

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
JUSTICE

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THURSDAY, THE 25th
DAY OF MAY, 2023

BETWEEN:

TRUIST BANK, AS AGENT

Applicant

- and -

**KEW MEDIA GROUP INC. AND KEW MEDIA INTERNATIONAL
(CANADA) INC.**

Respondents

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

ORDER

THIS MOTION, made by Steven Silver, the former CEO of the Respondents, Kew Media Group Inc. and Kew Media International (Canada) Inc. (together, “**KMG**”), and a defendant in the Class Action (as defined below), for an Order, *inter alia*, approving and authorizing the execution of the Appointment and Consent to Defence of Class Action (the “**Appointment**”, as defined in the Notice of Motion) including the terms thereof, to be executed by FTI Consulting Canada Inc. (“**FTI**”) in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”) of all the undertaking, property and assets of KMG acquired for, or used in relation to a business carried on by KMG.

ON READING the Notice of Motion, the Appointment, the Fifth Report of the Receiver, and the affidavits of Luke Devine and Steven Silver, and on hearing the submissions of counsel for Mr. Silver and the Receiver.

1. **THIS COURT ORDERS** that the Appointment is hereby approved, and the Receiver's execution of the Appointment is hereby authorized and approved, with such minor amendments as may be deemed necessary or appropriate by the Receiver.
2. **THIS COURT ORDERS** that, in accordance with the terms of the Appointment, Steven Silver is hereby empowered and authorized without limitation to:
 - (a) on behalf of KMG, conduct the defence of the shareholder class action commenced against KMG, together with certain of KMG's former directors and officers, bearing Court File Number CV-20-00644200CP (the "**Class Action**") in all respects and to represent KMG in the Class Action and in any other related litigation;
 - (b) Without limiting the generality of the foregoing, to instruct Goodmans LLP, or such other counsel as Mr. Silver may appoint, on behalf of KMG with respect to the conduct of the Class Action and in any other related litigation;
 - (c) Undertake and perform all such acts and things and to execute and deliver all such deeds, instruments and agreements as may be necessary, desirable or expedient under or in connection with the defence of the Class Action and any related litigation on behalf of KMG; and

- (d) Appear in the name of KMG and in its stead, and represent KMG, before any competent court, tribunal, legal or public authority or at any out-of-court proceedings, meetings or settlement discussions, including discussions that might involve compromising or settling any claims made against KMG related to the Class Action or any related litigation.
3. **THIS COURT ORDERS AND DECLARES** subject to further Order of the Court, Mr. Silver will not have any personal liability for any obligations of KMG as a result of his acceptance and exercise of the authority given to him in paragraph 2 above and by the Appointment.
4. **THIS COURT ORDERS AND DECLARES** that Mr. Silver shall not be entitled to any payment or other compensation for undertaking the foregoing role and activities.
5. **THIS COURT ORDERS AND DECLARES** that if Mr. Silver is no longer willing or able to act pursuant to the Appointment, a motion may be made by the Defendants to the case management judge in the Class Action to appoint a suitable replacement.
6. **THIS COURT ORDERS AND DECLARES** that neither the Receiver nor FTI shall have any obligations or liability in respect of the Appointment, the exercise by Mr. Silver of the powers and authorizations granted to him hereunder, the Class Action or any related litigation, and neither the Receiver nor FTI shall be required to participate in any way, directly or indirectly, in the defence of the Class Action or any related litigation, or to incur any costs in respect thereof, whether prior to or after the Receiver's discharge, and Mr. Silver shall not request or seek to compel any such participation or incurrence of costs by the Receiver or FTI. Nothing in this Order or in Mr. Silver's exercise of the powers and
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authorizations granted to him hereunder shall affect or delay the Receiver's discharge or the termination of the receivership proceedings.



TRUIST BANK, AS AGENT - and - KEW MEDIA GROUP INC. AND KEW MEDIA INTERNATIONAL (CANADA) INC.

Court File No: CV-20-00637081-00CL

Applicant Respondents

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

Proceeding commenced at Toronto

ORDER

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