

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re	:	Chapter 15
	:	
ARCTIC GLACIER INTERNATIONAL INC.,	:	Case No. 12-10605 (KG)
<i>et al.</i> , ¹	:	
	:	(Jointly Administered)
Debtors in a Foreign Proceeding.	:	
	:	Ref. Docket No. 7

**ORDER GRANTING RECOGNITION OF
FOREIGN MAIN PROCEEDING AND CERTAIN RELATED RELIEF**

This matter coming before the Court on the chapter 15 petition and the Verified Petition of Alvarez & Marsal Canada Inc., as Foreign Representative of Arctic Glacier Inc. and Certain of Its Affiliates, for (I) Recognition of Foreign Main Proceeding and (II) Certain Related Relief (collectively, the “Petition”)² of petitioner, Alvarez & Marsal Canada Inc., the duly authorized foreign representative (the “Foreign Representative”) of Arctic Glacier Inc., Arctic Glacier Income Fund (“AGIF”) and certain of their direct and indirect subsidiaries (collectively, the “Debtors”), in the proceeding (the “Canadian Proceeding”) commenced under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”) and

¹ The last four digits of the United States Tax Identification Number or Canadian Business Number, as applicable, follow in parentheses: (i) Arctic Glacier California Inc. (7645); (ii) Arctic Glacier Grayling Inc. (0976); (iii) Arctic Glacier Inc. (4125); (iv) Arctic Glacier Income Fund (4736); (v) Arctic Glacier International Inc. (9353); (vi) Arctic Glacier Lansing Inc. (1769); (vii) Arctic Glacier Michigan Inc. (0975); (viii) Arctic Glacier Minnesota Inc. (2310); (ix) Arctic Glacier Nebraska Inc. (7790); (x) Arctic Glacier New York Inc. (2468); (xi) Arctic Glacier Newburgh Inc. (7431); (xii) Arctic Glacier Oregon, Inc. (4484); (xiii) Arctic Glacier Party Time Inc. (0977); (xiv) Arctic Glacier Pennsylvania Inc. (9475); (xv) Arctic Glacier Rochester Inc. (6989); (xvi) Arctic Glacier Services Inc. (6657); (xvii) Arctic Glacier Texas Inc. (3251); (xviii) Arctic Glacier Vernon Inc. (3211); (xix) Arctic Glacier Wisconsin Inc. (5835); (xx) Diamond Ice Cube Company Inc. (7146); (xxi) Diamond Newport Corporation (4811); (xxii) Glacier Ice Company, Inc. (4320); (xxiii) Ice Perfection Systems Inc. (7093); (xxiv) ICESurance Inc. (0849); (xxv) Jack Frost Ice Service, Inc. (7210); (xxvi) Knowlton Enterprises Inc. (8701); (xxvii) Mountain Water Ice Company (2777); (xxviii) R&K Trucking, Inc. (6931); (xxix) Winkler Lucas Ice and Fuel Company (0049); (xxx) Wonderland Ice, Inc. (8662). The Debtors’ executive headquarters is located at 625 Henry Avenue, Winnipeg, Manitoba, R3A 0V1, Canada.

² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Petition.

pending before the Court of Queen's Bench Winnipeg Centre (the "Canadian Court"); and the Court having reviewed the Petition and the Reynolds Declaration, and having considered the statements of counsel with respect to the Petition at a hearing before the Court (the "Hearing"); and appropriate and timely notice of the filing of the Petition and the Hearing having been given; and no other or further notice being necessary or required; and the Court having determined that the legal and factual bases set forth in the Petition, the Reynolds Declaration and all other pleadings and proceedings in this case establish just cause to grant the relief ordered herein, and after due deliberation therefore,

THE COURT HEREBY FINDS AND DETERMINES THAT:

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). Venue for this proceeding is proper before this Court pursuant to 28 U.S.C. § 1410.

C. The Foreign Representative is the duly appointed "foreign representative" of the Debtors within the meaning of section 101(24) of the Bankruptcy Code.

D. This chapter 15 case was properly commenced pursuant to sections 1504, 1509, and 1515 of the Bankruptcy Code.

E. The Foreign Representative has satisfied the requirements of section 1515 of the Bankruptcy Code and Rule 2002(q) of the Federal Rules of Bankruptcy Procedure.

F. The Canadian Proceeding is a “foreign proceeding” pursuant to section 101(23) of the Bankruptcy Code.

G. The Canadian Proceeding is entitled to recognition by this Court pursuant to section 1517 of the Bankruptcy Code.

H. Canada is the center of main interests of each of the Debtors, and accordingly the Canadian Proceeding is a “foreign main proceeding” as defined in section 1502(4) of the Bankruptcy Code, and is entitled to recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code.

I. The Foreign Representative has demonstrated that the borrowing under the DIP Facility authorized by the Initial Order and stay protection for the benefit of Glacier L.P. consistent with the Initial Order are necessary to preserve the value of the Debtors’ estates.

J. The Foreign Representative has demonstrated that the terms of the Commitment Letter that will govern the proposed DIP Facility, as approved in the Initial Order are fair and reasonable and were entered into in good faith by the Debtors and the DIP Lenders and that the DIP Lenders would not extend financing without the protection provided by section 364(e) of the Bankruptcy Code, as made applicable by section 1521(a)(7) of the Bankruptcy Code. The Foreign Representative has demonstrated the fact that the DIP Facility will be provided by the Debtors’ Prepetition Secured Lenders, who are familiar with the Business, should result in efficiencies in communications and reporting during the Canadian Proceedings and these Chapter 15 Cases. In light of the quantum of the Prepetition Lenders’ pre-filing debt and their position in the Debtors’ capital structure, the Foreign Representative has demonstrated that the terms of the Commitment Letter are reasonable under the circumstances.

K. The Foreign Representative has demonstrated that the incurrence of indebtedness authorized by the Initial Order is necessary to prevent irreparable harm to Arctic Glacier because, without such financing, Arctic Glacier will be unable to continue operations, which will significantly impair the value of Arctic Glacier's assets.

L. The Foreign Representative has demonstrated that unless the protections of section 362 of the Bankruptcy Code are applied to Glacier L.P., there is a material risk that one or more parties in interest will take action against Glacier L.P. or its assets, thereby interfering with the jurisdictional mandate of this court under chapter 15 of the Bankruptcy Code, causing harm to the Foreign Representative's efforts to administer the Debtors' estates pursuant to the Canadian Proceeding and undermining the Foreign Representative's efforts to conduct a sale and maximize the value of the Debtors' assets pursuant to the terms of the SISP. As a result, the Foreign Representative and the Debtors will suffer immediate and irreparable harm for which they will have no adequate remedy at law and therefore it is necessary that the Court grant the relief requested.

M. The Foreign Representative is entitled to all the automatic relief available pursuant to section 1520 of the Bankruptcy Code without limitation.

N. The Foreign Representative is further entitled to the discretionary relief expressly set forth in section 1521(a) and (b) of the Bankruptcy Code.

O. The relief granted herein is necessary and appropriate, in the interests of the public and international comity, consistent with the public policy of the United States, and warranted pursuant to sections 1517, 1520 and 1521 of the Bankruptcy Code.

**NOW, THEREFORE, THE COURT HEREBY ORDERS, ADJUDGES, AND
DECREES AS FOLLOWS:**

1. The Petition is granted.
2. The Canadian Proceeding is granted recognition as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code.
3. The Initial Order, including any extensions, amendments or modifications thereto, is hereby enforced on a final basis and given full force and effect in the United States.
4. All relief afforded foreign main proceedings pursuant to section 1520 of the Bankruptcy Code is hereby granted to the Canadian Proceeding.
5. Sections 361 and 362 of the Bankruptcy Code shall hereby apply with respect to the Debtors and the property of the Debtors that is within the territorial jurisdiction of the United States.
6. Subject to sections 1520 and 1521 of the Bankruptcy Code, the Canadian Proceeding and the Initial Order and the transactions consummated or to be consummated thereunder, including without limitation, the DIP Facility, including the DIP Charge, shall be granted comity and given full force and effect in the United States to the same extent that they are given effect in Canada, and each is binding on all creditors of the Debtors and any of their successor or assigns.
7. Pursuant to sections 105 and 1521(a)(7) of the Bankruptcy Code, Glacier L.P. shall be entitled to protections and rights coextensive with the provisions of section 362 of the Bankruptcy Code, and this Order shall operate as a stay of any execution against Glacier L.P.'s assets within the territorial jurisdiction of the United States. Specifically, all persons and entities are hereby enjoined from (a) continuing any action or commencing any additional action involving Glacier L.P., its assets or the proceeds thereof, (b) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award against Glacier

L.P. or its assets, (c) commencing or continuing any action to create, perfect or enforce any lien, setoff or other claim against Glacier L.P. or any of its property, or (d) managing or exercising control over Glacier L.P.'s assets located within the territorial jurisdiction of the United States except as expressly authorized by Glacier L.P. in writing.

8. Pursuant to section 1521(a)(6), all prior relief granted to the Debtors or the Foreign Representative by this Court pursuant to section 1519(a) of the Bankruptcy Code shall be extended and that certain Order Granting Provisional Relief shall remain in full force and effect, notwithstanding anything to the contrary contained therein.

9. All entities (as that term is defined in section 101(15) of the Bankruptcy Code), other than the Foreign Representative and its expressly authorized representatives and agents, are hereby enjoined from:

- a. execution against any of the Debtors' assets and any of the assets of Glacier L.P.;
- b. the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, arbitral, or other action or proceeding, or to recover a claim, which in either case is in any way related to, or would interfere with, the administration of the Debtors' estates in the Canadian Proceeding or the solicitation, implementation or consummation of the transactions contemplated by the Initial Order, including without limitation any and all unpaid judgments, settlements or otherwise against Arctic Glacier in the United States;
- c. taking or continuing any act to create, perfect or enforce a lien or other security interest, set-off or other claim against the Debtors, Glacier L.P. or any of their property;
- d. transferring, relinquishing or disposing of any property of the Debtors to any entity (as that term is defined in section 101(15) of the Bankruptcy Code) other than the Foreign Representative; and
- e. commencing or continuing an individual action or proceeding concerning the Debtors' or Glacier L.P.'s assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

provided, however, in each case, such injunction shall be effective solely within the territorial jurisdiction of the United States.

10. Pursuant to the Initial Order, the Debtors are hereby authorized to borrow up to US\$24 million dollars and C\$26 million under and in accordance with the terms of the DIP Credit Agreement or Commitment Letter, as defined in the Initial Order. In addition, the Debtors are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, security documents, guarantees and other documents (collectively, the “DIP Documents”) as are contemplated by the Commitment Letter or as may be reasonably requested by the DIP Lenders, and the Debtors are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities, and obligations to the DIP Lenders under and pursuant to the DIP Credit Agreement including, but not limited to, the fees and expenses of the DIP Lenders’ Canadian and United States counsel, and other advisors, as and when the same become due and are to be performed, notwithstanding any other provision of this Order and without any further order of this Court.

11. As set forth in the Initial Order, the Debtors are not required to file, register, record, or otherwise perfect the DIP Charge, which shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the DIP Charge coming into existence, notwithstanding any failure to file, register, record or perfect.

12. As set forth in the Initial Order, all Arctic Glacier U.S. Group entities shall provide AGIF and Arctic Glacier Canada a lien that is a super-priority, first-ranking charge, on account of any funds extended by AGIF and Arctic Glacier Canada to any Arctic Glacier U.S. Group entity after the commencement of the Canadian Proceeding (the “Intercompany Liens”).

The DIP Charge shall be further secured by the Intercompany Liens. The Debtors' Prepetition Secured Lenders have agreed to subordinate their prepetition liens to the Intercompany Liens.

13. Pursuant to section 364 of the Bankruptcy Code and subject to the priorities, terms and conditions of the Initial Order, to secure current and future amounts outstanding under the DIP Facility, the DIP Lenders are hereby granted the DIP Charge on all of Arctic Glacier's United States assets in the maximum amount of the obligations under the DIP Credit Agreement.

14. Any obligations incurred by the Debtors as a result of entering into or performing their obligations under the DIP Credit Agreement do not and will not constitute preferences, fraudulent conveyances or transfers, transfers at under value, oppressive conduct or other challengeable or voidable transactions under any applicable law.

15. The DIP Documents and the Commitment Letter have been negotiated in good faith and at arms' length between the Debtors and the DIP Lenders. Any financial accommodations made to the Debtors by the DIP Lender pursuant to the Initial Order and the DIP Documents shall be deemed to have been made by the DIP Lenders in good faith, as that term is used in section 364(e) of the Bankruptcy Code. Accordingly, pursuant to sections 105(a), 364(e), 1519(a)(3) and 1521(a)(7) of the Bankruptcy Code, section 364(e) of the Bankruptcy Code hereby applies for the benefit of the DIP Lenders, and the validity of the indebtedness, and the priority of the liens authorized by the Initial Order made enforceable in the United States by this Order, shall not be affected by any reversal or modification of this Order on appeal or the entry of an order denying recognition of the Canadian Proceeding pursuant to section 1517 of the Bankruptcy Code.

16. No action, inaction or acquiescence by the DIP Lenders or the Prepetition Secured Lenders, including funding the Debtors' ongoing operations under this Order, shall be deemed to be or shall be considered as evidence of any alleged consent by the DIP Lenders or the Prepetition Secured Lenders to a charge against the collateral pursuant to sections 506(c), 552(b) or 105(a) of the Bankruptcy Code. The DIP Lenders and the Prepetition Secured Lenders shall not be subject in any way whatsoever to the equitable doctrine of "marshaling" or any similar doctrine with respect to the collateral.

17. Effective upon entry of this Order, no person or entity shall be entitled, directly or indirectly, whether by operation of sections 105, 506(c) or 552(b) of the Bankruptcy Code or otherwise, to direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of collateral or property after an Event of Default under the Commitment Letter, First Lien Credit Agreement or Second Lien Credit Agreement, or termination or breach under the Commitment Letter, the First Lien Credit Agreement, the Initial Order or this Order.

18. Notwithstanding anything to the contrary contained herein, this Order shall not be construed as (a) enjoining the police or regulatory act of a governmental unit, including a criminal action or proceeding, or (b) staying the exercise of any rights that are not subject to stay arising under section 362(a).

19. The Foreign Representative is hereby authorized to apply to this Court to examine witnesses, take evidence, seek production of documents, and deliver information concerning the assets, affairs, rights, obligations or liabilities of the Debtors, as such information is required in the Canadian Proceeding under the law of the United States.

20. The Foreign Representative, the Debtors and/or each of their successors, agents, representatives, advisors or counsel shall be entitled to the protections contained in sections 306 and 1510 of the Bankruptcy Code.

21. Notwithstanding any provision in the Bankruptcy Rules to the contrary: (a) this Order shall be effective immediately and enforceable upon entry; (b) neither the Foreign Representative nor the DIP Lenders are subject to any stay in the implementation, enforcement or realization of the relief granted in this Order; and (c) the Foreign Representative is authorized and empowered, and may in its discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of this Order.

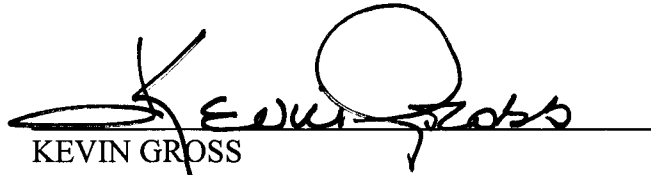
22. A copy of this Order, conformed to be true and correct, shall be served, within three business days of entry of this Order, by facsimile, electronic mail or overnight express delivery, upon all persons or bodies authorized to administer foreign proceedings of the Debtors, all entities against whom provisional relief was granted under section 1519 of the Bankruptcy Code, all parties to litigation pending in the United States in which any of the Debtors were a party at the time of the filing of the Petition, the United States Trustee and such other entities as the Court may direct.

23. Such service shall be good and sufficient service and adequate notice for present purposes.

24. This Court shall retain jurisdiction with respect to: (i) the enforcement, amendment or modification of this Order; (ii) any requests for additional relief or any adversary

proceeding brought in and through this chapter 15 case; and (iii) any request by an entity for relief from the provisions of this Order, for cause shown.

Dated: March 16, 2012
Wilmington, Delaware



KEVIN GROSS
CHIEF UNITED STATES BANKRUPTCY JUDGE