

20-Oct-23

REGISTRY

No. S233209
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

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

APPLICATION OF SLP HOLDINGS LTD. UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

PETITIONER

NOTICE OF APPLICATION

Name of the applicant: SLP Holdings Ltd.

To: THE SERVICE LIST

TAKE NOTICE that an application will be made by the Applicant before Justice Fitzpatrick at the courthouse at 800 Smithe Street, Vancouver, BC V6Z 2E1, on October 31, 2023 at 3:00 p.m. (as arranged through trial scheduling) or as soon thereafter as counsel may be heard, for the order(s) set out in Part 1 below.

PART 1: ORDERS SOUGHT

1. SLP Holdings Ltd. ("**SLP**"), in its capacity as foreign representative (in such capacity, the "**Foreign Representative**") of SLP, Structurlam Mass Timber Corporation, Structurlam Mass Timber U.S., Inc. and Natural Outcomes, LLC (collectively, the "**Debtors**") seeks an order pursuant to section 49 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for the following relief from this Court:
 - a. an order abridging the time for service of this application and directing that it is properly returnable on the hearing date;

- b. an order extending the Stay Period, as defined in the Supplemental Recognition Order granted in these proceedings by the Honourable Justice Fitzpatrick on April 27, 2023 and subsequently extended on the Order granted by the Honourable Justice Fitzpatrick on June 21, 2023, up to and including January 31, 2024 or such other date as determined by this Honourable Court;

All in the form of Order attached hereto as **Schedule "A"**; and

- c. such further and other Orders as this Honourable Court may deem appropriate.

PART 2: FACTUAL BASIS

1. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Affidavit of Shawn Turkington #4 sworn October 19, 2023.
2. On April 21, 2023 the Debtors each commenced proceedings under Chapter 11 of Title 11 of the United States Code (the "**Chapter 11 Proceedings**") in the US Bankruptcy Court.
3. On April 26, 2023 pursuant to certain "First Day Motions" filed by the Debtors, the US Bankruptcy Court granted certain interim and/or final orders, including an order authorizing SLP to act as the foreign representative for the purpose of these Canadian recognition proceedings.
4. On April 27, 2023 the Honourable Justice Fitzpatrick of this court granted: (a) an initial recognition order (the "**Initial Recognition Order**"), among other things, recognizing SLP as the "foreign representative" and the Chapter 11 Proceedings of SLP and SMTC as "foreign non-main proceedings" and the Chapter 11 Proceedings of SMTU and NOLLC as "foreign main proceedings" each as defined in section 45 of the CCAA; and (b) a supplemental order (the "**Supplemental Recognition Order**"), among other things, (i) recognizing various orders of the US Bankruptcy Court, (ii) ordering a stay of proceedings in Canada in respect of the Debtors until June 1, 2023 (the "**Stay Period**"); and (iii) appointing Alvarez & Marsal Canada Inc. ("**A&M**") as information officer in respect of these Canadian recognition proceedings (in such capacity, the "**Information Officer**").
5. On May 16, 2023 the Honourable Justice Fitzpatrick granted a recognition of bidding procedures order (the "**May 16 Order**") recognizing an order granted on May 8, 2023 by the US Bankruptcy Court which order, among other things: (i) approved bidding

- procedures; (ii) approved stalking horse protections and the Debtors' entry into a stalking horse purchase agreement; (iii) scheduled the bid deadlines and the auction; (iv) scheduled hearings and objection deadlines with respect to the sale; (v) approved the form and manner of notice thereof; (vi) approved contract assumption and assignment procedures; and (vii) granted related relief. In addition the Stay Period was extended up to and including June 30, 2023.
6. On June 1, 2023 the Honourable Justice Fitzpatrick granted an order recognizing certain "second day orders" (the "**Second Day Orders**") granted in the Chapter 11 Proceedings including, among other Orders, an Order dated May 25, 2023 establishing bar dates and related procedures for filing proofs of claim (including for administrative expense claims arising under section 503(b)(9) of the United States Bankruptcy Code (the "**Bankruptcy Code**") and approving the form and manner of notice (the "**Claims Process Order**").
 7. Further, on June 1, 2023 the Honourable Justice Fitzpatrick granted an approval and vesting order (the "**Sale Approval Order**") which, among other things:
 - a. recognized the Final Sale Order granted by the US Bankruptcy Court on May 30, 2023 authorizing, among other things, the sale of the Debtors' assets free and clear of all liens, claim, interest and encumbrances; and
 - b. approved the sale transaction contemplated by the Asset Purchase Agreement dated April 21, 2023 as amended (the "**Sale Agreement**") between the Debtors and Mercer International Inc. (the "**Purchaser**").
 8. The transaction contemplated by the Sale Agreement closed on June 15, 2023.
 9. The Debtors repaid all amounts due to the Bank of Montreal under both the pre-petition credit agreement and the interim (debtor in possession) financing.
 10. On June 21, 2023 the Honourable Justice Fitzpatrick granted an order extending the stay of proceedings up to and including October 31, 2023 (the "**June 21, 2023 Stay Order**").
 11. Further, on June 21, 2023 the Honourable Justice Fitzpatrick granted an order declaring that pursuant to subsections 5(1)(b)(iv) and 5(5) of the *Wage Earner Protection Program Act* (Canada), S.C. 2005, c. 47, s. 1 ("**WEPPA**") , Structurlam Mass Timber Corporation ("**SMTC**") and its employees, upon termination, meet the criteria prescribed by Section 3.2

of the *Wage Earner Protection Program Regulations*, SOR/2008-222 and each of SMTC's employees are eligible, or will be eligible upon termination, to receive payments under and in accordance with WEPPA following the termination of their employment.

The Debtors' activities since last appearance

12. Since June 21, 2023 the Debtors have, among other things:
 - a. diligently worked with their advisors towards the development and filing of a combined disclosure statement and plan in the Chapter 11 Proceedings (the "**Plan**");
 - b. kept stakeholders, including the Official Committee of Unsecured Creditors, apprised of the development of the plan and consulted with them as and when appropriate;
 - c. addressed various post-closing matters with the Purchaser;
 - d. pursued collection of outstanding accounts receivable;
 - e. conducted reviews of creditor claims in the claims process with a view of determining which should be disputed;
 - f. made payments under the Key Employee Retention Program and Key Employee Incentive Program in accordance with their terms;
 - g. responded to creditor inquiries;
 - h. made payments when due for post filing obligations to advisors and other service providers; and
 - i. completed the monthly accounting and operating reports as required under Chapter 11.
13. On October 17, 2023 the Debtors' Plan was filed in the US Bankruptcy Court. Broadly, the Plan provides for the Debtors' estates being transferred to a liquidating trustee for the purpose of adjudicating claims and distributing assets of the estates to creditors. The Plan is supported by the Official Committee of Unsecured Creditors.

14. Along with the Plan, on October 17, 2023 the Debtors also filed in the US Bankruptcy Court a motion for an order to, among other things, approve the procedures for obtaining creditor approval of the Plan (a "**Solicitation Order**"). The hearing of that motion is set for November 14, 2023 at 3:30 P.M. Eastern Time.
15. Provided the Debtors' creditors approve the Plan, the Debtors intend to apply for an order from the US Bankruptcy Court confirming the Plan (the "**Plan Approval Order**") at a time now set for December 19, 2023 at 11:00 A.M. Eastern Time.
16. The Debtors anticipate seeking this Honourable Court's recognition and approval of both the Solicitation Order and the Plan Approval Order after each is issued by the US Bankruptcy Court.

PART 3: LEGAL BASIS

Issue

1. The sole issue in this application is whether this Honourable Court should grant an Order extending the Stay Period to January 31, 2024 (the "**Stay Extension**").

Extension of Stay of Proceedings

2. When a foreign proceeding has been recognized under Part IV of the CCAA, subsection 49(1) empowers the court to make any order that it considers appropriate if the court is satisfied that it is necessary for the protection of the debtor company's property or the interests of creditors. This includes the power to order a stay of proceedings.

CCAA, sections 48(1), 49(1)

3. Although written within the context of a stay request made pursuant to CCAA section 11.02, Justice Fitzpatrick noted in *1057863 B.C. Ltd. (Re)*, 2022 BCSC 876 that, "a stay of proceedings is the central tool by which a court maintains the status quo for the debtor, which allows the debtor to continue its ongoing operations. This allows a debtor the necessary time, flexibility, and "breathing room" to carry out a supervised restructuring or organized sale process".

1057863 B.C. Ltd. (Re), 2022 BCSC 876 at paras. 31, 35

4. Pursuant to the June 21, 2023 Stay Order, the Stay Period is set to expire on October 31, 2023.
5. Since the granting of the Supplemental Recognition Order, the May 16 Order, the June 21, 2023 Stay Order and throughout the pendency of these proceedings, the Debtors have acted diligently and in good faith in these proceedings by:
 - a. continuing to maintain the Debtors' property and assets;
 - b. diligently working with the Purchaser, the Sale Advisor, the Information Officer and the Bank of Montreal towards the closing of the transaction contemplated by the Sale Agreement which was completed on June 15, 2023;
 - c. diligently working with their advisors towards the development and filing of the Plan;
 - d. keeping stakeholders, including the Official Committee of Unsecured Creditors, apprised of the development of the plan and consulted with them;
 - e. addressing various post-closing matters with the Purchaser;
 - f. pursuing collection of outstanding accounts receivable;
 - g. conducting reviews of creditor claims in the claims process with a view to determining which should be disputed;
 - h. making payments under the Key Employee Retention Program and Key Employee Incentive Program in accordance with their terms;
 - i. responding to creditor inquiries;
 - j. made payments when due for post filing obligations to advisors and other service providers; and
 - k. completed the monthly accounting and operating reports as required under Chapter 11.

6. The Foreign Representative submits that granting a stay extension through to January 31, 2024 or a later date (the "**Stay Extension**") would be appropriate *and* in the interest of creditors, because:
 - a. It will provide the Company with sufficient time to obtain creditor and court approval of the Plan;
 - b. It will provide the Company with sufficient time to implement the Plan; and
 - c. it will increase administrative efficiencies in these proceedings by allowing any further stay extension, recognition hearing, or application for other relief to be heard together.
7. The Foreign Representative respectfully requests this Court grant the Stay Extension.

Part 4: MATERIAL TO BE RELIED ON.

1. Affidavit #4 of Shawn Turkington, sworn October 19, 2023;
2. Fourth Report of the Information Officer, to be filed;
3. The pleadings and materials filed herein.
4. Such further and other material this Honourable Court may allow.

The applicant estimates that the application will take fifteen (15) minutes.

☐ This matter is within the jurisdiction of a master.

☒ This matter is to be heard before Justice Fitzpatrick, as arranged through Trial Scheduling.

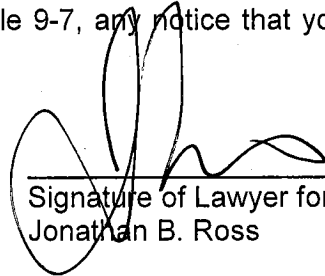
TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and 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).

Date: October 20, 2023



Signature of Lawyer for the Applicant
Jonathan B. Ross

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

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other 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
- ☒ other

SCHEDULE "A"

Form Of Order

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TIMBER CORPORATION, STRUCTURLAM MASS TIMBER U.S., INC.,
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CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

ORDER MADE AFTER APPLICATION

(STAY EXTENSION ORDER)

BEFORE THE HONOURABLE)	
JUSTICE FITZPATRICK)	31/October/2023
)	

THE APPLICATION of SLP Holdings Ltd., in its capacity as the foreign representative (the "**Foreign Representative**") of SLP Holdings Ltd., Structurlam Mass Timber Corporation, Structurlam Mass Timber U.S., Inc. and Natural Outcomes, LLC (collectively, the "**Debtors**") in respect of the proceedings (the "**Foreign Proceedings**") commenced in the United States Bankruptcy Court for the District of Delaware (the "**U.S. Bankruptcy Court**") under docket numbers 23-10500-CTG, 23-10499-CTG, 23-10498-CTG, and 23-10497-CTG respectively, for an Order pursuant to Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), coming on for hearing at Vancouver, British Columbia, on the 31st day of October, 2023; AND UPON READING the material filed, including the Notice of Application, the Affidavit #4 of Shawn Turkington sworn October 19, 2023, and the Fourth Report of Alvarez

& Marsal Canada Inc., in its capacity as court-appointed information officer in respect of these proceedings (in such capacity, the "**Information Officer**"), each filed; AND UPON hearing Jonathan B. Ross and Manuel Dominguez, counsel for the Foreign Representative and those other counsel listed on **Schedule "A"** hereto;

THIS COURT ORDERS AND DECLARES that:

SERVICE AND DEFINITIONS

1. The time for service of the Notice of Application for this Order is hereby abridged and deemed good and sufficient and this application is properly returnable today.
2. Any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Order Made After Application (Supplemental Recognition Order in Foreign Proceeding) dated April 27, 2023 (the "**Supplemental Recognition Order**").

EXTENSION OF THE CANADIAN STAY

3. THIS COURT ORDERS that, the stay of proceedings set out in the Order granted by the Honourable Justice S. Fitzpatrick on June 21, 2023 is hereby extended up to and including January 31, 2024.

GENERAL

4. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist the Debtors, the Foreign Representative, the Information Officer, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Debtors, the Foreign Representative, and the Information Officer, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant the Information Officer status in any foreign proceeding, or to assist the Debtors, the Foreign Representative, and the Information Officer and their respective agents in carrying out the terms of this Order.
5. Each of the Debtors, the Foreign Representative and the Information Officer be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or

administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

6. Any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days' notice to the Debtors, the Foreign Representative, the Information Officer and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.
7. This Order and all of its provisions shall be effective as of 12:01 a.m. local Vancouver time on the date of this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of Counsel for the Petitioner,
SLP Holdings Ltd., Foreign Representative
Jonathan B. Ross

Signature of Counsel for Alvarez & Marsal
Canada, the Information Officer
Colin D. Brousson

BY THE COURT

REGISTRAR

SCHEDULE "A"

COUNSEL

<u>Name</u>	<u>Acting for</u>
Colin Brousson	Alvarez & Marsal (Information Officer)

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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AMENDED

NOTICE OF APPLICATION

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File No. V57461

JBR/msh