UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

In re: Pelican International Inc., *et al.*, Debtors in a Foreign Proceeding.[1]	Chapter 15 Case No. 25-01030 (Joint Administration Requested)

DECLARATION OF SANDRA ABITAN IN SUPPORT OF THE FOREIGN REPRESENTATIVE'S VERIFIED PETITION FOR (I) RECOGNITION OF FOREIGN MAIN PROCEEDING, (II) RECOGNITION OF FOREIGN REPRESENTATIVE, (III) RECOGNITION OF INITIAL ORDER, AMENDED AND RESTATED INITIAL ORDER, AND SISP ORDER, AND (IV) RELATED RELIEF

I, Sandra Abitan, state as follows:

1. I submit this declaration (this "Declaration") in support of the *Verified Petition for (I) Recognition of Foreign Main Proceeding, (II) Recognition of Foreign Representative, (III) Recognition of Initial Order, Amended and Restated Initial Order, and SISP Order, and (IV) Related Relief* (the "Verified Petition") filed by FTI Consulting Canada Inc., in its capacity as the authorized foreign representative ("FTI" or the "Foreign Representative") of the above-captioned debtors (the "Debtors"), who are the subject of a proceeding under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (as amended, the "CCAA") before the Superior Court of Québec, Commercial Division (the "Canadian Proceeding" and such court, the "Canadian Court"). Concurrently herewith, the Foreign Representative has filed voluntary petitions for relief under chapter 15 of title 11 of the United States Code (the "Bankruptcy Code") for each of the

[1] The Debtors in these chapter 15 proceedings, together with the last four digits of their employment identification number, are: Pelican International Inc. ("Pelican") (6357); Pelican US Topco LLC ("US Topco") (8910); and Confluence Outdoor Inc. ("Confluence") (7554). The location of the Debtors' headquarters is 21 avenue Peronne, Montréal, Québec, Canada, H3S 1X7. The address of the Foreign Representative is 1000 Sherbrooke West, Suite 915, Montréal, Québec, Canada, H3A 3G4.

Debtors. All facts set forth in this Declaration are based on: (a) my knowledge; (b) my review of relevant documents; (c) my opinion based upon my experience and knowledge of the Debtors' operations; and/or (d) information provided to me by the Monitor, the Debtors and its advisors. If I were called upon to testify, I could and would testify to the facts set forth herein.[2]

2. I am a partner in the firm of Osler, Hoskin & Harcourt LLP ("Osler"), where my broad-ranging practice focuses on restructuring and insolvency matters. Osler acts as Canadian counsel to FTI in the Canadian Proceeding pending before the Canadian Court, in its capacity as Monitor (defined below). FTI has also been advised of matters of United States law by Troutman Pepper Locke LLP and Haynsworth Sinkler Boyd, P.A.. I appeared before the Canadian Court as counsel of record at the hearing in respect of the Initial Order (as defined below).

3. I graduated from the University of Montréal in 1989. I was admitted to the Quebec Bar (Barreau du Québec) in 1990.

4. I have experience acting for debtor corporations and large corporate groups, lenders and other creditors, court appointed officers (*e.g.*, CCAA monitors), investors, and acquirers. Over the course of my career, I have been involved in numerous proceedings under the CCAA, as well as proceedings under federal and provincial corporate and/or insolvency legislation, including appearing as counsel of record in at least five such proceedings in the last year.

I. THE CANADIAN PROCEEDING

5. On March 18, 2025, National Bank of Canada ("NBC"), as administrative agent, collateral agent and hypothecary representative (in such capacity, the "Agent"), of a syndicated secured loan advanced by NBC, Bank of Montreal, Fédération des Caisses Desjardins du Québec and Toronto Dominion Bank (collectively the "Lenders") filed an application (the "Application")

[2] Capitalized terms used but not defined herein shall have the meaning given to them in the Verified Petition.

with the Canadian Court pursuant to sections 9, 11, 11.51, 11.52, and 23 of the CCAA with respect to the Debtors. On March 19, 2025, the Canadian Court issued a first day initial order (the "Initial Order"): (a) declaring that the Debtors are corporations to which the CCAA applies; (b) staying all proceedings and remedies taken or that might be taken in respect of the Debtors, their directors and officers, and any of the Debtors' property, except as otherwise set forth in the Initial Order or as otherwise permitted by law, for an initial period of ten (10) days in accordance with the CCAA; (c) appointing FTI as the court appointed monitor of the Debtors in the Canadian Proceeding (the "Monitor"); (d) declaring that Québec is the "*center of main interest*" of the Debtors and, accordingly, authorizing FTI as foreign representative of the Debtors to apply, as it may consider necessary or desirable, to any other court, tribunal, regulatory, administrative or other body, wherever located, for orders to recognize and/or to assist in carrying out the terms of the Initial Order and any subsequent orders rendered by the Canadian Court in the context of the Canadian Proceeding, including, without limitation, orders under Chapter 15 of the Bankruptcy Code; and (e) granting other customary relief.

6. The Initial Order requires the Monitor, within five (5) days of the date of the Initial Order, to (A) post on the Monitor's website notice containing the information prescribed under the CCAA, (B) make this Order publicly available in the manner prescribed under the CCAA, (C) send, in the prescribed manner, a notice to all known creditors having a claim against the Petitioners of more than $1,000, advising them that this Order is publicly available. *See* Initial Order at ¶ 55(a).

A. Overview of the CCAA Restructuring Process

7. The CCAA process begins when a company, (or its secured creditor(s)), files an initial application in the court in the jurisdiction where the company's headquarters or principal place of business is situated for protection under the CCAA. The initial application must, *inter*

alia, be accompanied by: (a) projected weekly cash flow statements; (b) a statement regarding the preparation of the cash-flow statements; and (c) copies of all audited or unaudited financial statements prepared during the year prior to the application. *See* CCAA at 10(2).

8. Following the hearing in respect of the initial application, the court may enter an order staying all proceedings and actions against the company and its property as well as against its directors and officers for an initial period that does not exceed 10 days. *See* CCAA at 11.02(1). This period may subsequently, from time to time, be extended by the CCAA court for the period of time required to implement a CCAA restructuring. There is no time limit on how long the stay can be extended.

9. Once the court enters an initial order approving the initial application, the court will at the same time appoint a licensed insolvency professional to serve as a "monitor" of the business and financial affairs of the company.[3]

10. The initial order may also include, among other things, (a) authority to disclaim certain contracts; (b) a prohibition on the payment of pre-filing obligations, subject to certain permitted exceptions; (c) authority to pay any outstanding wages, salaries, employee and pension benefits, as well as other entitlements and expenses; (d) an order to pay certain taxes; and (e) a prohibition on sales outside the ordinary course of business without court approval.

[3] A monitor is an independent third party who is appointed by the court to monitor the company's ongoing operations and assist with the restructuring, including as the case may be, filing and voting on the plan of arrangement. The monitor's duties include, monitoring the business, reporting to the court on any major events that might impact the viability of the company, assisting the company in the preparation of the plan of arrangement, notifying the creditors of any meetings and tabulating the votes at these meetings. The monitor will also supervise a sale process prepare a report on any sale transaction involving an insolvent debtor's assets conducted out of the ordinary course and, as the case may be, on the plan of arrangement advising the court on the reasonableness of such step.

B. Sales Under the CCAA

11. Prior to 2009, there was an on-going debate over whether creditor protection under the CCAA was appropriate to allow for an orderly liquidation of a debtor company. In 2009, the CCAA was amended to include, *inter alia,* statutory rights in favor of debtor companies to sell their assets outside of the ordinary course of business and outside of a CCAA plan. Accordingly, since then, Canadian courts have accepted that the business and assets of an insolvent company can be sold under the CCAA free and clear of any lien, security, charge or other restriction, without the need to file a CCAA plan. The CCAA now allows a debtor to dispose of all or substantially all of its assets outside of the ordinary course of business without the formal approval of its creditors, provided it obtains prior authorization from the court. In deciding whether to authorize the proposed sale of shares or assets, the CCAA stipulates that the CCAA court is to consider, among other things:

a. whether the process leading to the proposed sale or disposition was reasonable under the circumstances;

b. whether the CCAA monitor has approved the process leading to the proposed sale or disposition;

c. whether the CCAA monitor filed with the CCAA court a report stating that in its 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. See. CCAA at 36.

12. These criteria are largely based on the principles which were previously enunciated by the Ontario Court of Appeal in the *Soundair* matter,[4] in which the court listed the following non-exhaustive criteria to examine in order to determine whether a sale of shares or assets of an insolvent debtor should be approved:

a. whether sufficient effort has been made to obtain the best price and that the debtor has not acted improvidently;

b. the interests of all parties;

c. the efficacy and integrity of the process by which offers have been obtained; and

d. whether there has been unfairness in the working out of the process.

13. If the required test is met, the court will normally issue an approval and vesting order authorizing the transfer of the shares or assets on a free and clear basis (other than assumed/permitted encumbrances). The order will also provide that creditor claims will have the same priority against the proceeds of the transaction that they had against the assets, prior to the sale.

14. It should be noted that court authorization will be granted only if the CCAA court is satisfied that the company can and will make the payments for any unpaid wages or pension plan contributions that would have been required if the court had approved a proposal or a plan of arrangement and compromise, as applicable. It should also be noted that if the sale transaction ultimately presented to the court for approval is with a related party, certain additional requirements must be met.

15. While, as mentioned, the sale of shares or assets of a debtor company does not require the formal approval of its creditors, the CCAA requires that a notice of application to the

[4] *Royal Bank of Canada* v. *Soundair Corp*. (1991), 4 O.R. (3d) 1 (C.A.).

Canadian Court for the approval of the sale or disposition of assets be given by the debtor to all of its secured creditors who are likely to be affected by the proposed sale or disposition.

II. THE SISP ORDER

16. On March 19, 2025, the Canadian Court issued an order (the "SISP Order") approving a sale and investment solicitation process (the "SISP") in respect of the Debtors, which will be conducted by the Monitor and supervised by the Canadian Court. The SISP is designed to maximize the value of the Debtors' assets for the benefit of all stakeholders.

17. The SISP contemplates the following milestones[5]:

Event	Date
Bid Deadline & Qualified Bidders Bid Deadline (for delivery of definitive offers by Qualified Bidders in accordance with the requirement of paragraph 15 of the SISP Procedures)	By no later than April 10, 2025 at 5:00 p.m. (prevailing Eastern Time)
Auction(s) Auction(s) (if needed)	April 14, 2025
Selection of final Successful Bid(s) Deadline for selection of final Successful Bid(s)	By no later than April 14, 2025, at 5:00 p.m. (prevailing Eastern Time)
Definitive Documentation Completion of definitive documentation in respect of Successful Bid(s)	Week of April 14, 2025
Approval Application – Successful Bid(s) Filing of Approval Application in respect of Successful Bid(s)	Week of April 21, 2025
Closing – Successful Bid(s) Anticipated deadline for closing of Successful Bid(s)	Week of April 21, 2025 or such earlier date as is achievable
Outside Date – Closing Outside Date by which the Successful bid must close	April 28, 2025

[5] Capitalized terms used in the present table have the meaning ascribed to such term in the SISP Order.

18. The Monitor believes that the conduct of the SISP in accordance with the SISP Procedures (as attached to the SISP Order) will provide for a fair, efficient and transparent process that incentivizes the proper canvassing of the market, which, in turn, will allow the maximization of value.

19. Given the nature of the assets, the current global context and the limited liquidity of the Debtors, the Lenders sought approval of the proposed SISP by the Canadian Court. Notably, the relief granted by the Canadian Court in the SISP Order is routinely granted in proceedings under the CCAA.

III. THE CANADIAN PROCEEDING IS A FOREIGN MAIN PROCEEDING

20. To ensure the effective and economic administration of the restructuring efforts, I believe that the Debtors require the protection afforded to foreign debtors pursuant to chapter 15 of the Bankruptcy Code in order to prevent disruption of business and recognize the legal effect of the Canadian Proceeding in the United States.

21. To the best of my information and belief, the Canadian Proceeding is a collective judicial proceeding under Canadian law relating to the adjustment of debt of the Debtors in which the purpose is a corporate restructuring and liquidation.

22. I believe, to the best of my information and belief, and as identified in the declaration of Martin Franco, filed contemporaneously herewith, other than these chapter 15 cases, the Canadian Proceeding is the only proceeding related to the adjustment of debts pending for the Debtors and, therefore, is the only "foreign proceeding" with respect to the Debtors within the meaning of section 101(23) of the Bankruptcy Code. [6]

[6] On February 28, 2025, Pelican filed a notice of intention to make a proposal to its creditors pursuant to section 50.4 of the *Bankruptcy Insolvency Ac,* R.S.C 1985, c. B-3.*t* (the "NOI") and named KPMG, Inc. as the Trustee to the NOI (the "NOI Proceedings"). Through the Initial Order, the Canadian Court continued the NOI under the

23. Additionally, I understand that a statement identifying all foreign proceedings with respect to the Debtors has been filed with this Court.

[Signature Page Follows]

CCAA and terminated the NOI Proceedings. Pelican's insolvency proceedings in Canada are now being administered through the Canadian Proceeding alongside the other Debtors.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my information and belief.

Dated: March 19, 2025
Québec, Canada

Sandra Abitan
Partner
Osler, Hoskin & Harcourt LLP