



**Court file No. S1710393
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 THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c. 57

AND

IN THE MATTER OF ALL CANADIAN INVESTMENT CORPORATION

(the "Petitioner")

MONITOR'S SEVENTH REPORT TO COURT

October 23, 2018

Boale, Wood & Company Ltd.

Monitor appointed in the
Companies' Creditors Arrangement Act proceedings of
All Canadian Investment Corporation

**Suite 1140 – 800 West Pender Street
Vancouver, B.C. V6C 2V6**

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A. INTRODUCTION

1. This report (the “**Seventh Report**”) is filed by Boale, Wood & Company Ltd. (“**BWC**”) in its capacity as monitor (the “**Monitor**”) appointed in a proceeding commenced on November 8, 2017 by All Canadian Investment Corporation (the “**Petitioner**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c.-36, as amended (the “**CCAA Proceedings**”).
2. The purpose of the Monitor’s Seventh Report is to provide a report to the Court on the lawsuit commenced by the Petitioner against its former auditors, BDO Canada LLP (“**BDO**”), on March 1, 2018. Specifically the Court has requested the Monitor to advise the Court on the requirement of a monitor to consent to an action commenced by a petitioner in a CCAA proceeding and if required whether or not the Monitor in this CCAA Proceeding consents to the action.

B. DISCLAIMER AND TERMS OF REFERENCE

3. Except as specified, in preparing this report the Monitor has obtained and relied upon unaudited, draft and/or internal information which Management advises has been compiled from the Petitioner's books and records. Where available, the Monitor has reviewed external records and documentation including post-filing banking records, corporate searches and financial statements.

4. Except as otherwise described in this report:
 - a) the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information which has been provided in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountant Canada Handbook.

5. This Report has been prepared solely for the purpose described and readers are cautioned that it may not be appropriate for other purposes.

C. PETITIONER'S LAWSUIT AGAINST BDO CANADA LLP

Background

7. On March 1, 2018 the Petitioner commenced a proceeding against its former auditors, BDO, in the Vancouver Registry, Action No. VLC-S-S183355 (the "Action"). In response to the Action, BDO filed, among other things, a counter claim on March 29, 2018.
8. The pleadings in the Action and the materials for the Application can be found on the Monitor's website at <https://www.boalewood.ca/2017/11/08/all-canadian-investment-corporation-acic/>

Application by BDO for Security for Costs against the Petitioner

9. On Thursday October 18, 2018 Mr. Justice Walker was hearing an application (the "Application") by BDO for an order for security for costs against the Petitioner in the Action.
10. After hearing submissions on the Application, Mr. Justice Walker indicated that His Lordship was going to adjourn the Application until Monday October 29, 2018, but in the meantime stood the matter down until 2pm to see if Counsel for the Monitor could attend to be advised of certain matters that His Lordship wanted the Monitor to address.
11. Counsel for both the Monitor and the Petitioner attended at 2pm before his Lordship and, after hearing submissions, His Lordship asked that the Monitor report to the Court on the following:
 - A. Whether the Monitor need consent to the commencement of the Action;
and

B. If the Monitor is required to consent to the commencement of the Action, whether it does or does not consent.

A. Whether the Monitor need consent to the commencement of the Action

12. Paragraphs 14 and 15 of the Initial Order of The Honourable Madam Justice Adair (the “**Order**”) pronounced in these proceedings on November 10, 2017, read as follows:

STAY OF PROCEEDINGS, RIGHTS AND REMEDIES

14. Until and including December 9, 2017, or such later date as this Court may order (the “**Stay Period**”), no action, suit or proceeding in any court or tribunal (each, a “**Proceeding**”) against or in respect of the Petitioner or the Monitor, or affecting the Business or the Property, shall be commenced or continued except with the written consent of the Petitioner and the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Petitioner or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court, except for the foreclosure proceeding commenced by Fisgard Capital Corporation (BCSC No. H-170363).

15. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Petitioner or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Petitioner and the Monitor or leave of this Court.

13. The Monitor was told in or about February of 2018 that the Petitioner intended to commence an action against BDO, which the Petitioner then did on March 1, 2018.

14. The Action was taken by the firm of Shields Harney (Alastair Wade) on a contingency fee basis.

15. The Monitor was (and remains) of the view that its consent to the commencement of the Action by the Petitioner is not required under Paragraph 14 of the Order, or at all.

B. If the Monitor is required to consent to the commencement of the Action, whether it does or does not consent.

16. Having determined that the commencement of the Action did not (and does not) require the Monitor's consent, the second question becomes moot.

Merits of the Action

17. During the course of submissions in the afternoon of October 18, 2018 counsel for the Monitor was asked by His Lordship whether the Monitor, if it thought appropriate do so, could comment on the merits of the Action.
18. After considering the matter in some detail it is the Monitor's view that it would not be appropriate for the Monitor to comment on the merits of the Action at this early stage in the proceedings.
19. Specifically, the Monitor has read various of the Affidavits that have been filed in support of the Application (in particular Affidavits #1 of A. Spencer and J. Johnson, both filed July 20, 2018 and Affidavit #1 of D. Bergman filed August 13, 2018) and a reading of those Affidavits demonstrates that there appear to be significant issues of credibility which it would be inappropriate for the Monitor, in its limited and impartial role, to comment upon.

Application by BDO for Security for Costs

20. When the Monitor became aware of the Application, an affidavit was sworn by Mr. McEown and filed in the Action on August 9, 2018 (see Schedule A attached hereto).

22. Among other things, Mr. McEown said the following:
7. The current cash flow statement of ACIC that was filed in the Court on June 11, 2018 does not have a provision for the payment of the security that BDO is seeking; and
 8. In the Monitor's view, the posting of security in the amount of \$126,773.80 could be prejudicial to the stakeholders.
23. As well, Mr. McEown advised Mr. Wade (counsel for the Petitioner-the Plaintiff in the Action) that the Monitor could not support the Action if an Order for Security for Costs in the magnitude sought by BDO was, in fact, ordered by the Court.

Counterclaim of BDO

24. It is the view of the Monitor that the Counterclaim that BDO filed in the Action on March 29, 2018 is a claim against the Petitioner that requires the consent of the Monitor pursuant to the terms of the Order.
25. The Monitor did not and does not consent to the Counterclaim being commenced or pursued.
26. Although BDO is claiming General Damages in its Counterclaim, the Statement of Facts in the Counterclaim do not appear to allege the basis for any claim other than for unbilled work in progress which, if supported, can form the basis of a creditor claim by BDO in the CCAA Proceedings.

Notice of the Application

27. Attached hereto as Schedule B is a copy of an e-mail that the Monitor sent to approximately 575 Investors/Stakeholders giving them notice of the Application. There are approximately 75 Investors/Stakeholders for whom the Monitor does not have e-mail addresses and letters giving them notice were mailed to their last known address on October 23, 2018.

Update to the Monitors Website

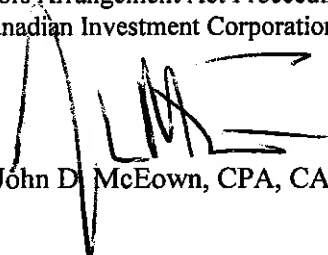
28. On October 23, 2018 the Monitor updated its website to include all of the materials in the Action, including the materials relating to the Application.
29. Attached as Schedule C to this Report is a list of those materials.

D. CONCLUSIONS AND RECOMMENDATIONS

30. The Monitor has concluded that the commencement of legal proceedings by a petitioner in a CCAA proceeding does not require the consent of a monitor.
31. Given the Monitor's discussion above under the heading Merits of the Action, the Monitor does not believe it should comment of the merits of the Action.
32. The Monitor has provided an affidavit in the Action stating that the Petitioner did not have a provision for the payment of the security that BDO is seeking in the cash flow statement filed in the Court by the Petitioner on June 11, 2018 and further stated that the requirement to post security in the amount of \$126,773.80 could be prejudicial to the stakeholders.
33. If ACIC is required to post security for costs from its own resources the Monitor is of the view that it cannot support the continuation of the Action.
34. The Monitor is of the view that BDO requires leave of the Court to proceed with its counter claim against the Petitioner.

DATED at the City of Vancouver, British Columbia, this 23rd day of October, 2018.

Boale Wood and Company Ltd.
Monitor Appointed in the Companies'
Creditors Arrangement Act Proceedings of
All Canadian Investment Corporation


Per: John D. McEown, CPA, CA, CIRP

SCHEDULE A



This is the 1st affidavit of
J. McEown in this case and
was made on August 3rd, 2018

NO. VLC-S-S-183355
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ALL CANADIAN INVESTMENT CORPORATION

PLAINTIFF

AND:

BDO CANADA LLP

DEFENDANT

AND:

DONALD BERGMAN

THIRD PARTY

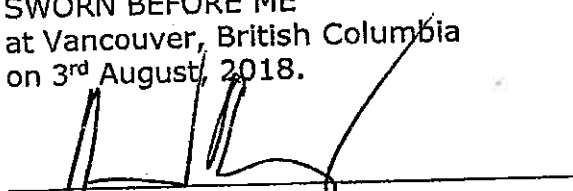
AFFIDAVIT


I, JOHN McEOWN, CPA, CA, CIRP (Chartered Insolvency and Restructuring Professional), of 1140 - 800 West Pender Street, in the City of Vancouver, Province of British Columbia, SWEAR (OR AFFIRM) THAT:

1. I am an officer of Boale Wood & Company, the Court appointed Monitor herein (the "Monitor") in the matter of the **Companies Creditors Arrangement Act** proceedings of All Canadian Investment Corporation ("ACIC") and as such have personal knowledge of the facts and matters hereinafter deposed to save and except where they are stated to be based upon information and belief, and as to those matters I verily believe them to be true.

2. Boale Wood was appointed Monitor of ACIC by Order of the Court on November 10, 2017.
3. In February of 2018, I was advised by Mr. Donald Bergman of ACIC of the intention on the part of ACIC to commence proceedings against BDO Canada LLP ("BDO") for damages caused to it by BDO's resignation as auditor.
4. At that time, I was also advised by Mr. Bergman, and verily believe it to be true, that the litigation contemplated against BDO would be pursued under a contingency fee agreement and that accordingly there would be no ongoing obligation on the part of ACIC to pay legal fees to fund the litigation.
5. Given this statement as to the manner in which the litigation was being conducted, I did not have any objection to ACIC commencing the action.
6. I have been provided with a copy of the Notice of Application by the Defendant seeking an order that ACIC post security for BDO's costs in the requested amount of \$126,773.80.
7. The current cash flow statement of ACIC that was filed in the Court on June 11, 2018 does not have a provision for the payment of the security that BDO is seeking.
8. In the Monitor's view, the posting of security in the amount of \$126,773.80 could be prejudicial to the stakeholders.

SWORN BEFORE ME
at Vancouver, British Columbia
on 3rd August, 2018.


A commissioner for taking
affidavits for British Columbia
Marianne Ting

)
)
)


) JOHN McEOWN
)
)
)

MARIANNE TING
A Commissioner for taking Affidavits
for the province of British Columbia
Expiry Date: Nov 30, 2020

SCHEDULE B

Douglas B. Hyndman

From: Marianne Ting <mting@boalewood.ca>
Sent: October 23, 2018 4:04 PM
To: Marianne Ting
Cc: John McEown; Douglas B. Hyndman
Subject: In the Matter of the Companies' Creditors Arrangement Act Proceedings of All Canadian Investment Corporation ("ACIC") - ACIC v. BDO Canada LLP

Dear Investors,

As you may be aware, in November of 2017 ACIC filed for and obtained creditor protection under the Companies' Creditors Arrangement Act (the CCAA Proceedings").

During the course of the CCAA Proceedings ACIC commenced an action (the "Action") against BDO Canada LLP ("BDO").

BDO has defended the Action, and on July 20, 2018 filed a Notice of Application (the "Application") seeking various orders of the Court, including an order for security for costs against ACIC and an order that the Action be dismissed.

The Application came on for hearing last Thursday, October 18, 2018 before Mr. Justice Walker.

Mr. Justice Walker has adjourned the Application to Monday, October 29, 2018 and has asked the Monitor to answer certain questions (which will be discussed in the Seventh Report of the Monitor to be posted the Monitor's Website) and to give notice of the Application to the Service List and to the Investors/Stakeholders of ACIC.

All of the relevant material for the Application and the CCAA Proceedings have been posted on the Monitors Website and can be accessed through the following link:

<https://www.boalewood.ca/2017/11/08/all-canadian-investment-corporation-acic/>

If, upon a review of the material, you wish to take any position on the Application, you should attend in Court on October 29, 2018 either in person or through your lawyer.

The Application is currently scheduled to commence at 9:45 (or so soon thereafter as counsel may be heard) at the Supreme Court, 800 Smithe Street, Vancouver, BC.

John McEown, CPA•CA•CIRP
(Chartered Insolvency and Restructuring Professional)

Boale, Wood & Company Ltd.
Licensed Insolvency Trustee
1140 – 800 West Pender Street
Vancouver, BC V6C 2V6

Direct Line: (604) 558-8012
Facsimile: (604) 605-3359

Schedule C

All Canadian Investment Corporation v. BDO Canada LLP

Affidavit #1 of D Bergman S1710393 (1 of 2) filed November 8, 2017
Affidavit #1 of D Bergman S1710393 (2 of 2) filed November 8, 2017
Notice of Civil Claim filed March 1, 2018
Counterclaim filed March 29, 2018
Response to Counterclaim of ACIC, Filed April 18 2018
Third Party Notice filed April 19, 2018
Response to Third Party Notice of D. Bergman filed June 8, 2018
Affidavit #6 of D Bergman S1710393 filed June 11, 2018
Notice of Application filed June 25, 2018
Notice of Application filed July 20, 2018
Affidavit # 1 of A Greer filed July 20, 2018
Affidavit #1 of A Spencer filed July 20, 2018
Affidavit of J Johnson filed July 20, 2018
Affidavit of Z Hecimovic filed July 20, 2018
Application Response filed August 9, 2018
Affidavit #1 of J. McEown filed August 9, 2018
Affidavit #1 of D Bergman filed August 13, 2018
Affidavit #2 of A Greer filed August 20, 2018

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16. Having determined that the commencement of the Action did not (and does not) require the Monitor's consent, the second question becomes moot.

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Counterclaim of BDO

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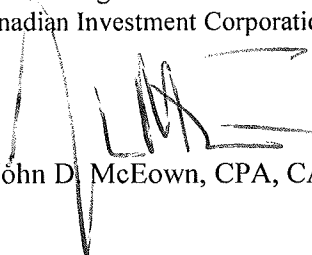
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29. Attached as Schedule C to this Report is a list of those materials.

D. CONCLUSIONS AND RECOMMENDATIONS

30. The Monitor has concluded that the commencement of legal proceedings by a petitioner in a CCAA proceeding does not require the consent of a monitor.
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DATED at the City of Vancouver, British Columbia, this 23rd day of October, 2018.

Boale Wood and Company Ltd.
Monitor Appointed in the Companies'
Creditors Arrangement Act Proceedings of
All Canadian Investment Corporation


Per: John D. McEown, CPA, CA, CIRP

SCHEDULE A



This is the 1st affidavit of
J. McEown in this case and
was made on August 3rd, 2018

NO. VLC-S-S-183355
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ALL CANADIAN INVESTMENT CORPORATION

PLAINTIFF

AND:

BDO CANADA LLP

DEFENDANT

AND:

DONALD BERGMAN

THIRD PARTY

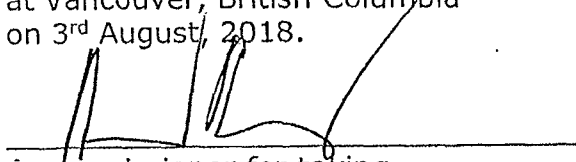
AFFIDAVIT

I, JOHN McEOWN, CPA, CA, CIRP (Chartered Insolvency and Restructuring Professional), of 1140 – 800 West Pender Street, in the City of Vancouver, Province of British Columbia, SWEAR (OR AFFIRM) THAT:


1. I am an officer of Boale Wood & Company, the Court appointed Monitor herein (the "Monitor") in the matter of the **Companies Creditors Arrangement Act** proceedings of All Canadian Investment Corporation ("ACIC") and as such have personal knowledge of the facts and matters hereinafter deposed to save and except where they are stated to be based upon information and belief, and as to those matters I verily believe them to be true.

2. Boale Wood was appointed Monitor of ACIC by Order of the Court on November 10, 2017.
3. In February of 2018, I was advised by Mr. Donald Bergman of ACIC of the intention on the part of ACIC to commence proceedings against BDO Canada LLP ("BDO") for damages caused to it by BDO's resignation as auditor.
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SWORN BEFORE ME
at Vancouver, British Columbia
on 3rd August, 2018.



A commissioner for taking
affidavits for British Columbia
Marianne Ting

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JOHN McEOWN
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MARIANNE TING
A Commissioner for taking Affidavits
for the province of British Columbia
Expiry Date: Nov 30, 2020

SCHEDULE B

Douglas B. Hyndman

From: Marianne Ting <mting@boalewood.ca>
Sent: October 23, 2018 4:04 PM
To: Marianne Ting
Cc: John McEown; Douglas B. Hyndman
Subject: In the Matter of the Companies' Creditors Arrangement Act Proceedings of All Canadian Investment Corporation ("ACIC") - ACIC v. BDO Canada LLP

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The Application is currently scheduled to commence at 9:45 (or so soon thereafter as counsel may be heard) at the Supreme Court, 800 Smithe Street, Vancouver, BC.

John McEown, CPA•CA•CIRP
(Chartered Insolvency and Restructuring Professional)

Boale, Wood & Company Ltd.
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Vancouver, BC V6C 2V6

Direct Line: (604) 558-8012
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Schedule C

All Canadian Investment Corporation v. BDO Canada LLP

Affidavit #1 of D Bergman S1710393 (1 of 2) filed November 8, 2017
Affidavit #1 of D Bergman S1710393 (2 of 2) filed November 8, 2017
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Affidavit #1 of J. McEown filed August 9, 2018
Affidavit #1 of D Bergman filed August 13, 2018
Affidavit #2 of A Greer filed August 20, 2018