



The following is the first article by the latest Business of Sports Network staff member, Jeff Levine - Maury Brown

In a move that illustrated independence, insight and intelligence, Federal Bankruptcy Court Judge Redfield T. Baum denied Billionaire and Blackberry co-CEO Jim Balsillie's offer to buy the Phoenix Coyotes and relocate them to Hamilton Ontario. By denying the June 29th deadline to culminate the sale between Balsillie and current owner and trucking magnate Jerry Moyes, Baum's opinion illustrated his aversion to quickly rule on the issue of relocation. However, a reading of the opinion also illustrated the Judge's skepticism that approving an eventual sale and relocation would turn professional sports on its head.

([See The Biz of Hockey document archive on the Coyotes Chapter 11 and relocation issue](#))

Judge Baum vacated the proposed June 22nd auction date of the financially troubled Phoenix franchise, striking a blow to Balsillie's efforts to circumvent the National Hockey League protocol and move the team to Hamilton, Ontario without consent. Responding to League allegations that Balsillie should not be allowed to use the bankruptcy process to obtain a franchise only to relocate it, Judge Baum stated that a party "can not assume [via the bankruptcy laws] only the benefits of a contract; rather assumption is the entire agreement, benefits and burdens." Judge Baum also invalidated the antitrust argument made by Moyes' attorney, Thomas Salerno, writing that it is not a per se antitrust violation for professional sports leagues to have terms and conditions on relocation of member teams. Judge Baum went on to say that in this case, he "can not find that antitrust law, as applicable nonbankruptcy law, permits the sale free and clear of the relocation rights of the NHL."

Some believe that Judge Baum's rejection of the Balsillie/Moyes proposed timeline of the sale is a victory for the NHL. However, the Judge voiced his skepticism that allowing the franchise to be sold and subsequently moved out of Glendale would "wreak havoc" on professional sports which the NHL, along with the support of the other major sports league, argues. Judge Baum replied to this assertion by opining that, "[f]rom the outside looking in, it appears that each of the leagues has not suffered or been materially damaged when one of its members made a quick and unapproved move...[from one sports market to another]."

League Commissioner Gary Bettman has repeatedly argued that the NHL can be successful in non-traditional hockey markets like Phoenix. He asserts that four ownership groups, including a group led by Jerry Riendsorf intend to bid on the Coyotes and would keep the franchise in Glendale. However, and as Judge Baum astutely pointed out, Balsillie's bid is the only one that has been filed with the Court. Further, support for hockey in the desert may be dwindling, as NHLPA Executive Director Paul Kelly was recently quoted questioning whether it was time to "pull the plug" on the Coyotes.

Underlying Issues?

One should note that in addition to franchise relocation, another underlying issue central in this litigation is the viability of hockey in non-traditional markets within the United States. This strategy was a central component of Commissioner Bettman's blueprint for NHL success when he was plucked from the NBA and tabbed as the League's first commissioner in the early 1990s. This seems to still be a central strategy.

Thus far into his tenure, many of the League's financially floundering franchises have come from these non-traditional markets, including the Nashville Predators and both Florida franchises (the Tampa Bay Lightning and Florida Panthers). As for the Coyotes, Court filings illustrate current owner Jerry Moyes' desperate predicament, as documents show that the franchise has lost hundreds of millions of dollars in operation costs and owe substantial sums of money to creditors since moving to Arizona. At the same time, an interesting legal thread for sports law enthusiasts also present here is the issue of whether the legal system will continue to defer to sports leagues as to their internal on-goings, as the majority of these leagues are voluntary, non for profit entities.

Regardless of the Judge Baum's ultimate ruling in this dispute, expect an immediate appeal. Both parties in this controversy possess significant funds, and therefore can carry this fight until the Supreme Court decides whether to grant certiorari.

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