



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 NINTH REPORT TO COURT

NOVEMBER 20, 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 “**Ninth 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 Ninth Report is to provide the Court with:
 - a) A recap of the November 9th Court hearing;

 - b) an update on the Monitor’s activities since November 7, 2018;

 - c) The Monitor’s comments on the lawsuit filed by the Petitioner against its former auditors, BDO Canada LLP (“**BDO’s**”) and BDO’s application to Court for Security for Costs;

 - d) the Monitor’s view on the Petitioner’s Restructuring Plan (the “**Plan**”), Claims Process and request for a further extension of the Stay; and

 - e) the Monitor’s conclusions and recommendations.

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. RECAP OF NOVEMBER 9, 2018 COURT HEARING

6. On November 9, 2018, Mr. Justice Walker pronounced an Order (the “**Order**”) in the CCAA proceedings, among other things, extending the stay to Thursday, November 22, 2018. (See Appendix A attached hereto)
7. In addition, the Order suspended the powers of Mr. Don Bergman in respect of the Petitioner and expanded the power and authority of the Monitor.
8. At the hearing that is scheduled for Thursday, November 22, 2018, Mr. Justice Walker will consider, among other things, the following:
 - (a) whether the stay ought to be extended beyond November 22, 2018. In making this determination, Mr. Justice Walker has sought input from the Monitor concerning whether or not a plan is possible in the CCAA proceedings; and
 - (b) whether the suspension of Mr. Bergman’s powers ought to be lifted.
9. As a result of the Order, the DIP Lender sent a letter dated November 12, 2018 to the Monitor and the Petitioner advising of its position that the Order constituted an Event of Default under the DIP Loan and, among other things, triggered a Default Fee as provided for in the DIP Lender’s credit facility. (See Appendix B attached hereto)
10. By letter dated November 16, 2018, the Petitioner responded to the letter from the DIP Lender’s lawyer advising that its position was that the Order did not create an Event of Default under the terms of the DIP Lender’s facility. (See Appendix C attached hereto)
11. The Monitor agrees with and supports the position taken by the Petitioner in response to the letter from the lawyers for the DIP Lender.

D. ACTIVITIES OF THE MONITOR SINCE NOVEMBER 9, 2018

12. Since the date of the Monitor's Eighth Report, the Monitor has undertaken, amongst other things, the following activities:
 - a) Attending at the offices of ACIC in Salmon Arm and meeting with Don Bergman and his staff to determine their day to day duties and consider their continued involvement in the wind-down of the business;
 - b) Meeting with legal counsel for ACIC to discuss options to wind-down the business including receivership, bankruptcy and liquidation;
 - c) Meeting with legal counsel for Peter Censorio to discuss the status of the Carleton development, current offers on the Beta property and listing of the other Censorio properties on the MLS service;
 - d) communicating with counsel for the DIP Lender regarding a default fee allegedly triggered by the Order;
 - e) Considering action commenced by the Petitioner against BDO Canada LLP and discussions with legal counsel for ACIC regarding the retainer agreement and funding of disbursements/cost awards; and
 - f) Following up on the Stonewater Motel refinancing; and
 - g) preparing the Monitor's Ninth Report to the Court in the CCAA Proceedings.

E. PETITIONERS LAWSUIT AGAINST BDO CANADA LLP

13. BDO (the Petitioner's former auditors) have an application for security for costs in proceedings the Petitioner commenced against BDO, as detailed in the Monitor's Seventh Report. That application commenced Thursday October 18, 2018, continued Monday October 29, 2018 but did not complete and has been adjourned until November 23, 2018:
14. The Monitor's Seventh Report deals in detail with the BDO Claim;
15. The Monitor has been asked by the Court to comment on the economic viability of the lawsuit;
16. The Monitor has determined that the current contingency agreement with Mr. Wade's firm requires that the Petitioner fund any disbursements of Mr. Wade's firm and any cost awards against the Petitioner. However, the Monitor has confirmed with Mr. Wade that a retainer for those disbursements was paid to his firm from a source other than the Petitioner;
17. The Monitor has spoken to Mr. Wade concerning an amendment or variation to the current contingency agreement with Mr. Wade's firm whereby the Petitioner would not be responsible for any disbursements and/or Order for costs in the BDO proceedings. Mr. Wade, upon further discussion with Don Bergman, has confirmed that the contingency agreement will be amended so that the Petitioner is not responsible; and
18. Upon receipt of the revised contingency agreement from Mr. Wade's office that confirms there is no exposure to the Petitioner for any costs in these proceedings, the Monitor is comfortable that there is economic viability of the lawsuit against BDO in that there is no downside for costs and the upside will be that if there is success against BDO, that success will accrue to the creditors and/or stakeholders of the Petitioner.

F. RESTRUCTURING PLAN

19. Since the November 9, 2018 hearing, the Monitor has had meetings with counsel for the Petitioner and a meeting with counsel for Mr. Censorio, the principal of the group that comprises the major borrowers from the Petitioner.
20. As a result of those meetings, the Monitor is of the view that it is possible that a Plan can be formulated within the context of these CCAA Proceedings with the cooperation of Mr. Censorio and on the understanding that Mr. Bergman's powers in respect of the Petitioner continue to be suspended, but the Monitor will need more time for that Plan to be formulated.
21. If those conditions are satisfied, the Monitor will support an application by the Petitioner to extend the stay for a period of 60 days.
22. One of the items that was discussed and agreed to at the Monitor's meetings with counsel for the Petitioner was that the funds to be paid by the Petitioner during any extended stay will essentially only be \$5,000.00 per month as opposed to the reduced management fees currently being paid to AFDI of \$25,000.00 per month.
23. The Monitor has been advised that the Stonewater financing has been approved which will enable the Petitioner to pay out the DIP lender and have additional funds in the Bank.

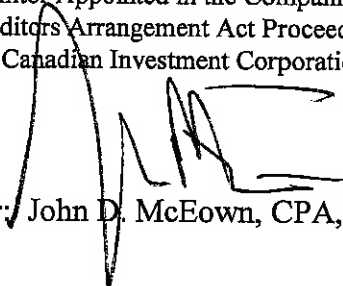
G. CONCLUSIONS AND RECOMMENDATIONS

25. The Monitor has concluded that with the cooperation of Mr. Censorio and on the understanding that Mr. Bergman's powers in respect of the Petitioner continue to be suspended, that the Petitioner can formalize a Plan to wind-down the business and, subject to approval of the Plan by the stakeholders, can carry out the Plan within the CCAA proceedings.

26. The Monitor is of the view that the stakeholders will not be prejudiced by the 60 day extension proposed by the Petitioner.

DATED at the City of Vancouver, British Columbia, this 20th day of November, 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

APPENDIX A

No. S1710393

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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)
MR. JUSTICE WALKER)
FRIDAY, THE 9TH)
DAY OF NOVEMBER, 2018)
)

ON THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on the 9th day of November, 2018; AND ON HEARING Jeremy D. West and Liam Oster, counsel for the Petitioner, and Douglas B. Hyndman, counsel for the Monitor Boale, Wood & Company Ltd.; AND UPON READING the material 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 the Notice of Application herein is hereby abridged such that the Notice of Application is properly returnable today and service hereof upon any interested party other than those parties on the service list maintained by the Petitioner and the Monitor in these proceedings is hereby dispensed with.
2. The stay of proceedings and the other relief provided for in the Order of this Court pronounced on November 10, 2017 (the "**Initial Order**"), as amended by Order (the "**Amending Order**") dated April 11, 2018 (the Amending Order together with the Initial Order referred to as the "**Amended Initial Order**") is hereby extended to November 22, 2018.
3. Any capitalized terms not otherwise defined in this Order shall have the same meanings ascribed to them in the Amended Initial Order ("**AIO**").
4. The proceedings are adjourned to November 22, 2018.
5. The Petitioner prepare a comprehensive plan, for submission to the court, regarding the wind down and liquidation of the Petitioner's business (the "**Plan**").
6. The Monitor guide and assist the Petitioner in its preparation of the Plan.
7. Any and all power and authority of Mr. Bergman with respect to the Property or the Business, whether by virtue of being an **officer, director or** ~~the~~ **management** of the Petitioner be and it is hereby suspended during the pendency of this Order. u
8. On November 22, 2018 the court will determine the capacity in which Mr. Bergman will have continued involvement with the Petitioner

AMENDED ORDER

9. This Order amends the AIO. To the extent that the provisions of this Order conflict with any other Order granted in these proceedings, including the AIO, the provisions of this Order shall govern.

10. This Order shall be read together with the AIO and is intended to supplement and amend the AIO only to the extent necessary as provided for herein. For greater certainty, all of the provisions of the AIO, except as supplemented or amended herein, shall remain in full force and effect.

ADDITIONAL POWERS OF THE MONITOR

11. The Monitor, in addition to its powers set forth in the AIO, is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and Business and, without in any way limiting the generality of the foregoing, is hereby expressly empowered and authorized to do any of the following where the Monitor considers it necessary or desirable;
 - a. take any and all steps in order to direct or cause the Petitioner to administer the Property and operations of the Petitioner or to perform such other functions or duties as the Monitor considers necessary or desirable to deal with the Property or Business, including restructuring, wind-down, liquidation, disposal of assets, or other activities;
 - b. monitor, review, and direct the Petitioner's receipts and disbursements and implement such measures of control as the Monitor deems reasonably necessary to ensure the appropriate monitoring of the Petitioner's expenses and disbursements, including adding or removing signing authorities to or from the Petitioner's bank accounts;
 - c. initiate and administer any claims bar and/or claims resolution process, or protocol as may be approved by Order of this Court within these proceedings;
 - d. subject to the requirements for Court approval set forth in section 36 of the CCAA, direct or cause the Petitioner to complete one or more transactions for the sale of all or any part of the Business, Property or any part thereof, and conduct, supervise and recommend to the Court any procedure regarding the allocation and/or distribution of proceeds of any sales;
 - e. settle, extend or compromise any indebtedness owing to or by the Petitioner;

- f. engage or cause the Petitioner to engage consultants, assistants, advisors, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, as the Monitor deems necessary or desirable to carry out the Monitor's powers and duties, including, without limitation, those conferred by this Order;
- g. apply to this Court for any orders necessary or advisable to carry out its powers and obligations under this Order or any other Order granted by this Court including for advice and directions with respect to any matter; and
- h. meet with management of the Petitioner, if any, with respect to any of the foregoing including, without limitation, operational, transactional and restructuring matters,

and in each case where the Monitor takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Petitioner and its past or present directors and officers, and without interference from any other Person, provided, however, that the Monitor shall comply with all applicable laws and shall not have any authority or power to elect or to cause the election or removal of directors of the Petitioner or to take any action to restrict or to transfer to the Monitor any of their powers, duties or obligations, except in accordance with section 11.5(1) of the CCAA.

12. Without limiting the provisions of this Order, the Petitioner shall remain in possession and control of the Property and the Business and the Monitor shall not take, and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Monitor being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE MONITOR

13. Each of (i) the Petitioner, (ii) all of the Petitioners' current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Monitor of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Monitor, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Monitor upon the Monitor's request;
14. All Persons shall forthwith advise the Monitor of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Petitioner, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Monitor or permit the Monitor to make, retain and take away copies thereof and grant to the Monitor unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Monitor due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.
15. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Monitor for the purpose of allowing the Monitor to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Monitor in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Monitor. Further, for the purposes of this paragraph, all

Persons shall provide the Monitor with all such assistance in gaining immediate access to the information in the Records as the Monitor may in its discretion require including, without limitation, providing the Monitor with instructions on the use of any computer or other system and providing the Monitor with any and all access codes, account names and account numbers that may be required to gain access to the information.

EMPLOYEES

16. Subject to the right of employees to terminate their employment, all employees of the Petitioner shall remain the employees of the Petitioner until such time as the Monitor, on the Petitioner's behalf, may terminate the employment of such employees. The Monitor shall not be liable for any employee related liabilities of the Petitioner, including any successor employer liabilities as provided for in Section 14.06(1.2) of the *BIA*, other than amounts the Monitor may specifically agree in writing to pay and amounts in respect of obligations imposed specifically on receivers by applicable legislation. The Monitor shall be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts relating to any employees that the Monitor may hire in accordance with the terms and conditions of such employment by the Monitor.
17. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Monitor may disclose personal information of identifiable individuals to prospective purchasers or bidders for all any or portion of the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of all any or portion of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Monitor, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such

information by the Petitioner, and shall return all other personal information to the Monitor, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

18. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, 1999, S.C. 1999, c. 33, the *Fisheries Act*, R.S.C. 1985, c. F-14, the *Environmental Management Act*, R.S.B.C. 1996, c. 118 and the *Fish Protection Act*, S.B.C. 1997, c. 21 and regulations thereunder (collectively “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Monitor is actually in possession.

LIMITATION ON THE MONITOR’S LIABILITY

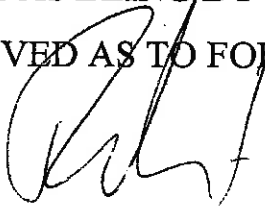
19. In addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the rights and protections afforded the Monitor by the CCAA or any applicable Subject to the right of employees to terminate their employment notwithstanding paragraph 15, all employees of the Petitioner shall remain the employees of the Petitioner until such time as the Monitor, on the Petitioner’s behalf, may terminate the employment of such employees. The Monitor shall not be liable for any employee related liabilities of the Petitioner, including any successor employer liabilities as provided for in Section 14.06(1.2) of the *BIA*, other than amounts the Monitor may specifically agree in writing to pay

and amounts in respect of obligations imposed specifically on receivers by applicable legislation. The Monitor shall be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts relating to any employees that the Monitor may hire in accordance with the terms and conditions of such employment by the Monitor.

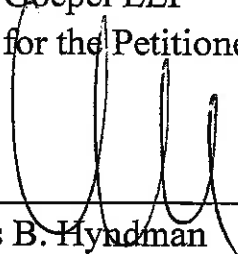
- 20. The Monitor is not, and shall not be or be deemed to be, a director, officer, employee, receiver, receiver manager, interim receiver or similar official of the Petitioner.

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:

APPROVED AS TO FORM:



Jeremy D, West
Watson Goepel LLP
Lawyer for the Petitioner



Douglas B. Hyndman
Kornfeld LLP
Lawyer for the Monitor

BY THE COURT

DEPUTY DISTRICT REGISTRAR

APPENDIX B

FASKEN

Fasken Martineau DuMoulin LLP
Barristers and Solicitors
Patent and Trade-mark Agents

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November 13, 2018
File No.: 306715.00011/15053

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By Email (dbergman@acicinvestor.ca; jmceown@boalewood.ca)

All Canadian Investment Corp.
Suite 2 – 781 Marine Park Drive North East
Salmon Arm, BC V1E 2W7

Boale Wood & Company Ltd. in its capacity
as Court appointed Monitor of All Canadian
Investment Corp.
1140-800 West Pender St.
Vancouver, BC V6C 2V6

Attention: Don Bergman

Attention: John McEown

Dear Sirs/Mesdames:

**Re: Interim Lending Facility Agreement Between All Canadian Investment Corp.
("ACIC") and DIDS-BC Holdings Ltd. (the "Lender")**

We are legal counsel for the Lender. We make reference to the Interim Lending Facility Agreement between ACIC and the Lender.

We hereby give notice that, as a result of the order that we understand was made on Friday, November 9, 2018 ordering that Don Bergman cease managing ACIC and that Boale, Wood & Company Ltd. take over the management of ACIC, there has been an Event of Default under the Interim Lending Agreement.

Without limitation to the Lender's right to rely on any other Events of Default, we refer specifically to subsection 19(e) of the Interim Lending Agreement, which provides that it is an Event of Default if a receiver or "any similar official" is appointed in respect of ACIC. We also refer to subsection 19(l) of that agreement, which provides that it is an Event of Default if, in the Lender's sole opinion, there has been a Material Adverse Effect (as defined therein).

We confirm that, as a result of the occurrence of an Event of Default under the Interim Lending Agreement, pursuant to section 11 thereof, on the last day of each month while such Event of Default continues, ACIC must pay to the Lender a default fee equal to 0.5% of the then outstanding Interim Lending Obligations (as defined in the Interim Lending Agreement).

FASKEN

Thank you for your attention to the foregoing. Please contact the writer if you have any questions regarding same.

Sincerely,

FASKEN MARTINEAU DuMOULIN LLP



for Kibben Jackson
Personal Law Corporation

/KJ

cc: Watson Goepel LLP (attention: Jeremy West)
Kornfeld LLP (attention: Doug Hyndman)

Jeremy D. West
Direct: 604-642-5684
jwest@watsongoepel.com

Paralegal: Joseline Kwok
Direct: 604-642-5659
jkwok@watsongoepel.com

VIA EMAIL

November 16, 2018

File No. 228558-0000

Fasken Martineau DuMoulin LLP
550 Burrard Street, Suite 2900
Vancouver, BC V6C 0A3

Attention: Kibben Jackson

Dear Sirs/Mesdames:

**Re: Interim Lending Facility Agreement Between All Canadian Investment Corp.
("ACIC") and DIDS-BC Holdings Ltd. (the "Lender")**

As you are aware, we are counsel for all Canadian Investment Corporation and we acknowledge receipt of your letter dated November 13, 2018.

As set out in email correspondence dated November 10, 2018 and subsequently in our discussion with Mr. Jackson on November 13, 2018, Mr. Justice Walker made orders on Friday November 9, 2018. Attached is a copy of the order which was settled, and signed on the bench, on November 14, 2018 (the "Order").

As you will see, the stay of proceedings has been extended to November 22, 2018 and a hearing has been scheduled for that date before Mr. Justice Walker. We are in the process of filing a requisition to that effect which will be distributed to the service list and of course your office on behalf of DIDS-BC Holdings Ltd.

With respect to your assertion that as a result of the Order an Event of Default has occurred, please note:

1. **Subsection 19(e).** Your letter alleges that "*ordering that Don Bergman cease managing 80 IC and that Boale, Wood & and Company Limited take over management of ACIC*" constitutes an Event of Default as provided for in subsection 19(e) of the Agreement. Please note that paragraph 20 of the Order specifically provides that "*the Monitor is not, and shall not be or be deemed to be, a director, officer, employee, receiver, receiver manager, interim receiver or similar official of the Petitioner*";
2. **Subsection 19(l).** Your letter appears to allege that the granting of the Order constitutes a "Material Adverse Effect" thereby giving rise to an Event of Default. While we accept that subsection 19(l) provides that the determination as to whether or not the Order is a

“Material Adverse Effect”, the definition of “Material Adverse Effect” makes it clear that your client must exercise that opinion reasonably. In our view, and as explained in the oral reasons for judgment of Mr. Justice Walker, the purpose of the Order was to maintain the status quo albeit that Mr. Bergman’s management functions are presently suspended and being performed by the Monitor; and

3. **Section 11: Default Fee:** Even if an Event of Default has occurred, which is denied, the obligation to pay the Default Fee does not arise unless the “*Event of Default exists on the last day of any calendar month*”.

In those circumstances, ACIC denies that granting of the Order constitutes an Event of Default.

November 22, 2018 hearing

As set out in the Order the proceedings will be called before Mr. Justice Walker on November 22, 2018. At that time ACIC intends to seek a further extension of the stay, likely for 60 days. We are presently working with the Monitor to try and reach an agreement on the terms of the proposed extension for the court's consideration.

At the hearing on November 14, 2018 (to settle the terms of the Order) we brought your letter dated November 13, 2018 to the court's attention. Mr. Justice Walker indicated that he would like to hear from your client regarding its intentions going forward on November 22, 2018. We requested some clarification as to exactly what he was expecting and as we understand it, the court does not want/require detailed submissions regarding the issue as to whether or not an Event of Default has occurred, or the ramifications of the same. Rather, he is interested in whether your client intends to take steps, at present, which may compromise or affect the continuation of these proceedings under the CCAA and the development of a plan going forward.

Once you have had an opportunity to review the Order we would be happy to discuss any queries you may have at your convenience.

Yours truly,

WATSON GOEPEL LLP

per:

Jeremy D. West

JDW:jk

Enclosures Order Made After Application

Cc: Doug Hyndman