

SUPERIOR COURT

(Commercial Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-11-057679-199

DATE: April 27, 2023

BY THE HONOURABLE MARTIN F. SHEEHAN, J.S.C.

In the Matter of *The Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 of
Fortress Global Enterprises et al.:

**INVESTISSEMENT QUÉBEC
FIERA PRIVATE DEBT INC.**
Applicant / Secured Creditors

and
**FORTRESS GLOBAL ENTERPRISES INC.
FORTRESS SPECIALTY CELLULOSE INC.
FORTRESS BIOENERGY LTD.
FORTRESS XYLITOL INC.
9217-6536 QUÉBEC INC.**
Debtors

and
DELOITTE RESTRUCTURING INC.
Applicant/Monitor

**JUDGMENT ON APPLICATION TO EXTEND A STAY OF PROCEEDINGS AND AN
APPLICATION TO APPROVE A SETTLEMENT AGREEMENT WITH A FORMER
EMPLOYEE**
(Sections 11 and 11.02(2) of the *Companies' Creditors Arrangement Act*)

OVERVIEW

[1] The Court is seized with two motions:

[2] In the first motion (the “**Stay Application**”), the Applicant, Investissement Québec (“**IQ**”) in its capacity as interim lender and secured creditor of the Debtors, seeks the issuance of an order:

- 2.1. to extend the Stay Period (as defined below) until June 23, 2023;
- 2.2. to confirm that the Stay (as defined below) applies to the SAP Proceedings (as defined below); and
- 2.3. to approve the activities of Deloitte Restructuring Inc., in its capacity as court-appointed monitor of Fortress (as defined hereinafter) (“**Deloitte**” or the “**Monitor**”) as described in its Nineteenth report to this Court dated April 25, 2023 (the “**Nineteenth Report**”);
- 2.4. to allow Appendixes A and B of the Nineteenth Report to be filed under seal.

[3] In the second motion (the “**Settlement Approval Application**”), the Monitor seeks the issuance of an order:

- 3.1. to approve the terms and conditions of the Settlement Agreement (as defined below) between Fortress and a Former Employee (as defined hereinafter);
- 3.2. to authorize the Monitor to enter into and execute the Settlement Agreement for and on behalf of Fortress; and
- 3.3. to allow the Settlement Agreement as well as the exchange of documents which led it to be filed under seal.

CONTEXT

[4] On December 16, 2019, Justice Marie-Anne Paquette, j.s.c. (as she then was) issued a first-day initial order (the “**First Day Order**”) under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) in respect of Fortress Global Enterprises Inc., Fortress Specialty Cellulose Inc., Fortress Bioenergy Ltd., Fortress Xylitol Inc. and 9217-6536 Québec Inc. (collectively, “**Fortress**” or the “**Debtors**”), pursuant to which:

- 4.1. Deloitte was appointed as monitor of the Debtors;
- 4.2. all claims against the Debtors, their properties and their directors and officers were stayed (the “**Stay**”) until December 26, 2019 (the “**Stay Period**”); and

- 4.3. the Debtors were authorized to borrow from IQ an amount of up to \$1,000,000 on the terms and conditions of the Interim Financing Term Sheet (the “**Interim Financing Term Sheet**”), which was to be secured by a super-priority charge and security over all of the assets of each of the Debtors in the aggregate amount of \$1,200,000 (the “**Interim Lender Charge**”).

[5] On the same day, the Court appointed Deloitte as receiver to the Debtors for the sole purpose of allowing their respective employees to recover amounts which may be owing to them pursuant to the *Wage Earner Protection Program Act*.¹

[6] On December 26, 2019, the Court issued an Amended First Day Order which:

- 6.1. Extended the Stay Period until January 10, 2020;
- 6.2. Authorized the Debtors to borrow from IQ an amount of up to \$1,500,000 under the terms and conditions set forth in the Interim Financing Agreement, to be secured by an Interim Lender Charge of \$1,800,000; and
- 6.3. Authorized the Debtors (with the prior approval of the Monitor), or the Monitor (on behalf of the Debtors), to pay amounts owing for goods or services actually supplied to the Debtors either prior to or after the date of this Order up to a maximum of \$250,000, to the extent that, in the opinion of the Monitor, the supplier was essential to the business and ongoing operations of the Debtors.

[7] On January 10, 2020, the Court issued an Amended and Restated Initial Order which provided:

- 7.1. an extension of the Stay Period until May 2, 2020;
- 7.2. the authorization for the Debtors to borrow from IQ an amount of up to \$6,000,000 under the terms and conditions set forth in the Interim Financing Agreement, to be secured by an Interim Lender Charge of \$7,200,000;
- 7.3. the creation of a key employee retention plan (the “**KERP**”) and a charge in the amount of \$610,000 to secure the payment of Fortress’ obligations under the KERP (the “**KERP Charge**”); and
- 7.4. an increase in the Monitor’s powers, including the powers to conduct and control the financial affairs and operations of the Debtors, and carry on the business of the Debtors.

[8] The Court also issued a Claims Procedure Order which established a “Claims Bar Date” of March 16, 2020 (except for restructuring claims).

¹ *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1.

[9] Since then, the Court has rendered further orders, including:

- 9.1. an order dated March 23, 2020 clarifying that the Stay applied to proceedings commenced before the *Tribunal Administratif du Québec* (the “**TAQ**”) and suspending penal proceedings before the Court of Quebec, criminal division;
- 9.2. orders extending the Stay Period (which is currently set to expire on April 28, 2023);
- 9.3. orders to approve a First Amending Agreement, a Second Amending Agreement, a Third Amending Agreement, a Fourth Amending Agreement, a Fifth Amending Agreement and a Sixth Amending Agreement to the Interim Financing Term Sheet, providing for an increase to the Facility Amount (as defined in the Interim Financing Agreement) to a total amount of \$33,800,000, and a corresponding increase to the Interim Lender Charge to a total amount of \$40,460,000; and
- 9.4. an order dated February 11, 2022 approving a litigation funding agreement with Omni Bridgeway (Fund 5) Canada Investments Limited to allow Fortress to pursue proceedings against Les Pompes Gould Inc.

[10] On April 20, 2023, the undersigned was appointed to case manage the present proceedings.

ANALYSIS

1. The Stay of Proceedings

[11] The Debtors’ restructuring efforts have proven challenging.

1.1 Pre-Filing Solicitation Efforts

[12] Prior to the issuance of the First Day Order, a sale and investment solicitation process (“**SISP**”) was conducted by the Debtors with the assistance of its financial advisors (and in consultation with IQ and Deloitte).

[13] Despite these efforts, no offer, indication of interest or other proposal were submitted to the Debtors prior to the filing of the proceedings.

1.2 The 2021 SISP

[14] Further to the commencement of the CCAA proceedings, the Debtors and the Monitor, in consultation with IQ and Fiera, held discussions with various parties on an informal basis regarding a potential transaction which would allow the continuation of the Debtors’ operations.

[15] On September 3, 2020, the Monitor received an offer from one of these parties for the acquisition of Fortress Bioenergy Ltd.'s ("**Fortress Bioenergy**") cogeneration facility (the "**Cogeneration Facility**"). The offer was shared with IQ and Fiera and was subsequently refused. The Monitor also received a draft letter of intention for the same facility, which was also shared with IQ and Fiera, and was subsequently refused.

[16] In 2021, the Debtors and the Monitor continued to have active discussions with various interested parties with a view of securing a binding offer with a party willing to continue the operations of the Debtors as a going concern.

[17] Despite these continued efforts, no agreement was reached.

[18] In late July 2021, the Monitor met with respective representatives and counsel of IQ and Fiera to discuss the status of this file as well as the next steps.

[19] The parties agreed to establish a formal deadline for the submission of letters of intent as well as the terms and conditions in connection with the acquisition of the Debtors' business and assets (the "**2021 SISP**").

[20] The Monitor communicated with (22) potentially interested parties, including parties that had previously manifested some interest in acquiring the Debtors' business and assets (parties potentially interested in a going concern transaction and parties potentially interested in submitting liquidation offers whereby the Debtors' assets would be decommissioned and dismantled).

[21] On August 4, 2021, the Monitor sent these parties solicitation materials and advised them that offers should be submitted to the Monitor by no later than September 15, 2021.

[22] The Monitor received several offers (the "**2021 Offers**") from various parties including going concern offers from strategic parties as well as liquidation bids.

[23] On September 17, 2021, the Monitor presented a summary of the 2021 Offers to IQ and Fiera.

[24] Since several of the 2021 Offers contained conditions relating to IQ and the Québec government (including requests for financial support), IQ, together with the Monitor, proceeded with a detailed review of each and every one of the 2021 Offers in order to assess their respective viability.

[25] In late 2021, IQ and the Monitor decided to focus their discussions on one of the bidders (the "**Original Potential Purchaser**") and to evaluate its ability to implement a project involving the restart of Fortress' Pulp Mill and Cogeneration Facility (the "**Original Proposed Project**").

[26] Discussions and meetings were held between this Original Potential Purchaser, the Monitor, IQ as well as other governmental entities to clarify its offer, negotiate certain improvements to same and ultimately discuss the path going forward in order to properly assess the Original Potential Purchaser's Original Proposed Project and determine how this project could be implemented.

[27] Unfortunately, it became clear that certain conditions relating to the Original Proposed Project and the required participation from the Quebec government in the project could not be met.

[28] In March 2022, the Quebec government notified the Original Potential Purchaser that no agreement could be reached in connection with the Original Proposed Project.

1.3 Subsequent Discussions with Other Potential Purchasers

[29] Fortress, the Quebec government and the Monitor continued discussions with other parties and considered other potential transactions and projects involving the acquisition of Fortress' assets.

[30] In late September 2022, Fortress and the Monitor received a non-binding letter of intent, together with a business plan, from a party potentially interested in acquiring the business and assets of Fortress.

[31] Again, the offer did not result in a transaction.

[32] Fortress and the Monitor continued their discussions with several other parties which remained interested in a potential transaction involving the assets of Fortress.

1.4 The 2023 SISP

[33] On March 16, 2023, the Monitor communicated new terms and conditions to potential bidders which had shown renewed interest in Fortress' assets.

[34] By the deadline of April 14, 2023, Fortress and the Monitor had received six offers from different interested parties (the "**2023 Offers**"), including parties which had previously demonstrated an interest in a potential transaction, as well as other parties which had, until then, demonstrated no such interest.

[35] The Monitor confirms that some of the 2023 Offers were submitted by serious parties and it believes that some of these offers could be beneficial for Fortress as well as for the region of Thurso.

[36] The 2023 Offers were shared with IQ which will be proceeding with an analysis of these offers, together with the Monitor and various branches of the Quebec government.

1.5 Implementation of the “Cold Idle Plus Scenario”

[37] In parallel with the above discussions, the Monitor continued to maintain Fortress’ activities to a minimum, in order to reduce operating costs, while maintaining the value of Fortress’ assets for a potential purchaser in the hope that the demand for pulp and related products would increase.

[38] In accordance with the powers granted to it by the Court, the Monitor, in consultation with IQ, decided that:

38.1. Fortress Specialty Cellulose Inc.’s (“**Fortress Specialty**”) specialty cellulose mill located in Thurso, Québec (the “**Pulp Mill**”) would be idled indefinitely so as to minimize operating costs while market conditions improved; and

38.2. Fortress Bioenergy’s Cogeneration Facility would continue to operate, but at a substantially reduced production rate.

[39] On March 24, 2020, the Quebec Government ordered the closure of all Quebec non-essential businesses due to the COVID-19 pandemic. This prompted the temporary shutdown of the Cogeneration Facility, which was intended to take place, in any event, a few weeks later given low demand for electricity and the fact that the Pulp Mill would not require to be heated during the spring and summer months.

[40] As non-essential businesses gradually reopened and the market price for dissolving pulp increased, Fortress, under the supervision and oversight of the Monitor, proceeded to restart its Cogeneration Facility between the fall of 2020 until the spring of 2021, with a view to preserve the value of Fortress’ assets and maximize its revenues.

[41] As the market price for dissolving pulp remained strong,² Fortress, under the supervision and oversight of the Monitor, restarted the Cogeneration Facility during the fall of 2021 until the spring of 2022.

[42] However, further to the unsuccessful 2021 SISP, a decision was taken to gradually implement a “Cold Idle Plus Scenario”, as described in the Monitor’s Sixteenth, Seventeenth and Eighteenth Report.

[43] The scenario’s goal was to allow Fortress to significantly reduce its operating expenses while it continued to work with the Quebec government to determine the eventual path forward, and, at the same time, allow it to protect and preserve any remaining value of its assets for any future transaction or project, as the case may be.

² In December 2019, dissolving pulp was sold at market price of US\$640 per metric ton, whereas in the first half of 2021, the market price for dissolving pulp went up to US\$1,100 per metric ton. Today, the market price for dissolving pulp now ranges between US\$900 to \$US925 per metric ton.

[44] The Cold Idle Plus Scenario also allowed Fortress to assist the City of Thurso for the treatment of its wastewater and plan for environmental remediation of the site, which has remained ongoing over the course of the past few months.

1.6 Extension of the Stay Period

[45] The Stay Period is currently set to expire on April 28, 2023.

[46] IQ asks that the Stay Period be extended to June 23, 2023.

[47] IQ submits that this two-month extension of the Stay Period will allow IQ, together with the Quebec government and the Monitor, to assess the 2023 Offers received as part of the 2023 SISP, as well as other remaining available options.

[48] The Monitor believes that there is a strong possibility that a viable project will be selected from the recent offers, and that the Quebec government will be able to provide an indication about its interest by the end of June 2023.

[49] The main conditions of the 2023 SISP are attached to the Nineteenth Report as Appendix A. A table summarizing the main terms of the 2023 Offers is attached to the Nineteenth Report as Appendix B.

[50] Absent an order from this court ordering the extension of the Stay Period, the parties would be forced to initiate receivership or bankruptcy proceedings under the *Bankruptcy and Insolvency Act*³ (the “**BIA**”). IQ submits that such proceedings would not significantly alter the current situation or the challenges which Fortress and its stakeholders are currently facing.

[51] However, such proceedings would require additional filing of court materials and reports which would distract funds and efforts from the primary goal of finding a viable solution.

[52] IQ, Fortress and the Monitor all believe that the maintenance of the CCAA proceedings and the Stay remain appropriate in the circumstances, especially given the 2023 Offers recently received.

[53] As indicated in the Monitor’s Nineteenth Report, an updated operation budget has been prepared to continue implementing the Cold Idle Plus Scenario while Fortress and the Monitor attempt to finalize a transaction with a potential purchaser.

[54] The Cash Flow Statement contained in the Nineteenth Report indicates that Fortress should have sufficient liquidity to continue to meet its obligations in the ordinary course of business within the Interim Financing Facility that was granted to Fortress through the Sixth Amending Agreement.

³ *Bankruptcy and Insolvency Act*, L.R.C. 1985, c. B-3.

1.7 Filing of Appendixes A and B of the Nineteenth Report under Seal

[55] Fortress, IQ and the Monitor ask that Appendixes A and B of the Nineteenth Report be filed under seal.

[56] In *Sherman Estate v Donovan*,⁴ the Supreme Court of Canada confirmed that a sealing order can only be granted in the following circumstances:

- 56.1. court openness poses a serious risk to an important public interest;
- 56.2. the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and,
- 56.3. as a matter of proportionality, the benefits of the order outweigh its negative effects.

[57] These conditions are met here.

[58] Canadian courts, as a general practice, consider that all aspects of a bidding or sales process should be kept confidential. The sealing of this information protects the integrity of the process and ensures that, while the process is running its course, all potential bidders are treated equitably, and no one obtains an unfair advantage. Courts have considered that publicly divulging such information would negatively impact on future realizations on the assets and the parties' efforts to maximize value for stakeholders. The commercial interests of the monitor, bidders, creditors and other stakeholders to promote a fair sales and solicitation process in restructuring, insolvency or liquidation matters constitutes an important public interest.⁵

[59] A sealing order is required to protect this interest. There are no reasonable alternatives to the sealing order. No stakeholders will be materially prejudiced by sealing the information. The requested order is limited to Appendixes A and B of the Nineteenth Report which contains the information about the process and the bids received in the context of the 2023 SISP.

[60] As a matter of proportionality, the benefits of the limited order outweigh its negative effects.

⁴ *Sherman Estate v. Donovan*, 2021 SCC 25, para. 38.

⁵ *Ontario Securities Commission v. Bridging Finance Inc.*, 2022 ONSC 1857, para. 53; *Yukon (Government of) v.* 2022 YKSC 2, paras. 39 to 43; *Danier Leather Inc. (Re)*, 2016 ONSC 1044, paras. 82 to 86; *GE Canada Real Estate Financing Business Property Co v. 1262354 Ontario Inc.*, 2014 ONSC 1173, paras. 33 and 34; *Look Communications Inc v. Look Mobile Corp* (2009), 183 ACWS (3d) 736 (Ont Sup Ct); *887574 Ontario Inc. v. Pizza Pizza Ltd.*, (1994), 23 B.L.R. (2d) 239 (Ont. Gen. Div.).

1.8 Application of the Stay to the SAP Proceedings

[61] Prior to the initiation of the CCAA proceedings, Fortress Specialty operated the Pulp Mill under an authorization certificate (the “**Authorization Certificate**”) issued by the *Ministère de l’Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs* (the “**MELCC**”) in accordance with the *Loi sur la qualité de l’environnement*,⁶ (the “**LQE**”) and the *Règlement sur les fabriques de pâtes et papier*.⁷

[62] As a result of the Debtors’ financial situation, the Pulp Mill’s operations have been suspended since on or about October 8, 2019.

[63] On July 7, 2021, the *Bureau de réexamen* of the MELCC imposed a monetary administrative penalty in the amount of 10,000\$ (the “**SAP**”) against Fortress Specialty (the “**SAP Decision**”).

[64] On August 6, 2021, Fortress Specialty contested the SAP Decision before the TAQ in file number STE-Q-257041-2108 (the “**SAP Proceedings**”).⁸

[65] IQ seeks a declaration from the Court specifying that the Stay applies to the SAP Proceedings.

[66] The MELCC is a “regulatory body” under section 11.1 of the CCAA.

[67] As such, a stay order under section 11.02 of the CCAA generally does not affect an investigation, suit, proceeding or action by the MELCC in respect of the debtor company unless the Court is of the opinion that:

67.1. a viable compromise or arrangement could not be made in respect of the company if the regulatory proceeding is not stayed; and

67.2. it is not contrary to the public interest that the regulatory body be affected by the order made under section 11.02.

[68] IQ submits that the SAP could prevent the closing of a transaction in respect of the Debtors. It points out that certain of the letters of intention received by the Debtors include the Debtors’ permits and licences as part of the purchased assets.

[69] The Monitor was informed that if the SAP is confirmed, the MELCC could, without any other motive, refuse to amend or renew Fortress Specialty’s Authorization Certificate in accordance with section 115.5 of the LQE.

⁶ *Loi sur la qualité de l’environnement*, RLRQ, c. Q-2.

⁷ *Règlement sur les fabriques de pâtes et papiers*, RLRQ, c. Q-2, r. 27.

⁸ Exhibit R-2 to the Stay Application.

[70] The loss of the Authorization Certificate would have a significant impact on the Debtor's perspective of closing a transaction and would considerably diminish the value of Fortress Specialty's assets.

[71] Furthermore, for the purpose of the Cold Idle Plus Scenario, the Debtors proceeded to lay-offs and they submit that they do not have the resources to adequately prepare for the SAP Proceedings.

[72] Because the Pulp Mill is in Cold Idle Plus mode, there is no risk that the alleged violations of the LQE and its regulation will continue.

[73] As such, the order sought would have a minimal impact on the public interest.

[74] IQ, the Monitor and the Debtors support the Stay Application.

[75] The MELCC does not oppose it.

[76] No creditor of the Debtors will be materially prejudiced by the extension of the Stay.

[77] The Court is also mindful of the fact that a similar request in connection with proceedings before the TAQ was previously granted by this court on March 23, 2020.⁹

2. The Approval of a Settlement with a Former Employee

[78] In its Seventeenth and Eighteenth Reports to this court, the Monitor advised the Court that a former employee of Fortress (the "**Former Employee**") had sent a demand letter (the "**Demand Letter**") to Fortress and IQ seeking damages for constructive dismissal.¹⁰

[79] The Former Employee sought payment of amounts allegedly owed for the period of the CCAA proceedings as well as under the KERP.

[80] The Monitor contested the allegations of the Demand Letter and took the position that no amounts were owed by Fortress to the Former Employee.¹¹

[81] Nonetheless the Monitor informed the Former Employee that it would be willing to consider a private dispute resolution process to avoid potential litigation.

[82] Further to several discussions and exchanges between the Monitor, IQ, the Former Employee and their respective legal counsel, the parties have agreed on the terms and conditions of a settlement agreement (the "**Settlement Agreement**"), which

⁹ Exhibits R-4 and R-5 to the Stay Application.

¹⁰ Exhibit A-2 to the Settlement Approval Application (filed under seal).

¹¹ Exhibit A-3 to the Settlement Approval Application (filed under seal).

remains conditional upon the approval of the Court given that Fortress remains subject to the CCAA Proceedings.¹²

[83] The Settlement Agreement provides for:

83.1. the payment of compensation to the Former Employee in exchange for a full and final release in favour of Fortress and IQ with respect to the allegations contained in the Demand Letter; and

83.2. the confidentiality of the terms and conditions of the Settlement Agreement in order to preserve the confidentiality of the identity of the Former Employee.

[84] The Monitor asks that the Court approve the Settlement Agreement. The Court agrees.

[85] The terms and conditions of the Settlement Agreement are reasonable in the circumstance, namely because they allow the parties to avoid the costs and inconvenience associated with a potential litigation with the Former Employee, which would, in all likelihood, exceed the amount of consideration provided for under the Settlement Agreement given the numerous parties involved.

[86] IQ, in its capacity as the interim lender, is supportive of the Settlement Agreement.

[87] No party will be materially prejudiced as a result of the Settlement Agreement.

[88] The Settlement Agreement allows Fortress to operate within its budget without harming its restructuring initiatives.

[89] The Monitor also asks that the Court order that the Demand Letter (Exhibit A-2), the Monitor's Response (Exhibit A-3) and the Settlement Agreement (Exhibit A-4) be filed under seal until further order of the Court, given that the disclosure of these documents would necessarily result in the identification of the Former Employee.

[90] This request is also appropriate in the circumstances.

[91] No public proceedings have been filed by the Former Employee relating to the facts alleged in the Demand Letter.

[92] In accordance with the guidance provided in article 1 of the *Quebec Civil Code of Procedure*, the parties considered private prevention and resolution processes before referring their dispute to the courts.

[93] Discussions which take place in this context are protected by settlement privilege. Settlement privilege "wraps a protective veil around the efforts parties make to settle their

¹² Exhibit A-4 to the Settlement Approval Application (filed under seal).

disputes by ensuring that communications made in the course of these negotiations are inadmissible". The privilege protects the discussions that have led to a settlement as well as the contents of the settlement itself.¹³

[94] Thus, the request to seal the documents is granted.

3. Provisional Execution Notwithstanding Appeal

[95] Article 661 of the *Civil Code of Procedure* allows the court, upon application, to order provisional execution for the whole or a part only of the judgment, "if bringing an appeal is likely to cause serious or irreparable prejudice to one of the parties".

[96] Both applicants have asked for provisional execution.

[97] With regard to the Stay Application, the serious prejudice is clear. The Stay expires tomorrow and without it, the important restructuring efforts to date would be put in jeopardy.

[98] With regard to the Settlement Approval Application, the prejudice is less evident.

[99] The parties submit that the Settlement Agreement was reached in December 2022 and that delays ensued in the appointment of a supervision judge to replace Chief Justice Paquette.

[100] Indeed, the parties cannot be faulted for this delay.

[101] This being said, this fact alone does not imply a serious prejudice. The Settlement Agreement gives Fortress ten days to pay. An additional eleven days will not make much of a difference.

[102] Moreover, the fact that a party has been waiting a long time for a judgment, even when it alleges being in urgent need of money (which is not the case here), is generally not considered a sufficient reason to obtain provisional execution of a judgment.¹⁴

[103] Thus, the criteria for provisional execution of the judgment related to the Settlement Agreement Application are not met.

FOR THESE REASONS, THE COURT:

[104] **GRANTS** the Application for the Issuance of an Order Extending the Stay Period and Extending the Stay to the SAP Proceedings (the "**Stay Application**");

¹³ *Sable Offshore Energy Inc. v. Ameron International Corp.*, 2013 SCC 37, paras. 2 and 18.

¹⁴ *141517 Canada ltée (Clermont ltée) c. Godin*, 2020 QCCS 1778, para. 35.

[105] **DECLARES** that all capitalized terms used but not otherwise defined in the present Order shall have the meanings ascribed to them in the First Day Order or in the Stay Application or the Settlement Approval Application;

[106] **ORDERS** that the Stay Period (as defined in the First Day Order) shall be extended to and including June 23, 2023, and specifies that such Stay Period shall apply to the Proceedings (as defined in the First Day Order) commenced before the *Tribunal administratif du Québec* under the file number STE-Q-257041-2108;

[107] **APPROVES** the activities of the Monitor, up to the date of this Order as described in the Nineteenth Report of the Monitor and in his testimony at the hearing;

[108] **ORDERS** that Appendixes A and B to the Nineteenth report of the Monitor filed in connection with the Stay Application are confidential and are filed under seal and **PRAYS ACT** of the Monitor's undertaking to communicate such exhibit to certain creditors following an undertaking of confidentiality and subject to such redactions as the Monitor deems appropriate;

[109] **GRANTS** the Application for the Issuance of an Order Approving the Settlement of the Claim of a Former Employee and the Execution of a Settlement Agreement (the "**Settlement Approval Application**");

[110] **ORDERS** that any prior delay for the presentation of the Settlement Approval Application is hereby abridged and validated so that the Settlement Approval Application is properly returnable today and hereby dispenses with any further notification thereof;

[111] **PERMITS** notification of this Order at any time and place and by any means whatsoever, including by email;

[112] **APPROVES** the terms and conditions of the Settlement Agreement between Fortress and the Former Employee (Exhibit A-4 (under seal) to the Settlement Approval Application);

[113] **AUTHORIZES** the Monitor, for and on behalf of Fortress Global Enterprises Inc. as well as in its capacity as Monitor, to enter into and execute the Settlement Agreement.

[114] **ORDERS** that Exhibits A-2 and A-3 filed in support of the Settlement Agreement Application are confidential and are filed under seal until further order from this court;

[115] **ORDERS** that Exhibit A-4 filed in support of the Settlement Agreement Application is confidential and is filed under seal and **PRAYS ACT** of the Monitor's undertaking to communicate such exhibit to certain creditors following an undertaking of confidentiality and subject to such redactions as the Monitor deems appropriate;

[116] **ORDERS** the provisional execution of the conclusions in paragraphs [104] to [108] and [114] to [115] of this Order notwithstanding appeal, and without the requirement to provide any security or provision for costs whatsoever.

[117] **THE WHOLE** without costs.

MARTIN F. SHEEHAN, J.S.C.

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Hearing date: April 27, 2023