

COURT FILE NUMBER 25-1859192
ESTATE NO. 25-1859192
COURT COURT OF QUEEN'S BENCH OF ALBERTA
IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE CALGARY

Clerk's Stamp

PROCEEDING **IN THE MATTER OF THE PROPOSAL OF
3 EAU CLAIRE DEVELOPMENTS INC.**

DOCUMENT **APPLICATION FOR THIRD EXTENSION OF TIME TO
FILE A PROPOSAL**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
MILLER THOMSON LLP
Barristers & Solicitors
3000, 700 - 9th Avenue S.W.
Calgary, AB, Canada T2P 3V4
Nicole T. Taylor-Smith
Telephone: 403.298.2401
Fax: 403.262.0007
E-mail: ntaylor-smith@millerthomson.com

File No.: 190822.0003

NOTICE TO RESPONDENT:

This application is made against you. You are the respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Date: July 16, 2014
Time: 3:00 p.m.
Where: Calgary Courts Centre
601 – 5 Street SW, Calgary, AB T2P 5P7
Before Whom: The Honourable Mr. Justice A.D. Macleod

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. An Order, in substantially the form attached hereto as Schedule "A", providing the following relief:

- (a) abridging time for service of the within Application, if require, validating service of the Application and supporting material, and dispensing with service of such application material on interested parties not served; and
- (b) extending the time for filing a proposal under section 50.4(9) of the *Bankruptcy and Insolvency Act* ("BIA") for a period of 45 days;
- (c) increasing the maximum amount of the Administrative Charge as defined in the Order of Justice Horner granted in this matter on May 8, 2014 from \$50,000 to \$100,000;
- (d) sealing the Third Confidential Affidavit of Andrew Seong-Jin Lee; and
- (e) and such further and other relief as counsel may advise and this Honourable Court may deem just.

Grounds for making this application:

- 2. A Notice of Intention to Make a Proposal pursuant to section 50.4(1) of the BIA was filed with the Official Receiver on April 11, 2014 on behalf of 3 Eau Claire and Deloitte Restructuring Inc. consented to act as Trustee.
- 3. The financial performance of Eau Claire Developments Inc. has been in accordance with the projected cash flows.
- 4. The conditions set forth in s. 50.9 of the BIA are satisfied, namely:
 - (a) 3 Eau Claire has acted, and is acting, in good faith and with due diligence;
 - (b) The applicant is likely to make a viable proposal if the extension applied for is granted; and
 - (c) No creditor will be materially prejudiced if the extension being applied for is granted.
- 5. 3 Eau Claire has executed a Letter of Intent to establish a joint venture and complete the Project, and is working toward formulating a proposal to its creditors.
- 6. 3 Eau Claire is cooperating fully with the Trustee.
- 7. A sealing order is required to preserve the confidentiality of the executed letter of intent to avoid prejudicing any sales process.
- 8. Such further and other grounds as counsel may advise and this Honourable Court may consider.

Material or evidence to be relied on:

- 9. Affidavit sworn by Andrew Seong-Jin Lee sworn May 5, 2014;
- 10. Confidential Supplemental Affidavit of Andrew Seong-Jin Lee sworn May 5, 2014;
- 11. Second Affidavit of Andrew Seong-Jin Lee sworn June 19, 2014;
- 12. Second Confidential Affidavit of Andrew Seong-Jin Lee sworn June 19, 2014;

13. Second Report of the Trustee;
14. Third Affidavit of Andrew Seong-Jin Lee;
15. Third Confidential Affidavit of Andrew Seong-Jin Lee;
16. Third Report of the Trustee; and
17. Such further and other evidence as counsel may advise and this Honourable Court may permit.

Applicable rules:

18. Part 6 of the *Alberta Rules of Court*.

Applicable Acts and Regulations:

19. *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.

Any irregularity complained of or objection relied on:

20. Not applicable.

How the application is proposed to be heard or considered:

21. In person.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what it wants in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE "A"

COURT FILE NUMBER 25-1859192

ESTATE NO. 25-1859192

COURT COURT OF QUEEN'S BENCH OF ALBERTA
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE CALGARY

PROCEEDING **IN THE MATTER OF THE PROPOSAL OF
3 EAU CLAIRE DEVELOPMENTS INC.**

DOCUMENT **THIRD EXTENSION ORDER**



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

MILLER THOMSON LLP
Barristers & Solicitors
3000, 700 - 9th Avenue S.W.
Calgary, AB, Canada T2P 3V4

Nicole T. Taylor-Smith
Telephone: 403.298.2401
Fax: 403.262.0007
E-mail: ntaylorsmith@millertomson.com

File No.: 190822.0003

DRAFT

DATE ON WHICH ORDER WAS PRONOUNCED: July 16, 2014

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Mr. Justice J. Macleod

UPON the application of the 3 Eau Claire Developments Inc. ("3 Eau Claire"); AND UPON having read the Application of 3 Eau Claire, the Third Affidavit of Andrew Seong-Jin Lee, the Third Confidential Affidavit of Andrew Seong-Jin Lee and the Third Report of the proposal trustee, Deloitte Restructuring Inc. ("Trustee"), filed, and such other material in the proceedings as are deemed necessary; AND UPON hearing counsel for 3 Eau Claire, the Trustee, and other interested parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

Service

1. The time for service of notice of this application is abridge to the time actually given and service of the Application and supporting material as described in the Affidavit of Service is good an sufficient, and this hearing is properly returnable before this Honourable Court today and further service thereof is hereby dispensed with.

Extension

2. The time for filing a proposal under section 50.4(9) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-2 (as amended) (the "BIA") is hereby extended for 45 days from July 16, 2014 to August 30, 2014.

Administrative Charge

3. The Administrative Charge as defined in the Order of the Honourable Madam Justice Horner granted on May 8, 2014 in this matter (the "Horner Order") is hereby increased from a total aggregate amount of \$50,000.00 to a total aggregate amount of \$100,000.00. All other provisions regarding the Administrative Charge in the Horner Order shall remain the same and shall continue to apply.

Sealing Order

4. Division 4 of Part 6 of the *Alberta Rules of Court* do not apply to this Application for Sealing Order.
5. The Third Confidential Affidavit of Andrew Seong-Jin Lee sworn July 11, 2014 in these proceedings shall be sealed and kept confidential, to be shown only to a Justice of the Court of Queen's Bench of Alberta, and accordingly, shall be filed with the Clerk of the Court who shall keep the Third Confidential Supplemental Affidavit of Andrew Seong-Jin Lee sworn July ___, 2014 in a sealed envelope (or multiple envelopes, as necessary), which shall clearly be marked "SEALED PURSUANT TO THE ORDER OF THE HON. MR. JUSTICE J. MACLEOD DATED JULY 16, 2014".

J.C.Q.B.A.

DRAFT