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Locke Lord QuickStudy: More Relief for Shuttered Venue Operators ?

Locke Lord LLP

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It takes no stretch of the imagination to understand how devastating the past year of pandemic shut downs and cancellations has been for performance and arts venues like theaters, concert halls and museums. Indeed, in most cities, performing arts have disappeared from the living cultural landscape. The venue operators that host the arts have been left struggling to keep from disappearing themselves.

Thanks to the work of numerous non-profit organizations, including the Rhode Island Philharmonic Orchestra & Music School, additional relief is now available.

Locke Lord attorney, Karen Grande, who is also a board member of the Philharmonic, was approached by the Executive Director to draft an amendment to the Shuttered Venue Operator Grant (“SVOG”) Program to address the continuing struggle and to provide additional relief for the venues.

The SVOG Program became law with the passage of the Save Our Stages Act on December 27, 2020. Pursuant to the Program, eligible arts venue operators will be able to apply for a grant through the Small Business Administration (“SBA”). The SVOG Program permits over \$16 billion in grants to be made and administered by the SBA. The SVOG Program, as initially enacted, however, prohibited entities from receiving both SVOG funding and a loan under the Payroll Protection Plan (“PPP”), which the SBA has been successfully administering for some time during the pandemic. In addition, it has taken time for the SBA to implement the new SVOG Program and develop the application process. Currently, the SBA anticipates opening SVOG applications today, on April 8, 2021. Once open, the timing of grant payments is unique for each eligible organization.

Every month that passes is critical for the venues in distress, though. In the interim, while waiting for the SVOG Program to be opened, many venues have gone out of business and many more are on the verge of failing. To alleviate the problem of having to guess which program, the PPP or the SVOG, would provide better benefits for an eligible operator, and to provide immediate funding, Ms. Grande assisted the Philharmonic and others in drafting a key amendment. The amendment aimed to (a) permit entities which had received a PPP Loan prior to December 27, 2020 (“PPP 1” or “First Draw” Loan) to apply for and receive a second PPP Loan after December 27, 2020 (“PPP 2” or “Second Draw” Loan); and (b) permit any eligible entity to apply for a grant under the SVOG Program regardless of whether it had received a prior PPP 1 or PPP 2 Loan. The immediate assistance available as a result of this amendment would help venues and promoters to continue to function and it could save

countless venues from bankruptcy.

The amendment was offered through Rhode Island Senator Jack Reed's office, garnered the support of Senator Chuck Schumer of New York, and with some modifications, was included in the American Rescue Plan. President Biden signed the American Rescue Plan into law on March 11, 2021.

Now, eligible entities in need of immediate assistance can apply for a PPP 2 loan by May 31, 2021 in addition to an SVOG grant once applications open. Applications are set to open on April 8, 2021. Any amount of PPP 2 funding obtained by a venue operator on or after December 27, 2020 will reduce the SVOG funding available to that entity by the Loan amount. Further, once an operator receives SVOG funding, it may be ineligible for a subsequent PPP Loan.

Full details about the SVOG and PPP funding opportunities for shuttered venue operators can be found [here](#) and [here](#).

For more information, please contact Stuart Bumpas or Karen Grande at 401.455.7608.

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