

CITATION: Eureka 93 Inc. et. al. (Re)
COURT FILE NO.: 33-2618511
DATE: 2020/06/22

**COURT OF ONTARIO,
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)**

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
EUREKA 93 INC. OF THE CITY OF OTTAWA IN THE PROVINCE OF ONTARIO

AND IN THE MATTER OF THREE RELATED INTENDED PROPOSALS (LIVEWELL
FOODS CANADA INC., ARTIVA INC., and VITALITY CBD NATURAL HEALTH
PRODUCTS INC.)

BEFORE: Mr. Justice Calum MacLeod

COUNSEL: Benoit Duchesne for the applicant debtors

Eric Golden, for the Proposal Trustee

Andrew Lenz, for the secured creditor, PR

Sean Zweig, for Dominion Capital LLC & Bennet Jones

Elliott Birnboim, & Michael Crampton for Dominion Capital LLC

Steve Brown-Okruhlik for Delsan-A.I.M. Environmental Services Inc.

HEARD: June 22, 2020

CASE CONFERENCE ORDER

[1] This case conference was convened at the request of counsel for the applicant. The applicant has been operating under orders previously made by me granting an extension of time to make a proposal and a temporary financing arrangement authorized under s. 50.4 of the *Bankruptcy and Insolvency Act*. (see 2020 ONSC 1482 and 2020 ONSC 1532). I am advised that the applicant has now made a Proposal and a meeting of creditors is scheduled for July 3rd, 2020.

[2] There are two issues that need to be resolved prior to the meeting of creditors. The first is a motion by the applicant to remove Bennet Jones as counsel for the noteholders. This was apparently raised prior to the motion that was argued in March but at that time counsel agreed Mr.

Zweig would continue to represent the noteholders for purposes of the motion but without prejudice to bring the motion later. Materials for that motion have now been served.

[3] Mr. Birnboim has been retained for purposes of that motion and he may or may not be retained by the noteholders if counsel is ordered off the record. To complicate matters, as of this morning, Bennet Jones has decided to withdraw as counsel and Mr. Birnboim does not yet have instructions whether his client will consent to that or whether Bennet Jones will also have to bring a motion.

[4] Although I hope this can now be resolved, it seems necessary to adjourn the meeting of creditors and to set a timetable so that if the motion regarding representation must be argued, it can take place before the meeting.

[5] The second issue is a motion to permit a proposed arrangement under s. 192 of the *Canada Business Corporations Act*, R.S.C. 1985 c. C-44, to be considered as part of the Proposal or in tandem with the Proposal at the same time as the meeting of creditors. That motion will have to be heard before the meeting of creditors.

[6] The court therefore orders and directs as follows:

- a. The meeting of creditors scheduled for July 3rd, 2020 is adjourned to July 28th, 2020 pursuant to s. 187 (11) of the *BIA*. This is without prejudice to a further extension of time if required.
- b. Unless the parties are able to resolve the question of a change in legal representation for the noteholders, the motion(s) in relation to such representation shall be heard before a judge or the Registrar in Bankruptcy in the week of July 13th, 2020.
- c. There will be a further case conference on June 30th, 2020 at 9:00 a.m. to address the timing of the two motions referred to above and to consider whether the meeting of creditors can proceed as scheduled.



Mr. Justice C. MacLeod

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Environmental Services

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Mr. Justice C. MacLeod