

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, AS
AMENDED AND SECTION 39 OF THE *LAW AND EQUITY ACT*, R.S.B.C.
1996, c.253, AS AMENDED

BETWEEN:

DUMAS HOLDINGS INC.

Petitioners

- and -

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

Respondents

NOTICE OF APPLICATION

Name of applicant: First Insurance Funding of Canada Inc., a secured creditor of Tercon Equipment Ltd.

To: The parties on the service list

TAKE NOTICE that an application will be made by the applicant, First Insurance Funding of Canada Inc. ("FIRST") to the Honourable Mr. Justice Sewell at the Vancouver Courthouse at 800 Smithe Street, Vancouver, British Columbia, on Tuesday, January 15, 2013 for the orders set out below.

PART 1: ORDERS SOUGHT

1. an order, if necessary, validating and abridging the time for service of this notice of application and application record in the manner effected by FIRST and an order dispensing with service thereof on any party other than the parties served;

2. the advice and direction of this Honourable Court with respect to FIRST's ability to realize on its security against Tercon Eequipment Ltd. ("Tercon");
3. an order declaring that FIRST is entitled to enforce its security by terminating the insurance policy financed under the Premium Installment Contract No. 52037 dated April 28, 2011 and renewed on April 2, 2012 (the "PIC") between FIRST and Tercon;
4. an order lifting the stay of proceedings established by paragraphs 8, 9 and 10 of the order of the Honourable Mr. Justice Sewell dated December 14, 2012 (the "Receivership Order") to permit FIRST to enforce its security pursuant to the PIC or alternatively, a declaration that such a stay does not prevent such action by FIRST;
5. an order that the enforcement of FIRST's security is without prejudice to any claims or rights FIRST may have against Tercon;
6. in the alternative, an order that FTI Consulting Canada Inc., the court-appointed receiver of the assets and undertaking of Tercon, set aside the sum of \$44,779.87 in respect of the value of the unearned premiums under the PIC to be held pending further order of this court;
7. its costs of this motion on a substantial indemnity basis; and
8. such further and other relief as this Honourable Court deems just.

Part 2: FACTUAL BASIS

- (1) pursuant to the Receivership Order, Dumas Holdings Inc. obtained an order appointing FTI Consulting Inc. (the "Receiver") as receiver of all of the assets, undertakings and properties of Tercon (and other related parties);

- (2) paragraphs 8, 9 and 10 of the Receivership Order imposes a stay against Tercon and the Receiver which prohibits creditors such as FIRST from realizing on their security against Tercon;
- (3) FIRST's security consists of the realization of unearned insurance premiums on an insurance policy which are the subject of the PIC held by FIRST;
- (4) the value of FIRST's security in respect of the PIC is \$44,779.87.15 as at January 9, 2013 and is depreciating at a daily rate of \$878.03;
- (5) such further and other grounds as counsel may advise and this Honourable Court may permit.

PART 3: LEGAL BASIS

- (1) section 19(1) of the *Insurance Act*;
- (2) section 4(c) of the *Personal Property Security Act*;
- (3) rule 8-1 of the *Rules of Court*; and
- (4) such further and other basis as counsel may advise and this Honourable Court may permit.

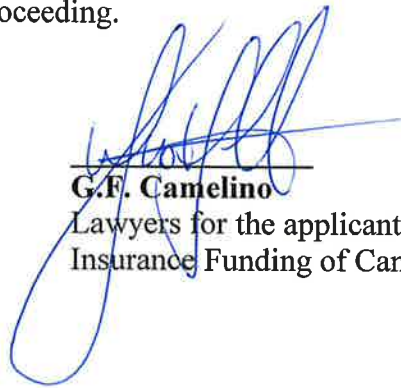
PART 4: MATERIAL TO BE RELIED ON

- (1) the affidavit of Stephen Karpiuk sworn on January 11, 2013; and
- (2) such other and further material as counsel may advise and that to this Honourable Court may appear just.

The applicant estimates that the application will take 30 minutes.

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

Date: January 11, 2013



G.F. Camelino
Lawyers for the applicant First
Insurance Funding of Canada Inc.

No. S-128887
Vancouver Registry

In the Supreme Court of British Columbia

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DUMAS HOLDINGS INC.

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NOTICE OF APPLICATION
(RETURNABLE JANUARY 15, 2013)

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