Court File No.: S-235084
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 AMENDED

-and-

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

-and-

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

AFFIDAVIT OF ADAM SOMER

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I, Adam Somer, of the City of Great Neck, New York, MAKE OATH AND SAY:

1. I am the CEO of Lukis Global Corporation ("Lukis") and have dealt extensively with Jason Cloth and Creative Wealth Media Finance Corporation ("Creative Wealth"), as described in detail below. As such, I have personal knowledge of the matters deposed in my affidavit, except where I have indicated that I have obtained facts from other sources, in which case I believe them to be true.

A. The Parties

2. Lukis is a corporation with its registered office in Great Neck, New York. Lukis operates as a consulting firm managing and investing in several diverse industries, including film and entertainment.

3. Creative Wealth is a corporation incorporated under the laws of Ontario, Canada, with its principal place of business in Toronto, Canada. Creative Wealth provides gap financing solutions to the producers and distributors of motion pictures, television, and animated productions. On its website, Creative Wealth describes itself as "a prolific film and television financing company that has executive produced over 50 movies, while raising and deploying in excess of $650 million for a portfolio of critical hits, commercial blockbusters and cult favorites." Creative Wealth identifies BRON, an award-winning film studio, as one of its partners on its website.

4. Jason Cloth is the founder and managing partner of Creative Wealth. Mr. Cloth identified himself as a managing director as well as a managing partner of BRON Media

Corp. on Creative Wealth's website and/or his correspondence with Lukis. He further claims on Creative Wealth's website that he has executive produced more than 67 feature films with producer BRON Studios, along the way raising in excess of $750 million for the film industry.

B. The Participation Agreements

5. Mr. Cloth used his association with BRON and BRON's name and reputation to induce Lukis to enter into a series of Participation Agreements, with Term Sheets incorporated, with Creative Wealth in the financing of a number of projects in which BRON and its principals were involved, including:

(a) **<u>Young Bear Grylls:</u>** On August 7, 2020, Creative Wealth and Lukis entered into a Participation Agreement by which Lukis obtained an undivided fractional interest in a loan of USD $10,355,682 that Creative Wealth agreed to advance to YBG Commercial Ltd. in respect of an animated trilogy project production called Young Bear Grylls. Lukis advanced USD $400,000 at a 10% annual rate (not to exceed 15% of the principal), to Creative Wealth, representing a 3.86% interest in the overall $10,355,682 loan. In exchange, Lukis was entitled to 3.86% of 25% of the net profits of Young Bear Grylls. A copy of the Young Bear Grylls Participation Agreement and Term Sheet is attached as **Exhibit "A"** to this affidavit. Lukis' loan to the Young Bear Grylls project matured in or around February 2022. To date, Lukis has not received any payment for this loan. Creative Wealth is in breach of the Participation Agreement.

(b) **<u>Pieces of a Woman:</u>** On August 27, 2020, Creative Wealth and Lukis entered into a Participation Agreement by which Lukis obtained an undivided fractional interest in a loan of USD $1,298,000 that Creative Wealth agreed to advance to Holding Pieces, LLC in respect of a motion picture production called Pieces of a Woman. Lukis advanced USD

$1,298,000 at a 12% annual rate, to Creative Wealth, representing a 100% interest in the overall $1,298,000 loan. In exchange, Lukis was entitled to 100% of 25% of the net profits of Pieces of a Woman. A copy of the Pieces of a Woman Participation Agreement and Term Sheet is attached as **Exhibit "B"** to this affidavit. This loan matured in or around August 2022. Creative Wealth has returned roughly USD $1,484,797.20 to Lukis in respect of Pieces of a Woman. However, based on Pieces of a Woman's reported USD $11,199,000 gross receipts, Lukis is owed approximately USD $1 million pursuant to the terms of the Participation Agreement.

(c) **<u>Ghostbusters Afterlife</u>**: On February 21, 2021, Creative Wealth and Lukis entered into an Equity Participation Agreement by which Lukis obtained an undivided fractional interest in an equity investment of USD $13,000,000 that Creative Wealth agreed to advance to Columbia Pictures Ltd. in respect of a motion picture production called Ghostbusters Afterlife. Lukis advanced USD $850,000 at a 10% annual hurdle rate, to Creative Wealth, representing a 6.54% interest in the overall $13,000,000 investment. The Net Profit Participation portion of the term sheet incorporated into this agreement states that Lukis is entitled to 75% of 6.54% of the net profits of Ghostbusters Afterlife. A copy of the Ghostbusters Afterlife Participation Agreement and Term Sheet is attached as **Exhibit "C"** to this affidavit.

However, the Investment section of the term sheet confirms that Lukis advanced a 6.54% interest in the overall $13,000,000 loan to Creative Wealth, and Lukis is entitled to its pro rata share of the profits from this loan. Mr. Cloth and Creative Wealth have advised that Creative Wealth received 33.33% of Ghostbusters

Afterlife's net profits. A copy of a statement provided by Mr. Cloth setting out the details of Creative Wealth's return on investment in Ghostbusters Afterlife (which discloses that Creative Wealth actually invested almost $35 million in the film) is attached as **Exhibit "D"** to this affidavit. Lukis is contractually entitled to its pro rata share of Creative Wealth's return on investment, being 6.54% of the 33.33% ROI in respect of $13,000,000, as a result. To date, Lukis has received approximately USD $221,000 from Creative Wealth in respect of Ghostbusters Afterlife, an amount which barely puts a dent in Lukis' principal payment, let alone beginning to return any interest or share of profits. As evidenced by the statement attached hereto as **Exhibit "E"**, this payment was received from an entity called "Shaggy Dog Media", a company that I understand to be a related company owned and operated by Mr. Cloth. Based on the hundreds of millions of dollars this film grossed at the box office alone, this sum is a fraction of what Lukis is owed.

(d) **<u>Gossamer:</u>** On February 26, 2021, Creative Wealth and Lukis entered into a Participation Agreement by which Lukis obtained an undivided fractional interest in a loan of USD $11,363,732 that Creative Wealth agreed to advance to Gossamer Holdings USA, LLC in respect of a television series production called Gossamer. Lukis advanced USD $100,000, at 10% per annum, to Creative Wealth, representing a 0.879% interest in the overall $11,363,732 loan. In exchange, Lukis was entitled to 0.879% of 25% of the net profits of Gossamer. A copy of the Gossamer Participation Agreement and Term Sheet is attached as **Exhibit "F"** to this affidavit. This loan matured in or around August 2022 and to date, Lukis has not received any payment.

(e) **<u>Hailey & the Hero Heart:</u>** On February 26, 2021, Creative Wealth and

Lukis entered into a Participation Agreement by which Lukis obtained an undivided fractional interest in a loan of USD $2,626,257 that Creative Wealth agreed to advance to Hundred Production Services, Inc. in respect of a television series production called Hailey & the Hero Heart. Lukis advanced USD $100,000, at 10% per annum, to Creative Wealth, representing a 3.80% interest in the overall $2,626,257 loan. In exchange, Lukis was entitled to 3.80% of net profits allocated to Creative Wealth's investors (as defined in the agreement) from Hailey & the Hero Heart. A copy of the Hailey & the Hero Heart Participation Agreement and Term Sheet is attached as **Exhibit "G"** to this affidavit. Lukis' loan regarding the Hailey & the Hero Heart project matured in or around February 2023. To date, Lukis has not received any payment for this loan.

(f) **Fables:** On February 26, 2021, Creative Wealth and Lukis entered into a Participation Agreement by which Lukis obtained an undivided fractional interest in a loan of USD $11,062,156 that Creative Wealth agreed to advance to Fables Holdings USA, LLC in respect of a television series production called Fables. Lukis advanced USD $100,000, at 10% per annum, to Creative Wealth, representing a 0.903% interest in the overall $11,062,156 loan. In exchange, Lukis was entitled to 0.903% of 25% of the net profits of Fables. A copy of the Fables Participation Agreement and Term Sheet is attached as **Exhibit "H"** to this affidavit. This loan matured in and around August 2022. Lukis has not received any payment for this loan.

(g) **Bubbles Hotel**: On February 26, 2021, Creative Wealth and Lukis entered into a Participation Agreement by which Lukis obtained an undivided fractional interest in a loan of USD $5,442,301 that Creative Wealth had agreed to advance to Bubble Up Productions, Inc. in respect of a television series production called Bubbles Hotel. Lukis advanced Creative Wealth USD $100,000 at 10% interest annually, representing 1.83% of the overall $5,442,301 loan. In exchange, Lukis was entitled to 1.83% of 25% of the net profits of Bubbles Hotel. A copy of the Bubbles Hotel Participation Agreement and Term Sheet is attached as **Exhibit "I"** to this affidavit. This loan matured in and around February 2023. Lukis has not received any payment regarding this loan.

(h) **Monkey Man**: On May 7, 2021, Creative Wealth and Lukis entered into a Participation Agreement by which Lukis obtained an undivided fractional interest in a loan of USD $6,500,000 that Creative Wealth had agreed to advance to Kid Unknown Holdings Ltd. in respect of a motion picture production called Monkey Man. Lukis advanced Creative Wealth USD $1,000,000, at 12% per annum for 24-months and 15% per annum thereafter, representing 15.38% of the overall $6,500,000 loan. The term sheet incorporated into this agreement anticipated that Creative Wealth would receive 10% of the net profits from Monkey Man. Lukis was entitled to 15.38% of 10% of the net profits of Monkey Man for its pro rata participation as a result. A copy of the Monkey Man Participation Agreement and Term Sheet is attached as **Exhibit "J"** to this affidavit. However, Mr. Cloth and Creative Wealth have since advised that Creative Wealth actually received 25% of Monkey Man's net profits in compensation for the USD $6,500,000 loan. A copy of a letter dated March 20, 2023, which sets out details regarding the Monkey Man investment, including Creative Wealth's apparent 25% profit share, is attached as **Exhibit "K"** to this affidavit. Lukis is contractually entitled to its pro rata share of this compensation, being 15.38% of 25% of the net profits from Money Man, as a result. Lukis' loan regarding this project matured in September of 2022, and the remainder of the loan matured in October of 2022. To date, Lukis has not received any payment for this loan.

Further, Lukis has discovered that Creative Wealth had registered a charge on Kid Unknown Holdings Ltd., the production company for the Monkey Man project, on or about March 30, 2021 and that this charge was satisfied on or about August 6, 2021. In other words, it appears to Lukis as though Creative Wealth received monies in connection with the Monkey Man project over two years ago, yet has failed to pay anything to Lukis. Copies of the registration and satisfaction of the charge are attached hereto as **Exhibit "L"** and **Exhibit "M"**, respectively.

6. BRON was directly involved in the production and/or sale of each of these television and movie projects.

7. Each of the loans set out above was for a term of 18 or 24 months, according to the terms of the Participation Agreements.

8. The parties agreed that each loan by Lukis to Creative Wealth would be recouped from gross receipts generated by each project (if any) in accordance with the waterfall terms in each Participation Agreement. These waterfalls provided for repayment of the loan to Creative Wealth prior to distribution of net profits from the projects.

9. Under the Participation Agreements, Creative Wealth would collect and receive payments from the studios and any other relevant entities in respect of the loans and/or equity interests advanced for each project on Lukis's behalf (to the extent of Lukis's participation). Creative Wealth had an obligation to account to Lukis for its participation share, including by permitting Lukis to examine investors books, records, and accounts relating to the collateral and the financing agreements relevant to each Participation Agreement.

10. According to the Participation Agreements, Creative Wealth is the trustee and agent for

Lukis in administering and servicing the Financing Agreements (as defined in the Participation Agreements) and all rights, remedies and benefits thereunder.

11. Creative Wealth was also required to provide Lukis with any and all information that Creative Wealth may have or be reasonably able to obtain in connection with each of these projects and their respective financing agreements, as well as copies of all papers and documents relating to each project and the transactions related to them and financial statements and audit reports pertaining to each project and their respective borrowers.

C. Creative Wealth's Breaches

12. Lukis performed each of the Participation Agreements, advancing the funds to Creative Wealth, as required. However, Creative Wealth has breached the Participation Agreements, and in doing so caused damages to Lukis.

13. To the best of my knowledge, each of the projects in which Lukis invested has reached the point at which Creative Wealth should have returned profits to Lukis. Pieces of a Woman premiered on Netflix in the United States in December 2020. Mr. Cloth provided Lukis with a statement from Bron, which is attached as Exhibit "K" to this affidavit, showing that Pieces of a Woman's gross receipts were USD $11,199,000. Similarly, Ghostbusters Afterlife premiered in theaters in the United States in November 2021, and grossed hundreds of millions at the box office. It was also available through on demand and streaming services, and grossed ancillary money from food, toys, and other means.

14. In the first quarter of 2021, Creative Wealth released a newsletter advising that the production on Fables, Gossamer, Bubble's Hotel, and Hailey & the Hero Heart was completed, and negotiations were ongoing for the sale of each of these projects to major streamers and/or TV Networks. Negotiations for the sale of Young Bear Grylls were also reportedly ongoing at this point. Monkey Man was reportedly sold to Netflix for $34 million (USD) and was scheduled

to premiere on Netflix in the first quarter of 2022. A copy of this Creative Wealth newsletter is attached as **Exhibit "N"** to this affidavit.

15. Creative Wealth has paid no further funds to Lukis in respect of any of the projects set out above, including towards repayment of Lukis's loans.

16. Mr. Cloth has repeatedly promised payment for each of the projects to Lukis, but he has not made good on these promises. Mr. Cloth and Creative Wealth's stories about why money cannot be paid to Lukis in accordance with the Participation Agreements have changed multiple times and have often been contradictory. To date, Mr. Cloth and Creative Wealth have blamed numerous third parties for Creative Wealth's refusal to pay Lukis its contractual entitlements, including BRON, Sony, Price Waterhouse Coopers, Comerica Bank, and the United States tax system.

17. Mr. Cloth has also sent Lukis paperwork, statements, and other documents about its interests in the projects that are contradictory to one another and contain numbers that do not add up mathematically. These documents are often missing significant information and/or contain incorrect information, including missing or incorrect figures for profits, interest, and investment amounts. Lukis has been unable to quantify what money is owed to it for each project, why it has not been paid to date, and when it will be paid (if at all) from these inaccurate and contradictory statements and other documents from Mr. Cloth and Creative Wealth.

18. The document attached as **Exhibit "O"** to this affidavit is a compilation of excerpts of communications with Mr. Cloth in which, as described above, Mr. Cloth told contradictory and inconsistent stories, blamed numerous third parties, and provided numbers that do not add up, all with an apparent goal of justifying his and Creative Wealth's continued failures to meet their contractual obligations to Lukis. This compilation represents a small portion of the communications of this nature that we have received from Mr. Cloth throughout the course of

our relationship with him and Creative Wealth.

19. In breach of the Participation Agreements, Creative Wealth has refused to provide Lukis with meaningful updates as to the status of each project or the timing of payment to Lukis, including by refusing to honour Lukis's broad contractual right to examine Creative Wealth's books, records, and accounts related to the collateral and Financing Agreements for each project. Indeed, Mr. Cloth has forced Lukis to bring a motion in the litigation it has commenced against Mr. Cloth and Creative Wealth in Ontario to gain access to the books and records which it is entitled to under the Participation Agreements.

D. Summary/Conclusion

20. In summary, I estimatethat:

(a) Lukis has invested approximately $3 ,948 ,000 with Creative Wealth;

(b) Lukis has received approximately $1,705 ,787.20 from Creative Wealth;

(c) Lukis is entitled to at least $12,000 ,000 pursuant to its agreements with Creative Wealth. To be clear, this figure in particular is subject to change as it is based on incomplete and inadequate information.

21. In response to these breaches, Lukis has commenced litigation against both Creative Wealth and Mr. Cloth. A copy of the Amended statement of claim is attached as **Exhibit "P"** to this affidavit.

22. Litigation counsel for Lukis has raised Lukis' concerns with the Monitor, in the Bron CCAA Proceeding. A copy of the correspondence is attached as **Exhibit "Q"** to this affidavit.

AFFIRMED by Adam Somer at the City of Great Neck, New York before me on October 31, 2023 in accordance with o.Reg. 431/20, Administering Oath or Declaration Remotely.

L Gruppuso

Commissioner for Taking Affidavits
(or as may be)

ADAM SOMER