No. S-235984
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c. 57, AS AMENDED AND THE *BUSINESS CORPORATIONS ACT*, R.S.O. 1990, c. B.16, AS AMENDED

AND

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BRON MEDIA CORP. AND THE ENTITIES LISTED AT **SCHEDULE "A"**

PETITIONERS

NOTICE OF APPLICATION

TO: THE SERVICE LIST

TAKE NOTICE that an application will be made by the Petitioners to the Honourable Justice Gomery at the courthouse at 800 Smithe Street, Vancouver, British Columbia on October 11, 2023 at 9:45 a.m. in person and by MS Teams, for the orders set out in Part 1 below.

PART 1: ORDERS SOUGHT

1. An order in substantially the same form as the draft order attached hereto as **Schedule "B"**, among other things:

(a) extending the stay of proceedings in favour of the Petitioners and the Non-Petitioner Entities up to and including November 8, 2023;

(b) declaring that, pursuant to section 5(5) of the *Wage Earner Protection Program Act* ("**WEPPA**"), BRON Animation Inc., BRON Media Corp., BRON

Studios Inc., Fables Productions BC Inc., Gossamer Productions BC Inc. and Robin Hood Digital PC BC Inc. are each a "former employer" in accordance with the criteria established by section 3.2 of the Wage Earner Protection Program Regulations; and

(c) such other relief as this Court may deem just.

PART 2: FACTUAL BASIS

A. Overview

1. The background facts concerning this matter are set out in the first Affidavit of Aaron Gilbert, sworn July 18, 2023 (the "**First Gilbert Affidavit**"). All capitalized terms not otherwise defined herein shall have the same meanings prescribed to them in the First Gilbert Affidavit.

2. The Petitioners in this proceeding are listed within Schedule "A" to this application and are referred to interchangeably herein as, collectively, the "**Petitioners**", the "**Company**", or the "**BRON Group of Companies**".

3. All references to monetary amounts in this application are in U.S. dollars unless otherwise stated.

4. On July 19, 2023, the ("**Filing Date**"), the Court granted the Initial Order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). The Initial Order, among other things:

   (a) declared that the Petitioners are companies to which the CCAA applies;

(b) granted a stay of proceedings (the "**Stay of Proceedings**") in favour of the Company up to and including July 29, 2023;

(c) extended the Stay of Proceedings to the Non-Petitioner Entities;

(d) appointed Grant Thornton Limited as monitor of the Petitioners (in such capacity, the "**Monitor**");

(e) approved the DIP Loan with a maximum borrowing limit of $1,751,409;

(f) granted the Administration Charge, the Directors' Charge, and the DIP Lender's Charge but (on consent of the relevant parties) provided that such Priority Charges would not attach to the property that is subject to the security of Comerica Bank, without prejudice to the right of the beneficiaries of such Priority Charges to seek an order that such charge shall attach to all property of the Petitioners, including that subject to the security of Comerica Bank;

(g) authorized the Company to pay (i) certain pre-filing expenses to essential suppliers and vendors and (ii) wages owing to employees, each with the prior written consent of the DIP Lender and Monitor;

(h) authorized the Petitioners to continue to utilize their cash management system; and

(i) authorized BRON Media Corp., or any of the Petitioners, to act as the foreign representative (the "**Foreign Representative**") in respect of these CCAA proceedings, for the purpose of having these CCAA proceedings recognized in the United States pursuant to chapter 15 of title 11 of the United States Code, 11

U.S.C. § 101-1532 (the "**US Bankruptcy Code**") and any other foreign legislation.

5. On July 28, 2023, the Court granted two orders:

(a) an order (the "**Amended and Restated Initial Order**"), which, among other things:

i. extended the Stay of Proceedings in favour of the Petitioners and the Non-Petitioner Entities up to and including October 18, 2023;

ii. increased the borrowing limit under the DIP Loan and granted a corresponding increase to the Court-ordered DIP Lender's Charge in favour of the DIP Lender up to the maximum amount of $6,200,000 (from $1,751,409);

iii. approved a key employee retention plan (the "**KERP**") and a corresponding KERP charge up to the maximum amount of $234,460 (the "**KERP Charge**");

iv. approved an increase to the Administration Charge up to the aggregate maximum amount of $500,000 (from $250,000); and

v. approved an increase to the Directors' Charge up to the maximum amount of CAD $742,000 (from $250,000); and

(b) An order (the "**SISP Order**") approving a sale and investment solicitation process (the "**SISP**") in respect of all of the assets, undertaking and business of the Petitioners and the Non-Petitioner Entities.

6. The Monitor supports the relief sought by the Company in the within application, and will file with the Court a report (the "**Second Report**") setting out the basis for such support.

B. Background

7. The Company is a private, closely-held corporate group that develops, produces and sells motion pictures, series television, and digital media content. It has a complex corporate structure with over 100 entities. This is due to the nature of the Company's global production business, and because the Company manages and operates each film or television production it undertakes through special-purpose entities.

8. The Company has suffered significant losses due to, among other things, the impacts of the Covid-19 pandemic, disruptions caused by the writer's strike in the United States, unsuccessful attempted financings, and significant outstanding litigation and judgements. As a result of the foregoing, the Company was burdened with significant debt while being unable to generate material revenue to service and pay down its debt.

9. Given its liquidity challenges and dire need for stability, the Company, in consultation with its advisors, determined that it was in the best interests of the Company and its stakeholders to obtain the Initial Order.

C. Update Since Comeback Hearing

10. The Court-approved SISP has been administered by the Monitor with the assistance of the Petitioners since the issuance of the SISP Order on July 28, 2023. During this time, the Petitioners have acted in good faith and with due diligence to assist the Monitor in, among other things:

(a) developing a list of potential bidders that may have interest in the Petitioners' and/or the Non-Petitioner Entities' assets and/or business;

(b) preparing the teaser letter, the form of non-disclosure agreement (the "**NDA**") and the confidential information memorandum for use in the SISP;

(c) preparing and reviewing publications advertising the SISP in various forums, including *The Globe and Mail* (National Edition);

(d) negotiating NDAs submitted to the Monitor in the SISP;

(e) preparing the virtual data-room ("**VDR**"), including gathering necessary information and documents disclosed in the VDR for the Monitor and SISP participants subject to NDAs;

(f) attending meetings, calls and exchanging a high volume of correspondence with both the Monitor and with potential bidders to field queries related to the SISP and the Petitioners' and the Non-Petitioner Entities' assets and business; and

(g) communicating with the Monitor regarding letters of intent ("**LOIs**") and final bids received in the SISP and discussing the Monitor's assessment of the bids received.

11. The final bid deadline, as extended by the Monitor and the Petitioners, with the consent of the DIP Lender in accordance with the SISP, occurred on September 15, 2023. The Monitor and the Petitioners continue to review and assess the final bids received in the SISP, which process has taken longer than anticipated.

12. The SISP initially contemplated that any transactions arising from the winning bids selected in the SISP must close by October 6, 2023 (and that Court approval be obtained by that time). The Monitor and the Petitioners, with the consent of the DIP Lender, have extended the deadline for completion of definitive documentation under the SISP to October 11, 2023. As indicated above, the Company intends to serve materials in connection with the forthcoming application to approve any transactions arising out of the SISP on full notice to the service list. Such materials will provide further details on the conduct and results of the SISP.

D. Stay Extension

13. The stay of proceedings currently expires on October 18, 2023. The Petitioners seek an extended stay period up to and including November 8, 2023 to allow for sufficient time to seek approval of any transactions arising out of the SISP on full notice to the service list in these CCAA proceedings. The Petitioners expect to seek a further extension to the stay of proceedings at the time approval of any transactions arising out of the SISP is sought.

14. The Company has $639,949.47 on account of revenue from the following projects: Ghostbusters Afterlife, Fatherhood, and Roman J. Israel, and expects to receive additional funds in the amount of approximately $447,189.00 on account of revenue from the same projects. These funds are located in a bank account in the name of the Petitioner, BRON Creative USA Corp. These funds were not included in the cash flow forecast initially filed with the Court as they were not anticipated to be available as at the Filing Date. The Company will utilize these funds for operations and professional fees. As such, the Company does not expect to require any additional interim financing, at this time, to fund operations and administration costs up to November 8, 2023.

15. The Monitor supports the requested stay extension.

E. WEPPA

16. Since the Filing Date, the Company has terminated approximately 73 employees. The remaining employees other than those necessary to facilitate asset proposed transaction(s) will be terminated on October 6, 2023.

17. The Petitioners seek a declaration that certain of the Petitioners are "former employers" within the meaning of section 5(5) of WEPPA. The Company did not pay termination and severance to terminated employees. Access to WEPPA will allow the terminated employees to obtain some recovery.

PART 3: LEGAL BASIS

18. The Petitioners rely on:

(a) the CCAA;

(b) the *Supreme Court Civil Rules,* BC Reg. 241/2010;

(c) the inherent and equitable jurisdiction of this Honourable Court; and

(d) such further and other legal basis as counsel may advise and this Honourable Court may allow.

Extension of the Stay of Proceedings

19. The Stay of Proceedings granted pursuant to the Initial Order expires on October 18, 2023. The Petitioners seek an extension of the Stay of Proceedings until November 8, 2023.

20. Section 11.02(2) of the CCAA provides that a debtor company may apply for an extension of the stay of proceedings for a period of time that the Court considers necessary on any terms that it may impose.[1]

21. Section 11.02(3) of the CCAA provides that the Court shall not make an order extending the stay unless it is satisfied that: (a) the circumstances exist that make the order appropriate; and (b) the debtor company has acted and is acting in good faith and with due diligence.[2]

22. The Petitioners, with the support of the Monitor, seek an extension of the Stay of Proceedings until November 8, 2023 in order to allow for sufficient time to seek approval of successful bids arising out of the SISP, on full notice to the service list in these CCAA proceedings.

23. It is appropriate to extend the Stay of Proceedings in these circumstances, as the Petitioners have acted and continue to act in good faith and with due diligence, including by taking steps to advance the within restructuring, implement the SISP, liaise with stakeholders, and finalize proposed transactions for the benefit of the Company's stakeholders.

24. The Monitor supports the proposed extension of the Stay of Proceedings.

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[1] *CCAA,* s. 11.02(2).

[2] *CCAA*, s. 11.02(3)

WEPPA Declaration

25. WEPPA provides that eligible former employees may be entitled to payments in respect of wages owed to them by employers who are insolvent, if certain criteria are met.[3] Section 5(5) of WEPPA provides that on application of any person, the Court may, in proceedings under the CCAA, determine that a former employer meets the criteria prescribed by regulation, which is a condition for the employees' eligibility under WEPPA.[4]

26. Section 3.2 of WEPP Regulations provides that "for the purposes of subsection 5(5) of the Act, a court may determine whether the former employer is the former employer all of whose employees in Canada have been terminated other than any retained to wind down its business operations."[5]

27. The Petitioners request a declaration that BRON Animation Inc., BRON Media Corp., BRON Studios Inc., Fables Productions BC Inc., Gossamer Productions BC Inc. and Robin Hood Digital PC BC Inc. are each a "former employer" within the meaning of section 5(5) of WEPPA. The Monitor supports the Petitioners request for such declaration and that the terminated employees are eligible for a payment from WEPPA.

PART 4: MATERIAL TO BE RELIED ON

28. Affidavit #1 of Aaron Gilbert dated July 18, 2023;

29. Affidavit #2 of Aaron Gilbert dated July 25, 2023;

30. Affidavit #3 of Aaron Gilbert dated October 4, 2023;

31. The First Report of the Monitor to the Court;

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[3] Wage Earner Protection Program Act, SC 2005, c 47, s 1, s 4.
[4] Wage Earner Protection Program Act, SC 2005, c 47, s 1, s 5.
[5] Wage Earner Protection Program Regulations, SOR/2008-222, s 3.2.

32. The Second Report of the Monitor to the Court;

33. Such further and other materials as counsel may advise and this Honourable Court may allow.

The Petitioners estimate that the application will take one hour.

TO THE PERSONS RECEIVING NOTICE OF THIS APPLICATION:

Date: October 5, 2023

Signature of Asim Iqbal
Lawyers for the Petitioners

To be completed by the court only: Order made [ ] in the terms requested in paragraphs __________ of Part 1 of this Notice of Application. [ ] with the following variations and additional terms: .... Date: .... Signature of [ ] Judge [ ] Master