CENTRE OF EDMONTON JUDICIAL FILED SEP 10 2018 Clerk of the Court

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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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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:	September 21, 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 S.D. Hillier 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. directing, as between the Ernst & Young Inc., in its capacity as Monitor of 667402 Alberta Ltd., 18512398 Alberta Ltd. ("185"), 816956 Alberta Ltd. ("816"), 1371047 Alberta Ltd. ("137"),1919209 Alberta Ltd., and Canada North Holding Group LP Holdings Ltd. (the

"Monitor") and 726 Remote Accommodations Ltd. and any applicable affiliated company (collectively "726"), that:

i. no further assets whatsoever be removed by 726 from any of the camp sites formerly operated by one or more of the Remaining Applicants without the express written consent of the Monitor, or further Order of the Court;

ii. no assets located on the Bonnyville, Monias, Wandering River and Peace River camp locations, previously operated by one or more of the Remaining Applicants, which are the subject of any ownership or priority dispute between 726 and the Remaining Applicants (collectively the "Contested Camp Assets"), as discussed below, will be sold without the joint written consent of both 726 and the Monitor, on terms agreeable to both parties, or otherwise as approved or directed by the Court;

iii. 726 and the Monitor will keep each other apprised of the location of any of the Contested Camp Assets that have already been moved to date, permit each other to have reasonable access to such assets, and not further move such assets to a different location than where they are currently located without the express written consent of the other or further Order of the Court; and

iv. 726 will maintain adequate and proper security and insurance over and in respect of any of the Contested Camp Assets it has already moved to date until the ownership, priority and other issues in relation to the assets are resolved.

c. directing and confirming in relation to the Small Wares (as defined below):

i. the Monitor or its agent is at liberty to remove, in its discretion, any Small Wares located within any of the dorms or alike assets claimed by any property claimant at any of the camps formerly operated by the Remaining Applicants;

ii. the Monitor is permitted to proceed to obtain liquidation proposals for the Small Wares through the use of a qualified liquidator; and

iii. the Monitor is authorized to abandon any Small Wares if it is determined or believed that the costs to retrieve and sell any of the Small Wares from any site will not exceed the anticipated sale proceeds.

d. temporarily sealing the Confidential Supplement to the Monitor's Seventeenth Report (the "Confidential Supplement");

e. approving the activities of the Monitor as set out in its Seventeenth Report and the Confidential Supplement; and

f. providing for such other relief as this Honourable Court deems just.

2. In the event that this Honourable Court approves the proposed sale of the "Farm" lands (as they are commonly referred to in these proceedings), which is the subject of an Application by First Island Financial Services Ltd. and Zenex Capital Corporation ("First Island") returnable at the same date and time, an Order:

a. directing or provided (as applicable):

i. that First Island pay over to the Monitor the sum of $500,000.00 as a holdback, from the sale proceeds of the Farm lands, which shall thereafter be held in trust by the Monitor pending a final costs allocation in these proceedings; or

ii. in the alternative, advice and direction in respect of such further and other just and proper amount to be paid by First Island over to the Monitor as a holdback, from the sale proceeds of the Farm lands, which shall thereafter be held in trust by the Monitor pending a final costs allocation in these proceedings;

b. declaring that such holdback amount is without prejudice to a final amount allocated to 816 and/or the Farm lands, and that First Island's receipt of the remainder of the sales proceeds from the Farm remains subject to a final allocation determination being made by this Honourable Court; and

c. providing for such other relief as this Honourable Court deems just.

3. In the event that this Honourable Court approves an interim distribution of the sale proceeds of the "Winterburn" lands (as they are commonly referred to in these proceedings), which is the subject of an Application by of Staheli Construction Co Ltd. ("Staheli") returnable at the same date and time, an Order:

a. Directing or provided (as applicable):

i. that the Monitor retain the sum of $700,000.00 as a holdback, from the sale proceeds of the Winterburn lands, which shall thereafter be held in trust by the Monitor pending a final costs allocation in these proceedings; or

ii. in the alternative, advice and direction in respect of such further and other just and proper amount to be retained by the Monitor as a holdback, from the sale proceeds of the Winterburn lands, which shall thereafter be held in trust by the Monitor pending a final costs allocation in these proceedings;

b. declaring that such holdback amount is without prejudice to a final amount allocated to 137 and/or the Winterburn lands, and that Staheli's receipt of the amounts provided as an interim distribution remains subject to a final allocation determination being made by this Honourable Court; and

c. providing for such other relief as this Honourable Court deems just.

Grounds for making this application:

4. On July 5, 2017, Canada North Group Inc. ("CNG"), Canada North Camps Inc. ("CNC"), Campcorp Structures Ltd. ("Campcorp"), D.J. Catering Ltd. ("DJ"), 816956 Alberta Ltd. ("816"), and 1371047 Alberta Ltd. ("137") (hereinafter collectively referred to as the "Applicants" or the "Companies") 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.

5. 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.

6. The Stay has been extended on multiple occasions, and is currently in place up to December 31, 2018.

7. These proceedings are now Court approved and directed liquidating CCAA proceedings.

726 Ownership Claims and Priority Disputes Respecting Various Camp Assets

8. On July 12, 2018, the Monitor received some initial documentation from counsel for 726 within which 726 asserted ownership of a number of assets located at the Bonnyville, Monias, Peace River and Wandering River camps previously operated by the Applicants. 726 has since provided further additional documentation in respect of such ownership claims.

(i) Bonnyville

9. The assets claimed by 726 at Bonnyville were the majority of the assets that had previously been asserted by 185 to be owned by it on that site, and were specifically included in various (confidential) Affidavits and appraisals previously provided to the Court and other stakeholders by the Applicants in these proceedings.

10. Former Management of the Applicants have since indicated to the Monitor that, in regard to the assets claimed by 726 located at the Bonnyville camp, which were also contained within the appraisal obtained and put forward by the Applicants, such assets were in fact the property of 726, and not the Applicants, and were listed on the appraisals included in the confidential supplements in error.

11. The Monitor does not anticipate challenging 726's ownership claim in respect of the claimed assets on the Bonnyville camp site, unless there is a material change in relation to the information or documents that comes to light to alter the accuracy and/or legitimacy of the information obtained and reviewed to date.

12. It does not appear that there was any lease between 726 and Bonnyville Lodge LP (the applicable partnership for this camp site), and as such, the Monitor does not anticipate, at this time, making any priority claim in respect of the 726 dorms at the Bonnyville camp if that ownership claim is accepted by the Court, again subject to further material information or documents being received by the Monitor.

(ii) Monias, Peace River and Wandering River Ownership Claims

13. Similar to the 726 property claim asserted against the assets located at the Bonnyville camp discussed above, 726 has also asserted property claims against some of the assets located at the Monias, Peace River and Wandering River camps.

14. A number of assets claimed by 726 at the Monias and Wandering River camps were those which had previously been asserted by 185 to be owned by it, and were again specifically included in various (confidential) Affidavits and appraisals previously provided to the Court and other stakeholders by the Applicants in these proceedings.

15. The Monitor has requested that former management provide any comments in relation to 726's claims asserted against some of the assets at both of these locations, and counsel for the Applicants advised that Management would need to review the matter further prior to providing a response. Unlike with the assets located at the Bonnyville camp, former management has not indicated that ownership of such assets belongs to 726 at these two locations. No substantive response to the Monitor's requests for Management's comments in this regard has been obtained to date.

16. The Monitor's investigations into 726's property claims against certain assets at Monias and Wandering River locations is ongoing.

17. There does not appear to be conflicting ownership claims between 726 and the Applicants in respect of the assets located on the Peace River camp site.

(iii) Priority Dispute Respecting Assets at Monias, Peace River and Wandering Rover Camp Sites

18. The Monitor has been provided with General Security Agreements executed in favour of 185 by each of Peace River Lodge LP, Wandering River Lodge LP, and Kilometer 147 Lodge LP, which partnerships respectively controlled the Peace River, Wandering River and Monias camps that have been the subject of these proceedings.

19. 185 has all present and after acquired personal property registrations in the Alberta Personal Property Registry as against each of these partnerships.

20. From information provided by former management, the Monitor understands that each of the above partnerships is indebted to 185 on account of costs incurred in relation to, at least in part, the initial setup/operational expenses of the camps that were paid for by 185 and never recovered. Specifically, the amounts former management have indicated as owing by each of the above noted entities is noted below:

    a. Peace River Lodge LP: $1,116,897.75 (as at April 18, 2018);

    b. Wandering River Lodge LP: $159,123.46 (as at February 19, 2018); and

    c. Kilometer 147 LP: $1,236,788.24 (as at December 4, 2017).

21. The Monitor understands that 726 entered into various lease agreements with each of the above noted partnerships for the use of various camp related assets, and that the leases in question were for a period of more than one year. The Monitor further understands that these lease agreements were never registered at the PPR by 726, at least as at the date of the last PPR searches obtained by the Monitor's counsel.

22. Given the above, it is the Monitor's position that if the security agreements and indebtedness are valid, 185 will have priority to assets leased to the partnership that are located on the above camps, and as such, there may be a priority dispute between 726 and 185 in relation to the assets that are subject to the leases in question, which exists regardless of any "ownership" dispute that may exist.

(iv) Removal of Assets at Monias Camp by 726

23. The Monitor learned that what appears to be a related company of 726, being 726 Modular Finance Canada Ltd., had attended Court and obtained an Order, in a separate action, dated January 18, 2018 allowing it to access the Monias site, and to decommission and remove the equipment listed in that Order from the Monias site. The Monitor was previously unaware that this Order was granted.

24. Upon obtaining access at the Monias camp site, the Monitor identified that a sizeable number of the camp dorms and related assets of any value had been removed from the site.

25. The Monitor understands that 726 did attend the site, and removed only some of the assets listed in the January 18, 2018 Order, and that additional assets claimed by 726 remain on the Monias site at this time. Per 726, no assets that were not being claimed by 726 were removed from the Monias site by 726.

26. The representatives of 726 and 726's counsel have cooperated with the Monitor to date, and the Monitor and 726 have regular and ongoing communications regarding such assets and issues. Notwithstanding such cooperation, it is important to establish a clear protocol in regard to any future dealings in respect of any assets claimed by 726 in the circumstances.

27. It is appropriate for this Honourable Court to grant an Order that provides for the following:

    a. no further assets whatsoever be removed by 726 from any of the camp sites formerly operated by one or more of the Remaining Applicants without the express written consent of the Monitor, or further Order of the Court;

    b. no Contested Camp Assets will be sold without the joint written consent of both 726 and the Monitor, on terms agreeable to both parties, or otherwise as approved or directed by the Court;

    c. 726 and the Monitor will keep each other apprised of the location of any of the Contested Camp Assets that have already been moved to date, permit each other to have reasonable access to such assets, and not further move such assets to a different location than currently located without the express written consent of the other or further Order of the Court; and

    d. 726 will maintain adequate and proper security and insurance over and in respect of any of the Contested Camp Assets it has already moved to date until the ownership, priority and other issues in relation to the assets are resolved.

<u>Small Wares at Various Camps Formerly Operated by the Applicants</u>

28. In discussions with various liquidators, consultants, stakeholders and prospective purchasers, the Monitor is now of the opinion that, with the exception of Wabasca (at least in part), the sale of any of the Remaining Applicants' camps as operating going concern camps is unlikely.

29. The Monitor anticipates proceeding to consult with liquidators in an attempt to determine if there is any value to be derived from removing and liquidating all of the small wares, gym equipment, entertainment assets (pool tables, foosball tables, and alike), kitchen equipment, shelving, and other similar assets at each of the sites currently (collectively referred to simply as "Small Wares").

30. The Monitor is in the process of inventorying the Small Wares at each of the camp sites and discussing such lists with various liquidators.

31. To date, the Monitor has not received any property claims from any party in regard to the Small Wares. Other parties have only made claims to the dorms or alike units themselves, or other clearly identifiable non-Small Wares assets, which is consistent with the Monitor's understanding that it was the Applicants that operated the applicable camps, even if the dorms and alike units were owned by or leased from other parties, and would have moved the Small Wares into such units.

32. As a result of the above:

    a. the Monitor or its agent is at liberty to remove in its discretion any Small Wares located within any of the dorms or other property claimed by any property claimant at any of the camps formerly operated by the Remaining Applicants; and

    b. it is appropriate to obtain liquidation proposals for the Small Wares through the use of a qualified liquidator, and proceeding with a liquidation of the Small Wares in this manner is beneficial for the estate and in the best interests of the stakeholders.

<u>Sale of the Farm and Appropriate Holdback Pending Final Cost Allocation</u>

33. First Island has brought an application to Court for the approval of an offer to purchase the Farm lands owned by 816.

34. The Monitor takes no position in relation to the acceptance of the offer.

35. If the offer is accepted, it does not appear that there is any equity in the Farm for any other creditors after First Island's claim and priority costs are addressed.

36. Provided this Honourable Court approves the offer to purchase the Farm, it is just and appropriate that a significant portion of the sale proceeds should be paid over to the Monitor and placed in trust with the Monitor as a holdback to cover the amount of the Administration Charge, Interim Lender's Charge and other applicable amounts that will ultimately be allocated to 816 and/or the Farm in these Proceedings, once a final allocation process is completed by the Court.

37. The Monitor has prepared a revised proposed allocation methodology analysis ("Revised Allocation") and included the Revised Allocation in the Confidential Supplement.

38. Based on the Revised Allocation and the other factors discussed in the Confidential Supplement, the Monitor recommends a holdback of $500,000.00 from the sale proceeds of the Farm, to be held in trust by the Monitor pending a future application and determination of the final allocation of the costs, DIP financing and other amounts of these *CCAA* proceedings, as well as direction from this Honourable Court that such amount is without prejudice to a final number being allocated to 816 and/or the Farm and that First Island's receipt of the remainder of the sales proceeds from the Farm remains subject to a final allocation determination being made by the Court.

Interim Distribution of the Winterburn Sale Proceeds and Appropriate Holdback Pending Final Cost Allocation

39. Staheli is making an application to this Honourable Court to request an interim distribution of the funds collected from the Winterburn sale.

40. Given the amount of funds currently being held by the Monitor, the Monitor is agreeable to an interim distribution subject to an appropriate holdback.

41. Provided this Honourable Court approves the interim distribution, it is just and appropriate that a significant portion of the sale proceeds should be maintained by the Monitor as a holdback to cover the amount of the Administration Charge, Interim Lender's Charge and other applicable amounts that will ultimately be allocated to 137 and/or the Winterburn property in these Proceedings once a final allocation process is completed by the Court.

42. Based on the Revised Allocation and the other factors discussed in the Confidential Supplement, the Monitor recommends a Holdback of $700,000.00 from the sale proceeds derived from the sale of Winterburn to be held in trust by the Monitor pending a future application and determination of the allocation of the costs, DIP financing and other amounts of these *CCAA* proceedings, as well as direction from the Court that such amount is without prejudice to a final number being allocated to 137 and/or the Winterburn property, and that Staheli's receipt of the interim distribution funds remains subject to a final allocation determination being made by the Court.

43. It is just and appropriate to temporarily seal the Confidential Supplement.

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

Material or evidence to be relied on:

45. Eleventh Report of the Monitor, filed.

46. Seventeenth Report of the Monitor, to be filed.

47. Confidential Supplement to the Monitor's Seventeenth Report, to remain unfiled or sealed.

48. The pleadings and proceedings taken in this Action to date.

49. Such further and other materials as previously filed in this matter as counsel may advise and this Honourable Court permits.

Applicable rules:

50. *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:

51. *Judicature Act*, RSA 2000 c. J-2, as amended;

52. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 including ss. 9, 11, and 23.

53. Such further other provisions and statutes as counsel may advise.

Any irregularity complained of or objection relied on:

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

How the application is proposed to be heard or considered:

55. Before the Honourable Mr. Justice Hillier 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.