



Amended pursuant to Rule 16-1(19).
Original Petition filed on April 2, 2026.

No.: VLC-S-S-262356
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

**IN THE MATTER OF SECTION 232 OF
THE *BUSINESS CORPORATIONS ACT*, SBC 2002, c 57**

JOHN LEE and STUART SWINAMER

Petitioners

AND

EXRO TECHNOLOGIES INC.

Respondent

AMENDED PETITION TO THE COURT

ON NOTICE TO:

FTI CONSULTING CANADA INC., in its capacity as the Court-appointed Receiver to Exro Technologies Inc., c/o Sam Gabor, Gowling WLG (Canada) LLP, 1600, 421 – 7th Avenue S.W., Calgary, AB T2P 4K9

NATIONAL BANK FINANCIAL INC., c/o John Fabello, Torys LLP, 79 Wellington St W #3300, Toronto, ON M5K 1N2

VESTCOR INC. and MARK HOLLERAN, c/o Maurice Chiasson, K.C. and Alanna Waberski, Stewart McKelvey, Queen's Marque, 600 – 1741 Lower Water Street, Halifax, NS B3J 0J2

ODYSSEY TRUST COMPANY, in its capacity as the Trustee to the Holders of the Convertible Debentures of Exro Technologies Inc., c/o Brett Higgs, 350, 409 Granville Street, Vancouver, BC V6C 1T2

SERVICE LIST in the Receivership Proceeding in relation to Exro Technologies Inc., Court of King's Bench of Alberta, Action No. 2501-17556 ("Receivership Proceeding")

The address of the registry is 800 Smithe Street, Vancouver, BC V6Z 2E1.

The petitioner(s) estimate(s) that the hearing of the petition will take 1 day 2 hours.

This matter is an application for judicial review.

This matter is not an application for judicial review.

This proceeding is brought for the relief set out in Part 1 below, by the Petitioner.

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner
 - (i) 2 copies of the filed response to petition, and
 - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner(s),

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or
- (d) if the time for response has been set by order of the court, within that time.

(1) The ADDRESS FOR SERVICE of the petitioners is:

c/o Sage Nematollahi
KND Complex Litigation
Yonge Eglinton Centre
2300 Yonge St, Suite 401
Toronto, Ontario
Canada M4P 1E4

	E-mail address for service of the Petitioners: sn@knd.law
(2)	<p>The name and office address of the petitioners' lawyer is:</p> <p>Sage Nematollahi, Eli Karp & Taek Soo Shin KND Complex Litigation Yonge Eglinton Centre 2300 Yonge St, Suite 401 Toronto, Ontario M4P 1E4 sn@knd.law ek@knd.law ts@knd.law</p> <p>Roger J. Baker Baker Law Firm Suite 3000, 421 7th Ave S.W. Calgary, Alberta T2P 4K9 rbaker@bakerlawfirm.ca</p>

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION
FOR SERVICE OUTSIDE BRITISH COLUMBIA**

The Petitioners claim the right to serve this Petition on the Respondent, if necessary, outside British Columbia on the ground that there is a real and substantial connection between British Columbia and the facts alleged in this proceeding and the Petitioners plead and rely upon the *Court Jurisdiction and Proceedings Transfer Act*, [SBC 2003, c 28](#) (“**CJPTA**”), in respect of the Respondents. Without limiting the foregoing, a real and substantial connection between British Columbia and the facts alleged in this proceeding exists pursuant to the *CJPTA* because:

- this proceeding concerns a tort committed in British Columbia; and/or
- this proceeding concerns a business carried on in British Columbia; and/or
- this proceeding concerns contractual obligations, and (i) the contractual obligations, to a substantial extent, were to be performed in British Columbia; and/or (ii) by its express terms, the contract is governed by the law of British Columbia; and/or
- this proceeding concerns restitutionary obligations that, to a substantial extent, arose in British Columbia

CLAIM OF THE PETITIONERS

PART 1: ORDERS SOUGHT

1. The Petitioners seek:
 - a. an Order pursuant to sections 232 and 233 of the *Business Corporations Act*, [SBC 2002, c 57](#) ("**Business Corporations Act**"), to prosecute a legal proceeding in the name and on behalf of Exro Technologies Inc. ("**Exro Technologies**") against National Bank Financial Inc. ("**NBF**"), Vestcor Inc. ("**Vestcor**") and Mark Holleran ("**Holleran**"); and
 - b. such further and other relief as this Honourable Court may deem just.

PART 2: FACTUAL BASIS

A. The Petitioners

1. Mr. John Lee is an individual residing in Ontario. As of the date of this Petition, he holds convertible debentures of Exro Technologies, as well as common shares of Exro Technologies.
2. Mr. Stuart Swinamer is an individual residing in Ontario. As of the date of this petition, he holds convertible debentures of Exro Technologies, as well as common shares of Exro Technologies.

B. The Respondent

3. At the relevant time, Exro Technologies was a clean technology company that purported to design, engineer, and manufacture or otherwise provide to the market power electronics to improve the efficiency and cost-effectiveness of electric vehicles and energy storage systems. Exro Technologies is incorporated under the *Business Corporations Act*. Its head office is at 12–21 Highfield Circle S.E., Calgary, Alberta, T2G 5N6, and its registered and records office is at 1700, 666 Burrard Street, Vancouver, BC V6C 2X8.

C. The Facts

i. Background

4. This proceeding arises out of a merger transaction ("**Merger**") between Exro Technologies and SEA Electric Inc. ("**SEA Electric**"). The Merger was announced on January 30, 2024, and it was completed on or about April 5, 2024.
5. Exro Technologies acquired SEA Electric for US\$300 million, representing that the combined company would have a "strong order book", and would achieve a revenue of over \$200 million in 2024. A "strong order book" did not exist, or it was otherwise legally unenforceable and/or non-binding. The representation that Exro Technologies would achieve a revenue of over \$200 million in 2024 was delusional.
6. The value at which Exro Technologies acquired SEA Electric was grossly inflated.
7. On November 13, 2024, in connection with the release of its 3Q 2024 results, Exro disclosed that it would at best achieve a revenue of \$28 million in 2024. It also announced that it was recording a loss of \$225.95 million, inclusive of impairment expenses of \$211 million in relation to the write-down of goodwill and intangible assets in relation to SEA Electric division of its business.
8. On September 17, 2025, Exro Technologies reported that it had discontinued its United States business, and that it was reducing its non-essential staff in the United States accordingly.
9. On or about November 14, 2025, Exro Technologies secured an Order of the Court of King's Bench of Alberta, appointing a receiver in relation to its affairs pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 ("**BIA**").
10. On or about February 10, 2026, substantially all of Exro Technologies were sold pursuant to a Sale Approval and Vesting Order of the Court of King's Bench of Alberta.

11. The weight of the liabilities acquired at a grossly inflated price from SEA Electric, and the fact that SEA Electric as part of Exro or otherwise was unable to generate sustainable revenue resulted in the complete collapse of Exro Technologies in 2025.

ii. **NBF's Role in the Merger, and Its Breaches of Contractual and Other Duties at Law**

12. NBF is a Canadian financial institution with offices across Canada, including in British Columbia, which offers a wide range of financial services, including investment banking solutions.

13. In the context of the Merger, NBF acted as the exclusive financial advisor to Exro Technologies.

14. In the context of the Merger, NBF also provided a Fairness Opinion to a Special Committee of the Board of Directors of Exro Technologies, as well as to the whole of the Board of Directors of Exro Technologies, dated January 29, 2024 ("**Fairness Opinion**"). NBF's Fairness Opinion stated that, as of the date thereof and based upon and subject to the assumptions, limitations and qualifications set out in its opinion, the US\$300 million consideration paid for SEA Electric was fair, from a financial point of view to Exro Technologies' shareholders other than its majority shareholder, Vestcor Inc.

15. In the context of the Merger, on or about January 30, 2024, Martin-Pierre Roussel, Executive Vice President & Managing Director of NBF, made a public statement and published an NBF document, grossly overstating the value of SEA Electric. The document, which was prepared and published by NBF, falsely stated that SEA Electric's value was US\$300 million, and that there was a significant synergy potential arising from the transaction, "along which a defined backlog of orders, [which] provides visibility to profitability within 12 months of completing" the Merger. In reality, there was no meaningful backlog of orders, and no visible path to profitability within 12 months of the transaction.

16. In the context of the Merger, NBF also acted as an Underwriter in relation to the issuance and public sale and distribution of Exro Technologies' Subscription Receipts pursuant to the Amended and Restated Short Form Base Shelf Prospectus (amending and restating the short form base shelf prospectus dated May 8, 2023), which closed on or about February 16, 2024.
17. NBF's Fairness Opinion was false, and it was negligently prepared.
18. NBF's representation that the consideration paid to SEA Electric in the context of the Merger was fair was false, and it was negligently made.
19. The representations of NBF that SEA Electric's value was US\$300 million, and that there was a significant synergy potential arising from the transaction, "along which a defined backlog of orders, [which] provides visibility to profitability within 12 months of completing" the Merger were false and were negligently made.
20. NBF acted on conflicts of interests in the context of the Merger and related financing transaction.
21. NBF breached its contracts in the context of the Merger and related transactions including, without limitation, the agreement between NBF and Exro Technologies made on or about February 16, 2024.
22. NBF owed a duty of care to Exro Technologies, which it breached.
23. Exro Technologies suffered damages and losses as a result of NBF's breaches of contracts and the duty of care it owed Exro Technologies.

iii. Vestcor's and Holleran's Role in the Merger, and Their Oppressive and/or Unfairly Prejudicial Conduct

24. Vestcor is an independent not-for-profit company that provides global investment management services to various public sector client groups. At the relevant time, Vestcor was the majority shareholder of Exro Technologies. As at the time of Exro Technologies' acquisition of SEA Electric, Vestcor was also a shareholder

of SEA Electric, holding 195,883 Series A Preferred Stock of SEA Electric, representing 14.23% of its Series A Preferred Stock, and 16,667 Ordinary Shares of SEA Electric, representing 0.56% of its Ordinary Shares.

25. Mark Holleran is the Vice President of Equities at Vestcor. Mr. Holleran has over 30 years of institutional investment experience on the buy and sell side. Mr. Holleran is a Chartered Financial Analyst (CFA) and holds a Financial Risk Manager (FRM) designation. At the relevant time, Mr. Holleran exerted significant influence over the affairs of Exro Technologies, and effectively acted as director and/or an officer of Exro Technologies in relation to Exro Technologies' financial affairs.
26. Vestcor was at the time the majority shareholder of Exro Technologies, and a major shareholder of SEA Electric. As such, Vestcor and Holleran were on both sides of the Merger, acting both as a seller and a buyer.
27. Vestcor and Holleran orchestrated and significantly influenced the fact of, and the conduct of, Exro Technologies' acquisition of SEA Electric.
28. Vestcor and Holleran did so in order to manage, or salvage, their significant investment in SEA Electric.
29. Vestcor and Holleran acted in bad faith and/or on conflicts of interests, and benefited personally from the Merger at the expense of Exro Technologies.
30. In engaging in the oppressive and unfairly prejudicial conduct in the context of the Merger, Vestcor and/or Holleran violated and frustrated the reasonable expectations of Exro Technologies.
31. Exro Technologies had a reasonable expectation that Vestcor and Holleran do not use their position of influence and power as the major shareholder of Exro Technologies and a major shareholder of SEA Electric to impose an unfair transaction by way of the Merger on Exro Technologies at its detriment. Exro

Technologies and/or Holleran violated and frustrated that reasonable expectation.

32. Further, in engaging directly in the conduct of the Merger, Vestcor and/or Holleran acted as *de facto* directors of Exro Technologies. In such capacity, they were subject to the duty of loyalty and care to Exro Technologies prescribed in section 142 of the *Business Corporations Act*, which required them to act honestly and in good faith with a view to the best interests of Exro Technologies, and to exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances. Vestcor and/or Holleran violated and frustrated those reasonable expectations of Exro Technologies.
33. Vestcor is vicariously liable for the acts and omissions of Holleran. In carrying out his oppressive and/or unfairly prejudicial conduct, Holleran acted as a senior investment officer of Vestcor. He purported to act within the ambit of his authorization to act on behalf of Vestcor. The risk that Holleran fails to comply with his duties, or that he engages in negligent or grossly negligent conduct, or that he engages in oppressive or unfairly prejudicial conduct was created and assumed by Vestcor. This was a risk that Vestcor created and it reasonably assumed in the ordinary course of its business.
34. An affiliate of Vestcor, NBIMC Quantitative Strategies Fund – Class N, acted as the secured interim lender to Exro Technologies pursuant to, amongst other agreements, an Interim Financing Credit Facility dated May 15, 2025.
35. In the context of the Receivership Proceeding, NBIMC Quantitative Strategies Fund – Class N, acquired substantially all of Exro Technologies' business and assets pursuant to a creditor's bid, which was approved by a Sale and Vesting Order of the King's Bench of Alberta, dated February 18, 2026.
36. Exro Technologies claims relief pursuant to section 227 of the *Business Corporations Act*, including subsections 227(3)(h), (i), and/or (q) thereof.

D. The Receiver Refused, or Is Unable, to Enforce Exro Technologies' Rights and Claims

37. Exro Technologies is subject to a receivership proceeding under the *BIA*, and it currently does not have any directors, with FTI Consulting Canada Inc. acting as the Court appointed receiver to Exro Technologies ("**Receiver**").
38. The Petitioners have made reasonable efforts to cause Exro Technologies' Receiver to prosecute the proposed legal proceeding, and have provided ample notice to it and other stakeholders of their intention to bring this Petition for leave should they not do so in a timely manner.
39. The Receiver has refused or it is unable to enforce the rights and claims belonging to Exro Technologies.

PART 3: LEGAL BASIS

1. The Petitioners rely on:
 - a. *Business Corporations Act*, including sections 1(1), 136(1), 142, 232 and 233;
 - b. *Supreme Court Civil Rules*, BC Reg 168/2009, including rules 1-2(4), 1-3, 8-1 and 14-1;
 - c. *Court Jurisdiction and Proceedings Transfer Act*, SBC 2003 c 28, as amended;
 - d. *Court Order Interest Act*, RSBC 1996, c 79, as amended;
 - e. The inherent jurisdiction of the Court; and
 - f. Such further and other provisions as Counsel may advise.
2. Pursuant to subsection 232(3) of the *Business Corporations Act*, a complainant may, with leave of the court, prosecute a legal proceeding in the name and on behalf of a company: (a) to enforce a right, duty or obligation owed to the company that could be enforced by the company itself, or (b) to obtain damages

for any breach of a right, duty or obligation referred to in paragraph (a) of this subsection.

3. Pursuant to subsection 232(1) of the *Business Corporations Act*, "complainant" means, in relation to a company, a shareholder or director of the company. The Petitioners are "complainants," within the meaning of this subsection.
4. Pursuant to subsection 233(1) of the *Business Corporations Act*, the Court may grant leave under section 232(2) to a complainant to prosecute a legal proceeding in the name and on behalf of Exro Technologies, on terms it considers appropriate, if:
 - a. the complainant has made reasonable efforts to cause the directors of the company to prosecute or defend the legal proceeding;
 - b. notice of the application for leave has been given to the company and to any other person the court may order;
 - c. the complainant is acting in good faith; and
 - d. it appears to the court that it is in the best interests of the company for the legal proceeding to be prosecuted or defended.
5. The Petitioners satisfy the requirements outlined in subsection 233(1) of the *Business Corporations Act*.
6. The Petitioners rely on *2538520 Ontario Ltd. v. Eastern Platinum Limited*, [2020 BCCA 313](#), amongst other authority.

PART 4: MATERIAL TO BE RELIED ON

1. Affidavit No. 1 of John Lee, to be affirmed;
2. Affidavit No. 1 of Stuart Swinamer, to be affirmed;
3. Affidavit No. 1 of Max Trojan, to be affirmed; and

4. Such further or additional evidence that Counsel may advise and the Honourable Court may permit.

Date: April 1, 2026

Amended: May 15, 2026

/s/ S. Nematollahi

KND COMPLEX LITIGATION

Yonge Eglinton Centre
2300 Yonge St, Suite 401
Toronto, Ontario
Canada M4P 1E4
T: (236) 888-7700

Sage Nematollahi (he/him)
LSBC No. 517627
sn@knd.law

Counsel to the Petitioners

To be completed by the court only:

Order made

in the terms requested in paragraph _____ of Part 1 of this Petition

with the following variations and additional terms:

Dated: _____

Signature of Judge Associate Judge