

COURT FILE NUMBER 1703 12327
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON



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

AND IN THE MATTER OF A PLAN OF ARRANGEMENT OF 667402
ALBERTA LTD., 18512398 ALBERTA LTD., 816956 ALBERTA LTD.,
1371047 ALBERTA LTD., 1919209 ALBERTA LTD. AND CANADA
NORTH GROUP LP HOLDINGS LTD.

DOCUMENT APPLICATION BY MONITOR

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY
FILING THIS DOCUMENT

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File No: 204-196164

NOTICE TO RESPONDENTS

This application is made against you. You are a respondent. You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Date: October 23, 2018
Time: 10:00 a.m.
Where: Edmonton Law Courts
1A Sir Winston Churchill Square
Edmonton, AB T5J 0R2
Before Whom: The Honourable Mr. Justice K. Nielsen sitting on the Commercial List

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. An Order:
 - a. declaring Service of this Application and its supporting materials good and sufficient, and if necessary, abridging time for notice of this Application to the time actually given;
 - b. providing advice and direction as to whether Jeff and Jackie Hadfield a permitted to submit a late secured claim to Ernst & Young Inc. (the "Monitor"), in its capacity as Monitor of 667402 Alberta Ltd., 18512398 Alberta Ltd. ("185"), 816956 Alberta Ltd., 1371047 Alberta Ltd. ("137"), 1919209 Alberta Ltd. ("1919"), and Canada North Holding Group LP Holdings

Ltd. (collectively the "Applicants"), for its review and consideration notwithstanding that their claim was not submitted prior to the Claims Bar Date previously set in these proceedings;

- c. directing the discharge the Weslease Mortgages (as defined below);
- d. approving the offer in respect of the "HML Dorms" (as defined below) and vesting title to the HML Dorms in the purchaser free and clear of all encumbrances;
- e. temporarily sealing the Confidential Supplement to the Monitor's Eighteenth Report (the "Confidential Supplement");
- f. approving the activities of the Monitor as set out in its Eighteenth Report and the Confidential Supplement, including without limitation the Monitor's consent to permit 726 Remote Accommodations Ltd. ("726") to sell certain access fir mats, which are subject to contested ownership and priority claims as between 726 and the Monitor, to an arm's length purchaser upon the terms and conditions set out in the Eighteenth Report and the Confidential Supplement; and
- g. providing for such other relief as this Honourable Court deems just.

Grounds for making this application:

- 2. On July 5, 2017, Canada North Group Inc., Canada North Camps Inc. ("CNC"), Campcorp Structures Ltd. ("Campcorp"), D.J. Catering Ltd. ("DJ"), 816956 Alberta Ltd., and 137 (hereinafter made an application before this Honourable Court requesting certain relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") and obtained an initial order (the "Initial Order"), a stay of proceedings ("Stay") against the Applicants for a period of 30 days up to and including August 3, 2017, and the appointment of Ernst & Young Inc. (the "Monitor") as monitor of the Applicants.
- 3. Since that time, 1919209 Alberta Ltd. ("1919") and Canada North Group LP Holdings Ltd. ("Holdings") have been added as "Applicants" to these proceedings, while Campcorp and DJ have been removed from the proceedings.
- 4. The Stay has been extended on multiple occasions, and is currently in place up to December 31, 2018.
- 5. These proceedings are now Court approved and directed liquidating CCAA proceedings.

The Hadfields' Claim

- 6. On October 4, 2018, Jeff and Jackie Hadfield filed an Application seeking an Order declaring that the mortgage they hold in respect of the Wandering River camp lands is valid and subsisting and that the 1370147 Alberta Ltd. and Wandering River Properties Limited are indebted to the Hadfields in the sum of \$811,000.00.
- 7. The Hadfields did not submit this secured claim to the Monitor prior to the Claims Bar Date (January 19, 2018) set by this Honourable Court in these proceedings.
- 8. The Monitor is seeking advice and direction respecting whether this Honourable Court will permit the Hadfields to submit this secured claim to the Monitor for its consideration (and potential approval) notwithstanding the passage of the Claims Bar Date.

9. The basic facts relevant to the Hadfields request for permission to submit a late claim are:
- a. The Hadfields were at all material times aware of these CCAA proceedings, and received the Claims Process Order and accompanying Creditor Package from the Monitor, along with all other creditors.
 - b. The Hadfields did not have legal counsel in these proceedings until very recently.
 - c. The Monitor sent correspondence to the Hadfields on August 23, 2018 notifying them of their failure submit a Proof of Claim in these proceedings, and requesting that they do so, along with an explanation as to why no claim was submitted before the expiry of the Claims Bar Date.
 - d. On September 19, 2018, the Monitor received a signed Proof of Claim form from the Hadfields that did not include any supporting documents or an explanation.
 - e. On October 4, 2018, Jeff Hadfield swore an Affidavit that included all of the supporting documentation and his explanation as to why he did not submit a claim before the expiry of the Claims Bar Date (no explanation for why Jackie Hadfield did not submit a prior claim was provided). The explanation provided Jeff Hadfield was, in essence, that he did understand the materials he received from the Monitor and likely avoided dealing with the materials received from the Monitor for personal reasons;
 - f. the Monitor and the Applicants were aware of the Hadfield's mortgage prior to the Claims Bar Date.
 - g. No plan of arrangement is going to be submitted by the Applicants in these CCAA proceedings.
 - h. No liquidation of the real property that is subject to the Hadfield mortgage has occurred to date.
 - i. The amount of the Hadfields' claim is \$811,000.00, which is relatively modest in comparison to the total amount of creditor claims in these proceedings, but may be material to CWB's recovery prospects.

The Weslease Mortgages

10. As part of Weslease's claims made in these proceedings, it has indicated that it is the holder of two valid and subsisting mortgages granted by 185 and 137, respectively. Specifically, the details of these alleged mortgages are as follows:

Applicant	Real Property Description	Amount Claimed on Mortgage
185 (formerly known as Canada North Camps Inc.)	Wabasca (1251 Industrial Drive)	\$761,000
137	Bonnyville North lands (which are the lands owned by 137 that do not form part of the actual camp operation)	\$1,500,00

(collectively referred to as the "Weslease Mortgages").

11. The Weslease Mortgages are signed by Paul McCracken on behalf of 185 and 137 respectively, and they are registered at the Land Titles Office in respect of the applicable legal titles.
12. However, the Weslease Mortgages, by their terms, secure any indebtedness that may be due and owing by 185 and 137 under and pursuant to "Lease Agreements" allegedly entered into by them, respectively, with Weslease.
13. Based on Weslease's Proof of Claim and the Affidavit of Keith Talbot sworn October 5, 2018 filed in these proceedings, there are no "Lease Agreements" between Weslease and either of 185 or 137. There are only lease agreements entered into by 1919 and Paul McCracken (jointly) with Weslease.
14. Further, there is no evidence of that there is no direct loan or other direct indebtedness between Weslease and 185 or 137, respectively, nor did 185 or 137 guarantee the indebtedness due and owing from 1919 or Paul McCracken to Weslease.
15. There is no indebtedness due by 185 or 137 to Weslease, pursuant to any Lease Agreements or otherwise.
16. As a result, the Weslease Mortgages ought to be discharged since there is no indebtedness due and owing pursuant to such Mortgages.

Approval of the Offer for the HML Dorms

17. The Monitor, through one of its consultants, Used Modulares Canada Ltd. ("Used Modulares"), has recently received an offer to purchase two 38 Person Alta-Fab Dormitories (the "Alta Fabs Units") along with a two unit Recreation Complex currently located at the HML camp (collectively the "HML Dorms") from Alta-Fab Structures Ltd.
18. The details of Structures' offer (the "Offer") that is being supported by the Monitor are set out in the Confidential Supplement.
19. This Honourable Court has the power to grant a Vesting Order in respect of the HML Dorms pursuant to section 36 of the CCAA.
20. The entirety of section 36 of the CCAA is not a pure application to this scenario, since it is not one of the Remaining Applicants selling assets, but rather, the Monitor, pursuant to its expanded powers, selling the assets on behalf of the Applicants for the benefit of stakeholders. Nonetheless, section 36(6) clearly permits this Honourable Court to issue a Vesting Order in respect of the Residual Assets in favour of the ultimate purchasers of such assets.
21. The four factors set out in *Royal Bank of Canada v. Soundair Corp.* ("Soundair") have also been routinely considered in CCAA asset sales scenarios.
22. The factors set out in section 36 of the CCAA and in Soundair are satisfied here. It is just and appropriate to approve Structures' offer for the HML Dorms.
23. The Monitor's consent to permit 726 to sell certain access fir mats, which are subject to contested ownership and priority claims as between 726 and the Monitor, to an arm's length purchaser upon the terms and conditions set out in the Eighteenth Report and Confidential Supplement was reasonable, appropriate and in the best interests of the stakeholders.
24. It is just and appropriate to temporarily seal the Confidential Supplement.

25. Such further and other reasons as the Monitor may advise and this Honourable Court may accept.

Material or evidence to be relied on:

26. Seventeenth Report of the Monitor, filed.
27. Eighteenth Report of the Monitor, filed.
28. Confidential Supplement to the Monitor's Eighteenth Report, to remain unfiled or sealed.
29. The Affidavit of Keith Talbot sworn October 5, 2018, filed.
30. The Affidavit of Jeff Hadfield sworn October 3, 2018, filed.
31. The pleadings and proceedings taken in this Action to date.
32. Such further and other materials as previously filed in this matter as counsel may advise and this Honourable Court permits.

Applicable rules:

33. *Alberta Rules of Court* AR 124/2010, including Rules 1.2, 1.4, 6.1, 6.2, 6.3 and 11.27.

Applicable Acts and regulations:

34. *Judicature Act*, RSA 2000 c. J-2, as amended;
35. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 including ss. 9, 11, 23, and 36.
36. *Land Titles Act*, RSA 2000, c L-4, including ss. 1(o), 103, 106.
37. *Law of Property Act*, RSA 2000, c L-7, including s. 75.
38. Such further other provisions and statutes as counsel may advise.

Any irregularity complained of or objection relied on:

39. Abridgement of time for service to the time actually given, if necessary.

How the application is proposed to be heard or considered:

40. Before the Honourable Mr. Justice Nielsen sitting on the Commercial List.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.