

Court File Number: CV-20-00637081-00CL

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

TRUIST BANK, AS AGENT

Applicant

AND

KEW MEDIA GROUP INC. and KEW MEDIA INTERNATIONAL (CANADA) INC.

Respondents

Case Management Yes No by Judge: Koehnen J.

Counsel	Telephone No:	Email/Facsimile No:
David Bish, Adam Slavens for the Receiver, FTI		
Kenneth Kraft, Robert Kennedy for Truist Bank as agent		
Scott Kerr for the respondents		
Jeffrey Carhart, Jonathan Dyck for Bank of Montreal		
Chris Burr for Argonon Ltd.		
Stephen Brown-Okruhlik for Paul Heaney and Dina Subhani		
Graham Phoenix for the purchaser, Beyond Entertainment Limited		

Order Direction for Registrar (**No formal order need be taken out**)
 Above action transferred to the Commercial List at Toronto (**No formal order need be taken out**)

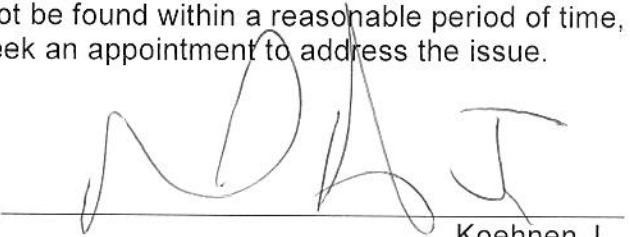
Adjourned to: _____

Time Table approved (as follows): _____

Date Heard: April 14, 2020

1. The Receiver of Kew Media seeks two orders: an order approving the sale of the shares of TCB Media Rights Ltd. owned by the Kew Media Group Inc. to Beyond Entertainment Limited and an order authorizing the Receiver to repay any portion of the principal sums advanced to it pursuant to a borrowing certificate.
2. I am satisfied that both orders should be approved.
3. The Receiver, and Kew Media before it, embarked on a sales process for TCB beginning in January 2020. A total of 99 potentially interested parties were contacted about the sale. They were sent a teaser document which notified them that any interested party who executed a nondisclosure agreement would be given access to a virtual data room. 39 parties executed a nondisclosure agreement. 35 were given access to the virtual data room.
4. The Receiver is of the view that the market for the TCB shares was canvassed sufficiently through this process. Two offers were received. The offer being approved contains a price that is 5% higher than the other offer.
5. I am satisfied that this process complies with the principles set out by the Court of Appeal in *Royal Bank of Canada v Soundair Corp.* (1991), 4 O.R. (3d) one at para. 16. The Receiver and Kew Media have made sufficient effort to obtain the best price and not act improvidently.
6. The lending syndicate is the only secured creditor of Kew. It is likely to suffer a significant shortfall on its indebtedness. As a result, it has the greatest economic interest in achieving the best price arising out of the sale.
7. No one has objected to the process followed to obtain the sale or to the sale itself.
8. The Receiver has borrowed approximately \$800,000 to fund its activities. It seeks authority to repay those borrowings. No one has objected to its request to do so. The Receiver is entitled to repay the amounts it has borrowed.
9. An issue has arisen with the Receiver's ability to distribute the proceeds of sale from the TCB shares. It appears that the original share certificate has not yet been found. As a result, there could be an issue about the law that governs the distribution of the proceeds of sale. The Receiver has undertaken not to distribute the proceeds of sale until the share certificate has been found. Once the share certificate has been found, the Receiver may bring a motion on notice, in writing to authorize the distribution of

proceeds. If the share certificate cannot be found within a reasonable period of time, the Receiver or any other party may seek an appointment to address the issue.



Koehnen J.

April 14, 2020