

COURT FILE NUMBER 2301-16982
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



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

AND IN THE MATTER OF A PLAN OF
COMPROMISE OR ARRANGEMENT OF
CANDESTO ENTERPRISES CORP., D3
INFRASTRUCTURE SERVICES INC. and SAFE
ROADS ALBERTA LTD.

C10098
Jan 12, 2024
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APPLICANTS CANDESTO ENTERPRISES CORP., D3 INFRASTRUCTURE SERVICES
INC. and SAFE ROADS ALBERTA LTD.

DOCUMENT AFFIDAVIT NO. 2 OF JAN VAN BRUGGEN

ADDRESS FOR
SERVICE AND
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File No.: 58965-1

AFFIDAVIT OF: JAN VAN BRUGGEN

SWORN ON: January 2, 2024

I, JAN VAN BRUGGEN, of the City of St. Albert, in the Province of Alberta, SWEAR AND SAY THAT:

1. I am a director and President of Safe Roads Alberta Ltd. ("**Safe Roads**"), D3 Infrastructure Services Inc. ("**D3**") and Candesto Enterprises Corp. ("**CEC**" and together with Safe Roads and D3, the "**Applicants**"). I am also a director and Chief Executive Officer of Barricades and Signs Ltd. ("**Barricades**") and a 50% shareholder and director of Batavi Venture Group Inc. ("**Batavi**"), which in turn is a shareholder of CEC, D3 and Safe Roads. Barricades and Batavi are non-applicant related companies.
2. As a result of the foregoing, I have personal knowledge of the matters hereinafter deposed to except where stated to be based upon information and belief, and where so stated I do verily believe the same to be true.

3. In preparing this affidavit, I consulted with the Applicants' management teams and advisors and reviewed relevant documents and information concerning the Applicants' operations and financial affairs.
4. I have been authorized to swear this affidavit as the corporate representative of the Applicants.

Background

5. On December 20, 2023, this Honourable Court concurrently granted the Applicants' originating application for an initial order (the "**Initial Order**") and an amended and restated initial order (the "**ARIO**"), both pursuant to the *Companies' Creditors Arrangement Act* (Canada) ("**CCAA**").
6. Pursuant to the Initial Order and ARIO, among other things:
 - (a) Alvarez & Marsal Canada Inc. was appointed as monitor (in such capacity, the "**Monitor**") of the Applicants;
 - (b) The Stay Period (as defined at paragraph 14 of the ARIO) was set for December 30, 2023 by the Initial Order and then extended to January 12, 2024 by the ARIO;
 - (c) the Administration Charge (as defined at paragraph 33 of the ARIO) was set at \$350,000;
 - (d) the authorized borrowings (the "**Authorized Borrowings**") under the Interim Credit Facility (as set out at paragraph 34 of the ARIO and defined at paragraph 37 of the Pre-Filing Report of the Monitor dated December 19, 2023 (the "**Pre-Filing Report**") and the corresponding Interim Lender's Charge (as defined at paragraph 37 of the ARIO) was set to \$450,000; and
 - (e) the Applicants were authorized to, among other items:
 - (i) remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**");
 - (ii) carry on business in a manner consistent with the preservation of the business (the "**Business**") and the Property;
 - (iii) continue to pay and retain and employ their employees, consultants, agents, experts, accountants, counsel and such other persons with liberty to retain such others as they deem necessary or desirable;
 - (iv) continue to utilize their cash management system or replace it;

- (v) pay all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable after the date of the ARIO; and
- (vi) with the consent of the Monitor, pay amounts owing for goods and services supplied to the Applicants prior to the Initial Order, if necessary or desirable to avoid disruption of the Applicants' operation of the Business, maximize recoveries or to preserve the Property or Business.

Relief Sought

7. I swear this Affidavit in support of the Applicants' application (the "**Application**") for an order for the following relief:
- (a) extending the Stay Period to March 15, 2024 (the "**Stay Extension**");
 - (b) increasing the Administration Charge from \$350,000 to \$500,000; and
 - (c) increasing the Authorized Borrowings under the Interim Credit Facility and the corresponding Interim Lender's Charge from \$450,000 to \$1,400,000.
8. I also rely on my previous Affidavit sworn December 18, 2023 (the "**First van Bruggen Affidavit**"), in support of the aforementioned relief being sought by the Applicants.

Actions of the Applicants since the Initial Order & ARIO

9. Since the Initial Order and ARIO were pronounced on December 20, 2023 (the "**Filing Date**"), and notwithstanding the holiday season, the Applicants have been working diligently and in good faith to identify a path forward to efficiently wind up their operations in a manner that will maximize value for their stakeholders. In particular, the Applicants are seeking to complete a transaction that would enable the transfer or assumption of certain of their ongoing projects and pursue consensual arrangements with the Applicants' surety under various performance and labour and material bonds.
10. In particular, since the Filing Date, the Applicants have:
- (a) issued communications to their employees advising of these CCAA proceedings and answered their questions with respect to the process and next steps;
 - (b) engaged with certain creditors, suppliers, customers, and contractual counterparties with respect to the commencement of these CCAA proceedings;
 - (c) consulted with legal counsel and the Monitor to discuss operational issues, cashflow requirements, staffing issues, and options available to most efficiently pursue the winding up of the Applicants given the issues described in First van Bruggen Affidavit;

- (d) engaged in productive discussions with the surety under the Applicants' labour and material and performance bonds, Trisura Guarantee Insurance Company and Trisura Insurance Company (collectively "**Trisura**") to mitigate the Applicants' exposure under the Indemnity Agreement (as defined in paragraph 6(a)(iv) of the First van Bruggen Affidavit) and have the obligations under it assumed by one of the non-Applicant members of the Candesto Group (as defined in paragraph 13 of the First van Bruggen Affidavit). Trisura has requested, and the Applicants have provided, a significant amount of information and data to facilitate these discussions; and
- (e) reviewing the Applicants' actual cash flow results to their forecasted cash flow forecast.

Stay Extension

- 11. The Applicants are seeking the Stay Extension for an additional period of approximately 10 weeks and to the end of the 13-week Consolidated Cash Flow Forecast (as set out at paragraph 32 the Pre-Filing Report).
- 12. As outlined in the First van Bruggen Affidavit, the Applicants' management team is of the view that the best way to advance these CCAA proceedings and the goals summarized at paragraph 9 herein is to transition the Ongoing Projects (as defined at paragraph 57 of the First van Bruggen Affidavit) to affiliates of the Applicants and liquidate the Applicants' equipment and other assets in an orderly fashion. As of December 2023, the Ongoing Projects are in an estimated aggregated deficit position of \$2,000,000 for bonded projects and additional \$621,000 deficit position for unbonded projects.
- 13. The Stay Extension is necessary and appropriate in the circumstances to enable the Applicants to move forward with their winding up efforts in an efficient manner with the protections afforded to it by the CCAA proceedings.
- 14. I understand that the Monitor and Interim Lender (as defined below) are supportive of the Stay Extension. Further, as noted above, the Applicants are engaged in ongoing productive conversations with Trisura regarding these proceedings.

Increase to Authorized Borrowings and Interim Lender's Charge

- 14. Pursuant to the Term Sheet (as defined in paragraph 38 of the Pre-Filing Report), the Applicants are permitted to borrow up to \$1,400,000 from the interim lender (the "**Interim Credit Facility**"), Durisol Ltd. (in such capacity, the "**Interim Lender**").
- 15. Pursuant to paragraph 34 of the ARIO, the Applicants are authorized and empowered to borrow under the Interim Credit Facility to finance working capital requirements, general corporate purposes and capital expenditures, provided that the borrowings under the Interim Credit Facility do not exceed \$450,000 (the "**Authorized Borrowings**").

16. The Applicants, in consultation with the Monitor, prepared the Consolidated Cash Flow Forecast for a 13-week period beginning December 20, 2023 and ending March 15, 2024 (the "**Forecast Period**"), which were previously included in the Pre-Filing Report.
17. Based on my review of the Consolidated Cash Flow Forecast and the Monitor's commentary in the Pre-Filing Report, the Applicants do not have sufficient funds to operate for the duration of the Stay Extension without borrowing additional amounts under the Interim Credit Facility.
18. The Consolidated Cash Flow Forecast indicates that during the Forecast Period, the Applicants are expected to experience a net decrease in cash of approximately \$1,460,000 during the Forecast Period and draw approximately \$1,300,000 from the Interim Credit Facility, which amount significantly exceeds the Authorized Borrowings and the corresponding Interim Lender's Charge.
19. Accordingly, in order to pay necessary operational expenses as they become due, the Applicants require an increase in Authorized Borrowings and Interim Lender's Charge by \$950,000, for a total Authorized Borrowings and Interim Lender's Charge of \$1,400,000.
20. The Monitor and Interim Lender are supportive of the increase to the Authorized Borrowings and the Interim Lender's Charge. In particular, paragraphs 37 to 45 of the Pre-Filing Report describe the notable provisions of the Term Sheet and the Monitor advises that it would be difficult for the Applicants to continue these CCAA proceedings or any alternative insolvency proceedings without the Interim Credit Facility; and that it does not believe the Interim Credit Facility will be unduly prejudicial to other creditors of the Applicants.

Increase to the Administration Charge

21. I am of the view that the Monitor, the Monitor's legal counsel and the Applicants' legal counsel are essential to the Applicants' successful winding up their operations through these CCAA proceedings. Accordingly, the Applicants are seeking to increase the Administration Charge from \$350,000 to \$500,000.
22. As indicated by the Monitor at paragraphs 55 to 59 of the Pre-Filing Report, these CCAA proceedings require the prompt and vigorous involvement of professional advisors to guide and/or complete a successful restructuring or winding up and accordingly, the Monitor is of the view that the proposed increase to the Administration Charge is reasonable and appropriate to ensure the continued support of the respective professionals in the Applicants' efforts to wind down their operations.

Amendment to ARIQ


23. The Applicants also seek approval of this Court to amend the ARIQ by eliminating the requirement that funds received from bonded receivables be held in a non-interest bearing account where the

bonded receivables were generated through advances from the Interim Lender. This would ensure that bonded receivables could only be used to pay either payables on other bonded projects or to repay amounts outstanding under the Administration Charge or the Interim Lender for advances specifically made related to bonded projects. Such use of funds would remain subject to the approval and oversight of the Monitor. For any bonded receivables received by the Applicants that were pre-filing and were not generated through advances from the Interim Lender, such funds would continue to be held in a non-interest bearing account or utilized on other bonded projects.

Conclusion

15. I swear this affidavit in support of the relief sought by the Applicants and for no improper purpose.

SWORN BEFORE ME at the City of Calgary, in the)
Province of Alberta, this 2nd day of January, 2024)



Commissioner for Oaths/Notary Public in and for)
Alberta)



JAN VAN BRUGGEN

NATALIE ELISE THOMPSON
Barrister and Solicitor
Commissioner for Oaths in and for Alberta