

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

Black Press Ltd., *et al.*,<sup>1</sup>

Debtors in a Foreign Proceeding.

Chapter 15

Case No. 24-10044 (MFW)

(Joint Administration Requested)

**EX PARTE MOTION FOR PROVISIONAL RELIEF IN  
THE FORM OF A TEMPORARY RESTRAINING ORDER, AND  
AFTER NOTICE AND A HEARING, AN ORDER FOR PROVISIONAL  
RELIEF UNDER SECTION 1519 OF THE BANKRUPTCY CODE**

Black Press Ltd. (“BP Holdco”), in its capacity as the duly appointed foreign representative (“Foreign Representative”) for the above-captioned debtors (collectively, the “Debtors”), each of which are subject of the proceedings (“Canadian Proceedings”) currently pending before the Supreme Court of British Columbia (“Canadian Court”), initiated pursuant to the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36 (as amended, the “CCAA”), respectfully files this *Ex Parte Motion for Provisional Relief in the Form of a Temporary Restraining Order, and After Notice and a Hearing, an Order for Provisional Relief Under Section 1519 of the Bankruptcy Code* (“Motion”), under Rule 65 of the Federal Rules of Civil Procedure (“Federal Rules”), made applicable to bankruptcy proceedings by Rule 7065 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”), for relief under sections 105(a), 1507, 1517, 1519, and 1521 of title 11 of the United States Code (“Bankruptcy Code”) by means of two orders designed to maintain the status quo pending this Court’s hearing on recognition of the Canadian Proceedings: (i) on an *ex*

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<sup>1</sup> The Debtors in these chapter 15 cases, along with the last four digits of each Debtor's federal tax identification number (or BN as applicable), include: Black Press Group Ltd. (BN 8464); Sound Publishing Inc. (TIN 6047); The Beacon Journal Publishing Company (TIN 5666); Black Press Ltd. (BN 4084); Sound Publishing Holding Inc. (TIN 6047); 311773 BC Ltd. (BN 3265); Sound Publishing Properties, Inc. (TIN 6047); Oahu Publications, Inc. (TIN 3529); San Francisco Print Media Company (TIN 0940); Central Web Offset Ltd. (BN 5111); 0922015 B.C. Ltd. (BN 4906); and WWA (BPH) Publications, Inc. (TIN 7876). The location of the Debtors’ corporate headquarters and service address is: 15288 54a Ave #208, Surrey, British Columbia, Canada V3S 5X7.

*parte* basis, a temporary restraining order in the form attached as **Exhibit A** (“TRO”) staying execution against any assets of the Company (defined below) in the United States and prohibiting all persons or entities from commencing or continuing any litigation or any other proceeding, including, without limitation, arbitrations, appeals, mediation or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever, or taking any other action against or involving the Foreign Representative, the Debtors, or any of the assets of the Debtors located within the territorial jurisdiction of the United States, effective *nunc pro tunc* to the Petition Date (defined below); and (ii) after notice and a hearing, the grant of Provisional Relief (as herein defined) through an order in the form attached as **Exhibit B** (“Provisional Relief Order”) pending this Court’s determination of the Debtors’ request for entry of an order recognizing the Canadian Proceedings, effective *nunc pro tunc* to the Petition Date. In support of this Motion, the Foreign Representative respectfully represents as follows:<sup>2</sup>

**I. PRELIMINARY STATEMENT**

1. The Debtors and the Non-Debtor Stay Parties (defined below) are engaged in business operations that include providing hyperlocal print newspapers, magazines, digital news, marketing and advertising, commercial printing, and parcel delivery services in Canada in British Columbia, Alberta, Yukon, Nunavut, and Northwest Territories, and in the U.S. in Washington, Alaska and Hawaii (collectively, the “BP Business”). The entire enterprise is consolidated, and managed in Victoria, British Columbia. However, two of the BP Business’s three primary operating units are located in the U.S., and are respectively, the largest media companies in the states of Washington (“BP Sound”) and Hawaii (“BP Hawaii”). BP Sound and BP Hawaii are substantial and valuable components of the enterprise.

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<sup>2</sup> Capitalized terms used in this section but not otherwise defined herein shall have the meaning ascribed to them in the Verified Petition, the Initial Order, or the Declarations, as applicable.

2. It is essential that the Debtors have immediate protection of a stay against creditor actions to ensure there is no disruption to the Canadian Proceedings through which the Debtors, and non-debtors Black Press (Barbados) Ltd., Whidbey Press (Barbados) Inc., Black Press Delaware LLC, and Black Press Group Oregon LLC (collectively, the “Non-Debtor Stay Parties” and together with the Debtors, the “Company”), have undertaken a restructuring and sale process to maximize the value of their assets for the benefit of all stakeholders. By this Motion, the Debtors accordingly seek the following relief, effective *nunc pro tunc* to the Petition Date:

(A) on an *ex parte* basis, an immediate TRO that stays execution against any assets of the Company in the United States, including that of the Debtors and the Non-Debtor Stay Parties, and prohibiting all persons or entities from commencing or continuing any litigation or any other proceeding, including, without limitation, arbitrations, appeals, mediation or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever, or taking any other action against or involving the Foreign Representative, the Debtors, the Non-Debtor Stay Parties, or any of the assets of the Debtors or the Non-Debtor Stay Parties located within the territorial jurisdiction of the United States (including, for the avoidance of doubt, any act to create, perfect, or enforce any lien against property of the Debtors in the territorial jurisdiction of the United States); and

(B) relief on a provisional basis under 11 U.S.C. §§ 105(a), 362, and 1519(a) consisting of the following (the “Provisional Relief”):

1. Recognition and enforcement of the Initial Order (defined below) in the United States, on a provisional basis, providing for, among other things:
  - (i) staying all proceedings, investigations, and remedies taken or that might be taken in respect of the Debtors, the Non-Debtor Stay Parties, or any of their Property (as defined in the Initial Order) for the Stay Period, to the same extent provided in the Initial Order;
  - (ii) granting the Administration Charge against the Debtors’ and the Non-Debtor Stay Parties’ Property in the territorial jurisdiction of the United States to the same extent provided in the Initial Order;
  - (iii) granting the Directors’ Charge against the Debtors’ and the Non-Debtor Stay Parties’ Property in the territorial jurisdiction of the United States to the same extent provided in the Initial Order; and

- (iv) granting the DIP Lender's Charge against the Debtors' and the Non-Debtor Stay Parties' Property in the territorial jurisdiction of the United States to the same extent provided in the Initial Order.
2. Recognizing the Foreign Representative as the representative of the Debtors within these Chapter 15 Cases with authority to administer the Debtors' assets and affairs in the United States as set forth in the orders entered by this Court.
  3. Applying section 362 to each of the Debtors and the Non-Debtor Stay Parties and the Property of each of the Debtors and the Non-Debtor Stay Parties within the territorial jurisdiction of the United States. For the avoidance of doubt and without limiting the generality of the foregoing, the Provisional Relief Order shall impose a stay within the territorial jurisdiction of the United States of:
    - (i) The execution of the Debtors' and the and the Non-Debtor Stay Parties' assets;
    - (ii) The commencement or continuation, including the issuance or employment of process of, any judicial, administrative, investigatory or any other action or proceeding involving or against the Debtors and the Non-Debtor Stay Parties or their assets or proceeds thereof, or to recover a claim or enforce any judicial, quasi-judicial, regulatory, administrative or other judgment, assessment, order, lien or arbitration award against the Debtors and the Non-Debtor Stay Parties or their assets or proceeds thereof, or to exercise any control over the Debtors' or the Non-Debtor Stay Parties' assets located in the United States except as authorized by the Debtors or the Non-Debtor Stay Parties in writing;
    - (iii) The creation, perfection, seizure, attachment, enforcement, or execution of liens or judgments against the Debtors' or the Non-Debtor Stay Parties' Property in the United States or from transferring, encumbering or otherwise disposing of or interfering with the Debtors' or the Non-Debtor Stay Parties' assets or agreements in the United States without the express consent of the Foreign Representative;
    - (iv) Any act to collect, assess, or recover a claim against any of the Debtors or the Non-Debtor Stay Parties that arose before the commencement of the Chapter 15 Cases; and
    - (v) The setoff of any debt owing to any of the Debtors or the Non-Debtor Stay Parties that arose before the commencement of the Chapter 15 Cases against any claim against the Debtors or the Non-Debtor Stay Parties.
  4. Finding section 364 applicable with respect to each of the Debtors and the Non-Debtor Stay Parties and their respective Property that is within the territorial jurisdiction of the United States. For the avoidance of doubt and without limiting the generality of the foregoing, the Provisional Relief Order shall, without limitation:



- (i) Grant liens and security interests in the Debtors’ and the Non-Debtor Stay Parties’ Property located within the territorial jurisdiction of the United States pursuant to section 364(d)(1) in respect of, and in accordance with, the Charges (defined below); and
  - (ii) Find that any loans made by the DIP Lender in accordance with the DIP Loan Agreement prior to the entry of the Recognition Order shall be extended in “good faith” as contemplated by sections 363(m) and 364(e), such that the validity of DIP Loans, and the priority of the DIP Lenders’ Charge in respect of the Debtors’ and the Non-Debtor Stay Parties’ Property located within the territorial jurisdiction of the United States shall not be affected by any reversal or modification of the Provisional Relief Order on appeal or the entry of an order denying the Debtors’ request for entry of the Recognition Order.
5. Granting the Foreign Representative the rights and protections to which the Foreign Representative is entitled under chapter 15 of the Bankruptcy Code, including, but not limited to, the protections limiting the jurisdiction of United States Courts over the Foreign Representative in accordance with section 1510 and the granting of additional relief in accordance with sections 1519(a)(3) and 1521.
  6. Providing that notwithstanding any provision in the Bankruptcy Rules to the contrary, (i) the Provisional Relief Order shall be effective immediately and enforceable upon entry, (ii) the Foreign Representative is not subject to any stay in the implementation, enforcement, or realization of the relief granted in the Provisional Relief Order, and (iii) the Foreign Representative is authorized and empowered, and may, in its discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of the Provisional Relief Order.

3. In support of the requested relief, the Foreign Representative respectfully refers the Court to and incorporates the following into this Motion by reference: (a) *Verified Petition for (i) Recognition of Foreign Main Proceedings, (ii) Recognition of Foreign Representative, and (iii) Related Relief Under Chapter 15 of the Bankruptcy Code* (“Verified Petition”); (b) *Motion of the Foreign Representative for Chapter 15 Recognition and Final Relief* (“Recognition Motion”); (c) *Declaration of Christopher Hargreaves in Support of the Debtors’ Verified Petition for (i) Recognition of Foreign Main Proceedings, (ii) Recognition of Foreign Representative, and (iii) Debtors’ Motion for Certain Provisional Relief* (“Hargreaves Declaration”); (d) *Declaration of Jeremy Bornstein as Canadian Counsel to the Debtors in Support of the Debtors’ Chapter 15*

*Petitions and Requests for Certain Related Relief Pursuant to Chapter 15 of the Bankruptcy Code* (“Bornstein Declaration”); and (d) *Declaration of Stanley Tarr in Support of the Ex Parte Motion for Provisional Relief in the Form of a Temporary Restraining Order, and After Notice and a Hearing, an Order for Provisional Relief Under Section 1519 of the Bankruptcy Code* (“Tarr Declaration” and together with the Hargreaves Declaration and the Bornstein Declaration, the “Declarations”). The Foreign Representative further represents to the Court as follows.

4. On January 14, 2024, the Debtors commenced the Canadian Proceedings under the CCAA to implement an agreed-upon restructuring and pursue a sale process under the supervision of the Canadian Court. That same day, the Canadian Court entered an initial order (“Initial Order”) granting various relief including, among other things, authorizing BP Holdco to act as Foreign Representative of the Debtors and appointing KSV Restructuring Inc. (“KSV”, and in its capacity as Monitor, the “Monitor”) as Monitor in the Canadian Proceedings.

5. On the date hereof (“Petition Date”), the Foreign Representative filed voluntary petitions under chapter 15 of the Bankruptcy Code and commenced the Debtors’ chapter 15 cases (collectively, the “Chapter 15 Cases”).

6. Concurrently therewith, the Foreign Representative filed the Verified Petition, seeking among other things, recognition by this Court of its status as the Foreign Representative and recognition of the Canadian Proceedings as “foreign main proceedings” under section<sup>3</sup> 1517 and certain related relief (“Recognition Order”). The Provisional Relief requested in this Motion and the entry of the Recognition Order are sought in order to enable the Debtors to maintain their operations as a going concern to facilitate the sale process, provide critical protection of the Debtors’ property located within the territorial jurisdiction of the United States, preserve

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<sup>3</sup> Unless otherwise noted, all statutory references are to the Bankruptcy Code.

potentially valuable assets for the Debtors' restructuring and sale process by extending the stay to the Non-Debtor Stay Parties, acknowledge certain charges over the Property (as defined in the Initial Order) approved by the Canadian Court that are necessary for the successful administration of the Canadian Proceedings, and work constructively with their stakeholders to maximize the value of their assets through the restructuring and sale process in the Canadian Proceedings.

7. The Canadian Proceedings were commenced with the express goal of consummating the aforementioned court-supervised sale process after an extensive pre-petition sale process failed to produce a viable option to sell or restructure the BP Business. As a result of pre-petition negotiations, Canso Investment Counsel Ltd. as portfolio manager for and on behalf of Canso Strategic Credit Fund ("DIP Lender") agreed to provide emergency funding to sustain the BP Business's operations while they complete the proposed sale and investment solicitation process under the CCAA (the "SISP"). The DIP Lender agreed to provide such funding on the express condition that the Company agree to the Stalking Horse Bid (defined below) to serve as stalking horse under the proposed SISP to stabilize the BP Business and signal to the market that the Company will exit the Canadian Proceedings as a going concern. The Initial Order provides, among other things:

- (a) a stay of proceedings in respect of the Debtors and the Non-Debtor Stay Parties for an initial 10-day period ("Initial Stay Period");
- (b) authorization to enter into the DIP Loan Agreement and borrow under the DIP Loan (each defined below) in the maximum principal amount of \$500,000<sup>4</sup> for the Initial Stay Period;
- (c) authorization for the Debtors to pay, with the consent of the Monitor and the DIP Lender, pre-filing amounts of certain critical suppliers;
- (d) the granting of the following priority charges (collectively, the "Charges") over the Property (as defined in the Initial Order), listed in order of priority:

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<sup>4</sup> Unless otherwise noted, all dollar amounts are denominated in Canadian dollars ("CAD").

- (i) the Administration Charge (defined below) up to a maximum amount of \$750,000;
  - (ii) the Directors' Charge (defined below) up to a maximum amount of \$10,674,000; and
  - (iii) the DIP Lender's Charge (defined below) up to a maximum amount of \$500,000 (plus accrued and unpaid interest, fees and expenses); and
- (e) authorization for BP Holdco to act as the foreign representative in respect of the Canadian Proceedings for the purpose of having the Canadian Proceedings recognized and approved in a jurisdiction outside of Canada, and authorizing BP Holdco to apply for foreign recognition and approval of the Canadian Proceedings, as necessary, in any jurisdiction outside of Canada, including the U.S. pursuant to chapter 15 the Bankruptcy Code.
8. Further, the Debtors intend to bring an application to be heard by the Canadian Court within 10 days of the granting of the Initial Order ("Comeback Hearing") seeking an amended and restated Initial Order ("ARIO"), providing for, among other things:
- (a) extending the stay of proceedings until January 25, 2024, and granting other customary Comeback Hearing relief under the CCAA;
  - (b) approving and authorizing BP Holdco and 311773 B.C. Ltd. ("3117"), *nunc pro tunc*, to enter into, a support agreement dated January 12, 2024 among the holders of the Secured Notes (defined below) issued by the Company on December 21, 2023 (the "Noteholders"), Carpenter Newsmedia, LLC ("CNL"), BP Holdco and 3117 ("Transaction Support Agreement") pursuant to which, and subject to the terms and conditions set out therein, among other things, the Noteholders and CNL have agreed to support the Canadian Proceedings and the Chapter 15 Cases (defined below), including the requested ARIO, the Stalking Horse Transaction Agreement and the SISP Approval Order (each defined below), and directing BP Holdco and 3117 to comply with their obligations thereunder;
  - (c) increasing the maximum principal amount that the Debtors can borrow under the DIP Loan to \$5,500,000;
  - (d) increasing the maximum amounts secured by the Administration Charge to \$1,500,000, the Directors' Charge to \$13,806,000, and the DIP Lender's Charge to \$5,500,000 (plus accrued and unpaid interest, fees and expenses); and
  - (e) approving a key employee retention program ("KERP") and the granting of a charge on the Property for the benefit of the key employees referred to in the KERP up to the separate maximum amounts of \$61,500 (CAN) and \$70,000 (U.S.).

9. In addition, at the Comeback Hearing the Debtors also intend to seek an order (“SISP Approval Order”), among other things:

- (a) authorizing and directing BP Holdco and 3117 to negotiate and finalize a definitive stalking horse transaction agreement (“Stalking Horse Transaction Agreement”) with the Noteholders and CNL, or their designated nominee (“Stalking Horse Purchaser”), in respect of a transaction as described in and substantially in accordance with the terms of the Stalking Horse Term Sheet (defined below) negotiated among BP Holdco, 3117, and the DIP Lender;
- (b) approving the Bid Protections (defined below) set forth in the Stalking Horse Term Sheet and authorizing BP Holdco and 3117 to pay the amounts in respect of the same to the Stalking Horse Purchaser (or as it may direct) in the circumstances and manner described in the Stalking Horse Term Sheet;
- (c) granting a Court-ordered Bid Protections Charge over the Property in favor of the Stalking Horse Purchaser as security for payment of the Bid Protections, with the priority set out therein;
- (d) approving the SISP in which the Stalking Horse Transaction Agreement will be used as the “Stalking Horse Bid”, and authorizing the Debtors to implement the ISP pursuant to its terms;
- (e) authorizing and directing the Debtors and the Monitor to perform their respective obligations and do all things reasonably necessary to perform their obligations under the SISP; and
- (f) declaring that the Monitor and its affiliates, partners, directors, employees, agents, and controlling persons, shall have no liability with respect to any losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the SISP, except to the extent such losses, claims, damages or liabilities result from the gross negligence or willful misconduct of the Monitor in performing its obligations under the SISP.

10. The proposed SISP also provides for the Debtors, the Non-Debtor Stay Parties, and the Monitor to solicit potentially interested parties, commencing the same day as the granting of the SISP Approval Order. From commencement of solicitation, the marketing and due diligence period under the SISP will be 22 days, subject to extension in accordance with the terms of the SISP. Significantly, the terms of the stalking horse transaction negotiated among the Noteholders and CNL, or their designated nominee (the “Stalking Horse”), BP Holdco, and 3117

to negotiate and finalize a definitive sale transaction was memorialized in a term sheet (“Stalking Horse Term Sheet”), which requires the Debtors to take steps to preserve intact the current business operations of the company in all material respects.

11. Upon approval of the ARIO and the SISP by the Canadian Court, the Debtors anticipate returning to this Court for additional provisional relief recognizing the ARIO and the SISP on an expedited basis.

12. Upon initiation of the Canadian Proceedings, a moratorium on creditor enforcement actions was imposed and creditors actions have been stayed. Yet, without recognition of such moratorium, creditors and other parties not subject to the jurisdiction of the Canadian Court and based in the United States may continue or commence action against the Debtors’ assets and operations within the United States. Any litigation or enforcement action against the Debtors will destabilize their operations and ability to consummate the contemplated restructuring and sale process, including its efforts to find a buyer for the Debtors’ businesses. Absence of such recognition will ultimately jeopardize the livelihood of the Debtors’ 1215 employees and result in significantly diminished recoveries for creditors. Due to the intrinsic gap in time before the Court can determine recognition, the Provisional Relief sought herein is indispensable to effectuate these critical preservation efforts.

13. This Motion also seeks interim application in the territorial jurisdiction of the United States of certain charges against the Debtors’ assets in priority to other claims in the Canadian Proceedings (e.g., the equivalent of administrative expenses in a chapter 11 case), granted by the Canadian Court under the Initial Order in the form of: (a) a charge in favor of the Monitor, counsel to the Monitor, counsel to the Debtors and Foreign Representative (“Administration Charge”); (b) a charge in favor of the directors and officers of the Debtors

(“Directors’ Charge”); and (c) a charge in favor of the Debtors’ DIP Lender (“DIP Lender Charge” and collectively with the Administration Charge and the Directors’ Charge, the “Charges”). The Foreign Representative respectfully submits the Charges are essential to protect the interests of the Debtors, as they ensure payment of critical parties in the Canadian Proceedings and the Chapter 15 Cases. *See* Initial Order, ¶¶ 23-25, 32-40.

14. Additionally, the Initial Order stays the continuation or commencement of actions and proceedings against the Debtors, the Non-Debtor Stay Parties (which, again, are also subject to the moratorium imposed by the Canadian Court), and the Directors and Officers, including any actions or proceedings that may be brought in these Chapter 15 Cases, to ensure that dissident creditors or stakeholders cannot bypass the Canadian Proceedings by commencing litigation or taking other actions outside of Canada to obtain a greater recovery than other, similarly situated creditors. Initial Order, ¶¶ 16-19. As further explained below, the Directors and Officers are integral to the Debtors’ restructuring efforts, and have certain rights of indemnification against the Debtors under Canadian law, such that any judgments obtained against the Directors and Officers would be a *de facto* judgment against the Debtors.

15. The Provisional Relief (including the TRO) sought pursuant to this Motion are indispensable to effectuate the Debtors’ preservation efforts for their assets and operations. With regard to the TRO, an immediate stay is required to, among other things, prevent the Pension Benefit Guaranty Corporation (“PBGC”) from perfecting a potential security interest and lien in the Debtors’ assets in connection with its purported unsecured claim, which is asserted by the PBGC in excess of US\$44.2 million against the Debtors. To the extent the PBGC perfects a lien as described and becomes a secured creditor, it would halt the Debtors’ proposed DIP funding and thus the entire sale process contemplated and sought in the CCAA proceedings. Other creditors of

the U.S. Debtors could also exercise remedies against the U.S. Debtors and their assets by, among other things, terminating contracts, attaching assets, and taking similar actions, which would jeopardize the DIP Financing and restructuring efforts in the Canadian Proceedings.

16. The Debtors also have contract counterparties and creditors in the United States based on their business model. Without the Provisional Relief, the Debtors run the risk that these counterparties and creditors might not perform their obligations or may seek to exercise remedies prejudicial to the restructuring and sale process in the Canadian Proceedings which would be detrimental to the interests of all stakeholders.

17. Without Provisional Relief, during the gap period between the Petition Date and approval of the Recognition Order, parties in the United States are both permitted and incentivized to commence proceedings against the Debtors and disrupt the restructuring efforts of the Company through the Canadian Proceedings. Indeed, creditors within the territorial jurisdiction of the United States would not be prevented from “racing to the courthouse” and secure relief that leads to the disparate treatment of similarly situated creditors and, more importantly, prevents the Company from maximizing the value of their assets for all stakeholders through an orderly process under the supervision of the Canadian Court. The Canadian Proceedings enable the Debtors to continue to operate their businesses in the ordinary course and preserve significant enterprise value. The Provisional Relief will further the purpose of the Canadian Proceedings and provide significant assistance to the Canadian Court and provide the Debtors with the necessary breathing room and stability to effectuate the proposed Canadian restructuring during the gap period between the commencement of these cases and the hearing on the recognition.



## II. JURISDICTION AND VENUE

18. The United States Bankruptcy Court for the District of Delaware (“Court”) has jurisdiction over this matter pursuant to sections 157 and 1334 of title 28 of the United States Code and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated as of February 29, 2012 (“Amended Standing Order”).

19. This is a core proceeding pursuant to section 157(b)(2) of title 28 of the United States Code, and the Court may enter a final order consistent with Article III of the United States Constitution.

20. Venue for this case is proper in this Court under section 1410 of title 28 of the United States Code because the Debtors have their principal assets in the United States located in Delaware. The Debtors have property in Delaware as a group via their direct and indirect ownership in the equity of Delaware entities and incorporation of Debtor San Francisco Print Media Co. under Delaware law. Each Debtor also has an interest in a retainer on deposit with Blank Rome LLP in which the Debtor has an ownership interest. These funds are held in an account at a Delaware branch of TD Bank, National Association in accordance with Delaware Rule of Professional Responsibility 1.5. *See Hargreaves Decl.* ¶ 129.

21. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (“Local Rules”), the Foreign Representative consents to the entry of a final judgment or order with respect to this Motion if it is determined that this Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

22. The statutory predicates for the relief requested in this Motion are sections 105(a), 362, 364, 1507, 1517, 1519, and 1521 and Local Rule 9013-1(m).

### **III. BACKGROUND**

23. Additional factual background relating to the Debtors' commencement of these Chapter 15 Cases is set forth in detail in the Declarations filed on the Petition Date and incorporated herein by reference.

#### **A. The Initiation and Effect of the Canadian Proceedings and these Chapter 15 Cases.**

24. The Initial Order granted in the Canadian Proceedings is not automatically enforceable in the United States. Chapter 15 of the Bankruptcy Code promotes cooperation between this Court and the Canadian Court to preserve and protect the interests of the Debtors. Upon recognition of the Canadian Proceedings by way of a Recognition Order from the Court, the Debtors' interests in the United States will be protected and they will be authorized to seek additional relief and assistance from this Court in furtherance of implementing the Canadian Proceedings.

25. In the interim, Provisional Relief is needed to protect the Debtors' assets and the interests of all stakeholders. *See* 11 U.S.C. § 1519(a). Although a "petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time," there is necessarily a gap between the time the petition for recognition is filed and the time the court makes a decision on whether a proceeding should be recognized. 11 U.S.C. § 1517(c). Provisional relief should be granted "where relief is urgently needed to protect the assets of the debtor or the interests of the creditors." 11 U.S.C. § 1519(a).

26. Without the Provisional Relief in place, the commencement of the Canadian Proceedings and Chapter 15 Cases could have severe adverse consequences to the Debtors and any property or interests of the Debtors located within the territorial jurisdiction of the United

States. As noted in the Declarations, the Debtors hold a number of business interests in the United States, including:

- (a) BP Sound, which is the Debtors' business in the U.S. (excluding Hawaii), and is comprised of Sound Publishing Holding, Inc. (holdco), and Sound Publishing, Inc. The majority of assets (excluding Hawaii) in the U.S. are held by Sound Publishing, Inc.;
- (b) BP Hawaii, which is the Debtor's U.S. business in Hawaii, and is comprised of Oahu Publications, Inc., which owns all the Debtors' assets in Hawaii; and
- (c) U.S. real estate, which is comprised of Sound Publishing Properties, Inc., the owner of one rental property leased to a third-party tenant.

27. There are other non-operational entities in the U.S. which are not believed to have any operations, liabilities (other than under the Akron Plan (defined below)), or assets, other than potentially certain beneficial tax attributes or intercompany receivables. These entities include Debtors The Beacon Journal Publishing Company, San Francisco Print Media Company, and WWA (BPH) Publications, Inc. and non-debtor Black Press Delaware LLC.

28. The Company is a consolidated business, with offices and primary operations in both Canada and the U.S. Those operations, however, are functionally and operationally integrated such that the U.S. business cannot operate independently of the Canadian business and the key services provided by BP Canada for the benefit of the entire Company. *See* Hargreaves Decl., ¶ 132.

29. As of November 30, 2023, BP Holdco's consolidated liabilities had an unaudited book value of approximately \$175.2 million, and 3117's consolidated liabilities had an unaudited book value of approximately \$19.6 million. These liabilities primarily consist of \$57.0015 million in private-placement secured notes issued on December 21, 2023 (the "Secured Notes") to the Noteholders, in part to refinance a prior revolving credit facility, which includes \$15 million held by Canso Investment Counsel Ltd., in its capacity as portfolio manager and for and on behalf of

certain accounts. The Secured Notes are owed by BP Holdco and guaranteed by the Debtors and the Non-Debtor Stay Parties. Hargreaves Dec., ¶¶ 71, 73-79.

30. The PBGC also asserts that certain liabilities to the PBGC arose with respect to the distress termination as of February 29, 2020 of the Employees' Retirement Plan of the Beacon Journal Publishing Company ("Akron Plan"). Specifically, PBGC asserts that the Debtors are jointly-and-severally liable to PBGC for (1) the unfunded benefit liabilities of the plan, (2) due and unpaid required contributions to the plan, and (3) insurance premiums owed to PBGC, if any (collectively, the "PBGC Liabilities"). Hargreaves Decl., ¶¶ 12-16, 100-04. PBGC asserts that the PBGC Liabilities total approximately \$44 million (US).

31. As more fully described in the Declarations, partially as a result of declining profits over the last decade on account of cultural shifts and decline in advertising revenue due to the loss of small retailers, and partially because of the Debtors' obligations in connection with the Akron Plan, the Debtors have become insolvent and unable to make payments on their funded debt as they came due.

32. In light of this, the Debtors have negotiated with their secured creditors regarding various possible restructuring alternatives involving the Company to effectuate a value-maximizing restructuring and sale transaction and create a sustainable capital structure to position the Company, including the Debtors, for long-term success. However, the Debtors have secured and unsecured creditors located within and subject to the jurisdiction of the United States that could initiate enforcement action against the Debtors in the United States notwithstanding the stay imposed on them by the Initial Order entered by the Canadian Court. Consequently, without the protections granted under the Provisional Relief, such creditors would be able to commence proceedings against the Debtors. In addition to any secured creditors, the Debtors will need to

contend with each of their unsecured creditors. The Debtors may find themselves in a situation defending numerous creditor actions in various jurisdictions or addressing attempts by counterparties to terminate contracts or otherwise assert leverage available in the absence of the Provisional Relief, which will be costly and disruptive to their value-maximizing reorganization efforts in Canada.

### **B. The Canadian Proceedings' Stay Period Provisions.**

33. On January 15, 2024, each of the Debtors and the Non-Debtor Stay Parties commenced the Canadian Proceedings under the CCAA with the goal of effectuating a going concern restructuring transaction. On January 15, 2024, the Canadian Court granted the Initial Order which provides for a “Stay Period.” Initial Order at ¶¶ 16-19. The effect of these provisions is analogous to a stay under section 362 for the benefit of the Debtors and the Non-Debtor Stay Parties until and including January 25, 2024. Paragraphs 16-19 of the Initial Order provide as follows:

Until and including January 25, 2024, or such later date as this Court may order (the “Stay Period”), no action, suit or proceeding in any court or tribunal (each, a “Proceeding”) against or in respect of any of the Black Press Entities or the Monitor, or affecting the Business, the Property or the Non-Petitioner Stay Parties’ current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “Non-Petitioner Stay Parties’ Property”), shall be commenced or continued except with the prior written consent of the Black Press Entities and the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Black Press Entities or affecting the Business, the Property or the Non-Petitioner Stay Parties’ Property are hereby stayed and suspended pending further Order of this Court.

During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “Persons” and each being a “Person”) against or in respect of any of the Black Press Entities or the Monitor, or affecting the Business, the Property or the Non-Petitioner Stay Parties’ Property, are hereby stayed and suspended except with the prior written consent of the Black Press Entities and the Monitor or leave of this Court.

Nothing in this Order, including paragraphs 16 and 17, shall: (i) empower the Black Press Entities to carry on any business which the Black Press Entities are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest (subject to the provisions of Section 39 of the CCAA relating to the priority of statutory Crown securities); or (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided, however: (a) that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the applicable Black Press Entities; and (b) that any deemed trust claims or other claims of any government agency in Canada or any province or territory thereof or any foreign governmental agency shall not be perfected or rank as secured claims and shall rank as unsecured claims, including pursuant to section 38 of the CCAA

During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence, or permit in favour of or held by any of the Black Press Entities, except with the prior written consent of the applicable Black Press Entity(s) and the Monitor or leave of this Court.

Initial Order ¶¶ 16-19.

### **C. Charges Granted by the Canadian Court**

34. The Initial Order also grants certain Charges against the Debtors analogous to administrative expenses under section 503. Specifically, the Initial Order provides for the following priority charges over the Property listed in order of priority:

- (a) the Administration Charge up to a maximum amount of \$750,000;
- (b) the Directors' Charge up to a maximum amount of \$10,674,000; and
- (c) the DIP Lender's Charge up to a maximum amount of \$500,000 (plus accrued and unpaid interest, fees and expenses).

35. Further, at the Comeback Hearing, the Debtors intend to seek the following with respect to the Charges in the ARIO:

- (a) increasing the maximum amounts secured by the Administration Charge to \$1,500,000, the Directors' Charge to \$13,806,000, and the DIP Lender's Charge to \$5,500,000 (plus accrued and unpaid interest, fees and expenses); and

- (b) approving the KERP and the granting of a charge on the Property for the benefit of the key employees referred to in the KERP up to the separate maximum amounts of \$61,500 (CAN) and \$70,000 (U.S.) (“KERP Charge”).

#### IV. RELIEF REQUESTED

36. By this Motion, the Foreign Representative, on behalf of the Debtors in these Chapter 15 Cases respectfully requests that the Court: (i) enter the TRO substantially in the form attached hereto as **Exhibit A** pursuant to sections 105(a), 1519, and 1521 and Bankruptcy Rule 7065 implementing Federal Rule 65, effective *nunc pro tunc* to the Petition Date, and (ii) enter the Provisional Relief Order, substantially in the form attached to this Motion as **Exhibit B**, granting provisional relief, from the Petition Date through the date of entry of the Recognition Order, including:

(A) Recognition and enforcement of the Initial Order in the United States, on a provisional basis, providing for, among other things:

1. staying all proceedings, investigations, and remedies taken or that might be taken in respect of the Debtors or any of their Property (as defined in the Initial Order) for the Stay Period, to the same extent provided in the Initial Order;
2. staying all proceedings, investigations, and remedies taken or that might be taken in respect of the Non-Debtor Stay Parties or any of their Property for the Stay Period, to the same extent provided in the Initial Order;
3. granting the Administration Charge against the Debtors’ and the Non-Debtor Stay Parties’ Property in the territorial jurisdiction of the United States to the same extent provided in the Initial Order;
4. granting the Directors’ Charge against the Debtors’ and the Non-Debtor Stay Parties’ Property in the territorial jurisdiction of the United States to the same extent provided in the Initial Order; and
5. granting the DIP Lender’s Charge against the Debtors’ and the Non-Debtor Stay Parties’ Property in the territorial jurisdiction of the United States to the same extent provided in the Initial Order.

(B) Recognizing the Foreign Representative as the representative of the Debtors within these Chapter 15 Cases with authority to administer the Debtors’ assets and affairs in the United States as set forth in the orders entered by this Court.

(C) Applying section 362 to each of the Debtors and the Non-Debtor Stay Parties and the Property of each of the Debtors and the Non-Debtor Stay Parties within the territorial jurisdiction of the United States. For the avoidance of doubt and without limiting the generality of the foregoing, the Provisional Relief Order shall impose a stay within the territorial jurisdiction of the United States of:

1. The execution of the Debtors' and the and the Non-Debtor Stay Parties' assets;
2. The commencement or continuation, including the issuance or employment of process of, any judicial, administrative, investigatory or any other action or proceeding involving or against the Debtors or the Non-Debtor Stay Parties or their assets or proceeds thereof, or to recover a claim or enforce any judicial, quasi-judicial, regulatory, administrative or other judgment, assessment, order, lien or arbitration award against the Debtors or and the Non-Debtor Stay Parties or their assets or proceeds thereof, or to exercise any control over the Debtors' or the Non-Debtor Stay Parties' assets located in the United States except as authorized by the Debtors or the Non-Debtor Stay Parties in writing;
3. The creation, perfection, seizure, attachment, enforcement, or execution of liens or judgments against the Debtors' or the Non-Debtor Stay Parties' Property in the United States or from transferring, encumbering or otherwise disposing of or interfering with the Debtors' or the Non-Debtor Stay Parties' assets or agreements in the United States without the express consent of the Foreign Representative;
4. Any act to collect, assess, or recover a claim against any of the Debtors or the Non-Debtor Stay Parties that arose before the commencement of the Chapter 15 Cases; and
5. The setoff of any debt owing to any of the Debtors or the Non-Debtor Stay Parties that arose before the commencement of the Chapter 15 Cases against any claim against the Debtors or the Non-Debtor Stay Parties.

(D) Finding section 364 applicable with respect to each of the Debtors and the Non-Debtor Stay Parties and their respective Property that is within the territorial jurisdiction of the United States. For the avoidance of doubt and without limiting the generality of the foregoing, the Provisional Relief Order shall, without limitation:

1. Grant liens and security interests in the Debtors' and the Non-Debtor Stay Parties' Property located within the territorial jurisdiction of the United States pursuant to section 364(d)(1) in respect of, and in accordance with, the Administration Charge, Directors' Charge, and DIP Lenders' Charge; and
2. Find that any loans made by the DIP Lender in accordance with the DIP Loan Agreement prior to the entry of the Recognition Order shall be extended in "good faith" as contemplated by sections 363(m) and 364(e), such that the validity of DIP Loans, and the priority of the DIP Lenders' Charge in respect of the Debtors' and the Non-Debtor Stay Parties' Property located within the territorial jurisdiction of the United States shall not be affected by any reversal or modification of the



Provisional Relief Order on appeal or the entry of an order denying the Debtors' request for entry of the Recognition Order.

- (E) Granting the Foreign Representative the rights and protections to which the Foreign Representative is entitled under chapter 15 of the Bankruptcy Code, including, but not limited to, the protections limiting the jurisdiction of United States Courts over the Foreign Representative in accordance with section 1510 and the granting of additional relief in accordance with sections 1519(a)(3) and 1521.
- (F) Providing that notwithstanding any provision in the Bankruptcy Rules to the contrary, (i) the Provisional Relief Order shall be effective immediately and enforceable upon entry, (ii) the Foreign Representative is not subject to any stay in the implementation, enforcement, or realization of the relief granted in the Provisional Relief Order, and (iii) the Foreign Representative is authorized and empowered, and may, in its discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of the Provisional Relief Order.

#### V. **BASIS FOR RELIEF REQUESTED**

37. As set forth below, the Provisional Relief in the form and manner requested in this Motion has been granted in chapter 15 cases in this district. *See, e.g., In re NextPoint Fin. Inc.*, No. 23-10983 (Bankr. D. Del. July 27, 2023) [D.I. 39] (order granting provisional relief without first entering temporary restraining order); *NewSat Limited*, No. 15-10810 (Bankr. D. Del. Apr. 16, 2015), [D.I. 21 and 80] (entering *ex parte* temporary restraining order on date of chapter 15 filing and then, after notice and contested hearing, entering preliminary injunction pending recognition hearing); *In re Electro Sonic Inc.*, No. 14-10240 (Bankr. D. Del. Feb. 11, 2014), [D.I. 18] (*ex parte* provisional relief ordered to stay actions against U.S. assets of Canadian debtor from chapter 15 case commencement through recognition).

38. The Foreign Representative has contemporaneously filed the Verified Petition and the Recognition Motion, seeking entry of a final order that the Canadian Proceedings are foreign main proceedings under section 1517. Section 1519 permits the Court “[f]rom the time of filing a petition for recognition until [it] rules on the petition” to grant provisional relief pending recognition of the foreign proceeding where such relief is “urgently needed to protect the assets

of the debtor or the interests of the creditors.” 11 U.S.C. § 1519(a). Sections 1519(a)(1)–(3) define the scope of available provisional relief, which includes:

- (A) staying execution of the Debtors’ assets;
- (B) entrusting the administration or realization of all or part of the Debtors’ assets located in the United States to the foreign representative, or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and
- (C) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).<sup>5</sup>

39. Here, the Foreign Representative seeks, among other things, provisional relief under sections 105(a) and 1519. Specifically, the Foreign Representative seeks imposition of sections 362 for the purpose of maintaining the status quo until the Court rules on the Debtors’ Verified Petition and Recognition Motion.

40. The Provisional Relief requested here is an “effective mechanism” to implement the chapter 15 policies of promoting cooperation between courts of the United States and courts of foreign countries involved in cross-border restructuring cases. The “fair and efficient administration of cross border [cases] that protects the interest of all creditors, and other interested entities,” including the Debtors, is essential to the “protection and maximization of the value of the [Debtors’] assets.” 11 U.S.C. § 1501(a).

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<sup>5</sup> Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter [11 U.S.C. §§ 1501-1532] and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

\* \* \*

(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a) [11 U.S.C. § 1520(a)];

(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor’s assets, affairs, rights, obligations or liabilities; [and]

\* \* \*

(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a) [11 U.S.C. §§ 522, 544, 545, 547, 548, 550, and 724(a)].

11 U.S.C. §1521(a).

41. Bankruptcy courts have commonly imposed the section 362 stay or ordered similar relief to maintain the status quo pending recognition or disposition of foreign proceedings in ancillary cases under both chapter 15 of the Bankruptcy Code, including in respect of recognition proceedings that relate to restructurings of corporations in Canadian courts. *See, e.g., In re NextPoint Fin. Inc.*, No. 23-10983, (Bankr. D. Del. July 27, 2023) [D.I. 39] (granting provisional relief and extending section 362 through recognition only one day after filing of chapter 15 petitions); *In re Acerus Pharms. Corp.*, No. 23-10111 (Bankr. D. Del. Jan. 31, 2023) [D.I. 25] (granting provisional relief under section 362); *In re Yatsen Grp. Of Cos. Inc.*, No. 21-10073 (Bankr. D. Del. Jan. 27, 2021) [D.I. 23] (same); *In re Hematite Holdings Inc.*, No. 20-12387 (Bankr. D. Del. Sept. 23, 2020) [D.I. 10] (same); *In re CDS Holdings, Inc.*, No. 20-11719 (Bankr. D. Del. July 2, 2020) [D.I. 37] (same); *In re DAVIDsTEA Inc.*, No. 20-11802 (Bankr. D. Del. July 9, 2020) [D.I. 21] (same); *In re Lone Pine Res. Inc.*, No. 13-12487 (Bankr. D. Del. Sept. 26, 2013) [D.I. 18] (same); *In re Just Energy Grp. Inc.*, No. 21-30823 (Bankr. S.D. Tex. Mar. 9, 2021) [D.I. 23] (same); *In re Essar Steel Algoma Inc.*, No. 15-12271 (Bankr. D. Del. Nov. 10, 2015) [D.I. 35-3] (same).

**A. The Court Should Grant the Foreign Representative’s *Ex Parte* Motion for a Temporary Restraining Order Pending a Hearing on the Provisional Relief Order.**

42. This Motion seeks the TRO to protect the Debtors, the Non-Debtor Stay Parties, and their respective assets during the period between the commencement of these cases and entry of the Provisional Relief Order. The United States Supreme Court has held that *ex parte* restraining orders may be issued to preserve “the status quo only for so long as is necessary to hold a hearing.” *See Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local 70*, 415 U.S. 423, 439 (1974). Rule 65(b) of the Federal Rules, made applicable by Bankruptcy Rule 7065, requires that to obtain an *ex parte* temporary restraining order, the applicant must

show that “immediate and irreparable injury, loss or damage would result to the applicant before the adverse party or that party’s attorney can be heard in opposition.” *In re Vuitton et Fils S.A.*, 606 F.2d 1, 4 (2d Cir. 1979); *see also In re Prudential Lines. Inc.*, 107 B.R. 832, 835 n.4 (Bankr. S.D.N.Y. 1989) (granting temporary restraining order where moving party established “summary showing of its necessity in order to prevent immediate and irreparable injury”).

43. Moreover, courts have not required full or literal compliance with Rule 65(b) requirements, in respect of provisional relief under section 1519. For example, provisional relief can be ordered on an *ex parte* basis at case commencement through and pending recognition without the need for a preliminary injunction hearing or the filing of an adversary proceeding. *See In re NextPoint Fin. Inc.*, No. 23-10983, [D.I. 39] (Bankr. D. Del. July 27, 2023) (granting provisional relief pending recognition only one day after filing of chapter 15 petitions); *In re Daehan Shipbuilding Co., Ltd.*, No. 14-12391 (Bankr. S.D.N.Y. Aug. 21, 2014) [D.I. 3 & 8] (provisional relief ordered in single step within three days of chapter 15 commencement through recognition); *In re Electro Sonic Inc.*, No. 14-10240 (Bankr. D. Del. Feb. 11, 2014) [D.I. 18] (*ex parte* provisional relief ordered to stay actions against U.S. assets of Canadian debtor from chapter 15 case commencement through recognition); *see also In re Pro-Fit Holdings, Ltd.*, 391 B.R. 850, 860-65 (Bankr. C.D. Cal. 2008) (applying section 362 provisionally, pending recognition, and noting that because section 362 relief was being sought, no adversary was required and rules applicable to ordinary issuance of an injunction were inapplicable).

44. The issuance of an *ex parte* temporary restraining order, *nunc pro tunc* to the Petition Date, is appropriate in these cases as the Debtors and the Non-Debtor Stay Parties are in need of immediate relief following the issuance of the Initial Order. Without a provisional stay of all proceedings against the Debtors and the Non-Debtor Stay Parties and their assets (including

the Litigation (defined below) in the territory of the United States, the purpose of the Canadian Proceedings will be frustrated by allowing certain creditors to be improperly preferred and by interfering with the Debtors' and Non-Debtor Stay Parties' assets and business operations in violation of the stay granted under the Initial Order by the Canadian Court. The commencement of the Canadian Proceedings and these Chapter 15 Cases is expected to be newsworthy and generate public awareness. This poses a greater-than-usual risk of launching a "race to the courthouse."

45. Although certain of the Debtors' secured lenders have negotiated cooperatively in regards to the in-court restructuring, there are both secured and unsecured creditors who have become aware of the Debtors' now-public circumstances and may seek to initiate enforcement action against the Debtors. Further, the Debtors hold a significant portion of their valuable assets and business operations in the United States. Absent the Provisional Relief, certain secured and unsecured creditors of the Debtors who are aware of the Canadian Proceedings may initiate action against the Debtors' or the Non-Debtor Stay Parties' assets in the United States (or other legal action) or counterparties to contracts may seek to terminate them or commence remedial or actions to rescind under those contracts in violation of the stay in the Canadian Proceedings. Considering the overall significance of the U.S. operations and consolidation of the enterprise, any disruption caused by actions of creditors or counterparties would not be isolated to the United-States-based businesses.

46. In addition, continuation of existing litigation or commencement of additional litigation against the Debtors or the Non-Debtor Stay Parties in the United States will distract the Debtors' management at a critical juncture in the Debtors' restructuring and increase defense costs to the detriment of all creditors.

47. Due to these risks, the Initial Order imposed a broad stay protective of the Debtors and the Non-Debtor Stay Parties and their assets. Commencement or continuation of litigation against the Debtors and Non-Debtor Stay Parties and their assets in the United States violates this stay. The requested relief is, therefore, among other things, in aid of the requirements of the Initial Order granted in the Canadian Proceedings by the Canadian Court.

**B. The Provisional Relief Order Is Urgently Needed to Protect the Debtors' Assets and Restructuring Efforts.**

48. The Provisional Relief Order is sought to protect the Debtors' assets and the interests of their creditors as a going concern until a Recognition Order is granted by this Court. *See* 11 U.S.C. § 1519(a). Because a chapter 15 debtor is not automatically entitled to the protection of the automatic stay under section 362 or any other provisions of the Bankruptcy Code, the Debtors urgently need an order granting provisional relief, with relief effective *nunc pro tunc* to the Petition Date. As set forth above, without the limited application of section 362, there is a real and significant risk that certain of the Debtors' stakeholders, many of whom are located within the United States and are subject to personal jurisdiction of this Court but who may not be subject to the personal jurisdiction of the Canadian Court, may commence actions in the United States that are more properly the subject of the Canadian Proceedings or that could interfere with the Canadian Proceedings.

49. These risks are precisely what provisional relief under section 1519 is intended to address. *See, e.g., In re Calpine Corp.*, 354 B.R. 45, 48–50 (Bankr. S.D.N.Y. 2006) (finding debtor would suffer irreparable harm to its reorganization if litigation was not stayed); *In re Petition of Garcia Avila*, 296 B.R. 95, 114 (Bankr. S.D.N.Y. 2003) (finding that debtors would suffer irreparable harm if local creditors sought to interfere with reorganization process); *In re MMG, LLC*, 256 B.R. 544, 555 (Bankr. S.D.N.Y. 2000) (“[I]rreparable harm exists whenever

local creditors of the foreign debtor seek to collect their claims or obtain preferred positions to the detriment of other creditors.”).

50. As discussed, an action against any of the Debtors or the Non-Debtor Stay Parties, including involving the Debtors’ or the Non-Debtor Stay Parties’ U.S. assets, at this time would severely impair the Debtors’ restructuring efforts and result in damage to the value of their assets and harm to other creditors and other stakeholders. Certain of the U.S. Debtors are defendants in certain pending litigation (the “Litigation”). A list of the Litigation and the relevant parties thereto is attached as **Exhibit C**. If the Litigation is permitted to proceed until the recognition of the Canadian Proceedings, the Debtors will be subject to increasing costs and potential judgements that would be detrimental to the Debtors and, ultimately, the Debtors’ other creditors. Accordingly, any judgement against any of the Debtors or Non-Debtor Stay Parties at this time would severely impair the Debtors’ restructuring efforts and result in damage to the value of their assets and harm to other creditors and other stakeholders. *See In re BioSteel Sports Nutrition Inc.*, No. 23-90777 (Bankr. S.D. Tex. Oct. 11, 2023) [D.I. 46] (recognizing CCAA proceeding as foreign main proceeding and all effects of recognition, including stay granted to non-debtor party).

### **C. The Requested Relief Meets the Standard for a Preliminary Injunction.**

51. Provisional relief under chapter 15 of the Bankruptcy Code is conditioned on a foreign representative demonstrating that a debtor meets the standards applicable to an injunction. *See* 11 U.S.C. § 1519(e). Courts have held that “where there is a showing that the action sought to be enjoined would burden, delay or otherwise impede the reorganization proceedings or if the stay is necessary to preserve or protect the debtor’s estate or reorganization prospects, the Court may issue injunctive relief.” *See Rosetta Res. Operating LP v. Pogo Producing Co. (In re Calpine*

*Corp.*), Nos. 05-60200 (BRL), 06-1757 (BRL), 2007 Bankr. LEXIS 2025 (Bankr. S.D.N.Y. Apr. 30, 2007); *see also, In re Innua Can., Ltd.*, No. 09-16362 (DHS), 2009 Bankr. LEXIS 994 (Bankr. D.N.J. Mar. 25, 2009) (ordering provisional stay applying section 362(a) where provisional stay necessary to prevent “further dissipation of assets”). In the Third Circuit, the standard requires a movant to show that: (a) it has a likelihood of success on the merits; (b) it will suffer irreparable harm if the requested injunction is denied; (c) granting preliminary relief will not result in greater harm to the nonmoving party; and (d) the public interest favors such relief. *In re Nortel Networks UK Ltd.*, 538 B.R. 699, 704–05 (Bankr. D. Del. 2015) (citing *United States v. Bell*, 414 F.3d 474, 478 n.2 (3d Cir. 2005)); *see also Rogers v. Corbett*, 468 F.3d 188, 192 (3d Cir. 2006); *Kos Pharms., Inc. v. Andrx Corp.*, 369 F.3d 700, 708 (3d Cir. 2004). As set forth in the Memorandum of Law in support of this Motion filed contemporaneously herewith, the granting of immediate provisional relief is appropriate here as the Debtors satisfy the applicable standard.

## **VI. SECURITY**

52. The Debtors are not required to provide any security in connection with the injunctive relief sought herein. *See* Fed. R. Bankr. P. 7065 (“Rule 65 . . . applies in adversary proceedings, except that a temporary restraining order or preliminary injunction may be issued on application of a debtor, trustee, or debtor in possession without compliance with Rule 65(c)”).

## **VII. WAIVER OF BANKRUPTCY RULE 1007(A)(4)(B)**

53. Contemporaneously with the filing of this Motion, the Foreign Representative filed the Lists Pursuant to Federal Rules of Bankruptcy Procedure 1007(a)(4) and 7007.1 (“Bankruptcy Disclosures”) on a consolidated basis. Among other things, Bankruptcy Rule 1007(a)(4)(B) requires a list of all entities against whom provisional relief is being sought under section 1519, unless the court orders otherwise. As set forth in this Motion and as reflected in the



Bankruptcy Disclosures, the Foreign Representative seeks provisional application of the stay similar to that available under section 362 that would specifically, but not exclusively, affect those parties. The relief sought herein could likewise affect other parties to the extent any party might commence litigation against the Debtors or enforce against their property.

54. The disclosure provided in the Bankruptcy Disclosures with respect to this Motion is sufficient to satisfy Bankruptcy Rule 1007(a)(4)(B). However, and given that other, unknown parties may be affected, the Foreign Representative also requests that the Court waive any further requirement under Bankruptcy Rule 1007(a)(4)(B) with respect to the provisional relief sought by this Motion as applied to parties that will be generally affected by the provisional relief order, especially in light of the extensive number of parties that the Debtors did include in the Bankruptcy Disclosures.

#### VIII. NOTICE

55. The Foreign Representative respectfully requests that this Court, by means of the proposed TRO attached as **Exhibit A**, grant immediate *ex parte* relief to the Debtors in accordance with Rule 65(b)(1) of the Federal Rules. The Foreign Representative further respectfully requests that this Court schedule a hearing on entry of the Provisional Relief Order in accordance with Rule 65 of the Federal Rules (such date, the "Hearing Date"). The Foreign Representative proposes that once a Hearing Date has been set by the Court, the Foreign Representative will provide notice of this Motion consistent with Bankruptcy Rule 2002(q) and Local Rule 9013-1(m), as further set forth in the *Motion for Order (A) Scheduling Hearing on Recognition of Chapter 15 Petitions, (B) Specifying Form and Manner of Service of Notice, (C) Authorizing Redaction of Certain Personally Identifiable Information of Individual Stakeholders, and (D) Granting Related Relief* ("Notice Procedures Motion"), filed contemporaneously with this Motion. The Foreign

Representative intends to provided notice of this motion to: (a) the U.S. Trustee; (b) the Offices of the Attorney General for the states in which any of the Debtors conduct business; (c) the administrative agents to the prepetition credit agreements and counsel thereto; (d) all persons or bodies authorized to administer the Canadian Proceedings; (e) all parties to litigation pending in the United States to which any of the Debtors is a party as of the Petition Date; (f) all secured creditors of the Debtors; (g) the thirty (30) largest unsecured creditors of the Debtors in these cases; (h) the Debtors; (i) the PBGC; (j) all other parties against whom the Foreign Representative is seeking Provisional Relief; and (k) all other parties that have requested notice in these cases pursuant to Bankruptcy Rule 2002. Notice of this Motion and any order entered hereon will be served in accordance with Rule 9013-1(m) of the Local Rules. In light of the nature of the relief requested, the Foreign Representative respectfully submits that no further notice is necessary.

**IX. NO PRIOR REQUEST**

56. No prior request for the relief sought in the motion has been made by the Foreign Representative to this or any other court.

**X. CONCLUSION**

WHEREFORE, the Foreign Representative respectfully requests that this Court enter the TRO, substantially in the form attached hereto as **Exhibit A** and the Provisional Relief Order, substantially in the form attached hereto as **Exhibit B**, granting the requested relief and such other and further relief as may be just and proper.

*[space intentionally left blank]*

Dated: January 15, 2024  
Wilmington, Delaware

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*Counsel to the Foreign Representative*

**EXHIBIT A**

TRO

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

Black Press Ltd., *et al.*,<sup>1</sup>

Debtors in a Foreign Proceeding.

Chapter 15

Case No. 24-10044 (MFW)

(Joint Administration Requested)

Re: D.I. \_\_\_\_\_,

**TEMPORARY RESTRAINING ORDER**

Upon consideration of the *Ex Parte Motion for Provisional Relief in the Form of a Temporary Restraining Order, and After Notice and a Hearing, an Order for Provisional Relief Under Section 1519 of the Bankruptcy Code* [D.I. \_\_\_] (“Motion”) and accompanying *Memorandum of Law in Support of Ex Parte Motion for Provisional Relief in the Form of a Temporary Restraining Order, and After Notice and a Hearing, an Order for Provisional Relief Under Section 1519 of the Bankruptcy Code* [D.I. \_\_\_] (“Memorandum”) filed by Black Press Ltd. (“BP Holdco”) in its capacity as the duly-appointed foreign representative (“Foreign Representative”) of the above-captioned debtors (collectively, the “Debtors”) seeking entry of an order granting provisional relief (“Order”) under the Bankruptcy Code to protect the Debtors and non-debtors Black Press (Barbados) Ltd., Whidbey Press (Barbados) Inc., Black Press Delaware LLC, and Black Press Group Oregon LLC (collectively, the “Non-Debtor Stay Parties” and together with the Debtors, the “Company”) and their respective property within the territorial jurisdiction of the United States pending recognition of the Debtors’ proceedings currently pending

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<sup>1</sup> The Debtors in these chapter 15 cases, along with the last four digits of each Debtor's federal tax identification number (or BN as applicable), include: Black Press Group Ltd. (BN 8464); Sound Publishing Inc. (TIN 6047); The Beacon Journal Publishing Company (TIN 5666); Black Press Ltd. (BN 4084); Sound Publishing Holding Inc. (TIN 6047); 311773 BC Ltd. (BN 3265); Sound Publishing Properties, Inc. (TIN 6047); Oahu Publications, Inc. (TIN 3529); San Francisco Print Media Company (TIN 0940); Central Web Offset Ltd. (BN 5111); 0922015 B.C. Ltd. (BN 4906); and WWA (BPH) Publications, Inc. (TIN 7876). The location of the Debtors’ corporate headquarters and service address is: 15288 54a Ave #208, Surrey, British Columbia, Canada V3S 5X7.

in Canada pursuant to the CCAA (“Canadian Proceedings”), effective *nunc pro tunc* to the Petition Date; as well as upon this Court’s review and consideration of the (a) Chapter 15 Petition [D.I. 1, \_\_\_], (b) Hargreaves Declaration [D.I. \_\_\_], (c) Bornstein Declaration [D.I. \_\_\_], and (d) Tarr Declaration [D.I. \_\_\_] (collectively with the Hargreaves Declaration and Bornstein Declaration, the “Declarations”)<sup>2</sup>; and appropriate, sufficient, and timely notice of the Motion and the hearing thereon having been given pursuant to Bankruptcy Rules 1012(b) and 2002(q) and Local Rule 9013-1(m); and upon the record established at such hearing; and it appearing to the Court that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors; and there being no objections or other responses filed that have not been overruled, withdrawn, or otherwise resolved; and after due deliberation and sufficient cause therefore,

**THE COURT FINDS AND CONCLUDES AS FOLLOWS:**

A. This Order constitutes the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to these chapter 15 cases pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are hereby adopted as such.

B. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 & 1334.

C. This is a core proceeding under 28 U.S.C. § 157(b)(2)(P).

D. Venue is proper in this district under 28 U.S.C. § 1410.

E. This Court may enter a final order consistent with Article III of the United States Constitution.

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Verified Petition, the Initial Order, the Declarations, and the Motion, as applicable.

F. There is a substantial likelihood that the Foreign Representative will successfully demonstrate that the Canadian Proceedings constitute a “foreign main proceeding” as defined in 11 U.S.C. § 1502(4).

G. This Court, pursuant to 11 U.S.C. §§ 105(a), 1507, 1519, and 1521, may issue any order as may be necessary and appropriate to carry out the provisions of the Bankruptcy Code, including without limitation issuing a temporary restraining order.

H. Consistent with findings by the Canadian Court and relief granted under the Initial Order, unless a temporary restraining order is issued with respect to the Company, and to the same extent provided in the Initial Order, there is a material risk that the Company’s creditors or other parties-in-interest in the United States could use the Canadian Proceedings and these chapter 15 cases as a pretext to exercise certain remedies with respect to the Company.

I. Such acts would (i) interfere with the jurisdictional mandate of this Court under chapter 15 of the Bankruptcy Code, (ii) interfere with and cause harm to the Company’s efforts to administer the Canadian Proceedings, (iii) interfere with the Company’s operations, and (iv) undermine the Company’s efforts to achieve an equitable result for the benefit of all of the Company’s creditors. Accordingly, there is a material risk that the Company may suffer immediate and irreparable injury, and it is therefore necessary and appropriate that the Court enter this Order.

J. From specific facts set forth in the Verified Petition and by the Motion, it appears that:

- i. Immediate, and irreparable injury, loss or damage would result to the Company before the adverse parties or those parties’ attorneys can be heard in opposition;
- ii. If the Court does not grant the relief sought by the Company, the Company will suffer litigation prejudice, distraction of key personnel, and diminution of property; and

iii. Granting the relief requested by the Foreign Representative is in the best interest of the Company, their creditors, and other parties in interest.

K. All relief granted in this Order is necessary to effectuate the purpose of chapter 15 of title 11 of the United States Code and to protect the assets of the Company and the interests of its creditors.

L. All creditors and other parties in interest, including the Company, are sufficiently protected in the grant of the relief ordered hereby in compliance with 11 U.S.C. § 1522(a).

M. The interest of the public will be served by this Court's entry of this Order.

**NOW, THEREFORE, IT IS HEREBY ORDERED:**

1. The Motion is **GRANTED** as provided herein.

2. A temporary restraining order is issued on this \_\_\_\_\_ day of January, 2024, at \_\_\_\_\_ a.m./p.m. ("TRO Date"), without notice, applying 11 U.S.C. § 362(a) to the Debtors' and the Non-Debtor Stay Parties' assets and enjoining all persons and entities, and all those acting for or on their behalf, from taking the following actions in the United States and its territories:

(a) executing against or further attaching or arresting any Property (as defined in the Initial Order) of the Debtors and the Non-Debtor Stay Parties, except as explicitly provided in the Initial Order;

(b) commencing or continuing any litigation or any action or taking any other actions against or involving the Debtors, the Non-Debtor Stay Parties, or any of the Company's assets, rights, obligations or liabilities, except as provided in the Initial Order;

(c) securing or enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment, attachment, order or arbitration award against the Debtors, or the Non-Debtor Stay Parties, or any assets of the Debtors and the Non-Debtor Stay Parties, except as explicitly provided in the Initial Order;

(d) commencing or continuing any action to create, perfect or enforce any lien, setoff, attachment, or other claim against the Debtors, the Non-Debtor Stay Parties, or any of the Company's assets, except as explicitly provided in the Initial Order;

(e) continuing the Litigation or commencing any additional actions in the United States, in any manner, which shall include issuing any discovery;



- (f) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award against the Debtors, the Non-Debtor Stay Parties, or any of the Company's assets; and
- (g) taking any other action that would be in violation of any order of the Canadian Court or this Court,

until either (x) the Provisional Relief Order is entered by this Court at a hearing, or (y) if the Provisional Relief Order is not entered, for a period of **fourteen (14)** days from the TRO Date, without prejudice to the Foreign Representative's ability to seek a further extension of time from the Court.

3. Nothing in this Order shall enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, to the extent set forth in 11 U.S.C. §§ 362(b) and 1521(d).

4. The security provisions of Rule 65(c) of the Federal Rules of Civil Procedure, made applicable herein pursuant to Bankruptcy Rule 7065, are hereby waived.

5. The Foreign Representative and the Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

6. The Foreign Representative shall as soon as practical after entry of this order notify the PBGC of the entry of this Order and notice of the hearing on provisional relief.

7. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. This Court shall retain jurisdiction with respect to all matters arising from or related to the enforcement, implementation, modification, or amendment of this Order, and any additional requests for relief in these chapter 15 cases.

**EXHIBIT B**

Provisional Relief Order

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

Black Press Ltd., *et al.*,<sup>1</sup>

Debtors in a Foreign Proceeding.

Chapter 15

Case No. 24-10044 (MFW)

(Joint Administration Requested)

Re: D.I. \_\_\_\_\_,

**ORDER GRANTING PROVISIONAL RELIEF PURSUANT  
TO SECTION 1519 OF THE BANKRUPTCY CODE**

Upon consideration of the *Ex Parte Motion for Provisional Relief in the Form of a Temporary Restraining Order, and After Notice and a Hearing, an Order for Provisional Relief Under Section 1519 of the Bankruptcy Code* [D.I. \_\_\_\_] (“Motion”)<sup>2</sup> and accompanying *Memorandum of Law In Support of Ex Parte Motion for Provisional Relief in the Form of a Temporary Restraining Order, and After Notice and a Hearing, an Order for Provisional Relief Under Section 1519 of the Bankruptcy Code* [D.I. \_\_\_\_] (“Memorandum of Law”) filed by Black Press Ltd. (“BP Holdco”) in its capacity as the duly-appointed foreign representative (“Foreign Representative”) of the above-captioned debtors (collectively, the “Debtors”) seeking entry of an order granting provisional relief (“Order”) under the Bankruptcy Code to protect the Debtors and non-debtors Black Press (Barbados) Ltd., Whidbey Press (Barbados) Inc., Black Press Delaware LLC, and Black Press Group Oregon LLC (collectively, the “Non-Debtor Stay Parties” and together with the Debtors, the “Company”) and their respective property within the territorial

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<sup>1</sup> The Debtors in these chapter 15 cases, along with the last four digits of each Debtor's federal tax identification number (or BN as applicable), include: Black Press Group Ltd. (BN 8464); Sound Publishing Inc. (TIN 6047); The Beacon Journal Publishing Company (TIN 5666); Black Press Ltd. (BN 4084); Sound Publishing Holding Inc. (TIN 6047); 311773 BC Ltd. (BN 3265); Sound Publishing Properties, Inc. (TIN 6047); Oahu Publications, Inc. (TIN 3529); San Francisco Print Media Company (TIN 0940); Central Web Offset Ltd. (BN 5111); 0922015 B.C. Ltd. (BN 4906); and WWA (BPH) Publications, Inc. (TIN 7876). The location of the Debtors' corporate headquarters and service address is: 15288 54a Ave #208, Surrey, British Columbia, Canada V3S 5X7.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Motion, Memorandum of Law, the Declarations, and the Initial Order, as applicable.

jurisdiction of the United States pending recognition of the Debtors' proceedings currently pending in Canada pursuant to the CCAA ("Canadian Proceedings"), effective *nunc pro tunc* to the Petition Date; as well as upon this Court's review and consideration of the (a) Chapter 15 Petition, (b) Hargreaves Declaration, (c) Bornstein Declaration, and (d) Tarr Declaration (collectively with the Hargreaves Declaration and Bornstein Declaration, the "Declarations"); and appropriate, sufficient, and timely notice of the Motion and the hearing thereon having been given pursuant to Bankruptcy Rules 1012(b) and 2002(q) and Local Rule 9013-1(m); and upon the record established at such hearing; and it appearing to the Court that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors; and there being no objections or other responses filed that have not been overruled, withdrawn, or otherwise resolved; and after due deliberation and sufficient cause therefore,

**THE COURT FINDS AND CONCLUDES AS FOLLOWS:**

A. This Order constitutes the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to these chapter 15 cases pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are hereby adopted as such.

B. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 & 1334.

C. This is a core proceeding under 28 U.S.C. § 157(b)(2)(P).

D. Venue is proper in this district under 28 U.S.C. § 1410.

E. This Court may enter a final order consistent with Article III of the United States Constitution.

F. Notice of the hearing on the Motion was sufficient under the circumstances and no further or other notice of or hearing on the Motion is necessary or required.

G. There is a substantial likelihood that the Foreign Representative will successfully demonstrate that the Canadian Proceedings constitute a “foreign main proceeding” as defined in 11 U.S.C. § 1502(4), and that the Court will determine that the additional relief sought herein, including the relief under 11 U.S.C. §§ 362 and 364, is necessary to effectuate the purpose of chapter 15 and the assets of the Company and the interests of creditors as contemplated by 11 U.S.C. § 1521.

H. The commencement or continuation of any action or proceeding in the United States against the Company should be enjoined pursuant to 11 U.S.C. §§ 105(a) and 1519 to permit the expeditious and economical administration of the Canadian Proceedings, and such relief will either (a) not cause an undue hardship to other parties in interest or (b) any hardship to parties is outweighed by the benefits of the relief requested.

I. Consistent with findings by the Canadian Court and relief granted under the Initial Order, unless a stay is issued with respect to the Company and its assets, and to the same extent provided in the Initial Order, there is a material risk that the Company’s creditors or other parties-in-interest in the United States could use the Canadian Proceedings and these chapter 15 cases as a pretext to exercise certain remedies with respect to the Company.

J. Such acts would (i) interfere with the jurisdictional mandate of this Court under chapter 15 of the Bankruptcy Code, (ii) interfere with and cause harm to the Company’s efforts to administer the Canadian Proceedings, (iii) interfere with the Company’s operations, and (iv) undermine the Company’s efforts to achieve an equitable result for the benefit of all of the Company’s creditors. Accordingly, there is a material risk that the Company may suffer immediate and irreparable injury, and it is therefore necessary and appropriate that the Court enter this Order.

K. The Initial Order provides for, among other things, certain charges and security in the Debtors' Property (as defined in the Initial Order), including the Administration Charge, the Directors' Charge, and the DIP Lender's Charge. Further, the Initial Order authorizes the Company to borrow from the DIP Lenders such amounts from time to time as the Company may consider necessary and desirable up to an aggregate principal amount not exceeding [ ] on the terms and conditions set forth in the DIP Loan Agreement and provides that all of the Property of the Debtors is subject to the DIP Lenders' Charge as security for the DIP Loan (as defined in the Initial Order).

L. Entry of an order of this Court recognizing and enforcing the Initial Order in the United States and applying the DIP Lender's Charge to the Debtors' Property located in the territorial jurisdiction of the United States, is necessary to give effect to the Initial Order as it relates to the Debtors and their Property in the United States and is required by the DIP Loan Agreement.

M. The Foreign Representative has demonstrated that recognition, on a provisional basis, of the incurrence of the indebtedness under the DIP Facility (as defined in the Initial Order) and the granting of liens and charges negotiated in connection with the DIP Facility, as authorized by the Initial Order, is necessary to prevent irreparable harm to the Company. Without such financing, the Company will be unable to continue operations and fund their restructuring and sale proceedings, which will significantly impair the value of the Company and its assets. Further, the amount that the Company has been authorized to borrow pursuant to the Initial Order is reasonably necessary for the continued operations of the Company in the ordinary course of business pending entry of the Recognition Order.

N. The Foreign Representative has demonstrated that recognition, on a provisional basis, that the terms of the DIP Facility, as approved by the Initial Order, are fair and reasonable

and were entered into in good faith by the Debtors and the DIP Lender (as defined in the Initial Order) and that the DIP Lender would not have extended financing without the protections provided by 11 U.S.C. §§ 363(m) and 364, made applicable by 11 U.S.C. § 1519(a)(3). The Foreign Representative has demonstrated that the terms of the DIP Facility are reasonable under the circumstances.

O. All relief granted in this Order is necessary to effectuate the purpose of chapter 15 of the Bankruptcy Code and to protect the assets of the Debtors and the interests of their creditors.

P. The Foreign Representative and the Debtors are entitled to the full protections and rights available pursuant to 11 U.S.C. § 1519(a)(1)-(3).

Q. All creditors and other parties in interest, including the Debtors, are sufficiently protected in the grant of the relief ordered hereby in compliance with 11 U.S.C. § 1522(a).

R. The interest of the public will be served by this Court's entry of this Order.

**NOW, THEREFORE, IT IS HEREBY ORDERED:**

1. The Motion is **GRANTED** as provided herein.
2. Effective *nunc pro tunc* to the Petition Date and continuing until the date of the entry of an order of this Court recognizing the Canadian Proceedings as "foreign main proceedings" as defined in 11 U.S.C. § 1502(4) (unless otherwise extended pursuant to 11 U.S.C. § 1519(b)), with respect to the Company:

(a) The Foreign Representative shall be the representative of the Debtors with full authority to administer the Debtors' assets and affairs in the United States;

(b) 11 U.S.C. § 362 shall apply with respect to the Company and the Property of the Company that is within the territorial jurisdiction of the United States. For the avoidance of doubt and without limiting the generality of the foregoing, this Order shall impose a stay within the territorial jurisdiction of the United States of:

- i. The execution against any of the Company's assets, except as explicitly provided in the Initial Order;

- ii. The commencement or continuation, including the issuance or employment of process of, any judicial, administrative or any other action or proceeding involving or against the Company or its assets or proceeds thereof, or to recover a claim or enforce any judicial, quasi-judicial, regulatory, administrative or other judgment, assessment, order, lien or arbitration award against the Company or its assets or proceeds thereof, or to exercise any control over the Company's assets, located in the United States except as authorized by the Company in writing;
  - iii. The creation, perfection, seizure, attachment, enforcement, or execution of liens or judgments against the Company's Property in the United States or from transferring, encumbering or otherwise disposing of or interfering with the Company's assets or agreements in the United States without the express consent of the Foreign Representative;
  - iv. Any act to collect, assess, or recover a claim against any of the Company that arose before the commencement of the Debtors' chapter 15 cases; and
  - v. the setoff of any debt owing to any of the Company that arose before the commencement of the Debtors' chapter 15 cases against any claim against of the Company.
- (c) 11 U.S.C. § 364 is applicable with respect to each of the Debtors and the Property of the Company that is within the territorial jurisdiction of the United States. For the avoidance of doubt and without limiting the generality of the foregoing, based this Court's record of the relief granted in the Initial Order, this Order, without limitation:
- i. Shall grant liens and security interests in the Debtors' Property located within the territorial jurisdiction of the United States pursuant to 11 U.S.C. § 364(d)(1) on a provisional basis, in respect of, and in accordance with, the Administration Charge, Directors' Charge, and DIP Lender's Charge, to the extent provided in the Initial Order; and
  - ii. Finds any loans made by the DIP Lender in accordance with the DIP Loan Agreement prior to the entry of the Recognition Order are extended in "good faith" as contemplated by 11 U.S.C. §§ 363(m) and 364(e), such that the validity of DIP Loans, and the priority of the DIP Lenders' Charge in respect of the Debtors' Property located within the territorial jurisdiction of the United States, as contemplated by 11 U.S.C. § 363(m), shall not be affected by any reversal or modification of this Order on appeal or the entry of an order denying the Foreign Representative's request for entry of the Recognition Order.
- (d) The Foreign Representative shall have the rights and protections to which the Foreign Representative is entitled under chapter 15 of the Bankruptcy Code, including, but not limited to, the protections limiting the jurisdiction of United



States Courts over the Foreign Representative in accordance with 11 U.S.C. § 1510 and the granting of additional relief in accordance with 11 U.S.C. §§ 1519(a)(3) and 1521; and

- (e) Notwithstanding any provision in the Bankruptcy Rules to the contrary, (i) this Order shall be effective immediately and enforceable upon entry, (ii) the Foreign Representative is not subject to any stay in the implementation, enforcement, or realization of the relief granted in this Order, and (iii) the Foreign Representative is authorized and empowered, and may, in its discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of the Order.
3. The security provisions of Rule 65(c) of the Federal Rules of Civil Procedure, made applicable herein pursuant to Bankruptcy Rule 7065, are hereby waived.
4. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
5. This Court shall retain jurisdiction with respect to all matters arising from or related to the enforcement, implementation, modification, or amendment of this Order, and any additional requests for relief in these chapter 15 cases.

**EXHIBIT 1**

Initial Order



S-240259  
No.  
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

**IN THE MATTER OF BLACK PRESS LTD., 311773 B.C. LTD.,  
AND THOSE ENTITIES LISTED IN SCHEDULE "A"**

**PETITIONERS**

**ORDER MADE AFTER APPLICATION**

**(INITIAL ORDER)**

BEFORE THE HONOURABLE )  
JUSTICE STEPHENS ) January 15, 2024  
)

THE APPLICATION of the Petitioners coming on for hearing at <sup>800 Smith Street,</sup> Vancouver, British Columbia, on the 15<sup>th</sup> day of January, 2024 (the "**Order Date**"); AND ON HEARING Vicki Tickle, Shayna Clarke and Jared Enns, counsel for the Petitioners and the non-petitioner affiliates of the Petitioners listed in Schedule "B" hereto (the "**Non-Petitioner Stay Parties**" and collectively with the Petitioners, the "**Black Press Entities**"), and those other counsel listed on Schedule "C" hereto; AND UPON READING the material filed, including the First Affidavit of Christopher Hargreaves made January [12], 2024 (the "**First Hargreaves Affidavit**"), the consent of KSV Restructuring Inc. to act as the Monitor, the Pre-Filing Report of KSV Restructuring Inc. dated January 12, 2024; AND UPON BEING ADVISED that the secured creditors who are likely to be affected by the charges created herein were given notice; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the "**CCAA**"), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court;

## **THIS COURT ORDERS AND DECLARES THAT:**

### **SERVICE**

1. The time for service of this Notice of Application and supporting materials is hereby abridged such that the Notice of Application is properly returnable today.

### **JURISDICTION**

2. The Petitioners are companies to which the CCAA applies.

### **SUBSEQUENT HEARING DATE**

3. The hearing of the Petitioners' application for an extension of the Stay Period (as defined in paragraph 16 of this Order) and for any ancillary relief shall be held at the Courthouse at 800 Smithe Street, Vancouver, British Columbia at 10am on Thursday, the 25<sup>th</sup> day of January, 2024 or such other date as this Court may order.

### **PLAN OF ARRANGEMENT**

4. The Petitioners shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

### **POSSESSION OF PROPERTY AND OPERATIONS**

5. Subject to this Order and any further Order of this Court, the Petitioners shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (excluding the CIBC Cash Collateral (as defined in the First Hargreaves Affidavit), provided that if and when Canadian Imperial Bank of Commerce releases its security interest in such monies then such monies will automatically and without any further action constitute and be deemed to form part of the Property) (the "**Property**"), and continue to carry on their business (the "**Business**") in the ordinary course and in a manner consistent with the preservation of the Business and the

Property. The Petitioners shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for carrying out the terms of this Order.

### **Cash Management System**

6. The Petitioners shall be entitled to continue to utilize the cash management system currently in place as described in the First Hargreaves Affidavit or, with the prior written consent of the Monitor and the Interim Lender, replace it with another substantially similar central cash management system (the "**Cash Management System**"), and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by any of the Petitioners of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Petitioners, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan (if any) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. Subject to the terms of the DIP Term Sheet and Definitive Documents (both as hereinafter defined), the Petitioners shall be entitled, but not required, to pay the following expenses which may have been incurred prior to the Order Date:

- (a) all outstanding wages, salaries, employee and pension benefits (including long and short term disability payments), vacation pay and expenses (but excluding severance pay) payable before or after the Order Date, in each case incurred in the ordinary course of business and consistent with the relevant compensation policies and arrangements existing at the time incurred (collectively "**Wages**");

- (b) the fees and disbursements of any Assistants retained or employed by the Petitioners which are related to the Petitioners' restructuring, at their standard rates and charges, including payment of the reasonable fees and disbursements of legal counsel retained by the Petitioners, whenever and wherever incurred, in respect of:
  - (i) these proceedings or any other similar proceedings in other jurisdictions in which any of the Petitioners or any subsidiaries or affiliated companies of the Petitioners are domiciled;
  - (ii) any litigation in which any of the Petitioners are named as a party or are otherwise involved, whether commenced before or after the Order Date;
  - (iii) any related corporate matters; and
- (c) with the written consent of the Monitor, amounts owing for goods and services actually supplied to the Petitioners prior to the Order Date, if in the opinion of the Petitioners the supplier is critical to the Business and ongoing operations of the Petitioners, consistent with existing policies and procedures.

8. Except as otherwise provided herein and subject to the terms of the DIP Term Sheet and the Definitive Documents, the Petitioners shall be entitled to pay all expenses reasonably incurred by the Petitioners in carrying on the Business in the ordinary course following the Order Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably incurred and which are necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services, provided that any capital expenditure exceeding \$100,000 shall be approved by the Monitor;
- (b) all obligations incurred by the Petitioners after the Order Date, including without limitation, with respect to goods and services actually supplied to the Petitioners following the Order Date (including those under purchase orders outstanding at the Order Date but excluding any interest on the Petitioners' obligations incurred prior to the Order Date); and

- (c) fees and disbursements of the kind referred to in paragraph 7(b) which may be incurred after the Order Date.

9. The Petitioners are authorized to remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from Wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes or any such claims which are to be paid pursuant to Section 6(3) of the CCAA;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Petitioners in connection with the sale of goods and services by the Petitioners, but only where such Sales Taxes accrue or are collected after the Order Date, or where such Sales Taxes accrued or were collected prior to the Order Date but not required to be remitted until on or after the Order Date; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal property taxes, municipal business taxes or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors.

10. Until such time as a real property lease is disclaimed in accordance with the CCAA, the Petitioners shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease, but excluding, for greater certainty, accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Petitioners or the making of this Order) based on the terms of existing lease arrangements or as otherwise may be negotiated between the Petitioner and the landlord from time to time ("**Rent**"), for the period commencing from and including the Order Date, twice-monthly in equal payments on the first and fifteenth day of the month in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including Order Date shall also be paid.



11. Except as specifically permitted herein, the Petitioners are hereby directed, until further Order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any of the Petitioners to any of their respective creditors as of the Order Date except as authorized by this Order;
- (b) to make no payments in respect of any financing leases which create security interests;
- (c) to grant no security interests, trust, mortgages, liens, charges or encumbrances upon or in respect of any of their Property, nor become a guarantor or surety, nor otherwise become liable in any manner with respect to any other person or entity except as authorized by this Order;
- (d) to not grant credit except in the ordinary course of the Business only to their customers for goods and services actually supplied to those customers, provided such customers agree that there is no right of set-off in respect of amounts owing for such goods and services against any debt owing by the Petitioners to such customers as of the Order Date; and
- (e) to not incur liabilities except in the ordinary course of Business.

## **RESTRUCTURING**

12. Subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Term Sheet and Definitive Documents, the Petitioners shall have the right to:

- (a) permanently or temporarily cease, downsize or shut down all or any part of their Business or operations and commence marketing efforts in respect of any of their redundant or non-material assets and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$500,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and
- (c) pursue all avenues of refinancing for their Business or Property, in whole or part;



all of the foregoing to permit the Petitioners to proceed with an orderly restructuring of the Business (the "**Restructuring**").

13. The Petitioners shall provide each of the relevant landlords with notice of the Petitioners' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Petitioners' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors who claim a security interest in the fixtures, such landlord and the Petitioners, or by further Order of this Court upon application by the Petitioners', the landlord or the applicable secured creditors on at least two (2) clear days' notice to the other parties. If the Petitioners disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any dispute concerning such fixtures (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Petitioners' claim to the fixtures in dispute.

14. If a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then: (a) during the period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours on giving the Petitioners and the Monitor 24 hours' prior written notice; and (b) at the effective time of the disclaimer, the landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims the landlord may have against the Petitioners, or any other rights the landlord might have, in respect of such lease or leased premises and the landlord shall be entitled to notify the Petitioners of the basis on which it is taking possession and gain possession of and re-lease such leased premises to any third party or parties on such terms as the landlord considers advisable, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.

15. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronics Documents Act*, S.C. 2000, c. 5 and Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, and any regulations promulgated under authority of either Act, as applicable (the "**Relevant Enactment**"), the Petitioners, in the course of these proceedings, are permitted

to, and hereby shall, disclose personal information of identifiable individuals in their possession or control to stakeholders, their advisors, prospective investors, financiers, buyers or strategic partners (collectively, "**Third Parties**"), but only to the extent desirable or required to negotiate and complete the Restructuring or to prepare and implement the Plan or transactions for that purpose; provided that the Third Parties to whom such personal information is disclosed enter into confidentiality agreements with the Petitioners binding them in the same manner and to the same extent with respect to the collection, use and disclosure of that information as if they were an organization as defined under the Relevant Enactment, and limiting the use of such information to the extent desirable or required to negotiate or complete the Restructuring or to prepare and implement the Plan or transactions for that purpose, and attorning to the jurisdiction of this Court for the purposes of that agreement. Upon the completion of the use of personal information for the limited purposes set out herein, the Third Parties shall return the personal information to the Petitioners or destroy it. If the Third Parties acquire personal information as part of the Restructuring or the preparation and implementation of the Plan or transactions in furtherance thereof, such Third Parties may, subject to this paragraph and any Relevant Enactment, continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Petitioners.

#### **STAY OF PROCEEDINGS, RIGHTS AND REMEDIES**

16. Until and including January 25, 2024, or such later date as this Court may order (the "**Stay Period**"), no action, suit or proceeding in any court or tribunal (each, a "**Proceeding**") against or in respect of any of the Black Press Entities or the Monitor, or affecting the Business, the Property or the Non-Petitioner Stay Parties' current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Non-Petitioner Stay Parties' Property**"), shall be commenced or continued except with the prior written consent of the Black Press Entities and the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Black Press Entities or affecting the Business, the Property or the Non-Petitioner Stay Parties' Property are hereby stayed and suspended pending further Order of this Court.

17. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of any of the Black Press Entities or the Monitor, or affecting the Business, the Property or the Non-Petitioner Stay Parties'

Property, are hereby stayed and suspended except with the prior written consent of the Black Press Entities and the Monitor or leave of this Court.

18. Nothing in this Order, including paragraphs 16 and 17, shall: (i) empower the Black Press Entities to carry on any business which the Black Press Entities are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest (subject to the provisions of Section 39 of the CCAA relating to the priority of statutory Crown securities); or (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided, however: (a) that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the applicable Black Press Entities; and (b) that any deemed trust claims or other claims of any government agency in Canada or any province or territory thereof or any foreign governmental agency shall not be perfected or rank as secured claims and shall rank as unsecured claims, including pursuant to section 38 of the CCAA.

#### **NO INTERFERENCE WITH RIGHTS**

19. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence, or permit in favour of or held by any of the Black Press Entities, except with the prior written consent of the applicable Black Press Entitie(s) and the Monitor or leave of this Court.

#### **CONTINUATION OF SERVICES**

20. During the Stay Period, all Persons having oral or written agreements with any of the Black Press Entities or mandates under an enactment for the supply of goods and/or services, including without limitation all computer software, communication and other data services, banking services, payroll services, insurance, transportation, utility, or other services, to the Business or any of the Black Press Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, or terminating the supply of such goods or services as may be required by any of the Black Press Entities, and that the Black Press

Entities shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Order Date are paid by the Black Press Entities in accordance with normal payment practices of the Black Press Entities or such other practices as may be agreed upon by the supplier or service provider and the applicable Black Press Entitie(s) and the Monitor, or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

21. Notwithstanding any provision in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the Order Date, nor shall any Person be under any obligation to advance or re-advance any monies or otherwise extend any credit to the Black Press Entities on or after the Order Date. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

22. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against the directors or officers of any of the Black Press Entities with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of any of the Black Press Entities whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Petitioners, if one is filed, is sanctioned by this Court or is refused by the creditors of the Petitioners or this Court. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a director or officer of any of the Black Press Entities that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such Proceeding except for service of the initiating documentation on the applicable director or officer.



## **DIRECTORS AND OFFICERS INDEMNIFICATION AND CHARGE**

23. The Black Press Entities shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the applicable Black Press Entities after the commencement of the within proceedings, except to the extent that, with respect to any director or officer, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

24. The directors and officers of the Black Press Entities shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$10,674,000, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 41 and 43 herein.

25. Notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Black Press Entities' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 23 of this Order.

## **APPOINTMENT OF MONITOR**

26. KSV Restructuring Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Petitioners with the powers and obligations set out in the CCAA or set forth herein, and that the Petitioners and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Petitioners pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

27. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Petitioners' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, the DIP Term Sheet, the Definitive Documents and such other matters as may be relevant to the proceedings herein;
- (c) assist the Petitioners, to the extent required by the Petitioners, in their dissemination, to the Interim Lender (as hereinafter defined) and their counsel, as and when required or permitted under the DIP Term Sheet or the Definitive Documents, of financial and other information as agreed to between the Petitioners and the Interim Lender which may be used in these proceedings including reporting on a basis to be agreed with the Interim Lender;
- (d) advise the Petitioners in their preparation of the Petitioners' cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel as and when required under the DIP Term Sheet and Definitive Documents, or as otherwise agreed to by the Interim Lender;
- (e) advise the Petitioners in their development of the Plan (if any) and any amendments to the Plan;
- (f) assist the Petitioners, to the extent required by the Petitioners, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) monitor all payments, obligations and transfers as between the Petitioners and their affiliates;
- (h) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Petitioners, to the extent that is necessary to adequately assess the Petitioners' business and financial affairs or to perform its duties arising under this Order;

- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (j) assist the Foreign Representative (as defined below) and its legal counsel as may be required to give effect to the terms of this Order; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

28. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Monitor being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

29. Nothing herein contained shall require or allow the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. For greater certainty, the Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

30. The Monitor shall provide any creditor of the Petitioners and the Interim Lender with information provided by the Petitioners in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Petitioners is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Petitioners may agree.

31. In addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the rights and protections afforded the Monitor by the CCAA or any applicable legislation.

#### **ADMINISTRATION CHARGE**

32. The Monitor, counsel to the Monitor, and counsel to the Petitioners shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Petitioners as part of the cost of these proceedings. The Petitioners are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Petitioners on a periodic basis and, in addition, the Petitioners are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Petitioners, retainers, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

33. The Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the British Columbia Supreme Court who may determine the manner in which such accounts are to be passed, including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court.

34. The Monitor, counsel to the Monitor, and counsel to the Petitioners shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$750,000, as security for their



respective fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order which are related to the Petitioners' restructuring. The Administration Charge shall have the priority set out in paragraphs 41 and 43 hereof.

## **INTERIM FINANCING**

35. The Petitioners are hereby authorized and empowered to obtain and borrow under a credit facility (the "**DIP Facility**") from Canso Investment Counsel Ltd. as portfolio manager for and on behalf of Canso Strategic Credit Fund (the "**Interim Lender**") in order to finance the continuation of the Business and preservation of the Property, provided that borrowings under such credit facility shall not exceed the aggregate principal amount of \$500,000 unless permitted by further Order of this Court.

36. The DIP Facility shall be on the terms and subject to the conditions set forth in the term sheet between the Petitioners and the Interim Lender dated as of January 12, 2024 (the "**DIP Term Sheet**"), attached to the First Hargreaves Affidavit, as Exhibit "M".

37. The Petitioners are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Term Sheet or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Petitioners are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the Interim Lender under and pursuant to the DIP Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

38. The Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property up to the maximum amount of \$500,000 (plus accrued and unpaid interest, fees and expenses). The Interim Lender's Charge shall not secure an obligation that exists before this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 41 and 43 hereof.

39. Notwithstanding any other provision of this Order:

- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence and during the continuance of an Event of Default (as defined in the DIP Term Sheet), the Interim Lender, upon 3 business days notice to the Petitioner and the Monitor, may exercise any and all of its rights and remedies against the Petitioners or the Property under or pursuant to the DIP Term Sheet, Definitive Documents and the Interim Lender's Charge, including without limitation, to cease making advances to the Petitioners and set off and/or consolidate any amounts owing by the Interim Lender to the Petitioners against the obligations of the Petitioners to the Interim Lender under the DIP Term Sheet, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Petitioners and for the appointment of a trustee in bankruptcy of the Petitioners; and
- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Petitioners or the Property.

40. The Interim Lender, in such capacity, shall be treated as unaffected in any plan of arrangement or compromise filed by the Petitioners under the CCAA, or any proposal filed by the Petitioners under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

41. The priorities of the Administration Charge, the Directors' Charge and the Interim Lender's Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$750,000);

Second – Directors' Charge (to the maximum amount of \$10,674,000); and

Third – Interim Lender’s Charge (to the maximum amount of \$500,000 plus accrued and unpaid interest, fees and expenses).

42. Any security documentation evidencing, or the filing, registration or perfection of, the Charges shall not be required, and the Charges shall be effective as against the Property and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect any such Charges.

43. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”), in favour of any Person, save and except those claims contemplated by section 11.8(8) of the CCAA. Notwithstanding the foregoing, the Charges shall rank behind Encumbrances in favour of any Persons that have not been served with notice of this application. The Petitioners and the beneficiaries of the Charges shall be entitled to seek priority of the Charges ahead of such Encumbrances on a subsequent application on notice to those parties.

44. Except as otherwise expressly provided herein, or as may be approved by this Court, the Petitioners shall not grant or suffer to exist any Encumbrances over any Property that rank in priority to, or *pari passu* with the Charges, unless the Petitioners obtain the prior written consent of the Monitor, the Interim Lender and the beneficiaries of the Administration Charge and the Directors’ Charge.

45. The Administration Charge, the Directors’ Charge, the DIP Term Sheet, the Definitive Documents and the Interim Lender’s Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and/or the Interim Lender shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings,

incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Petitioners; and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by any of the Petitioners of any Agreement to which any of the Petitioners is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Petitioners entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Petitioners pursuant to this Order, the DIP Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

46. Any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Petitioners’ interest in such real property leases.

#### **SERVICE AND NOTICE**

47. The Monitor shall (i) without delay, publish in *The Globe and Mail* (National Edition) a notice containing the information prescribed under the CCAA, and (ii) within five days after Order Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Petitioners of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

48. The Petitioners and the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Petitioners' creditors or other interested parties at their respective addresses as last shown on the records of the Petitioners and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

49. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to a service list (the "**Service List**") to be maintained by the Monitor. The Monitor shall post and maintain an up to date form of the Service List on its website at: [www.ksvadvisory.com/experience/case/black-press](http://www.ksvadvisory.com/experience/case/black-press).

50. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on its website at: [www.ksvadvisory.com/experience/case/black-press](http://www.ksvadvisory.com/experience/case/black-press).

51. Notwithstanding paragraphs 48 and 49 of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the Federal Crown, and the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, in respect of the British Columbia Crown.

## **GENERAL**

52. The Petitioners or the Monitor may from time to time apply to this Court for directions in the discharge of their powers and duties hereunder.

53. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Petitioners, the Business or the Property.



54. THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Foreign Representative, the Petitioners and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Petitioners in any foreign proceeding, or to assist the Petitioners and the Monitor and their respective agents in carrying out the terms of this Order.

55. Black Press Ltd. is hereby authorized and empowered to act as the foreign representative (the "**Foreign Representative**") in respect of these proceedings for the purpose of having these proceedings recognized in a foreign jurisdiction and 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 and the Foreign Representative is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada, including acting as a foreign representative of the Petitioners to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Code Bankruptcy Code*, 11 U.S.C., §§ 101 – 1532, as amended.

56. The Petitioners may (subject to the provisions of the CCAA and the BIA) at any time file a voluntary assignment in bankruptcy or a proposal pursuant to the commercial reorganization provisions of the BIA if and when the Petitioners determine that such a filing is appropriate.

57. The Petitioners are hereby at liberty to apply for such further interim or interlocutory relief as they deem advisable within the time limited for Persons to file and serve Responses to the Petition.

58. Leave is hereby granted to hear any application in these proceedings on two (2) clear days' notice after delivery to all parties on the Service List of such Notice of Application and all affidavits in support, subject to the Court in its discretion further abridging or extending the time for service.

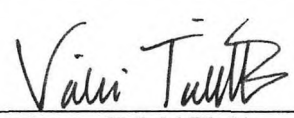
59. Any interested party (including the Petitioners and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to all parties on the Service List and to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order, provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 41 and 43 hereof with respect to any fees, expenses, liabilities and disbursements incurred, as applicable until the date this Order may be amended, varied or stayed.

60. Endorsement of this Order by counsel appearing on this application is hereby dispensed with.

61. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the Order Date.

62. Leave is hereby granted for counsel to appear at future hearings in this matter remotely by video.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



\_\_\_\_\_  
Signature of Vicki Tickle  
Lawyer for the Petitioners

BY THE COURT

  
\_\_\_\_\_  
REGISTRAR

## **SCHEDULE "A"**

### **Petitioners**

#### **A. Canadian Petitioners**

Black Press Ltd.

311773 B.C. Ltd.

Black Press Group Ltd.

0922015 B.C. Ltd.

Central Web Offset Ltd.

#### **B. US Petitioners**

Sound Publishing Holding, Inc.

Sound Publishing Properties, Inc.

Sound Publishing, Inc.

Oahu Publications, Inc.

The Beacon Journal Publishing Company

WWA (BPH) Publications, Inc.

San Francisco Print Media Co.



**SCHEDULE "B"**  
**Non-Petitioner Stay Parties**

Black Press (Barbados) Ltd.

Whidbey Press (Barbados) Inc.

Black Press Delaware LLC

Black Press Group Oregon LLC

**SCHEDULE "C"**  
**LIST OF COUNSEL**

<b>Name of Counsel</b>	<b>Party Represented</b>

## **EXHIBIT C**

### List of Pending Litigation

- *Arora v. Honolulu Star-Advertiser*, Case No. 1:23cv00480 (U.S. District Court of Hawaii)
- *In Re The Estate Of Stonechild Chiefstick Deceased, et al. v. Kitsap County*, Case No. 19-2-03420-18 (Washington Superior Court, Kitsap County)