Court File No. CV-16-11242-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE LIQUIDATION OF LWP CAPITAL INC. PURSUANT TO SECTION 211 OF THE CANADA BUSINESS CORPORATIONS ACT, R.S.C. 1985, c. C-44, AS AMENDED

and

KSV ADVISORY INC. IN ITS CAPACITY AS LIQUIDATOR OF LWP CAPITAL INC.

Applicant

BOOK OF AUTHORITIES OF THE APPLICANT
(Final Distribution, Termination and Discharge)

November 29, 2024

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TO: SERVICE LIST

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LIST OF AUTHORITIES

TAB 1

2018 ONSC 4165
Ontario Superior Court of Justice

Concordia International Corp. (Re)

2018 CarswellOnt 13057, 2018 ONSC 4165, 294 A.C.W.S. (3d) 691, 61 C.B.R. (6th) 274

IN THE MATTER OF AN APPLICATION UNDER SECTION 192 OF THE CANADA BUSINESS CORPORATIONS ACT, R.S.C. 1985, c. C-44, AS AMENDED, AND RULES 14.05(2) AND 14.05(3) OF THE RULES OF CIVIL PROCEDURE

IN THE MATTER OF A PROPOSED ARRANGEMENT OF CONCORDIA INTERNATIONAL CORP. AND CONCORDIA HEALTHCARE (CANADA) LIMITED AND INVOLVING CONCORDIA LABORATORIES INC., S.A.R.L., CONCORDIA PHARMACEUTICALS INC., S.A.R.L., CONCORDIA INVESTMENTS (JERSEY) LIMITED, CONCORDIA FINANCING (JERSEY) LIMITED, AMDIPHARM HOLDINGS S.A.R.L., AMDIPHARM AG, AMDIPHARM B.V., AMDIPHARM LIMITED, AMDIPHARM MERCURY HOLDCO UK LIMITED, AMDIPHARM MERCURY UK LTD., CONCORDIA HOLDINGS (JERSEY) LIMITED, AMDIPHARM MERCURY INTERNATIONAL LIMITED, CONCORDIA INVESTMENT HOLDINGS (UK) LIMITED, MERCURY PHARMA GROUP LIMITED, CONCORDIA INTERNATIONAL RX (UK) LIMITED, ABCUR AB, MERCURY PHARMACEUTICALS LIMITED, FOCUS PHARMA HOLDINGS LIMITED, FOCUS PHARMACEUTICALS LIMITED, MERCURY PHARMA (GENERICS) LIMITED, MERCURY PHARMACEUTICALS (IRELAND) LIMITED AND MERCURY PHARMA INTERNATIONAL LIMITED

CONCORDIA INTERNATIONAL CORP. AND CONCORDIA HEALTHCARE (CANADA) LIMITED

G.B. Morawetz R.S.J.

Heard: June 26, 2018
Judgment: June 26, 2018
Docket: CV-17-584836-00CL

Counsel: Robert J. Chadwick, Brendan O'Neill, Loren Cohen, Caroline Descours, for Applicants
Marc Wasserman, Martino Calvaruso, for Secured Debentureholder Committee
Kevin Zych, Sean Zweig, for Unsecured Debtholder Committee
Nicole Rozario, for US Bank National Association as Trustees under certain notes

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

1 This application was heard on June 26, 2018. At the conclusion of the hearing, the application was granted with reasons to follow. These are the reasons.

2 Concordia International Corp. ("Concordia") and Concordia HealthCare (Canada) Limited ("CHCL" and, together with Concordia, the "Applicants") applied for a final order in the form of the proposed order (the "Final Order"), pursuant to sections 192(3) and (4) of the *Canada Business Corporations Act* ("CBCA") approving the proposed arrangement (the "Arrangement") to be implemented pursuant to the plan of arrangement to be attached as "Schedule 'A'" to the proposed Final Order (the "CBCA Plan").

3 Concordia, together with its direct and indirect subsidiaries (the "Concordia Entities" or the "Company"), is an international specialty pharmaceutical company. The Concordia Entities have an international presence with sales in more than ninety countries, and a diversified portfolio of more than 200 established, off-patent products.

4 On May 2, 2018, an interim order (as amended on May 16, 2018, (the "Interim Order")) provided for, among other things, the calling, holding and conduct of the Secured Debtholders' Meeting, the Unsecured Debtholders' Meeting and the Existing Shareholders' Meeting (together, the "Meetings") to consider and, if deemed advisable, vote to approve the Arrangement.

5 Meetings were held on June 19, 2018 in accordance with the Interim Order. At the Meetings, 100% of the votes cast by the Secured Debtholders, 100% of the votes cast by Unsecured Debtholders, and 87.37% of votes cast by Existing Shareholders were in favour of the Arrangement.

6 The purpose of the Arrangement is to give effect to a recapitalization transaction (the "Recapitalization Transaction") pursuant to the CBCA Plan. The Recapitalization Transaction is described in the Final Order Affidavit of David Price, sworn June 19, 2018 and the Circular. The Arrangement will result in:

> (i) Secured Debtholders receiving, in the aggregate in exchange for their Secured Debtholder Claims, over $600 million in cash, and new secured debt in an aggregate amount of approximately $1.4 billion, such that, the cash and new secured debt will equal approximately 93.4% of the principal amount of their existing secured claims (taking into account early consent consideration);
>
> (ii) Unsecured Debtholders receiving, in the aggregate in exchange for their Unsecured Debtholder Claims, 11.96% of the Limited Voting Shares of Concordia immediately following implementation of the Recapitalization Transaction, subject to the MIP Dilution (taking into account early consent consideration); and
>
> (iii) Existing Shareholders retaining approximately 0.35% of the Common Shares of Concordia (which will be re-designated as Limited Voting Shares) immediately following implementation of the Recapitalization Transaction, subject to the MIP Dilution.

7 As part of the Recapitalization Transaction, Concordia will raise $586.5 million by way of a private placement (the "Private Placement") pursuant to which certain of the Consenting Debtholders (collectively, the "Private Placement Parties") that entered into the Subscription Agreement will purchase the Private Placement Shares equal to, in the aggregate, 87.69% of the Limited Voting Shares immediately following implementation of the Recapitalization Transaction, subject to the MIP Dilution. The proceeds from the Private Placement will be used towards paying the cash components of the consideration for the exchange of the Secured Debtholder Claims.

8 The Company currently has a capital structure with approximately $4 billion of secured and unsecured debt obligations outstanding. The Company is of the view that based on the size and nature of its existing capital structure, an arrangement is required to reduce its debt obligations. The successful implementation of the Recapitalization Transaction will improve the Company's financial position by reducing the Company's outstanding indebtedness by approximately $2.4 billion, reducing the Company's annual cash interest costs by approximately $171 million and improving the Company's capital structure and liquidity.

9 The Company concluded that the Recapitalization Transaction represents the best alternative available in the circumstances to achieve a sustainable capital structure, and that, taking into account all of the circumstances and alternatives available to Concordia, the proposed CBCA Plan is fair from the perspective of all stakeholders, including its security holders, and is advantageous to all such parties.

10 The Board also determined, following receipt of legal advice and financial advice with respect to the Recapitalization Transaction from the Company's financial advisor, and the Fairness Opinion, and CBCA Opinion provided by MPA Morrison Park Advisors Inc. ("MPA"), that the proposed Arrangement will offer substantial benefits to and is in the best interests of the Company and its stakeholders.

11 At the Meetings, Concordia's affected debtholders and shareholders overwhelmingly supported the Board and the Company's recommendations and conclusions with respect to the proposed Recapitalization Transaction and approved the CBCA Plan.

12 The Company advises that the Arrangement has received the requisite approval from the Secured Debtholders, the Unsecured Debtholders and Existing Shareholders pursuant to the terms of the Interim Order and the Applicants have complied with all applicable statutory and court-mandated requirements. Accordingly, the Applicants submit that the court should approve the Arrangement and grant the Final Order.

13 It is noted that the proposed Final Order contained certain provisions granting relief with respect to equity claims, releases and permanent waivers, all of which the Company considers to be appropriate, fair and reasonable under the circumstances of this Recapitalization Transaction and this CBCA Plan. It was also noted that in addition to the Applicants, these proceedings also involved a number of entities (the "Subsidiary Guarantors") listed on Schedule "A", each of which is a wholly-owned direct or indirect subsidiary of Concordia. The Subsidiary Guarantors collectively own a significant portion of the assets of the Company's business and are guarantors under the Debt Documents. The Subsidiary corporations are foreign entities located in England, Jersey, Ireland, Switzerland, Sweden, Luxembourg and the Netherlands.

14 As part of the proposed Recapitalization Transaction, and as a condition of the CBCA Plan, the Support Agreement and the Subscription Agreement, the parties require that the Existing Equity Claims Relief be granted by an order or that the Equity Claims relating to the period prior to the Effective Date be otherwise addressed in a manner satisfactory to Concordia and the Majority Private Placement Parties.

15 The Existing Equity Claims Relief encompasses that:

> (i) the Affected Equity (which excludes the Existing Shares) be terminated and cancelled for no consideration;
>
> (ii) any Affected Equity Claims, which is defined in the CBCA Plan to include all equity claims, as such term is defined in s. 2(1) of the *Companies' Creditors Arrangement Act* ("CCAA"), relating to the period prior to Effective Date, other than the Existing Equity Class Action Claims, be released; and
>
> (iii) all Persons having Existing Equity Class Action Claims be limited in their recourse and recovery in respect of such claim to the proceeds of the Insurance Policies, in each case pursuant to the CBCA Plan and the Final Order.

16 The Company takes the position that the Existing Equity Claims Relief is an important and necessary element of the overall proposed Recapitalization Transaction that was the subject of lengthy and complex negotiations with the Company's Consenting Debtholders, and is reasonable and appropriate in the circumstances of this Recapitalization Transaction that involves significant equitization of existing debt and a new money equity investment as part of the recapitalization.

17 The Company has also brought to the court's attention that on May 16, 2018, the Interim Order was amended to provide for certain procedural matters relating to elections in respect of the New Senior Secured Debt and entitlement to Early Consent Consideration. This information was then made available to all stakeholders.

18 Further, certain amendments were made to the CBCA Plan that was appended to the Draft Information Circular and, again, this information was made available, on a timely basis, to all stakeholders.

19 In the Opinions, MPA concluded that:

> (i) the Arrangement is fair, from a financial point of view, to the Company;
>
> (ii) given the consideration provided under the Arrangement to the Secured Debtholders, the Unsecured Debtholders and Existing Shareholders, respectively, these groups would be in a better position, from a financial point of view, under the Arrangement than if the Company were liquidated;

(iii) the consideration provided under the Arrangement to the Secured Debtholders is fair, from a financial point of view, to the Secured Debtholders;

(iv) the consideration provided under the Arrangement to the Unsecured Debtholders is fair, from a financial point of view, to the Unsecured Debtholders; and

(v) the consideration provided under the Arrangement to the Existing Shareholders is fair, from a financial point of view, to the Existing Shareholders.

20 In the period leading up to the Meetings, the Company received additional support from Debtholders and Existing Shareholders such that, as of the close of business on June 12, 2018, the Arrangement had the support of Secured Debtholders and Unsecured Debtholders holding approximately 99.71% of the outstanding principal amount of the Company's Secured Debt and approximately 97.85% of the outstanding principal amount of the Company's Unsecured Debt, respectively.

21 As noted in [5] above, the Arrangement resolutions were subsequently approved at the Meetings by 100% of the votes cast by the Secured Debtholders, 100% of votes cast by the Unsecured Debtholders, and 87.37% of the votes cast by the Existing Shareholders.

The Test for Approval

22 In order to grant final approval of the CBCA Arrangement, the court must be satisfied that:

(1) there has been compliance with all statutory and court-mandated requirements;

(2) the application has been put forward in good faith; and

(3) the Arrangement is fair and reasonable.

(See: *BCE Inc., Re*, 2008 SCC 69 (S.C.C.) (BCE); *Essar Steel Canada Inc., Re*, 2014 ONSC 4285 (Ont. S.C.J.).

23 The Applicants submit that each of the above conditions has been satisfied and that it is appropriate to grant the Final Order approving the Arrangement.

Part (1): Compliance with all Statutory and Court-Mandated Requirements

24 In order to satisfy part (1) of the CBCA arrangement final approval test, the court must be satisfied that:

(i) the applicant is a "corporation" under the CBCA;

(ii) the proposed transaction is an "arrangement" under s. 192(1) of the CBCA;

(iii) the applicant is not insolvent; and

(iv) it is not practicable to effect a fundamental change in the nature of an arrangement under any other provision of the CBCA.

(See: *8440522 Canada Inc., Re*, 2013 ONSC 2509 (Ont. S.C.J.) at para. 49 (*Mobilicity*)).

25 In connection with the Applicants' motion for the Preliminary Interim Order, the Applicants addressed in detail the statutory requirements of the CBCA in connection with a Plan of Arrangement. The endorsement on the Preliminary Interim Order (the "Concordia Preliminary Interim Order Decision") described the proposed arrangement as "the exchange of the Secured Debt and Unsecured Debt, each comprised of various note and loan obligations, in exchange for new debt, equity of CIC (Concordia) or a combination thereof to be an "arrangement" contemplated by s. 192 of the CBCA" and, with respect to the Preliminary Interim Order, found the Applicants to be in compliance with each of the statutory requirements. The endorsement on the Interim Order

(the "Concordia Interim Order Decision") affirmed that the Concordia Preliminary Interim Order Decision addressed the legal framework for a CBCA Arrangement, and was equally applicable to the Arrangement as described. (See: *Concordia (Re)*, 2017 ONSC 6357 (Ont. S.C.J.) at paras. 28-29 (Concordia Preliminary Interim Order Decision); and *Concordia International Corp., (Re)*, 2018 ONSC 3034 at para. 20 (Concordia Interim Order Decision).

26 I am satisfied that the Arrangement that was approved by the Debtholders and the Existing Shareholders at the Meetings and for which the Applicants now seek approval remains as described in the Interim Order materials. As such, I am satisfied that:

(i) the Applicants are "corporations" under the CBCA;

(ii) the proposed Arrangement constitutes an "arrangement" for the purposes of s. 192 of the CBCA;

(iii) the insolvency requirement under s. 192 of the CBCA is satisfied;

(iv) it would not be "practicable" to implement the Arrangement pursuant to any other provision under the CBCA; and

(v) the CBCA Arrangement can affect the interests of non-CBCA entities.

27 In addition, notice of the within application was given to the staff of the CBCA Director in advance of the hearing for the Interim Order and the CBCA Director informed counsel to the Applicants that it did not need to appear or to be heard at such hearing. The CBCA Director has been provided with notice of the hearing for the Final Order and again, has indicated that it need not appear or be heard at such hearing.

Part (2): The Application Has Been Put Forward in Good Faith

28 Part (2) of the test requires that the application be put forward in good faith.

29 I am satisfied that the CBCA Plan has been put forth in good faith and in furtherance of a valid business purpose. I am satisfied that the successful implementation of the Recapitalization Transaction will improve the Company's capital structure by reducing the Company's outstanding indebtedness by more than $2 billion and will significantly reduce annual interest expense.

30 In arriving at this conclusion, I have also taken into account that the Board, with the assistance of the Company's legal and financial advisors, has reviewed and considered the financial challenges currently facing the Company as well as reviewing the potential alternatives to address the shortcomings. The Board received legal and financial advice and obtained opinions with respect to the Recapitalization Transaction from MPA and the Board unanimously approved the Recapitalization Transaction and the CBCA Plan and authorized its submission to the various stakeholders. At the Meeting, the CBCA Plan received overwhelming support from the various stakeholders.

31 The Company's trade creditors, other unsecured creditors (other than the Unsecured Debtholders), customers and government authorities will not be affected by the Recapitalization Transaction, with the exception of the releases and waivers contemplated by the CBCA Plan and the Final Order. Further, it is noted that all obligations to employees of the Company, other than the cancellation of options, restricted share units and deferred share units, will be unaffected by the Recapitalization Transaction and existing employment arrangements will remain in place, subject to any changes to such employment arrangements to reflect the new management incentive program.

Part (3): The Arrangement is Fair and Reasonable

32 Part (3) of the test requires that the arrangement be fair and reasonable. In assessing the fairness and reasonableness of an arrangement, the court must be satisfied:

(a) that the arrangement has a valid business purpose, and

(b) that the objectives of those whose legal rights are being arranged are being resolved in a fair and balanced way.

(See: *BCE Inc.*, *supra*, at paras. 138, 143 and 155; *Trizec Corp., Re*, [1994] A.J. No. 577 (Alta. Q.B.) at para. 32)

33 Counsel to the Applicants submits that the Supreme Court of Canada in *BCE Inc.* articulated various factors that the court may consider when assessing whether a plan is fair and reasonable, including:

(a) whether a majority of security holders voted to approve the arrangement;

(b) the proportionality of the compromise between various securityholders, the securityholders position before and after the arrangement and the impact on various securityholders rights;

(c) the presence of a fairness opinion from a reputable expert; and

(d) whether the Plan serves a valid business purpose.

34 Another relevant factor may be the priority which the securityholder would receive in the event of liquidation (See: *BCE Inc.*, *supra* at paras. 147-150, 152-154 and *Trizec Corp.*, *supra* at para. 43).

35 Having taken into account that the Arrangement will improve Concordia's financial position by reducing its outstanding indebtedness by approximately $2.4 billion; that Concordia engaged in complex discussions and negotiations with the Debtholder Committees, for an extended period of time, which culminated in the proposed Recapitalization Transaction; that the Board unanimously approved the Recapitalization Transaction; that the Board received legal and financial advice and fairness opinions; that the Arrangement has the support of Secured Debtholders and Unsecured Debtholders holding approximately 99.78% of outstanding principal amount of the Company's Secured Debt and approximately 97.80% of the principal amount of the Unsecured Debt, respectively; that the Arrangement was approved at Meetings by 100% of the votes cast by both Secured Debtholders and Unsecured Debtholders and 87.37% of the votes cast by Existing Shareholders; and the Arrangement is consistent with the purpose of the CBCA Arrangement provisions, I am satisfied that the Arrangement is fair and reasonable and fairly balances the rights of parties affected by the Arrangement.

36 I have also reviewed the terms of the Final Order.

37 The CBCA Plan includes certain releases (the "Releases") in favour of the Released Parties in respect of claims arising on or prior to the Effective Date (other than claims attributable to fraud, willful misconduct, criminal act or criminal omission) in connection with the CBCA Plan, the Debt and Debt Documents, the Affected Equity Claims, the Private Placement and the CBCA proceedings.

38 Counsel to the Applicants submit the Releases are a key feature in CBCA recapitalization transactions where debts are being exchanged under an arrangement and releases are necessary to ensure that the results that flow from the Arrangement are not jeopardized or subject to collateral attack. Courts have exercised their discretion pursuant to s. 192(4) of the CBCA to approve the CBCA plans of arrangement that provide for third-party releases in other cases (See: *Post Media Network Canada Corporation et al*, Court File No. CV-16-11476-00CL, September 12, 2016; *8440522 Canada Inc. et al.*; Court File No. CV-13-10081-00CL, May 28, 2013; *RGL Reservoir Management Inc. et al.*, Court File No. CV-17-587401-00CL, December 14, 2017; and *Lewd Media Corporation et al.*, Court File No. CV-17-11809-00CL, dated June 20, 2017).

39 In considering whether to approve Releases in favour of third parties, courts will take into account the particular circumstances of the case, and while no single factor is determinative, the courts have considered the following factors:

(a) whether the parties to be released from claims were necessary and essential to the restructuring of the debtor and have contributed in a tangible and realistic way to the plan;

(b) whether the claims to be released were rationally connected to the purpose of the plan and necessary for it;

(c) whether the plan could succeed without the releases;

(d) whether the release benefitted the debtors as well and the creditors generally; and

(e) whether the creditors voting on the plan had knowledge of the nature and effect of the releases.

(See: *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp.*, 2008 ONCA 587 (Ont. C.A.) at paras. 43, 70, 71 and 113; *Kitchener Frame Ltd., Re*, 2012 ONSC 234 (Ont. S.C.J. [Commercial List]) at paras. 80 and 82; and *Cline Mining Corp., Re*, 2015 ONSC 622 (Ont. S.C.J.) at paras. 22-28).

40 In this case, paragraph 11 of the proposed Final Order provides that all persons shall be deemed to have waived any and all defaults, third party change of control rights or any noncompliance with, among others, any covenant, term or provision relating to, arising out of or in connection with the Debt and Debt Documents, the Affected Equity, the Arrangement, the CBCA Plan, the transactions contemplated thereby, or the proceedings commenced with respect thereto (collectively, the "Default and Change of Control Waiver").

41 The Applicants submit that it is appropriate in the circumstances of this Arrangement that the Default and Change of Control Waiver be approved given that, among other things, like the Releases, the Default and Change of Control Waiver was negotiated and forms an integral part of the overall Arrangement that was approved by the various stakeholders. Further, the waiver facilitates the completion of the Arrangement and prevents actions that would frustrate the purpose of the Arrangement.

42 The Applicants also submit that the Existing Equity Claims Relief is appropriate in the circumstances.

43 The CBCA Plan and the Final Order contemplates that the Existing Equity Claims Relief, which, in summary, encompasses that:

(i) the Affected Equity (which excludes the Existing Shares) be terminated and cancelled for no consideration;

(ii) any Affected Equity Claims, which is defined in the CBCA Plan to include all equity claims, as such term is defined in s. 2(1) of the CCAA for the period prior to the Effective Date, other than the Existing Equity Class Action Claims, be released; and

(iii) all persons having Existing Equity Class Action Claims be limited in their recourse and recovery in respect of such claims to the proceeds of the insurance policy, in each case pursuant to the CBCA Plan and the Final Order.

44 The Applicants submit that this relief is appropriate in the circumstances given that:

the Affected Equity, Affected Equity Claims and Existing Equity Class Action Claims constitute "equity claims" as such term is defined in s. 2(1) of the CCAA; courts have consistently held that a wide reading of the definition of "equity claims", as such term is defined in the CCAA, is appropriate and that it will encompass those claims that relate in substance to the claimants interest as an equity holder, regardless of how those claims are framed (See:*Return on Innovation Capital Ltd. v. Gandi Innovations Ltd.*, 2011 ONSC 5018 (Ont. S.C.J. [Commercial List])).

45 In support of this proposition, counsel also references that "equity claims" may encompass claims by shareholders in proposed class action proceedings, including claims for contribution and indemnity and claims based on breaches of contract, torts and equity, including based on allegations of fraud, misrepresentation, and non-disclosure, among others; (See: *Sino-Forest Corp., Re*, 2012 ONSC 4377 (Ont. S.C.J. [Commercial List]) at paras. 76-82 aff'd 2012 ONCA 816 (Ont. C.A.) at paras. 24 and 59 (Sino-Forest ONCA; *Gandi Innovations Ltd.*, *supra* at paras. 57, 59 and 61; and *Nelson Financial Group Ltd., Re*, 2010 ONSC 6229 (Ont. S.C.J. [Commercial List])).

46 Section 6(8) of the CCAA requires that no compromise or arrangement that provides for the payment of an equity claim is to be sanctioned by the court unless it provides that all claims that are not equity claims are to be paid in full before the equity claim is to be paid.

47 In this case, the value available to Secured Debtholders and Unsecured Debtholders pursuant to the Recapitalization Transaction is not a full recovery of their claims, with a significant shortfall in respect of the Unsecured Debtholder Claims, and limited value remaining for Existing Shareholders.

48 The Applicants submit that given the respective recoveries, channeling the Existing Equity Class Action Claims for the proceeds to the insurance policies preserves value for the plaintiffs in the Existing Equity Class Action Claims and is fair and reasonable under the circumstances.

49 Counsel also submits that the objectives of CCAA plans of arrangement and CBCA plans of arrangement are to ensure the future viability of the applicants, and as such, the principles applied by CCAA courts in granting such orders should apply equally in the context of a restructuring under the CBCA plan of arrangement (See: *Abitibi-Consolidated*, *supra* at para. 120).

50 I am satisfied that the Existing Equity Claims Relief has been extensively negotiated and forms an integral part of the overall Arrangement that has been overwhelmingly approved by the stakeholders. I am also satisfied that, pursuant to s. 192(4) of the CBCA, the court has the jurisdiction to make the Final Order it thinks fit, including approving the CBCA Plan and providing for the Existing Equity Claims Relief.

51 Such relief is not without precedent. Courts have granted orders channeling equity claims, including orders channeling class action claims to insurance proceeds in a number of cases under the CCAA (See: *Sino-Forest Corp., Re* [2012 CarswellOnt 15919 (Ont. S.C.J. [Commercial List])], CV-12-9667-00CL, Plan Sanction Order dated December 10, 2012; *SkyLink Aviation Inc., Re* [2013 CarswellOnt 7670 (Ont. S.C.J. [Commercial List])], CV-13-10033-00CL, Plan Sanction Order dated April 23, 2013 and *Guestlogix Inc.* and *Guestlogix Ireland Limited*, CV-16-11281-00CL, Plan Sanction Order dated September 1.2, 2016).

52 In the circumstances, I consider the requested relief to be appropriate.

53 Finally, I note that by proceeding by way of statutory arrangement under s. 192 of the CBCA, Concordia intends to rely upon the Final Order as the basis for exemption from the registration requirements of the *Securities Act* of 1933, as amended, of the United States of America with respect to the Unsecured Debt Exchange Shares, Reallocated Unsecured Shares, Unsecured Debentureholder Early Consent Shares and New Senior Secured Notes to be issued in each case in exchange for the Secured Debt or the Unsecured Debt, as applicable, pursuant to the CBCA Plan.

Disposition

54 The application is therefore granted and an order has been signed approving the Arrangement pursuant to s. 192 of the CBCA in the form of the proposed Final Order.

55 In the result, I am satisfied that the terms and conditions of the Recapitalization Transaction are fair and reasonable to the Secured Debtholders, the Unsecured Debtholders and the Existing Shareholders.

Application granted.

TAB 2

No. S1913050
Vancouver Registry

In the Supreme Court of British Columbia

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, SBC 2002, Chapter 57

AND

IN THE MATTER OF NOVELION THERAPEUTICS INC.

PETITIONER

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE MADAM JUSTICE MACNAUGHTON	)))	18/Aug/2021

THE APPLICATION of Alvarez & Marsal Canada Inc., as court-appointed liquidator of the Petitioner (the "**Liquidator**"), coming on for hearing at Vancouver, British Columbia on 18/Aug/2021; AND ON HEARING Scott M. Boucher, counsel for the Liquidator, and no one else though duly served; AND UPON READING the material filed including the Third Report of the Liquidator dated July 29, 2021 (the "**Third Report**"); AND pursuant to the *Business Corporations Act*, S.B.C. 2002 c. 57 (the "**BCBCA**"), the *Supreme Court Civil Rules* and the inherent jurisdiction of this Honourable Court:

THIS COURT ORDERS AND DECLARES that:

SERVICE

1. The time for service of the Notice of Application and supporting materials is hereby abridged such that the Notice of Application is properly returnable today and hereby dispenses with further service thereof.

DISPOSITION OF REMAINING ADRs

2. The disposition by the Petitioner of all Remaining ADRs (as defined in the Third Report), at any times and prices determined by the Liquidator in its discretion, is hereby authorized and approved (the "**ADR Disposition**").

3. The Liquidator is hereby authorized to cause the Petitioner to complete the ADR Disposition. The execution by the Liquidator on behalf of the Petitioner of the Agreement attached as Appendix "B" to the Third Report between the Petitioner and Stifel Nicolaus Europe Limited (the "**Stifel Agreement**") is hereby authorized and approved, and the performance by the Petitioner (or the Liquidator on behalf of the Petitioner) of the Stifel Agreement is hereby authorized and approved.

4. Any authorized representative of Alvarez & Marsal Canada Inc. is hereby authorized to execute and deliver, on behalf of the Petitioner, any documentation in connection with the Stifel Agreement or the sale, assignment, transfer and/or delivery of such ADRs. Any authorized representative of Alvarez & Marsal Canada Inc. is hereby authorized to delegate (by power of attorney or otherwise) the foregoing authority on behalf of the Petitioner to any individual, whether or not such individual is an officer or employee of Alvarez & Marsal Canada Inc.

FINAL CASH DISTRIBUTIONS

5. Any Registered Holder who is entitled, pursuant to the Order of this Court in these proceedings dated December 16, 2020 (the "**Interim Distribution Order**"), to receive cash in an amount equal to the Market Value (as defined in the Interim Distribution Order) of their Withheld Distributions (as defined in the Interim Distribution Order) (the "**Withheld Interim Distribution Value**") shall receive, on a date to be determined by the Liquidator, their Withheld Interim Distribution Value amount in cash.

6. Each Registered Holder shall receive, on a date or dates to be determined by the Liquidator, a distribution (in one or more separate payments) of their proportionate share of the Residual Cash, such proportionate share being calculated based upon the proportion of the common shares of the Petitioner held by such Registered Holder as at January 16, 2020. For the purposes of this Order "**Residual Cash**" shall mean the

remaining cash owned by the Petitioner after payment of the Withheld Interim Distribution Value and a reserve amount of $700,000 (the "**Administrative Reserve**"), which Administrative Reserve amount is determined to be necessary for the payment and discharge of the liabilities of the Petitioner and the costs of completing these proceedings and the dissolution of the Petitioner and discharge of the Liquidator.

7. The Liquidator is hereby authorized to cause the Petitioner to complete the distributions of the Withheld Interim Distribution Value and the Residual Cash in accordance with this Order. For this purpose, any authorized representative of Alvarez & Marsal Canada Inc. is hereby authorized to execute and deliver, on behalf of the Petitioner, any documentation in connection with such distribution, and any authorized representative of Alvarez & Marsal Canada Inc. is hereby authorized to delegate (by power of attorney or otherwise) the foregoing authority on behalf of the Petitioner to any individual, whether or not such individual is an officer or employee of Alvarez & Marsal Canada Inc.

ADMINISTERING DISPOSITIONS AND DISTRIBUTIONS

8. The Withheld Interim Distribution Value and the Residual Cash shall be distributed as a reduction of stated capital to the extent of the 'paid-up' capital of the common shares of the Petitioner for the purposes of the *Income Tax Act* (Canada) as contemplated in section 7.3 of the Plan of Liquidation and Distribution of the Petitioner, dated November 14, 2019 (the "**Liquidation Plan**").

9. The dispositions, distributions, payments and disbursements delivered hereunder and pursuant to the Liquidation Plan are not delivered by the Liquidator in its personal or corporate capacity and shall be without personal or corporate liability of the Liquidator, and, without limiting the foregoing, the Liquidator shall have no, and is released from any, obligation or liability in connection with any taxes owing by the Petitioner, or any withholdings or deductions that any person may assert should or should not have been paid or made in connection with such distributions, disbursements or payments.

REMAINING ROYALTY AGREEMENTS

10. The Petitioner and the Liquidator are hereby authorized to take no further steps to monetize any rights of the Petitioner pursuant to an Asset Purchase Agreement dated as of September 21, 2012 between Valeant Pharmaceuticals International, Inc., as

purchaser, QLT Inc. and QLT Ophthalmics, Inc., as sellers (as such agreement may have been amended from time to time).

APPROVAL OF FEES

11. The fees and disbursements of the Liquidator, its counsel and counsel to the Petitioner (including applicable taxes), as described in Appendices "C" and "D" to the Third Report are hereby approved.

DISSOLUTION OF PETITIONER

12. Upon completion of the distributions of the Withheld Interim Distribution Value and the Residual Cash, the Liquidator is authorized to complete the dissolution of the Petitioner in accordance with the steps set out in sections 341 and 343 to the BCBCA without further order of this Court.

RELEASES

13. Effective as of the date of this Order, in addition to the protections in favour of the Liquidator in any Order of this Court in these proceedings or in the BCBCA, the Liquidator, and its officers, directors, partners, employees, agents and legal counsel (collectively, the "**Released Parties**") are hereby released and discharged from any and all claims that any person may have or be entitled to assert against the Released Parties, whether known or unknown matured or unmatured, foreseen or unforeseen, existing or hereafter arising, in respect of any act done or default made by the Liquidator in the administration of the affairs of the Petitioner or otherwise done by such Released Party in their capacity as such, in each case on or prior to the date of this Order (collectively, the "**Released Claims**"), and any such Released Claims are hereby released, stayed, extinguished and forever barred and the Released Parties shall have no liability in respect thereof.

GENERAL

14. The Liquidator shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, the ADR Disposition, the distribution of the Withheld Interim Distribution Value or the distribution of the Residual Cash, save and except for any gross negligence or wilful misconduct on its part.

15. All persons, including transfer agents, custodians and depositary banks, required to make any distributions, deliveries, transfers or allocations or take any steps or actions related thereto to complete the ADR Disposition, or the distributions of the Withheld Interim Distribution Value or the Residual Cash are hereby authorized and directed to complete such dispositions, distributions, deliveries, transfers, allocations, steps or actions, as the case may be, and such dispositions, distributions, deliveries, transfers, allocations, steps and actions are hereby approved.

16. The Second Report of the Liquidator dated January 12, 2021 and the Third Report of the Liquidator are hereby approved and the activities and conduct of the Liquidator as described therein are also hereby approved and ratified in all respects.

17. The Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

18. This Court requests the aid and recognition of other Canadian and foreign Courts, tribunals, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, including the United States Bankruptcy Court, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioner and to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Liquidator in any foreign proceeding, or to assist the Petitioner and the Liquidator and their respective agents in carrying out the terms of this Order.

19. The Liquidator be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of lawyer for the Petitioner
Scott M. Boucher

By the Court.

Registrar

CHECKED BY CP

No. S1913050
Vancouver Registry

In the Supreme Court of British Columbia

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT, SBC 2002, Chapter 57*

AND

IN THE MATTER OF NOVELION THERAPEUTICS INC.

PETITIONER

ORDER MADE AFTER APPLICATION

NORTON ROSE FULBRIGHT CANADA LLP
Barristers & Solicitors
1800 – 510 West Georgia Street
Vancouver, BC V6B 0M3
Telephone: (604) 687-6575
Attention: Scott M. Boucher

Filing Agent: West Coast Title Search

Matter# 1000385619

TAB 3

Court File No. 330-18

ONTARIO

SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	TUESDAY, THE 4TH
	)	
JUSTICE GEORGE	)	DAY OF SEPTEMBER, 2018

IN THE MATTER OF THE LIQUIDATION AND WINDING-UP OF
OXFORD GOLF AND COUNTRY CLUB, LIMITED

APPLICATION UNDER SECTION 244 OF THE
CORPORATIONS ACT, R.S.O. 1990, c. C.38

DISTRIBUTION APPROVAL, DISCHARGE AND RELEASE ORDER

THIS MOTION made by BDO Canada Limited ("**BDO**"), in its capacity as court-appointed Liquidator (the "**Liquidator**") appointed pursuant to an Order of the Court dated February 20, 2018 (the "**Winding Up Order**") of the Property (as defined in the Winding Up Order) of Oxford Golf and Country Club, Limited (the "**Corporation**") for the relief as set out in the Notice of Motion, was heard this day at 80 Dundas St. London Ontario.

ON READING the Second Report of the Liquidator dated August 15, 2018 and the exhibits thereto and the Supplemental Report to the Second Report of the Liquidator dated August 29, 2018 (collectively the "**Second Report**") and on hearing submissions of counsel for the Liquidator and such other counsel as were present and on reading the affidavit of service of Kelly Bryant sworn August 21, 2018.

DEFINITIONS

1. **THIS COURT ORDERS** that, for the purpose of this Order, in addition to the terms defined elsewhere herein, the following terms shall have the following meanings:

a. "**Court**" means the *Ontario* Superior Court of Justice, at the Court House, 80 Dundas Street, London, Ontario;

b. "**Proposed Distribution**" means the Distribution scheme outlined in Section 7 of the Second Report;

c. "**Residual Legal Retainer**" means residual retainer funds that were provided by the Corporation to its legal counsel and are available to the Liquidator;

d. "**Service List**" means Shareholder or a party represented by counsel on the list of parties served with the materials in the within proceedings;

e. "**Shareholder**" means a known or unknown shareholder of the Corporation;

f. "**Shareholder Claim**" means a claim made by a Shareholder to the Property;

g. "**Shareholder Process Order**" means the Order of the Honourable Justice George dated April 17, 2018 in this proceeding;

h. "**Shareholder Dividend**" means the sum of $842.19 to be paid by the Liquidator to each of 598 Shareholders who have proven a Shareholder Claim in accordance with the Shareholder Claims Process Order.

DISTRIBUTION APPROVAL, DISCHARGE AND RELEASE

2. **THIS COURT ORDERS** that the time for service of this Motion Record is hereby dispensed with or abridged and this motion is property returnable today without further service or notice thereof.

3. **THIS COURT ORDERS** that the Second Report and the Liquidator's activities as outlined therein are hereby approved.

4. **THIS COURT ORDERS** that the Liquidator's Statement of Receipts and Disbursements for the period February 20, 2018 to August 10, 2018 is hereby approved.

5. **THIS COURT ORDERS** that BDO's accounts for professional fees and disbursements as Liquidator (the "**BDO Fees**") and the fees and disbursements of Harrison Pensa LLP, counsel to the Liquidator (collectively with the BDO Fees, the

"**Professional Fees**") and the payment of same are hereby approved.

6. **THIS COURT ORDERS AND AUTHORIZES** that the Liquidator shall pay the funds held by the Liquidator in relation to this proceeding as follows:

    a. Firstly, to provide a Holdback of $10,000 for future professional fees, which includes fees paid to the Corporation's external accountant (the "**Holdback**");

    b. Secondly, to pay the unpaid Professional Fees;

    c. Thirdly, to pay the Shareholder Dividend to all Shareholders who have proven a Shareholder Claim; and,

    d. Fourthly, to donate any residual funds from the Holdback, if any, to the United Way Oxford.

7. **THIS COURT ORDERS** that any Shareholder Claim of a Shareholder shall be barred if the Shareholder does not cash its Shareholder Dividend cheque(s) relating to the Shareholder Claim(s) within six (6) months of issue date of such cheque.

8. **THIS COURT ORDERS AND AUTHORIZES** that, in addition to the sum of $10,000, the Holdback shall also comprise anticipated HST refunds, and any interest accrued on such funds subsequent to June 30, 2018 and the Residual Legal Retainer.

9. **THIS COURT ORDERS** that upon completion of the administration of the estate and upon the Liquidator filing a certificate in the form attached at Schedule "A" to the Order sought herein certifying that it has completed the administration of the estate (the "**Discharge Certificate**"), the Liquidator shall be discharged as Liquidator, provided however that notwithstanding its discharge herein (a) the Liquidator shall remain Liquidator for the performance of such incidental duties as may be required to complete the administration of its mandate herein; and (b) the Liquidator shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of BDO in its capacity as Liquidator.

10. **THIS COURT ORDERS** that the Liquidator be released and discharged from any and all liability that the Liquidator now has or may hereafter have by reason of, or in

any way arising out of, the acts or omissions of the Liquidator, prior to the date of this Order, while acting in its capacity as Liquidator herein. Without limiting the generality of the foregoing, the Liquidator shall be forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within proceedings prior to the date of this order, including any claims made as against the proceeds subject to the Proposed Distribution as detailed in the Second Report, save and except for the Liquidator's gross negligence or willful misconduct.

PUBLICATION OF DOCUMENTS

11. **THIS COURT ORDERS** that forthwith upon issuance of this Order, the Liquidator shall cause copies of this Order to be served upon all parties on the Service List and posted on its website at https://www.bdo.ca/en-ca/services/advisory/debt-and-financial-recovery-services/corporate-restructuring/.

Justice, *Ontario* Superior Court of Justice

ORDER ENTERED
77-72
SEP - 5 2018
4179

SCHEDULE "A"

Court File No. 330-18

ONTARIO
SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE LIQUIDATION AND WINDING-UP OF
OXFORD GOLF AND COUNTRY CLUB, LIMITED

APPLICATION UNDER SECTION 244 OF THE
CORPORATIONS ACT, R.S.O. 1990, c. C.38

DISCHARGE CERTIFICATE

WHEREAS pursuant to the Order of the Honourable Justice [NAME] of the Ontario Superior Court of Justice made September 4, 2018 (the "**Discharge Order**"), BDO Canada Limited was discharged as Liquidator (the "**Liquidator**") of the property Oxford Golf and Country Club, Limited (the "**Corporation**"), with such discharge eective upon the Liquidator filing a certificate with this Honourable Court certifying that:

(a) the Liquidator has completed such other activities required to complete its administration of the within liquidation and winding up of the Corporation, described in the Second Report of the Liquidator dated August 15, 2018 (the "**Administration**").

THE UNDERSIGNED HEREBY CERTIFIES as follows:

1. The Liquidator has completed the Administration.

DATED at [PLACE], this [DATE] day or [MONTH], 2018

BDO CANADA LIMITED., solely in its capacity as court-appointed liquidator of the property of **Oxford Golf and Country Club, Limited** and not in its personal capacity.

Per: _____

In the matter of the Liquidation and Winding-Up of Oxford Golf and Country Club, Limited

Court File No. 330/18

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT LONDON

ORDER

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Solicitors for BDO Canada Limited

TCH/173070

IN THE MATTER OF THE LIQUIDATION OF LWP CAPITAL INC.

PURSUANT TO SECTION 211 OF THE CANADA BUSINESS CORPORATIONS ACT, R.S.C. 1985, c. C-44, AS AMENDED

and

KSV ADVISORY INC. IN ITS CAPACITY AS LIQUIDATOR OF LWP CAPITAL INC.

Applicant

Court File No. CV-16-11242-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

BOOK OF AUTHORITIES OF THE APPLICANT

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