

This is the 28th Affidavit of
William E. Aziz in this case and
was made on August 8, 2019

NO. S-1510120
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT OF NEW
WALTER ENERGY CANADA HOLDINGS, INC., NEW WALTER CANADIAN COAL
CORP., NEW BRULE COAL CORP., NEW WILLOW CREEK COAL CORP., NEW
WOLVERINE COAL CORP. AND CAMBRIAN
ENERGYBUILD HOLDINGS ULC

PETITIONERS

AFFIDAVIT

I, **WILLIAM E. AZIZ**, Chief Restructuring Officer, of the Town of Oakville, in the Province of Ontario,
MAKE OATH AND SAY AS FOLLOWS:

1. I am the President of BlueTree Advisors Inc. ("**BlueTree**"), which has been retained to provide my services as Chief Restructuring Officer ("**CRO**") to the Petitioners (the "**New Walter Canada Group**"). As such I have personal knowledge of the facts hereinafter deposed, except where such facts are stated to be based upon information and belief, and where so stated I do verily believe the same to be true.
2. This affidavit is made in support of an application by the New Walter Canada Group under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (the "**CCAA**") seeking an order extending the Stay Period (defined below) to November 26, 2019.
3. I was initially retained by Walter Energy Canada Holdings, Inc. ("**Walter Energy Canada**") to provide my services as CRO to Walter Energy Canada, its direct and indirect subsidiaries and affiliates, and the partnerships listed on Schedule "C" to the Initial Order (collectively, the "**Old Walter Canada Group**"). I was retained pursuant to an engagement letter dated December 30, 2015, as amended in response to certain requests made by Old Walter Canada Group

stakeholders. BlueTree was appointed as CRO of the Old Walter Canada Group pursuant to an order of this Honourable Court made on January 5, 2016.

4. My engagement as CRO of the Old Walter Canada Group, other than as CRO of Cambrian Energybuild Holdings ULC ("**Cambrian**"), was terminated on December 15, 2016, when the entities comprising that group filed for bankruptcy.
5. The companies comprising the New Walter Canada Group (other than Cambrian) were incorporated on December 8, 2016, pursuant to the authorization granted in paragraph 5 of the order of this Honourable Court made on December 7, 2016 (the "**CCAA Procedure Order**"). Each such company became a Petitioner in these CCAA proceedings and subject to the CCAA Charges (as defined in the CCAA Procedure Order), and I became CRO of each new company in the New Walter Canada Group when the companies were formed.

Plan Implementation

6. On July 3, 2018, this Honourable Court granted an order (the "**Sanction Order**") sanctioning the New Walter Canada Group's Amended and Restated Plan of Compromise and Arrangement dated June 22, 2018 (the "**Amended Plan**").
7. After obtaining the Sanction Order, the New Walter Canada Group acted diligently to satisfy prerequisites for implementing the Amended Plan. The final condition precedent for making distributions under the Amended Plan was satisfied on April 24, 2019, when the Monitor received a letter from the Canada Revenue Agency (the "**CRA**") providing comfort satisfactory to the Monitor with respect to the distributions.
8. After receiving the CRA letter, the Monitor delivered and filed a certificate certifying that the Plan Implementation Date had occurred on April 24, 2019. Following Plan Implementation, the Monitor has made distributions to creditors in accordance with the Plan. I understand that all Proven Claims as defined in the Amended Plan have been paid with the exception of certain employee claims, and that these employee claims will be paid following receipt by the Monitor of the calculation by Service Canada of any repayment of employment benefits received by employees of Old Walter Canada Group. I understand that the Monitor will file a report which will provide an update regarding the distributions to creditors.

James Claim

9. On the Plan Implementation Date, the claim asserted by Kevin James (the "**James Claim**") was the only remaining unresolved claim in this proceeding. The New Walter Canada Group and Mr. James recently settled the James Claim. On July 18, 2019, this Honourable Court made an Order

implementing the parties' settlement and providing that the James Claim "be and is hereby allowed and is a Proven Claim (as defined in the [Amended Plan] in accordance with the Claims Process Order made in these proceedings on August 16, 2016 and Article 7.2 of the Plan in the amount of (Canadian) \$1 million" (the "**James Settlement Amount**"). I understand that the James Settlement Amount has been paid by the Monitor.

Walter UK

10. The New Walter Canada Group must wind up Energybuild Group Limited ("**EBG**"), Energybuild Holdings Limited ("**EBH**"), and Energybuild Opencast Limited ("**EBO**", and, collectively with EBG and EBH, "**Walter UK**") under the Settlement Term Sheet among the New Walter Canada Group, the United Mine Workers of America 1974 Pension Plan and Trust, and Warrior Met Coal LLC ("**Warrior**") dated October 10, 2017 (the "**Settlement Agreement**"). The Settlement Agreement provides that Walter UK is to be wound up in a cost effective and tax efficient manner that protects its directors and officers from liability to the fullest extent possible.
11. On November 7, 2018, this Honourable Court made an Order (the "**November 7 Order**") authorizing the New Walter Canada Group to cause Walter UK to be wound up in a manner that it, in consultation with Warrior, determines.
12. The New Walter Canada Group has been acting diligently to wind up Walter UK since obtaining the November 7 Order. After considering various options, Walter UK and the New Walter Canada Group determined that EBG and EBH should be wound up using a members' voluntary liquidation whereas EBO would be wound up via a voluntary strike off.
13. The voluntary strike off application for EBO was filed on February 13, 2019 and EBO was dissolved on May 14, 2019.
14. With respect to EBG and EBH, all statutory documentation and notices regarding the commencement of the liquidations and the appointment of the liquidators have been received by the Registrar of Companies. The required statutory notices were published in the London Gazette on June 18, 2019. The creditor claim deadline was July 22, 2019, and no claims were forthcoming.
15. The funds totalling £554,653.75 held on behalf of EBH prior to liquidation have been transferred to a liquidation estate bank account controlled by the liquidators.
16. The remaining steps to liquidate EBG and EBH comprise two phases. The first phase is comprised of the tasks leading up to the payment of all surplus cash to Warrior. The second phase is the period thereafter in which EBG and EBH are finally dissolved.

17. The first phase includes preparing outstanding tax returns for the pre-liquidation period for both EBG and EBH and seeking formal clearance from HM Revenue & Customs ("**HMRC**") that there are no outstanding tax liabilities, no returns will be required for the liquidation period, no enquiries will be made into any tax accounting period and that HMRC has no objection to the liquidators proceeding to finalize the liquidations.
18. In addition, as EBG and EBH are value added tax ("**VAT**") registered, HMRC has been asked to deregister EBG and EBH with effect from the date of liquidation and to provide a final VAT return.
19. Once corporation tax clearance has been received and both companies have been deregistered in respect of VAT, clearance from HMRC's Enforcement and Insolvency Service that there are no outstanding liabilities in respect of VAT and pay as you earn ("**PAYE**") will be sought and additional required forms will be submitted.
20. When these steps are complete and the costs of liquidation have been settled in full, subject to no other issues arising, the surplus cash will be paid to Warrior in full and final settlement of the debt owing to it by Walter UK. It is anticipated that this payment will occur in October or November 2019.
21. The second phase includes sending the liquidators' draft final accounts of the liquidations to the members together with notice of the intention to deliver the final account to members and the Registrar of Companies after a minimum of 8 weeks. The liquidators obtain their release from office upon delivery of the final account to the Registrar of Companies and the companies will be dissolved approximately three months later.

Stay Extension

22. This Honourable Court granted a stay of proceedings in the Initial Order, until January 6, 2016 or such later date as this Honourable Court may order (the "**Stay Period**"). On January 5, 2016, this Honourable Court extended the Stay Period until and including April 5, 2016. On March 30, 2016, this Honourable Court extended the Stay Period until and including June 24, 2016. On June 24, 2016, this Honourable Court extended the Stay Period until and including August 19, 2016. On August 16, 2016, this Honourable Court extended the Stay Period until and including January 17, 2017. On January 16, 2017, this Honourable Court extended the Stay Period until and including May 31, 2017. On May 30, 2017, this Honourable Court extended the Stay Period until and including October 6, 2017. On October 6, 2017, this Honourable Court extended the Stay Period until and including December 15, 2017. On December 13, 2017, this Honourable Court extended the Stay Period until and including February 28, 2018. On February 27, 2018, this Honourable Court extended the Stay Period until and including April 16, 2018. On April 10, 2018, this Honourable Court extended the Stay Period until and including June 1, 2018. On May 31, 2018,

this Honourable Court extended the Stay Period until and including December 1, 2018. On November 7, 2018, this Honourable Court extended the Stay Period until and including March 8, 2019. On February 25, 2019, this Honourable Court extended the Stay Period until and including May 6, 2019. On May 1, 2019, this Honourable Court extended the Stay Period until and including August 16, 2019.

23. The New Walter Canada Group is requesting an extension of the Stay Period until and including November 26, 2019.
24. As noted above, the Amended Plan has been implemented and there are no more known unresolved claims. As a result, these CCAA proceedings are substantially complete. During the proposed extended Stay Period, the New Walter Canada Group and the Monitor intend to address certain remaining issues, including completing distributions to creditors in accordance with the Amended Plan, and finishing the first phase of winding up Walter UK and making the related payment to Warrior.
25. The New Walter Canada Group currently expects that it will bring a motion to terminate these proceedings before the end of the proposed extended Stay Period once these remaining issues have been addressed.
26. From my review of the current cash flow projections, I do verily believe that the New Walter Canada Group will have sufficient operating cash to continue operations during the proposed extended Stay Period.
27. The New Walter Canada Group has been proceeding in good faith and with due diligence in these proceedings.
28. It is my understanding that the Monitor supports the extension of the Stay Period and will file a report attaching a cash flow forecast that demonstrates, subject to the assumptions more fully set out in the report, that the New Walter Canada Group has sufficient liquidity to continue its operations as currently conducted through to the end of the proposed extended Stay Period.

29. It is in the best interests of the New Walter Canada Group and all its stakeholders that the Stay Period be extended to November 26, 2019 to permit completing distributions to creditors, winding up the remaining Walter UK entities, and bringing a motion to terminate these proceedings.

SWORN BEFORE ME at Oakville, in
the Province of Ontario, on August
8, 2019

Waleed Malik

Commissioner for Taking Affidavits
and Notary Public in the Province of
Ontario

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William E. Aziz
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PETITIONERS

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