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*Proposed attorneys for Edward J. LoBello, as Temporary Receiver and
Responsible Party for the Debtors and Debtors-in-Possession*

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

<i>In re</i>	x Chapter 11
NATIONAL EVENTS OF AMERICA, INC.,	Case No. 17-11798 (JLG)
Debtor.	
<i>In re</i>	x Chapter 11
NEW WORLD EVENTS GROUP, INC.,	Case No. 17-11799 (JLG)
Debtors.	(Joint Administration Pending)

**CORPORATE DEBTORS' MOTION FOR ENTRY OF INTERIM
AND FINAL ORDERS (I) AUTHORIZING DEBTORS TO OBTAIN
POSTPETITION FINANCING PURSUANT TO 11 U.S.C. §§ 105, 361, 362,
363 AND 364; (II) GRANTING LIENS, SECURITY INTERESTS AND
SUPERPRIORITY CLAIMS; AND (III) SCHEDULING A FINAL HEARING**

The above-captioned debtors (the “**Corporate Debtors**” or the “**Borrowers**”), through Edward J. LoBello, the state court appointed Temporary Receiver and Responsible Party (the “**Receiver**”), hereby seek (the “**Motion**”) entry of orders, on an interim and final basis:¹ (i) authorizing the Corporate Debtors to enter into a debtor-in-possession financing facility (the

¹ The Motion seeks entry of an interim order substantially in the form annexed hereto as **Exhibit B** (the “**Interim Order**”), and a final order (the “**Final Order**” and, together with the Interim Order, the “**DIP Orders**”). The proposed form Interim Order will be filed shortly after this Motion is filed with the Court, and in advance of the

“**DIP Loan**”) (a copy of the DIP Loan agreement is attached hereto as Exhibit A) with SLL USA Holdings LLC, and Hutton Ventures LLC (together, the “**DIP Lenders**”) pursuant to the terms of the Interim Order, (ii) granting liens and superpriority administrative expense status in connection with the DIP Loan pursuant to section § 364 of title 11, United States Code (the “**Bankruptcy Code**”), and (iii) scheduling a final hearing pursuant to Rule 4001 of the Federal Rules of Bankruptcy Procedure (“**Bankruptcy Rules**”). In support of this Motion, the Receiver, on behalf of the Corporate Debtors, respectfully represents as follows:

Preliminary Statement

1. Through this Motion the Corporate Debtors seek authority to enter into a moderate but adequately sized lending facility, on reasonable terms, with the DIP Lenders.

2. The DIP Lenders are substantial creditors of the Corporate Debtors’ estates. The proposed financing is important to the Corporate Debtors and all creditors of the Corporate Debtors’ estates because it provides critical financing necessary in these cases to enable the Receiver and his professionals both to undertake the investigation necessary to unravel the fraud that appears to have taken place, and to pursue recoveries for the benefit of creditors consistent with the mandate of his appointment.

Summary of Material Terms of Proposed DIP Loan

3. The following is a summary of material terms of the proposed DIP Loan, on an interim and final basis:

Commitment: Up to \$250,000 (the “**Commitment**”).

Use of Proceeds: (A) payment of fees and expenses of the Receiver and his professionals, as may be permitted or allowed by the Bankruptcy Court, (B) repayment of the Bridge Loan, and (C) payment of interest, fees, costs, and expenses related to the DIP Facility.

Interest: 13% per annum

Fees: None

Default Interest: 18% per annum

Term: The DIP Loans shall mature on the date (the "*Maturity Date*") that is earliest of (i) six (6) months from the Petition Date of the chapter 11 filings of the Corporate Debtors, provided that this date may be extended for an additional three (3) months on written request submitted prior to the Maturity Date; (ii) the date on which all obligations under the DIP Loan have been repaid in full and all commitments under the DIP Loan have been terminated; (iii) the date on which a chapter 11 plan of reorganization for the Corporate Debtors becomes effective; or (iv) the occurrence of an Event of Default (as defined).

Conditions to Lending: (i) The Interim Order shall have been entered in form and substance acceptable to the DIP Lenders, (ii) the Court will have entered the Section 543 Order, and (iii) no trustee, committee, or examiner shall have been appointed in these cases.

Collateral: Upon entry of a Final Order, the DIP Loan shall be secured by all assets and properties (whether tangible, intangible, real, personal, or mixed) of the Corporate Debtors including, without limitation: (i) all commercial tort claims; and (ii) all other claims and causes of action and the proceeds thereof (including, without limitation, all claims and causes of action arising under chapter 5 of the Bankruptcy Code and the proceeds thereof (subject to entry of the Final Order)).

Priority and Liens: To secure the DIP Obligations, upon entry of a Final Order, the DIP Lenders are granted continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected Liens in the Collateral as follows, in each case subject to the Carve-Out:

(i) pursuant to section 364(c)(2) of the Bankruptcy Code, valid, enforceable, non-avoidable automatically and fully perfected first priority liens on and security interests in all Collateral that is not otherwise subject to a valid, perfected, and non-avoidable security interest or lien as of the Petition Date;

(ii) pursuant to section 364(c)(3) of the Bankruptcy Code, valid, enforceable, non-avoidable automatically, and fully perfected junior liens on and security interests in all Collateral that is subject to a valid, perfected, and non-avoidable security interest or lien as of the Petition Date.

Carve-Out: All fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate.

Event(s) of Default: (i) Appointment in the Cases (or any of them) of any statutory committee or other committee of creditors or any creditor constituency, appointment of an examiner with expanded powers or a trustee in the Cases (or any of them), conversion of the Cases (or any of them) to chapter 7 of the Bankruptcy Code, or dismissal of the Cases (or any of them) by order of the Bankruptcy Court; (ii) a default in the payment of any interest on any of the Agreements as and when the same shall become due and payable or the failure to make any adequate protection payments when due; (iii) a default in the payment of all or any part of the principal of any of the Agreements as and when the same shall become due and payable either at maturity, by declaration, acceleration, or otherwise, whether or not prohibited by any provisions hereof; (iv) a failure on the part of Borrowers to duly observe or perform any of the covenants or agreements on the part of Borrowers contained in this Agreement; (v) there is entered against Borrowers a judgment or levy upon the Collateral where such judgment or levy is equal to or greater than \$25,000, which remains uncured or unstayed for five (5) business days; (vi) there is a taking of possession of a substantial part of the Collateral; (vii) any Lien being granted or placed upon the Collateral other than the lien of Lenders; (viii) a Material Adverse Effect in the financial condition of Borrower, as determined by Lender in its sole discretion; (ix) one or more judgments or orders as to any obligation arising after the Petition Date in excess of \$10,000 (to the extent not covered by independent third-party insurance) or that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect shall be rendered against Borrower and shall remain undischarged or unstayed for a period of 30 consecutive days during which execution shall not be effectively stayed by reason of appeal or otherwise, or any action shall be legally taken by a judgment creditor to levy upon assets or properties of Borrower to enforce any such judgment; (x) any order of the Bankruptcy Court shall be entered amending, modifying, superseding, staying, reversing or vacating any of the Orders or having the effect of doing so without the prior written consent of Lenders; (xi) the making of any material cash payment by the Borrowers other than payments authorized by the Orders; (xii) the termination by the Bankruptcy Court of the Borrowers' exclusive period to file a plan under Section 1121 of the Bankruptcy Code, or the lapsing of such exclusive period; (xiii) Borrowers' failure to perform or comply with Bankruptcy Court orders in any material respect; (xiv) any breach by Borrowers of any material term or condition of the Interim Order or the Final Order, as applicable; (xv) the payment of, or filing of a motion or other pleading by Borrowers for authority to pay, any pre-

petition claim or administrative expense arising under section 503(b)(9) of the Bankruptcy Code except as may be provided for in the Interim Order or the Final Order, as applicable, or this Agreement or as may be approved by the Bankruptcy Court for payments to critical vendors, such critical vendor order to be reasonably acceptable to Lenders; (xvi) a failure of the Bankruptcy Court to enter the Section 543 Order; or (xvii) the allowance of any claim or claims under section 506(c) of the Bankruptcy Code or otherwise against Lenders or any of the Collateral.

Default Remedies:

(1) Upon and during an Event of Default occurring under sections (i) or (xvi), (a) the entire unpaid balance of the DIP Loan shall be immediately due and payable, and (b) the DIP Lenders may exercise all rights of a secured party under the DIP Loan and under applicable law, and (2) upon and during an Event of Default occurring under any other sections the DIP Lenders may, upon seven (7) days' written notice: (a) declare the entire unpaid balance of the DIP Loan due and payable; and (b) exercise all rights of a secured party under the DIP Loan and under applicable law.

4. In the event of any discrepancy between the summary description of the DIP Loan contained in the Motion and the terms of the Interim Order or the Final Order, as the case may be, the terms of the DIP Loan shall control.

INTRODUCTION

5. The Corporate Debtors, together with the LLC Debtors,² operate as a ticket broker and wholesale distributor of tickets for sporting and theatrical events (collectively, the Corporate Debtors and LLC Debtors are referred to as the "**Debtors**"). The Debtors provided ticketing services for concert, theater and sporting event tickets, as well as "V.I.P. hospitality packages" that delivered access to big name events, including hotels, celebrity meet and greets, and parties.

6. On May 31, 2017, Jason Nissen ("**Nissen**"), the former chief executive officer of the Debtors, was arrested and charged by the Federal Bureau of Investigation (the "**FBI**") with allegedly defrauding victims of at least \$70 million through what the FBI characterized as a Ponzi

² 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 National World Events Group II, LLC (17-11562), jointly administered at Case No. 17-11556.

scheme. According to the complaint filed in the United States District Court for the Southern District of New York (the “**Criminal Complaint**”), Nissen “represented to victims that he would use money lent to him and his companies by victims to purchase bulk quantities of premium tickets to sporting and entertainment events. However, Nissen used the victims’ money in large part to repay other victims and enrich himself.”

7. According to the Criminal Complaint, Nissen presented to his victims falsified financial documents and inflated accounts receivable ledgers as purported proof that their money was being used to purchase tickets for resale. The Criminal Complaint alleges that on or about May 7, 2017, Nissen admitted to one of his victims that he had been operating a Ponzi scheme, and that on May 10, 2017 he made a similar admission to another victim.

8. On or about June 1, 2017, Taly USA Holdings Inc. and SLL USA Holdings, LLC (together, “**Taly**”) commenced a lawsuit in the Supreme Court of the State of New York, New York County (the “**State Court**” and “**State Court Litigation**”) against Jason Nissen, National Events of America, Inc., National Events Intermediate LLC, National Events Holdings LLC, National Event Company II LLC, National Event Company III, LLC, World Events Group II, LLC, New World Events Group, Inc., and Winter Music Festival LLC. The State Court Litigation was assigned Index No. 652865/2017.

9. By Order issued by the State Court in the State Court Litigation on June 5, 2017, the State Court appointed me as Receiver, pursuant to New York CPLR 6401 (the “**Receivership Order**”). A copy of the Receivership Order is attached to the Rule 1007-2 Affidavit being filed in these chapter 11 cases as Exhibit A.

10. The Receivership Order granted the Receiver broad powers with respect to all of the Debtor entities – the LLC Debtors and the Corporate Debtors. It charged the Receiver with

the responsibility to “take charge and enter into possession of the assets” of the Corporate Debtors (described in the Receivership Order as the “Receivership Entities”). *See* Receivership Order at

p. 2. The Receivership Order also directed the Receiver to:

assume any management role over any other entity that the Receivership Entities or Jason Nissen have by reason of any management, partnership, or limited liability agreements or other similar agreements, including but not limited to National Events Holdings LLC, National Events Intermediate LLC and National Events Company II LLC, National Events Company III LLC, World Event Group II LLC and Winter Music Festival LLC as may be applicable[.]

See Receivership Order at p. 2.

11. As to all of the Debtors now before the Court (the Corporate Debtors and the LLC Debtors), the Receivership Order “authorized and directed” the Receiver, to “take any and all actions reasonable or necessary, in [my] business judgment, to operate and manage the business of the [Corporate Debtors] and the [LLC Debtors]” including, among other things, whether to commence bankruptcy cases for any of those entities and to “investigate any and all causes of action available to the [Debtors] and, if appropriate, institute and carry on all legal proceedings arising from such investigation[.]” *See* Receivership Order at pp. 2-3.

12. Later in the day on June 5th, the same day that the Receivership Order was entered by the State Court, the LLC Debtors commenced bankruptcy cases under chapter 11 of the Bankruptcy Code, before the Court. The Receiver had no part in the decision-making process relating to commencement of the Controlled Entities’ bankruptcy cases. Those chapter 11 cases are being jointly administered, separate from the chapter 11 cases of the Corporate Debtors, at lead Case No. 17-11556.

13. Thereafter, having had an opportunity to undertake a preliminary investigation into the financial condition and affairs of the Corporate Debtors, I instructed my counsel to commence

these chapter 11 proceedings on behalf of the Corporate Debtors on June 28, 2017.

14. The Receiver's investigation into the business affairs and financial condition of the Corporate Debtors continues.

Prepetition Funding of the Corporate Debtors' Operations

15. Prior to the June 5, 2017 petition date for the LLC Debtors, Taly, and SLL made a series of event-specific investments with National Events of America, Inc. ("**NEA**") and/or New World Events Group, Inc. ("**NWG**"). Some of these investments were made through a combination of new money from Taly, and SLL plus the rolling forward of amounts owed to Taly or SLL under previous investments. As of the LLC Debtors' petition date, Taly and SLL assert that they were owed approximately \$16 million on account of such investments. Each of these investments was evidenced by a writing signed by Nissen on behalf of NEA and/or NWG.

16. Prior to the Petition Date, Hutton made loan advances to debtor NEA and Nissen pursuant to a loan and credit agreement, promissory note, and related stock pledge agreement. As of the Petition Date, Hutton asserts that it was owed approximately \$10 million on account of such loan advances.

17. In addition, prior to the Petition Date the DIP Lenders agreed to lend \$100,000 (the "**Bridge Loan**") to the Corporate Debtors to fund the expense of preparing and filing of the Corporate Debtors' chapter 11 cases and the beginning of the Receiver's investigation of the extent of the Nissen fraud. The DIP Lenders made the Bridge Loan on the condition and with the understanding that the Bridge Loan would be repaid through the DIP Loan as a "roll-up" of the Bridge Loan obligations.

Request for Relief

18. The Receiver believes that the Corporate Debtors have an immediate need for funding in order to avoid irreparable harm to their estates. An investigation of the fraud that has been perpetrated, and the pursuit of actions to recover funds for the benefit of creditors, is imperative. Those activities require funding. In light of the fraud and the financial status of the Corporate Debtors, the Corporate Debtors are unable to obtain the funds necessary to conduct the investigation and pursue recoveries by way of unsecured credit or unsecured debt allowable under section 503(b)(1) of the Bankruptcy Code, as an administrative expense pursuant to section 364(a) or 364(b) of the Bankruptcy Code, unsecured debt having the priority afforded by section 364(c)(1), or secured debt as described in section 364(c)(2) or 364(c)(3), other than on the terms negotiated with the DIP Lenders.

19. Subject to the provisions of the Interim Order and Final Order, the DIP Lenders have agreed to provide postpetition financing to permit the Debtors to continue the necessary investigation and pursue recoveries.

20. The Corporate Debtors respectfully submit that without immediate access to the DIP Loan, the Debtors' investigation and wind-down efforts will be irreparably harmed. The Receiver predicts that the Corporate Debtors will need to borrow \$250,000 under the DIP Loan to meet the needs of the Receiver and his professionals (including the repayment of the Bridge Loan (as defined in the DIP Loan documents)). The Corporate Debtors have no cash on hand. The Corporate Debtors propose that all loans and advances authorized on an interim basis be subject to the terms of the DIP Loan and the Interim Order.

21. The DIP Loan was negotiated with the DIP Lenders at arms' length and contains terms favorable to the Corporate Debtors. Based upon the facts of these cases, the Receiver's familiarity with the market for this type of loan, and the current state of the credit markets regarding debtor in possession loans, the Receiver believes that it is unlikely that there are any other Lenders, given the time limitations and exigencies, which could offer more favorable terms.

22. The Receiver respectfully submits that the Corporate Debtors cannot conduct a thorough and adequate investigation without access to the liquidity provided by the DIP Loan. The Receiver believes that if the relief sought herein is granted, it will provide the Corporate Debtors with the opportunity to preserve their assets and pursue recoveries for the benefit of their creditors and estates.

A. The Corporate Debtors' Request to Obtain Credit Pursuant to 11 U.S.C. § 364(c)

23. The DIP Loan provides for security interests and liens (and super priority and administrative claims) pursuant to sections 364(c) and (d) of the Bankruptcy Code. Section 364(c) of the Bankruptcy Code provides:

(c) If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt --

(1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title:

(2) secured by a lien on property of the estate that is not otherwise subject to a lien; or

(3) secured by a junior lien on property of the estate that is subject to a lien.

11 U.S.C. § 364(c).

24. Thus, the statutory requirement for obtaining postpetition credit under section 364(c) is a finding that the debtor is "unable to obtain unsecured credit allowable under section 503(b)(1) of [the Bankruptcy Code] as an administrative expense." *See In re Ames Dept. Stores, Inc.*, 115 B.R. 34, 37-39 (Bankr. S.D.N.Y. 1990) (debtor must demonstrate a reasonable effort to obtain other sources of financing).

25. Courts have articulated a three-part test to determine whether financing should be authorized under section 364(c) of the Bankruptcy Code. Specifically, courts look to whether:

- (a) the debtor is unable to obtain unsecured credit under section 364(b), *i.e.*, by allowing a Lenders only an administrative claim;
- (b) the credit transaction is necessary to preserve the assets of the estate; and
- (c) the terms of the transaction are fair, reasonable, and adequate, given the circumstances of the debtor-borrower and the proposed Lenders.

In re Ames Dept. Stores, 115 B.R. at 37-39.

26. Prior to the Petition Date, the Receiver was unable even to attempt to locate financing on more favorable terms. Given the Debtors' circumstances and the fraud that was perpetrated by Nissen, the Receiver determined that postpetition financing on an unsecured basis simply was unobtainable. The Corporate Debtors have no cash flow, appear not to have any assets other than litigation claims, and have no cash on hand.

27. The Receiver believes that the DIP Loan will provide adequate resources for the Corporate Debtors to complete an orderly wind-down and undertake an investigation. If the Debtors were unable to obtain debtor in possession financing, they would be unable to complete that process.

28. Lastly, given the Debtors' current circumstances, the Receiver believes that the terms of the DIP Loan are fair, reasonable and adequate. Based on the foregoing, the incurrence of debt under the DIP Loan and the granting of super-priority administrative claims is appropriate under the circumstances.

B. No Comparable Alternative to the DIP Loan Is Available, and the DIP Loan is in the Best Interests of the Corporate Debtors' Estates

29. The proposed terms of the DIP Loan are fair, reasonable and adequate given the Corporate Debtors' circumstances. The terms and conditions of the DIP Loan were negotiated by the parties in good faith and at arm's length, and are fair and reasonable under the circumstances. Accordingly, the DIP Lenders should be accorded the benefits of section 364(e) of the Bankruptcy Code in respect of such agreement.

30. Bankruptcy courts generally defer to a debtor's business judgment on the question of whether to borrow postpetition. *See Ames Dep't Stores, Inc.*, 115 B.R. at 40 ("[C]ases consistently reflect that the court's discretion under section 364 is to be utilized on grounds that permit reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.").

31. The financing under the DIP Loan is the sole means of providing the Corporate Debtors with liquidity and thus will enable them to, among other things: (i) maximize the value of the Corporate Debtors' estates for the benefit of all creditors, (ii) undertake and complete a thorough investigation and pursue avoidance and recovery actions, and (iii) pursue a liquidating plan of reorganization that puts in place a structure and manner of proceeding that maximizes recoveries and protects the rights of creditors, while containing costs.

NOTICE

32. Notice of this Motion has been provided to (i) Office of the United States Trustee, (ii) the attorneys for the proposed DIP Lenders, and (iii) all parties who have filed appearances in the Corporate Debtors' chapter 11 cases, in each case by CM/ECF, facsimile, e-mail, telephone, or overnight courier. In light of the nature of the relief requested herein, the Corporate Debtors submit that no other further notice is necessary.

33. No previous application for the relief sought herein has been made to this or any other Court.

Conclusion

WHEREFORE, the Corporate Debtors respectfully request that the Court (i) enter an Interim Order substantially in the form annexed hereto as Exhibit B (a) authorizing the Corporate Debtors to enter into and borrow under the DIP Loan; (b) granting the DIP Lenders liens and super-priority claims; (c) scheduling a final hearing to consider the relief sought herein on a final basis; (d) granting any other appropriate form of relief; and (ii) immediately following the final hearing, enter a final order on substantially the same terms as the Interim Order.

Dated: Uniondale, New York
July 11, 2017

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