

December 19, 2017



HAND DELIVERED

The Honourable Justice James L. Chipman
Supreme Court of Nova Scotia
The Law Courts
1815 Upper Water Street
Halifax NS B3J 1S7

My Lord:

Re: Atlantica Diversified Transportation Systems Inc. (the "Applicant")
Hfx No. 470769
Hearing: Friday, December 22, 2017, at 9:30 a.m.

Please accept this as our Pre-Filing Brief on the Motion to be heard before Your Lordship on Friday, December 22, 2017, at 9:30 a.m.

There are three items of relief claimed in the Notice of Motion:

- (a) Granting a 45 Day Extension of the Initial Order of December 7, 2017;
- (b) For the issuance of a Claims Procedure Order; and
- (c) That the stay of proceedings in the Initial Order be lifted to the extent necessary to permit Canadian Western Bank or Canadian Western Bank Leasing Incorporated to continue to enforce its lease or security interests with respect to units seized prior to the date of the Initial Order, and waiving any requirement for prior notice of sale or disposition to any party pursuant to section 60 of the *Personal Property Security Act* (Nova Scotia) and the equivalent sections in the legislation of any other Province.

Grant of an Extension

The test for the grant of an extension of the stay of proceedings is set out in CCAA Section 11.02(3). The Applicant must satisfy the court that:

- (a) Circumstances exist that make the extension appropriate; and

(b) The Applicant has acted, and is acting, in good faith and with due diligence.

The Initial Order was granted on December 7, 2017. We, therefore, only have 12 days of work to report on.

We have filed the Fourth Supplemental Affidavit of David Montgomery. The company continues to do business in the ordinary course. The Applicant is working with its principal stakeholders to make progress on all necessary issues. The Applicant has been cooperative with the Monitor and has promptly responded to all requests for information from it. The company remains on target to present a Plan of Arrangement by the end of January, 2018.

Based on the evidence, we submit that the burden of proof has been met.

Claims Procedure Order

Since the intention is to have a Plan of Arrangement by the end of January, we need to be in a position to have a vote at a meeting of creditors by end of February/early March 2018. To do that, a Proof of Claim Process must have been at least partly completed by that time. We have, therefore, applied for the issuance of a Claims Procedure Order. It is in a general format that has been issued by this Court in prior proceedings.

What is most important in reviewing a Claims Procedure Order is to determine whether adequate provisions have been made to ensure that creditors know about the process, and adequate time has been given to them to be able to respond by filing a Proof of Claim.

The proposed dates and process can be summarized as follows:

1. The Monitor would create a list of Known Creditors (sections 1(p), 9 and 12).
2. The Monitor would send a Proof of Claim document package to all Known Creditors on or before Wednesday, January 10, 2018 (section 11(a)).
3. The Monitor would publish a Notice to Creditors in the Chronicle Herald on or before Monday, January 15, 2018 (section 11(b)).
4. The Monitor would send to any person, upon request, a Claim document package (section 11(c)).
5. The Monitor would post a copy of the Claims Procedure Order and the Proof of Claim document package on its website (section 11(d)).
6. Claims would not include interest accrued after the date of the Initial Order (section 1(d) (i)).

7. The date for filing of Proofs of Claim with the Monitor would be 5:00 p.m. (Atlantic Time) on Friday, February 16, 2018. That would be the Claims Bar Date (section 1(e)). Claims can not be filed after the Claims Bar Date (section 13).
8. Restructuring Period Claims must be filed by the later of Friday, February 16, 2017 or seven (7) business days after the event giving rise to the Restructuring Period Claims (sections 1(z) and 14).
9. The Monitor would review each Proof of Claim and, on or before Friday, February 23, 2018, would either allow, partially allow or disallow the Proof of Claim for voting and distribution purposes (section 17(a)).
10. If a claim is partially or completely disallowed, any person wishing to appeal that would have to file a Dispute Notice by Tuesday, March 20, 2018 (section 17(b)). Such disputes would then be resolved by a Claims Officer (section 17(c)), with the goal of having all such hearings completed by Monday, April 30, 2018 (section 17(e)).
11. If a Claimant is dissatisfied with the decision of the Claims Officer, there is a further right of appeal to this Court (section 17(f)).
12. If a Meeting is to be held on the Plan of Arrangement prior to the completion of the Claims Appeal Process, the creditor would have the right to vote in the amount accepted by the Monitor, or as otherwise ordered by this Court (section 17(h)).

If the Claims Procedure Order is granted now, this process can be put into operation beginning in January, 2018. When the company brings a motion to this Court in late January 2018 to approve the presentation of its Plan of Arrangement to the creditors, dates will be set for votes and creditor notice requirements determined at that time. It is thought that by the end of February or early March Claims will have been filed and processed by the Monitor, at least for voting purposes. Since distributions under any Plan of Arrangement will be over a longer period of time, any disputed proof of claim will be resolved by the Claims Officer well prior to any expected distributions.

We, therefore, submit it is appropriate for this Court to grant a Claims Procedure Order.

Canadian Western Bank - Lifting of the Stay of Proceedings

Canadian Western Bank and Canadian Western Bank Leasing Incorporated ("CWB") have asked for certainty that the stay of proceedings does not prevent them from continuing to enforce their lease or security interests with respect to any units seized prior to the date of the Initial Order. This is acceptable to the Applicant.

CWB has also asked for a waiver of any requirement for prior notice of sale or disposition to any party, including under Section 60 of the *Personal Property Security Act* (Nova Scotia) ("PPSA"). It is the view of the Applicant that any party with an interest in these units would have had notice of their seizure through the CCAA filings.

CWB has been asked to provide a statement of what is due to CWB, on a per unit basis, for all units that remain in the possession of the Applicant. Once that information has been provided (presumably before Friday's hearing), the Service List will have all of the information that would otherwise be contained in a Notice of Intended Disposition under the PPSA. As a result, it would be appropriate for the Court to issue an Order waiving any further Notice of Intent to dispose of these previously seized units.

Canada Revenue Agency

We have been recently contacted by Gregory A. MacIntosh, Senior Counsel, Department of Justice Canada, who has inquired as to whether the Administrative Charge and Director's Charge contained in the Initial Order are intended to give priority over the Deemed Trust Interest arising in favour of Canada Revenue Agency under the Payroll Account and subsections 227(4) and (4.1) of the *Income Tax Act*.

The interpretation by the Monitor and by counsel for the Applicant is that the charges in the Initial Order do not have priority over the CRA deemed trust claim. We can confirm that it is not the intention of the Chargees to assert any such priority over Canada Revenue Agency deemed trust claim in this proceeding.

Attached is an Amended Service List dated December 19, 2017, adding Gregory A. MacIntosh as Solicitor for the Canada Revenue Agency.

All of which is respectfully submitted.

Yours very truly,

BURCHELLS LLP



D. Bruce Clarke, Q.C.

DBC/sm
Encl.

c: Client
c: Service List

AMENDED SCHEDULE "A" – Service List
December 19, 2017

Party	Method of Service
Canada Western Bank and Canada Western Bank Leasing Inc.	Solicitor: Gavin MacDonald Cox & Palmer Purdy's Wharf Tower I 1100-1959 Upper Water Street Halifax NS B3J 3E5 Email: gmacdonald@coxandpalmer.com
Penske Truck Leasing Canada Inc. Rt. 10 Green Hills PO Box 791 Reading PA 19603 USA	Courier or Regular Mail
Wells Fargo Equipment Finance Company 700-2550 Victoria Park Avenue Toronto ON M2J 5A9	Courier or Regular Mail
Royal Bank of Canada 10 York Mills Road Toronto ON M2P 0A2 Fax: (416) 512-6650	Courier or Regular Mail
Clarke Transport Inc. c/o O'Toole, Jeffrey S. Flatbed Operations Manager 140 Horseshoe Lake Drive Halifax NS B3S 0B7 Phone: (902) 450-2536 Fax: (902) 450-0090	Solicitor: Careen Hannouche TFI International Inc. 500-8801 Trans-Canada Highway Saint-Laurent QC H4S 1Z6 Tel: (514) 331-4351 Fax: (514) 331-4458 Email: channouche@tfiintl.com Solicitor: Patrick-James Blaine Transforce 500-8801 Trans-Canada Highway Montreal QC H4S 1Z6 Tel: (514) 331-4154 Email: PBlaine@tfiintl.com
Workers' Compensation Board of NS 5668 South Street Halifax NS B3J 2Y2 Attention: Brenda Carvery	Email: brenda.carvery@wcb.ns.ca Phone: (902) 491-8318 Fax: (902) 491-8325
Accutrac Capital Solutions Inc. 74 Mississauga Street East Orillia ON L3V 1V5	Solicitor: Christopher A.L. Caruana Wilson Vukelich LLP 60 Columbia Way, 7th Floor Markham ON L3R 0C9 Email: ccaruana@wvllp.ca

Party	Method of Service
Design Group Staffing Inc. c/o Gillian C. Osborne, Regional Manager 3-26 Bancroft Lane Dartmouth NS B3B 1G3 Phone: (902) 481-2771 Fax: (902) 481-2779	Solicitor: Charles Reagh Stewart McKelvey 900-1959 Upper Water Street Halifax NS B3J 2X2 Email: creagh@stewartmckelvey.com
Trailer Wizards Ltd. Dale Scoles, Credit Manager 1880 Britannia Road East Mississauga ON L4W 1J3 Phone: (403) 592-6162 Fax: (905) 670-7130	Solicitor: Matthew Moir Weldon McInnis 118 Ochterloney Street Dartmouth NS B2Y 1C7 Email: mmoir@welcommcinnis.ca
Trailer Wizards Ltd. 125 MacNaughton Avenue Moncton NB E1H 3N3 Phone: (506) 858-8480 Fax: (506) 858-8307	
Roops Cleaners 2009 Limited c/o Keltic Collections, Vince Neary Mgr. 46 Inglis Place, Suite 3 Truro NS B2N 5B6 Phone: (902) 895-1675 Fax: (902) 895-5633	Email: vneary@kelticcollections.ca
Hawkins Truck Mart Ltd. (now Peterbilt) 125 Greenview Drive Hanwell NB E3C 0L4	Courier or Regular Mail
National Leasing Group Inc. 1525 Buffalo Place Winnipeg MB R3T 1L9 Phone: (204) 954-9000 Fax: (866) 814-4752	Courier or Regular Mail
RCAP Leasing Inc. 300-5575 North Service Road Burlington ON L7L 6M1	Courier or Regular Mail
Bank of Montreal 200-5750 Explorer Drive Mississauga ON L4W 0B1	Courier or Regular Mail
Northeast Truck & Trailer Sales William Yorke, President 146 Lower Truro Road Truro NS B2N 1B1 Phone: (902) 895-8400 Fax: (902) 897-8401	Solicitor: Peter Zed Cox & Palmer 1100-1959 Upper Water Street Halifax NS B3J 3E5 Email: pzed@coxandpalmer.com
3237541 Nova Scotia Limited William York, President 146 Lower Truro Road Truro NS B2N 1B1	

Party	Method of Service
Blue Chip Leasing Corporation Unit 8-156 Duncan Mill Road Toronto ON M3B 3N2 Phone: (204) 954-9000 Fax: (866) 814-4752	Courier or Regular Mail
Element Financial Corporation 900-4 Robert Speck Parkway Toronto ON L4Z 1S1	Courier or Regular Mail
Nissan Canada Financial Services Inc. 5290 Orbitor Drive Mississauga ON L4W 4Z5	Courier or Regular Mail
Great Lakes Leasing, a Division of 1354439 Ontario Inc. 1401-50 Prince Arthur Avenue Toronto ON M5R 1B5	Courier or Regular Mail
David Montgomery President and CEO Atlantica Diversified Transportation Services Inc. 19-10 Morris Drive Dartmouth NS B3B 1K8	Solicitor: D. Bruce Clarke, Q.C. Burchells LLP 1800-1801 Hollis Street Halifax NS B3J 3N4 Email: bclarke@burchells.ca
BDO Canada Limited 301-255 Lacewood Drive Halifax NS B3M 4G2 Attn: Philip Clarke, Senior Vice-President Email: pclarke@bdo.ca	Solicitor: Adam Crane Patterson Law 2100-1801 Hollis Street Halifax NS B3J 3N4 Email: acrane@pattersonlaw.ca
Vaughn Sturgeon, a Shareholder of Atlantica Diversified Transportation Systems Inc.	Solicitor: Sara L. Scott Stewart McKelvey 900-1959 Upper Water Street Halifax NS B3J 2X2 Email: sscott@stewartmckelvey.ca
Rodd Management Limited PO Box 432 Charlottetown PE C1A 7K7	Solicitor: Steven Forbes Cox & Palmer 600-97 Queen Street Charlottetown PE Email: sforbes@coxandpalmer.com
Canada Revenue Agency	Solicitor: Gregory A. MacIntosh Senior Counsel, Tax Law Services Department of Justice Canada 1400-5251 Duke Street Halifax NS B3J 1P3 Email: Gregory.MacIntosh@justice.gc.ca Tel: (902) 426-8007 Fax: (902) 426-8802