



No. S233209
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

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

AND

IN THE MATTER SLP HOLDINGS LTD., STRUCTURLAM MASS
TIMBER CORPORATION, STRUCTURLAM MASS TIMBER U.S.,
INC. NATURAL OUTCOMES, LLC.

PETITIONERS

NOTICE OF APPLICATION

Name of applicant: Alvarez & Marsal Canada Inc., court-appointed Information Officer

To: the Service List

TAKE NOTICE that an application will be made by the applicant to the presiding at the courthouse at 800 Smithe Street, Vancouver, BC, V6Z 2E1 on June 21, 2023, at 9:00 a.m. for the orders set out in Part 1 below.

Part 1: ORDER(S) SOUGHT

1. A declaration that the Petitioners meet the criteria prescribed in the *Wage Earner Protection Program Regulations* and terminated employees are entitled to receive payments under *Wage Earner Protection Program Act*; and
2. Any other or further relief as this Honourable Court deems appropriate.

Part 2: FACTUAL BASIS

Background and History of the Proceedings

1. On April 21, 2023 (the "**Petition Date**"), SLP Holdings Ltd. ("**SLP**"), Structurlam Mass Timber Corporation (formerly SLP Operations Ltd., "**SMTC**"), Structurlam Mass Timber U.S., Inc. ("**SMTU**") and Natural Outcomes, LLC ("**NOLLC**") (together, the "**Petitioners**" or "**Structurlam**") commenced proceedings by filing voluntary petitions for relief (the "**Chapter 11 Proceedings**") pursuant to chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. in the United States Bankruptcy Court for the District of Delaware (the "**U.S. Court**").
2. On April 26, 2023, the U.S. Court granted several orders in the Chapter 11 Proceedings (the "**First Day Orders**"), which includes an order that authorized SLP to act as foreign representative (the ("**Foreign Representative**") in these CCAA Proceedings (subsequently defined).
3. On April 26, 2023, the Foreign Representative filed a petition with the Supreme Court of British Columbia, pursuant to Part IV of the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") (the "**CCAA Proceedings**", and together with the Chapter 11 Proceedings, the "**Restructuring Proceedings**") for:
 - (a) an initial recognition order (the "**Initial Recognition Order**"), which inter alia:
 - (i) recognizes the Foreign Representative in respect of the Chapter 11 Proceedings;
 - (ii) recognizes the Chapter 11 Proceedings commenced by SMTU and NOLLC in the US Bankruptcy Court as "foreign main proceedings" under Part IV of the CCAA;
 - (iii) recognizes the Chapter 11 Proceedings commenced by SLP and SMTC in the US Bankruptcy Court as "foreign non-main proceedings" under Part IV of the CCAA;
 - (iv) grants a stay of proceedings against Structurlam; and

- (v) instructs the Foreign Representative to place a notice of the Restructuring Proceedings once a week for two consecutive weeks in the Vancouver Sun.
- (b) a supplemental recognition order (the "**Supplemental Recognition Order**"), which *inter alia*:
 - (i) recognizes and enforces certain First Day Orders;
 - (ii) grants additional stays and protections in respect of the Petitioners until June 1, 2023 (the "**Stay Period**");
 - (iii) appoints Alvarez & Marsal Canada Inc. ("**A&M**") as the information officer in these CCAA Proceedings (the "**Information Officer**"); and
 - (iv) grants certain priority charges over the Petitioners' Canadian assets, specifically the Administration Charge and the DIP Charge (collectively, the "**CCAA Charges**"), as such terms are defined herein.
- 4. On April 27, 2023, the Initial Recognition Order and Supplemental Recognition order were granted and A&M was appointed as Information Officer.
- 5. On May 8, 2023, the U.S. Court granted an order (the "**Bidding Procedures Order**"), which, *inter alia*:
 - (a) approved the Bidding Procedures;
 - (b) approved the Stalking Horse APA and the Stalking Horse Protections;
 - (c) scheduled an auction (the "**Auction**") and other key dates in respect of the Bidding Procedures;
 - (d) approved the form and manner of notice of the Auction; and
 - (e) approved contract assumption and assignment procedures in respect of the Bidding Procedures Order.
- 6. On April 28, 2023, the Foreign Representative filed a notice of application (the "**Bidding Procedures Recognition Application**"), for an order, which, *inter alia*:

- (a) recognizes the Bidding Procedures Order;
 - (b) sets down a date to hear an application to recognize the expected U.S. Court order which approves a sale of Structurlam's assets; and
 - (c) extends the Stay Period until June 30, 2023 (the "**Stay Extension**").
7. On May 16, 2023, this Honourable Court granted the Bidding Procedures Order and the Stay Extension.
8. On May 30, 2023, the Foreign Representative filed a notice of application with this Honourable Court (the "**May 30 Application**") to seek, among other things, the following relief:
- (a) an order recognizing and giving full force and effect in Canada (the "**Canadian Sale Order**") to the Order (i) authorizing (A) sale of assets free and clear of all liens, claims, encumbrances and interest, and (B) the Debtors' assumption and assignment of certain executory contracts and unexpired leases; and (ii) granting related relief, granted by the U.S. Court on May 30, 2023 in the Chapter 11 Proceedings (the "**U.S. Sale Order**"), and further, among other things, approving the sale transaction described in the amended asset purchase agreement (the "**Purchase Agreement**") dated April 21, 2023 between the Petitioners and Mercer International Inc. ("**Mercer**") and (iii) vesting right, title and interest in and to the Transferred Assets (as defined in the Purchase Agreement) in Mercer free and clear of any charges, security, liens, encumbrances, claims or liabilities other than certain permitted encumbrances assumed as set out in the Purchase Agreement; and
 - (b) an order (the "**Additional Recognition Order**") recognizing and giving full force and effect in Canada to certain additional orders granted by the U.S. Court in the Chapter 11 Proceedings.
9. On June 1, 2023, this Honourable Court granted the Canadian Sale Order and the Additional Recognition Order.

Sale Transaction

10. On June 15, 2023 (the “**Closing Date**”), pursuant to the terms and conditions of the U.S. Sale Order, the Canadian Sale Order and the Purchase Agreement, the sale transaction between the Petitioners and Mercer closed.
11. Pursuant to the Purchase Agreement, while Mercer assumed SMTC’s collective agreement and the unionized employees, Mercer will be offering employment in writing to select Structurlam employees who are not unionized employees, as opposed to assuming the employment contracts of all non-unionized employees of Structurlam.
12. It is the Information Officer’s understanding that as of the Closing Date, Mercer (or its affiliate) had extended new employment offers to certain of the SMTC employees and all of the SMTU employees. As a result, on June 15, 2023, SMTC issued 10 termination letters to SMTC employees who were not offered new employment by Mercer (or its affiliate).
13. It is Structurlam’s intention to pay all terminated employees their outstanding wages and vacation pay, but not termination and/or severance pay. As a result, SMTC and the Information Officer would like to assist its Canadian employees to be able to forthwith file claims under WEPPA for unpaid termination and severance pay.

Part 3: LEGAL BASIS

1. The Information officer will rely on:
 - (a) *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s.1, (“**WEPPA**”), specifically section 5(1) and 5(5); and
 - (b) *Wage Earner Protection Program Regulations*, SOR/2008-222 (“**WEPPR**”), section 3.2.

Should the Court declare that, pursuant to section 5(5) of the WEPPA, the Petitioners meet the criteria established by section 3.2 of the WEPPR?

2. The WEPPA provides employees whose employment is terminated in connection with certain insolvency proceedings access to government funds for unpaid wages, vacation

pay, severance and termination pay, up to certain limits. Although access to the WEPPA resources are available in any bankruptcy or receivership proceeding, access to the WEPPA resources for former employees in an NOI or CCAA proceeding is only available if a Court order is made under section 5(5) of the WEPPA.

3. Section 5(5) of the WEPPA provides that on application by an person in proceedings under the CCAA, a Court may determine that a former employer meets the criteria prescribed by the WEPPR. Section 3.2 of the WEPPR provides that "a court may determine whether the former employer is the former employer all of whose employees in Canada have been terminated other than any retained to wind down its business operations".
4. Similar relief has been granted in other insolvency proceedings including:
 - (a) *Re: BBB Canada Ltd.*, Amended and Restated Initial Order
 - (b) *Re: FIGR, Brands Inc.*, CV-21-00655373-00CL, Stay Extension, Distribution, WEPPA and Fee Approval Order
 - (c) *Re: Nilex Inc.*, Estate No. 24-2878531, Interim Distribution Order
 - (d) *Re: the Proposal of Scotch and Soda Canada Inc.*, Estate No. 31-2941767, Stay Extension, Charge Approval, SISP Approval and WEPPA Declaration
5. The Information Officer is of the view that it is appropriate for this Honourable Court to declare that SMTC meets the criteria as prescribed in WEPPR and that former employees of SMTC may be entitled to receive payments under WEPPA, in order for terminated employees to access their statutory entitlements with respect to unpaid termination and/or severance pay.
6. Subject to this Honourable Court's approval of the declaration that SMTC meets the criteria prescribed by WEPPR, the Information Officer will assist terminated employees to file claims for payments under WEPPA. For certainly, all claims against the Petitioners will remain subject to the adjudication process set out in the Chapter 11 Proceedings.
7. The Information Officer is supportive of the relief sought in connection with the WEPPA.

Part 4: MATERIAL TO BE RELIED ON

1. The Third Report of the Information officer made June 19, 2023; and
2. Any such further or other materials as this Honourable Court deems appropriate.

The applicant estimates that the application and any related applications will take 1 Hour.

- ☐ This matter is within the jurisdiction of a master.
- ☒ This matter is not within the jurisdiction of a master. Justice Fitzpatrick is seized of this matter.

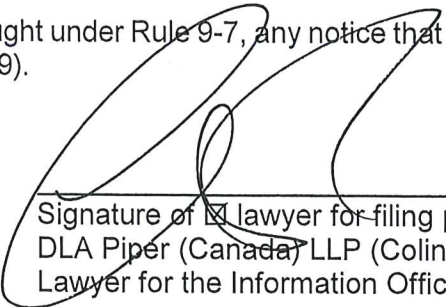
TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33;
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding; and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

- (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

June 19, 2023

Dated


Signature of ☒ lawyer for filing party
DLA Piper (Canada) LLP (Colin D. Brousson)
Lawyer for the Information Officer

CONTACT DETAILS FOR HEARING BY TELEPHONE

Name of Lawyer attending: Colin D. Brousson

Telephone: 604.643.6400

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To be completed by the court only:

Order made

☐ in the terms requested in paragraphs _____ of Part 1
of this notice of application

☐ with the following variations and additional terms:

Date: _____

Signature of ☐ Judge ☐ Master

APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ oral matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☐ none of the above

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PETITIONERS

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