

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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)

AMENDED NOTICE OF MOTION
(Returnable December 19, 2016)

Performance Sports Group Ltd. ("**PSG**"), Bauer Hockey Corp., Bauer Hockey Retail Corp., Bauer Performance Sports Uniform 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 Sport Inc., BPS US Holdings Inc., Easton Baseball/Softball Inc., Performance Lacrosse Group Inc., and PSG Innovation Inc. (collectively, the "**Applicants**" or the "**PSG Entities**"), will make a motion to a judge presiding over the Commercial List on ~~a date to be determined~~ December 19, 2016 at 1:30 p.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order substantially in the form of the draft Order included at Tab 3 of the Applicants' Motion Record approving the payment of additional severance owing to certain former employees, none of whom are "insiders" as that term is used in respect of the U.S. Bankruptcy Code (as defined below) (collectively, the "**Severance Payment Employees**") on account of termination or severance obligations incurred;
2. An Order substantially in the form of the draft Order included at Tab 4 of the Applicants Motion Record approving a process to solicit Claims and Restructuring Claims (as those terms are defined in the Order at Tab 4) against the Applicants and the establishment of claims bar dates for filing Proofs of Claim (the "**Canadian Claims Procedure Order**"); ~~and~~
3. An amendment and restatement of the Order of Justice Newbould dated October 31, 2016 (as subsequently amended and restated on November 30, 2016, the "**Initial Order**") amending the limit on payments to third parties such as contractors, builders, and repairers, who may potentially assert liens under applicable law against the Applicants to US\$4 million; and
4. Such further and other relief as this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

Background

5. The Applicants were granted protection from their creditors pursuant to the Initial Order ~~Order of Justice Newbould dated October 31, 2016 (the "**Initial Order**")~~, under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") and pursuant to a voluntary petition for relief in the U.S. Bankruptcy Court for the District of Delaware (the "**U.S. Court**") under Chapter 11 of the United States Bankruptcy Code, filed on October 31, 2016 (the "**Chapter 11 Proceedings**") and collectively with the within proceedings, the "**Restructuring Proceedings**");

6. Pursuant to the Initial Order, Ernst & Young Inc. was appointed as monitor (the “**Monitor**”) of the Applicants;

7. On November 30, 2016, through a joint-hearing with the U.S. Court, this Court approved a “stalking horse” asset purchase agreement for a going-concern sale to 9938982 Canada Inc. and bidding procedures for the Applicants’ sales process (the “**Sales Process**”). On that same date, the U.S. Court granted equivalent relief with respect to the Sales Process;

Payment of Severance Obligations

8. The Applicants are seeking approval to pay certain amounts to the Severance Employees who are, were, or will be contractually entitled to severance payments upon termination of their employment with the Applicants either prior to or during the Restructuring Proceedings (the “**Severance Obligations**”);

9. Honouring the Severance Obligations is, in the business judgment of the Applicants, necessary to sustain the morale of current employees;

10. The Applicants are also seeking approval to pay the Severance Obligations from the U.S. Court on or about December 19, 2016;

The Canadian Claims Procedure

11. In order to administer the estate, the Applicants require complete and accurate information regarding the nature, validity and amount of claims that will be made against them;

12. On November 28, 2016, the PSG Entities filed a motion with the U.S. Court for an order, *inter alia*, establishing a claims bar date for claimants to file Proofs of Claim in respect of the Applicants and establishing a claims noticing procedure (the “**U.S. Claims Procedure**”);

13. The Applicants seek a corresponding order from this Court establishing bar dates and noticing procedures for: (i) asserting Claims (as this term is defined in the Canadian Claims Procedure Order) that existed as of October 31, 2016 and claims arising as a result of

or in connection with the repudiation, termination or restructuring by the Applicants of any contract, lease or other agreement during the Restructuring Proceedings (a “**Restructuring Claim**”) and; (ii) providing procedures for completing Proofs of Claim;

14. The Canadian and U.S. claims bar dates for Claims will be February 6, 2017 at 5:00 p.m. (Eastern Time) (the “**Claims Bar Date**”) and the claims bar date for Restructuring Claims (“**Restructuring Claims Bar Date**”) will be the later of: (i) the Claims Bar Date, and (ii) with respect to the Chapter 11 Proceedings, 30 days after the entry of a rejection order in the U.S. Court approving the termination of the agreement, and with respect to the CCAA Proceeding, 30 days after the effective date of the disclaimer notice sent by the applicable Debtor in respect of a Disclaimed Contract;

15. In the Chapter 11 Proceedings, a claim of a government entity is deemed to be filed in time if it is filed within 180 days after the filing date. In order to conform to the U.S. requirements, the Applicants have set a claims bar date of May 1, 2017 at 5:00 p.m. (Eastern Time) for government entities asserting Claims against the Applicants (“**Government Claims Bar Date**”);

16. The establishment of the Claims Bar Date, Restructuring Claims Bar Date, and Government Claims Bar Date is necessary in order to facilitate and accelerate the identification and valuation of any Claims or Restructuring Claims against the Applicants and to ensure consistency between jurisdictions;

17. The Canadian Claims Procedure Order contemplates a ‘reverse’ claims procedure, whereby Prime Clerk LLC (“**Prime Clerk**”), noticing agent to the Applicants in the Chapter 11 Proceedings will send a notice to each known creditor (the “**Claims Notice**”) indicating the amount of such creditor’s claim as of October 31, 2016 based on the Applicants’ books and records;

18. The Canadian Claims Procedure Order provides that procedures for reviewing, determining and adjudicating Claims or Restructuring Claims will be established by further Order of the Court. Notice of such procedures will be provided to any person who files a Proof of Claim against the Applicants;

Lien Claimant Payments

19. Paragraph 6(c)(iii) of the Initial Order entitles, but does not require, the Applicants to pay third parties, such as contractors, builders and repairers, who may potentially assert liens under applicable law against the Applicants, with the prior consent of the Monitor and in the aggregate maximum amount of \$3 million;
20. After a review of the universe of potential lien claims that could potentially be asserted against the Applicants, the PSG Entities determined the cap contained in the Initial Order was insufficient in order to make the necessary payments;
21. The U.S. Court previously authorized the payment of lien claimants (together with transporter claims), in the ordinary course of business, up to an aggregate amount of US\$5.5 million;
22. The Applicants' cash flow projection provides for payments to lien claimants, including those that would be made after the limit is increased;
23. Increasing the cap on the payment to lien claimants to US\$4 million will make the Initial Order consistent with the order of the U.S. Court and allow the Applicants to avoid potentially costly and distracting litigation with claimants that could assert liens against the property of the Applicants;

General

24. The provisions of the CCAA, including section 11 thereof, and the inherent and equitable jurisdiction of this Court;
25. Rules 1.05, 2.03, 3.02 and 37 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
26. Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

27. The Affidavit of Brian J. Fox sworn December 8, 2016 and the Exhibits attached thereto;
28. The Third ~~Second~~ Report of the Monitor, to be filed; and
29. Such further and other materials as counsel may advise and this Court may permit.

December 8, 2016

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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
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Proceeding commenced at Toronto

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