that payments made by the Applicant pursuant to this Order do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

**SEALING**

8. **THIS COURT ORDERS** that the unredacted version of Confidential Exhibit "B" to the Fox Affidavit be sealed in its entirety, kept confidential and not form part of the public record, unless otherwise ordered by this Court.

**GENERAL**

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

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ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JAN 10 2017

PER / PAR:

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Court File No. CV-16-11582-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PERFORMANCE SPORTS GROUP LTD ET. AL.

*ONTARIO*
**SUPERIOR COURT OF JUSTICE**
**COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER**
**(RE: KERP AND KEIP APPROVAL)**


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Lawyers for the Applicants

January 10, 2017

Court File No. CV-16-11582-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PERFORMANCE SPORTS GROUP LTD. ET. AL.

January 10, 2017

The relief sought is well supported & reasonable. There are no objections raised. A companion order has been made by Judge Carey in Delaware. The unredacted version is to be sealed.

*ONTARIO*
**SUPERIOR COURT OF JUSTICE**
**COMMERICAL LIST**

Proceeding commenced at Toronto

**MOTION RECORD**
**(Returnable January 10, 2016)**
**(Re: KERP and KEIP Approval)**

FILED / DÉPOSÉ
JAN 04 2017


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