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Edward J. LoBello, Esq., Estate Fiduciary for

National Events of America Inc. and New World Events Group Inc.

Hearing Date: February 13, 2018

Time: 10:00 a.m.

Objection Deadline: February 6, 2018

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

NATIONAL EVENTS OF AMERICA INC. , *et al.*,

Debtors.

Chapter 11

Case No. 17-11798(JLG)

Jointly Administered

**CORPORATE DEBTORS' SECOND MOTION FOR ORDER PURSUANT
TO 11 U.S.C. §1121(d) EXTENDING THE EXCLUSIVE PERIODS DURING
WHICH THEY MAY FILE A PLAN AND SOLICIT ACCEPTANCES THERETO**

National Events of America Inc. and New World Events Group, Inc. (together, the "**Corporate Debtors**"), hereby seek entry of an order pursuant to section §1121(d) of title 11, United States Code (the "**Bankruptcy Code**"), Rule 9006 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and Rule 9006-2 of the Local Rules for the United States Bankruptcy Court for the Southern District of New York (the "**Local Rules**"), extending (a) the exclusive period during which the Corporate Debtors may file plans for an additional 120 days, from February 23, 2018 to June 22, 2018; and (b) the exclusive period during which the Corporate Debtors may solicit acceptances to plans for an additional 120 days, from April 24, 2018 to August 22, 2018, to permit the Corporate Debtors to continue their investigation and

efforts to negotiate a consensual plan or other disposition of these cases with their creditors and parties in interest (the “**Motion**”). In support of this Motion, the Corporate Debtors respectfully represent as follows:

Jurisdiction and Venue

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(a) and (b) and the Amended Standing Order of Reference, M-431, dated January 31, 2012.
2. This is a “core” matter within the meaning of 28 U.S.C. § 157(b)(2)(A).
3. Venue in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
4. The statutory predicate for the relief sought herein is Bankruptcy Code § 1121(d).

BACKGROUND

5. These jointly administered chapter 11 cases were commenced on June 28, 2017.
Dkt. No. 1.
6. The Corporate Debtors, at the direction of the Estate Fiduciary, are investigating their prepetition business affairs and relationships. Through his investigation, the Estate Fiduciary has obtained thousands of pages of documents relating to the Corporate Debtors’ operations and businesses, with particular focus on banking records. Many of those documents were obtained as a result of Rule 2004 discovery, the first phase of which is nearing completion.
7. A bar date of January 19, 2018 was set for the filing of claims. The Estate Fiduciary is reviewing the claims that were filed, and is reviewing the documents and other information provided with those claims.
8. The Estate Fiduciary has identified a number of specific targets for avoidance actions and discovery, and has been actively discussing with counsel to the trustee overseeing the

LLC Debtor¹ cases the coordinated pursuit of claims and discovery, as well as other administrative and substantive matters relating to the manner in which the various estates have interacted in the past and might interact on a going-forward basis.

9. While the Estate Fiduciary's investigation continues, through this Motion, the Corporate Debtors seek this second extension of the exclusive periods of time during which they can propose a plan and solicit acceptances thereof in order to preserve the status quo.

Relief Requested

10. Through the Motion, the Corporate Debtors seek a second one hundred twenty (120) day extension of exclusivity to continue the investigation being undertaken by the Estate Fiduciary with the goal of making progress towards maximizing recoveries for the benefit of their estates and promulgating a chapter 11 plan or achieving an alternative disposition of these cases. Accordingly, the Corporate Debtors seek an order extending (a) the exclusive period during which the Debtor may file a plan for an additional 120 days to June 22, 2018; and (b) the exclusive period within which the Debtor may solicit acceptances to a plan for an additional 120 days to August 22, 2018 (together, the "**Exclusive Periods**"). This is the Corporate Debtors' second request for an extension of the Exclusive Periods.

11. The first few months of the Corporate Debtors' cases were in large part focused on procedural matters that ultimately were resolved by entry of a *Stipulation and Order (I) Acknowledging Edward J. LoBello, Esq., as Estate Fiduciary; and (II) Authorizing the Appointment of an Examiner for a Limited Purpose* [Dkt. No. 54], approved on September 21, 2017 (the "**September 21, 2017 Order**"), establishing the Estate Fiduciary's role and

¹ The "**LLC Debtors**" are National Events Holdings, LLC (17-11556); National Events Intermediate, LLC (17-11557); National Event Company II, LLC (17-11559); National Event Company III, LLC (17-11561); and New World Events Group II, LLC (17-11562), jointly administered at Case No. 17-11556.

responsibilities, and putting in place an Examiner for the specific and limited purposes described therein. Thereafter, the Estate Fiduciary finalized financing arrangements for these chapter 11 cases, and caused an *Order Granting Corporate Debtors' Motion for Entry of a Final Order (a) Authoring Corporate Debtors to Obtain Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 361, 362, 363 and 364 and (b) Granting Liens, Security Interests, and Superpriority Claims* [Dkt. No. 69] to be entered on October 13, 2017 (the "**October 13, 2017 Order**") approving same. Such Order also provided for the Estate Fiduciary to review the positions of the Corporate Debtors' DIP Lenders (Taly USA Holdings Inc. ("**Taly**"); SLL USA Holdings ("**SLL**"); and Hutton Ventures LLC ("**Hutton**")) and assert any challenges or claims relating thereto on a shortened timeframe (the potential "**Challenges**" and "**Challenge Period**").

12. On November 29, 2017, the Court entered an Order extending the Corporate Debtors' exclusive period during which they can propose a chapter 11 plan to February 23, 2018, and the exclusive period during which they can solicit acceptances to a plan until April 24, 2018. Dkt. No. 101.

13. Pursuant to the September 21, 2017 Order, the Examiner's Report was scheduled to be filed on or before December 4, 2017. In connection with the Examiner's duties, the Estate Fiduciary and his professionals met with the Examiner and provided documents and information in furtherance thereof. Pursuant to a Stipulation and Order dated December 11, 2017 [Dkt. No. 104], the Examiner obtained an extension of time to January 4, 2018 to file his Report, and the Challenge Period was extended through January 18, 2018. On January 4, 2018, the Examiner completed his investigation and filed his Report [Dkt. No. 114], which the Estate Fiduciary is considering in the exercise of his duties.

14. The Estate Fiduciary is engaged in a dialogue with each of the Corporate Debtors' DIP Lenders regarding potential Challenges. By way of stipulations submitted to the Court on January 18, 2018, the Corporate Debtors' DIP Lenders and the Estate Fiduciary agreed to further extend the Challenge Period.²

15. While the Examiner's investigation was being undertaken, the Estate Fiduciary continued his investigation into the Corporate Debtors' business affairs and books and records. During November 2017, Rule 2004 subpoenas were sought and issued to a number of banking institutions known or believed to have maintained accounts in the name of the Corporate Debtors in the prepetition period. Thousands of pages of documents, including bank records for a number of different bank accounts from a number of different banking institutions, have been obtained, and are being reviewed by the Estate Fiduciary and his professionals.

16. At the same time, the Estate Fiduciary and his professionals are reviewing the Corporate Debtors' banking records and analyzing inflows and outflows of funds, the potential bases of or reasons for such in/outflows of funds, and the flow of funds among and between the Corporate Debtors and LLC Debtor entities. Throughout this process, the Estate Fiduciary has continued his investigation of claims by, and potential claims against, the Corporate Debtors.

17. The Estate Fiduciary and his team are actively engaged in discussions with the chapter 7 trustee of the LLC Debtors and his professionals regarding all of the matters noted above, as well as with respect to an economical and strategic path forward for the benefit of creditors. As these efforts continue and these cases move forward into this next phase of activities, the Estate Fiduciary respectfully submits that a second extension of exclusivity is

² With respect to Taly and SLL, extended to March 9, 2018 [Dkt. No. 122] and with respect to Hutton, February 8, 2018 [Dkt. No. 121].

necessary and appropriate.

“Cause” Exists to Extend the Corporate Debtor’s Exclusive Periods.

18. 11 U.S.C. §1121(d) permits the Court to extend the Exclusive Periods for “cause.”

Section 1121(d) provides specifically as follows:

- (1) Subject to paragraph (2), on request of a party in interest made within the respective periods specified in subsections (b) and (c) of this section and after notice and a hearing, the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section.
- (2) (A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.
(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.

11 U.S.C. §1121(d).

19. Although the Bankruptcy Code does not define what constitutes sufficient “cause” for an extension to be granted, courts have looked to legislative history of section 1121(d) for guidance. *See In re Gibson & Cushman Dredging Corp.*, 101 B.R. 405, 409 (E.D.N.Y. 1989); *In re Amko Plastics, Inc.*, 197 B.R. 74, 77 (Bankr. S.D. Ohio 1996). The legislative history of this section indicates that the determination of whether sufficient “cause” exists to grant an extension is committed to the sound discretion of the bankruptcy court based upon an evaluation of the facts and circumstances of each case. H.R. Rep. No. 595, 95th Cong., 1st Sess. 232 (1977).

20. Indeed, Congress did not intend for the 120- and 180-day periods to be a fixed deadline; rather, Congress intended that the exclusive periods be of adequate length, given the circumstances of each case, for the Debtor to formulate, negotiate, draft, file and solicit acceptances of a consensual plan. *See, In re Amko Plastics*, 197 B.R. at 77 (noting that Congress

intended courts to have flexibility in dealing with extensions of exclusivity); *In re Perkins*, 71 B.R. 294, 297 (W.D. Tenn. 1987) (“The hallmark of . . . [section 1121(d)] is flexibility.”).

21. Factors considered by courts in determining whether cause exists to extend exclusive periods include the size and complexity of a debtor’s case; the debtor’s good faith progress towards reorganization; whether the debtor is seeking to extend exclusivity to pressure creditors; whether the debtor is paying debts as they become due; the necessity for additional time to permit the debtor to negotiate a plan of reorganization and prepare adequate information; whether the debtor has made progress in its negotiations with its creditors; and the amount of time that has elapsed in the case. *In re Lionel LLC*, Case No. 04-17234, 2007 WL 2261539 at *6 (Bankr. S.D.N.Y. Aug. 3, 2007); *In re Adelpia Comm. Corp.*, 352 B.R. 578, 587 (Bankr. S.D.N.Y. 2006); *In re McClean Indus., Inc.*, 87 B.R. 830, 833 (Bankr. S.D.N.Y. 1987). *See also, In re Borders Group, Inc. et al.*, 460 B.R. 818 (Bankr. S.D.N.Y. 2011) (granting the debtors’ request to extend their exclusive periods for an additional 120 days).

22. This is the Estate Fiduciary’s second request for an extension of the Corporate Debtors’ Exclusive Periods. The Estate Fiduciary and his professionals have obtained and reviewed (and continue to review) thousands of additional documents and banking records relevant to the Corporate Debtors’ financial affairs and prepetition activities. The Estate Fiduciary is also monitoring the criminal proceedings against the Corporate Debtors’ principal, Jason Nissen, and others that, to one degree or another, are relevant to these bankruptcy proceedings.

23. The facts at hand are complex. The additional time requested through this Motion will provide the Corporate Debtors with time that is needed to pursue answers and recoveries, all

on a coordinated basis with the LLC Debtor cases, and formulate and propose a plan or analyze and consider potential alternative dispositions of these cases. The requested extension is not being sought to impose any pressure on any of the Corporate Debtors' creditors. Moreover, these chapter 11 cases are well within the 18 to 20 month limits on extensions of exclusive periods as identified in Section 1121(d)(2) of the Bankruptcy Code. Based upon the foregoing, the Corporate Debtors respectfully submit that "cause" exists to extend the Corporate Debtors' Exclusive Periods pursuant to 11 U.S.C. §1121(d).

Notice

24. Notice of this Motion is being provided to the Office of the United States Trustee and to all parties who have filed a notice of appearance in these cases. In light of the nature of the relief requested herein, the Corporate Debtors submit that no other or further notice need be provided.

25. As is indicated above, by Order entered on November 29, 2017 [Dkt. No. 101], the Court previously extended the Corporate Debtors' periods of exclusivity. Other than the relief granted pursuant to that order, no other request for the relief sought herein has been made to this or any other Court.

Conclusion

Based upon the foregoing, the Corporate Debtors respectfully request that the Court enter an Order, substantially in the form attached hereto, granting the relief requested in the Motion, extending (a) the exclusive period during which the Corporate Debtors may file a plan for an additional 120 days to June 22, 2018 and (b) the exclusive period during which the Debtor may solicit acceptances to a plan for an additional 120 days to August 22, 2018, and granting the Corporate Debtors such other and further relief as the Court deems appropriate.

Dated: Uniondale, New York
January 25, 2018

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