Court File No. 03-CL-5145

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

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 or Plans of Compromise or Arrangement of Ivaco Inc. and the Applicants listed in Schedule "A"

Applicants

NOTICE OF MOTION
(returnable November 7, 2006)

III Canada Acquisition Company, Sivaco Wire Group 2004 L.P., Ifastgroupe 2004 L.P., Ivaco Rolling Mills 2004 L.P., Heico Holding, Inc. and The Heico Companies, L.L.C. (collectively, "Heico") will bring a motion before the Honourable Mr. Justice Ground of the Commercial List on Tuesday, the 7th day of November, 2006 at 10:00 a.m. at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard

__ in writing under subrule 37.12.1(1) because it is on consent or unopposed or made without notice;

__ in writing as an opposed motion under subrule 37.12.1(4)

_x_ orally.

THE MOTION IS FOR

a) An order determining who (the "Authorized Party") has status to invoke the alleged privilege of Ivaco (defined below) in respect of the Heico Documents (defined below);

b) An interim order that Ernst & Young Inc. as Monitor be permitted to engage an independent accounting firm (the "Examiner") at its expense which would review of documents created between January 1 and November 30, 2004 (the

"Heico Documents") that were formerly in the possession of Ivaco Inc. and related companies (collectively, "Ivaco"), created on or before which came into the possession of Heico pursuant to certain asset purchase agreements (collectively, the "APAs") entered into with Ivaco in 2004 during the course of CCAA proceedings and, in particular, an interim order

i) that the Examiner, at the expense of Ernst & Young Inc. in its capacity as Monitor of Ivaco (the "Monitor"), as an officer of the court conduct such review of the Heico Documents as it deems necessary to identify which, if any, of the Heico Documents may potentially be subject to solicitor-client privilege in favour of Ivaco (the "Initial Document Group");

ii) that, if retained by the Monitor, the Examiner prepare a schedule (the "Schedule") listing the Initial Document Group along with the following details of such document:

  a) date,

  b) type of document (e.g. letter, memo, note, e-mail message),

  c) author,

  d) recipient,

  e) the identities of any persons receiving carbon or blind copies of such document, and

  f) the basic subject matter of the document (without providing details that might reveal allegedly privileged information).

iii) that the Monitor advise Heico and the Examiner in writing which of the Initial Document Group Ivaco claims privilege over (collectively, the "Disputed Documents"), together with the nature of the privilege and the circumstances that give rise to the claim of privilege.

iv) that the Examiner deliver the Schedule to counsel for the Monitor, Ivaco, Heico, and the Court;

v) that the Examiner to place copies of the Disputed Documents in sealed boxes and deliver such boxes to the Court under seal;

vi) that the Examiner release to Heico all documents in the Initial Document Group that are not Disputed Documents; and

vii) such other interim directions as are necessary to permit the adjudication of privilege upon subsequent return of the motion as described in paragraph (d);

c) an order

i) determining the proper law applicable to the determination of issues relating to privilege;

ii) declaring—following a review of the Disputed Documents by the court *in camera*—which, if any, of the Disputed Documents or portions thereof are subject to solicitor-client privilege or litigation privilege (the "Privileged Documents");

iii) determining whether privilege over any of the Privileged Documents has been waived, extinguished, impaired, or otherwise lost;

iv) determining whether the Privileged Documents can be retained and used by Heico, whether in whole or in part or in redacted or unredacted form, including for the purposes of a pending dispute between the Seller and Heico concerning the post-closing working capital adjustment provided for in the APAs or for any other litigation that may arise directly or indirectly out of the APAs;

v) if necessary, an order directing that the non-privileged portions of the Privileged Documents, including any facts contained in such documents, be produced or otherwise disclosed; and

vi) such other directions concerning the possession and use of the Privileged Documents as the court deems just; and

d) costs of the series of motions on a full indemnity basis.

THE GROUNDS FOR THE MOTION ARE:

a) Ivaco was granted protection under the *Companies' Creditors Arrangement Act* ("CCAA") in September 2003;

b) Ernst & Young Inc. was appointed as Monitor of Ivaco;

c) Both before and after the CCAA order, Davies Ward Phillips & Vineberg LLP ("Davies Ward") acted as counsel for Ivaco;

d) Stikeman Elliott LLP acted for the Monitor;

e) Ivaco eventually embarked upon a full scale sales process to sell all of its business as a going concern;

f) Heico was invited to submit an offer for the purchase of the Ivaco business ultimately became one of the two final candidates;

g) In July 2004, Heico was selected as the winning bidder to purchase Ivaco's business;

h) On August 6, 2006, Ivaco and Heico signed the APAs, which set out the terms on which Ivaco agreed to sell its assets to Heico;

i) the APAs provided that there would be a post-closing adjustment of the working capital of Ivaco (the "Adjustment"), the amount of which would be agreed between the parties or determined by the Hamilton, Ontario office of

KPMG LLP ("KPMG") based on a review of documents and interviews of relevant witnesses;

j) since the parties were unable to agree on the amount of the Adjustment, KPMG was appointed to determine the Adjustment;

k) pursuant to the APAs Ivaco agreed that all books and records of Ivaco (the "Ivaco Records") were included in the sale and would be transferred to Heico on closing;

l) on closing, Ivaco abandoned all of the Ivaco Records and Heico acquired possession of them;

m) for purposes of having KPMG decide the adjustment, Heico and the Monitor have relied on the Ivaco Records;

n) on August 24, 2006, more than two years after the APAs were signed and approximately 21 months after closing, the Monitor took the position that at least certain of the Ivaco Records were subject to privilege and insisted that Ivaco's Canadian and U.S. counsel should not review or use such privileged documents;

o) because the Monitor has raised the issue of privilege, Heico seeks directions from the court concerning whether privilege exists in respect of any documents and, if so, the use (if any) to which the documents can be put.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

a) Affidavits on behalf of Heico (to be filed) in response to the Affidavits filed by Ivaco on September 29, 2006

September 29, 2006

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Proceeding commenced at Toronto

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