

SUPERIOR COURT

(Commercial Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-11-057679-199

DATE: June 22, 2023

BY THE HONOURABLE MARTIN F. SHEEHAN, J.S.C.

In the Matter of *The Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 (the "CCCA") of Fortress Global Enterprises et al.:

INVESTISSEMENT QUÉBEC

Applicant / Secured Creditor

and

FIERA PRIVATE DEBT INC.

Impleaded Party

and

FORTRESS GLOBAL ENTERPRISES INC.

FORTRESS SPECIALTY CELLULOSE INC.

FORTRESS BIOENERGY LTD.

FORTRESS XYLITOL INC.

9217-6536 QUÉBEC INC.

Debtors

and

DELOITTE RESTRUCTURING INC.

Applicant/Monitor

**JUDGMENT ON AN APPLICATION FOR THE ISSUANCE OF AN ORDER
TO EXTEND THE STAY PERIOD & AUTHORIZING THE TERMINATION
OF A TRUST AND THE RELEASE OF TRUST FUNDS
(Sections 11.02(2) of the CCCA)**

OVERVIEW

[1] The Applicant, Investissement Québec (“**IQ**”), in its capacity as interim lender and secured creditor of the Debtors, seeks the issuance of an order:

- 1.1. extending the Stay Period (as defined below) until September 29, 2023;
- 1.2. extending the Stay (as defined below) to the SAP Proceedings (as defined below); and
- 1.3. approving the termination of a trust (the “**D&O Trust**”) initially established, with the consent of IQ, prior to the commencement of these proceedings for the benefit of the Debtors’ directors and officers (the “**D&Os**”), all of which had resigned in December 2019, concurrently with the commencement of these proceedings, save exception;
- 1.4. approving the release to the Monitor of the trust funds (the “**D&O Trust Funds**”) paid into the D&O Trust, net of fees and expenses owing to TSX Trust Company, the trustee of the D&O Trust (the “**Trustee**”); and
- 1.5. approving the activities of Deloitte Restructuring Inc., in its capacity as monitor to the Debtors (“**Deloitte**” or the “**Monitor**”), as described in its Twentieth report to this Court.

CONTEXT

[2] On December 16, 2019, Justice Marie-Anne Paquette, j.s.c. (as she then was) issued a first-day initial order (the “**First Day Order**”) under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) in respect of Fortress Global Enterprises Inc., Fortress Specialty Cellulose Inc., Fortress Bioenergy Ltd., Fortress Xylitol Inc. and 9217-6536 Québec Inc. (collectively, “**Fortress**” or the “**Debtors**”), pursuant to which:

- 2.1. Deloitte was appointed as monitor of the Debtors;
- 2.2. all claims against the Debtors, their properties and their directors and officers were stayed (the “**Stay**”) until December 26, 2019 (the “**Stay Period**”); and
- 2.3. the Debtors were authorized to borrow from IQ an amount of up to \$1,000,000 on the terms and conditions of the Interim Financing Term Sheet (the “**Interim Financing Term Sheet**”), which was to be secured by a super-priority charge and security over all of the assets of each of the Debtors in the aggregate amount of \$1,200,000 (the “**Interim Lender Charge**”).

[3] On the same day, the Court appointed Deloitte as receiver to the Debtors for the sole purpose of allowing their respective employees to recover amounts which may be owing to them pursuant to the *Wage Earner Protection Program Act*.¹

[4] On December 26, 2019, the Court issued an Amended First Day Order which:

- 4.1. Extended the Stay Period until January 10, 2020;
- 4.2. Authorized the Debtors to borrow from IQ an amount of up to \$1,500,000 under the terms and conditions set forth in the Interim Financing Agreement, to be secured by an Interim Lender Charge of \$1,800,000; and
- 4.3. Authorized the Debtors (with the prior approval of the Monitor), or the Monitor (on behalf of the Debtors), to pay amounts owing for goods or services actually supplied to the Debtors either prior to or after the date of this Order up to a maximum of \$250,000, to the extent that, in the opinion of the Monitor, the supplier was essential to the business and ongoing operations of the Debtors.

[5] On January 10, 2020, the Court issued an Amended and Restated Initial Order which provided:

- 5.1. an extension of the Stay Period until May 2, 2020;
- 5.2. the authorization for the Debtors to borrow from IQ an amount of up to \$6,000,000 under the terms and conditions set forth in the Interim Financing Agreement, to be secured by an Interim Lender Charge of \$7,200,000;
- 5.3. the creation of a key employee retention plan (the "**KERP**") and a charge in the amount of \$610,000 to secure the payment of Fortress's obligations under the KERP (the "**KERP Charge**"); and
- 5.4. an increase in the Monitor's powers, including the powers to conduct and control the financial affairs and operations of the Debtors, and carry on the business of the Debtors.

[6] The Court also issued a Claims Procedure Order which established a "Claims Bar Date" of March 16, 2020 (except for restructuring claims).

¹ *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1.

[7] Since then, the Court has rendered further orders, including:

- 7.1. an order dated March 23, 2020, clarifying that the Stay applied to proceedings commenced before the *Tribunal Administratif du Québec* (the “**TAQ**”) and suspending penal proceedings before the Court of Quebec, criminal division;
- 7.2. orders extending the Stay Period (which is currently set to expire on June 23, 2023);
- 7.3. orders to approve a First Amending Agreement, a Second Amending Agreement, a Third Amending Agreement, a Fourth Amending Agreement, a Fifth Amending Agreement and a Sixth Amending Agreement to the Interim Financing Term Sheet, providing for an increase to the Facility Amount (as defined in the Interim Financing Agreement) to a total amount of \$33,800,000, and a corresponding increase to the Interim Lender Charge to a total amount of \$40,460,000; and
- 7.4. an order dated February 11, 2022, approving a litigation funding agreement with Omni Bridgeway (Fund 5) Canada Investments Limited to allow Fortress to pursue proceedings against Les Pompes Gould Inc.

[8] On April 20, 2023, the undersigned was appointed to case manage the present proceedings.

[9] On April 27, 2023, the undersigned issued an Order extending the Stay Period (as defined below) to June 23, 2023, and confirming that the Stay (as defined below) applies to the SAP Proceedings (as defined below).

ANALYSIS

1. The Stay of Proceedings

[10] The Debtors’ restructuring efforts have proven challenging.

1.1 Pre-Filing Solicitation Efforts

[11] Prior to the issuance of the First Day Order, a sale and investment solicitation process (“**SISP**”) was conducted by the Debtors with the assistance of its financial advisors (and in consultation with IQ and Deloitte).

[12] Despite these efforts, no offer, indication of interest or other proposal were submitted to the Debtors prior to the filing of the proceedings.

1.2 The 2021 SISP

[13] Further to the commencement of the CCAA proceedings, the Debtors and the Monitor, in consultation with IQ and Fiera, held discussions with various parties on an informal basis regarding a potential transaction which would allow the continuation of the Debtors' operations.

[14] On September 3, 2020, the Monitor received an offer from one of these parties for the acquisition of Fortress Bioenergy Ltd.'s ("**Fortress Bioenergy**") cogeneration facility (the "**Cogeneration Facility**"). The offer was shared with IQ and Fiera and was subsequently refused. The Monitor also received a draft letter of intention for the same facility, which was also shared with IQ and Fiera, and was subsequently refused.

[15] In 2021, the Debtors and the Monitor continued to have active discussions with various interested parties with a view of securing a binding offer with a party willing to continue the operations of the Debtors as a going concern.

[16] Despite these continued efforts, no agreement was reached.

[17] In late July 2021, the Monitor met with respective representatives and counsel of IQ and Fiera to discuss the status of this file as well as the next steps.

[18] The parties agreed to establish a formal deadline for the submission of letters of intent as well as the terms and conditions in connection with the acquisition of the Debtors' business and assets (the "**2021 SISP**").

[19] The Monitor communicated with (22) potentially interested parties, including parties that had previously manifested some interest in acquiring the Debtors' business and assets (parties potentially interested in a going concern transaction and parties potentially interested in submitting liquidation offers whereby the Debtors' assets would be decommissioned and dismantled).

[20] On August 4, 2021, the Monitor sent these parties solicitation materials and advised them that offers should be submitted to the Monitor by no later than September 15, 2021.

[21] The Monitor received several offers (the "**2021 Offers**") from various parties including going concern offers from strategic parties as well as liquidation bids.

[22] On September 17, 2021, the Monitor presented a summary of the 2021 Offers to IQ and Fiera.

[23] Since several of the 2021 Offers contained conditions relating to IQ and the Québec government (including requests for financial support), IQ, together with the Monitor, proceeded with a detailed review of each and every one of the 2021 Offers in order to assess their respective viability.

[24] In late 2021, IQ and the Monitor decided to focus their discussions on one of the bidders (the “**Original Potential Purchaser**”) and to evaluate its ability to implement a project involving the restart of Fortress’ Pulp Mill and Cogeneration Facility (the “**Original Proposed Project**”).

[25] Discussions and meetings were held between this Original Potential Purchaser, the Monitor, IQ as well as other governmental entities to clarify its offer, negotiate certain improvements to same and ultimately discuss the path going forward in order to properly assess the Original Potential Purchaser’s Original Proposed Project and determine how this project could be implemented.

[26] Unfortunately, it became clear that certain conditions relating to the Original Proposed Project and the required participation from the Quebec government in the project could not be met.

[27] In March 2022, the Quebec government notified the Original Potential Purchaser that no agreement could be reached in connection with the Original Proposed Project.

1.3 Subsequent Discussions with Other Potential Purchasers

[28] Fortress, the Quebec government and the Monitor continued discussions with other parties and considered other potential transactions and projects involving the acquisition of Fortress’ assets.

[29] In late September 2022, Fortress and the Monitor received a non-binding letter of intent, together with a business plan, from a party potentially interested in acquiring the business and assets of Fortress.

[30] Again, the offer did not result in a transaction.

[31] Fortress and the Monitor continued their discussions with several other parties which remained interested in a potential transaction involving the assets of Fortress.

1.4 The 2023 SISP

[32] On March 16, 2023, the Monitor communicated new terms and conditions to potential bidders who had shown renewed interest in Fortress’ assets.

[33] By the deadline of April 14, 2023, Fortress and the Monitor had received six offers from different interested parties (the “**2023 Offers**”), including parties which had previously demonstrated an interest in a potential transaction, as well as other parties which had, until then, demonstrated no such interest.

[34] Over the course of the past few weeks, the Monitor, in consultation with IQ, has had various discussions and exchanges with two of the above offerors to clarify the terms and conditions of each of their respective offers.

[35] The Monitor, in consultation with IQ, is currently pursuing its discussions with one particular offeror (the “**Selected Party**”), who has indicated a willingness to implement a transaction over the course of the next few months, subject to completing its due diligence over the course of the summer, during which a Phase II environmental report will be prepared.

[36] Based on recent discussions with both the Monitor and with the offeror, IQ is optimistic that a viable transaction may be implemented over the course of the next few months, which will ultimately benefit the Debtors, their employees and the city of Thurso.

1.5 Implementation of the “Cold Idle Plus Scenario”

[37] In parallel with the above discussions, the Monitor continued to maintain Fortress’ activities to a minimum, in order to reduce operating costs, while maintaining the value of Fortress’ assets for a potential purchaser in the hope that the demand for pulp and related products would increase.

[38] In accordance with the powers granted to it by the Court, the Monitor, in consultation with IQ, decided that:

- 38.1. Fortress Specialty Cellulose Inc.’s (“**Fortress Specialty**”) specialty cellulose mill located in Thurso, Québec (the “**Pulp Mill**”) would be idled indefinitely so as to minimize operating costs while market conditions improved; and
- 38.2. Fortress Bioenergy’s Cogeneration Facility would continue to operate, but at a substantially reduced production rate.

[39] On March 24, 2020, the Quebec Government ordered the closure of all Quebec non-essential businesses due to the COVID-19 pandemic. This prompted the temporary shutdown of the Cogeneration Facility, which was intended to take place, in any event, a few weeks later given low demand for electricity and the fact that the Pulp Mill would not require to be heated during the spring and summer months.

[40] As non-essential businesses gradually reopened and the market price for dissolving pulp increased, Fortress, under the supervision and oversight of the Monitor, proceeded to restart its Cogeneration Facility between the fall of 2020 until the spring of 2021, with a view to preserve the value of Fortress’ assets and maximize its revenues.

[41] As the market price for dissolving pulp remained strong,² Fortress, under the supervision and oversight of the Monitor, restarted the Cogeneration Facility during the fall of 2021 until the spring of 2022.

[42] However, further to the unsuccessful 2021 SISP, a decision was taken to gradually implement a “Cold Idle Plus Scenario”, as described in the Monitor’s Sixteenth, Seventeenth and Eighteenth Report.

[43] The scenario’s goal was to allow Fortress to significantly reduce its operating expenses while it continued to work with the Quebec government to determine the eventual path forward, and, at the same time, allow it to protect and preserve any remaining value of its assets for any future transaction or project, as the case may be.

[44] The Cold Idle Plus Scenario also allowed Fortress to assist the City of Thurso for the treatment of its wastewater and plan for environmental remediation of the site, which has remained ongoing over the course of the past few months.

[45] Finally, as discussed in the Monitor’s Twentieth Report, Fortress Xylitol Inc., a special purpose company which was incorporated to proceed with the construction of a demonstration plant to produce xylitol and other complementary bioproducts at the Pulp Mill, will officially cease all operations as of August 15, 2023, as the Selected Party has demonstrated no interest in the company.

1.6 Extension of the Stay Period

[46] The Stay Period is currently set to expire on June 23, 2023.

[47] IQ asks that the Stay Period be extended to September 29, 2023.

[48] While the restructuring and/or sale of Fortress has proven to be lengthier and much more challenging than initially contemplated, IQ requests an approximate three-month extension of the Stay Period in order to allow IQ, together with the Quebec government, and with the Monitor, to pursue their discussions with the Selected Party, allow the Selected Party to conduct its due diligence and, ultimately and hopefully, take the appropriate steps in order to complete a transaction before year-end.

[49] Absent an order from this court ordering the extension of the Stay Period, the parties would be forced to initiate receivership or bankruptcy proceedings under the *Bankruptcy and Insolvency Act*³ (the “**BIA**”). IQ submits that such proceedings would not significantly alter the current situation or the challenges which Fortress and its stakeholders are currently facing.

² In December 2019, dissolving pulp was sold at market price of US\$640 per metric ton, whereas in the first half of 2021, the market price for dissolving pulp went up to US\$1,100 per metric ton. Today, the market price for dissolving pulp now ranges between US\$900 to \$US925 per metric ton.

³ *Bankruptcy and Insolvency Act*, L.R.C. 1985, c. B-3.

[50] However, such proceedings would require additional filing of court materials and reports which would distract funds and efforts from the primary goal of finding a viable solution.

[51] IQ, Fortress and the Monitor all believe that the maintenance of the CCAA proceedings and the Stay remain appropriate in the circumstances, especially given the current negotiations.

[52] As indicated in the Monitor's Twentieth Report, an updated operation budget has been prepared to continue implementing the Cold Idle Plus Scenario while Fortress and the Monitor attempt to finalize a transaction with the Selected Party.

[53] The Cash Flow Statement contained in the Twentieth Report indicates that Fortress should have sufficient liquidity to continue to meet its obligations in the ordinary course of business within the Interim Financing Facility that was granted to Fortress through the Sixth Amending Agreement.

1.7 Application of the Stay to the SAP Proceedings

[54] Prior to the initiation of the CCAA proceedings, Fortress Specialty operated the Pulp Mill under an authorization certificate (the "**Authorization Certificate**") issued by the *Ministère de l'Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs* (the "**MELCC**") in accordance with the *Loi sur la qualité de l'environnement*,⁴ (the "**LQE**") and the *Règlement sur les fabriques de pâtes et papier*.⁵

[55] As a result of the Debtors' financial situation, the Pulp Mill's operations have been suspended since October 2019.

[56] On July 7, 2021, the *Bureau de réexamen* of the MELCC imposed a monetary administrative penalty in the amount of \$10,000 (the "**SAP**") against Fortress Specialty (the "**SAP Decision**").

[57] On August 6, 2021, Fortress Specialty contested the SAP Decision before the TAQ in file number STE-Q-257041-2108 (the "**SAP Proceedings**").⁶

[58] IQ seeks a declaration from the Court specifying that the Stay applies to the SAP Proceedings.

[59] The MELCC is a "regulatory body" under section 11.1 of the CCAA.

⁴ *Loi sur la qualité de l'environnement*, RLRQ, c. Q-2.

⁵ *Règlement sur les fabriques de pâtes et papiers*, RLRQ, c. Q-2, r. 27.

⁶ Exhibit R-2 to the Stay Application.

[60] As such, a stay order under section 11.02 of the CCAA generally does not affect an investigation, suit, proceeding or action by the MELCC in respect of the debtor company unless the Court is of the opinion that:

- 60.1. a viable compromise or arrangement could not be made in respect of the company if the regulatory proceeding is not stayed; and
- 60.2. it is not contrary to the public interest that the regulatory body be affected by the order made under section 11.02.

[61] IQ submits that the SAP could prevent the closing of a transaction in respect of the Debtors. It points out that certain of the letters of intention received by the Debtors include the Debtors' permits and licences as part of the purchased assets.

[62] The Monitor was informed that if the SAP is confirmed, the MELCC could, without any other motive, refuse to amend or renew Fortress Specialty's Authorization Certificate in accordance with section 115.5 of the LQE.

[63] The loss of the Authorization Certificate would have a significant impact on the Debtor's perspective of closing a transaction and would considerably diminish the value of Fortress Specialty's assets.

[64] Furthermore, for the purpose of the Cold Idle Plus Scenario, the Debtors proceeded to lay-offs and they submit that they do not have the resources to adequately prepare for the SAP Proceedings.

[65] In April 2023, the Monitor had indicated that because the Pulp Mill was in Cold Idle Plus mode, there was no risk that the alleged violations of the LQE and its regulation would continue.

[66] Unfortunately, in early May 2023, heavy rainfall caused the Ottawa river to rise and overflow (the "**Incident**"). A higher level of suspended matters was detected by Fortress. These levels were higher than prescribed by provincial environmental standards but within the federal limits. Fortress advised the MELCC. The situation was resolved quickly but the remains a possibility that Fortress will be subject to a non-conformity notice or a fine.

[67] The Monitor and Fortress' employees were fully transparent with regard to the Incident. Fortress took the initiative of advising the authorities. The Incident is not related to the operations of the plant or to the violations alleged in the SAP Proceedings. As such, the order sought would still have a minimal impact on the public interest.

[68] IQ, the Monitor and the Debtors support the Stay Application.

[69] While the MELCC does not necessarily agree with the allegations of the application with regard to the effect of the SAP Proceedings on the Authorization Certificate, it does not oppose the suspension.

[70] No creditor of the Debtors will be materially prejudiced by the extension of the Stay.

[71] The Court is also mindful of the fact that a similar request in connection with proceedings before the TAQ was previously granted by this court on March 23, 2020,⁷ and that the undersigned has already extended the Stay to make it applicable to the SAP Proceedings in its order of April 27, 2023.

2. The Termination of the D&O Trust and the Release of the D&O Trust Funds

[72] Prior to the commencement of the CCAA proceedings, the Debtors, with the approval of IQ, set up the D&O Trust, to alleviate certain concerns which their D&Os had raised with respect to claims (and more specifically employee claims for unpaid salary) which could be asserted against them in such capacity given the Debtors' insolvency.

[73] The Debtors thus funded the D&O Trust Funds (an amount of \$1,300,000) to the D&O Trust, in accordance with the terms and conditions of a Trust Indenture dated December 13, 2019 (the "**D&O Trust Indenture**").⁸

[74] While the purpose of the D&O Trust and of the D&O Trust Funds was to provide financial support for the defense and payment of claims (including employee claims for unpaid salary) against the D&Os in such capacity, to the extent not covered by D&O insurance (the "**D&O Insurance**"), the establishment of the D&O Trust and the funding of the D&O Trust Funds was also intended to indirectly provide some assurances to the Debtors' former employees (the "**Former Employees**") with regards to the payment of their unpaid salaries, to the extent such claims were not paid by the D&O insurer (the "**D&O Insurer**").

[75] The amount of the D&O Trust Funds was established in accordance with the then estimated employee claims for unpaid salaries.

[76] On January 10, 2020, this Court rendered a Claims Procedure Order whereby the Court approved a claims process (the "**Claims Process**") pursuant to which all claims against the Debtors and/or against the D&Os were to be submitted by no later than a claims bar date of March 16, 2020 (except only for restructuring claims) (the "**Claims Bar Date**").

[77] In accordance with the Claims Process:

77.1. the Monitor received and reviewed several claims from employees or

⁷ Exhibits R-4 and R-5 to the Stay Application.

⁸ Exhibit R-2 of the current application.

former employees of the Debtors against the Debtors, on account of unpaid wages and vacation, for which the D&Os were potentially personally liable for, as well as for severance (the “**Employees’ Claims**”); and

- 77.2. the Monitor also received and reviewed certain other claims filed against the D&Os personally, all of which were ultimately disallowed by the Monitor. None of the claimants having received such notice of disallowance from the Monitor ultimately filed an appeal with the Court within the 10-day period set out in the Claims Process Order, such that these claims are now formally barred.

[78] With respect to the portion of the Employees’ Claims relating to severance, the Monitor assisted the employee claimants to file a claim pursuant to the Wage Earner Protection Program.

[79] With respect to the portion of the Employees’ Claims relating to unpaid wages and vacations (the “**Employee Wages & Vacation Claims**”) for which the D&Os were potentially liable for, the Monitor sought to obtain a partial release of the Trust Fund in order to immediately pay the Employee Wages & Vacation Claims. As previously discussed, the D&O Trust was indirectly established to pay employee claims.

[80] On December 11, 2020, the Monitor sought and obtained an order from this Court, essentially:

- 80.1. authorizing the Monitor to distribute from the D&O Trust Funds an amount of \$1,036,841.87 in order to fully pay the Employee Wages & Vacation Claims;
- 80.2. assigning to the Monitor the Employee Wages & Vacation Claims upon payment of same from the D&O Trust Funds; and
- 80.3. authorizing the Monitor to subsequently file a claim in respect of the Employee Wages & Vacation Claims against the D&O Insurer pursuant to the D&O Insurance.

[81] Since then, the Monitor has paid the Employee Wages & Vacation Claims from the D&O Trust Funds, and filed a claim in respect of same (i.e. \$1,036,841.87) against the D&O Insurer pursuant to the D&O Insurance.

[82] On February 17, 2023, the Monitor received an indemnity from the D&O Insurer for an amount equivalent to the Employee Wages & Vacation Claims (\$1,036,841.87).

[83] IQ seeks the issuance of an order from this Court terminating the D&O Trust Indenture and ordering the release of all D&O Trust Funds (either in the possession of the Monitor or of the Trustee) to the Monitor, for the purpose of funding the ongoing operations of the Debtors during the CCAA proceedings.

[84] The D&O Trust was established: (a) to provide some level of protection to the Debtors' D&Os in connection with claims which could be potentially filed against them personally, and in particular claims of employees for unpaid wages and vacation; and (b) to indirectly provide some level of protection for the Debtors' employees with claims for unpaid wages and vacation.

[85] All claims which could have been advanced against the Debtors' D&Os (which have all resigned in December 2019, save exception) have now been either: (a) identified as part of the Claims Process; (b) disallowed by the Monitor, with no appeal having been filed in respect of such disallowance; or (c) paid out by the Monitor from the D&O Trust Funds.

[86] The Claims Process Order rendered by this Court set the Claims Bar Date on March 16, 2020, which was more than three years ago.

[87] Thus, the D&O Trust, established in December 2019 has now fulfilled its purpose.

[88] The number of employees is limited. The D&O charge remains in place. The D&O Trust is no longer necessary.

[89] Section 7.1 of the D&O Trust Indenture provides that: (a) the D&O Trust may be terminated upon the issuance of a "Termination Order"; and (b) a "Termination Order" is defined at Section 1.1. of the D&O Trust Indenture as meaning "an order issued by a judge of the Superior Court of Québec, or another competent Canadian court, ordering the termination of this Indenture".

[90] While Section 7.2 of the Trust Indenture provides that upon termination of the Trust Indenture, the Trustee shall deliver the "Trust Property" (defined as being the sum of \$1.3M) to or on the direction of Fortress Specialty in accordance with a written direction of Fortress Specialty, IQ asks that this Court grant an order directing the Trustee to deliver the "Trust Property" to the Monitor, given the current ongoing CCAA proceedings, and authorizing the Monitor to use such "Trust Property" to fund same.

[91] This request is reasonable.

[92] The application was duly notified to the service list as well as the current director and officer of Fortress.

[93] It was not contested.

FOR THESE REASONS, THE COURT:

[94] **GRANTS** the *Application for the Issuance of an Order Extending the Stay Period & Authorizing the Termination of a Trust and the Release of Trust Funds* (the “**Application**”);

[95] **ORDERS** that any prior delay for the presentation of the Application is hereby abridged and validated so that the Application is properly returnable today and hereby dispenses the Applicant with any further notification thereof;

[96] **ORDERS** that the Stay Period (as defined in the Initial Order) shall be extended to and including September 29, 2023, and specifies that such Stay Period shall apply to the Proceedings (as defined in the Initial Order) commenced before the Tribunal Administratif du Québec under the file number STE-Q-257041-2108;

[97] **ORDERS** that the Trust Indenture (the “**Trust Indenture**”) entered into as at December 13, 2019, between Fortress Global Enterprises Inc., Fortress Specialty Cellulose Inc., Fortress Bioenergy Ltd. and Fortress Xylitol Inc. and TSX Trust Company (the “**Trustee**”), a copy of which was filed as Exhibit R-2 to the Application, is hereby terminated, effective immediately, in accordance with Section 7.1 of the Trust Indenture;

[98] **ORDERS** and **DIRECTS**, notwithstanding the terms of the Trust Indenture, including Section 7.2 thereof, the release and delivery to the Monitor of all “Trust Property” (as such term is defined in Section 1.1 of the Trust Indenture), net only of the fees and expenses owing and payable to the Trustee pursuant to the Trust Indenture, irrespective of whether such “Trust Property” is currently in the possession of the Trustee or of the Monitor and **AUTHORIZES** the Monitor to use all “Trust Property” to fund the costs and expenses of the present ongoing CCAA proceedings;

[99] **APPROVES** the activities of the Monitor, up to the date of this Order as described in the Twentieth Report of the Monitor and in his testimony at the hearing.

[100] **ORDERS** the provisional execution of this Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

[101] **THE WHOLE**, without costs.

MARTIN F. SHEEHAN, J.S.C.

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Hearing date: June 22, 2023