

No. S-124409
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,

c. C36, AS AMENDED

AND

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, C. 57, AS
AMENDED**

AND

**IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
LEMARE HOLDINGS LTD., LEMARE LAKE LOGGING LTD., LONE TREE LOGGING LTD.,
C. & E. ROADBUILDERS LTD., COAST DRYLAND SERVICES LTD., DOMINION LOG SORT
LTD. AND CENTRAL COAST INDUSTRIES LTD.**

**THIRTEENTH REPORT OF THE MONITOR
ALVAREZ & MARSAL CANADA INC.**

JUNE 17, 2014

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c.
C36, AS AMENDED
AND
IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, C. 57, AS
AMENDED
AND
IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF LEMARE
HOLDINGS LTD., LEMARE LAKE LOGGING LTD., LONE TREE LOGGING LTD., C. & E.
ROADBUILDERS LTD., COAST DRYLAND SERVICES LTD., DOMINION LOG SORT LTD.
AND CENTRAL COAST INDUSTRIES LTD.**

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1.0 INTRODUCTION AND PURPOSE OF REPORT

- 1.1 Alvarez & Marsal Canada Inc. ("**A&M**" or the "**Monitor**") was appointed as Monitor pursuant to the order (the "**Initial Order**") pronounced by this Honourable Court on June 21, 2012 on the application of Lemare Holdings Ltd. ("**Lemare Holdings**") and its subsidiaries listed in Appendix "**A**" (collectively, the "**Lemare Group**", the "**Company**" or the "**Petitioners**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). The proceedings brought by the Company under the CCAA are referred to herein as the "**CCAA Proceedings**".
- 1.2 The Initial Order granted a stay of proceedings (the "**Stay of Proceedings**") against or in respect of the Lemare Group, its business or property until July 20, 2012 or such a date as this Honourable Court may subsequently order (the "**Stay Period**"). Further orders have been granted extending the Stay Period. Effective May 9, 2014 an order was granted extending the Stay Period to July 31, 2014 (refer to 1.4 below).
- 1.3 On November 2, 2012 a claims process order (the "**Claims Process Order**") was granted setting out the process for creditors with claims to determine the nature and quantum of their claim for voting and/or distribution purposes.
- 1.4 In accordance with Reasons for Judgement issued May 21, 2014 (the "**May 21 Order**") , a meeting order (the "**Meeting Order**") was granted by this Honourable Court authorizing the Petitioners to file a Consolidated Plan of Arrangement (the "**Plan**") and directing a meeting of creditors to vote on the Plan. A copy of the Plan (as amended) is attached as Appendix "**B**".
- 1.5 In addition to the extension of the Stay Period to July 31, 2014 and the granting of the Meeting Order made pursuant to the May 21 Order, the Court granted a declaration sought by the Petitioners regarding the status and subordination of the claims of Concentra Financial Services Association ("**Concentra**") and Concentra Trust. Concentra Trust and Concentra have each filed a Notice of Application for Leave to Appeal the May 21 Order on May 29, 2014 and May 30, 2014 respectively, which are scheduled to be heard on June 27, 2014.
- 1.6 The purpose of this thirteenth report (the "**Thirteenth Report**") is intended to provide this Honourable Court and the Petitioners' creditors with an overview of the Meeting Order and the Plan as well as the Monitor's comments and recommendation with respect to the Plan.

- 1.7 The Thirteenth Report is also intended to be included as “Meeting Materials” that will be sent to creditors pursuant to the terms of the Meeting Order (refer to paragraph 2.4 below).
- 1.8 Capitalized terms not defined in this report are used as defined in the first affidavit of Mr. Eric Dutcyvich sworn on June 20, 2012 (the “**Dutcyvich #1 Affidavit**”) filed in support of the Company’s application for relief under the CCAA.
- 1.9 The Initial Order together with select motion material and other documentation filed in the CCAA, including the Monitor’s reports, are posted on the Monitor’s website at www.alvarezandmarsal.com/lemare.
- 1.10 Unless otherwise stated, all monetary amounts contained in this Thirteenth Report are expressed in Canadian dollars.

2.0 THE MEETING ORDER

- 2.1 Pursuant to the terms of the Meeting Order, a creditors’ meeting (the “**Creditors’ Meeting**”) is scheduled to be held at the offices of Gowling, Lafleur, Henderson LLP, Suite 2300, 550 Burrard Street, Vancouver, British Columbia at 2:00PM on July 8, 2014.
- 2.2 A representative of the Monitor shall be the Chairperson of the Creditors’ Meeting (the “**Chairperson**”). Persons entitled to attend the Creditors’ Meeting are limited to the Monitor and any person designated by the Monitor, “Trade Creditors” (as defined in the Plan) or holders of their proxies, officers and directors of the Company, any other person admitted by the Chairperson and legal counsel to any other person entitled to attend.
- 2.3 The only class of Creditors for the purpose of voting on the Plan will be Trade Creditors permitted to vote their claims as determined by the Claims Process Order.
- 2.4 Pursuant to the terms of the Meeting Order, no later than 10 days prior to the Creditors’ Meeting, the Monitor is to send copies of the following documents (the “**Meeting Materials**”) to Trade Creditors:
- a) notice of the meeting of creditors;
 - b) a copy of the Meeting Order;
 - c) a copy of the Plan;
 - d) a copy of the Thirteenth Report; and

e) a proxy form.

2.5 The Monitor will also make the Meeting Materials available to stakeholders on its website at www.alvarezandmarsal.com/lemare.

2.6 Subsequent to the Creditors' Meeting, the Monitor will provide a report to the Court with respect to the results of the voting at the Creditors' Meeting, including whether the Plan was approved by the Trade Creditors voting greater than two thirds in value and majority in number of their voting claims (the "**Requisite Majorities**").

2.7 In the event the Plan is approved by the Requisite Majorities, the Petitioners intend to bring a Notice of Application to be heard by the Court no later than 5 days after the Creditors' Meeting seeking approval of the Plan pursuant to the CCAA.

3.0 OVERVIEW OF THE PLAN

3.1 The Petitioners have made certain amendments to the Plan arising out of the May 21 Order which do not materially change the commercial terms previously communicated to stakeholders in the Twelfth Report of the Monitor dated May 6, 2014.

Select Commercial Terms of the Plan

3.2 For purposes of the Thirteenth Report and for ease of reference for those creditors affected by and voting on the Plan, we have summarized select commercial terms of the Plan (as amended) below:

- a) The Plan is made in respect of "Trade Creditors" which are defined in the Plan as those creditors who have proven a claim in accordance with the Claims Process Order except the claims of proven secured creditors and "Exempted Claims" (as defined in the Plan) which include those claims of Concentra and Concentra Trust and the claim of the Province of British Columbia in respect of the "Crown Settlement Claim" (as defined in the Plan). Creditors with "Disputed Claims" (as defined in the Plan) are included as Trade Creditors but only once those claims have been settled in accordance with the Claims Process Order;
- b) amounts owing in respect of the Administration Charge (as defined in the First Report of the Monitor dated June 29, 2012) and all amounts required to be paid pursuant to sections 6(3), 6(5) and 6(6) of the CCAA will be paid in full within 10 business days of the Monitor filing a

Certificate with the Court once all conditions precedent to the Plan have been met (the “**Plan Implementation Date**”);

- c) All creditors other than Trade Creditors are deemed unaffected and are not required to vote on the Plan;
- d) Trade Creditors whose proven claim are \$5,000 or less will receive the lesser of \$5,000 or the amount of their proven claim within 10 business days of the Plan Implementation Date;
- e) Trade Creditors with claims greater than \$5,000 will be paid the full balance of their claim over 12 consecutive equal quarterly installments of principal payable every three months with the first payment to be made within 10 business days of the Plan Implementation Date;
- f) Trade Creditors will be entitled to interest on the amount of their claim payable at the TD Prime Rate plus one half of one percent from and after the 10th day following the Plan Implementation Date. Interest is to be paid quarterly on the same date as principal payments of the Trade Creditors’ claims;
- g) Disputed Claims (as defined in the Plan) are to be paid as set out in the Plan once the dispute has been resolved and the amount of the disputed claim determined;
- h) As indicated in section 7.1 of the Plan, a number of parties (including certain Officers and Directors of the Petitioners) are to be released and discharged from, among other things, any and all claims arising from Plan, the business and affairs of the petitioners and the CCAA Proceedings generally; and
- i) As noted above, proven secured claims are not affected by the Plan and will be paid by the Petitioners in accordance with existing agreements or as may be agreed between the parties.

Conditions Precedent to the Plan

- 3.3 Conditions precedent to the Plan include the Plan being approved by the Requisite Majorities and an Order of the Court approving the Plan (the “**Approval Order**”) including the following declaration which was granted by the Court pursuant to the May 21 Order:

“Subject to the Petitioners obtaining the approval of the Trade Creditors to the Plan in accordance with the CCAA, and subject to the Court otherwise approving and sanctioning the Plan, the Petitioners are entitled to a declaration that:

(a) *in respect of the Opco Note neither Concentra Financial Services Association nor Concentra Trust of any assignee or holder of the Opco Note is entitled to receive any payment from the Petitioners in respect of the principal, interest or any other amounts claimed to be owing in respect of the Opco Note until the following debt has been paid in full:*

- i. *the Trade Creditors, Proven Secured Creditors, Intracompany claims, the claims of the Toronto-Dominion Bank and T-D Equipment Finance (the “Existing Debt”), and*
- ii. *any other debt incurred by the petitioners in the ordinary course of business between the Filing Date and the date of payment in full of the Existing Debt (the “Other Debt”),*

(the Other Debt and the Existing Debt being collectively the “Indebtedness”)

(b) *that, subject to further order of the Court, no action may be commenced against the Petitioners in respect of the Opco Note until the Indebtedness has been paid in full provided that:*

- i. *with respect to the effluxion of time pursuant to any limitation period applicable to the Opco Note, the Petitioners are estopped from relying on time passing from the date of this order to the date that the indebtedness is paid in full;*
- ii. *Concentra Financial Services Association or Concentra Trust may issue proceedings in respect of the Opco note for the purpose of preserving any limitation period, but no further steps shall be taken against the Petitioners in any such proceedings until the Indebtedness is paid in full;*
- iii. *If requested by Concentra Financial Services Association or Concentra Trust, the petitioners shall execute a Tolling Agreement with respect to the Opco note in a format acceptable to the Petitioners, acting reasonably.*

3.4 The Plan is also conditional on the appeal period in respect of the Approval Order and the May 21 Order having expired with no appeal having been filed or if filed, the appeal having been dismissed. As noted in 1.5 above, Concentra Trust and Concentra have each filed a Notice of Application for Leave to Appeal the May 21 Order.

Modifications of the Plan

3.5 The Petitioners have also included in the Plan, a provision whereby sections 38 and 95-101 of the *Bankruptcy and Insolvency Act* R.S.C. 1985, as amended (the “BIA”) do not apply to the Plan. The Monitor is required under s. 23(1)(d.1) of the CCAA to opine on the reasonableness of a

decision to include provisions in a compromise and arrangement that sections 38 and 95 to 101 of the BIA do not apply in respect of the compromise and arrangement.

- 3.6 Given that the Plan contemplates all Trade Creditors being paid in full and other creditors being dealt with pursuant to agreements in place or as agreed between the parties, it is the Monitor's opinion that any choses in action or transactions involving the Petitioners where BIA sections 38 or sections 95-101, respectively, may apply, it is reasonable to exclude the applicability of the those sections in respect of the Plan.

4.0 CREDITOR CLAIMS

Trade Creditors

- 4.1 There are 170 Trade Creditors with accepted claims of approximately \$1.6 million. 113 Trade Creditors with claims totalling \$176,000 have individual claims of less than \$5,000 which would be paid in full within 10 days of the Plan Implementation Date pursuant to the terms of the Plan. 57 Trade Creditors with claims totalling \$1.4 million have a claim of greater than \$5,000 which would be paid in 12 consecutive quarterly installments plus interest in accordance with the Plan.
- 4.2 There are 4 disputed Trade Creditor claims which in aggregate total \$333,000. The Plan provides for disputed claims to be paid as set out in the Plan once the dispute has been resolved and the amount of the disputed claim determined. A summary of the disputed claims is as follows:
- a) a claim by Canada Revenue Agency of \$254,000 for corporate tax assessments for the taxation years ended December 31, 2010 and 2011. The Company filed an objection against the assessment, which has been acknowledged by the Canada Revenue Agency and an appeals review will be scheduled in due course;
 - b) a claim by Her Majesty the Queen in right of the Province of British Columbia of \$43,000 for logging tax reassessment for the taxation years ended December 31, 2010;
 - c) an employee claim of \$35,000 for unpaid wages during 2010 for which the claimant and the Company are in disagreement with respect to the terms of employment; and
 - d) a supplier claim of \$1,000 for repair services provided to the Company for which the supplier and the Company disagree regarding the validity of related warranty coverage.

Other Claims Against the Petitioners (“Unaffected Claims”)

- 4.3 There are 9 Unaffected Claims which include:

- a) secured creditors consist of 3 related party secured claims of \$2.7 million and 4 third party secured claims of \$187,000. The Monitor understands that the Company intends to pay the amounts due to third party secured creditors pursuant to agreements in place or as agreed between the parties and that the related party secured creditors are supportive of the Plan and do not intend to demand repayment or enforce on their security until the Trade Creditors have been repaid;
- b) the Crown Settlement Claim plus interest pursuant to a confidential Settlement Agreement. A portion of the principal amount remains owing to the Crown and an amount is owing to related entities for payments made on Lemare's behalf; and
- c) the unsecured joint claim of Concentra and Concentra Trust in respect of a \$10 million promissory note (the "**Opco Note**") owed by 621745 Saskatchewan Ltd., 3L Cattle Company Ltd., Lemare Lake Logging Ltd. and others to Concentra is subordinated in right of payment to all other indebtedness.

5.0 MONITOR'S COMMENTS ON THE PLAN

- 5.1 The Plan, should it be approved by the Trade Creditors and sanctioned by this Honourable Court, will allow Lemare to emerge from CCAA Proceedings while providing for payment in full to the Trade Creditors and continuity of business with its customers, suppliers, contractors and employees.
- 5.2 The Company will be able to access equipment financing, working capital and bonding requirements necessary for pursuing new contracts more easily or less expensively once it has emerged.
- 5.3 The Monitor has been provided with the Company's 12 month forecast and annual forecasts for the following two years which indicate that the Lemare Group has the ability and financial wherewithal to make the payments contemplated in the Plan.
- 5.4 Based on the Company's historic results and annual forecasts, it appears that the Petitioners will be able to make the required payments to the Trade Creditors in full within the three year period provided for in the Plan. This period allows the Company the ability to manage and deal with the seasonality and other fluctuations in operating cash flow that are inherent in its business. In addition, the three year term allows for a reasonable period of time for the Company to deal with its liability in respect of the Opco Note which remains indirectly secured by way of a collateral

mortgage with a face value of \$15 million held by the Petitioners against certain real property in Saskatchewan. The Monitor understands that foreclosure proceedings in respect of the property in Saskatchewan have been commenced but that the timing for completion of the realization process remains uncertain.

- 5.5 The Monitor understands from Lemare management that the Petitioners intend to repay \$815,000 of post-filing amounts due to certain related entities for payments made on the Petitioners' behalf in respect of the Crown Settlement Claim over the term of the Plan and will, either directly or through a related party, continue to make the remaining payments to the Crown resulting in full repayment by June 2015.
- 5.6 Absent the restructuring contemplated under the Plan, potential alternatives available to the Trade Creditors and other stakeholders (including secured creditors, the Crown and Concentra and Concentra Trust) would be a forced liquidation undertaken possibly within the context of formal insolvency or bankruptcy proceedings under the BIA (a "**Forced Liquidation**").
- 5.7 Based on information provided by the Petitioners, the Monitor has considered and reviewed the potential financial impact on and potential recoveries available to all creditors and the shareholders of the Petitioners in the event of a Forced Liquidation of the Petitioners' assets. These include the mortgage held against real property in Saskatchewan in support of the Petitioners' obligations under the Opco Note. It is the Monitor's view that, while it remains possible that there would be sufficient proceeds to pay in full all of the Petitioners' creditors if the Company's business was wound up and its assets liquidated, there is also risk that there could be a shortfall. Moreover, a Forced Liquidation may not be as expeditious as the term of the Plan where all Trade Creditors are paid in full and Unaffected Claims are settled in accordance with the terms of their respective agreements with the Petitioners. Furthermore, such a process would unnecessarily destroy goodwill value associated with the Lemare Group enterprise and unduly prejudice suppliers, contractors and the employees of Lemare Group as well as the Company's shareholders.
- 5.8 The Monitor has been informed by representatives of the related parties holding secured claims totaling \$2.7 million that they are supportive of the Plan and do not plan to demand repayment or enforce their security until the Trade Creditors have been repaid in full. It is noted that in a Forced Liquidation Scenario, these secured related party loans would rank in priority to the claims of Trade Creditors.

5.9 As noted in section 3.4, the Plan is conditional on the appeal period in respect of the Approval Order and the May 21 Order having expired without any filed outstanding appeals. Concentra Trust has filed a Notice of Application for Leave to Appeal the May 21 Order and the Monitor has been provided notice by legal counsel to Concentra that they will also be pursuing their appeal rights. As a result, if leave to appeal is granted and an appeal is filed, the Plan Implementation Date may be delayed until such time as the outcome of the appeal has been determined by the Court.

6.0 MONITOR'S CONCLUSION AND RECOMMENDATIONS

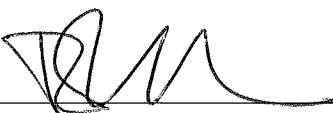
6.1 Nothing has come to the Monitor's attention that would suggest that the Company has not been in compliance with the terms of the Initial Order, the Claims Process Order or the CCAA generally. The Monitor is not aware of any creditors or other stakeholders having experienced any material financial prejudice during the pendency of the CCAA Proceedings.

6.2 The Monitor remains of the view that the Company continues to act in good faith and with due diligence with respect to its restructuring efforts.

6.3 The Monitor is of the view that acceptance of the terms of the Plan as tabled is in the interest of Trade Creditors and is preferable to the alternative of a Forced Liquidation. Accordingly, the Monitor recommends that the Trade Creditors vote in favour of the resolution to approve the Plan.

All of which is respectfully submitted to this Honourable Court this 17th day of June, 2014.

Alvarez & Marsal Canada Inc.,
in its capacity as Monitor of
Lemare Holdings Ltd. and those
subsidiary companies listed in Appendix A



For:
Per: Todd Martin
Senior Vice President



Per: Tom Powell
Director