



No. S1710393
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,
R.S.C. 1985, c. C-44, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF
ALL CANADIAN INVESTMENT CORPORATION

NOTICE OF APPLICATION

Name of applicant: The Petitioner

To: The Service List

TAKE NOTICE that an application will be made by the applicant to the presiding Judge or Master at the courthouse at 800 Smithe Street, Vancouver, British Columbia, on the 30th day of August, 2018, at 9:45 a.m, for the orders set out in Part 1 below.

Part 1: ORDER(S) SOUGHT

1. An Order substantially in the form attached hereto as Schedule "A" approving the purchase and sale of Lot 5 (as defined below);
2. Such further and other relief as this Honourable Court deems just.

Part 2: FACTUAL BASIS

3. On November 10, 2017, on the application of the Petitioner, the Honourable Madam Justice Adair made an Initial Order granting the Petitioner protection from its creditors pursuant to the *Companies' Creditors Arrangement Act*, R.S.C.

1985, c. C-36, as amended ("CCAA"). Pursuant to the Initial Order, the stay of proceedings expired on December 9, 2017 (the "Stay Period").

4. Boale, Wood & Company Ltd. was appointed as monitor in the CCAA proceedings (the "Monitor").
5. Since December 5, 2017, on the application of the Petitioner, the Stay Period has been extended on various occasions including most recently to September 7, 2018.
6. On April 11, 2018 the Honourable Madam Justice Russell approved an interim lending facility agreement between the Petitioner and DIDS-BC Holdings Ltd. ("DIDS") (the "Lending Facility Agreement").
7. In accordance with the terms of the Lending Facility Agreement DIDS registered a mortgage against title to the property which is the subject of this application on April 30, 2018.
8. The Petitioner is a mortgage investment corporation ("MIC") which has been in business since 1998. Its business is to provide loans to owners and developers of single and multi-family residential, commercial, office and industrial real estate properties (the "Borrowers"), which are secured by registered, unregistered and equitable mortgages on the properties (the "Mortgage Loans"). In addition, the Petitioner makes other loans and investments from time to time that may be unsecured (the "Other Loans", and together with the Mortgage Loans, hereinafter referred to as the "Loans").
9. Unfortunately, the Petitioner encountered financial difficulties in recent years, which are described in detail in the Petition. For example, the Petitioner's cash flow has been negatively affected due to the construction delays in the Lower Mainland, which has in turn led to delays in timely interest payments and payouts of the Loans by Borrowers. This negatively affected the Petitioner's cash flow and its ability to meet its obligations to its stakeholders, including its ability to make dividend payments to its shareholders.
10. As a result, the Petitioner was faced with demands from its stakeholders, including approximately \$24,000,000 in preferred shareholders issuing redemption notices, court actions commenced by shareholders with respect to redemption and foreclosure proceedings commenced by one of its secured creditors due to a default on a loan payment.

11. The Petitioner's purpose for seeking CCAA protection is to stabilize its operations and develop a plan of compromise or arrangement (a "Plan") to present to its stakeholders as part of these CCAA proceedings that would involve a fair, controlled and orderly wind-down of its business operations, for the benefit of its stakeholders.
12. Since the date of the Initial Order, the Petitioner has continued to manage the daily operations of the business and explore restructuring options, including the sale of its real property and collection of the outstanding amounts owing to it from the Borrowers.
13. The Petitioner's efforts have resulted in the execution of a contract to sell one of the pieces of real property which it owns, the details of which are described in further detail below.
14. The Petitioner is seeking approval from this Honourable Court for the sale of that property.

Sale of Lot 5

15. The Petitioner currently owns three (3) properties registered in its name located on or near Lee Road, Garden Bay, Pender Harbour, B.C. (the "Garden Bay Properties"). One of those properties is the subject of this application and has the following civic address and legal description:

PID 026-193-001
LOT 5 AND AN UNDIVIDED 3/12TH SHARE IN LOT 7,
DISTRICT LOT 3923 GROUP 1
NEW WESTMINSTER DISTRICT PLAN BCP15562

(" Lot 5")
16. The Garden Bay Properties were transferred from a borrower to the Petitioner in or about August 2015 as repayment for an outstanding loan owed to the Petitioner.
17. The Garden Bay Properties are located in the Garden Bay area of Pender Harbour on the Sunshine Coast in British Columbia. Lot 5 is an irregular shaped property of 0.745 acres bare land and has water frontage of 291 feet. Lot 5 is contiguous to the other two Garden Bay Properties.
18. The Petitioner has had Lot 5 and the Garden Bay Properties listed for sale for some time. The Petitioner has utilized two different realtors including a realtor with offshore investment ties and a local real estate agent based on the Sunshine Coast. It has attempted to sell the Garden Bay Properties as a 'package' deal (the "Garden Bay Package") as well as separately. Until the inquiries and subsequent

offers received from the prospective purchasers, no offers have been received for Lot 5 or the Garden Bay Package.

19. The Garden Bay Properties have been marketed by a variety of means including:
 - a. advertising continually on www.sunshinecoasthomes.com;
 - b. advertising continually on www.royalepagesussex.com/offices/schelt;
 - c. advertising continually on www.realtylink.org;
 - d. promotional posts on Facebook for SunshineCoastHomes.com;
 - e. colour display advertising on rotation in the Sunshine Coast Real Estate Magazine;
 - f. advertised monthly in display advertising in the Sunshine Coast Real Estate Guide
 - g. “For Sale” signage at properties with relator contact information for drive by showing; and
 - h. advertised continually in window display sheet format at the Royal LePage Sussex Pender Harbour location and Garden Bay area kiosk.

20. As of July 12, 2018 the Petitioner’s realtor advised the Petitioner that:
 - a. the market for the Garden Bay Properties, and generally in Pender Harbour, had been stagnant since mid-spring;
 - b. his review of active and stale sale listings for both waterfront land sales and waterfront homes with acreage that were comparable to the Garden Bay Properties suggested that there had been no comparable sales since January 1, 2018;
 - c. there were six other active listings for comparable properties, some of which had been on the market for a number of years; and
 - d. it consider relisting the Garden Bay Properties as a three lot parcel.

21. Prior to taking steps to relist the Garden Bay Properties as recommended by its realtor, an inquiry was received from potential purchasers located in Toronto, Ontario. The purchasers traveled to the Sunshine Coast to view Lot 5.

22. As a result of those inquiries the Petitioner received an offer of \$675,000 for Lot 5. Various offers were exchanged between \$675,000 and \$748,000 the terms of which also dealt with the issue of GST.

23. Ultimately, on August 23, 2018 the Petitioner accepted an offer for \$705,000 with the purchasers paying any GST due and owing on the transaction (the “Lot 5 Offer”). The acceptance of that offer by the Petitioner is subject to approval of this Honourable Court on or before August 31, 2018.

24. Lot 5 has a 2018 B.C. Assessment Value of \$748,000.
25. The Lot 5 Offer is the best and only offer the Petitioner has received to purchase Lot 5 in over a year since it has been listed.
26. Although the purchase price is lower than the assessed value, it is clear that the property has not garnered interest that supports a value greater than the Lot 5 Offer and the realtor has advised the Petitioner that properties of this nature are best sold during the summer months.
27. The Lot 5 Offer has a completion date of September 12, 2018.
28. The sale of Lot 5 is another step forward in the Petitioner's restructuring efforts.

Part 3:LEGAL BASIS

29. Pursuant to s.36(1) of the CCAA, a debtor company in respect of which an order has been made under the CCAA may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by the court.
30. Pursuant to s.36(2) of the CCAA, a company that applies for an authorization to sell is to give notice of the application to the secured creditors who are likely to be affected by the proposal proposed sale or disposition.
31. DIDS will be served with these application materials and has already been advised of, and approved, the Lot 5 Offer.
32. Section 36(3) of the CCAA provides that in deciding whether to grant the authorization to sell, the court is to consider, amongst other things:
 - a. whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
 - b. whether the monitor approved the process leading to the proposed sale or disposition;
 - c. whether the monitor filed with the court a report stating that in its opinion the sale or disposition that would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
 - d. the extent to which the creditors were consulted;
 - e. the effect of the proposed sale or disposition on the creditors and other interested parties; and

- f. whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.
33. Section 36(6) of the CCAA provides that the court may authorize a sale or disposition free and clear of any security, charge or other restriction and, if it does, it shall also order that other assets of the company or the proceeds of sale or disposition be subject to a security, charge or other restriction in favour of the creditor whose security, charge or other restriction is to be affected by the order.
34. The Petitioner further relies on s.11 of the CCAA and the inherent and equitable jurisdiction of this Honourable Court.
35. For the reasons set out below, the Petitioner submits that on a consideration of the facts set out in section 36(3) of the CCAA, the sale of Lot 5 is appropriate in the circumstances:
- a. the property has been listed since 2017 including almost two years of the summer months when sale activity in Pender Harbour is most active.
 - b. the Monitor has been kept apprised of marketing activities during the course of these proceedings.
 - c. the Monitor is aware of the Lot 5 Offer and has been provided details of the assessed value.
 - d. DIDS is the only secured creditor that will be affected by this sale and has confirmed that it agrees to it.
 - e. the proposed sale will benefit the stakeholder group as a whole, as it is another step towards the Petitioners restructuring plan. The sale will see a pay down of secured debt and allow the Petitioner to concentrate its restructuring and liquidation efforts on the remainder of its assets for the benefit of the stakeholders.
 - f. the consideration to be received is fair and reasonable, taking into account the challenges of the property, including its location and market conditions. The property has been properly exposed and marketed, resulting in only the Lot 5 Offer to date. There have been no successful sales of comparable properties in the Pender Harbour area since January 1, 2018, although there are currently properties listed for sale. Accordingly, the consideration to be received is reflective of the true market value of Lot 5.

Part 4: MATERIAL TO BE RELIED ON

36. Affidavit #7 of Don Bergman, made on the 27th day of August, 2018

- 37. The pleadings and materials filed herein.
- 38. Such other materials as counsel may advise and this Honourable Court may allow.

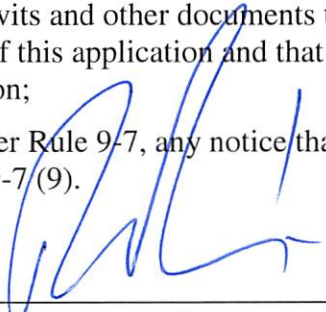
The Applicant estimates that the Application will take 20 minutes.

- This matter is within the jurisdiction of a master.
- This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application:

- (a) file an application response in Form 33;
- (b) file the original of every affidavit, and of every other document, that:
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Date: August 27, 2018



Signature of Jeremy D. West
Counsel for the Applicant

To be completed by the court only:

Order made
 in the terms requested in paragraphs _____. of Part 1 of this notice of application

with the following variations and additional terms:

Date: _____ Signature of Judge Master

APPENDIX

[The following information is provided for data collection purposes only and is of no legal effect.]

THIS APPLICATION INVOLVES THE FOLLOWING:

[Check the box(es) below for the application type(s) included in this application.]

- discovery: comply with demand for documents
- discovery: production of additional documents
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

Schedule "A"

No. S1710393
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AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF
ALL CANADIAN INVESTMENT CORPORATION

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE) THURSDAY, THE 30th DAY OF
_____) AUGUST 2018.
)

THE APPLICATION of Petitioner, coming on for hearing at Vancouver, British Columbia, on the 30th day of August 2018, and on hearing Jeremy D. West, counsel for the Petitioner, and those other counsel listed on Schedule "A" hereto, AND UPON READING the material filed, including the Affidavit #7 of Donald Bergman sworn August 27, 2018 (the "Bergman Affidavit") and the Report of Boale, Wood & Company Ltd. in its capacity as Court-appointed Monitor (the "Monitor") dated [...] (the "Report"); AND pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985 c. C-36 as amended (the "CCAA"), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The service upon any interested party other than those parties on the service list maintained by the Petitioner and the Monitor in this matter is hereby dispensed with.

Schedule "A"

Approval and Vesting of the Sale of Lot 5

2. The sale transaction (the "Transaction") contemplated by the Contract of Purchase and Sale dated August 22, 2018 (the "Sale Agreement") between the Petitioner and Darren Blair Lamb and Andrei Sergei Gerus (the "Purchasers"), a copy of which is attached as Exhibit "D" to the Bergman Affidavit is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Petitioner is hereby authorized and approved, and the Petitioner is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance to the Purchaser of the assets described in the Sale Agreement (the "Purchased Assets").

3. Upon payment of the proceeds of the Transaction pursuant to the Sale Agreement (the "Proceeds") by the Purchasers, all of the Petitioner's rights, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of this Court dated November 10, 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the Personal Property Security Act of British Columbia or any other personal property registry system; and (iii) those Claims listed on Schedule "B" hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "C" hereto), and, for greater certainty, this (court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. Upon presentation for registration in the Land Title Office for the Land Title District of New Westminster of a certified copy of this Order, together with a letter from Watson Goepel LLP, solicitors for the Petitioner, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to:
 - a. enter the Purchasers as the owner of the Lands, as identified in Schedule "D" hereto, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the

Schedule "A"

Lands, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of the Purchasers in and to the Lands is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Purchaser as aforesaid; and

- b. having considered the interest of third parties, to discharge, release , delete and expunge from title to the Lands all of the registered Encumbrances except for those listed in Schedule "C".
5. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Purchase Price shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.
6. The Purchaser shall pay the Proceeds to Watson Goepel LLP, solicitors for the Petitioner, who shall distribute the Proceeds
 - a. firstly, to Watson Goepel LLP on account of its fees and disbursements in relation to the Transaction; and
 - b. the balance to DIDS-BC Holdings Ltd on account of its registered mortgage on the Purchased Assets (CA6769348).
7. Subject to the terms of the Sale Agreement, vacant possession of the Purchased Assets, including any real property, shall be delivered by the Petitioner to the Purchasers at 12:00 noon on the Possession Date (as defined in the Sale Agreement), subject to the permitted encumbrances as listed on Schedule "C".
8. The Petitioner, with the consent of the Purchasers, shall be at liberty to extend the Completion Date (as defined in the Sale Agreement) to such later date as those parties may agree without the necessity of a further Order of this Court.
9. Notwithstanding:
 - a. these proceedings;
 - b. any applications for a bankruptcy order in respect of the Petitioner now or hereafter made pursuant to the Bankruptcy and Insolvency Act and any bankruptcy order issued pursuant to any such applications; and

Schedule "A"

c. any assignment in bankruptcy made by or in respect of the Petitioner,

the vesting of the Purchased Assets in the Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Petitioner and shall not be void or voidable by creditors of the Petitioner, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of Jeremy D. West
Solicitor for the Petitioner

By the Court.

Registrar

Schedule "A"

Schedule A- List of Counsel Appearing

Schedule "A"

Schedule "B" – Claims to be deleted/expunged from title to Real Property

1. Nature : Mortgage
Registration Number: CA6769348
Registration Date and Time: 2018-04-30 16:00
Registered Owner: DIDS-BC HOLDINGS LTD.
Incorporation No. BC1157251
Remarks: INTER ALIA

Schedule "A"

**Schedule C – Permitted Encumbrances, Easements and Restrictive Covenants
related to Real Property**

1. The reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown.

2.

Nature : STATUTORY RIGHT OF WAY
Registration Number: P60244
Registration Date and Time: 1986-06-30 10:25
Registered Owner: BRITISH COLUMBIA HYDRO AND POWER
AUTHORITY
Remarks: INTER ALIA

Nature : COVENANT
Registration Number: BX405842
Registration Date and Time: 2005-01-24 14:18
Registered Owner: THE CROWN IN RIGHT OF BRITISH COLUMBIA
Remarks: INTER ALIA

Nature : EASEMENT
Registration Number: BX405854
Registration Date and Time: 2005-01-24 14:29
Remarks: INTER ALIA
OVER THE UNDIVIDED 3/12 SHARE IN LOT 7 PLAN
BCP 15562 APPURETENANT TO LOTS 1, 2, 3, 4, 5
AND 6 PLAN BCP15562

Nature : STATUTORY BUILDING SCHEME
Registration Number: BX412412
Registration Date and Time: 2005-02-17 13:28
Remarks: INTER ALIA

Schedule "A"

Schedule D – Lands

PID 026-193-001

Legal Description:

**LOT 5 AND AN UNDIVIDED 3/12TH SHARE IN LOT 7, DISTRICT LOT 3923
GROUP 1
NEW WESTMINSTER DISTRICT PLAN BCP 15562**