

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

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

AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR
ARRANGEMENT WITH RESPECT TO ARCTIC GLACIER INCOME FUND,
ARCTIC GLACIER INC., ARCTIC GLACIER INTERNATIONAL INC. and the
ADDITIONAL APPLICANTS LISTED ON SCHEDULE "A" HERETO

(collectively, the "APPLICANTS")

APPLICATION UNDER THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

**THIRTIETH REPORT OF THE MONITOR
ALVAREZ & MARSAL CANADA INC.
OCTOBER 3, 2019**

OSLER, HOSKIN & HARCOURT LLP
Barristers & Solicitors
P.O. Box 50, 100 King Street West
1 First Canadian Place
Toronto, ON M5X 1B8

Marc Wasserman (LSO#44066M)
Tel: 416.862.4908
Email: mwasserman@osler.com

Michael De Lellis (LSO#48038U)
Tel: 416.862.5997
Email: mdelellis@osler.com

Mary Paterson (LSO#51572P)
Tel: 416.862.4924
Email: mpaterson@osler.com

TAYLOR McCAFFREY LLP
Barristers & Solicitors
2200 – 201 Portage Avenue
Winnipeg, Manitoba
R3B 3L3

David R.M. Jackson (85135-1)
Tel: 204.988.0375
Email: djackson@tmlawyers.com

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1.0 INTRODUCTION

- 1.1 Pursuant to an order of The Court of Queen's Bench (Winnipeg Centre) (the "**Canadian Court**") dated February 22, 2012 (the "**Initial Order**"), Alvarez & Marsal Canada Inc. ("**A&M**") was appointed as Monitor (the "**Monitor**") in respect of an application filed by Arctic Glacier Income Fund ("**AGIF**"), Arctic Glacier Inc. ("**AGI**"), Arctic Glacier International Inc. ("**AGII**") and those entities listed on **Appendix "A"** (collectively the "**Applicants**", together with Glacier Valley Ice Company L.P., the "**Arctic Glacier Parties**"), seeking certain relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). The proceedings commenced by the Applicants under the Initial Order are referred to herein as the "**CCAA Proceedings**". The United States Bankruptcy Court for the District of Delaware (the "**U.S. Court**") recognized the CCAA Proceedings as a foreign main proceeding and appointed the Monitor as foreign representative of the Applicants by Order dated March 16, 2012.
- 1.2 The Monitor has previously filed twenty-nine reports with the Canadian Court. Capitalized terms used but not otherwise defined in this report (the "**Thirtieth Report**") are as defined in the orders previously granted by, or in the reports previously filed by the Monitor with, the Canadian Court, and the Applicants' consolidated plan of compromise or arrangement dated May 21, 2014, as amended on August 26, 2014 and January 21, 2015, as may be further amended, supplemented or restated from time to time in accordance with the terms therein (the "**Plan**").

- 1.3 The sale transaction for substantially all of the Arctic Glacier Parties' business and assets (the "**Sale Transaction**") closed on July 27, 2012. The Monitor continues to hold significant funds as a result of the Sale Transaction and other receipts.
- 1.4 On September 5, 2012, the Canadian Court issued an order approving a claims process to resolve claims against the Arctic Glacier Parties (the "**Claims Process**") and, among other things, authorizing, directing and empowering the Monitor to take such actions as contemplated by the Claims Process (the "**Claims Procedure Order**"). The Claims Procedure Order provided for a Claims Bar Date of October 31, 2012, in respect of the Proofs of Claim and the DO&T Proofs of Claim. The U.S. Court recognized the Claims Procedure Order by an Order dated September 14, 2012. Eighty-three parties filed Proofs of Claim with the Monitor.
- 1.5 On May 21, 2014, the Canadian Court issued an order (the "**Meeting Order**") with respect to the Plan. On June 6, 2014, the U.S. Court entered an Order recognizing and giving full force and effect in the United States to the Meeting Order.
- 1.6 Following a meeting of the unitholders and a deemed meeting of the Affected Creditors, on September 5, 2014, the Canadian Court issued an order that, among other things, sanctioned and approved the Plan (the "**Sanction Order**"). On September 16, 2014, the U.S. Court entered an order recognizing and giving full force and effect to the Sanction Order in the United States.
- 1.7 On January 22, 2015 (the "**Plan Implementation Date**"), the Plan was successfully implemented after the Monitor certified that the conditions precedent set out in Section

10.3 of the Plan had been satisfied or waived in accordance with the Plan. Accordingly, on the Plan Implementation Date and pursuant to the Plan, the Monitor, on behalf of the Applicants, among other things:

- a) used the Available Funds to fund the reserves and distribution cash pools set out in the Plan;
- b) distributed the Affected Creditors' Distribution Cash Pool to each Affected Creditor in the amount of such creditor's Proven Claim; and
- c) transferred \$54,498,863.58 (the "**Initial Distribution**") from the Unitholders' Distribution Cash Pool to the Transfer Agent for distribution to Registered Unitholders as of December 18, 2014 (the "**Initial Distribution Record Date**").

1.8 On June 2, 2015, the Canadian Court issued an order approving a claims process to identify and determine certain potential claims relating to the Initial Distribution (the "**Unitholder Claims Process**") and, among other things, authorizing, directing and empowering the Monitor to take such actions as contemplated by the Unitholder Claims Process (the "**Unitholder Claims Procedure Order**"). The Unitholder Claims Process provided for a Unitholder Claims Bar Date of July 28, 2015, in respect of claims against AGIF arising from any action or omission on or after the setting of the Initial Distribution Record Date in connection with the Initial Distribution ("**Initial Distribution Claims**"), or claims against AGIF's Officers or Trustees in connection with an action or omission occurring on or after the setting of the Initial Distribution Record Date in connection with or related to the Initial Distribution ("**O&T Claims**").

- 1.9 On June 19, 2019, the Canadian Court issued an order (the “**Stay Extension Order**”) extending the Stay Period to December 18, 2019.
- 1.10 The purpose of this Thirtieth Report is to provide the Canadian Court, the U.S. Court, Affected Creditors, Unitholders and other interested parties with an update regarding:
- a) post-Plan implementation steps to be completed by the Arctic Glacier Parties and the Monitor;
 - b) the estimated timeline in respect of a Unitholder Interim Distribution (as defined below);
 - c) the Arctic Glacier Parties’ receipts and disbursements for the period from May 26, 2019 to September 27, 2019; and
 - d) the Monitor’s activities since the date of the Twenty-Ninth Report (June 11, 2019).
- 1.11 Further information regarding these CCAA Proceedings and the concurrent Chapter 15 Proceedings, and all previous reports of the Monitor, can be found on the Monitor’s website at <http://www.alvarezandmarsal.com/arctic-glacier-income-fund-arctic-glacier-inc-and-subsidiaries> (the “**Website**”).

2.0 TERMS OF REFERENCE

- 2.1 In preparing this Thirtieth Report, the Monitor has relied upon unaudited financial information, books and records and financial information of the Arctic Glacier Parties (collectively, the “**Information**”).

- 2.2 The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“CASs”) pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Monitor expresses no opinion and does not provide any other form of assurance contemplated under CASs in respect of the Information.
- 2.3 The Information contained in this Thirtieth Report is not intended to be relied upon by any investor in any transaction with the Arctic Glacier Parties or in relation to any transfer or assignment of the Trust Units of AGIF.
- 2.4 Capitalized terms not described elsewhere have the meaning ascribed to them in the Plan.
- 2.5 Unless otherwise stated, all monetary amounts contained in this Thirtieth Report are expressed in United States dollars, which is the Arctic Glacier Parties’ common reporting currency.

3.0 POST-PLAN IMPLEMENTATION DATE TRANSACTIONS

US Subsidiaries and Termination of the Chapter 15 Proceedings

- 3.1 As discussed in the Twenty-Fifth Report, pursuant to the Plan, each of the Arctic Glacier Parties, or the Monitor on their behalf, as the case may be, were to take certain steps after the Plan Implementation Date (the “**Post-Plan Implementation Date Transactions**”), including the completion of a series of specific steps, assumptions, distributions,

transfers, payments, contributions, reductions of capital, settlements and releases of various of the Arctic Glacier Parties listed in Schedule “B” to the Plan (the “**Schedule B Steps**”).

- 3.2 As of the date of the Twenty-Ninth Report, all of the 28 subsidiaries of AGII had been dissolved and all tax filings completed, and the Monitor had begun implementing the next Schedule B steps (Steps 12, 13, 14, 15 16 and 17), which would culminate in the dissolution of AGII. As the Monitor advised the Court during the hearing on June 19, 2019, AGII had been successfully dissolved. At that point, all Arctic Glacier Parties resident in the US had been dissolved.
- 3.3 On August 28, 2019, the Monitor through its US legal counsel filed a Notice of Motion for Entry of Order Closing Chapter 15 Cases and Relief from Certain Noticing Requirements (the “**Chapter 15 Closing Order**”). The deadline for objections to the Motion is September 30, 2019, at 4:00 p.m. (ET). This deadline has passed with no objections received and on October 3, 2019, the Chapter 15 Closing Order was issued.
- 3.4 A hearing to consider the Motion will be held on October 7, 2019, before the Honorable Justice Gross at the United States Bankruptcy Court for the District of Delaware. If the Motion is granted, then the Monitor’s final report in the Chapter 15 Proceedings will be approved, the Chapter 15 Proceedings will be closed, the US Court will retain jurisdiction with respect to its prior orders in the Chapter 15 Proceedings, and all orders granted in the Chapter 15 Proceedings will survive the entry of the order closing the Chapter 15 Proceedings.

Canadian Subsidiaries and Post-Implementation Date Transactions and Events

- 3.5 Two Canadian entities remain: AGI and AGIF. To complete Post-Plan Implementation Date Transactions and Schedule B Steps, any remaining issues of taxation must be resolved before a Final Distribution can be completed. As of the date of this report, two issues of taxation remain outstanding.
- 3.6 First, as described in paragraph 3.5 of the Twenty-Ninth Report, with respect to AGI, the Monitor received a Proposal Letter and Waiver dated May 27, 2019 from CRA in respect of the tax audit of AGI for the 2015 tax year wherein the CRA proposed to disallow approximately CAD\$1.23 million of professional fees expensed in 2015 on the basis that such expenses were not incurred to earn income. The letter provided the Monitor until June 17, 2019 to submit additional information or explanation for consideration, following which such proposed disallowance would be formally reassessed.
- 3.7 The Monitor disagreed with this proposal and worked with KPMG, the Companies' tax advisor, to prepare and deliver a response to CRA before the deadline.
- 3.8 CRA thereafter advised KPMG that it had no further concern regarding the deductibility of the professional fees in question and indicated that the Monitor should expect to receive a letter to that effect. To date, the Monitor has not received a letter to that effect.
- 3.9 Further, the Monitor received a letter dated June 27, 2019 wherein CRA requested information in respect of the adjusted cost base of shares of AGII held by AGI and on July 10, 2019, KPMG, at the request of the Monitor, responded to CRA's request.

- 3.10 The Monitor and KPMG have followed up with the CRA repeatedly since July and have been advised that CRA has not yet completed its review.
- 3.11 Second, as described in paragraph 3.7 of the Twenty-Ninth Report, the Trustees and Directors have asked the Monitor to obtain a clearance certificate from CRA. In association with this request, the Monitor will also need to obtain a separate clearance certificate from Revenue Quebec. In the ordinary course, AGI had been registered in Quebec for tax purposes. That registration lapsed, and in order to obtain the clearance certificate from Revenue Quebec, the Monitor is required to take steps to have the registration reinstated. The Monitor is taking steps to reinstate the registration and resolve an outstanding, non-material balance in respect of Quebec Sales Taxes.
- 3.12 When both issues are resolved, the Monitor will be in a position to seek a clearance certificate from the CRA and complete the Post-Plan Implementation Date Transactions and the Schedule B Steps required to be completed to make a Final Distribution.

4.0 SECOND UNITHOLDER INTERIM DISTRIBUTION

- 4.1 The Monitor has evaluated the time required to complete the Post-Plan Implementation Date Transactions and Schedule B Steps discussed above, as well as the amount of funds that are available to be distributed at this time and has concluded that it is appropriate to make a further interim distribution to unitholders (the “**Second Unitholder Interim Distribution**”). The Monitor anticipates beginning the formal process to make the Second Unitholder Interim Distribution, which is described below as expeditiously as possible and in compliance with applicable securities legislation and rules to the extent

that they are not inconsistent with the Plan. It is anticipated the process to facilitate the Second Unitholder Interim Distribution can be commenced in late October/early November 2019.

4.2 The Monitor estimates the amount of the Second Unitholder Interim Distribution will be up to approximately CDN\$15 million, provided no unexpected taxation or other matters arise in the interim. Once the Monitor has finalized the amount of the Second Unitholder Interim Distribution, the Monitor will set a record date (the “**Unitholder Interim Distribution Record Date**”), which must be at least 21 days prior to the date of the Second Unitholder Interim Distribution (the “**Unitholder Interim Distribution Date**”). Notice will be given to the Transfer Agent, CSE and FINRA at least 10 days prior to the Unitholder Interim Distribution Record Date.

4.3 Pursuant to the Plan, on the Unitholder Interim Distribution Date, the Monitor will transfer the amount of the Second Unitholder Interim Distribution to the Transfer Agent, which shall distribute the Unitholder Interim Distribution on behalf of and for the account of AGIF by way of cheque sent by prepaid ordinary mail or by way of wire transfer to each Registered Unitholder as of the Unitholder Interim Distribution Record Date that the Transfer Agent is aware of and has contact information in respect of, based on each Registered Unitholder’s Pro Rata Share, (a) for such Registered Unitholder, in respect of Trust Units held by such Registered Unitholder solely for and on behalf of itself, as applicable; or (b) for distribution by such Registered Unitholder to (i) Beneficial Unitholders, as applicable, or (ii) Nominees, or the agents of such Nominees for subsequent distribution to the applicable Beneficial Unitholders.

4.4 The Monitor will cause notices of the Unitholder Interim Distribution Record Date, which will include the amount of the Second Unitholder Interim Distribution, to be published in the *Globe and Mail* (National Edition), the *Wall Street Journal* (National Edition) and the *Winnipeg Free Press*, and AGIF will issue a press release regarding same.

4.5 Provided that the formal process to make the Second Unitholder Interim Distribution is commenced in late October/early November, the Monitor anticipates that the Second Unitholder Interim Distribution will be provided to the Transfer Agent in December 2019.

5.0 **RECEIPTS AND DISBURSEMENTS SINCE THE TWENTY-NINTH REPORT**

5.1 During the period from May 26 to September 27, 2019 (the “**Reporting Period**”), excluding transfers between the Monitor’s U.S. and Canadian dollar trust bank accounts, receipts during the Reporting Period were approximately CAD\$177,000, comprised entirely of deposit interest.

5.2 Disbursements, also excluding transfers between the Monitor’s U.S. and Canadian dollar trust bank accounts, include Canadian dollar professional fees and expenses totaling approximately \$165,000 (which are collectively comprised of fees and expenses paid to the Monitor, its legal counsel, the CPS, the Applicants’ legal counsel, the Applicants’ tax consultants, and other professionals involved with these CCAA Proceedings). Professional fees and expenses are net of a retainer balance of US\$100,000 returned by the Companies’ U.S. legal counsel and approximately US\$51,000 paid by the D&O

insurer as a reimbursement of defense costs in respect of the Brodski matter (described in previous reports of the Monitor). There are no further amounts outstanding to be reimbursed by the D&O insurer. Other expenses included in disbursements are comprised of fees paid to Directors and Trustees and disbursements of an administrative nature totaling approximately CAD\$142,000.

5.3 As at September 27, 2019, the Monitor is holding approximately \$27,400 and CAD \$24.4 million, all of which is being held in interest-bearing accounts in the name of the Monitor, on behalf of the Applicants.

5.4 The Plan provides that certain reserves and cash pools be maintained in respect of the remaining obligations of the estates. As discussed in the Twenty-Seventh Report, all remaining funds held by the Monitor on behalf of the Companies are part of the Administrative Costs Reserve.

6.0 THE NEXT COURT APPEARANCE

6.1 Pursuant to the Initial Order and subsequent Orders of the Canadian Court, the Stay Period was granted and extended until December 18, 2019. The Monitor intends to prepare and file a report in December updating the Court on the status of the remaining taxation issues and the anticipated timing of the Final Unitholder Distribution and seeking any necessary relief including a further extension of the Stay Period.

6.2 The Monitor believes that the Arctic Glacier Parties have acted and continue to act in good faith and with due diligence in advancing the administration of these CCAA Proceedings.

7.0 ACTIVITIES OF THE MONITOR

7.1 In addition to the activities of the Monitor described above, the Monitor's activities from the date of the Twenty-Ninth Report, being June 11, 2019, have included the following:

- responding to inquiries from Unitholders and other stakeholders;
- continuing to make non-confidential materials filed with the Canadian Court and with the U.S. Court publicly available on the Website;
- preparing this Thirtieth Report;
- continuing to act as foreign representative in the Chapter 15 Proceedings and preparing and filing the materials necessary to terminate the Chapter 15 Proceedings;
- continuing to fulfill the Monitor's responsibilities pursuant to the Claims Procedure Order and the Claims Officer Order;
- attending the June 2019 Stay Extension Motion;
- maintaining estate bank accounts and overseeing the accounting for the Applicants' receipts and disbursements pursuant to the Transition Order;
- attending to the re-registration of AGI in Quebec;
- preparing draft financial statements for the period ended September 30, 2019 to assist KPMG in determining any potential tax obligations resulting from the conversion of U.S. funds into Canadian funds in preparation for making a

distribution in order to estimate the funds available for the Unitholder Interim Distribution; and

- preparing and filing GST/HST returns and various other statutory returns and communicating with CRA and certain government bodies in the United States, as appropriate in respect of same.

All of which is respectfully submitted to the Court of Queen's Bench this 3rd day of October 2019.

**Alvarez & Marsal Canada Inc., in its capacity
as Monitor of Arctic Glacier Income Fund,
Arctic Glacier Inc., Arctic Glacier International Inc. and
the other Applicants listed on Appendix "A".**



Per: Alan J. Hutchens, Senior Vice-President

Appendix “A”

List of Applicants

Arctic Glacier California Inc.
Arctic Glacier Grayling Inc.
Arctic Glacier Lansing Inc.
Arctic Glacier Michigan Inc.
Arctic Glacier Minnesota Inc.
Arctic Glacier Nebraska Inc.
Arctic Glacier Newburgh Inc.
Arctic Glacier New York Inc.
Arctic Glacier Oregon Inc.
Arctic Glacier Party Time Inc.
Arctic Glacier Pennsylvania Inc.
Arctic Glacier Rochester Inc.
Arctic Glacier Services Inc.
Arctic Glacier Texas Inc.
Arctic Glacier Vernon Inc.
Arctic Glacier Wisconsin Inc.
Diamond Ice Cube Company Inc.
Diamond Newport Corporation
Glacier Ice Company, Inc.
Ice Perfection Systems Inc.
ICESurance Inc.
Jack Frost Ice Service, Inc.
Knowlton Enterprises, Inc.
Mountain Water Ice Company
R&K Trucking, Inc.
Winkler Lucas Ice and Fuel Company
Wonderland Ice, Inc.