



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 A PLAN OF COMPROMISE OR ARRANGEMENT OF
WALTER ENERGY CANADA HOLDINGS, INC. AND THE OTHER
PETITIONERS LISTED ON SCHEDULE "A"

PETITIONERS

NOTICE OF APPLICATION

Names of applicants: Walter Energy Canada Holdings, Inc. and the other Petitioners listed on **Schedule "A"** (collectively with the partnerships listed on Schedule "A" hereto, the "**Walter Canada Group**")

To: Service List attached hereto as **Schedule "B"**

TAKE NOTICE that an application will be made by the applicants to the Honourable Madam Justice Fitzpatrick at the courthouse at 800 Smithe Street, Vancouver, BC, V6Z 2E1 on March 30, 2016 at 9:00 a.m. for the order set out in Part 1 below.

Part 1: ORDER SOUGHT

1. An Order substantially in the form attached hereto as **Schedule "C"**.

Part 2: FACTUAL BASIS

Introduction

1. Reference is made to the facts set out in Affidavits 1 and 2 of William G. Harvey and Affidavit 1 of William E. Aziz.
2. On December 7, 2015, this Honourable Court granted an Initial Order in favour of the Walter Canada Group pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**").
3. The terms of the Initial Order, including the stay of proceedings, were subsequently extended to April 5, 2016 pursuant to an order of this Honourable Court pronounced January 5, 2016 (the "**January 5 Order**").
4. Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Initial Order and January 5 Order.

Stay Extension

5. At the time of the last application for an extension of the relief granted in the Initial Order, the Walter Canada Group had prepared a sales and solicitation process (the "**SISP**") for the restructuring, recapitalization or other form of reorganization (including the purchase of any equity interests held by Walter Energy Canada) and/or a purchase of all or substantially all of the Walter Canada Group's assets.
6. The SISP was approved pursuant to the January 5 Order.
7. Since the January 5 Order, the Walter Canada Group has been working with the Monitor, the CRO, as well as its financial advisor, PJT Partners LP, on soliciting bids for its business and assets.
8. These efforts have culminated in several letters of intent (the "**LOIs**") with respect to the purchase of the Walter Canada Group's assets as well as several liquidation proposals.
9. The Walter Canada Group is currently reviewing the LOIs and liquidation proposals in conjunction with the Monitor.
10. An extension is necessary to enable the Walter Canada Group, the Monitor and their advisors to review the various offers received, commence and complete Phase 2 of the SISP and fully carry out the terms of the SISP in order to obtain the best possible result for the benefit of all stakeholders.
11. To that end, the Walter Canada Group is seeking an extension of the relief granted in the Initial Order to June 30, 2016.
12. The Walter Canada Group has been acting and continues to act in good faith and with due diligence in these proceedings.
13. Further, the Monitor is supportive of the proposed stay extension.

Intercompany Charge

14. At the hearing of the application for the January 5 Order, the Walter Canada Group sought a charge (the "**Intercompany Charge**") in favour of any member of the Walter Canada Group to the extent that such member (the "**Protected WC Entity**") "makes any payment or incurs or discharges any obligation (including any letter of credit obligations) on behalf of any other member of the Walter Canada Group [...] (the "**Beneficiary WC Entity**").
15. Pursuant to the January 5 Order, this Honourable Court granted a charge to each Protected WC Entity over all of the assets of each Beneficiary WC Entity. However, the language of the January 5 Order limited the definition of Protected WC Entity to any member of the Walter Canada Group that "makes any payment or incurs or discharges any obligation with respect to any letter of credit obligation."
16. Brule Coal Partnership periodically provides financial support to Walter Canadian Coal Partnership, Wolverine Coal Partnership and Willow Creek Coal Partnership, as these partnerships do not have sufficient cash to meet their operating needs. The financial support offered may not be connected to any letter of credit obligations, but should nevertheless be secured by the Intercompany Charge. As such, the Walter Canada Group seeks to amend the January 5th Order to remove the phrase "with respect to any letter of credit obligation" from paragraph 20.

Part 3: LEGAL BASIS

1. *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and in particular sections 11 and 11.02 thereof.
2. *Supreme Court Civil Rules*, B.C. Reg. 241/2010, as amended, including Rules 8-1 and 13-1 thereof.
3. The inherent and equitable jurisdiction of this Honourable Court.
4. Such further and other grounds as counsel may advise and this Honourable Court may deem just

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of William E. Aziz, made March 22, 2016;
2. Monitor's Second Report, to be filed;
3. pleadings and other materials filed herein; and
4. such further and other materials as counsel may advise and this Honourable Court may permit.

The applicants estimate that the application will take one hour.

This matter is within the jurisdiction of a master.

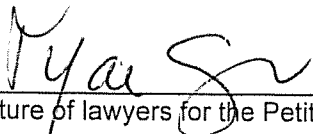
This matter is not within the jurisdiction of a master. The Honourable Madam Justice Fitzpatrick is seized of these proceedings and the hearing of this application has been arranged with Trial Scheduling.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33;
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding; and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

- (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

March 22, 2016
Dated _____



Signature of lawyers for the Petitioners

DLA Piper (Canada) LLP
(Mary I.A. Buttery and Tijana Gavric)

and

Osler, Hoskin & Harcourt LLP
(Marc Wasserman and Patrick Riesterer)

To be completed by the court only:

Order made

in the terms requested in paragraphs _____ of Part 1 of this notice of application

with the following variations and additional terms:

Date: _____

Signature of Judge Master

APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- oral matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

SCHEDULE "A"

Petitioners

1. Walter Canadian Coal ULC
2. Wolverine Coal ULC
3. Brule Coal ULC
4. Cambrian Energybuild Holdings ULC
5. Willow Creek Coal ULC
6. Pine Valley Coal, Ltd.
7. 0541237 B.C. Ltd.

Partnerships

1. Walter Canadian Coal Partnership
2. Wolverine Coal Partnership
3. Brule Coal Partnership
4. Willow Creek Coal Partnership

SCHEDULE "B"

See Attached

SERVICE LIST

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<p>Department of Justice Government of Canada 900 – 840 Howe Street Vancouver, BC V6Z 2S9</p> <p>Neva Beckie Email: neva.beckie@justice.gc.ca</p>	<p>Counsel to Her Majesty the Queen in right of Canada</p>
<p>PJT Partners LP 280 Park Ave. New York, NY 10017</p> <p>Steve Zelin Email: zelin@pitpartners.com</p>	<p>Financial Advisor</p>
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<p>Brandt Tractor Ltd. 9500 190th ST. Surrey B.C. V4N 3S2</p>	

SCHEDULE "C"

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 WALTER ENERGY CANADA HOLDINGS, INC., AND THE OTHER PETITIONERS
LISTED ON SCHEDULE "A"

PETITIONERS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE)
MADAM JUSTICE FITZPATRICK) WEDNESDAY, THE 30TH DAY OF
MARCH, 2016

THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia, on the 30th day of March, 2016 (the "**Order Date**"); AND ON HEARING Mary I.A. Buttery, Tijana Gavric, Marc Wasserman and Patrick Riesterer, counsel for the Petitioners and the Partnerships listed on **Schedule "A"** hereto (collectively, the "**Walter Canada Group**"), Peter Reardon, counsel for KPMG Inc. and those other counsel listed on **Schedule "B"** hereto; AND UPON READING the material filed, including the First Affidavit of William E. Aziz sworn March 22, 2016 (the "**Affidavit**") and the Second Report of the Monitor dated March ____, 2016; AND UPON BEING ADVISED that the secured creditors who are likely to be affected by the charges created herein were given notice; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the "**CCAA**"), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

SERVICE AND DEFINITIONS

1. The time for service of the notice of application for this order is hereby abridged and deemed good and sufficient and this application is properly returnable today.

2. Any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Order of this Honourable Court granted on December 7, 2015 in these CCAA proceedings (the "Initial Order").

STAY EXTENSION

3. The Stay Period, as defined in paragraph 18 of the Initial Order, is hereby further extended up to and including June 30, 2016.

AMENDMENT OF JANUARY 5, 2016 ORDER

4. Paragraph 20 of the Order of this Honourable Court granted on January 5, 2016 in these CCAA proceedings shall be deleted in its entirety and replaced with the following:

To the extent that any member of the Walter Canada Group makes any payment or incurs or discharges any obligation (the "**Protected WC Entity**") on behalf of any other member of the Walter Canada Group (the "**Beneficiary WC Entity**"), each such Protected WC Entity is hereby granted a charge (the "**Intercompany Charge**") on all of the assets of each such Beneficiary WC Entity in the amount of such payment or such obligation up to the maximum amount and in such priority as set out in paragraphs 21 and 23 herein as security for any payments made by each such Protected WC Entity on behalf of each such Beneficiary WC Entity, provided, however, that the Intercompany Charge shall not be enforceable as against the Agent, BNS or any other lender under the 2011 Credit Agreement with respect to any claim of the Agent, BNS or such other lender under the 2011 Credit Agreement (collectively with BNS, the "**Lenders**") until (a) all obligations under the 2011 Credit Agreement and the Security Documents (as defined in the 2011 Credit Agreement) are indefeasibly paid in full in cash and there are no Letters of Credit outstanding thereunder; (b) the Lenders consent, in accordance with the 2011 Credit Agreement, to the enforcement of the Intercompany Charge; or (c) further order of the Court. Any such payments by each such Protected WC Entity on behalf of each such Beneficiary WC Entity shall be recorded and shall be treated as a loan to the applicable Beneficiary WC Entity. Each Beneficiary WC Entity shall not be entitled to set-off any pre-filing amounts owing by any Protected WC Entity to any Beneficiary WC Entity against post-filing amounts owing by any Beneficiary WC Entity to a Protected WC Entity.

GENERAL

5. THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Walter Canada Group and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Walter Canada Group and the Monitor and their respective agents in carrying out the terms of this Order.

6. Each of the Walter Canada Group and the Monitor be at liberty and 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 the Monitor 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, including acting as a foreign representative of the Walter Canada Group to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*, 11 U.S.C. §§ 101-1330, as amended.
7. Endorsement of this Order by counsel appearing, other than counsel for the Petitioners, is hereby dispensed with.
8. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the Order Date.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Lawyers for the Petitioners

DLA Piper (Canada) LLP
(Mary I.A. Buttery and Tijana Gavric)

and

Osler, Hoskin & Harcourt LLP
(Marc Wasserman and Joshua Hurwitz)

BY THE COURT

REGISTRAR

SCHEDULE "A"

Petitioners

1. Walter Energy Canada Holdings, Inc.
2. Walter Canadian Coal ULC
3. Brule Coal ULC
4. Willow Creek Coal ULC
5. Wolverine Coal ULC
6. Cambrian Energybuild Holdings ULC
7. Pine Valley Coal Ltd.
8. 0541237 B.C. Ltd.

Partnerships

9. Walter Canadian Coal Partnership
10. Brule Coal Partnership
11. Willow Creek Coal Partnership
12. Wolverine Coal Partnership

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*,
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AND

IN THE MATTER OF THE PLAN OF COMPROMISE AND
ARRANGEMENT OF WALTER ENERGY CANADA HOLDINGS,
INC., AND THOSE PARTIES LISTED ON SCHEDULE "A"

PETITIONERS

ORDER MADE AFTER APPLICATION

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Client Matter No. 15375-00001

TAG/mlf

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

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IN THE MATTER OF THE PLAN OF COMPROMISE AND
ARRANGEMENT OF WALTER ENERGY CANADA HOLDINGS,
INC., AND THE OTHER PETITIONERS LISTED ON
SCHEDULE "A"

PETITIONERS

NOTICE OF APPLICATION

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File No. 15375-00001

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