

Estate No: 51-2440231
Court No: 22376
District: Newfoundland & Labrador
Division No: 01- Newfoundland & Labrador

AND

Estate No: 51-2440230
Court No: 22375
District: Newfoundland & Labrador
Division No: 01- Newfoundland & Labrador

2018 01G 22375
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
GENERAL DIVISION
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF the Bankruptcy
& Insolvency Act, RSC. 1985, c. B-3,
as amended

AND IN THE MATTER OF the Proposal
of British Confectionery Company Limited

AND IN THE MATTER OF the Proposal
of British Bazaar Company Limited

SUMMARY OF CURRENT DOCUMENT	
Court File No.	2018 01G 22375
Date of filing of document:	
Name of filing party or person:	Tim Hill, Q.C., (Counsel for the Applicant)
Application to which document being filed relates:	An Order pursuant to Section 50.4(9) of the <i>Bankruptcy and Insolvency Act</i> ("BIA") extending the time to file a Proposal in this proceeding, and further relief as stipulated herein.
Statement of purpose in filing:	Application

Interlocutory Application
(Inter Parties)

Nature of Application

Upon Application of British Confectionery Company Limited ("Confectionery") and British Bazaar Company Limited ("Bazaar") (collectively "the Companies"), the Applicants herein say:

1. The Companies seek orders as follows:

- (a) An Order abridging the notice periods pursuant to the *Bankruptcy and Insolvency General Rules*, Rule 3, and the *Rules of the Supreme Court, 1986*, Rule 2.01(1);
- (b) An Order pursuant to 50.4(9) of the *BIA* directing that service on the service list set out in Schedule "A" hereto is sufficient for the purposes of this Application;
- (c) An Order pursuant to Section 50.4(9) of the *BIA* extending the time to file a Proposal in this proceeding, such extension to be up to and including May 5, 2019; and
- (d) An Order sealing the Confidential Addendum to the 4th Report of the Proposal Trustee, such that said Addendum may be filed with the Court on a confidential basis until the completion of the restructuring process.

Procedural History

2. On November 5, 2018, the Companies filed Notices of Intention to Make a Proposal pursuant to section 50.4 of the *BIA* (the "NOI Filings"). Deloitte Restructuring Inc. was appointed as the Licensed Insolvency Trustee (the "Proposal Trustee") under the NOI Filings.

3. On December 4, 2018, the Court granted the following orders:

- (a) An order pursuant to Section 50.4(9) of the *BIA* extending the time to file a Proposal in this proceeding, such extension to be up to and including January 18, 2019;
- (b) An order pursuant to Section 7.02 of the *Rules of the Supreme Court, 1986* and Section 3 of the *Bankruptcy and Insolvency General Rules*, for the administrative consolidation of the proceedings herein.

4. On January 15, 2019, the Court granted the following orders:

- (a) An order pursuant to Section 50.4(9) of the *BIA* extending the time to file a Proposal in this proceeding, such extension to be up to and including March 5, 2019;
 - (b) An order pursuant to Section 64.2 of the *BIA* declaring that the professional advisors of the Companies shall have a charge over the assets of the Companies in respect of fees and expenses.
5. On March 1, 2019, the Court granted the following orders:
- (a) Abridging the notice periods for service on the Interim Application (*Inter Partes*);
 - (b) Providing that service on the service list was sufficient for the purposes of the Application;
 - (c) extending the time to file a Proposal in this proceeding, such extension to be up to and including April 4, 2019; and
 - (d) Sealing the Confidential Addendum to the 3rd Report of the Proposal Trustee, *pro tem*.

Material Facts

6. The Companies are incorporated in Newfoundland and Labrador.
7. The material facts with respect to this application are set out in greater detail in the First, Second and Third Reports of the Proposal Trustee filed herein. A Fourth Report of the Proposal Trustee is being filed contemporaneously with these Application materials. What follows is a brief summary of the facts.
8. Confectionery and Bazaar are the primary operating entities of a group of companies. Confectionery operates a manufacturing facility from leased premises located in St. John's, Newfoundland and Labrador. This facility specializes in the production of specialty paper products; specifically, break-open lottery and promotional products.
9. Bazaar is a company wholly owned by Confectionery. Bazaar owns and administers customer contracts for the purchase of break-open lottery and promotional products. To fulfill these

contracts, Bazaar purchases tickets directly from Confectionery. Outside of the purchase and sale of tickets from Confectionery, the economic activity within Bazaar is negligible.

10. A significant portion of the Companies' revenue is generated from two customers: Atlantic Lottery Corporation ("ALC") and British Columbia Lottery Corporation ("BCLC").

11. On October 31, 2018, Confectionery, Bazaar and David Connolly Sr. received a demand for repayment of outstanding amounts owing and a notice of intention to enforce security from the Bank of Montreal ("BMO").

12. On November 5, 2018, Confectionery and Bazaar made the NOI Filings.

13. Over the last four years the Companies' sales performance has demonstrated significant variability. The financial performance during this period was impacted by the following factors:

- (i) Operational and organizational deficiencies – a number of factors have hindered the ability of the Companies to operate efficiently;
- (ii) Development costs – the Companies invested in development costs related to new product offerings, production improvements and barcode technology which have not as yet generated an economic return;
- (iii) 2016 inventory write off – a review of inventory in 2016 which resulted in a write off of approximately \$1.3 million;
- (iv) 2017 ALC product recall – during fiscal 2017, seven ALC games distributed into the market were recalled, and an additional six games in production were withheld, all due to reports that the barcodes on certain tickets were not validating properly;
- (v) Fire at production facility – in December 2017, a fire at the production facility resulted in the destruction of finished goods inventory and equipment;

(vi) Contract renegotiations with ALC – Effective July 1, 2018, British extended its contract with ALC at a price per ticket approximately 30% lower than the previous contract; and

(vii) Production delays –Production delays experienced in fiscal 2017 have had residual effects that were still impacting the Company during the initial quarters of fiscal 2018.

14. The Companies undertook a number of restructuring initiatives prior to the NOI filings. These included:

- (i) reorganizing the Companies' ownership structure;
- (ii) partnering with another company so as to increase the Companies' ability to source product and sell to the United States and central Canadian market;
- (iii) hiring of a Chief Financial Officer in March 2018 and a new corporate accountant in October 2018; and
- (iv) focusing on overhead cost reductions.

15. Since the date of the NOI Filing, the Companies' activities have included, but were not limited to:

- (i) working with the Proposal Trustee to complete statutory requirements, including giving notice to creditors and preparing the NOI Cash Flow;
- (ii) meeting in person with both key customers, ALC and BCLC;
- (iii) holding discussions with potential lenders and equity sources;
- (iv) working with the Proposal Trustee to answer questions of creditors and establish payment arrangements regarding post-filing obligations;

- (v) working with the Proposal Trustee to organize discussions with the significant secured and unsecured creditors including BMO, Atlantic Canada Opportunities Agency and Business Investment Corporation;
- (vi) working with the Proposal Trustee to monitor actual cash flow and reporting on variances to the NOI Cash Flow;
- (vii) working with the Proposal Trustee and legal counsel to satisfy information requests made by ALC;
- (viii) Having discussions with potential lenders, equity sources and the government of Newfoundland and Labrador;
- (ix) Working with the Proposal Trustee to develop a Confidential Information Memorandum ("CIM") in support of the search for alternative financing;
- (x) Cooperating with the Proposal Trustee in reviewing the expressions of interest received from potential financing sources and parties interested in purchasing the Companies' assets; and
- (xi) Working with the Proposal Trustee to solidify equity investment and financing, or an asset sale, such as to enable a Proposal to be made.

Relief Sought

16. The Companies therefore apply for orders as stipulated in paragraph 1 hereof:

- a) abridging the notice periods on this Application;
- b) directing that service on the service list set out in Schedule "A" hereto is sufficient for the purposes of this Application;
- c) extending the time to file a Proposal in this proceeding;

- d) sealing the Confidential Addendum to the 4th Report of the Proposal Trustee, such that said Addendum may be filed with the Court on a confidential basis until the completion of the restructuring process; and
- e) such other and further relief as this Honourable Court deems just.

DATED at Dartmouth, Nova Scotia, this 1st day of April, 2019.



Tim Hill, Q.C., Solicitor for the Applicants
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Barristers and Solicitors
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Telephone: (902) 460-3442
Fax: (902) 463-7500

To: The Counsel and others listed in Schedule "A" hereto

ISSUED at St. John's, in the Province of Newfoundland and Labrador this 1st day of April, 2019.

Registrar

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Affidavit of Blair Connolly

I, Blair Connolly, of St. John's, Newfoundland and Labrador, swear as follows:

1. I have read and understand the foregoing application.
2. I have personal knowledge of the facts contained therein and they are true to the best of my knowledge and belief.
3. I have personal knowledge of the facts contained in this Application, and they are true to the best of my knowledge and belief.
4. It is this deponent's view that the Companies have acted in good faith, with due diligence, and may be able to make a viable Proposal if the extensions being applied for are granted, and no

creditor, in this deponent's view, would be materially prejudiced if the extensions being applied for were granted.

SWORN before me at
St. John's, Province of Newfoundland
And Labrador,
this ___ day of April, 2019.

Blair Connolly

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NOTICE OF HEARING

You are hereby notified that you must attend before a judge presiding in chambers at the Court House at Duckworth Street, St. John's, Newfoundland and Labrador on the 4th day of April, 2019, at the hour of 10.00 o'clock in the forenoon or so soon thereafter as the application can be heard for the hearing of the application in the above noted matter.

AND FURTHER TAKE NOTICE that the judge may make and order in favour of the Applicant in your absence and without further notice unless you or your solicitor appear at the time and place noted above.

To: the Service List

Schedule "A"

Carosielli Enterprises Inc.
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Perry & Power
Suite 302, 55 Bond Street
P.O.Box 682
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ekipnis@perryandpower.ca

Atlantic Lottery Corporation
Attention: Hugh J. Cameron
Stewart McKelvey
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NCH Holdings Ltd.
Attention: C. Hutton
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Mount Pearl, NL A1N 4S1
chutton@hutbag.nf.ca

Atlantic Canada Opportunities Agency
Attention: Bonnie Christie
PO Box 6051
Moncton NB E1C 9J8
Bonnie.christie@canada.ca

Business Investment Corporation

Attention: Andrew Wheeler
Department of Innovation Trade and Rural Development,
PO Box 8700,
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Canada Revenue Agency
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Heidelberg Canada Graphic Equipment Limited
ATTN: Jason Roth, Vice President, (905) 362-4456
ATTN: Catherine Kappos-Guerreiro, Group Leader - Credit & Collections, (905) 362-4467
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