

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)

THURSDAY, THE 28TH

JUSTICE McEWEN

)

DAY OF NOVEMBER, 2019

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF NORTH AMERICAN FUR PRODUCERS INC.,
NAFA PROPERTIES INC., 3306319 NOVA SCOTIA LIMITED, NORTH
AMERICAN FUR AUCTIONS INC., NAFA PROPERTIES (US) INC.,
NAFA PROPERTIES STOUGHTON LLC, NORTH AMERICAN FUR
AUCTIONS (US) INC., NAFPRO LLC (WISCONSIN LLC), NAFA
EUROPE CO-OPERATIEF UA, NAFA EUROPE B.V., DAIKOKU SP.Z
OO and NAFA POLSKA SP. Z OO

(the "**Applicants**")

ORDER

(Approving Conditions for Sale of Ground Leases)

THIS MOTION made by the Applicants for an order approving certain conditions in respect of the listing for sale and sale of the Ground Leases (as defined in the affidavit of Doug Lawson, sworn November 27, 2019) as set out in greater detail herein, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Doug Lawson, sworn November 27, 2019 and the Exhibits thereto (the "**Lawson Affidavit**"), the Second Report of Deloitte Restructuring Inc., in its capacity as monitor for the Applicants (in such capacity, the "**Monitor**") and on hearing the submissions of counsel for the Applicants, counsel to the Monitor, counsel to Business Development Bank of Canada ("**BDC**"), as lender with first-ranking security over the Ground Leases, counsel to the Canadian Imperial Bank of Commerce, as agent (in such capacity, the "**Agent**") for the lenders party to the Fourth and Restated Credit Agreement dated as of September 27, 2019 (as may be amended or amended and restated, the "**Credit Agreement**")

from time to time (the “**Lenders**”), and all other counsel listed on the counsel slip, no one appearing for any other person on the Service List, although properly served as appears on the Affidavit of Service of Jessica Wuthmann, sworn November 27, 2019, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that terms not otherwise defined in this Order shall have the meaning set out in the Initial Order of the Honourable Justice McEwen, dated October 31, 2019 (as amended and restated) (the “**Initial Order**”).

TERMINATION OF GROUND LEASES

3. **THIS COURT ORDERS** that North American Fur Auctions Inc. (“**NAFA**”) shall provide sixty (60) days advance notice to NAFA Properties Inc. (“**LeaseCo**”), BDC and the Agent of its intention to terminate its tenancy at the Skyway Property (as defined in the Lawson Affidavit).

SALES PROCESS FOR THE GROUND LEASES

4. **THIS COURT ORDERS** that LeaseCo is hereby authorized and directed to:
- (a) Enter into a listing agreement for the sale of the Ground Leases as soon as reasonably practicable, in form and substance satisfactory to the Monitor and BDC, in consultation with the Agent;
 - (b) Determine an appropriate marketing and sales strategy in respect of the Ground Leases in consultation with the Monitor, BDC and the Agent and prior to taking any material steps relating to the Ground Leases, obtain the consent of BDC, in consultation with the Agent, or further Order of the Court;

- (c) Provide at least bi-weekly updates to BDC and the Agent on the status of the sale of the Ground Leases and advise BDC and the Agent immediately of any material developments with respect thereto;
- (d) Provide information as soon as reasonably practicable relating to the Ground Leases that is reasonably requested by BDC or the Agent; and
- (e) In the event that there is an offer to purchase one or more of the Ground Leases which is acceptable to the Applicants, the Monitor and BDC, bring a motion before the Court for an order approving such offer as soon as reasonably practicable.

GROUND LEASE PAYMENTS

5. **THIS COURT ORDERS** that, until the earlier of (i) the expiration of the Notice Period, (ii) the sale of the Ground Leases, or (iii) further Order of the Court, the Applicants are hereby authorized and directed to continue making any and all payments relating to the Ground Leases due and owing in the ordinary course including, without limitation, any ordinary course rent payments, tax and utility payments, maintenance payments, and mortgage payments to BDC, and the Applicants and the Monitor are hereby authorized and directed to provide the Agent with particulars of any such payments.

LIMITATION AS TO FEES AND CHARGES

6. **THIS COURT ORDERS** that the security granted to BDC in respect of the Ground Leases shall rank in priority to the Charges (but only to the extent of the security held by BDC over the Ground Leases and not any other security granted to BDC), and subject to the costs incurred pursuant to paragraph 7 below which would, for greater certainty, rank in priority to the security held by BDC in respect of the Ground Leases.

7. **THIS COURT ORDERS** that only those reasonable costs directly associated with the Ground Leases and the sale of the Ground Leases including, without limitation, transaction costs, the legal fees and disbursements of counsel for the Applicants, and the fees and disbursements of

the Monitor and counsel to the Monitor (collectively, the “Costs”), shall be paid from the proceeds resulting from a sale of the Ground Leases.

8. **THIS COURT ORDERS** that the Applicants and the Monitor shall provide BDC and the Agent with a monthly accounting of the Costs incurred by the Applicants and the Monitor relating to the sale of the Ground Leases within three weeks of months’ end.

PLAN OF ARRANGEMENT

9. **THIS COURT ORDERS** that no Plan shall compromise any indebtedness or obligations owing by LeaseCo to BDC or any encumbrance or security interest securing the security granted to BDC in respect of the Ground Leases, except with respect to any shortfall incurred by BDC after its security is realized upon.

ADVICE AND DIRECTIONS

10. **THIS COURT ORDERS** that the Applicants, the Monitor, BDC and the Agent may from time to time apply to this Court for advice and directions in respect of this Order.



REGISTRE DE LA COURTE SUPERIEURE A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

NOV 28 2019

PER / PAR: 

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ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced at Toronto

ORDER

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