

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: Service List

TAKE NOTICE that an application will be made by the Petitioner to the presiding Judge or Master at the courthouse at 800 Smithe Street, Vancouver, British Columbia, on Friday, October 19, 2018 at 9:45 a.m., for the Orders set out in Part 1 below.

#### **Part 1: ORDERS SOUGHT**

1. The Petitioner seeks the following orders:
  - a. abridging the time for service of this Notice of Application and the materials herein such that the application is properly returnable on Friday, October 19, 2018;
  - b. extending the stay of proceedings provided for in the order pronounced by this Honourable Court on September 6, 2018 from November 7, 2018 to November 16, 2018 or such other date as this honourable court deems just; and
  - c. such further and other orders as this honourable court deems just.

**Part 2: FACTUAL BASIS**

2. On November 10, 2017 Madam Justice Adair made the initial order in these proceedings (the “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 (the “CCAA”).
3. The stay of proceedings against the Petitioner provided for in the Initial Order has been extended on various occasions, the most recent of which was on September 6, 2018, when Madam Justice Iyer made an order (the “September Order”) extending the stay of proceedings to November 7, 2018.
4. Pursuant to the September Order, the stay of proceedings expires on November 7, 2018 (the “Stay Period”).
5. On October 18, 2018 an application was heard in proceedings commenced by the Petitioner in the Supreme Court of British Columbia, Vancouver registry under Action # VLC-S-S 183355 (the “BDO Action”). As a result of issues in the BDO Action potentially related to these proceedings counsel for the Petitioner and counsel for the Monitor attended before Mr. Justice Walker on the afternoon of October 18, 2018.
6. The application in the BDO Action has been adjourned to October 29, 2018 and Mr. Justice Walker has made orders directing the Monitor to take certain steps in advance of that hearing. At the same time, Mr. Justice Walker seized himself of these proceedings, for the present time.
7. It is anticipated that the Petitioner will seek an extension of the Stay Period and other ancillary orders on November 7, 2018. Mr. Justice Walker is unavailable on that date.
8. As a result, Mr. Justice Walker granted the Petitioner short leave, returnable at 10:00 AM October 19, 2018, to bring an application for a short extension to the Stay Period.
9. The Petitioner seeks an extension of the Stay Period to November 16, 2018 to allow it time to bring the anticipated extension application before the expiry of the Stay Period.

**Part 3: LEGAL BASIS**

10. The Petitioner relies on the terms and provisions of the CCAA, as amended.
11. The Petitioner also relies on Rules 1-3, 4-4, 8-1, 8-5, 22-1 and 22-4 of the *Supreme Court Civil Rules*.

*Extension of the Stay*

12. Pursuant to s. 11 of the CCAA, the Court may make any order that it considers appropriate.
13. Pursuant to ss. 11.02(2) and (3) of the CCAA, the Court may extend a stay of proceedings granted in an Initial Order when:
  - a) the applicant satisfies the court that circumstances exist that make the order appropriate; and
  - b) in the case of an order under subsection (2) [extension of a stay], the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

14. An extension of a stay should only be granted in furtherance of the CCAA's fundamental purpose of facilitating a plan of arrangement between debtor companies and their creditors.

*Cliffs Over Maple Bay Investments Ltd. v. Fisgard Capital Corp.*, 2008 BCCA 327

15. In addition to the fundamental purpose of the extension, other factors to be considered on an application for a stay include:
  - a) the debtor's progress during the previous stay period toward a restructuring;
  - b) whether the creditors will be prejudiced if the court grants the extension; and
  - c) the comparative prejudice to the debtor, creditors and other stakeholders in not granting the extension.

*Re Worldspan Marine Inc.*, 2011 BCSC 1758

16. The CCAA can be used for an orderly wind-down of a company.

*Re Target Canada Co.*, 2015 ONSC 303 (S.C.J.)

17. The extension of the Stay Period sought by the Petitioner is appropriate in the circumstances as it is consistent with the purpose of the CCAA and in the absence of an extension the Petitioner will not have the ability to apply for an extension in the usual course.
18. The Petitioner has acted and continues to act in good faith and with due diligence and the need for the short extension arises as a result of the court's availability.

19. There is little to no prejudice to any stakeholders in the event the Stay Period is extended.

**Part 4: MATERIAL TO BE RELIED ON**

20. The pleadings and materials filed herein;
21. Order pronounced September 6, 2018; and
22. Such further and other material as counsel may advise and this Honourable Court may allow.

The Applicants estimates that the Application will take 15 minutes.

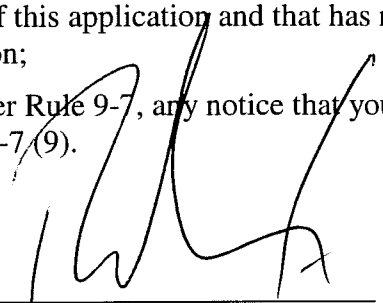
This matter is within the jurisdiction of a master.

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: October 18, 2018

  
 \_\_\_\_\_  
 Signature of Jeremy D. West  
 Counsel for the Petitioner

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