



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 THIRTEENTH REPORT TO COURT

MAY 3, 2019

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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April 26, 2019**

A. INTRODUCTION

1. This report (the “**Thirteenth 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 Thirteenth Report is to provide the Court and Stakeholders with the following:
 - a) an overview of the Petitioner’s application for directions with respect to classification of the preferred shareholders for purposes of the plan of arrangement that will be filed in respect of the CCAA Proceedings (the “**Preferred Shareholder Hearing**”).

 - b) The estimated recoveries to the stakeholders depending on the outcome of the Preferred Shareholder Hearing.

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; and

 - b) the Monitor has not conducted an examination or review of any financial forecast and projections in a manner that would comply with the procedures described in the Chartered Professional Accountant Canada Handbook.

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

C. PREFERRED SHAREHOLDER HEARING

Background

6. The Petitioner has applied to Court for directions on how the Preferred Shareholders' claims against ACIC should be treated in the Petitioner's Plan of Arrangement. The matter was originally scheduled to be heard for three days commencing on April 24, 2019 but has now been rescheduled to commence on June 18, 2019, also for three days.
7. On March 26, 2019 on the application of Hans-Uwe Andresen, Linda Riesterer and Charles Riesterer, three of the Preferred Shareholders of ACIC, The Honorable Mr. Justice Walker made an Order appointing Lakes, Whyte LLP as representative counsel for all preferred shareholders.
8. Shortly after being appointed as representative counsel for all preferred shareholders, Lakes, Whyte LLP determined that those preferred shareholders that had validly requested redemption of their shares at a time when the Petitioner was not insolvent (or when by honoring a redemption request it would not render the Petitioner insolvent) (the "**Redeemers**") may arguably be classified as creditors and as a result rank in priority to the preferred shareholders who had not validly requested redemption (the "**Non-Redeemers**") or who did so at a time that by honoring a redemption request it would render the Petitioner insolvent.
9. Lakes, Whyte LLP, recognizing the conflict, immediately made application to Court for directions in this regard.
10. On April 5, 2019, upon hearing from Lakes, Whyte LLP, counsel for the Monitor and counsel for the Petitioner, The Honorable Justice Walker made an Order appointing Lakes, Whyte LLP (the "**Redeeming Shareholder Counsel**") as representative counsel for those persons owning preferred shares of the Petitioner who took all

necessary steps to submit a valid redemption request to the Petitioner at a time when reasonable grounds did not exist to believe that the Petitioner was insolvent, or that honoring a redemption request would make the Petitioner insolvent, and such other preferred shareholders as the court may determine have analogous claims against the Petitioner and appointed Richards Buell Sutton LLP (the “**Non-Redeeming Shareholder Counsel**”) as representative counsel for those preferred shareholders in the capital of the Petitioner other than the Redeemers.

11. Pursuant to the Order of The Honorable Mr. Justice Walker pronounced April 26, 2019 (attached as Appendix A) Representative Counsel’s Charge in favor of Lakes, White LLP was increased by the sum of \$3,600 to a total of \$76,996 (see paragraph 6 of Appendix A) and Non-Redeeming Shareholder Counsel was granted a charge in the amount of \$35,608 (see paragraphs 7 and 8 of Appendix A).

12. At the three day hearing now scheduled to commence on June 18, 2019, Lakes, Whyte LLP will argue that the Redeemers should properly be classified as creditors and not shareholders for purposes of the Plan of Arrangement, while Richards Buell Sutton LLP will argue that the Redeemers should be treated in any Plan of Arrangement the same way as the Non-Redeemers. Petitioner’s counsel will also be arguing that the Redeemers should be treated the same as the Non-Redeemers.

Estimated recoveries to stakeholders depending on outcome of June 18-20, hearing

13. In the Monitor’s Eleventh Report the Monitor estimated the net recovery to the stakeholders, assuming all preferred shareholders totalling \$37,000,000 are treated equally, as follows:

	<u>Low</u>	<u>High</u>
Creditors (full payment)	\$3,811,980 (100%)	\$3,811,980 (100%)
Preferred Shareholders	\$7,168,020 (19%)	\$18,868,020 (50%)

14. If the outcome of the Preferred Shareholder Hearing is that all the Redeemers (having claims that total \$26,207,000) are classified as creditors, the estimated net recovery to the stakeholders will be as follows:

	<u>Low</u>	<u>High</u>
Creditors	\$1,394,302 (36.5%)	\$2,880,035 (75.5%)
Preferred Shareholders (Redeemers)	\$9,585,698 (36.5%)	\$19,799,965 (75.5%)
Preferred Shareholders (Non-Redeemers)	-- (0%)	-- (0%)

15. If the outcome of the Preferred Shareholder Hearing is that all the Redeemers (having claims that total \$26,207,000) are not treated as creditors but are paid in priority to the Non-Redeemers, the estimated net recovery to the stakeholders will be as follows:

	<u>Low</u>	<u>High</u>
Creditors	\$3,811,980 (100%)	\$3,811,980 (100%)
Preferred Shareholders (Redeemers)	\$7,168,020 (27.4%)	\$18,868,020 (72%)
Preferred Shareholders (Non-Redeemers)	-- (0%)	-- (0%)

16. If it is determined that some of the Redeemers requested redemption at a time when the Petitioner was insolvent (or that honoring a redemption request would make the Petitioner insolvent) thereby preventing, as a matter of law, the Petitioner from honoring such redemption request, then the total of the Redeemers classified as creditors will likely be reduced accordingly thereby resulting in a higher recovery percentage to the creditors and creditor/Redeemers.
17. If the outcome of the Preferred Shareholder Hearing is that all or a significant portion of the Redeemers are classified as creditors there will likely be no recovery to the Non-Redeemers.

D. MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

18. The outcome of the Preferred Shareholder Hearing could significantly vary the recovery to each class of stakeholders.
19. It is important that all stakeholders be aware of the possible outcomes and make sure that their respective interests are being properly represented by legal counsel.
20. The recovery to the current creditors that the Monitor had previously expected to be paid in full could be significantly diluted if the Redeemers are classified as creditors. In this regard, creditors may wish to retain legal counsel to represent their interests at the Preferred Shareholder Hearing.

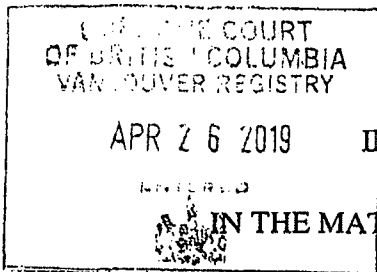
DATED at the City of Vancouver, British Columbia, this 3rd day of May, 2019.

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

APPENDIX A

No. S-1710393
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, AS AMENDED

AND

IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*, R.S.C. 1985,
C. C-44, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF
ALL CANADIAN INVESTMENT CORPORATION

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE) FRIDAY, THE 26TH DAY
MR. JUSTICE WALKER) OF APRIL, 2019
)

ON THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on the 26th day of April, 2019; AND ON HEARING Jeremy D. West, counsel for the Petitioner, Douglas B. Hyndman, counsel for the Monitor, Boale, Wood & Company Ltd., John D. Whyte, the Representative Counsel for the Redeeming Shareholders, and Mark R. Davies, the Representative Counsel for the Non-Redeeming Shareholders of the Petitioner, as more particularly described in the British Columbia Supreme Court Order pronounced on April 5, 2019 in these proceedings; AND UPON READING the materials filed; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the "CCAA"), the *British Columbia Supreme Court Civil Rules* and the inherent jurisdiction of this Honourable Court:

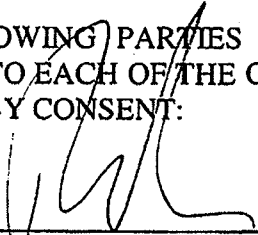
THIS COURT ORDERS that:

1. The time for service of this Notice of Application and the materials herein is abridged such that the application is properly returnable on Friday, April 26, 2019.
2. Service hereof upon any interested party other than those parties on the service list maintained by the Petitioner and the Monitor is hereby dispensed with.

3. The stay of proceedings provided for in the order pronounced by this Honourable Court on January 23, 2019 is hereby extended to October 1, 2019;
4. The proceedings are adjourned to September 27, 2019;
5. The hearing of the Petitioner's Notice of Application dated January 25, 2019, is reset for a three (3) day hearing commencing June 18, 2019;
6. the Representative Counsel's Charge granted by Order pronounced March 26, 2019 in favour of lakes, Whyte LLP is increased by the sum of \$3,600 to a total amount of \$76,996;
7. Richards Buell Sutton LLP, previously defined in the Order pronounced April 5, 2018 as the Non-Redeeming Shareholder Counsel, is granted a charge of \$35,608 over the property of the Petitioner in respect of its anticipated fees, disbursements, and taxes thereon incurred as a result of performing the services described in the budget attached hereto as Schedule "A" (the "Non-Redeeming Shareholder Counsel Charge");
8. The Non-Redeeming Shareholder Counsel Charge ranks in priority over the claims by all creditors and other charges, except for claims by creditors that are known as of the date of the order pronounced March 26, 2019. For clarity, the Non-Redeeming Shareholder Counsel Charge shall be subordinate to the Administration Charge, the Interim Lender's Charge, the Directors Charge, and any other obligation of the Petitioner set out in the Order of this court pronounced on November 10, 2017;
9. The Honourable Mr. Justice Walker is seized of the following related proceedings filed in the Vancouver Registry of the Supreme Court of British Columbia;
 - a. VLC S-H-180143; and
 - b. VLC S-S-184595;

10. The approval of counsel as to form listed as Schedule "B" hereto, except for counsel for the Petitioner, 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 Jeremy D. West
Solicitor for the Petitioner

By the Court.



Registrar



Schedule 'A'

Richards Buell Sutton LLP Fee Estimate as Representative Council in All Canadian Investment Corporation CCAA Proceeding

	MRD \$425/hour	RAV \$200/hour	<u>\$ Amount</u>
Initial Stages	9	4	<u>4,625</u>
Initial review of CCAA pleadings and materials to become acquainted with preferred shareholders issues and attend hearings for administrative and preliminary matters on April 15, 2019 and April 26, 2019.			
Research and Preparation	15	20	<u>10,375</u>
Research preferred shareholders issues including review of statutory material and case law and prepare Response on behalf of "non-redeeming" preferred shareholders			
Creditor/Equity application	28	20	<u>15,900</u>
Preparation for application to determine status of preferred shareholders	10	20	
Attendance at 3 Day hearing for application to determine status of preferred shareholders	18		
Pre-tax total.			<u>30,900</u>
Taxes on legal fees			<u>3,708</u>

Total for legal Fees			<u>34,608</u>
Disbursements {estimate}			<u>1,000</u>
Net Total			<u>\$35,608</u>

Schedule 'B' – List of Counsel Appearing

Jeremy D. West	The Petitioner
Douglas B. Hyndman	The Monitor
John D. Whyte	Redeeming Shareholder Counsel
Mark R. Davies	Non-Redeeming Shareholder Counsel