



FORCE FILED

No. S-236214

Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

1392752 B.C. LTD.

PETITIONER

AND

SKEENA SAWMILLS LTD., SKEENA BIOENERGY LTD.

AND ROC HOLDINGS LTD.

RESPONDENTS

NOTICE OF APPLICATION

Name(s) of applicant: Alvarez & Marsal Canada Inc. (the “**Receiver**”) in its capacity as Receiver of the properties, assets and undertakings (collectively, the “**Property**”) of Skeena Sawmills Ltd., Skeena Bioenergy Ltd., and ROC Holdings Ltd. (collectively, the “**Skeena Entities**” or the “**Company**”)

To: The Service List, a copy of which is attached hereto as Schedule “A”

TAKE NOTICE that an application will be made by the applicant to the presiding Judge at the courthouse at 800 Smithe Street, Vancouver on January 25, 2024 at 9:45 a.m., for the order set out in Part 1 below.

The applicant estimates that the application will take 5 minutes.

PART 1: ORDER(S) SOUGHT

1. An order, substantially in the form attached hereto as Schedule “B” (the “**Sealing Order**”), sealing the Receiver’s First Confidential Report to Court dated January 19, 2024 (the “**Confidential Report**”) until further order of the Court

PART 2: FACTUAL BASIS

Background

2. The Sale Process was commenced by the Receiver on October 31, 2023. The Receiver developed a list of 146 parties who it believed might have an interest in some or all of the Skeena Entities' assets and the financial wherewithal to acquire same. On October 31, 2023, the Receiver dispatched an Invitation for Offers to Purchase to the list of potential parties by email.
3. 31 parties signed confidentiality agreements and eight expressions of interest ("EOI") were submitted by six interested parties by the offer deadline on December 8, 2023. An additional EOI was received shortly after the offer deadline and was accepted by the Receiver as a qualified EOI.
4. Upon review of the nine EOIs, four parties (the "**Qualified Parties**") were invited to participate in Phase II of the Sale Process, during which additional due diligence was conducted.
5. By the definitive bid deadline of January 12, 2024, the Receiver had received several offers to purchase some or all of the Property from the Qualified Parties.
6. The purpose of the Confidential Report is to provide this court with additional, detailed information regarding the results of the Sale Process to date. It includes the identification of certain bidders and details concerning their offers, including the consideration payable thereunder (the "**Commercially Sensitive Information**").
7. Disclosing the Commercially Sensitive Information would, in the Receiver's view, be prejudicial to the interests of the Companies' stakeholders, including its creditors, as it has the potential to negatively impact any ongoing or future marketing and sales efforts in respect of the Property.
8. In light of the foregoing, the Receiver seeks to have the Confidential Report filed under seal pending further order of the court. The Receiver knows of no party that will suffer prejudice if the Confidential Report is filed under seal.

PART 3: LEGAL BASIS

9. The court has the authority to order that certain materials filed with the court be sealed in the court file. The Supreme Court of Canada recently “recast” the long-standing test set forth in *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41, and stated that a sealing order can be granted where the applicant establishes that:
 - (a) court openness (i.e. not sealing the document in question in the court file) poses a serious risk to an important public interest;
 - (b) such order is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and
 - (c) as a matter of proportionality, the benefits of such order outweigh its negative effects.¹
10. The need to keep confidential the contents of the Confidential Report fits squarely within the test established by *Sherman Estate*. In particular:
 - (a) There is a public interest in maximizing realizations from the sale of the Property. To that end, it is necessary to maintain the integrity of the Sale Process and ensure that any information which might prejudice the efficacy or the process is kept confidential. Disclosure of the Confidential Report poses a serious risk to such interest is it includes the Commercially Sensitive Information, which, if disclosed to the market, has the potential to negatively impact any ongoing or future marketing and sales efforts in respect of the Property;
 - (b) The Sealing Order is necessary to prevent this risk – the Receiver is not aware of any alternative to prevent it; and
 - (c) The Receiver is not aware of any prejudice to stakeholders if the Confidential Report is filed under seal.

¹ *Ontario Securities Commission v. Bridging Finance Inc.*, 2021 ONSC 4347 (Morawetz, S.C.J.), para. 23; citing *Sherman Estate v. Donovan*, 2021 SCC 25 [*“Sherman Estate”*], paras. 37-38.

11. The Receiver submits that the Sealing Order is appropriate and should be granted for the reasons set forth above.

PART 4: MATERIAL TO BE RELIED ON

1. The Receiver's Second Report to Court, dated December 13, 2023; and
2. Affidavit #1 of Anthony Tillman, made January 22, 2024.
3. The other pleadings and materials filed in these proceedings and such further and other material as counsel may advise and this Honourable Court may permit.

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).

Date: January 22, 2024



Signature of Mishaal Gill, Counsel to Receiver

☐ Applicant ☒ Lawyer for applicant(s)

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 _____
[date]

Signature of ☐ Judge ☐ Associate Judge

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

DISCOVERY: COMPLY WITH DEMAND FOR DOCUMENTS
SUMMARY TRIAL
DISCOVERY: PRODUCTION OF ADDITIONAL DOCUMENTS
SERVICE
OTHER MATTERS CONCERNING DOCUMENT DISCOVERY
MEDIATION
EXTEND ORAL DISCOVERY
ADJOURNMENTS
OTHER MATTER CONCERNING ORAL DISCOVERY
PROCEEDINGS AT TRIAL
AMEND PLEADINGS
CASE PLAN ORDERS: AMEND
ADD/CHANGE PARTIES
CASE PLAN ORDER: OTHER
SUMMARY JUDGMENT
EXPERTS
XX -NONE OF THE ABOVE

SCHEDULE "A"
SERVICE LIST

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

1392752 B.C. LTD.

PETITIONER

AND:

SKEENA SAWMILLS LTD.
SKEENA BIOENERGY LTD, and
ROC HOLDINGS LTD.

RESPONDENTS

SERVICE LIST

(Last Updated: January 22, 2024)

Fasken Martineau DuMoulin LLP Attention: Kibben Jackson Mishaal Gill Suzanne Volkow Email: kjackson@fasken.com mgilll@fasken.com svolkow@fasken.com <i>Counsel for the Receiver, Alvarez & Marsal Canada Inc.</i>	Alvarez & Marsal Canada Inc. Attention: Anthony Tillman Pinky Law Taylor Poirier Email: atillman@alvarezandmarsal.com pinky.law@alvarezandmarsal.com tpoirier@alvarezandmarsal.com <i>The Receiver</i>
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<p>IWA–Forest Industry Pension & LTD Plan Office</p> <p>Attention: Raashi Ahluwalia</p> <p>Email: raashi.ahluwalia@iwafibp.ca</p> <p><i>Counsel for Trustees of the IWA - Forest Industry Pension Plan and Trustees of the IWA - Forest Industry LTD Plan</i></p>	<p>McCarthy Tétrault LLP</p> <p>Attention: Lance Williams Nathan Stewart</p> <p>Email: lwilliams@mccarthy.ca nstewart@mccarthy.ca sdanielisz@mccarthy.ca</p> <p><i>Counsel for Antler Creek Contracting Ltd., Deuce Creek Contracting Ltd., L&J Logging Ltd., Kitselas Forestry LP, Terrace Timber Ltd., Silvicon Services Inc., Little Trees Reforestation Inc., Timber Tracks Inc., K' Alii Aks Timber Corporation ; Timbertramp Contracting Ltd. And Cypress Forest Consultations Ltd.</i></p>
<p>McLean & Armstrong LLP</p> <p>Attention: Vince Aldridge</p> <p>Email: valdridge@mcleanarmstrong.com</p> <p><i>Counsel for Daudet Creek Contracting Ltd.</i></p>	<p>Duncan Craig LLP</p> <p>Attention: Ryan Quinlan</p> <p>Email: rquinlan@dcllp.com</p> <p><i>Counsel for Dynamic Capital Equipment Finance Inc.</i></p>

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SCHEDULE "B"
DRAFT ORDER

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

1392752 B.C. LTD.

PETITIONER

AND

SKEENA SAWMILLS LTD., SKEENA BIOENERGY LTD.
AND ROC HOLDINGS LTD.

RESPONDENTS

SEALING ORDER

BEFORE)	THE HONOURABLE)	January 25, 2024
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ON THE APPLICATION OF Alvarez & Marsal Canada Inc. (the “**Receiver**”) in its capacity as Receiver of the properties, assets and undertakings of Skeena Sawmills Ltd., Skeena Bioenergy Ltd., and ROC Holdings Ltd. coming on for hearing at Vancouver, British Columbia on this date, and on hearing Kibben Jackson and Mishaal Gill, counsel for the Receiver, and those parties listed in Schedule “A” attached hereto; AND UPON READING the material filed, including Affidavit #1 of Anthony Tillman, made January 22, 2024; AND pursuant to the British Columbia Supreme Court Civil Rules, and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS that:

1. The following documents be sealed by the Registrar of this Honourable Court for the duration noted:

Items to be sealed

Document Name	Date filed <i>(Date on Court Stamp)</i>	Number of copies filed, including any extra copies for the judge	Duration of sealing order:	Sought:	Granted	
					Yes	No
<u>(1A) Specific Documents</u> Receiver's First Confidential Report to Court dated January 19, 2024	To be filed	2	Until further Order of this Court	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>(1B) Entire Court File</u>	N/A	N/A	N/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>(2) Other court records stored by the Court</u>	N/A	N/A	N/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>(3) Orders</u>	N/A	N/A	N/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>(4) Reasons for Judgment</u>	N/A	N/A	N/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. There is no requirement to file a redacted version of the Receiver's First Confidential Report to Court dated January 19, 2024.
3. Access to the sealed items is restricted to the Receiver and counsel to the Receiver, Fasken Martineau DuMoulin LLP.

4. Endorsement of this Order by counsel appearing on this application, other than counsel for the Receiver, is hereby dispensed with.

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:

Signature of Mishaal Gill
Lawyer for the Receiver

BY THE COURT

REGISTRAR

SCHEDULE "A"

Counsel Appearing

Counsel	Party Represented