



NO. S-222758
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 A PLAN OF COMPROMISE AND ARRANGEMENT OF
0989705 B.C. LTD., ALDERBRIDGE WAY GP LTD., and
ALDERBRIDGE WAY LIMITED PARTNERSHIP

PETITIONERS

NOTICE OF APPLICATION

Name of applicant: The Bowra Group Inc. (“**TBGI**”) in its capacity as Monitor (the “**Monitor**”) of Alderbridge Way GP Ltd., Alderbridge Way Limited Partnership and 0989705 B.C. Ltd. (collectively the “**Companies**” or the “**Petitioners**”).

To: To GBL Architects Inc. and the Service List, a copy of which is attached hereto as Schedule “A”

TAKE NOTICE that an application will be made by the Applicant to the Honourable Madam Justice Fitzpatrick at the courthouse at 800 Smithe Street, Vancouver, B.C. on December 9, 2022 at 9:00 a.m. for the orders set out in **Part 1** below.

Part 1: ORDERS SOUGHT

1. An order in substantially the form of draft order attached hereto as Schedule “B” directing GBL Architects Inc. (“**GBL**”) to provide architectural services to the Petitioners in accordance with the Agreement (as defined herein).

Part 2: FACTUAL BASIS

BACKGROUND

1. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the SARIO.
2. GBL was the architect firm engaged to provide architectural services to the Petitioners in respect of the development property at 7960 Alderbridge Way, 5333 and 5411 No. 3 Road, Richmond, British Columbia (the “**Development Project**”), including preparing architectural drawings for the Development Project and assisting in the development permit process.
3. The agreement with GBL, dated March 24, 2017 (the “**Agreement**”) was entered into by South Street Financial Corporation (“**South Street**”) on behalf of the Petitioners. South Street is owned by Sam Hanson and related to the Petitioners.
4. All invoices rendered by GBL under the Agreement were issued to Alderbridge Way Limited Partnership (the “**LP**”) and all payments in respect thereof were made directly by the LP to GBL.
5. As at the Order Date, GBL was owed \$539,996.94 (the “**GBL Claim**”) under the Agreement. On August 13, 2020, GBL filed a claim of builders lien against the Development Project. On or about August 4, 2021, GBL filed a Notice of Civil Claim in British Columbia Supreme Court Action no. 217125 against South Street and 0989705 B.C. Ltd., in respect of the GBL Claim.

THE BUILDING PERMIT APPLICATION

6. A background on the status of the Petitioners’ application for a new building permit is detailed in the Receiver’s Fourth Report to Court dated August 9, 2022, Fifth Report to Court dated October 3, 2022 and Sixth Report to Court dated December 7, 2022 (the “**Sixth Report**”).
7. As outlined in the Sixth Report, the Monitor is of the view that submitting an application for a new building permit expeditiously remains of critical importance, as the alternative

scenario includes a loss of density and a resultant decrease in the estimated value of the Development Project, as well as a further delay of up to 18 months.

8. The marketing and eventual sale of the property is dependent upon the issuance of a new building permit, as all prospective purchasers of the Development Project have indicated that they wish to await finality on the building permit issue before submitting revised offers to purchase the Development Project.
9. The Monitor requires the continued provision of architectural services by GBL in order to advance its efforts to obtain a new building permit. From its investigations into the matter, the Monitor does not believe it is practical – and may not even be possible – to engage a different architectural firm to provide such services to the Petitioners.
10. Since October, 2022, the Monitor has been involved in ongoing discussions with GBL regarding the continued provision of services in respect of the Development Project. Those discussions have not resulted in an agreement by GBL to continue to provide the necessary services to the Petitioners.

Part 3: LEGAL BASIS

1. The Monitor relies on section 11 of the CCAA and the statutory discretion of the court or, in the alternative, section 11.4 of the CCAA.
2. Recently, the Supreme Court of Canada confirmed that the most important feature of the CCAA, and the feature that enables it to be adapted so readily to each reorganization, is the broad discretionary power it vests in the supervising court. Section 11 of the CCAA confers jurisdiction on this Court to make any order that it considers appropriate in the circumstances, which power is vast and is constrained only by restrictions out in the CCAA itself, and the requirement that the order made be appropriate in the circumstances

Canada v. Canada North Group Inc., 2021 SCC 30 (“*Canada North*”) at para 21.

3. The power vested in the Court under section 11 of the CCAA includes the ability to require the continuance of present obligations to the debtor, in order to further the objectives of the CCAA.

Nortel Networks Corporation (Re), [2009] OJ No 2558 (QL) at para. 48.

4. Although this Court may grant an order under section 11.4 of the CCAA regarding the continued supply of critical services, the general language of section 11 is not restricted by the availability of this more specific order.

Canada North at para. 24.

5. Paragraph 22 of the SARIO reads, in part, as follows:

During the Stay Period, all Persons having oral or written agreements with the Petitioners... are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, or terminating the supply of such goods or services as may be required by the Petitioners... provided in each case that the normal prices or charges for all such goods or services received after the Order Date are paid by the Petitioners in accordance with normal payment practices of the Petitioners or such other practices as may be agreed upon by the supplier or service provider and the Monitor, or as may be ordered by this Court.

6. GBL, as a supplier of services to the Petitioners, was obligated by the terms of the SARIO to continue to provide such services to the Petitioners. The Monitor is willing and able to advance payment for all services provided by GBL since the Order Date, however GBL has advised the Monitor that it is unwilling to provide the required services unless satisfactory arrangements are made to advance payment in respect of the GBL Claim, a pre-filing debt.
7. The Petitioners must, of course, pay GBL for the services it provides after the Order Date, and the Petitioners have access to sufficient funding to make all such payments, however Romspen has informed the Monitor that it is not willing to fund the Monitor to satisfy the full amount of the GBL Claim.
8. The architectural services provided for in the Agreement, namely in respect of the development permit process, are required in order to best position the Development Project for sale. Obtaining a new building permit will, in the Monitor's view, enhance the prospects of the sale of the Development Project for the greatest possible amount for the benefit of the stakeholders generally.
9. The Monitor is concerned that unless GBL agrees or is compelled to continue to provide services to the Petitioners in respect of the Development Project in accordance with the Agreement, the Petitioners will be unable to obtain a new building permit with the consequent result that the Development Project will lose significant value as detailed in the Sixth Report.

10. For the foregoing reasons, the Monitor seeks an order that GBL be obligated to continue to provide the architectural services contemplated under the Agreement.
11. In the alternative, if this court declines to exercise its discretion in granting an order under section 11 of the CCAA, the Monitor seeks an order under section 11.4 of the CCAA, which reads as follows:

Critical supplier

11.4 (1) On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring a person to be a critical supplier to the company if the court is satisfied that the person is a supplier of goods or services to the company and that the goods or services that are supplied are critical to the company's continued operation.

Obligation to supply

(2) If the court declares a person to be a critical supplier, the court may make an order requiring the person to supply any goods or services specified by the court to the company on any terms and conditions that are consistent with the supply relationship or that the court considers appropriate.

Security or charge in favour of critical supplier

(3) If the court makes an order under subsection (2), the court shall, in the order, declare that all or part of the property of the company is subject to a security or charge in favour of the person declared to be a critical supplier, in an amount equal to the value of the goods or services supplied under the terms of the order.

Priority

(4) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

12. Section 11.4 of the CCAA is intended to allow the Court to intervene and order continued supply where actions that might otherwise be taken by a supplier might jeopardize the restructuring efforts that are underway. Such relief is not unlike other CCAA provisions that allow relief which adversely affects other stakeholders in aid of these objectives and measures.

Soccer Express Trading Corp. (Re), 2020 BCSC 749 at para 64.

13. Although the CCAA does not contain a definition of "critical supplier", pursuant to section 11.4(1), when making such an order, the Court must be satisfied that GBL is a supplier of services to the Petitioners and that services supplied are critical to the Petitioners' operations.

Prizm Income Fund (Re), 2011 ONSC 2061 at para. 30.

14. As outlined in Part 2 herein, and further detailed in the Sixth Report, the Monitor is of the view that the provision of architectural services to be provided by GBL is critical to advance efforts to obtain a new building permit, which will be required in order to ultimately effect a judicious sale of the Development Project, as engaging a new architectural firm at this time is impractical, and may not be possible.

Part 4: MATERIAL TO BE RELIED ON

1. Monitor's Fourth Report to the Court dated August 9, 2022;
2. Monitor's Fifth Report to the Court dated October 3, 2022;
3. Monitor's Sixth Report to the Court dated December 7, 2022; and
4. Such further and other materials as counsel may advise and as this Court deems admissible.

The applicant estimates that the application will take 10 minutes.

This matter is not within the jurisdiction of a master.

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).

Date: December 7, 2022

For: 

Signature of lawyer for The Bowra
Group Inc., in its capacity as Monitor
Kibben Jackson

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

The Solicitors for the Monitor are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 550 Burrard Street, Suite 2900, Vancouver, BC V6C 0A3 Telephone: +1 604 631 3131 Facsimile: +1 604 631 3232. (Reference: Kibben Jackson/265884.00015)

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
- X other

SCHEDULE "A"

SERVICE LIST

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 A PLAN OF COMPROMISE AND ARRANGEMENT OF
0989705 B.C. LTD., ALDERBRIDGE WAY GP LTD., and
ALDERBRIDGE WAY LIMITED PARTNERSHIP

PETITIONERS

SERVICE LIST

As at November 7, 2022

Name of Counsel:	Name of Parties:
<p>Dentons Canada LLP Barristers & Solicitors 20th Floor – 250 Howe Street Vancouver, BC V6C 3R8</p> <p>Attention: John Sandrelli Valerie Cross Emma Newbery Avic Arenas</p> <p>E-mail: john.sandrelli@dentons.com valerie.cross@dentons.com emma.newbery@dentons.com avic.arenas@dentons.com</p> <p>Tel: (604) 687-4460 Fax : (604) 683-5214</p>	<p><i>0989705 B.C. Ltd., Alderbridge Way Limited Partnership and Alderbridge Way GP Ltd.</i></p>

Name of Counsel:	Name of Parties:
<p>Fasken Martineau DuMoulin LLP 550 Burrard St #2900, Vancouver, BC V6C 0A3</p> <p>Attention: Kibben Jackson Mishaal Gill</p> <p>Email: kjackson@fasken.com mjill@fasken.com svolkow@fasken.com</p> <p>Tel. : 1 604 631 4786</p>	<p><i>Monitor of 0989705 B.C. Ltd., Alderbridge Way Limited Partnership and Alderbridge Way GP Ltd.</i></p>
<p>The Bowra Group Inc. 430 – 505 Burrard Street Vancouver, BC V7X 1M3</p> <p>Attention: Mario Mainella Kevin Koo</p> <p>Email: mmainella@bowragroup.com kkoo@bowragroup.com</p> <p>Tel: 604 689 8939</p>	<p><i>Monitor of 0989705 B.C. Ltd., Alderbridge Way Limited Partnership and Alderbridge Way GP Ltd.</i></p>
<p>Blake, Cassels & Graydon LLP 595 Burrard Street, Suite 2600, Vancouver BC V7X 1L3</p> <p>Attention: Peter Rubin</p> <p>Email: peter.rubin@blakes.com greg.umbach@blakes.com peter.bychawski@blakes.com claire.hildebrand@blakes.com</p> <p>Tel: 604-631-3300 Fax: 604-631-3309</p>	<p><i>Romspen Investment Corporation</i></p>
<p>Romspen Investment Corporation 162 Cumberland Street, Suite 300 Toronto, Ontario M5R 3N5</p> <p>Attention: Blake Cassidy Wes Roitman</p> <p>Email: BlakeCassidy@romspen.com wes@romspen.com</p> <p>Tel: 416.928.4868 Fax: 416.928.3848</p>	<p><i>Romspen Investment Corporation</i></p>

Name of Counsel:	Name of Parties:
<p>Miller Thomson LLP 40 King Street West, Suite 5800 P.O. Box 1011 Toronto, Ontario M5H 3S1</p> <p>Attention: Asim Iqbal Gavin Finlayson Bryan Hicks</p> <p>E-mail: aiqbal@millerthomson.com gfinlayson@millerthomson.com bjhicks@millerthomson.com</p> <p>Tel : 416.597.6008</p>	<p><i>CIBT Education Group Inc., GEC Education City (Richmond) Limited Partnership and GEC (Richmond) GP Inc.</i></p>
<p>Harper Grey LLP Barristers & Solicitors 3200 – 650 West Georgia Street Vancouver, BC, V6B 4P7</p> <p>Attention: John Sullivan and Salman Bhura</p> <p>Email: jsullivan@harpergrey.com sbhura@harpergrey.com</p> <p>Tel: 604 687 0411</p>	<p><i>CIBT Education Group Inc., GEC Education City (Richmond) Limited Partnership and GEC (Richmond) GP Inc.</i></p>
<p>KPMG 777 Dunsmuir Street, 11th Floor Vancouver, BC, V7Y 1K3</p> <p>Attention: Huey Lee and Michelle Wang</p> <p>Email: hueylee@kpmg.ca mmwang@kpmg.ca</p> <p>Tel: 604 691 3000</p>	<p><i>Advisor to CIBT Education Group Inc., GEC Education City (Richmond) Limited Partnership and GEC (Richmond) GP Inc.</i></p>
<p>Cassels Brock & Blackwell LLP 2200 – 885 West Georgia Street Vancouver, BC V6E 3C8</p> <p>Attention: Vicki Tickle</p> <p>Email: vtickle@cassels.com jenns@cassels.com hroberts@cassels.com</p> <p>Tel: 604 691 6120</p>	<p><i>R. Jay Management Ltd. and MNB Enterprises Inc.</i></p>

Name of Counsel:	Name of Parties:
<p>Digby Leigh & Co. 201 - 3053 Edgemont Blvd., North Vancouver, BC V7R 2N5</p> <p>Attention: Digby Leigh</p> <p>Email: dleigh@leighco.ca vchen@leighco.ca</p> <p>Tel : 604-984-3394</p>	<p><i>MNB Enterprises Inc.</i></p>
<p>Bennett Jones 4500 Bankers Hall East 855 2nd Street SW Calgary, AB T2P 4K7</p> <p>Attention: Chris D. Simard Onna Kathler Adam Williams</p> <p>Email: simardc@bennettjones.com kathlerd@bennettjones.com williamsa@bennettjones.com</p> <p>Tel: 403.298.4485</p>	<p><i>JV Driver Investments Inc.</i></p>
<p>JV Driver International 1458-409 Granville Street Vancouver, B.C. V6C 1T2</p> <p>Attention: Michael Weber Tamara Middleton Greg Pratch</p> <p>Email: mweber@jvdriver.com tmiddleton@jvdriver.com gpratch@jvdriver.com</p> <p>Tel: 604-349-2011</p>	<p><i>JV Driver International, J.V. Driver Inc. And 1185678 B.C. Ltd.</i></p>
<p>McCarthy Tetrault LLP 745 Thurlow St Suite 2400, Vancouver, BC V6E 0C5</p> <p>Attention: Lance Williams and Forrest Finn</p> <p>Email: lwilliams@mccarthy.ca ffinn@mccarthy.ca sdanielisz@mccarthy.ca</p> <p>Tel: 604-643-7154</p>	<p><i>Metro-Can Construction (AT) Ltd., Keller Foundations Ltd., Rush Contracting Ltd. and Storm Guard Water Treatment Inc.</i></p>

Name of Counsel:	Name of Parties:
<p>McLean & Armstrong LLP 300 – 1497 Marine Drive, West Vancouver, BC, V7T 1B8</p> <p>Attention: Chris Moore</p> <p>Email: cmoore@mcleanarmstrong.com</p> <p>Tel: 604 925 0672</p>	<p><i>Metro-Can Construction (AT) Ltd.</i></p>
<p>Deputy Attorney General British Columbia Regional Office Department of Justice Canada National Litigation Sector 900 - 840 Howe Street Vancouver, BC V6Z 2S9</p> <p>Attention: Jason Levine</p> <p>E-mail: jason.levine@justice.gc.ca</p> <p>Tel.: (604) 666-0632 Fax: (604) 666-1462</p>	<p><i>Her Majesty The Queen in Right of Canada</i></p>
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<p>Avison Young 1920 McKinney Avenue, Suite 1100 Dallas, TX 75201</p> <p>Attention: Tracy Allen</p> <p>Email: tracy.allen@avisonyoung.com</p>	<p><i>Avison Young</i></p>
<p>DLA Piper 2800 – 666 Burrard Street Vancouver, BC V6C 2Z7</p> <p>Attention: Colin Brousson</p> <p>Email: colin.brousson@dlapiper.com</p> <p>Tel: 604 643 6400</p>	<p><i>Gryphon Living</i></p>
<p>Robert A. Millar LC</p> <p>Email: rmillarlc@gmail.com</p> <p>Tel: 604-506-3332</p>	<p><i>Wesgroup</i></p>

Name of Counsel:	Name of Parties:
Canada Revenue Agency 9737 King George Boulevard Surrey, BC V3T 5W6 Vancouver, BC V6Z 2S9 Attention: K. Fuller Tel.: (236) 334-3246 Fax: (604) 658-2700	<i>Canada Revenue Agency</i>

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SCHEDULE "B"

DRAFT ORDER

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 A PLAN OF COMPROMISE AND ARRANGEMENT OF
0989705 B.C. LTD., ALDERBRIDGE WAY GP LTD., and
ALDERBRIDGE WAY LIMITED PARTNERSHIP

PETITIONERS

ORDER MADE AFTER APPLICATION

BEFORE))	
)	THE HONOURABLE)	
)	MADAM JUSTICE FITZPATRICK)	December 9, 2022
))	
))	

ON THE APPLICATION OF The Bowra Group Inc. (the “**Monitor**”) in its capacity as Monitor of Alderbridge Way GP Ltd., Alderbridge Way Limited Partnership and 0989705 B.C. Ltd. (collectively the “**Companies**”) coming on for hearing at Vancouver, British Columbia on this date; AND ON HEARING Kibben Jackson and Mishaal Gill, counsel for the Monitor, and those other counsel listed in Schedule “A” hereto; AND UPON READING the materials filed, including the Monitor’s Sixth Report to Court, dated December 7, 2022; AND PURSUANT to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the “**CCAA**”) and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The time for service of the Monitor’s Notice of Application dated December 7, 2022 is abridged such that it is properly returnable today.

2. All capitalized terms not defined herein shall have the meanings ascribed to them in the Second Amended and Restated Initial Order granted by the Honourable Madam Justice Fitzpatrick in these proceedings on August 11, 2022.
3. GBL Architects Inc. (“**GBL**”) be and is hereby obligated to continue to provide services to the Petitioners pursuant to the agreement dated March 24, 2017 made between GBL and South Street Financial Corporation on behalf of the Petitioners.
4. Endorsement of this order by counsel appearing on this application, other than counsel for the Monitor, is hereby dispensed with.

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 Kibben Jackson
Lawyer for the Monitor

BY THE COURT

REGISTRAR

SCHEDULE "A"

Counsel Appearing

Name of Counsel	Party Represented
Peter Bychawski	Romspen Investment Corporation
Kibben Jackson	The Bowra Group Inc., in its capacity as Monitor
John Sandrelli	0989705 B.C. Ltd., Alderbridge Way Limited Partnership and Alderbridge Way GP Ltd.
Chris Simard	JV Driver Investments Inc.
Gavin Finlayson, Asim Iqbal, John Sullivan, Salman Bhura	CIBT Education Group Inc., GEC Education City (Richmond) Limited Partnership and GEC (Richmond) GP Inc.
Digby Leigh	MNB Enterprises Inc.
Katie Mak	City of Richmond

No. S-222758
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

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IN THE MATTER OF A PLAN OF COMPROMISE AND
ARRANGEMENT OF

0989705 B.C. LTD., ALDERBRIDGE WAY GP LTD., AND
ALDERBRIDGE WAY LIMITED PARTNERSHIP

PETITIONERS

**ORDER MADE AFTER APPLICATION
(CRITICAL SUPPLIER ORDER)**

FASKEN MARTINEAU DuMOULIN LLP

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Counsel: Kibben Jackson
Matter No: 265884.00015