



No.: B220220
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3,
AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
MEDIPURE PHARMACEUTICALS INC., OF THE CITY OF VANCOUVER, IN THE
PROVINCE OF BRITISH COLUMBIA

NOTICE OF APPLICATION

Name(s) of Applicant(s): Medipure Pharmaceuticals Inc.

To: Service List

TAKE NOTICE that an application will be made by the applicant(s) to the presiding judge or master at the courthouse at 800 Smithe Street, Vancouver, British Columbia on Friday August 12, 2022 at 2:00 p.m. for the order(s) set out in Part 1 below.

To be heard by MS Teams or by telephone. Counsel for the applicants Martin Sennott, Boughton Law at #700-595 Burrard Street, Vancouver, BC V7X 1S8, (604)-647-4106; msennot@boughtonlaw.com.

Part 1: ORDER(S) SOUGHT

1. The Applicant seeks an order substantially for certain relief, including, but not limited to:
 - (a) an order abridging time for service of this Application and record and dispensing with further service thereof other than in accordance with the Conversion Order;
 - (b) a declaration the Applicant is a company to which the *Companies Creditors Arrangement Act*, RSC 1985, c C-46 (the "CCAA") applies;
 - (c) an order authorizing the continuation under the CCAA of the proposal proceedings under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "BIA"), commenced on June 9, 2022, pursuant to the Notices of Intention to Make a Proposal filed by the Applicant (the "NOI");

- (d) an order appointing Deloitte Restructuring Inc., or such other suitable parties, (the "**Proposed Monitor**"), as an officer of this Honourable Court to monitor the business and financial affairs of the Applicants;
 - (e) an order staying all proceedings and enforcement process taken or that might be taken in respect of the Applicants, the Proposed Monitor, or their respective employees and representatives;
 - (f) an order that grants the Applicants the authority to file a plan of arrangement; and
 - (g) an order approving the interim financing of Wealth Management Experts Inc.(in such capacity, the "**Interim Lender**", substantially in accordance with the terms of the term sheet (the "Interim Financing Agreement"); and granting a debtor-in-possession charge (the "**2nd DIP Lenders' Charge**") over the assets of the Applicants in favour of the Interim Lender for all amounts owing under Interim Financing Agreement limited to \$3,600,000 (the "**Interim Financing Charge**")
2. Such further and other relief as counsel may advise and this Honourable Court may deem just.

Part 2: FACTUAL BASIS

General Background

1. The Applicants rely on the statements in its Notices of Applications filed June 7, 2022 and August 9, 2022.
2. Medipure Pharmaceuticals Inc. is a British Columbia based corporation that was incorporated under the *British Columbia Business Corporations Act* on February 12, 2014. ("MPI")
3. Medipure Holdings Inc. is a British Columbia based corporation that was incorporated under the *British Columbia Business Corporations Act* on June 20, 2014("MHI")
4. Collectively, MPI and MHI are referenced as Medipure.
5. On May 11, 2022, the Applicant filed a Notice of Intention to Make a Proposal (the "NOI").
6. On June 7, 2022, Medipure each filed Notice of Application (the "**NOI Proceedings**").
7. Jeff Keeble of Deloitte Restructuring Inc. was named as the proposal trustee (the "**Proposal Trustee**").

Continuation under the CCAA

8. The Applicant is involvement and seeks to continue the NOI Proceedings under the CCAA pursuant to section 11.6 of the CCAA. The CCAA is the best forum for these proceedings considering MPI's potential viability as a going-concern – a bankruptcy and liquidation is not commercially reasonable.
9. Medipure has not filed a proposal under the BIA.
10. The claims against Medipure is more than \$5,000,000 and includes, but is not limited to:
 - (a) \$6,592,207.69 plus accrued interest arising from convertible notes in 2017;
 - (b) \$3,027,387.58 due to GCB Capital LLC; and
 - (c) \$2,132,136.70USD claimed by SHP Capital LLC pursuant to a term sheet.
11. Together with the 2nd DIP Lenders' Charge, Medipure will have sufficient liquidity to satisfy its obligations during the initial period of the CCAA filing.
12. Cash flows have been provided in the NOI Proceedings and approved by the Proposal Trustee.
13. During the NOI Proceedings to date, the Applicant has retained BMO Dunwoody to perform forensic accounting to financial statements, including the year before this application and all such financial statements have been provided to the current Proposal Trustee.

Objectives of the CCAA Proceedings

14. The Applicant requires the continued stay of proceedings and other relief set out in the order to preserve the Applicant's operations as it pursues restructuring paths for the benefit of all stakeholders.
15. The protections afforded under the CCAA maintain the *status quo*, as well as provide the breathing room required to: (i) determine an implement a procedure to resolve issues related to the cease trade order; and (ii) make a beneficial proposal to all creditors superior to their expected results in a bankruptcy.
16. The CCAA framework will also permit a monitor to be appointed with enhanced powers to assist and guide the company in its path to a successful proposal.

Part 3: LEGAL BASIS

Extension of Stay of Proceedings and time to file a proposal

1. The CCAA at section 11.6 states:

11.6 Notwithstanding the *Bankruptcy and Insolvency Act*,

(a) proceedings commenced under Part III of the *Bankruptcy and Insolvency Act* may be taken up and continued under this Act only if a proposal within the meaning of the *Bankruptcy and Insolvency Act* has not been filed under that Part; and

(b) an application under this Act by a bankrupt may only be made with the consent of inspectors referred to in section 116 of the *Bankruptcy and Insolvency Act* but no application may be made under this Act by a bankrupt whose bankruptcy has resulted from

- o (i) the operation of subsection 50.4(8) of the *Bankruptcy and Insolvency Act*, or
- o (ii) the refusal or deemed refusal by the creditors or the court, or the annulment, of a proposal under the *Bankruptcy and Insolvency Act*.

2. Section 11.6(a) of the CCAA applies to proposal proceedings commenced under the BIA and is applied, commonly, where a BIA proposal proceeding has been commenced, a proposal has not yet been filed, and that party wishes to transition the matter to the CCAA.

3. In *EncoreFX Inc., Re.*, 2021 BCSC 750, the question of where a debtor company sought to continue its proposal proceedings under the CCAA, the Court identified three issues to be addressed on the application as follows:

- (a) the company has satisfied the statutory condition in section 11.6(a) of the CCAA in that it has not filed a proposal under the BIA;
- (b) the proposed continuation is consistent with the purposes of the CCAA; and
- (c) evidence which serves as a reasonable surrogate for the information which section 10(2) of the CCAA requires accompany any initial application under the Act.

4. The continuation is consistent with the purposes of the CCAA

5. Section 10(2) of the CCAA states:

(2) An initial application must be accompanied by

- (a) a statement indicating, on a weekly basis, the projected cash flow of the debtor company;

(b) a report containing the prescribed representations of the debtor company regarding the preparation of the cash-flow statement; and

(c) copies of all financial statements, audited or unaudited, prepared during the year before the application or, if no such statements were prepared in that year, a copy of the most recent such statement.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Lorne Nystrom sworn June 6, 2022.
2. Affidavit #2 of Lorne Nystrom sworn June 17, 2022.
3. Affidavit #1 of Sherri Evans sworn August 8, 2022.
4. Affidavit #2 of Sherri Evans sworn August 9, 2022.
5. Affidavit #3 of Sherri Evans sworn August 12, 2022.
6. Affidavit #1 of Dan Stammen.
7. The First, Second, Third and Fourth Reports of the Proposal Trustee.
8. Pleadings and affidavits in action SB 220180, B220220, B220221.
9. Such further and other material as counsel may advise and this Honourable Court permits.

The applicant(s) estimate(s) that the application will take 2 Hours.

This matter is within the jurisdiction of a master.

This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9–7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,

- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing or this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated: August 12, 2022

for



Signature of Lawyer for Applicant
Martin C. Sennott

This NOTICE OF APPLICATION is delivered by Martin C. Sennott of Martin C. Sennott Law Corporation on behalf of Boughton Law Corporation, whose place of business and address for delivery is PO Box 49290, 700 - 595 Burrard Street, Vancouver, BC V7X 1S8, 604-687-6789. (File No. 95376.2)

To be completed by the court only:

Order made

in the terms requested in paragraphs _____ of Part 1 of this notice of application

with the following variations and additional terms:

Date: _____

Signature of Judge Master

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:



- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts.