

Form 27
[Rules 6.3]

Clerk's Stamp



COURT FILE NUMBER BE03-568045

ESTATE NUMBER 24-1568045

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

APPLICANT IN THE MATTER OF THE BANKRUPTCY AND
INSOLVENCY ACT, RSC 1985, c B-3, AS AMENDED

DOCUMENT AND IN THE MATTER OF THE PROPOSAL OF JOHN
KENNETH PURDY OTHERWISE KNOWN AS JACK
PURDY

APPLICATION BY ALVAREZ AND MARSAL
CANADA INC. IN ITS CAPACITY AS
PROPOSAL TRUSTEE OF JOHN (JACK)
KENNETH PURDY

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT

Ray C. Rutman
Fraser Milner Casgrain LLP
2900 Manulife Place
10180 – 101 Street
Edmonton, Alberta T5J 3V5
Ph. (780) 423-7246 Fx. (780) 423-7276
File No.: 529227-7/RCR

NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Judge.

To do so, you must be in Court when the application is heard as shown below:

Date	September 28, 2012
Time	10:00 a.m.
Where	Law Court Building 1A Sir Winston Churchill Square Edmonton, Alberta
Before Whom	The Honourable Mr. Justice D.R.G. Thomas

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. An Order for advice and directions in the form of the draft Order attached as Schedule "A" to this Application or on such further and other terms as this Honourable Court may direct on the procedure and timelines to be followed for a determination of the value and priority for voting and/or distribution purposes, as the case may be, of the claim of any creditor of John (Jack) Kenneth Purdy ("Purdy") which has filed a Proof of Claim with Alvarez & Marsal Canada Inc. (the "Proposal Trustee"), for which the Proposal Trustee sent to the creditor a Notice of Determination or Disallowance of Claim and for which the creditor has filed an appeal.

Grounds for making this application:

2. On December 2, 2011 Purdy filed a Notice of Intention to Make a Proposal, the Proposal Trustee consented to act and all proceedings against Purdy were stayed.
3. By Orders of the Honourable Mr. Justice D.R.G. Thomas dated December 21, 2011, January 24, 2012 and May 2, 2012 the period of time for Purdy to make a proposal to his creditors, and accordingly the stay of proceedings against him, was extended to February 3, 2011, March 19, 2012 and June 1, 2012, respectively.
4. On June 12, 2012 the Proposal Trustee sent to all known creditors of Purdy a Creditor Claims Package, which included a Proof of Claim form (as defined by the Fifth Report of the Proposal Trustee) and published the Creditor Claims package in the Edmonton Journal as well as posted it on its website.
5. On May 30, 2012 Purdy lodged a Proposal to his creditors with the Proposal Trustee.
6. A number of Purdy's creditors submitted a Proof of Claim to the Proposal Trustee and the Proposal Trustee issued a Notice of Determination or Disallowance of Claim in respect of a number of those Proofs of Claim.
7. A number of creditors for which the Proposal Trustee issued a Notice of Determination or Disallowance of Claim have filed an appeal with the Court, which appeals have been adjourned.
8. It is reasonable and economical that all Notice of Determination or Disallowance of Claim appeals are head together, and the Proposal Trustee requests the advice and direction of this Honourable Court on the procedure and timelines to be followed leading up to the hearing of those appeals.
9. There is a substantial commonality between a number of the appeals filed by creditors to the Notices of Determination or Disallowance of Claim and the Dispute Notices received by the Monitor in the proceedings with respect to a number of companies

controlled by Purdy (the "Purdy Group") pursuant to the *Companies Creditor Arrangement Act*, RSC 1985, c C-36, as amended, in court action no. 1103 18646 (the "CCAA Action"), and it is accordingly practical that these matters be heard together.

Material or evidence to be relied on:

10. The First through Fifth Reports of the Proposal Trustee;
11. The pleadings and proceedings herein;
12. The Seventh Report of Alvarez & Marsal Canada Inc., in its capacity as Court appointed Monitor of the Purdy Group in the CCAA Action;
13. Such additional material or evidence as counsel may advise and this Honourable Court may permit, including material and evidence filed in the CCAA Action.

Applicable rules:

14. Rule 6.3 of the *Alberta Rules of Court*;
15. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3;
16. *Bankruptcy and Insolvency General Rules*, CRC, c 368;
17. Such further and other legislation and authority as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

18. N/A

How the application is proposed to be heard or considered:

19. In open chambers by way of personal attendance of counsel.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE 'A'

Clerk's Stamp:

COURT FILE NUMBER	BE03-568045
ESTATE NUMBER	24-1568045
COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	EDMONTON
APPLICANT	IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, RSC 1985, c B-3, AS AMENDED AND IN THE MATTER OF THE PROPOSAL OF JOHN KENNETH PURDY OTHERWISE KNOWN AS JACK PURDY
DOCUMENT	<u>ORDER</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Ray C. Rutman Fraser Milner Casgrain LLP Barristers & Solicitors 2900, 101080 – 101 Street Edmonton, AB T5J 3V5 Ph. (780) 423-7246 Fx. (780) 423-7276 File No.: 529227-7/RCR

DATE ON WHICH ORDER WAS PRONOUNCED: _____ day, September , 2012
LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta
NAME OF MASTER / JUSTICE WHO MADE THIS ORDER:

UPON the application of the Alvarez & Marsal Canada Inc. in its capacity as Proposal Trustee of John (Jack) Kenneth Purdy (the "Proposal Trustee"); AND UPON having read the pleadings and proceedings filed herein; AND UPON noting that a meeting of creditors of John (Jack) Kenneth Purdy ("Purdy") was held on June 22, 2012 to, among other matters, vote on his Proposal; AND UPON noting that the Claims of a number of creditors were disallowed by the Proposal Trustee and those creditors were accordingly not entitled to vote on the Proposal;

AND UPON noting that the disallowed Claims, if valid, could impact the outcome of the vote on the Proposal; AND UPON noting that the meeting of creditors was adjourned and will be reconvened on October 9, 2012; AND UPON hearing the submissions of Counsel for the Proposal Trustee, Counsel for Purdy and Counsel for other interested persons; IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the notice of application for this order is hereby abridged and service thereof is deemed good and sufficient.

PROCEDURE FOR RESOLVING DISPUTE NOTICE

2. So long as the stay period imposed in these proceedings pursuant to s. 69.1 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended remains in effect, the following procedure and timelines shall be implemented with respect to the Notice of Determination or Disallowance of Claim appeals filed by creditors of Purdy (the "Appealing Claimant") (all capitalized terms not herein defined being as defined in the by the Fifth Report of the Proposal Trustee):
 - (a) the Proposal Trustee shall, by October 10, 2012, file and serve on counsel for the Appealing Claimants a report summarizing the Claims for which it has issued a Notice of Determination or Disallowance of Claim, such report to include copies of the applicable Proofs of Claim, Notice of Determination or Disallowance of Claim and a summary of the basis for the Notice of Determination or Disallowance of Claim with reference, if applicable, to any information or records relied upon by the Proposal Trustee in respect of the decision to disallow or revise the Claim, and such report may be served by email to counsel for the Appealing Claimant if known to the Proposal Trustee and by posting to the Monitor's website at www.alvarezandmarsal.com/purdy;
 - (b) each Appealing Claimant shall have until October 19, 2012 to file and serve on the Proposal Trustee and Purdy any additional documents and/or affidavits in support of its Claim;
 - (c) any Appealing Claimant that files an affidavit will be subject to questioning by counsel for Purdy, which questioning is to take place no later than October 26, 2012;
 - (d) any responding affidavit of Purdy is to be filed and served on the applicable Appealing Claimant no later than November 2, 2012;
 - (e) Any questioning with respect to a responding affidavit of Purdy shall take place no later than November 9, 2012;

- (f) any undertakings given at the questionings referenced herein are to be provided within five days of the questioning;
 - (g) Appealing Claimants are to file and serve their briefs on Purdy and the Proposal Trustee by November 23, 2012 and Purdy is to file and serve its brief on the Appealing Claimants and the Proposal Trustee by December 7, 2012; and
 - (h) if the Proposal Trustee chooses (or is directed) to file a brief, it shall file and serve its brief on the Appealing Claimants and Purdy by December 7, 2012.
3. All evidence, reports and briefs filed in these proceedings shall be treated as evidence, reports and briefs in the proceedings pursuant to the *Companies Creditor Arrangement Act*, RSC 1985, c C-36, as amended, in court action no. 1103 18646.

J.C.Q.B.A.