



**Sixth Report of  
KSV Restructuring Inc. as  
Receiver of Audible Capital Corp.,  
Avenir Trading Corp.,  
1892244 Alberta Ltd.,  
Avenir Sports Entertainment Ltd.,  
Avenir Sports Entertainment Corp. and  
Portland Winter Hawks, Inc.**

April 13, 2022

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COURT FILE NO.:CV-20-00640212-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**BETWEEN:****BRIDGING FINANCE INC. AS AGENT.****APPLICANT****- AND -**

**AUDIBLE CAPITAL CORP.,  
AVENIR TRADING CORP., 1892244 ALBERTA LTD.,  
AVENIR SPORTS ENTERTAINMENT LTD.,  
AVENIR SPORTS ENTERTAINMENT CORP., AND  
PORTLAND WINTER HAWKS, INC.**

**RESPONDENTS**

**SIXTH REPORT OF KSV RESTRUCTURING INC.  
APRIL 13, 2022**

## **1.0 Introduction**

1. This report ("Report") is filed by KSV Restructuring Inc.<sup>1</sup> ("KSV") in its capacity as receiver (the "Receiver") of Audible Capital Corp. ("Audible"), Avenir Trading Corp. ("Avenir Trading"), 1892244 Alberta Ltd. ("189"), Avenir Sports Entertainment Ltd. ("ASE Canada"), Avenir Sports Entertainment Corp. ("ASE US") and Portland Winter Hawks, Inc. ("PWH") (collectively, the "Companies").
2. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Canadian Court") made on May 7, 2020 (the "Receivership Order"), KSV was appointed Receiver of the Companies.
3. On May 7, 2020, the Receiver, as foreign representative of the Companies, commenced proceedings in the US Bankruptcy Court for the District of Oregon (the "US Court") seeking recognition of the Canadian receivership proceedings and the enforcement of the Receivership Order in the US under Chapter 15 of the US Bankruptcy Code. On the same date, the US Court entered an order granting provisional relief, subject to the US Court's recognition of the Canadian receivership proceedings (the "US Provisional Order"). On June 9, 2020, the US Court extended the relief granted by the US Provisional Order by entering an order that, among other things, recognized the Canadian proceedings as foreign main proceedings.

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<sup>1</sup> Effective August 31, 2020, KSV Kofman Inc. changed its name to KSV Restructuring Inc.

4. The Companies' principal asset was PWH's hockey franchise which operates in the Western Hockey League. A transaction for that business and related assets was approved by the Court and the US Court on December 16, 2020 and December 18, 2020, respectively, and closed on December 31, 2020. PWH was the Companies' principal asset located in the United States. Accordingly, on February 24, 2021, the Receiver filed a motion in the US Court to close the Chapter 15 proceedings. The US Court made an order closing the Chapter 15 proceedings on March 23, 2021.
5. In addition to the Winterhawks, the Companies held several other investments in start-up or growth stage companies (collectively, the "Investments"). In March 2020, pursuant to two (2) Court approved transactions, the Receiver sold the Investments, with the exception of Audible's interests in Orla Mining Ltd. ("Orla").

## **1.1 Purposes of this Report**

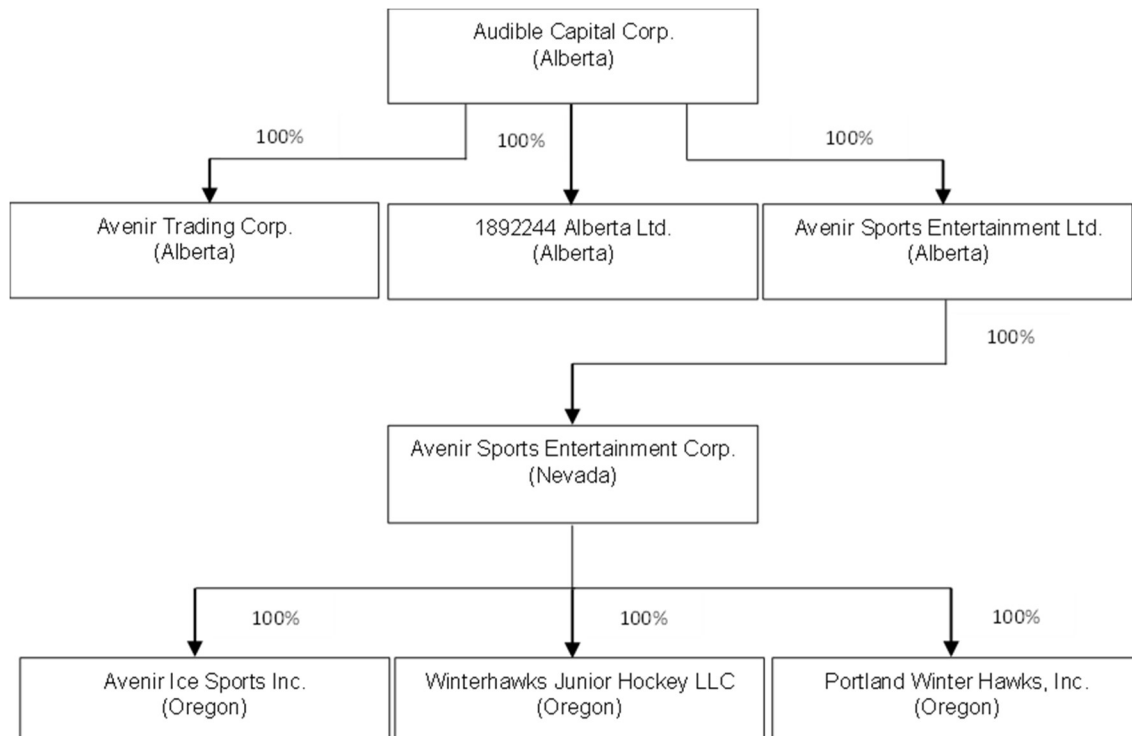
1. The purposes of the report ("Report") are to:
  - a) provide an update on the receivership proceedings;
  - b) discuss a claim filed by Canada Revenue Agency ("CRA") against Audible in the amount of \$374,706.58 in respect of unremitted source deductions (the "Trust Claim");
  - c) provide an update on Audible's investment in Orla (the "Orla Investment"); and
  - d) recommend that the Court issue an order, among other things, authorizing and directing the Receiver to: (i) make a payment in respect of the Trust Claim; and (ii) make one or more distributions on behalf of the Companies up to the amounts owing by the Companies to Bridging Finance Inc. (the "Agent"), the Companies' senior secured lender, to PricewaterhouseCoopers Inc. ("PWC") in its capacity as court-appointed receiver and manager (in such capacity, the "Bridging Receiver") of, among others, the Agent.

## **1.2 Restrictions**

1. In preparing this Report, the Receiver has relied upon the Companies' unaudited financial statements, their books and records and discussions with representatives of the Agent, the Bridging Receiver and the Companies.
2. The Receiver has not audited, or otherwise attempted to verify, the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.
3. All references to currency in this Report are to Canadian dollars unless stated otherwise.

## 2.0 Background

1. Audible is a holding company which is wholly-owned by William Gallacher.
2. The corporate chart for the group is provided below.



3. The Agent is currently owed approximately \$16.4 million (the "Bridging Debt").
4. On April 30, 2021, the Ontario Securities Commission filed an application before the Canadian Court in respect of, among others, the Agent, pursuant to section 129 of the *Securities Act* (Ontario), R.S.O. 1990, c. S.5, as amended. On April 30, 2021, the Canadian Court made an order appointing PWC as the Bridging Receiver (the "Bridging Receivership Proceedings"). The Bridging Receivership Proceedings remain ongoing. As a result, any distribution by the Receiver on account of the Bridging Debt is proposed to be made to PWC in its capacity as the Bridging Receiver.
5. Additional information about the Companies and these receivership proceedings is provided in the Affidavit of Lekan Temidire, a representative of the Agent, sworn April 28, 2020 (the "Temidire Affidavit"). Copies of all Court materials filed in these proceedings, including the Temidire Affidavit, are available on the Receiver's website: <https://www.ksvadvisory.com/insolvency-cases/case/audible-capital-corp>.

## 3.0 Update and Relief

### 3.1 Cash

1. As of the date of this Report, there is approximately CAD1.2 million and USD74,000 in the Receiver's US and Canadian dollar receivership accounts, respectively. A copy of the interim statement of receipts and disbursements for the period ending April 11, 2022 is attached as Appendix "A" .

### 3.2 Trust Claim

2. On January 26, 2022, the CRA filed the Trust Claim. The Receiver has received support from the CRA for the Trust Claim. Following its review, the Receiver believes the Trust Claim to be valid.

### 3.3 Orla

1. Orla is a publicly traded company that is developing a gold project in Mexico.
2. Pursuant to a loan agreement dated December 18, 2019 (the "Loan Agreement"), Audible and the other lenders party thereto (collectively, the "Orla Lenders") agreed to lend up to an aggregate principal amount of US\$125 million to Orla in exchange for, among other things, repayment of the principal amount with interest thereon and common share purchase warrants (the "Orla Warrants").
3. Prior to these receivership proceedings, the Orla Lenders advanced US\$25 million (20% of the total commitment) to Orla. The balance of the commitment was funded in equal US\$50 million tranches in November 2020 and April 2021.
4. Audible's share of the Orla Lenders' total commitment is US\$8 million. Prior to the receivership proceedings, Audible advanced US\$1.6 million to Orla.
5. On September 28, 2020, the Canadian Court issued an order increasing the Receiver's permitted borrowings under the Receiver's Borrowings Charge (as defined in the Receivership Order) by \$9 million so that the Receiver could fund the balance of Audible's loan commitment if the Receiver, in consultation with the Agent, deemed it advisable.
6. In October 2020, Orla made a drawdown request for the first US\$50 million tranche, including US\$3.2 million owed by Audible. On October 30, 2020, the Receiver funded the drawdown request through amounts advanced by the Agent under the Receiver's Borrowings Charge. The Receiver subsequently repaid the amounts advanced under the Receiver's Borrowing Charge from the proceeds of the PWH transaction.
7. In April 2021, Orla made a drawdown request for the second US\$50 million tranche, including US\$3.2 million owed by Audible. On April 30, 2021, the Receiver funded the drawdown request through amounts generated from the sale of the Investments.
8. The Receiver regularly speaks to Orla management and understands that Orla intends to refinance (the "Orla Refinancing") the Orla Lenders in the near term.

### 3.4 Distributions

1. The Receiver is seeking an order authorizing it to use the proceeds from, among other things, the Orla Refinancing to pay the Trust Claim and make one or more distributions to the Bridging Receiver on behalf of the Companies up to the amounts owing by the Companies to the Agent.
2. At the commencement of the receivership proceedings, the Receiver instructed its legal counsel, Bennett Jones LLP ("Bennett Jones") and K&L Gates LLP ("K&L"), to provide opinions to the Receiver on the validity and enforceability of the Agent's security in Canada and the US, respectively. Bennett Jones provided an opinion under the laws of the Province of Alberta and K&L provided an opinion under the laws of the State of Oregon.
3. Read together, Bennett Jones and K&L are of the opinion, subject to the usual qualifications and assumptions, that the Agent holds a valid and perfected security interest in the Companies' assets. Copies of the security opinions can be provided to the Court upon request.
4. Other than the Receiver's Charge (as defined in the Receivership Order) and the Receiver's Borrowings Charge, the Receiver is not aware of any claim that may rank in priority to the Agent other than the Trust Claim.

### 3.5 Next Steps

1. Once the Orla Refinancing occurs and the funds are distributed, the only assets with realizable value remaining in the receivership will be the Orla Warrants.
2. On closing of the Loan Agreement, Audible received 2,080,000 Orla Warrants which have an exercise price of \$3 per share. The Orla Warrants vested following the payment of the final amount owing under the Loan Agreement. On April 8, 2022, Orla's common shares closed at CAD\$6.21 per share. Accordingly, Audible's Orla Warrants are "in-the-money" by approximately CAD\$6.6 million.
3. On March 16, 2021, the Court issued an order (the "March 16 Order"), among other things, authorizing the Receiver to sell the Orla common shares, should the Receiver exercise the Orla Warrants. A copy of the March 16 Order is attached as Appendix "B".
4. The Receiver is working with Orla and a financial institution to exercise a portion of the warrants and sell the common shares. The Receiver intends to distribute the proceeds from the sale of the common shares to the Bridging Receiver. Given the current stock price of Orla, at this time, it appears unlikely that the Agent will be repaid in full.

## 4.0 Conclusion and Recommendation

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1(1)(d) of this Report.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
SOLELY IN ITS CAPACITY AS  
RECEIVER OF THE COMPANIES  
AND NOT IN ITS PERSONAL CAPACITY**



## **Appendix “A”**

Audible Capital Corporation

**Statement of Receipts and Disbursements**

From May 7, 2020 to April 13, 2022

(\$CAD; unaudited)

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**Receipts**

Transfer from operating accounts	544,547
Accounts receivable collections	2,857
BioSteel indemnity holdback release	121,306
Sale of investments	4,400,000
Sale of Investment in EdgeHill Partners	250,000
Interest	1,168,875
	<hr/> 6,487,585

**Disbursements**

Orla Investment	4,049,248
Receiver's fees	529,777
Operating costs	96,538
Legal fees and disbursements	509,076
Payroll/contractors	3,817
HST	136,699
Bank charges	579
Filing fees	420
	<hr/> 5,326,153
Balance in Receiver's account, before accrued liabilities	<hr/> 1,161,433

Audible Capital Corporation

**Statement of Receipts and Disbursements**

From May 7, 2020 to April 13, 2022

(\$USD; unaudited)

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**Receipts**

Transfer from operating accounts	466,864
Accounts receivable collections	73,253
Sale of PWH	5,849,970
Funding from secured lender	3,200,000
Interest	500,000
	<hr/> 10,090,088

**Disbursements**

Distribution to Bridging	5,850,000
Orla Investment	3,200,000
Interaccount transfers	452,156
Payment to Winterhawks Sports Group LLC	99,154
Operating costs	55,943
Legal fees and disbursements	282,790
Payroll/contractors	75,125
Bank charges	793
	<hr/> 10,015,961
Balance in Receiver's account, before accrued liabilities	<hr/> 74,127

## **Appendix “B”**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	TUESDAY, THE 16 <sup>th</sup>
	)	
JUSTICE HAINEY	)	DAY OF MARCH, 2021

**BRIDGING FINANCE INC., AS AGENT**

Applicant

**AUDIBLE CAPITAL CORP., AVENIR TRADING CORP.,  
1892244 ALBERTA LTD., AVENIR SPORTS  
ENTERTAINMENT LTD., AVENIR SPORTS  
ENTERTAINMENT CORP. and PORTLAND WINTER  
HAWKS, INC.**

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c.B 3, AS AMENDED, AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43, AS AMENDED

**ORDER**  
(Ancillary Order)

**THIS MOTION**, made by KSV Restructuring Inc.<sup>1</sup> in its capacity as Court-appointed receiver (in such capacity, the "**Receiver**") of the Property (as defined in the Receivership Order dated May 7, 2020) of Audible Capital Corp. ("**Audible**"), Avenir Trading Corp., 1892244 Alberta Ltd., Avenir Sports Entertainment Ltd., Avenir Sports Entertainment Corp. and Portland Winter Hawks, Inc. for an order, among other things: (i) abridging and validating service of the Notice of Motion and Motion Record herein; (ii) approving the Fourth Report of the Receiver dated December 22, 2020 (the "**Fourth Report**") and the Fifth Report of the Receiver dated March 9, 2021 (the "**Fifth Report**" and together with the Fourth Report, the "**Reports**") and the activities of the Receiver described therein; (iii) approving the fees and disbursements of the Receiver and

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<sup>1</sup> Effective August 30, 2020 KSV Kofman Inc. changed its name to KSV Restructuring Inc.

its counsel, and (iv) authorizing the Receiver to sell Audible's Orla common shares should the Receiver decide to exercise Audible's Orla Warrants, was heard this day by videoconference due to the COVID-19 pandemic.

**ON READING** the Notice of Motion of the Receiver and the Fifth Report, filed, and on hearing the submissions of counsel for the Receiver and counsel for those other parties appearing as indicated by the counsel sheet, no one else appearing although properly served, as appears from the affidavit of Aiden Nelms sworn and filed:

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record in respect of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined shall have the meanings ascribed to them in the Fifth Report.

### **APPROVAL OF THE REPORTS, ACTIVITIES AND FEES**

3. **THIS COURT ORDERS** that the Reports and the activities of the Receiver referred to therein be and are hereby approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own liability, shall be entitled to rely upon or utilize in any way such approval.

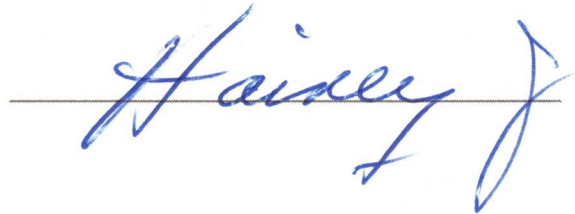
4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel Bennett Jones, as set out in the affidavits of Noah Goldstein sworn March 9, 2021 and Sean Zweig sworn March 8, 2021, be and are hereby approved.

### **ORLA INVESTMENT**

5. **THIS COURT ORDERS** that the Receiver is authorized to sell Audible's common shares in Orla should the Receiver, in its sole and unfettered discretion, decide to exercise Audible's Orla Warrants.

**GENERAL**

6. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.
7. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Receiver and its agents in carrying out the terms of this Order.
9. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

A handwritten signature in blue ink, reading "Haisley J.", is written over a horizontal line. The signature is stylized and cursive.

**BRIDGING FINANCE INC., AS AGENT**

-and-

**AUDIBLE CAPITAL CORP. *et al***

Applicant

Respondents

Court File No.: CV-20-00640212-00CL

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

Proceedings commenced in Toronto

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**ANCILLARY ORDER**

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capacity as Court-appointed Receiver and not in  
its personal capacity