



This is the 4th affidavit of
Sandra Brown-John in this case and was
made on October 28, 2021

No. S-217202
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

THE BANK OF NOVA SCOTIA

PETITIONER

AND

**COMMUNITY MARINE CONCEPTS LTD., VICTORIA INTERNATIONAL MARINA LTD.,
ETERNALAND YUHENG INVESTMENT HOLDING LTD., AND 0736657 B.C. LTD.**

RESPONDENTS

AFFIDAVIT

I, Sandra Brown-John, of Suite 2600, 595 Burrard Street, Vancouver, BC, legal assistant, SWEAR
THAT:

1. I am a legal assistant to Peter Bychawski of Blake, Cassels & Graydon LLP ("**Blakes**"), the solicitors for The Bank of Nova Scotia, the petitioner in this proceeding, and as such I have personal knowledge of the matters deposed to in this Affidavit except where I depose to a matter based on information from an informant I identify in which case I believe that both the information from the informant and the resulting statement are true.

2. Attached to this my affidavit and marked as **Exhibit "A"** is a copy of a letter from Mr. Bychawski of Blakes to Mr. Glen Forrester, counsel for the Respondents, dated September 24, 2021.

3. Attached to this my Affidavit and marked as **Exhibits "B"** and **"C"** are copies of letters from Mr. Bychawski to Mr. Forrester each dated October 8, 2021.

4. Attached to this my Affidavit and marked as **Exhibit "D"** is a copy of a letter from Mr. Bychawski to Mr. Forrester dated October 19, 2021.

5. Attached to this my Affidavit and marked as **Exhibit "E"** is a copy an email from Mr. Forrester sent to Jennifer Alambre from Blakes (among others) on October 27, 2021.

SWORN BEFORE ME at Vancouver, British
Columbia on October 28, 2021

A handwritten signature in black ink, appearing to be "Oli dM", written over a horizontal line.

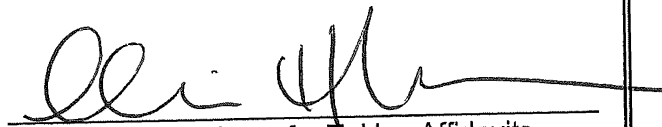
A Commissioner for taking Affidavits for
British Columbia

A handwritten signature in black ink, appearing to be "S Brown-John", written over a horizontal line.

Sandra Brown-John

CLAIRE HILDEBRAND
Barrister & Solicitor
BLAKE, CASSELS & GRAYDON LLP
Suite 2600, Three Bentall Centre
595 Burrard St., P.O. Box 49314
Vancouver, B.C. V7X 1L3
(604) 631-3331

This is Exhibit "A" referred to in the Affidavit of Sandra Brown-John sworn before me at Vancouver, British Columbia this 28th day of October, 2021



A Commissioner for Taking Affidavits
for British Columbia

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Blake, Cassels & Graydon LLP
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Tel: 604-631-3300 Fax: 604-631-3309

Peter Bychawski

Partner

Dir: 604-631-4218

peter.bychawski@blakes.com

Reference: 00019350/090070

September 24, 2021

VIA E-MAIL

Forrester & Company
300 – 171 Water Street
Vancouver, BC V6B 1A7

Attention: Glen Forrester

**RE: *The Bank of Nova Scotia v. Community Marine Concepts Ltd. et al*
SCBC Vancouver Registry No. S217202**

Dear Sir:

We write to confirm that the hearing of our client's petition for a receivership order is scheduled to be heard on October 8, 2021.

Please provide us with your clients' petition response and supporting affidavits (if any) by no later than October 5, 2021.

In terms of how much time will be required for the hearing, without seeing your clients' materials, we cannot agree at this time that two hours will not be sufficient. Your clients have acknowledged their liability to the bank. There does not appear to be any dispute on the applicable law. Even the case law that your client has cited confirms that the fact that security documents acknowledge the right to make an application for a receiver (as in this case) is a strong factor in support of the imposition of a receiver. In the circumstances, the narrow issue of whether the relief sought by our client is justified on the evidence does not in our view require a full day of submissions from the parties.

Yours truly,

Peter Bychawski

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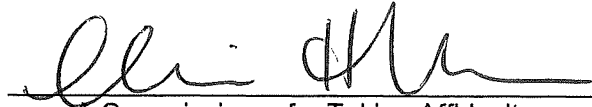
OTTAWA

NEW YORK

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Blake, Cassels & Graydon LLP | blakes.com

This is Exhibit "B" referred to in the Affidavit of Sandra Brown-John sworn before me at Vancouver, British Columbia this 28th day of October, 2021



A Commissioner for Taking Affidavits
for British Columbia

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Peter Bychawski

Partner

Dir: 604-631-4218

peter.bychawski@blakes.com

Reference: 00019350/090070

October 8, 2021

VIA E-MAIL

Forrester & Company
300 – 171 Water Street
Vancouver, BC V6B 1A7

Attention: Glen Forrester

**RE: *The Bank of Nova Scotia v. Community Marine Concepts Ltd. et al*
SCBC Vancouver Registry No. S217202**

Dear Sir:

We write to confirm that Mr. Li on behalf of your clients has recently made certain requests for documentation directly of our client. While our client will continue to cooperate with any appropriate requests for information made directly by your clients, we want to confirm that in the context of ongoing litigation any discussions with respect to the status of this court action or the petition hearing scheduled for November 1, 2021 should be referred to us through your office. The bank will not entertain any discussions directly with your client regarding adjournments, proposals, or other legal matters.

We also confirm that on October 1, 2021 your clients made two deposits into their account held with our client totalling \$100,000. No information or communication from your clients accompanied these deposits. We assume from paragraph 13 of Mr. Li's affidavit sworn September 21, 2021 that these unilateral deposits are being made by your clients for the purpose set out in Mr. Li's affidavit. Once the hold period on these deposits passes, our client will apply these funds towards the balance of the indebtedness owing to it. We confirm, however, that the making of this unilateral and comparatively nominal payment does not address the prejudice being caused to our client by your clients' ongoing default of their obligation to repay a debt that currently exceeds \$15 million.

Please do not hesitate to contact me should you wish to discuss the foregoing.

Yours truly,

Peter Bychawski

c. Crystal Law, *Forrester & Company*

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This is Exhibit "C" referred to in the Affidavit of Sandra Brown-John sworn before me at Vancouver, British Columbia this 28th day of October, 2021



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October 8, 2021

VIA E-MAIL

Forrester & Company
300 – 171 Water Street
Vancouver, BC V6B 1A7

Attention: Glen Forrester

Peter Bychawski

Partner

Dir: 604-631-4218

peter.bychawski@blakes.com

Reference: 00019350/090070

**RE: *The Bank of Nova Scotia v. Community Marine Concepts Ltd. et al*
SCBC Vancouver Registry No. S217202**

Dear Sir:

We write further to our letter dated September 24, 2021 wherein we requested that you provide us with your clients' petition response and supporting affidavits (if any) by no later than October 5, 2021. We acknowledge that you advised in reply that you were away until October 5 and could not promise materials by that day.

At this stage, two months have passed since your clients were served with this petition. It is also more than three weeks since you have been engaged. There is no reason for your clients to further delay the filing of their response materials. We would ask that you serve your clients' materials by no later than October 13, 2021.

Yours truly,



Peter Bychawski

c. Crystal Law, Forrester & Company

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This is Exhibit "D" referred to in the Affidavit of Sandra Brown-John sworn before me at Vancouver, British Columbia this 28th day of October, 2021


A Commissioner for Taking Affidavits
for British Columbia

CLAIRE HILDEBRAND
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Peter Bychawski

Partner

Dir: 604-631-4218

peter.bychawski@blakes.com

Reference: 00019350/090070

October 19, 2021

VIA E-MAIL

Forrester & Company
300 – 171 Water Street
Vancouver, BC V6B 1A7

Attention: Glen Forrester

**RE: *The Bank of Nova Scotia v. Community Marine Concepts Ltd. et al*
SCBC Vancouver Registry No. S217202**

Dear Sir:

Enclosed is a Requisition filed October 14, 2021 confirming that our client's petition is scheduled to be heard on November 1, 2021 for the day.

We have previously written to you on September 24, 2021 and October 8, 2021 requesting that your clients comply with their obligations under the Rules by filing their responding materials (if any). It has now been 10 weeks since your clients were served with a straightforward petition and more than a month since you have been engaged. At this stage, your clients' continuing delinquency in the filing of their materials is in our view indicative of the disregard they have shown for our client's legal rights and the court's processes – both prior to and during the pendency of these proceedings.

We ask for the third time that your clients file and serve their materials forthwith as required by the Rules.

Yours truly,

Peter Bychawski

c. Crystal Law, *Forrester & Company*

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Blake, Cassels & Graydon LLP | blakes.com

This is Exhibit "E" referred to in the Affidavit of Sandra Brown-John sworn before me at Vancouver, British Columbia this 28th day of October, 2021



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CLAIRE HILDEBRAND
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BLAKE, CASSELS & GRAYDON LLP
Suite 2600, Three Bentall Centre
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Vancouver, B.C. V7X 1L3
(604) 631-3331

Brown-John, Sandra

From: Glen Forrester <gforrester@forresterbarristers.ca>
Sent: Wednesday, October 27, 2021 2:50 PM
To: Eric Li
Cc: Fabiano, Rocco; Martinez, Beatriz; Mitges, Justin; Alambre, Jennifer; michael.bi@peakmortgage.ca
Subject: Re: Refinancing contact

External Email | Courrier électronique externe

I'm in trial. Crystal Law may contact you and also try to obtain an affidavit from Michael. This would need to happen to tomorrow.

Glen Forrester
 FORRESTER & COMPANY
 Barristers
 (law corporation)
 Suite 300 171 Water Street
 Vancouver, BC, V6B 1A7

Tel: 604-682-1066

Fax: 604-682-8036

www.forresterbarristers.ca<<http://www.forresterbarristers.ca/>>

On Oct 27, 2021, at 2:11 PM, Eric Li <eric@vimarina.ca> wrote:

Hi All,

Here is Michael's email, Michael will be helping us to refinance the marina project.

Michael please feel free to contact everyone cc me if possible.

I will be helping on the side to get this process through.

Glen please contact Michael if you have any questions.

Thank you