

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF VALLE FOAM INDUSTRIES (1995)
INC., DOMFOAM INTERNATIONAL INC. and A-Z
SPONGE & FOAM PRODUCTS LTD.

(the "Applicants")

MOTION RECORD OF THE APPLICANTS
(returnable June 15, 2012)

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Court File No. CV-12-9545-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF VALLE FOAM INDUSTRIES (1995)
INC., DOMFOAM INTERNATIONAL INC., and A-Z
SPONGE & FOAM PRODUCTS LTD.

(the "Applicants")

**NOTICE OF MOTION
(returnable June 15, 2012)**

**(Re Approval of Claims Solicitation Procedure, Extension of Stay Period,
Approval of Monitor's Report, and Change Title of Proceedings)**

THE APPLICANTS will make a motion to a judge presiding over the
Commercial List on Friday, June 15, 2012 at 10:00 a.m. or as soon after that
time as the motion can be heard at 330 University Avenue, Toronto, Ontario.

THIS MOTION IS FOR:

1. Orders, substantially in the forms attached as Schedules "A" and "B":
 - (a) if necessary, abridging the time for service of this Notice of
Motion and the Motion Record, declaring that the motion is

properly returnable on June 15, 2012, and validating service of this Notice of Motion and Motion Record;

- (b) approving the claims solicitation procedure (the “Claims Solicitation Procedure”) for the determination of affected creditors’ voting and distribution rights;
- (c) extending the stay of proceedings from the Initial Order of Justice Newbould dated January 12, 2012, to and until October 31, 2012;
- (d) pursuant to the change of name of Valle Foam Industries (1995) Inc. to 3113736 Canada Ltd. and Domfoam International Inc. to 4362063 Canada Ltd., that the title of the proceedings in all documents issued, served or filed after the date of this Order be as follows:

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.;

- (e) approving the Fourth Report of the Monitor (the “Report”) and the conduct of the Monitor as set out therein;
 - (f) approving the fees and disbursements of the Monitor and its counsel;
2. Such further and other relief as counsel may advise and this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. On January 12, 2012, the Applicants sought and were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) pursuant to the Initial Order.
2. Pursuant to the Order of Justice Brown dated March 16, 2012, the stay period under the Initial Order was extended to June 30, 2012 (the “**Stay Period**”).
3. Deloitte & Touche Inc. (the “**Monitor**”) was appointed as monitor of the Applicants.
4. Pursuant to the Order of Justice Brown dated March 16, 2012, each of the Applicants were authorized and directed to enter into agreements of

purchase and sale. Each of the Applicants has sold its business on a going concern basis.

5. The Applicants have funds from these sales and their operations to distribute to their creditors.

6. In order to establish the procedure for identifying and valuing creditor claims against each of the Applicants, it is necessary to implement the Claims Process.

7. The Claims Procedure is a fair and reasonable method of determining distribution rights to affected creditors and has been developed with and approved by the Monitor.

8. By Articles of Amendment, Valle Foam Industries (1995) Inc. changed its corporate name to 3113736 Canada Ltd., and Domfoam International Inc. changed its corporate name to 4362063 Canada Ltd.

9. A further extension of the Stay Period is necessary to allow the Applicants and the Monitor to attend to various outstanding post closing issues with the sale transactions, carry out the Claims Process, and finalize the various class action settlements.

10. The Monitor is supportive of the relief sought herein.

11. The Applicants are operating in good faith and with due diligence.
12. The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;
13. Rules 1.04, 1.05, 2.03, 3.02, and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
14. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

	DATE	DESCRIPTION
1.	June 12, 2012	Affidavit of Tony Vallecoccia together with exhibits attached thereto
2.	June 12, 2012	Fourth Report of the Monitor together with exhibits attached thereto, filed separately
3.	January 12, 2012	Initial Order of Justice Newbould
4.	March 16, 2012	Order of Justice Brown
5.	Such other material as counsel may advise and this Honourable Court may permit.	

June 12, 2012

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TO: THE SERVICE LIST ATTACHED

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SCHEDULE "A"

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) FRIDAY, THE 15th DAY
)
JUSTICE) OF JUNE, 2012

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF VALLE FOAM INDUSTRIES (1995) INC.,
DOMFOAM INTERNATIONAL INC., and A-Z SPONGE & FOAM
PRODUCTS LTD.

(the "Applicants")

ORDER

(Extension, Monitor's Report & Change Title of Proceedings)

THIS MOTION made by the Applicants for an Order extending the stay of proceedings and certain ancillary relief was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Tony Vallecoccia sworn June 12, 2012, and the exhibits thereto, the Fourth Report of Deloitte & Touche Inc., in its capacity as Court-appointed monitor of the Applicants (the "Monitor") dated June 12, 2012, and the exhibits attached thereto (the "Report"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, and no one appearing for

anyone else on the Service List, although properly served as appears from the affidavit of service of Nada Hannouch sworn June 12, 2012,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meanings ascribed thereto in the Report.

3. **THIS COURT ORDERS** that the Stay Period as defined in the Initial Order of Justice Newbould dated January 12, 2012 and as subsequently extended is hereby extended from June 30, 2012 to and until October 31, 2012.

4. **THIS COURT ORDERS** that the Report and the actions, decisions and conduct of the Monitor as set out in the Report are hereby authorized and approved.

5. **THIS COURT ORDERS** that the title of the proceedings in all documents issued, served or filed after the date of this Order be as follows:

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.

6. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its legal counsel, as set out in the Report and the Bougie Affidavit, the Moffat Affidavit and the Whitmer Affidavit attached as Exhibits thereto, are hereby authorized and approved.

7. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed to pay the fees and disbursements of the Monitor and of its legal counsel and agents in the amounts set out in the Report.

8. **THIS COURT HEREBY** requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such Orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

9. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are 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.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF VALLE FOAM INDUSTRIES
(1995) INC., DOMFOAM INTERNATIONAL INC., and A-Z SPONGE & FOAM PRODUCTS LTD.

Court File No. CV-12-9545-00CL

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

ORDER

**(Extension, Monitor's Report & Change Title of
Proceedings)**

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SCHEDULE "B"

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.

(the "Applicants")

**ORDER
(Claims Solicitation Procedure)**

THIS MOTION, made by 3113736 Canada Ltd. (formerly Valle Foam Industries (1995) Inc.), 4362063 Canada Ltd. (formerly Domfoam International Inc.) and A-Z Sponge & Foam Products Ltd. (collectively, the "**Applicants**") for an order approving a procedure for the solicitation of claims against any or all of the Applicants, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Tony Vallecoccia sworn June 12, 2012, and the Report of Deloitte & Touche Inc., the Court-appointed monitor (the "**Monitor**"), and on hearing the submissions of counsel to the Applicants, the Monitor, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record herein be and is hereby abridged and validated so that this

motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

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

- (a) **“Applicants”** means 3113736 Canada Ltd. (formerly Valle Foam Industries (1995) Inc.), 4362063 Canada Ltd. (formerly Domfoam International Inc.) and A-Z Sponge & Foam Products Ltd.;
- (b) **“Business Day”** means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (c) **“CCAA”** means the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended;
- (d) **“CCAA Proceeding”** means the proceeding commenced by the Applicants in the Court at Toronto under Court File No. CV-12-9545-00CL;
- (e) **“Claim”** means any Prefiling Claim or Postfiling Claim;
- (f) **“Claims Bar Date”** means 5:00 p.m. (Standard time) on August 31, 2012, or any later date ordered by the Court;
- (g) **“Claims Solicitation Procedure”** means the procedures outlined in this Order, as they may be amended by further order of the Court, including the Schedules hereto;

- (h) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (i) “**Creditor**” means any Person asserting a Claim or a D&O Claim;
- (j) “**D&O Claim**” means any right of any Person against one or more of the Directors and Officers (as defined below) which arose as a result of their position, supervision, management or involvement as Director and Officer, where such right arose on or before June 15, 2012, and whether enforceable in any civil, administrative or criminal proceedings;
- (k) “**DIP Loan**” means the loan by 3113736 Canada Ltd. (formerly known as Valle Foam Industries (1995) Inc.) to either A-Z Sponge & Foam Products Ltd. or 4362063 Canada Ltd. (formerly known as Domfoam International Inc.) in an amount not exceeding \$1,000,000 as authorized by the Court in the CCAA Proceeding;
- (l) “**Directors and Officers**” means
 - (i) the current and former directors of any of the Applicants; and
 - (ii) the current and former officers of any of the Applicants;
- (m) “**Distribution**” means any distribution within the CCAA Proceeding of the proceeds of the Applicants’ assets;
- (n) “**Excluded Claim**” means (i) any claim secured by any of the Charges as defined in the Initial Order (as defined below); (ii) the DIP Loan; and (iii) any Intercompany Claim (as defined below);
- (o) “**Filing Date**” means January 12, 2012;

- (p) **“Initial Order”** means the Initial Order of the Honourable Mr. Justice Newbould dated January 12, 2012 in the CCAA Proceeding;
- (q) **“Intercompany Claim”** means any claim by any of the Applicants against one or more of the Applicants, whether secured or unsecured but not including the DIP Loan;
- (r) **“Known Creditor”** means any Person, based on the financial or other records of an Applicant as of the Filing Date, who had or may be entitled to assert, a Claim, where monies in respect of such Claim remain unpaid in full or in part, without acknowledging in any respect the validity or existence of any such Claim;
- (s) **“Monitor’s Website”** means <http://www.deloitte.com/ca/vallefoam>;
- (t) **“Notice to Creditors of Claims Bar Date”** means the notice for publication substantially in the form attached as Schedule “A”;
- (u) **“Notice of Dispute”** means a form substantially in accordance with the form attached as Schedule “E”;
- (v) **“Notice of Revision or Disallowance”** means a form substantially in accordance with the form attached as Schedule “D”;
- (w) **“Person”** means any individual, partnership, firm, joint venture, trust, entity, corporation, unincorporated organization, trade union, pension plan administrator, pension plan regulator, governmental authority or agency, employee or other association, or similar entity, howsoever designated or constituted;

- (x) **“Postfiling Claim”** means any right or claim of any Person, or class of Persons or representative Person, against one or more of the Applicants whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of one or more of the Applicants which came into existence after the Filing Date but before the Claims Bar Date, any accrued interest thereon and costs payable in respect thereof, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature;

- (y) **“Prefiling Claim”** means any right or claim of any Person, or class of Persons or representative Person, against one or more of the Applicants whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of one or more of the Applicants in existence on the Filing Date, any accrued interest thereon and costs payable in respect thereof to and including the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, and includes any other claims that would have been claims provable in bankruptcy had the Applicants become bankrupt on the Filing Date;

- (z) **“Proof of Claim”** means the aggregate of the documentation submitted by a Creditor pursuant to the Claims Solicitation Procedure to evidence its Claim which shall include the Proof of Claim form attached hereto as Schedule “B”;
- (aa) **“Proof of D&O Claim”** means the aggregate of the documentation submitted by a Creditor pursuant to the Claims Solicitation Procedure to evidence its D&O Claim which shall include the Proof of D&O Claim form attached hereto as Schedule “C”;
- (bb) **“Proven Claim”** means a Claim filed by the Claims Bar Date in respect of which the Monitor has not sent a Notice of Revision or Disallowance to the Creditor asserting the Claim and which the Monitor accepts or is deemed to accept for distribution purposes pursuant to the Claims Solicitation Procedure;
- (cc) **“Surviving Claim”** means a Claim to which CCAA subsection 19(2) applies; and
- (dd) **“Surviving D&O Claim”** means a D&O Claim to which CCAA subsection 5.1(2) applies.

ADMINISTRATION OF THE CLAIMS SOLICITATION PROCEDURE

2. **THIS COURT ORDERS** that the Claims Solicitation Procedure shall govern the solicitation of Claims against the Applicants and the D&O Claims against the Directors and Officers of the Applicants and shall be conducted and administered by the Monitor with the assistance of the Applicants except as otherwise provided for in this Order. No Creditor may participate in the Distribution if such Claim has not been reviewed, accepted and valued in

accordance with this Claims Solicitation Process, subject to any further Order of this Court.

3. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and under the Initial Order, is hereby directed and empowered to administer and implement the Claims Solicitation Procedure on the terms set out in this Order and the Monitor may take any steps and fulfill such other roles as are contemplated by this Order or which it believes are incidental or necessary for the implementation of the Claims Solicitation Procedure. The Monitor may seek advice and directions from the Court in respect of any aspect of the Claims Solicitation Procedure, including any of the Monitor's obligations provided for in this Order.

4. **THIS COURT ORDERS** that the Monitor is authorized and directed to use reasonable discretion as to adequacy of compliance with the Claims Solicitation Process and the terms of this Order including, without limitation, with respect to the manner in which a Proof of Claim, Proof of D&O Claim, Notice of Dispute or any other notices or documents are completed and executed and may, where it is satisfied that a Claim or D&O Claim has been adequately filed or, in the case of a Claim, proven, waive strict compliance with the requirements of this Order as to completion, execution and delivery of Proofs of Claim, Proofs of D&O Claim, Notices of Dispute or any other notice or document contemplated by the Claims Solicitation Procedure and request any further documentation the Monitor may require in order to enable it to determine the validity of a Claim; provided that nothing in this Order shall confer upon the Monitor or the Applicants the discretion or authority to amend or to extend the Claims Bar Date without a further Order of this Court.

5. **THIS COURT ORDERS** that the Monitor shall not have any responsibility or liability with respect to any information, confidential or otherwise, including without limitation, a Proof of Claim, a Proof of D&O Claim, a Notice of Dispute or otherwise, distributed, circulated, or released, whether intentionally or unintentionally, by the Monitor relating to the exercise of its powers and discharge of its obligations under this Order. The Monitor shall be entitled to rely upon the Applicants' advice and the Applicants' books and records for all purposes including establishing the names and addresses of Known Creditors. In addition to the rights and protections afforded to the Monitor under the CCAA and the Initial Order or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the fulfillment of its duties in the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

6. **THIS COURT ORDERS** that the Applicants shall advise the Monitor of all Known Creditors, including the amounts owed to all Known Creditors and their last known address pursuant to the Applicants' books and records, and that the Monitor shall be entitled to rely upon the accuracy and completeness of the information provided by the Applicants regarding the Known Creditors. For greater certainty, the Monitor shall have no liability in respect of the information provided to it regarding the Known Creditors and shall not be required to conduct any independent inquiry and/or investigation with respect to such information.

SOLICITATION OF CLAIMS

7. **THIS COURT ORDERS** that:

- (a) the Monitor shall cause the Notice to Creditors of Claims Bar Date to be published in each of The Globe and Mail (national edition) and La Presse as soon as practicable after the date of this Order;
- (b) the Monitor shall cause the Notice to Creditors of Claims Bar Date to be posted on the Monitor's Website as soon as practicable after the date of this Order and cause it to remain posted until its discharge as Monitor of the Applicants;
- (c) the Monitor shall, as soon as practicable after the date of this Order, mail to all Known Creditors at the last known address for such Known Creditor on the Applicants' books and records a Notice to Creditors of Claims Bar Date, a Proof of Claim form, a Proof of D&O Claim form substantially in the form attached as Schedules "B" and "C" to this Order and an instruction letter regarding the completion of the Proof of Claim and Proof of D&O Claim forms by a Creditor; and
- (d) the Monitor shall, as soon as practicable following receipt of a request therefor and provided such request is received prior to the Claims Bar Date, deliver a copy of the Proof of Claim or Proof of D&O Claim form as applicable to any Person claiming to be a Creditor and requesting such material, or in the alternative, notify such Person that it may obtain an electronic copy of the Proof of Claim and Proof of D&O Claim forms on the Monitor's Website.

8. **THIS COURT ORDERS** that service and delivery of the Notice to Creditors of Claims Bar Date, Proof of Claim form, Proof of D&O Claim form, the Dispute Notice and any other correspondence or document from the Monitor to any Creditor or any other Person pursuant to the Claims Solicitation Procedure

shall be by ordinary mail, prepaid registered mail, courier, personal delivery, electronic communication or facsimile transmission. Any such service and delivery by the Monitor for all purposes under this Order shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing internationally; (ii) if sent by prepaid registered mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing internationally; (iii) if by courier, on the next following Business Day for courier deliveries within Canada, and on the third following Business Day for courier deliveries outside of Canada; (iv) if sent by personal delivery, on the same date as delivery; (v) if sent by electronic communication, on the same date as the electronic communication is sent or, if sent on a day that is not a Business Day or after 5:00 p.m. (Eastern Standard Time) on a Business Day, the following Business Day; and (vi) if sent by fax, on the date on which the Monitor receives a successful facsimile transmission report or, if sent on a day that is not a Business Day or after 5:00 p.m. (Eastern Standard Time) on a Business Day, the following Business Day

9. **THIS COURT ORDERS** that service by the Monitor of the Proof of Claim and Proof of D&O Claim forms on Creditors and publication of the Notice to Creditors of Claims Bar Date in the manner set forth in this Order shall constitute good and sufficient service upon the Creditors of notice of this proceeding, this Order, the Claims Bar Date and the related deadlines and procedures set forth herein and that no other form of service or notice need be made by the Applicants or the Monitor to any Person, and no other document or material need be served on any Person in respect of the Claims Solicitation Procedure.

10. **THIS COURT ORDERS** that the form and substance of each of the Notice to Creditors of Claims Bar Date, Proof of Claim, Proof of D&O Claim, Notice of Revision or Disallowance and Notice of Dispute, substantially in the forms attached as schedules hereto, are hereby approved. Despite the foregoing, the Applicants and the Monitor may, from time to time, make minor changes to such forms as the Monitor considers necessary or desirable.

11. **THIS COURT ORDERS** that any Person asserting a Claim against one or more of the Applicants or a D&O Claim against one or more of the Directors or Officers shall file a Proof of Claim or a Proof of D&O Claim, as applicable (including all supporting documentation), with the Monitor by no later than the Claims Bar Date.

12. **THIS COURT ORDERS** that any Creditor with a Claim or a D&O Claim who does not deliver a completed Proof of Claim or Proof of D&O Claim, as applicable, to the Monitor in accordance with the Claims Solicitation Procedure by the Claims Bar Date, or such later date as this Court may otherwise order:

- (a) shall be forever barred from asserting or enforcing any Claim (other than a Surviving Claim) against any of the Applicants or a D&O Claim (other than a Surviving D&O Claim) against any of the Director or Officers, and the Applicants or any of them, and the Directors and Officers, or any of them, shall not have any liability whatsoever in respect of such Claim (other than a Surviving Claim) or D&O Claim (other than a Surviving D&O Claim), and any such Claim (other than a Surviving Claim) or D&O Claim (other than a Surviving D&O Claim) shall be forever barred and extinguished;

- (b) shall not be entitled to any further notice of any Orders made or steps taken in the CCAA Proceeding; and
- (c) shall not be entitled to participate as a Creditor in the CCAA Proceeding and shall not be entitled to receive any funds pursuant to the Distribution.

13. **THIS COURT ORDERS** that Creditors with Excluded Claims shall not be required to file a Proof of Claim in this process, unless required to do so by further Order of this Court.

ADJUDICATION OF CLAIMS

14. **THIS COURT ORDERS** that there shall be no adjudication of the D&O Claims by the Applicants or the Monitor, pursuant to the Claims Solicitation Procedure Order, pending a further Order of this Court.

15. **THIS COURT ORDERS** the Monitor shall, with the assistance of the Applicants, review all Proofs of Claim (but not any Proofs of D&O Claim) delivered to the Monitor by the Claims Bar Date and shall accept, revise or reject each Claim as submitted therein. If the Monitor disputes a Claim in whole or in part, the Monitor shall by no later than 11:59 p.m. (Eastern Standard Time) on September 21, 2012, send to the Creditor who has submitted the disputed Claim a Notice of Revision or Disallowance indicating the reasons for the revision or disallowance.

16. **THIS COURT ORDERS** that the Monitor may attempt to resolve any disputed Claim with the Creditor prior to accepting, revising or disallowing such Claim.

17. **THIS COURT ORDERS** that any Claim received by the Claims Bar Date in respect of which the Monitor does not send a Notice of Revision or Disallowance by the deadline date referenced above shall be deemed a Proven Claim.

DISPUTE NOTICES

18. **THIS COURT ORDERS** that any Creditor who receives a Notice of Revision or Disallowance and who objects to the amount of the Claim set out in or any other provision of the Notice of Revision or Disallowance shall deliver to the Monitor on or before 5:00 p.m. (Eastern Standard Time) on October 5, 2012 a Notice of Dispute by registered mail, courier service or facsimile.

19. **THIS COURT ORDERS** that if a Creditor receives a Notice of Revision or Disallowance and does not file a Notice of Dispute by the time set out in paragraph 18 above, then the value of such Creditor's Claim shall be deemed to be as set out in the Notice of Revision or Disallowance.

20. **THIS COURT ORDERS** that any Creditor who delivers a Notice of Dispute to the Monitor by the time set out in paragraph 18 above shall, unless otherwise agreed by the Monitor in writing, thereafter serve on the Monitor and the Applicants a notice of motion in the Court returnable not less 30 days after the service of the Notice of Dispute for determination of the Claim in dispute, failing which the value of such Creditor's Claim shall be deemed to be as set out in the applicable Notice of Revision or Disallowance.

SET-OFF

21. **THIS COURT ORDERS** that the Applicants may set-off (whether by way of legal, equitable or contractual set-off) against payments or other distributions to

be made to any Creditor in respect of its Proven Claim, any claims of any nature whatsoever that any of the Applicants may have against such Creditor, however, neither the failure to do so nor the allowance of any Claim as a Proven Claim hereunder shall constitute a waiver or release by the Applicants of any such claim that the Applicants may have against such Creditor.

DISTRIBUTIONS

22. **THIS COURT ORDERS** that the Monitor and the Applicants shall not distribute any funds to Creditors holding Proven Claims prior to the approval by this Court of a distribution methodology to be proposed by the Monitor and/or the Applicants in a subsequent motion to this Court.

NOTICE OF TRANSFEREES

23. **THIS COURT ORDERS** that if, after the Filing Date, the holder of a Claim or D&O Claim transfers or assigns the whole of such Claim or D&O Claim to another Person, neither the Monitor nor the relevant Applicant shall be obligated to give notice or otherwise deal with the transferee or assignee of such Claim or D&O Claim in respect thereof unless and until actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received and acknowledged by the relevant Applicant and the Monitor in writing and thereafter such transferee or assignee shall for the purposes hereof constitute the "Creditor" in respect of such Claim or D&O Claim. Any such transferee or assignee of a Claim or D&O Claim shall be bound by any notices given or steps taken in respect of such Claim or D&O Claim in accordance with this Order prior to receipt and acknowledgment by the relevant Applicant and the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim or D&O Claim takes the Claim or D&O Claim subject to any

rights of set-off to which the Applicants may be entitled with respect to such Claim or D&O Claim. For greater certainty, a transferee or assignee of a Claim or D&O Claim is not entitled to set-off, apply, merge, consolidate or combine any Claims or D&O Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to any of the Applicants. Reference to transfer in this Order includes a transfer or assignment whether absolute or intended as security.

GENERAL PROVISIONS

24. **THIS COURT ORDERS** that any Creditor who submits a Proof of Claim or Proof of D&O Claim authorizes the Monitor to post the information contained therein to the Monitor's Website and that the Monitor shall have no liability for the information submitted other than as a result of gross negligence or wilful misconduct.

25. **THIS COURT ORDERS** that for the purposes of the Claims Solicitation Procedure, all Claims or D&O Claims which are denominated in United States dollars shall (i) in the case of Prefiling Claims or D&O Claims, be converted to Canadian dollars at the rate of [**insert**], being the Bank of Canada noon spot rate of exchange for exchanging US dollars to Canadian dollars on the Filing Date; and (ii) in the case of Postfiling Claims, be converted to Canadian dollars at the Bank of Canada noon spot rate of exchange for exchanging US dollars to Canadian dollars on the date of the applicable Proof of Claim.

26. **THIS COURT ORDERS** that any document, notice or communication required to be filed with the Monitor by a Creditor pursuant to the terms of this Order must be delivered by facsimile, email or electronic transmission, personal delivery, courier or prepaid mail to:

Deloitte & Touche Inc.

181 Bay Street West
Suite 1400
Toronto, Ontario
M5J 2V1

Attention: Catherine Hristow

Telephone: (416) 775-8831
Facsimile: (416) 601-6690
E-mail: christow@deloitte.ca

27. **THIS COURT ORDERS** that in the event that the day on which any notice or communication required to be delivered pursuant to the Claims Solicitation Procedure is not a Business Day then such notice or communication shall be required to be delivered on the next Business Day.

28. **THIS COURT ORDERS** that references to the singular include the plural and to the plural include the singular.

29. **THIS COURT ORDERS** that in the event of any strike, lock-out or other event which interrupts postal service in any part of Canada, all notices and communications during such interruption may only be delivered by email, facsimile transmission, personal delivery or courier and any notice or other communication given or made by prepaid mail within the seven (7) Business Day period immediately preceding the commencement of such interruption, unless actually received, shall be deemed not to have been delivered. All such notices and communications shall be deemed to have been received, in the case of notice by email, facsimile transmission, personal delivery or courier prior to 5:00 p.m. (Eastern standard Time) on a Business Day, when received, if received after 5:00 p.m. (Eastern Standard Time) on a Business Day or at any time on a non-Business Day, on the next following Business Day, and in the case of a notice mailed as

aforesaid, on the fourth Business Day following the date on which such notice or other communication is mailed.

30. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court or any judicial, regulatory or administrative body of the United States and the States or other subdivisions of the United States and of any nation or state to act in aid of and be complimentary to this Court in carrying out the terms of this Claims Solicitation Procedure Order.

SCHEDULE "A"

Court File No.: CV-12-9545-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 3113736 CANADA LTD., 4362063
CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.

(the "Applicants")

NOTICE OF CLAIMS SOLICITATION PROCEDURE AND

CLAIMS BAR DATE REGARDING:

3113736 CANADA LTD. (FORMERLY VALLE FOAM
INDUSTRIES (1995) INC.,
4362063 CANADA LTD. (FORMERLY DOMFOAM
INTERNATIONAL INC.) AND
A-Z SPONGE & FOAM PRODUCTS LTD.

By Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated January 12, 2012 (the "Initial Order"), the Applicants listed above filed for and obtained relief from their creditors under the *Companies Creditors' Arrangement Act* (the "CCAA"). Pursuant to the Initial Order, Deloitte & Touche Inc. was appointed by the Court as monitor in the Applicants' CCAA proceeding (the "Monitor").

By Order of the Court dated June 15, 2012 (the "Claims Solicitation Procedure Order"), a process was established for creditors to prove claims against the Applicants in existence as at the date of the Initial Order or with respect to Postfiling Claims (as defined below) or with respect to claims against the current or former Directors and Officers of the Applicants which arose on or before June 15, 2012. Capitalized terms in this notice are as defined in the Claims Solicitation

Procedure Order, a copy of which can be found on the Monitor's Website: <http://www.deloitte.com/ca/vallefoam>.

In accordance with the Claims Solicitation Procedure Order, the Monitor shall mail to all known creditors ("**Known Creditors**") of the Applicants a Proof of Claim form together with this notice. Any Creditor who does not receive a Proof of Claim form may obtain this form on the Monitor's Website, <http://www.deloitte.com/ca/vallefoam> or by contacting the Monitor directly as follows: (i) by email: christow@deloitte.ca; (ii) by mail at Deloitte & Touche Inc., 181 Bay Street West, Suite 1400, Toronto, Ontario, M5J 2V1, attention: Catherine Hristow; or (iii) by facsimile at (416) 601-6690.

In accordance with the Claims Solicitation Procedure Order, any Person or representative class of Persons who wishes to assert a claim against one of more of the Applicants (each, a "**Claim**") which arose (i) at any time up to January 12, 2012; (ii) at any time after January 12, 2012 (a "**Postfiling Claim**") must complete and deliver the Proof of Claim form to the Monitor by mail, fax, e-mail, courier or hand delivery by **no later than 5:00 p.m. (Eastern Standard Time) on August 31, 2012** or such other date as ordered by the Court (the "**Claims Bar Date**").

In accordance with the Claims Solicitation Procedure, any Person or representative class of Persons who wishes to assert a claim against one of more of the current or former Directors and Officers of the Applicants which arose on or before June 15, 2012 (each, a "**D&O Claim**") must complete and deliver the Proof of D&O Claim form to the Monitor by mail, fax, e-mail, courier or hand delivery by **no later than the Claims Bar Date**.

IF YOUR PROOF OF CLAIM OR PROOF OF D&O CLAIM IS NOT RECEIVED BY THE MONITOR BY THE CLAIMS BAR DATE, YOUR CLAIM AGAINST THE APPLICANTS OR THE OFFICERS AND DIRECTORS WILL BE BARRED AND EXTINGUISHED FOREVER.

A Proof of Claim which is disputed by the Monitor will be addressed in the manner set out in the Claims Solicitation Procedure Order.

Address of the Monitor:

Deloitte & Touche Inc.
181 Bay Street West
Suite 1400
Toronto, Ontario
M5J 2V1

Attention: Catherine Hristow
Telephone: (416) 775-8831
Facsimile: (416) 601-6690
E-mail: christow@deloitte.ca

Dated at _____ this _____ day of _____, 2012.

#1900657

SCHEDULE "B"

DELOITTE & TOUCHE INC., solely in its capacity as the Court-appointed Monitor of the Applicants, and without personal or corporate liability • • • Telephone: (416) 775-8831 Telecopier: (416) 601-6690 Email: christow@deloitte.ca		OFFICE USE ONLY

		Date Received _____

Court File No.: CV-12-9545-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.

(the "Applicants")

PROOF OF CLAIM

I. DESCRIPTION OF DEBTOR, CREDITOR AND NATURE OF CLAIM

Name of entity against which claim is being made: *(Check appropriate box in following list. If claims are being made against more than one entity, use a separate Proof of Claim form for each entity.)*

- 3113736 Canada Ltd. (formerly known as Valle Foam Industries (1995) Inc.)
- 4362063 Canada Ltd. (formerly known as Domfoam International Inc.)
- A-Z Sponge & Foam Products Ltd.

(hereinafter the "**Debtor**")

Name of person asserting a claim against the Debtor: _____
(hereinafter the "**Creditor**")

Individual: Corporation: Other: Specify: _____

If individual, Creditor's Social Insurance Number: _____

If corporation, Business Identification Number: _____

Address of Creditor: _____

Telephone number of Creditor:

E-mail address of Creditor:

Fax number of Creditor:

I, _____, of _____, do hereby certify:

(Name)

(City and province)

1. That I am a Creditor of the Debtor

or that I am

of

(State position or title)

(Name of Creditor)

a Creditor of the Debtor.

2. That I have knowledge of all the circumstances connected with the claim referred to in this form.

3. *(Check and complete appropriate category:)*

That, as at January 12, 2012, the Creditor had and still has an **unsecured claim** against the Debtor in the sum of CAD\$ _____, as shown by the statement (or affidavit or solemn declaration) attached hereto and marked **Annex "A"**, after deducting any counterclaims to which the Debtor may be entitled. *(Claims in US dollars should be converted to Canadian dollars at the rate of [insert], being the Bank of Canada noon spot rate of exchange for exchanging US dollars to Canadian dollars on January 12, 2012. The attached statement, affidavit or solemn declaration must specify and attach the evidence in support of the claim.) (Give full particulars of the claim with all necessary supporting documentation.)*

That, as at the date hereof, the Creditor has an **unsecured claim** against the Debtor which arose after January 12, 2012 in the sum of CAD\$ _____, as shown by the statement (or affidavit or solemn declaration) attached hereto and marked **Annex "A"**, after deducting any counterclaims to which the Debtor may be entitled. *(Claims in US dollars should be converted to Canadian dollars at the Bank of Canada noon spot rate of exchange for exchanging US dollars to Canadian dollars as of the date hereof. The attached statement, affidavit or solemn declaration must specify and attach the evidence in support of the claim.) (Give full particulars of the claim with all necessary supporting documentation.)*

-or-

That, as at January 12, 2012, the Creditor had and still has a **secured claim** against the Debtor in the sum of CAD\$ _____, as shown by the statement (or affidavit or solemn

declaration) attached hereto and marked **Annex "A"**, after deducting any counterclaims to which the Debtor may be entitled. *(The attached statement, affidavit or solemn declaration must specify and attach the evidence in support of the claim and the security held in respect of the claim, including copies of all security.) (Give full particulars of the claim and security with all necessary supporting documentation.)*

- 4. That to the best of my knowledge and belief, I am (or the above-named Creditor is) (or am not or is not) related to the Debtor within the meaning of section 4 of the *Bankruptcy and Insolvency Act*.

II. ATTESTATION

I hereby attest that, to the best of my knowledge, the information in this document is and any and all annexes hereto are truthful and accurate in all material respects.

SIGNED this _____ day of _____, 2012.

(Signature of Creditor)

(Signature of witness)

(Name of Creditor in block letters)

(Name of witness in block letters)

(Address of witness in block letters)

ANNEX "A"
DETAILS OF CLAIM

SCHEDULE "C"

DELOITTE & TOUCHE INC., solely in its capacity as the Court-appointed Monitor of the Applicants, and without personal or corporate liability • • • Telephone: (416) 775-8831 Telecopier: (416) 601-6690 Email: christow@deloitte.ca		OFFICE USE ONLY

		Date Received

Court File No.: CV-12-9545-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD.,
and A-Z SPONGE & FOAM PRODUCTS LTD.

(the "Applicants")

PROOF OF D&O CLAIM

III. DESCRIPTION OF DEBTOR, CREDITOR AND NATURE OF D&O CLAIM

Name of entity against which claim is being made: (Check appropriate box in following list. If claims are being made against more than one entity, use a separate Proof of Claim form for each entity.)

- Director or Officer of 3113736 Canada Ltd. (formerly known as Valle Foam Industries (1995) Inc.)
- Director or Officer of 4362063 Canada Ltd. (formerly known as Domfoam International Inc.)
- Director or Officer of A-Z Sponge & Foam Products Ltd.

(hereinafter the "Debtor")

Name of person asserting a claim against the Debtor: _____
(hereinafter the "Creditor")

Individual: Corporation: Other: Specify: _____

If individual, Creditor's Social Insurance Number: _____

If corporation, Business Identification Number: _____

Address of Creditor: _____

Telephone number of Creditor:

E-mail address of Creditor:

Fax number of Creditor:

I, _____, of _____, do hereby certify:

(Name)

(City and province)

1. That I am a Creditor of the Debtor

or that I am

of

(State position or title)

(Name of Creditor)

a Creditor of the Debtor.

2. That I have knowledge of all the circumstances connected with the claim referred to in this form.

3. (Check and complete appropriate category:)

That, as at June 15, 2012, the Creditor had and still has an **unsecured claim** against the Debtor in the sum of CAD\$ _____, as shown by the statement (or affidavit or solemn declaration) attached hereto and marked **Annex "A"**, after deducting any counterclaims to which the Debtor may be entitled. (Claims in US dollars should be converted to Canadian dollars at the rate of [insert], being the Bank of Canada noon spot rate of exchange for exchanging US dollars to Canadian dollars on June 15, 2012. The attached statement, affidavit or solemn declaration must specify and attach the evidence in support of the claim.) (Give full particulars of the claim with all necessary supporting documentation.)

4. That to the best of my knowledge and belief, I am (or the above-named Creditor is) (or am not or is not) related to the Debtor within the meaning of section 4 of the *Bankruptcy and Insolvency Act*.

IV. ATTESTATION

I hereby attest that, to the best of my knowledge, the information in this document is and any and all annexes hereto are truthful and accurate in all material respects.

SIGNED this _____ day of _____, 2012.

(Signature of Creditor)

(Signature of witness)

(Name of Creditor in block letters)

(Name of witness in block letters)

(Address of witness in block letters)

ANNEX "A"
DETAILS OF CLAIM

SCHEDULE "D"

Court File No. CV-12-9545-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 3113736 CANADA LTD., 4362063
CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.**

(the "Applicants")

NOTICE OF REVISION OR DISALLOWANCE

TO: [INSERT NAME AND ADDRESS OF CREDITOR]

The Monitor has disallowed in full or in part your Claim as set out in your Proof of Claim, as set out below:

Prefiling Claim:

Claim Against	Claim per Proof of Claim	Allowed Amount	Disallowed Amount
	\$	\$	\$
Total	\$	\$	\$

Postfiling Claim:

Claim Against	Claim per Proof of Claim	Allowed Amount	Disallowed Amount
	\$	\$	\$
Total	\$	\$	\$

REASONS FOR DISALLOWANCE:

IF YOU INTEND TO DISPUTE THIS NOTICE OF REVISION OR DISALLOWANCE:

You must, no later than **5:00 p.m. (Toronto Time)** on **September 21, 2012**, deliver to the Monitor a Notice of Dispute of Revision or Disallowance (a copy of which can be found on the Monitor's Website at <http://www.deloitte.com/ca/vallefoam>) in accordance with the Claims Solicitation Procedure Order to the following address, email, or facsimile:

Deloitte & Touche Inc.

181 Bay Street West
Suite 1400
Toronto, Ontario
M5J 2V1

Attention: Catherine Hristow

Telephone: (416) 775-8831
Facsimile: (416) 601-6690
E-mail: christow@deloitte.ca

DATE:

#1900657

SCHEDULE "E"

Court File No. CV-12-9545-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 3113736 CANADA LTD., 4362063
CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.**

(the "Applicants")

NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE

1. PARTICULARS OF CREDITOR:

(a) Full Legal Name of Creditor: _____

(b) Full Mailing Address of Creditor: _____

(c) *Telephone Number of Creditor: _____

(d) *Facsimile Number of Creditor: _____

(e) *E-mail Address of Creditor: _____

(f) Attention (Contact Person): _____

***In order to ensure that all Claims are processed in an expedited manner you must provide one (1) or more of your telephone number, fax number or e-mail address.**

2. PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:

(a) Have you acquired this Claim by Assignment? Yes No
(if yes, attach document evidencing assignment)

(b) Full Legal Name of original Creditor(s): _____

3. DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM FOR VOTING AND/OR DISTRIBUTION PURPOSES:

We hereby disagree with the value of our Claim set out in the Notice of Revision or Disallowance dated _____, as set out below:

Claim:

Claim Against	Claim per Proof of Claim	Allowed Amount	Disallowed Amount
	\$	\$	\$
Total Claims			

94

REASONS FOR DISPUTE:

(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction (s) or agreement(s) giving rise to the Claim, name of any guarantor(s) that has guaranteed the Claim, and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed.)

If you intend to dispute a Notice of Revision or Disallowance, you must, no later than **5:00 p.m. (Toronto Time) on October 5, 2012** deliver to the Monitor a Notice of Dispute of Revision or Disallowance in accordance with the Claims Solicitation Procedure Order to the following address, email or facsimile:

Deloitte & Touche Inc.
181 Bay Street West
Suite 1400
Toronto, Ontario
M5J 2V1

Attention: Catherine Hristow
Telephone: (416) 775-8831
Facsimile: (416) 601-6690
E-mail: christow@deloitte.ca

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If you do not deliver a Notice of Dispute of Revision or Disallowance by the time and date set out above, as applicable, the value of your Claim shall be deemed to be as set out in the Monitor's Notice of Revision or Disallowance.

Dated at _____ this _____ day of _____, 2012.

Per: _____

#1900657

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.

Court File No. CV-12-9545-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced at TORONTO

ORDER
(Claims Solicitation Procedure)

MINDEN GROSS LLP
145 King Street West, Suite 2200
Toronto ON M5H 4G2

Raymond M. Slattery (LSUC #20479L)
416-369-4149
rslattery@mindingross.com

David T. Ullmann (LSUC #423571)
416-369-4148
dullmann@mindingross.com

Sepideh Nassabi (LSUC #60139B)
416-369-4323
snassabi@mindingross.com
416-864-9223 fax

Lawyers for the Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF VALLE FOAM INDUSTRIES (1995) INC.,
DOMFOAM INTERNATIONAL INC. and A-Z SPONGE & FOAM
PRODUCTS LTD.

(the "Applicants")

**AFFIDAVIT OF TONY VALLECOCCIA
(sworn June 12, 2012)**

I, TONY VALLECOCCIA, of the City of Brampton, Province of Ontario,

MAKE OATH AND SAY:

1. I am the President and CEO of Valle Foam Industries (1995) Inc. and of Domfoam International Inc. and a director of each of the Applicants, and as such have knowledge of the matters to which I hereinafter depose, except where otherwise stated. Where my evidence is based on information and belief, I have stated the source of that information and believe it to be true.

2. This affidavit is sworn in support of a motion by Valle Foam Industries (1995) Inc. ("**Valle Foam**"), and its affiliated companies, Domfoam International

Inc. (“**Domfoam**”) and A-Z Sponge & Foam Products Ltd. (“**A-Z**”) (collectively, the “**Applicants**”) i) to seek an extension of the stay granted pursuant to the Initial Order from June 30, 2012 to October 31, 2012; ii) to report to the Court on the completion of the sales of the Applicant’s businesses; iii) to seek an Order instituting a claims process; and iv) to report to Court on the status of the Class Action Claims against the Applicants.

3. Pursuant to the sale of assets of the Applicants, Valle Foam changed its name to 3113736 Canada Ltd. and Domfoam changed its name to 4362063 Canada Ltd. For the purpose of this affidavit, the said Applicants will still be referred to as Valle Foam and Domfoam.

BACKGROUND

4. On January 12, 2012, the Applicants sought and were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) pursuant to the Order of Justice Newbould (the “**Initial Order**”).

5. The Applicants collectively operated as one of Canada’s largest manufacturers and distributors of flexible polyurethane foam products from facilities located in Ontario, Quebec and British Columbia.

6. As reported in my previous Affidavits in this proceeding, as a result of declining sales, fines imposed by the Competition Bureau of Canada, and class action lawsuits commenced against the Applicants in Canada and the United States, the Applicants required protection under the CCAA.

Activities Since CCAA Filing

7. All three of the Applicants have now sold their businesses in accordance with the sale agreements which were approved by this Court pursuant to the Order of Justice Brown dated March 16, 2012. As such, as anticipated the Applicants no longer have any active business.

DOMFOAM

8. The transaction for the sale of the assets of Domfoam to 8032858 Canada Inc. ("**Domfoam Newco**") closed on March 26, 2012. Subject to the settlement of an adjustment of working capital, the entire purchase price payable has now been provided to the Monitor, including the \$200,000.00 holdback which Domfoam Newco had held against possible employee claims. No such employee claims arose during the holdback period.

9. As anticipated, Domfoam Newco has retained effectively all of the Domfoam employees.

10. Pursuant to section 2.9 and 2.10 of the agreement of purchase and sale for Domfoam, the purchase price was subject to a working capital adjustment to reflect the actual value of the assets sold as they existed on Closing.

11. The anticipated amount of the working capital adjustment to the purchase price will be an increase to the purchase price of approximately \$400,000.00 to \$450,000.00. The Applicants's counsel have been in negotiations with counsel for the purchaser of Domfoam over this issue.

12. Pursuant to the terms of that agreement, the parties are to seek the assistance of the court to resolve any deadlock on the issue of the working capital. In the event, the remaining issue with the working capital is not resolved, the Applicants may apply to the Court to seek the direction of the Court.

VALLE FOAM

13. The Valle Foam transaction to sell its assets to Valle Foam Ltd. ("VFL") closed in escrow on March 30, 2012 with escrow released on April 10, 2012 upon the filing of the Monitor's Certificate.

14. The proceeds of sale have been provided to the Monitor. As anticipated, VFL retained the majority of the Valle Foam employees on closing.

15. There remains an issue outstanding with respect to the calculation of an inventory adjustment. The Applicant's counsel has been in negotiations with counsel for the VLF over this issue. The anticipated amount of the adjustment to the purchase price is in the amount of a net upward adjustment to the purchase price of approximately \$79,000.00. In the event that this issue is not resolved, the Applicants may apply to the Court to seek the direction of the Court.

16. Following the closing of the transaction Valle Foam was made aware of a claim by the landlord to one of the Valle Foam properties, being the property located on Orenda Road (the "**Orenda Property**"). The landlord alleged that post-filing rent was outstanding and that there were outstanding claims for clean up of the premises resulting from the removal of the assets acquired by the purchaser. The issue of the cleaning up of the property has been resolved and the landlord shall make a claim for the cost of such clean up in the Claims Process (as defined below). The claim with respect to the outstanding rent is being reviewed and it is expected that the same will be resolved prior to the hearing of this Motion.

17. Pursuant to the terms of the agreement, VFL was exclusively empowered to collect the receivables owing to Valle Foam for a period of 90 days after closing. As at May 28, 2012, approximately 60% of those receivables have been collected. The remaining receivables will be returned to Valle Foam's control after June 29, 2012 for collection.

A-Z

18. The A-Z transaction closed on April 2, 2012. There are no remaining issues on the A-Z transaction. The proceeds of sale have been paid to the Monitor.

19. The Monitor, along with the Applicants are reviewing the payment of certain post-filing amounts incurred by A-Z. These amounts total approximately \$100,000.00. There are sufficient funds in the A-Z bank account to make these payments.

STATUS OF CLASS ACTION

20. As reported in my Affidavit of January 11, 2012 in the proceedings, both Domfoam and Valle Foam were charged with, and on January 5, 2012, pled guilty to certain offences under the *Competition Act*, R.S.C. 1985, c C-34 (the

“*Competition Act*”). Although not charged, A-Z also participated, to a lesser extent in the underlying events. Through agreement with the Director of Public Prosecutions, the resolution of the charges under the *Competition Act* included A-Z.

21. A-Z was released from all possible liability in conjunction with this matter as a result of the plea arrangement.

22. Domfoam was fined a total of \$6 million and Valle Foam was fined a total of \$6.5 million. No fine was assessed against A-Z as no charges were laid against A-Z. In accordance with the terms of the sentence imposed, on the day of the guilty pleas, Valle Foam paid \$500,000.00 in partial payment of the fines imposed against it.

23. Prior to the plea and on the advice of counsel, the applicants undertook to participate in the Competition Bureau’s leniency program. Domfoam and Valle Foam agreed to cooperate fully in the investigation, plead guilty and continue to provide cooperation on a going forward basis. I am advised by counsel and do verily believe that meetings are to be scheduled for this summer with Crown counsel to implement the obligations of the companies and its officers and

directors. Attached hereto and marked as **Exhibit “A”** to this my affidavit is a copy of the statement of admissions in respect of the pleas of guilty.

24. The companies are also obliged to maintain the books and records relating to the business and affairs of the companies to further assist the Crown in subsequent prosecutions. Attached hereto and marked as **Exhibit “B”** to this my affidavit is a copy of a letter dated March 22, 2012 from Robert Morin of the Public Prosecution Service of Canada confirming the obligation to maintain the records. Steps have been taken to ensure that the records are maintained in both electronic and hard copies.

25. Full disclosure of the applicants’ financial difficulties was made to the Crown prior to finalizing the statement of admissions and the entry of the pleas. The Crown was specifically advised of the applicants’ intention to file for protection under the provisions of the CCAA.

CLASS ACTIONS

26. In connection with the conduct related to the *Competition Act* charges, class counsel in the US and Canada initiated a number of proposed class proceedings against the Applicants in the US and in Canada in 2010, and afterwards on behalf of purchasers of polyurethane foam and products containing polyurethane foam

products for lengthy class period. Some or all of the Applicants have been named as a defendant in at least five class action lawsuits in Canada, and over two dozen class action lawsuits in the United States (together, the “**Class Actions**”). Although not named in these actions, it is likely that A-Z could be added to such actions as a defendant given that A-Z was to some extent complicit or involved in the prohibited acts. These actions have been stayed as a result of the Initial Order.

STATUS OF U.S. LITIGATION

27. Immediately prior to the Initial Order, our lawyers in New York, Skadden, Arps, successfully negotiated on behalf of the applicants a settlement with the three different groups of plaintiffs in the United States which are part of a multi-district litigation proceedings styled in Re Polyurethane Foam Anti Trust litigation in the United States District Court for the Northern District of Ohio.

28. The agreements specifically provided that they were contingent upon the applicants filing for creditor protection.

29. The class settlements have been approved on a preliminary basis by the court. The plaintiffs have voluntarily dismissed Domfoam and Valle Foam from the lawsuits. The direct class plaintiffs are in the process of submitting a notice

plan to the court and notices will be distributed to class members once the plan is approved and the court will hold a hearing on final approval.

30. A number of additional claims were also issued. The applicants, through the Monitor, sought and received recognition of the CCAA proceeding in the United States Bankruptcy Court for the Northern District of Ohio. Attached hereto and marked as **Exhibit "C"** to this my affidavit is a copy of the Recognition Order of Judge Whipple dated February 24, 2012. The Order recognizes the CCAA proceedings as a forum main proceeding pursuant to the U.S. Bankruptcy Code.

CANADIAN CLASS ACTION LITIGATION

31. To the knowledge of the Applicants, there are currently five class action proceedings in Canada that are pending before the courts in Ontario, Quebec and British Columbia in connection with the Competition Bureau's investigation of price-fixing allegations in the polyurethane foam industry. The Applicants have been named (or one or more of the Applicants have been named) in four of these class proceedings. These proceedings have been brought by a coordinated group of plaintiffs (the "**Class Plaintiffs**") against a number of manufacturers of polyurethane foam in Canada and elsewhere, as well as certain individuals, and

the Class Plaintiffs collectively seek to represent a broad class consisting of all purchasers of polyurethane foam and products containing polyurethane foam during a period generally ranging from 1999 to the present. The Class Plaintiffs allege that the Applicants and the other manufacturers, along with certain individuals, are jointly and severally liable for damages to the proposed class members under the *Competition Act*, at common and under civil law, and they seek \$100 million dollars of damages along with other relief.

32. As previously reported in my Affidavit sworn in these proceedings dated January 11, 2012, I have been informed by Christopher Naudie at Oslers, lead counsel for the Applicants in the Canadian Class Proceedings, regarding the potential risks and exposures for the Applicants in the Canadian Class Proceedings if liability was established at trial. During the class period, the Applicants had approximately \$975 million in sales in Canada. Even if the Applicants are only exposed to several liability and the claims filed are based on a modest 5% overcharge, the Applicants could be exposed to a claim of \$48.75 million. If the Applicants are exposed to joint and several liability, the claims would be substantially higher.

33. As previously reported in my earlier Affidavits, a proposed national class settlement on behalf of the Applicants with the Class Plaintiffs in respect of all of

the Canadian Class Proceedings has been reached. The settlement agreement was executed by the Applicants and the Class Plaintiffs on January 11, 2012.

34. Under the terms of this proposed national settlement, in exchange for cooperation from certain current and former Domfoam, Valle Foam and A-Z officers, employees and agents (in the form of interviews, depositions, and testimony), and the production of certain available documents by the companies (to the extent practicable), the Class Plaintiffs have agreed, subject to separate court approvals by the Ontario Superior Court, the B.C. Supreme Court and the Quebec Superior Court, to discontinue their proceedings as against the companies and to fully and forever release any of the companies' current or former officers, employees, agents, shareholders, or owners from any and all liability in this and potentially related matters. The proposed settlement also provides for certain “bar order” protection in favour of such releasees in the event of future contribution claims by other defendants or other third parties that have been involved in this matter. The Class Plaintiffs in Canada have also agreed to dismiss proceedings against one employee of Valle Foam that was individually named in the class proceedings in Ontario.

35. The implementation of the settlements were delayed for some time as a result of a carriage dispute in Quebec. It appears that the dispute has been

resolved and the plaintiffs are proceeding with the implementation of the class settlement.

36. It is expected that in accordance with the settlement agreements the various class action claimants in both countries will file proofs of claim in these proceedings in accordance with the proposed Claims Procedure Order which will facilitate the receipt and vetting of the claims.

STATUS OF FUNDS

37. As a result of completing the transactions and consolidating the remaining bank accounts and other amounts outstanding, the Applicants now have significant funds available for distribution to the creditors.

38. In particular, the Applicants have funds in approximately the following amounts:

- a) Valle Foam: \$4,483,315.08 held by the Monitor, plus cdn \$2,208.79 and usd 14,160.13 held in the company's bank account
- b) A-Z: \$798,321.75 held by the Monitor, plus cdn \$210,232.19 and usd \$92,922.91 held in the company's bank account

c) Domfoam: \$3,524,296.72 held by the Monitor plus cdn \$212,539.63 and usd \$7053.75 held in the company's bank account

39. In addition to the foregoing, it is anticipated there will be further amounts payable to Valle Foam from the future collections of the remaining accounts receivables and the anticipated net upward adjustment to the purchase price discussed above.

40. In respect of Domfoam, it is anticipated there will be as much as a further \$400,000.00 to \$450,000.00 adjustment once the working capital issue has been resolved.

41. There is also a further substantial amount due from a litigation settlement entered into by each of Domfoam and Valle Foam prior to the CCAA process in connection with a class action with BASF where Domfoam and Valle Foam were part of a class of plaintiffs. This receivable was not sold to Domfoam Newco and remains an asset of Domfoam.

42. As previously reported in my earlier affidavits, Domfoam entered into a loan agreement with Valle Foam to allow Valle Foam to make advances to Domfoam to assist it during the CCAA process. Valle Foam was granted a charge to secured these advances.

43. The Monitor and the Applicants are in the process of reconciling the various intercompany accounts to determine how much was advanced by Valle Foam to Domfoam under this agreement and to consider any other intercompany debts. These funds will be reconciled before any distribution is made to the creditors and may significantly change the balance of funds shown for each of Valle Foam and Domfoam in paragraph 38.

44. The Monitor is working with the applicants to allocate the payment of professional fees between the various applicants. These fees were paid from Valle Foam on account of all three Applicants since the commencement of these proceedings, due to Valle Foam's superior cash position.

45. The Applicants have determined with the Monitor that the fees will be allocated on the basis of 10% to be paid by AZ, 45% to be paid by Valle and 45% to be paid by Domfoam, reflecting the relative size of the applicants and the fact that the majority of the work done has related to the two principal companies, rather than AZ. The amounts set out in paragraph 38 above reflect a reconciliation conducted on this basis.

CLAIMS PROCESS

46. In order to ascertain the status of the claims against the Applicants, the Applicants, with the assistance of the Monitor, propose running a claims process to identify claimants against the Applicants and or their officers and directors. The process is meant to solicit claims from all parties, including the Crown and the various Class Action claimants in Canada and in the United States. I have reviewed the draft Claims Solicitation Procedure Order which sets out the following procedure to solicit these claims:

- a) The Monitor shall mail to all known creditors of the Applicants a Proof of Claim form together with a Notice of Claims Solicitation Procedures and Claims Bar Date. The Applicants will provide the Monitor with a detailed list of potential US claimants, as assembled by the Applicant's US Counsel, to be used in this process;
- b) The Monitor will advertize for claims in The Globe and Mail (National Edition) and La Presse,
- c) Any Person or representative class of Persons who wishes to assert a claim against any of the Applicants must complete and deliver the Proof of Claim form to the Monitor by no later than 5:00 p.m. (Eastern

Standard Time) on August 31, 2012 (the “**Claims Bar Date**”) or such other date as ordered by this Honourable Court;

- d) Any Person or representative class of Persons who wishes to assert a claim against one or more of the current or former Directors and Officers of the Applicants must complete and deliver the Proof of D&O Claim form to the Monitor by no later than the Claims Bar Date;
- e) If a Proof of Claim or Proof of D&O Claim is not received by the Monitor by the Claims Bar Date, a claim against any of the Applicants or the Directors and Officers of the Applicants will be barred and extinguished forever, subject to certain limitations as imposed by the CCAA on what claims can be barred in this manner;
- f) D&O Claims will not be adjudicated through this process.
- g) All other Claims shall be reviewed by the Monitor, with the assistance of the Applicants. The claimants claim will either be accepted or disputed in accordance with the time period set out in the Claims Procedure Order;
and

h) in the event the claimant and the Monitor and the Applicant cannot resolve the claims by October 5, 2012, the claim will be referred to the Court for resolution.

47. I am advised by Minden Gross LLP, counsel to the Applicants, that this claims process, and the terms of the Claims Procedure Order (collectively, the “Claims Process”), are in form and substance similar to other orders and processes which have been instituted in other CCAA proceedings.

48. The proposed Claims Process as set out in the draft Claims Procedure Order has been reviewed by the Monitor. I understand the Monitor supports the Claims Process.

49. It is anticipated at this time that there will be sufficient funds to repay the creditors of A-Z in full and for any surplus funds from A-Z to form part of the estate of Domfoam (given that A-Z is a wholly owned subsidiary of Domfoam).

50. The extent of the anticipated distribution to Domfoam and Valle Foam will be determined once the claims have been received.

PROPOSED EXTENSION

51. The Applicants propose that the stay of the proceeding be extended from June 30, 2012 to October 31, 2012.

52. The extension sought herein will provide the Applicants with the time necessary to attend to the remaining post closing issues with the transactions, the resolution of the Class Action settlements, to allow for the receipt and review of claims, and otherwise attend to the possible development of a plan for the distribution of the sale proceeds.

53. I am not aware of any party who objects to the proposed extension.

54. No cash flow is being provided with this affidavit as the Applicants have very limited expenses and no employees nor are they purchasing any further goods or services other than professional services. I am confident that the Applicants each have sufficient funds on hand to meet these obligations on a go forward basis for the period of the proposed extension.

55. I have been advised that the Monitor will support the proposed extension of the stay to October 31, 2012.

56. The Applicants are operating with good faith and with due diligence.

57. This affidavit is sworn in support of the Applicants' motion and for no other improper purpose

SWORN before me at the City)

(u) ~~at~~ Brampton ~~of the~~)
of Toronto, in the Province of)

Ontario, this 12th day of)

June, 2012.)

Pauline Erna Letge
Commissioner For Taking Affidavits

Tony Vallecoccia

TONY VALLECOCCIA

#1901211 v5 | 4079509

Pauline Erna Letge, a Commissioner, etc.,
Province of Ontario, for **Minden Gross LLP,**
Barristers and Solicitors.
Expires July 4, 2012.

A

This is Exhibit "A" referred to
in the Affidavit of TONY VALLECOCCIA
Sworn this 12th
day of June, 2012.


A Commissioner for Taking Affidavits

Pauline Erna Leitgeb, a Commissioner, etc.,
Province of Ontario, for **Minden Gross LLP**,
Barristers and Solicitors.
Expires July 4, 2012.

ONTARIO
SUPERIOR COURT OF JUSTICE
(TORONTO REGION)

BETWEEN:

THE COMMISSIONER OF COMPETITION

-and-

DOMFOAM INTERNATIONAL INC

Accused

STATEMENT OF ADMISSIONS

THE ACCUSED

1. **Domfoam International Inc.** ("Domfoam") are corporations organized and existing under the laws of Canada.

THE PRODUCT

2. Foam is manufactured by the reaction resulting from the combination of two main chemicals: an isocyanate, such as Diphenylmethane Diisocyanate ("MDI") or Toluene Diisocyanate ("TDI") and polyurethane polymer called Polyol. The resultant foam can be made into a variety of densities and hardness, from flexible foam to rigid foam, depending on the mixing ratio of the chemicals.
3. Due to the versatility of foam, it is used in a variety of industries and applications, including, but not limited to:
 - Furniture Manufacturing: used in cushions, upholstered furniture, office chairs, stadium seating and auditorium seating;
 - Carpet Cushion (or underlay): used to improve the comfort and lifespan of carpets;
 - Transportation (or automotive): used in seating, headrests, arm rests, interior panels and skins, car and truck fenders, truck beds,

- support rings for run-flat tires, headliners and other interior systems for the automobile industry;
 - Bedding: used as the primary material for adding support and comfort to padded bedding products;
 - Packaging: provides protection and cushioning to packaged products. Polyurethane foams are often used to package highly sensitive equipment such as electronics, printed circuit boards, jewellery and delicate foods; and
 - Textiles and Fibres: used as insulation for fabric products including clothing. It provides thermal insulation, tear resistance, fire resistance and light weight to a variety of textiles and fibres including leather products, shoe uppers, tents, life rafts, labels, hand bags and insulation liners.
4. Most foam manufacturers specialize in certain applications and thus do not have a presence in all segments of the foam industry.

THE MARKETPLACE

5. A number of companies engage in the sale and supply of foam products in, into, or from Canada. Domfoam's major competitors in the foam market include: Vitafoam Canada Inc. (Vita), Woodbridge Foam Corporation (Woodbridge), Carpenter Canada Co. (Carpenter), and Foamex Canada Inc. (Foamex), (collectively "members of the alleged cartel").
6. Between January 1999 and July 2010 ("Relevant Period") Domfoam produced and supplied foam and foam products to customers in Canada and elsewhere.
7. Based on the information provided to the Commissioner of Competition, the market for foam is relatively concentrated. The five companies that are the alleged members of the cartel are said to control at least 80% of the market.
8. Foam is a product that is difficult to ship. With the exception of memory foam, foam does not easily compress. This makes it difficult to sell foam to customers located far from manufacturing facilities. Due to this transportation issue, foam is generally sold within close proximity to pouring plants. While Canadian foam producers do sell products into the American market, it is in limited quantities, as is the amount of foam products sold into Canada by American foam producers. Domfoam estimates that only 2% of their foam products are sold into the United States.
9. Barriers to entry in the foam manufacturing business are high. Zoning permits, financing to purchase land and the construction of a building to manufacture foam are very costly. This industry is regulated owing to the fact that petro-chemicals are used during the foaming process (safety and environmental regulations).

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10. During the Relevant Period, the total volume of commerce sold in Canada for Domfoam was \$1,057,561,792. This included sales in two areas of the foam market, underlay, and furniture and bedding.

THE OFFENCE

11. During the Relevant Period, from January 1, 1999 to March 11, 2010, Domfoam engaged in conduct contrary to s. 45(1)(c) of the *Competition Act*, RSC 1985, c C-34 by conspiring, combining, agreeing or arranging to lessen competition, unduly, with respect to the sale and supply of foam products within Canada.
12. During the Relevant Period, from March 12, 2010 to July 27, 2010, Domfoam also engaged in conduct contrary to ss. 45(1) (a) of the *Competition Act*, 2009, c. 2, s. 410 by conspiring, agreeing or arranging to fix, maintain, increase or control the price for the supply of foam products within Canada.
13. The Relevant Period of the offence spans amendments to the criminal provisions of the *Competition Act*, with the new provisions coming into force on March 12, 2010. The evidence obtained during the investigation supports charges under both the previous and current conspiracy provisions.
14. For the purposes of forming and carrying out the conspiracy Domfoam and other members of the alleged cartel established a practice whereby the members of the alleged cartel would communicate and reach an agreement on the amount and effective date of price increases in the sale and supply of foam and foam products in Canada. This information would be included in the price increase letters sent to customers and would constitute a pricing baseline which would be used as a starting point to customer negotiations.
15. This conduct would occur approximately two to three times per year, and typically followed raw material price increase announcements made by chemical suppliers. Raw material price increase notifications triggered communications among the members of the alleged cartel, including telephone calls, Blackberry messages, e-mails meetings and the exchange of price increase letters via email and facsimile.
16. The exchanges of information among members of the alleged cartel were for the purposes of coordinating the amount and effective date of price increases to be announced. Information in the possession of the Commissioner of Competition indicates that this coordination was viewed as necessary by the alleged cartel members and gave them comfort that everyone would follow suit. If a member "went to market" alone chances were that the price increase would not succeed as customers, in some cases, would switch to the foam manufacturer that did not increase its price.

- 71
17. The conspiracy enabled the foam manufacturers to coordinate and implement price increases to their respective customers (i.e. customers received price increase letters on or near the same day, with similar or identical percentage increases and effective dates). Information in the possession of the Commissioner of Competition indicates that the price increase letters to customers were viewed by the members of the alleged cartel as an assurance that all foamers were proceeding with the same price increase with the same effective date. Once the letters were out in the marketplace, the members of the alleged cartel were in a strong position to negotiate with their larger customers given that all foamers were at similar price levels, thus leaving customers with no alternative source of supply.

EXAMPLES OF COMMUNICATIONS BETWEEN COMPETITORS

18. A high level employee from Domfoam had contacts with employees from Foamex. Domfoam would exchange price increase letters and telephone calls about pricing with Michael Calderoni, Senior Sales Manager for Foamex.
19. On June 19, 2006, two Domfoam employees had lunch at DiMenna's, a restaurant in St. Leonard, Quebec, with Mr. Calderoni. A chemical increase had been announced, and Domfoam needed to increase prices. At this lunch there was a discussion about whether Foamex would increase prices, as a letter had not yet been released. Mr. Calderoni said that Foamex would increase prices and that he would fax Domfoam the price increase letter.
20. Domfoam employees also had contact with Dale Nelson, Bedding and Furniture Sales Representative for Carpenter. A high level Domfoam employee and Mr. Nelson would communicate about pricing through telephone calls and would exchange price increase letters.
21. In July of 2010, A high level Domfoam employee was contacted by Mr. Nelson. Mr. Nelson told this employee that Carpenter was going to increase prices in Montreal and had been going to accounts announcing the increase. Domfoam had not decided if they were going to increase prices. Mr. Nelson asked what Domfoam's intentions were in Montreal and passed on a message from his boss that if Domfoam did not raise prices in Montreal Carpenter would target Domfoam's customers. This employee called Mr. Calderoni from Foamex the next day and passed on the message from Mr. Nelson. Mr. Calderoni stated it was not good news and he would need to discuss it with the people to whom he reports.
22. A Domfoam employee had competitor contacts with Dan Temple, Regional Manager, Western Region for Carpenter. The Domfoam employee and Mr. Temple had pricing discussions and would exchange price increase information by fax.

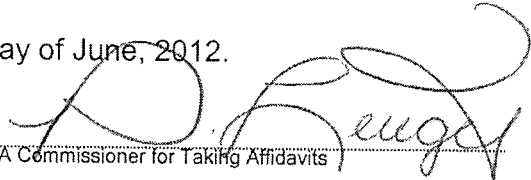
- 23. The Domfoam employee and Mr. Temple used the term "popcorn" as a code name for chipped foam. Carpenter had a "no discussion with competition" policy, so he and Mr. Temple disguised the name with "popcorn." The Domfoam employee believes they used this term as they knew it was not right to be discussing pricing with competitors. The Domfoam employee would not use this term in any other instances other than in relation to the price of that product.
- 24. The Domfoam employee would exchange pricing notification and intentions with Mr. Temple. The Domfoam employee would tell Mr. Temple that Domfoam was intending to go up in price if he had not seen any notification from Carpenter. Mr. Temple would also make these types of phone calls to Domfoam. A day or two later, the Domfoam employee would receive notification of Carpenter's price increases from an outside fax machine such as UPS or Staples. It was never from a Carpenter fax machine. The Domfoam employee only ever received Carpenter Calgary price increase letters in this way and if the Domfoam employee received a Carpenter price increase letter faxed from a UPS store he was 99.9% sure it was from Mr. Temple.
- 25. An employee with a competitor of Domfoam, who is also cooperating with the investigation, would exchange pricing information with Michael Lajambe, District Manager, Eastern Canada for Carpenter. The competitor's employee received a telephone call from Mr. Lajambe in June of 2010. Mr. Lajambe told the competitor's employee that Carpenter was sending out their price increase letter the next day with an effective date of July 19th and a 12% percentage increase. Mr. Lajambe offered to fax the price increase letter to Domfoam's competitor.
- 26. During this conversation, Mr. Lajambe commented that he heard Domfoam's competitor had a new boss who didn't want his employees communicating with competitors. The competitor's employee confirmed this was true. Mr. Lajambe stated his bosses were the same way. Mr. Lajambe and the competitor's employee then discussed the possibility of a third price increase, with Mr. Lajambe stating that he felt the prices were too low. Mr. Lajambe then confirmed the fax number to send him the price increase letter.

OTHER CONSIDERATIONS


- 27. Domfoam has agreed to cooperate and to plead guilty to offences under sections 45(1) (c) of the *Competition Act*, RSC 1985 of the *Competition Act* for the period of January 1999 to March 2010 and 45(1) (a) of the *Competition Act*, 2009, c. 2, s. 410 for the period of March 2010 to July 2010, thereby saving the costs of further investigation and trial which would otherwise have been incurred by the Government of Canada.

B

This is Exhibit "B" referred to
in the Affidavit of TONY VALLECOCCIA
Sworn this 12th
day of June, 2012.


A Commissioner for Taking Affidavits

Pauline Emma Leitgeb, a Commissioner, etc.,
Province of Ontario, for Minden Gross LLP,
Barristers and Solicitors.
Expires July 4, 2012.

 Service des poursuites pénales
Canada

Public Prosecution Service
of Canada

Droit de la concurrence
Place du Portage, Tour I
22^e étage
50, rue Victoria
Gatineau (Québec)
K1A 0C9

Competition Law Section
Place du Portage, Phase I
22nd floor
50 Victoria Street
Gatineau, Quebec
K1A 0C9

Téléphone/Telephone: (819) 956-4275
Télécopieur/Facsimile: (819) 997-5747
Courriel/Email: robert.morin@ppsc-sppc.gc.ca

DELIVERED VIA EMAIL

March 22, 2012

Attention: Raymond Slattery
Minden Gross LLP
145 King Street West
Suite 2200
Toronto, Ontario
M5H 4G2

Dear Mr. Slattery:

**Re: Sale of Domfoam, Valle Foam Industries (1995) Inc. and A-Z Sponge & Foam Inc. –
Clauses within purchase/sale agreement(s) pertaining to preservation of and accessibility to
records**

It is my understanding that Domfoam International Inc., Valle Foam Industries (1995) Inc. and
A-Z Sponge & Foam Inc. (collectively the “vendors”) are in the process of being sold.

I have had an opportunity to look at the respective purchase/sale agreement clauses relating to
the obligations of the purchaser(s) to preserve the records of the vendors and the rights of the
vendors to access such records going forward. In particular, I note that while the records of
Domfoam International Inc. and Valle Foam Industries (1995) Inc. are to be preserved for six
(6) years, the records of A-Z Sponge & Foam Inc. are to be preserved only for two (2) years.

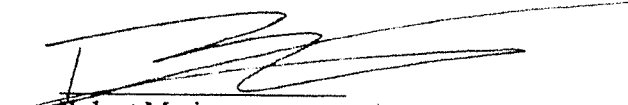
In connection with the Competition Bureau’s on-going criminal investigation in relation to
conduct under section 45 of the *Competition Act* and any subsequent prosecution related to such
conduct on behalf of the Director of Public Prosecutions, I ask that the respective clauses within
the purchase/sale agreements be amended so that the purchaser(s) are obligated to preserve all
records of the vendors, including specifically A-Z Sponge & Foam, for a period of six (6) years
and that the vendors have access rights to all such records for the entire six (6) year period.

Should the vendors not have access to or be able to produce any relevant records when called upon to do so by either the Competition Bureau or the Director of Public Prosecutions, this may jeopardize the ongoing criminal investigation and any subsequent prosecution.

Please confirm once the respective clauses within the purchase/sale agreements have been amended according to the above.

Please let me know if you have any questions or concerns.

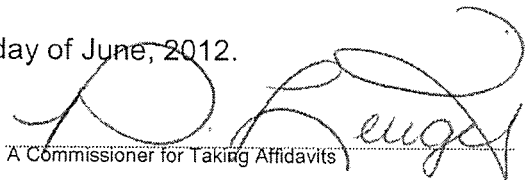
Yours truly,



Robert Morin
Federal Prosecutor – Counsel
Public Prosecution Service of Canada
Competition Law Section

C

This is Exhibit "C" referred to
in the Affidavit of TONY VALLECOCCIA
Sworn this 12th
day of June, 2012.



A Commissioner for Taking Affidavits

Pauline Erna Letgeb, a Commissioner, etc.,
Province of Ontario, for Minden Gross LLP,
Barristers and Solicitors.
Expires July 4, 2012.

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document has been entered electronically in the record of the United States Bankruptcy Court for the Northern District of Ohio.



Mary Ann Whipple
United States Bankruptcy Judge

Dated: February 24 2012

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

_____)	
In re:)	Case Nos. 12-30214
)	(Jointly Administered)
VALLE FOAM INDUSTRIES (1995))	
INC., et. al. ¹)	Chapter 15
)	
Foreign Applicants in Foreign)	Judge Mary Ann Whipple
Proceedings.)	
_____)	

ORDER GRANTING RECOGNITION OF FOREIGN MAIN PROCEEDINGS AND OTHER CHAPTER 15 RELIEF

Upon the Verified Chapter 15 Petitions (the “Chapter 15 Petitions”) filed by Deloitte & Touche Inc., the court appointed Monitor (the “Monitor”) of Valle Foam Industries (1995) Inc. (“Valle Foam”), Domfoam International Inc. (“Domfoam”), and A-Z Sponge & Foam Products Ltd. (“A-Z” and, together with

¹ The Foreign Applicants include Valle Foam Industries (1995) Inc., Domfoam International, Inc., and A-Z Sponge & Foam Products Ltd.

² Capitalized terms not defined herein shall have the meanings given to them in the Declaration

{K0289088.1}

Valle Foam and Domfoam, the “**Valle Foam Group**”) in proceedings (the “**Canadian Proceedings**”) under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), pending before the Ontario Superior Court of Justice (Commercial List) (the “**Ontario Court**”), and upon the statements and affirmations made and contained therein, and the Court having reviewed the Chapter 15 Petitions and the Declarations filed contemporaneously with the Chapter 15 Petitions and the exhibits attached thereto, including a certified copy of the Initial Order entered by the Ontario Court on January 12, 2012 (the “**Canadian Order for Relief**”); and a hearing having been held on the 23rd day of February, 2012 (the “**Recognition Hearing**”); and upon the oral statements of counsel for the Monitor; and the Court having reviewed the Notice of the filing of the Chapter 15 Petitions and of the Recognition Hearing and its certificate of service [Dkt No. 15], which notice is deemed adequate for all purposes such that no other or further notice need be given; and the Court having determined that the legal and factual bases set forth in the Chapter 15 Petitions and all other pleadings and proceedings in this case establish just cause to grant the relief ordered herein, and after due deliberation therefore,

THE COURT HEREBY FINDS AND DETERMINES THAT:

A. The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as

such. To the extent that any conclusions of law constitute finds of fact, they are adopted as such.

B. This Court has jurisdiction over this matter pursuant to 11 U.S.C. §§ 1334 and 157(a) of the Bankruptcy Code and General Order 84 entered on July 16, 1984 by the United States District Court for the Northern District of Ohio. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). Venue is proper before this Court pursuant to 28 U.S.C. § 1410(2).

C. The Monitor is a “person” within the meaning of section 101(41) of the Bankruptcy Code and is the duly appointed “foreign representative” of the Valle Foam Group within the meaning of section 101(24) of the Bankruptcy Code.

D. The Chapter 15 cases of Valle Foam, Domfoam and A-Z (the “**Chapter 15 Cases**”) were properly commenced pursuant to sections 1504, 1509, and 1515 of the Bankruptcy Code.

E. The Monitor has satisfied the requirements of section 1515 of the Bankruptcy Code and Rule 2002(q) of the Federal Rules of Bankruptcy Procedure.

F. The Canadian Proceedings are a “foreign proceeding” within the meaning of section 101(23) of the Bankruptcy Code.

G. The Canadian Proceedings are entitled to recognition by this Court pursuant to section 1517 of the Bankruptcy Code.

H. The Canadian Proceedings are pending in Canada, which is the location of each member of the Valle Foam Group’s center of main interests, and

accordingly, the Canadian Proceedings are a “foreign main proceeding” pursuant to section 1502(4) of the Bankruptcy Code and are entitled to recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code.

I. The Monitor is entitled to all the automatic relief provided by section 1520 of the Bankruptcy Code, without limitation.

J. The relief granted herein is necessary and appropriate, in the interests of the public and international comity, consistent with the public policy of the United States, and warranted pursuant to sections 1517, 1520, and 1521 of the Bankruptcy Code.

NOW, THEREFORE, THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:

1. The Canadian Proceedings are hereby recognized as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code.

2. All relief afforded foreign main proceedings pursuant to section 1520 of the Bankruptcy Code is hereby granted to each member of the Valle Foam Group, including, without limitation, the stay under section 362 throughout the duration of these Chapter 15 Cases or until otherwise ordered by this Court.

3. The stay pursuant to section 362(a)(1) of the Bankruptcy Code is hereby modified and limited in the following respects:

- (a) The stay shall not stay any act pertaining to finalizing the Settlements;² and
- (b) The stay shall not stay the filing of a new complaint against any member of the Valle Foam Group, but shall stay any act to continue such litigation after the filing of the complaint, including service of process on any member of the Valle Foam Group.

4. The Canadian Order for Relief (and any extensions, amendments or modifications thereof as may be granted from time to time by the Ontario Court) shall be granted comity and is hereby given full force and effect in the United States to the same extent that it is given effect in Canada.

5. The Monitor is hereby recognized as the "foreign representative" in these bankruptcy proceedings, and may exercise the rights and powers of a trustee under and to the extent provided by section 1520 of the Bankruptcy Code.

6. The Monitor, the members of the Valle Foam Group, and each of their successors, agents, representatives, advisors or counsel shall be entitled to the protections contained in sections 306 and 1510 of the Bankruptcy Code.

7. A copy of this Order, conformed to be true and correct, shall be served, within three business days of the entry of this Order, by facsimile, electronic mail or overnight express delivery, upon all persons or bodies authorized to administer foreign proceedings of the Valle Foam Group, all

² Capitalized terms not defined herein shall have the meanings given to them in the Declaration in Support of the Chapter 15 Petitions [Dkt. No. 2].

entities against whom provisional relief was granted under section 1519 of the Bankruptcy Code, all parties to litigation pending in the United States in which any member of the Valle Foam Group was a party at the time of the filing of the Chapter 15 Petitions, the United States Trustee, and such other entities as the Court may direct. Such service shall be good and sufficient service and adequate notice for present purposes.

8. The Chapter 15 Petitions and any supporting papers shall be made available by the Monitor through its website at <http://www.deloitte.com/ca/Vallefoam> or upon request at the offices of Kohrman Jackson & Krantz P.L.L., One Cleveland Center, 20th Floor, 1375 East 9th St., Cleveland, Ohio, 44114, to the attention of Mary K. Whitmer or James W. Ehrman, (216) 686-8700, mkw@kjk.com or jwe@kjk.com.

9. This Court shall have continuing jurisdiction to the fullest extent permitted by law with respect to: (i) the enforcement, amendment or modification of this Order; (ii) any requests for further or additional relief or any adversary proceeding filed by the Monitor or any other party in interest; and (iii) any request by a person or entity for relief from the provisions of this Order, for cause shown.

10. This Order shall be immediately effective and enforceable upon its entry, and upon its entry shall become final and appealable, notwithstanding Bankruptcy Rule 7062 made applicable to chapter 15 cases by Bankruptcy Rule 1018.

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Prepared and Submitted by:

KOHRMAN JACKSON & KRANTZ P.L.L.

/s/ Mary K. Whitmer

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Foam Industries (1995) Inc.,
Domfoam International Inc., and
A-Z Sponge & Foam Products Ltd.*



Court File No. CV-12-9545-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) THURSDAY, THE 12th
JUSTICE NEWBOULD)
DAY OF JANUARY, 2012

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

AND IN THE MATTER OF A PLAN OF
COMPROMISE OR ARRANGEMENT OF VALLE
FOAM INDUSTRIES (1995) INC., DOMFOAM
INTERNATIONAL INC., and A-Z SPONGE & FOAM
PRODUCTS LTD.

(the "Applicants")

INITIAL ORDER

THIS APPLICATION, made by Valle Foam Industries (1995) Inc.,
Domfoam International Inc., and A-Z Sponge & Foam Products Ltd. (hereinafter,
collectively referred to as the "Applicants"), pursuant to the *Companies' Creditors
Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this
day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Tony Vallecoccia sworn January 11, 2012
and the exhibits thereto (the "Vallecoccia Affidavit"), and on hearing the
submissions of counsel for the Applicants, no one else appearing although duly
served as appears from the affidavit of service of Victoria Stewart sworn January

11, 2012, and on reading the consent of Deloitte & Touche Inc. to act as the Monitor,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that one or more of the Applicants, individually or collectively, shall have the sole authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (collectively, the "Property"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their respective businesses (collectively, the "Business") and

Property. The Applicants shall each be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, appraisers, accountants, counsel and such other persons (collectively, "Assistants") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that, the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of this Order:

- (a) all outstanding and future wages, compensation, salaries, employee and pension benefits, vacation pay and expenses (including, but not limited to, employee medical, dental, disability, life insurance and similar benefit plans or arrangements, incentive plans, share compensation plans, and employee assistance programs and employee or employer contributions in respect of pension and other benefits), and similar pension and/or retirement benefit payments, commissions, bonuses and other incentive payments, payments under collective bargaining agreements, and employee and director expenses and reimbursements, payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) compensation to employees in respect of any payments made to employees prior to the date of this Order by way of the issuance of cheques or electronic transfers are subsequently dishonoured due to the commencement of these proceedings; and

- (c) the reasonable fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges, including any payments made to Assistants prior to the date of this Order by way of the issuance of cheques or electronic transfers that are subsequently dishonoured due to the commencement of these proceedings; and
- (d) amounts owing for goods and services actually supplied to the Applicants, or to obtain the release of goods contracted for prior to the date of this Order by other suppliers, solely where such goods were ordered by the Applicants or any of them after November 30, 2011 on the express understanding that such goods or services were to be paid for on a cash on delivery basis and in respect of which such payment has not been made by the Applicants or any of them.

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

- (b) payment, including the posting of letters of credit, for goods or services actually supplied or to be supplied to the Applicants following the date of this Order;

7. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

8. **THIS COURT ORDERS** that until a real property lease is disclaimed, terminated, repudiated or resiliated in accordance with the CCAA, the Applicants

shall pay all amounts constituting rent or payable as rent under their respective real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

9. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their respective businesses or operations, and to dispose of non-profitable, redundant or non-material assets and operations, and to dispose and sell such assets or operations not exceeding \$100,000.00 in any one transaction or \$1 million in the aggregate;

S. 36(1)

- (b) terminate the employment of such of their employees or lay off or temporarily or indefinitely lay off such of their employees as the relevant Applicant deems appropriate on such terms as may be agreed upon between the relevant Applicant and such employee, or failing such agreement, to deal with the consequences thereof in the Plan
- (c) in accordance with paragraphs 10 (a) and (d), vacate, abandon, resiliate, or quit any leased premises and/or disclaim, cancel, terminate or repudiate any real property lease and any ancillary agreements relating to any leased premises, on not less than seven (7) days notice in writing to the relevant landlord on such terms as may be agreed upon between the Applicants and such landlord, or failing such agreement, to deal with the consequences thereof in the Plan;
- (d) disclaim, terminate, repudiate or resiliate, in whole or in part, with the prior consent of the Monitor or further Order of the Court, such of their arrangements, agreements or contracts of any nature whatsoever with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with Section 32 of the CCAA, with such disclaimers, repudiation, termination, or resiliations to be on such terms as may be agreed upon between the relevant Applicants and such counter-parties, or failing such agreements, to deal with the consequences thereof in the Plan; and
- (e) pursue all avenues of refinancing of the Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicants to proceed with an orderly restructuring or winding down of some or all of the respective Business (the "Restructuring").

11. **THIS COURT ORDERS** that the Applicants shall each provide each of the relevant landlords with notice of the relevant Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the relevant Applicant, or by further Order of this Court upon application by the relevant Applicant on at least two (2) days notice to such landlord and any such secured creditors. If an Applicant disclaims, resiliates, repudiates or terminates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer, termination or resiliation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

12. **THIS COURT ORDERS** that if a lease is repudiated or if a notice of disclaimer or termination or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, termination, repudiation or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the relevant Applicant's and the Monitor 24 hours' prior written notice, and

(b) at the effective time of the disclaimer or termination or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicants of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

13. **THIS COURT ORDERS** that until and including February 10, 2012, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicants or the Monitor, or affecting the

Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

15. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, authorization, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

16. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all waste disposal service providers, all computer software, information technology services, communication and other data services, programming supply, computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be

entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

17. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

18. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers (or their estates) of the Applicants with respect to any claim against such directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment, performance or breach of such obligations, acts, or actions until a compromise or arrangement in respect of

the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

19. **THIS COURT ORDERS** that the Applicants shall jointly indemnify their directors and officers from and against all claims, costs, charges, expenses, obligations and liabilities that they may incur as directors or officers of the Applicants, after the date hereof except to the extent that, with respect to any officer or director, such claim, cost, charge, expense, obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

20. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$1 million as security for the indemnity provided in paragraph 19 of this Order. The Directors' Charge shall have the priority set out in paragraph 32 herein.

21. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 19 of this Order.

APPOINTMENT OF MONITOR

22. **THIS COURT ORDERS** that Deloitte & Touche Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

23. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist and advise the Applicants in their development of the Plan or winding down, downsizing and any amendments to the Plan, any restructuring steps taken pursuant to paragraphs 5 and 10 hereof, and the implementation of the Plan;
- (d) advise the Applicants in the preparation of their cash flow statements;

- (e) assist and advise the Applicants, to the extent required by the Applicants, with the negotiations with creditors and the holding and administering of creditors' (or shareholders' meetings) for voting on the Plan;
- (f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (h) consider, and if deemed advisable by the Monitor, prepare a report as an assessment of the Plan;
- (i) assist the Applicants with their continuing restructuring activities, including the assessment and analysis of any proposed sale of assets or closure of facilities;
- (j) advise and assist the Applicants, as requested, in their negotiations with suppliers, customers and other stakeholders; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

24. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder,

be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

25. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

26. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential,

the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

27. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings, including completing and implementation of the settlements with the class action plaintiffs. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on an hourly basis and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicants, retainers in the amounts of \$150,000.00 and \$50,000.00, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

29. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

30. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, if any, and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$500,000.00, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings, including completing the settlements with the class action plaintiffs. The Administration Charge shall have the priority set out in paragraph 32 hereof.

31. **THIS COURT ORDERS** that Valle Foam Industries (1995) Inc. ("Valle Foam") shall be authorized to advance funds up to, but not exceeding \$1 million to either of A-Z Sponge & Foam Products Ltd. ("A-Z") or Domfoam International Inc. ("Domfoam") to be used for operating purposes of Domfoam or A-Z, as the case may be, provided that i) no such loan shall be advanced without the prior written consent of the Monitor, ii) that any such loan shall be properly documented and subject to such terms, including rates of interest, if any, which the Monitor deems reasonable in the circumstances, and iii) that any such loan shall be secured by way of a general security agreement which shall provide a first in priority charge on the assets of Domfoam subject only to the priority of the charges granted hereunder. The Applicants may, prior to the advance of any funds, attend to seek a further order of this court to grant a specific charge if the Applicants or the Monitor deem it appropriate or necessary to do so.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

32. **THIS COURT ORDERS** that the priorities of the Directors' Charge and the Administration Charge as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$~~500,000~~); 500,000 ✓

Second – Directors' Charge (to the maximum amount of \$~~1,000,000~~); 1,000,000 ✓

mt ✓

33. **THIS COURT ORDERS** that the filing, registration or perfection of the Directors' Charge or the Administration Charge, (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

34. **THIS COURT ORDERS** that each of the Directors' Charge or the Administration Charge, (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person.

35. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge or Administration Charge, unless the Applicants also obtains the prior written consent of the Monitor, and the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

36. **THIS COURT ORDERS** that the Directors' Charge and the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s)

for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds any of the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not be deemed to constitute a breach by any of the Applicants of any Agreement to which it is a party;
- (b) none of the Charges shall have any liability to any Person whatsoever as a result of the creation of the Charges; and
- (c) the payments made by the Applicants pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers, settlements at undervalue, oppressive conduct, or other challengeable or void or voidable transactions or reviewable transactions under any applicable law.

37. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

SERVICE AND NOTICE

38. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish ^{to the Standard} in ~~[newspapers specified by the Court]~~ a notice containing the information

prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

39. **THIS COURT ORDERS** that the Applicants and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

40. **THIS COURT ORDERS** that the Applicants, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at www.deloitte.com/ca/vallefoam.

GENERAL

41. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
42. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.
43. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.
44. **THIS COURT ORDERS** that the Monitor is hereby authorized, as the foreign representative of the Applicants, to apply for recognition of these proceedings as "Foreign Main Proceedings" in the United States pursuant to Chapter 15 of the *U.S. Bankruptcy Code*.
45. **THIS COURT ORDERS** that each of the Applicants and the Monitor 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

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF VALLE FOAM INDUSTRIES
(1995) INC., DOMFOAM INTERNATIONAL INC., and A-Z SPONGE & FOAM PRODUCTS LTD.

Court File No. CV-12-9545-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

INITIAL ORDER

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

SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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APPLICATION RECORD
(returnable January 12, 2012)

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Lawyers for the Applicants

January 12, 2012

I am satisfied that the applicants
are subject to the CCAA on the basis
of the material before me. The only
person affected by the application
that was served is the Competition
Bureau. I am advised they
take no position on the application
so long as it is clear that their order
does not compromise their claim,
and the applicant agrees with that
position. Their claim is, however,
subject to the terms of the Initial Order.
The administration and directors'
charges appear reasonable.
DTS

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
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ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

MOTION RECORD OF THE APPLICANTS
(returnable June 15, 2012)

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