

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

Between:

STELLEX POWER LINE OPCO LLC AND 1501841 B.C. LTD.

PETITIONERS

And:

ROKSTAD HOLDINGS CORPORATION, ROKSTAD POWER (2018) LTD., ROKSTAD POWER CONSTRUCTION SERVICES LTD., ROKSTAD POWER TRANSMISSION SERVICES LTD., ROKSTAD POWER (PRAIRIES) LTD., GOLDEN EARS PAINTING & SANDBLASTING (2018) LTD., PLOWE POWER SYSTEMS (2018) LTD., ROKSTAD POWER (EAST), INC., ROKSTAD POWER INC. AND ROK AIR, LLC

RESPONDENTS

NOTICE OF APPLICATION

Name of applicant: FTI Consulting Canada Inc. as Receiver (“**FTI**” or, the “**Receiver**”) of Rokstad Holdings Corporation (“**Rokstad Holdings**”), Rokstad Power (2018) Ltd. (“**Rokstad 2018**”), Rokstad Power Construction Services Ltd. (“**Rokstad Construction**”), Rokstad Power Transmission Services Ltd. (“**Rokstad Transmission**”), Rokstad Power (Prairies) Ltd. (“**Rokstad Prairies**”), Golden Ears Painting and Sandblasting (2018) Ltd. (“**Golden Ears**”), Plowe Power Systems (2018) Ltd. (“**Plowe**”), Rokstad Power (East), Inc. (“**Rokstad East**”), Rokstad Power Inc. (“**Rokstad Inc**”), and Rok Air, LLC (“**Rok LLC**” and together with Rokstad Holdings, Rokstad 2018, Rokstad Construction, Rokstad Transmission, Rokstad Prairies, Golden Ears, Plowe, Rokstad East and Rokstad Inc, the “**Debtors**”)

To: THE SERVICE LIST

TAKE NOTICE that an application will be made by the Receiver to the presiding judge at the courthouse at 800 Smithe Street, Vancouver, British Columbia, on December 4, 2024 at 10:00 a.m. for the order set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. An Order substantially in the form attached at **Schedule “A”** hereto (the “**Order**”):
 - (a) confirming that service of this Notice of Application has been made on all interested parties and abridging the time of service to the date of actual service;

- (b) increasing the Receiver's borrowing limit (the "**Borrowing Limit**") from US\$5 million to US\$8 million and granting a corresponding increase to the Receiver's Borrowings Charge (as defined in paragraph 23 of the Order of the Honourable Justice Loo, granted November 6, 2024, the "**Receivership Order**"); and
- (c) granting such further and other relief as counsel may request and this Honourable Court may deem just.

Part 2: FACTUAL BASIS

2. The Debtors are a related group of privately held corporations that provide power line construction and maintenance and sandblasting and painting services in Canada and the United States.

3. On November 6, 2024, the Receiver was appointed as receiver and manager of all assets, undertakings and property of the Debtors, including all proceeds thereof, pursuant to the Receivership Order.

4. The Receivership Order, among other things, authorizes and empowers the Receiver to borrow such monies from time to time as it considers necessary or desirable from the Debtors' secured lender, provided that the outstanding principal amount of such borrowings does not exceed US\$5 million, or such greater amount as the Court may authorize by further Order.

5. Since its appointment on November 6, 2024, the Receiver has continued to operate the business of the Debtors in the normal course, with a view to completing a sale of the business, or substantially all of the business, on a going concern basis. The Receiver has time booked before the Honourable Justice Loo for approval of a sale process, among other things, on December 13, 2024.

6. At present, the Receiver has borrowed US\$5 to fund the Debtors' ongoing operations, including payroll, trade payables, and other normal course business expenses. During the week ending December 6, 2024, the Receiver is required to make certain critical payments, including payroll and insurance expenses. Due to the uncertainty regarding the timing for receipt of forecasted receipts reflected in the Cash Flow Forecast (Appendix A to the Receiver's First Report, dated December 3, 2024, the "**First Report**"), the Receiver is concerned that, absent an increase

to the Borrowing Limit, the Receiver may not be able to meet payroll and other critical payments during the week ending December 6, 2024.

7. The Receiver is accordingly seeking an urgent increase of US\$3 million to the Borrowing Limit to ensure that it can pay necessary business expenses and maintain the ongoing operations of the Debtors during the two week period ending December 13, 2024. An additional increase of US\$4 million will be sought by the Receiver at its application before Justice Loo on December 13, 2024 to ensure adequate funding for the Debtors' normal course business expenses during the period of December 14, 2024 to February 7, 2025.

Part 3: LEGAL BASIS

8. Section 243(1) of the *Bankruptcy and Insolvency Act* allows a court to appoint a receiver to, among other things, "take any action that the court considers advisable." This provision has been interpreted by Courts to give judges the broadest possible mandate in insolvency proceedings to enable them to react to any circumstances that may arise in relation to court-ordered receiverships, including by authorizing borrowings by receivers.

Bankruptcy and Insolvency Act, RSC 1985, c B-3 ("BIA") at s.243(1)

DGDP-BC Holdings Ltd. v. Third Eye Capital Corporation, 2021 ABCA 226 at para 20

KEB Hana Bank as Trustee et al. v. Mizrahi Commercial (The One) LP et al., 2023 ONSC 5881
at paras 54-55

9. Paragraph 23 of the Receivership Order provides that the Borrowing Limit may be increased if authorized by further order of the Court.

Receivership Order para 23

10. Courts routinely increase a receiver's authorized borrowing limit in circumstances where such increase is necessary to fund business and/or receivership expenses for the benefit of the debtor's estate.

Leslie & Irene Dube Roundation Inc. v. P218 Enterprises Ltd., 2014 BCSC 1855 at paras 48-52

BCIMC Construction Fund Corporation v. 33 Yorkville Residences Inc., CV-20-00637297-00CL (Endorsement of Conway J. dated October 9, 2020)¹

11. To maintain the normal course business of the Debtors, the Receiver urgently requires an increase in the Borrowing Limit of US\$3 million to allow it to pay upcoming, normal course business expenses, including payroll and trade payables. Payment of such expenses is necessary to ensure the Debtors' ongoing operations and, in turn, preservation of the business for the benefit of stakeholders. Any interruption to the Debtors business at this time (immediately prior to commencement of the sale process, if approved by the Court on December 13) would likely result in significant value deterioration.

First Report paras 23 to 25

12. The secured lender has consented to the increase in the Borrowing Limit and had agreed to make the funds available to the Receiver should the increase to the Borrowing Limit be approved by the Court and subject to investment committee approvals.

First Report para 24(c)

Part 4: MATERIAL TO BE RELIED ON

1. The Receiver's First Report to the Court, dated December 3, 2024;
2. The pleadings filed in this proceeding; and,
3. Such further material as counsel may advise and this Honourable Court may permit.

The Receiver estimates that the application will take 10 minutes.

This matter is not within the jurisdiction of a master.

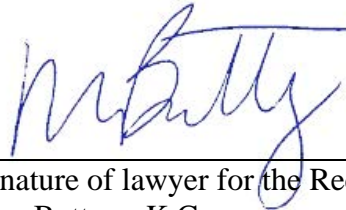
TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,

¹ https://www.pwc.com/ca/en/car/33yorkville/assets/33yorkville-094_101220.pdf

- (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).

Dated: December 3, 2024



Signature of lawyer for the Receiver
Mary Buttery, K.C.

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:[dd/mmm/yyyy].....

.....

Signature of Judge Master

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other 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"