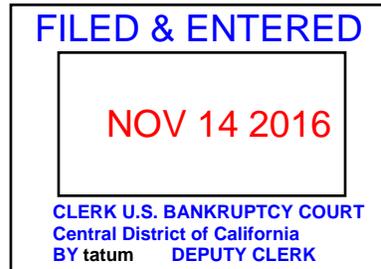


1 DAVID L. NEALE (SBN 141225)
2 J.P. FRITZ (SBN 245240)
3 LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
4 10250 Constellation Blvd., Suite 1700
5 Los Angeles, California 90067
6 Telephone: (310) 229-1234
7 Facsimile: (310) 229-1244
8 Email: DLN@LNBYB.COM; JPF@LNBYB.COM



9 Attorneys for Chapter 11 Debtor
10 and Debtor in Possession

11 **CHANGES MADE BY COURT**
12 **NOT FOR PUBLICATION**
13 **UNITED STATES BANKRUPTCY COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **LOS ANGELES DIVISION**

16 In re:) Case No.: 2:15-bk-15708-RK
17)
18 MICHAEL JOSEPH KILROY,) Chapter 11 Case
19)
20 Debtor and Debtor in Possession.) **ORDER EXTENDING DEBTOR'S**
) **EXCLUSIVITY PERIOD FOR**
) **OBTAINING ACCEPTANCES OF A**
) **PLAN OF REORGANIZATION**
)
) Hearing:
) Date: November 9, 2016
) Time: 11:00 a.m.
) Place: Courtroom 1675
) 255 East Temple Street
) Los Angeles, CA 90012
)

21 A hearing was held on November 9, 2016 at 11:00 a.m. before the Honorable Robert N.
22 Kwan, United States Bankruptcy Judge for the Central District of California, Los Angeles
23 Division, in his Courtroom "1675" located at 255 East Temple Street, Los Angeles, CA 90012 to
24 consider the *Motion to Extend Debtor's Exclusivity Period for Obtaining Acceptances of a Plan*
25 *of Reorganization* (the "Motion") [docket entry no. 299] filed by Michael J. Kilroy, debtor and
26 debtor-in-possession in the above-captioned case (the "Debtor"). Capitalized defined terms used
27 in this Order have the same meanings as ascribed to them in the Motion unless otherwise stated
28 with specificity or implied by context. Appearances were as noted in the record of the hearing.

1 Upon consideration of the Motion, the memorandum of points and authorities and
2 Declaration of Michael J. Kilroy in support thereof, the *Opposition to Motion to Extend Debtor's*
3 *Exclusivity Period for Obtaining Acceptances of a Plan of Reorganization* (the "Opposition")
4 [docket entry no. 301] filed by Nahas Enterprises, Inc. ("Nahas"), the *Reply to Opposition to*
5 *Motion to Extend Debtor's Exclusivity Period for Obtaining Acceptances of a Plan of*
6 *Reorganization* [docket entry no. 308] filed by the Debtor, it appearing that notice of the hearing
7 on the Motion was proper and adequate under the circumstances, and based upon the reasoning
8 set forth in the Court's tentative ruling as reproduced herein:

9
10 Grant debtor's motion to extend exclusivity to propose a plan and solicit votes for
11 the reasons stated in the moving and reply papers. As stated by the Bankruptcy
12 Appellate Panel of the Ninth Circuit in *In re Henry Mayo Newhall Memorial*
13 *Hospital*, 282 B.R. 444 (9th Cir. BAP 2002), "a transcendent consideration is
14 whether adjustment of exclusivity will facilitate the case forward towards a fair
15 and equitable resolution." 282 B.R. at 453, citing, *In re Dow Corning Corp.*, 208
16 B.R. 661, 670 (Bankr. E.D. Mich. 1997). As further stated by the Bankruptcy
17 Appellate Panel, the "key question" is whether the requested "extension of
18 exclusivity functioned to facilitate movement towards a fair and equitable
19 resolution of the case, taking into account all of the divergent interests involved."
20 *Id.* In the court's view, the answer is yes. The record in this case supports this
21 conclusion as shown by the existence of various factors identified in the Dow
22 Corning case that the debtor has demonstrated reasonable prospects for filing a
23 viable plan, that the debtor has made progress in negotiations with his creditors,
24 that debtor is paying his bills as they become due and that the existence of good
25 faith progress has been shown. *In re Dow Corning Corp.*, 208 B.R. at 664-665.
26 The facts that support the presence of these factors from the Dow Corning case
27 are the debtor's resolution of a long, difficult litigation dispute with one of his main
28 creditors, Lloyds Bank, the debtor has filed a plan of reorganization which
provides for full payment of all creditors within 5 years with a discounted payoff in
three years if the creditors vote for that option, the debtor has filed a disclosure
statement in support of the plan, has made amendments to address objections
and concerns raised by creditors and the court and is in the process to address
such objections and concerns to provide adequate information for creditors to
vote on the plan, it appears that debtor is current in paying his bills as they
become due (i.e., no postpetition arrearages) and the maximum time for plan
exclusivity is drawing near anyway (i.e., next month). Based on this record, it
appears that the debtor's plan will be authorized for submission to the creditors
for a vote shortly, and a further and final extension of plan exclusivity works
minimal, if any, prejudice to creditors. Appearances are required on 11/9/16, but
counsel may appear by telephone.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The Court now adopts this tentative ruling as its final ruling on the motion, and for other good cause appearing therefor, it is hereby

ORDERED, that the Motion is hereby granted in its entirety; and it is further

ORDERED, that the Nahas Opposition is hereby overruled; and it is further

ORDERED, that the exclusivity period for the Debtor to obtain acceptance of a plan of reorganization is hereby extended through and including December 13, 2016.

###

Date: November 14, 2016



Robert Kwan
United States Bankruptcy Judge