

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

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In re:	)	Case No. 12-30214
	)	
VALLE FOAM INDUSTRIES (1995)	)	Chapter 15
INC.	)	
	)	Judge Mary Ann Whipple
Foreign Applicant in Foreign	)	
Proceedings	)	
_____	)	
	)	Case No. 12-30215
In re:	)	
	)	Chapter 15
DOMFOAM INTERNATIONAL INC.	)	
	)	Judge Mary Ann Whipple
Foreign Applicant in Foreign	)	
Proceedings	)	
_____	)	
	)	Case No. 12-30218
In re:	)	
	)	Chapter 15
A-Z SPONGE & FOAM PRODUCTS	)	
LTD.	)	Judge Mary Ann Whipple
	)	
Foreign Applicant in Foreign	)	
Proceedings	)	
_____	)	

**MOTION OF FOREIGN REPRESENTATIVE FOR AN ORDER  
DIRECTING JOINT ADMINISTRATION OF CHAPTER 15 CASES AND  
APPROVING CAPTION FOR JOINTLY ADMINISTERED CASES**

Deloitte & Touche Inc., the court-appointed monitor (the “**Monitor**”) and foreign representative of Valle Foam Industries (1995) Inc. (“**Valle Foam**”), Domfoam International Inc. (“**Domfoam**”), and A-Z Sponge & Foam Products Ltd. (“**A-Z**” and, together with Valle Foam and Domfoam, the “**Valle Foam Group**”) in proceedings (the “**Canadian Proceedings**”) under Canada’s *Companies’ Creditors*

*Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), pending before the Ontario Superior Court of Justice (Commercial List) (the “**Ontario Court**”), hereby moves this Court (the “**Motion**”) for the entry of an order, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure<sup>1</sup>:

(i) authorizing and directing the joint administration of the Valle Foam Group’s chapter 15 cases for procedural purposes only and (ii) approving a caption for the jointly administered cases. This Motion is supported by the entire record before the Court, and by the following memorandum of points and authorities.

### **Jurisdiction and Venue**

1. This Court has jurisdiction over these Chapter 15 proceedings pursuant to 28 U.S.C. §§ 1334 and 157(a) and General Order No. 84 entered on July 16, 1984 by the United States District Court for the Northern District of Ohio. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).

2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1410(2).

### **The Canadian Proceedings<sup>2</sup> and the Role of the Monitor**

3. On January 12, 2012, the Valle Foam Group applied to the Ontario Court for a declaration that they are parties to which the CCAA applies, and the

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<sup>1</sup> Unless otherwise indicated, all section references are to title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “**Bankruptcy Code**”), all rule references are to the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and all references to “Chapter XX” are to chapter xx of the Bankruptcy Code.

<sup>2</sup> A copy of the Canadian Order for Relief is attached as Exhibit A to each of the Chapter 15 Petitions filed by the Valle Foam Group. Copies of additional court documents in the Canadian Proceedings, including the Application Record, can be obtained from the Monitor’s website at [www.deloitte.com/ca/Vallefoam](http://www.deloitte.com/ca/Vallefoam).

Ontario Court entered its Initial Order (the “**Canadian Order for Relief**”; attached hereto as Exhibit A) which made that specific finding. Canadian Order for Relief ¶ 2.

4. The Monitor is an officer of the Ontario Court appointed pursuant to the CCAA to monitor the business and financial affairs of the Valle Foam Group. Canadian Order for Relief ¶ 22.

5. The Ontario Court authorized the Monitor as foreign representative, specifically “to apply for recognition of the Canadian Proceedings as the ‘Foreign Main Proceedings’ in the United States pursuant to Chapter 15 of the *U.S. Bankruptcy Code*.” Canadian Order for Relief ¶ 44.

6. Pursuant to the authority and directive contained in the Canadian Order for Relief, the Monitor filed a Verified Petitions for Recognition of Foreign Proceedings and Related Relief (“**Verified Petition**”) for each Valle Foam, Domfoam, and A-Z (collectively, the “**Foreign Applicants**”).

7. The business and litigation reasons for the commencement of these Chapter 15 cases are set forth in detail in the Verified Petitions.

### **Relief Requested**

8. The Monitor seeks joint administration of the Foreign Applicants’ Chapter 15 cases pursuant to Bankruptcy Rule 1015(b).

9. As can be seen from the Canadian Order for Relief, the Plan of Compromise or Arrangement for the Valle Foam Group is proceeding as a single case in the Ontario Court.

10. Rule 1015(b) provides in pertinent part that, “If . . . two or more petitions are pending in the same court by or against . . . a debtor and an affiliate, the court may order a joint administration of the estates.” Section 101(2)(A) of the Bankruptcy Code provides that an “affiliate” is an “entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor . . .”

11. Domfoam owns 100% of Valle Foam and A-Z<sup>3</sup>; therefore, they are “affiliates” within the meaning of section 101(2) of the Bankruptcy Code. Accordingly, this Court is authorized to grant the relief requested in this Motion.

12. The Monitor does not seek substantive consolidation; rather the Monitor requests that the three Chapter 15 cases be jointly administered for procedural purposes only. The rights of parties in interest will not be prejudiced or affected in any way by the entry of an order directing joint administration.

13. Joint administration will permit the Clerk of this Court to utilize a single general docket for these cases, which will assist both the Court and all parties in interest to more easily track substantive matters related to these cases. The Monitor anticipates that most, if not all, notices in each of the Chapter 15 cases will apply to all three cases. Joint administration will allow the notices to be combined, significantly reducing the noticing burden and cost in these proceedings.

14. Section 342 of the Bankruptcy Code and Bankruptcy Rules 1005 and 2002 provide that each notice served on interested parties should include, in the

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<sup>3</sup> Corporate Ownership Statement of Valle Foam and Corporate Ownership Statement of A-Z, respectively; filed contemporaneously with this Motion.

caption, the applicable debtor’s name, address, employer identification number, any other federal-identification number and all other names used within eight years before the filing of the petition. Bankruptcy Rule 2002(m) provides that the Court may establish the form of notices served in bankruptcy cases. To streamline the administration of these Chapter 15 cases, to provide for consistent noticing procedures after joint administration, and to allow for certain specific noticing anomalies, (such as the fact that the Foreign Applicants do not have U.S. identification numbers), the Monitor further requests that the Court approve and require for use on all documents filed in the jointly administered Chapter 15 cases the consolidated caption below. Use of the consolidated caption will further simplify their administration and help prevent confusion.

15. The Monitor requests that the following official caption be used by all parties in all pleadings in the jointly administered cases:

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>In re:</b>	)	
	)	<b>Case Nos. 12-30214</b>
<b>VALLE FOAM INDUSTRIES (1995)</b>	)	<b>(Jointly Administered)</b>
<b>INC., et. al.*</b>	)	
	)	<b>Chapter 15</b>
	)	
<b>Foreign Applicants in Foreign</b>	)	<b>Judge Mary Ann Whipple</b>
<b>Proceedings.</b>	)	
	)	

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\* The Foreign Applicants include Valle Foam Industries (1995) Inc., Domfoam International, Inc., and A-Z Sponge & Foam Products Ltd.

16. The Monitor suggests that the use of this simplified caption, naming Valle Foam Industries (1995) Inc. as the first of the Foreign Applicants, and omitting reference to the information required by Section 342 of the Bankruptcy Code, and Bankruptcy Rules 1005 and 2002, will eliminate cumbersome and confusing procedures and ensure a uniformity of pleading identification. The information which is required by noticing procedures is included in the petitions of the Foreign Applicants, and therefore can be located easily by parties in interest and others. The Foreign Applicants will supply this information to any person who requests it. Therefore, the Monitor submits that the policies behind the noticing and service requirements of Section 342 of the Bankruptcy Code, and Bankruptcy Rules 1005 and 2002 have been met.

17. The Monitor also requests that the Court authorize and direct that an entry be placed on the docket of Case No. 12-30215 (the “**Domfoam Chapter 15 Case**” and of Case No. 12-30218 (the “**A-Z Chapter 15 Case**”) to reflect the joint administration of these cases:

An order has been entered in this case directing the procedural consolidation and joint administration of this Chapter 15 foreign ancillary proceeding with that of Valle Foam Industries (1995) Inc. The docket in case no. 12-30214 should be consulted for all matters affecting this case.

18. The relief requested by the Monitor has been granted as a routine matter by this Court and by other courts in Chapter 11 cases and was granted by this Court in the Chapter 15 cases of Biltrite Rubber (1984) Inc. and Biltrite Rubber

Inc. *In re Biltrite Rubber (1984) Inc., et al.*, Case No. 09-31423-maw (Bankr. N.D. Ohio March 12, 2009, Docket Item no. 10).

19. An order of joint administration relates to the routine administration of a case and may be entered by the Court in its sole discretion on an *ex parte* basis.

20. For all of the foregoing reasons, the Monitor respectfully requests the immediate entry of an order providing for the joint administration of the Foreign Applicants' Chapter 15 cases pursuant to Bankruptcy Rule 1015(b).

**Waiver of Requirement to File Memorandum of Law**

21. Because this Motion presents no novel issues of law and the authorities relied upon are stated herein, the Monitor respectfully requests that the Court waive the requirement contained in Local Bankruptcy Rule 9013-1(a) that the Monitor file a separate memorandum of law in support of this Motion.

**Notice**

22. The Monitor requests that the Court grant this Motion without notice to creditors. The Monitor will serve notice of this motion on the United States Trustee and of the signed order in accordance with the procedures set forth in the Motion for Order Specifying Form and Manner of Service of Notice filed contemporaneously herewith. In light of the nature of the relief requested, the Monitor submits and requests that this Court hold that no further notice is required.

**No Prior Request**

23. No prior request for relief sought in this Motion has been made to this Court or any other court.

WHEREFORE, the Monitor respectfully requests that the Court enter an order substantially in the form as is attached hereto as Exhibit B: (i) authorizing and directing the joint administration of the Chapter 15 cases of the Valle Foam Group; (ii) approving and directing the use of the consolidated caption set forth above on all documents filed in these jointly administered cases; (iii) authorizing and directing an entry on the dockets of the Domfoam Chapter 15 Case and the A-Z Chapter 15 Case reflecting the joint administration of the Chapter 15 cases; and (iv) granting such other and further relief as is just and proper.

Dated: January 23, 2012

Respectfully submitted,

/s/ James W. Ehrman

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