

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.	)	WEDNESDAY, THE 15 th
	)	
JUSTICE MORAWETZ	)	DAY OF MAY, 2013

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 COMPROMISE OR
ARRANGEMENT OF TERRACE BAY PULP INC.

Applicant

ORDER
(Re: Stay of OHSA Proceedings, Disputed D&O Claim, Interim Distribution and
Scheduling of Construction Lien Motion)

THIS MOTION, made by Terrace Bay Pulp Inc. (the "**Company**"), for an order

(a) declaring that the proceeding known as *R. v. Terrace Bay Pulp Inc. & Gino Leblanc*, brought by the Ministry of Labour, Legal Services Branch against the Company, commenced by Information sworn on January 10, 2012 in the Ontario Provincial Offences Court (Thunder Bay) (the "**First OHSA Proceeding**"), and the proceeding known as *R. v. Terrace Bay Pulp Inc., Venshore Mechanical Ltd., Joseph Mykietyn, Arthur Szczepaniak & Alain Zborowski*, brought by the Ministry of Labour, Legal Services Branch against the Company, commenced by Information sworn October 15, 2012 in the Ontario Provincial Offences Court (Thunder Bay) and subsequently transferred to Ontario Provincial Court (Thunder Bay) (the "**Second OHSA Proceeding**", together with the First OHSA Proceeding, the "**OHSA Proceedings**")), in

connection with alleged violations under the *Occupational Health and Safety Act* (Ontario), are stayed, and, if required, granting an interim stay of the OHS Proceedings pending the disposition of the within motion; (b) declaring that the Disputed D&O Claim (as defined in the affidavit of Wolfgang Gericke sworn April 18, 2013 (the “**Gericke Affidavit**”)) is not a claim in respect of an obligation or liability incurred by a director or officer of the Company within the meaning of paragraph 16 of the Order of the Honourable Mr. Justice Morawetz dated January 25, 2012, as amended and restated (the “**Initial Order**”) and is therefore not a claim secured by the Directors’ Charge (as defined at paragraph 17 of the Initial Order); (c) fully and finally discharging the Directors’ Charge and declaring that, other than in relation to and subject to the priority of the Administration Charge and the claims secured by the Administration Charge (as such term is defined at paragraph 28 of the Initial Order), the security held by the Trustee (as defined in the Gericke Affidavit) has priority over all other claims and security, liens and encumbrances of any kinds against the Sale Proceeds and the Additional Cash on Hand (as such terms are defined in the Gericke Affidavit), including, without limitation, the Mill Property Lien Claims (as defined in the Gericke Affidavit) and permitting an interim distribution of the Sale Proceeds and Additional Cash on Hand, in amounts to be determined by this Court, to be paid to the Trustee; and (d) approving the Further Amended and Restated Report of the Monitor, Ernst & Young Inc. (the “**Monitor**”) dated April 19, 2013 (the “**Further Amended and Restated Eighth Report**”), and the conduct and activities of the Monitor as described therein; was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Gericke Affidavit and the Exhibits thereto, the factum of the Company dated May 1, 2013 and the Further Amended and Restated Eighth Report, and on

hearing the submissions of counsel for the Company, the Monitor and the Ontario Ministry of Labour (Legal Services Branch), no one appearing for any other person on the service list although properly served.

DEFINED TERMS

1. **THIS COURT ORDERS** that all terms not otherwise defined herein have the same meaning as in the Gericke Affidavit.

SERVICE

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Further Amended and Restated Eighth Report is hereby abridged so that this Motion is properly returnable today and that any requirement for service of the Notice of Motion, the Motion Record and the Further Amended and Restated Eighth Report on any parties other than the parties actually served with the Notice of Motion, Motion Record and the Further Amended and Restated Eighth Report is hereby dispensed with and that service in the manner effected by the Company is validated in all respects.

OHSA PROCEEDINGS

3. **THIS COURT ORDERS AND DECLARES** that the OHSA Proceedings are hereby stayed as against the Company.

DISPUTED D&O CLAIM

4. **THIS COURT ORDERS AND DECLARES** that the Disputed D&O Claim is not a claim in respect of an obligation or liability incurred by a director or officer of the Company within the meaning of paragraph 16 of the Initial Order and is therefore not a claim secured by the Directors' Charge.

INTERIM DISTRIBUTION

5. **THIS COURT ORDERS AND DECLARES** that the Directors' Charge be and is fully and finally discharged.

6. **THIS COURT ORDERS AND DECLARES** that, other than in relation to and subject to the priority of the Administration Charge and the claims secured by the Administration Charge, the security held by the Trustee has priority over all other claims and security, liens and encumbrances of any kinds against the Sale Proceeds and the Additional Cash on Hand, including, without limitation, the Mill Property Lien Claims.

7. **THIS COURT ORDERS** that the Company and the Monitor are hereby authorized and directed to make an interim distribution of the Sale Proceeds and Additional Cash on Hand [in the amount of •], to be paid to the Trustee.

APPROVAL OF MONITOR'S REPORT

8. **THIS COURT ORDERS** that the Further Amended and Restated Eighth Report and the conduct and activities of the Monitor as described therein be and are hereby approved.

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 COMPROMISE OR ARRANGEMENT OF
TERRACE BAY PULP INC.

Court File No. CV-12-9566-00CL

Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

ORDER

(Re: Stay of OHSA Proceedings, Disputed D&O Claim, Interim
Distribution and
Scheduling of Construction Lien Motion)

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