

COURT FILE NUMBER

1001-07852

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANTS

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND THE JUDICATURE ACT, R.S.A. 2000, c. J-2, AS AMENDED MEDICAN HOLDINGS LTD., MEDICAN DEVELOPMENTS INC., R7 INVESTMENTS LTD., MEDICAN CONSTRUCTION LTD., MEDICAN CONCRETE INC., 1090772 ALBERTA LTD., 1144233 ALBERTA LTD., 1344241 ALBERTA LTD., 9150-3755 QUEBEC INC., AXCESS (GRANDE PRAIRIE) DEVELOPMENTS LTD., AXCESS (SYLVAN LAKE) DEVELOPMENTS LTD., CANVAS (CALGARY) DEVELOPMENTS LTD., ELEMENTS (GRANDE PRAIRIE) DEVELOPMENTS LTD., HOMES BY KINGSLAND LTD., LAKE COUNTRY (SITARA) DEVELOPMENTS LTD., MEDICAN (EDMONTON TERWILLEGAR) DEVELOPMENTS LTD., MEDICAN (GRANDE PRAIRIE) HOLDINGS LTD., MEDICAN (KELOWNA MOVE) DEVELOPMENTS LTD., MEDICAN (LETHBRIDGE - FAIRMONT PARK) DEVELOPMENTS LTD., MEDICAN (RED DEER - MICHENER HILL) DEVELOPMENTS LTD., MEDICAN (SYLVAN LAKE) DEVELOPMENTS LTD., MEDICAN (WESTBANK) DEVELOPMENT LTD., MEDICAN (WESTBANK) LAND LTD., MEDICAN CONCRETE FORMING LTD., MEDICAN DEVELOPMENTS (MEDICINE HAT SOUTHWEST) INC., MEDICAN ENTERPRISES INC. / LES ENTREPRISES MEDICAN INC., MEDICAN EQUIPMENT LTD., MEDICAN FRAMING LTD., MEDICAN GENERAL CONTRACTORS LTD., MEDICAN GENERAL CONTRACTORS 2010 LTD., RIVERSTONE (MEDICINE HAT) DEVELOPMENTS LTD., SANDERSON OF FISH CREEK (CALGARY) DEVELOPMENTS LTD., SIERRAS OF EAUX CLAIRES (EDMONTON) DEVELOPMENTS LTD., SONATA RIDGE (KELOWNA) DEVELOPMENTS LTD., SYLVAN LAKE MARINA DEVELOPMENTS LTD., THE ESTATES OF VALLEYDALE DEVELOPMENTS LTD., THE LEGEND (WINNIPEG) DEVELOPMENTS LTD., and WATERCREST (SYLVAN LAKE) DEVELOPMENTS LTD. (COLLECTIVELY, "THE MEDICAN GROUP OF COMPANIES")**

DOCUMENT

SEVENTEENTH REPORT TO THE COURT

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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## INTRODUCTION

1. On May 26, 2010, the Court of Queen's Bench of Alberta ("Court") issued an order ("Initial Order") granting The Medican Group of Companies ("Medican Group" or the "Company") protection pursuant to the Companies' Creditors Arrangement Act ("CCAA") (the "CCAA Proceedings"). RSM Richter Inc. (now Ernst & Young Inc.) was appointed monitor ("Monitor") under the Initial Order.
2. Pursuant to a Court order made on December 5, 2011, the stay of proceedings under the Initial Order was extended to February 29, 2012.
3. The Medican Group filed its Plan of Compromise and Arrangement dated November 30, 2011 on December 1, 2011. The Plan did not include the Sanderson Project owed by Sanderson of Fish Creek (Calgary) Developments Ltd. and the Kaleido Project owned by Medican (Westbank) Development Ltd. and Medican (Westbank) Land Ltd.
4. On January 11, 2012, a substantial majority of Affected Creditors voted in favour of the Amended Plan of Compromise and Arrangement (the "Plan") and on January 13, 2012, the Court issued an order (the "Sanction Order") approving the Medican Group's Plan.
5. Capitalized terms not defined in this Seventeenth Report are as defined in all orders previously issued in respect of these CCAA Proceedings and in the Plan.

### Purpose of this Report

6. The purpose of this report ("Report") is to:
  - a. Provide an update on the Company's progress since the Court issued the Sanction Order;
  - b. Provide a status update in respect of the Kaleido Phase 4-7 lands and the Sanderson Project; and
  - c. Respectfully recommend that this Honourable Court grant orders:
    - Providing Majoros and Monarch Land Ltd. ("Monarch") with leave to proceed with a foreclosure action in respect of the lands it holds as security in respect of Medican (Westbank) Land Ltd. (the

“Kaleido Phase 4-7 Lands”) and lifting the stay pursuant to the CCAA Proceedings for that limited purpose; and

- Extending the CCAA Proceedings for Sanderson of Fish Creek (Calgary) Developments Ltd., Medican (Westbank) Development Ltd. and Medican (Westbank) Land Ltd. from February 29, 2012 to May 30, 2012.

### **Terms of Reference**

7. In developing this Report, the Monitor has relied upon unaudited financial information prepared by the Company’s management, the Company’s books and records and discussions with its management. The Monitor has not performed an audit or other verification of such information. An examination of the Company’s financial forecasts as outlined in the *Canadian Institute of Chartered Accountants Handbook* has not been performed. Future-oriented financial information relied upon in this Report is based on management’s assumptions regarding future events. Actual results achieved may vary from this information and these variations may be material, and as such the Monitor expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Report, or relied upon by the Monitor in preparing this Report.

### **Currency**

8. Unless otherwise noted all currency references in this Report are in Canadian dollars.

### **BACKGROUND**

9. The Medican Group comprised several private companies engaged in the real estate construction and development business. The Company currently owns, operates and/or manages projects (“Projects”) in Alberta and Quebec.
10. Additional background information is included in previous materials filed with the Court in these CCAA Proceedings, including the previous reports filed by the Monitor. Materials filed with the Court can be found on the Monitor’s website at <http://documentcentre.eycan.com/Pages/Main.aspx?SID=196>.

**COMPANY'S ACTIVITIES**

11. A Summary of the Company's progress since the Monitor's Sixteenth Report to Court dated January 11, 2012 is provided below. Among other things, the Company:
  - a. Accepted offers, with the Monitor's approval, on three existing or under-construction residential condominium unit ("Units"). There remain 20 Units listed for sale in four Projects;
  - b. Provided regular reporting on Sanderson Unit sales to Harbour Mortgage Corp. ("Harbour"), Imor Capital Corp. ("Imor"), and the Canadian Imperial Bank of Commerce ("CIBC");
  - c. Continued to explore possible solutions and participated in discussions on options in respect of the Kaleido Phase 4-7 Lands;
  - d. Continued to provide stakeholders with updates;
  - e. Assisted in the preparation of documents in respect of closing the arrangement with SuccessorCo pursuant to the Plan; and
  - f. Continued negotiations with various stakeholders in respect of the deficiencies affecting the Sanderson Project such that a plan of compromise and arrangement can be finalized and placed before creditors for consideration.
12. Certain of the above activities are discussed in greater detail herein.

**MEDICAN (WESTBANK) LAND LTD.**

13. The Kaleido Project is a condominium development project located in Westbank, British Columbia. The Company planned to develop a seven-phase, 717 unit condominium complex on the subject lands.
14. On December 5, 2011, this Honourable Court granted an Order lifting the stay of proceedings and granting leave to MCAP to appoint a receiver in respect of the Phase 1, 2 and 3 lands. A receiver has been appointed over the Phase 1, 2 and 3 lands following an Order of this Honourable Court granting leave.
15. The Kaleido Phase 4-7 Lands, which is raw land, are financed by way of a secured lending facility with Zoltan, Margaret, Gaspar and Viktoria Majoros

(collectively “Majoros”) with an estimated balance owing of \$3.5 million (including interest). Subsequent registrations were made by Monarch which total approximately \$4.8 million (including interest). The Company planned to build 400 Units on the Phase 4-7 Lands.

16. The Company with the assistance of the Monitor obtained a listing proposal from Colliers in respect of the Phase 4-7 Lands on November 1, 2011 (the “Listing Proposal”). Colliers suggested a listing price of \$4.1 million.
17. Monarch was advised of the Listing Proposal and indicated that prior to listing the Phase 4-7 Lands for sale with Colliers, Monarch be allowed to obtain an updated appraisal of the Phase 4-7 Lands. Monarch proposed a listing price of \$5.9 million. The Monitor requested a copy of the Monarch appraisal in support of such listing value, but has not been provided with one. Consequently, a consensual listing agreement for the marketing and sale of the Phase 4-7 Lands could not be reached.
18. Majoros has requested that it be allowed to foreclose on the Phase 4-7 Lands. Medican is in agreement with the proposed course of action by Majoros in respect of the Phase 4-7 Lands. As there will be no plan of compromise or arrangement in respect of the Phase 4-7 Lands and the Kaleido Project appears to have no value for the Company, the Monitor supports the Majoros foreclosure provided that the Priority Charges pursuant to the Initial Order remain in place until further order of this Honourable Court.
19. It is proposed that the CCAA stay be extended to protect any residual interests not compromised or affected by the foreclosure proceedings.

#### **SANDERSON OF FISH CREEK (CALGARY) DEVELOPMENTS LTD.**

20. The Project known as “Sanderson of Fish Creek” is located in Calgary, Alberta. It is to consist of five phases with a total of 352 Units (“Sanderson Project”). The Sanderson Project was established in multiple phases referred to as Phases 1, 2, 3, 4A and 4B. The Sanderson Project also included certain adjacent lands (“Church Lands”).
21. Several lenders hold various forms of security against the Sanderson Project and unsold Units. Monies are also owed to unsecured lenders and trade suppliers.

**Phase 1 and 2**

22. Harbour holds a first charge on all but one of the remaining Units in Phase 1 and 2<sup>1</sup>. Imor has a second charge on all the remaining Units. Eight Units secured by Harbour and Imor remain unsold.
23. The Units in Phase 1 and 2 are not complete. The estimated costs to complete construction on the remaining Units total approximately \$140,000. The costs to complete the remaining Units are being funded from funds received on the sale of completed Units in accordance with the budget approved by this Honourable Court.
24. Sales of the remaining Units in Phase 1 and 2 continue to be impeded due to construction deficiencies totaling approximately \$1.5 million not being rectified and the requirement to withhold approximately \$41,029.41 from the sale of each Unit so that the Sanderson Project Condominium Corporation will issue estoppel certificates on sold Units.
25. The Company and the secured lenders are in discussions to substantially lower the prices of the unsold Units to attempt to dispose of the remaining Eight Units. The Company hopes to have an agreement in place with the secured creditors very shortly.
26. The Medican Group continues to provide weekly update reports to Harbour and Imor in respect of its marketing efforts and sales of Units.

**Phase 4A**

27. Six Units remain listed for sale. The Company and CIBC continue to work together under protocols established earlier in these CCAA Proceedings. Sales of the Phase 4A Units have been affected by the same issues affecting the Phase 1 and 2 Units.
28. The Company is providing weekly update reports to the CIBC in respect of its marketing efforts and sales of Units.

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<sup>1</sup> CIBC holds a first charge on one unsold Unit in Phase 1 of the Sanderson Project.



**Deficiencies**

29. The Company completed the Court-approved transaction (the “Monarch Transaction”) with Monarch in respect of Phase 3 and 4B of the Sanderson Project and the Church Lands in January 2011.
30. One of the terms and conditions of the Monarch Transaction was that Monarch would fund and complete the deficiencies in respect of the common property up to a maximum of \$600,000. As the Monitor has previously advised this Honourable Court, it was both the Monitor’s and the Company’s understanding that if the deficiencies exceeded \$600,000, Monarch would fund and complete those deficiencies (the “Additional Deficiencies”) and deduct the costs from the Medicana Group’s profits to be realized upon the build out and sale of the Units to be constructed in Phase 3 and 4B.
31. An independent assessment of the deficiencies by both Monarch and the Company suggests that the Sanderson Project deficiencies are approximately \$1.5 million, not the \$600,000 initially estimated.
32. The Company and Monarch have been unable to agree on a mechanism to address the deficiencies. Recently, the Company’s legal counsel has written to several of the Sanderson Project stakeholders (Monarch, CIBC, Harbour, Imor, National Home Warranty and the Sanderson Project Condominium Corporation) on a without prejudice basis in an attempt to resolve the deficiency issues which plague the Sanderson Project and to complete construction of the Project.
33. The letter proposes a settlement mechanism to finance completion of the construction required at the Sanderson Project whereby the aforementioned stakeholders would all contribute funds to address the approximately \$1.5 million in deficiencies.
34. It is unlikely a plan of compromise and arrangement can be advanced in respect of the Sanderson Project without there being a settlement among the stakeholders to finance the rectification of the deficiencies. Additional time is required to determine whether the matters regarding Sanderson can be resolved.

**PLAN IMPLEMENTATION**

35. The Implementation of the Company’s Plan is conditional on a number of events set forth in section 7.1 of the Plan. The Monitor is advised that the conditions precedent contained therein have now been met and that the transaction with

SuccessorCo is expected to close in the next few weeks. The Monitor expects to file with this Honourable Court the Monitor's Certificate in accordance with section 7.3 of the Plan stating that Plan Implementation has occurred in accordance with all its terms and conditions forthwith after closing.

36. The Monitor is reviewing the Disputed Claims and will be addressing same in accordance with the Claims Procedure Order within 60 days of the Plan Implementation Date.

## **CASH FLOW**

37. The Cash Flow in respect of the Sanderson Project is attached as Appendix "A". The Sanderson Project Cash Flows are derived from the sales of Units. The Company incurs certain marketing and administrative expenses in connection with managing and marketing the Units. Those costs are approximately \$13,000 per month. The secured creditors of Sanderson have agreed that the Company can pay itself \$4,500 from the sale of each Unit to cover the administrative expenses. Based on current sales activity the \$4,500 is not sufficient to reimburse the Sanderson Project for marketing and administrative costs incurred. Provided that the Company can recover its actual monthly marketing and administrative costs, the Sanderson Project will be cash flow neutral.
38. The Monitor assisted the Company with the preparation of the Sanderson Project Cash Flow. The Cash Flow is predicated on the Sanderson Project continuing to operate in the normal course in the context of the CCAA Proceedings. The Monitor reviewed the Cash Flow and its underlying assumptions and concluded that it is reasonable in the circumstances.

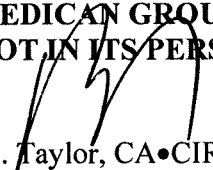
## **CONCLUSION AND RECOMMENDATIONS**

39. The Monitor is of the view that the Company continues to act in good faith and with due diligence in respect of implementing its Plan and in respect of the Sanderson Project.
40. Accordingly, the Monitor respectfully recommends that this Honourable Court make an order granting the relief requested in Section 6 c) of this Report.

\* \* \*

All of which is respectfully submitted this 24th day of February, 2012.

**ERNST & YOUNG INC.  
IN ITS CAPACITY AS CCAA MONITOR OF  
THE MEDICAL GROUP OF COMPANIES  
AND NOT IN ITS PERSONAL CAPACITY**



Robert J. Taylor, CA•CIRP  
Senior Vice-President

**Sanderson of Fish Creek (Calgary) Developments Ltd.**  
**Projected Statement of Cash Flow to June 30, 2012**  
(\$Cdn, Unaudited)

Notes	Week Ended							Month Ended			Total
	24-Feb	02-Mar	09-Mar	16-Mar	23-Mar	30-Mar	April	May	June		
<b>Receipts</b>											
1	-	5,250	-	-	-	12,850	12,850	12,850	12,850	12,850	56,650
2	-	-	-	28,000	-	-	28,000	28,000	28,000	28,000	112,000
	-	5,250	-	28,000	-	12,850	40,850	40,850	40,850	40,850	168,650
<b>Disbursements</b>											
2	-	-	-	28,000	-	-	28,000	28,000	28,000	28,000	112,000
3	-	-	-	-	2,500	-	2,500	2,500	2,500	2,500	10,000
3	5,000	-	5,000	-	5,000	-	10,000	10,000	10,000	10,000	45,000
3	300	-	-	300	-	-	350	350	350	350	1,650
	5,300	-	5,000	28,300	7,500	-	40,850	40,850	40,850	40,850	168,650
	(5,300)	5,250	(5,000)	(300)	(7,500)	12,850	-	-	-	-	-
4	54,500	49,200	54,450	49,450	49,150	41,650	54,500	54,500	54,500	54,500	54,500
	49,200	54,450	49,450	49,150	41,650	54,500	54,500	54,500	54,500	54,500	54,500
<b>Closing Cash Position</b>											

This schedule should be read in conjunction with the accompanying notes.

**Sanderson of Fish Creek (Calgary) Developments Ltd.**  
**Notes to Projected Statement of Cash Flow to June 30, 2012**  
**(\$Cdn, Unaudited)**

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1. Medican is allowed \$4,500 per unit from the sales of each unit to cover marketing and administrative costs. Actual monthly costs are approximately \$13,000 comprising the site manager's payroll and marketing costs. The cash flow reflects a recovery of the \$13,000 on a monthly basis.
2. Medican is reimbursed for expenses paid to trades and suppliers to complete construction of units from the unit sales proceeds.
3. Estimated based on Medican's current marketing budget.
4. Funds held in trust at Fraser Milner Casgrain LLP for Medican marketing and administrative costs incurred in respect of sold units. The funds have not yet been distributed to Medican.