

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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 SIGNATURE ALUMINUM CANADA INC.

Applicant

**MOTION RECORD
(Returnable March 18, 2010)**

Date: March 12, 2010

BLAKE, CASSELS & GRAYDON LLP

Barristers and Solicitors
Box 25, Commerce Court West
199 Bay Street, Suite 2800
Toronto, Ontario M5L 1A9

Linc Rogers LSUC #43562N

Tel: 416-863-4168

Fax: 416-863-2653

Katherine McEachern LSUC #38345M

Tel: 416-863-2566

Fax: 416-863-2653

Jackie Moher LSUC#: 53166V

Tel: 416-863-3174

Fax: 416-863-2653

Lawyers for the Applicant

TO: SERVICE LIST ATTACHED

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SERVICE LIST

TO: BLAKE, CASSELS & GRAYDON LLP
199 Bay Street
Suite 2800, Commerce Court West
Toronto, ON M5L 1A9
Fax: (416) 863-2653

Linc A. Rogers
Tel: (416)863-4168
Email: Linc.Rogers@blakes.com

Katherine McEachern
Tel: (416) 863-2566
E-mail: katherine.mceachern@blakes.com

Jackie Moher
Tel: (416) 863-3174
E-mail: Jackie.moher@blakes.com

Chris Burr
Tel: (416) 863-3301
Email: Chris.Burr@blakes.com

Lawyers for the Applicant, Signature Aluminum Canada Inc.

AND TO: **OGILVY RENAULT**
Suite 3800
Royal Bank Plaza, South Tower
200 Bay Street, P.O. Box 84
Toronto, Ontario M5J 2Z4
Fax: (416) 216-3930

Virginie Gauthier
Tel: (416) 216-4853
E-mail: vgauthier@ogilvyrenault.com

Adrienne Glen
Tel: (416) 216-4082
E-mail: aglen@ogilvyrenault.com

Lawyers for the proposed Monitor, FTI Consulting Canada Inc.

AND TO: **GOWLING LAFLEUR HENDERSON LLP**
1 First Canadian Place
100 King Street West
Suite 1600
Toronto, Ontario M5X 1G5
Fax: (416) 862-7661

Clif Prophet
Tel: (416) 862-3509
E-mail: Clifton.prophet@gowlings.com

Christine Mason
Tel: (416) 862-4408
E-mail: Christine.mason@gowlings.com

Lawyers for Biscayne Metals Finance, LLC

AND TO: **GREENBERG TRAUIG**
77 West Wacker Drive
Suite 3100
Chicago, IL 60601
Fax: (312) 456-8435

Amit Mehta
Tel: (312) 456-8456
E-mail: mehtaa@gtlaw.com

Lawyers for Shapes L.L.C., HIG Bayside LBO Fund II, L.P.

AND TO: **FTI CONSULTING CANADA INC. IN ITS CAPACITY AS MONITOR OF
SIGNATURE ALUMINUM CANADA INC.**

79 Wellington St. W.
Suite 2010, P.O. Box 104
Toronto, ON
M5K 1G8
Fax: 416-649-8101

Nigel Meakin
Tel: (416)-649-8065
E-mail: nigel.meakin@fticonsulting.com

Toni Vanderlaan
Tel: (416)-649-8075
E-mail: toni.vanderlaan@fticonsulting.com

Brogan Taylor
E-mail: Brogan.Taylor@fticonsulting.com

AND TO: **MINISTRY OF THE ATTORNEY GENERAL**

Legal Services Branch
Financial Services Commission of Ontario
17th Floor – Box 85
5160 Yonge Street
Toronto, ON M2N 6L9

Deborah McPhail
Tel: (416) 226-7764
Fax: (416) 590-7070
E-mail: dmcphail@fsco.gov.on.ca

AND TO: **UNITED STEELWORKERS**

Canadian National Office
Legal Department
234 Eglinton Avenue East, Suite 800
Toronto, ON M4P 1K7

Robert Healey
Tel: (416) 544-5986
Fax: (416) 487-8826
E-mail: rhealey@usw.ca

Lawyers for The United Steel, Paper and Forestry, Rubber,
Manufacturing, Energy, Allied Industrial and Service Workers
International Union (United Steelworkers) and its Local Union 2784

AND TO: **NOËL & ASSOCIÉS, LLP**
111, Champlain Street
Gatineau (Québec) J8X 3R1

Me Sylvie Labbé
Tel: (819) 771-7393
Fax: (819) 771-5397
E-mail: s.labbe@noelassocies.com

Lawyers for the Confédération des syndicats nationaux

AND TO: **DEPARTMENT OF JUSTICE**
Ontario Regional Office
The Exchange Tower
130 King Street West
Suite 3400, Box 36
Toronto, ON M5X 1K6

Diane Winters
Tel: (416) 973-3172
Fax: (416) 973-0810
E-mail: diane.winters@justice.gc.ca

Lawyers for the Deputy Attorney General
of Canada on behalf of Her Majesty the
Queen in Right of Canada as represented
by the Minister of National Revenue

AND TO: **THORNTON GROUT FINNIGAN LLP**
100 Wellington Street West
Suite 3200
Toronto, ON M5K 1K7

Larry C. Ellis
Tel: (416) 304-0601
Fax: (416) 304-1313
E-mail: lellis@tgf.ca

Lawyers for Veridian Connections Inc.

AND TO: **TEPLITSKY, COLSON LLP**
Suite 200, 70 Bond Street
Toronto, ON M5B 1X3

Karey Anne Dhirani
Tel: (416) 865-5343
Fax: (416) 365-0695
E-mail: kdhirani@teplitskycolson.com

Lawyers for Hal Cameron

AND TO: **GARDINER ROBERTS LLP**
Scotia Plaza, 40 King Street West, Suite 3100
Toronto, ON, Canada M5H 3Y2

Mr. Jeffrey Rosekat
Tel: (416) 865-6662
Fax: (416) 865-6636
Email: jrosekat@gardiner-roberts.com

Counsel to RHI Canada Inc.

INDEX

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Applicant

I N D E X

TAB NO.

1. Notice of Motion
2. Affidavit of Parminder Punia sworn March 12, 2010
3. Draft Order

TAB 1

**ONTARIO
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**NOTICE OF MOTION
(Returnable March 18, 2010)**

THE APPLICANT, Signature Aluminum Canada Inc. (the "Applicant") will make a motion to the Court, on Thursday, March 18, 2010, at 10:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR AN ORDER:

- a) abridging the time for service of the Notice of Motion, Motion Record, and the Second Report of the Monitor, FTI Consulting Canada Inc., to be filed (the "Second Report"), if necessary, and declaring that the motion is properly returnable on March 18, 2010;
- b) approving the Second Report and the activities of the Monitor as described therein;
- c) approving Phase II of the Marketing Process as described in the Second Report;
- d) approving a final bid deadline of April 6, 2010 for the delivery by bidders of binding offers to purchase the Applicant's business;

- e) sealing Confidential Appendix B to the Second Report; and
- f) such further and other relief as the Applicant may request and this Honourable Court shall deem just.

THE GROUNDS FOR THE MOTION ARE:

- a) The grounds as set out in the affidavit of Parminder Punia sworn March 12, 2010 (the "Punia Affidavit");
- b) Section 11 of the CCAA;
- c) Rules 2.03, 3 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- d) Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- a) The Punia Affidavit and the exhibits thereto;
- b) The Second Report, to be filed; and

- c) Such further and other materials as counsel may advise and this Honourable Court may permit.

March 12, 2010

BLAKE, CASSELS & GRAYDON LLP
Barristers and Solicitors
199 Bay Street, Suite 2800
Box 25, Commerce Court West
Toronto, Ontario M5L 1A9

Katherine McEachern LSUC#38345M
Tel: (416) 863-2566
Fax: (416) 863-2653

Linc Rogers LSUC#43562N
Tel: (416) 863-4168
Fax: (416) 863-2653

Jackie Moher LSUC#: 53166V
Tel: 416-863-3174
Fax: 416-863-2653

Lawyers for the Applicant,
Signature Aluminum Canada Inc.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36
AND IN THE MATTER of a Plan of Compromise or Arrangement of Signature Aluminum Canada Inc.

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
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Proceeding commenced at Toronto

NOTICE OF MOTION

BLAKE, CASSELS & GRAYDON LLP
Box 25, Commerce Court West
Toronto, Ontario M5L 1A9

Katherine McEachern LSUC#38345M
Tel: (416) 863-2566
Fax: (416) 863-2653

Linc Rogers LSUC#43562N
Tel: (416) 863-4168
Fax: (416) 863-2653

Jackie Moher LSUC#: 53166V
Tel: 416-863-3174
Fax: 416-863-2653

Lawyers for the Applicant,
Signature Aluminum Canada Inc.

TAB 2

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Applicant

**AFFIDAVIT OF PARMINDER PUNIA
(Sworn March 12, 2010)**

I, Parminder Punia, of the City of Mississauga, in the Province of Ontario, **MAKE
OATH AND SAY AS FOLLOWS:**

Introduction

1. I am the Controller and Treasurer of Signature Aluminum Canada Inc. ("Signature" or the "Applicant"). Accordingly, I have knowledge of the matters deposed to in this affidavit. Where this affidavit is not based on my direct personal knowledge, it is based on information and belief and I verily believe such information to be true.
2. This affidavit is sworn in support of the Applicant's motion for approval of a second phase ("Phase II") to the Marketing Process (as defined below) approved by the Initial Order of Justice Morawetz dated January 29, 2010 (the "Initial Order") pursuant to which the Applicant will seek to identify a buyer for the Applicant's business and assets and to establish a final bid deadline of April 6, 2010 for the delivery by bidders of binding offers to purchase the Applicant's business and assets (the "Final Bid Deadline"). The Applicant's senior secured creditors support the relief sought.

Background

3. The Applicant is in the business of aluminum extrusion, a process which forms and moulds aluminum for use by end-users. The Applicant owns three facilities in St. Thérèse, Quebec (the "St. Thérèse Plant"), Richmond Hill, Ontario (the "Richmond Hill Plant") and Pickering, Ontario (the "Pickering Plant").
4. On January 29, 2010, the Applicant filed for and obtained protection from its creditors under the *Companies' Creditors Arrangement Act* (the "CCAA"), pursuant to the Initial Order. Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed as monitor of the Applicant (the "Monitor"). The CCAA stay of proceedings, as extended, expires on May 14, 2010.
5. In order to facilitate a restructuring and enable a going concern solution, Biscayne Metals Finance, L.L.C. ("Biscayne"), a senior secured creditor of the Applicant and an indirect affiliate of the Applicant, agreed to the terms of a Plan Support Agreement dated January 28, 2010 with the Applicant (the "Plan Support Agreement"). Pursuant to the terms of the Plan Support Agreement, Biscayne has agreed to fund a plan of arrangement and compromise (the "Plan"), subject to and in accordance with the terms of the Plan Support Agreement or, at its option, together with 3241715 Nova Scotia Limited, purchase the assets of the Applicant on certain terms and conditions (the "Credit Bid") for the amount of CDN\$25,000,000. Under the terms of the Credit Bid, the proposed purchasers committed to operate only one of the Applicant's three facilities as a going concern. The Credit Bid, if exercised, would be subject to Court approval.
6. The Initial Order authorized a marketing process (the "Marketing Process") to determine whether it would be possible to identify a purchaser or purchasers for the Applicant's assets and business that (a) would individually or in the aggregate result in a higher and better recovery for the assets of the Applicant than it would receive under the Credit Bid, and/or (b) might be prepared to acquire more than one facility on a going concern basis.

7. As a result of the Marketing Process, parties interested in purchasing some or all of the assets of the Applicant have been identified. Unfortunately, as discussed below, despite the best efforts of the Applicant, the Monitor and the Investment Banker (defined below), the only plant that bidders are prepared to acquire on an operating basis is the Pickering Plant.

Marketing Activities & Phase II of the Marketing Process

8. Since the issuance of the Initial Order, the Applicant, the Monitor and the Applicant's investment banker, CIBC Mid Market Investment Banking, a division of Canadian Imperial Bank of Commerce (the "Investment Banker"), have commenced and continue to implement the Marketing Process. I am advised by the Monitor that the activities of the Investment Banker and steps taken in the Marketing Process will be more fully described in the Second Report of the Monitor to be filed in connection with this motion (the "Second Report").
9. In accordance with the Court-approved Marketing Process, non-binding letters of intent were due on or before February 26, 2010 (the "LOI Deadline"). On the LOI Deadline, five non-binding letters of intent (the "LOIs") were received from bidders that comply with the terms of the Marketing Process.
10. My affidavit of January 28, 2010 (the "January 28th Affidavit") filed in support of approval of the Marketing Process, among other things, advised that if qualified LOIs were received by the LOI Deadline, the Applicant would return to Court to seek appropriate steps to pursue binding offers and continue the Marketing Process.
11. As qualified LOIs have been received, the Applicant seeks approval on this motion of Phase II of the Marketing Process. During Phase II of the Marketing Process, bidders are being provided with a period of due diligence during which they will have the opportunity to investigate the business and assets of the Applicant. This due diligence period will expire on the proposed Final Bid Deadline of April 6, 2010, by which date bidders will be required to submit a

binding offer or offers for the Applicant's business based on a form of asset purchase agreement to be made available to such bidders. In the event that an offer or offers are received that are capable of acceptance by the Applicant by the Final Bid Deadline, the Applicant will have the opportunity to negotiate and, subject to Court approval, complete one or more final agreements of purchase and sale with one or more bidders. These parties who submitted LOI's were advised of the Applicant's intention to seek approval of Phase II of the Marketing Process and the Final Bid Deadline and were advised that they will have a period of approximately 30 days to conduct due diligence. Due diligence steps have been commenced and are continuing, and those who have submitted LOI's have been advised of the proposed Final Bid Deadline.

12. If there are no binding offers by the Final Bid Deadline, or if offers are received but deemed to be unacceptable, the Marketing Process will cease. Upon cessation of the Marketing Process, the Plan Support Agreement requires that the Applicant use best efforts to: (i) obtain an order on or prior to May 7, 2010 approving the filing of the Plan and scheduling a date for a meeting of the Applicant's creditors to vote on the Plan (the "Creditors' Meeting") and (ii) hold the Creditors' Meeting on or before June 2, 2010. The Plan must be implemented on or before June 7, 2010.
13. I am advised by the Monitor that the proposed Phase II of the Marketing Process will be more fully described in the Second Report.

St. Thérèse and Richmond Hill Plants

14. As discussed in the January 28th Affidavit, the St. Thérèse and Richmond Hill Plants suffer from inherent structural difficulties reflected by inefficient and outdated equipment, low margin or unprofitable accounts and unsustainably low production volumes.
15. The Applicant, however, did not want to foreclose any options, and therefore, concurrently with the Marketing Process, the Applicant engaged in discussions

with the unions at all three of its facilities to determine if financial concessions could be secured which, if coupled with increased order volumes and price increases, would allow each of those facilities to be viable, either in a restructured Signature or through a sale to a third party purchaser.

16. The union representing employees working at the Richmond Hill Plant declined to negotiate any concessions. The union representing employees working at the St. Thérèse Plant engaged in negotiations with the Applicant and did agree to a number of concessions in principle. The union representing employees working at the Pickering Plant also agreed to a number of concessions and a Memorandum of Understanding amending the collective agreement between the Applicant and the bargaining unit has been ratified.
17. As discussed above, none of the LOIs received provide for continued operations at the Richmond Hill Plant or the St. Thérèse Plant. The only facility that any bidders wished to acquire on a going concern basis was the Pickering Plant. The Applicant requested that the Investment Banker engage in follow-up discussions with the relevant bidders to explore any basis the Richmond Hill or St. Thérèse Plants could be acquired as operating entities. The bidders, however, re-confirmed that they were not in a position to acquire the Richmond Hill or St. Thérèse Plants on a going concern basis.

Employee Permanent Layoffs

18. As noted in my earlier affidavits, the Richmond Hill Plant and the St. Thérèse Plant have both been on extended shut down since December 13, 2009, and the employees at those plants have been on temporary lay-off since that time (although some employees elected to take vacation pay during this time). As the Marketing Process did not identify a going concern purchaser for the Richmond Hill Plant or the St. Thérèse Plant, the lay-off at these plants has been made permanent and by letters dated March 8, 2010, notice was given to individual employees that they will not be recalled to their jobs; although some letters were mailed on both the 9th and 10th. (There is an exception in respect of

approximately 10 employees operating a single saw at the Richmond Hill Plant; the Applicant anticipates that these 10 employees will be placed on permanent layoff on or about March 26, 2010).

19. Prior to delivering notices of permanent layoff, the Applicant communicated with union representatives to advise them that the Marketing Process had not identified any purchasers wishing to maintain operations of Richmond Hill or St. Thérèse, and the consequent decision to make the temporary lay-offs of employees permanent.
20. In connection with the employment terminations at the Richmond Hill Plant, the Applicant has submitted to the Director of Employment Standards a Form 1 Notice of Termination of Employment under Subsection 58(2) of the *Employment Standards Act, 2000* (the "Form 1"). A copy of the Form 1 has also been posted at the Richmond Hill Plant. Similarly, a mass terminations notice as required under the *Quebec Act respecting Labour Standards* has been provided to Emploi-Québec, the employment Standards Commission and the relevant union (the "Quebec Notice"). A copy of the Quebec Notice has been posted at the St. Thérèse Plant.

Pension Plan wind-ups

21. It is anticipated that as a consequence of the permanent layoff of employees at the Richmond Hill and St. Thérèse Plants, and as a result of the substantial downsizing of the salaried staff, the pension plans relating to those employees will be wound up. The Applicant will pursue discussions with the relevant regulatory authorities in connection with this matter.

Conclusion

22. The Applicant believes it is appropriate to continue with Phase II of the Marketing Process and require that binding offers be submitted by the Final Bid Deadline.

23. This Affidavit is therefore made in support of Signature's application for the relief set out herein and for no other or improper purpose.

SWORN BEFORE ME at the City of)
Pickering, in the Province of Ontario)
this 12th day of March, 2010)

Bruce Sheiner
_____)

P. Punia

PARMINDER PUNIA

BRUCE SHEINER,
COMMISSIONER, ETC.,
PROVINCE OF ONTARIO,
FILE A STUDENT-AT-LAW.
EXPIRES APRIL 16, 2011.

Court File No.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36
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(Sworn March 12, 2010)**

BLAKE, CASSELS & GRAYDON LLP
Box 25, Commerce Court West
Toronto, Ontario M5L 1A9

Line Rogers LSUC# 43562N
Tel: (416) 863-4168
Fax: (416) 863-2653

Katherine McEachern LSUC#: 38345M
Tel: (416) 863-2566
Fax: (416) 863-2653

Lawyers for the Applicant,
Signature Aluminum Canada Inc.

TAB 3

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) THURSDAY, THE 18TH
)
JUSTICE) DAY OF MARCH, 2010

IN THE MATTER OF THE *COMPANIES' CREDITORS*
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ORDER

THIS MOTION made by the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an Order:

- a) that the time for service of the Notice of Motion, the Motion Record and the Second Report of the Monitor, FTI Consulting Canada Inc. (the "Monitor") dated ●, 2010 (the "Second Report") is abridged and validated so that this Motion is properly returnable today and dispensing with further service thereof;
- b) approving the Second Report and the activities of the Monitor as described therein;
- c) sealing Confidential Appendix B to the Second Report;

- d) approving Phase II of the Marketing Process as described in the Second Report;
and
- e) approving a final bid deadline of April 6, 2010 for the delivery by bidders of binding offers to purchase the Applicant's business,

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the material filed, including the Notice of Motion, the Second Report and the Affidavit of Parminder Punia sworn March 12, 2010, and on hearing the submissions of counsel for the Applicant and counsel for the Monitor;

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Second Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

MONITOR'S ACTIVITIES

2. **THIS COURT ORDERS** that the Second Report and the activities of the Monitor as described therein are hereby approved.

SEALING ORDER

3. **THIS COURT ORDERS** that Confidential Appendix B to the Second Report shall be treated as confidential and shall be sealed and segregated from and not form part of the public record, pending further order of this Court.

PHASE II OF THE MARKETING PROCESS

4. **THIS COURT ORDERS** that Phase II of the Marketing Process as described in the Second Report is hereby approved.

5. **THIS COURT ORDERS** that the final bid deadline for the delivery by bidders of binding offers to purchase the Applicant's business is April 6, 2010.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36
AND IN THE MATTER of a Plan of Compromise or Arrangement of Signature Aluminum Canada Inc.

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BLAKE, CASSELS & GRAYDON LLP
Box 25, Commerce Court West
Toronto, Ontario M5L 1A9

Katherine McEachern LSUC#38345M
Tel: (416) 863-2566
Fax: (416) 863-2653

Linc Rogers LSUC#43562N
Tel: (416) 863-4168
Fax: (416) 863-2653

Jackie Moher LSUC#53166V
Tel: (416) 863-3174
Fax: (416) 863-2653

Lawyers for the Applicant

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Box 25, Commerce Court West
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Katherine McEachern LSUC#: 38345M
Tel: (416) 863-2566
Fax: (416) 863-2653

Linc Rogers LSUC# 43562N
Tel: (416) 863-4168
Fax: (416) 863-2653

Jackie Moher LSUC#53166V
Tel: (416) 863-3174
Fax: (416) 863-2653

Lawyers for the Applicant,
Signature Aluminum Canada Inc.