CITATION: Canasea Petrogas Group Holdings Limited (Re), 2014 ONSC 5467
COURT FILE NO.: CV-14-10700-00CL
DATE: 20140922

SUPERIOR COURT OF JUSTICE - ONTARIO

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

AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGENMENT OF CANASEA PETROGAS GROUP HOLDINGS LIMITED, CANASEA OIL AND GAS GROUP PTE. LTD., CANASEA INTERNATIONAL PTE. LTD., CANASEA PETROGAS INVESTMENT INC. and CANASEA OIL AND GAS LTD.

COUNSEL: *Greg Azeff and Brent McPherson* for the Applicants

Kyla Mahar for the Proposed Monitor

HEARD: September 19, 2014

ENDORSEMENT

[1] The applicants, collectively the "Canasea Group" bring this application for protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("CCAA"). The Canasea Group is involved in exploration, development, production and marketing of oil and gas properties located in Saskatchewan. The principle assets of the Canasea Group are petroleum and natural gas leases and the associated research and development on those PNG leases.

[2] Canasea Petrogas Holdings Limited ("CPGH") is a holding company incorporated under the *Canada Business Corporations Act* with its head office in Toronto. The other applicants are all subsidiaries of CPGH. CPGH owns 100% of the shares of Canasea Oil and Gas Group Pte. Ltd. ("COGG"), a Singapore company. COGG owns 100% of the shares of Canasea International Pte. Inc. ("CPII"), a CBCA company. CPII owns 100% of the shares of Canasea Oil and Gas Limited ("COGL"), the Saskatchewan operating company. Canasea International Pte. Inc. ("CPIL"), a Singapore company, is also wholly owned by CPGH.

[3] The application for an initial order was brought *ex parte*.

[4] There are 7 principal issues which require determination:

(1) The court's jurisdiction to make the order sought;

(2) Whether a stay should be granted;

(3) Oversight during the stay;

(4) Pre-filing payments;

(5) The appointment of the proposed Monitor;

(6) Whether the Charges sought should be granted; and

(7) The service protocol.

[5] With respect to jurisdiction, I first observe that the corporate structure of the applicants is entirely built around the PNG assets in Canada. Further, the applicants' finances are inextricably intertwined through intercompany arrangements. The corporate head office of the operating company is in Toronto and the senior management team of the Canasea Group is also in Toronto.

[6] Under the CCAA a "debtor company" includes a company which is bankrupt or insolvent. Each of the applicants has liabilities which exceed $5 million. Each of the applicants is, on the evidence, unable to meet its obligations as they fall due. Further, each of the applicants' assets is less than the amount of their obligations due and owing.

[7] CIPL owes lenders $12 million. That debt is guaranteed by CPGH. Neither company has the funds to repay this indebtedness. COGG is liable under convertible debt arrangements for over $15 million. CPII and COGL received the benefit of these funds and are liable under intercompany loan arrangements. None of these companies can repay this indebtedness. I am therefore satisfied on the evidence available that the applicants are indebted for over $5 million and are insolvent.

[8] In 2013 and earlier this year, The Canasea Group was pursuing an initial public offering process for the sale and listing of shares of COGG on the Singapore Exchange. The IPO process was suspended due to valuation issues.

[9] The applicants seek court protection in order to maximize and realize upon value for the benefit of all their stakeholders. Specifically, the immediate objective is to refinance the applicants through the implementation of a sale and investment solicitation process ("SISP"). The purpose of the SISP will be to identify one or more financiers or purchasers of and investors in the applicants' business, with a projected completion date for a transaction of February 2015. The applicant intends to seek approval of the SISP when they return to seek an order extending the stay of proceedings within 30 days.

[10] In general, the CCAA's broad remedial purpose is to allow a debtor the opportunity to emerge from financial difficulty, short of bankruptcy, with a view to allowing the business to continue and/or to maximize returns to creditors, shareholders and other stakeholders and to preserve employment and economic activity. Commonly, a stay of proceedings is necessary to enable that to happen.

[11] The applicants have received demands for payment under their existing loan agreements. They are in default. Debtors have threatened to commence liquidation/wind-up proceedings. A stay would seem to be necessary if there is to be an orderly plan to maximize value for all stakeholders.

[12] The Monitor will ensure that only expenses and expenditures necessary for the continued operation of the applicants' business during the SISP process will be made. Similarly, the

continued operation of the applicants' business depends upon the continued availability of goods and services. It is necessary for the continued operation of the applicants' business as a going concern that these goods and services continue to be available. For this reason, it is appropriate to authorize the payment of certain pre-filing expenditures. These are, in any event, quite modest.

[13] Under s. 17 of the CCAA the court is required to appoint a Monitor. Deloitte is a trustee within the meaning of the BIA. The senior Deloitte professional personnel with carriage of this matter have recently acquired knowledge of the applicants and their business in preparation for these proceedings. The Deloitte personnel have experience in proceedings of this kind. Neither Deloitte nor any of its representatives have been the auditor or otherwise related to the applicants at any time during the preceding two years. Deloitte has consented to act as Monitor. I find the proposed Monitor is appropriate for the role.

[14] The applicants seek the imposition of three priority charges:

(i) a DIP Charge;

(ii) an Administrative Charge; and

(iii) a D&O Charge.

[15] In order to implement any plan of compromise, the applicants will require financing to continue with day-to-day operations and to implement any proposed strategy, including the SISP. The applicants have obtained a debtor in possession financing term sheet in the aggregate amount of $750,000. This commitment is roughly based upon identified, specific additional financing support required plus a modest cushion for developing the SISP and unknown contingencies. The proposed DIP financing will enhance the prospects of a viable compromise or arrangement being made. I note that the restructuring efforts appear to have some support from the applicants' largest creditor. Without this financing, the applicants will not be able to restructure. The amount is, in my view, *prima facie* reasonable. The lender will not advance the funds without a priority claim. The evidence is that there are no secured creditors. The DIP Charge should be approved.

[16] The applicants are seeking an administrative charge of $400,000 to secure the fees and disbursements of the Monitor, Monitor's counsel and applicants' counsel. Such a charge is authorized by s. 11.52 of the CCAA. Factors to be take into consideration when granting an administrative charge include the size and complexity of the business being restructured; the proposed role of the beneficiaries of the charge; whether there is an unwarranted duplication of roles; whether the quantum of the proposed charge appears to be fair and reasonable; the position of the secured creditors likely to be affected by the charge; and the position of the Monitor.

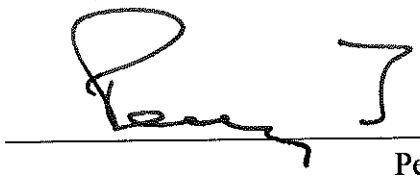
[17] In this case, the Monitor supports the granting and amount of the administrative charge. The beneficiaries of this charge are necessary to the CCAA proceedings and there does not appear to be duplication of roles. There are no secured creditors. On the evidence before me, I am satisfied that the amount of the proposed Administration Charge is fair and reasonable in the circumstances.

[18] The applicants do not have directors and officers insurance. Any successful restructuring of the applicants is not likely to be possible without the continued participation of the applicants' directors and officers. The current management will not remain in their positions without some protection. For this reason, it seems to me that the D&O charge is necessary for any possible restructuring. The amount sought of $150,000 appears to be reasonable in the circumstances.

[19] The service protocol in the proposed initial order contemplates both broad notice to the public of these proceedings and specific notice to all known creditors. It appears to me that the service protocol proposed is likely to provide notice to affected parties. For this reason, I accept the service protocol as proposed.

[20] The order sought contains the standard comeback clause, such that any party affected by the order may move before before the court on not less than seven days' notice. The stay, in any event, terminates on October 18, 2014 absent further order of the Court.

[21] In summary I am satisfied that it is both necessary and appropriate to grant CCAA protection to the applicants. The formal order was signed Friday September 19, 2014 with brief reasons to follow. These are those reasons.



Penny J.

Date: September 22, 2014