

COURT FILE NUMBER 643 of 2016
COURT QUEEN'S BENCH FOR SASKATCHEWAN
IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE SASKATOON
APPLICANTS 101133330 SASKATCHEWAN LTD. and
101149825 SASKATCHEWAN LTD.

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF 101133330 SASKATCHEWAN LTD. and 101149825 SASKATCHEWAN LTD.

**NOTICE OF APPLICATION
(Fourth Extension)**

NOTICE TO RESPONDENTS: All parties listed on the attached Service List

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court. To do so, you must be in Court when the application is heard as shown below:

Where: Court of Queen's Bench for Saskatchewan
Judicial Centre of Saskatoon
520 Spadina Crescent East
Date: May 31, 2017
Time: 10:00 a.m.

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. The Applicants seek an order pursuant to the *Companies' Creditors Agreement Act*, R.S.C. 1985 c. C-36, as amended (the "CCAA"):

- (a) deeming service of this notice of application and materials in support thereof good, valid, timely and sufficient;
- (b) providing that the Initial Order, the stay of proceedings in favour of the Applicants contained in the Initial Order and the period of time within which the Applicants shall be permitted to file one or more plans of compromise or arrangement with one or more classes of their creditors shall be extended to and including 11:59 p.m. (Saskatchewan Time) on December 24, 2017;
- (c) providing that the Fifth Report of the Monitor, Deloitte Restructuring Inc. (the “**Monitor**”), and the conduct and activities of the Monitor described therein shall be approved;
- (d) providing that the fees and disbursements of the Monitor for the period of December 6, 2016 to May 14, 2017 and its legal counsel, MLT Aikins LLP, for the period of December 7, 2016, to May 31, 2017, shall be approved;
- (e) authorizing and empowering the Applicants to borrow the amount of \$500,000.00 from a secondary DIP lender pursuant to a forthcoming commitment letter with substantially the same terms as the draft Term Sheet appended as Exhibit “B” to the Fifth Supplementary Affidavit of John Orr; and
- (f) granting such other and further relief as the circumstances may require and this Honourable Court deems appropriate.

2. In addition, the Applicants are seeking an order providing that the Confidential Affidavit of David Calyniuk dated May 23, 2017 (the “**Confidential Calyniuk Affidavit**”) shall be sealed until the earlier of:

- (a) written notice to this Honourable Court from the Applicants or the Monitor that 33330’s rezoning application for the Campus has been completed; or
- (b) further order of this Honourable Court.

Grounds for making this application:

3. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the:

- (a) Initial Order;
- (b) Affidavits of John Orr sworn on May 12, 2016, June 6, 2016, August 12, 2016, December 16, 2016, and May 24, 2017; and
- (c) Affidavits of David Calyniuk sworn on August 12, 2016, December 16, 2016, and May 23, 2017.

4. Each of the Applicants is a “Debtor Company” to which the CCAA applies and in respect of which the Initial Order has been granted.

5. The stay of proceedings granted by the Initial Order was most recently extended by the Order of the Honourable Mr. Justice G.A. Meschishnick dated December 22, 2016 (the “**Third Extension Order**”), and expires on Monday, June 12, 2017, at 11:59 p.m. Saskatchewan time.

6. Since the granting of the Initial Order on May 20, 2016, the Applicants have continued to carry on business in the ordinary course, except insofar as affected by the Initial Order, and have continued to act diligently and in good faith in the conduct of their business, and towards the development of a plan of arrangement to restructure their business and financial affairs in a manner designed to achieve the best possible results for the Applicants and their stakeholders.

7. Since the granting of the Third Extension Order, the Applicants have:

- (a) worked diligently and in good faith with the Orr Centre Owner’s Consultant to conceptualize and implement an overall strategy to increase the bare land value of the Campus and Orr Centre facilities and cash flows so that these assets may be used to fund a plan of arrangement and compromise;
- (b) identified and initiated key repairs to the Orr Centre facilities and an assessment of the HVAC equipment and control systems servicing the U of S, SALPN, and daycare units;
- (c) obtained quotations for the demolition of the Dorms;

- (d) reduced its payroll and expenses in order to retain a professional third party property manager for the Orr Centre; and
- (e) consulted with, and sought input from, the Monitor and primary secured parties with respect to the Applicants' restructuring efforts.

8. The work performed since the Third Extension has culminated in an overall plan for the Orr Centre and Campus to play a significant role in funding the Applicants' plan of arrangement and compromise with their creditors that is independent of any value ultimately obtained from the 825 Land. Allowing the Applicants to continue their present work has the greatest potential to increase the value of the Orr Centre and Campus such that the stakeholders will derive a greater benefit than they would through the immediate liquidation of these assets.

9. An extension of the stay of proceedings to December 24, 2017 is necessary to enable the Applicants to continue their efforts and work towards an overall plan of compromise and arrangement. Specifically:

- (a) the final Amended Willows Concept Plan and 33330's rezoning application are scheduled to be submitted to the respective municipal authorities for consideration in the summer of 2017, and the Applicants do not expect a response with respect to either until the first or second quarter of 2018;
- (b) the Applicants are undertaking a concerted effort to improve the Orr Centre in the interim by:
 - (i) effecting recommended repairs to the facilities and HVAC equipment;
 - (ii) demolishing certain buildings to realize upon tax savings and accommodate future development on the Campus; and
 - (iii) implementing third party property management to reduce operating expenses and make the property more attractive to investors.

10. In support of this application, the Applicants have filed, among other things, the Confidential Calyniuk Affidavit, which contains commercially sensitive information

relating to the Applicants' rezoning application for the Campus. Disclosing this information prior to the public disclosure and consultation that will occur as part of the overall rezoning process is not typically done in the ordinary course of business and not recommended by the Orr Centre Owner's Consultant in this case, as it may be prejudicial to the process.

Material or evidence to be relied on:

- (a) this Notice of Application;
- (b) the Affidavit of John Orr sworn May 24, 2017;
- (c) the Affidavit of David Calyniuk sworn May 23, 2017;
- (d) the Confidential Calyniuk Affidavit;
- (e) the Fifth Report of the Monitor;
- (f) a Brief of Law;
- (g) a draft Order; and
- (h) such further and other material as counsel may advise and this Honourable Court may permit.

Applicable rules:

- 11. The Applicants rely on Rules 12-1(1) and 13-7(2).

Applicable Acts and Regulations:

- 12. The Applicants rely on the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and, in particular, sections 11 and 11.02(2) and (3).

NOTICE

If you wish to oppose the application, you or your lawyer must prepare an affidavit in response, serve a copy at the address for service given at the end of this document, and file it in the court office, with proof of service, at least 7 days before the date set for hearing the application. You or your lawyer must also come to court for the hearing of the application on the date set.

AND FURTHER TAKE NOTICE that if you do not appear at the hearing an order may be made in your absence and enforced against you. YOU WILL NOT RECEIVE FURTHER NOTICE OF THIS APPLICATION.

Dated at the City of Saskatoon, in the Province of Saskatchewan this 24th day of May, 2017.

McDOUGALL GAULEY LLP

Per: 

Solicitors for the applicants,
10113330 Saskatchewan Ltd., and
101149825 Saskatchewan Ltd.

CONTACT INFORMATION AND ADDRESS FOR SERVICE

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