

**U.S. BANKRUPTCY COURT
District of South Carolina**

Case Number: **25-01030-eg**


**ORDER (I) RECOGNIZING AND ENFORCING APPROVAL, VESTING
AND ASSIGNMENT ORDER, (II) APPROVING SALE TRANSACTION
FREE AND CLEAR OF LIENS, CLAIMS, AND ENCUMBRANCES, AND
(III) GRANTING RELATED RELIEF**

The relief set forth on the following pages, for a total of 12 pages including this page, is hereby ORDERED.

**FILED BY THE COURT
06/11/2025**



Entered: 06/11/2025



Elisabetta G. M. Gasparini
US Bankruptcy Judge
District of South Carolina

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

In re:

Pelican International Inc., *et al.*,

Debtors in a Foreign Proceeding.¹

Chapter 15

Case No. 25-01030

(Jointly Administered)

**ORDER (I) RECOGNIZING AND ENFORCING APPROVAL, VESTING AND
ASSIGNMENT ORDER, (II) APPROVING SALE TRANSACTION FREE AND CLEAR
OF LIENS, CLAIMS, AND ENCUMBRANCES, AND
(III) GRANTING RELATED RELIEF**

Upon the motion [Docket No. 64], as supplemented by the *Supplement to Motion for Entry of an Order (I) Recognizing and Enforcing Canadian Approval, Vesting and Assignment Order, (II) Approving Sale Transaction Free and Clear of Liens, Claims, and Encumbrances, and (III) Granting Related Relief* [Docket No. 100] (collectively, the “Motion”)² of FTI Consulting Canada Inc. (“FTI” or the “Foreign Representative”), in its capacity as the duly appointed foreign representative for the above-captioned debtors (collectively, the “Debtors”)³, for entry of an order (a) recognizing and enforcing the AVO, as issued by the Canadian Court, in the territorial jurisdiction of the United States; (b) approving the sale of the Sellers’ U.S. Assets to the Purchaser, free and clear of all liens, claims, encumbrances and other interests under section 363 of the Bankruptcy Code and in accordance with the APA; and (c) granting related relief; and the Court

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.

² Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion.

³ On May 12, 2025, Pelican changed its legal name to 9541-1906 Québec Inc. Additionally, on May 14, 2025, Confluence changed its legal name to 9541-1906, Inc.

finding that the relief granted herein is appropriate, promotes international comity, is not manifestly contrary to the public policy of the United States, and is warranted pursuant to sections 105(a), 363, 365, 1501, 1507, 1520, 1521, 1525, and 1527 of the Bankruptcy Code; and the Court having found that the interests of the Debtors' creditors in the United States are sufficiently protected; and based on information contained in the Motion, the Franco Sale Declaration, the Franco Recognition Declaration, the *Supplemental Declaration of Martin Franco in Support of Motion for Entry of An Order (I) Recognizing and Enforcing Canadian Approval, Vesting And Assignment Order, (II) Approving Sale Transaction Free And Clear Of Liens, Claims, And Encumbrances, And (III) Granting Related Relief* [Docket No. 101] (the "Supplemental Franco Sale Declaration") and the *Declaration of 9539-5893 Quebec Inc. Now Known as Pelican Intl Inc. in Support of Order (I) Recognizing and Enforcing Canadian Approval, Vesting and Assignment Order, (II) Approving Sale Transaction Free and Clear of Liens, Claims, and Encumbrances, and (III) Granting Related Relief* [Docket No. 104] (the "Purchaser Sale Declaration") and collectively with the Franco Sale Declaration, the Franco Recognition Declaration and the Supplemental Franco Sale Declaration, the "Declarations") and the record made at the Hearings (defined below); and there being no objections to the relief requested in the Motion; and for the reasons set forth on the record at the June 11, 2025 hearing; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:

(a) On April 28, 2025, the Canadian Court issued the AVO, approving, among other things, the Transaction pursuant to the APA.

(b) Based on the affidavits of service filed with this Court: (i) notice of the Motion, the May 21, 2025 hearing and the June 11, 2025 hearing (collectively, the "Hearings"), and this Order were proper, timely, adequate, and sufficient under the circumstances of these chapter 15 cases.

(c) This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a).

(d) The Monitor conducted a SISP to market the assets and businesses of the Debtors, including the U.S. Assets, in accordance with the terms of the SISP Order, and such process was non-collusive, duly noticed, and provided a reasonable opportunity to prospective bidders to make an offer to purchase the U.S. Assets. The Monitor recommended and supported the sale of the U.S. Assets pursuant to the APA.

(e) The Foreign Representative's (on behalf of the Debtors) entry into and performance under the APA constitutes a sound and reasonable exercise of the Foreign Representative's business judgment. The consideration provided by the Purchaser under the APA constitutes fair consideration and reasonably equivalent value for the U.S. Assets.

(f) The APA was negotiated, proposed, and entered into by the Monitor (on behalf of the Sellers) and the Purchaser in good faith, without collusion, and from arm's-length bargaining positions. The Purchaser is a "good faith purchaser" of the U.S. Assets within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all the protections afforded thereby. Neither the Debtors, the Foreign Representative, the Monitor, nor the Purchaser have engaged in any conduct that would cause or permit the APA or the sale of the U.S. Assets to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code. The APA was not entered into for the purpose of hindering, delaying, or defrauding any present or future creditors of the Debtors.

(g) The sale by the Debtors (or the Monitor on their behalf) of the U.S. Assets, free and clear of all liens, claims (as defined in section 101(5) of the Bankruptcy Code), rights, liabilities, encumbrances and other interests of any kind or nature whatsoever against the Debtors ("Free and

Clear”), whether arising prior to or subsequent to the commencement of the Canadian Proceeding and these chapter 15 cases, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured, legal, equitable, possessory or otherwise, actual or threatened civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, complaint, suit, investigation, dispute, petition or proceeding by or before any governmental authority or Person at law or in equity, whether imposed by agreement, understanding, law, equity or otherwise, and any claim or demand resulting therefrom, other than the Permitted Encumbrances⁴ and Assumed Liabilities (as each are defined in the APA), may be approved under Section 363 of the Bankruptcy Code, because with respect to each creditor asserting any liens, claims, encumbrances, and other interests, one or more of the standards set forth in section 363(f)(1)–(5) of the Bankruptcy Code has been satisfied. Each creditor that did not object to the Motion is deemed to have consented to the sale of the U.S. Assets Free and Clear (other than the Permitted Encumbrances and Assumed Liabilities) pursuant to section 363(f)(2) of the Bankruptcy Code.

(h) The total consideration to be provided under the APA (i.e., without reduction for an Adjustment Amount, as defined in the APA) reflects the Purchaser’s reliance on this Order to provide it, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, with title to and possession of the U.S. Assets Free and Clear, other than the Permitted Encumbrances and Assumed Liabilities.

(i) The Debtors (or the Monitor on their behalf, as authorized pursuant to the Amended and Restated Initial Order) have full power and authority to transfer the U.S. Assets to the Purchaser as contemplated by the APA and consistent therewith, subject to the terms therein.

⁴ In addition to the definition ascribed to it in the APA, “Permitted Encumbrances,” as used in this Order, shall also include any lien or encumbrance of United Parcel Services, Inc. and its subsidiaries arising pursuant to maritime and/or any other applicable non-bankruptcy law on cargo or freight ordered by the Debtors where such cargo or freight are U.S. Assets.

(j) The Purchaser would not fully consummate the purchase of the U.S. Assets without reduction for an Adjustment Amount, thus adversely affecting the Debtors, their estates, and their creditors, if the sale of the U.S. Assets was not Free and Clear (other than the Permitted Encumbrances and Assumed Liabilities), or if the Purchaser would, or in the future could, be liable on account of any such lien, claim, encumbrance, or any other interest, including, as applicable, certain liabilities related to the U.S. Assets that will not be assumed by the Purchaser, as described in the APA.

(k) A sale of the U.S. Assets other than Free and Clear (other than the Permitted Encumbrances and Assumed Liabilities) would yield less value than the sale of the U.S. Assets Free and Clear; thus, the sale of the U.S. Assets Free and Clear (other than the Permitted Encumbrances and Assumed Liabilities), in addition to all of the relief provided herein, is in the best interests of the Debtors, their creditors, and other parties in interest.

(l) All requirements of sections 363 and 365 of the Bankruptcy Code for the sale of the U.S. Assets to Purchaser and assumption and assignment to the Purchaser of all Assigned Contracts and Leases Free and Clear have been satisfied.

(m) The legal and factual bases set forth in the Motion, the Declarations and at the Hearings establish just cause for the relief granted herein.

(n) The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to these chapter 15 cases pursuant to Bankruptcy Rule 9014. To the extent that any of the foregoing findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such. Any and all findings of fact and conclusions of law announced by this Court at the Hearings are incorporated herein.

IT IS HEREBY ORDERED THAT:

1. The Motion is granted as provided herein.
2. The AVO, as filed at Docket No. 73 (Exhibit B), and all of its respective terms, including any immaterial or administrative amendments thereto, including those necessary to give effect to the substance of such order, either pursuant to the terms therein or as approved by the Canadian Court, are fully recognized and given full force and effect in the territorial jurisdiction of the United States.
3. The sale and transfer of the U.S. Assets on the terms set forth in the APA and this Order are hereby approved and authorized pursuant to sections 105, 363, 1501, 1520, 1521, 1525, and 1527 of the Bankruptcy Code. The failure specifically to include any particular provision of the APA in this Order concerning the sale of the U.S. Assets shall not diminish or impair the effectiveness of such provision.
4. Pursuant to sections 105, 363, 1501, 1520, 1521, 1525, and 1527 of the Bankruptcy Code and this Order, the Debtors, the Purchaser, and the Monitor (as well as their respective officers, employees, and agents) are authorized to take any and all actions necessary or appropriate to: (a) complete the consummation of the sale of the U.S. Assets in accordance with the APA and this Order; and (b) to take such additional steps and all further actions as may be necessary or appropriate to the performance of the obligations contemplated by the APA with respect to the sale of the U.S. Assets, all without further order of the Court, and are hereby authorized and empowered to cause to be executed and filed such statements, instruments, releases, and other documents on behalf of such person with respect to the U.S. Assets that are necessary or appropriate to effectuate the sale of the U.S. Assets, any related agreements, and this Order.

5. All Persons (as defined in section 101(41) of the Bankruptcy Code) that are currently in possession of some or all of the U.S. Assets or that are otherwise subject to the jurisdiction of this Court are hereby directed to surrender possession of such U.S. Assets to the Purchaser.

6. This Court shall retain jurisdiction to hear and determine all disputes which are in any forum or court within the territorial jurisdiction of the United States involving the existence, nature, scope, or enforcement of any exculpations, discharges, injunctions, and releases granted in the AVO and recognized by this Order.

Sale Free and Clear

7. Pursuant to sections 105(a), 363, 365, 1501, 1507, 1520, 1521, 1525, and 1527 of the Bankruptcy Code, all rights, title, and interests of the Debtors in the U.S. Assets are hereby transferred and absolutely vested in the Purchaser, without further instrument of transfer or assignment, and such transfer shall: (a) be a legal, valid, binding, and effective transfer of the U.S. Assets to the Purchaser; (b) vest the Purchaser with all rights, title, and interests of the Debtors in the U.S. Assets, and (c) be Free and Clear (other than the Permitted Encumbrances and Assumed Liabilities).

8. Pursuant to sections 105(a), 363(f), 1501, 1507, 1520, 1521, 1525 and 1527 of the Bankruptcy Code, and except with respect to solely Permitted Encumbrances and Assumed Liabilities, no holder of a lien, claim, encumbrance, or other interest shall interfere, and each and every holder of a lien, claim, encumbrance, or other interest is enjoined from interfering, with the Purchaser's rights and title to or use and enjoyment of the U.S. Assets. All Persons holding a lien, claim, encumbrance, or other interest on or in any U.S. Assets (other than the Permitted Encumbrances and Assumed Liabilities) are forever barred and enjoined from asserting such lien,

claim, encumbrance, or other interest (other than the Permitted Encumbrances and Assumed Liabilities) against the U.S. Assets, the Purchaser or its affiliates and their respective officers, directors, employees, managers, partners, members, financial advisors, attorneys, agents, and representatives, and their respective affiliates, successors, and assigns.

9. The Purchaser and the Monitor have agreed that the U.S. Assets exclude personally identifiable information of any person who has opted-out of the sale of such information pursuant to the Debtors' privacy policy (the "Opt-Out Parties"). The sale of the U.S. Assets to the Purchaser is therefore consistent with the Debtors' privacy policy concerning personally identifiable information. Nothing in this Order authorizes the sale of any personally identifiable information of Opt-Out Parties. The appointment of a consumer privacy ombudsman pursuant to section 363(b)(1) of the Bankruptcy Code is not required with respect to the relief requested in the Motion.

10. Each and every federal, state, and local governmental agency or department in the territorial jurisdiction of the United States is authorized to accept any and all documents and instruments necessary or appropriate to consummate the transfer of the U.S. Assets to the Purchaser.

11. The Purchaser is not and shall not be deemed to: (a) be a legal successor, or otherwise be deemed a successor, to any of the Debtors; (b) have, de facto or otherwise, merged with or into any or all Debtors; or (c) be a mere continuation or substantial continuation of any or all Debtors or the enterprise or operations of any or all Debtors.

12. The terms and provisions of this Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtors, the Purchaser, the Monitor, the Debtors' creditors, and all other parties in interest, and any successors of the Debtors, the Purchaser, the Monitor, and the Debtors' creditors, including any foreign representative(s) of the Debtors, trustee(s), examiner(s),

or receiver(s) appointed in any proceeding, including, without limitation, any proceeding under any chapter of the Bankruptcy Code, the CCAA, or any other law, and all such terms and provisions shall likewise be binding on such foreign representative(s), trustee(s), examiner(s), or receiver(s) and shall not be subject to rejection or avoidance by the Debtors, their creditors, or any trustee(s), examiner(s), or receiver(s).

13. The APA and any related agreements, documents, or other instruments, may be modified, amended, or supplemented by the parties thereto, in a writing signed by each party, and in accordance with the terms thereof, without further order of this Court; provided that any such modification, amendment, or supplement does not materially change the terms of the APA, or any related agreements, documents, or other instruments and is otherwise in accordance with the terms of the AVO and this Order.

14. The provisions of this Order and the APA are non-severable and mutually dependent. To the extent that there are any inconsistencies between the terms of this Order, on the one hand, and the APA, on the other, this Order shall govern.

15. Nothing in this Order shall be deemed to waive, release, extinguish, or estop the Debtors or the Monitor from asserting, or otherwise impair or diminish, any right (including, without limitation, any right of recoupment), claim, cause of action, defense, offset, or counterclaim in respect of any asset or interest apart from the U.S. Assets.

16. All Persons subject to the jurisdiction of the United States are permanently enjoined and restrained from taking any actions inconsistent with, or interfering with, the enforcement and implementation of the AVO or any documents incorporated by the foregoing,

17. Pursuant to sections 105(a), 363, 365, and 1521 of the Bankruptcy Code, and in recognition and enforcement of the AVO, the Debtors' assumption of the Assigned Contracts and

Leases within the territorial jurisdiction of the United States (“Assigned U.S. Contracts and Leases”) and their assignment and transfer to the Purchaser Free and Clear (other than the Permitted Encumbrances and Assumed Liabilities) is hereby authorized and approved, subject to the terms of this Order.

18. The Purchaser is hereby deemed to be substituted for the applicable Debtor counterparty to each of the Assigned U.S. Contracts and Lease. Except as otherwise expressly provided in the APA or this Order, the non-Debtor counterparties to the Assigned U.S. Contracts and Leases shall be forever barred and estopped from seeking any additional amounts from, or asserting claims against, the Purchaser, or the U.S. Assets that arose, accrued, or were incurred thereunder at any time on or prior to the Closing Date.

19. To the extent that any provision in any Assigned U.S. Contract or Lease (including, without limitation, any “change of control” provision) (a) prohibits, restricts, or conditions (or purports to prohibit, restrict, or condition) such assumption and/or assignment or (b) is modified, breached, or terminated (or deemed modified, breached, or terminated) by (i) the commencement of these chapter 15 cases, (ii) the Debtors’ insolvency or financial condition, (iii) the Debtors’ assumption and/or assignment of such Assigned U.S. Contract or Lease, or (iv) the transfer of the U.S. Assets, including, without limitation, any provision that purports to allow the non-Debtor counterparty to terminate or modify such Assigned U.S. Contract or Lease, impose any penalty thereunder, condition any renewal or extension thereof, impose any rent acceleration or assignment fee, or increase or otherwise impose any other fees or other charges in connection therewith, such provision shall constitute an unenforceable anti-assignment provision that is void ab initio and of no force and effect with respect to the Assigned U.S. Contract or Lease.

20. The Purchaser shall be deemed to have provided adequate assurance of future performance under the Assigned U.S. Contracts and Leases within the meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code to the extent that any such assurance is required and not waived by the non-Debtor counterparty. Except as expressly otherwise provided in this Order, the Purchaser shall enjoy all of the Debtors' rights, benefits, and privileges under each Assigned U.S. Contract and Lease without the necessity to obtain any person's or entity's consent to the assumption or assignment thereof.

21. Nothing in this Order, the Motion, or any notice thereof is or shall be deemed an admission by the Foreign Representative that any Assigned U.S. Contract or Lease is an executory contract or unexpired lease within contemplation of section 365 of the Bankruptcy Code.

22. The Stay Extension Order, as filed at Docket No. 73 (Exhibit D), as the same may be further extended by the Canadian Court, is recognized and given full force and effect in the territorial jurisdiction of United States.

23. The Foreign Representative is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion, the AVO, and the APA.

24. Notwithstanding any provisions in the Bankruptcy Rules to the contrary, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

25. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.