

PROCÈS-VERBAL D'AUDIENCE

☐ Instruction ☐ contesté
☐ par défaut ☒ non contesté

☒ **COUR SUPÉRIEURE**

☐ **COUR DU QUÉBEC**

Chambre ☒ civile ☐ familiale

NATIONAL BANK OF CANADA

SECURED CREDITOR

PELICAN INTERNATIONAL INC ET AL

DEBTORS

PELICAN US TOPCO LLC

CONFLUNCE OUTDOOR INC

FTI CONSULTING CANADA

MONITOR /APPLICANT

Division Pratique Salle n° 16.08

DATE : Le 28 mars 2025

PRÉSENT : L'HONORABLE ANDRES GARIN, J.C.S. (JG3211)

☒ **DEBTORS**

☐ PRÉSENT(E) ☒ ABSENT(E)

Me Alain Riendeau (P)
ariendeau@fasken.com

Me Brandon Farber (P)
bfarber@fasken.com

Me Eliane Dupere-Tremblay (Absent)
edtremblay@fasken.com

☒ **MONITOR/CONTROLEUR**

☐ PRÉSENT(E) ☒ ABSENT(E)

Me Sandra Abitan , Ad. E. (P)
sabitan@osler.com

Me Sophie Courville-Le Bouyonnec (P)
scourville@osler.com

Me Ilia Kravtsov
ikravtsov@osler.com

☒ **SECURED CREDITOR**

☐ PRÉSENT(E) ☒ ABSENT(E)

Me Hugo Anthony Babos-Marchand (P)
hbmarchand@mccarthy.ca

Me Frédérique Drainville (P)
fdrainville@mccarthy.ca

Me Roxane Fortin-Lecompte (P)
rfortinlecompte@mccarthy.ca

☒ **INTERESTED PARTIES**

☐ PRÉSENT(E) ☒ ABSENT(E)

Me Sylvain Vauclair (P)
svauclair@woods.qc.ca

Me Rim Afegrouch (Teams)
rim.afegrouch@justice.qc.ca

DÉBUT 9 h 11
FIN 11 h 50

DÉBUT 15 h 00
FIN 15 h 11

Me Amalia Greve Danielsen (Teams)
adanielsen@brissetbishop.com

Me Caroline Dion(Teams)
cdion@fondsftq.com

Me Sara Korhani (Teams)
sara.korhani@bcf.ca

Me Eric Labbé (Teams)
eric.labbe@revenuquebec.ca

Me Jack Matthew Little (Teams)
jlittle@osler.com

Me Roger P. Simard (Teams)
roger.simard@dentons.com

Me Sylvain Aird (Teams)
sylvain.aird@cainlamarre.ca

Autre presence sur Teams

John Borch, Patrick Fillion, Mathieu Simon,
Arsenault Julin, Sophie Latendresse

NATURE DE LA CAUSE **APPLICATION FOR THE INSUANCE OF AN APPROVAL,
VESTING AND ASSIGNMENT ORDER AND ANCILLARY
RELIEF (014)**

(et séquence) :

GREFFIER : Abdoulaye Sow g.a.C.S

9 h 11 Ouverture de l'audience.

9 h 11 Identification de la cause et des avocats.

9 h 26 • **Représentation préliminaire présentée par Me Kravtsov.**

9 h 26 Me Kravtsov renvoie le Tribunal aux pièces **P-2-C** et **P-2-D**.

9 h 26 La pièce **P-2 C** est déposée au dossier de la Cour (convention d'achat corrigée non caviardée).

9 h 28 Me Kravtsov s'exprime au sujet la mise sous scellé de certaines pièces.

9 h 28 Me Kravtsov s'exprime au sujet de la modification de la quittance.

9 h 33 **Suspension de l'audience.**

9 h 54 **Reprise de l'audience.**

9 h 54 Témoin (français)

Martin Franco

1000 Sherbrooke, suite 915
 Montréal, QC H3A 3R7
Assermenté

9 h 55	Interrogé par Me Kravtsov.
9 h 56	Le Témoin dépose la pièce P-4 au dossier de la Cour
9 h 57	M. Franco relate au sujet de son rapport.
10 h 01	M. Franco fait un résumé du processus de vente.
10 h 02	M. Franco renvoie le Tribunal au paragraphe 43.
10 h 09	Me Kravtsov renvoie le témoin à l'annexe C de son rapport.
10 h 11	M. Franco s'exprime au sujet de la transaction.
10 h 14	M. Franco relate à propos des actifs exclus et des polices d'assurances.
10 h 22	M. Franco s'exprime au sujet des recommandations du contrôleur.
10 h 24	Me Kravtsov renvoie le témoin au paragraphe 63 de son rapport.
10 h 31	M. Franco s'exprime relativement à l'annexe B de son rapport.
10 h 35	Me Kravtsov renvoie le témoin à la demande de prolongation au paragraphe 76 et suivant du rapport.
10 h 40	Contre-interrogé par Me Vauclair.
10 h 38	Me Vauclair questionne le témoin au sujet du paragraphe 44 de son rapport.
10 h 42	Commentaire de Me Marchand.
10 h 45	Suspension de l'audience.
11 h 07	Reprise de l'audience.
11 h 08	<u>ORDONNANCE :</u> CONSIDÉRANT la demande de mise sous scellés du prix, du montant du dépôt et du montant de la retenue prévue dans la convention d'achat (pièce P-2); CONSIDÉRANT la demande de mise sous scellés du sommaire des offres reçues aux termes du processus SISF et de la proposition de liquidation, à savoir les annexes C et D du troisième rapport du contrôleur (pièce P-4) ; CONSIDÉRANT qu'il importe de préserver la confidentialité de ces informations jusqu'à la clôture de la transaction, et ce, afin de maintenir l'intégrité du processus SISF ; CONSIDÉRANT que si la transaction n'est pas finalisée, la divulgation de ces informations pourrait porter atteinte à l'intégrité du processus SISF, lequel pourrait être appelé à se poursuivre;

CONSIDÉRANT que l'intégrité du processus SISP représente un intérêt public important au sens de l'arrêt *Sherman Estate* ;

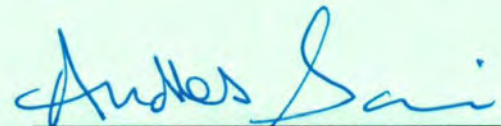
CONSIDÉRANT que la mise sous scellés de ces informations est nécessaire pour écarter ce risque sérieux à l'intégrité du processus SISP et qu'aucune autre mesure raisonnable ne permettra d'écarter ce risque ;

CONSIDÉRANT toutefois que ces informations peuvent être rendues publiques dès qu'il y aura clôture de la transaction;

CONSIDÉRANT que la mise sous scellés temporaire du prix, du montant du dépôt et du montant de la retenue prévue dans la convention d'achat ainsi que des annexes C et D du troisième rapport du contrôleur constitue une atteinte minimale au principe fondamental de la publicité des débats judiciaires et que les avantages de l'ordonnance recherchée l'emportent sur ses effets négatifs ;

PAR CES MOTIFS, LE TRIBUNAL :

ORDONNE la mise sous scellés du prix, du montant du dépôt et du montant de la retenue prévue dans la convention d'achat ainsi que des annexes C et D du troisième rapport du contrôleur, et ce, jusqu'au dépôt du certificat du moniteur attestant de la clôture de la transaction.



L'HONORABLE ANDRES GARIN, J.C.S.

11 h 11	Me Kravtsov s'exprime au sujet des changements intervenus.
11 h 12	Le Tribunal questionne Me Kravtsov.
11 h 13	Me Afegrouch s'adresse au Tribunal au sujet des changements.
11 h 17	Échange entre Me Kravtsov et Me Afegrouch.
11 h 33	Me Kravtsov s'exprime au sujet de la prolongation du sursis.
11 h 34	Commentaire de Me Marchand.
11 h 36	Me Vauclair demande au Tribunal de rester saisi particulièrement sur la portée des quittances.
11 h 38	Commentaire du Tribunal.
11 h 41	Commentaire de Me Riendeau.
11 h 44	Le Tribunal s'adresse aux avocats à propos de la date de la prolongation.
11 h 50	Suspension de l'audience.

15 h 01

Reprise de l'audience.

15 h 03

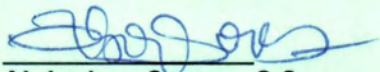
Prononcé du jugement par le Tribunal

RÉSULTAT DE L'AUDITION :

Le jugement est annexé au présent procès-verbal.

15 h 11

FIN DE L'AUDIENCE



Abdoulaye Sow g.a.C.S

ORAL REASONS FOR JUDGMENT ON THE APPLICATION FOR THE ISSUANCE OF AN APPROVAL, VESTING AND ASSIGNMENT ORDER

[1] On March 19, 2025, I issued an Initial Order pursuant to the *Companies' Creditors Arrangement Act*, RSC c C-36, or **CCAA**, as well as an order providing for the launch of a Sale and Investment Solicitation Process, or **SISP**, in respect of Pelican International Inc. and two U.S. subsidiaries, Pelican US Topco LLC, and Confluence Outdoor Inc.

[2] On March 28, 2025, I issued an Amended and Restated Initial Order and extended the initial stay period to April 28, 2025.

[3] I am now being asked to further extend the stay period and to issue an approval, vesting and assignment order or **AVO** which would approve the sale of Pelican and Confluence Outdoor as a going concern.

[4] I propose to first discuss the issue of the approval of the proposed transaction for the sale of Pelican as a going concern. I will then examine the releases sought as part of the AVO. Finally, I will discuss the extension of the stay of proceedings.

[5] The Monitor asks that I approve the sale of Pelican's business as a going concern to 9539-5893 Québec inc. The proposed transaction culminates from the successful binding bid received in the course of the SISP process. Certain former Pelican executives are minority shareholders of the proposed purchaser. Also involved in the proposed purchaser is the Mach Group, which is one of the debtors' landlords.

[6] Section 36 of the CCAA governs the authorization required for the disposition of a debtor's assets outside of the ordinary course.

[7] Pursuant to subsection 36(7), such authorization cannot be granted unless payments required under paragraphs 6(5)(a) and 6(6)(a) of the CCAA will be made. This condition is satisfied as the Monitor has and will continue to pay all employees wages and compensation referred to in paragraph 6(5)(a). I am also advised that no amounts mentioned in paragraph 6(6)(a) are owing by the debtors.

[8] Subsection 36(3) identifies the criteria that govern the authorization being sought by the Monitor. These criteria are satisfied in the present case.

[9] First, while the SISP process conducted by the Monitor was an expedited one, I am satisfied that it was reasonable. Approximately 250 potentially interested parties were contacted and over 50 parties signed NDAs giving them access to the confidential data room. The SISP process resulted in the Monitor receiving four binding offers, including two offers for the purchase of the debtors as a going concern.

[10] Second, the evidence indicates that the consideration offered for the purchase of the debtors' business in accordance with the proposed transaction is fair and reasonable. Such consideration is the result of a reasonable, fair and transparent SISP process. The evidence further establishes that the consideration in the proposed transaction is superior to the liquidation value of the debtors.

[11] Third, the proposed transaction provides for the continued employment of the significant majority of the debtors' active employees. As a going concern purchase, it will also result in the continued operation of the debtors' business. This will benefit not only employees, but also clients and suppliers who will be able to continue their economic relationships with the debtors' business.

[12] Fourth, the Monitor supports the proposed transaction and is seeking its approval. In his view, the proposed transaction represents the best financial recovery available to stakeholders. The Monitor's view is entitled to significant deference and nothing in the evidence suggests that it is not well founded.

[13] Fifth, in determining that the proposed transaction represents the best available option, the Monitor has consulted with the debtors' lenders, who are their most significant creditors. In this regard, the proposed transaction constitutes the best available alternative for creditor recovery, as it provides the most value and price certainty as compared to both the other bids received and a potential liquidation.

[14] Finally, I am convinced that the proposed transaction, which will result in the continued operation of the debtors' business and continued employment for the significant majority of employees will benefit the broader economic community.

[15] Based on the foregoing, I find that it is appropriate to authorize the proposed transaction under subsection 36(3).

[16] Finally, I note that while former Pelican executives are involved in the purchaser, the evidence before me is that they do not control the purchaser and that the purchaser is not a "related person" under subsection 36(4) CCAA. In any event, the criteria for authorization of a sale to a related person are satisfied here. Notably, through the SISP process, good-faith efforts were made to dispose of the debtors' assets to wholly independent parties. Moreover, the consideration to be received pursuant to the proposed transaction is superior to the other binding offers presented during the SISP process and to the liquidation bid received by the Monitor.

[17] The next issue relates to the releases sought in paragraph 44 of the draft AVO proposed by the Monitor. These releases were negotiated in the context of the proposed transaction. I find that the releases, which are commonplace in the context of CCAA proceedings, are appropriate.

[18] To begin with, the releases, while broad, are not excessively so. The releases are limited to claims relating to the proposed transaction and statutory obligations and liabilities relating to employees, payroll or tax. The released parties are not released from claims resulting from fraud, gross negligence or wilful misconduct. Nor are they released from claims for which a release cannot be given under the CCAA. Moreover, Crown claims for unpaid sales taxes or at source deductions arising after the filing of Pelican's notice of intention under the *Bankruptcy and Insolvency Act* on February 28, 2025, are not released.

[19] The releases are rationally connected to the purpose of the proposed transaction. To begin with, the released parties all contributed to these CCAA proceedings and thus ultimately to the proposed transaction itself. Furthermore, the releases will reduce the potential liability of the released parties and decrease the likelihood of their indemnification from assets which would otherwise serve for creditor recovery. The releases provide necessary certainty and finality.

[20] Finally, the creditors and stakeholders on the service list received notice of the draft order and the text of the proposed releases. The comments and concerns of those who expressed any are reflected in the final text of the releases submitted to me.

[21] I turn now to the last issue, the extension of the stay of proceedings.

[22] The evidence, consisting of the testimony and the report of the Monitor, satisfies me that the debtors have conducted themselves diligently and in good faith throughout this CCAA process. Moreover, an extension of the stay period is necessary to afford the Monitor sufficient time to complete the sale and investment solicitation process for GSI Outdoors, a U.S. subsidiary of Pelican. It is also necessary for the Monitor to apply to the U.S. Bankruptcy Court to seek approval of the proposed transaction. I will thus extend the stay period to August 11, 2025.

[23] For these reasons, I have signed the Approval, Vesting and Assignment Order and the Order Extending the Stay of Proceedings which were submitted to me in draft form.



ANDRES C. GARIN, J.S.C.