

I. Introduction

A. Overview

In this essay I will be analyzing the Buffalo Sabres bankruptcy of 2003. I will focus on the ramifications resulting from the bankruptcy on the Sabres' obligations to different public and private entities as a result of the proceedings. I will first review the history of the team in order to set the context for how the bankruptcy occurred. Next, I will further relate the bankruptcy proceedings to the question I am hoping to answer in this paper; how did the bankruptcy proceedings change the Sabres obligations to the public sector, if at all, and specifically as those obligations relate to the operating agreement? Third, I will overview the terms of the Operating Agreement, and what changes to these terms resulted from the bankruptcy proceedings. This will include analyzing what protections were put in place prior to the commencement of any operations to account for the possibility of bankruptcy. Lastly, I will conclude with a summary of the Sabres organization's new obligations result of the bankruptcy and changes to the Operating Agreement.

B. Background and Context of the Buffalo Sabres Bankruptcy

1. Overview of the Buffalo Sabres organization

The Buffalo Sabres stand as a cornerstone of both the NHL and the Western New York community. The Sabres organization was established in 1970 at the same time as the Vancouver Canucks, as part of the NHL's expansion to 14 teams.¹ The organization's early years were marked by memorable moments, including a run to the

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https://en.wikipedia.org/wiki/Buffalo_Sabres#:~:text=The%20team%20was%20established%20in,league%20expanded%20to%2014%20teams.

Stanley Cup Finals in 1975, which solidified their status as a formidable force in the league, and Buffalo's place as a hockey city.² In the decades since their inception the Sabres have been defined by both triumphs and challenges. Icons such as Gilbert Perreault, Dominik Hasek, and Pat LaFontaine have led the team through prolonged periods of success, including multiple playoff appearances and division championships. The organization has also navigated adversity, facing financial struggles and four separate ownership transitions that have tested the organization's durability.³ Despite these challenges, the Sabres remain an integral part of Buffalo's cultural fabric, serving as a rallying point for the community and a generational source of pride. It is essential to recognize the organization's storied history and impact on the world of professional sports, and by understanding the context in which the bankruptcy occurred, we can gain insight into both the challenges facing the franchise and the broader implications for stakeholders involved.

2. Explanation of the circumstances leading to the bankruptcy filing.

The Buffalo Sabres' bankruptcy filing resulted from a number of factors that placed strain on the organization simultaneously, resulting in a financially untenable situation. The factors contributing to the organization's bankruptcy include specific financial changes relating to mounting expense and debt obligations, instability in ownership, broader economic downturn, and legal challenges. Due to the convergence of these financial strains in 2003, it was the perfect storm to lead the Sabres to bankruptcy.

² <https://champsorchumps.us/team/nhl/buffalo-sabres>

³ <https://wyrk.com/list-of-every-buffalo-sabres-owners-throughout-history/>

The Sabres faced mounting financial pressures stemming from various sources. The Sabres experienced a 16.64% increase in team payroll from the 2002-2003 season going into the 2003-2004 season, which directly increased their team-related expenses.⁴ Escalating player salaries increased both overall operational costs and debt obligations. These financial burdens strained the organization's resources, and when occurring in concert with ownership issues, these issues created a snowball effect. The Sabres have experienced a number periods of ownership instability that have been marked by both ownership disputes and changes in ownership structure. The Sabres were first founded and owned by brothers Seymour Knox III and Northrup Knox in 1971. The two brothers continued ownership from 1971-1996, and the team was briefly owned solely by Northrup Knox in 1997, after Seymour III's passing. The team was then sold to John-Rigas in 1998, a founder of Adelphia Communications and a multi-billionaire. In 2002 the Sabres were still owned by John Rigas.⁵ In 2002, Rigas, his two sons, and several other individuals who were involved with Adelphia business operations were indicted for bank fraud, wire fraud, and securities fraud. The criminal proceedings resulting in the NHL taking temporary ownership of the team.⁶ The NHL maintained control over the organization until April of 2003, when businessmen Tom Golisano and Larry Quinn purchased the team for \$15 million.⁷⁸ Along with ownership issues, the

⁴ https://en.wikipedia.org/wiki/List_of_team_payrolls_in_the_NHL

⁵ <https://www.retroseasons.com/teams/buffalo-sabres/history/owners/>

⁶ <https://www.sec.gov/news/press/2002-110.htm>

⁷ https://buffalonews.com/sports/bills/tom-saved-hockey-in-buffalo-how-the-golisano-years-rescued-the-sabres/article_6ae709fc-fac8-5e61-bb8d-ea60ff8e35cb.html#:~:text=Golisano%20reached%20an%20agreement%20with,cash%20payment%20was%20%2415%20million.

⁸ <http://golisanofoundation.org/Tom-Golisano/Entrepreneur-Sabres.aspx#:~:text=Tom%20Golisano%20purchased%20the%20Buffalo,from%20leaving%20Western%20New%20York.>

Sabres were not immune to the economic downturns that affected the broader sports and global economy. The United States entered a recession in early 2001, and although the country was starting to emerge from the recession in 2003, those lean years had left their mark.⁹ Economic recession impacted ticket sales, sponsorships, and merchandise revenues, all of which further exacerbating the team's financial woes.

Collectively, these circumstances created a perfect collection of financial challenges, ultimately resulting in the Sabres' bankruptcy filing. The complex ways that these different factors interacted and resulted in the Sabres bankruptcy created the need for a change in obligations to the public sector. Due to the fact that the Sabres are an organization that receives immense public support, public transparency and adaptations to avoid repeating the steps that led to bankruptcy was imperative to maintaining public support.

C. Scope of the Paper -

1. Explanation of changes to rights and obligations of public sector.

The bankruptcy of the Buffalo Sabres brought about significant changes to the rights and obligations of the public sector, particularly governmental entities and public agencies involved in supporting or regulating the team's operations. These changes included reassessing public financial support for the Sabres in the form of municipal bonds or financial agreements, reevaluation of lease agreements and facility management, and an increased need for public transparency and community engagement.

⁹ <https://www.chicagofed.org/publications/chicago-fed-letter/2003/january-185b>

Following the Sabres' bankruptcy filing, public sector entities reassessed the way they were financially supporting the organization. This involved re-assessing funding agreements, subsidies, and tax incentives previously provided to the team to ensure continued viability or compliance with bankruptcy proceedings. The Sabres hired an attorney specifically to mitigate the potential of the Sabres leaving the Western New York area as a result of the bankruptcy.¹⁰ At the time, Erie County still held a 23 year lease with the Sabres for usage of the then-named HSBC arena. The 1994 agreements that led to the financing, construction, and operation of the hockey arena were highly complex. Part of the reason for this complexity was the various public and private entities who owned different interests in the area. The 1994 agreement brought these interests together in the hands of an LLC owned and operated by the same parties who owned and operated the Buffalo Sabres hockey team. The bankruptcy also had implications on municipal bonds and financing agreements issued to support arena construction and infrastructure development. Public sector entities had to seek alternative financing arrangements to address potential defaults. As a result of Erie County managing HSBC Arena and leasing it to the Sabres, there was a need created to reevaluate lease agreements and facility management arrangements in light of the bankruptcy.

The bankruptcy of a major sports franchise like the Buffalo Sabres had significant economic and social implications for the surrounding community aside from purely financial consequences. The Sabres are not only a large source for economic development and tourism promotion, but also for community engagement. Had this

¹⁰ <https://a.espncdn.com/nhl/news/2003/0129/1500938.html>

bankruptcy filing resulted in the relocation of the team, the personal loss felt by the Western New York Community would have been incalculable.

2. Specific aspects of the bankruptcy impact.

The bankruptcy of the Buffalo Sabres had far-reaching implications across various dimensions, impacting stakeholders both inside and outside the organization. Specific aspects of the impact include financial consequences, on-site operational disruptions including both players and personnel, community engagement, and changes in their interactions with the league.

The Sabres' bankruptcy and resulting financial crisis reverberated throughout the organization. Creditors including vendors, suppliers, and lenders faced uncertainty regarding the repayment of debts owed by the organization. The bankruptcy proceedings involved a \$25 million loan to keep the organization operating on a day-to-day basis.¹¹ This process still disrupted the Sabres' day-to-day operations in a number of ways, creating challenges in maintaining business continuity and fulfilling contractual obligations. Staffing reductions, budget cuts, and operational restructuring all became necessary to streamline operations and mitigate financial losses. Additionally, uncertainties surrounding the team's ownership and management structure may have further complicated efforts to navigate the bankruptcy process and implement strategic changes.

The Sabres' bankruptcy likely had implications for player contracts, personnel management, and team dynamics, although the team had not been performing well prior to the declaration of bankruptcy.¹² Players, coaches, and staff members faced

¹¹ https://www.forbes.com/2003/01/13/cx_dd_0113sabres.html?sh=ab3f8ec36f8f

¹² https://en.wikipedia.org/wiki/2002%E2%80%9303_Buffalo_Sabres_season

uncertainty regarding their employment status, salary payments, and contractual rights amidst the bankruptcy proceedings. Contract renegotiations, termination settlements, and roster adjustments may have been necessary to align with the Sabres' financial restructuring objectives and comply with league regulations. These adjustments would have extended outwards from the organization to fan/community relations as well. Uncertainty surrounding the team's future, financial stability, and competitive performance may have dampened fan enthusiasm, ticket sales, and sponsorship revenues. Community outreach efforts, charitable initiatives, and marketing campaigns were impacted by budget constraints and shifting priorities, requiring adjustments to maintain positive relations with fans and stakeholders.

The Sabres' bankruptcy prompted intervention and oversight from the NHL and other regulatory bodies tasked with safeguarding the integrity of professional sports leagues. League officials closely monitored the bankruptcy proceedings, ensuring compliance with league rules, player contracts, and competitive balance regulations. The NHL officials additionally monitored the proceedings to determine if at any point a relocation process would have begun.

II. Analysis of Changes to Rights and Obligations

A. Operating Fee Payment Obligation and Lease Terms

The Operating Agreement governing the relationship between the Buffalo Sabres Organization (Niagara Frontier Hockey LLC) and its stakeholders imposes significant payment obligations on the team. These obligations, encompassing lease terms and operational fees, play a pivotal role in the financial viability and operational sustainability of the organization.

The Buffalo Sabres' lease agreement with HSBC Arena in 2002, where they play home games, represents a cornerstone of their financial obligations. This lease agreement outlines the terms and conditions under which the Sabres have access to and utilize the facility for their games and other events for the lease term, which in 2002 went through 2025. Key provisions of the lease included the duration, payments, maintenance responsibilities, and operational limitations. In addition to lease payments, the Buffalo Sabres may be subject to various operational fees outlined in the Operating Agreement. These fees encompass a wide range of expenses associated with venue operations, including utilities, facility maintenance, security, insurance, and administrative costs. The Sabres' obligation to pay these fees is typically stipulated in the Operating Agreement and may be subject to periodic review or adjustment based on changes in operating expenses or contractual terms.

Meeting their financial obligations post-bankruptcy required careful budgeting, financial planning, and resource allocation to ensure that the team could fulfill its contractual commitments while competitiveness. At the time, the team owed its 40 largest creditors upwards of \$206 million dollars.¹³ Had they failed to meet their lease payments or operational fees, it could have resulted in large financial penalties.¹⁴

B. Financial Reporting Obligations

The Buffalo Sabres, like many professional sports organizations, are subject to various reporting obligations designed to promote compliance with regulatory requirements. These reporting obligations encompassed financial reporting, operational

¹³ <https://www.southcoasttoday.com/story/sports/2003/01/14/sabres-file-for-bankruptcy-protection/50307637007/>

¹⁴ In re Niagara Frontier Hockey, L.P., Case No. 03-10210k through 03-10219k Jointly Administered (Bankr. W.D.N.Y. Jan. 14, 2003)

disclosures, and regulatory filings that provided stakeholders with insights into the team's financial performance and operational activities. Key aspects of the reporting obligations of the Buffalo Sabres pre-bankruptcy include finances, operational metrics, regulatory compliance, and general communication with shareholders about the state of the organization.

The Sabres organization was required to submit periodic financial reports detailing their financial performance, revenue streams, expenses, and profitability. These reports typically followed accounting standards prescribed by regulatory bodies such as the NHL and the Securities and Exchange Commission (SEC). Financial reports provided stakeholders, including investors, creditors, and league officials, with insights into the team's financial health and viability. Along with financial reporting, the Sabres disclosed operational information related to ticket sales, attendance figures, sponsorship agreements, and marketing initiatives to the league and shareholders. Operational disclosures helped stakeholders assess the team's market positioning, fan engagement strategies, and revenue diversification efforts. Transparency in operational disclosures helps give transparency to the Sabres' management and decision-making processes.

As a professional sports franchise operating within a regulated industry, the Buffalo Sabres were required to file various regulatory documents with governing bodies such as the NHL, state agencies, and municipal authorities. These filings include ownership disclosures, license applications, and compliance reports to ensure adherence to league rules. Beyond formal reporting obligations, the Buffalo Sabres engaged in ongoing communication with stakeholders through press releases, investor

communications, public statements, and other channels. Effective communication with fans, sponsors, media outlets, and community leaders was integral to building and maintaining positive relationships, managing reputation risks, and promoting transparency in the Sabres' operations.

C. Pre-Bankruptcy Operating Agreement Obligations

Prior to the bankruptcy proceedings of 2003 the terms regarding how project revenue would be distributed could be found in a few separate places. Section 7.06 of the project agreement, titled “Disbursement of Project Revenue”, and Section 7.07 titled “Operating Fee” describe how revenues generated from the Sabres organization would be distributed. Section 7.06 outlines the order that payments will be given out, beginning within 90 days of the end of each fiscal year. Payments were to be distributed in the following order: first accrued ground rent, second deposits required to maintain any debt servicing reserve, third payment of required deposits to the Renewal and Replacement Account (outlined in Section 11.01), fourth deposit to the Operating Reserve Account so as to maintain a minimum balance of \$1.2 million at all times, fifth payments for any accrued Cost Overrun Loans from construction lenders, sixth mandatory principal payments on construction loans, seventh Contingency Payments pursuant to Section 9.3 of the Lease Agreement, eighth payments in lieu of service charges to Buffalo Place, Inc. in a maximum amount of \$18,000 annually, ninth Voluntary Payments, tenth reimbursements by CALLC of that portion of the Sabres Advance that was required to begin construction, and eleventh and lastly, payments to the operating fee as outlined in Section 7.07.

Section 7.07 describes the Operating Fee, the last defined category which will receive proceeds from project revenue. The requirements are outlined as follows: the Operating Fee percentage will equal 35% of Net Project Revenue for the first fifteen years of the agreement, 40% of Net Project Revenue for the next fifteen years, and 48% of Net Project Revenue for any extension term. Section 7.07 also outlines that if CALLC fails to pay the operating fee within 140 days of the end of each fiscal year, they will be held liable for a late charge of 4% per month.

There is an additional section, Section 4.1 titled “Application of Project Revenues” repeats the financial requirements as outlined above directly, and follows the same order for how payments will be dolled out. Section 4.1 has an additional, twelfth section that allocates after the payment of the Operating Fee, any remaining revenues will be the sole property of CALLC for them to use at their sole discretion.

D. Pre-Bankruptcy Protections in the Event of Default

While the requirements outlined in Sections 4.1, 7.06, and 7.07 clearly communicate that the Operating Fee will be paid out under Net Project Revenues, there are a number of sections that outline certain protections for CALLC in the event of “Default”. Specifically, Section 18.01 titled “Termination Events of Default”, Section 10.8 titled “Events of Default Under Sabres Space Lease”, and Section 10.10 titled “Protect Revenues” describe the conditions that would trigger “default”, and what the resulting changes in obligations would be.

Section 18.01(a)(1) describes all of the conditions that would constitute a “Termination Event of Default”, and relates to the continuing applicability of Sections 7.06 and 7.07. Events that would constitute “Default” include: application by CALLC for

the appointment of possession by a receiver for its assets, admission to being unable to pay their debts, a general assignment for the benefit of creditors, commencement of a voluntary case under the Federal Bankruptcy Code, filing for a request to take advantage of any other law relating to bankruptcy, insolvency, reorganization, or adjustment of debts, and taking any action for the purpose of effecting any of the foregoing. Sections 18.01(a)(2)-(5) continue to describe in detail the different types of financial re-organization that would predicate a “Termination Event of Default”, as well as breaching of the non-relocation agreement. Section 18.01(b) outlines that should any of the Termination Events of Default occur, the Principal Public Participants may, by written notice to CALLC, terminate the agreement. As it relates to Section 7.06 and 7.07, Section 18.01 clearly communicates that a bankruptcy proceeding could result in the nullification of those sections.

Section 10.8 titled “Events of Default Under Sabres Lease Space” and Section 10.10 titled “Project Revenues” relate to the obligations outlined in Section 4.1. Section 10.8 mirrors the terms of section 18.01(a), it describes all of the events that would lead to a “Default” under the terms of the agreement. These terms are identical to the terms in section 18.01(a), as most of the events that would lead to default are different types of financial re-organization that would result from defaulting on debts, or failure to meet terms outlined in the agreement, such as violating the non-relocation clause. There is a notable difference in the form of specific language that addresses what should happen if the Acquiring Lessee were to sell its interests in the Project Revenues. Section 10.8(b) outlines that should such a sale occur, the Acquiring Lessee shall pay up to a maximum of \$5 million to Public Sector Participants and Concessions lenders. Section 10.10

describes what will happen in the event of default, and is perhaps the most important Section as it relates to this paper despite being only seven words long: “Section 4 hereof shall no longer apply.” Those seven words outline that should the parties to this agreement “Default” under Section 10.8, the project revenues will not be distributed as according to Section 4.1.

III. Bankruptcy Proceeding and Resulting Obligation Changes

A. Bankruptcy Proceedings

The Buffalo Sabres bankruptcy proceedings were decided in the Western District of United States Bankruptcy Court on January 13th, 2003, and the Court’s ruling is only one page long.¹⁵ The decision by the Court grants the Sabres motion for consolidation of Debtors and directs for the administration of a Chapter 11 case in compliance with the existing partnership agreement.

As described above, the ruling from the Court on the bankruptcy motion was very minimal, and generally relied on the agreements the parties had created. Due to the complex nature of a professional sports organization, the Court appears to have fully deferred to their contract regarding the terms of financial reorganization. The Court further refers parties to “The docket in the chapter 11 case of Niagara Frontier Hockey, L.P., Case No. 03-10210 K” as the source that should be consulted for all matters affecting this case.

The Courts deference to the parties agreement makes the seven words found in Section 10.10 all that much more impactful. If Section 4.1 will be held to no longer apply in the event of bankruptcy, then the terms outlining the Operating Agreement will no

¹⁵ file:///Users/jacobkantor/Downloads/In%20re%20Niagara%20Frontier%20Hockey%20(1).pdf

longer apply. There is no additional language what will happen to all of the other parties implicated by Section 4.1; the payments to creditors, payments of deposits to construction funding, etc. This ambiguity will require further exploration, and likely a review of additional documents that may reveal how changes to project revenue streams were manifested.

B. Miscellaneous Relevant Sections

In addition to the above-mentioned sections, the terms of Section 9.01 titled “Tax Payments” is likely relevant in the context of financial obligations. The section outlines how exactly the responsibility of tax payments are distributed, but it is section 9.01(c)(i) titled “Right of Offset and Deferral” is specifically relevant. This section outlines that CALLC has the right to offset any tax payments from payments to the Operating Fee. In effect, this should decrease the amount CALLC would be responsible for. Due to the language of Section 10.10 in invalidating all the terms of the Operating Agreement, I am not sure that this would still apply, but is worth considering.

IV. Conclusion

The Buffalo Sabres storied history would be incomplete without the inclusion of their 2003 declaration of bankruptcy. The default on their debts that led to this bankruptcy were somewhat anticipated by the legal minds who drafted the agreements in the first place, as terms were directly included to address this eventuality. The bankruptcy resulted from a convergence of numerous financial strains, but based on my analysis, it had a long-term impact of removing financial obligations under the Operating Agreement. This removal of obligations protects CALLC from the responsibilities they would have faced under the Operating Agreement, and was not clearly replaced by any

other sections of the agreement. Further research is needed to identify what exactly, if anything, happened to the responsibilities of the Operating Agreement after the default would have triggered Section 10.10.