

No. S-128887
Vancouver Registry



IN THE SUPREME COURT OF BRITISH COLUMBIA

Dumas Holdings Inc.

Petitioner

AND

Tercon Investments Ltd., Tercon A.C. Ltd., Tercon Equipment Ltd. Tercon Construction Ltd., Tercon Mining Ltd., Tercon Enterprises Ltd., Tercon MRC Limited, FNP Ventures Inc., Tercon Mining PV Ltd., Tercon Equipment Alaska Partnership and Tercon Alaska Ltd.

Respondents

NOTICE OF APPLICATION

Name of applicant: FTI Consulting Canada Inc., in its capacity as the Court-appointed Receiver of the assets, undertaking and properties of Tercon Investments Ltd., Tercon A.C. Ltd., Tercon Equipment Ltd., Tercon Construction Ltd., Tercon Mining Ltd., Tercon Enterprises Ltd., Tercon MRC Limited, FNP Ventures Inc., Tercon Mining PV Ltd., Tercon Equipment Alaska Partnership and Tercon Alaska Ltd.

To: Respondents

TAKE NOTICE that an application will be made by the applicant, FTI Consulting Canada Inc., (the "Receiver") to The Honourable Mr. Justice Sewell at the Vancouver Courthouse at 800 Smithe Street, Vancouver, British Columbia on Thursday, February 28, 2013 at 9:30 a.m. for the Orders set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. That the time for service of this Notice of Application and supporting materials is hereby abridged so that this Application is properly returnable today, and the need for further service of the Notice of Application and supporting materials is hereby dispensed with.

2. That the Receiver is seeking orders substantially in the form attached hereto as Appendix "I" and such further and other relief as this Honourable Court may consider appropriate.

Part 2: FACTUAL BASIS

1. Pursuant to an Order pronounced by The Honourable Mr. Justice Sewell on December 14, 2012 (the "**December 14 Order**"), FTI Consulting Canada Inc. was appointed as Receiver of the assets, undertakings and properties of Tercon Investments Ltd., Tercon A.C. Ltd., Tercon Equipment Ltd., Tercon Construction Ltd., Tercon Mining Ltd., Tercon Enterprises Ltd., Tercon MRC Limited, FNP Ventures Inc., Tercon Mining PV Ltd., Tercon Equipment Alaska Partnership and Tercon Alaska Ltd. (collectively referred to as the "**Debtors**").

2. Paragraph 9 of the December 14 Order provides for a stay of proceedings (the "**Stay**") with respect to each of the Debtors, including Tercon Equipment Ltd. ("**TEL**");

3. Prior to the December 14 Order, certain of the Debtors may have transferred certain assets among each other;

4. The Receiver, in its capacity as Receiver of the assets, undertakings and properties of Tercon Construction Ltd., is seeking authorization for a partial lifting of the Stay in order to file with the Court an application for a bankruptcy order in order to preserve certain rights of a trustee in bankruptcy of TEL under the *Bankruptcy and Insolvency Act* with respect to a certain transfer of assets by TEL within one year preceding March 1, 2013.

Part 3: LEGAL BASIS

1. Rules 8-1, 10-2 and 13-5 of the *Rules of Court*;
2. Sections 69.4, 243, 248, 249, 250 of the *Bankruptcy and Insolvency Act*; and
3. the inherent jurisdiction of this Honourable Court.

Part 4: MATERIAL TO BE RELIED ON

1. Third Report of the Receiver dated February 26, 2013;
2. the pleadings and proceedings had and taken herein; and
3. such further and other material as counsel may advise and the Court may permit.

The applicant estimates that the application will take 20 minutes.

The Honourable Mr. Justice Sewell is seized of this Proceeding.

Date: February 26, 2013



Signature of Magnus C. Verbrugge

applicant lawyer for applicant
FTI Consulting Canada Inc.

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| <p><i>To be completed by the court only:</i></p> <p>Order made</p> <p><input type="checkbox"/> in the terms requested in paragraphs _____ of Part 1 of this notice of application</p> <p><input type="checkbox"/> with the following variations and additional terms:</p> <p>_____</p> <p>_____</p> <p>Date: _____</p> <p>Signature of <input type="checkbox"/> Judge <input type="checkbox"/> Master</p> |
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APPENDIX

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 matters 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

APPENDIX "T"

No. S128887
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF AN APPLICATION PURSUANT TO
SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c.B-3, AS AMENDED and SECTION 39 OF THE *LAW AND EQUITY ACT*,
R.S.B.C. 1996 C.253, AS AMENDED

BETWEEN:

DUMAS HOLDINGS INC.

Petitioner

**TERCON INVESTMENTS LTD., TERCON A.C. LTD., TERCON EQUIPMENT LTD.,
TERCON CONSTRUCTION LTD., TERCON MINING LTD., TERCON ENTERPRISES
LTD., TERCON MRC LIMITED, FNP VENTURES INC., TERCON MINING PV LTD.,
TERCON EQUIPMENT ALASKA PARTNERSHIP AND TERCON ALASKA LTD.**

Respondents

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE

28/02/2013

JUSTICE SEWELL

THE APPLICATION of FTI CONSULTING CANADA INC., in its capacity as Court-appointed Receiver (the "**Receiver**") of the assets, undertakings and properties of Tercon Investments Ltd., Tercon A.C. Ltd., Tercon Equipment Ltd., Tercon Construction Ltd., Tercon Mining Ltd., Tercon Enterprises Ltd., Tercon MRC Limited, FNP Ventures Inc., Tercon Mining PV Ltd., Tercon Equipment Alaska Partnership and Tercon Alaska Ltd. (collectively, the "**Debtors**") coming on for hearing at Vancouver, British Columbia, on the 28th day of February, 2013; AND ON HEARING Magnus Verbrugge, counsel for the Receiver, and those other counsel listed on Schedule "A" hereto, and no one appearing for [REDACTED], although duly served; AND UPON READING the material filed, including the Third Report of the Receiver dated February 26, 2013 (the "**Third Report**")¹;

¹ All capitalized terms not defined herein shall have the meaning ascribed to them in the Third Report.

THIS COURT ORDERS AND DECLARES THAT:

1. The Receiver, in its capacity as Receiver of the assets, undertakings and properties of Tercon Construction Ltd. (the “**TCL Receiver**”) is hereby authorized to issue and file in Court an application for a bankruptcy order against Tercon Equipment Ltd. (the “**Bankruptcy Application**”);
2. The stay of proceedings (the “**Stay**”), as provided for in paragraph 9 of the Order pronounced on December 14, 2012, is hereby lifted as against the TCL Receiver, for the limited purpose of enabling and authorizing the TCL Receiver to file the Bankruptcy Application; and
3. The Receiver, in its capacity as Receiver of the Assets, undertakings and properties of Tercon Equipment Ltd. (the “**TEL Receiver**”) is hereby authorized to consent to the pronouncement of a bankruptcy order granted pursuant to the Bankruptcy Application, provided that the TEL Receiver has obtained the prior consent of each of HSBC Bank Canada, as agent, and Dumas Holdings Inc., or as further determined by Order of this Court.

THE APPROVAL OF COUNSEL SET OUT IN SCHEDULE “A” OF THIS ORDER, OTHER THAN COUNSEL FOR FTI CONSULTING CANADA INC., IS HEREBY DISPENSED WITH:

Signature of Magnus C. Verbrugge

Party Lawyer for

FTI Consulting Canada Inc., in its capacity as receiver of the assets, undertakings and properties of Tercon Investments Ltd., Tercon A.C. Ltd., Tercon Equipment Ltd., Tercon Construction Ltd., Tercon Mining Ltd., Tercon Enterprises Ltd., Tercon MRC Limited, FNP Ventures Inc., Tercon Mining PV Ltd., Tercon Equipment Alaska Partnership and Tercon Alaska Ltd.

BY THE COURT

REGISTRAR

