Court File No. CV-21-00658423-00CL

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 JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., JUST MANAGEMENT CORP., JUST ENERGY FINANCE HOLDING INC., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

APPLICANTS

FACTUM OF THE DIP LENDERS

MOTION FOR AUTHORIZATION ORDER, MEETINGS ORDER, AND OTHER RELIEF RETURNABLE MAY 26, 2022

May 20, 2022

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APPLICANTS

FACTUM OF THE DIP LENDERS

MOTION FOR AUTHORIZATION ORDER, MEETINGS ORDER, AND OTHER RELIEF RETURNABLE MAY 26, 2022

PART I - OVERVIEW

1. The Applicants are on the doorstep of completing a successful restructuring. After more than a year of operating under CCAA protection, they seek to present a recapitalization Plan to their creditors that would see them exit their insolvency proceedings shortly, as a going concern.

2. The Applicants' Plan, sponsored by the DIP Lenders and one of their affiliates (together the "Plan Sponsor"), is supported by the Applicants' other key secured stakeholders, namely the Credit Facility Lenders, Shell (their largest secured supplier), and an affiliate of the Plan Sponsor as the holder of the approximately USD$230 million secured BP Commodity/ISO Services Claim.

3. The Plan, the Support Agreement, and the Backstop Commitment Letter are the product of extensive negotiations among those parties, largely overseen by the Monitor, and follow enormous efforts by the Applicants to stabilize their business.

4. No other party has presented a viable option or committed the necessary capital to support the Applicants' exit from these CCAA proceedings. The Authorization Order and the Meetings Order sought by the Applicants are foundational to the success and implementation of the Plan.

5. Approval of the Meetings Order is a procedural step in this proceeding. The fairness of the Plan will be determined at the sanction hearing stage, with the benefit of the creditor vote to assist the Court. Contracts such as the Support Agreement and the Backstop Commitment Letter are approved routinely by CCAA courts when they facilitate a restructuring. That is the case here.

6. The Applicants are operating in an extremely challenging and volatile environment. They have nevertheless worked tirelessly to develop a viable Plan and support terms that allow them to maximize value. Delay in pursuing an exit from these proceedings may harm value and correspondingly all stakeholders. In the circumstances, they should have the opportunity to put their Plan to a creditor vote. Approval of the Authorization Order and the Meetings Order is appropriate and should be granted.

PART II - THE FACTS

A. Substantial Ongoing Support by the DIP Lenders

7. The DIP Lenders were significant creditors, shareholders, and supporters of the Applicants' business well-before this restructuring began.[1] When the business was threatened by insolvency, the DIP Lenders offered further support by providing USD$125 million in emergency

[1] Affidavit of Michael Carter, sworn May 12, 2022 ("Carter Affidavit"), para 14, Motion Record of the Applicants dated May 12, 2022 ("Applicants' MR"), Tab 2, p 87. The DIP Lenders together with an affiliate now hold a substantial majority of the Applicants' unsecured Term Loan obligations.

financing, which the Court confirmed was necessary for the Applicants to make time-sensitive payments to stabilize their business.[2] No other stakeholder was willing to similarly support this business. The DIP facility is now fully drawn.[3]

8. In the early stages of this proceeding, potential litigation of a serious intercreditor priority dispute threatened to delay or prevent the Applicants' successful restructuring. An affiliate of the DIP Lenders subsequently acquired nearly USD$230 million of the Applicants' secured debt, enabling the Applicants to develop a Plan unencumbered by that litigation.[4]

9. Since that time, as previously confirmed by this Court, the Applicants have:

> been moving in good faith towards a plan, but the business is of such a complexity that it has taken longer than initially anticipated. This is not surprising. The company is subject to a myriad of regulatory regimes across the United States and Canada. It has complex commercial arrangements with suppliers and a number of secured and unsecured lenders […][5]

10. The DIP Lenders have assisted the Applicants in addressing the complexities of this proceeding by, among other things, agreeing to necessary amendments to the DIP Term Sheet to support the Applicants' efforts to develop, negotiate, and implement a Plan.[6]

11. Now, with the assistance and support of the DIP Lenders, the Applicants have:

(a) reached consensus with key creditors on the terms of a comprehensive recapitalization transaction which will result in the Applicants emerging as a going concern; and

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[2] Endorsement of Justice Koehnen, issued March 9, 2021, paras 6-7 and 63; Carter Affidavit, paras 4 and 64, Applicants' MR Tab 2, pp 84 and 117.
[3] Third Report of the Monitor, dated September 8, 2021, paras 34 and 37.
[4] BP Claims Assignment Agreement, Recital(a)(i). Absent the terms of the Plan the dispute may re-emerge.
[5] Carter Affidavit, para 9, citing Order of Justice Koehnen issued November 10, 2021, Applicants' MR Tab 2, p 86.
[6] Carter Affidavit, para 5, Applicants' MR Tab 2, p 85.

(b) entered into a Support Agreement and Backstop Commitment Letter to secure key stakeholder support and the necessary capital to implement that transaction, subject to Court approval.[7]

B. Further Substantial Contributions by the Plan Sponsor

12. The Plan Sponsor proposes to make substantial financial and other contributions to the Applicants in connection with their exit from CCAA.

(i) The Support Agreement and the Backstop Commitment Letter

13. Under the Support Agreement, the Applicants, the Plan Sponsor, the Credit Facility Lenders, Shell, and other supporting creditors will advance and, if approved, implement the recapitalization.[8]

14. The Support Agreement establishes the following milestones that must be met for the supporting creditors continued support of the recapitalization:[9]

Milestone	Date
Authorization Order and Meetings Order granted	May 26, 2022
Solicitation Materials mailed with respect to the Creditors' Meetings	June 1, 2022
Creditors' Meetings held	August 2, 2022
Sanction Order granted	August 12, 2022
Sanction Recognition Order	September 15, 2022
Transaction Effective Date ("Outside Date")	September 30, 2022

15. The Support Agreement milestones provide the Applicants with a longer period of time than is typical between solicitation of a plan and sanction. That extended period will provide more than sufficient opportunity for the Applicants to receive and consider, if appropriate, actionable

[7] Carter Affidavit, para 14, Applicants' MR Tab 2, pp 87-88.
[8] Carter Affidavit, paras 18-19, Applicants' MR Tab 2, pp 90-91.
[9] Carter Affidavit, para 38, Applicants' MR Tab 2, pp 101-102.

"Alternative Restructuring Proposals", if any, that provide recoveries to creditors superior to that provided for under the Plan.[10]

16. The Support Agreement also provides the Applicants with a "fiduciary out" to terminate the Plan, if appropriate. This fiduciary out is substantially broader in scope than is typical in restructuring support agreements approved by this Court.

17. The Plan Sponsor has thereby provided the Applicants with correspondingly much more flexibility than is the norm. The provision permits the Applicants' board of directors to terminate the Support Agreement if it subsequently determines that (i) an unsolicited Alternative Restructuring Proposal offers recoveries to creditors superior to that provided for under the Plan, or (ii) proceeding with the Plan would be inconsistent with their fiduciary duties.[11] The terms of the Support Agreement do not prohibit the Plan Sponsor from matching or topping any Alternative Restructuring Proposal or Superior Proposal that may be received by the Applicants.[12]

18. Under the Backstop Commitment Letter, the Plan Sponsor has committed the necessary capital to ensure the Plan's success. In particular, it has agreed to backstop the entire US$192,550,000 New Equity Offering pursuant to which 80% of New Common Shares will be issued by the New Just Energy Parent.[13]

19. The Plan Sponsor has also agreed that all other term loan lenders may participate in the backstop on a *pro rata* basis (such electing term loan lenders being the "Additional Backstop Parties").[14]

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[10] Carter Affidavit, para 37, Applicants' MR Tab 2, pp 96-97.
[11] Carter Affidavit, paras 28-29, Applicants' MR Tab 2, p 98.
[12] Carter Affidavit, para 111, Information Statement at Exhibit BB, and Support Agreement at Exhibit C, Applicants MR, Tab 2, p 153, 1640 and beginning on 261**.**
[13] Carter Affidavit, para 76, Applicants' MR Tab 2, p 128.
[14] Carter Affidavit, para 59, Applicants' MR Tab 2, pp 115-116.

20. In consideration for the backstop, subject to Court approval, the Applicants have agreed that the Plan Sponsor and any Additional Backstop Parties will receive an aggregate Backstop Commitment Fee of 10% of the total New Common Shares.[15]

(ii) The CCAA Plan

21. The Plan will enable the Applicants to exit CCAA protection with a significantly deleveraged balance sheet and an improved capital structure.[16] The Plan will permit the Applicants' business and operations to continue in the normal course without disruption while employment is preserved and supply to customers is maintained.[17]

22. The DIP financing initially advanced by the DIP Lenders will be unaffected by the Plan and repaid with interest. However, an affiliate of the DIP Lenders that holds the secured BP Commodity/ISO Services Claim of approximately US$229.5 million and C$0.2 million, has contractually agreed to receive New Preferred Shares in satisfaction of that secured debt obligation (despite all other secured creditors being repaid in full, in cash). As noted above, the Plan Sponsor will also provide the necessary exit financing for the Applicants through its subscription in, and complete backstop of, the US$192,550,000 New Equity Offering.[18]

23. The Plan provides a path for the Applicants, supported by the DIP Lenders and the other key stakeholders, to maximize stakeholder recoveries and exit CCAA without further delay. As set out by the Monitor in its Tenth Report, the Applicants have been unsuccessfully marketed for over two years and the Plan is the only viable option at this time that would allow the Applicants to emerge from these CCAA proceedings in a timely fashion and as a going concern.[19]

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[15] Carter Affidavit, para 76, Applicants' MR Tab 2, p 128.
[16] Carter Affidavit, para 61, Applicants' MR Tab 2, p 116.
[17] Carter Affidavit, para 58, Applicants' MR Tab 2, p 110.
[18] Carter Affidavit, para 58(d), Applicants' MR Tab 2, p 110.
[19] Tenth Report of the Monitor, dated May 18, 2022, para 44-48.

PART III - LAW & ARGUMENT

24. The proposed Authorization Order and Meetings Order should be approved because:

(a) the Support Agreement and the Backstop Commitment Letter, along with the other provisions of the Authorization Order, will allow the Applicants to advance a going concern restructuring; and

(b) the Meetings Order meets the applicable legal test.

A. Approval of the Support Agreement, the Backstop Commitment Letter, and the Authorization Order is Necessary and Appropriate

25. Orders approving agreements in the nature of the Support Agreement and the Backstop Commitment Letter are routinely granted under section 11 of the CCAA when they will facilitate a restructuring and do not usurp the right of creditors to decide whether to approve the plan.

26. The rationale for such approval was explained by Justice Wilton-Siegel in *U.S. Steel* in the context of a plan sponsor agreement, applying the Court of Appeal's reasoning in *Stelco*:

> […] The point of the CCAA process is not simply to preserve the status quo but to facilitate the restructuring so that the company can successfully emerge from the process […] The orders move the process along to the point where the creditors are free to exercise their rights at the creditors meeting.[20]

27. The Support Agreement and Backstop Commitment Letter enable the Applicants to put forward a Plan to their creditors which will:

(a) recapitalize the Applicants' business, and in so doing preserve going concern value for the benefit of all stakeholders;

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[20] *Re U.S. Steel Canada Inc.*, 2016 ONSC 7899, paras 39-48.

(b) maintain relationship with key Commodity Suppliers to ensure uninterrupted supply of energy to hundreds of thousands of customers;

(c) preserve the ongoing employment of most of the Applicants' 1,000 plus employees and independent contractors;

(d) maintain critical regulatory and licensing relationships between the Applicants and their regulators across Canada and the United States;

(e) sustain relationships with the hundreds of other vendors with whom the Applicants do business; and

(f) permit the Applicants to receive and seek approval of an actionable superior transaction if one is available.[21]

28. The Support Agreement and the Backstop Commitment Letter, which were negotiated at arm's length and approved by the Applicants' board, do not usurp the right of the creditors to decide whether to approve the Plan. The agreements are the product of extensive months-long negotiations supervised by the Monitor during which no other actionable alternatives were presented, including by any of the Applicants' stakeholders.

29. If granted, the Authorization Order approving the Support Agreement and the Backstop Commitment Letter will ensure the support for the Plan by the Applicants' key stakeholders and that the Applicants are sufficiently capitalized to finally exit CCAA.

[21] Carter Affidavit, para 16, Applicants' MR Tab 2, pp 89-90.

B. The Meetings Order should be Granted

(i) The Test for Issuing the Meetings Order Is Met

30. Approval of a meetings order is a procedural step. The Court is not required to assess the fairness and reasonableness of the plan when considering whether to issue a meetings order.[22] The test for issuing a meetings order sets a low bar: "that the Plan is not doomed to failure […] The Court is not to determine the fairness and reasonableness of the Plan at this stage, such issues being reserved for the sanction hearing after the creditors meeting."[23]

31. The same test applies to individual elements of the Meetings Order, such as disputed claims voting and voter classification.

(ii) The Applicants' Approach to Disputed Claims Is Appropriate

32. The Applicants intend to value or disallow disputed claims for voting purposes and record the disputed portion. Claims asserted by proposed representative plaintiffs in any uncertified class proceeding will be entitled to one vote. Their contingent disputed claims will be valued for voting purposes at one dollar – without prejudice to the determination of value for distribution purposes.[24]

33. Notably the Donin and Jordet claims which were previously reviewed by this Court are currently subject to a discovery dispute before Claims Officer O'Connor. No witness examinations, summary judgment, certification motion or other dispositive steps are currently scheduled and the final determination date is correspondingly unclear.

34. The current approach follows CCAA jurisprudence at both the meetings order and the sanction order stage. In *Re Target Co*., at the meetings order stage, Justice Morawetz ordered that:

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[22] *Fairview Industries Ltd. et al. (Re)*, 1991 CanLII 4266 (NSSC).
[23] *US Steel Canada Inc. (Re),* 2017 ONSC 1967, para 12; see also *Arrangement relatif à Bloom Lake,* 2018 QCCS 1657, para 19.
[24] Carter Affidavit, para 87, Applicants' MR Tab 2, p 140.

> the Canada Revenue Agency shall have one vote in respect of its Disputed Claims, the dollar value of which shall be equal to $1, without prejudice to the determination of the dollar value of such Disputed Claims for distribution purposes in accordance with the Claims Procedure Order.[25]

35. Contingent claims are often held to be valued at very little or nothing for voting purposes.[26] For example, in *Re Clover on Yonge Inc.*,[27] Justice Hainey sanctioned a plan as fair and reasonable notwithstanding a prior disallowance for voting purposes of a material contingent claim adopting "strikingly similar" law from *Nalcor Energy*[28] (in the proposal context of the *BIA*).[29]

36. The Applicants' Plan is being presented on a substantively consolidated basis. It establishes a Secured Creditor Class and an Unsecured Creditor Class. The Secured Creditor Class is composed of all secured claims against the Applicants that are being compromised. The Unsecured Creditor Class is similarly composed of all unsecured claims against the Applicants.

37. The test to be applied to voter classification is one of "non-fragmentation". Classification of creditors is viewed with respect to the legal rights they hold in relation to the debtor company in the context of the proposed plan, not their rights as creditors in relation to each other.[30] Absent valid reasons to have separate voting classes, fewer classes avoids the impact of fragmentation.[31]

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[25] *Target Canada Co., Re*, 2016 CarswellOnt 8815 (SC), Schedule "C", s 30. See also *T. Eaton Company Limited, Amended and Restated Plan of Compromise*, (I.I.C. Ct. Filing 44993447021) (WL), Schedule "A" – Claims Procedure for Voting and Distribution Purposes, s 3 and Order of Justice Farley dated November 23, 1999 (I.I.C. Ct. Filing 44993495001; *Sem Canada Crude Company*, (Action No. 0801-008510) (WL), Schedule "A" – Canadian Creditors' Meetings Order, para 35(b) and Reasons for Decision of the Honourable Madam Justice B.E. Romaine dated August 24, 2009 (Filing 341079516004).

[26] See for example, *Re Port Chevrolet Oldsmobile Ltd.*, 2004 BCCA 37, where the Court upheld the disallowance for voting purposes of a contingent and unproven claim, which was based on an unresolved appeal of the *Excise Tax Act*. In *Re Canadian Triton International Ltd.,* 1997 CanLII 12412 (ONSC), Justice Farley determined that a claimant could not vote on a proposal as a result of the contingent nature of its claim, which was disputed by the insolvent entity with respect to liability and damages.

[27] *Re Clover on Yonge Inc.* (CV-20-00642928-00CL), Endorsement of Justice Hainey dated January 8, 2021 (unreported), at paras 9-10.

[28] In *Nalcor Energy*, the New Brunswick Court of Queen's Bench rejected a contingent claim for voting purposes on the basis that the validity of the claim, as well as the assessment of damages, was completely dependent on the outcome of the litigation *Nalcor Energy v Grant Thornton*, 2015 NBQB 20, paras 45-46 and 51-52.

[29] Section 20(1)(a)(iii) of the CCAA prescribes that the amount of an unsecured claim is the amount of the claim which might be proven under the *Bankruptcy and Insolvency Act,* RSC 1985, c B-3.

[30] *SemCanada Crude Co., Re*., 2009 ABQB 490 *("SemCanada"),* para 30; *Re Woodward's Ltd.*, 1993 CarswellBC 555, paras 27, 29.

[31] *SemCanada*, para 21; *Stelco Inc Re.,* 2005 CanLII 42247 (ONCA) ("*Stelco*"), para 13.

38. Creditors may be allocated to the same voting class despite being entitled to a differential share of the distribution of assets.[32] In *SemCanada Crude Co.*, unsecured creditors of the company sought allocation to a separate class from the noteholders and secured lenders, who were treated more advantageously under the proposed plan.[33] The Court held that there was no good reason to create separate creditor voting classes:

> The interests of the Noteholders are unsecured. While it is true that under the integrated plans, the Noteholders would be entitled to a higher share of the distribution of assets than ordinary unsecured creditors, the rationale for such difference in treatment relates to the multiplicity of debtor companies that are indebted to the Noteholders, as compared to the position of the ordinary unsecured creditors. That difference, while it may be subject to submissions at the sanction hearing, is an issue of fairness, and not a difference material enough to warrant a separate class for the Noteholders in this case. A separate class for the Noteholders would only be necessary if, after considering all the relevant factors, it appeared that this difference would preclude reasonable consultation among the creditors of the class: *Re San Francisco Gifts* at para 24.[34]

39. Within the Unsecured Creditor Class, the term loan lenders – who hold claims against all Just Energy Entities – will receive 10% of the new common shares for their claims. The other unsecured creditors, who primarily hold claims only against various individual Just Energy Entities, will receive their pro rata (or convenience) portion of a cash distribution.

40. A plan featuring differential treatment of creditors may nevertheless be "fair and reasonable" as long as there is sufficient rationale for the differential treatment, such as a substantial contribution by a particular creditor.[35] As with all CCAA plans, fair and reasonable means equitable treatment, not equal treatment.[36] The Applicants' financial advisor, BMO, has opined that the economic result under the Plan is such that the term lenders and other unsecured

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[32] *SemCanada*, para 22; *Stelco,* para 26.
[33] *SemCanada,* paras 12, 26.
[34] *SemCanada*, para 47.
[35] *Canwest Global Communications Corp., Re.,* 2010 ONSC 4209, para 23; *Sino-Forest Corporation, (Re),* 2012 ONSC 7050, para 66.
[36] *Sammi Atlas Inc., Re,* 1998 CanLII 14900 (ONSC) at para 4.

creditors will receive equivalent value.[37] In the circumstances, grouping all unsecured creditors together is consistent with the legal rights they hold in relation to the Applicants and will avoid fragmentation.[38]

PART IV - ORDER REQUESTED

41. The relief requested by the Applicants is appropriate and should be granted. That will permit the Applicants to finally put an exit plan that maximizes value to a creditor vote and will allow the Applicants to meaningfully advance toward emergence from these CCAA proceedings. No creditors' rights will be affected as it relates to arguing on matters of fairness or reasonableness, which will addressed at the sanction hearing, as appropriate.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 20th day of May, 2022.

Cassels

CASSELS BROCK & BLACKWELL LLP

[37] Carter Affidavit, para 77, Applicants' MR Tab 2, p 129.
[38] *SemCanada*, para 26.

SCHEDULE "A"

LIST OF AUTHORITIES

1. *Arrangement relatif à Bloom Lake,* 2018 QCCS 1657
2. *Canwest Global Communications Corp., Re.,* 2010 ONSC 4209
3. Endorsement of Justice Koehnen, issued March 9, 2021
4. *Fairview Industries Ltd. et al. (Re)*, 1991 CanLII 4266 (NSSC)
5. *Nalcor Energy v Grant Thornton*, 2015 NBQB 20
6. *Re Canadian Triton International Ltd.,* 1997 CanLII 12412 (ONSC)
7. *Re Clover on Yonge Inc.* (CV-20-00642928-00CL), Endorsement of Justice Hainey dated January 8, 2021 (unreported).
8. *Re Port Chevrolet Oldsmobile Ltd.*, 2004 BCCA 37
9. *Re U.S. Steel Canada Inc.*, 2016 ONSC 7899
10. *Re Woodward's Ltd.*, 1993 CarswellBC 555
11. *Sammi Atlas Inc., Re,* 1998 CanLII 14900 (ONSC)
12. *SemCanada Crude Co., Re*., 2009 ABQB 490
13. *Sino-Forest Corporation, (Re),* 2012 ONSC 7050
14. *Stelco Inc Re.,* 2005 CanLII 42247 (ONCA)
15. *T. Eaton Company Limited, Amended and Restated Plan of Compromise*, (I.I.C. Ct. Filing 44993447021) (WL) and Order of Justice Farley dated November 23, 1999 (I.I.C. Ct. Filing 44993495001)
16. *Target Canada Co., Re*, 2016 CarswellOnt 8815 (SC)
17. Tenth Report of the Monitor, dated May 18, 2022
18. Third Report of the Monitor, dated September 8, 2021
19. *US Steel Canada Inc. (Re),* 2017 ONSC 1967

SCHEDULE "B"

TEXT OF STATUTES, REGULATIONS & BY - LAWS

Companies' Creditors Arrangement Act, RSC 1985, c C-36

Determination of amount of claims

20 (1) For the purposes of this Act, the amount represented by a claim of any secured or unsecured creditor is to be determined as follows:

(a) the amount of an unsecured claim is the amount

(i) in the case of a company in the course of being wound up under the *Winding-up and Restructuring Act*, proof of which has been made in accordance with that Act,

(ii) in the case of a company that has made an authorized assignment or against which a bankruptcy order has been made under the *Bankruptcy and Insolvency Act*, proof of which has been made in accordance with that Act, or

(iii) in the case of any other company, proof of which might be made under the *Bankruptcy and Insolvency Act*, but if the amount so provable is not admitted by the company, the amount is to be determined by the court on summary application by the company or by the creditor; and

(b) the amount of a secured claim is the amount, proof of which might be made under the *Bankruptcy and Insolvency Act* if the claim were unsecured, but the amount if not admitted by the company is, in the case of a company subject to pending proceedings under the *Winding-up and Restructuring Act* or the *Bankruptcy and Insolvency Act*, to be established by proof in the same manner as an unsecured claim under the *Winding-up and Restructuring Act* or the *Bankruptcy and Insolvency Act*, as the case may be, and, in the case of any other company, the amount is to be determined by the court on summary application by the company or the creditor.

Admission of claims

(2) Despite subsection (1), the company may admit the amount of a claim for voting purposes under reserve of the right to contest liability on the claim for other purposes, and nothing in this Act, the *Winding-up and Restructuring Act* or the *Bankruptcy and Insolvency Act* prevents a secured creditor from voting at a meeting of secured creditors or any class of them in respect of the total amount of a claim as admitted. R.S., 1985, c. C-36, s. 20 2005, c. 47, s. 131 2007, c. 36, s. 70

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PROCEEDING COMMENCED AT
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