

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF JAMES E. WAGNER CULTIVATION
CORPORATION, JAMES E. WAGNER CULTIVATION LTD., JWC 1
LTD., JWC 2 LTD., JWC SUPPLY LTD. AND GROWTHSTORM INC.**

Applicants

**BOOK OF AUTHORITIES OF THE APPLICANTS
(Returnable June 2, 2020)**

May 25, 2020

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CORPORATION, JAMES E. WAGNER CULTIVATION LTD., JWC 1
LTD., JWC 2 LTD., JWC SUPPLY LTD. AND GROWTHSTORM INC.**

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5.	<i>Bloom Lake, g.p.l., Re</i> , 2015 QCCS 1920
6.	<i>Canwest Global Communications Corp</i> , (September 8, 2010), Toronto, CV-09-8396-00CL (Approval and Vesting Order)
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TAB 1

2015 ONSC 1487
Ontario Superior Court of Justice

Target Canada Co., Re

2015 CarswellOnt 3261, 2015 ONSC 1487, 23 C.B.R. (6th) 314, 252 A.C.W.S. (3d) 9

**In the Matter of the Companies' Creditors
Arrangement Act, R.S.C., 1985, c. C-36, as Amended**

In the Matter of a Plan of Compromise or Arrangement of Target Canada Co., Target Canada Health Co., Target Canada Mobile GP Co., Target Canada Pharmacy (BC) Corp., Target Canada Pharmacy (Ontario) Corp., Target Canada Pharmacy Corp., Target Canada Pharmacy (SK) Corp., and Target Canada Property LLC.

G.B. Morawetz R.S.J.

Heard: March 5, 2015
Judgment: March 5, 2015
Docket: CV-15-10832-00CL

Counsel: Jeremy Dacks, Tracy Sandler, Shawn Irving for Applicants, Target Canada Co., Target Canada Health Co., Target Canada Mobile GP Co., Target Canada Pharmacy (BC) Corp., Target Canada Pharmacy (Ontario) Corp., Target Canada Pharmacy Corp., Target Canada Pharmacy (SK) Corp., and Target Canada Property LLC

Jay Swartz for Target Corporation

D.J. Miller for Oxford Properties Group Inc.

Jeff Carhart for Hamilton Beach Corp. et al.

Alan Mark, Melaney Wagner for Monitor, Alvarez & Marsal Inc.

Leonard Loewith for Solutions 2 Go et al.

Aubrey Kauffman for Ivanhoe Cambridge Inc.

Ruzbeh Hosseini for Amskor Corporation

Sean Zweig for RioCan Management Inc. and Kingsett Capital Inc.

Lou Brzezinski, Alexandra Teoderescu for Thyssenkrupp Elevator (Canada) Limited, Advitek, Universal Studios Canada Inc., Nintendo of Canada, Ltd., and Bentall Kennedy (Canada) LP Group

Melvyn L. Solmon for ISSI Inc.

Related Abridgment Classifications

Bankruptcy and insolvency

[XIX](#) Companies' Creditors Arrangement Act

[XIX.3 Arrangements](#)

[XIX.3.b Approval by court](#)

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Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Arrangements — Approval by court — Miscellaneous

Retail chain store encountered financial difficulties and proceedings were engaged under Companies' Creditors Arrangement Act — Chain entered into agreement under which it was to surrender its interest in eleven leases to landlord entities in consideration for purchase price and certain other benefits — To enter into agreement, leases were withdrawn from auction and sale process — Sublessors, who were creditors, would require payment for breaking leases — Certain parties brought motion to approve sale — Motion granted — No indication debtor acted improvidently — Debtor, financial advisor and monitor felt lease transaction was in best interests of debtors and their stakeholders and that consideration received was reasonable, and this view was entitled to deference by court — Process for achieving sale was fair and reasonable — Actual price under agreement was commercially sensitive, and was ordered sealed.

Table of Authorities

Cases considered by *G.B. Morawetz R.S.J.*:

[Canwest Publishing Inc./Publications Canwest Inc., Re \(2010\), 68 C.B.R. \(5th\) 233, 2010 CarswellOnt 3509, 2010 ONSC 2870 \(Ont. S.C.J. \[Commercial List\]\)](#) — referred to
[Royal Bank v. Soundair Corp. \(1991\), 7 C.B.R. \(3d\) 1, 83 D.L.R. \(4th\) 76, 46 O.A.C. 321, 4 O.R. \(3d\) 1, 1991 CarswellOnt 205 \(Ont. C.A.\)](#) — referred to
[Sierra Club of Canada v. Canada \(Minister of Finance\) \(2002\), 287 N.R. 203, \(sub nom. Atomic Energy of Canada Ltd. v. Sierra Club of Canada\) 18 C.P.R. \(4th\) 1, 44 C.E.L.R. \(N.S.\) 161, \(sub nom. Atomic Energy of Canada Ltd. v. Sierra Club of Canada\) 211 D.L.R. \(4th\) 193, 223 F.T.R. 137 \(note\), 20 C.P.C. \(5th\) 1, 40 Admin. L.R. \(3d\) 1, 2002 SCC 41, 2002 CarswellNat 822, 2002 CarswellNat 823, \(sub nom. Atomic Energy of Canada Ltd. v. Sierra Club of Canada\) 93 C.R.R. \(2d\) 219, \[2002\] 2 S.C.R. 522, 2002 CSC 41 \(S.C.C.\)](#) — followed
[White Birch Paper Holding Co., Re \(2010\), 2010 CarswellQue 10954, 2010 QCCS 4915, 72 C.B.R. \(5th\) 49 \(C.S. Que.\)](#) — referred to
[White Birch Paper Holding Co., Re \(2010\), 72 C.B.R. \(5th\) 74, 2010 CarswellQue 11534, 2010 QCCA 1950 \(C.A. Que.\)](#) — referred to

Statutes considered:

Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36

s. 36 — considered

s. 36(3) — considered

***G.B. Morawetz R.S.J.*:**

1 On February 11, 2015, Target Canada Co. ("TCC") received Court approval to conduct a real estate sales process (the "Real Property Portfolio Sales Process") to seek qualified purchasers for TCC's leases and other real property, to be conducted by the Target Canada Entities in consultation with their financial advisor, Lazard Frères & Co., LLC (the "Financial Advisor") and their real estate advisor, Northwest Atlantic (Canada) Co. (the "Broker"), with the supervision and oversight of the Monitor.

2 The Applicants bring this motion to approve a lease transaction agreement (the "Lease Transaction Agreement") that has been negotiated in response to an unsolicited bid by certain landlords (Oxford Properties Corporation ("Oxford") and Ivanhoe Cambridge Inc. ("IC") and certain others, together the "Landlord Entities").

3 Under the Lease Transaction Agreement, TCC will surrender its interest in eleven leases (the "Eleven Leases") to the Landlord Entities in consideration for the purchase price and certain other benefits.

4 The Target Entities decided, after considering the likely benefits and risks associated with the unsolicited offer by the Landlord Entities, to exercise their right under the terms of the Real Property Portfolio Sales Process to withdraw the applicable leases from the bidding and auction phases of the process. The Target Canada Entities contend that the decision to exercise this right was made based on the informed business judgment of the Target Canada Entities with advice from the Financial Advisor and the Broker, in consultation and with the approval of the Monitor.

5 The Applicants submit that the process by which the decision was made to pursue a potential transaction with the Landlord Entities, and withdraw the Eleven Leases from the bidding and auction phases of the Real Property Portfolio Sales Process, was fair and reasonable in light of the facts and circumstances. Further, they submit that the process by which the benefits of the Lease Transaction Agreement were evaluated, and the Lease Transaction Agreement was negotiated, was reasonable in the circumstances.

6 The Applicants contend that the purchase price being offered by the Landlord Entities is in the high-range of value for the Eleven Leases. As such, the Applicants contend that the price is reasonable, taking into account the market value of the assets. Moreover, the Applicants submit that the estate of the Target Canada Entities will benefit not only from the value represented by the purchase price, but from the release of claims. That includes the potentially material claims that the Landlord Entities may otherwise have been entitled to assert against the estate of the Target Canada Entities, if some or all of the Eleven Leases had been purchased by a third party or disclaimed by the Target Canada Entities.

7 The Target Canada Entities submit that it is in their best interests and that of their stakeholders to enter into the Lease Transaction Agreement. They also rely on the Monitor's approval of and consent to the Target Canada Entities entering into the Lease Transaction Agreement.

8 The Target Canada Entities are of the view that the Lease Transaction Agreement secures premium pricing for the Eleven Leases in a manner that is both certain and efficient, while allowing the Target Canada Entities to continue the Inventory Liquidation Process for the benefit of all stakeholders and to honour their commitments to the pharmacy franchisees.

9 The terms of the Lease Transaction Agreement are set out in the affidavit of Mark J. Wong, sworn February 27, 2015, and are also summarized in the Third Report of the Monitor. The Lease Transaction Agreement is also summarized in the factum submitted by the Applicants.

10 If approved, the closing of the Lease Transaction Agreement is scheduled for March 6, 2015.

11 One aspect of the Lease Transaction Agreement requires specific mention. Almost all of TCC's retail store leases were subleased to TCC Propco. The Premises were then subleased back to TCC. The Applicants contend that these arrangements were reflected in certain agreements between the parties (the "TCC Propco Agreements"). Mr. Wong states in his affidavit that it is a condition of the Lease Transaction Agreement that TCC terminate any subleases prior to closing. TCC will also wind-down other arrangements with TCC Propco.

12 The Applicants contend that the TCC Propco Agreements have been terminated in accordance with their terms and an early termination payment is now owing as a result of this wind-down by TCC to TCC Propco, which, they contend, will be addressed within a claims process to be approved in due course by the Court. The claim of TCC Propco is not insignificant. This intercompany claim is expected to be in the range of \$1.9 billion.

13 The relief requested by the Target Canada Entities was not opposed.

14 Section 36 of the CCAA sets out the applicable legal test for obtaining court approval where a debtor company seeks to sell assets outside the ordinary course of business during a CCAA proceeding.

15 In deciding whether to grant authorization, pursuant to section 36(3), the Court is to consider, among other things:

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the Monitor approved the process leading to the proposed sale or disposition;

- (c) whether the Monitor filed with the 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 asset is reasonable and fair, taking into account its market value.

16 The factors listed in section 36(3) are not intended to be exhaustive, nor are they intended to be a formulaic check list that must be followed in every sale transaction under the CCAA (see: *White Birch Paper Holding Co., Re*, 2010 QCCS 4915 (C.S. Que.); leave to appeal refused 2010 QCCA 1950 (C.A. Que.).

17 The factors overlap, to a certain degree, with the *Soundair* factors that were applied in approving sale transactions under pre-amendment CCAA case law (see: *Canwest Publishing Inc./ Publications Canwest Inc., Re*, 2010 ONSC 2870 (Ont. S.C.J. [Commercial List]), citing *Royal Bank v. Soundair Corp.*, [1991] O.J. No. 1137 (Ont. C.A.) ("Soundair")).

18 I am satisfied, having reviewed the record and hearing submissions, that — taking into account the factors listed in s. 36(3) of the CCAA — the Lease Transaction Agreement should be approved. In arriving at this conclusion, I have taken the following into account: in the absence of any indication that the Target Canada Entities have acted improvidently, the informed business judgment of the Target Canada Entities (as supported by the advice of the Financial Advisor and the consent of the Monitor) that the Lease Transaction Agreement is in the best interests of the Target Canada Entities and their stakeholders is entitled to deference by this Court.

19 I am also satisfied that the process for achieving the Sale Transaction was fair and reasonable in the circumstances. It is also noted that the Monitor concurs with the assessment of the Target Canada Entities.

20 The Target Canada Entities, the Monitor and the Financial Advisor are all of the view that the consideration to be received by TCC is reasonable, taking into account the market value of the Eleven Leases.

21 I am also satisfied that the Transaction is in the best interest of the stakeholders.

22 The Applicants also submit that all of the other statutory requirements for obtaining relief under section 36 of the CCAA have been satisfied. Having reviewed the factum and, in particular, paragraphs 46 and 47, I accept this submission of the Applicants.

23 As referenced above, the relief requested by the Applicants was not opposed. However, it is necessary to consider this non-opposition in the context of the TCC Propco Agreements. The Applicants contend that the TCC Propco Agreements have been terminated in accordance with their terms, and that the early termination payment now owing as a result of this wind-down by TCC to TCC Propco will be addressed within a claims process to be approved in due course as part of the CCAA proceedings.

24 The Monitor's consent to the entering into of the Termination Agreement, and the filing of the Third Report, do not constitute approval by the Monitor as to the validity, ranking or quantum of the intercompany claim. Further, when the intercompany claims are submitted in the claims process to be approved the Court, the Monitor will prepare a report thereon and make it available to the Court and all creditors. The creditors will have an opportunity to seek any remedy or relief with respect to the intercompany claim in the claims process.

25 In my view, it is necessary to stress the importance of the role of the Monitor in any assessment of the intercompany claim. It is appropriate for the Monitor to take an active and independent role in the review process, such that all creditors are satisfied with respect to the transparency of the process.

26 Finally, it is noted that the actual consideration is not disclosed in the public record.

27 The Applicants are of the view that the specific information relating to the consideration to be paid by the Landlord Entities and the valuation analysis of the Eleven Leases is sensitive commercial information, the disclosure of which could be harmful to stakeholders.

28 The Applicants have requested that Confidential Appendices "A" and "B" be sealed. Confidential Appendix "A" contains an unredacted version of the Lease Transaction Agreement. The Applicants request that this document be sealed until the closing of the transaction. The Applicants request that the transaction and valuation analysis as contained in Appendix "B" be sealed pending further order.

29 No party objected to the sealing requests.

30 Having considered the principles set out in *Sierra Club of Canada v. Canada (Minister of Finance)*, [2002] 2 S.C.R. 522 (S.C.C.), I am satisfied that it is appropriate, in the circumstances, to grant the sealing relief as requested by the Applicants.

31 In the result, the motion is granted. The approval and vesting order in respect of the Lease Transaction Agreement has been signed.

Motion granted.

TAB 2

2010 ONSC 2870
Ontario Superior Court of Justice [Commercial List]

Canwest Publishing Inc./Publications Canwest Inc., Re

2010 CarswellOnt 3509, 2010 ONSC 2870, 189 A.C.W.S. (3d) 598, 68 C.B.R. (5th) 233

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF CANWEST PUBLISHING INC./PUBLICATIONS CANWEST INC.,
CANWEST BOOKS INC., AND CANWEST (CANADA) INC. (Applicants)

Pepall J.

Judgment: May 21, 2010
Docket: CV-10-8533-00CL

Counsel: Lyndon Barnes, Alex Cobb, Betsy Putnam for Applicant, LP Entities
Mario Forte for Special Committee of the Board of Directors
David Byers, Maria Konyukhova for Monitor, FTI Consulting Canada Inc.
Andrew Kent, Hilary Clarke for Administrative Agent of the Senior Secured Lenders Syndicate
M.P. Gottlieb, J.A. Swartz for Ad Hoc Committee of 9.25% Senior Subordinated Noteholders
Robert Chadwick, Logan Willis for 7535538 Canada Inc.
Deborah McPhail for Superintendent of Financial Services (FSCO)
Thomas McRae for Certain Canwest Employees

Related Abridgment Classifications

Bankruptcy and insolvency

[XIV](#) Administration of estate

[XIV.6](#) Sale of assets

[XIV.6.b](#) Sale by tender

[XIV.6.b.ii](#) Miscellaneous

Bankruptcy and insolvency

[XIX](#) Companies' Creditors Arrangement Act

[XIX.3](#) Arrangements

[XIX.3.b](#) Approval by court

[XIX.3.b.i](#) "Fair and reasonable"

Bankruptcy and insolvency

[XIX](#) Companies' Creditors Arrangement Act

XIX.5 Miscellaneous

Headnote

Bankruptcy and insolvency --- Administration of estate — Sale of assets — Sale by tender — Miscellaneous

Companies' Creditors Arrangement Act — Sale and investor solicitation process — In earlier order, court approved support agreement between LP entities and senior lenders (support transaction) and commencement of sale and investor solicitation process (SISP) — AHC bid was only superior offer as defined in SISP — AHC bid would allow for full payout of debt owed to secured lenders and provide additional value to be available for unsecured creditors — AHC transaction would be implemented pursuant to plan of compromise or arrangement — LP entities brought application for order authorizing them to enter into asset purchase agreement based on AHC bid and conditionally sanctioning support transaction, among other relief — Application granted — AHC transaction was approved — Proposed disposition of assets met criteria in s. 36 of Companies' Creditors Arrangement Act and common law — Process was reasonable — Sufficient efforts were made to attract best possible bid — AHC bid was better than support transaction — Effect of proposed sale on interested parties was positive.

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Miscellaneous

Procedure — Court approved commencement of sale and investor solicitation process (SISP) in earlier order — AHC bid was only superior offer as defined in SISP — AHC bid would allow for full payout of debt owed to secured lenders and provide additional value to be available for unsecured creditors — LP entities brought application for order approving amended claims procedure, authorizing them to call meeting of unsecured creditors to vote on AHC plan, and amending SISP procedures so LP entities could advance AHC transaction, among other relief — Application granted — Requested claims procedure order was approved — Because AHC plan was approved, scope of process had to be expanded to ensure as many creditors as possible could participate in meeting to consider AHC plan — Meeting order to convene meeting of unsecured creditors to vote on AHC plan was granted — On consent, SISP was amended to extend date for closing of AHC transaction and to permit proposed dual track procedure — Amendments were warranted as practical matter and to procure best available going concern outcome for stakeholders and LP entities.

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Arrangements — Approval by court — "Fair and reasonable"

In earlier order, court approved support agreement between LP entities and senior lenders (support transaction) and commencement of sale and investor solicitation process (SISP) — AHC bid was only superior offer as defined in SISP — AHC bid would allow for full payout of debt owed to secured lenders and provide additional value to be available for unsecured creditors — AHC transaction would be implemented pursuant to plan of compromise or arrangement — LP entities brought application for order authorizing them to enter into asset purchase agreement based on AHC bid and conditionally sanctioning support transaction, among other relief — Application granted — It was prudent for LP entities to simultaneously advance AHC transaction and support

transaction — Support transaction was conditionally sanctioned — Excess of required majorities of senior lenders voted in favour of support transaction — Absent closing of AHC transaction, support transaction was fair and reasonable as between LP entities and creditors — There were no available commercial going concern alternatives to support transaction — There had been strict compliance with statutory requirements.

Table of Authorities

Cases considered by *Pepall J.*:

Canadian Airlines Corp., Re (2000), [2000] 10 W.W.R. 269, 20 C.B.R. (4th) 1, 84 Alta. L.R. (3d) 9, 9 B.L.R. (3d) 41, 2000 CarswellAlta 662, 2000 ABQB 442, 265 A.R. 201 (Alta. Q.B.)

— followed

Canadian Airlines Corp., Re (2000), 2000 CarswellAlta 919, [2000] 10 W.W.R. 314, 20 C.B.R. (4th) 46, 84 Alta. L.R. (3d) 52, 9 B.L.R. (3d) 86, 2000 ABCA 238, 266 A.R. 131, 228 W.A.C. 131 (Alta. C.A. [In Chambers]) — referred to

Canadian Airlines Corp., Re (2000), 88 Alta. L.R. (3d) 8, 2001 ABCA 9, 2000 CarswellAlta 1556, [2001] 4 W.W.R. 1, 277 A.R. 179, 242 W.A.C. 179 (Alta. C.A.) — referred to

Canadian Airlines Corp., Re (2001), 2001 CarswellAlta 888, 2001 CarswellAlta 889, 275 N.R. 386 (note), 293 A.R. 351 (note), 257 W.A.C. 351 (note) (S.C.C.) — referred to

Royal Bank v. Soundair Corp. (1991), 7 C.B.R. (3d) 1, 83 D.L.R. (4th) 76, 46 O.A.C. 321, 4 O.R. (3d) 1, 1991 CarswellOnt 205 (Ont. C.A.) — followed

Statutes considered:

Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36

Generally — referred to

s. 6 — referred to

s. 6(3) — referred to

s. 6(5) — referred to

s. 6(6) — referred to

s. 11 — referred to

s. 36 — considered

***Pepall J.*:**

Endorsement

Relief Requested

1 The LP Entities seek an order: (1) authorizing them to enter into an Asset Purchase Agreement based on a bid from the Ad Hoc Committee of 9.25% Senior Subordinated Noteholders ("the AHC

Bid"); (2) approving an amended claims procedure; (3) authorizing the LP Entities to resume the claims process; and (4) amending the SISP procedures so that the LP Entities can advance the Ad Hoc Committee transaction (the AHC Transaction") and the Support Transaction concurrently. They also seek an order authorizing them to call a meeting of unsecured creditors to vote on the Ad Hoc Committee Plan on June 10, 2010. Lastly, they seek an order conditionally sanctioning the Senior Lenders' CCAA Plan.

AHC Bid

2 Dealing firstly with approval of the AHC Bid, in my Initial Order of January 8, 2010, I approved the Support Agreement between the LP Entities and the Administrative Agent for the Senior Lenders and authorized the LP Entities to file a Senior Lenders' Plan and to commence a sale and investor solicitation process (the SISP). The objective of the SISP was to test the market and obtain an offer that was superior to the terms of the Support Transaction.

3 On January 11, 2010, the Financial Advisor, RBC Capital Markets, commenced the SISP. Qualified Bids (as that term was defined in the SISP) were received and the Monitor, in consultation with the Financial Advisor and the LP CRA, determined that the AHC Bid was a Superior Cash Offer and that none of the other bids was a Superior Offer as those terms were defined in the SISP.

4 The Monitor recommended that the LP Entities pursue the AHC Transaction and the Special Committee of the Board of Directors accepted that recommendation.

5 The AHC Transaction contemplates that 7535538 Canada Inc. ("Holdco") will effect a transaction through a new limited partnership (Opco LP) in which it will acquire substantially all of the financial and operating assets of the LP Entities and the shares of National Post Inc. and assume certain liabilities including substantially all of the operating liabilities for a purchase price of \$1.1 billion. At closing, Opco LP will offer employment to substantially all of the employees of the LP Entities and will assume all of the pension liabilities and other benefits for employees of the LP Entities who will be employed by Opco LP, as well as for retirees currently covered by registered pension plans or other benefit plans. The materials submitted with the AHC Bid indicated that Opco LP will continue to operate all of the businesses of the LP Entities in substantially the same manner as they are currently operated, with no immediate plans to discontinue operations, sell material assets or make significant changes to current management. The AHC Bid will also allow for a full payout of the debt owed by the LP Entities to the LP Secured Lenders under the LP credit agreement and the Hedging Creditors and provides an additional \$150 million in value which will be available for the unsecured creditors of the LP Entities.

6 The purchase price will consist of an amount in cash that is equal to the sum of the Senior Secured Claims Amount (as defined in the AHC Asset Purchase Agreement), a promissory note of

\$150 million (to be exchanged for up to 45% of the common shares of Holdco) and the assumption of certain liabilities of the LP Entities.

7 The Ad Hoc Committee has indicated that Holdco has received commitments for \$950 million of funded debt and equity financing to finance the AHC Bid. This includes \$700 million of new senior funded debt to be raised by Opco LP and \$250 million of mezzanine debt and equity to be raised including from the current members of the Ad Hoc Committee.

8 Certain liabilities are excluded including pre-filing liabilities and restructuring period claims, certain employee related liabilities and intercompany liabilities between and among the LP Entities and the CMI Entities. Effective as of the closing date, Opco LP will offer employment to all full-time and part-time employees of the LP Entities on substantially similar terms as their then existing employment (or the terms set out in their collective agreement, as applicable), subject to the option, exercisable on or before May 30, 2010, to not offer employment to up to 10% of the non-unionized part-time or temporary employees employed by the LP Entities.

9 The AHC Bid contemplates that the transaction will be implemented pursuant to a plan of compromise or arrangement between the LP Entities and certain unsecured creditors (the "AHC Plan"). In brief, the AHC Plan would provide that Opco LP would acquire substantially all of the assets of the LP Entities. The Senior Lenders would be unaffected creditors and would be paid in full. Unsecured creditors with proven claims of \$1,000 or less would receive cash. The balance of the consideration would be satisfied by an unsecured demand note of \$150 million less the amounts paid to the \$1,000 unsecured creditors. Ultimately, affected unsecured creditors with proven claims would receive shares in Holdco and Holdco would apply for the listing of its common shares on the Toronto Stock Exchange.

10 The Monitor recommended that the AHC Asset Purchase Agreement based on the AHC Bid be authorized. Certain factors were particularly relevant to the Monitor in making its recommendation:

- the Senior Lenders will received 100 cents on the dollar;
- the AHC Transaction will preserve substantially all of the business of the LP Entities to the benefit of the LP Entities' suppliers and the millions of people who rely on the LP Entities' publications each day;
- the AHC Transaction preserves the employment of substantially all of the current employees and largely protects the interests of former employees and retirees;
- the AHC Bid contemplates that the transaction will be implemented through a Plan under which \$150 million in cash or shares will be available for distribution to unsecured creditors;

- unlike the Support Transaction, there is no option *not* to assume certain pension or employee benefits obligations.

11 The Monitor, the LP CRA and the Financial Advisor considered closing risks associated with the AHC Bid and concluded that the Bid was credible, reasonably certain and financially viable. The LP Entities agreed with that assessment. All appearing either supported the AHC Transaction or were unopposed.

12 Clearly the SISP was successful and in my view, the LP Entities should be authorized to enter the Ad Hoc Committee Asset Purchase Agreement as requested.

13 The proposed disposition of assets meets the section 36 CCAA criteria and those set forth in the *Royal Bank v. Soundair Corp.*¹ decision. Indeed, to a large degree, the criteria overlap. The process was reasonable and the Monitor was content with it. Sufficient efforts were made to attract the best possible bid; the SISP was widely publicized; ample time was given to prepare offers; and there was integrity and no unfairness in the process. The Monitor was intimately involved in supervising the SISP and also made the Superior Cash Offer recommendation. The Monitor had previously advised the Court that in its opinion, the Support Transaction was preferable to a bankruptcy. The logical extension of that conclusion is that the AHC Transaction is as well. The LP Entities' Senior Lenders were either consulted and/or had the right to approve the various steps in the SISP. The effect of the proposed sale on other interested parties is very positive. Amongst other things, it provides for a going concern outcome and significant recoveries for both the secured and unsecured creditors. The consideration to be received is reasonable and fair. The Financial Advisor and the Monitor were both of the opinion that the SISP was a thorough canvassing of the market. The AHC Transaction was the highest offer received and delivers considerably more value than the Support Transaction which was in essence a "stalking horse" offer made by the single largest creditor constituency. The remaining subsequent provisions of section 36 of the CCAA are either inapplicable or have been complied with. In conclusion the AHC Transaction ought to be and is approved.

Claims Procedure Order and Meeting Order

14 Turning to the Claims Procedure Order, as a result of the foregoing, the scope of the claims process needs to be expanded. Claims that have been filed will move to adjudication and resolution and in addition, the scope of the process needs to be expanded so as to ensure that as many creditors as possible have an opportunity to participate in the meeting to consider the Ad Hoc Committee Plan and to participate in distributions. Dates and timing also have to be adjusted. In these circumstances the requested Claims Procedure Order should be approved. Additionally, the Meeting Order required to convene a meeting of unsecured creditors on June 10, 2010 to vote on the Ad Hoc Committee Plan is granted.

SISP Amendment

15 It is proposed that the LP Entities will work diligently to implement the AHC Transaction while concurrently pursuing such steps as are required to effect the Support Transaction. The SISP procedures must be amended. The AHC Transaction which is to be effected through the Ad Hoc Committee Plan cannot be completed within the sixty days contemplated by the SISP. On consent of the Monitor, the LP Administrative Agent, the Ad Hoc Committee and the LP Entities, the SISP is amended to extend the date for closing of the AHC Transaction and to permit the proposed dual track procedure. The proposed amendments to the SISP are clearly warranted as a practical matter and so as to procure the best available going concern outcome for the LP Entities and their stakeholders. Paragraph 102 of the Initial Order contains a comeback clause which provides that interested parties may move to amend the Initial Order on notice. This would include a motion to amend the SISP which is effectively incorporated into the Initial Order by reference. The Applicants submit that I have broad general jurisdiction under section 11 of the CCAA to make such amendments. In my view, it is unnecessary to decide that issue as the affected parties are consenting to the proposed amendments.

Dual Track and Sanction of Senior Lenders' CCAA Plan

16 In my view, it is prudent for the LP Entities to simultaneously advance the AHC Transaction and the Support Transaction. To that end, the LP Entities seek approval of a conditional sanction order. They ask for conditional authorization to enter into the Acquisition and Assumption Agreement pursuant to a Credit Acquisition Sanction, Approval and Vesting Order.

17 The Senior Lenders' meeting was held January 27, 2010 and 97.5% in number and 88.7% in value of the Senior Lenders holding Proven Principal Claims who were present and voting voted in favour of the Senior Lenders' Plan. This was well in excess of the required majorities.

18 The LP Entities are seeking the sanction of the Senior Lenders' CCAA Plan on the basis that its implementation is conditional on the delivery of a Monitor's Certificate. The certificate will not be delivered if the AHC Bid closes. Satisfactory arrangements have been made to address closing timelines as well as access to advisor and management time. Absent the closing of the AHC Transaction, the Senior Lenders' CCAA Plan is fair and reasonable as between the LP Entities and its creditors. If the AHC Transaction is unable to close, I conclude that there are no available commercial going concern alternatives to the Senior Lenders' CCAA Plan. The market was fully canvassed during the SISP; there was ample time to conduct such a canvass; it was professionally supervised; and the AHC Bid was the only Superior Offer as that term was defined in the SISP. For these reasons, I am prepared to find that the Senior Lenders' CCAA Plan is fair and reasonable and may be conditionally sanctioned. I also note that there has been strict compliance with statutory requirements and nothing has been done or purported to have been done which was not authorized

by the CCAA. As such, the three part test set forth in the *Canadian Airlines Corp., Re*² has been met. Additionally, there has been compliance with section 6 of the CCAA. The Crown, employee and pension claims described in section 6 (3),(5), and (6) have been addressed in the Senior Lenders' Plan at sections 5.2, 5.3 and 5.4.

Conclusion

19 In conclusion, it is evident to me that the parties who have been engaged in this CCAA proceeding have worked diligently and cooperatively, rigorously protecting their own interests but at the same time achieving a positive outcome for the LP Entities' stakeholders as a whole. As I indicated in Court, for this they and their professional advisors should be commended. The business of the LP Entities affects many people - creditors, employees, retirees, suppliers, community members and the millions who rely on their publications for their news. This is a good chapter in the LP Entities' CCAA story. Hopefully, it will have a happy ending.

Application granted.

Footnotes

1 [1991] O.J. No. 1137 (Ont. C.A.).

2 2000 ABQB 442 (Alta. Q.B.), leave to appeal refused 2000 ABCA 238 (Alta. C.A. [In Chambers]), affirmed 2001 ABCA 9 (Alta. C.A.), leave to appeal to S.C.C. refused July 12, 2001 [2001 CarswellAlta 888 (S.C.C.)].

TAB 3

2009 CarswellOnt 5450
Ontario Superior Court of Justice [Commercial List]

Eddie Bauer of Canada Inc., Re

2009 CarswellOnt 5450, [2009] O.J. No. 3784, 57 C.B.R. (5th) 241

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C., 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF EDDIE BAUER OF CANADA, INC. AND
EDDIE BAUER CUSTOMER SERVICES INC. (Applicants)**

C. Campbell J.

Heard: July 22, 2009
Judgment: July 30, 2009
Docket: CV-09-8240-00CL

Counsel: Fred Myers, L. Joseph Latham, Christopher G. Armstrong for Applicants
Jay Swartz for RSM Richter
Linda Galessiere for Landlords
Maria Konyukhova for Everest Holdings
Alexander Cobb for Bank of America

Related Abridgment Classifications

Bankruptcy and insolvency
[XIX](#) Companies' Creditors Arrangement Act
 [XIX.3](#) Arrangements
 [XIX.3.e](#) Miscellaneous

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Arrangements — Miscellaneous

Company commenced reorganization under Chapter 11 of US Bankruptcy Code — Two subsidiaries of company were granted protection under Companies' Creditors Arrangement Act — Stalking horse process and bidding procedures were approved by court — Bid by purchaser was deemed best offer yielding highest net recovery for creditors — Bid included assignment of real property leases, offers of employment to all Canadian employees, and assumption of ordinary course liabilities — Monitor was of opinion that value allocated to purchased assets exceeded net value on liquidation basis — Application was brought for approval of sale and vesting order in respect of asset purchase agreement — Application granted — Process was fair and reasonable

and produced fair and reasonable result — No party opposed order sought — Sale and purchase of assets assured compromise of debt accepted by debtholders which preserved value of name and reputation of business as going concern — Once sales process is put forward, court should to extent possible uphold business judgment of court officer and parties supporting it.

Table of Authorities

Cases considered by C. Campbell J.:

Bakemates International Inc., Re (2004), 2004 CarswellOnt 2339 (Ont. C.A.) — referred to *Crown Trust Co. v. Rosenberg* (1986), 60 O.R. (2d) 87, 1986 CarswellOnt 235, 22 C.P.C. (2d) 131, 39 D.L.R. (4th) 526, 67 C.B.R. (N.S.) 320 (note) (Ont. H.C.) — considered

Eddie Bauer of Canada Inc., Re (2009), 2009 CarswellOnt 3657, 55 C.B.R. (5th) 33 (Ont. S.C.J. [Commercial List]) — referred to

Ivaco Inc., Re (2004), 2004 CarswellOnt 3563 (Ont. S.C.J. [Commercial List]) — referred to *Royal Bank v. Soundair Corp.* (1991), 7 C.B.R. (3d) 1, 83 D.L.R. (4th) 76, 46 O.A.C. 321, 4 O.R. (3d) 1, 1991 CarswellOnt 205 (Ont. C.A.) — considered

Tiger Brand Knitting Co., Re (2005), 2005 CarswellOnt 1240, 9 C.B.R. (5th) 315 (Ont. S.C.J.) — considered

Statutes considered:

Bankruptcy Code, 11 U.S.C.

Chapter 11 — referred to

Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36

Generally — referred to

C. Campbell J.:

1 A joint hearing between this Court and the United States Bankruptcy Court for the District of Delaware was held on July 22, 2009 for Sale Approval and a Vesting Order in respect of an Asset Purchase Agreement dated as of July 17, 2009 among Everest Holdings LLC as buyer and Eddie Bauer Holdings Inc. ("EB Holdings") and each of its subsidiaries.

2 These are the reasons for approval of the Order granted.

3 On June 17, 2009, Eddie Bauer Canada Inc. and Eddie Bauer Customer Services Inc. (together, "EB Canada"), two of the EB Holdings subsidiaries, were granted protection under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended ("CCAA") in an Initial Order of this Court, with RSM Richter Inc. appointed as Monitor.

4 On the same day, EB Holdings commenced reorganization under Chapter 11 of the United States Code in bankruptcy. A cross-border protocol was approved by this Court [2009 CarswellOnt 3657 (Ont. S.C.J. [Commercial List])] and the U.S. Court on June 25, 2009.

5 The purpose of what is described in the Orders as "Restructuring Proceedings" was a process to enable the Eddie Bauer Group to have an opportunity to maximize the value of its business and assets in a unified, Court-approved sale process.

6 EB Holdings is a publicly traded company with shares trade on the NASDAQ Global Market. Eddie Bauer branded products are sold at over 300 retail outlets in the United States and 36 retail stores and one warehouse store throughout Canada, together with online and catalogue sales employing 933 individuals in Canada.

7 The joint hearing conducted on June 29, 2009 before the U.S. Court and this Court approved a Stalking Horse process and certain prescribed bidding procedures. Rainer Holdings LLC, an affiliate of CCMP Capital Advisors and indirectly of the buyer, became the Stalking Horse bidder.

8 The Stalking Horse offer of US\$202.3 million was for substantially all of the assets, property and undertaking of the Eddie Bauer Group.

9 The Bidding Procedure Order provided that the Stalking Horse offeror would be entitled to a break fee and to have its expenses of approximately \$250,000 reimbursed and would offer employment to substantially all of the Company's employees, assume at least 250 U.S. retail locations and all Canadian locations and pay all of the Group's post-filing supplier claims.

10 The bidding was completed in the early hours of July 17, 2009. The three stage basis of the auction process included (1) the best inventory offer from Inventory Bidders; (2) the best intellectual property offer of the IP bidders; and (3) the best going-concern offer from Going-Concern Bidders. The best inventory and intellectual offers were to be compared against the best going-concern offer.

11 The US\$286 million bid by Everest (a company unrelated to Rainer) was deemed the best offer, yielding the highest net recovery for creditors (including creditors in consultation.) A US \$250 million back-up bid was also identified.

12 The Canadian real property leases are to be assigned, assuming consent of landlords, and offers of employment to all Canadian employees to be made and ordinary course liabilities assumed.

13 The value allocated to the Canadian Purchased Assets of US\$11 million exceeds in the analysis and opinion of the Monitor the net value on a liquidation basis, particularly as the only two material assets are inventory and equity (if any) in realty leases.

14 All parties represented at the joint hearing, including counsel for the landlords, either supported or did not oppose the Order sought.

15 The process that has been undertaken in a very short time is an example of a concerted and dedicated effort of a variety of stakeholders to achieve a restructuring without impairing the going-concern nature of the Eddie Bauer business.

16 The sale and purchase of assets assures a compromise of debt accepted by those debtholders (with a process of certain leases not taken up in the US), which to the extent possible preserves the value of the name and reputation of the business as a going concern.

17 Had it not been for the cooperative effort of counsel for the parties on both sides of the border and a joint hearing process to approve on an efficient and timely basis, the restructuring regime would undoubtedly have been more time-consuming and more costly.

18 I am satisfied that the statement of law that set out the duties of a Court in reviewing the propriety of the actions of a Court officer (Monitor) are applicable and have been met here.

19 The duties were set out by Anderson J. in *Crown Trust Co. v. Rosenberg* (1986), 60 O.R. (2d) 87 (Ont. H.C.) at pp 92-94 and are as follows:

1. It should consider the interests of all parties.
2. It should consider the efficacy and integrity of the process by which offers are obtained.
3. It should consider whether there has been unfairness in the working out of the process.

20 Galligan J.A. for the majority in the Court of Appeal in Ontario in *Royal Bank v. Soundair Corp.* (1991), 4 O.R. (3d) 1 (Ont. C.A.) at p. 8 further accepted and adopted the further statement of Anderson J. in *Crown Trust* at p. 551 that "its decision was made as a matter of business judgement on the elements then available to it. It is the very essence of a receiver's function to make such judgments and in the making of them, to act seriously and responsibly, so as to be prepared to stand behind them."

21 What have come to be known as the *Soundair* principles have been accepted in a number of Ontario cases, including *Bakemates International Inc., Re* [2004 CarswellOnt 2339 (Ont. C.A.)], 2004 CanLII 59994. The same principles have been accepted to approval of Asset Purchase Agreements and Vesting Orders. See *Ivaco Inc., Re* [2004 CarswellOnt 3563 (Ont. S.C.J. [Commercial List])] 2004 CanLII 21547. In *Tiger Brand Knitting Co., Re* [2005 CarswellOnt 1240 (Ont. S.C.J.)] 2005 CanLII 9680, I declined to extend the time for a bid and directed the Monitor not to accept a bid it had received and to negotiate with another party.

22 The concern in *Tiger Brand*, as in this case, is that once a sales process is put forward, the Court should to the extent possible uphold the business judgment of the Court officer and the

parties supporting it. Absent a violation of the *Soundair* principles, the result of that process should as well be upheld.

23 A Stalking Horse bid has become an important feature of the CCAA process. In this case, the fact that the Stalking Horse bidder promoted other bids and put in the highest bid satisfies me that the process was fair and reasonable and produced a fair and reasonable result.

24 One can readily understand that the goodwill attached to a recognized name such as Eddie Bauer will likely only retain its value if there is a seamless and orderly transfer.

25 For the foregoing reasons the draft Orders of Approval and Vesting will issue as approved and signed.

Application granted.

TAB 4

1991 CarswellOnt 205
Ontario Court of Appeal

Royal Bank v. Soundair Corp.

1991 CarswellOnt 205, [1991] O.J. No. 1137, 27 A.C.W.S. (3d) 1178,
46 O.A.C. 321, 4 O.R. (3d) 1, 7 C.B.R. (3d) 1, 83 D.L.R. (4th) 76

**ROYAL BANK OF CANADA (plaintiff/respondent) v.
SOUNDAIR CORPORATION (respondent), CANADIAN
PENSION CAPITAL LIMITED (appellant) and CANADIAN
INSURERS' CAPITAL CORPORATION (appellant)**

Goodman, McKinlay and Galligan JJ.A.

Heard: June 11, 12, 13 and 14, 1991

Judgment: July 3, 1991

Docket: Doc. CA 318/91

Counsel: *J. B. Berkow* and *S. H. Goldman* , for appellants Canadian Pension Capital Limited and Canadian Insurers' Capital Corporation.

J. T. Morin, Q.C. , for Air Canada.

L.A.J. Barnes and *L.E. Ritchie* , for plaintiff/respondent Royal Bank of Canada.

S.F. Dunphy and *G.K. Ketcheson* , for Ernst & Young Inc., receiver of respondent Soundair Corporation.

W.G. Horton , for Ontario Express Limited.

N.J. Spies , for Frontier Air Limited.

Related Abridgment Classifications

Debtors and creditors

[VII Receivers](#)

[VII.6 Conduct and liability of receiver](#)

[VII.6.a General conduct of receiver](#)

Headnote

Receivers --- Conduct and liability of receiver — General conduct of receiver

Court considering its position when approving sale recommended by receiver.

S Corp., which engaged in the air transport business, had a division known as AT. When S Corp. experienced financial difficulties, one of the secured creditors, who had an interest in the assets of AT, brought a motion for the appointment of a receiver. The receiver was ordered to operate AT and to sell it as a going concern. The receiver had two offers. It accepted the offer made by OEL and rejected an offer by 922 which contained an unacceptable condition. Subsequently, 922

obtained an order allowing it to make a second offer removing the condition. The secured creditors supported acceptance of the 922 offer. The court approved the sale to OEL and dismissed the motion to approve the 922 offer. An appeal was brought from this order.

Held:

The appeal was dismissed.

Per Galligan J.A.: When a court appoints a receiver to use its commercial expertise to sell an airline, it is inescapable that it intends to rely upon the receiver's expertise and not upon its own. The court should be reluctant to second-guess, with the benefit of hindsight, the considered business decisions made by its receiver.

The conduct of the receiver should be reviewed in the light of the specific mandate given to him by the court. The order appointing the receiver did not say how the receiver was to negotiate the sale. The order obviously intended, because of the unusual nature of the asset being sold, to leave the method of sale substantially to the discretion of the receiver.

To determine whether a receiver has acted providently, the conduct of the receiver should be examined in light of the information the receiver had when it agreed to accept an offer. On the date the receiver accepted the OEL offer, it had only two offers: that of OEL, which was acceptable, and that of 922, which contained an unacceptable condition. The decision made was a sound one in the circumstances. The receiver made a sufficient effort to obtain the best price, and did not act improvidently.

The court must exercise extreme caution before it interferes with the process adopted by a receiver to sell an unusual asset. It is important that prospective purchasers know that, if they are acting in good faith, bargain seriously with a receiver and enter into an agreement with it, a court will not lightly interfere with the commercial judgment of the receiver to sell the assets to them.

Per McKinlay J.A. (concurring in the result): It is most important that the integrity of procedures followed by court-appointed receivers be protected in the interests of both commercial morality and the future confidence of business persons in their dealings with receivers. In all cases, the court should carefully scrutinize the procedure followed by the receiver. While the procedure carried out by the receiver in this case was appropriate, given the unfolding of events and the unique nature of the asset involved, it may not be a procedure that is likely to be appropriate in many receivership sales.

Per Goodman J.A. (dissenting): It was imprudent and unfair on the part of the receiver to ignore an offer from an interested party which offered approximately triple the cash down payment without giving a chance to the offeror to remove the conditions or other terms which made the offer unacceptable to the receiver. The offer accepted by the receiver was improvident and unfair insofar as two creditors were concerned.

Table of Authorities

Cases considered:

Beauty Counsellors of Canada Ltd., Re (1986), 58 C.B.R. (N.S.) 237 (Ont. S.C.) — referred to
British Columbia Development Corp. v. Spun Cast Industries Ltd. (1977), 26 C.B.R. (N.S.)
28, 5 B.C.L.R. 94 (S.C.) — referred to

Cameron v. Bank of Nova Scotia (1981), 38 C.B.R. (N.S.) 1, 45 N.S.R. (2d) 303, 86 A.P.R. 303 (C.A.) — referred to

Crown Trust Co. v. Rosenberg (1986), 67 C.B.R. (N.S.) 320n, 60 O.R. (2d) 87, 22 C.P.C. (2d) 131, 39 D.L.R. (4th) 526 (H.C.) — applied

Salima Investments Ltd. v. Bank of Montreal (1985), 59 C.B.R. (N.S.) 242, 41 Alta. L.R. (2d) 58, 65 A.R. 372, 21 D.L.R. (4th) (C.A.) — referred to

Selkirk, Re (1986), 58 C.B.R. (N.S.) 245 (Ont. S.C.) — referred to

Selkirk, Re (1987), 64 C.B.R. (N.S.) 140 (Ont. S.C.) — referred to

Statutes considered:

Employment Standards Act, R.S.O. 1980, c. 137.

Environmental Protection Act, R.S.O. 1980, c. 141.

Galligan J.A. :

1 This is an appeal from the order of Rosenberg J. made on May 1, 1991. By that order, he approved the sale of Air Toronto to Ontario Express Limited and Frontier Air Limited, and he dismissed a motion to approve an offer to purchase Air Toronto by 922246 Ontario Limited.

2 It is necessary at the outset to give some background to the dispute. Soundair Corporation ("Soundair") is a corporation engaged in the air transport business. It has three divisions. One of them is Air Toronto. Air Toronto operates a scheduled airline from Toronto to a number of mid-sized cities in the United States of America. Its routes serve as feeders to several of Air Canada's routes. Pursuant to a connector agreement, Air Canada provides some services to Air Toronto and benefits from the feeder traffic provided by it. The operational relationship between Air Canada and Air Toronto is a close one.

3 In the latter part of 1989 and the early part of 1990, Soundair was in financial difficulty. Soundair has two secured creditors who have an interest in the assets of Air Toronto. The Royal Bank of Canada (the "Royal Bank") is owed at least \$65 million dollars. The appellants Canadian Pension Capital Limited and Canadian Insurers' Capital Corporation (collectively called "CCFL") are owed approximately \$9,500,000. Those creditors will have a deficiency expected to be in excess of \$50 million on the winding up of Soundair.

4 On April 26, 1990, upon the motion of the Royal Bank, O'Brien J. appointed Ernst & Young Inc. (the "receiver") as receiver of all of the assets, property and undertakings of Soundair. The order required the receiver to operate Air Toronto and sell it as a going concern. Because of the close relationship between Air Toronto and Air Canada, it was contemplated that the receiver would obtain the assistance of Air Canada to operate Air Toronto. The order authorized the receiver:

(b) to enter into contractual arrangements with Air Canada to retain a manager or operator, including Air Canada, to manage and operate Air Toronto under the supervision of Ernst & Young Inc. until the completion of the sale of Air Toronto to Air Canada or other person.

Also because of the close relationship, it was expected that Air Canada would purchase Air Toronto. To that end, the order of O'Brien J. authorized the Receiver:

(c) to negotiate and do all things necessary or desirable to complete a sale of Air Toronto to Air Canada and, if a sale to Air Canada cannot be completed, to negotiate and sell Air Toronto to another person, subject to terms and conditions approved by this Court.

5 Over a period of several weeks following that order, negotiations directed towards the sale of Air Toronto took place between the receiver and Air Canada. Air Canada had an agreement with the receiver that it would have exclusive negotiating rights during that period. I do not think it is necessary to review those negotiations, but I note that Air Canada had complete access to all of the operations of Air Toronto and conducted due diligence examinations. It became thoroughly acquainted with every aspect of Air Toronto's operations.

6 Those negotiations came to an end when an offer made by Air Canada on June 19, 1990, was considered unsatisfactory by the receiver. The offer was not accepted and lapsed. Having regard to the tenor of Air Canada's negotiating stance and a letter sent by its solicitors on July 20, 1990, I think that the receiver was eminently reasonable when it decided that there was no realistic possibility of selling Air Toronto to Air Canada.

7 The receiver then looked elsewhere. Air Toronto's feeder business is very attractive, but it only has value to a national airline. The receiver concluded reasonably, therefore, that it was commercially necessary for one of Canada's two national airlines to be involved in any sale of Air Toronto. Realistically, there were only two possible purchasers, whether direct or indirect. They were Air Canada and Canadian Airlines International.

8 It was well known in the air transport industry that Air Toronto was for sale. During the months following the collapse of the negotiations with Air Canada, the receiver tried unsuccessfully to find viable purchasers. In late 1990, the receiver turned to Canadian Airlines International, the only realistic alternative. Negotiations began between them. Those negotiations led to a letter of intent dated February 11, 1990. On March 6, 1991, the receiver received an offer from Ontario Express Limited and Frontier Airlines Limited, who are subsidiaries of Canadian Airlines International. This offer is called the OEL offer.

9 In the meantime, Air Canada and CCFL were having discussions about making an offer for the purchase of Air Toronto. They formed 922246 Ontario Limited ("922") for the purpose of purchasing Air Toronto. On March 1, 1991, CCFL wrote to the receiver saying that it proposed to

make an offer. On March 7, 1991, Air Canada and CCFL presented an offer to the receiver in the name of 922. For convenience, its offers are called the "922 offers."

10 The first 922 offer contained a condition which was unacceptable to the receiver. I will refer to that condition in more detail later. The receiver declined the 922 offer and on March 8, 1991, accepted the OEL offer. Subsequently, 922 obtained an order allowing it to make a second offer. It then submitted an offer which was virtually identical to that of March 7, 1991, except that the unacceptable condition had been removed.

11 The proceedings before Rosenberg J. then followed. He approved the sale to OEL and dismissed a motion for the acceptance of the 922 offer. Before Rosenberg J., and in this court, both CCFL and the Royal Bank supported the acceptance of the second 922 offer.

12 There are only two issues which must be resolved in this appeal. They are:

- (1) Did the receiver act properly when it entered into an agreement to sell Air Toronto to OEL?
- (2) What effect does the support of the 922 offer by the secured creditors have on the result?

13 I will deal with the two issues separately.

1. Did the Receiver Act Properly in Agreeing to Sell to OEL?

14 Before dealing with that issue, there are three general observations which I think I should make. The first is that the sale of an airline as a going concern is a very complex process. The best method of selling an airline at the best price is something far removed from the expertise of a court. When a court appoints a receiver to use its commercial expertise to sell an airline, it is inescapable that it intends to rely upon the receiver's expertise and not upon its own. Therefore, the court must place a great deal of confidence in the actions taken and in the opinions formed by the receiver. It should also assume that the receiver is acting properly unless the contrary is clearly shown. The second observation is that the court should be reluctant to second-guess, with the benefit of hindsight, the considered business decisions made by its receiver. The third observation which I wish to make is that the conduct of the receiver should be reviewed in the light of the specific mandate given to him by the court.

15 The order of O'Brien J. provided that if the receiver could not complete the sale to Air Canada that it was "to negotiate and sell Air Toronto to another person." The court did not say how the receiver was to negotiate the sale. It did not say it was to call for bids or conduct an auction. It told the receiver to negotiate and sell. It obviously intended, because of the unusual nature of the asset being sold, to leave the method of sale substantially in the discretion of the receiver. I think, therefore, that the court should not review minutely the process of the sale when, broadly speaking, it appears to the court to be a just process.

16 As did Rosenberg J., I adopt as correct the statement made by Anderson J. in *Crown Trust Co. v. Rosenberg* (1986), 60 O.R. (2d) 87, 67 C.B.R. (N.S.) 320n, 22 C.P.C. (2d) 131, 39 D.L.R. (4th) 526 (H.C.) , at pp. 92-94 [O.R.], of the duties which a court must perform when deciding whether a receiver who has sold a property acted properly. When he set out the court's duties, he did not put them in any order of priority, nor do I. I summarize those duties as follows:

1. It should consider whether the receiver has made a sufficient effort to get the best price and has not acted improvidently.
2. It should consider the interests of all parties.
3. It should consider the efficacy and integrity of the process by which offers are obtained.
4. It should consider whether there has been unfairness in the working out of the process.

17 I intend to discuss the performance of those duties separately.

1. Did the Receiver make a sufficient effort to get the best price and did it act providently?

18 Having regard to the fact that it was highly unlikely that a commercially viable sale could be made to anyone but the two national airlines, or to someone supported by either of them, it is my view that the receiver acted wisely and reasonably when it negotiated only with Air Canada and Canadian Airlines International. Furthermore, when Air Canada said that it would submit no further offers and gave the impression that it would not participate further in the receiver's efforts to sell, the only course reasonably open to the receiver was to negotiate with Canadian Airlines International. Realistically, there was nowhere else to go but to Canadian Airlines International. In doing so, it is my opinion that the receiver made sufficient efforts to sell the airline.

19 When the receiver got the OEL offer on March 6, 1991, it was over 10 months since it had been charged with the responsibility of selling Air Toronto. Until then, the receiver had not received one offer which it thought was acceptable. After substantial efforts to sell the airline over that period, I find it difficult to think that the receiver acted improvidently in accepting the only acceptable offer which it had.

20 On March 8, 1991, the date when the receiver accepted the OEL offer, it had only two offers, the OEL offer, which was acceptable, and the 922 offer, which contained an unacceptable condition. I cannot see how the receiver, assuming for the moment that the price was reasonable, could have done anything but accept the OEL offer.

21 When deciding whether a receiver had acted providently, the court should examine the conduct of the receiver in light of the information the receiver had when it agreed to accept an offer. In this case, the court should look at the receiver's conduct in the light of the information it

had when it made its decision on March 8, 1991. The court should be very cautious before deciding that the receiver's conduct was improvident based upon information which has come to light after it made its decision. To do so, in my view, would derogate from the mandate to sell given to the receiver by the order of O'Brien J. I agree with and adopt what was said by Anderson J. in *Crown Trust Co. v. Rosenberg* , supra, at p. 112 [O.R.]:

Its decision was made as a matter of business judgment *on the elements then available to it* . It is of the very essence of a receiver's function to make such judgments and in the making of them to act seriously and responsibly so as to be prepared to stand behind them.

If the court were to reject the recommendation of the Receiver in any but the most exceptional circumstances, it would materially diminish and weaken the role and function of the Receiver both in the perception of receivers and in the perception of any others who might have occasion to deal with them. It would lead to the conclusion that the decision of the Receiver was of little weight and that the real decision was always made upon the motion for approval. That would be a consequence susceptible of immensely damaging results to the disposition of assets by court-appointed receivers.

[Emphasis added.]

22 I also agree with and adopt what was said by Macdonald J.A. in *Cameron v. Bank of Nova Scotia* (1981), 38 C.B.R. (N.S.) 1, 45 N.S.R. (2d) 303, 86 A.P.R. 303 (C.A.) , at p. 11 [C.B.R.]:

In my opinion if the decision of the receiver to enter into an agreement of sale, subject to court approval, with respect to certain assets is reasonable and sound under the circumstances *at the time existing* it should not be set aside simply because a later and higher bid is made. To do so would literally create chaos in the commercial world and receivers and purchasers would never be sure they had a binding agreement.

[Emphasis added.]

23 On March 8, 1991, the receiver had two offers. One was the OEL offer, which it considered satisfactory but which could be withdrawn by OEL at any time before it was accepted. The receiver also had the 922 offer, which contained a condition that was totally unacceptable. It had no other offers. It was faced with the dilemma of whether it should decline to accept the OEL offer and run the risk of it being withdrawn, in the hope that an acceptable offer would be forthcoming from 922. An affidavit filed by the president of the receiver describes the dilemma which the receiver faced, and the judgment made in the light of that dilemma:

24. An asset purchase agreement was received by Ernst & Young on March 7, 1991 which was dated March 6, 1991. This agreement was received from CCFL in respect of their offer to purchase the assets and undertaking of Air Toronto. Apart from financial considerations,

which will be considered in a subsequent affidavit, the *Receiver determined that it would not be prudent to delay acceptance of the OEL agreement to negotiate a highly uncertain arrangement with Air Canada and CCFL* . Air Canada had the benefit of an 'exclusive' in negotiations for Air Toronto and had clearly indicated its intention take itself out of the running while ensuring that no other party could seek to purchase Air Toronto and maintain the Air Canada connector arrangement vital to its survival. The CCFL offer represented a radical reversal of this position by Air Canada at the eleventh hour. However, it contained a significant number of conditions to closing which were entirely beyond the control of the Receiver. As well, the CCFL offer came less than 24 hours before signing of the agreement with OEL which had been negotiated over a period of months, at great time and expense.

[Emphasis added.] I am convinced that the decision made was a sound one in the circumstances faced by the receiver on March 8, 1991.

24 I now turn to consider whether the price contained in the OEL offer was one which it was provident to accept. At the outset, I think that the fact that the OEL offer was the only acceptable one available to the receiver on March 8, 1991, after 10 months of trying to sell the airline, is strong evidence that the price in it was reasonable. In a deteriorating economy, I doubt that it would have been wise to wait any longer.

25 I mentioned earlier that, pursuant to an order, 922 was permitted to present a second offer. During the hearing of the appeal, counsel compared at great length the price contained in the second 922 offer with the price contained in the OEL offer. Counsel put forth various hypotheses supporting their contentions that one offer was better than the other.

26 It is my opinion that the price contained in the 922 offer is relevant only if it shows that the price obtained by the receiver in the OEL offer was not a reasonable one. In *Crown Trust Co. v. Rosenberg* , supra, Anderson J., at p. 113 [O.R.], discussed the comparison of offers in the following way:

No doubt, as the cases have indicated, situations might arise where the disparity was so great as to call in question the adequacy of the mechanism which had produced the offers. It is not so here, and in my view that is substantially an end of the matter.

27 In two judgments, Saunders J. considered the circumstances in which an offer submitted after the receiver had agreed to a sale should be considered by the court. The first is *Re Selkirk* (1986), 58 C.B.R. (N.S.) 245 (Ont. S.C.) , at p. 247:

If, for example, in this case there had been a second offer of a substantially higher amount, then the court would have to take that offer into consideration in assessing whether the receiver had properly carried out his function of endeavouring to obtain the best price for the property.

28 The second is *Re Beauty Counsellors of Canada Ltd.* (1986), 58 C.B.R. (N.S.) 237 (Ont. S.C.) , at p. 243:

If a substantially higher bid turns up at the approval stage, the court should consider it. Such a bid may indicate, for example, that the trustee has not properly carried out its duty to endeavour to obtain the best price for the estate.

29 In *Re Selkirk* (1987), 64 C.B.R. (N.S.) 140 (Ont. S.C.) , at p. 142, McRae J. expressed a similar view:

The court will not lightly withhold approval of a sale by the receiver, particularly in a case such as this where the receiver is given rather wide discretionary authority as per the order of Mr. Justice Trainor and, of course, where the receiver is an officer of this court. Only in a case where there seems to be some unfairness in the process of the sale or *where there are substantially higher offers which would tend to show that the sale was improvident* will the court withhold approval. It is important that the court recognize the commercial exigencies that would flow if prospective purchasers are allowed to wait until the sale is in court for approval before submitting their final offer. This is something that must be discouraged.

[Emphasis added.]

30 What those cases show is that the prices in other offers have relevance only if they show that the price contained in the offer accepted by the receiver was so unreasonably low as to demonstrate that the receiver was improvident in accepting it. I am of the opinion, therefore, that if they do not tend to show that the receiver was improvident, they should not be considered upon a motion to confirm a sale recommended by a court-appointed receiver. If they were, the process would be changed from a sale by a receiver, subject to court approval, into an auction conducted by the court at the time approval is sought. In my opinion, the latter course is unfair to the person who has entered bona fide into an agreement with the receiver, can only lead to chaos, and must be discouraged.

31 If, however, the subsequent offer is so substantially higher than the sale recommended by the receiver, then it may be that the receiver has not conducted the sale properly. In such circumstances, the court would be justified itself in entering into the sale process by considering competitive bids. However, I think that that process should be entered into only if the court is satisfied that the receiver has not properly conducted the sale which it has recommended to the court.

32 It is necessary to consider the two offers. Rosenberg J. held that the 922 offer was slightly better or marginally better than the OEL offer. He concluded that the difference in the two offers did not show that the sale process adopted by the receiver was inadequate or improvident.

33 Counsel for the appellants complained about the manner in which Rosenberg J. conducted the hearing of the motion to confirm the OEL sale. The complaint was that when they began to discuss a comparison of the two offers, Rosenberg J. said that he considered the 922 offer to be better than the OEL offer. Counsel said that when that comment was made, they did not think it necessary to argue further the question of the difference in value between the two offers. They complain that the finding that the 922 offer was only marginally better or slightly better than the OEL offer was made without them having had the opportunity to argue that the 922 offer was substantially better or significantly better than the OEL offer. I cannot understand how counsel could have thought that by expressing the opinion that the 922 offer was better, Rosenberg J. was saying that it was a significantly or substantially better one. Nor can I comprehend how counsel took the comment to mean that they were foreclosed from arguing that the offer was significantly or substantially better. If there was some misunderstanding on the part of counsel, it should have been raised before Rosenberg J. at the time. I am sure that if it had been, the misunderstanding would have been cleared up quickly. Nevertheless, this court permitted extensive argument dealing with the comparison of the two offers.

34 The 922 offer provided for \$6 million cash to be paid on closing with a royalty based upon a percentage of Air Toronto profits over a period of 5 years up to a maximum of \$3 million. The OEL offer provided for a payment of \$2 million on closing with a royalty paid on gross revenues over a 5-year period. In the short term, the 922 offer is obviously better because there is substantially more cash up front. The chances of future returns are substantially greater in the OEL offer because royalties are paid on gross revenues, while the royalties under the 922 offer are paid only on profits. There is an element of risk involved in each offer.

35 The receiver studied the two offers. It compared them and took into account the risks, the advantages and the disadvantages of each. It considered the appropriate contingencies. It is not necessary to outline the factors which were taken into account by the receiver because the manager of its insolvency practice filed an affidavit outlining the considerations which were weighed in its evaluation of the two offers. They seem to me to be reasonable ones. That affidavit concluded with the following paragraph:

24. On the basis of these considerations the Receiver has approved the OEL offer and has concluded that it represents the achievement of the highest possible value at this time for the Air Toronto division of SoundAir.

36 The court appointed the receiver to conduct the sale of Air Toronto, and entrusted it with the responsibility of deciding what is the best offer. I put great weight upon the opinion of the receiver. It swore to the court which appointed it that the OEL offer represents the achievement of the highest possible value at this time for Air Toronto. I have not been convinced that the receiver

was wrong when he made that assessment. I am, therefore, of the opinion that the 922 offer does not demonstrate any failure upon the part of the receiver to act properly and providently.

37 It follows that if Rosenberg J. was correct when he found that the 922 offer was in fact better, I agree with him that it could only have been slightly or marginally better. The 922 offer does not lead to an inference that the disposition strategy of the receiver was inadequate, unsuccessful or improvident, nor that the price was unreasonable.

38 I am, therefore, of the opinion the the receiver made a sufficient effort to get the best price, and has not acted improvidently.

2. Consideration of the Interests of all Parties

39 It is well established that the primary interest is that of the creditors of the debtor: see *Crown Trust Co. v. Rosenberg*, supra, and *Re Selkirk*, supra (Saunders J.). However, as Saunders J. pointed out in *Re Beauty Counsellors*, supra at p. 244 [C.B.R.], "it is not the only or overriding consideration."

40 In my opinion, there are other persons whose interests require consideration. In an appropriate case, the interests of the debtor must be taken into account. I think also, in a case such as this, where a purchaser has bargained at some length and doubtless at considerable expense with the receiver, the interests of the purchaser ought to be taken into account. While it is not explicitly stated in such cases as *Crown Trust Co. v. Rosenberg*, supra, *Re Selkirk* (1986), supra, *Re Beauty Counsellors*, supra, *Re Selkirk* (1987), supra, and (*Cameron*), supra, I think they clearly imply that the interests of a person who has negotiated an agreement with a court-appointed receiver are very important.

41 In this case, the interests of all parties who would have an interest in the process were considered by the receiver and by Rosenberg J.

3. Consideration of the Efficacy and Integrity of the Process by which the Offer was Obtained

42 While it is accepted that the primary concern of a receiver is the protecting of the interests of the creditors, there is a secondary but very important consideration, and that is the integrity of the process by which the sale is effected. This is particularly so in the case of a sale of such a unique asset as an airline as a going concern.

43 The importance of a court protecting the integrity of the process has been stated in a number of cases. First, I refer to *Re Selkirk*, supra, where Saunders J. said at p. 246 [C.B.R.]:

In dealing with the request for approval, the court has to be concerned primarily with protecting the interest of the creditors of the former bankrupt. A secondary but important consideration is that the process under which the sale agreement is arrived at should be consistent with commercial efficacy and integrity.

In that connection I adopt the principles stated by Macdonald J.A. of the Nova Scotia Supreme Court (Appeal Division) in *Cameron v. Bank of N.S.* (1981), 38 C.B.R. (N.S.) 1, 45 N.S.R. (2d) 303, 86 A.P.R. 303 (C.A.) , where he said at p. 11:

In my opinion if the decision of the receiver to enter into an agreement of sale, subject to court approval, with respect to certain assets is reasonable and sound under the circumstances at the time existing it should not be set aside simply because a later and higher bid is made. To do so would literally create chaos in the commercial world and receivers and purchasers would never be sure they had a binding agreement. On the contrary, they would know that other bids could be received and considered up until the application for court approval is heard — this would be an intolerable situation.

While those remarks may have been made in the context of a bidding situation rather than a private sale, I consider them to be equally applicable to a negotiation process leading to a private sale. Where the court is concerned with the disposition of property, the purpose of appointing a receiver is to have the receiver do the work that the court would otherwise have to do.

44 In *Salima Investments Ltd. v. Bank of Montreal* (1985), 59 C.B.R. (N.S.) 242, 41 Alta. L.R. (2d) 58, 65 A.R. 372, 21 D.L.R. (4th) 473 at p. 476 [D.L.R.], the Alberta Court of Appeal said that sale by tender is not necessarily the best way to sell a business as an ongoing concern. It went on to say that when some other method is used which is provident, the court should not undermine the process by refusing to confirm the sale.

45 Finally, I refer to the reasoning of Anderson J. in *Crown Trust Co. v. Rosenberg* , supra, at p. 124 [O.R.]:

While every proper effort must always be made to assure maximum recovery consistent with the limitations inherent in the process, no method has yet been devised to entirely eliminate those limitations or to avoid their consequences. *Certainly it is not to be found in loosening the entire foundation of the system. Thus to compare the results of the process in this case with what might have been recovered in some other set of circumstances is neither logical nor practical .*

[Emphasis added.]

46 It is my opinion that the court must exercise extreme caution before it interferes with the process adopted by a receiver to sell an unusual asset. It is important that prospective purchasers know that, if they are acting in good faith, bargain seriously with a receiver and enter into an agreement with it, a court will not lightly interfere with the commercial judgment of the receiver to sell the asset to them.

47 Before this court, counsel for those opposing the confirmation of the sale to OEL suggested many different ways in which the receiver could have conducted the process other than the way which he did. However, the evidence does not convince me that the receiver used an improper method of attempting to sell the airline. The answer to those submissions is found in the comment of Anderson J. in *Crown Trust Co. v. Rosenberg* , supra, at p. 109 [O.R.]:

The court ought not to sit as on appeal from the decision of the Receiver, reviewing in minute detail every element of the process by which the decision is reached. To do so would be a futile and duplicitous exercise.

48 It would be a futile and duplicitous exercise for this court to examine in minute detail all of circumstances leading up to the acceptance of the OEL offer. Having considered the process adopted by the receiver, it is my opinion that the process adopted was a reasonable and prudent one.

4. Was there unfairness in the process?

49 As a general rule, I do not think it appropriate for the court to go into the minutia of the process or of the selling strategy adopted by the receiver. However, the court has a responsibility to decide whether the process was fair. The only part of this process which I could find that might give even a superficial impression of unfairness is the failure of the receiver to give an offering memorandum to those who expressed an interest in the purchase of Air Toronto.

50 I will outline the circumstances which relate to the allegation that the receiver was unfair in failing to provide an offering memorandum. In the latter part of 1990, as part of its selling strategy, the receiver was in the process of preparing an offering memorandum to give to persons who expressed an interest in the purchase of Air Toronto. The offering memorandum got as far as draft form, but was never released to anyone, although a copy of the draft eventually got into the hands of CCFL before it submitted the first 922 offer on March 7, 1991. A copy of the offering memorandum forms part of the record, and it seems to me to be little more than puffery, without any hard information which a sophisticated purchaser would require in order to make a serious bid.

51 The offering memorandum had not been completed by February 11, 1991. On that date, the receiver entered into the letter of intent to negotiate with OEL. The letter of intent contained a provision that during its currency the receiver would not negotiate with any other party. The letter of intent was renewed from time to time until the OEL offer was received on March 6, 1991.

52 The receiver did not proceed with the offering memorandum because to do so would violate the spirit, if not the letter, of its letter of intent with OEL.

53 I do not think that the conduct of the receiver shows any unfairness towards 922. When I speak of 922, I do so in the context that Air Canada and CCFL are identified with it. I start by

saying that the receiver acted reasonably when it entered into exclusive negotiations with OEL. I find it strange that a company, with which Air Canada is closely and intimately involved, would say that it was unfair for the receiver to enter into a time-limited agreement to negotiate exclusively with OEL. That is precisely the arrangement which Air Canada insisted upon when it negotiated with the receiver in the spring and summer of 1990. If it was not unfair for Air Canada to have such an agreement, I do not understand why it was unfair for OEL to have a similar one. In fact, both Air Canada and OEL in its turn were acting reasonably when they required exclusive negotiating rights to prevent their negotiations from being used as a bargaining lever with other potential purchasers. The fact that Air Canada insisted upon an exclusive negotiating right while it was negotiating with the receiver demonstrates the commercial efficacy of OEL being given the same right during its negotiations with the receiver. I see no unfairness on the part of the receiver when it honoured its letter of intent with OEL by not releasing the offering memorandum during the negotiations with OEL.

54 Moreover, I am not prepared to find that 922 was in any way prejudiced by the fact that it did not have an offering memorandum. It made an offer on March 7, 1991, which it contends to this day was a better offer than that of OEL. 922 has not convinced me that if it had an offering memorandum, its offer would have been any different or any better than it actually was. The fatal problem with the first 922 offer was that it contained a condition which was completely unacceptable to the receiver. The receiver, properly, in my opinion, rejected the offer out of hand because of that condition. That condition did not relate to any information which could have conceivably been in an offering memorandum prepared by the receiver. It was about the resolution of a dispute between CCFL and the Royal Bank, something the receiver knew nothing about.

55 Further evidence of the lack of prejudice which the absence of an offering memorandum has caused 922 is found in CCFL's stance before this court. During argument, its counsel suggested as a possible resolution of this appeal that this court should call for new bids, evaluate them and then order a sale to the party who put in the better bid. In such a case, counsel for CCFL said that 922 would be prepared to bid within 7 days of the court's decision. I would have thought that, if there were anything to CCFL's suggestion that the failure to provide an offering memorandum was unfair to 922, that it would have told the court that it needed more information before it would be able to make a bid.

56 I am satisfied that Air Canada and CCFL have, and at all times had, all of the information which they would have needed to make what to them would be a commercially viable offer to the receiver. I think that an offering memorandum was of no commercial consequence to them, but the absence of one has since become a valuable tactical weapon.

57 It is my opinion that there is no convincing proof that if an offering memorandum had been widely distributed among persons qualified to have purchased Air Toronto, a viable offer would have come forth from a party other than 922 or OEL. Therefore, the failure to provide an offering

memorandum was neither unfair, nor did it prejudice the obtaining of a better price on March 8, 1991, than that contained in the OEL offer. I would not give effect to the contention that the process adopted by the receiver was an unfair one.

58 There are two statements by Anderson J. contained in *Crown Trust Co. v. Rosenberg*, supra, which I adopt as my own. The first is at p. 109 [O.R.]:

The court should not proceed against the recommendations of its Receiver except in special circumstances and where the necessity and propriety of doing so are plain. Any other rule or approach would emasculate the role of the Receiver and make it almost inevitable that the final negotiation of every sale would take place on the motion for approval.

The second is at p. 111 [O.R.]:

It is equally clear, in my view, though perhaps not so clearly enunciated, that it is only in an exceptional case that the court will intervene and proceed contrary to the Receiver's recommendations if satisfied, as I am, that the Receiver has acted reasonably, prudently and fairly and not arbitrarily.

In this case the receiver acted reasonably, prudently, fairly and not arbitrarily. I am of the opinion, therefore, that the process adopted by the receiver in reaching an agreement was a just one.

59 In his reasons for judgment, after discussing the circumstances leading to the 922 offer, Rosenberg J. said this:

They created a situation as of March 8th, where the Receiver was faced with two offers, one of which was in acceptable form and one of which could not possibly be accepted in its present form. The Receiver acted appropriately in accepting the OEL offer.

I agree.

60 The receiver made proper and sufficient efforts to get the best price that it could for the assets of Air Toronto. It adopted a reasonable and effective process to sell the airline which was fair to all persons who might be interested in purchasing it. It is my opinion, therefore, that the receiver properly carried out the mandate which was given to it by the order of O'Brien J. It follows that Rosenberg J. was correct when he confirmed the sale to OEL.

II. The effect of the support of the 922 offer by the two secured creditors.

61 As I noted earlier, the 922 offer was supported before Rosenberg J., and in this court, by CCFL and by the Royal Bank, the two secured creditors. It was argued that, because the interests of the creditors are primary, the court ought to give effect to their wish that the 922 offer be accepted. I would not accede to that suggestion for two reasons.

62 The first reason is related to the fact that the creditors chose to have a receiver appointed by the court. It was open to them to appoint a private receiver pursuant to the authority of their security documents. Had they done so, then they would have had control of the process and could have sold Air Toronto to whom they wished. However, acting privately and controlling the process involves some risks. The appointment of a receiver by the court insulates the creditors from those risks. But, insulation from those risks carries with it the loss of control over the process of disposition of the assets. As I have attempted to explain in these reasons, when a receiver's sale is before the court for confirmation, the only issues are the propriety of the conduct of the receiver and whether it acted providently. The function of the court at that stage is not to step in and do the receiver's work, or change the sale strategy adopted by the receiver. Creditors who asked the court to appoint a receiver to dispose of assets should not be allowed to take over control of the process by the simple expedient of supporting another purchaser if they do not agree with the sale made by the receiver. That would take away all respect for the process of sale by a court-appointed receiver.

63 There can be no doubt that the interests of the creditor are an important consideration in determining whether the receiver has properly conducted a sale. The opinion of the creditors as to which offer ought to be accepted is something to be taken into account. But if the court decides that the receiver has acted properly and providently, those views are not necessarily determinative. Because, in this case, the receiver acted properly and providently, I do not think that the views of the creditors should override the considered judgment of the receiver.

64 The second reason is that, in the particular circumstances of this case, I do not think the support of CCFL and the Royal Bank of the 922 offer is entitled to any weight. The support given by CCFL can be dealt with summarily. It is a co-owner of 922. It is hardly surprising and not very impressive to hear that it supports the offer which it is making for the debtor's assets.

65 The support by the Royal Bank requires more consideration and involves some reference to the circumstances. On March 6, 1991, when the first 922 offer was made, there was in existence an inter-lender agreement between the Royal Bank and CCFL. That agreement dealt with the share of the proceeds of the sale of Air Toronto which each creditor would receive. At the time, a dispute between the Royal Bank and CCFL about the interpretation of that agreement was pending in the courts. The unacceptable condition in the first 922 offer related to the settlement of the inter-lender dispute. The condition required that the dispute be resolved in a way which would substantially favour CCFL. It required that CCFL receive \$3,375,000 of the \$6 million cash payment and the balance, including the royalties, if any, be paid to the Royal Bank. The Royal Bank did not agree with that split of the sale proceeds.

66 On April 5, 1991, the Royal Bank and CCFL agreed to settle the inter-lender dispute. The settlement was that if the 922 offer was accepted by the court, CCFL would receive only \$1 million,

and the Royal Bank would receive \$5 million plus any royalties which might be paid. It was only in consideration of that settlement that the Royal Bank agreed to support the 922 offer.

67 The Royal Bank's support of the 922 offer is so affected by the very substantial benefit which it wanted to obtain from the settlement of the inter-lender dispute that, in my opinion, its support is devoid of any objectivity. I think it has no weight.

68 While there may be circumstances where the unanimous support by the creditors of a particular offer could conceivably override the proper and provident conduct of a sale by a receiver, I do not think that this is such a case. This is a case where the receiver has acted properly and in a provident way. It would make a mockery out of the judicial process, under which a mandate was given to this receiver to sell this airline if the support by these creditors of the 922 offer were permitted to carry the day. I give no weight to the support which they give to the 922 offer.

69 In its factum, the receiver pointed out that, because of greater liabilities imposed upon private receivers by various statutes such as the *Employment Standards Act*, R.S.O. 1980, c. 137, and the *Environmental Protection Act*, R.S.O. 1980, c. 141, it is likely that more and more the courts will be asked to appoint receivers in insolvencies. In those circumstances, I think that creditors who ask for court-appointed receivers and business people who choose to deal with those receivers should know that if those receivers act properly and providently, their decisions and judgments will be given great weight by the courts who appoint them. I have decided this appeal in the way I have in order to assure business people who deal with court-appointed receivers that they can have confidence that an agreement which they make with a court-appointed receiver will be far more than a platform upon which others may bargain at the court approval stage. I think that persons who enter into agreements with court-appointed receivers, following a disposition procedure that is appropriate given the nature of the assets involved, should expect that their bargain will be confirmed by the court.

70 The process is very important. It should be carefully protected so that the ability of court-appointed receivers to negotiate the best price possible is strengthened and supported. Because this receiver acted properly and providently in entering into the OEL agreement, I am of the opinion that Rosenberg J. was right when he approved the sale to OEL and dismissed the motion to approve the 922 offer.

71 I would, accordingly, dismiss the appeal. I would award the receiver, OEL and Frontier Airlines Limited their costs out of the Soundair estate, those of the receiver on a solicitor-client scale. I would make no order as to the costs of any of the other parties or intervenors.

McKinlay J.A. :

72 I agree with Galligan J.A. in result, but wish to emphasize that I do so on the basis that the undertaking being sold in this case was of a very special and unusual nature. It is most important

that the integrity of procedures followed by court-appointed receivers be protected in the interests of both commercial morality and the future confidence of business persons in their dealings with receivers. Consequently, in all cases, the court should carefully scrutinize the procedure followed by the receiver to determine whether it satisfies the tests set out by Anderson J. in *Crown Trust Co. v. Rosenberg* (1986), 67 C.B.R. (N.S.) 320n, 60 O.R. (2d) 87, 22 C.P.C. (2d) 131, 39 D.L.R. (4th) 526 (H.C.) . While the procedure carried out by the receiver in this case, as described by Galligan J.A., was appropriate, given the unfolding of events and the unique nature of the assets involved, it is not a procedure that is likely to be appropriate in many receivership sales.

73 I should like to add that where there is a small number of creditors who are the only parties with a real interest in the proceeds of the sale (i.e., where it is clear that the highest price attainable would result in recovery so low that no other creditors, shareholders, guarantors, etc., could possibly benefit therefore), the wishes of the interested creditors should be very seriously considered by the receiver. It is true, as Galligan J.A. points out, that in seeking the court appointment of a receiver, the moving parties also seek the protection of the court in carrying out the receiver's functions. However, it is also true that in utilizing the court process, the moving parties have opened the whole process to detailed scrutiny by all involved, and have probably added significantly to their costs and consequent shortfall as a result of so doing. The adoption of the court process should in no way diminish the rights of any party, and most certainly not the rights of the only parties with a real interest. Where a receiver asks for court approval of a sale which is opposed by the only parties in interest, the court should scrutinize with great care the procedure followed by the receiver. I agree with Galligan J.A. that in this case that was done. I am satisfied that the rights of all parties were properly considered by the receiver, by the learned motions court judge, and by Galligan J.A.

Goodman J.A. (dissenting):

74 I have had the opportunity of reading the reasons for judgment herein of Galligan and McKinlay JJ.A. Respectfully, I am unable to agree with their conclusion.

75 The case at bar is an exceptional one in the sense that upon the application made for approval of the sale of the assets of Air Toronto, two competing offers were placed before Rosenberg J. Those two offers were that of OEL and that of 922, a company incorporated for the purpose of acquiring Air Toronto. Its shares were owned equally by CCFL and Air Canada. It was conceded by all parties to these proceedings that the only persons who had any interest in the proceeds of the sale were two secured creditors, viz., CCFL and the Royal Bank of Canada. Those two creditors were unanimous in their position that they desired the court to approve the sale to 922. We were not referred to, nor am I aware of, any case where a court has refused to abide by the unanimous wishes of the only interested creditors for the approval of a specific offer made in receivership proceedings.

76 In *British Columbia Developments Corp. v. Spun Cast Industries Ltd.* (1977), 26 C.B.R. (N.S.) 28, 5 B.C.L.R. 94 (S.C.) , Berger J. said at p. 30 [C.B.R.]:

Here all of those with a financial stake in the plant have joined in seeking the court's approval of the sale to Fincas. This court does not have a roving commission to decide what is best for investors and businessmen when they have agreed among themselves what course of action they should follow. It is their money.

77 I agree with that statement. It is particularly apt to this case. The two secured creditors will suffer a shortfall of approximately \$50 million. They have a tremendous interest in the sale of assets which form part of their security. I agree with the finding of Rosenberg J. that the offer of 922 is superior to that of OEL. He concluded that the 922 offer is marginally superior. If by that he meant that mathematically it was likely to provide slightly more in the way of proceeds, it is difficult to take issue with that finding. If, on the other hand, he meant that having regard to all considerations it was only marginally superior, I cannot agree. He said in his reasons:

I have come to the conclusion that knowledgeable creditors such as the Royal Bank would prefer the 922 offer even if the other factors influencing their decision were not present. No matter what adjustments had to be made, the 922 offer results in more cash immediately. Creditors facing the type of loss the Royal Bank is taking in this case would not be anxious to rely on contingencies especially in the present circumstances surrounding the airline industry.

78 I agree with that statement completely. It is apparent that the difference between the two offers insofar as cash on closing is concerned amounts to approximately \$3 million to \$4 million. The bank submitted that it did not wish to gamble any further with respect to its investment, and that the acceptance and court approval of the OEL offer in effect supplanted its position as a secured creditor with respect to the amount owing over and above the down payment and placed it in the position of a joint entrepreneur, but one with no control. This results from the fact that the OEL offer did not provide for any security for any funds which might be forthcoming over and above the initial down payment on closing.

79 In *Cameron v. Bank of Nova Scotia* (1981), 38 C.B.R. (N.S.) 1, 45 N.S.R. (2d) 303, 86 A.P.R. 303 (C.A.) , Hart J.A., speaking for the majority of the court, said at p. 10 [C.B.R.]:

Here we are dealing with a receiver appointed at the instance of one major creditor, who chose to insert in the contract of sale a provision making it subject to the approval of the court. This, in my opinion, shows an intention on behalf of the parties to invoke the normal equitable doctrines which place the court in the position of looking to the interests of all persons concerned before giving its blessing to a particular transaction submitted for approval. In these circumstances the court would not consider itself bound by the contract entered into in good faith by the receiver but would have to look to the broader picture to see that that

contract was for the benefit of the creditors as a whole. When there was evidence that a higher price was readily available for the property the chambers judge was, in my opinion, justified in exercising his discretion as he did. Otherwise he could have deprived the creditors of a substantial sum of money.

80 This statement is apposite to the circumstances of the case at bar. I hasten to add that in my opinion it is not only price which is to be considered in the exercise of the judge's discretion. It may very well be, as I believe to be so in this case, that the amount of cash is the most important element in determining which of the two offers is for the benefit and in the best interest of the creditors.

81 It is my view, and the statement of Hart J.A. is consistent therewith, that the fact that a creditor has requested an order of the court appointing a receiver does not in any way diminish or derogate from his right to obtain the maximum benefit to be derived from any disposition of the debtor's assets. I agree completely with the views expressed by McKinlay J.A. in that regard in her reasons.

82 It is my further view that any negotiations which took place between the only two interested creditors in deciding to support the approval of the 922 offer were not relevant to the determination by the presiding judge of the issues involved in the motion for approval of either one of the two offers, nor are they relevant in determining the outcome of this appeal. It is sufficient that the two creditors have decided unanimously what is in their best interest, and the appeal must be considered in the light of that decision. It so happens, however, that there is ample evidence to support their conclusion that the approval of the 922 offer is in their best interests.

83 I am satisfied that the interests of the creditors are the prime consideration for both the receiver and the court. In *Re Beauty Counsellors of Canada Ltd.* (1986), 58 C.B.R. (N.S.) 237 (Ont. S.C.) , Saunders J. said at p. 243:

This does not mean that a court should ignore a new and higher bid made after acceptance where there has been no unfairness in the process. The interests of the creditors, while not the only consideration, are the prime consideration.

84 I agree with that statement of the law. In *Re Selkirk* (1986), 58 C.B.R. (N.S.) 245 (Ont. S.C.) , Saunders J. heard an application for court approval of the sale by the sheriff of real property in bankruptcy proceedings. The sheriff had been previously ordered to list the property for sale subject to approval of the court. Saunders J. said at p. 246:

In dealing with the request for approval, the court has to be concerned primarily with protecting the interests of the creditors of the former bankrupt. A secondary but important consideration is that the process under which the sale agreement is arrived at should be consistent with commercial efficacy and integrity.

85 I am in agreement with that statement as a matter of general principle. Saunders J. further stated that he adopted the principles stated by Macdonald J.A. in *Cameron*, supra, quoted by Galligan J.A. in his reasons. In *Cameron*, the remarks of Macdonald J.A. related to situations involving the calling of bids and fixing a time limit for the making of such bids. In those circumstances the process is so clear as a matter of commercial practice that an interference by the court in such process might have a deleterious effect on the efficacy of receivership proceedings in other cases. But Macdonald J.A. recognized that even in bid or tender cases where the offeror for whose bid approval is sought has complied with all requirements, a court might not approve the agreement of purchase and sale entered into by the receiver. He said at pp. 11-12 [C.B.R.]:

There are, of course, many reasons why a court might not approve an agreement of purchase and sale, viz., where the offer accepted is so low in relation to the appraised value as to be unrealistic; or, where the circumstances indicate that insufficient time was allowed for the making of bids or that inadequate notice of sale by bid was given (where the receiver sells property by the bid method); or, where it can be said that the proposed sale is not in the best interest of either the creditors or the owner. Court approval must involve the delicate balancing of competing interests and not simply a consideration of the interests of the creditors.

86 The deficiency in the present case is so large that there has been no suggestion of a competing interest between the owner and the creditors.

87 I agree that the same reasoning may apply to a negotiation process leading to a private sale, but the procedure and process applicable to private sales of a wide variety of businesses and undertakings with the multiplicity of individual considerations applicable and perhaps peculiar to the particular business is not so clearly established that a departure by the court from the process adopted by the receiver in a particular case will result in commercial chaos to the detriment of future receivership proceedings. Each case must be decided on its own merits, and it is necessary to consider the process used by the receiver in the present proceedings and to determine whether it was unfair, improvident or inadequate.

88 It is important to note at the outset that Rosenberg J. made the following statement in his reasons:

On March 8, 1991 the trustee accepted the OEL offer subject to court approval. The Receiver at that time had no other offer before it that was in final form or could possibly be accepted. The Receiver had at the time the knowledge that Air Canada with CCFL had not bargained in good faith and had not fulfilled the promise of its letter of March 1st. The Receiver was justified in assuming that Air Canada and CCFL's offer was a long way from being in an acceptable form and that Air Canada and CCFL's objective was to interrupt the finalizing of the OEL agreement and to retain as long as possible the Air Toronto connector traffic flowing into Terminal 2 for the benefit of Air Canada.

89 In my opinion there was no evidence before him or before this court to indicate that Air Canada, with CCFL, had not bargained in good faith, and that the receiver had knowledge of such lack of good faith. Indeed, on his appeal, counsel for the receiver stated that he was not alleging Air Canada and CCFL had not bargained in good faith. Air Canada had frankly stated at the time that it had made its offer to purchase, which was eventually refused by the receiver, that it would not become involved in an "auction" to purchase the undertaking of Air Canada and that, although it would fulfil its contractual obligations to provide connecting services to Air Toronto, it would do no more than it was legally required to do insofar as facilitating the purchase of Air Toronto by any other person. In so doing, Air Canada may have been playing "hardball," as its behaviour was characterized by some of the counsel for opposing parties. It was nevertheless merely openly asserting its legal position, as it was entitled to do.

90 Furthermore, there was no evidence before Rosenberg J. or this court that the receiver had assumed that Air Canada and CCFL's objective in making an offer was to interrupt the finalizing of the OEL agreement and to retain as long as possible the Air Toronto connector traffic flowing into Terminal 2 for the benefit of Air Canada. Indeed, there was no evidence to support such an assumption in any event, although it is clear that 922, and through it CCFL and Air Canada, were endeavouring to present an offer to purchase which would be accepted and/or approved by the court in preference to the offer made by OEL.

91 To the extent that approval of the OEL agreement by Rosenberg J. was based on the alleged lack of good faith in bargaining and improper motivation with respect to connector traffic on the part of Air Canada and CCFL, it cannot be supported.

92 I would also point out that rather than saying there was no other offer before it that was final in form, it would have been more accurate to have said that there was *no unconditional* offer before it.

93 In considering the material and evidence placed before the court, I am satisfied that the receiver was at all times acting in good faith. I have reached the conclusion, however, that the process which he used was unfair insofar as 922 is concerned, and improvident insofar as the two secured creditors are concerned.

94 Air Canada had been negotiating with Soundair Corporation for the purchase from it of Air Toronto for a considerable period of time prior to the appointment of a receiver by the court. It had given a letter of intent indicating a prospective sale price of \$18 million. After the appointment of the receiver, by agreement dated April 30, 1990, Air Canada continued its negotiations for the purchase of Air Toronto with the receiver. Although this agreement contained a clause which provided that the receiver "shall not negotiate for the sale ... of Air Toronto with any person except Air Canada," it further provided that the receiver would not be in breach of that provision merely by receiving unsolicited offers for all or any of the assets of Air Toronto. In addition, the agreement, which had a term commencing on April 30, 1990, could be terminated on the fifth business day

following the delivery of a written notice of termination by one party to the other. I point out this provision merely to indicate that the exclusivity privilege extended by the receiver to Air Canada was of short duration at the receiver's option.

95 As a result of due diligence investigations carried out by Air Canada during the months of April, May and June of 1990, Air Canada reduced its offer to \$8.1 million conditional upon there being \$4 million in tangible assets. The offer was made on June 14, 1990, and was open for acceptance until June 29, 1990.

96 By amending agreement dated June 19, 1990, the receiver was released from its covenant to refrain from negotiating for the sale of the Air Toronto business and assets to any person other than Air Canada. By virtue of this amending agreement, the receiver had put itself in the position of having a firm offer in hand, with the right to negotiate and accept offers from other persons. Air Canada, in these circumstances, was in the subservient position. The receiver, in the exercise of its judgment and discretion, allowed the Air Canada offer to lapse. On July 20, 1990, Air Canada served a notice of termination of the April 30, 1990 agreement.

97 Apparently as a result of advice received from the receiver to the effect that the receiver intended to conduct an auction for the sale of the assets and business of the Air Toronto division of Soundair Corporation, the solicitors for Air Canada advised the receiver by letter dated July 20, 1990, in part as follows:

Air Canada has instructed us to advise you that it does not intend to submit a further offer in the auction process.

98 This statement, together with other statements set forth in the letter, was sufficient to indicate that Air Canada was not interested in purchasing Air Toronto in the process apparently contemplated by the receiver at that time. It did not form a proper foundation for the receiver to conclude that there was no realistic possibility of selling Air Toronto [to] Air Canada, either alone or in conjunction with some other person, in different circumstances. In June 1990, the receiver was of the opinion that the fair value of Air Toronto was between \$10 million and \$12 million.

99 In August 1990, the receiver contacted a number of interested parties. A number of offers were received which were not deemed to be satisfactory. One such offer, received on August 20, 1990, came as a joint offer from OEL and Air Ontario (an Air Canada connector). It was for the sum of \$3 million for the good will relating to certain Air Toronto routes, but did not include the purchase of any tangible assets or leasehold interests.

100 In December 1990, the receiver was approached by the management of Canadian Partner (operated by OEL) for the purpose of evaluating the benefits of an amalgamated Air Toronto/Air Partner operation. The negotiations continued from December of 1990 to February of 1991, culminating in the OEL agreement dated March 8, 1991.

101 On or before December 1990, CCFL advised the receiver that it intended to make a bid for the Air Toronto assets. The receiver, in August of 1990, for the purpose of facilitating the sale of Air Toronto assets, commenced the preparation of an operating memorandum. He prepared no less than six draft operating memoranda with dates from October 1990 through March 1, 1991. None of these were distributed to any prospective bidder despite requests having been received therefor, with the exception of an early draft provided to CCFL without the receiver's knowledge.

102 During the period December 1990 to the end of January 1991, the receiver advised CCFL that the offering memorandum was in the process of being prepared and would be ready soon for distribution. He further advised CCFL that it should await the receipt of the memorandum before submitting a formal offer to purchase the Air Toronto assets.

103 By late January, CCFL had become aware that the receiver was negotiating with OEL for the sale of Air Toronto. In fact, on February 11, 1991, the receiver signed a letter of intent with OEL wherein it had specifically agreed not to negotiate with any other potential bidders or solicit any offers from others.

104 By letter dated February 25, 1991, the solicitors for CCFL made a written request to the receiver for the offering memorandum. The receiver did not reply to the letter because he felt he was precluded from so doing by the provisions of the letter of intent dated February 11, 1991. Other prospective purchasers were also unsuccessful in obtaining the promised memorandum to assist them in preparing their bids. It should be noted that, exclusivity provision of the letter of intent expired on February 20, 1991. This provision was extended on three occasions, viz., February 19, 22 and March 5, 1991. It is clear that from a legal standpoint the receiver, by refusing to extend the time, could have dealt with other prospective purchasers, and specifically with 922.

105 It was not until March 1, 1991, that CCFL had obtained sufficient information to enable it to make a bid through 922. It succeeded in so doing through its own efforts through sources other than the receiver. By that time the receiver had already entered into the letter of intent with OEL. Notwithstanding the fact that the receiver knew since December of 1990 that CCFL wished to make a bid for the assets of Air Toronto (and there is no evidence to suggest that at that time such a bid would be in conjunction with Air Canada or that Air Canada was in any way connected with CCFL), it took no steps to provide CCFL with information necessary to enable it to make an intelligent bid, and indeed suggested delaying the making of the bid until an offering memorandum had been prepared and provided. In the meantime, by entering into the letter of intent with OEL, it put itself in a position where it could not negotiate with CCFL or provide the information requested.

106 On February 28, 1991, the solicitors for CCFL telephoned the receiver and were advised for the first time that the receiver had made a business decision to negotiate solely with OEL and would not negotiate with anyone else in the interim.

107 By letter dated March 1, 1991, CCFL advised the receiver that it intended to submit a bid. It set forth the essential terms of the bid and stated that it would be subject to customary commercial provisions. On March 7, 1991 CCFL and Air Canada, jointly through 922, submitted an offer to purchase Air Toronto upon the terms set forth in the letter dated March 1, 1991. It included a provision that the offer was conditional upon the interpretation of an inter-lender agreement which set out the relative distribution of proceeds as between CCFL and the Royal Bank. It is common ground that it was a condition over which the receiver had no control, and accordingly would not have been acceptable on that ground alone. The receiver did not, however, contact CCFL in order to negotiate or request the removal of the condition, although it appears that its agreement with OEL not to negotiate with any person other than OEL expired on March 6, 1991.

108 The fact of the matter is that by March 7, 1991, the receiver had received the offer from OEL which was subsequently approved by Rosenberg J. That offer was accepted by the receiver on March 8, 1991. Notwithstanding the fact that OEL had been negotiating the purchase for a period of approximately 3 months, the offer contained a provision for the sole benefit of the purchaser that it was subject to the purchaser obtaining "a financing commitment within 45 days of the date hereof in an amount not less than the Purchase Price from the Royal Bank of Canada or other financial institution upon terms and conditions acceptable to them. In the event that such a financing commitment is not obtained within such 45 day period, the purchaser or OEL shall have the right to terminate this agreement upon giving written notice of termination to the vendor on the first Business Day following the expiry of the said period." The purchaser was also given the right to waive the condition.

109 In effect, the agreement was tantamount to a 45-day option to purchase, excluding the right of any other person to purchase Air Toronto during that period of time and thereafter if the condition was fulfilled or waived. The agreement was, of course, stated to be subject to court approval.

110 In my opinion, the process and procedure adopted by the receiver was unfair to CCFL. Although it was aware from December 1990 that CCFL was interested in making an offer, it effectively delayed the making of such offer by continually referring to the preparation of the offering memorandum. It did not endeavour during the period December 1990 to March 7, 1991, to negotiate with CCFL in any way the possible terms of purchase and sale agreement. In the result, no offer was sought from CCFL by the receiver prior to February 11, 1991, and thereafter it put itself in the position of being unable to negotiate with anyone other than OEL. The receiver then, on March 8, 1991, chose to accept an offer which was conditional in nature without prior consultation with CCFL (922) to see whether it was prepared to remove the condition in its offer.

111 I do not doubt that the receiver felt that it was more likely that the condition in the OEL offer would be fulfilled than the condition in the 922 offer. It may be that the receiver, having negotiated

for a period of 3 months with OEL, was fearful that it might lose the offer if OEL discovered that it was negotiating with another person. Nevertheless, it seems to me that it was imprudent and unfair on the part of the receiver to ignore an offer from an interested party which offered approximately triple the cash down payment without giving a chance to the offeror to remove the conditions or other terms which made the offer unacceptable to it. The potential loss was that of an agreement which amounted to little more than an option in favour of the offeror.

112 In my opinion the procedure adopted by the receiver was unfair to CCFL in that, in effect, it gave OEL the opportunity of engaging in exclusive negotiations for a period of 3 months, notwithstanding the fact that it knew CCFL was interested in making an offer. The receiver did not indicate a deadline by which offers were to be submitted, and it did not at any time indicate the structure or nature of an offer which might be acceptable to it.

113 In his reasons, Rosenberg J. stated that as of March 1, CCFL and Air Canada had all the information that they needed, and any allegations of unfairness in the negotiating process by the receiver had disappeared. He said:

They created a situation as of March 8, where the receiver was faced with two offers, one of which was acceptable in form and one of which could not possibly be accepted in its present form. The Receiver acted appropriately in accepting the OEL offer.

If he meant by "acceptable in form" that it was acceptable to the receiver, then obviously OEL had the unfair advantage of its lengthy negotiations with the receiver to ascertain what kind of an offer would be acceptable to the receiver. If, on the other hand, he meant that the 922 offer was unacceptable in its form because it was conditional, it can hardly be said that the OEL offer was more acceptable in this regard, as it contained a condition with respect to financing terms and conditions "*acceptable to them* ."

114 It should be noted that on March 13, 1991, the representatives of 922 first met with the receiver to review its offer of March 7, 1991, and at the request of the receiver, withdrew the inter-lender condition from its offer. On March 14, 1991, OEL removed the financing condition from its offer. By order of Rosenberg J. dated March 26, 1991, CCFL was given until April 5, 1991, to submit a bid, and on April 5, 1991, 922 submitted its offer with the inter-lender condition removed.

115 In my opinion, the offer accepted by the receiver is improvident and unfair insofar as the two creditors are concerned. It is not improvident in the sense that the price offered by 922 greatly exceeded that offered by OEL. In the final analysis it may not be greater at all. The salient fact is that the cash down payment in the 922 offer constitutes approximately two thirds of the contemplated sale price, whereas the cash down payment in the OEL transaction constitutes approximately 20 to 25 per cent of the contemplated sale price. In terms of absolute dollars, the down payment in the 922 offer would likely exceed that provided for in the OEL agreement by approximately \$3 million to \$4 million.

116 In *Re Beauty Counsellors of Canada Ltd.*, supra, Saunders J. said at p. 243 [C.B.R.]:

If a substantially higher bid turns up at the approval stage, the court should consider it. Such a bid may indicate, for example, that the trustee has not properly carried out its duty to endeavour to obtain the best price for the estate. In such a case the proper course might be to refuse approval and to ask the trustee to recommence the process.

117 I accept that statement as being an accurate statement of the law. I would add, however, as previously indicated, that in determining what is the best price for the estate, the receiver or court should not limit its consideration to which offer provides for the greater sale price. The amount of down payment and the provision or lack thereof to secure payment of the balance of the purchase price over and above the down payment may be the most important factor to be considered, and I am of the view that is so in the present case. It is clear that that was the view of the only creditors who can benefit from the sale of Air Toronto.

118 I note that in the case at bar the 922 offer in conditional form was presented to the receiver before it accepted the OEL offer. The receiver, in good faith, although I believe mistakenly, decided that the OEL offer was the better offer. At that time the receiver did not have the benefit of the views of the two secured creditors in that regard. At the time of the application for approval before Rosenberg J., the stated preference of the two interested creditors was made quite clear. He found as fact that knowledgeable creditors would not be anxious to rely on contingencies in the present circumstances surrounding the airline industry. It is reasonable to expect that a receiver would be no less knowledgeable in that regard, and it is his primary duty to protect the interests of the creditors. In my view, it was an improvident act on the part of the receiver to have accepted the conditional offer made by OEL, and Rosenberg J. erred in failing to dismiss the application of the receiver for approval of the OEL offer. It would be most inequitable to foist upon the two creditors, who have already been seriously hurt, more unnecessary contingencies.

119 Although in other circumstances it might be appropriate to ask the receiver to recommence the process, in my opinion, it would not be appropriate to do so in this case. The only two interested creditors support the acceptance of the 922 offer, and the court should so order.

120 Although I would be prepared to dispose of the case on the grounds stated above, some comment should be addressed to the question of interference by the court with the process and procedure adopted by the receiver.

121 I am in agreement with the view expressed by McKinlay J.A. in her reasons that the undertaking being sold in this case was of a very special and unusual nature. As a result, the procedure adopted by the receiver was somewhat unusual. At the outset, in accordance with the terms of the receiving order, it dealt solely with Air Canada. It then appears that the receiver contemplated a sale of the assets by way of auction, and still later contemplated the preparation and

distribution of an offering memorandum inviting bids. At some point, without advice to CCFL, it abandoned that idea and reverted to exclusive negotiations with one interested party. This entire process is not one which is customary or widely accepted as a general practice in the commercial world. It was somewhat unique, having regard to the circumstances of this case. In my opinion, the refusal of the court to approve the offer accepted by the receiver would not reflect on the integrity of procedures followed by court-appointed receivers, and is not the type of refusal which will have a tendency to undermine the future confidence of business persons in dealing with receivers.

122 Rosenberg J. stated that the Royal Bank was aware of the process used and tacitly approved it. He said it knew the terms of the letter of intent in February 1991, and made no comment. The Royal Bank did, however, indicate to the receiver that it was not satisfied with the contemplated price, nor the amount of the down payment. It did not, however, tell the receiver to adopt a different process in endeavouring to sell the Air Toronto assets. It is not clear from the material filed that at the time it became aware of the letter of intent that it knew that CCFL was interested in purchasing Air Toronto.

123 I am further of the opinion that a prospective purchaser who has been given an opportunity to engage in exclusive negotiations with a receiver for relatively short periods of time which are extended from time to time by the receiver, and who then makes a conditional offer, the condition of which is for his sole benefit and must be fulfilled to his satisfaction unless waived by him, and which he knows is to be subject to court approval, cannot legitimately claim to have been unfairly dealt with if the court refuses to approve the offer and approves a substantially better one.

124 In conclusion, I feel that I must comment on the statement made by Galligan J.A. in his reasons to the effect that the suggestion made by counsel for 922 constitutes evidence of lack of prejudice resulting from the absence of an offering memorandum. It should be pointed out that the court invited counsel to indicate the manner in which the problem should be resolved in the event that the court concluded that the order approving the OEL offer should be set aside. There was no evidence before the court with respect to what additional information may have been acquired by CCFL since March 8, 1991, and no inquiry was made in that regard. Accordingly, I am of the view that no adverse inference should be drawn from the proposal made as a result of the court's invitation.

125 For the above reasons I would allow the appeal one set of costs to CCFL-922, set aside the order of Rosenberg J., dismiss the receiver's motion with one set of costs to CCFL-922 and order that the assets of Air Toronto be sold to numbered corporation 922246 on the terms set forth in its offer with appropriate adjustments to provide for the delay in its execution. Costs awarded shall be payable out of the estate of Soundair Corporation. The costs incurred by the receiver in making the application and responding to the appeal shall be paid to him out of the assets of the estate of Soundair Corporation on a solicitor-client basis. I would make no order as to costs of any of the other parties or intervenors.

Appeal dismissed.

TAB 5

2015 QCCS 1920
Cour supérieure du Québec

Bloom Lake, g.p.l., Re

2015 CarswellQue 4072, 2015 QCCS 1920, 27
C.B.R. (6th) 1, J.E. 2015-830, EYB 2015-251727

In the matter of the companies' creditors arrangement act, r.s.c. 1985, c. C-36, as amended: Bloom lake General Partner Limited, Quinto Mining Corporation, 8568391 Canada Limited and Cliffs Québec Iron mining ULC, Petitioners, and The bloom lake iron ore mine limited partnership and Bloom lake railway company limited, Mises en cause, and FTI Consulting Canada Inc., Monitor, and 9201955 Canada inc., Mise en cause, and Eabametoong first nation, Ginoogaming first nation, Constance Lake first nation and Long Lake # 58 first nation, Aroland first nation and Marten Falls first nation, Objectors, and 8901341 Canada inc. and Canadian Development And Marketing Corporation, Interveners

Hamilton J.C.S.

Heard: 24 april 2015

Judgment: 27 april 2015

Docket: C.S. Qué. Montréal 500-11-048114-157

Counsel: Me Bernard Boucher, Me Sébastien Guy, Me Steven J. Weisz for Bloom Lake General Partner Limited, Quinto Mining Corporation, 8568391 Canada Limited, Cliffs Quebec Iron Mining ULC, The Bloom Lake Iron Ore Mine Limited Partnership, Bloom Lake Railway Company Limited

Me Sylvain Rigaud, Me Chrystal Ashby for FTI Consulting Canada Inc.

Me Jean-Yves Simard, Me Sean Zweig for 9201955 Canada Inc.

Me Stéphane Hébert, Me Maurice Fleming for Eabametoong First Nation Ginoogaming First Nation, Constance Lake First Nation and Long Lake # 58 First Nation, Aroland First Nation, Marten Falls First Nation

Me Sandra Abitan, Me Éric Préfontaine, Me Julien Morissette for 8901341 Canada inc. Canadian Development and Marketing Corporation

Related Abridgment Classifications

Aboriginal and Indigenous law

XII Miscellaneous

Bankruptcy and insolvency

XIX Companies' Creditors Arrangement Act

XIX.3 Arrangements

XIX.3.e Miscellaneous

Civil practice and procedure

III Parties

III.4 Standing

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Arrangements — Miscellaneous

Sellers, who were parent company and affiliates of petitioners, sought to sell interests in chromite mining projects in Ring of Fire mining district — Sellers executed initial Share Purchase Agreement (SPA) with N, which made provision for "superior proposal" mechanism allowing sellers to accept unsolicited, superior offer from third party — Petitioners commenced motion for issuance of approval and vesting order with respect to initial SPA — C made unsolicited, superior offer — Sellers developed supplemental bid process giving C and N chance to submit their best and final offers — Sellers ultimately accepted N's higher bidding offer and entered into revised SPA with N — Petitioners amended their motion to seek issuance of approval and vesting order with respect to revised SPA — Ruling was made on petitioners' amended motion — Motion was granted — Sale process was fair, reasonable and efficient within s. 36(3)(a) of Companies' Creditors Arrangement Act — There was no legal requirement that sale process be approved in advance — Sellers had no obligation to accept C's unsolicited and superior offer and to terminate initial SPA — Initial SPA permitted sellers to terminate it, but did not require them to do so — Sellers' supplemental bid process was very reasonable and fair, and in best interests of creditors — N submitted its offer in compliance with rules, and there was no fundamental flaw in process such as parties having unequal access to information or one party seeking to amend its offer after it had knowledge of other offers.

Aboriginal and indigenous law --- Miscellaneous

Sellers, who were parent company and affiliates of petitioners, sought to sell interests in chromite mining projects in Ring of Fire mining district — Sellers executed initial Share Purchase Agreement (SPA) with N, which made provision for "superior proposal" mechanism allowing sellers to accept unsolicited, superior offer from third party — Petitioners commenced motion for issuance of approval and vesting order with respect to initial SPA — First Nations bands filed objection to motion — Following C's unsolicited superior offer and supplemental bidding process, sellers accepted N's highest bidding offer and entered into revised SPA with N — Petitioners amended their motion to seek issuance of approval and vesting order with respect to revised SPA, but First Nations bands maintained their objection — Ruling was made on petitioners' amended motion — Motion was granted — It was not clear to what extent First Nations bands had knowledge of sale process and could have participated — There was no evidence to suggest that

bands on their own could have made serious offer, or that they would have partnered with party that was not already identified and included in process — It was pure speculation whether First Nations would have presented offer in excess of N's offer — Sale of shares from one private party to another did not trigger duty to consult First Nations — It was difficult to see how granting of two or three percent royalty impacted rights of First Nations bands.

Civil practice and procedure --- Parties — Standing

Parties had standing and their objections were not dismissed due to lack of interest or standing.

Faillite et insolvabilité --- Loi sur les arrangements avec les créanciers des compagnies — Arrangements — Divers

Vendeurs, qui représentaient la société mère et les filiales des pétitionnaires, voulaient vendre leurs intérêts dans les projets miniers de chromite dans le district minier du Cercle de Feu — Vendeurs ont signé avec N une convention d'achat d'actions prévoyant un mécanisme de [TRADUCTION] « propositions supérieures » qui permettait aux vendeurs d'accepter des offres supérieures non-sollicitées — Pétitionnaires ont déposé une requête en vue d'obtenir une ordonnance d'approbation et d'acquisition portant sur la convention — C a fait une offre supérieure non-sollicitée — Vendeurs ont élaboré un processus de soumissions supplémentaire permettant à C et N de présenter leurs meilleures offres finales — Vendeurs ont accepté l'offre supérieure de N et ont signé une convention d'achat d'actions révisée avec N — Pétitionnaires ont déposé une requête modifiée en vue de l'émission d'une ordonnance d'approbation et d'acquisition portant sur la convention révisée — Décision a été rendue à la suite du dépôt de la requête modifiée par les pétitionnaires — Requête a été accordée — Processus de vente a été équitable, raisonnable et efficace au regard de l'art. 36(3)a) de la Loi sur les arrangements avec les créanciers des compagnies — Il n'existait aucune obligation juridique de faire approuver la vente à l'avance — Vendeurs n'avaient pas l'obligation d'accepter l'offre supérieure non-sollicitée de C et de mettre fin à la convention initiale — Convention initiale autorisait les vendeurs à y mettre fin, mais ne l'exigeait pas — Processus de soumissions supplémentaire des vendeurs était très raisonnable et équitable, et dans le meilleur intérêt des créanciers — N a présenté son offre en conformité avec les règles, donc il n'y avait pas d'erreur fondamentale dans le processus qui aurait eu pour effet de rendre inégal l'accès des parties à l'information ou qui aurait fait en sorte qu'une partie modifie son offre après avoir eu connaissance d'autres offres.

Droit autochtone --- Divers

Vendeurs, qui représentaient la société mère et les filiales des pétitionnaires, voulaient vendre leurs intérêts dans les projets miniers de chromite dans le district minier du Cercle de Feu — Vendeurs ont signé avec N une convention d'achat d'actions prévoyant un mécanisme de [TRADUCTION] « propositions supérieures » qui permettait aux vendeurs d'accepter des offres supérieures non-sollicitées — Pétitionnaires ont déposé une requête en vue d'obtenir une ordonnance d'approbation et d'acquisition portant sur la convention — Bandes de Premières Nations ont soulevé une objection à l'encontre de la requête — Suite à l'offre supérieure et non-sollicitée de C et au processus de soumissions supplémentaire, vendeurs ont accepté l'offre supérieure de N et ont signé une convention d'achat d'actions révisée avec N — Vendeurs ont accepté l'offre supérieure de

N et ont signé une convention d'achat d'actions révisée avec N — Pétitionnaires ont déposé une requête modifiée en vue de l'émission d'une ordonnance d'approbation et d'acquisition portant sur la convention révisée, mais les bandes de Premières Nations ont maintenu leur objection — Décision a été rendue à la suite du dépôt de la requête modifiée par les pétitionnaires — Requête a été accordée — On ignorait ce que les bandes de Premières Nations savaient du processus de vente et dans quelle mesure elles auraient pu y participer — Il n'existait aucun élément de preuve laissant croire que les bandes auraient pu, d'elles-mêmes, faire une offre sérieuse ou qu'elles auraient pu s'entendre avec une partie au processus qui n'était pas déjà identifiée — Hypothèse selon laquelle les Premières Nations auraient pu présenter une offre supérieure à l'offre de N relevait de la pure spéculation — Vente d'actions d'une partie privée à une autre partie privée n'a pas déclenché l'obligation de consulter les Premières Nations — Il était difficile d'imaginer comment l'octroi de deux ou trois points de pourcentage en termes de redevances pouvait avoir un impact sur les droits des bandes de Premières Nations.

Procédure civile --- Parties — Intérêt pour agir

Objections des parties n'ont pas été rejetées en raison de leur manque d'intérêt ou d'intérêt pour agir.

Table of Authorities

Cases considered by *Hamilton J.C.S.*:

AbitibiBowater Inc., Re (2009), 2009 QCCS 6460, 2009 CarswellQue 14189 (C.S. Que.) — followed

AbitibiBowater Inc., Re (2010), 2010 QCCS 1742, 2010 CarswellQue 4082, 71 C.B.R. (5th) 220 (C.S. Que.) — considered

Anvil Range Mining Corp., Re (1998), 1998 CarswellOnt 5319, 7 C.B.R. (4th) 51 (Ont. Gen. Div. [Commercial List]) — considered

Aveos Fleet Performance Inc./Aveos performance aéronautique inc., Re (2012), 2012 QCCS 4074, 2012 CarswellQue 8620 (C.S. Que.) — considered

BDC Venture Capital Inc. v. Natural Convergence Inc. (2009), 2009 ONCA 665, 2009 CarswellOnt 5535, 57 C.B.R. (5th) 186 (Ont. C.A.) — referred to

Boutiques San Francisco Inc., Re (2004), 2004 CarswellQue 753, [2004] R.J.Q. 965, 5 C.B.R. (5th) 197 (C.S. Que.) — referred to

Canadian Airlines Corp., Re (2000), 2000 ABQB 442, 2000 CarswellAlta 662, [2000] 10 W.W.R. 269, 20 C.B.R. (4th) 1, 84 Alta. L.R. (3d) 9, 9 B.L.R. (3d) 41, 265 A.R. 201 (Alta. Q.B.) — considered

Canadian Red Cross Society / Société Canadienne de la Croix-Rouge, Re (1998), 1998 CarswellOnt 3346, 5 C.B.R. (4th) 299, 72 O.T.C. 99 (Ont. Gen. Div. [Commercial List]) — considered

Carrier Sekani Tribal Council v. British Columbia (Utilities Commission) (2010), 2010 SCC 43, 2010 CarswellBC 2867, 2010 CarswellBC 2868, 96 R.P.R. (4th) 1, [2010] 11 W.W.R. 577, 54 C.E.L.R. (3d) 1, 9 B.C.L.R. (5th) 205, (sub nom. *Rio Tinto Alcon Inc. v. Carrier Sekani Tribal Council*) [2010] 4 C.N.L.R. 250, 406 N.R. 333, 325 D.L.R. (4th) 1, 11 Admin. L.R. (5th) 246, 293 B.C.A.C. 175, 496 W.A.C. 175, (sub nom. *Rio Tinto Alcon Inc. v. Carrier*

Sekani Tribal Council) [2010] 2 S.C.R. 650, (sub nom. *Rio Tinto Alcon Inc. v. Carrier Sekani Tribal Council*) 225 C.R.R. (2d) 75 (S.C.C.) — followed

Consumers Packaging Inc., Re (2001), 2001 CarswellOnt 3482, 27 C.B.R. (4th) 197, 150 O.A.C. 384, 12 C.P.C. (5th) 208, [2001] O.T.C. 459 (Ont. C.A.) — referred to

Crown Trust Co. v. Rosenberg (1986), 60 O.R. (2d) 87, 22 C.P.C. (2d) 131, 39 D.L.R. (4th) 526, 67 C.B.R. (N.S.) 320 (note), 1986 CarswellOnt 235 (Ont. H.C.) — considered

Haida Nation v. British Columbia (Minister of Forests) (2004), 2004 SCC 73, 2004 CarswellBC 2656, 2004 CarswellBC 2657, 245 D.L.R. (4th) 33, 19 Admin. L.R. (4th) 195, 11 C.E.L.R. (3d) 1, [2005] 1 C.N.L.R. 72, 26 R.P.R. (4th) 1, [2005] 3 W.W.R. 419, [2004] 3 S.C.R. 511, 36 B.C.L.R. (4th) 282, 327 N.R. 53, 206 B.C.A.C. 52, 338 W.A.C. 52, 2004 CSC 73 (S.C.C.) — followed

Skeena Cellulose Inc., Re (2002), 2002 BCSC 597, 2002 CarswellBC 1021, 34 C.B.R. (4th) 298 (B.C. S.C. [In Chambers]) — considered

Skydome Corp., Re (1998), 1998 CarswellOnt 5922, 16 C.B.R. (4th) 118 (Ont. Gen. Div. [Commercial List]) — considered

Skyepharma PLC v. Hyal Pharmaceutical Corp. (2000), 2000 CarswellOnt 466, 47 O.R. (3d) 234, 130 O.A.C. 273, 15 C.B.R. (4th) 298 (Ont. C.A.) — referred to

Terrace Bay Pulp Inc., Re (2012), 2012 ONSC 4247, 2012 CarswellOnt 9470, 92 C.B.R. (5th) 40 (Ont. S.C.J. [Commercial List]) — considered

White Birch Paper Holding Co., Re (2010), 2010 QCCS 4915, 2010 CarswellQue 10954, 72 C.B.R. (5th) 49 (C.S. Que.) — followed

White Birch Paper Holding Co., Re (2011), 2011 QCCS 7304, 2011 CarswellQue 15194 (C.S. Que.) — considered

White Birch Paper Holding Co., Re (2010), 2010 QCCA 1950, 2010 CarswellQue 11534, 72 C.B.R. (5th) 74 (C.A. Que.) — referred to

Statutes considered:

Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3

Generally — referred to

Bankruptcy Code, 11 U.S.C.

Chapter 15 — referred to

Code civil du Québec, L.Q. 1991, c. 64

en général — referred to

Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36

Generally — referred to

s. 36 — considered

s. 36(1) — considered

s. 36(3) — considered

s. 36(3)(a) — considered

s. 36(6) — considered

Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11, reprinted R.S.C. 1985, App. II, No. 44

s. 35 — considered

Personal Property Security Act, R.S.B.C. 1996, c. 359

Generally — referred to

Personal Property Security Act, R.S.O. 1990, c. P.10

Generally — referred to

Hamilton J.C.S.:

1 The Petitioners have made an Amended Motion for the Issuance of an Approval and Vesting Order with respect to the Sale of the Chromite Shares (#82 on the plunitif; the original motion was #65). Objections were filed by (1) six First Nation bands (#85, as amended at the hearing) and (2) 8901341 Canada Inc. and Canadian Development and Marketing Corporation (together, CDM) (#87).

CONTEXT

2 On January 27, 2015, Mr. Justice Castonguay issued an Initial Order placing the Petitioners and the Mises-en-cause under the protection of the *Companies' Creditors Arrangement Act*.¹ The ultimate parent of the Petitioners and the Mises-en-cause is Cliffs Natural Resources Inc. (Cliffs), which is neither a Petitioner nor a Mise-en-cause.

3 The Petitioner Cliffs Québec Iron Mining ULC (CQIM) owns, through two subsidiaries, a 100% interest in the Black Thor and Black Label chromite mining projects and a 70% interest in the Big Daddy chromite mining project. All three projects form part of the Ring of Fire, a mining district in northern Ontario.

4 Other entities related to Cliffs but which are not parties to the CCAA proceedings own other mining interests in the Ring of Fire.

5 The proposed transaction with respect to which the Petitioners are seeking an approval and vesting order involves the sale of those various interests, including in particular the sale of CQIM's shares in the subsidiaries described above.

6 Cliffs and its affiliates paid approximately US\$350 million to acquire their interests in the Ring of Fire projects, and invested a further US\$200 million in developing these projects.

7 By 2013, Cliffs had suspended all activities related to the Ring of Fire and began making general inquiries with potential interested parties with a view to selling its interests in the Ring of Fire. No material interest resulted from these efforts.

8 By September 2014, Cliffs's desire to sell its interests in the Ring of Fire was publicly known.² It hired Moelis & Company LLC to assist with the sale process for various assets including the Ring of Fire in October 2014.³

9 The sale process will be described in greater detail below. It resulted in the execution of a letter of intent with Noront on February 13, 2015.⁴

10 While the sellers were negotiating the Share Purchase Agreement with Noront, CDM sent an unsolicited letter of intent to acquire the Ring of Fire interests on March 14, 2015.⁵ That letter of intent was analyzed by the sellers, Moelis and the Monitor and was rejected.⁶ Two revised letters of intent followed and were also rejected.⁷

11 The sellers executed the initial Share Purchase Agreement with Noront on March 22, 2015, which provided for a price of US \$20 million.⁸ Noront issued a press release describing the transaction on March 23, 2015.⁹

12 The initial SPA provided in Section 7.1 a "Superior Proposal" mechanism that allowed the sellers to accept an unsolicited and superior offer from a third party.

13 On April 2, 2015, the Petitioners made a motion for the issuance of an approval and vesting order with respect to the initial SPA. Four First Nations bands who live and exercise their Aboriginal and treaty rights in and on the land and territories surrounding the Ring of Fire filed an objection to the motion. CDM did not. Instead, on April 13, 2015, CDM made an unsolicited offer for the interests in the Ring of Fire which included a purchase price of US \$23 million.¹⁰

14 CDM's offer was considered by the sellers, Moelis and the Monitor to be a "Superior Proposal" as defined in Section 7.1 of the initial SPA. As a result, they advised Noront,¹¹ which expressed an interest in making a new offer.

15 The sellers, after consulting Moelis and the Monitor, developed the Supplemental Bid Process to give each party the chance to submit its best and final offer.¹²

16 Both Noront and CDM participated in the Supplemental Bid Process and submitted new offers, with Noront's offer at US \$27.5 million and CDM's at US \$25.275 million.¹³

17 The sellers accepted the Noront offer and entered into a revised SPA with Noront on April 17, 2015.¹⁴ The Petitioners then amended their motion to allege the additional facts since April 2, 2015 and to seek the issuance of an approval and vesting order with respect to the revised SPA.

18 The First Nation bands maintained their objection (#85)¹⁵ and CDM filed a Declaration of Intervention and Contestation with respect to the amended motion (#87).

POSITION OF THE PARTIES

19 The Petitioners argue that the revised SPA should be approved because:

1. the marketing and sales process was fair, reasonable, transparent and efficient;
2. the price offered by Noront was the highest binding offer received in the process;
3. CQIM exercised its commercial and business judgment with assistance from Moelis;
4. the Monitor assisted and advised CQIM throughout the process and recommends the approval of the motion.

20 Moreover, they argue that no creditor has opposed the motion, and that the First Nations bands and CDM do not have legal standing to oppose the motion.

21 The Monitor and Noront supported the position put forward by the Petitioners.

22 The First Nations bands argued the following points:

1. they have a legitimate interest and standing to contest the motion as an "other interested party" under Section 36 of the CCAA, because they have Aboriginal and treaty rights that are affected by the change in control of the Ring of Fire interests;
2. there was a duty on the part of the sellers and their advisers to consult with and advise the First Nations bands about the sale process. Instead, the First Nations bands were ignored and did not even learn of the existence of the sale process until March 23, 2015;
3. the sale process was not open, fair or transparent and did not recognize the rights of the First Nations bands;
4. there was no sales process order; and
5. there is no urgency and they should be given the opportunity to present an offer.

23 Finally, CDM argued as follows:

1. the sellers were required to accept the "Superior Proposal" made by CDM on April 13, 2015;
2. the Supplemental Bid Process did not treat the two parties fairly;
3. the Monitor's support of the process is not determinative;
4. it had the necessary interest to intervene in the CCAA proceedings and contest the motion.

ISSUES

24 The Court will analyze the following issues:

1. Was the sale process "fair, reasonable, transparent and efficient"?

In the context of the analysis of this issue, the Court will consider various sub-issues, including the business judgement rule, the importance of the Monitor's recommendation, and the interpretation of Section 7.1 of the initial SPA.

2. Do the First Nations bands have other grounds on which to object to the proposed transaction?
3. Do the First Nations bands and CDM have legal standing to raise these issues?

ANALYSIS

Was the sale process "fair, reasonable, transparent and efficient"?

25 Section 36 of the CCAA provides in part as follows:

36. (1) A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

...

- (3) In deciding whether to grant the authorization, the court is to consider, among other things,
 - (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
 - (b) whether the monitor approved the process leading to the proposed sale or disposition;

(c) whether the monitor filed with the court a report stating that in their 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.

(6) The court may authorize a sale or disposition free and clear of any security, charge or other restriction and, if it does, it shall also order that other assets of the company or the proceeds of the sale or disposition be subject to a security, charge or other restriction in favour of the creditor whose security, charge or other restriction is to be affected by the order.

...

26 The criteria in Section 36(3) of the CCAA have been held not to be cumulative or exhaustive. The Court must look at the proposed transaction as a whole and decide whether it is appropriate, fair and reasonable:

[48] The elements which can be found in Section 36 CCAA are, first of all, not limitative and secondly they need not to be all fulfilled in order to grant or not grant an order under this section.

[49] The Court has to look at the transaction as a whole and essentially decide whether or not the sale is appropriate, fair and reasonable. In other words, the Court could grant the process for reasons others than those mentioned in Section 36 CCAA or refuse to grant it for reasons which are not mentioned in Section 36 CCAA.¹⁶

27 Further, in the context of one of the asset sales in *AbitibiBowater*, Mr. Justice Gascon, then of this Court, adopted the following list of relevant factors:

[36] The Court has jurisdiction to approve a sale of assets in the course of CCAA proceedings, notably when such a sale of assets is in the best interest of the stakeholders generally.

[37] In determining whether to authorize a sale of assets under the CCAA, the Court should consider, amongst others, the following key factors:

- have sufficient efforts to get the best price been made and have the parties acted providently;

- the efficacy and integrity of the process followed;
- the interests of the parties; and
- whether any unfairness resulted from the working out process.

[38] These principles were enunciated in *Royal Bank v. Soundair Corp.* They are equally applicable in a CCAA sale situation.¹⁷

28 The Court must give due consideration to two further elements in assessing whether the sale should be approved under Section 36 CCAA:

1. the business judgment rule:

[70] That being so, it is not for this Court to second-guess the commercial and business judgment properly exercised by the Petitioners and the Monitor.

[71] A court will not lightly interfere with the exercise of this commercial and business judgment in the context of an asset sale where the marketing and sale process was fair, reasonable, transparent and efficient. This is certainly not a case where it should.¹⁸

2. the weight to be given to the recommendation of the Monitor:

The recommendation of the Monitor, a court-appointed officer experienced in the insolvency field, carries great weight with the Court in any approval process. Absent some compelling, exceptional factor to the contrary, a Court should accept an applicant's proposed sale process where it is recommended by the Monitor and supported by the stakeholders.¹⁹

29 Debtors often ask the Court to authorize the sale process in advance. This has the advantage of ensuring that the process is clear and of reducing the likelihood of a subsequent challenge. In the present matter, the Petitioners did seek the Court's authorization with respect to a sale process for their other assets, but they did not seek the Court's authorization with respect to the sale process for the Ring of Fire interests because that sale process was already well under way before the CCAA filing. There is no legal requirement that the sale process be approved in advance, but it creates the potential for the process being challenged after the fact, as in this case.

30 The Court will therefore review the sale process in light of these factors.

(1) From October 2014 to the execution of the Noront letter of intent on February 13, 2015

31 The sale process began in earnest in October 2014 when Cliffs engaged Moelis.

32 Moelis identified a group of eighteen potential buyers and strategic partners, with the assistance of CQIM and Cliffs. The group included traders, resource buyers, financial sector participants, local strategic partners, and market participants, as well as parties who had previously expressed an interest in the Ring of Fire.

33 Moelis began contacting the potential interested parties to solicit interest in purchasing the Ring of Fire project. It sent a form of non-disclosure agreement to fifteen parties. Fourteen executed the agreement and were given access to certain confidential information.

34 Negotiations ensued with seven of the interested parties, and six were given access to the data room that was established in November 2014.

35 By January 21, 2015, non-binding letters of intent were received from Noront and from a third party. There were also two verbal expressions of interest, but neither resulted in a letter of intent.

36 The Noront letter of intent was determined by the sellers in consultation with Moelis and the Monitor to be the better offer. Moelis then contacted all parties who had indicated a preliminary level of interest to give them the opportunity to submit a letter of intent in a price range superior to the Noront letter of intent, but no such letter was received.

37 Negotiations continued with Noront and a letter of intent was executed with Noront on February 13, 2015.²⁰

38 With respect to this portion of the process, CDM does not raise any issue but the First Nations bands complain that they were not included in the list of potential interested parties and were not otherwise consulted.

39 The Court will discuss the special status of the First Nations bands in the next section of this judgment. At this stage, it is sufficient to note that the sale process must be reasonable, but is not required to be perfect. Even if the initial list of eighteen potential buyers and strategic partners omitted some potential buyers, this is not a basis for the Court to intervene, provided that the sellers, with Moelis and the Monitor, took reasonable steps.²¹ The Court is satisfied that this test was met.

(2) From letter of intent to initial SPA

40 Between February 13, 2015 and March 22, 2015, the sellers negotiated the SPA with Noront and signed the initial SPA. In that same period, CDM expressed an interest in the Ring of Fire interests and sent three separate offers, all of which were refused by the sellers.

41 CDM does not contest the reasonability of the sellers' actions in this period. In fact, CDM did not contest the original motion to approve the initial SPA, but chose instead to make a new offer.

(3) The initial SPA and the "Superior Proposal"

42 The initial SPA with Noront dated March 22, 2015 provided for a purchase price of US \$20 million.

43 Section 7.1 of the initial SPA allowed the sellers to pursue a "Superior Proposal", defined as an unsolicited offer from a third party which appeared to be more favourable to the sellers. In that eventuality, the sellers had the right to terminate the initial SPA upon reimbursing Noront's expenses up to \$250,000.

44 CDM made a new offer on April 13, 2015.²² The sellers, in consultation with their advisers and the Monitor, concluded that it was a Superior Proposal.

45 CDM argues that in those circumstances, the sellers had the obligation to terminate the initial SPA and to accept the CDM offer.

46 The Court does not agree.

47 On its face, the language in Section 7.1 is permissive and not mandatory. It says that the sellers "may" terminate the initial SPA and enter into an agreement with the new offeror. It does not require them to do so.

48 CDM argued that Section 7.1 does not provide for a right to match, which is found in other agreements of this nature. That may be true, but a right to match is different. Specific language would be necessary to contractually require the sellers to accept an offer from Noront that matched the new offer. No language was required to give Noront the right to make a new offer. Further, specific language would be required to remove the possibility of Noront making a new offer. There is no such language. It would be surprising to find such language: why would Noront give up the right to make another offer, and why would the sellers prevent Noront from making another offer? Any such language would be to the detriment of the two contracting parties and for the exclusive benefit of an unknown third party. As the Monitor pointed out, Section 12.2 of the initial SPA specifies that the SPA is for the sole benefit of the parties and is not intended to give any rights, benefits or remedies to a third party.

49 As a result, the sellers had no obligation to accept the April 13 offer from CDM.

(4) The Supplemental Bid Process

50 Once the sellers, their advisers and the Monitor determined that the April 13 offer from CDM was a Superior Proposal, they had to decide how to manage the process. They had two interested parties and they decided to give them both the chance to make their best and final offer through a process that they created for the purpose, which is referred to as the Supplemental Bid Process. This was a very reasonable decision, in the best interests of the creditors, although probably not one that either offeror was very happy with.

51 The sellers, their advisers and the Monitor established a series of rules, and they sent the rules to the two offerors at the same time:

1. Each of the Bidders' best and final offer is to be delivered in the form of an executed Share Purchase Agreement (the "Final Bid"), together with a blackline mark-up against the March 22 SPA to show proposed changes.
2. Final Bids can remove section 7.1(d) and the related provisions of the March 22 SPA.
3. Final bids are to be received by Moelis by no later than 5:00 p.m. (Toronto time) on Wednesday, April 15, 2015 in accordance with paragraph 7 below.
4. Final Bids may be accompanied by a cover letter setting any additional considerations that the Bidder wishes to be considered in connection with its Final Bid but such cover letter should not amend or modify any of the terms and conditions contained in the executed SPA.
5. Final Bids will be reviewed by the Sellers in consultation with moelis and the Monitor. A determination of the Superior Proposal will be made as soon as practicable and communicated to the Bidders.
6. Any clarifications or other communications with respect to this process should be made in writing to the Sale Advisor, with a copy to the Monitor.
7. Final Bids are to be submitted to the Sale Advisor c/o Carlo De Giroloamo by email at **carlo.degirolamo@moelis.com**.
8. All initially capitalized terms used herein unless otherwise defined shall have the meanings given to them in the March 22 SPA.²³

52 They declined a request from Noront to modify the rules.²⁴

53 Both Noront and CDM decided to participate in the Supplemental Bid Process and both submitted offers.

54 All parties agree that the CDM offer was in compliance with the rules of the Supplemental Bid Process.

55 Noront's offer was received at 5:00 p.m. on April 15.²⁵ CDM argues that the offer was not in compliance with the rules:

- The cover email states that final approvals are still required (presumably from Franco-Nevada which was advancing the funds for the transaction and Resource Capital Fund (RCF) which was the principal lender to Noront) and that Noront expected to receive them within the next hour;
- The cover letter was not signed;
- The cover letter stated that the revised offer was effective only if the sellers received another offer; and
- The email did not include an executed SPA, but only a blackline mark-up of the SPA.

56 Subsequent to 5:00 p.m., Noront completed the requirements:

- At 5:34 p.m., Noront sent a signed cover letter. A paragraph was added to explain that "certain representations and warranties and conditions to the advance of the loan with Franco-Nevada have been reduced in order to provide certainty on Noront's financing" and that the signature pages for the SPA and the fully executed loan agreement would be sent separately;²⁶
- At 8:50 p.m., Noront's counsel sent the executed SPA and the amended and restated loan agreement. The executed SPA included some changes described as "cleanup" and "not substantive" since 5:00 p.m. Among those changes, Noront deleted RCF from Exhibit C (Required Consents), suggesting that it had obtained that consent;²⁷
- At 10:00 p.m., Moelis asked Noront for confirmation of the RCF consent and an executed copy of it, an explanation for the source of the additional funds, and clarification of the deadline for the vesting order;²⁸
- At 10:35 p.m., Noront provided the executed RCF consent and an explanation of the funding;²⁹ and
- At 1:25 p.m. on April 16, Noront agreed to extend the date for the vesting order from April 20 to April 27.³⁰

57 The Noront offer was the higher of the two offers in terms of the purchase price. The issue is whether these issues are such as to invalidate the process such that the Court should require the sellers to start over.

58 The Court considers that these issues are relatively minor and that they do not invalidate the process:

- Noront submitted its offer on time;
- The offer was not amended in any substantive way after 5:00 p.m. In particular, the purchase price was not amended;
- The lack of a signature on the cover letter was irrelevant;
- The condition that the revised offer was effective only if the sellers received another offer had already been fulfilled before Noront submitted its offer. Noront did not know this, but the sellers, Moelis and the Monitor did;
- The missing third party consents were not within Noront's control. Noront said at 5:00 p.m. that it expected to receive them within the next hour. In fact, it provided the consents to Moelis at 8:50 p.m.;
- The executed SPA was provided at 8:50 p.m. The delay appears to be related to the missing consents. There is no evidence that Noront was using this as a means to preserve an out from the offer; and
- The questions with respect to the source of the funding and the date were clarifications requested by Moelis for its evaluation of the offer and were not elements missing from the offer.

59 This is not a case where there is a fundamental flaw in the process, such as the parties having unequal access to information or one party seeking to amend its offer after it had knowledge of the other offers. The process was fair. It was not perfect, but the Courts do not require perfection.

(5) Conclusion

60 As a result, the Court concludes that the sale process was reasonable within Section 36(3) (a) of the CCAA. Moreover, the other factors in Section 36(3) favour the approval of the sale:

- The monitor approved the process and was involved throughout;
- The monitor filed a report with the Court in which he recommends the approval of the sale;

- The creditors were not consulted, but the motion and amended motion were served on the service list and no creditor has objected to the sale;
- The consideration appears to be fair, given that it is the result of a reasonable process. The Court gives weight to the business judgment of the sellers and their advisers.

61 For all of these reasons, the Court dismisses CDM's contestation of the motion.

62 There remain the issues raised by the First Nations bands.

2. Do the First Nations bands have other grounds on which to object to the transaction?

63 The First Nations bands raise issues of two natures.

64 First, they argue that they were denied the opportunity to participate in the sale process and they ask for time to examine the possibility of presenting an offer for the Ring of Fire interests.

65 Second, they argue that the transaction has an impact on their Aboriginal and treaty rights protected under Section 35 of the *Constitution Act, 1982*.

66 The Court has already concluded that the process of identifying potential buyers and strategic partners was reasonable.

67 Further, it is not clear to what extent the First Nations bands had knowledge of the sale process and could have participated. The September 17, 2014 newspaper article says that Cliffs is exploring alternatives including the possibility of selling its Ring of Fire interests.³¹ That article refers to a letter which was sent to the First Nations bands in the area which again would have referred to a possible sale.

68 At the very latest, they knew about the potential sale when a press release was published on March 23, 2015.

69 Moreover, in its materials, CDM alleged that its final offer on April 15 "had the support of two of the most impacted First Nations communities",³² which suggests that the First Nations bands had at least some involvement in the sale process.

70 Nevertheless, the interest of the First Nations bands remains at a very preliminary level. Although the First Nations bands say that they have hired a financial adviser and that they want a delay to analyze the possibility of making an offer for the Ring of Fire interests, whether on their own or with a partner, there is no evidence to suggest that the bands on their own would make a serious offer, or that they would partner with a party that was not already identified by Moelis and included in the process. It is pure speculation as to whether they will ever present an offer in

excess of the Noront offer. The Courts have rejected firm offers for greater amounts received after the sale process has concluded.³³ The Courts should also refuse to stop the sale process because a party arriving late might be interested in presenting an offer which might be better than the offer on the table.

71 The First Nations bands also plead that they have a special interest in this transaction because they live and exercise their Aboriginal and treaty rights guaranteed by the Constitution on the land and territories surrounding the Ring of Fire.

72 For the purposes of this motion, the Court will assume that to be true. It is nevertheless unclear to what extent a change of control of the corporations which own the interests in the Ring of Fire project impacts on those rights. The identity of the shareholders of the corporations does not change the rights of the First Nations bands or the obligations of the corporations in relation to the development of the project.

73 The First Nations bands pointed to two specific issues.

74 First, they argued that there was a duty to consult which was not respected. It is clear that as a matter of constitutional law, there is a duty to consult. It is equally clear that this duty lies on the Crown, not on private parties.³⁴ As a result, the Crown has a duty to consult when it acts, including when it sells shares in a corporation with interests that impact on the rights of the First Nations.³⁵ However, a sale of shares from one private party to another does not trigger the duty to consult. The First Nations bands also produced the Regional Framework Agreement between nine First Nation bands in the Ring of Fire area, including the six objectors, and the Ontario Crown.³⁶ Cliffs was not a party to this agreement, and the sale of the sellers' interests in the Ring of Fire project does not affect any party's rights and obligations under the agreement. It is indeed unfortunate that the First Nations bands were not included in the sale process, because they will have an important role to play in the development of the Ring of Fire. But the failure to include them was not a breach of the duty to consult or of the Regional Framework Agreement.

75 Second, the First Nations bands gave as an example of how the proposed transaction might prejudice their rights a royalty arrangement which Noront appears to have entered into with Franco-Nevada as part of the financing for the proposed transaction. The press release announcing the initial transaction on March 23, 2015 provided:

Franco-Nevada will receive a 3% royalty over the Black Thor chromite deposit and a 2% royalty over all of Noront's property in the region with the exception of Eagle's Nest, which is excluded.³⁷

76 Assuming that the financing arrangements for the final transaction include a similar provision, which seems likely, the Court is unconvinced that it should refuse the approval of the transaction for this reason.

77 It is difficult to see how granting a 2 or 3% royalty impacts the rights of the First Nations bands, unless it is their position that they are entitled to a royalty of more than 97%. They did not advance such an argument during the hearing.

78 Further, the Court is not being asked to approve the financing arrangements between Noront and Franco-Nevada. If there is something in those financing arrangements that infringes on the rights of the First Nations bands, their rights and their remedies are not affected by the order that the Court is being asked to issue today.

79 For all of these reasons, the Court dismisses the objection made by the First Nations bands.

3. Interest or Standing

80 For the reasons set out above, the Court will dismiss CDM's contestation and the objection made by the First Nations bands. In principle, it is not necessary to deal with the issue of interest or standing. Also, given that the Court was given only a short delay to draft this judgment, it might not be wise to get too far into the issue.

81 However, all parties pleaded the question at length and the Court will therefore deal with it.

82 The Ontario authorities supporting the position that the "bitter bidder" has no interest or standing to challenge the approval motion are clear³⁸ and they have been followed in Québec.³⁹

83 However, the issues which the Court must consider before approving a sale include the reasonableness of the sale process, which involves questions of the fairness and the integrity of the process.

84 A losing bidder is not seeking to promote the best interests of the creditors, but is looking to promote its own interest. It will seek to raise these issues, not because it has any particular interest in fairness or integrity, but because it lost and it wants a second kick at the proverbial can. The narrow technical ground on which the losing bidder is found to have no interest is that it has no legal or proprietary right in the property being sold.⁴⁰ The underlying policy reason is that the losing bidder is a distraction, with the potential for delay and additional expense.

85 However, if the losing bidder is excluded from the process, who will raise the issues of fairness and integrity? The creditors will not do so, because their interest is limited to getting the

best price. Where there is a subsequent higher bid, their interest will be in direct conflict with the integrity of the sale process.

86 Perhaps the way to reconcile all of this is to exclude the losing bidder from the Court approval process and instead require the losing bidder to make its complaints and objections to the monitor. The monitor would then be required to report to the Court on any such complaints and objections. In this case, the Monitor's Fourth Report deals with the objection of the First Nations bands in fair and objective manner. However, because CDM filed its intervention after the Monitor filed his report, the Monitor's Fourth Report does not deal with the issues raised by CDM. In that sense, the CDM intervention was useful to the Court in exercising its jurisdiction under Section 36 of the CCAA.

87 The objection of the First Nations bands went beyond their status as losing bidders or excluded bidders, and included issues related to their Aboriginal and treaty rights guaranteed by the Constitution.

88 The case law on the interest or standing of the "bitter bidder" and the policy considerations underlying that case law have no application to these issues. The interest of the First Nations bands is closer to the interest of "social stakeholders" that have been recognized in a number of cases.⁴¹

89 Although the Court will dismiss the objections raised by the First Nations bands and CDM, it will not do so on grounds of a lack of interest or standing.

FOR THESE REASONS, THE COURT HEREBY:

90 *GRANTS* the Petitioners' Amended Motion for the Issuance of an Approval and Vesting Order (#82).

91 *ORDERS* that all capitalized terms in this Order shall have the meaning given to them in the Share Purchase Agreement dated as of March 22, 2015, as amended and restated as of April 17, 2015 (the "*Share Purchase Agreement*") by and among Petitioner Cliffs Québec Iron Mining ULC ("*CQIM*"), Cliffs Greene B.V., Cliffs Netherlands B.V. and the Additional Sellers, as vendors, Noront Resources Ltd., as parent, and 9201955 Canada Inc., as purchaser (the "*Purchaser*"), a redacted copy of which was filed as Exhibit R-11 to the Motion, unless otherwise indicated herein.

SERVICE

92 *ORDERS* that any prior delay for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

93 *PERMITS* service of this Order at any time and place and by any means whatsoever.

SALE APPROVAL

94 *ORDERS and DECLARES* that the transaction (the "*Transaction*") contemplated by the Share Purchase Agreement is hereby approved, and the execution of the Share Purchase Agreement by CQIM is hereby authorized and approved, *nunc pro tunc*, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to but only with the consent of the Monitor.

95 *AUTHORIZES and DIRECTS* the Monitor to hold the Deposit, *nunc pro tunc*, and to apply, disburse and/or deliver the Deposit or the applicable portions thereof in accordance with the provisions of the Share Purchase Agreement.

EXECUTION OF DOCUMENTATION

96 *AUTHORIZES and DIRECTS* CQIM and the Monitor to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in or contemplated by the Share Purchase Agreement (Exhibit R-12) and any other ancillary document which could be required or useful to give full and complete effect thereto.

AUTHORIZATION

97 *ORDERS and DECLARES* that this Order shall constitute the only authorization required by CQIM to proceed with the Transaction and that no shareholder approval, if applicable, shall be required in connection therewith.

VESTING OF THE AMALCO SHARES

98 *ORDERS and DECLARES* that upon the issuance of a Monitor's certificate substantially in the form appended as *Schedule "A"* hereto (the "*Certificate*"), all of CQIM's right, title and interest in and to the Amalco Shares shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all right, title, benefits, priorities, claims (including claims provable in bankruptcy in the event that CQIM should be adjudged bankrupt), liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, security interests (whether contractual, statutory or otherwise), liens, charges, hypothecs, mortgages, pledges, trusts, deemed trusts (whether contractual, statutory, or otherwise), assignments, judgments, executions, writs of seizure or execution, notices of sale, options, agreements, rights of distress, legal, equitable or contractual setoff, adverse claims, levies, taxes, disputes, debts, charges, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise (collectively, the "*Encumbrances*") by or of any

and all persons or entities of any kind whatsoever, including without limiting the generality of the foregoing (i) any Encumbrances created by the Initial Order of this Court dated January 27, 2015 (as amended on February 20, 2015 and as may be further amended from time to time), and (ii) all charges, security interests or charges evidenced by registration, publication or filing pursuant to the Civil Code of Québec, the Ontario Personal Property Security Act, the British Columbia Personal Property Security Act or any other applicable legislation providing for a security interest in personal or movable property, and, for greater certainty, *ORDERS* that all of the Encumbrances affecting or relating to the Amalco Shares be expunged and discharged as against the Amalco Shares, in each case effective as of the applicable time and date of the Certificate.

99 *ORDERS and DIRECTS* the Monitor to file with the Court a copy of the Certificate, forthwith after issuance thereof.

100 *DECLARES* that the Monitor shall be at liberty to rely exclusively on the Conditions Certificates in issuing the Certificate, without any obligation to independently confirm or verify the waiver or satisfaction of the applicable conditions.

101 *AUTHORIZES and DIRECTS* the Monitor to receive and hold the Purchase Price and to remit the Purchase Price in accordance with the provisions of this Order.

102 *AUTHORIZES and DIRECTS* the Monitor to remit, following closing of the Transaction, that portion of the Purchase Price payable to the Non-Filing Sellers, to the Non-Filing Sellers in accordance with the Purchase Price Allocation described under Exhibit D of the Share Purchase Agreement (Exhibit R-12), as it may be amended by the Non-Filing Sellers, or as the Non-Filing Sellers may otherwise direct.

CANCELLATION OF SECURITY REGISTRATIONS

103 *ORDERS* the Québec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Certificate, to reduce the scope of or strike the registrations in connection with the Amalco Shares, listed in *Schedule "B"* hereto, in order to allow the transfer to the Purchaser of the Amalco Shares free and clear of such registrations.

104 *ORDERS* that upon the issuance of the Certificate, CQIM shall be authorized and directed to take all such steps as may be necessary to effect the discharge of all Encumbrances registered against the Amalco Shares, including filing such financing change statements in the Ontario Personal Property Registry ("*OPPR*") as may be necessary, from any registration filed against CQIM in the *OPPR*, provided that CQIM shall not be authorized or directed to effect any discharge that would have the effect of releasing any collateral other than the Amalco Shares, and CQIM shall be authorized to take any further steps by way of further application to this Court.

105 *ORDERS* that upon the issuance of the Certificate, CQIM shall be authorized and directed to take all such steps as may be necessary to effect the discharge of all Encumbrances registered against the Amalco Shares, including filing such financing change statements in the British Columbia Personal Property Security Registry (the "*BCPPR*") as may be necessary, from any registration filed against CQIM in the BCPPR, provided that CQIM shall not be authorized or directed to effect any discharge that would have the effect of releasing any collateral other than the Amalco Shares, and CQIM shall be authorized to take any further steps by way of further application to this Court.

CQIM NET PROCEEDS

106 *ORDERS* that the proportion of the Purchase Price payable to CQIM in accordance with the Share Purchase Agreement (the "*CQIM Net Proceeds*") shall be remitted to the Monitor and shall be held by the Monitor pending further order of the Court.

107 *ORDERS* that for the purposes of determining the nature and priority of the Encumbrances, the CQIM Net Proceeds shall stand in the place and stead of the Amalco Shares, and that upon payment of the Purchase Price by the Purchaser, all Encumbrances shall attach to the CQIM Net Proceeds with the same priority as they had with respect to the Amalco Shares immediately prior to the sale, as if the Amalco Shares had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

VALIDITY OF THE TRANSACTION

108 *ORDERS* that notwithstanding:

- a) the pendency of these proceedings;
- b) any petition for a receiving order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ("**BIA**") and any order issued pursuant to any such petition; or
- c) the provisions of any federal or provincial legislation;

the vesting of the Amalco Shares contemplated in this Order, as well as the execution of the Share Purchase Agreement pursuant to this Order, are to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against CQIM, the Purchaser or the Monitor, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

LIMITATION OF LIABILITY

109 *DECLARES* that, subject to other orders of this Court, nothing herein contained shall require the Monitor to take control, or to otherwise manage all or any part of the Purchased Shares. The Monitor shall not, as a result of this Order, be deemed to be in possession of any of the Purchased Shares within the meaning of environmental legislation, the whole pursuant to the terms of the CCAA.

110 *DECLARES* that no action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Monitor or belonging to the same group as the Monitor shall benefit from the protection arising under the present paragraph.

CONFIDENTIALITY

111 *ORDERS* that the unredacted Initial Purchase Agreement filed with the Court as Exhibit R-3, the summary of the two LOIs filed with the Court as Exhibit R-8, the unredacted Share Purchase Agreement filed with the Court as Exhibit R-12 and the unredacted blackline of the Share Purchase Agreement showing changes from the Initial Purchase Agreement filed with the Court as Exhibit R-16 shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

GENERAL

112 *DECLARES* that this Order shall have full force and effect in all provinces and territories in Canada.

113 *DECLARES* that the Monitor shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement this Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the Monitor shall be the foreign representative of the Petitioners and Mises-en-cause. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

114 *REQUESTS* the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body

elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

115 *ORDERS* the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

116 *THE WHOLE WITHOUT COSTS.*

Order accordingly.

APPENDIX

SCHEDULE "A"

FORM OF CERTIFICATE OF THE MONITOR

SUPERIOR COURT (Commercial Division)

C A N A D A

PROVINCE OF QUÉBEC

DISTRICT OF MONTRÉAL

File: No:

500-11-048114-157

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,
c. C-36, AS AMENDED:

BLOOM LAKE GENERAL PARTNER LIMITED

QUINTO MINING CORPORATION

8568391 CANADA LIMITED

CLIFFS QUEBEC IRON MINING ULC

Petitioners

-and-

THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP

BLOOM LAKE RAILWAY COMPANY LIMITED

Mises-en-cause

-and-

9201955 CANADA INC.

Mise-en-cause

-and-

THE REGISTRAR OF THE REGISTER OF PERSONAL AND MOVABLE REAL RIGHTS

Mise-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

CERTIFICATE OF THE MONITOR

RECITALS

A. Pursuant to an initial order rendered by the Honourable Mr. Justice Martin Catonguay, J.S.C., of the Superior Court of Québec, [Commercial Division] (the "*Court*") on January 27, 2015 (as amended on February 20, 2015 and as may be further amended from time to time, the "*Initial Order*"), FTI Consulting Canada Inc. (the "*Monitor*") was appointed to monitor the business and financial affairs of the Petitioners and the Mises-en-cause (together with the Petitioners, the "*CCAA Parties*").

B. Pursuant to an order (the "*Approval and Vesting Order*") rendered by the Court on <*>, 2015, the transaction contemplated by the Share Purchase Agreement dated as of March 22, 2015, as amended and restated as of April 17, 2015 (the "*Share Purchase Agreement*") by and among Petitioner Cliffs Québec Iron Mining ULC ("*CQIM*"), Cliffs Greene B.V., Cliffs Netherlands B.V. and the Additional Sellers (as defined therein), as vendors, Noront Resources Ltd., as parent, and 9201955 Canada Inc., as purchaser (the "*Purchaser*") was authorized and approved, with a view, *inter alia*, to vest in and to the Purchaser, all of CQIM's right, title and interest in and to the Amalco Shares.

C. Each capitalized term used and not defined herein has the meaning given to such term in the Share Purchase Agreement.

D. The Approval and Vesting Order provides for the vesting of all of CQIM's right, title and interest in and to the Amalco Shares in the Purchaser, in accordance with the terms of the Approval and Vesting Order and upon the delivery of a certificate (the "*Certificate*") issued by the Monitor confirming that the Sellers and the Purchaser have each delivered Conditions Certificates to the Monitor.

E. In accordance with the Approval and Vesting Order, the Monitor has the power to authorize, execute and deliver this Certificate.

F. The Approval and Vesting Order also directed the Monitor to file with the Court, a copy of this Certificate forthwith after issuance thereof.

THEREFORE, THE MONITOR CERTIFIES THE FOLLOWING:

A. The Sellers and the Purchaser have each delivered to the Monitor the Conditions Certificates evidencing that all applicable conditions under the Share Purchase Agreement have been satisfied and/or waived, as applicable.

B. The Closing Time is deemed to have occurred on at <TIME> on <*>, 2015.

THIS CERTIFICATE was issued by the Monitor at <TIME> on <*>, 2015.

FTI Consulting Canada Inc., in its capacity as Monitor of the CCAA Parties, and not in its personal capacity.

By:

Name:

Nigel Meakin

SCHEDULE "B"

REGISTRATIONS TO BE REDUCED OR STRICKEN

Nil.

[NTD: Updated searches will be run before motion is heard to confirm no registrations in Quebec.]

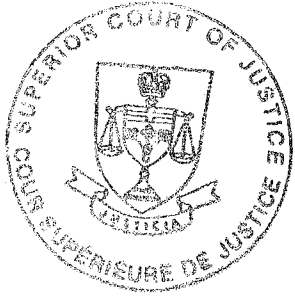
8453339.6

Footnotes

- 1 R.S.C. 1985, c. C-36, as amended.
- 2 An article from the Globe & Mail dated September 17, 2014 was produced as Exhibit R-7.
- 3 The CCAA Parties formally engaged Moelis by engagement letter dated March 23, 2015, and the Court approved the engagement of Moelis by order dated April 17, 2015.
- 4 Exhibit R-9.
- 5 Exhibit R-17.
- 6 Exhibit R-18.
- 7 Exhibits R-19 to R-22.
- 8 Exhibit R-3 (redacted) and R-4 (unredacted).
- 9 The press release was provided to the Court during argument and was not given an exhibit number.
- 10 Exhibit R-23.
- 11 Exhibit R-24.
- 12 Exhibits R-25 and R-26.
- 13 Exhibits R-29 and R-30.
- 14 Exhibit R-11 (redacted) and R-12 (unredacted).
- 15 It was amended at the hearing to add two First Nations bands as objectors.
- 16 *White Birch Paper Holding Co., Re*, [2010 QCCS 4915](#) (C.S. Que.) (leave to appeal refused: [2010 QCCA 1950](#) (C.A. Que.)), par. 48-49.
- 17 *AbitibiBowater Inc., Re*, [2009 QCCS 6460](#) (C.S. Que.), par. 36-38. See also *White Birch*, *supra* note 16, par. 53-54, and *Aveos Fleet Performance Inc./Aveos performance aéronautique inc., Re*, [2012 QCCS 4074](#) (C.S. Que.), par. 50.
- 18 *AbitibiBowater Inc., Re*, [2010 QCCS 1742](#) (C.S. Que.), par. 70-71. See also *White Birch Paper Holding Co., Re*, [2011 QCCS 7304](#) (C.S. Que.), par. 68-70.
- 19 *AbitibiBowater*, *supra* note 17, par. 59. See also *White Birch*, *supra* note 18, par. 73-74.
- 20 Exhibit R-9.
- 21 *Terrace Bay Pulp Inc., Re*, [2012 ONSC 4247](#) (Ont. S.C.J. [Commercial List]), par. 48.
- 22 Exhibit R-23.

- 23 Exhibits R-25 and R-26.
- 24 Exhibit CDM-1.
- 25 Exhibit R-30A.
- 26 Exhibit CDM-3.
- 27 Exhibit CDM-4.
- 28 Exhibit CDM-4.
- 29 Exhibit CDM-4.
- 30 Exhibit CDM-4.
- 31 Exhibit R-7.
- 32 Declaration of Intervention and Contestation (#87), par. 30.
- 33 See, for example, *Boutiques San Francisco Inc., Re*, [2004] R.J.Q. 965 (C.S. Que.), par. 11-25; *AbitibiBowater*, *supra* note 18, par. 72-73.
- 34 *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73 (S.C.C.), par. 35, 56; *Carrier Sekani Tribal Council v. British Columbia (Utilities Commission)*, 2010 SCC 43 (S.C.C.), par. 79.
- 35 *Skeena Cellulose Inc., Re*, 2002 BCSC 597 (B.C. S.C. [In Chambers]), par. 14.
- 36 Exhibit O-1.
- 37 *Supra*, note 9.
- 38 *Crown Trust Co. v. Rosenberg* [1986 CarswellOnt 235 (Ont. H.C.)], 1986 CanLII 2760, p. 43; *Skyepharma PLC v. Hyal Pharmaceutical Corp.*, [2000] O.J. No. 467 (Ont. C.A.), par. 24-26, 30; *Consumers Packaging Inc., Re* [2001 CarswellOnt 3482 (Ont. C.A.)], 2001 CanLII 6708, par. 7; *BDC Venture Capital Inc. v. Natural Convergence Inc.*, 2009 ONCA 665 (Ont. C.A.), par. 7-8.
- 39 *AbitibiBowater*, *supra* note 18, par. 81-88; *White Birch*, *supra* note 16, par. 55-56.
- 40 Purchasers generally do not have a proprietary interest in the property they are buying.
- 41 *Canadian Airlines Corp., Re*, 2000 ABQB 442 (Alta. Q.B.), par. 95; *Canadian Red Cross Society / Société Canadienne de la Croix-Rouge, Re* [1998 CarswellOnt 3346 (Ont. Gen. Div. [Commercial List])], 1998 CanLII 14907, par. 50; *Anvil Range Mining Corp., Re*, 1998 CarswellOnt 5319 (Ont. Gen. Div. [Commercial List]), par. 9; *Skydome Corp., Re*, 1998 CarswellOnt 5922 (Ont. Gen. Div. [Commercial List]), par. 6-7.

TAB 6



Court File No. CV-09-8396-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)

WEDNESDAY, THE 8th DAY

)

MADAM JUSTICE PEPALL)

OF SEPTEMBER, 2010

IN THE MATTER OF THE COMPANIES' CREDITORS'
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF CANWEST GLOBAL
COMMUNICATIONS CORP. AND THE OTHER APPLICANTS
LISTED ON SCHEDULE "A"

Applicants

**ORDER
(Approval and Vesting Order)**

THIS MOTION, made by Canwest Global Communications Corp. and the other Applicants listed on Schedule "A" hereto (collectively, the "Applicants") and the Partnerships listed on Schedule "B" hereto (the "Partnerships" and, together with the Applicants, the "CMI Entities"), for an order (the "Approval and Vesting Order"), *inter alia*, (i) approving the sale transaction (the "Transaction") contemplated by an Offer to Purchase by and between Ruth Zelcer (the "Purchaser") and 5313997 Manitoba Inc. (the "Vendor"), dated July 28, 2010, as amended by letter agreements dated August 5 and 6, 2010 (collectively, the "Offer to Purchase") and appended to the affidavit of John E. Maguire sworn September 1, 2010 (the "Maguire Affidavit"), and (ii) vesting in the Purchaser the rights, title and interest in the Condominium and the Included Goods and Chattels (both as defined in the Maguire Affidavit, and collectively the "Purchased Assets") of Canwest Media Inc. ("CMI"), the beneficial owner of the Purchased Assets, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the CMI Entities, the Maguire Affidavit and the Exhibits thereto, the Eighteenth Report of FTI Consulting Canada Inc. in its capacity as Court-appointed monitor of the CMI Entities (the "Monitor"), and on hearing from counsel for the CMI Entities, the Monitor, Shaw Communications Inc., the *ad hoc* committee of holders of 8% senior subordinated notes issued by CMI, CIBC Asset-Based Lending Inc. and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service, filed.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this Motion is properly returnable today and any further service of the Notice of Motion and the Motion Record is hereby dispensed with.

DEFINED TERMS

2. **THIS COURT ORDERS** that all capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed thereto in the Maguire Affidavit.

APPROVAL OF THE OFFER TO PURCHASE

3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved. The execution of the Offer to Purchase by the Vendor is hereby authorized and approved, with such amendments as the Vendor and the Purchaser, with the consent of the Monitor, may deem necessary. CMI and the Vendor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

PROCEEDS OF SALE

4. **THIS COURT ORDERS** that counsel for CMI will hold the proceeds from the sale of the Purchased Assets in trust until such time as such proceeds are payable to the Monitor in accordance with the terms of the Plan Emergence Agreement or further Order of this Court.

VESTING OF ASSETS

5. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule "C" hereto (the "Monitor's Certificate"), all of CMI's right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser and the Purchaser shall be the absolute owner of CMI's right, title and interest in and to the Purchased Assets, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order of the Honourable Justice Pepall dated October 6, 2009 or any other Order made in these proceedings; and (ii) all charges, security interests, liens or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Personal Property Security Act* (Manitoba), or any other personal or movable property registry system, (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "D") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to CMI's right, title and interest in and to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

6. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, as soon as reasonably practicable after delivery thereof to the Purchaser.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the CMI Entities and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of any of the CMI Entities;

the vesting of CMI's right, title and interest in and to the Purchased Assets in the Purchaser pursuant to this Approval and Vesting Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the CMI Entities and shall not be void or voidable by creditors of the CMI Entities, nor shall it constitute nor be deemed to be a preference, fraudulent conveyance, transfer at undervalue, or other challengeable or voidable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario) and any equivalent or applicable legislation under any other province or territory in Canada and is exempt from the application of section 6 of the *Retail Sales Tax Act* (Ontario) and any equivalent or corresponding provision under any other applicable tax legislation.

AID AND RECOGNITION

9. **THIS COURT ORDERS** that this Approval and Vesting Order shall have full force and effect in all provinces and territories in Canada against all persons, firms, corporations, governmental, municipal and regulatory authorities against whom it may otherwise be enforceable.

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, including but not limited to the Province of Manitoba, or in the United States, including the United States Bankruptcy Court for the Southern District of New York, to give effect to this Approval and Vesting Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance as may be necessary or desirable to give effect to this Approval and Vesting Order.

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ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

SEP 08 2010

PER / PAR:

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Schedule "A"

Applicants

1. Canwest Global Communications Corp.
2. Canwest Media Inc.
3. MBS Productions Inc.
4. Yellow Card Productions Inc.
5. Canwest Global Broadcasting Inc./Radiodiffusion Canwest Global Inc.
6. Canwest Television GP Inc.
7. Fox Sports World Canada Holdco Inc.
8. Global Centre Inc.
9. Multisound Publishers Ltd.
10. Canwest International Communications Inc.
11. Canwest Irish Holdings (Barbados) Inc.
12. Western Communications Inc.
13. Canwest Finance Inc./Financiere Canwest Inc.
14. National Post Holdings Ltd.
15. Canwest International Management Inc.
16. Canwest International Distribution Limited
17. Canwest MediaWorks Turkish Holdings (Netherlands)
18. CGS International Holdings (Netherlands)
19. CGS Debenture Holding (Netherlands)
20. CGS Shareholding (Netherlands)
21. CGS NZ Radio Shareholding (Netherlands)
22. 4501063 Canada Inc.
23. 4501071 Canada Inc.
24. 30109, LLC
25. CanWest MediaWorks (US) Holdings Corp.

Schedule "B"

Partnerships

1. Canwest Television Limited Partnership
2. Fox Sports World Canada Partnership
3. The National Post Company/La Publication National Post

SCHEDULE "C" – Form of Monitor's Certificate

Court File No. CV-09-8396-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF CANWEST GLOBAL
COMMUNICATIONS CORP. AND THE OTHER APPLICANTS
LISTED ON SCHEDULE "A"

Applicants

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Madam Justice Pepall of the Ontario Superior Court of Justice (the "Court") dated October 6, 2009, FTI Consulting Canada Inc. was appointed as the monitor (the "Monitor") of the Applicants listed on Schedule "A" and the Partnerships listed on Schedule "B" in respect of these CCAA Proceedings (collectively, the "CMI Entities").

B. Pursuant to an Order of the Court dated September 1, 2010, (the "Approval and Vesting Order") the Court, *inter alia*, approved the offer to purchase by and between 5313997 Manitoba Inc. (the "Vendor") and Ruth Zelcer (the "Purchaser"), dated July 28, 2010, and as amended by letter agreements dated August 5 and 6, 2010 (collectively, the "Offer to Purchase"), and provided for, among other things, the vesting in the Purchaser of Canwest Media Inc.'s right, title and interest in the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of this certificate.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Approval and Vesting Order.

THE MONITOR CERTIFIES the following:

1. The Monitor has received written confirmation from the Purchaser that it paid to the Vendor's counsel and the Monitor has received written confirmation from the Vendor that it has received from the Purchaser all amounts payable on the Possession Date (as defined in the Offer to Purchase) in accordance with the terms of the Offer to Purchase.
2. The Monitor has received written confirmation from the Vendor and the Purchaser that, other than the delivery of this certificate, the conditions to Closing as set out in sections 22-25 of the Offer to Purchase have been satisfied or waived by the Vendor and the Purchaser.
3. This Certificate was delivered by the Monitor at ___ [TIME] on ___ [DATE].

**FTI Consulting Canada Inc., in its capacity as
Court-appointed Monitor of the CMI Entities,
and not in its personal capacity**

Per:

Name:

Title:

SCHEDULE "D" - PERMITTED ENCUMBRANCES

1. Instrument 87-19549 being a caveat in favour of Manitoba Telephone System registered March 2, 1987.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985, c.C-36,
AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANWEST
GLOBAL COMMUNICATIONS CORP., AND THE OTHER APPLICANTS LISTED ON
SCHEDULE "A"

Court File No: CV-09-8396-00CL

APPLICANTS

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER
(Approval and Vesting)**

OSLER, HOSKIN & HARCOURT LLP
Box 50, 1 First Canadian Place
Toronto, Ontario, Canada M5X 1B8

Lyndon A.J. Barnes (LSUC#: 13350D)
Tel: (416) 862-6679

Jeremy E. Dacks (LSUC#: 41851R)
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Shawn T. Irving (LSUC#: 50035U)
Tel: (416) 862-4733

Fax: (416) 862-6666

Lawyers for the Applicants

F. 1114233

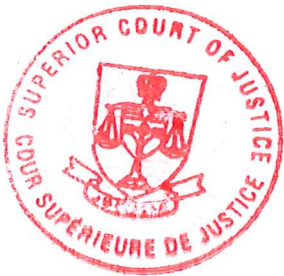
TAB 7

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.
JUSTICE HAINEY

)
)
)

FRIDAY, THE 23rd
DAY OF NOVEMBER, 2018



IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, C. c-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF GREAT SLAVE HELICOPTERS LTD.

APPLICANT

APPROVAL AND VESTING ORDER
(Aircraft C-CJGK)

THIS MOTION, made by Great Slave Helicopters Ltd. (the "**Applicant**") for an order approving the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement (the "**Sale Agreement**") between the Applicant and Delta Helicopters Ltd. (the "**Purchaser**") dated as of October 31, 2018 regarding a 1998 Eurocopter 350B2, Canadian registration mark C-GJGK, serial number 2127, engine number 7138, and the related components and equipment contemplated by the Sale Agreement (the "**Aircraft**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicant, the affidavit of Al Martin sworn November 15, 2018, and the Exhibits thereto (the "**Martin Affidavit**"), the Second Report of KSV Kofman Inc. ("**KSV**"), in its capacity as Monitor (the "**Monitor**") dated November 16, 2018 (the "**Second Report**"), and on hearing the submissions of counsel for the Applicant, the Monitor, Clairvest Group Inc., Sahtu Helicopters and Gwich'in Development Corporation, and no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of Katie Parent sworn November 19, 2018, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and Second Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Applicant is hereby authorized and approved, with such minor amendments as the Applicant and the Purchaser, with the consent of the Monitor, may agree upon pursuant to the Sale Agreement. The Applicant, with the consent of the Monitor, is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Aircraft to the Purchaser.
3. **THIS COURT ORDERS AND DECLARES** that, upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Monitor's Certificate**"), all of the Applicant's right, title and interest in and to the Aircraft shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Amended and Restated Initial Order of the Honourable Mr. Justice Haaney dated September 4, 2018 (the "**Initial Order**"); (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal or movable property registry system in any provinces or territories in Canada, including, without limitation, under the Civil Code of Quebec; and (iii) any liabilities or obligations of the Applicant (all of which are collectively referred to as the "**Encumbrances**"). This Court orders that all of the Encumbrances affecting or relating to the Aircraft are hereby expunged and discharged as against the Aircraft.
4. **THIS COURT ORDERS** that, for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Aircraft shall stand in the place and stead of the Aircraft, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Aircraft with the same priority

as they had with respect to the Aircraft immediately prior to the sale, as if the Aircraft had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicant is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Applicant's records pertaining to the Applicant's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Applicant.

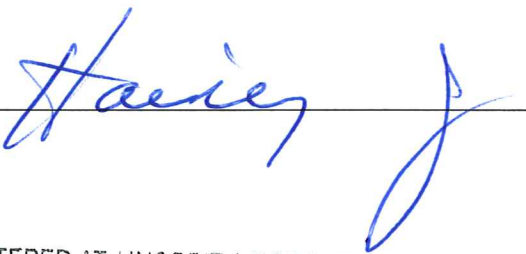
7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Applicant and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Applicant;

the vesting of the Aircraft in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicant and shall not be void or voidable by creditors of the Applicant, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT ORDERS** that Confidential Appendix “3” to the Second Report of the Monitor shall be and is hereby sealed, kept confidential and shall not form part of the public record pending filing of the Monitor’s Certificate as contemplated by paragraph 3 hereof.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

A handwritten signature in blue ink, appearing to read "Harris", is written over a horizontal line.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

NOV 23 2018

PER / PAR: *RW*

Schedule "A" - Form of Monitor's Certificate

Court File No.: CV-18-604434-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, C. c-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF GREAT SLAVE HELICOPTERS LTD.

APPLICANT

**MONITOR'S CERTIFICATE
(Aircraft C-CJGK)**

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated September 4, 2018, KSV Kofman Inc. was appointed as the monitor (the "**Monitor**") of Great Slave Helicopters Ltd. (the "**Applicant**").

B. Pursuant to an Order of the Court dated ●, 2018, the Court approved the asset purchase agreement made as of October 31, 2018 (the "**Sale Agreement**") between the Applicant and Delta Helicopters Ltd. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Applicant's right, title and interest in and to a 1998 Eurocopter 350B2, Canadian registration mark C-GJGK, serial number 2127, engine number 7138, and the related components and equipment contemplated by the Sale Agreement (the "**Aircraft**"), which vesting is to be effective with respect to the Aircraft upon the delivery by the Monitor to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of one million Canadian dollars plus GST (the "**Purchase Price**") for the Aircraft; (ii) that the conditions to acceptance as set out in the Sale Agreement have been satisfied or waived by the Applicant and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid and the Monitor has received the Purchase Price for the Aircraft pursuant to the Sale Agreement;
2. The conditions to acceptance as set out in the Sale Agreement have been satisfied or waived by the Applicant and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at [TIME] on [DATE].

**KSV KOFMAN INC., in its capacity as Monitor
of Great Slave Helicopters Ltd., and not in its
personal capacity**

Per: _____

Name:

Title:

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF GREAT
SLAVE HELICOPTERS LTD.

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER
(Aircraft C-GJGK)

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Jennifer Stam (LSUC#: #46735J)
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Email: stam@gsnh.com

Lawyers for the Applicant

TAB 8

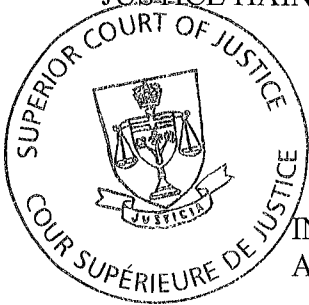
**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)

TUESDAY, THE 28th

JUSTICE HAINES)

DAY OF JANUARY, 2020



IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF CLOVER LEAF HOLDINGS COMPANY,
CONNORS BROS. CLOVER LEAF SEAFOODS COMPANY,
K.C.R. FISHERIES LTD., 6162410 CANADA LIMITED,
CONNORS BROS. HOLDINGS COMPANY AND CONNORS
BROS. SEAFOODS COMPANY

Applicants

APPROVAL AND VESTING ORDER

THIS MOTION, made by the Applicants for an order approving the sale (the "**Transaction**") contemplated by the asset purchase agreement among the Applicants (each a "**Canadian Seller**" and together the "**Canadian Sellers**"), each of the Persons identified on Schedule I of the Sale Agreement as a U.S. Seller, and the Person identified on Schedule I of the Sale Agreement as the Equity Seller, and Tonos US LLC, as U.S. Buyer, Melissi 4 Inc., as Equity Buyer, FCF Co., Ltd., as Guarantor and Tonos 1 Operating Corp., as Canadian buyer (the "**Canadian Buyer**") dated November 21, 2019, (the "**Stalking Horse APA**"), appended to the Affidavit of Gary Ware dated January 21, 2020 (the "**Ware Affidavit**"), and the amendment to the

Stalking Horse APA dated January 22, 2020 (the "**APA Amendment**", and together with the Stalking Horse APA, the "**Sale Agreement**"), appended to the Affidavit of Aiden Nelms dated January 27, 2020 (the "**Nelms Affidavit**"), and vesting in the Canadian Buyer the Canadian Sellers' right, title and interest in and to the assets described in the Sale Agreement (the "**Canadian Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Ware Affidavit, the Nelms Affidavit and the Third Report of Alvarez & Marsal Canada Inc., in its capacity as the court appointed monitor of the Applicants (the "**Monitor**"), dated January 27, 2020 (the "**Report**") and on hearing the submissions of counsel for the Applicants, the Monitor, the Canadian Buyer, Brookfield Principal Credit LLC in its capacity as administrative agent under the DIP Term Documents (the "**DIP Term Agent**"), Wells Fargo Capital Finance, LLC in its capacity as administrative agent and collateral agent under the DIP ABL Documents (the "**DIP ABL Agent**" and with the DIP Term Agent, the "**DIP Agents**") and counsel for those other parties appearing as indicated by the counsel sheet, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service filed:

DEFINITIONS

1. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning given to it in the Sale Agreement.

SERVICE

2. **THIS COURT ORDERS** that the time for service of notice of this motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL AND VESTING

3. **THIS COURT ORDERS** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Canadian Sellers is hereby authorized and approved, with such minor amendments as the Canadian Sellers may deem necessary with the consent of the Canadian Buyer and the Monitor and in consultation with the DIP Agents. The Canadian Sellers

are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Canadian Assets to the Canadian Buyer. The Monitor shall be authorized to take such additional steps in furtherance of its responsibilities under this Order and shall not incur any liability as a result thereof.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of the Monitor's certificate to the Canadian Buyer substantially in the form attached as Schedule A hereto (the "**Monitor's Certificate**"), all of the Canadian Sellers' right, title and interest in and to the Canadian Assets, including the real property legally described in Schedule B (the "**New Brunswick Property**"), shall vest absolutely in the Canadian Buyer, including any assignee thereof permitted under the Sale Agreement, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, title retention agreements, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered, recorded or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Orders of the Honourable Justice Hailey in these proceedings dated November 25, 2019 and December 20, 2019, as amended and restated, and any other Orders made in the within CCAA proceeding; (ii) all Claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (Nova Scotia), *Personal Property Security Act* (New Brunswick) or any other personal property registry system; (iii) all Claims against title to the New Brunswick Property, whether or not they have been recorded or registered in the Registry Office pursuant to the *Registry Act* (New Brunswick) or in the Land Titles Office pursuant to the *Land Titles Act* (New Brunswick), or any other land registry system or other Claims; and (iv) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D (collectively, the "**Permitted Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Canadian Assets are hereby expunged and discharged as against the Canadian Assets. Notwithstanding the foregoing, nothing in this Order shall derogate from the assumption of the Assumed Canadian Liabilities as set forth in the Sale Agreement.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Canadian Assets shall stand in the place and stead of the Canadian Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Canadian Assets with the same priority as they had with respect to the Canadian Assets immediately prior to the sale, as if the Canadian Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Canadian Sellers and the Canadian Buyer, which notice shall be copied to the DIP Agents, regarding the fulfillment of conditions to Closing under the Sale Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

7. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

REAL AND IMMOVABLE PROPERTY REGISTRATIONS

8. **THIS COURT ORDERS** that the Registrar of Deeds or the Registrar of Land Titles shall record or register this Approval and Vesting Order in the Registry Office pursuant to the *Registry Act* (New Brunswick) or in the Land Titles Office pursuant to the *Land Titles Act* (New Brunswick), as applicable, and shall enter the Canadian Buyer as the owner of the New Brunswick Property in fee simple and delete and expunge from title to the New Brunswick Property all of the Encumbrances relating to the New Brunswick Property, other than the Permitted Encumbrances identified in Schedule D. Upon the recording or registration of this Approval and Vesting Order in the Registry Office or the Land Titles Office, as applicable, all rights, title and interest in and to the New Brunswick Property shall vest absolutely in the Canadian Buyer, free and clear of and from any and all Encumbrances, other than the Permitted Encumbrances identified in Schedule D.

ADDITIONAL PROVISIONS

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Canadian Sellers and the Monitor are

authorized and permitted to disclose and transfer to the Canadian Buyer all human resources and payroll information in the Canadian Sellers' records pertaining to the Canadian Sellers' past and current employees, including personal information of those employees listed on Schedule 4.11 to the Sale Agreement. The Canadian Buyer shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to them in a manner which is in all material respects identical to the prior use of such information by the Canadian Sellers and in accordance with applicable law.

10. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") in respect of any of the Canadian Sellers and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of any of the Canadian Sellers;

the vesting of the Canadian Assets in the Canadian Buyer pursuant to this Order and the completion of the steps contemplated by the Sale Agreement shall be binding on any trustee in bankruptcy that may be appointed in respect of the Canadian Sellers and shall not be void or voidable by creditors of the Canadian Sellers, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

APPROVAL OF THE BACK UP BID¹

11. **THIS COURT ORDERS** that the Term Loan Agent, the DIP Term Agent and Honey Blue Canada Acquisition Inc. (the "**Backup Bidder**") is hereby approved as the Backup Bidder for the Canadian Assets, and the Bid submitted by the Backup Bidder is hereby approved and authorized as the Backup Bid and shall remain open as the Backup Bid pursuant to the terms of the Bidding Procedures. In the event that the Canadian Buyer cannot or does not consummate the Transaction, the Canadian Sellers may designate the Backup Bidder to be the Successful Bidder and the Backup Bid to be the Successful Bid upon service of a notice to such effect on the service list and filing such notice with the Court, in which case: (i) Honey Blue Canada Acquisition Inc. shall be deemed to be the "Canadian Buyer" for all intents and purposes under this Order; (ii) the Backup Bidder's executed Purchase Agreement and Qualified Bid Documents shall be deemed to be, collectively, the "Sale Agreement" for all intents and purposes under this Order; (iii) the transactions contemplated under the Backup Bidder's executed Purchase Agreement and Qualified Bid Documents shall be deemed to be the "Transaction" for all intents and purposes under this Order; (iv) the assets of the Canadian Sellers purchased under such Purchase Agreement and Qualified Bid Documents shall be deemed to be the "Canadian Assets" for all intents and purposes under this Order; and (v) the Canadian Sellers shall be authorized to take all actions necessary or appropriate to consummate the Backup Bid as are contemplated by this Order with respect to the Sale Agreement and the Transaction. For the avoidance of doubt, in the event a Backup Bid is designated the Successful Bid as contemplated by this paragraph 11, all of the relief granted pursuant to this Order, including, without limitation, the relief granted pursuant to paragraphs 3, 4, 8, 9 and 10 of this Order shall apply to the transactions contemplated by the Backup Bid *mutatis mutandis*.

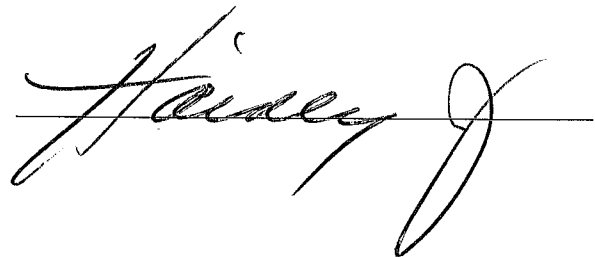
DISTRIBUTION OF CASH PROCEEDS

12. **THIS COURT ORDERS AND DIRECTS** that the cash proceeds of the Transaction shall be applied and distributed in the manner and on the terms set forth on Schedule E hereto.

¹ Capitalized terms used in this paragraph have the meaning ascribed to them in the Bidding Procedures approved by this Court in its Order (Bidding Procedures, Stalking Horse Approval and Stay Extension) dated December 20, 2019.

13. **THIS COURT ORDERS** that notwithstanding any of the matters referenced in subparagraphs 10(a), (b) or (c) of this Order, the distributions contemplated by Schedule E hereof (the “**Approved Distributions**”) shall be made free and clear of all Encumbrances and Permitted Encumbrances, shall be binding on any trustee in bankruptcy or receiver that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the CCAA, the BIA or any other applicable federal or provincial legislation, as against the Canadian Sellers, the Monitor, the DIP Agents, the Term Loan Agent, the Secured Lenders or any other person entitled to received Approved Distributions hereunder, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor as may be necessary or desirable to give effect to this Order or to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order.

A handwritten signature in cursive script, appearing to read "Hainey", is written over a horizontal line.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JAN 28 2020

PER / PAR:

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Schedule A – Form of Monitor’s Certificate

Court File No. CV-19-631523-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE COMPANIES’ CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF CLOVER LEAF HOLDINGS COMPANY,
CONNORS BROS. CLOVER LEAF SEAFOODS COMPANY,
K.C.R. FISHERIES LTD., 6162410 CANADA LIMITED,
CONNORS BROS. HOLDINGS COMPANY AND CONNORS
BROS. SEAFOODS COMPANY

Applicants

MONITOR’S CERTIFICATE

RECITALS

A. Pursuant to the Initial Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice (the “**Court**”) dated November 14, 2019, the Applicants were granted protection from their creditors pursuant to the *Companies’ Creditors Arrangement Act* and Alvarez & Marsal Canada Inc. was appointed as the monitor (the “**Monitor**”) of the Applicants.

B. Pursuant to an Order of the Court dated December 20, 2019, the Court approved the agreement of purchase and sale among the Applicants (each a “**Canadian Seller**” and together the “**Canadian Sellers**”), each of the Persons identified on Schedule I of the Sale Agreement as a U.S. Seller, and the Person identified on Schedule I of the Sale Agreement as the Equity Seller, and Tonos LLC, as U.S. Buyer, Melissi 4 Inc., as Equity Buyer, FCF Co. Ltd., as Guarantor, and Tonos 1 Operating Corp. (the “**Canadian Buyer**”) dated November 21, 2019, and the amendment to the thereto dated January 22, 2020 (together, the “**Sale Agreement**”), and provided for the vesting in

the Canadian Buyer, including any assignee thereof permitted under the Sale Agreement, of the Canadian Sellers' right, title and interest in and to the assets described in the Sale Agreement (the "Canadian Assets"), which vesting is to be effective with respect to the Canadian Assets upon the delivery by the Monitor to the Canadian Buyer of a certificate confirming that the Monitor has received written confirmation in the form and substance satisfactory to the Monitor from the Canadian Sellers and the Canadian Buyer that the conditions to Closing as set out in Article VIII of the Sale Agreement have been satisfied or waived by the applicable Parties.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Monitor has received written confirmation from the Canadian Sellers and the Canadian Buyer, in form and substance satisfactory to the Monitor, that the conditions to Closing as set out in Article VIII of the Sale Agreement have been satisfied or waived by the Canadian Sellers and the Canadian Buyer as applicable.
2. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

**Alvarez & Marsal Canada Inc., in its capacity
as court-appointed monitor of Clover Leaf
Holdings Company, Connors Bros. Clover Leaf
Seafoods Company, K.C.R. Fisheries Ltd.,
6162410 Canada Limited, Connors Bros.
Holdings Company and Connors Bros.
Seafoods Company and not in its personal
capacity**

Per:

Name:

Title:

Schedule B – New Brunswick Property

PID #	Description
01219476	Wellington Road Shorefront
01221043	Jackson Farm Wells -- Fresh Water Supply
01223692	Tunaville - Waterfront on BH & Letang
01226075	Wallace Cove Road / Small piece of land across from Pea Point
01235407	Bayside Warehouse
01337245	Small triangular lot near Pennfield Baptist Church - water line crosses this. This is on Beaver Harbour road southeast of intersection of Beaver Harbour Road and Justasons Lane.
15000151	Land East of Jackson Farm - retained as possible site for future water exploration. New highway crosses this lot.
15173800	Parcel of land to the south of Buckman's Creek Hatchery adjacent to our Blueberry Field Property (Billed under PID 15000151)
15000672	Woodland - Road to Blacks Harbour. Wooded lot on Justasons Lane, Pennfield held due to water supply line crosses.
15029093	Small parcel of land across from Pea Point Nature Preserve (SNB combined with 01226075)
15032394	Vacant - Wellington Road next Bonnie Hooper.
15032402	Narrow strip along road across from PID 15032394. On Wellington Road, Black Harbour directly across Harbour from plant
15053416	Small lot behind church parking lot. Small triangular shaped lot on Hospital Street, Blacks Harbour -- behind Wesleyan Church parking lot.
15075187	Remnant from Pea Point Parcel
15091853	BH shorefront across from Plant
15092604	BH shorefront across from Plant
15148968	Salt Water pump house lot
15151574	Wharf, Plant & Waterfront

PID #	Description
15152283	Blacks Hr Road (Mill Brook area). Small vacant lot on Main Street, Blacks Harbour – being donated to Village
15152481	Wharf, Plant & Waterfront (billed under PID 15151574)
15197676	Wharf, Plant & Waterfront (billed under PID 15151574)
15152267	Farm Rd reservoir lot. Farm Road Frontage lot north/northwest of Main Street, Blacks Harbour – has water supply line and reservoir on it. Small portion south of water, supply line along Blacks Harbour Road is in assets held for sale.
15152309	Warehouse 4 and lab building. Garage land from garage to Warehouses
15152309	Corner in front of Garage (curve in road)
15152317	Lot between plant and Hillside Drive
15152374	#260 Building - 63 Willow Ct
15152382	Portion of vacant Land on Deadman’s Harbour
15152416	Lot that follows powerline & FW main along Route 776
15152457	Bowtie shaped lot on corner around Baptist Church At corner of Main Street & Deadman’s Harbour Road – Blacks Harbour
15156227	House, Garage & Lot “Connors” property at 127 Brunswick Street, Blacks Harbour
15156235	Vacant Lot Small triangular shaped lot adjacent to 127 Brunswick Street on the north west side
15158215	Vacant Rear Lot Wooded lot adjacent to 127 Brunswick Street on the south east side
15162126	Land Parcel in front of Garage (apart of PID 15152309)
15170988	Lot near Pennfield that FW main crosses.
15170996	Lot adjacent to PID 15170988 - kept for possible water source
15152572	Land behind Main Office - 304 acres (BH) Large lot south/southeast of Main Street, Blacks Harbour – in assets held for sale Land behind Main Office - (Pennfield) Small lot that is the continuation of immediately above lot that extends outside the Blacks Harbour village limit into Pennfield – in assets held for sale
15011620	Southern Bliss Island in Bay of Fundy and is in assets held for sale
01242791	Frye Island in Bay of Fundy and is in assets held for sale

PID #	Description
15001183	Lot at Mill stream with lift station Not at Mill Stream, but is on Wallace Cove Road – being donated to Village of Blacks Harbour
15158223	Vacant Lot Small lot adjacent to 127 Brunswick Street on the north west side

Schedule C – Encumbrances

I. Personal Property Security Act (Ontario) security

Secured Party(ies)	Debtor(s)	Reference File No. & Registration Number (Registration Period)	Collateral Classification	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Clover Leaf Seafoods Company	757925802 - 20191126 0806 1590 1138 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		
2. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R. Fisheries Ltd. (two addresses listed) 6162410 Canada Limited (two addresses listed) Connors Bros. Holdings Company Connors Bros. Seafoods Company	757895787 - 20191125 1037 1590 1063 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		
3. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R. Fisheries Ltd. 6162410 Canada Limited	730721034 - 20170809 1607 1590 0003 (8 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		
4. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	666565569 - 20101214 1818 1862 8213 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		<u>Renewed by 20180205 1523 1862 5634</u> 5 years
5. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	649909458 - 20081113 1117 1862 3411 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		<u>Amended by 20101214 1823 1862 8218</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed by 20180205 1521 1862 5632</u> 7 years
6. Wells Fargo Capital Finance, LLC	3231021 Nova Scotia Company Connors Bros. Clover Leaf Seafoods Company	649909548 - 20081113 1118 1862 3417 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		<u>Amended by 20081118 1423 1862 3759</u> Amendment to include "Connors Bros. Clover Leaf Seafoods Company" as an additional debtor

Secured Party(ies)	Debtor(s)	Reference File No. & Registration Number (Registration Period)	Collateral Classification	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
					<p><u>Amended by 20101214 1823 1862 8217</u></p> <p>Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC"</p> <p><u>Renewed by 20180205 1522 1862 5633</u></p> <p>7 years</p>
7. Wells Fargo Capital Finance, LLC, as Agent	Clover Leaf Holdings Company	757925784 - 20191126 0805 1590 1136 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		
8. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	666565542 - 20101214 1817 1862 8211 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		<p><u>Renewed by 20180205 1527 1862 5641</u></p> <p>5 years</p>
9. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	649909503 - 20081113 1117 1862 3415 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		<p><u>Amended by 20101214 1823 1862 8220</u></p> <p>Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC"</p> <p><u>Renewed by 20180205 1527 1862 5640</u></p> <p>7 years</p>
10. Wells Fargo Capital Finance, LLC, as Agent	K.C.R. Fisheries Ltd.	757925793 - 20191126 0805 1590 1137 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		
11. Wells Fargo Capital Finance, LLC	K.C.R. Fisheries Ltd.	666565578 - 20101214 1818 1862 8214 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		<p><u>Renewed by 20180205 1526 1862 5639</u></p> <p>5 years</p>
12. Wells Fargo Capital Finance, LLC	K.C.R. Fisheries Ltd.	649909422 - 20081113 1116 1862 3409 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		<p><u>Amended by 20101214 1823 1862 8216</u></p> <p>Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC"</p> <p><u>Renewed by 20180205 1525 1862 5638</u></p> <p>7 years</p>
13. Wells Fargo Capital Finance, LLC, as Agent	6162410 Canada Limited	757925829 - 20191126 0806 1590 1140 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		

Secured Party(ies)	Debtor(s)	Reference File No. & Registration Number (Registration Period)	Collateral Classification	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
14. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	666565587 - 20101214 1819 1862 8215 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		<u>Renewed by 20180205 1525 1862 5637</u> 5 years
15. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	649909476 - 20081113 1117 1862 3413 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		<u>Amended by 20101214 1823 1862 8219</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed by 20180205 1524 1862 5635</u> 7 years
16. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Holdings Company	757925811 - 20191126 0806 1590 1139 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		
17. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Seafoods Company	757925739 - 20191126 0803 1590 1135 (10 years)	Inventory, Equipment, Accounts, Other, Motor Vehicles		

II. Personal Property Security Act (New Brunswick) security

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 16912297 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Strathorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495	<u>Amended on Nov. 17, 2008 by 16920696</u> Amendment to add serial numbered collateral <u>Amended on Nov. 17, 2008 by 16921082</u> Amendment to add and remove serial numbered collateral <u>Amended on Nov. 17, 2008 by 16921165</u> Amendment to add and remove serial numbered collateral <u>Amended on Dec. 10, 2010 by 19563113</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC"

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
				<p><u>Renewed on Feb. 5, 2018 by 30153274</u> 7 years (included in expiry date)</p>
<p>2. Wells Fargo Capital Finance, LLC</p>	<p>3231021 Nova Scotia Company Connors Bros. Clover Leaf Seafoods Company</p>	<p>Regn No.: 16912354 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)</p>	<p><u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property.</p>	<p><u>Amended on Nov. 18, 2008 by 16927345</u> Amendment to include "Connors Bros. Clover Leaf Seafoods Company" as an additional debtor <u>Amended on Dec. 10, 2010 by 19563121</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 30153308</u> 7 years (included in expiry date)</p>
<p>3. Wells Fargo Capital Finance, LLC</p>	<p>Connors Bros. Clover Leaf Seafoods Company</p>	<p>Regn No.: 19564061 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)</p>	<p><u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Strathlome Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495</p>	<p><u>Renewed on Feb. 5, 2018 by 30153316</u> 5 years (included in expiry date)</p>
<p>4. Brookfield Principal Credit LLC as Administrative Agent</p>	<p>Connors Bros. Clover Leaf Seafoods Company</p>	<p>Regn No.: 29342151 Regn Date: Aug. 9, 2017 Expiry Date: Aug. 9, 2025</p>	<p><u>General Collateral:</u> The serial numbered collateral described herein and all proceeds of the foregoing in any form including goods, documents of title, chattel paper, investment property, instruments, money and intangibles. <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Judy & Jason Boat, S/N 393098 Senator Neil Boat, S/N 314685 Caroline B. Boat, S/N 328495 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Andrew & Deane Boat, S/N 314339 Fundy Monarch Boat, S/N 838868</p>	<p><u>Amended on Sep. 4, 2019 by 32675183</u> Amendment to add serial numbered goods</p>
<p>5. Brookfield Principal Credit LLC, as Administrative Agent</p>	<p>Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company</p>	<p>Regn No.: 29347150 Regn Date: Aug. 9, 2017 Expiry Date: Aug. 9, 2025</p>	<p><u>General Collateral:</u> A security interest is taken in all of the debtor's present and after-acquired personal property.</p>	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
	K.C.R. Fisheries Ltd. 6162410 Canada Limited			
6. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R. Fisheries Ltd. <i>(two addresses listed)</i> 6162410 Canada Limited <i>(two addresses listed)</i> Connors Bros. Seafoods Company Connors Bros. Holdings Company Clover Leaf Seafood S.a r.l.	Regn No.: 33029240 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> A security interest is taken in all of the debtors' present and after-acquired personal property. <u>Serial Numbered Collateral:</u> Rowan & Evan Boat, S/N 833305 Canada 100 Boat, S/N 328939 Brunswick Provider Boat, S/N 828873 Capelco Boat, S/N 318596 Andrew & Deane Boat, S/N 314339 Fundy Monarch Boat, S/N 838868 Judy & Jason Boat, S/N 393098 Senator Neil Boat, S/N 314685 Caroline B. Boat, S/N 328495 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Michael Eileen Boat, S/N 318586 Clark Forklift Slip Sheet Motor Vehicle, C2332L06329664 Doosan Forklift Motor Vehicle, G18S5LP Forklift #719 Motor Vehicle, GXC17E Doosan Forklift G25P-5 Motor Vehicle, MN01109 2012 Chevrolet Silverado 2500HD 4x4 Plow Truck Motor Vehicle, 1GC0KVCG1CZ125816 Electric Cat Forklift Motor Vehicle, AT3534941 Propane Cat Forklift Motor Vehicle, A4EC241789 2012 Kenworth T660 Tractor Motor Vehicle, 1XKAD49X2CJ949990 2013 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPEXXDZ248608 2013 Chevrolet Silverado 1500 4x4 Motor Vehicle, 1GCNKPEA9DZ392360 Fish Meal Forklift Toyota 8FGU25 Motor Vehicle, 50139 FM Forklift Toyota 8FU25 Motor Vehicle, 22840 2014 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPEH7EZ370501 2015 Kenworth T880 Tractor Motor Vehicle, 1XKZDP9X2FJ975899 Forklift - Toyota - 8FBCU20 Motor Vehicle, 67626 Forklift - Toyota - 8FBCU25 Motor Vehicle, 67717 2011 Vanguard Trailers Dry-Box Trailer Trailer, 5V8VA5325BM101444 Toyota Forklift 8FGU25 Motor Vehicle, 69636 Toyota Forklift 8FGU25 Motor Vehicle, 72113 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5333GS658506 1996 Pacific Truck & Trailer Sludge Disp Motor Vehicle, 2LT162V49TR000905 2014 Utility Trailers Dry-Box Trailer	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
			Trailer, 1UYVS2533EG087911 Toyota Forklift & Rotator - 8FBCU20 Motor Vehicle, 73526 Toyota Forklift - 8FBE18U Motor Vehicle, 11568 Toyota Forklift Model 8FGU25 Motor Vehicle, 80455 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5334GS658501 2017 Ford F-150 Motor Vehicle, 1FTEX1CP8HFB94446 Front Loader Motor Vehicle, 171278 2017 Dodge Grand Caravan Motor Vehicle, 2C4RDGBG8HR599231 Forklift, Toyota, Model 8FBCU25 Motor Vehicle, 210091800203 2017 Ford Transit Motor Vehicle, 1FBZX2YG4HKA79192	
7. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 33030834 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Clark Forklift Slip Sheet Motor Vehicle, C2332L06329664 Doosan Forklift Motor Vehicle, G18S5LP Forklift #719 Motor Vehicle, GXC17E Doosan Forklift G25P-5 Motor Vehicle, MN01109 2012 Chevrolet Silverado 2500HD 4x4 Plow Truck Motor Vehicle, 1GC0KVCG1CZ125816 Electric Cat Forklift Motor Vehicle, AT3534941 Propane Cat Forklift Motor Vehicle, A4EC241789 2012 Kenworth T660 Tractor Motor Vehicle, 1XKAD49X2CJ949990 2013 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPEXXDZ248608 2013 Chevrolet Silverado 1500 4x4 Motor Vehicle, 1GCNKPEA9DZ392360 Fish Meal Forklift Toyota 8FGU25 Motor Vehicle, 50139 FM Forklift Toyota 8FU25 Motor Vehicle, 22840 2014 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPEH7EZ370501 2015 Kenworth T880 Tractor Motor Vehicle, 1XKZDP9X2FJ975899 Forklift - Toyota - 8FBCU20 Motor Vehicle, 67626 Forklift - Toyota - 8FBCU25 Motor Vehicle, 67717 2011 Vanguard Trailers Dry-Box Trailer Trailer, 5V8VA5325BM101444 Toyota Forklift 8FGU25 Motor Vehicle, 69636 Toyota Forklift 8FGU25 Motor Vehicle, 72113 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5333GS658506 1996 Pacific Truck & Trailer Sludge Disp Motor Vehicle, 2LT162V49TR000905	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
			2014 Utility Trailers Dry-Box Trailer Trailer, 1UYVS2533EG087911 Toyota Forklift & Rotator - 8FBCU20 Motor Vehicle, 73526 Toyota Forklift - 8FBE18U Motor Vehicle, 11568 Toyota Forklift Model 8FGU25 Motor Vehicle, 80455 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5334GS658501 2017 Ford F-150 Motor Vehicle, 1FTEX1CP8HFB94446 Front Loader Motor Vehicle, 171278 2017 Dodge Grand Caravan Motor Vehicle, 2C4RDGBG8HR599231 Forklift, Toyota, Model 8FBCU25 Motor Vehicle, 210091800203 2017 Ford Transit Motor Vehicle, 1FBZX2YG4HKA79192 Fundy Monarch Boat, S/N 838868	
8. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 16912321 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	General Collateral: A security interest is taken in all of the debtor's present and after acquired personal property.	<u>Amended on Dec. 10, 2010 by 19563170</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 30153290</u> 7 years (included in expiry date)
9. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 19564210 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	General Collateral: A security interest is taken in all of the debtor's present and after acquired personal property.	<u>Renewed on Feb. 5, 2018 by 30153357</u> 5 years (included in expiry date)
10. Wells Fargo Capital Finance, LLC, as Agent	Clover Leaf Holdings Company	Regn No.: 33030776 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	General Collateral: All of the debtor's present and after acquired personal property	
11. Wells Fargo Capital Finance, LLC	K.C.R. Fisheries Ltd.	Regn No.: 16912289 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	General Collateral: A security interest is taken in all of the debtor's present and after acquired personal property. Serial Numbered Collateral: Canada 100 Boat, S/N 328939	<u>Amended on Nov. 17, 2008 by 16920688</u> Amendment to include serial numbered collateral <u>Amended on Dec. 10, 2010 by 19563139</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 30153266</u> 7 years (included in expiry date)

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
12. Wells Fargo Capital Finance, LLC	K.C.R. Fisheries Ltd.	Regn No.: 19564186 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939	<u>Renewed on Feb. 5, 2018 by 30153332</u> 5 years (included in expiry date)
13. Brookfield Principal Credit LLC as Administrative Agent	K.C.R. Fisheries Ltd.	Regn No.: 29342102 Regn Date: Aug. 9, 2017 Expiry Date: Aug. 9, 2025	<u>General Collateral:</u> The serial numbered collateral described herein and all proceeds of the foregoing in any form including goods, documents of title, chattel paper, investment property, instruments, money and intangibles. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939	
14. Wells Fargo Capital Finance, LLC, as Agent	K.C.R. Fisheries Ltd.	Regn No.: 33030826 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939 Rowan & Evan Boat, S/N 833305	
15. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 16912305 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495	<u>Amended on Nov. 17, 2008 by 16920704</u> Amendment to add serial numbered goods <u>Amended on Nov. 17, 2008 by 16921090</u> Amendment to add and remove serial numbered goods <u>Amended on Nov. 17, 2008 by 16921173</u> Amendment to add and remove serial numbered goods <u>Amended on Dec. 10, 2010 by 19563154</u> Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Amended on Jun. 13, 2016 by 27528140</u> Amendment to remove serial numbered goods <u>Renewed on Feb. 5, 2018 by 30153282</u> 7 years (included in expiry date)
16. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 19564194 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685	<u>Amended on Dec. 14, 2010 by 19589464</u> Amendment to add serial number goods <u>Amended on Jun. 13, 2016 by 27528165</u> The reason for amendment is not apparent

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
			Strathaven Boat, S/N 323666 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495 Judy & Jason Boat, S/N 393098	<u>Amended on Jun. 13, 2016 by 27528223</u> Amendment to remove serial numbered goods <u>Renewed on Feb. 5, 2018 by 30153340</u> 5 years (included in expiry date)
17. Brookfield Principal Credit LLC as Administrative Agent	6162410 Canada Limited	Regn No.: 29342136 Regn Date: Aug. 9, 2017 Expiry Date: Aug. 9, 2025	<u>General Collateral:</u> The serial numbered collateral described herein and all proceeds of the foregoing in any form including goods, documents of title, chattel paper, investment property, instruments, money and intangibles. <u>Serial Numbered Collateral:</u> Judy & Jason Boat, S/N 393098 Senator Neil Boat, S/N 314685 Caroline B. Boat, S/N 328495 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Andrew & Deane Boat, S/N 314339	
18. Wells Fargo Capital Finance, LLC, as Agent	6162410 Canada Limited	Regn No.: 33030990 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property <u>Serial Numbered Collateral:</u> Andrew & Deane Boat, S/N 314339 Capelco Boat, S/N 318596 Caroline B. Boat, S/N 328495 Michael Eileen Boat, S/N 318586 Senator Neil Boat, S/N 314685 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Judy & Jason Boat, S/N 393098	
19. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Holdings Company	Regn No.: 33030800 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property	
20. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Seafoods Company	Regn No.: 33030818 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property	
21. Wells Fargo Capital Finance, LLC, as Agent	Clover Leaf Seafood S.a r.l.	Regn No.: 33030784 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property	

III. Personal Property Security Act (Nova Scotia) security

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 14649719 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Strathlorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495	<u>Amended on Nov. 17, 2008 by 14659643</u> Amendment to add serial numbered goods <u>Amended on Nov. 17, 2008 by 14659957</u> Amendment to add and remove serial numbered goods <u>Amended on Nov. 17, 2008 by 14660021</u> Amendment to add and remove serial numbered goods <u>Amended on Dec. 10, 2010 by 17489170</u> Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 28881902</u> 7 years (included in expiry date)
2. Wells Fargo Capital Finance, LLC	3231021 Nova Scotia Company Connors Bros. Clover Leaf Seafoods Company	Regn No.: 14649784 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property.	<u>Amended on Nov. 18, 2008 by 14666812</u> Amendment to include "Connors Bros. Clover Leaf Seafoods Company" as an additional debtor. <u>Amended on Dec. 10, 2010 by 17489196</u> Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 28881936</u> 7 years (included in expiry date)
3. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 17490350 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Strathlorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495	<u>Renewed on Feb. 5, 2018 by 28881969</u> 5 years (included in expiry date)
4. Brookfield Principal	Connors Bros. Clover Leaf	Regn No.: 28082709 Regn Date: Aug. 9,	<u>General Collateral:</u> The serial numbered collateral described	<u>Amended on Sep. 4, 2019 by 31721665</u>

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
Credit LLC as Administrative Agent	Seafoods Company	2017 Expiry Date: Aug. 9, 2025	herein and all proceeds of the foregoing in any form including goods, documents of title, chattel paper, investment property, instruments, money and intangibles. <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Judy & Jason Boat, S/N 393098 Senator Neil Boat, S/N 314685 Caroline B. Boat, S/N 328495 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Andrew & Deane Boat, S/N 314339 Fundy Monarch Boat, S/N 838868	Amendment to add serial numbered goods
5. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R. Fisheries Ltd. 6162410 Canada Limited Clover Leaf Seafood S.a r.l.	Regn No.: 28087294 Regn Date: Aug. 9, 2017 Expiry Date: Aug. 9, 2025	<u>General Collateral:</u> A security interest is taken in all of the debtors' present and after-acquired personal property.	<u>Amended on Aug. 10, 2017 by 28091494</u> Amendment to correct the name of one of the debtors <u>Amended on Aug. 14, 2017 by 28104701</u> Amendment to correct the name of one of the debtors
6. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R. Fisheries Ltd. <i>(two addresses listed)</i> 6162410 Canada Limited <i>(two addresses listed)</i> Connors Bros. Seafoods Company Connors Bros. Holdings Company Clover Leaf Seafood S.a r.l.	Regn No.: 32107377 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> A security interest is taken in all of the debtors' present and after-acquired personal property. <u>Serial Numbered Collateral:</u> Rowan & Evan Boat, S/N 833305 Canada 100 Boat, S/N 328939 Brunswick Provider Boat, S/N 828873 Capelco Boat, S/N 318596 Andrew & Deane Boat, S/N 314339 Fundy Monarch Boat, S/N 838868 Judy & Jason Boat, S/N 393098 Senator Neil Boat, S/N 314685 Caroline B. Boat, S/N 328495 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Michael Eileen Boat, S/N 318586 Clark Forklift Slip Sheet Motor Vehicle, C2332L06329664 Doosan Forklift Motor Vehicle, G18S5LP Forklift #719 Motor Vehicle, GXC17E Doosan Forklift G25P-5 Motor Vehicle, MN01109 2012 Chevrolet Silverado 2500HD 4x4 Plow Truck Motor Vehicle, 1GC0KVCG1CZ125816 Electric Cat Forklift Motor Vehicle, AT3534941 Propane Cat Forklift Motor Vehicle, A4EC241789 2012 Kenworth T660 Tractor Motor Vehicle, 1XKAD49X2CJ949990 2013 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPExXDZ248608	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
			2013 Chevrolet Silverado 1500 4x4 Motor Vehicle, 1GCNKPEA9DZ392360 Fish Meal Forklift Toyota 8FGU25 Motor Vehicle, 50139 FM Forklift Toyota 8FU25 Motor Vehicle, 22840 2014 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPEH7EZ370501 2015 Kenworth T880 Tractor Motor Vehicle, 1XKZDP9X2FJ975899 Forklift - Toyota - 8FBCU20 Motor Vehicle, 67626 Forklift - Toyota - 8FBCU25 Motor Vehicle, 67717 2011 Vanguard Trailers Dry-Box Trailer Trailer, 5V8VA5325BM101444 Toyota Forklift 8FGU25 Motor Vehicle, 69636 Toyota Forklift 8FGU25 Motor Vehicle, 72113 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5333GS658506 1996 Pacific Truck & Trailer Sludge Disp Motor Vehicle, 2LT162V49TR000905 2014 Utility Trailers Dry-Box Trailer Trailer, 1UYVS2533EG087911 Toyota Forklift & Rotator - 8FBCU20 Motor Vehicle, 73526 Toyota Forklift - 8FBE18U Motor Vehicle, 11568 Toyota Forklift Model 8FGU25 Motor Vehicle, 80455 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5334GS658501 2017 Ford F-150 Motor Vehicle, 1FTEX1CP8HFB94446 Front Loader Motor Vehicle, 171278 2017 Dodge Grand Caravan Motor Vehicle, 2C4RDGBG8HR599231 Forklift, Toyota, Model 8FBCU25 Motor Vehicle, 210091800203 2017 Ford Transit Motor Vehicle, 1FBZX2YG4HKA79192	
7. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 32109530 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Clark Forklift Slip Sheet Motor Vehicle, C2332L06329664 Doosan Forklift Motor Vehicle, G18S5LP Forklift #719 Motor Vehicle, GXC17E Doosan Forklift G25P-5 Motor Vehicle, MN01109 2012 Chevrolet Silverado 2500HD 4x4 Plow Truck Motor Vehicle, 1GC0KVCG1CZ125816 Electric Cat Forklift Motor Vehicle, AT3534941 Propane Cat Forklift Motor Vehicle, A4EC241789 2012 Kenworth T660 Tractor Motor Vehicle, 1XKAD49X2CJ949990 2013 Chevrolet Silverado 1500 Motor	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
			Vehicle, 1GCNCPEXXDZ248608 2013 Chevrolet Silverado 1500 4x4 Motor Vehicle, 1GCNKPEA9DZ392360 Fish Meal Forklift Toyota 8FGU25 Motor Vehicle, 50139 FM Forklift Toyota 8FU25 Motor Vehicle, 22840 2014 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPEH7EZ370501 2015 Kenworth T880 Tractor Motor Vehicle, 1XKZDP9X2FJ975899 Forklift - Toyota - 8FBCU20 Motor Vehicle, 67626 Forklift - Toyota - 8FBCU25 Motor Vehicle, 67717 2011 Vanguard Trailers Dry-Box Trailer Trailer, 5V8VA5325BM101444 Toyota Forklift 8FGU25 Motor Vehicle, 69636 Toyota Forklift 8FGU25 Motor Vehicle, 72113 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5333GS658506 1996 Pacific Truck & Trailer Sludge Disp Motor Vehicle, 2LT162V49TR000905 2014 Utility Trailers Dry-Box Trailer Trailer, 1UYVS2533EG087911 Toyota Forklift & Rotator - 8FBCU20 Motor Vehicle, 73526 Toyota Forklift - 8FBE18U Motor Vehicle, 11568 Toyota Forklift Model 8FGU25 Motor Vehicle, 80455 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5334GS658501 2017 Ford F-150 Motor Vehicle, 1FTEX1CP8HFB94446 Front Loader Motor Vehicle, 171278 2017 Dodge Grand Caravan Motor Vehicle, 2C4RDGBG8HR599231 Forklift, Toyota, Model 8FBCU25 Motor Vehicle, 210091800203 2017 Ford Transit Motor Vehicle, 1FBZX2YG4HKA79192 Fundy Monarch Boat, S/N 838868	
8. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 14649750 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property.	<u>Amended on Dec. 10, 2010 by 17489220</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 28881928</u> 7 years (included in expiry date)
9. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 17490483 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property.	<u>Renewed on Feb. 5, 2018 by 28882009</u> 5 years (included in expiry date)

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
10. Wells Fargo Capital Finance, LLC, as Agent	Clover Leaf Holdings Company	Regn No.: 32109399 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property	
11. Wells Fargo Capital Finance, LLC	K.C.R. Fisheries Ltd.	Regn No.: 14649701 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939	<u>Amended on Nov. 17, 2008 by 14659635</u> Amendment to include serial numbered goods <u>Amended on Dec. 10, 2010 by 17489204</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 28881886</u> 7 years (included in expiry date)
12. Wells Fargo Capital Finance, LLC	K.C.R. Fisheries Ltd.	Regn No.: 17490459 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939	<u>Renewed on Feb. 5, 2018 by 28881985</u> 5 years (included in expiry date)
13. Brookfield Principal Credit LLC as Administrative Agent	K.C.R. Fisheries Ltd.	Regn No.: 28082634 Regn Date: Aug. 9, 2017 Expiry Date: Aug. 9, 2025	<u>General Collateral:</u> The serial numbered collateral described herein and all proceeds of the foregoing in any form including goods, documents of title, chattel paper, investment property, instruments, money and intangibles. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939	
14. Wells Fargo Capital Finance, LLC, as Agent	K.C.R. Fisheries Ltd.	Regn No.: 32109506 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939 Rowan & Evan Boat, S/N 833305	
15. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 14649735 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Strathlorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495	<u>Amended on Nov. 17, 2008 by 14659650</u> Amendment to include serial numbered goods <u>Amended on Nov. 17, 2008 by 14659973</u> Amendment to include and remove serial numbered goods <u>Amended on Nov. 17, 2008 by 14660039</u> Amendment to include and remove serial numbered goods <u>Amended on Dec. 10, 2010 by 17489212</u> Amendment to change the name of the secured party

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
				from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 28881910</u> 7 years (included in expiry date)
16. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 17490467 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Strathlorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495 Judy & Jason Boat, S/N 393098	<u>Amended on Dec. 14, 2010 by 17516881</u> Amendment to include serial numbered goods <u>Renewed on Feb. 5, 2018 by 28881993</u> 5 years (included in expiry date)
17. Brookfield Principal Credit LLC as Administrative Agent	6162410 Canada Limited	Regn No.: 28082667 Regn Date: Aug. 9, 2017 Expiry Date: Aug. 9, 2025	<u>General Collateral:</u> The serial numbered collateral described herein and all proceeds of the foregoing in any form including goods, documents of title, chattel paper, investment property, instruments, money and intangibles <u>Serial Numbered Collateral:</u> Judy & Jason Boat, S/N 393098 Senator Neil Boat, S/N 314685 Caroline B. Boat, S/N 328495 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Andrew & Deane Boat, S/N 314339	
18. Wells Fargo Capital Finance, LLC, as Agent	6162410 Canada Limited	Regn No.: 32109498 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property <u>Serial Numbered Collateral:</u> Andrew & Deane Boat, S/N 314339 Capelco Boat, S/N 318596 Caroline B. Boat, S/N 328495 Michael Eileen Boat, S/N 318586 Senator Neil Boat, S/N 314685 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Judy & Jason Boat, S/N 393098	
19. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Holdings Company	Regn No.: 32109423 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property	
20. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Seafoods Company	Regn No.: 32109449 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
21. Wells Fargo Capital Finance, LLC	Clover Leaf Seafood S.A R.L.	Regn No.: 31125149 Regn Date: May 9, 2019 Expiry Date: May 9, 2025	<u>General Collateral:</u> All of the debtor's present and after-acquired personal property.	
22. Wells Fargo Capital Finance, LLC, as Agent	Clover Leaf Seafood S.A R.L.	Regn No.: 32109407 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property	

IV. Personal Property Security Act (British Columbia) security

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Wells Fargo Capital Finance, LLC	Connors Bros Clover Leaf Seafoods Company	Regn No.: 691575E Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2035 (including renewals)	<u>General Collateral:</u> All present and after-acquired personal property.	<u>Amended on Dec. 14, 2010 by 911955F</u> Amendment to change the name of the secured party from "Wells Fargo Foothill LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 551801K</u> 7 years (included in expiry date) <u>Renewed on Aug. 7, 2018 by 943641K</u> 10 years (included in expiry date)
2. Wells Fargo Capital Finance, LLC	3231021 Nova Scotia Company Connors Bros Clover Leaf Seafoods Company	Regn No.: 691585E Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2035 (including renewals)	<u>General Collateral:</u> All present and after-acquired personal property.	<u>Amended on Nov. 19, 2008 by 701397E</u> Amendment to include "Connors Bros Clover Leaf Seafoods Company" as an additional debtor <u>Amended on Dec. 14, 2010 by 911953F</u> Amendment to change the name of the secured party from "Wells Fargo Foothill LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 551803K</u> 7 years (included in expiry date) <u>Renewed on Aug. 7, 2018 by 943649K</u> 10 years (included in expiry date)

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
3. Wells Fargo Capital Finance, LLC	Connors Bros Clover Leaf Seafoods Company	Regn No.: 911962F Regn Date: Dec. 14, 2010 Expiry Date: Dec. 14, 2025 (including renewal)	<u>General Collateral:</u> All present and after-acquired personal property.	Renewed on Feb. 5, 2018 by <u>551813K</u> 5 years (included in expiry date)
4. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros Clover Leaf Seafoods Company K C R Fisheries Ltd 6162410 Canada Limited	Regn No.: 746111L Regn Date: Sep. 5, 2019 Expiry Date: Sep. 5, 2025	<u>General Collateral:</u> All present and after-acquired personal property of the debtors	
5. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros Clover Leaf Seafoods Company K C R Fisheries Ltd (two addresses listed) 6162410 Canada Limited (two addresses listed) Connors Bros Seafoods Company Connors Bros Holdings Company	Regn No.: 911157L Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All present and after-acquired personal property of the debtors	
6. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros Clover Leaf Seafoods Company	Regn No.: 913323L Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	
7. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 691583E Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2035 (including renewals)	<u>General Collateral:</u> All present and after-acquired personal property.	Amended on Dec. 14, 2010 by <u>911951F</u> Amendment to change the name of the secured party from "Wells Fargo Foothill LLC" to "Wells Fargo Capital Finance, LLC" Renewed on Feb. 5, 2018 by <u>551833K</u> 7 years (included in expiry date) Renewed on Aug. 7, 2018 by <u>943637K</u> 10 years (included in expiry date)

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
8. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 911963F Regn Date: Dec. 14, 2010 Expiry Date: Dec. 14, 2025 (including renewal)	General Collateral; All present and after-acquired personal property.	Renewed on Feb. 5, 2018 by <u>551834K</u> 5 years (included in expiry date)
9. Wells Fargo Capital Finance, LLC, as Agent	Clover Leaf Holdings Company	Regn No.: 913322L Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	General Collateral; All of the Debtor's present and after-acquired personal property.	
10. Wells Fargo Capital Finance, LLC	KCR Fisheries Ltd	Regn No.: 691573E Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2035 (including renewals)	General Collateral; All present and after-acquired personal property.	Amended on Dec. 14, 2010 by <u>911944F</u> Amendment to change the name of the secured party from "Wells Fargo Foothill LLC" to "Wells Fargo Capital Finance, LLC" Renewed on Feb. 5, 2018 by <u>551827K</u> 7 years (included in expiry date) Renewed on Aug. 7, 2018 by <u>943654K</u> 10 years (included in expiry date)
11. Wells Fargo Capital Finance, LLC	KCR Fisheries Ltd	Regn No.: 911958F Regn Date: Dec. 14, 2010 Expiry Date: Dec. 14, 2025 (including renewal)	General Collateral; All present and after-acquired personal property.	Renewed on Feb. 5, 2018 by <u>551830K</u> 5 years (included in expiry date)
12. Wells Fargo Capital Finance, LLC, as Agent	KCR Fisheries Ltd	Regn No.: 913326L Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	General Collateral; All of the Debtor's present and after-acquired personal property.	
13. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 691579E Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2035 (including renewals)	General Collateral; All present and after-acquired personal property.	Amended on Dec. 14, 2010 by <u>911949F</u> Amendment to change the name of the secured party from "Wells Fargo Foothill LLC" to "Wells Fargo Capital Finance, LLC" Renewed on Feb. 5, 2018 by <u>551818K</u> 7 years (included in expiry date) Renewed on Aug. 7, 2018 by <u>943634K</u> 10 years (included in expiry date)
14. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 911960F Regn Date: Dec. 14, 2010 Expiry Date: Dec. 14, 2025 (including renewal)	General Collateral; All present and after-acquired personal property.	Renewed on Feb. 5, 2018 by <u>551822K</u> 5 years (included in expiry date)

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
15. Wells Fargo Capital Finance, LLC, as Agent	6162410 Canada Limited	Regn No.: 913321L Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	
16. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros Holdings Company	Regn No.: 913324L Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	
17. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros Seafoods Company	Regn No.: 913325L Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	

V. Personal Property Security Act (Alberta) security

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 08111303587 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2035 (including renewals)	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	<u>Amended on Dec. 15, 2010 by 10121503625</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 18020527795</u> <i>(Renewal included in expiry date)</i> <u>Renewed on Aug. 7, 2018 by 18080727481</u> <i>(Renewal included in expiry date)</i>
2. Wells Fargo Capital Finance, LLC	3231021 Nova Scotia Company Connors Bros. Clover Leaf Seafoods Company	Regn No.: 08111303693 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2035 (including renewals)	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	<u>Amended on Nov. 18, 2008 by 08111826814</u> Amendment to include "Connors Bros. Clover Leaf Seafoods Company" as an additional debtor <u>Amended on Dec. 15, 2010 by 10121503658</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 18020527856</u> <i>(Renewal included in expiry date)</i> <u>Renewed on Aug. 7, 2018 by 18080727437</u>

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
				<i>(Renewal included in expiry date)</i>
3. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 10121503703 Regn Date: Dec. 15, 2010 Expiry Date: Dec. 15, 2025 <i>(including renewal)</i>	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	<u>Renewed on Feb. 5, 2018 by 18020527601</u> <i>(Renewal included in expiry date)</i>
4. Wells Fargo Bank, National Association	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 10121530485 Regn Date: Dec. 15, 2010 Expiry Date: Dec. 15, 2020	<u>General Collateral:</u> All present and after acquired personal property of the debtor. <u>Additional Information:</u> Wells Fargo Bank, National Association acts as Trustee and Collateral Agent.	
5. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R Fisheries Ltd. 6162410 Canada Limited	Regn No.: 19090508601 Regn Date: Sep. 5, 2019 Expiry Date: Sep. 5, 2025	<u>General Collateral:</u> All present and after-acquired personal property of the debtors.	
6. Brookfield Principal Credit LLC	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R. Fisheries Ltd. <i>(two addresses listed)</i> 6162410 Canada Limited <i>(two addresses listed)</i> Connors Bros. Holdings Company Connors Bros. Seafoods Company	Regn No.: 19112515672 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All present and after-acquired personal property of the debtors. <u>Additional Information:</u> Please note that the full name and address of the secured party is: Brookfield Principal Credit L.L.C, As Administrative Agent 250 Vesey Street, 15th Floor New York, New York USA, 10281	
7. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 19112611363 Regn Date: Nov. 26, 2019 Expiry Date: Nov. 26, 2029	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	
8. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 19112619622 Regn Date: Nov. 26, 2019 Expiry Date: Infinity Type: Land Charge	<u>General Collateral:</u> <i>N/A</i>	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
9. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 08111303667 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2035 (including renewals)	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	<u>Amended on Dec. 15, 2010 by 10121503695</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 18020527953</u> (Renewal included in expiry date) <u>Renewed on Aug. 7, 2018 by 18080727384</u> (Renewal included in expiry date)
10. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 10121503734 Regn Date: Dec. 15, 2010 Expiry Date: Dec. 15, 2025 (including renewal)	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	<u>Renewed on Feb. 5, 2018 by 18020527758</u> (Renewal included in expiry date)
11. Wells Fargo Bank, National Association	Clover Leaf Holdings Company	Regn No.: 10121530553 Regn Date: Dec. 15, 2010 Expiry Date: Dec. 15, 2020	<u>General Collateral:</u> All present and after acquired personal property of the debtor <u>Additional Information:</u> Wells Fargo Bank, National Association acts as Trustee and Collateral Agent	
12. Wells Fargo Capital Finance, LLC, as Agent	Clover Leaf Holdings Company	Regn No.: 19112611292 Regn Date: Nov. 26, 2019 Expiry Date: Nov. 26, 2029	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	
13. Wells Fargo Capital Finance, LLC, as Agent	Clover Leaf Holdings Company	Regn No.: 19112619758 Regn Date: Nov. 26, 2019 Expiry Date: Infinity Type: Land Charge	<u>General Collateral:</u> N/A	
14. Wells Fargo Capital Finance, LLC	K.C.R Fisheries Ltd.	Regn No.: 08111303542 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2035 (including renewals)	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	<u>Amended on Dec. 15, 2010 by 10121503678</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 18020527927</u> (Renewal included in expiry date) <u>Renewed on Aug. 7, 2018 by 18080727516</u> (Renewal included in expiry date)
15. Wells Fargo Capital Finance, LLC	K.C.R Fisheries Ltd.	Regn No.: 10121503711 Regn Date: Dec. 15,	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	<u>Renewed on Feb. 5, 2018 by 18020527705</u>

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
		2010 Expiry Date: Dec. 15, 2025 (including renewal)		(Renewal included in expiry date)
16. Wells Fargo Bank, National Association	K.C.R Fisheries Ltd.	Regn No.: 10121530605 Regn Date: Dec. 15, 2010 Expiry Date: Dec. 15, 2020	<u>General Collateral:</u> All present and after acquired personal property of the debtor <u>Additional Information:</u> Wells Fargo Bank, National Association acts as Trustee and Collateral Agent	
17. Wells Fargo Capital Finance, LLC, as Agent	K.C.R Fisheries Ltd.	Regn No.: 19112611222 Regn Date: Nov. 26, 2019 Expiry Date: Nov. 26, 2029	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	
18. Wells Fargo Capital Finance, LLC, as Agent	K.C.R Fisheries Ltd.	Regn No.: 19112619286 Regn Date: Nov. 26, 2019 Expiry Date: Infinity Type: Land Charge	<u>General Collateral:</u> N/A	
19. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 08111303638 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2035 (including renewals)	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	<u>Amended on Dec. 15, 2010 by 10121503689</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 18020527882</u> (Renewal included in expiry date) <u>Renewed on Aug. 7, 2018 by 18080727298</u> (Renewal included in expiry date)
20. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 10121503723 Regn Date: Dec. 15, 2010 Expiry Date: Dec. 15, 2025 (including renewal)	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	<u>Renewed on Feb. 5, 2018 by 18020527661</u> (Renewal included in expiry date)
21. Wells Fargo Bank, National Association	6162410 Canada Limited	Regn No.: 10121530508 Regn Date: Dec. 15, 2010 Expiry Date: Dec. 15, 2020	<u>General Collateral:</u> All present and after acquired personal property of the debtor <u>Additional Information:</u> Wells Fargo Bank, National Association acts as Trustee and Collateral Agent	
22. Wells Fargo Capital Finance, LLC, as Agent	6162410 Canada Limited	Regn No.: 19112611147 Regn Date: Nov. 26, 2019 Expiry Date: Nov. 26, 2029	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	
23. Wells Fargo Capital	6162410 Canada Limited	Regn No.: 19112619382 Regn Date: Nov. 26,	<u>General Collateral:</u> N/A	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
Finance, LLC, as Agent		2019 Expiry Date: Infinity Type: Land Charge		
24. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Holdings Company	Regn No.: 19112612266 Regn Date: Nov. 26, 2019 Expiry Date: Nov. 26, 2029	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	
25. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Holdings Company	Regn No.: 19112619456 Regn Date: Nov. 26, 2019 Expiry Date: Infinity Type: Land Charge	<u>General Collateral:</u> N/A	
26. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Seafoods Company	Regn No.: 19112612281 Regn Date: Nov. 26, 2019 Expiry Date: Nov. 26, 2029	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	
27. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Seafoods Company	Regn No.: 19112619528 Regn Date: Nov. 26, 2019 Expiry Date: Infinity Type: Land Charge	<u>General Collateral:</u> N/A	

VI. Personal Property Security Act (Saskatchewan) security

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 300396143 Regn Date: Nov. 13, 2008 Expiry Date: Aug. 18, 2025 (including renewal)	<u>General Collateral:</u> All present and after-acquired personal property of the debtor.	<u>Amended on Dec. 15, 2010</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018</u> 7 years (included in expiry date)
2. Wells Fargo Capital Finance, LLC	3231021 Nova Scotia Company Connors Bros. Clover Leaf Seafoods Company	Regn No.: 300396167 Regn Date: Nov. 13, 2008 Expiry Date: Aug. 18, 2025 (including renewal)	<u>General Collateral:</u> All present and after-acquired personal property of the debtor.	<u>Amended on Nov. 20, 2008</u> Amendment to include "Connors Bros. Clover Leaf Seafoods Company" as an additional debtor <u>Amended on Dec. 15, 2010</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018</u>

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
				7 years (included in expiry date)
3. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 300667676 Regn Date: Dec. 15, 2010 Expiry Date: Aug. 18, 2025 (including renewal)	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	<u>Renewed on Feb. 5, 2018</u> 5 years (included in expiry date)
4. Wells Fargo Bank, National Association as Trustee and Collateral Agent	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 300667912 Regn Date: Dec. 16, 2010 Expiry Date: Dec. 16, 2020	<u>General Collateral:</u> A security interest is taken in all of the Debtor's present and after-acquired personal property.	
5. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R. Fisheries Ltd. 6162410 Canada Limited	Regn No.: 301948658 Regn Date: Sep. 5, 2019 Expiry Date: Sep. 10, 2025	<u>General Collateral:</u> All present and after-acquired personal property of the debtor	
6. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R. Fisheries Ltd. (two addresses listed) 6162410 Canada Limited (two addresses listed) Connors Bros. Holdings Company Connors Bros. Seafoods Company	Regn No.: 301979192 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 1, 2029	<u>General Collateral:</u> All present and after-acquired personal property of the debtors.	
7. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 301979629 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after-acquired personal property.	
8. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 300396158 Regn Date: Nov. 13, 2008 Expiry Date: Aug.	<u>General Collateral:</u> All present and after-acquired personal property of the debtor.	<u>Amended on Dec. 15, 2010</u> Amendment to change the name of the secured party from "Wells Fargo Foothill,

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
		18, 2025 <i>(including renewal)</i>		LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018</u> 7 years <i>(included in expiry date)</i>
9. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 300667688 Regn Date: Dec. 15, 2010 Expiry Date: Aug. 18, 2025 <i>(including renewal)</i>	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	<u>Renewed on Feb. 5, 2018</u> 5 years <i>(included in expiry date)</i>
10. Wells Fargo Bank, National Association as Trustee and Collateral Agent	Clover Leaf Holdings Company	Regn No.: 300667914 Regn Date: Dec. 16, 2010 Expiry Date: Dec. 16, 2020	<u>General Collateral:</u> A security interest is taken in all of the Debtor's present and after-acquired personal property.	
11. Wells Fargo Capital Finance, LLC, as Agent	Clover Leaf Holdings Company	Regn No.: 301979628 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after-acquired personal property.	
12. Wells Fargo Capital Finance, LLC	K.C.R Fisheries Ltd.	Regn No.: 300396139 Regn Date: Nov. 13, 2008 Expiry Date: Aug. 18, 2025 <i>(including renewal)</i>	<u>General Collateral:</u> All present and after-acquired personal property of the debtor.	<u>Amended on Dec. 15, 2010</u> Amendment to change the name of the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018</u> 7 years <i>(included in expiry date)</i>
13. Wells Fargo Capital Finance, LLC	K.C.R Fisheries Ltd.	Regn No.: 300667682 Regn Date: Dec. 15, 2010 Expiry Date: Aug. 18, 2025 <i>(including renewal)</i>	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	<u>Renewed on Feb. 5, 2018</u> 5 years <i>(included in expiry date)</i>
14. Wells Fargo Bank, National Association as Trustee and Collateral Agent	K.C.R Fisheries Ltd.	Regn No.: 300667916 Regn Date: Dec. 16, 2010 Expiry Date: Dec. 16, 2020	<u>General Collateral:</u> A security interest is taken in all of the Debtor's present and after-acquired personal property.	
15. Wells Fargo Capital Finance, LLC, as Agent	K.C.R Fisheries Ltd.	Regn No.: 301979632 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after-acquired personal property.	
16. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 300396154 Regn Date: Nov. 13, 2008 Expiry Date: Aug.	<u>General Collateral:</u> All present and after-acquired personal property of the debtor.	<u>Amended on Dec. 15, 2010</u> Amendment to change the name of the secured party from "Wells Fargo Foothill,

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
		18, 2025 (including renewal)		LLC" to "Wells Fargo Capital Finance, LLC" Renewed on Feb. 5, 2018 7 years (included in expiry date)
17. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 300667685 Regn Date: Dec. 15, 2010 Expiry Date: Aug. 18, 2025 (including renewal)	<u>General Collateral:</u> All of the Debtor's present and after-acquired personal property.	Renewed on Feb. 5, 2018 5 years (included in expiry date)
18. Wells Fargo Bank, National Association as Trustee and Collateral Agent	6162410 Canada Limited	Regn No.: 300667913 Regn Date: Dec. 16, 2010 Expiry Date: Dec. 16, 2020	<u>General Collateral:</u> A security interest is taken in all of the Debtor's present and after-acquired personal property.	
19. Wells Fargo Capital Finance, LLC, as Agent	6162410 Canada Limited	Regn No.: 301979627 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after-acquired personal property.	
20. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Holdings Company	Regn No.: 301979630 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after-acquired personal property.	
21. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Seafoods Company	Regn No.: 301979631 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after-acquired personal property.	

VII. Personal Property Security Act (Manitoba) security

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 201020945600 Regn Date: Dec. 15, 2010 Expiry Date: Aug. 18, 2025	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	Amended on Feb. 5, 2018 by 201802119416 Sections Changed: Expiry Date
2. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf	Regn No.: 201920313901 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 1, 2029	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
	Seafoods Company K.C.R. Fisheries Ltd. <i>(two addresses listed)</i> 6162410 Canada Limited <i>(two addresses listed)</i> Connors Bros. Holdings Company Connors Bros. Seafoods Company			
3. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R Fisheries Ltd. 6162410 Canada Limited	Regn No.: 201915232006 Regn Date: Sep. 5, 2019 Expiry Date: Sep. 10, 2025	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	
4. Wells Fargo Bank, National Association as trustee and collateral agent	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 201020975500 Regn Date: Dec. 16, 2010 Expiry Date: Dec. 16, 2020	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	
5. Wells Fargo Capital Finance, LLC	3231021 Nova Scotia Company Connors Bros. Clover Leaf Seafoods Company	Regn No.: 200821888505 Regn Date: Nov. 13, 2008 Expiry Date: Aug. 18, 2025	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	<u>Amended on Nov. 19, 2008 by 200822276414</u> Sections Changed: Business Debtors <u>Amended on Dec. 15, 2010 by 201020952917</u> Sections Changed: Secured Parties <u>Amended on Feb. 5, 2018 by 201802119211</u> Sections Changed: Expiry Date
6. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 200821886006 Regn Date: Nov. 13, 2008 Expiry Date: Aug. 18, 2025	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	<u>Amended on Dec. 15, 2010 by 201020958214</u> Sections Changed: Secured Parties <u>Amended on Feb. 5, 2018 by 201802119114</u> Sections Changed: Expiry Date
7. Wells Fargo Capital	Connors Bros. Clover Leaf	Regn No.: 201920375303 Regn Date: Nov. 25,	<u>General Collateral:</u> All of the debtor's present and after-acquired personal property.	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
Finance, LLC, as Agent	Seafoods Company	2019 Expiry Date: Nov. 25, 2029		
8. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 201020947409 Regn Date: Dec. 15, 2010 Expiry Date: Aug. 18, 2025	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	<u>Amended on Feb. 5, 2018 by 201802120511</u> Sections Changed: Expiry Date
9. Wells Fargo Bank, National Association as trustee and collateral agent	Clover Leaf Holdings Company	Regn No.: 201020976204 Regn Date: Dec. 16, 2010 Expiry Date: Dec. 16, 2020	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	
10. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 200821887401 Regn Date: Nov. 13, 2008 Expiry Date: Aug. 18, 2025	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	<u>Amended on Dec. 15, 2010 by 201020959210</u> Sections Changed: Secured Parties <u>Amended on Feb. 5, 2018 by 201802120317</u> Sections Changed: Expiry Date
11. Wells Fargo Capital Finance, LLC, as Agent	Clover Leaf Holdings Company	Regn No.: 201920378604 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> The Security interest is taken in all of the debtor's present and after-acquired personal property.	
12. Wells Fargo Capital Finance, LLC	K.C.R Fisheries Ltd.	Regn No.: 201020946003 Regn Date: Dec. 15, 2010 Expiry Date: Aug. 18, 2025	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	<u>Amended on Feb. 5, 2018 by 201802120112</u> Sections Changed: Expiry Date
13. Wells Fargo Bank, National Association as trustee and collateral agent	K.C.R Fisheries Ltd.	Regn No.: 201020977804 Regn Date: Dec. 16, 2010 Expiry Date: Dec. 16, 2020	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	
14. Wells Fargo Capital Finance, LLC	K.C.R Fisheries Ltd.	Regn No.: 200821885409 Regn Date: Nov. 13, 2008 Expiry Date: Aug. 18, 2025	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	<u>Amended on Dec. 15, 2010 by 201020958419</u> Sections Changed: Secured Parties <u>Amended on Feb. 5, 2018 by 201802119912</u> Sections Changed: Expiry Date
15. Wells Fargo Capital Finance, LLC, as Agent	K.C.R Fisheries Ltd.	Regn No.: 201920375605 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> The Security interest is taken in all of the debtor's present and after-acquired personal property.	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
16. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 201020946909 Regn Date: Dec. 15, 2010 Expiry Date: Aug. 18, 2025	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	<u>Amended on Feb. 5, 2018 by 201802119815</u> Sections Changed: Expiry Date
17. Wells Fargo Bank, National Association as trustee and collateral agent	6162410 Canada Limited	Regn No.: 201020975801 Regn Date: Dec. 16, 2010 Expiry Date: Dec. 16, 2020	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	
18. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 200821887002 Regn Date: Nov. 13, 2008 Expiry Date: Aug. 18, 2025	<u>General Collateral:</u> The security interest is taken in all of the debtor's present and after-acquired personal property.	<u>Amended on Dec. 15, 2010 by 201020959016</u> Sections Changed: Secured Parties <u>Amended on Feb. 5, 2018 by 201802119513</u> Sections Changed: Expiry Date
19. Wells Fargo Capital Finance, LLC, as Agent	6162410 Canada Limited	Regn No.: 201920378000 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> The Security interest is taken in all of the debtor's present and after-acquired personal property.	
20. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Holdings Company	Regn No.: 201920375400 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> The Security interest is taken in all of the debtor's present and after-acquired personal property.	
21. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Seafoods Company	Regn No.: 201920375508 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> The Security interest is taken in all of the debtor's present and after-acquired personal property.	

VIII. Personal Property Security Act (Newfoundland and Labrador) security

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 6998779 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685	<u>Amended on Nov. 17, 2008 by 7004733</u> Amendment to add serial numbered goods <u>Amended on Nov. 17, 2008 by 7004948</u> Amendment to add and remove serial numbered goods

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
			Strathaven Boat, S/N 323666 Strathlorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495	<u>Amended on Nov. 17, 2008 by 7004993</u> Amendment to add and remove serial numbered goods <u>Amended on Dec. 10, 2010 by 8725329</u> Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 15671712</u> 7 years (included in expiry date)
2. Wells Fargo Capital Finance, LLC	3231021 Nova Scotia Company Connors Bros. Clover Leaf Seafoods Company	Regn No.: 6998804 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property.	<u>Amended on Nov. 18, 2008 by 7008891</u> Amendment to include "Connors Bros. Clover Leaf Seafoods Company" as an additional debtor. <u>Amended on Dec. 10, 2010 by 8725338</u> Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 15671746</u> 7 years (included in expiry date)
3. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 8725935 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Strathlorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495	<u>Renewed on Feb. 5, 2018 by 15671753</u> 5 years (included in expiry date)
4. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R. Fisheries Ltd. 6162410 Canada Limited	Regn No.: 17262676 Regn Date: Sep. 5, 2019 Expiry Date: Sep. 5, 2025	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after-acquired personal property.	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
5. Brookfield Principal Credit LLC as Administrative Agent	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 17262759 Regn Date: Sep. 5, 2019 Expiry Date: Sep. 5, 2025	<p><u>General Collateral:</u> The serial numbered collateral described herein and all proceeds of the foregoing in any form including goods, documents of title, chattel paper, investment property, instruments, money and intangibles.</p> <p><u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Judy & Jason Boat, S/N 393098 Senator Neil Boat, S/N 314685 Caroline B. Boat, S/N 328495 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Andrew & Deane Boat, S/N 314339 Fundy Monarch Boat, S/N 838868</p>	
6. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R. Fisheries Ltd. <i>(two addresses listed)</i> 6162410 Canada Limited <i>(two addresses listed)</i> Connors Bros. Seafoods Company Connors Bros. Holdings Company	Regn No.: 17483827 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<p><u>General Collateral:</u> A security interest is taken in all of the debtors' present and after-acquired personal property.</p> <p><u>Serial Numbered Collateral:</u> Rowan & Evan Boat, S/N 833305 Canada 100 Boat, S/N 328939 Brunswick Provider Boat, S/N 828873 Capelco Boat, S/N 318596 Andrew & Deane Boat, S/N 314339 Fundy Monarch Boat, S/N 838868 Judy & Jason Boat, S/N 393098 Senator Neil Boat, S/N 314685 Caroline B. Boat, S/N 328495 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Michael Eileen Boat, S/N 318586 Clark Forklift Slip Sheet Motor Vehicle, C2332L06329664 Doosan Forklift Motor Vehicle, G18S5LP Forklift #719 Motor Vehicle, GXC17E Doosan Forklift G25P-5 Motor Vehicle, MN01109 2012 Chevrolet Silverado 2500HD 4x4 Plow Truck Motor Vehicle, 1GC0KVCG1CZ125816 Electric Cat Forklift Motor Vehicle, AT3534941 Propane Cat Forklift Motor Vehicle, A4EC241789 2012 Kenworth T660 Tractor Motor Vehicle, 1XKAD49X2CJ949990 2013 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPExXDZ248608 2013 Chevrolet Silverado 1500 4x4 Motor Vehicle, 1GCNKPEA9DZ392360 Fish Meal Forklift Toyota 8FGU25 Motor Vehicle, 50139 FM Forklift Toyota 8FU25 Motor Vehicle, 22840 2014 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPExHEZ370501 2015 Kenworth T880 Tractor Motor Vehicle, 1XKZDP9X2FJ975899 Forklift - Toyota - 8FBCU20 Motor Vehicle, 67626 Forklift - Toyota - 8FBCU25 Motor</p>	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
			Vehicle, 67717 2011 Vanguard Trailers Dry-Box Trailer Trailer, 5V8VA5325BM101444 Toyota Forklift 8FGU25 Motor Vehicle, 69636 Toyota Forklift 8FGU25 Motor Vehicle, 72113 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5333GS658506 1996 Pacific Truck & Trailer Sludge Disp Motor Vehicle, 2LT162V49TR000905 2014 Utility Trailers Dry-Box Trailer Trailer, 1UYVS2533EG087911 Toyota Forklift & Rotator - 8FBCU20 Motor Vehicle, 73526 Toyota Forklift - 8FBE18U Motor Vehicle, 11568 Toyota Forklift Model 8FGU25 Motor Vehicle, 80455 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5334GS658501 2017 Ford F-150 Motor Vehicle, 1FTEX1CP8HFB94446 Front Loader Motor Vehicle, 171278 2017 Dodge Grand Caravan Motor Vehicle, 2C4RDGBG8HR599231 Forklift, Toyota, Model 8FBCU25 Motor Vehicle, 210091800203 2017 Ford Transit Motor Vehicle, 1FBZX2YG4HKA79192	
7. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 17484908 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Clark Forklift Slip Sheet Motor Vehicle, C2332L06329664 Doosan Forklift Motor Vehicle, G18S5LP Forklift #719 Motor Vehicle, GXC17E Doosan Forklift G25P-5 Motor Vehicle, MN01109 2012 Chevrolet Silverado 2500HD 4x4 Plow Truck Motor Vehicle, 1GC0KVCG1CZ125816 Electric Cat Forklift Motor Vehicle, AT3534941 Propane Cat Forklift Motor Vehicle, A4EC241789 2012 Kenworth T660 Tractor Motor Vehicle, 1XKAD49X2CJ949990 2013 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPExXDZ248608 2013 Chevrolet Silverado 1500 4x4 Motor Vehicle, 1GCNKPEA9DZ392360 Fish Meal Forklift Toyota 8FGU25 Motor Vehicle, 50139 FM Forklift Toyota 8FU25 Motor Vehicle, 22840 2014 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPeh7EZ370501 2015 Kenworth T880 Tractor Motor Vehicle, 1XKZDP9X2FJ975899 Forklift - Toyota - 8FBCU20 Motor Vehicle, 67626	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
			Forklift - Toyota - 8FBCU25 Motor Vehicle, 67717 2011 Vanguard Trailers Dry-Box Trailer Trailer, 5V8VA5325BM101444 Toyota Forklift 8FGU25 Motor Vehicle, 69636 Toyota Forklift 8FGU25 Motor Vehicle, 72113 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5333GS658506 1996 Pacific Truck & Trailer Sludge Disp Motor Vehicle, 2LT162V49TR000905 2014 Utility Trailers Dry-Box Trailer Trailer, 1UYVS2533EG087911 Toyota Forklift & Rotator - 8FBCU20 Motor Vehicle, 73526 Toyota Forklift - 8FBE18U Motor Vehicle, 11568 Toyota Forklift Model 8FGU25 Motor Vehicle, 80455 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5334GS658501 2017 Ford F-150 Motor Vehicle, 1FTEX1CP8HFB94446 Front Loader Motor Vehicle, 171278 2017 Dodge Grand Caravan Motor Vehicle, 2C4RDGBG8HR599231 Forklift, Toyota, Model 8FBCU25 Motor Vehicle, 210091800203 2017 Ford Transit Motor Vehicle, 1FBZX2YG4HKA79192 Fundy Monarch Boat, S/N 838868	
8. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 6998797 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property.	<u>Amended on Dec. 10, 2010 by 8725365</u> Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 15671738</u> 7 years (included in expiry date)
9. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 8725999 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property.	<u>Renewed on Feb. 5, 2018 by 15671787</u> 5 years (included in expiry date)
10. Wells Fargo Capital Finance, LLC, as Agent	Clover Leaf Holdings Company	Regn No.: 17484874 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property	
11. Wells Fargo Capital Finance, LLC	K.C.R. Fisheries Ltd.	Regn No.: 6998760 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939	<u>Amended on Nov. 17, 2008 by 7004724</u> Amendment to add serial numbered goods <u>Amended on Dec. 10, 2010 by 8725347</u>

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
				Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 15671704</u> 7 years (included in expiry date)
12. Wells Fargo Capital Finance, LLC	K.C.R. Fisheries Ltd.	Regn No.: 8725962 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939	<u>Renewed on Feb. 5, 2018 by 15671761</u> 5 years (included in expiry date)
13. Brookfield Principal Credit LLC as Administrative Agent	K.C.R. Fisheries Ltd.	Regn No.: 17262585 Regn Date: Sep. 5, 2019 Expiry Date: Sep. 5, 2025	<u>General Collateral:</u> The serial numbered collateral described herein and all proceeds of the foregoing in any form including goods, documents of title, chattel paper, investment property, instruments, money and intangibles. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939	
14. Wells Fargo Capital Finance, LLC, as Agent	K.C.R. Fisheries Ltd.	Regn No.: 17484924 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939 Rowan & Evan Boat, S/N 833305	
15. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 6998788 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Strathlorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495	<u>Amended on Nov. 17, 2008 by 7004742</u> Amendment to add serial numbered goods <u>Amended on Nov. 17, 2008 by 7004957</u> Amendment to add and remove serial numbered goods <u>Amended on Nov. 17, 2008 by 7005019</u> Amendment to add and remove serial numbered goods <u>Amended on Dec. 10, 2010 by 8725356</u> Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 15671720</u> 7 years (included in expiry date)
16. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 8725971 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10,	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u>	<u>Amended on Dec. 14, 2010 by 8737218</u> Amendment to add serial numbered goods

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
		2025 (including renewal)	Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Strathlorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495 Judy & Jason Boat, S/N 393098	<u>Renewed on Feb. 5, 2018 by 15671779</u> 5 years (included in expiry date)
17. Brookfield Principal Credit LLC as Administrative Agent	6162410 Canada Limited	Regn No.: 17262619 Regn Date: Sep. 5, 2019 Expiry Date: Sep. 5, 2025	<u>General Collateral:</u> The serial numbered collateral described herein and all proceeds of the foregoing in any form including goods, documents of title, chattel paper, investment property, instruments, money and intangibles <u>Serial Numbered Collateral:</u> Judy & Jason Boat, S/N 393098 Senator Neil Boat, S/N 314685 Caroline B. Boat, S/N 328495 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Andrew & Deane Boat, S/N 314339	
18. Wells Fargo Capital Finance, LLC, as Agent	6162410 Canada Limited	Regn No.: 17484791 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property <u>Serial Numbered Collateral:</u> Andrew & Deane Boat, S/N 314339 Capelco Boat, S/N 318596 Caroline B. Boat, S/N 328495 Michael Eileen Boat, S/N 318586 Senator Neil Boat, S/N 314685 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Judy & Jason Boat, S/N 393098	
19. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Holdings Company	Regn No.: 17484890 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property	
20. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Seafoods Company	Regn No.: 17484916 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property	

IX. Personal Property Security Act (Prince Edward Island) security

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 2146699 Regn Date: Nov. 13, 2008 Expiry Date: Nov.	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u>	<u>Amended on Nov. 17, 2008 by 2148679</u> Amendment to add serial numbered goods

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
		13, 2025 (including renewal)	Brunswick Provider Boat, S/N 828873 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Strathlorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495	<u>Amended on Nov. 17, 2008 by 2148777</u> Amendment to add and remove serial numbered goods <u>Amended on Dec. 10, 2010 by 2589906</u> Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 4445434</u> 7 years (included in expiry date)
2. Wells Fargo Capital Finance, LLC	3231021 Nova Scotia Company Connors Bros. Clover Leaf Seafoods Company	Regn No.: 2146724 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property.	<u>Amended on Nov. 18, 2008 by 2150031</u> Amendment to include "Connors Bros. Clover Leaf Seafoods Company" as an additional debtor. <u>Amended on Dec. 10, 2010 by 2589915</u> Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 4445504</u> 7 years (included in expiry date)
3. Wells Fargo Capital Finance, LLC	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 2590075 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Strathlorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495	<u>Renewed on Feb. 5, 2018 by 4445461</u> 5 years (included in expiry date)
4. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R. Fisheries Ltd. 6162410 Canada Limited	Regn No.: 4954428 Regn Date: Sep. 5, 2019 Expiry Date: Sep. 5, 2025	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after-acquired personal property.	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
5. Brookfield Principal Credit LLC as Administrative Agent	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 4954446 Regn Date: Sep. 5, 2019 Expiry Date: Sep. 5, 2025	<u>General Collateral:</u> The serial numbered collateral described herein and all proceeds of the foregoing in any form including goods, documents of title, chattel paper, investment property, instruments, money and intangibles. <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Judy & Jason Boat, S/N 393098 Senator Neil Boat, S/N 314685 Caroline B. Boat, S/N 328495 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Andrew & Deane Boat, S/N 314339 Fundy Monarch Boat, S/N 838868	
6. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company Connors Bros. Clover Leaf Seafoods Company K.C.R. Fisheries Ltd. <i>(two addresses listed)</i> 6162410 Canada Limited <i>(two addresses listed)</i> Connors Bros. Seafoods Company Connors Bros. Holdings Company	Regn No.: 5026571 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> A security interest is taken in all of the debtors' present and after-acquired personal property. <u>Serial Numbered Collateral:</u> Rowan & Evan Boat, S/N 833305 Canada 100 Boat, S/N 328939 Brunswick Provider Boat, S/N 828873 Capelco Boat, S/N 318596 Andrew & Deane Boat, S/N 314339 Fundy Monarch Boat, S/N 838868 Judy & Jason Boat, S/N 393098 Senator Neil Boat, S/N 314685 Caroline B. Boat, S/N 328495 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Michael Eileen Boat, S/N 318586 Clark Forklift Slip Sheet Motor Vehicle, C2332L06329664 Doosan Forklift Motor Vehicle, G18S5LP Forklift #719 Motor Vehicle, GXC17E Doosan Forklift G25P-5 Motor Vehicle, MN01109 2012 Chevrolet Silverado 2500HD 4x4 Plow Truck Motor Vehicle, 1GC0KVCG1CZ125816 Electric Cat Forklift Motor Vehicle, AT3534941 Propane Cat Forklift Motor Vehicle, A4EC241789 2012 Kenworth T660 Tractor Motor Vehicle, 1XKAD49X2CJ949990 2013 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPEXXDZ248608 2013 Chevrolet Silverado 1500 4x4 Motor Vehicle, 1GCNKPEA9DZ392360 Fish Meal Forklift Toyota 8FGU25 Motor Vehicle, 50139 FM Forklift Toyota 8FU25 Motor Vehicle, 22840 2014 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPEH7EZ370501 2015 Kenworth T880 Tractor Motor Vehicle, 1XKZDP9X2FJ975899 Forklift - Toyota - 8FBCU20 Motor Vehicle, 67626 Forklift - Toyota - 8FBCU25 Motor	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
			Vehicle, 67717 2011 Vanguard Trailers Dry-Box Trailer Trailer, 5V8VA5325BM101444 Toyota Forklift 8FGU25 Motor Vehicle, 69636 Toyota Forklift 8FGU25 Motor Vehicle, 72113 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5333GS658506 1996 Pacific Truck & Trailer Sludge Disp Motor Vehicle, 2LT162V49TR000905 2014 Utility Trailers Dry-Box Trailer Trailer, 1UYVS2533EG087911 Toyota Forklift & Rotator - 8FBCU20 Motor Vehicle, 73526 Toyota Forklift - 8FBE18U Motor Vehicle, 11568 Toyota Forklift Model 8FGU25 Motor Vehicle, 80455 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5334GS658501 2017 Ford F-150 Motor Vehicle, 1FTEX1CP8HFB94446 Front Loader Motor Vehicle, 171278 2017 Dodge Grand Caravan Motor Vehicle, 2C4RDGBG8HR599231 Forklift, Toyota, Model 8FBCU25 Motor Vehicle, 210091800203 2017 Ford Transit Motor Vehicle, 1FBZX2YG4HKA79192	
7. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Clover Leaf Seafoods Company	Regn No.: 5027026 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property <u>Serial Numbered Collateral:</u> Brunswick Provider Boat, S/N 828873 Clark Forklift Slip Sheet Motor Vehicle, C2332L06329664 Doosan Forklift Motor Vehicle, G18S5LP Forklift #719 Motor Vehicle, GXC17E Doosan Forklift G25P-5 Motor Vehicle, MN01109 2012 Chevrolet Silverado 2500HD 4x4 Plow Truck Motor Vehicle, 1GC0KVCG1CZ125816 Electric Cat Forklift Motor Vehicle, AT3534941 Propane Cat Forklift Motor Vehicle, A4EC241789 2012 Kenworth T660 Tractor Motor Vehicle, 1XKAD49X2CJ949990 2013 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPExXDZ248608 2013 Chevrolet Silverado 1500 4x4 Motor Vehicle, 1GCNKPEA9DZ392360 Fish Meal Forklift Toyota 8FGU25 Motor Vehicle, 50139 FM Forklift Toyota 8FU25 Motor Vehicle, 22840 2014 Chevrolet Silverado 1500 Motor Vehicle, 1GCNCPExH7EZ370501 2015 Kenworth T880 Tractor Motor Vehicle, 1XKZDP9X2FJ975899 Forklift - Toyota - 8FBCU20 Motor Vehicle, 67626	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
			Forklift - Toyota - 8FBCU25 Motor Vehicle, 67717 2011 Vanguard Trailers Dry-Box Trailer Trailer, 5V8VA5325BM101444 Toyota Forklift 8FGU25 Motor Vehicle, 69636 Toyota Forklift 8FGU25 Motor Vehicle, 72113 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5333GS658506 1996 Pacific Truck & Trailer Sludge Disp Motor Vehicle, 2LT162V49TR000905 2014 Utility Trailers Dry-Box Trailer Trailer, 1UYVS2533EG087911 Toyota Forklift & Rotator - 8FBCU20 Motor Vehicle, 73526 Toyota Forklift - 8FBE18U Motor Vehicle, 11568 Toyota Forklift Model 8FGU25 Motor Vehicle, 80455 2016 Stoughton Trailers Dry-Box Trailer Trailer, 1DW1A5334GS658501 2017 Ford F-150 Motor Vehicle, 1FTEX1CP8HFB94446 Front Loader Motor Vehicle, 171278 2017 Dodge Grand Caravan Motor Vehicle, 2C4RDGBG8HR599231 Forklift, Toyota, Model 8FBCU25 Motor Vehicle, 210091800203 2017 Ford Transit Motor Vehicle, 1FBZX2YG4HKA79192 Fundy Monarch Boat, S/N 838868	
8. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 2146715 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property.	<u>Amended on Dec. 10, 2010 by 2589942</u> Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 4445452</u> 7 years (included in expiry date)
9. Wells Fargo Capital Finance, LLC	Clover Leaf Holdings Company	Regn No.: 2590128 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property.	<u>Renewed on Feb. 5, 2018 by 4445498</u> 5 years (included in expiry date)
10. Wells Fargo Capital Finance, LLC, as Agent	Clover Leaf Holdings Company	Regn No.: 5026973 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property.	
11. Wells Fargo Capital Finance, LLC	K.C.R. Fisheries Ltd.	Regn No.: 2146680 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939	<u>Amended on Nov. 17, 2008 by 2148660</u> Amendment to add serial numbered goods <u>Amended on Dec. 10, 2010 by 2589924</u>

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
				Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 4445425</u> 7 years (included in expiry date)
12. Wells Fargo Capital Finance, LLC	K.C.R. Fisheries Ltd.	Regn No.: 2590100 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939	<u>Renewed on Feb. 5, 2018 by 4445470</u> 5 years (included in expiry date)
13. Brookfield Principal Credit LLC as Administrative Agent	K.C.R. Fisheries Ltd.	Regn No.: 4954400 Regn Date: Sep. 5, 2019 Expiry Date: Sep. 5, 2025	<u>General Collateral:</u> The serial numbered collateral described herein and all proceeds of the foregoing in any form including goods, documents of title, chattel paper, investment property, instruments, money and intangibles. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939	
14. Wells Fargo Capital Finance, LLC, as Agent	K.C.R. Fisheries Ltd.	Regn No.: 5027017 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Canada 100 Boat, S/N 328939 Rowan & Evan Boat, S/N 833305	
15. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 2146706 Regn Date: Nov. 13, 2008 Expiry Date: Nov. 13, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666 Strathlorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495	<u>Amended on Nov. 17, 2008 by 2148688</u> Amendment to add serial numbered goods <u>Amended on Nov. 17, 2008 by 2148786</u> Amendment to add and remove serial numbered goods <u>Amended on Dec. 10, 2010 by 2589933</u> Amendment to change the secured party from "Wells Fargo Foothill, LLC" to "Wells Fargo Capital Finance, LLC" <u>Renewed on Feb. 5, 2018 by 4445443</u> 7 years (included in expiry date)
16. Wells Fargo Capital Finance, LLC	6162410 Canada Limited	Regn No.: 2590119 Regn Date: Dec. 10, 2010 Expiry Date: Dec. 10, 2025 (including renewal)	<u>General Collateral:</u> A security interest is taken in all of the debtor's present and after acquired personal property. <u>Serial Numbered Collateral:</u> Capelco Boat, S/N 318596 Michael Eilcen Boat, S/N 318586 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Senator Neil Boat, S/N 314685 Strathaven Boat, S/N 323666	<u>Amended on Dec. 14, 2010 by 2592778</u> Amendment to add serial numbered goods <u>Renewed on Feb. 5, 2018 by 4445489</u> 5 years (included in expiry date)

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
			Strathlorne Boat, S/N 323649 Andrew & Deane Boat, S/N 314339 Caroline B. Boat, S/N 328495 Judy & Jason Boat, S/N 393098	
17. Brookfield Principal Credit LLC as Administrative Agent	6162410 Canada Limited	Regn No.: 4954419 Regn Date: Sep. 5, 2019 Expiry Date: Sep. 5, 2025	<u>General Collateral:</u> The serial numbered collateral described herein and all proceeds of the foregoing in any form including goods, documents of title, chattel paper, investment property, instruments, money and intangibles <u>Serial Numbered Collateral:</u> Judy & Jason Boat, S/N 393098 Senator Neil Boat, S/N 314685 Caroline B. Boat, S/N 328495 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Capelco Boat, S/N 318596 Michael Eileen Boat, S/N 318586 Andrew & Deane Boat, S/N 314339	
18. Wells Fargo Capital Finance, LLC, as Agent	6162410 Canada Limited	Regn No.: 5026964 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property <u>Serial Numbered Collateral:</u> Andrew & Deane Boat, S/N 314339 Capelco Boat, S/N 318596 Caroline B. Boat, S/N 328495 Michael Eileen Boat, S/N 318586 Senator Neil Boat, S/N 314685 Silver King Boat, S/N 328483 Strathburn Boat, S/N 328474 Judy & Jason Boat, S/N 393098	
19. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Holdings Company	Regn No.: 5026991 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property	
20. Wells Fargo Capital Finance, LLC, as Agent	Connors Bros. Seafoods Company	Regn No.: 5027008 Regn Date: Nov. 25, 2019 Expiry Date: Nov. 25, 2029	<u>General Collateral:</u> All of the debtor's present and after acquired personal property	

X. Register of Personal and Movable Real Rights (Quebec) security

	Registration Registration No. Reg. Date & Time Expiry Date Date: YY/MM/DD	Parties	Nature of Registration Amount (Cdn \$) Interest Rate	Collateral Affected (summary only)	Ancillary Registrations & Comments
1.	10-0880893-0001 2010-12-15 10:35 2025-08-18 (extended from 2020-12-14)	Holder: Wells Fargo Capital Finance, LLC Grantor: Connors Bros. Clover Leaf Seafoods Company	Conventional hypothec without delivery \$660,000,000 25% per annum	The universality of all of the Grantor's movable and immovable property, corporeal and incorporeal, present and future, of any nature whatsoever and wheresoever situate.	Renewal registered on 2018-02-06 under 18- 0106524-0001 extending the expiry date to 2025- 08-18 The hypothec is granted to secure payment of bonds or other titles of indebtedness (C.c.Q. art. 2692)
2.	17-0880312-0001 2017-08-21 12:40 2027-08-21	Holder: Brookfield Principal Credit LLC Grantor: Connors Bros. Clover Leaf Seafoods Company	Conventional hypothec without delivery \$1,200,000,000 25% per annum	The universality of all of movable and immovable property of the Grantor, corporeal and incorporeal, present and future, of any nature whatsoever and wheresoever situate.	<i>The hypothec is constituted in favour of the Fondé de pouvoir (Article 2692 of the Civil Code of Québec)</i>
3.	19-1331646-0001 2019-11-25 09:00 2029-11-25	Holder: Brookfield Principal Credit LLC Grantor: Connors Bros. Clover Leaf Seafoods Company	Conventional hypothec without delivery \$240,000,000 25% per annum	The universality of all of movable and immovable property of the Grantor, corporeal and incorporeal, present and future, of any nature whatsoever and wheresoever situate.	<i>The hypothec is constituted in favour of the Fondé de pouvoir (Article 2692 of the Civil Code of Québec)</i>
4.	19-1332330-0001 2019-11-25 09:00 2029-11-22	Holder: Wells Fargo Capital Finance, LLC Grantor: Connors Bros. Clover Leaf Seafoods Company	Conventional hypothec without delivery \$600,000,000 25% per annum	The universality of all of the Grantor's movable and immovable property, corporeal and incorporeal, present and future, of any nature whatsoever and wheresoever situate.	<i>The hypothec is constituted in favour of the Fondé de pouvoir (Article 2692 of the Civil Code of Québec)</i>

XI. Uniform Commercial Code (District of Columbia) security:

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Brookfield Principal Credit LLC, as Administrative Agent	Connors Bros. Clover Leaf Seafoods Company	File No.: 2019129089 Regn Date: Nov. 27, 2019	<u>General Collateral Description</u> All of the Debtor's right, title and interest in, to and under all assets of the Debtor, in each case whether now owned or existing, or hereafter acquired or arising, and wherever located, including all proceeds thereof.	

Secured Party(ies)	Debtor(s)	Registration Number (Registration Period)	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
2. Brookfield Principal Credit LLC, as Administrative Agent	6162410 Canada Limited	File No.: 2019129087 Regn Date: Nov. 27, 2019	<u>General Collateral Description</u> All of the Debtor's right, title and interest in, to and under all assets of the Debtor, in each case whether now owned or existing, or hereafter acquired or arising, and wherever located, including all proceeds thereof.	
3. Brookfield Principal Credit LLC, as Administrative Agent	Clover Leaf Holdings Company	File No.: 2019129088 Regn Date: Nov. 27, 2019	<u>General Collateral Description</u> All of the Debtor's right, title and interest in, to and under all assets of the Debtor, in each case whether now owned or existing, or hereafter acquired or arising, and wherever located, including all proceeds thereof.	
4. Brookfield Principal Credit LLC, as Administrative Agent	K.C.R. Fisheries Ltd.	File No.: 2019129114 Regn Date: Nov. 27, 2019	<u>General Collateral Description</u> All of the Debtor's right, title and interest in, to and under all assets of the Debtor, in each case whether now owned or existing, or hereafter acquired or arising, and wherever located, including all proceeds thereof.	
5. Brookfield Principal Credit LLC, as Administrative Agent	Connors Bros. Holdings Company	File No.: 2019129115 Regn Date: Nov. 27, 2019	<u>General Collateral Description</u> All of the Debtor's right, title and interest in, to and under all assets of the Debtor, in each case whether now owned or existing, or hereafter acquired or arising, and wherever located, including all proceeds thereof.	
6. Brookfield Principal Credit LLC, as Administrative Agent	Connors Bros. Seafoods Company	File No.: 2019129116 Regn Date: Nov. 27, 2019	<u>General Collateral Description</u> All of the Debtor's right, title and interest in, to and under all assets of the Debtor, in each case whether now owned or existing, or hereafter acquired or arising, and wherever located, including all proceeds thereof.	

XII. Any and all Claims recorded or existing against the following Canadian trademarks owned by the Applicant, including any such Claims listed in the Canadian Intellectual Property Office's Canadian Trademarks Database:

	Mark	Application Number	Registration Number	Owner	Status
1.	"SURF"	203092	UCA32539	Connors Bros. Clover Leaf Seafoods Company	Registered
2.	"THUNDERBIRD"	212096	UCA39184	Connors Bros. Clover Leaf Seafoods Company	Registered
3.	BANQUET BRAND	118463	TMDA35670	Connors Bros. Clover Leaf Seafoods Company	Registered
4.	BEACH CLIFF	1152386	TMA655023	Connors Bros. Clover Leaf Seafoods Company	Registered

	Mark	Application Number	Registration Number	Owner	Status
5.	Boat Design	701484	TMA411271	Connors Bros. Clover Leaf Seafoods Company	Registered
6.	BRUNSWICK	701055	TMA408223	Connors Bros. Clover Leaf Seafoods Company	Registered
7.	BRUNSWICK and Design (CONNAISSEUR)	428386	TMA241315	Connors Bros. Clover Leaf Seafoods Company	Registered
8.	BRUNSWICK BRAND	60963	TMDA12489	Connors Bros. Clover Leaf Seafoods Company	Registered
9.	BRUNSWICK; and Design	1976647	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
10.	BRUNSWICK; and Design - Colour Claim	1976648	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
11.	cb Design	361406	TMA201803	Connors Bros. Clover Leaf Seafoods Company	Registered
12.	CLOVER LEAF	173162	UCA10040	Connors Bros. Clover Leaf Seafoods Company	Registered
13.	CLOVER LEAF and Clover Leaf Design	152833	TMDA50882	Connors Bros. Clover Leaf Seafoods Company	Registered
14.	CLOVER LEAF and Design	154095	TMDA51955	Connors Bros. Clover Leaf Seafoods Company	Registered
15.	CLOVER LEAF and Design	345655	TMA185996	Connors Bros. Clover Leaf Seafoods Company	Registered
16.	CLOVER LEAF and Design	585315	TMA339931	Connors Bros. Clover Leaf Seafoods Company	Registered
17.	CLOVER LEAF BISTRO BOWLS (word mark)	1850006	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
18.	CLOVER LEAF BISTRO BOWLS and design (design mark)	1941863	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
19.	CLOVER LEAF BOLS BISTRO (word)	1971559	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
20.	CLOVER LEAF CRAB DELECTABLES & Design	1188545	TMA685130	Connors Bros. Clover Leaf Seafoods Company	Registered
21.	CLOVER LEAF Design	1975159	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
22.	CLOVER LEAF design - colour claim	1975138	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
23.	CLOVER LEAF design - English Language Tag Line	1975160	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed

	Mark	Application Number	Registration Number	Owner	Status
24.	CLOVER LEAF design - English Tag line Colour claim	1975161	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
25.	CLOVER LEAF design - French Language Tag Line	1975163	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
26.	CLOVER LEAF design - French Language Tag Line - Colour Claim	1975162	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
27.	CLOVER LEAF GARNITOUT and Design	694236	TMA409510	Connors Bros. Clover Leaf Seafoods Company	Registered
28.	CLOVER LEAF INSPIRATIONS	1318324	TMA733393	Connors Bros. Clover Leaf Seafoods Company	Registered
29.	CLOVER LEAF INSPIRATIONS and Design	1318325	TMA733394	Connors Bros. Clover Leaf Seafoods Company	Registered
30.	CLOVER LEAF LOBSTER DELECTABLES and Design	1188541	TMA655091	Connors Bros. Clover Leaf Seafoods Company	Registered
31.	CLOVER LEAF TOPPERS	1692385	TMA912996	Connors Bros. Clover Leaf Seafoods Company	Registered
32.	CLOVER LEAF TOPPERS and Design	694237	TMA409206	Connors Bros. Clover Leaf Seafoods Company	Registered
33.	CLOVER LEAF TOPPERS BOUCHÉES	1652979	TMA907321	Connors Bros. Clover Leaf Seafoods Company	Registered
34.	CONNORS	117800	TMDA37482	Connors Bros. Clover Leaf Seafoods Company	Registered
35.	CONNORS BROS. INCOME FUND & DESIGN	1243953	TMA713962	Connors Bros. Clover Leaf Seafoods Company	Registered
36.	CONNORS FAMOUS SEA FOOD	494822	TMDA37532	Connors Bros. Clover Leaf Seafoods Company	Registered
37.	FIGARO	334808	TMA177977	Connors Bros. Clover Leaf Seafoods Company	Registered
38.	GUEULETHON	1993781	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
39.	JUTLAND	375314	TMA216481	Connors Bros. Clover Leaf Seafoods Company	Registered
40.	JUTLAND and Design	117875	TMDA35603	Connors Bros. Clover Leaf Seafoods Company	Registered
41.	MAPLE LEAF	562122	TMA330834	Connors Bros. Clover Leaf Seafoods Company	Registered

	Mark	Application Number	Registration Number	Owner	Status
42.	NUTRITION "NATURALLY"	361407	TMA197419	Connors Bros. Clover Leaf Seafoods Company	Registered
43.	NUTRITION "NATURELLEMENT"	361408	TMA197420	Connors Bros. Clover Leaf Seafoods Company	Registered
44.	ORLEANS	844367	TMA528688	Connors Bros. Clover Leaf Seafoods Company	Registered
45.	PARAMOUNT	164868	UCA4043	Connors Bros. Clover Leaf Seafoods Company	Registered
46.	PARAMOUNT	1972118	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
47.	PARAMOUNT; AND DESIGN	1972117	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
48.	PREMIUM and Design	679426	TMA412283	Connors Bros. Clover Leaf Seafoods Company	Registered
49.	PREMIUM CHOICE SOCKEYE SALMON and Label Design	105321	TMDA29052	Connors Bros. Clover Leaf Seafoods Company	Registered
50.	RED ROSE BRAND	163351	UCA2125	Connors Bros. Clover Leaf Seafoods Company	Registered
51.	RICHELIEU	592588	TMA361784	Connors Bros. Clover Leaf Seafoods Company	Registered
52.	RIP'N READY	1966634	N/A	Connors Bros. Clover Leaf Seafoods Company	Filed
53.	Seal Boat and Design	705785	TMA411293	Connors Bros. Clover Leaf Seafoods Company	Registered
54.	SURFSIDE	616877	TMA361956	Connors Bros. Clover Leaf Seafoods Company	Registered
55.	THE WORDS MAPLE LEAF BRAND & DESIGN	26624	TMDA5392	Connors Bros. Clover Leaf Seafoods Company	Registered
56.	THUNDERBIRD THE MARK OF QUALITY & DESIGN	615683	TMA361076	Connors Bros. Clover Leaf Seafoods Company	Registered
57.	Bee & Design	284797	TMA140375	Bumble Bee Foods, LLC	Registered
58.	BUMBLE BEE	271509	TMA130895	Bumble Bee Foods, LLC	Registered
59.	SAVOY	688868	TMA448489	Bumble Bee Foods, LLC	Registered
60.	SNOW'S and Ship Design	757695	TMA461185	Bumble Bee Foods, LLC	Registered
61.	SWIFT WATER Design	469109	TMA264745	Bumble Bee Foods, LLC	Registered
62.	WILD SELECTIONS	1620176	TMA938363	Bumble Bee Foods, LLC	Registered

XIII. Any and all Claims recorded or existing against the following Canadian patent owned by the Applicant, including any such Claims registered pursuant to sections 49 or 50 of the *Patents Act*:

1. Canadian Patent No. 2464553, issued January 15, 2008, titled “Seafood Preservation Process”, Owner: Anova Food, LLC.

XIV. Any claims raised, or which could have been raised, in connection with the following actions, including any plea or settlement agreement entered into in connection therewith:

1. In Re: Packaged Seafood Products Antitrust Litigation Case No. 15-MD-2670 JLS (MDD).
2. Lilleyman v. Bumble Bee Foods, LLC et al (Ontario, Canada), Case No. CV-17-585108CP.
3. Meekins v. Connor Bros., Clover Leaf Seafood Company, Saint John Court of Queen’s Bench Case No. SJC-200-2016.
4. In Re: Tuna Price-Fixing Investigation (WA AG) Office of the Attorney General of the State of Washington.
5. Class action between Miguel Rodriguez and Bumble Bee Foods, LLC.
6. Stipulated Consent Judgment filed June 20, 2014 in the Superior Court of the State of California, County of Marin.

Employment Proceedings

7. Tanya Corbett v. Connors Bros. Clover Leaf Seafoods Company – wage claims.
8. Sandra Ramsey – workers’ compensation proceeding

XV. Real property Encumbrances

	Encumbrance	Parcel Identifier Number(s)
1.	Norampac Inc. 232 Baig BLVD Moncton NB E1E 1C8 Claimant I Reclamant Notice of Security Interest I Avis de sorete Charlotte 2005-05-06 20218922	15151574 15197676 15152481
2.	Wells Fargo Capital Finance, LLC 2450 Colorado AVE SUITE 300 W Santa Monica CA United States 90404 Debenture Holder I Titulaire de la debenture Debenture or Other Voluntary Charge I Debenture ou autre charge facultative Charlotte 2011-03-09 29875763	15151574 15197676 15152481
3.	Brookfield Principal Credit LLC in capacity as AdminAgentSecuredCreditors 250 Vessey ST Floor 15th New York NY United States 10281 Debenture Holder I Titulaire de la debenture	15151574 15197676 15152481

	Encumbrance	Parcel Identifier Number(s)
	Debenture or Other Voluntary Charge I Debenture ou autre charge facultative Charlotte 2017-12-19 37673481	
4.	PID 01224328 Pennfield NB Easement Holder Titulaire de la servitude Deed Acte de transfert Charlotte 1912-03-28 75 - 56 14398	15170988
5.	Rogers Cable Communications Inc. c/o Stewart McKelvey 644 Main St. Suite 601 PO Box 28051 Moncton, NB E1C 9N4 Claimant Land Titles Caution or Caveat Charlotte 2007-10-11 24632029	15000672

Schedule D – Permitted Encumbrances

I. General Encumbrances

1. Any Encumbrance for Taxes, including without limitation real property, HST and withholding Taxes, owing by the Canadian Sellers which ranks prior to or *pari passu* with the Encumbrances created in connection with the indebtedness owing by the Canadian Sellers to the Secured Lenders.
2. Any Encumbrance for amounts owing to Her Majesty in right of Canada or a province which are deemed to be held in trust under subsection 227(4) or (4.1) of the *Income Tax Act*, subsection 23(3) or (4) of the *Canada Pension Plan* or subsection 86(2) or (2.1) of the *Employment Insurance Act* or any provincial equivalent of any of the foregoing.
3. Any Encumbrance for amounts owing to the Canadian Pension Plans which ranks prior to or *pari passu* with the Encumbrances created in connection with the indebtedness owing by the Canadian Sellers to the Secured Lenders.
4. Any Encumbrances in respect of wages, salaries, commissions, vacation pay, or compensation for services rendered during the period beginning six months prior to the Canadian Filing Date and ending on the Closing Date, owing by the Canadian Sellers which ranks prior to or *pari passu* with the Encumbrances created in connection with the indebtedness owing by the Canadian Sellers to the Secured Lenders.
5. Any Encumbrances granted in favour of (a) the Exit Term Lenders (as defined in the Sale Agreement), or any agent on their behalf, in connection with the Term Debt Financing (as defined in the Sale Agreement) and (b) the Exit ABL Lenders (as defined in the Sale Agreement), or any agent on their behalf, in connection with the ABL Financing (as defined in the Sale Agreement).

II. The following *Personal Property Security Act* security:

Secured Party(ies)	Debtor(s)	Reference File No. & Registration Number (Registration Period)	Collateral Classification	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Xerox Canada Ltd	Connors Brothers Ltd Connors Bros. Clover Leaf Seafoodcompany (sic)	719931663 - 20160824 1704 1462 6716 (5 years)	Equipment, Other		

III. Leasehold interests

The following leases:

	Lessee	Parcel Identifier Number(s)
1.	<p>True North Salmon Co. Ltd. 874 Main Street Blacks Harbour, NB E5H 1E6 Lessee I Locataire Lease, Notice of Lease or Sub-Lease I Bail, avis de bail ou sous-bail Charlotte 2002-03-26 13878617</p> <p>As such lease has been assigned or affected by amalgamations involving the lessee as follows:</p> <p>Assignment of Lease by Heritage Salmon Limited to 619297 N.B. Ltd. Charlotte 2005-06-20 20457991</p> <p>Amalgamation of 619297 N.B. Ltd. with Phoenix Salmon Ltd. to become Heritage Salmon Ltd. Charlotte 2005-08-29 20855970</p> <p>Amalgamation of Heritage Salmon Ltd. with other corporations to become Kelly Cove Salmon Ltd. Charlotte 2006-11-10 23052773</p> <p>Assignment of Lease by Kelly Cove Salmon Ltd. to True North Salmon Co. Ltd. (current lessee) Charlotte 2006-11-15 23069587</p>	<p>15197676 15151574 15152481</p>
2.	<p>Ardagh Metal Packaging Canada Limited c/o 6th Floor, Brunswick House 44 Chipman Hill Saint John, NB E2L 2A9 Lease I Locataire Lease, Notice of Lease or Sub-Lease I Bail, avis de bail ou sous-bail Charlotte 2005-06-13 20411048</p> <p>As such lease has been affected by the following corporate change to the Lessee as a result of a continuance into the Province of British Columbia and consequential name change:</p> <p>Lessee I Locataire Corporate Affairs Change of Name I Changement de nom des Affaires corporatives Charlotte 2011-02-16 29806214</p>	<p>15197676 15151574 15152481</p>

IV. Real property Permitted Encumbrances

With the exception of those real property Encumbrances listed under Section IV of Schedule C, above:

- any easements or rights of way and other similar interests, including prescriptive interests in the New Brunswick Property;
- any registered restrictions or covenants that run with the New Brunswick Property;
- any registered municipal agreements and registered agreements with any publicly regulated utilities;
- any easements for the supply of domestic utility or telephone services;
- any easements for drainage, storm or sanitary sewers or other services; and

- without limiting the generality of the foregoing, the following easements:

	Easement	Parcel Identifier Number(s)
1.	New Brunswick Power Corporation 515 King ST PO BOX 2000 Fredericton NB E3B 4X1 Easement Holder Titulaire de la servitude Easement, Right-of-Way Servitude, droit de passage Charlotte 1961-08-29 158 - 123 54576	15000672 15152267 15152416
2.	New Brunswick Power Corporation 515 King ST PO BOX 2000 Fredericton NB E3B 4X1 Easement Holder Titulaire de la servitude Easement, Right-of-Way Servitude, droit de passage Charlotte 1976-08-03 214 - 886 76890	15152572 15148968 15152267 15152382
3.	New Brunswick Power Corporation 515 King ST PO BOX 2000 Fredericton NB E3B 4X1 Easement Holder Titulaire de la servitude Easement, Right-of-Way Servitude, droit de passage Charlotte 1978-05-04 230 - 207 81267	15152572 15152382
4.	New Brunswick Power Corporation 515 King ST PO BOX 2000 Fredericton NB E3B 4X1 Easement Holder Titulaire de la servitude Agreement Convention Charlotte 1991-05-01 460 - 402 118725	15000151
5.	New Brunswick Power Distribution and Customer Service Corporation 515 King ST Fredericton NB E3B 4X1 Easement Holder Titulaire de la servitude Easement Servitude Charlotte 2010-09-17 - 29231637	15152267
6.	New Brunswick Electric Power Commission 515 King ST PO BOX 2000 Fredericton NB E3B 4X1 Easement Holder Titulaire de la servitude Land Titles First Application Première demande de titre foncier Charlotte 2006-01-20 - 21615571	15170988
7.	Village of Blacks Harbour 881 Main ST UNIT 2 Blacks Harbour NB E5H 1E5 Easement Holder Titulaire de la servitude Deed Acte de transfert Charlotte 1979-06-05 241 - 793 84462	15152374 15152382
8.	Village of Blacks Harbour 881 Main ST UNIT 2 Blacks Harbour NB E5H 1E5 Easement Holder Titulaire de la servitude Easement or Right-of-Way Servitude ou droit de passage Charlotte 1979-06-05 - 2739	15152374
9.	Village of Blacks Harbour 881 Main ST UNIT 2 Blacks Harbour NB E5H 1E5 Easement Holder Titulaire de la servitude Deed Acte de transfert Charlotte 1979-06-13 241 - 970 84509	15152374
10.	Village of Blacks Harbour 881 Main ST UNIT 2 Blacks Harbour NB	15152283 15152267

	Easement	Parcel Identifier Number(s)
	E5H 1E5 Easement Holder Titulaire de la servitude Easement or Right-of-Way Servitude ou droit de passage Charlotte 1980-12-04 - 3005	15152309 15152374
11.	Village of Blacks Harbour 881 Main ST UNIT 2 Blacks Harbour NB E5H 1E5 Easement Holder Titulaire de la servitude Agreement Convention Charlotte 1982-12-02 275 - 301 93692	15152283 15152572 1219476 1223692 15091853 15152309 15152382 15001183
12.	Village of Blacks Harbour 881 Main ST UNIT 2 Blacks Harbour NB E5H 1E5 Easement Holder Titulaire de la servitude Easement or Right-of-Way Servitude ou droit de passage Charlotte 1982-12-02 - 3284	15152267
13.	Village of Blacks Harbour 881 Main ST UNIT 2 Blacks Harbour NB E5H 1E5 Easement Holder Titulaire de la servitude Subdivision & Amalgamations Lotissement et fusions Charlotte 1990-02-08 - 4673	1223692
14.	Village of Blacks Harbour 881 Main ST UNIT 2 Blacks Harbour NB E5H 1E5 Easement Holder Titulaire de la servitude Agreement Convention Charlotte 1990-09-24 4 44 - 11 116928	1219476 1223692 15091853
15.	Village of Blacks Harbour 881 Main ST UNIT 2 Blacks Harbour NB E5H 1E5 Easement Holder Titulaire de la servitude Agreement Convention Charlotte 1991-02-11 454 - 376 118048	15152283 15152267 15152309
16.	Village of Blacks Harbour 881 Main ST UNIT 2 Blacks Harbour NB E5H 1E5 Easement Holder Titulaire de la servitude Agreement Convention Charlotte 1992-08-21 500 - 179 122938	1219476 1223692 15091853
17.	Connors CL GP Limited, as general partner of the Limited Partnership Clover Leaf Seafoods, L.P. 1 Brunswick SQ SUITE 1500 PO BOX 1324 Saint John NB E2L 4H8 Easement Holder Titulaire de la servitude Agreement Convention Charlotte 1962-05-28 159 - 205 55280	15170988
18.	Connors CL GP Limited, as general partner of the Limited Partnership Clover Leaf Seafoods, L.P. 1 Brunswick SQ SUITE 1500 PO BOX 1324 Saint John NB E2L 4H8 Assignee Cessionnaire Other Assignment Autre cession Charlotte 2004-05-14 - 18342122	15170988

	Easement	Parcel Identifier Number(s)
19.	J.D. Irving, Limited 300 Union ST PO BOX 5777 Saint John NB E2L 4M3 Easement Holder Titulaire de la servitude Deed Acte de transfert Charlotte 1974-11-08 202 - 516 73323	15152267
20.	PID/NID 01222868 Blacks Harbour NB Easement Holder Titulaire de la servitude Deed Acte de transfert Charlotte 1949-12-15 137 - 24 42695	15152572
21.	PID/NID 01225150 Blacks Harbour NB Easement Holder Titulaire de la servitude Deed Acte de transfert Charlotte 1958-01-04 150 - 679 50678	15152572
22.	PID 01234616 Blacks Harbour NB Easement Holder Titulaire de la servitude Subdivision & Amalgamations Lotissement et fusions Charlotte 1980-09-25 - 2984	15152267
23.	PID 01222918 Blacks Harbour NB Easement Holder Titulaire de la servitude Other Autres Charlotte 1995-08-03 576 - 116 132111	1219476
24.	PID 15152713 Blacks Harbour NB Easement Holder Titulaire de la servitude Subdivision & Amalgamations Lotissement et fusions Charlotte 2001-11-07 - 13197612	1226075
25.	Lots on Mountain Court Blacks Harbour NB Easement Holder Titulaire de la servitude Administration Administration Charlotte 1962-09-25 - 1041	15152572
26.	Lots on Mountain Court Blacks Harbour NB Easement Holder Titulaire de la servitude Subdivision & Amalgamations Lotissement et fusions Charlotte 1983-06-06 - 3415	15152572
27.	PID/NID 15150691 Blacks Harbour NB Easement Holder Titulaire de la servitude Deed Acte de transfert Charlotte 1966-03-10 166 - 680 59893	15152572
28.	PID/NID 15150709 Blacks Harbour NB Easement Holder Titulaire de la servitude Deed Acte de transfert Charlotte 1966-03-10 166 - 681 59894	15152572
29.	PID/NID 15150717 Blacks Harbour NB Easement Holder Titulaire de la servitude Deed/Transfer Acte de transfert/Transfert Charlotte 2001-05-30 749 - 516 12157005	15152572

	Easement	Parcel Identifier Number(s)
30.	PID/NID 01234624 Blacks Harbour NB Easement Holder Titulaire de la servitude Easement Servitude Charlotte 2010-10-06 - 29319176	15152267
31.	PID 01224328 Pennfield NB Easement Holder Titulaire de la servitude Deed Acte de transfert Charlotte 1912-03-28 75 - 56 14398	15170988
32.	Aliant Telecom Inc. One Brunswick Square PO BOX/CP 5555 Saint John NB E2L 4K2 Easement Holder Titulaire de la servitude Easement, Right-of-Way Servitude, droit de passage Charlotte 1978-05-04 230 - 207 81267	15152572 15152382
33.	Bell Aliant Regional Communications Inc. Bell Aliant Regional Communications, LP 1 Brunswick SQ Saint John NB E2L 4H8 Easement Holder Titulaire de la servitude Easement Servitude Charlotte 2010-09-17 - 29231637	15152267

SCHEDULE E

The cash proceeds of the Transaction shall be applied and distributed as follows and each of the following shall constitute Approved Distributions:

1. all amounts necessary to repay the obligations outstanding as of the Closing under the DIP ABL Credit Agreement and the Prepetition ABL Credit Agreement to the secured lenders thereunder;
2. all amounts necessary to repay the obligations outstanding as of the Closing under the DIP Term Loan Agreement to the secured lenders thereunder; and
3. an amount equal to the Prepetition Term Loan Repayment Amount of the obligations outstanding as of the Closing under the Prepetition Term Loan Agreement.

The following defined terms used in this Schedule "E" shall have the following meanings, provided that if a defined term used in this Schedule "E" is not defined herein or otherwise in this Order it shall have the meaning given to it in the U.S. Sale Order (as defined below):

The "**DIP ABL Credit Agreement**" shall mean that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, dated as of November 26, 2019 (the "DIP ABL Credit Agreement"), among Bumble Bee Foods S.à r.l., Connors Bros. Clover Leaf Seafoods Company, the lenders from time to time party thereto, Wells Fargo Capital Finance, LLC as administrative agent (as amended, restated, modified, waived or supplemented through the date hereof).

The "**DIP Term Loan Agreement**" shall mean that certain Superpriority Secured Debtor-in Possession Term Loan Agreement, dated as of November 26, 2019, among Bumble Bee Foods S.à r.l., Bumble Bee Foods, LLC, the lenders from time to time party thereto and Brookfield Principal Credit LLC, as administrative agent (as amended, restated, modified, waived or supplemented through the date hereof).

The "**Prepetition ABL Credit Agreement**" shall mean that certain Amended and Restated Credit Agreement, dated as of August 18, 2017, by and among Bumble Bee Foods S.à r.l., Connors Bros. Clover Leaf Seafoods Company, the lenders from time to time party thereto, Wells Fargo Capital Finance, LLC as U.S. agent, and Wells Fargo Capital Finance Corporation Canada, as Canadian agent (as amended, restated, modified, waived or supplemented through the date hereof).

The "**Prepetition Term Loan Agreement**" shall mean that certain Term Loan Agreement, dated as of August 15, 2017, by and among Bumble Bee Foods S.à r.l., Bumble Bee Holdings, Inc., Connors Bros. Clover Leaf Seafoods Company, the lenders party thereto and Brookfield Principal Credit LLC, as administrative agent (as amended, restated, modified, waived or supplemented through the date hereof).

The "**Prepetition Term Loan Repayment Amount**" shall be the result of:

- a) \$275.0 million; *minus*
- b) the amount necessary to be repaid under the DIP ABL Credit Agreement and, to the extent not otherwise discharged prior to Closing, the Prepetition ABL Credit Agreement such that, upon the consummation of the Transaction and the application of proceeds thereof (including any drawings under the Exit ABL Facility), the undrawn amount that is available to be drawn under the asset-based revolving facility (which shall have an aggregate amount of commitments of no less than the

Minimum ABL Commitment Amount and no greater than \$225 million) incurred by the Buyers to finance the Transaction (the “**Exit ABL Facility**”) shall not be less than \$30,000,000²; *minus*

- c) the amount necessary to repay all of the Existing DIP Term Loan Obligations; *minus*
- d) the amount of the Winddown Cash actually required to be allocated to the Equity Seller under the Acquisition Agreement (the “Winddown Cash”); *minus*
- e) an aggregate amount equal to the greater of (such greater amount, the “**Value to the Estate**”) (x) \$0 and (y) an amount equal to (1) the Purchase Price less (2) \$17.0 million with respect to the DOJ Payment (as defined in the Prepetition Term Loan Agreement) *less* (3) the total amount of Existing DIP ABL Obligations and Existing DIP Term Loan Obligations (such amount the “**Total Funded DIP Amount**”) *less* (4) the Winddown Cash *less* (5) the Existing Prepetition Term Loan Obligations.

The “**Term Loan Rollover Amount**” (which shall also constitute an Approved Distribution hereunder) shall be the result of:

- 1) the Purchase Price; *minus*
- 2) the Total Funded DIP Amount; *minus*
- 3) \$17.0 million with respect to the DOJ Payment (as defined in the Prepetition Term Loan Agreement); *minus*
- 4) the Winddown Cash; *minus*
- 5) the Value to the Estate; *minus*
- 6) the Prepetition Term Loan Repayment Amount.

The term “**U.S. Sale Order**” shall mean the Order of the United States Bankruptcy Court for the District of Delaware dated January 24, 2020, in re: Bumble Bee Parent, Inc., *et al.* (Case No. 19-12502 (LSS) (Docket 326), *inter alia*, approving the stalking horse agreement and approving the sale to the stalking horse bidder of substantially all of the purchased assets of the debtors pursuant to section 363 of the U.S. bankruptcy code.

² If the Buyer provides an additional equity investment in cash in the form of common equity in lieu of all or a portion of the asset-based revolving facility described in this clause (b), the calculation set forth in this definition of “**Prepetition Term Loan Repayment Amount**” shall be made as if the Buyer had obtained an asset-based revolving facility in the Minimum ABL Commitment Amount.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CLOVER LEAF HOLDINGS COMPANY, CONNORS BROS. CLOVER LEAF SEAFOODS COMPANY, K.C.R. FISHERIES LTD., 6162410 CANADA LIMITED, CONNORS BROS. HOLDINGS COMPANY AND CONNORS BROS. SEAFOODS COMPANY

Court File No. CV-19-631523-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced in Toronto

APPROVAL AND VESTING ORDER

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Kevin Zych (LSO 33129T)
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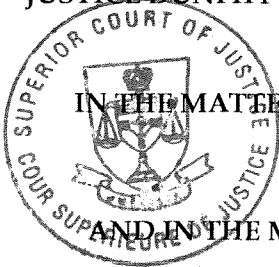
Tel: 416-863-1200
Fax: 416-863-1716

Lawyers for the Applicants

TAB 9

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) FRIDAY, THE 7TH
)
JUSTICE DUNPHY) DAY OF DECEMBER, 2018
)



IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
ARALEZ PHARMACEUTICALS INC. AND
ARALEZ PHARMACEUTICALS CANADA INC.

Applicants

APPROVAL AND VESTING ORDER

THIS MOTION, made by Aralez Pharmaceuticals Inc. ("API") and Aralez Pharmaceuticals Canada Inc. ("Aralez Canada" and, together with API, the "Applicants"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), for an Order, among other things, (i) approving the sale transaction (the "Transaction") contemplated by a share purchase agreement (the "Share Purchase Agreement") among API, as vendor, Aralez Canada, as the corporation, and Nuvo Pharmaceuticals Inc., as the purchaser (the "Purchaser") dated September 18, 2018 (as amended by the First Amending Agreement to the Share Purchase Agreement and Disclosure Letter dated December 6, 2018), (ii) vesting in the Purchaser all of API's right, title and interest in and to the Purchased Shares, and (iii) granting the other relief set out herein, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Applicants filed in respect of this motion and the Report, and on hearing the submissions of counsel for the Applicants, Richter Advisory

Group Inc. ("**Richter**") in its capacity as Monitor of the Applicants (the "**Monitor**"), Deerfield, and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service filed:

SERVICE

1. **THIS COURT ORDERS** that the time and method of service and notice of this Motion is hereby abridged and validated and that this Motion is properly returnable today without further service or notice thereof.

DEFINED TERMS

2. **THIS COURT ORDERS** that capitalized terms used and not defined herein shall have the meanings given to them in the Share Purchase Agreement.

APPROVAL OF THE TRANSACTION

3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved and the execution by the Applicants of the Share Purchase Agreement and the entering into of the Transaction is hereby authorized, ratified and approved, with such minor amendments to the Share Purchase Agreement as the Applicants and the Purchaser may agree to with the consent of the Monitor. The Applicants are hereby authorized and directed to perform their obligations under the Share Purchase Agreement and any ancillary documents related thereto and to take all such additional steps and actions and to execute such additional documents as may be required by the Share Purchase Agreement or are necessary or desirable for completion of the Transaction and for the conveyance of the Purchased Shares to the Purchaser.

VESTING OF THE PURCHASED SHARES

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Monitor's Certificate**"), all of API's right, title and interest in and to the Purchased Shares shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other

financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order dated August 10, 2018 (as amended and restated, the "Initial Order"); (ii) any encumbrances or charges created by the Order (Re Bidding Procedures Approval) dated October 10, 2018; (iii) any encumbrances or charges created by the Order (Re KEIP Approval and Related Charge) dated November 28, 2018; and (iv) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "Encumbrances") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Shares are hereby expunged and discharged as against the Purchased Shares.

5. **THIS COURT ORDERS** that for purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Shares shall stand in the place and stead of the Purchased Shares, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances (including those created by the Initial Order) shall attach to the net proceeds from the sale of the Purchased Shares with the same priority as they had with respect to the Purchased Shares immediately prior to the sale, as if the Purchased Shares had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Monitor and Applicants are authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Applicants' records pertaining to Aralez Canada's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Applicants.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any assignment in bankruptcy or any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (the "BIA") and any order issued pursuant to any such application;
- (c) any application for a receivership order; or
- (d) any provisions of any federal or provincial legislation,

the vesting of the Purchased Shares in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and shall not be void or voidable by creditors of the Applicants, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT ORDERS** that except as set forth in paragraph 3 of Section 6.4 of the Disclosure Letter, the Bezalip APA (as defined below) or as may otherwise be agreed in writing among API, Aralez Canada, the Purchaser and any purchaser of the U.S. rights to the Bezalip product (the "**Bezalip Assets**"), including Intercept Pharmaceuticals Inc. as the purchaser of the Bezalip Assets under the Asset Purchase Agreement dated December 6, 2018 among API, Aralez Canada and Intercept Pharmaceuticals Inc. (the "**Bezalip Purchaser**" and the "**Bezalip APA**"), the Share Purchase Agreement shall not impair or adversely affect the Bezalip Assets, Aralez Canada's ability to transfer the Bezalip Assets to the Bezalip Purchaser under the Bezalip APA or the Bezalip Purchaser's rights and benefits under the Bezalip APA.

APPROVAL OF THE PRE-CLOSING REORGANIZATION

10. **THIS COURT ORDERS AND DECLARES** that the Pre-Closing Reorganization is hereby approved and the Applicants are authorized and empowered to take the necessary or desirable steps, transactions, set-offs, distributions, repayments, transfers and other actions to

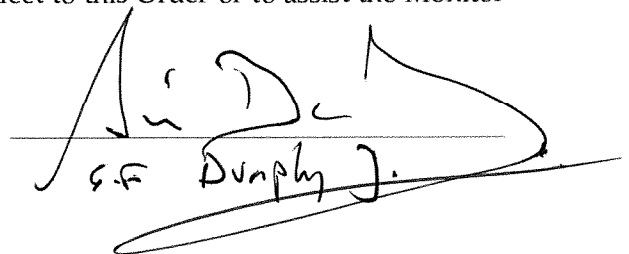
consummate the Pre-Closing Reorganization as set out in Schedule "B" to this Order (collectively, the "Pre-Closing Reorganization Steps").

11. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered, but not directed, without further notice to or action, order, or approval of this Court or any other person, to issue, execute, deliver, file, and record any document, and to take any action necessary or appropriate to consummate the Pre-Closing Reorganization and Pre-Closing Reorganization Steps and all transactions and agreements related thereto in accordance with their terms, without the need for any further notice to, or action, order or approval of this Court, or other act or action under applicable laws. This Order shall constitute all approvals and consents required, if any, by the laws, rules and regulations of all provinces and any other governmental authority with respect to the implementation or consummation of the Pre-Closing Reorganization and the Pre-Closing Reorganization Steps.

GENERAL

12. **THIS COURT ORDERS** that the Applicants, the Monitor, the Purchaser and Deerfield may apply to the Court as necessary to seek further orders and directions to give effect to this Order.

13. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Monitor and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.


S.F. Dunphy J.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

DEC 10 2018

PER / PAR:



SCHEDULE A
FORM OF MONITOR'S CERTIFICATE

Court File No. CV-18-603054-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
ARALEZ PHARMACEUTICALS INC. AND
ARALEZ PHARMACEUTICALS CANADA INC.

Applicants

MONITOR'S CERTIFICATE

RECITALS

- A. The Applicants obtained protection under the *Companies' Creditors Arrangement Act* (the "CCAA") pursuant to an Initial Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated August 10, 2018 (as amended and restated, the "Initial Order").
- B. Richter Advisory Group Inc. (in such capacity, the "Monitor") was appointed as the Monitor of the Applicants in the CCAA proceedings pursuant to the Initial Order.
- C. Pursuant to the Approval and Vesting Order of the Court granted ●, 2018 (the "Approval and Vesting Order"), the Court approved the share purchase agreement dated ● 2018 (as amended by the First Amending Agreement to the Share Purchase Agreement and Disclosure Letter dated December 6, 2018) (the "Share Purchase Agreement") among Aralez Pharmaceuticals Inc. ("API"), as vendor, Aralez Pharmaceuticals Canada Inc. ("Aralez Canada"), as the corporation, and Nuvo Pharmaceuticals Inc., as the purchaser (the "Purchaser") providing for, among other things, the sale of all the shares in the capital of Aralez Canada to the Purchaser (the "Purchased Shares"), which vesting is to be effective upon the delivery by the Monitor to the Purchaser of this Monitor's Certificate.

D. Unless otherwise indicated or defined herein, capitalized terms used in this Monitor's Certificate shall have the meanings given to them in the Approval and Vesting Order.

THE MONITOR CONFIRMS the following:

1. The Monitor has received written confirmation, in form and substance satisfactory to the Monitor, from the Purchaser and API that:

- (a) all conditions to Closing set forth in the Share Purchase Agreement have been satisfied or waived;
- (b) the Purchaser has paid the Purchase Price;
- (c) the Purchase Price has been delivered in accordance with the Share Purchase Agreement; and
- (d) the Transaction has been completed to the satisfaction of the Purchaser and API, respectively.

DATED at Toronto, Ontario this _____ day of _____, 2018.

RICHTER ADVISORY GROUP INC., solely in its capacity as Monitor of the Applicants and not in its personal capacity

Per: _____

Name:

Title:

SCHEDULE "B"
PRE-CLOSING REORGANIZATION STEPS

Section 6.4 of the Share Purchase Agreement (as amended and revised)

Pre-Closing Reorganization

- (1) Evidence shall be provided by the Vendor to the Purchaser of (A) the termination of (i) the Management and Support Services Agreement, and (ii) the Non-Exclusive Distributor Agreement dated April 1, 2016 between Aralez Pharmaceuticals Trading DAC and the Corporation and, in each case, all parties thereto shall have executed a full and unconditional release of all rights and obligations thereunder and (B) the assignment of the Product Development and Profit Share Agreement, as contemplated by #3 below.
- (2) Tribute Pharmaceuticals International Inc. (Barbados) shall be dissolved, or the shares in its capital stock transferred, such that it shall no longer be a subsidiary of the Corporation.
- (3) The U.S. rights of the Corporation to the Bezafibrate product shall be transferred by the Corporation to, subject to approval by the CCAA Court, Intercept Pharmaceuticals, Inc. in consideration for a cash purchase price (the portion of such cash purchase price actually received by the Corporation on the closing of the transaction is referred to herein as the "**Bezafibrate Cash Proceeds**") pursuant to the asset purchase agreement between the Corporation and Intercept Pharmaceuticals Inc. dated as of December 6, 2018 (the "**Intercept APA**"), which asset purchase agreement shall not be amended in a manner that would adversely impact the pre-closing reorganization without the prior written consent of Purchaser, acting reasonably; provided, however, that if such transaction does not close on or prior to the date that is two (2) Business Days prior to the Closing Date, the U.S. rights of the Corporation to the Bezafibrate product shall be transferred by the Corporation to the Vendor by way of dividend in kind (and the Vendor shall pay HST to the Corporation in respect of the transferred assets); provided that such transfer by the Corporation to the Vendor shall not occur prior to December 28, 2018; and provided further that in either case, the Corporation or the Vendor, as the case may be, shall ensure that, except for the Corporation's express obligations under the Intercept APA, which in the case of a transfer to by the Corporation to the Vendor, are only those obligations that survive such transfer as expressly specified in Section 9.6 (Assignment) of the Intercept APA, the Corporation does not have any further liability related thereto or under the Product Development and Profit Share Agreement whether (i) through the Claims Procedure Order and/or the CCAA Termination Order, (ii) a full and unconditional release in favour of the Corporation by the counterparty to the relevant contract(s) in respect of such U.S. rights and obligations, (iii) by the provision of an indemnity in favour of the Corporation by a credit worthy third party with respect thereto, or (iv) by such other commercially reasonable means (including disclaiming such relevant contract(s) if necessary), in each case, acceptable to the Purchaser, acting reasonably. For greater certainty, any failure to satisfy this Step 3 as contemplated shall be deemed to be a material and non-curable breach under the Agreement.

Steps 4-11 below (as amended, modified, or supplemented with the written consent of each of the Vendor and the Purchaser) shall be completed in the order set forth below and in a manner that does not give rise to a material Tax liability of the Corporation or a material reduction in the Tax attributes of the Corporation or any of its Assets.

- (4) 2017 Loan Agreement. The loan agreement dated April 3, 2017 between the Corporation, as lender, and the Vendor, as borrower, (the "**2017 Loan Agreement**") in the principal amount of CDN\$6,015,200 shall be amended to reflect the additional principal amount of approximately CDN\$8,000,000 owing by the Vendor to the Corporation thereunder, such that following such amendment the total amount owing by the Vendor to the Corporation thereunder shall be approximately CDN\$14,015,200.
- (5) 2016 Loan Facility Agreement. The loan facility agreement dated March 29, 2016, among Aralez Luxembourg Finance, as lender, and Aralez Pharmaceuticals Trading DAC, Tribute Pharmaceuticals Canada Inc., Aralez Pharmaceuticals Inc. and Aralez Pharmaceuticals Management Inc., as borrowers, as amended by an amendment to the loan facility agreement effective as of March 29, 2016 (the "**2016 Loan Facility Agreement**"), under which there is and shall be no amount owing by any of the borrowers, shall be amended to (i) remove the Corporation as a party thereto and (ii) fully, finally, unconditionally and irrevocably release the Corporation and all of its Assets from any and all liabilities and obligations thereunder, such that following such amendment there shall be no debts, liabilities or obligations owing by the Corporation to any Person thereunder.
- (6) Deerfield Guarantee. The Corporation shall be fully, finally, unconditionally and irrevocably released of any and all of the liabilities and obligations of the Corporation to Deerfield under the facility agreement dated as of June 8, 2015, as amended and restated on October 29, 2015 and as further amended and restated on December 7, 2015, under which the Corporation has and shall have liabilities and obligations only as guarantor and not as borrower, and which guarantee of the Corporation has not been and shall not have been called upon, such that following such release there shall be no debts, liabilities or obligations owing by the Corporation to any Person thereunder.
- (7) DIP Indebtedness. The Vendor shall assume any and all of the debts, liabilities and obligations of the Corporation to Deerfield Management Company, LP or any Affiliate thereof (collectively, "**Deerfield**") under the DIP Agreement or any of the Definitive Documents (as defined in the Initial Order) (collectively, the "**DIP Indebtedness**") in consideration for the issuance of a demand promissory note (the "**DIP Note**") having a principal amount equal to the aggregate amount of the DIP Indebtedness, such that following such assumption there shall be no debts, liabilities or obligations owing by the Corporation to any Person under the DIP Agreement or any of the Definitive Documents.
- (8) DIP Note. The Corporation shall repay the DIP Note using all or a portion of the Bezafibrate Cash Proceeds. If the amount of the Bezafibrate Cash Proceeds is less than the principal amount of the DIP Note the Corporation shall issue common shares to the

Vendor having an aggregate fair market value equal to the principal amount of the DIP Note less the Bezafibrate Cash Proceeds. Such payment(s) shall be in full and final payment and satisfaction of the amount owing by the Corporation to the Vendor under the DIP Note, such that following such cash payment and issuance, if applicable, no amount shall be owing by the Corporation to the Vendor under the DIP Note.

- (9) Intercompany Indebtedness. The Vendor shall assume any and all of the debts, liabilities and obligations owing by the Corporation to any Affiliate of the Vendor (including the amount owing by the Corporation to Aralez Pharmaceuticals Trading DAC ("**Trading DAC**") pursuant to a promissory note in the principal amount of USD\$2,260,000 effective as of August 8, 2018 issued by the Corporation for and in favour of Trading DAC) (collectively, the "**Intercompany Indebtedness**") in consideration for the issuance by the Corporation to the Vendor of a demand promissory note (the "**Assumption Note**") having a principal amount equal to the aggregate amount of the Intercompany Indebtedness, such that following such assumption there shall be no debts, liabilities or obligations owing by the Corporation to any Affiliate of the Vendor.
- (10) Assumption Note and Other Liabilities To Vendor. The Corporation shall repay the Assumption Note and any and all other debts, liabilities and obligations owing by the Corporation to the Vendor using all or a portion of the Bezafibrate Cash Proceeds that remain following the repayment of the DIP Note in step 8 hereof. If the remaining amount of the Bezafibrate Cash Proceeds is less than the sum of the principal amount of the Assumption Note and the aggregate amount of any and all other debts, liabilities and obligations owing by the Corporation to the Vendor, the Corporation shall issue common shares to the Vendor having an aggregate fair market value equal to the sum of the principal amount of the Assumption Note and the aggregate amount of any and all other debts, liabilities and obligations owing by the Corporation to the Vendor less the Bezafibrate Cash Proceeds paid to the Vendor pursuant to this step 10. Such payment(s) shall be in full and final payment and satisfaction of the amounts owing by the Corporation to the Vendor under the Assumption Note and under such other debts, liabilities and obligations, such that following such payment and issuance, if applicable, no amount shall be owing by the Corporation to the Vendor.
- (11) Intercompany Receivables. The Corporation shall forgive, settle and extinguish in full without repayment in respect thereof all amounts owing by the Vendor or any Affiliate thereof to the Corporation (including the amount owing by the Vendor to the Corporation under the 2017 Loan Agreement).
- (12) Bezafibrate Cash Proceeds. If any portion of the Bezafibrate Cash Proceeds remain following the payments in Steps 8 and 10 hereof, such amounts (together with any other cash of the Corporation) shall be distributed to the Vendor as a cash dividend.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.
C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ
PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.
Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE (COMMERCIAL
LIST)**

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

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**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JAMES E. WAGNER CORPORATION,
JAMES E. WAGNER CULTIVATION LTD., JWC 1 LTD., JWC 2 LTD., JWC SUPPLY LTD AND GROWTHSTORM INC.**

Court File No. CV-20-00639000-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced in Toronto

**BOOK OF AUTHORITIES OF THE
APPLICANTS**
(Returnable June 2, 2020)

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