

CITATION: McEwan Enterprises Inc., 2021 ONSC 8423
COURT FILE NO.: CV-21-00669445-00CL
DATE: 2021-12-21

SUPERIOR COURT OF JUSTICE - ONTARIO

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF MCEWAN ENTERPRISES INC.

BEFORE: Chief Justice G.B. Morawetz

COUNSEL: *Robert J. Chadwick, Caroline Descours, Trish Barrett*, for McEwan Enterprises Inc.

Sean Zweig and Joshua Foster, for the Monitor

Virginie Gauthier, for The Cadillac Fairview Corporation Limited

Catherine Francis and Kenneth L. Kallish, Counsel for Royal Bank of Canada

Steven L. Graff and Jeremy Nemers, for First Capital Holdings (Ontario) Corporation

Maurice V. Fleming, for DSY Food Services Partnership

HEARD: December 21, 2021

ENDORSEMENT

[1] From the outset of these CCAA proceedings, the objective of McEwan Enterprises Inc. ("MEI") has been to ensure its ongoing operations for the benefit of its stakeholders and to effectuate a restructuring of its business.

[2] The only opposing creditor during the proceedings has been First Capital Holdings (Ontario) Corporation ("First Capital"), MEI's landlord at its Yonge and Bloor location in Toronto. MEI has now resolved its differences with First Capital and has entered into a confidential binding settlement term sheet, which provides for a consensual termination of the lease at the Yonge and Bloor location and a mutual release of obligations as between MEI and First Capital.

[3] MEI is also working to finalize documentation with respect to amended terms for its leases with Cadillac Fairview, also on a consensual basis.

[4] MEI is of the view that, in view of these developments, it is appropriate to proceed to terminate the CCAA proceedings. The termination will take effect upon the service by the Monitor of an executed certificate (the "CCAA Termination Time").

[5] Effective as of the CCAA Termination Time, the Monitor will be released and the court ordered charges will be released and discharged. In addition, a default waiver will be effective, in order to protect the operations of the business following the CCAA Termination Time.

[6] I also note that the Stay Period currently expires on December 22, 2021. MEI seeks an extension of the Stay Period to the earlier of the CCAA Termination Time or January 14, 2022. MEI takes the position that no creditor will suffer any material prejudice as a result of the extension of the Stay Period. I am satisfied that MEI has acted and continues to act in good faith and with due diligence, such that this request is reasonable in the circumstances.

[7] MEI also seeks an increase to interim funding up to a maximum amount of \$2 million, which, based on the cash flow forecast, will provide MEI with sufficient funding through the proposed extension of the Stay.

[8] There was no opposition to the motion.

[9] Having reviewed the record and hearing submissions, I am satisfied that the terms of the CCAA Termination Order are consistent with the remedial purpose of the CCAA, that no creditor will suffer material prejudice and that the relief requested is in the best interests of MEI and its stakeholders and that it is fair, reasonable and appropriate in the circumstances to grant the requested relief.

[10] The motion is granted and an order reflecting the foregoing has been signed.



Chief Justice G.B. Morawetz

Date: December 21, 2021