

Clerk's Stamp

COURT FILE NUMBER 2401-02664
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF LYNX AIR HOLDINGS CORPORATION and 1263343 ALBERTA INC. dba LYNX AIR

DOCUMENT **APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McCarthy Tétrault LLP
4000, 421 – 7th Avenue SW
Calgary, AB T2P 4K9
Attention: Sean Collins
Tel: 403-260-3531
Fax: 403-260-3501
Email: scollins@mccarthy.ca

NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard, as shown below:

Date: June 28, 2024
Time: 11:00 a.m.
Where: Calgary Courts Centre via WebEx. Videoconference details are enclosed as Schedule "A" to this Application
Before Whom: The Honourable Justice B.E.C. Romaine

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought: FTI Consulting Canada Inc., in its capacity as the court-appointed monitor (the "**Monitor**") of Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba Lynx Air (collectively, the "**Applicants**") pursuant to the Initial Order granted under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") on February 22, 2024, as subsequently amended and restated on March 1, 2024 (collectively, the "**ARIO**"), in the within proceedings (the "**CCAA Proceedings**"), applies for an order, substantially in the form attached as Schedule "**B**" hereto:

1. Declaring that the time for service of this application (the “**Application**”) and the Fifth Report of the Monitor, dated June 21, 2024 (the “**Fifth Monitor’s Report**”), is abridged, that the Application is property returnable on June 28, 2024, that service of the Application and the Fifth Monitor’s Report, on the service list maintained by the Monitor in these CCAA Proceedings (the “**Service List**”), is good and sufficient, and that no persons other than those on the Service List are entitled to service of the Fifth Monitor’s Report, the Application, or any orders arising therefrom;
2. Approving the activities and conduct of the Monitor;
3. Approving the interim fees and disbursements of the Monitor, for the period from February 22, 2024 to May 31, 2024, (the “**Monitor’s Fee Period**”) and the activities of the Monitor as set out in the following reports of the Monitor:
 - (a) the First Report of the Monitor, dated February 28, 2024 (the “**First Monitor’s Report**”);
 - (b) the Second Report of the Monitor, dated March 27, 2024 (the “**Second Monitor’s Report**”);
 - (c) the Confidential Supplement to the Second Report of the Monitor, dated March 27, 2024;
 - (d) the Third Report of the Monitor, dated April 11, 2024 (the “**Third Monitor’s Report**”);
 - (e) the Fourth Report of the Monitor, dated May 15, 2024 (the “**Fourth Monitor’s Report**”); and,
 - (f) the Fifth Monitor’s Report,(collectively, the “**Monitor’s Reports**”).
4. Approving the interim fees and disbursements incurred by counsel to the Monitor, McCarthy Tétrault LLP (“**McCarthy**”), for the period from February 23, 2024 to May 31, 2024 (the “**MT Fee Period**”, the MT Fee Period and the Monitor’s Fee Period are collectively referred to as, the “**Fee Period**”) as set out in the Fifth Report of the Monitor; and,

5. Such further and other relief as counsel for the Monitor may advise and this Honourable Court considers to be just and appropriate in the circumstances.

Grounds for making this Application: The grounds for the Application are as follows:

6. The Monitor was appointed as the monitor of the Applicants pursuant to the Initial Order, issued by the Honourable Justice J.J. Gill on February 22, 2024 (the “**Initial Order**”) as subsequently amended and restated pursuant to the ARIO.
7. The Monitor retained McCarthy as counsel to the Monitor in these CCAA Proceedings.
8. Pursuant to the ARIO, the Monitor and counsel to the Monitor, among others, are to be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of the CCAA Proceedings. The ARIO authorizes and directs the Applicants to pay the accounts of the Monitor and counsel to the Monitor, among others.
9. The ARIO further provides that the Monitor and its legal counsel shall pass their accounts from time to time.
10. In accordance with current CCAA practices, the Monitor seeks approval of the interim fees, conduct, and activities of the Monitor and the interim fees of counsel to the Monitor for the applicable Fee Period.
11. Capitalized terms used but not defined herein have the same meaning given to them in the Fifth Monitor’s Report

Activities of the Monitor

12. The Monitor’s Reports outline the activities taken by the Monitor in the CCAA Proceedings for which the Monitor seeks approval by this Honourable Court. A detailed description of such activities are set out in paragraph 22 of the Fifth Monitor’s Report.
13. As outlined in the Monitor’s Reports, and in accordance with its duties under the orders made in these CCAA Proceedings, including the ARIO and under the CCAA, the Monitor has, among others: (a) worked in consultation with the Applicants’ management and critical operations staff in an attempt to ensure essential services could be procured and flight crews were available to operate the scheduled flights with as little disruption as

possible; (b) notified terminated employees of the existence of the Wage Earner Protection Program (“WEPP”) and worked with the Applicants and terminated employees to coordinate filing claims under the WEPP; (c) prepared and issued the required notices under the CCAA and Initial Order including: (i) issuing notices to creditors and posting the notice on the Monitor’s website; (ii) coordinated the publishing of a creditor notice in the *Calgary Herald* on February 27, 2024 and March 5, 2024 and the *Globe and Mail* on February 28, 2024 and March 6, 2024; and, (iii) issued Form 1 and Form 2 notices to the Office of the Superintendent of Bankruptcy in the prescribed form as required under section 23(l)(f) of the CCAA; (d) participated in ongoing discussions with the Applicants’ management, the Applicants’ legal counsel, counsel to the Interim Lender regarding the Applicants’ business and financial affairs and plan for the CCAA Proceedings; (e) monitoring the Applicants’ finances (including cash flows) and operations; (f) participating in numerous discussions with the Applicants and the Lessors to conduct and carry out the SISP; (g) participating in numerous discussions with the Applicants and Boeing with respect to the Termination Agreement; (h) assisting the Applicants in preparing the Second CFS, Third CFS, Fourth CFS, and Fifth CFS; (i) administering the WEPPA process in consultation with the Applicants human resource and payroll departments, including, having discussions and numerous communications with counsel for the Canadian Union of Public Employees Lynx Air flight crew local, employees and former employees in respect of the process and timelines for calculating and submitting WEPPA claims and assisting former employees with filing their WEPPA claims with Service Canada – Employment and Social Development Canada; (j) responding to inquiries from suppliers and creditors who contacted the Monitor in connection with these CCAA Proceedings; and, (k) prepared five (5) Monitor’s Reports including the Fifth Monitor’s Report, as well as one (1) Confidential Supplement.

Fees of the Monitor and Counsel to the Monitor

14. During the Monitor’s Fee Period, total fees and disbursements incurred by the Monitor at their standard rates and charges during the relevant period of approximately \$883,184.46, inclusive of taxes.
15. The details of the Monitor’s fees and disbursement are set out in the Fifth Monitor’s Report.

16. During the MT Fee Period, McCarthy billed approximately 225.30 hours in connection with these CCAA Proceedings, representing total fees and disbursements incurred by McCarthy at their standard rates and charges during the relevant period of approximately \$226,972.32, inclusive of taxes.
17. The details of the McCarthy's fees and disbursement are set out in the Fifth Monitor's Report.
18. The Monitor is of the view that its fees and the fees of McCarthy are fair and reasonable in the circumstances, and that the time spent was necessary in the circumstances and the work was delegated to the appropriate professional within each firm. The Monitor has reviewed the accounts rendered by McCarthy and confirms that all services described in the accounts were rendered to the Monitor.

Affidavit or other evidence and materials to be used in support of this Application:

19. The First Monitor's Report, dated February 28, 2024.
20. The Second Monitor's Report, dated March 27, 2024.
21. The Confidential Supplement to the Second Monitor's Report, dated March 27, 2024.
22. The Third Monitor's Report, dated April 11, 2024.
23. The Fourth Monitor's Report, dated May 15, 2024.
24. The Fifth Monitor's Report, dated June 21, 2024.
25. Such further and other evidence or materials as counsel for the Monitor may advise and this Honourable Court may permit.

Application Rules:

26. Rule 6.3, 6.9, 6.28, and 11.27 of the *Alberta Rules of Court*, Alta. Reg. 124/2010.
27. Such further and other rules as counsel for the Monitor may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

28. The *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended.
29. Such further and other acts and regulations as counsel for the Monitor may advise and this Honourable Court may permit.

Any irregularity complained of or objected relied on:

30. There are no irregularities complained of or objections relied on.

How the Application is proposed to be heard or considered:

31. The Monitor proposes that this Application be heard via WebEx with one, some, or all of the parties present.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE "A" TO THE APPLICATION WEBEX INFORMATION

Virtual Courtroom 60 has been assigned for the above noted matter:

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom60>

Instructions for Connecting to the Meeting

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
4. **Note: Recording or rebroadcasting of the video is prohibited.**
5. **Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

If you are a non-lawyer attending this hearing remotely, you must complete the undertaking located here: <https://www.albertacourts.ca/qb/resources/announcements/undertaking-and-agreement-for-non-lawyers>

For more information relating to Webex protocols and procedures, please visit: <https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

You can also join the meeting via the "Cisco Webex Meetings" App on your smartphone/tablet or other smart device. You can download this via the App marketplace and join via the link provided above.

**SCHEDULE "B" TO THE APPLICATION
ORDER (INTERIM FEE APPROVAL AND APPROVAL OF MONITOR'S REPORTS AND
ACTIVITIES)**

[see attached]

Clerk's Stamp

COURT FILE NUMBER 2401-02664
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF LYNX AIR HOLDINGS CORPORATION and 1263343 ALBERTA INC. dba LYNX AIR

DOCUMENT **ORDER (INTERIM FEE APPROVAL AND APPROVAL OF MONITOR'S REPORTS AND ACTIVITIES)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McCarthy Tétrault LLP
4000, 421 – 7th Avenue SW
Calgary, AB T2P 4K9
Attention: Sean Collins
Tel: 403-260-3531
Fax: 403-260-3501
Email: scollins@mccarthy.ca

DATE ON WHICH ORDER WAS PRONOUNCED: June 28, 2024
LOCATION OF HEARING: Calgary, Alberta
NAME OF JUDGE WHO MADE THIS ORDER: Justice B.E.C. Romaine

UPON the application (the "**Application**") of FTI Consulting Canada Inc., in its capacity as the court-appointed monitor (the "**Monitor**") of Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba Lynx Air (collectively, the "**Applicants**") pursuant to the initial order granted under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCA**") on February 22, 2024 (the "**Filing Date**"), as subsequently amended and restated on March 1, 2024 (collectively, the "**ARIO**"), in the within proceedings (the "**CCA Proceedings**"); **AND UPON** reading the First Report of the Monitor dated February 28, 2024, the Second Report of the Monitor dated March 27, 2024, the Confidential Supplement to the Second Report of the Monitor dated March 27, 2024, the Third Report of the Monitor dated April 11, 2024, the Fourth Report of the Monitor dated May 15, 2024, and the Fifth Report of the Monitor dated June 21, 2024 (the "**Fifth Monitor's Report**"), and collectively with the reports noted above, the "**Monitor's Reports**"), filed; **AND UPON** reading the Affidavit of Service of Katie Hynne, sworn on June 1, 2024 (the "**Service**

Affidavit”), filed; **AND UPON** hearing counsel for the Monitor and for any other parties who may be present.

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the Application and the Fifth Monitor’s Report is abridged, the Application is properly returnable today, service of the Application and the Fifth Monitor’s Report on the service list (the “**Service List**”) attached as an exhibit to the Service Affidavit, in the manner described in the Service Affidavit, is good and sufficient, and no other persons other than those listed on the Service List are entitled to service of the Application or the Fifth Monitor’s Report.

INTERIM APPROVAL OF FEES AND ACTIVITIES

2. The Monitor’s Reports and the conduct and activities of the Monitor as described therein are hereby approved.
3. The Monitor’s accounts for professional fees and disbursements for the period of February 22, 2024 to May 31, 2024 in the amount of \$883,184.46 are hereby approved.
4. The accounts for professional fees and disbursements of the Monitor’s legal counsel, McCarthy Tétrault LLP, for the period February 23, 2024 to May 31, 2024 in the amount of \$226,972.32 are hereby approved.

MISCELLANEOUS MATTERS

5. Service of this Order shall be deemed good and sufficient by:
 - (a) Serving same on:
 - (i) the persons listed on the Service List created in these proceedings;
 - (ii) any other person served with notice of the Application for this Order;
 - (iii) any other parties attending or represented at the Application for this Order;
 - and,

(b) posting a copy of this Order on the Monitor's website at <http://cfcanada.fticonsulting.com/lynxair/>

and service on any other person is hereby dispensed with.

Justice of the Court of King's Bench of Alberta