

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

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 3113736  
CANADA LTD., 4362063 CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.

(the "Applicants")

**MOTION RECORD OF THE APPLICANTS**

January 5, 2022

**BLANEY McMURTRY LLP**  
Barristers and Solicitors  
Suite 1500 - 2 Queen Street East  
Toronto, ON, M5C 3G5

**David T. Ullmann (LSO # 42357I)**  
Tel: (416) 596-4289  
Email: DUllmann@blaney.com

**Varoujan Arman (LSO # 60025K)**  
Tel: (416) 596-2884  
Email: VArman@blaney.com

Lawyers for the Applicants

**To: Service List**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

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 3113736  
CANADA LTD., 4362063 CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.

(the “Applicants”)

**INDEX**

<b>Tab</b>	<b>Document(s)</b>
1	Notice of Motion dated January 5, 2022
2	Affidavit of Linc Rogers sworn January 5, 2022
A	Exhibit A - 2020-06-08 Order of Justice Conway re CRO appointment
B	Exhibit B - 2021-10-28 - Order of Justice Pattillo Order re stay extension
C	Exhibit C – 2021-09-17 Order of Justice Cavanagh re settlement approval and sealing order
D	Email chain dated January 5, 2022 between Grant Moffat and Fred Tayar
3	Draft Order

# **Tab 1**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

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 3113736  
CANADA LTD., 4362063 CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.

(the "**Applicants**")

**NOTICE OF MOTION**

**THE MOVING PARTIES**, 3113736 Canada Ltd. (formerly known as Valle Foam Industries (1995) ("**Valle Foam**"), 4362063 Canada Ltd. (formerly known as Domfoam International Inc.) ("**Domfoam**"), and A-Z Sponge & Foam Products Ltd. ("**A-Z Foam**") (collectively, the "**Applicants**") will make a motion to a Judge of this Honourable Court at 9:50 a.m. on Thursday, January 6, 2022, or as soon thereafter as the motion can be heard, by Zoom video conference at 330 University Avenue, Toronto, Ontario, and filed electronically through the Civil Submissions Online portal of the Justice Services Online website pursuant to the Supplementary Notice to the Profession of Justice Morawetz dated June 17, 2021 due to the COVID-19 pandemic.

**PROPOSED METHOD OF HEARING:**

This motion is to be heard orally by way of Zoom.

**THE MOTION IS FOR:**

1. If necessary, an order abridging and validating the time for service of this Motion Record and Notice of Motion;
2. An Order lifting the sealing order contained at paragraph 7 of the Order of Justice Cavanagh dated September 17, 2021, thereby unsealing Confidential Exhibit “B” to the affidavit of the Chief Restructuring Officer, Linc Rogers, sworn September 14, 2021; and
3. Such further and other relief as this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

4. On January 12, 2012, the Applicants sought and were granted protection under the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36 (“**CCAA**”), as amended pursuant to the Order of the Honourable Mr. Justice Newbould;
5. Deloitte & Touche Inc., now known as Deloitte Restructuring Inc., was appointed in the Initial Order to act as monitor in these CCAA proceedings (“**Monitor**”);
6. As a result of the sale of assets of the Applicants, Valle Foam changed its name to 3113736 Canada Ltd., and Domfoam changed its name to 4362063 Canada Ltd. The style of cause of these proceedings was changed by the Order of Justice Brown, dated June 15, 2012 to reflect the change of names;

7. This proceeding is nearly at an end, and the Applicants have scheduled a motion returnable January 18, 2022 to terminate this proceeding, along with the other usual related relief sought at the end of a CCAA proceeding. Pursuant to the Order of Justice Pattillo dated October 28, 2021, the stay of proceedings is set to expire on January 18, 2021;

8. A major issue that delayed this proceeding from being finalized was a dispute that arose between the company that purchased the assets of Domfoam, Domfoam Inc. (formerly known as 4037047 Canada Inc.) (the “**Domfoam Purchaser**”), over amounts recovered by Domfoam from certain class action proceedings wherein Domfoam was a claimant. The dispute with the Domfoam Purchaser was settled in the fall of 2021. The settlement was approved by way of the Order of Justice Cavanagh dated September 17, 2021. Paragraph 7 of the Order contains a sealing order over the Confidential Exhibit “B” to the affidavit of Linc Rogers, sworn September 14, 2021, being the settlement agreement with the Domfoam Purchaser;

9. In order to make proper disclosure to Domfoam’s creditors of the amounts in the Domfoam estate available for distribution, the Monitor is required to disclose the Domfoam settlement amount in the statement of receipts and disbursements to be contained in the Monitor’s final report to the Court. Therefore, the Applicants require an order lifting the sealing order in order to facilitate the termination of this proceeding;

10. The Domfoam Purchaser has been consulted and has confirmed through its legal counsel that is not opposed to the relief sought on this motion;

11. It is just and convenient and in the interests of the Applicants and their stakeholders that the requested Order be granted;

12. The motion is supported by the Monitor and there is no known opposition to this motion;

13. The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;

14. Rule 1.04, 1.05, 2.03, 3.02, 16 and 37 of the Ontario *Rules of Civil Procedure*, RSO 1990, Reg. 194, as amended; and

15. Such further and other grounds as counsel may advise.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

16. The Affidavit of the Chief Restructuring Officer, Linc Rogers, sworn January 5, 2022 and Exhibits thereto; and

17. Such further and other material as counsel may advise and this Court may permit.

January 5, 2022

**BLANEY McMURTRY LLP**  
Barristers and Solicitors  
Suite 1500 - 2 Queen Street East  
Toronto, ON, M5C 3G5

**David T. Ullmann** LSO #42357I  
Tel: (416) 596-4289  
Fax: (416) 594-2437  
Email: [DUllmann@blaney.com](mailto:DUllmann@blaney.com)

**Varoujan Arman** LSO #60025K  
Tel: (416) 596-2884  
Fax: (416) 593-2960  
Email: [VArman@blaney.com](mailto:VArman@blaney.com)

Lawyers for the Applicants

**To: Service List**



# Tab 2

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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 3113736  
CANADA LTD., 4362063 CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.

**AFFIDAVIT OF LINC ROGERS  
CHIEF RESTRUCTURING OFFICER**

I, **LINC ROGERS**, of the City of Toronto in the Province of Ontario, **MAKE OATH  
AND SAY:**

1. I am a lawyer and partner in the Restructuring and Insolvency Group in the Toronto office of Blake, Cassels & Graydon LLP. Pursuant to the Order of the Honourable Justice Conway dated June 8, 2020 (the "**Appointment Order**"), I was appointed as the Chief Restructuring Officer ("**CRO**") of 3113736 Canada Ltd., formerly known as Valle Foam Industries (1995) Inc., 4362063 Canada Ltd., formerly known as Domfoam International Inc. ("**Domfoam**"), and A-Z Sponge & Foam Products Ltd. ("**A-Z Foam**" and together with Valle Foam and Domfoam, the "**Applicants**"), and as such have knowledge of the matters to which I hereinafter depose.

2. Where the information in this affidavit is based upon information and belief, I have indicated the source of my information and belief, and do verily believe it to be true.

3. To the extent that any of the information set out in this affidavit is based on my review of documents, I verily believe the information in such documents to be true.

4. I swear this affidavit in support of the Applicants' motion for an order lifting the sealing order contained at paragraph 7 of the Order of Justice Cavanagh dated September 17, 2021 (the "**Cavanagh Order**"), sealing a settlement agreement entered into by Domfoam that was previously approved of by this Court.

### **Background**

5. The Applicants were in the business of manufacturing and distributing flexible polyurethane foam products. Following significant Competition Bureau charges and fines levied against them for their alleged participation in a price fixing scheme in the polyurethane foam industry, the Applicants sought and obtained protection under the *Companies' Creditors Arrangement Act* (Canada) ("**CCAA**") on January 12, 2012, pursuant to an Order of the Court granted the same day (the "**Initial Order**").

6. Pursuant to the Initial Order, Deloitte Restructuring Inc. (as it is now called) was appointed as monitor in respect of the Applicants (in such capacity, the "**Monitor**"). During these proceedings, the Applicants have sold substantially all of their operating assets pursuant to various sale approval and vesting orders issued by this Court. Any remaining proceeds of such sales are being held by the Monitor.

7. As noted in the Twenty-Second Report of the Monitor dated April 22, 2020, filed in support of my appointment as CRO, the Monitor was advised by Applicants' counsel, Blaney McMurtry LLP, that counsel was unable to obtain instructions from the sole remaining director of Domfoam, Anthony Vallecoccia. On April 16, 2020, Mr. Vallecoccia advised that he no longer felt capable of continuing his duties as a director. At the request of the Monitor, I was appointed by this Court as CRO to fill the corporate governance void, primarily to resolve the Domfoam Dispute (as

defined below), either by way of consensual resolution or by adjudication. As noted above, the Appointment Order was issued on June 8, 2020. A copy of the Appointment Order is attached hereto and is marked as **Exhibit “A”** to this affidavit.

8. The stay of proceedings provided for in the Initial Order has been extended many times by this Court, most recently on October 28, 2021, by the Order of Justice Pattillo, and is currently set to expire on January 18, 2022. A copy of Justice Pattillo’s Order is attached hereto and marked as **Exhibit “B”**.

#### **Settlement Agreement with Domfoam Purchaser Subject to Sealing Order**

9. The operating assets of Domfoam were sold to Domfoam Inc. (formerly 4037057 Canada Inc.) (the “**Domfoam Purchaser**”) in 2012. A dispute over entitlement to certain proceeds from the settlement of class action litigation in both US and Canada (the “**Class Action Proceeds**”), in which Domfoam was a claimant, arose in 2018. It was at this time that the Domfoam Purchaser brought a motion to set aside a distribution order providing for, among other things, the distribution of the Class Action Proceeds to proven creditors of the Domfoam estate. In short, the Domfoam Purchaser took the position that it acquired the Class Action Proceeds in connection with the purchase of the Domfoam business. Domfoam disputed that the class action proceeds had been sold to the Domfoam Purchaser and in any event, asserted that the Domfoam Purchaser was estopped from asserting a claim.

10. In the fall of 2021, Domfoam and the Domfoam Purchaser reached a settlement of the Domfoam Dispute. The settlement is global and includes a resolution of the Domfoam Purchaser’s claims to both the US and Canadian class action proceeds. The settlement was approved by way of the Cavanagh Order on September 17, 2021. The specific economic terms of the settlement

were subject to a sealing order, as negotiations regarding a similar dispute with the purchaser of A-Z Foam's assets were ongoing at the time. A settlement of that dispute has now been reached with the purchaser of the A-Z Foam assets, and a motion to approve this settlement is being brought returnable January 18, 2022. A copy of the Cavanagh Order is attached hereto and marked as **Exhibit "C"**.

11. Paragraph 7 of the Cavanagh Order contains the sealing order over the Confidential Exhibit "B" to the affidavit of Linc Rogers, sworn September 14, 2021, being the settlement agreement with the Domfoam Purchaser. Paragraph 7 of the Cavanagh Order provides that the Domfoam settlement agreement is to remain confidential until the termination of this proceeding or further order of the Court.

12. The Applicants currently have a motion scheduled to proceed on January 18, 2022, to terminate this proceeding along with related relief.

13. I am advised by counsel for the Monitor, Grant Moffat of the law firm Thornton Grant Finnigan LLP, that in order to make proper disclosure of the amount available in Domfoam's estate and the proposed distribution to creditors, the Monitor needs to be able to disclose the amount of the settlement with the Domfoam Purchaser in the statement of receipts and disbursements to be contained in its final report to the Court.

14. Therefore, the Applicants require an order lifting the sealing order in order to facilitate the termination of this proceeding.

15. Now shown to me and marked as **Exhibit "D"** to this affidavit is an email chain of today's date wherein Mr. Moffat wrote to counsel for the Domfoam Purchaser, Fred Tayar, of Fred Tayar

& Associates P.C., asking Mr. Tayar to confirm that the Domfoam Purchaser does not oppose the lifting of the sealing order. Mr. Tayar confirmed by email that his client takes no issue.

16. I swear this affidavit in support of the Applicants' motion for an Order lifting the sealing order over the Domfoam settlement agreement set out at paragraph 7 of the Order of Justice Cavanagh dated September 17, 2021, and for no other purpose.

**SWORN** by Linc Rogers of the City of Toronto in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 5, 2022, in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*.



---

Commissioner for Taking Affidavits  
**VAROUJAN ARMAN**

}



---

**LINC ROGERS**

This is Exhibit "A"  
to the Affidavit of Linc Rogers sworn January 5, 2022



---

Varoujan Arman  
A Commissioner, etc.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE ) MONDAY, THE 8<sup>TH</sup>  
 )  
JUSTICE CONWAY ) DAY OF JUNE, 2020  
 )

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 3113736 CANADA LTD., 4362063  
CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.

(the “**Applicants**”)

**ORDER  
(CRO Appointment)**

**THIS MOTION** made by Deloitte Restructuring Inc. (formerly Deloitte & Touche Inc.) in its capacity as the Court-appointed Monitor (in such capacity, the “**Monitor**”) of 3113736 Canada Ltd., 4362063 Canada Ltd., and A-Z Sponge & Foam Products Ltd. (collectively, the “**Applicants**”), for an order appointing Linc Rogers, a partner with the law firm of Blake, Cassels & Graydon LLP (“**Blakes**”) in Toronto, as Chief Restructuring Officer (in such capacity, the “**CRO**”) of the Applicants, was heard on this day by a Judge of the Ontario Superior Court of Justice (Commercial List) through videoconference due to the COVID-19 crisis.

**ON READING** the Twenty-Second Report of the Monitor (the “**Twenty-Second Report**”), and on hearing submissions of counsel to the Monitor, the Applicants and Domfoam Inc., no one else appearing, although properly served as appears from the affidavit of service of Bobbie-Jo Brinkman sworn June 8, 2020,



## **DEFINITIONS**

1. **THIS COURT ORDERS** that any capitalized terms used herein and not otherwise defined shall have the meanings given to them in the Twenty-Second Report.

## **SERVICE**

2. **THIS COURT ORDERS** that (a) 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, and (b) authorizes and validates service of the Notice of Motion and the Motion Record via electronic means.

## **APPOINTMENT OF CHIEF RESTRUCTURING OFFICER**

3. **THIS COURT ORDERS** that Mr. Linc Rogers is hereby appointed as CRO, an officer of this Court, over and in respect of the Applicants and shall have the powers and duties specified in this Order.

## **CRO'S DUTIES**

4. **THIS COURT ORDERS** that, subject to the terms of this Order, the CRO is hereby empowered, authorized and directed to:

- (a) in consultation with the Monitor, take any and all steps required in order to resolve:
  - (i) the entitlement of the Domfoam Purchaser's claim to the Dow Settlement Funds and the Domfoam Canadian Polyols Funds; and
  - (ii) the entitlement of the A-Z Purchaser to A-Z Foam's share of the Residual Dow Settlement Funds and the A-Z Canadian Polyols Funds; and

- (b) perform such other duties as required by this Order or by this Court from time to time and such other duties as the CRO and the Monitor may from time to time agree

(collectively, the “**CRO Duties**”).

## **CRO’S POWERS**

5. **THIS COURT ORDERS** that, subject to the terms of this Order, the CRO, in the discharge and fulfilment of the CRO’s Duties, is hereby empowered and authorized to:

- (a) take any and all steps for and in the name of, and on behalf of, the Applicants in connection with the proceedings herein and to instruct counsel to the Applicants in connection with any such steps;
- (b) represent the Applicants in any negotiations with any other party, including creditors, customers, litigants and stakeholders of the Applicants;
- (c) communicate with and provide information to the Monitor and other stakeholders regarding the affairs of the Applicants;
- (d) report to the Court at such times and intervals as the CRO may deem appropriate with respect to any matters that may be relevant to the proceedings herein;
- (e) have full and complete access to the Property, as defined in the Initial Order of this Court dated January 12, 2012 (the “**Initial Order**”);
- (f) engage, give instructions to and pay counsel, consultants, appraisers, agents, advisors, experts, auditors, accountants, managers and such other persons from time to time on

whatever basis the CRO may agree, in consultation with the Monitor, to assist with the exercise of the CRO's powers and obligations;

- (g) take all such steps and actions, enter into and execute all such agreements and documents in the name of and on half of the Applicants, and incur such expenses and obligations necessary or incidental to the exercise of the foregoing powers;

provided that:

- (i) each of the foregoing actions, agreements, expenses and obligations shall be construed to be those of the Applicants and not of Blakes, the CRO, nor any of his partners, employees (and/or employees of Blakes), representatives or agents; and,
- (ii) the Applicants (directly or through its counsel) shall
  - (1) advise the CRO of all material steps taken by the Applicants in these proceedings; and
  - (2) cooperate fully with and provide the CRO with the assistance necessary to enable the CRO to exercise its powers and discharge the CRO Duties.

## **LIMITATION OF LIABILITY**

6. **THIS COURT ORDERS** that the CRO shall not be in Possession of the Property (as such terms are defined in the Initial Order) and shall not, by fulfilling its obligations hereunder be deemed to have taken or maintained Possession of the Property or any part thereof. Without limiting the foregoing, the CRO shall not take possession or be deemed to take possession of any Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other

contamination including, without limitation, the Environmental Legislation (as defined in the Initial Order), provided however that nothing herein shall exempt the CRO from any duty to report or make disclosure imposed by applicable Environmental Legislation. The CRO shall not, as a result of this Order or anything done in pursuance of the CRO's Duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless he is actually in possession.

7. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the CRO as an officer of this Court, neither the CRO nor any other CRO Indemnified Party (as defined below) shall be deemed to be a director or trustee of any of the Applicants and the CRO shall incur no liability or obligation as a result of his appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on his part.

#### **INDEMNITY AND INDEMNIFIED PARTIES**

8. **THIS COURT ORDERS** that the Applicants shall indemnify and hold harmless the CRO and any of his partners, employees (and/or employees of Blakes), agents or representatives who may assist the CRO with the exercise of his powers and obligations under this Order (collectively, with the CRO, the "**CRO Indemnified Parties**") with respect to any liability or obligation that the CRO Indemnified Parties may incur as a result of the appointment of the CRO or the fulfilling of the CRO's Duties, including any claims or liabilities subject to indemnification pursuant to this Order, except to the extent the obligation or liability was incurred as a result of the CRO Indemnified Parties' gross negligence or wilful misconduct. The CRO Indemnified Parties shall be treated as unaffected parties, and the foregoing indemnity shall

be treated as unaffected and may not be compromised, for the purpose of this proceeding or any bankruptcy proceeding with respect to one or more of the Applicants.

9. **THIS COURT ORDERS** that no action or other proceeding shall be commenced directly, or by way of counterclaim, third party claim or otherwise, against or in respect of the CRO Indemnified Parties, and all rights and remedies of any person against or in respect of the CRO Indemnified Parties are hereby stayed and suspended, except with the written consent of the CRO or with leave of this Court on notice to the Applicants, the Monitor and the CRO. Notice of any such motion seeking leave of this Court shall be served upon the Applicants, the Monitor and the CRO at least seven (7) days' prior to the return date of any such motion for leave.

10. **THIS COURT ORDERS** that the Applicants' indemnity in favour of the CRO Indemnified Parties shall survive any termination, replacement or discharge of the CRO.

11. **THIS COURT ORDERS** that the appointment of the CRO and the granting of powers and responsibilities of the CRO hereunder will not constitute the sale or disposition of any of the Property.

#### **PROFESSIONAL FEES AND PASSING OF ACCOUNTS**

12. **THIS COURT ORDERS** that the Monitor on behalf of the Applicants is hereby authorized to pay to the CRO a retainer in the amount of \$25,000 to be held by the CRO as security for payment of his respective fees and disbursements, outstanding from time to time

13. **THIS COURT ORDERS** that the CRO Indemnified Parties shall submit their accounts to the Monitor for payment by the Applicants, provided however each CRO Indemnified Party

shall not be required to submit a separate account and the CRO may submit consolidated accounts showing the professional fees and disbursements of the CRO Indemnified Parties (the “**CRO Accounts**”). The CRO and the other CRO Indemnified Parties shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings, or such alternate rates as may be agreed to by the Monitor. The Applicants are authorized and directed to pay the CRO Accounts on a bi-weekly basis or such other timeframe as the Monitor and the CRO mutually agree.

14. **THIS COURT ORDERS** that the CRO shall pass the CRO Accounts from time to time and for this purpose the CRO Accounts are hereby referred to a Judge of the Ontario Superior Court of Justice (Commercial List).

15. **THIS COURT ORDERS** that the CRO Indemnified Parties shall be entitled to the benefit of the Administration Charge (as defined in the Initial Order) as security for their professional fees and disbursements incurred in respect of these proceedings.

## **GENERAL**

16. **THIS COURT ORDERS** that the CRO shall consult with the Monitor regarding all material issues relating to these proceedings.

17. **THIS COURT ORDERS** that the CRO may resign or the appointment of the CRO may be terminated by further order of this Court at any time.

18. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the CRO in carrying out the terms of this Order. All courts,

tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the CRO as may be necessary or desirable to give effect to this Order or to assist the CRO and his agents in carrying out the terms of this Order.

19. **THIS COURT ORDERS** that the CRO is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the CRO is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

20. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order at least seven (7) days' notice to the CRO and the Monitor and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

21. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

---

Conway J.

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 3113736 CANADA LTD., 4362063 CANADA LTD., and  
A-Z SPONGE & FOAM PRODUCTS LTD.

Court File No.: CV-12-9545-00CL

*ONTARIO*  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

Proceedings commenced at Toronto

**ORDER**  
**(JUNE 8, 2020)**

**Thornton Grout Finnigan LLP**

Barristers & Solicitors  
Suite 3200, TD West Tower  
100 Wellington Street West  
P.O. Box 329, Toronto-Dominion Centre  
Toronto, ON M5K 1K7

**Grant B. Moffat** (LSUC# 32380L)

Tel: 416-304-0599  
Fax: 416-304-1313  
Email: [gmoffat@tgf.ca](mailto:gmoffat@tgf.ca)

Lawyers for the Monitor



This is Exhibit "B"  
to the Affidavit of Linc Rogers sworn January 5, 2022



---

Varoujan Arman  
A Commissioner, etc.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) THURSDAY, THE 28<sup>th</sup> DAY  
JUSTICE PATTILLO )  
OF OCTOBER, 2021

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 3113736  
CANADA LTD. 4362063 CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.

(the "**Applicants**")

**ORDER  
(Stay Extension)**

**THIS MOTION** made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**") for an order, *inter alia*, extending the stay of proceedings in respect of the Applicants to and including January 31, 2022, was heard this day by Zoom and is hereby submitted electronically through the Civil Submissions Online portal of the Justice Services Online website pursuant to the Supplementary Notice to the Profession of Justice Morawetz dated June 17, 2021 due to the COVID-19 pandemic.

**ON READING** the Notice of Motion, the Affidavit of Linc Rogers sworn October 25, 2021 and exhibit thereto, the Twenty-Sixth Report of Deloitte Restructuring Inc. (formerly Deloitte & Touche Inc.) (the "**Twenty-Sixth Report**") in its capacity as the Court-appointed monitor (the "**Monitor**") of the Applicants, and on hearing the submissions of counsel for the Applicants and the Monitor, no one making submissions for any other person on the Service List,

although properly served as appears from the Affidavit of Service of Ariyana Botejue sworn October 25, 2021, filed;

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Twenty-Sixth Report is hereby abridged and validated and this Motion is properly returnable today without further service or notice thereof.

### **DEFINITIONS**

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meaning set out in the Twenty-Sixth Report.

### **STAY EXTENSION**


3. **THIS COURT ORDERS** that the Stay Period granted under the Initial Order of Justice Newbould dated January 12, 2012 and as subsequently extended by, *inter alia*, the Order of The Honourable Justice Cavanagh dated April 20, 2021, is hereby extended from October 29, 2021 to and including January 18, 2022.

### **MONITOR'S REPORT AND ACTIONS**

4. **THIS COURT ORDERS** that the Twenty-Sixth Report and the actions, decisions and conduct of the Monitor as set out in the Twenty-Sixth Report are hereby authorized and approved.

**EFFECTIVENESS OF THIS ORDER**

5. **THIS COURT ORDERS** that, due to the COVID-19 pandemic, this Order is immediately effective and enforceable without the need for entry and filing until further direction from the Court.

  
\_\_\_\_\_

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD.,  
and A-Z SPONGE & FOAM PRODUCTS LTD.

**Applicants**

**Email addresses of recipients:** See Service List

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**ORDER  
(Stay Extension)**

**BLANEY McMURTRY LLP**  
Barristers and Solicitors  
Suite 1500 - 2 Queen Street East  
Toronto, ON, M5C 3G5

**David T. Ullmann** LSO #423571  
Tel: (416) 596-4289  
Fax: (416) 594-2437  
Email: [DUllmann@blaney.com](mailto:DUllmann@blaney.com)

**Varoujan Arman** LSO #60025K  
Tel: (416) 596-2884  
Fax: (416) 593-2960  
Email: [VArman@blaney.com](mailto:VArman@blaney.com)

Lawyers for the Applicants

This is Exhibit "C"  
to the Affidavit of Linc Rogers sworn January 5, 2022



---

Varoujan Arman  
A Commissioner, etc.

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

THE HONOURABLE )  
 )  
JUSTICE CAVANAGH )

FRIDAY, THE 17TH  
DAY OF SEPTEMBER, 2021

B E T W E E N:

Seal)



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 3113736 CANADA LTD., 4362063 CANADA LTD., and A-Z SPONGE &  
FOAM PRODUCTS LTD.

(the “**Applicants**”)

**ORDER**  
**(Settlement Approval Order)**

THIS MOTION by the Applicants for an order approving a settlement agreement between the Applicants and Domfoam Inc. (the “**Purchaser**”), was heard this day by videoconference.

ON READING the Motion Record, the Twenty-Fifth Report of Deloitte Restructuring Inc., (the “**Twenty-Fifth Report**”) in its capacity as Court-appointed monitor of the Applicants (the “**Monitor**”), and the Applicants’ Factum, and on hearing the submissions of the lawyers for the Applicants, no other party making submissions:

1. **THIS COURT ORDERS** that the time for service and manner of service of the Applicants' Motion Record and Factum are hereby abridged and validated, and any further service thereof is hereby dispensed with so that this motion was properly returnable September 17, 2021 in all proceedings set out in the styles of cause hereof.
2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meanings attributed to those terms in the minutes of settlement and mutual release between the Applicants and the Purchaser (together, the "**Settling Parties**"), dated as of September 14, 2021 (the "**Settlement Agreement**").
3. **THIS COURT ORDERS** that the Settlement Agreement is fair and reasonable and is hereby approved, and the parties thereto are hereby bound by this Order and by those terms of the Settlement Agreement that are conditional upon the granting of this Order, and the Applicants are authorized and directed to comply with their obligations thereunder.
4. **THIS COURT ORDERS** that the Monitor is directed and authorized to take any steps and perform any actions that are required to be taken or performed by the Monitor pursuant to the Settlement Agreement, including, without limiting the generality of the foregoing, to pay from funds held in the Domfoam Account (i) the Settlement Amount to the Purchaser; and (ii) the Domfoam Canadian Polyols Agent Fee (as defined in the Twenty-Fifth Report) to Lex Acquisition Group, LLC.
5. **THIS COURT ORDERS** that the Costs Reserve established pursuant to the endorsement of Justice Koehnen dated October 8, 2020 is hereby terminated and the Monitor is hereby directed and authorized to release the funds subject to the Cost Reserve to the estate of 3113736 Canada Ltd. (formerly Valle Foam Industries (1995) Inc.).

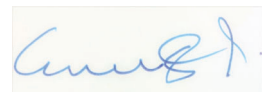


6. **THIS COURT ORDERS** that in accordance with the terms and conditions of the Settlement Agreement, as of the Settlement Date, the Settled Matters as defined in the Release appended to the Settlement Agreement are irrevocably, absolutely, and unconditionally fully, finally, and forever released, remised and discharged in accordance with the terms of said Release.

7. **THIS COURT ORDERS** that Confidential Exhibit “B” to the affidavit of Linc Rogers, sworn September 14, 2021, shall be and is hereby sealed, kept confidential and shall not form part of the public record pending the termination of this CCAA proceeding or further order of the Court.

8. **THIS COURT ORDERS** that the Twenty-Fifth Report, and the actions, decisions and conduct of the Monitor as set out in the Twenty-Fifth Report, are hereby authorized and approved.

9. **THIS COURT ORDERS** that, due to the COVID-19 pandemic, this Order is immediately effective and enforceable without any need for entry and filing.



Digitally signed by  
Mr. Justice Cavanagh

---

*Justice Peter Cavanagh*

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 31133736 CANADA LTD., 4362063 CANADA LTD., and A-Z  
SPONGE & FOAM PRODUCTS LTD.  
Applicants

Court File No. CV-12-9545-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER**

**LAX O'SULLIVAN LISUS GOTTLIEB LLP**  
Counsel  
Suite 2750, 145 King Street West  
Toronto ON M5H 1J8

**Matthew P. Gottlieb** LSO#: 32268B  
[mgottlieb@lolg.ca](mailto:mgottlieb@lolg.ca)  
Tel: 416 644 5353

**Jasmine K. Landau** LSO#: 74316K  
[jlandau@lolg.ca](mailto:jlandau@lolg.ca)  
Tel: 416 956 0110

Lawyers for the Applicant, 4362063 Canada Ltd.

This is Exhibit "D"  
to the Affidavit of Linc Rogers sworn January 5, 2022



---

Varoujan Arman  
A Commissioner, etc.

## Varoujan Arman

---

**From:** Grant Moffat <GMoffat@tgf.ca>  
**Sent:** January 5, 2022 12:32 PM  
**To:** Varoujan Arman  
**Subject:** FW: Domfoam [IMAN-CLIENT.FID22462]



Grant B. Moffat | [GMoffat@tgf.ca](mailto:GMoffat@tgf.ca) | Direct Line +1 416 304-0599 | [www.tgf.ca](http://www.tgf.ca)

PRIVILEGED & CONFIDENTIAL - This electronic transmission is subject to solicitor-client privilege and contains confidential information intended only for the above. Any other distribution, copying or disclosure is strictly prohibited. If you have received this e-mail in error, please notify our office immediately by call and delete this e-mail without forwarding it or making a copy.

---

**From:** Fred Tayar <[fred@fredtayar.com](mailto:fred@fredtayar.com)>  
**Sent:** Wednesday, January 5, 2022 10:00 AM  
**To:** Grant Moffat <[GMoffat@tgf.ca](mailto:GMoffat@tgf.ca)>; Colby Linthwaite <[colby@fredtayar.com](mailto:colby@fredtayar.com)>  
**Cc:** 'Rogers, Linc' <[linc.rogers@blakes.com](mailto:linc.rogers@blakes.com)>  
**Subject:** RE: Domfoam [IMAN-CLIENT.FID22462]

Our client has no issue.

Fred Tayar  
Fred Tayar & Associates  
Professional Corporation  
65 Queen St. West  
Suite 1200  
Toronto, Ontario  
M5H 2M5

tel: (416)363-1800 x200  
fax: (416)363-3356  
[fred@fredtayar.com](mailto:fred@fredtayar.com)

---

**From:** Grant Moffat <[GMoffat@tgf.ca](mailto:GMoffat@tgf.ca)>  
**Sent:** January 5, 2022 9:47 AM  
**To:** Fred Tayar <[fred@fredtayar.com](mailto:fred@fredtayar.com)>; Colby Linthwaite <[colby@fredtayar.com](mailto:colby@fredtayar.com)>  
**Cc:** 'Rogers, Linc' <[linc.rogers@blakes.com](mailto:linc.rogers@blakes.com)>  
**Subject:** Domfoam [IMAN-CLIENT.FID22462]

Hi Fred and Colby, I hope all is well with you and your families.

As you may recall, the settlement agreement between Domfoam and the Domfoam purchaser was sealed by order of the Court dated September 17, 2021. We are in the process of winding up the CCAA proceeding and will be seeking approval of a final distribution at a motion scheduled for January 18. However, in order for the Monitor to properly report on the funds available for distribution, we will need to disclose the settlement amount. We have booked a 9:30 attendance tomorrow to request that the sealing order be lifted. We trust that your client has no issue with the sealing order being lifted, but ask that you confirm so that we may advise the Court.

Grant



Grant B. Moffat | | [GMoffat@tgf.ca](mailto:GMoffat@tgf.ca) | Direct Line +1 416 304-0599 | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | [www.tgf.ca](http://www.tgf.ca)

PRIVILEGED & CONFIDENTIAL - This electronic transmission is subject to solicitor-client privilege and contains confidential information intended only for the person(s) named above. Any other distribution, copying or disclosure is strictly prohibited. If you have received this e-mail in error, please notify our office immediately by calling (416) 304-1616 and delete this e-mail without forwarding it or making a copy. To Unsubscribe/Opt-Out of any electronic communication with Thornton Grout Finnigan, you can do so by clicking the following link: [Unsubscribe](#)

# **Tab 3**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) THURSDAY, THE 6<sup>th</sup> DAY  
 )  
JUSTICE GILMORE ) OF JANUARY, 2022  
 )

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 3113736  
CANADA LTD. 4362063 CANADA LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.

(the “**Applicants**”)

**ORDER**

**THIS MOTION** made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the “**CCAA**”) for an order, *inter alia*, lifting the sealing order contained at paragraph 7 of the Order of Justice Cavanagh dated September 17, 2021, was heard this day by Zoom and is hereby submitted electronically through the Civil Submissions Online portal of the Justice Services Online website pursuant to the Supplementary Notice to the Profession of Justice Morawetz dated June 17, 2021 due to the COVID-19 pandemic.

**ON READING** the Notice of Motion, the Affidavit of Linc Rogers sworn January 5, 2022, and exhibits thereto, and on hearing the submissions of counsel for the Applicants and the Monitor, no one making submissions for any other person on the Service List, although properly served as appears from the Affidavit of Service of Kristen Regina sworn January 5, 2022, filed;

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated and this motion is properly returnable today without further service or notice thereof.

2. **THIS COURT ORDERS** that the sealing order set out at paragraph 7 of the Order of Justice Cavanagh dated September 17, 2021, be and hereby is terminated, and as a result, Confidential Exhibit “B” to the Affidavit of the Chief Restructuring Officer, Linc Rogers, sworn September 14, 2021 (the “**Confidential Exhibit**”) be unsealed, shall form part of the public record and is no longer to be treated as confidential.

3. **THIS COURT ORDERS** that the sealed envelope in the Court file containing the Confidential Exhibit shall be opened and the Confidential Exhibit shall form part of the Court file in this proceeding.

4. **THIS COURT ORDERS** that, due to the COVID-19 pandemic, this Order is immediately effective and enforceable without the need for entry and filing until further direction from the Court.

---



IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD.,  
and A-Z SPONGE & FOAM PRODUCTS LTD.

**Applicants**

**Email addresses of recipients:** See Service List

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at **Toronto**

**ORDER  
(Lifting of Sealing Order)**

**BLANEY McMURTRY LLP**  
Barristers and Solicitors  
Suite 1500 - 2 Queen Street East  
Toronto, ON, M5C 3G5

**David T. Ullmann** LSO #42357I  
Tel: (416) 596-4289  
Fax: (416) 594-2437  
Email: DUllmann@blaney.com

**Varoujan Arman** LSO #60025K  
Tel: (416) 596-2884  
Fax: (416) 593-2960  
Email: VArman@blaney.com

Lawyers for the Applicants

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD.,  
and A-Z SPONGE & FOAM PRODUCTS LTD.

**Applicants**

**Email addresses of recipients:** See Service List

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at **Toronto**

**MOTION RECORD OF THE APPLICANTS**

**BLANEY McMURTRY LLP**

Barristers and Solicitors  
Suite 1500 - 2 Queen Street East  
Toronto, ON, M5C 3G5

**David T. Ullmann (LSO # 42357I)**

Tel: (416) 596-4289  
Email: DUllmann@blaney.com

**Varoujan Arman (LSO # 60025K)**

Tel: (416) 596-2884  
Email: VArman@blaney.com

Lawyers for the Applicants