

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 FOR VESTING ORDER**

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: December 4, 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 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. extending the stay of proceedings provided in the Initial Order granted July 5, 2017 up to and including June 30, 2019;

- c. approving the Monitor's decision to allow a payment of \$5,000.00 to counsel for First Island from the sale proceeds of the Farm to cover the costs in relation to the foreclosure of the Farm;
- d. approving the offer in respect of the "HML Kitchen" (as defined below) and vesting title to the HML Kitchen in the purchaser free and clear of all encumbrances;
- e. temporarily sealing the Confidential Supplement to the Monitor's Twentieth Report (the "Confidential Supplement");
- f. approving the activities of the Monitor as set out in its Twentieth 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.

Extension of the Stay

- 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.
- 6. The Monitor, on behalf of the Remaining Applicants, is seeking an extension of that stay of proceedings up to and including June 30, 2019.
- 7. The Remaining Applicants, through the Monitor, have acted, and are acting, in good faith and with due diligence in respect of these proceedings.
- 8. Based on information discovered and the work done by the Monitor since the expansion of its powers, and the anticipated work and matters yet to be discovered, completed or resolved, the current stay extension to December 31, 2018 does not provide for sufficient time to address the matters identified to date, realize on the balance of the Remaining Applicants' assets, resolve and determine the allocation of the costs of the CCAA proceedings, distribute funds to creditors, and bring these CCAA proceedings to an end.
- 9. It is the opinion of the Monitor that it will take until at least June 30, 2019, before most of the substantive matters in these CCAA proceedings can be resolved, and these proceedings can be brought to an end.

Approval of the First Island Foreclosure Costs

10. Upon review of the Vesting Order obtained by First Island in relation to the sale of the Farm, it was the opinion of counsel for the Monitor that there was arguably missing a provision relating to the payment of First Island's counsel for its fees and costs relating to the foreclosure proceedings on the Farm, and in any event, the Vesting Order permitted amounts be paid out from the sale proceeds of the Farm for adjustments or other items as were customary, and approved by the Monitor and First Island.
11. The Monitor and its counsel discussed this issue and were collectively of the view that some reasonable payment to counsel for First Island for its efforts was appropriate and customary in the circumstances.
12. As such, the Monitor and its counsel considered what the comparative and allowable typical costs would be for foreclosure actions in Edmonton, and were of the opinion that a payment of \$5,000.00, all-inclusive, would be reasonable and appropriate. First island has agreed to this figure.
13. It is the Monitor's recommendation that the Court approve the Monitor's agreement to allow a payment of \$5,000.00 to First Island's counsel to cover the costs of the foreclosure proceedings, as such payment is customary, reasonable and appropriate in the circumstances.

Approval of the Offer for the HML Kitchen

14. The Monitor, through one of its consultants, Used Modulares Canada Ltd. ("Used Modulares"), has recently received an offer to purchase the various units that comprise the Kitchen at the HML camp (collectively the "HML Kitchen") from Alta-Fab Structures Ltd. ("Structures").
15. The details of Structures' offer (the "Offer") that is being supported by the Monitor are set out in the Confidential Supplement.
16. This Honourable Court has the power to grant a Vesting Order in respect of the HML Kitchen pursuant to section 36 of the CCAA.
17. 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.
18. The four factors set out in *Royal Bank of Canada v. Soundair Corp.* ("Soundair") have also been routinely considered in CCAA asset sales scenarios.
19. The factors set out in section 36 of the CCAA and in Soundair and are satisfied here. It is just and appropriate to approve Structures' offer for the HML Kitchen.
20. It is just and appropriate to temporarily seal the Confidential Supplement.
21. Such further and other reasons as the Monitor may advise and this Honourable Court may accept.

**Material or evidence to be relied on:**

22. Twentieth Report of the Monitor, filed.
23. Confidential Supplement to the Monitor's Twentieth Report, to remain unfiled or sealed.

24. The pleadings and proceedings taken in this Action to date.
25. Such further and other materials as previously filed in this matter as counsel may advise and this Honourable Court permits.

**Applicable rules:**

26. *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:**

27. *Judicature Act*, RSA 2000 c. J-2, as amended;
28. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 including ss. 3, 9, 11, 11.02, 23, and 36.
29. Such further other provisions and statutes as counsel may advise.

**Any irregularity complained of or objection relied on:**

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

**How the application is proposed to be heard or considered:**

31. 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.