

CANADA  
PROVINCE DE QUÉBEC  
DISTRICT DE MONTRÉAL

COUR SUPÉRIEURE  
(Chambre commerciale)

No.: 500-11-049142-157  
Dossier No: 41-2016258

DANS L'AFFAIRE DE L'AVIS  
D'INTENTION DE FAIRE UNE  
PROPOSITION DE:

INDUSTRIES COVER INC.

Débitrice/Co-requérante

-et-

DELOITTE RESTRUCTURING INC.

Syndic/Requérant

**REQUÊTE POUR DIRECTIVES ET ORDONNANCE RELATIVE  
AU TRAITEMENT DES RÉCLAMATIONS**  
(Articles 34(1), 66(1) et 121 et suivants de la *Loi sur la Faillite et l'Insolvabilité*)

1. Jusqu'à récemment, la Débitrice oeuvrait dans le domaine de la fabrication et production d'unités de verre scellé (thermos) vendues aux manufacturiers de portes et fenêtres;
2. Le 17 avril 2015, suite à une crise de liquidités, la Débitrice fut forcée de mettre à pied plus d'une centaine d'employés encore actifs et toutes ses opérations furent interrompues;
3. Le 16 juillet 2015, la Débitrice a déposé un Avis d'intention de faire une proposition sous la *Loi sur la Faillite et l'Insolvabilité* et Deloitte Restructuring Inc. (« Deloitte ») fut nommée syndic à la proposition. La suspension des procédures résultant de l'Avis d'intention fut prorogée au 27 septembre 2015, le tout tel qu'il appert au dossier de la Cour;
4. Au cours du mois de juin 2015, la Débitrice, avec l'assistance de Deloitte, a initié un processus de vente de ses actifs qui culmina par la vente de la presque totalité de ses actifs, suite à des ordonnances émises par cette Cour les 13 août et 26 août 2015, le tout tel qu'il appert au dossier de la Cour;
5. La Débitrice a toujours eu l'intention de déposer une proposition concordataire dite de liquidation;

6. Après paiement des créanciers garantis et des créances bénéficiant d'une fiducie présumée, la Débitrice estime qu'elle sera en mesure d'offrir à ses créanciers ordinaires pour fins de distribution un montant supérieur à 5 M\$;
7. Bien que le montant total des réclamations actuellement prouvables puisse réalistement être inférieur à 2 M\$, la Débitrice fait présentement l'objet d'un certain nombre de poursuites et de réclamations potentielles de plusieurs millions de dollars, toutes non liquidées, éventuelles ou contingentes, dont le sort est incertain et dont le traitement pourrait s'avérer complexe, long et coûteux;
8. L'ensemble des réclamations éventuelles ou non liquidées sont reliées au refus ou au défaut de la Débitrice d'honorer la garantie de remplacement des produits prétendument défectueux qui furent vendus par elle;
9. Dans le présent contexte, il est opportun que la Débitrice et le syndic puissent connaître et juger du quantum des réclamations non liquidées avant que ne soit rédigée une proposition concordataire équitable et dont la formulation et le nombre de classes pourraient varier, selon le résultat du processus recherché d'identification et d'évaluation des réclamations;
10. La Débitrice et le syndic demandent donc à la Cour de lui permettre de mener un processus d'identification et d'évaluation des réclamations afin que tous les créanciers certains et potentiels soient amenés à déposer leur preuve de réclamation avant le dépôt d'une proposition et le vote sur celle-ci;
11. Il est dans le meilleur intérêt de la Débitrice et de ses créanciers que la présente requête soit accueillie.

**PAR CES MOTIFS, PLAISE À LA COUR :**

**ACCUEILLIR** la présente requête selon les conclusions recherchées à l'Annexe A ci-jointe;

**LE TOUT**, sans frais.

MONTREAL, le 15 septembre 2015

*Stikeman Elliott S.E.N.C.R.L., s.r.l.*  
**STIKEMAN ELLIOTT S.E.N.C.R.L., s.r.l.**  
Procureurs de la Débitrice  
INDUSTRIES COVER INC.

**AFFIDAVIT**

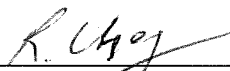
Je, soussigné, Jean-Christophe Hamel, ayant une place d'affaires au 1190, avenue des Canadiens-de-Montréal, Suite 500, dans les cité et district de Montréal, Province de Québec, H3B 0M7, affirme solennellement ce qui suit :

1. Je suis un Directeur principal de Deloitte Restructuring Inc.;
2. Tous les faits allégués dans la présente *Requête pour directives et ordonnance relative au traitement des réclamations* sont vrais.

ET J'AI SIGNÉ:

  
Jean-Christophe Hamel

Affirmé solennellement devant moi  
à Montréal ce 15 septembre 2015

  
Commissaire à l'assermentation pour  
la province de Québec



**AVIS DE PRÉSENTATION**

**PRENEZ AVIS** que la présente *Requête pour directives et ordonnance relative au traitement des réclamations* sera présentée pour adjudication devant l'un des Honorables Juges de la Cour supérieure, siégeant en division de pratique dans et pour le District de Montréal, au Palais de Justice de Montréal, 1, rue Notre-Dame Est, le 17 septembre 2015, à 9h00, en salle 16.10.

**VEUILLEZ AGIR EN CONSÉQUENCE.**

**MONTRÉAL**, le 15 septembre 2015

*Stikeman Elliott* S.E.N.C.R.L., s.r.l.,  
STIKEMAN ELLIOTT S.E.N.C.R.L., s.r.l.  
Procureurs de la Débitrice  
INDUSTRIES COVER INC.

**ANNEXE "A"**

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

**CANADA**  
**PROVINCE OF QUÉBEC**  
**DISTRICT OF MONTREAL**  
**No. 500-11-049142-157**  
**DATE: September 17, 2015**

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**PRESIDING :**

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**IN THE MATTER OF THE INTENTION TO MAKE A PROPOSAL OF:**

**INDUSTRIES COVER INC.**

**Debtor**

**-and-**

**DELOITTE RESTRUCTURING INC.**

**Trustee**

**ORDER ESTABLISHING A CLAIMS PROCESS**

**CONSIDERING** the Trustee's "*Requête pour directives et ordonnance relative au traitement des réclamations*", the affidavit in support thereof (the "**Motion**") and the submissions of counsel; and

**GIVEN** the provisions of the *Bankruptcy and Insolvency Act*, (R.S.C., 1985, c. B-3) as amended (the "**BIA**");

**WHEREFORE, THE COURT:**

**DEFINITIONS**

[1] **ORDERS** that the following terms in the present order (the "**Order**") shall, unless otherwise indicated, have the following meanings ascribed thereto:

- (a) "**BIA**" means the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended;
- (b) "**Business Day**" means a day, other than a Saturday, a Sunday or a non-judicial day (as defined in article 6 of the Code of Civil Procedure, R.S.Q., c. C-25, as amended);
- (c) "**Claim**" means any right of any Person against the Debtor in connection with any indebtedness, liability or obligation of any kind of the Debtor owed to such Person and any interest accrued thereon or costs payable in respect thereof, whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a warranty claim, a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts existing prior to July 16<sup>th</sup>, 2015, or which would have been claims provable in bankruptcy had the Debtor become bankrupt on July 16<sup>th</sup>, 2015;

- (d) **“Claims Bar Date”** means 5:00 p.m. Eastern time (EDT) on October 30, 2015;
- (e) **“Court”** means the Superior Court of Québec (Commercial Division);
- (f) **“Creditor”** means any Person having a Claim and may, where the context requires, include the assignee of a Claim;
- (g) **“Creditors’ Instructions”** means the instructions for Creditors, including a form of Proof of Claim, a notice to creditors and an instruction letter explaining how to complete same, and a copy of this Order;
- (h) **“Creditors’ Meeting”** means the meeting of the Debtor’s Creditors to be convened for the purposes of voting on the Proposal, and any adjournment thereof;
- (i) **“Designated Newspapers”** means *Le Journal de Montréal* and *Le Journal de Québec*;
- (j) **“Known Creditor”** means a Creditor whose Claim is included in the Debtor’s books and records;
- (k) **“Newspaper Notice”** means the notice of this Order to be published in the Designated Newspapers on the Publication Date in accordance with paragraph 2, which shall set out the Claims Bar Date and the Creditors’ Instructions;
- (l) **“Notice of Revision or Disallowance”** means the notice referred to in subparagraph 6 (d) hereof, advising a Creditor that the Trustee has revised or rejected all or part of such Creditor’s Claim set out in its Proof of Claim and setting out the reasons for such revision or disallowance;

- (m) **“Person”** means any individual, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, governmental body or agency, or any other entity;
- (n) **“Proof of Claim”** means the proof of claim for Creditors referred to in paragraphs 5 and following hereof;
- (o) **“Proposal”** means a liquidation proposal to be filed by the Debtor pursuant to the BIA, as such proposal may be amended or supplemented from time to time;
- (p) **“Publication Date”** means the date on which the publication of the Newspaper Notice in all of the Designated Newspapers has been completed;
- (q) **“Trustee”** means Deloitte Restructuring Inc., in its capacity as trustee to the Debtor’s notice of intention and proposal under the BIA;

#### **GENERAL PROCEDURE**

- [2] **ORDERS** that the Newspaper Notice shall be published by the Trustee in the Designated Newspapers as soon as possible following the issuance of this Order, but in any event no later than September 30, 2015;
- [3] **ORDERS** that, in addition to the publication referred to in paragraph 2, the Trustee shall send a copy of the Creditors’ Instructions, by regular mail, to (i) each Known Creditor at the last known address for each Known Creditor on the Debtor’s books and records as soon as practicable and no later than September 25, 2015;



- [4] **ORDERS** that, in addition to the publication referred to hereinabove, the Trustee shall publish on its website a copy of the Creditors' Instructions, as soon as possible but no later than September 25, 2015.

### **CLAIMS PROCEDURE**

- [5] **ORDERS** that, unless otherwise authorized by this Court, a Creditor who does not file a Proof of Claim by the Claims Bar Date shall not be entitled to any further notice, shall not be entitled to participate as a Creditor in these proceedings, shall not be entitled to vote on any matter in these proceedings, including the Proposal, or from advancing a Claim against the Debtor or from receiving a distribution under the Proposal;
- [6] **ORDERS** that the following procedure shall apply where a Creditor files a Proof of Claim on or before the Claims Bar Date:
- (a) at any time, the Trustee and the Debtor may request additional information from any Creditor who has filed a Proof of Claim;
  - (b) the Trustee, together with the Debtor, shall review the Proof of Claim to value the amounts thereof for voting and distribution purposes;
  - (c) the Trustee, with the consent of the Debtor, may accept a Proof of Claim or may disallow it in whole or in part. Where a Proof of Claim is accepted, no notice of this decision need be given by the Trustee, provided however that the Trustee shall publish a list of all claims (or portions thereof) that have been accepted as of the relevant date, on its website, at least five (5) Business Days prior to any Creditors' Meeting or adjournment thereof, and shall notify the Creditors verbally of

any change to that list at any Creditors' Meeting or adjournment thereof;

- (d) where applicable, prior to the filing of any Proposal, the Trustee shall send the Creditor a Notice of Revision or Disallowance by mail, facsimile, courier or other means of electronic communication;
- (e) the Creditor who receives a Notice of Revision or Disallowance and wishes to dispute it shall, within twenty (20) days of the Notice of Revision or Disallowance, file an appeal motion with the Court and serve a copy of such appeal motion to the Trustee and to the Debtor's counsel;
- (f) unless otherwise authorized by this Court, if the Creditor does not file an appeal motion within the delay provided for above, such Creditor shall be deemed to have accepted the value of its Claim as set out in the Notice of Revision or Disallowance;
- (g) where the Creditor appeals from the Notice of Revision or Disallowance and the issue of the validity of the Claim has not been finally determined prior to the date of any Creditor's Meeting, the portion of the Claim which has not been disallowed shall only be considered as provisionally accepted by the Trustee for voting purposes, without prejudice to the rights of the Creditor with respect to final determination of the Creditor's Claim for distribution purposes;
- (h) the Trustee, with the consent of the Debtor, may consensually resolve any dispute as to the validity or quantum of a Creditor's Claim.

**NOTICES AND COMMUNICATIONS**

- [7] **ORDERS** that any notice or other communication to be given under this Order by a Creditor to the Trustee or the Debtor shall be in writing in substantially the form, if any, provided for in this Order and will be sufficiently given only if given by mail, facsimile, courier or other means of electronic communication addressed to:

Trustee:	Deloitte Restructuring Inc.
	Attention: Jean-Christophe Hamel
	E-mail: <a href="mailto:jehamel@deloitte.ca">jehamel@deloitte.ca</a>

Debtors' counsel:	Stikeman Elliott LLP
	Attention: Jean Fontaine
	E-mail : <a href="mailto:jfontaine@stikeman.com">jfontaine@stikeman.com</a>

- [8] **ORDERS** that any document sent by the Trustee pursuant to this Order may be sent by e-mail, ordinary mail, registered mail, courier or facsimile transmission. A Creditor shall be deemed to have received any document sent pursuant to this Order two (2) Business Days after the document is sent by mail and one (1) Business Day after the document is sent by courier, e-mail or facsimile transmission;

**GENERAL PROVISIONS**

- [9] **ORDERS** that for the purposes of this Order, all Claims that are denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon spot rate of exchange for exchanging currency to Canadian dollars on the later of July 16<sup>th</sup>, 2015, or such other date as is provided for in the Plan;
- [10] **ORDERS** that the Trustee and the Debtor may apply to this Court for advice and direction in connection with the discharge or variation of their powers and duties under this Order;

[11] **ORDERS** the provisional execution of this Order notwithstanding appeal;

**THE WHOLE WITHOUT COSTS**, except in case of contestation.

**MONTREAL**, this September 17, 2015

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