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COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANTS

**IN THE MATTER OF THE BANKRUPTCY OF
INTERNATIONAL FITNESS HOLDINGS INC.,
INTERNATIONAL FITNESS HOLDINGS LP AND
WORLD HEALTH NORTH LP**

**KPMG INC., IN ITS CAPACITY AS BANKRUPTCY
TRUSTEE**

DOCUMENT

SIXTH REPORT OF THE BANKRUPTCY TRUSTEE

DATE

JULY 15, 2024

ADDRESS FOR SERVICE AND
CONTRACT INFORMATION OF
PARTY FILING THIS DOCUMENT:

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1. INTRODUCTION

1. On April 23, 2021, International Fitness Holdings Inc. (“**IFH Inc**”), International Fitness Holdings LP (“**IFH LP**”), and World Health North LP (“**WHN LP**”) (together the “**Group**” or “**Bankrupt Entities**”) filed a Notice of Intention to Make a Proposal (the “**NOI**”), pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the “**BIA**”), and KPMG Inc. (“**KPMG**”) was appointed as proposal trustee under the proposal (the “**Proposal Trustee**”).
2. The NOI provided the Group with a stay of proceedings until May 23, 2021 (the “**Stay**”).
3. In April, 2021, the Group filed an application with the Court of King’s Bench of Alberta (the “**Court**”) for an Order, *inter alia*, approving interim financing and extending the Stay to May 28, 2021. On April 29, 2021, the Proposal Trustee filed its first report (the “**First Report**”) to provide this Honourable Court with the Proposal Trustee’s views on the above matters.
4. On April 29, 2021, the Province of Alberta announced new COVID restrictions, which directly and negatively impacted the Group’s business and projections and necessitated a revision to the Group’s cash flow forecasts (the “**Revised Cash Flow Forecast**”). As a result, the hearing of the application, which was originally intended to be held on April 30, 2021, was adjourned to May 5, 2021, to allow the Group to update its cash flow forecast and give the Proposal Trustee an opportunity to review and report on the same.
5. On May 3, 2021 the Proposal Trustee filed its first supplemental report (the “**First Supplemental Report**”) providing this Honourable Court with the Revised Cash Flow Forecast and the Proposal Trustee’s views on same.
6. On May 5, 2021, this Honourable Court issued an order approving interim financing (the “**Interim Facility**”) and granting an extension of the Stay to May 28, 2021.
7. On May 21, 2021 the Group filed an application to the Court for an Order, *inter alia*, extending the Stay and seeking approval of a proposed asset sale transaction (the “**Transaction**”). In support of this application the Group provided a second cash flow forecast (the “**Second Cash Flow Forecast**”). Also on May 21, 2021, the Proposal Trustee filed its second report (the “**Second Report**”) and its first confidential supplemental report (the “**First Confidential Supplemental Report**”) to provide this Honourable Court with, *inter alia*, the Proposal Trustee’s views and recommendations on the Transaction and the Second Cash Flow Forecast.

8. On May 27, 2021 this Honourable Court issued an order approving the Transaction and granting an extension of the Stay to June 30, 2021 (the “**Sale and Vesting Order**”).
9. On June 4, 2021 the Proposal Trustee filed its third report (the “**Third Report**”) to provide this Honourable Court with, *inter alia*, the Proposal Trustee’s views on the assignment of certain leases and the activities of the Group and Proposal Trustee since the Second Report.
10. On June 17, 2021, this Honourable Court issued an order approving the assignment of the Canyon Meadows Lease (as described in the Third Report) to Ayrfit Alberta Inc.
11. On June 24, 2021 the Proposal Trustee filed its fourth report (the “**Fourth Report**”) to provide this Honourable Court with, *inter alia*, updates on the status of the Transaction, the proposed administrative consolidation of the estates of IFH Inc, IFH LP and WHN LP, the proposed distribution of proceeds from the Transaction and the Proposal Trustee and the Proposal Trustee’s counsel’s fees and disbursements to July 7, 2021.
12. On June 29, 2021, this Honourable Court issued an order granting a further extension of the Stay until July 7, 2021, approving the administrative consolidation of each company’s estate, approving the proposed distribution of proceeds from the Transaction and approval of the Proposal Trustee and the Proposal Trustee’s counsel’s fees and disbursements to July 7, 2021 (the “**Extension Order**”).
13. The Transaction subsequently closed, and as a result the Group elected not to file a Proposal. Upon the expiration of the Stay on July 7, 2021 the Group was deemed to have made an assignment in bankruptcy pursuant to Section 50.4(8) of the BIA and KPMG was appointed as the trustee-in-bankruptcy (“**Bankruptcy Trustee**”).
14. On April 24, 2023 the Bankruptcy Trustee filed its fifth report (the “**Fifth Report**”) to provide this Honourable Court with updates on the activities of the Bankruptcy Trustee, approval of the Bankruptcy Trustee and Bankruptcy Trustee’s counsels fees (the “**Professional Fees**”), approval of the Final Statement of Receipts and Disbursements (“**SRD**”) from July 8, 2021 to discharge, and the discharge of the Bankruptcy Trustee.
15. On May 4, the Court granted a discharge order (the “**Discharge Order**”) upon application of the Bankruptcy Trustee. The Discharge Order: (a) approved the Professional Fees, (b) approved the SRD as set out in the Fifth Report, (c) provided that the Trustee would be discharged upon the filing of the Trustee’s Certificate attached to the Discharge Order (the “**Trustee’s Certificate**”), and (d)

directed the Trustee to file the Trustee's Certificate upon the completion of several administrative tasks as described in the Fifth Report, including the payment of outstanding Professional Fees, the final distribution to Trifit and CIBC, and receipt of a no-comment letter from the Office of the Superintendent of Bankruptcy ("OSB").

16. For further background information on the Group and these proceedings, please refer to the Proposal Trustee's website at <https://home.kpmg/ca/internationalfitness>.

Purposes of the Report

17. The purpose of this report of the Proposal Trustee (the "**Sixth Report**") in these bankruptcy proceedings (the "**Bankruptcy Proceedings**") which has been prepared to provide this Honourable Court with the following:
 - a) The Bankruptcy Trustee's conclusions, recommendations and information pertaining to the Bankruptcy Trustee's application for an amended discharge order (the "**Amendment of the Discharge and Consolidation Order**"), seeking the following relief:
 - i. To rescind the approval of the Professional Fees;
 - ii. To rescind the approval of the SRD;
 - iii. To rescind the discharge of the Bankruptcy Trustee; and
 - iv. An order directing that the Bankruptcy Proceedings and estates of the Bankrupt Entities be substantively consolidated, as detailed further in this Sixth Report, and be continued under a single estate (each individual estate being an "**Estate**", and the consolidated estate being the "**Consolidated Estate**"), *nunc pro tunc*, effective as of the date of bankruptcy assignment.
 - b) Update on the Bankruptcy Trustee's amended Statement of Receipts and Disbursements from July 8, 2021 to February 13, 2024 (the "**Amended SRD**").

Restrictions and Scope Limitation

18. In preparing this Sixth Report and making the comments herein, the Bankruptcy Trustee has been provided with, and has relied upon, unaudited and other financial information and certain records (together, the “**Information**”) prepared by the Group and/or their representatives, and discussions with Group’s management and/or representatives. The Bankruptcy Trustee has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. The Bankruptcy Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants Handbook, and accordingly, the Bankruptcy Trustee expresses no opinion or other form of assurance in respect of the Information.
19. Some information referred to in this report may consist of forecasts and projections, which were prepared based on management’s estimates and assumptions. Such estimates and assumptions are, by their nature, not ascertainable, and as a consequence, no assurance can be provided regarding the forecasted or projected results. The reader is cautioned that the actual results will likely vary from the forecasts or projections; even if the assumptions materialize, the variations could be significant.
20. The information contained in this report is not intended to be relied upon by any prospective purchaser or investor in any transaction with the Group.
21. Capitalized terms not otherwise defined herein are defined in the Group’s application materials, the Proposal Trustee’s reports or the affidavits of Peter Melnychuk filed in these proceedings.
22. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

2. *ACTIVITIES OF THE BANKRUPTCY TRUSTEE SINCE THE FIFTH REPORT*

Discharge of the Bankruptcy Trustee

23. The Bankruptcy Trustee proposed that its discharge would become effective upon the filing with the Court of the Trustee’s Certificate, which would be filed upon the Companies’ estates having

been fully administered in accordance with s.41(4) of the BIA, including receipt of a no-comment letter from the OSB.

24. In accordance with the Discharge Order, the Bankruptcy Trustee subsequently paid the outstanding Professional Fees and paid the final distribution from the estate to Trifit and CIBC, including the remittance of the Superintendent of Bankruptcy's levy.
25. Upon submitting the final Statement of Receipts and Disbursements for comment and after having discussions with the OSB, the Bankruptcy Trustee was informed by the OSB that the OSB would not provide a no-comment letter due to concerns regarding the process by which the Bankruptcy Trustee sought and obtained the Discharge Order. Therefore, the Bankruptcy Trustee was unable to finalize the bankruptcies of the Group and file the Trustee's Certificate and obtain its discharge in accordance with the Discharge Order.
26. The Bankruptcy Trustee is therefore seeking to rescind the approvals and conditional discharge obtained in the Discharge Order, which will allow the Bankruptcy Trustee to comply with the statutory obligations as set out in the BIA as it relates to the Bankruptcy Trustee's discharge, and so that the administrative matters in these estates can be completed and the Bankruptcy Trustee discharged.

3. SUBSTANTIVE CONSOLIDATION ORDER

Request for Substantive Consolidation of Estates

27. Given the nature of the Bankrupt Entities and how the estates were administered, the administrative consolidation order granted by the Court on June 29, 2021 is insufficient and, therefore, the Bankruptcy Trustee is now seeking a substantive consolidation of the *estates nunc pro tunc*.
28. As noted in the affidavit of Peter Melnychuk dated April 30, 2021, the Bankrupt Entities were created following the amalgamation of International Fitness Holdings and World Health Club. IFH Inc. was the primary entity in the group and acted a general partner of IFH LP and WHN LP. The books and records of the Group shows the Group operated on a consolidated basis under a shared administrative function.

29. The Group's amalgamation and subsequent expansion was supported by borrowings from Trifit and CIBC (the "**Secured Creditors**"); these loans were secured by general security agreements and associated guarantees executed by each entity in the Group. At the date of filing the NOI, the Group owed the Secured Creditors approximately \$73 million.
30. Since its appointment, the Bankruptcy Trustee has been maintaining SRD on a consolidated basis given that the fulcrum creditors in the bankruptcy are the Secured Creditors. Due to a shortfall in the estate funds, no other creditors other than the Secured Creditors were entitled to or received a distribution. The majority of costs associated with the Bankruptcy Proceedings were incurred the Bankruptcy Trustee on a consolidated basis.
31. Accordingly, the Bankruptcy Trustee is seeking approval from this Honourable Court to consolidate the administration of these Bankruptcy Proceedings on a substantive basis, which includes but is not limited to, issuing reporting, realizing on assets, addressing liabilities and handling estate trust funds on a consolidated basis in order to allow for the efficient completion of the Bankruptcy Proceedings. The Bankruptcy Trustee is requesting the Court approve the Substantive Consolidation of the estate of each entity in the Group, effective July 7, 2021 which was the date the Group was assigned into bankruptcy.
32. The Bankruptcy Trustee believes that the substantive consolidation of the Group is a fair and reasonable approach to ensure the administrative costs to each estate is kept to a minimum, given the completion of the administration of the bankrupt estates at this time. The Bankruptcy Trustee also believes that given that the Secured Creditors are the senior creditors of the Bankrupt Entities and the fulcrum creditors, no creditors would be prejudiced by the substantive consolidation of the Estates.

4. REMAINING ACTIVITIES

Process for discharge

33. Following the receipt of the Amendment of the Discharge and Consolidation Order, the Bankruptcy Trustee will proceed with obtaining discharge in accordance with the process as defined in the BIA, as follows:

- a) Publish the Amendment of the Discharge and Consolidation Order on the Bankruptcy Trustee’s website and file with the OSB;
 - b) Submit the Amended Statement of Receipts and Disbursements to the OSB for comment (the “**LOC**”);
 - c) Upon receipt of the LOC from the OSB, proceed with taxation;
 - d) Following taxation, the Bankruptcy Trustee will apply to the Court for discharge, in accordance with the process as defined in the BIA.
34. Accordingly, there is no longer any need for the Bankruptcy Trustee to file the Trustee’s Certificate as required by the Discharge Order. The Bankruptcy Trustee is therefore seeking to be relieved of this obligation.

5. STATEMENT OF RECEIPTS AND DISBURSEMENTS

35. As noted above, the Court previously approved an estimated Statement of Receipts and Disbursements for the Group from July 8, 2021 to discharge. As noted above, the Bankruptcy Trustee is seeking to rescind the approval of this Statement of Receipts and Disbursements.
36. Below is a summary of the final actual receipts and disbursements of the Group from July 8, 2021 to February 13, 2024, which will form the basis of the Amended SRD that the Bankruptcy Trustee will submit to the OSB for comment:

Statement of Receipts and Disbursements	
July 8, 2021 to February 13, 2024	
In CAD (\$)	Amount
Estate receipts	
Sale proceeds received from trust	648,540
Pre-NOI Moneris funds	125,082
Insurance refunds	12,315
Interest	7,943
Sundry receivables	1,990
Tax refund	672
Total receipts	796,541
Estate disbursements	
WEPPA super-priority distributions	(223,785)
NOI trustee's fees and disbursements	(255,835)
Distribution to secured creditors	(153,211)
Legal counsel fees and disbursements	(119,736)
Bankruptcy levy payable	(19,842)
Document shredding	(4,675)
Filing fees	(469)
GST paid	(18,988)
Total disbursements	(796,541)
Total receipts less disbursements	-

37. The Bankruptcy Trustee notes minor variances from the SRD included in the Fifth Report, namely:
- a) Legal counsel fees and disbursements were slightly higher, due to a minor variance in the final billing of legal counsel's final invoice and two invoices totaling \$850 not being included in the SRD;
 - b) Interest was \$3,097 higher than estimated when the Bankruptcy Trustee proceeded to close the estate bank account;
 - c) The Distribution to the Secured Creditors and bankruptcy levy (the "**Bankruptcy Levy**") were slightly higher than estimated, due to the above two variances resulting in more funds being available in the estate bank account.
38. The Bankruptcy Trustee notes that it is not seeking the Court's approval of the Amended SRD at this time. As previously discussed in this report, the Amended SRD will be submitted to the OSB for comment after which the Bankruptcy Trustee will proceed with taxation.

6. RECOMMENDATIONS

39. The Bankruptcy Trustee respectfully requests this Honourable Court grant the Amendment of the Discharge and Consolidation Order approving the following:

- a) To rescind the approval of the Professional Fees;
- b) To rescind the approval of the Statement of Receipts and Disbursements;
- c) To rescind the discharge of the Bankruptcy Trustee; and
- d) An order directing that the Bankruptcy Proceedings and estates of the Bankrupt Entities be substantively consolidated and be continued under a single estate, *nunc pro tunc*, effective as of July 21, 2021, and authorizing and directing the Bankruptcy Trustee to administer the Estates making up the Consolidated Estate on a consolidated basis.

This Report is respectfully submitted this 15th day of July 2024.

KPMG Inc.

**In its capacity as Bankruptcy Trustee of International Fitness Holdings Inc.,
International Fitness Holdings LP and World Health North LP
and not in its personal or corporate capacity**

Per: Huey Lee
Senior Vice President



Per: Jackie Shellon
Vice President