

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-055122-184

SUPERIOR COURT
Commercial Division

Montreal, July 19, 2019

Present: The Honourable Justice Chantal
Corriveau, J.S.C.

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

THE SMI GROUP INC.
THE S.M. GROUP INC.
CLAULAC INC.
SMI CONSTRUCTION INC.
ÉNERPRO INC.
S.M. INTERNATIONAL GROUP (CONSTRUCTION)
INC.

Debtors

-and-

THE S.M. GROUP INTERNATIONAL LP
THE S.M. GROUP (ONTARIO) INC.
AMÉNATECH INC.
LABO S.M. INC.
S.M. INDUSTRIAL CONSULTANTS INC.
S.M. CONSULTANTS INC.
3215288 CANADA INC. (FORMERLY CSP SECURITY
CONSULTING INC.)
THE S.M. GROUP INTERNATIONAL (S.A.) INC.
LE GROUPE S.M. INTERNATIONAL (CONSTRUCTION)
EURL
SM SAUDI ARABIA CO LTD.
THE S.M. GROUP INTERNATIONAL SARL
THE S.M. GROUP INTERNATIONAL ALGÉRIE EURL
S.M. UNITED EMIRATES GENERAL CONTRACTING
LLC
SMI-ENERPRO GREEN FUND GP INC.
SMI-ENERPRO GREEN FUND LP
9229-4263 QUÉBEC INC.

Mises-en-cause

-and-

ALARIS ROYALTY CORP.
INTEGRATED PRIVATE DEBT FUND V LP

Applicants

-and-

DELOITTE RESTRUCTURING INC.

Monitor

-and-

FNX-INNOV INC.

SOCIÉTÉ FINANCIÈRE MANUVIE

SUN LIFE DU CANADA, COMPAGNIE D'ASSURANCE
VIE

COMPAGNIE D'ASSURANCE DU CANADA SUR LA
VIE

L'EMPIRE, COMPAGNIE D'ASSURANCE-VIE

Mises-en-causes

APPROVAL AND VESTING ORDER

ON READING the Monitor's *Motion for the Issuance of an Approval and Vesting Order* pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C-36 (as amended the "CCAA"), the exhibits and the affidavit of Martin Franco filed in support thereof (the "Motion");

SEEING the service of the Motion;

SEEING the submissions of Monitor's attorneys;

SEEING the consent to the Motion granted by Mr. Bernard Poulin;

SEEING that it is appropriate to issue an order approving the transaction (the "**Transaction**") contemplated by an offer to purchase by 11794173 Canada Inc. (the "**Purchaser**") to the Monitor on May 9, 2019, as amended by (i) the revised offer dated May 23, 2019 and (ii) the pro-rating of the purchase price pursuant to the consent to the Motion granted by Mr. Bernard Poulin (as amended and pro-rated, the "**Offer**"), a copy of which was filed under seal as Exhibit R-16 to the Motion, and vesting in the Purchaser the rights of The S.M. Group Inc. (the "**SM Group**") under and pursuant to the insurance policies described in **Schedule "A"** hereto (the "**Purchased Assets**").

WHEREFORE THE COURT:

GRANTS the Application;

SERVICE

1. **ORDERS** that any prior delay for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **PERMITS** service of this Order at any time and place and by any means whatsoever.

SALE APPROVAL

3. **ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Offer, as well as an asset purchase agreement reflecting the terms of the Offer, by the Monitor is hereby authorized and approved, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to but only with the consent of the Monitor.

EXECUTION OF DOCUMENTATION

4. **AUTHORIZES** the Monitor and the Purchaser to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the Offer and any other ancillary document which could be required or useful to give full and complete effect thereto, including an asset purchase agreement with substantially similar terms thereto.

AUTHORIZATION

5. **ORDERS** and **DECLARES** that this Order shall constitute the only authorization required by the Monitor to proceed with the Transaction and that no shareholder or regulatory approval, if applicable, shall be required in connection therewith.

VESTING OF THE RIGHTS UNDER AND PURSUANT TO THE PURCHASED ASSETS

6. **ORDERS and DECLARES** that upon the issuance of a Monitor's certificate substantially in the form appended as **Schedule "B"** hereto (the "**Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, security interests (whether contractual, statutory or otherwise), liens, charges, hypothecs, mortgages, pledges, deemed trusts, assignments, judgments, executions, writs of seizure or execution, notices of sale, options, adverse claims, levies, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**"), including without limiting the generality of the foregoing all charges, security interests or charges evidenced by registration, publication or filing pursuant to the Civil Code of Québec, the applicable provincial Personal Property Security Act, or any other applicable legislation providing for a security interest in personal or movable property, excluding however, the permitted encumbrances, easements and restrictive covenants listed on **Schedule "C"** hereto (the "**Permitted Encumbrances**") and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the rights under and pursuant to the Purchased Assets, other than the Permitted Encumbrances, be expunged and discharged as against the rights under and pursuant to the Purchased Assets, in each case effective as of the applicable time and date of the Certificate.
7. **ORDERS and DECLARES** that upon the issuance of the Certificate, the rights and obligations of SM Group under the Agreements listed on **Schedule "A"** hereto (the "**Assigned Agreements**") are assigned to the Purchaser and **ORDERS** that all monetary defaults of the Debtor, if any, in relation to the Assigned Agreements – other than those arising by reason only of the insolvency of the Debtor, the commencement of proceedings under the CCAA or the failure to perform non-monetary obligations – shall be remedied on or before July 16, 2019.
8. **ORDERS and DIRECTS** the Monitor to serve a copy of this Order to every party to the Assigned Agreements.

9. **ORDERS** and **DIRECTS** the Monitor to file with the Court a copy of the Certificate, forthwith after issuance thereof.

CANCELLATION OF SECURITY REGISTRATIONS

10. **ORDERS** the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Certificate, to reduce the scope of the registrations listed in **Schedule "D"** hereto in connection with the Purchased Assets in order to allow the transfer to the Purchaser of the Purchased Assets free and clear of such registrations.

NET PROCEEDS

11. **ORDERS** that the net proceeds from the sale of the rights under and pursuant to the Purchased Assets (the "**Net Proceeds**") shall be remitted to the Monitor and shall be distributed in accordance with applicable legislation.
12. **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the Net Proceeds from the sale of the rights under and pursuant to the Purchased Assets shall stand in the place and stead of the rights under and pursuant to the Purchased Assets, and that upon payment of the Purchase Price (as defined in the Offer) by the Purchaser, all Encumbrances except for the Permitted Encumbrances shall attach to the Net Proceeds with the same priority as they had with respect to the rights under and pursuant to the Purchased Assets immediately prior to the sale, as if the rights under and pursuant to the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

PROTECTION OF PERSONAL INFORMATION

13. **ORDERS** that, pursuant to sub-section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* or any similar provision of any applicable provincial legislation, the Monitor is authorized and permitted to disclose and transfer to the Purchaser all personal information contained within the Purchased Assets and pertaining to the Debtor's past and current employees. The Purchaser shall maintain

and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

VALIDITY OF THE TRANSACTION

14. **ORDERS** that notwithstanding:

- (a) the pendency of these proceedings;
- (b) any petition for a receiving order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ("**BIA**") and any order issued pursuant to any such petition; or
- (c) the provisions of any federal or provincial legislation;

the vesting of the rights under and pursuant to the Purchased Assets contemplated in this Order, as well as the execution of the Offer pursuant to this Order, are to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Purchaser or the Monitor.

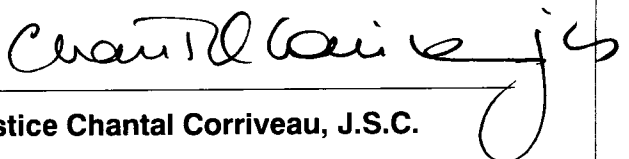
LIMITATION OF LIABILITY

15. **DECLARES** that, subject to other orders of this Court, nothing herein contained shall require the Monitor to occupy or to take control, or to otherwise manage all or any part of the rights under and pursuant to the Purchased Assets. The Monitor shall not, as a result of this Order, be deemed to be in possession of any of the rights under and pursuant to the Purchased Assets, pursuant to the terms of the CCAA.
16. **DECLARES** that no action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Monitor or belonging to the same group as the Monitor shall benefit from the protection arising under the present paragraph.

GENERAL

17. **ORDERS** that the Purchaser or the Monitor shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.
18. **ORDERS** that the Offer be kept confidential and under seal until further order of this Court.
19. **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.
20. **REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order.
21. **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

WITHOUT COSTS.


Justice Chantal Corriveau, J.S.C.

SCHEDULE "A"

DESCRIPTION OF THE PURCHASED ASSETS

1. Policy number 5367330 held by S.M. Group Inc., dated May 30, 2013 and insuring Mr. Bernard Poulin in the amount of \$2.50M by *Société Financière Manuvie*;
2. Policy number 5778987 held by S.M. Group Inc., dated February 27, 2013 and insuring Mr. Bernard Poulin in the amount of \$2.28M by *Société Financière Manuvie*;
3. Policy number 15389847 held by S.M. Group Inc., dated March 1, 2010 insuring Mr. Bernard Poulin in the amount of \$2.0M by *Compagnie d'Assurance du Canada sur la Vie*;
4. Policy number 8942846 held by S.M. Group Inc., dated December 17, 2009 insuring Mr. Bernard Poulin in the amount of \$3.0M by *Société Financière Manuvie*;
5. Policy number 13214740 held by S.M. Group Inc., dated May 11, 2007 insuring Mr. Bernard Poulin in the amount of \$5.0M by *Compagnie d'Assurance du Canada sur la Vie*;
6. Policy number 004029977L held by S.M. Group Inc., dated November 29, 2005 and insuring Mr. Bernard Poulin in the amount of \$1.93M by *L'Empire, Compagnie d'Assurance-Vie*; and
7. Policy number 004029953L held by S.M. Group Inc., dated January 14, 2002 and insuring Mr. Bernard Poulin in the amount of \$1.93M by *L'Empire, Compagnie d'Assurance-Vie*.

SCHEDULE "B"

DRAFT CERTIFICATE OF THE MONITOR

CANADA

SUPERIOR COURT

**PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL**

(Commercial Division)

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**IN THE MATTER OF THE *COMPANIES' CREDITORS
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**THE SMI GROUP INC.
THE S.M. GROUP INC.
CLAULAC INC.
SMI CONSTRUCTION INC.
ÉNERPRO INC.
S.M. INTERNATIONAL GROUP (CONSTRUCTION) INC.**

Debtors

-and-

**THE S.M. GROUP INTERNATIONAL LP
THE S.M. GROUP (ONTARIO) INC.
AMÉNATECH INC.
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S.M. INDUSTRIAL CONSULTANTS INC.
S.M. CONSULTANTS INC.
3215288 CANADA INC. (FORMERLY CSP SECURITY CONSULTING
INC.)
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LE GROUPE S.M. INTERNATIONAL (CONSTRUCTION) EURL
SM SAUDI ARABIA CO LTD.
THE S.M. GROUP INTERNATIONAL SARL
THE S.M. GROUP INTERNATIONAL ALGÉRIE EURL
S.M. UNITED EMIRATES GENERAL CONTRACTING LLC
SMI-ENERPRO GREEN FUND GP INC.
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9229-4263 QUÉBEC INC.**

Mises-en-cause

-and-

**ALARIS ROYALTY CORP.
INTEGRATED PRIVATE DEBT FUND V LP**

Applicants

-and-

DELOITTE RESTRUCTURING INC.

Monitor

-and-

**FNX-INNOV INC.
SOCIÉTÉ FINANCIÈRE MANUVIE**

CERTIFICATE OF THE MONITOR

RECITALS:

WHEREAS on August 24, 2018, the Superior Court of Quebec (the "**Court**") issued an Initial order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C-36 (as amended the "**CCA**") in respect of the Debtors (the "**SM Group**");

WHEREAS pursuant to the terms of the Initial Order, Deloitte Restructuring Inc. (the "**Monitor**") was named Monitor of SM Group;

WHEREAS on July ____, 2019, the Court also issued an Order (the "**Vesting Order**") thereby, *inter alia*, authorizing and approving the execution by the Monitor of an offer to purchase submitted by 11794173 Canada Inc. (the "**Purchaser**") to the Monitor on May 9, 2019, as amended by (i) the revised offer dated May 23, 2019 and (ii) the pro-rating of the purchase price pursuant to the consent to the Motion granted by Mr. Bernard Poulin (as amended and pro-rated, the "**Offer**"), a copy of which was filed in the Court record, as well as all the transactions contemplated therein (the "**Transaction**") with such alterations, changes, amendments, deletions or additions thereto, as may be agreed to with the consent of the Monitor; and

WHEREAS the Vesting Order contemplates the issuance of this Certificate of the Monitor once the (a) the Offer has been executed and delivered pursuant to an asset purchase agreement with substantially similar terms thereto; and (b) the Purchase Price (as defined in the Offer) has been paid by the Purchaser; and (c) and all the conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

THE MONITOR CERTIFIES THAT IT HAS BEEN ADVISED BY THE PURCHASER AS TO THE FOLLOWING:

- (a) the Offer has been executed and delivered pursuant to an asset purchase agreement with substantially similar terms thereto;
- (b) the Purchase Price (as defined in the Offer) payable upon the closing of the Transaction and all applicable taxes have been paid; and
- (c) all conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

This Certificate was issued by the Monitor at ____ [TIME] on _____ [DATE].

DELOITTE RESTRUCTURING INC. in its capacity as
Monitor to The S.M. Group Inc., and not in its personal
capacity.

Name: _____

Title: _____

SCHEDULE "C"
PERMITTED ENCUMBRANCES

None.

SCHEDULE "D"

SECURITY/ENCUMBRANCES TO BE REDUCED BY RDPRM

Grantor	Holder	Registration Number
Le Groupe S.M. inc.	Banque Nationale du Canada	12-0792582-0001
Le Groupe S.M. inc.	Integrated Private Debt Fund V LP	17-0282247-0001
The S.M. Group International LP represented by The S.M. Group Inc. The S.M. Group Inc. as general partner of The S.M. Group International LP	Alaris Royalty Corp.	17-0677149-0001
Le Groupe S.M. inc.	Investissement Québec	11-0077413-0003
Le Groupe S.M. inc.	Investissement Québec	11-0817149-0006
Le Groupe S.M. inc.	Intact Compagnie d'Assurance	13-0996305-0025
Le Groupe S.M. inc.	Fonds de Financement d'Entreprises Fiera FP, S.E.C. Fiera FP Business Financing Fund, L.P.	18-1298508-0001