

Amended pursuant to the Order of Justice Walker made on April 29, 2025
Original filed April 8, 2025

No. S-224444
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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 AND ARRANGEMENT OF
CANADIAN DEHUA INTERNATIONAL MINES GROUP INC.

PETITIONER

AMENDED NOTICE OF APPLICATION

Name of applicant: the Petitioner or CDI

To: the Service List (attached hereto as **Schedule "A"**)

TAKE NOTICE that an application will be made by the applicant to the Honourable Mr. Justice Walker at the courthouse at 800 Smithe Street, Vancouver, BC, V6Z 2E1 on April 22 and 23, 2025, at 10:00 a.m. for the orders set out in Part 1 below.

The applicant estimates that the application will take 2 days.

☒ This matter is not within the jurisdiction of an Associate Judge.

Part 1: ORDER(S) SOUGHT

1. An Order extending the stay of proceedings (the "**Stay of Proceedings**") granted in the Seventh Amended and Restated Initial Order dated October 9, 2024 (the "**Seventh ARIO**") up to and including August 31, 2025;
2. An order approving a sale and investment solicitation process (the "**SISP**") in respect of the remaining property, assets and undertakings of the Petitioner (except the shares and interests of the Petitioner in Canadian Kailuan Dehua Mines Co., Ltd. ("**CKD**")) and authorizing the FTI Consulting Inc., in its capacity as monitor of the Petitioner (the "**Monitor**") to carry out the SISP;

3. An order approving the stalking horse asset purchase agreement between the Petitioner and Qu Bo Liu (the **"Stalking Horse Agreement"**), as the stalking horse bid in connection with the SISP (the **"Stalking Horse Bid"**) in respect of CDI's shares in Canadian Dehua Lvliang Corp. (the **"Murray River APA"**);
4. An order approving the stalking horse asset purchase agreement between the Petitioner and Qu Bo Liu in respect of the mining project known as the Iron Ross project and CDI's shares in Canada Dehua Drilling Ltd. and Vancouver Island Iron Ore Corporation (the **"Remaining Assets APA"**);
5. An order approving the break fees under the Murray River APA and the Remaining Assets APA (together, **"Stalking Horse Bids"**);
6. An order approving the amended and restated DIP commitment letter between the Petitioner and Qu Bo Liu (the **"Interim Lender"**) dated as of May 5, 2025 (the **"Amended & Restated DIP Commitment Letter"**); and
7. Such other relief as this Honourable Court may deem just.

Part 2: FACTUAL BASIS

1. Pursuant to an order (the **"Initial Order"**) of the Supreme Court of British Columbia (the "Court") made on June 3, 2022, CDI was granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the **"CCAA"**), and FTI Consulting Canada Inc. (**"FTI"**) was appointed monitor (and in such capacity, the **"Monitor"**).
2. The Initial Order also provided an initial stay of proceedings until June 9, 2022. The Stay of Proceedings has been extended during the course of these proceedings and on February 18, 2025, was extended to April 30, 2025.

Background

3. CDI is a company that invests in, and operates, mining assets in British Columbia. CDI was incorporated in 2004 in order to develop underground core mining properties.
4. CDI primarily cooperated on mining projects with major Chinese mining companies and steel factories as partners. However, for various reasons, a number of the projects did not

proceed as planned. This has resulted in significant debt and limited revenue while CDI finds new buyers and develops new mining projects.

5. Until March 25, 2025, CDI wholly owned two mining projects, including:
 - (a) the Wapiti River coal project (the "**Wapiti Project**"), where CDI is the sole shareholder of the company that owns and operates the project, Wapiti Coking Coal Mines Corporation ("**WCCMC**"). The Wapiti Project is a large-scale underground mine at the senior exploration stage located near Tumbler Ridge, British Columbia; and
 - (b) the Bullmoose coalfield exploration project (the "**Bullmoose Project**") located near Tumbler Ridge, British Columbia.
6. CDI's remaining assets include, among other things, a 50% interest in Canadian Dehua Lvliang International Mining Inc., which owns of 40% interest in HD Mining International Limited ("**HDL**"). HDL owns the Murray River project which involves the construction, operation and decommissioning of an underground coal mine and supporting infrastructure located near Tumbler Ridge, British Columbia (the "**Murray River Project**"). As a result, CDI has a 20.4% indirect interest in the Murray River Project.

The Interim Lender

7. On June 9, 2022, CDI sought and obtained an Order approving an debtor-in-possession credit facility from Qu Bo Liu, a shareholder of CDI (in such capacity, the "**Interim Lender**") in the maximum amount of \$350,000 (the "**Interim Financing Facility**"). Since the commencement of the proceedings, the Interim Financing Facility and the Interim Lender's Charge have been increased on a number of occasions.
8. The current maximum amount approved by the Court in respect of the Interim Financing Facility is \$1,680,000.
9. As of March 31, 2025, CDI was indebted to the Interim Lender in the amount of \$1,499,331 under the Interim Financing Facility.
10. In accordance with the Sixth ARIO, the Interim Lender was granted a super-priority charge (the "**Interim Lender's Charge**") over all of the current and future assets, undertakings

and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof of CDI, including, among other things, the Wapiti Project and the Bullmoose Project.

11. The Interim Lender's Charge is subordinate only to the Administration Charge.
12. In order to complete the sale of the remaining assets of CDI and seek a determination of the claim of CKD (as discussed in further detail below), the Petitioner will require additional funding from the Interim Lender.
13. The Interim Lender has agreed to increase the maximum amount available under the Interim Financing Facility to \$1,900,000 to ensure there is sufficient funding available to the Petitioner to complete the proceedings.

The Sale Process

14. On August 18, 2022, the Petitioner sought and obtained approval for a sales process in respect of the Wapiti Project. On November 30, 2022, the Petitioner sought and obtained approval for an amended sales process which, in addition to the Wapiti Project, would also solicit offers for the Bullmoose Project and the Murray River Project (the "**Modified SISP**").
15. The Modified SISP contemplated that non-binding letters of interest were to be received by March 10, 2023, with the negotiation of a definitive agreement(s) to follow. Despite the existence of potential purchasers for the Wapiti Project and the Murray River Project, the potential purchasers and CDI were unable to reach a definitive binding agreement.
16. On August 30, 2024, after CDI received interest in the Wapiti Project and the Bullmoose Project, this Honourable Court set a deadline of September 6, 2024, for the submission of binding offers for the assets.
17. On September 6, 2024, CDI received two offers both of which required that WCCMC and Canadian Bullmoose Mines Co., Ltd. ("**Bullmoose**") be added to these proceedings as Petitioners. On October 9, 2024, Bullmoose and WCCMC were added as Petitioners.
18. Pursuant to an Order dated February 3, 2025 (the "**Sale Approval Order**"), this Honourable Court approved the sale of the Wapiti Project and the Bullmoose Project to West Moberly First Nations (the "**West Moberly Transaction**"). The West Moberly

Transaction closed on March 25, 2025 and, as a result, WCCMC and Bullmoose are no longer owned by CDI and were removed as Petitioners in these proceedings.

19. The net sale proceeds from the West Moberly Transaction were distributed in accordance with the Sale Approval Order and, as a result, the amount owing to the Interim Lender under the Interim Financing Facility, namely, \$1,499,331, has been repaid in full.
20. The amount of \$350,000 owing under the Administration Charge, together with the amounts owing to the Monitor, its counsel and counsel to the Petitioner in excess of the Administration Charge to February 3, 2025 have been paid. The balance of the net sale proceeds are held by the Petitioner's counsel, in trust.

The Remaining Assets and Next Steps

21. The principal remaining assets of CDI include:
 - (a) the indirect 20.4% interest in the Murray River Project; and
 - (b) a 24% interest in Canadian Kailuan Dehua Mines Co., Ltd. ("CKD").
22. The Petitioner has worked to develop a SISP which will be conducted by the Monitor. The SISP will be completed over a 90-day period and will make use of stalking horse bids to set a floor price for offers in the SISP. The SISP will include all remaining assets of CDI, with the exception of the CDI's investment in CKD ~~(collectively, the "Property")~~.
23. On April 22, 2025, CDI and Quo Bo Liu (the "Stalking Horse Bidder") negotiated the Murray River APA and the Remaining Assets APA.
24. The Murray River APA provides for a purchase of \$1,400,000 to be satisfied in part by a credit bid of \$400,000 of the amount owing under the Interim Financing Facility with the balance to be paid by certified cheque or bank draft in the amount of \$860,000. The Stalking Horse Bidder has paid a deposit in the amount of \$140,000.
25. The Remaining Assets APA provides for a purchase of \$400,000 to be satisfied in part by a credit bid of up to \$360,000 of the amount owing under the Interim Financing Facility with the balance to be paid by certified cheque or bank draft. The Stalking Horse Bidder has paid a deposit in the amount of \$40,000.

26. Each of the Stalking Horse Bids includes a break fee in the amount of 5% of the amount of the Successful Bid (inclusive of taxes, if any) for the assets included in the agreements. The Murray River APA also includes an expense reimbursement in the amount of \$50,000.
27. The Petitioner has been approached by another party who is interested in submitting an offer for CDI's interest in the Murray River Project.

CKD Tax Indemnity Claim

28. There are two other shareholders in CKD, namely, Shougang International Canada Investment Ltd., an affiliate of Shougang International (25%) and Canada Zhonghe Investment Ltd. (51%).
29. After the formation of the CKD joint venture, CDI agreed to indemnify CKD for any losses it might suffer as a result of CDI's transfer, on a tax rollover basis, of a mine site in northeastern British Columbia known as the Gething Coal Project to a joint venture the "CKD Indemnity Claim"). CKD registered a security interest over CDI's shares in CKD in support of the CKD Indemnity Claim. CDI does not recognize the security interest.
30. CKD was excluded from filing a proof of claim pursuant to the Claims Process Order, however, the determination of the validity and quantum of the CKD Indemnity Claim will provide valuable information to CDI and the Monitor on the next steps in these proceedings in respect of the CKD joint venture. Discussions are ongoing to set a date before the end of June for an application to determine the validity and quantum of the CKD Indemnity Claim.
31. The sale of the remaining assets and the determination of the CKD Indemnity Claim will be more beneficial to CDI's creditors than a bankruptcy.

Part 3: LEGAL BASIS

1. The Petitioner relies on:
 - (a) the CCAA;
 - (b) *Supreme Court Civil Rules*, in particular Rules 8-1, 13-1, and 22-4;
 - (c) the inherent and equitable jurisdiction of this Court; and

- (d) such further and other legal bases and authorities as counsel may advise and this Court may permit.

Extension of the Stay of Proceedings is Appropriate

2. Subsection 11.02(2) of the CCAA provides that the Petitioner may apply for an extension of the stay of proceedings for a period that a court considers necessary on any terms that a court may impose. Subsection 11.02(3) of the CCAA provides that the Court shall not make the order extending the stay of proceedings unless:

- (a) the applicant satisfies the Court that circumstances exist that make the order appropriate; and
- (b) in the case of an order under subsection (2), the applicant also satisfies the Court that the applicant has acted, and is acting, in good faith and with due diligence.

CCAA s. 11.02.

3. In determining whether the appropriate circumstances exist to extend the Stay of Proceedings, the Court should inquire whether the order sought advances the remedial purpose of the CCAA.

North American Tungsten Corp. (Re), 2015 BCSC 1376 at para. 25.

4. Extending the relief granted by the Initial Order, as amended and restated, including the Stay of Proceedings, is appropriate and necessary to enable the Petitioner to complete the next steps in these proceedings, which is in the best interest of the stakeholders.
5. The Petitioner has been acting in good faith and with due diligence and no stakeholder will be materially prejudiced by the extension of the Stay of Proceedings.
6. The Petitioner submits that, in these circumstances, it is necessary and appropriate that the Stay of Proceedings be extended to August 31, 2025, or any alternative date which the Court sees fit.

The Amended & Restated DIP Commitment Letter Should be Approved

7. In order to continue and conclude the CCAA proceedings, the Petitioner requires additional financing. Without such financing, the Petitioner will be unable to, among other

things, complete the SISP and enter into sale transactions for its remaining assets which will be to the detriment of the Petitioner, its creditors, and other stakeholders.

8. The terms of the DIP Facility as set out in the Amended and Restated DIP Commitment Letter are more favourable than those that are typically included in third party interim financing in CCAA proceedings.
9. The Petitioners seek an increase in the amount that can be borrowed under the DIP Facility to permit the Petitioner to move forward with the plans to conduct the SISP and seek a determination of the CKD claim.
10. The Petitioner is not aware of any other parties prepared to fund CDI or these proceedings other than the current Interim Lender.
11. The Monitor supports the approval of the Amended and Restated DIP Commitment Letter and has expressed concern about the availability of additional funding from the Interim Lender to conduct a SISP or complete the administrative wind-up of CDI if the CCAA proceedings are terminated and a bankruptcy process ensues.

Supplement to the Twenty Sixth Report of the Monitor filed April 23, 2025
[“26th Report Supplement”] at paras 18 and 33.

Approval of Stalking Horse Sales Process

12. In *Re Nortel Networks Corp.*, the Ontario Superior Court of Justice articulated the following four factors that should be taken into consideration in deciding whether to approve a stalking horse sales process:
 - (a) Is the sale transaction warranted at this time?
 - (b) Will the sale benefit the whole “economic community”?
 - (c) Do any of the debtor’s creditors have a bona fide reason to object to the sale of the business?
 - (d) Is there a better viable alternative?

Re Nortel Networks Corp, 2009 CanLII 39492 (ONSC) at para 49.

13. If the SISP is successful, the Court is authorized to approve a sale under section 36(3) of the CCAA, which takes into consideration, the following factors:

36(3) Factors to be considered - In deciding whether to grant the authorization, the court is to consider, among other things,

- (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
- (b) whether the monitor approved the process leading to the proposed sale or disposition;
- (c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
- (d) the extent to which the creditors were consulted;
- (e) the effects of the proposed sale or disposition on the creditors and other interested parties; and
- (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

CCAA, s. 36(3)

14. Although the decision to approve a particular form of sales process is distinct from the approval of a proposed sale, the reasonableness and adequacy of any sale process proposed by the debtor must be assessed in light of the factors that a court will consider when determining whether to approve a proposed sale.

CCM Master Qualified Fund v blutip Power Technologies, 2012 ONSC
1750 at para 6.

15. In *Leslie & Irene Dube Foundation Inc v P218 Enterprises Ltd*, the Supreme Court of British Columbia noted that in determining whether to approve a stalking horse sale agreement, the court will assess the same factors as in determining whether to approve the proposed sales process.

Leslie & Irene Dube Foundation Inc v P218 Enterprises Ltd, 2014 BCSC
1855 at para 10.

16. The Petitioner submits that the SISP and the Stalking Horse Bids should be approved for the following reasons:

- (a) The SISP was developed by the Petitioner in consultation with the Monitor and it provides a fair and transparent process which gives potential bidders an equal opportunity to make an offer for the Property of the Petitioner; and
 - (b) The Stalking Horse Bids Agreement will establish a "floor" price for the SISP and thereby providing competitive tension to the process with a view to maximizing value.
17. Accordingly, the Petitioner respectfully submits that this Honourable Court exercise its discretion to approve the SISP and the Stalking Horse Bids Agreement.
18. The Monitor supports the approval of the Stalking Horse Bids and notes that there is no certainty that the Stalking Horse Bids would be available to a trustee in bankruptcy.

26th Report Supplement at paras 18, 23 and 31.

The Break Fee Should be Approved

19. The Court has frequently approved break fees in favour of a stalking horse bidder in insolvency proceedings. Break fees reflect not only the cost to the bidder of putting together the stalking horse bid, but often also represent "the price of stability" in a stalking horse sales process -thereby justifying a premium over simply covering the stalking horse bidder's expenses.
- Re Danier Leather Inc, 2016 ONSC 1044 ["**Danier Leather**"] at para 41.
20. The break fees contemplated in the Stalking Horse Bids is 5% of the amount of the Successful Bid (inclusive of taxes, if any) for the assets included in the agreements. The Murray River APA also includes an expense reimbursement in the amount of \$50,000.
21. As a matter of precedent, courts have found that "break fees in the range of 3% and expense reimbursements in the range of 2% have recently been approved." Most Canadian precedents on break fees fall within the 1% to 5% range.

Danier Leather at para. 42.
C. Yung, "Hunting for Break Fees with my Stalking Horse", 2004
CanLIIDocs 3048

22. The court should consider whether a break fee is fair and reasonable in all of the circumstances in the sense that it provides a corresponding or greater benefit to the estate. This should include a consideration of the following factors:

- (a) Was the agreement reached as a result of arm's length negotiations?;
- (b) Has the agreement been approved by the debtor company's board or specifically constituted committees who are conducting the sales process?;
- (c) Is the relief supported by the major creditors?;
- (d) What may be the effect of such a fee/charge? Will it have a chilling effect on the market, or will it facilitate the sales process?;
- (e) Is the amount of the fee reasonable? In relation to expenses anticipated to be covered, is the amount reasonable given the bidder's time, resources and risk in the process?;
- (f) Will the fee and charge enhance the realization of the debtor's assets?;
- (g) Will the fee and charge enhance the prospects of a viable compromise or arrangement being made in respect of the company?; and
- (h) Does the monitor support the relief?

Freshlocal Solutions Inc (Re), 2022 BCSC 1616 at para 32 citing *Quest University Canada (Re)*, 2020 BCSC 1845 at paras. 53–58.

23. In these circumstances, the Petitioner is attempting to embark on the SISP for the benefit of the stakeholders and sell its remaining assets, including the Murray River assets which were subject to an earlier unsuccessful SISP. The Stalking Horse Bids set a baseline price for superior bids and provide certainty that there will be sale transactions.

26th Report Supplement at para 22(a) to (c).

24. The Stalking Horse Bidder has spent considerable time and resources in performing due diligence on the potential transactions, as well as the legal costs incurred in drafting and negotiating the Stalking Horse Bids.

26th Report Supplement at para 22(d).

25. The Monitor has assessed the break fees and expense reimbursements and noted that although they are at the higher end of those previously approved by courts across the country, the smaller value of the transactions skews the quantum of the fee in comparison to the transaction value. The Monitor has, however, concluded that the fees are commercially reasonable in the circumstances.

26th Report Supplement at 22(e).

26. If the Stalking Horse Bids are not the successful bids in the SISP, the Petitioner submits that the break fees should be approved to compensate the Stalking Horse Bidder for its costs, time and effort and for undertaking the risks to pursue the proposed transaction for the benefit of stakeholders.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #5 of Naishun Liu made April 7, 2025;
2. Affidavit #3 of Qu Bo Liu, to be sworn;
3. Twenty Sixth Report of the Monitor, dated April 10, 2025;
4. Supplement to the Twenty Sixth Report of the Monitor, dated April 21, 2025;
5. Supplement to the Twenty Sixth Report of the Monitor, dated April 23, 2025; and
6. Any such further materials as counsel advises and this Honourable Court permits.


TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33;
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding; and

- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
- (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

April 8 May 5, 2025

Dated


 for Signature of ☒ lawyer for filing party
 DLA Piper (Canada) LLP (Jeffrey D. Bradshaw)
 Lawyer for the Petitioner

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs _____ of Part 1 of this notice of application

☐ with the following variations and additional terms:

Date: _____

Signature of ☐ Judge ☐ Associate

Judge

APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ oral matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ none of the above

Schedule "A"

(Service List)

IN THE SUPREME COURT OF BRITISH COLUMBIA

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 AND ARRANGEMENT OF CANADIAN
DEHUA INTERNATIONAL MINES GROUP INC.

PETITIONER

Service List

(Last Updated: April 16, 2025)

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IN THE SUPREME COURT OF BRITISH COLUMBIA

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 AND
ARRANGEMENT OF CANADIAN DEHUA
INTERNATIONAL MINES GROUP INC.

PETITIONER

AMENDED NOTICE OF APPLICATION

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