

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**

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE) FRIDAY, THE 9TH
MR. JUSTICE WALKER) DAY OF NOVEMBER, 2018
)

ON THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on the 9th day of November, 2018; AND ON HEARING Jeremy D. West and Liam Oster, counsel for the Petitioner, and Douglas B. Hyndman, counsel for the Monitor Boale, Wood & Company Ltd.; AND UPON READING the material filed; 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 that:

1. The time for service of the Notice of Application herein is hereby abridged such that the Notice of Application is properly returnable today and service hereof upon any interested party other than those parties on the service list maintained by the Petitioner and the Monitor in these proceedings is hereby dispensed with.
2. The stay of proceedings and the other relief provided for in the Order of this Court pronounced on November 10, 2017 (the "**Initial Order**"), as amended by Order (the "**Amending Order**") dated April 11, 2018 (the Amending Order together with the Initial Order referred to as the "**Amended Initial Order**") is hereby extended to November 22, 2018.
3. Any capitalized terms not otherwise defined in this Order shall have the same meanings ascribed to them in the Amended Initial Order ("**AIO**").
4. The proceedings are adjourned to November 22, 2018.
5. The Petitioner prepare a comprehensive plan, for submission to the court, regarding the wind down and liquidation of the Petitioner's business (the "**Plan**").
6. The Monitor guide and assist the Petitioner in its preparation of the Plan.
7. Any and all power and authority of Mr. Bergman with respect to the Property or the Business, whether by virtue of being an officer, director or ~~the~~ management of the Petitioner be and it is hereby suspended during the pendency of this Order. u
8. On November 22, 2018 the court will determine the capacity in which Mr. Bergman will have continued involvement with the Petitioner

AMENDED ORDER

9. This Order amends the AIO. To the extent that the provisions of this Order conflict with any other Order granted in these proceedings, including the AIO, the provisions of this Order shall govern.

10. This Order shall be read together with the AIO and is intended to supplement and amend the AIO only to the extent necessary as provided for herein. For greater certainty, all of the provisions of the AIO, except as supplemented or amended herein, shall remain in full force and effect.

ADDITIONAL POWERS OF THE MONITOR

11. The Monitor, in addition to its powers set forth in the AIO, is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and Business and, without in any way limiting the generality of the foregoing, is hereby expressly empowered and authorized to do any of the following where the Monitor considers it necessary or desirable;
- a. take any and all steps in order to direct or cause the Petitioner to administer the Property and operations of the Petitioner or to perform such other functions or duties as the Monitor considers necessary or desirable to deal with the Property or Business, including restructuring, wind-down, liquidation, disposal of assets, or other activities;
 - b. monitor, review, and direct the Petitioner's receipts and disbursements and implement such measures of control as the Monitor deems reasonably necessary to ensure the appropriate monitoring of the Petitioner's expenses and disbursements, including adding or removing signing authorities to or from the Petitioner's bank accounts;
 - c. initiate and administer any claims bar and/or claims resolution process, or protocol as may be approved by Order of this Court within these proceedings;
 - d. subject to the requirements for Court approval set forth in section 36 of the CCAA, direct or cause the Petitioner to complete one or more transactions for the sale of all or any part of the Business, Property or any part thereof, and conduct, supervise and recommend to the Court any procedure regarding the allocation and/or distribution of proceeds of any sales;
 - e. settle, extend or compromise any indebtedness owing to or by the Petitioner;

- f. engage or cause the Petitioner to engage consultants, assistants, advisors, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, as the Monitor deems necessary or desirable to carry out the Monitor's powers and duties, including, without limitation, those conferred by this Order;
- g. apply to this Court for any orders necessary or advisable to carry out its powers and obligations under this Order or any other Order granted by this Court including for advice and directions with respect to any matter; and
- h. meet with management of the Petitioner, if any, with respect to any of the foregoing including, without limitation, operational, transactional and restructuring matters,

and in each case where the Monitor takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Petitioner and its past or present directors and officers, and without interference from any other Person, provided, however, that the Monitor shall comply with all applicable laws and shall not have any authority or power to elect or to cause the election or removal of directors of the Petitioner or to take any action to restrict or to transfer to the Monitor any of their powers, duties or obligations, except in accordance with section 11.5(1) of the CCAA.

12. Without limiting the provisions of this Order, the Petitioner shall remain in possession and control of the Property and the Business and the Monitor shall not take, and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Monitor being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE MONITOR

13. Each of (i) the Petitioner, (ii) all of the Petitioners' current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Monitor of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Monitor, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Monitor upon the Monitor's request;
14. All Persons shall forthwith advise the Monitor of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Petitioner, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Monitor or permit the Monitor to make, retain and take away copies thereof and grant to the Monitor unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Monitor due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.
15. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Monitor for the purpose of allowing the Monitor to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Monitor in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Monitor. Further, for the purposes of this paragraph, all

Persons shall provide the Monitor with all such assistance in gaining immediate access to the information in the Records as the Monitor may in its discretion require including, without limitation, providing the Monitor with instructions on the use of any computer or other system and providing the Monitor with any and all access codes, account names and account numbers that may be required to gain access to the information.

EMPLOYEES

16. Subject to the right of employees to terminate their employment, all employees of the Petitioner shall remain the employees of the Petitioner until such time as the Monitor, on the Petitioner's behalf, may terminate the employment of such employees. The Monitor shall not be liable for any employee related liabilities of the Petitioner, including any successor employer liabilities as provided for in Section 14.06(1.2) of the *BIA*, other than amounts the Monitor may specifically agree in writing to pay and amounts in respect of obligations imposed specifically on receivers by applicable legislation. The Monitor shall be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts relating to any employees that the Monitor may hire in accordance with the terms and conditions of such employment by the Monitor.

17. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Monitor may disclose personal information of identifiable individuals to prospective purchasers or bidders for all any or portion of the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of all any or portion of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Monitor, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such

information by the Petitioner, and shall return all other personal information to the Monitor, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

18. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, 1999, S.C. 1999, c. 33, the *Fisheries Act*, R.S.C. 1985, c. F-14, the *Environmental Management Act*, R.S.B.C. 1996, c. 118 and the *Fish Protection Act*, S.B.C. 1997, c. 21 and regulations thereunder (collectively "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Monitor is actually in possession.

LIMITATION ON THE MONITOR'S LIABILITY

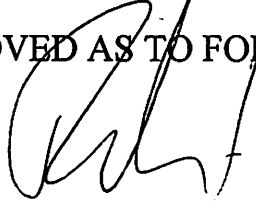
19. In addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the rights and protections afforded the Monitor by the CCAA or any applicable Subject to the right of employees to terminate their employment notwithstanding paragraph 15, all employees of the Petitioner shall remain the employees of the Petitioner until such time as the Monitor, on the Petitioner's behalf, may terminate the employment of such employees. The Monitor shall not be liable for any employee related liabilities of the Petitioner, including any successor employer liabilities as provided for in Section 14.06(1.2) of the *BIA*, other than amounts the Monitor may specifically agree in writing to pay

and amounts in respect of obligations imposed specifically on receivers by applicable legislation. The Monitor shall be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts relating to any employees that the Monitor may hire in accordance with the terms and conditions of such employment by the Monitor.

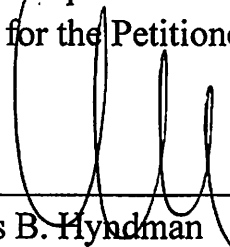
- 20. The Monitor is not, and shall not be or be deemed to be, a director, officer, employee, receiver, receiver manager, interim receiver or similar official of the Petitioner.

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:

APPROVED AS TO FORM:



Jeremy D, West
Watson Goepel LLP
Lawyer for the Petitioner



Douglas B. Hyndman
Kornfeld LLP
Lawyer for the Monitor

BY THE COURT

DEPUTY DISTRICT REGISTRAR

