

Court File No. CV-21-00669445-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF MCEWAN ENTERPRISES INC.**

Applicant

**MOTION RECORD
(Returnable November 12, 2021)**

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NOTICE OF MOTION
(returnable November 12, 2021)

McEwan Enterprises Inc. (the “**Applicant**”) will make a motion before Chief Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on November 12, 2021, at 9:00 a.m. or as soon thereafter as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- ☒ In writing under subrule 37.12.1 (1);
- ☐ In writing as an opposed motion under subrule 37.12.1(4);
- ☐ In person;
- ☐ By telephone conference
- ☐ By video conference

THE MOTION IS FOR:

1. An Order:

- (a) abridging the time for and validating the service of this Notice of Motion and dispensing with further service thereof;

- (b) extending the stay of proceedings granted pursuant to the Amended and Restated Initial Order granted by the Court on October 7, 2021 (the “**Amended and Restated Initial Order**”) to and including November 26, 2021; and
- (c) such further and other relief as counsel may request and this Court may permit.

THE GROUNDS FOR THE MOTION are as follows:

- 2. On September 28, 2021, the Applicant commenced these proceedings under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and Alvarez & Marsal Canada Inc. was appointed as the monitor of the Applicant (the “**Monitor**”).
- 3. The Stay Period (as defined in the Amended and Restated Initial Order) currently expires on November 12, 2021.
- 4. The Applicant requires an extension of the Stay Period to provide additional time and stability for the Applicant’s business as the Applicant continues to advance next steps in these CCAA proceedings in the interests of its stakeholders.
- 5. The Applicant is expected to have sufficient funding to operate its business during the proposed extension of the Stay Period.
- 6. No creditor will suffer any material prejudice as a result of the extension of the Stay Period.
- 7. The Applicant has acted and continues to act in good faith and with due diligence.
- 8. The provisions of the CCAA and this Court’s equitable and statutory jurisdiction thereunder.

9. Rules 1.04, 1.05, 2.03, 3.02, 16, and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.
10. Consolidated Notice to the Profession, Litigants, Accused Persons, Public and the Media regarding Expanded Operations of Ontario Superior Court of Justice dated May 13, 2020, as amended.
11. Changes to Commercial List Operations in light of COVID-19 dated March 16, 2020.
12. Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

13. Second Supplement to the Second Report of the Monitor, to be filed; and
14. Such further and other materials as counsel may advise and this Court may permit.

Date: November 9, 2021

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Proceeding commenced at Toronto

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THE HONOURABLE CHIEF)	FRIDAY, THE 12 TH
)	
JUSTICE MORAWETZ)	DAY OF NOVEMBER, 2021

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STAY EXTENSION ORDER

THIS MOTION, made by McEwan Enterprises Inc. (the “**Applicant**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, was heard this day by way of written submissions.

ON READING the Applicant’s Notice of Motion, the Second Supplement to the Second Report of Alvarez & Marsal Canada Inc., in its capacity as the Court-appointed monitor of the Applicant (the “**Monitor**”) dated November 9, 2021, and on being advised that the Monitor, Royal Bank of Canada, The Cadillac Fairview Corporation Limited and First Capital Holdings (Ontario) Corporation consent to or do not object to the relief requested.

SERVICE

1. THIS COURT ORDERS that the time for service of the materials filed in respect of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

EXTENSION OF THE STAY PERIOD

2. THIS COURT ORDERS that the Stay Period (as defined in the Amended and Restated Initial Order granted by this Court in these proceedings on October 7, 2021 (the “**Amended and Restated Initial Order**”)) be and is hereby extended to and including 11:59 p.m. on November 26, 2021, and all other terms of the Amended and Restated Initial Order shall remain in full force and effect, unamended, except as may be required to give effect to this paragraph.

MISCELLANEOUS

3. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

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