

THE QUEEN'S BENCH
Winnipeg Centre

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

AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT
WITH RESPECT TO ARCTIC GLACIER INCOME FUND, ARCTIC GLACIER INC.,
ARCTIC GLACIER INTERNATIONAL INC. and the ADDITIONAL APPLICANTS LISTED
IN SCHEDULE "A" HERETO

(collectively, the "APPLICANTS")

APPLICATION UNDER THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

NOTICE OF MOTION
(Motion for Stay Extension, Approvals to Facilitate Settlements and Other Relief)

DATE OF HEARING: WEDNESDAY, OCTOBER 16, 2013, AT 10 A.M.
BEFORE THE HONOURABLE MADAM JUSTICE SPIVAK

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ARRANGEMENT WITH RESPECT TO ARCTIC GLACIER INCOME FUND,
ARCTIC GLACIER INC., ARCTIC GLACIER INTERNATIONAL INC. and the
ADDITIONAL APPLICANTS LISTED ON SCHEDULE "A" HERETO
(collectively, the "**APPLICANTS**")

NOTICE OF MOTION
(Motion for Stay Extension, Approvals to Facilitate Settlements and Other Relief
Returnable October 16, 2013)

The Monitor will make a motion before the Honourable Madam Justice Spivak on
Wednesday, October 16, 2013 at 10:00 a.m., or as soon after that time as the motion can
be heard, at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

THE MOTION IS FOR:

1. An order, substantially in the form attached hereto as Appendix "1":
 - (a) abridging the time for service of the Notice of Motion and supporting materials such that the motion is properly returnable on October 16, 2013 at 10:00 a.m. and dispensing with further service thereof;
 - (b) extending the stay period ("**Stay Period**") as defined in paragraph 30 of the Order of the Honourable Madam Justice Spivak made February 22, 2012 (the "**Initial Order**") until February 7, 2014;
 - (c) approving the Thirteenth Report of the Monitor dated October 10, 2013 (the "**Thirteenth Report**") and the activities described therein;

- (d) approving the proposed settlement of the Desert Mountain Motion, Desert Mountain Proofs of Claim and related matters; and
 - (e) granting such further and other relief as this Honourable Court may deem just; and
- 2. An order, substantially in the form attached hereto as Appendix “2”:
 - (a) in respect of and facilitating the proposed settlement of the Indirect Purchaser Claim (the “**Indirect Purchaser Settlement**”), including granting the Class Counsel Charge in the amount of US\$200,000; and
 - (b) granting such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- 3. *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended (the “**CCAA**”) ss. 11, 11.02, and 11.52 and the inherent and equitable jurisdiction of this Court.
- 4. Queen’s Bench Rules 2.03, 3.02(1), 16.04, 16.08, 37.07(1), and 37.08(2).

Background

- 5. Capitalized terms not defined herein shall have the meaning ascribed to them in the Thirteenth Report.

6. On February 22, 2012, the Court granted protection to the Applicants (including Glacier Valley Ice Company, L.P. (California)) in the Initial Order pursuant to the CCAA.

7. The Applicants completed a Sale and Investor Solicitation Process as set out in the Initial Order and entered into an Asset Purchase Agreement (as amended, the “**APA**”), made as of June 7, 2012.

8. On June 21, 2012, the Court granted an order, among other things, approving the transaction provided for in the APA (the “**Sale Transaction**”).

9. The Sale Transaction closed on July 27, 2012. After making required payments, and taking into account other receipts and disbursements, the Monitor is currently holding approximately US\$120.5 million in trust pending further Order of the Court.

10. On September 5, 2012, this Honourable Court issued the Claims Procedure Order that approved the Claims Process.

11. On March 7, 2013, this Honourable Court issued an Order appointing Claims Officers to adjudicate disputed Claims.

Validating Service

12. The service effected and notice provided has been sufficient to bring these proceedings to the attention of the recipients and it is appropriate in the circumstances for this Honourable Court to validate service and proceed with the hearing for the relief requested.

Extending the Stay Period

13. The Monitor is requesting an extension of the Stay Period to February 7, 2014.

14. The Monitor is of the view that the Applicants have acted and continue to act in good faith and with due diligence. Significant progress has been made in resolving Proofs of Claim that were unresolved as of the date of the Twelfth Report.

15. The Monitor believes that an extension of the Stay Period until February 7, 2014 is appropriate, as it should allow sufficient time for the Monitor, in consultation with the Applicants, to continue to resolve Claims filed in the Claims Process and to refer any remaining disputed Claims to a Claims Officer or the Court for adjudication.

16. The proposed Stay extension date of February 7, 2014 is being requested in light of the projected timeline necessary to seek U.S. Bankruptcy Court approvals for the Indirect Purchaser Settlement.

17. The Monitor intends to work with the Applicants and the CPS to develop a strategy to distribute funds to Creditors with Proven Claims and potentially to unitholders.

Approving the Thirteenth Report and the Monitor's Activities

18. In accordance with the practice that has developed, the stakeholders have had a reasonable opportunity to review and take issue with the Thirteenth Report and the activities described therein and, absent any significant objection, the Thirteenth Report should be approved by this Honourable Court.

Canadian Approval Order for the Indirect Purchaser Settlement

19. The Monitor asks this Honourable Court to grant an Order authorizing the Monitor and the CPS (on behalf of AGIF, AGI and AGII) to enter into the Indirect Purchaser Settlement, which Settlement shall be subject to approval by the U.S. Bankruptcy Court.

20. The Monitor requested and this Honourable Court granted a similar order in respect of the Canadian Retail Class Action Settlement on March 7, 2013.

21. The Indirect Purchaser Settlement is fair and reasonable, beneficial to the stakeholders generally, and consistent with the purpose and spirit of the CCAA.

22. In addition, the Indirect Purchaser Settlement contemplates the Monitor seeking a charge in favour of Class Counsel in the amount of US\$200,000 as security for the professional fees and disbursements of Class Counsel (the “**Class Counsel Charge**”).

23. The Class Counsel Charge should be granted because it is necessary to ensure the effective participation of the Indirect Purchaser Claimants in these CCAA Proceedings.

24. This Court has granted a similar charge previously in these CCAA Proceedings, namely, the Direct Purchasers’ Advisors’ Charge.

25. The Court has jurisdiction to order such a charge pursuant to CCAA 11.52(1). The Monitor submits that the requirements in CCAA 11.52(1) are met and the Class Counsel Charge should be granted.

Settlement of the Desert Mountain Claim

26. Desert Mountain has submitted the Desert Mountain Proofs of Claim seeking payment of \$12.5 million, plus certain other amounts, in relation to the Arizona Lease.

27. Desert Mountain also filed and served the Desert Mountain Motion in relation to the Arizona Lease seeking payment of \$12.5 million from either the Purchaser and/or the Applicants.

28. In addition, Mr. Nagy filed the Nagy Proof of Claim, which included the Guarantee Proof of Claim in relation to the Arizona Lease.

29. The parties to the Desert Mountain Motion and the Monitor attended a judicially assisted dispute resolution conference before the Honourable Mr. Justice Martin on June 19, 2013. Subject to the approval of this Court, a resolution of the Desert Mountain Proofs of Claim, the Desert Mountain Motion, the Guarantee Proof of Claim and all issues related to the Arizona Lease was achieved as between the Applicants, the Monitor, Desert Mountain and Mr. Nagy (the “**Desert Mountain Settlement**”).

30. The Desert Mountain Settlement is fair and reasonable, beneficial to the stakeholders generally, and consistent with the purpose and spirit of the CCAA.

31. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

32. The pleadings and proceedings herein;
33. The Thirteenth Report; and
34. Such further and other materials as counsel may advise and this Court may permit.

October 10, 2013

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TO: THE ATTACHED SERVICE LIST

SCHEDULE A - ADDITIONAL APPLICANTS

Arctic Glacier California Inc.
Arctic Glacier Grayling Inc.
Arctic Glacier Lansing Inc.
Arctic Glacier Michigan Inc.
Arctic Glacier Minnesota Inc.
Arctic Glacier Nebraska Inc.
Arctic Glacier Newburgh Inc.
Arctic Glacier New York Inc.
Arctic Glacier Oregon Inc.
Arctic Glacier Party Time Inc.
Arctic Glacier Pennsylvania Inc.
Arctic Glacier Rochester Inc.
Arctic Glacier Services Inc.
Arctic Glacier Texas Inc.
Arctic Glacier Vernon Inc.
Arctic Glacier Wisconsin Inc.
Diamond Ice Cube Company Inc.
Diamond Newport Corporation
Glacier Ice Company, Inc.
Ice Perfection Systems Inc.
ICESurance Inc.
Jack Frost Ice Service, Inc.
Knowlton Enterprises, Inc.
Mountain Water Ice Company
R&K Trucking, Inc.
Winkler Lucas Ice and Fuel Company
Wonderland Ice, Inc.

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