



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-19-00630241-00CL

DATE: April 12, 2024

NO. ON LIST: 2

TITLE OF PROCEEDING: IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NORTH AMERICAN FUR PRODUCERS INC., NAFA PROPERTIES INC., 3306319 NOVA SCOTIA LIMITED, NORTH AMERICAN FUR AUCTIONS INC., NAFA PROPERTIES (US) INC., NAFA PROPERTIES STOUGHTON LLC, NORTH AMERICAN FUR AUCTIONS (US) INC., NAFPRO LLC (WISCONSIN LLC), NAFA EUROPE CO-OPERATIEF UA, NAFA EUROPE B.V., DAIKOKU SP.Z OO and NAFA POLSKA SP. Z OO

BEFORE: JUSTICE CONWAY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

| Name of Person Appearing | Name of Party | Contact Info |
|---|---|--|
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For Defendant, Respondent, Responding Party:

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For Other, Self-Represented:

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ENDORSEMENT OF JUSTICE CONWAY:

- [1] **All defined terms used in this Endorsement shall, unless otherwise defined, have the meanings ascribed to them in the Factum of the Applicants dated April 5, 2024.**
- [2] This is a motion by the Applicants for approval of the Plan of Compromise and Arrangement dated January 11, 2024. It is the product of extensive negotiation and consultation among key stakeholders. It will bring an end to these CCAA proceedings that have been ongoing since 2019.
- [3] The motion and the Plan are unopposed. The Plan was approved overwhelmingly by voting Affected Creditors at the Meeting held on April 3, 2024 (97.6% in number and 99.5% in value). The Plan is supported by the Monitor, the Syndicated Lenders, and NAFA's other secured lenders. The Monitor sets out its recommendations in its 17th Report. Counsel for the other stakeholders voiced their support for the Plan at the hearing today.
- [4] The Plan is summarized in the materials filed with the court. One of the significant features is that effectively \$7 million of secured debt is to be converted into unsecured claims. That will result in a distribution to unsecured creditors. According to the Monitor, this recovery is better than the alternative scenario of a bankruptcy or liquidation in which the unsecured creditors would receive nothing.
- [5] I am satisfied that the Plan should be approved. The requisite majority of creditors has approved the Plan as required under s. 6 of the CCAA. The other statutory requirements under the CCAA have been met. No unauthorized steps were taken. The Plan itself is fair and reasonable - considering the classification of the creditors into a single class in accordance with the commonality of their claims; the overwhelming creditor approval; the alternative of no recovery for junior secured and unsecured creditors in a bankruptcy scenario; the lack of any other alternative; the lack of unfairness or oppression in the treatment of creditors; and the desirability of bringing these long-standing proceedings (and the associated costs) to an end.

- [6] The Plan contains the “Plan Releases”. They are an integral part of the Plan and are intended to bring finality to these proceedings. I reviewed the Plan Releases in detail at the hearing and am satisfied that they meet the factors set out in *Lydian International Limited (Re)*, 2020 ONSC 4006, at para. 54 and should be granted.
- [7] In particular, the Plan Releases are rationally connected to the purpose of the Plan, which is to resolve claims related to the Applicants’ business and affairs. The Plan, as noted, requires these releases. Each of the Released Parties has contributed and was necessary to the restructuring. The Plan, including the Plan Releases, benefits the Applicants and their creditors generally. The Plan Releases were put squarely before creditors at the Meeting. Finally, there have been no objections to the Plan Releases. These proceedings have been ongoing for over four years and the Company is not aware of any actions or proceedings against the Applicants or its directors and officers.¹ Finally, the Plan Releases do not release any claims that cannot be released under the CCAA, or any obligations under the Plan, or any Released Party that is found to have committed fraud or willful misconduct.
- [8] I therefore approve the Plan Releases.
- [9] I have signed the Sanction Order (as amended to delete the declaratory language) and have attached it to this Endorsement. This order is effective from today's date and is enforceable without the need for entry and filing.

A handwritten signature in blue ink, appearing to read "Conway J.", is positioned below the text of paragraph [9].

¹ I note that s. 5.1(1) of the CCAA provides that a compromise made in respect of a company may include in its terms provision for the compromise of claims against the directors of the company that arose before the commencement of the proceedings under the CCAA. This applies as the Plan is a compromise made in respect of the Applicants.