



This is the 26th Affidavit of William E. Aziz in this case and was made on April 25, 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 a motion by the New Walter Canada Group under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (the "**CCAA**") seeking an Order, among other things, extending the stay of proceedings in respect of the New Walter Canada Group to July 31, 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 the Order of this Honourable Court made on January 5, 2016 (the "**SISP Order**").

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 Matters

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**"). After obtaining the Sanction Order, the New Walter Canada Group acted diligently to satisfy prerequisites for implementing the Amended Plan.
7. As described in my twenty-fourth affidavit sworn in these proceedings on November 1, 2018 (the "**Twenty-fourth Aziz Affidavit**") and in my twenty-fifth affidavit sworn in these proceedings on February 20, 2019 (the "**Twenty-fifth Aziz Affidavit**"), as of late 2018, the principal remaining condition precedent for making distributions under the Amended Plan was the requirement for a clearance certificate pursuant to section 159 of the *Income Tax Act* or other comfort satisfactory to the Monitor from the Canada Revenue Agency (the "**CRA**") with respect to the distributions.
8. On April 24, 2019, the Monitor received a letter from the CRA that satisfied the last condition to implementation of the Amended Plan. Following this, the Monitor delivered and filed a certificate certifying that (a) the New Walter Canada Group had advised the Monitor that the conditions set out in Section 10.3(c)(i) of the Amended Plan had been satisfied, and that all other conditions set out in Section 10.3 of the Amended Plan had been satisfied or waived, and (b) the Plan Implementation Date had occurred on April 24, 2019.

Walter UK

9. In addition to making the distributions contemplated in the Amended Plan, 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**") in accordance with the terms of the Settlement Term Sheet among the New Walter Canada Group, the United Mine Workers of America 1974 Pension Plan and Trust (the "**1974 Plan**"), and Warrior Met Coal LLC ("**Warrior**") dated October 10, 2017 (the "**Settlement Agreement**"). In particular, 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.

10. The New Walter Canada Group has been acting diligently to wind down the Walter UK entities since obtaining the Sanction Order. As described in the Twenty-fourth and Twenty-fifth Aziz Affidavits. 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.
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. As described in the Twenty-fifth Aziz Affidavit, following the granting of the November 7 Order, the New Walter Canada Group completed all preliminary steps for launching a liquidation of Walter UK, including releasing debentures issued in favour of Cambrian pursuant to deeds of release, writing down intercompany debt so that each Energybuild entity could make a declaration of solvency, and finalizing and filing the financial statements for EBG and EBH.
12. The voluntary strike off application for EBO was filed on February 26, 2019. Absent any objections, EBO will be dissolved around the end of April 2019. The New Walter Canada Group will be completing a further write down of the intercompany debt to address further professional costs shortly, following which the members' voluntary liquidation for EBG and EBH will be commenced.

James Claim

13. The New Walter Canada Group has also taken steps to resolve the claim asserted by Kevin James in these proceedings (the "**James Claim**"), the only remaining unresolved claim.
14. On February 25, 2019, this Honourable Court made an Order (the "**February 25 Order**") in which it ordered that the New Walter Canada Group and Mr. James "follow the schedule outlined in the agreement between counsel reached February 22, 2019 or as may be later agreed" for adjudicating the James Claim.

15. The parties have completed the following steps contemplated in their agreed-upon schedule:
- (a) The New Walter Canada Group provided a list of the affidavits from prior proceedings it intends to rely upon on March 1, 2019.
 - (b) Mr. James provided an expert reply report from MNP LLP on March 8, 2019.
 - (c) The New Walter Canada Group provided a draft statement of agreed facts, to which Mr. James has responded. The New Walter Canada Group accepted most of Mr. James' suggestions and proposed alternate solutions to the few remaining issues. Subject to a few tweaks to be suggested by Mr. James, it is my understanding that the statement of agreed facts is all but completed.
 - (d) The New Walter Canada Group has proposed that Mr. James consent to the Court bifurcating the question of his entitlement to royalties from the question of valuing those royalties. In the New Walter Canada Group's view, bifurcation is prudent and cost-efficient: if the Court concludes that Mr. James is not entitled to royalties, then the parties will not have incurred legal costs to cross-examine experts and make argument based on valuation. If the Court concludes that Mr. James is entitled to royalties, then the parties will incur the costs necessary to support a valuation of those royalties.
16. The parties are continuing to complete all pre-hearing steps with a view to resolving the James Claim dispute expeditiously.

Stay Extension

17. 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.

18. The New Walter Canada Group is requesting an extension of the Stay Period until and including July 31, 2019.
19. During the proposed extended Stay Period, distributions will be made to creditors in accordance with the Amended Plan. In addition, the stay extension is being requested to allow the New Walter Canada Group to wind up Walter UK and to complete the James Claim litigation.
20. 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.
21. The New Walter Canada Group has been proceeding in good faith and with due diligence in these proceedings.
22. 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.
23. It is in the best interests of the New Walter Canada Group and all its stakeholders that the Stay Period be extended to July 31, 2019 to allow the New Walter Canada Group to complete distributions to creditors, wind up Walter UK, and complete the James Claim litigation.

SWORN BEFORE ME at Toronto, in)
the Province of Ontario, on April 25,)
2019)

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

William E. Aziz
WILLIAM E. AZIZ

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HOLDINGS ULC

PETITIONERS

AFFIDAVIT #26 OF WILLIAM E. AZIZ

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