

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

HON. SAMUEL J. STEINER
Chapter 15
HEARING DATE: April 16, 2009
HEARING TIME: 1:30 P.M.
HEARING LOCATION: SEATTLE
RESPONSE DATE: AT HEARING

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re
DELOITTE & TOUCHE, INC.
as Foreign Representative of
EVERGREEN GAMING CORP.,
Debtor in a Foreign Proceeding.

Chapter 15

Case No. 09-13567 (SJS)

EX PARTE MOTION OF
FOREIGN REPRESENT-
ATIVE FOR ORDER
SHORTENING TIME FOR
HEARING AND LIMITING
NOTICE ON EMERGENCY
MOTIONS

Deloitte & Touche, Inc., by and through its designated representative, Jervis Rodrigues (the “Monitor”), the court-appointed Monitor in proceedings in British Columbia, Canada under the Canadian Companies’ Creditors Arrangement Act (the “CCAA”), hereby moves the Court for an order shortening the time for hearing and limiting notice on its Motion for Interim Relief Pursuant to 11 U.S.C. § 1519 (the “Motion for Interim Relief”) and its Motion for Joint Administration.

MOTION FOR ORDER SHORTENING TIME
FOR HEARING AND LIMITING NOTICE
ON EMERGENCY MOTIONS – 1

70919-0001/LEGAL15777356.2

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 Evergreen Gaming Corp. (“Evergreen”) is a British Columbia corporation with more
2 than twenty direct and indirect subsidiaries (the “Subsidiaries”) operating in British
3 Columbia, Alberta and western Washington. On April 15, 2009, Evergreen and nineteen
4 Canadian and American affiliates (collectively, the “Evergreen Group” or the “Debtors”)
5 filed a voluntary petition in the Supreme Court of British Columbia, Canada under the
6 Canadian Companies’ Creditors Arrangement Act (the “CCAA Proceeding”). By order
7 entered that same day, the Supreme Court of British Columbia appointed Deloitte & Touche
8 Inc. as Monitor for all debtors in the CCAA Proceeding. Id. A certified copy of the order
9 (i) granting relief under the CCAA, (ii) appointing Deloitte & Touche Inc. as the Monitor
10 and (iii) authorizing the Monitor to commence this Chapter 15 Proceeding (the “CCAA
11 Order”) is attached to the Chapter 15 Petition filed by the Monitor. Rodrigues Declaration,
12 ¶ 2, Exhibit A.
13
14

15 The Monitor has filed petitions in this Court under Chapter 15 of the United States
16 Bankruptcy Code (the “Code”) on behalf of seventeen members of the Evergreen Group¹
17 and an Application for Recognition seeking recognition of the CCAA Proceeding as a
18 Foreign Main Proceeding pursuant to §1517 of the Code.
19
20

21 The Monitor also has filed an Emergency Motion for Interim Relief seeking to
22 protect the Evergreen Group’s assets from collection and enforcement actions by creditors in
23 the United States pending a hearing on the Application for Recognition, and a Motion for
24
25

26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

¹ The “Evergreen Group” consists of Evergreen Gaming Corporation, the parent company, and the following direct and indirect subsidiaries: EGC Holdings Ltd., EGC Properties Ltd., Frank Sisson’s Silver Dollar Ltd., Washington Gaming, Inc., Big Nevada, Inc., Little Nevada II, Inc., Little Nevada III, Inc., Silver Dollar Mill Creek, Inc., Golden Nugget Tukwila, Inc., Shoreline Gaming, Inc., Little Nevada, Inc., Snohomish Gaming Inc., Hollydrift Gaming, Inc., Royal Casino Holdings, Inc., Gameco, Inc., Gaming Management Inc., Gaming Consultants, Inc., Shoreline Holdings Inc., and Mill Creek Gaming, Inc. With the exception of EGC Holdings Ltd., EGC Properties Ltd., and Frank Sisson’s Silver Dollar Ltd., each of the entities has filed chapter 15 a petition in this Court.

1 Joint Administration of the various Chapter 15 petitions pursuant to Bankruptcy Rule
2
3 1015(b), seeking to reduce the burden and expense of duplicative notices, applications,
4
5 orders and files for the Court, the Monitor and Evergreen Group’s creditors.
6

7 The Monitor respectfully requests that the Court hear its Emergency Motion for
8
9 Interim Relief and its Motion for Joint Administration (collectively, the “Emergency
10
11 Motions”) on an emergency basis. In addition, the Monitor seeks to limit notice of the
12
13 Emergency Motions in order to limit administrative expenses. A proposed order granting
14
15 this Motion is attached hereto as Exhibit A.

16
17 **Factual Background**
18

19 The facts related to this matter are set forth in detail in the Application for
20
21 Recognition and the Declaration of Jervis Rodrigues In Support of Application for
22
23 Recognition of Foreign Proceeding and the Declaration of Cory Coyle In Support of
24
25 Application for Foreign Proceeding, and will not be repeated here.²
26

27 This is a classic example of the type of case for which Chapter 15 was designed, and
28
29 particularly the provisions of Chapter 15 related to foreign main proceedings. Evergreen is a
30
31 publicly traded Canadian corporation that owns and operates casinos, card rooms and related
32
33 real estate and management and service businesses in British Columbia, Alberta and
34
35 Washington State. The CCAA Proceeding was filed in Canada as a result of Evergreen’s
36
37 default on a \$29 million credit facility, and the Debtor Subsidiaries, as guarantors of that
38
39 debt, joined in the CCAA petition. The Monitor has been appointed by the Supreme Court
40
41 of British Columbia to monitor the Evergreen Group’s insolvency and restructuring efforts
42
43 and to report on the same to the British Columbia Court.
44

45
46 _____
47 ² Unless otherwise defined herein, capitalized terms have the meanings ascribed to them in the Application for Recognition.

1 This motion, the Motion for Interim Relief, and the Motion for Joint Administration
2 have been provided to: (i) the principal parties in the case, including the Debtors and their
3 professionals, (ii) Fortress and any other known secured lenders and their respective counsel
4 (if known); (iii) landlords and any other executory contract counterparties; (iv) the United
5 States Attorney's Office; (v) the State of Washington, Bankruptcy and Collections Unit;
6 (vi) the Washington State Gambling Commission; and (vii) the Office of the U.S. Trustee.
7 If those motions are granted, the Monitor proposes to send notice of entry of the Court's
8 orders, along with notice of the hearing on the Application for Recognition, to all creditors
9 in the United States, a form substantially similar to the form attached hereto as Exhibit B.

10 **Exigent Circumstances For Emergency Motions**

11 The Motion for Interim Relief and the Motion for Joint Administration must be heard
12 on an emergency basis to avoid irreparable harm to the Evergreen Group and its estate.

13 **A. Motion for Interim Relief**

14 The Motion for Interim Relief seeks relief applying the automatic bankruptcy stay to
15 protect the assets of the Debtor and preserve the *status quo* for the benefit of all creditors
16 pending entry of a final order recognizing the Monitor as a Foreign Representative in a
17 foreign main proceeding. Unless the Motion for Interim Relief is heard on an expedited
18 basis and a stay on creditors collecting activities is affected, the Monitor and the Debtors
19 may be forced to expend limited resources in defense of attachment and other similar
20 collection actions by Fortress. Without the grant of the relief requested, the Evergreen
21 Group and its other creditors may well suffer irreparable harm because such efforts could
22 force the closure of some Evergreen Group businesses and irreparably damage the
23 reorganization effort contemplated in the CCAA Proceeding.

1 **B. Motion For Joint Administration**

2
3 The Monitor has filed separate Chapter 15 petitions for each of the Evergreen Group
4 entities that hold assets in the United States. Administratively consolidating these cases
5 pursuant to Bankruptcy Rule 1015(b) will avoid the need to file duplicative notices,
6 applications, motions and orders in each case, thereby avoiding significant and unnecessary
7 expense. Entry of an order directing joint administration of the Chapter 15 petitions for
8 procedural purposes will save both the Debtors and the Monitor considerable time and
9 expense, and will relieve the Court of the burden of entering duplicative orders and
10 maintaining duplicative files. The rights of creditors will not be adversely affected because
11 the Motion for Joint Administration seeks only procedural consolidation and not substantive
12 consolidation of the Chapter 15 cases.
13
14
15
16
17
18
19
20
21

22 **Limiting Notice On Emergency Motions**

23
24 In order to limit administrative expenses, the Monitor seeks to limit notice of the
25 Emergency Motions as follows:
26

27
28 The Motion for Interim Relief seeks an automatic stay of (i) all actions against the
29 Debtor or property of the Debtor within the territorial limitations of the United States; (ii) all
30 actions to create, perfect or enforce any lien against property of the Debtor; and (iii) all
31 actions to terminate leases or other executory contracts to which the Debtor is a party. No
32 lawsuits or foreclosure actions are known to be currently pending against any Debtor or
33 asset in the United States. However, Fortress claims a perfected security interest in
34 substantially all assets of the Evergreen Group and each the direct and direct subsidiaries
35 who are Debtors in the CCAA Proceeding, including all of their bank accounts, ATM
36 accounts and payroll accounts.
37
38
39
40
41
42
43
44
45
46
47

1 The Monitor seeks to limit notice of those Emergency Motions to: (i) the principal
2 parties in the case, including the Debtors and their professionals, (ii) Fortress and any other
3 known secured lenders and their respective counsel (if known); (iii) landlords and any other
4 executory contract counterparties; (iv) the United States Attorney's Office; (v) the State of
5 Washington, Bankruptcy and Collections Unit; (vi) the Washington State Gambling
6 Commission; and (vii) the Office of the U.S. Trustee.
7
8
9
10
11
12

13 The Monitor also proposes to mail a notice of these proceedings in the form attached
14 as Exhibit B, along with a copy of the order granting Interim Relief and the Order for Joint
15 Administration to all known U.S. creditors of the Debtors. To the extent that any party in
16 interest objects to the Court's orders on such portions of the Emergency Motions, they could
17 raise those objections at the hearing on the Application for Recognition, or sooner by filing a
18 motion on shortened notice.
19
20
21
22
23
24

25 CONCLUSION

26 Based on the foregoing, the Monitor respectfully requests that the Court grant this
27 Emergency Motion and shorten the time for hearing on the Motion for Interim Relief and the
28 Motion for Joint Administration to [_____] p.m. on [_____] April [___], 2009, with
29 the response deadline at the time of hearing, and limit notice of the Motion for Interim
30 Relief and the Motion for Joint Administration as requested above.
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

1 DATED this 15th day of April, 2009.
2
3

4 **PERKINS COIE LLP**
5

6 By: /s/ Bruce G. MacIntyre
7 Bruce G. MacIntyre, WSBA No. 18984
8 BMacIntyre@perkinscoie.com
9

10
11 By: /s/ Alan D. Smith
12 Alan D. Smith, WSBA No. 24964
13 ADSmith@perkinscoie.com
14

15
16 By: /s/ John S. Kaplan
17 John S. Kaplan, WSBA No. 23788
18 JKaplan@perkinscoie.com
19

20
21 By: /s/ Brian A. Jennings
22 Brian A. Jennings, WSBA No. 32509
23 BJennings@perkinscoie.com
24

25
26 1201 Third Avenue, Suite 4800
27 Seattle, WA 98101-3099
28 Telephone: 206.359.8000
29 Facsimile: 206.359.9000
30

31 Attorney for Foreign Representative Deloitte
32 & Touche, Inc.
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

EXHIBIT A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

EXHIBIT A

70919-0001/LEGAL15777356.2
4/15/09

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

The Honorable _____
Chapter 15

Hearing Date: April ____, 2009
Hearing Time: _____ p.m.
Hearing Location: Seattle
Response Date: At hearing

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re

DELOITTE & TOUCHE, INC.,
as Foreign Representative of

EVERGREEN GAMING CORP.,
Debtor in a Foreign Proceeding.

Chapter 15

Case No. _____

ORDER SHORTENING TIME AND
LIMITING NOTICE ON MOTIONS FOR
INTERIM RELIEF AND FOR JOINT
ADMINISTRATION

THIS MATTER comes before the Court on the Motion for Order Shortening Time and Limiting Notice on Motions for Interim Relief and for Joint Administration (the “Motion”) filed on behalf of Deloitte & Touche, Inc., by and through its designated representative, Jervis Rodrigues (the “Monitor”), as foreign representative of the Evergreen Group. The Monitor has been appointed in insolvency proceedings in the Supreme Court of British Columbia pursuant to an Order entered April 15, 2009, a copy of which has been

1 filed with the Court. The Court has considered the Motion and the statements of counsel in
2 support of the Motion, and the pleadings on file with the Court.
3

4
5 BASED ON THE FOREGOING, the Court hereby orders as follows:
6

7 A. The Motion is granted.
8

9 B. The time for hearing on the Monitor's Emergency Motion for Interim Relief
10 and Motion for Joint Administration of Cases Under Bankruptcy Rule 1015(b) is shortened
11 to [_____] p.m. on [_______], April [___], 2009, with the response deadline at the time
12 of hearing.
13
14

15 C. The Monitor shall give notice of the Motion for Interim Relief and the
16 Motion for Joint Administration to (a) the principal parties in the case, including the Debtors
17 and their professionals, Fortress Credit Corp. and its counsel, if known; (b) the United States
18 Attorney's Office; (c) the State of Washington, Bankruptcy and Collections Unit and the
19 Washington State Gambling Commission; and (d) the Office of the U.S. Trustee. No further
20 notice is required or necessary under the circumstances.
21
22

23 D. The Monitor shall mail a notice of these proceedings in the form attached,
24 along with a copy of the order granting Interim Relief to all parties-in-interest in the Chapter
25 15 Cases filed by the Evergreen Group. To the extent that any party in interest objects to the
26 Court's orders on the Motion for Interim Relief herein, they may raise those objections at
27 the hearing on the Application for Recognition, or sooner by filing a motion on shortened
28 notice.
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

DATED this ____ day of April, 2009.

Honorable _____
United States Bankruptcy Judge

Presented by:

Perkins Coie LLP

By: /s/Bruce G. MacIntyre
Bruce G. MacIntyre, WSBA No. 18984
Attorney for Foreign Representative Deloitte & Touche, Inc.

ORDER SHORTENING TIME AND
LIMITING NOTICE ON EMERGENCY
MOTIONS – 3

70919-0001/LEGAL15777356.2
4/15/09

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

EXHIBIT B

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

EXHIBIT B

70919-0001/LEGAL1577356.2
4/15/09

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

The Honorable _____
Chapter 15

Hearing Date:
Hearing Time:
Hearing Location:
Response Date:

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re
Evergreen Gaming Corp., *et al.*
Debtor in a Foreign Proceeding.

Chapter 15
Case No. _____
Jointly Administered

**NOTICE OF FILING AND HEARING ON PETITION UNDER
CHAPTER 15 OF THE UNITED STATES BANKRUPTCY CODE**

1. Foreign Main Proceeding Proceedings. On April 15, 2009, Deloitte & Touche, Inc., by and through its designated representative, Jervis Rodrigues, (the Monitor) was appointed by the Supreme Court of British Columbia, Canada as the Monitor and duly authorized foreign representative for the entities listed below in insolvency proceedings pending in British Columbia (the “CCAA Proceeding”).

2. Chapter 15 Petitions in United States Bankruptcy Court for the Western District of Washington. The Monitor has filed petitions under Chapter 15 of Title 11 of the United States Code (the “Bankruptcy Code”), in the United States Bankruptcy Court for the Western District of Washington, at Seattle, under the following names and case numbers (the “Chapter 15 Cases”):

<u>Name of Entity:</u>	<u>Case No.:</u>
[_____]	[_____]

3. Order for Joint Administration. The United States Bankruptcy Court has entered an order for joint administration of the above cases. Accordingly, all pleadings

1 related to the Evergreen Group Chapter 15 Cases are to be filed under the caption Evergreen
2 Gaming Corp., et al., Case No. [_____]
3

4 **4. Application for Recognition of Foreign Main Proceeding and Other Relief.**

5 The Monitor has filed an Application for Recognition of Foreign Main Proceeding and
6 Memorandum of Law in Support Thereof (the "Application for Recognition"), seeking:
7

- 8
9 (a) Recognition of the CCAA Proceeding as a "Foreign Main Proceeding" as
10 defined in Section 1502(4) of the Bankruptcy Code;
11
12 (b) Granting relief as of right upon recognition of a foreign main proceeding
13 pursuant to Section 1520 of the Bankruptcy Code;
14
15 (c) Granting additional relief as authorized by Section 1521 of the Bankruptcy
16 Code and granting comity to and giving full force and effect to the CCAA
17 Proceeding as a Foreign Main Proceeding.
18

19
20 **5. Hearing on Application for Recognition.** The Bankruptcy Court has
21 scheduled a hearing on the Application for Recognition on _____ 2009 at
22 ____ a.m. Pacific Daylight Time before the Honorable _____,
23 in the United States Court house, Room _____, 700 Stewart Street, Seattle, Washington
24 (the Hearing).
25

26
27 **6. Objections to Application for Recognition.** Any party in interest wishing to
28 submit a response or objection to the Application for Recognition, including the additional
29 relief requested by the Monitor, must do so pursuant to the Bankruptcy Code and the Local
30 and Federal Rules of Bankruptcy Procedure, including, without limitation, Rule 1011 of the
31 Federal Rules of Bankruptcy Procedure, in writing and setting forth the bases therefor and
32 the nature and extent of the respondents interests in the Evergreen Group's estates. Such
33 response or objection must be filed with the Office of the Clerk of the Court, United States
34 Courthouse, 700 Stewart Street, Room 6301, Seattle, Washington 98101, and served on the
35 attorneys for the Monitor, Perkins Coie LLP, 1201 Third Avenue, Suite 4800, Seattle,
36 Washington 98101, U.S.A., Attn: Bruce G. MacIntyre, as to be received by them no later
37 than ____ p.m. Pacific Daylight Time, _____, 2009.
38
39

40 **All parties in interest opposed to the Application for Recognition, including the**
41 **Monitor's request for additional relief, must appear at the hearing at the time and**
42 **place set forth above.**
43

44 If no response or objection is timely filed and served as provided above, the Bankruptcy
45 Court may grant the Application for Recognition and relief requested by the Monitor
46 without further notice or hearing. Copies of the Application for Recognition and related
47

NOTICE OF HEARING – 2

1 documents will be made available upon request by the office of the Monitors counsel,
2 Perkins Coie LLP, 1201 Third Avenue, Suite 4800, Seattle, Washington 98101, U.S.A.,
3 Attn: Bruce G. MacIntyre.
4

5 **7. Motion and Order for Interim Relief.** On April __, 2009, on an Emergency
6 Motion for Interim Relief filed on behalf of the Monitor, the Bankruptcy Court entered an
7 Order Granting Motion for Interim Relief Pursuant To 11 U.S.C. § 1519 (the “Provisional
8 Order”). A copy of the Provisional Order is attached to this Notice. Any party wishing to
9 obtain relief from the Provisional Order may do so by filing an objection to be heard at the
10 same time as the Hearing on the Application for Recognition or may properly file a motion
11 for relief on shortened time.
12

13
14 Dated: April [__], 2009
15

16
17 Seattle, Washington

18 PERKINS COIE LLP
19 Bruce G. MacIntyre (WSBA #18984)
20 1201 Third Avenue, Suite 2200
21 Seattle, Washington 98101
22 (206) 359-8000
23 Counsel for the Foreign Representative, Deloitte &
24 Touche, Inc., as Monitor in the CCAA Proceedings
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47