

**SUPERIOR COURT**  
*(Commercial Division)*

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF BEDFORD

No: 450-11-001918-104

DATE: August 11<sup>th</sup> 2010

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**IN THE PRESENCE OF: THE HONOURABLE MR. JUSTICE FRANÇOIS TÔTH, J.S.C.**

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**IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:**

**AAER INC.**

and

**AAER USA INC.**

and

**WIND-SMART LLC**

Debtors/Petitioners

and

**SAMSON BÉLAIR / DELOITTE & TOUCHE INC.**

Monitor

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**ORDER**

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[1] **SEEING** AAER INC., AAER USA INC. and WIND-SMART LLC (the "Petitioners") Motion to Sanction the Plan of Reorganization and Compromise and to Approve a Reorganization pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C-36 (the "Motion"), the exhibits, the affidavit of Dave Gagnon filed in support thereof and the submissions of the counsels present at the hearing

[2] **CONSIDERING** that the Plan has been duly approved by the Creditors at a Creditors' Meeting held on August 9<sup>th</sup> 2010 and that it meets all the requirements of the Act;

[3] **CONSIDERING** the decision of the Court of appeal of Quebec in *Forest v. Raymor Industries Inc.* 2010 QCCA 578;

**WHEREFORE THE COURT :**

[4] **GRANTS** the present Motion to Sanction the Plan of Reorganization and Compromise and to Approve a Reorganization of AAER Inc (the "Motion");

[5] **ABRIDGES** the delay for the service, filing and presentation of the Motion, and **DECLARES** that the Motion has been properly served and filed;

[6] **DECLARES** that the plan of reorganization and compromise (the "Plan"), dated July 12, 2010 made pursuant to the *Companies' Creditors Arrangement Act* (the "CCAA") has been approved by the required majorities of Affected Creditors of the Petitioners in conformity with the CCAA;

[7] **DECLARES** that the Petitioners have complied with the provisions of the CCAA and with the orders of this court made under the CCAA;

[8] **DECLARES** that the Court is satisfied that the Company has neither done nor purported to do anything that is not authorized by the CCAA;

[9] **DECLARES** that the Plan including the compromises, arrangements and releases set out therein and the transactions and reorganization described in section 5.1 and in the Articles of Reorganization contemplated thereby are fair and reasonable, and in the best interests of the Petitioners, the Affected Creditors and the other stakeholders of the AAER (having considered, among other things, the composition of the vote, what creditors would receive in liquidation as compared to this Plan, alternatives to the Plan or liquidation, whether any oppression exists or has occurred, the treatment of shareholders and the public interest);

[10] **ORDERS** that the Plan (including the compromises, arrangements and releases set out therein and the transactions and reorganization described in Section 5.1 and in the Articles of Reorganization) is sanctioned and approved pursuant to Section 6 of the CCAA and Section 191 of the *CBCA* and, as at the Effective Date, will be effective, and

will enure to the benefit of and binding the Petitioners, the Affected Creditors and all other persons stipulated in the Plan or in the Sanction Order;

[11] **DECLARES** that the Petitioners and the Monitor are authorized and directed to take all steps and actions necessary or appropriate to implement the Plan, including, without limitation, filing the Articles of Reorganization with the Director, and the transactions contemplated under the Plan in accordance and subject to the terms of the Plan and of this Order, and such steps are approved;

[12] **DECLARES** that the articles of AAER will be amended as set out in the Articles of Reorganization as at the Effective Date;

[13] **DECLARES** that all Other Equity Securities are of no further force or effect as of the Effective Date and that all such Other Equity Securities are cancelled for no consideration and any agreement, contract, plan, indenture, deed, certificate or other document or instrument having created or governing such Other Equity Securities shall be terminated as at such a time;

[14] **DECLARES** that all Proven Claims determined in accordance with the Claims Process Order and the Creditors' Meeting Order are final and binding on the Petitioners and all Affected Creditors;

[15] **DECLARES** that the New Common Shares will be validly issued and outstanding as fully paid and non-assessable;

[16] **ORDERS** that Dave Gagnon, Pierre Patry, Jonathan Dorval, Jacques Gauthier and Gérard Prévost shall be deemed to have resigned as directors of the Company and that Nathan Mazurek and Norman Issley be appointed as the new directors of the company as of the Effective Date, upon completion of the steps set out in paragraphs [52] to [55];

[17] **DECLARES** that, subject to the performance by the Petitioners of their obligations under the Plan, all contracts, leases, agreements and other arrangements to which the Petitioners are a party and that have not been terminated or repudiated pursuant to the Initial Order will be and remain in full force and effect, unamended, as at the Effective Date, and no Person who is a party to any such contract, lease, agreement or other arrangement may accelerate, terminate, rescind refuse to perform or otherwise repudiate its obligations hereunder, or enforce or exercise any right (including any right of dilution or other remedy) or make any demand under or in respect of any such contract, lease, agreement or other arrangement and no automatic terminations will have any validity or effect, by reason of:

- (i) Any event that occurred on or prior to the Effective Date and is not continuing that would have entitled such person to enforce those rights or remedies (including defaults, events of default, or

termination events arising as a result of the insolvency of the Company);

- (ii) The insolvency of the Company or the fact that the Company sought or obtained relief under the CCAA and the CBCA;
- (iii) Any compromises or arrangements effected pursuant to this Plan or any action taken or transaction effected pursuant to this Plan; or
- (iv) Any change in control of the Petitioners or any assignment of any such contract, lease, agreement or other arrangement arising from the implementation of the Plan;

Nothing in this paragraph 14 shall be precluding AMSC Windtec GmbH from contesting the purported assignment of its license to 7525451 Canada Inc pursuant to the order of this Court of June 1, 2010 and/or confirming such assignment, if any;

[18] **DECLARES** that the Stay of Proceedings under the Initial Order continues until the Effective Date;

[19] **DECLARES** that no meetings or votes of holders of Existing Company Shares or Other Equity Securities are required under any applicable Laws in connection with the Plan and the transactions described at Section 5.1. or the adoption or filing of the Articles of Reorganization;

[20] **DECLARES** that the releases and discharges contemplated by Sections 5.2(1) and 5.2(2) of the Plan are binding and effective as of the Effective Date;

[21] **DECLARES** that no demand, claim, action, cause of action, counterclaim, suit, and no indebtedness, liability, obligation or cause of action released and discharged pursuant to this Plan shall be prosecuted or commenced, whether directly or derivatively or otherwise;

[22] Nothing in this order shall be interpreted as being a confirmation of the assignment of AMSC Windtec GmbH's license to 7525451 Canada Inc or prevent AMSC Windtec GmbH to pretend that there was and there is no transfer of the rights of the license agreement between it and the Petitioners;

[23] **ORDERS** that all CCAA Charges shall be released and discharged;

[24] **ORDERS** the provisional execution notwithstanding appeal;

[25] THE WHOLE, without costs.

  
FRANÇOIS TÔTH, J.S.C.

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