

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

**BRIAN JOSEPH TUCKER, SANDRA TUCKER AND THE
BRIAN JOSEPH TUCKER FAMILY TRUST (TRUSTEE OF)**

Plaintiffs

- and -



**SEAQUEST CAPITAL CORPORATION, SEAQUEST CORPORATION, DAVID
BURNS HOLDEN, ROSA HOLDEN, VINCE JAMES BULBROOK, ANTONIO
MARIO COSENTINO, EDMOND CHIN-HO SO (AKA EDMOND SO), JEFFREY
ALAN PHIPPS, SEAQUEST GLOBAL CORPORATION (#1), SEAQUEST
GLOBAL CORPORATION (#2), TONYCOS INVESTMENTS LTD., HARRIS
BROWN CORPORATION, AND HARRIS BROWN AND PARTNERS LIMITED**

Defendants

THE HONOURABLE MR.) FRIDAY, THE 2nd DAY OF
JUSTICE NEWBOULD) DECEMBER, 2011

AND

IN THE MATTER OF THE PROPOSAL OF SEAQUEST CORPORATION

AND

**IN THE MATTER OF THE PROPOSAL OF SEAQUEST CAPITAL
CORPORATION**

ORDER

THIS MOTION made by BDO Canada Limited (“**BDO**”) in its capacity as the court-appointed interim receiver (the “**Interim Receiver**”) of the undertakings,

property and assets of Seaquest Corporation and Seaquest Capital Corporation (collectively the "**Companies**") and proposal trustee of the Companies (the "**Proposal Trustee**") for an order in the form attached as schedule "A" to the amended notice of motion of the Interim Receiver and Proposal Trustee dated December 2, 2011 (the "**Notice of Motion**") *inter alia*: (i) abridging and validating the timing and method of service of this Motion Record so that this Motion is properly returnable; (ii) approving the first report to the Ontario Superior Court of Justice (Commercial List) (the "**Court**") of the Proposal Trustee dated November 1, 2011 (the "**First Report**") and the activities of the Proposal Trustee as set out therein; (iii) approving the first report to Court of the Interim Receiver and the second report to Court of the Proposal Trustee dated November 21, 2011 (the "**November 21 Report**"), and the activities of the Interim Receiver and Proposal Trustee as set out therein; (iv) approving the second report to Court of the Interim Receiver and the third report to Court of the Proposal Trustee dated November 29, 2011 (the "**Final Report**") and the activities of the Interim Receiver and Proposal Trustee as set out therein; (v) approving the Supplementary Final Report of the Interim Receiver dated November 30, 2011 and its activities as set out therein, (the "**Supplementary Final Report**"); (vi) approving the fees and disbursements (together with the fees and disbursements of DW, as detailed below, the "**Fees and Disbursements**") of BDO as Interim Receiver and Proposal Trustee and its legal counsel, Fraser Milner Casgrain LLP, as set out in the Final Report, the Affidavit of Ken Pearl sworn November 29, 2011 (the "**Pearl Affidavit**") and the Affidavit of Jane Dietrich sworn November 29, 2011 (the "**Dietrich Affidavit**"); (vii) approving the fees and disbursements of Dickinson Wright LLP ("DW") as set out in the Supplementary Final Report, and the Affidavits of Michael Weinczok sworn November 29, 2011 and November 30, 2011 (the "**Weinczok Affidavits**"); (viii) waiving any requirements of Rule 79 of the *Bankruptcy and Insolvency General Rules* (the "**BIA Rules**"); (ix) upon payment of the funds in its hands in respect of the Fees and Disbursements and upon the Interim Receiver filing a certificate certifying that it has completed the other activities described in the Final Report, despite any provision of the *Bankruptcy and Insolvency Act* (the "**BIA**") and the BIA Rules, discharging BDO as Interim Receiver, and releasing and discharging BDO from any and all liability that BDO now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of BDO while acting in its capacity as Interim

Receiver; (x) discharging BDO as Proposal Trustee, and releasing and discharging BDO from any and all liability that BDO now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of BDO while acting in its capacity as Proposal Trustee; and (xi) preserving, despite BDO's discharge as Interim Receiver and Proposal Trustee, the Receiver's Charge, as defined in paragraph 19 of the Order of the Court appointing BDO as Interim Receiver dated November 3, 2011 (the "**Receivership Order**") and authorizing BDO and the beneficiaries of the Administration Charge to enforce same was heard this day at 330 University Avenue 8th Floor, Toronto, Ontario.

ON READING the Final Report and on hearing the submissions of counsel for the Interim Receiver, no one else appearing and making submissions although duly served as appears from the affidavit of service of Laura Bowles-Dove sworn December 1, 2011;

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the First Report, the November 21 Report, the Final Report, the Supplementary Final Report, and the activities of the Interim Receiver and Proposal Trustee as set out therein, be and are hereby approved.
3. **THIS COURT ORDERS** that the Fees and Disbursements, as set out in the Final Report, the Supplementary Final Report, the Pearl Affidavit, the Dietrich Affidavit, and the Weinczok Affidavit, be and are hereby approved. *at Tab 2B of the Supplemental Motion Record*
4. **THIS COURT ORDERS** that upon payment of the funds in its hands in respect of the Fees and Disbursements, upon the Interim Receiver filing a certificate certifying that it has completed the other activities described in the Final Report in the form attached as Schedule "A" hereto, the Interim Receiver shall be discharged as Interim Receiver of the undertakings, property and assets of the Companies, provided however that notwithstanding its discharge herein (a) the Interim Receiver shall remain Interim Receiver for the performance of such incidental duties as may be required to complete the administration of the

receivership herein, and (b) the Interim Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of BDO in its capacity as Interim Receiver.

5. **THIS COURT ORDERS** that the Proposal Trustee be and is hereby discharged from its role as proposal trustee of the Companies, provided however that notwithstanding its discharge herein (a) the Proposal Trustee shall remain Proposal Trustee for the performance of such incidental duties as may be required to complete the administration, and (b) the Proposal Trustee shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of BDO in its capacity as Proposal Trustee.
6. **THIS COURT ORDERS AND DECLARES** that BDO is hereby released and discharged from any and all liability that BDO now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of BDO while acting in its capacity as Interim Receiver and Proposal Trustee herein, save and except for any gross negligence or wilful misconduct on the Interim Receiver and Proposal Trustee's part. Without limiting the generality of the foregoing, BDO is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership and proposal proceedings, save and except for any gross negligence or wilful misconduct on the Interim Receiver and Proposal Trustee's part.
7. **THIS COURT ORDERS** that the requirements of Rule 79 of the BIA be and hereby waived with respect to the discharge of the Interim Receiver.
8. **THIS COURT ORDERS** that, despite the discharge of the Interim Receiver and Proposal Trustee, the Receiver's Charge, as defined in paragraph 19 of the Receivership Order, be and are hereby preserved provided however that the Receiver's Charge shall be subordinate in priority to the claims of and amounts due to Hillmount Group Inc., Hirmar Holdings Inc., Gitel Fasten, Daniel Rees Child, and Iosif Vital, collectively the first mortgagees of the property

municipally described as 2111 Lakeshore Boulevard West, Upper Penthouse Unit #14, Toronto, Ontario (the "Property"), by virtue of a Charge registered on December 16, 2009 as Instrument No. AT2258979 in the Land Titles Division of the Land Registry Office of Toronto (No. 80) and subordinate to the claims of and amounts due to Hillmount Capital Inc. and Daniel Rees Child, collectively the second mortgagees of the Property, by virtue of a Charge registered on October 11, 2011 as Instrument No. AT2837716 in the Land Titles Division of the Land Registry Office of Toronto (No. 80).

9. **THIS COURT ORDERS** that the Administration Charge as defined in paragraph 33 of the Receivership Order be and is hereby preserved, notwithstanding the discharge of the CRO or the bankruptcy of the Companies. 205

10. **THIS COURT ORDERS** that notwithstanding, the pendency of these proceedings and the bankruptcies of each of the Companies, the Receiver's Charge and the Administration Charge shall be binding on any trustee in bankruptcy that may be appointed in respect of the Companies and shall not be void or voidable by creditors of the Companies, nor shall they constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

ENTERED AT / INSCRIT À TORONTO
 ON / BOOK NO:
 LE / DANS LE REGISTRE NO.:

DEC 05 2011

RECEIVED

John J.

SCHEDULE "A"

Court File No. CV-119430-00
Court File No. CL 31-1553272
Court File No. 31-1553274

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE PROPOSAL OF SEAQUEST CORPORATION
AND SEAQUEST CAPITAL CORPORATION**

INTERIM RECEIVER'S CERTIFICATE

A. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated November 3, 2011, BDO Canada Limited was appointed as the interim receiver (the "**Interim Receiver**") of all of the assets, undertakings and properties of Seaquest Corporation and Seaquest Capital Corporation (collectively the "**Companies**") acquired for, or used in relation to the Companies' business.

B. Pursuant to an Order of the Court dated December 2, 2011 (the "**Discharge Order**"), the Court approved the discharge of the Interim Receiver, pending (i) the payment of the amounts set out in the Discharge Order and (ii) the filing of a certificate by the Interim Receiver certifying that it has completed the other activities relating to the receivership of the Companies.

THE INTERIM RECEIVER CERTIFIES the following:

1. The payments contemplated by the Discharge Order have been made.
2. The Interim Receiver has completed all outstanding activities relating to the receivership of the Companies.

DATED: _____, 2011

BDO CANADA LIMITED, in its capacity as
Interim Receiver of the undertaking, property and assets
of SEAQUEST CORPORATION AND SEAQUEST CAPITAL CORPORATION, and
not in its personal capacity
Per:

Name:

Title:

BRIAN JOSEPH TUCKER, et al.
Plaintiffs

- and -
SEAQUEST CAPITAL CORPORATION, et al.
Defendants

AND IN THE MATTER OF THE PROPOSAL OF SEAQUEST
CORPORATION

AND IN THE MATTER OF THE PROPOSAL OF SEAQUEST
CAPITAL CORPORATION

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**PROCEEDING COMMENCED AT
TORONTO**

ORDER

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