



Action Nos. B200284
B200285
B200286
B200287

Vancouver Registry
Estate Nos. 11-2650763
11-2650762
112650761
11-2650764

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE BANKRUPTCIES OF
CONIAN DEVELOPMENTS INC.,
CONIAN DEVELOPMENTS (LA VODA) INC.
CONIAN DEVELOPMENTS (LA VODA II) INC. AND
FLII CONSTRUCTION LTD.

THIRD REPORT OF THE TRUSTEE

July 29, 2024

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BDO CANADA LIMITED
July 29, 2024**

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I. PURPOSE

1. This third report (“**Third Report**”) of BDO Canada Limited (the “**Trustee**” or “**BDO**”) has been prepared:
 - a) to provide this Honourable Court with an update on the Trustee’s activities since the date of its second report dated July 5, 2023 (the “**Second Report**”); and
 - b) in support of the Trustee’s application for an Order consolidating, for distribution purposes only, the Joint Debtor Estate with the BCCE Estate (as those terms are defined below).
2. This Third Report should be read in conjunction with the Trustee’s first report dated December 22, 2022 (the “**First Report**”) and the Second Report.
3. Unless otherwise indicated, capitalized terms in this Third Report have the same meaning given to them in the First Report and/or the Second Report.

II. BACKGROUND

4. As more particularly described in the First Report and the Second Report, Conian Developments Inc. (“**Conian**”), Conian Developments (La Voda) Inc. (“**La Voda I**”), Conian Developments (La Voda II) Inc. (“**La Voda II**”) and FLII Construction Ltd. (“**FLII**”, and together with Conian, La Voda I, and La Voda II, the “**Conian Entities**”) were assigned into bankruptcy on July 9, 2020 (collectively, in respect of the Conian Entities’ bankruptcy estates the “**Conian Estates**”).
5. McEown & Associates Ltd. (the “**Original Trustee**” or the “**BCCE Trustee**”) was appointed as trustee in the bankruptcy of the Conian Estates.
6. The Original Trustee is also the trustee in the bankruptcy of B.C. Currency Exchange Inc. (“**BCCE**”, and in respect of that entity’s bankruptcy estate, the “**BCCE Estate**”), an entity affiliated with, and with financial ties to, the Conian Estates. To avoid potential conflicts of interest arising from the Original Trustee acting as bankruptcy trustee for both BCCE and the Conian Estates, BDO was substituted as Trustee of the Conian Estates, in place of the Original Trustee.
7. Lawson Lundell LLP (“**Lawson Lundell**”) acts as legal counsel for the Trustee.
8. The estates of Conian, La Voda I, and La Voda II (collectively, the “**Joint Debtor Estate**”) were substantively and procedurally consolidated by Order pronounced on July 20, 2023.
9. By further Order pronounced July 20, 2023 (the “**CPO**”), this Court approved a claims process for the Conian Estates (the “**Conian Claims Process**”). As further described below, the Trustee has administered the Conian Claims Process and

adjudicated claims received, in accordance with the CPO. The Trustee has not yet completed its administration or proposed a distribution of funds, for the reasons set out in this Report.

III. ACTIVITIES OF THE TRUSTEE

10. Since the date of the Second Report, the Trustee's activities have included:
- a) Administering the Conian Claims Process;
 - b) Issuing Notices of Disallowance to creditors with non-compliant or unsatisfactory claims;
 - c) Reviewing appeals of disallowed claims;
 - d) Reviewing the BCCE Trustee's adjudication of the claim by Kuzco Lighting as creditor of the BCCE Estate, and an examination for discovery conducted in connection therewith;
 - e) Communicating with the inspectors of the Conian Estates (the "**Conian Inspectors**") and the BCCE Trustee, regarding the progress and results of the Conian Claims Process; and
 - f) Communicating generally with the Conian Inspectors and creditors of the Conian Estates.

IV. CLAIMS PROCESS

Overview of the Trustee's Administration of the Conian Claims Process

11. In accordance with the CPO, the Trustee:
- a) provided known lenders and creditors of the Conian Estates with a claims package, including a proof of claim form and instructions for completion; and
 - b) published notice of the Conian Claims Process in the Province Newspaper, to notify unknown lenders and creditors of the Conian Estates.
12. The Trustee fixed a Claims Bar Date of October 2, 2023, and communicated that date to all lenders and creditors of the Conian Estates.
13. As at October 2, 2023, the Trustee had received 69 proofs of claims. Of those claims:
- a) 60 were made in the Joint Debtor Estate; and
 - b) 9 were made in the FLII estate.
14. The CPO distinguishes between types of unsecured creditors as follows:
- a) "**Direct Lender**" means any Person or assignee who participated in the Loan Scheme by advancing funds directly to one or more of the Joint Debtors;

- b) **“Involuntary Lender”** means any Person or assignee who participated in the Loan Scheme by advancing funds to BCCE;
 - c) **“Ordinary Creditor”** means any Person other than a Lender who has a Claim against any of the Debtors;
15. As set out above and in the CPO, the Involuntary Lender class encompasses all persons whose funds were initially advanced into BCCE, and subsequently transferred to or used by one or more of the Conian Entities, including:
- a) investors who advanced funds into BCCE with the expectation that those funds would be used by the Conian Entities for La Voda Projects and general real estate development purposes; and
 - b) customers and lenders who advanced funds to BCCE in the ordinary course of BCCE’s business, on the expectation of recovering interest or other benefits, and with no expectation that those funds would be transferred to or used by the Conian Entities.
16. As required under the CPO, the Trustee segregated and adjudicated claims based on claim and creditor type. In particular (using defined terms set out in the CPO), the Trustee received:
- a) 2 Direct Lender claims;
 - b) 42 Involuntary Lender claims totalling \$18,057,388 CAD and \$1,447,600 USD;
 - c) 16 Ordinary Creditor claims in the Joint Debtor Estate; and
 - d) 9 Ordinary Creditor claims in the FLII estate.
17. Of those claims it received, the Trustee admitted:
- a) 2 Direct Lender and 13 Ordinary Creditor claims in the Joint Debtor Estate, totalling approximately \$12,019,000; and
 - b) 8 Ordinary Creditor claims in the FLII estate, totalling approximately \$248,000.
18. Of those claims it received, the Trustee disallowed:
- a) 3 Ordinary Creditor claims in the Joint Debtor Estate totalling approximately \$864,945; and
 - b) 1 Ordinary Creditor claim in the FLII estate, totalling approximately \$682,000.
19. One Ordinary Creditor has appealed the disallowance of her claim in both the Joint Debtor Estate and the FLII Estate, which appeal is expected to be heard in October 2024.

20. As mandated by the CPO, the Trustee disallowed all Involuntary Lender claims.
21. To date, the Trustee has not distributed any funds on account of admitted claims, and continues to hold those amounts in trust.

A spreadsheet summarizing the number and quantum of claims received, allowed, and disallowed by the Trustee is attached hereto as **Appendix A**.

Trustee's Rationale for and Expectations of the Conian Claims Process

22. The Second Report describes the Ponzi or Ponzi-like lending scheme (the "**Loan Scheme**") facilitated by Rana Khaliq, the common sole shareholder and director of Conian, La Voda I, La Voda II, FLII, and BCCE. In brief, Mr. Khaliq raised tens of millions of dollars from various investors and customers of his companies, which advances were supported by very little or no documentation. Generally, there was no objective, verifiable evidence that would allow the Trustee to determine whether creditor advances were intended as loans or equity investments, and no means of determining whether the funds were intended for (or used for) BCCE business or for the Conian Entities' real estate development business. As discussed in the Second Report, short of a forensic accounting review of the records that did exist (which would only address some of the Trustee's concerns, if any), the Trustee had no practical way of tracing individual advances of money to address these issues. The Trustee understands that a forensic review would be very expensive and would not provide any clarity on the issue of which funds, were advanced by who and to which entity.
23. Because Mr. Khaliq commingled funds paid to and otherwise received by those entities, without proper record or documentation of such transfers, administration of both the herein bankruptcy and the BCCE bankruptcy has been highly complicated. In particular, the Trustee and the BCCE Trustee struggled to develop and recommend claims processes for their respective estates, that would account for the commingling of funds and would result in a fair and equitable recovery for all impacted creditors. In service of those objectives, the Trustee designed the CPO to avoid disputes about whether certain advances of funds were intended as equity investments (which would result in \$nil recovery for those creditors, and would be unfair from the Trustee's perspective, in light of the Loan Scheme).
24. Before obtaining the CPO, as further described in the Second Report, the Trustee collected preliminary Lender Information Summaries from creditors of the Conian Estates. Based on those Lender Information Summaries and a preliminary forensic review of the limited accounting records maintained in respect of Mr. Khaliq's companies, conducted by Ernst & Young, and in consultation with the BCCE Trustee, the Trustee recommended the Conian Claims Process, designed primarily to facilitate recovery for Direct Lenders and Ordinary Creditors of the Conian Entities.

25. To facilitate recovery for Involuntary Lenders and other creditors of BCCE, the Conian Claims Process contemplated that the BCCE Trustee would advance the BCCE Claim (as defined in the CPO), to recover funds transferred from BCCE to the Conian Entities for the BCCE Estate (then estimated to be approximately \$15,000,000), which funds would then, in turn, be distributed to Involuntary Lenders and other creditors of BCCE with proven claims in the BCCE Estate. To that end, as confirmed by the CPO, the Conian Claims Process required that Involuntary Lender claims be disallowed, and advanced instead in the BCCE Estate, to be adjudicated by the BCCE Trustee.
26. Based on the Lender Information Summaries and its discussions with the BCCE Trustee to that point, the Trustee anticipated, when it applied for the CPO, that the Conian Claims Process would result in substantially equivalent recovery for Direct Lenders, Involuntary Lenders, and Ordinary Creditors alike (proportionate to their losses). In other words, the Trustee sought approval of the Conian Claims Process on the basis that it would result in the most fair and equitable recovery for all those affected by the Loan Scheme.

Claims Adjudication Results

27. Following its adjudication of claims received, and contrary to what the Trustee anticipated based on the Lender Information Summaries and its initial discussions with the BCCE Trustee, the Trustee has determined that:
 - a) a majority of claims made in the Conian Estates were Involuntary Lender claims; and
 - b) the net amount advanced by BCCE to the Conian Entities—and therefore the value of the BCCE Claim—is closer to \$10,000,000 (rather than the original estimate of \$15,000,000).
28. In light of these determinations, if funds are distributed strictly in accordance with the CPO, the Trustee estimates that Involuntary Lenders and other creditors in the BCCE Estate, including those who did and who did not intend that their funds be transferred to or used by the Conian Entities, will recover significantly less (proportionately) than Direct Lenders and Ordinary Creditors of the Joint Debtor Estate. In the Trustee's view, that would be an unfair and inequitable result, having regard to the nature of the Loan Scheme, and its impact on those groups. Specifically, the Trustee is concerned that distribution in accordance with the CPO will result in undue prejudice to Involuntary Lenders and other creditors in the BCCE Estate, as compared to Direct Lenders and Ordinary Creditors in the Joint Debtor Estate, based on the arbitrary and largely undocumented commingling of funds amongst BCCE and the Conian Entities, through no fault of any creditor.

Involuntary Lender Appeals

29. In light of its concerns, and in discussions with the Conian Inspectors, as described further below, the Trustee determined in or around April 2024 that it would seek an order amending the CPO, to consolidate the distribution processes of the Joint Debtor Estate and the BCCE Estate (the “**Intended Consolidation Application**”).
30. The CPO precludes any appeal from the disallowance of an Involuntary Lender claim in the Joint Debtor Estate (such claims being disallowed and redirected to the BCCE Estate by definition, rather than on their merits). However, in order to avoid any potential prejudice to Involuntary Lenders pending application for the Intended Consolidation Application, the Trustee applied for and obtained extensions of the deadline, if any, for Involuntary Lenders to appeal the Trustee’s disallowance of their claims. Pursuant to an Order pronounced April 25, 2024, that deadline was extended to July 31, 2024.
31. Because its Intended Consolidation Application has not yet been determined, the deadline was further extended to August 22, 2024, by Order pronounced July 25, 2024.

V. CONCERNS OF THE CONIAN INSPECTORS

Treatment of Involuntary Lenders Under the CPO

32. As set out above, the Trustee disallowed all Involuntary Lender claims it received, in accordance with the CPO, which mandates that Involuntary Lender claims be dealt with instead in the BCCE Estate, by the BCCE Trustee (and, if allowed, paid from funds in the BCCE Estate, including any amount recovered by way of the BCCE Claim).
33. Following the Trustee’s disallowance of all Involuntary Lender claims, the Conian Inspectors told the Trustee that they considered the Conian Claims Process to be unfair, insofar as it concerned the treatment of Involuntary Lender claims.
34. Before the CPO was pronounced, the Trustee provided the Conian Inspectors with a draft thereof. At the Fourth Meeting of Inspectors, the Conian Inspectors passed a resolution favouring approval of the CPO (the “**Approval Resolution**”).
35. However, the Conian Inspectors have now indicated they did not read the draft CPO before passing the Approval Resolution, and instead relied on the Trustee’s description of its terms. In that regard, the Conian Inspectors have suggested that the Trustee and Lawson Lundell deliberately misled them about how Involuntary Lender claims (including their own) would be handled under the Conian Claims Process. In particular, they say the Trustee and its counsel should have, but did not, explain to them that the CPO requires the disallowance of all Involuntary Lender claims made in the Joint Debtor Estate, and directs the submission and adjudication of those claims in the BCCE Estate instead.

36. As the Trustee understands it, the Conian Inspectors are now (and say they were, when they passed the Approval Resolution) of the view that Involuntary Lenders who intended that their funds be used to fund the La Voda Projects and other activities of the Conian Entities, should be treated as Direct Lenders, even if their funds were initially advanced to BCCE.
37. The Conian Inspectors take particular issue with the use of the term “Involuntary” to describe these types of lenders. They say that the ordinary meaning of “Involuntary” is inconsistent with the nature of an investment that was knowingly paid and intended to fund the La Voda Projects and other activities of the Conian Entities.
38. For clarity, the Conian Inspectors do not contend that the Trustee has misapplied or misinterpreted the CPO as it concerns Involuntary Lender claims. They agree that the CPO requires that Involuntary Lender claims be disallowed and redirected to the BCCE Estate, but say that the Conian Claims Process is unfair and inappropriate in that regard. The Conian Inspectors believe Involuntary Lender claims should be adjudicated in, and paid out from, the Joint Debtor Estate.
39. The Trustee denies that it misled the Inspectors, with respect to the treatment of Involuntary Lenders under the Conian Claims Process or at all. On the contrary, the Trustee says that it fully and completely explained the draft CPO to the Conian Inspectors before they passed the Approval Resolution, including the fact that it required the disallowance of Involuntary Lender Claims, and acted at all material times in accordance with its duties, including under the *Bankruptcy and Insolvency Act* and the CPO.
40. In any event, as set out above, the Trustee’s view is that distribution in accordance with the Conian Claims Process is likely to result in unfairness to Involuntary Lenders. The Trustee and the Conian Inspectors share the view that the CPO should therefore be amended, but disagree about how (as described further below).

Kuzco Lighting Claim

41. A significant issue throughout the administration of the herein bankruptcy has been a proof of claim for CAD \$7,534,250 and USD \$1,307,891 (collectively, CAD \$9,373,929, applying the exchange rate as of May 1, 2020), submitted by Kuzco Lighting Inc. (“Kuzco”, and in respect of the claim, the “Kuzco Claim”), in the BCCE Estate, and allowed by the BCCE Trustee. The Kuzco Claim is the largest creditor claim in the BCCE Estate, and comprises a significant portion of the BCCE Claim. As such, payment out of the Kuzco Claim will reduce the recovery of creditors other than Kuzco, in the BCCE Estate and the Conian Estates. Conversely, disallowance of the Kuzco Claim would materially increase other creditors’ recoveries.

42. Kuzco operates as a retail lighting company, with operations in Canada and the United States. Kuzco was a frequent customer of BCCE's currency exchange business, and party to a significant volume of foreign exchange transactions with BCCE, largely in connection with Kuzco's international operations.
43. Throughout the herein administration, the Conian Inspectors have raised concerns about the validity of the Kuzco Claim, and have repeatedly requested that the Trustee independently investigate that claim, and the BCCE Trustee's adjudication thereof. The Conian Inspectors have further requested that the Trustee hold back a portion of the dividend with respect to the BCCE Claim until such investigation has concluded.
44. At the behest of the Conian Inspectors, the Trustee requested that the BCCE Trustee's legal counsel conduct an examination of the principal of Kuzco, pursuant to Section 163 of the *Bankruptcy and Insolvency Act*, to investigate the validity of the claim, which it did (the "**Kuzco Examination**").
45. Together with Lawson Lundell, the Trustee reviewed the transcript from the Kuzco Examination, and found no evidence of illegitimate practices, or other material issues that would undermine the Kuzco Claim.
46. The Trustee also independently reviewed the Kuzco Claim, a summary of transactions between Kuzco and BCCE from October 2010 to April 2020, and the BCCE Trustee's adjudication thereof, including by considering documents submitted by Kuzco in support of its claim, and discussions as between Kuzco and the BCCE Trustee. The Trustee does not have any material concerns with the BCCE Trustee's adjudication of, or decision to allow, the Kuzco Claim.
47. The Trustee appreciates the concerns of the Conian Inspectors with respect to the Kuzco Claim, but must balance those concerns against the expense and limited utility of further investigating its validity, particularly because it is a claim in the BCCE Estate, and not any of the Conian Estates.
48. In the Trustee's view, it has adequately investigated the Kuzco Claim, and it would be inappropriate to spend further estate funds in that regard.

VI. PROPOSED CONSOLIDATION

Options Considered by the Trustee to Resolve Potential Unfairness

49. Accounting for the volume of Involuntary Lender Claims received and redirected to the BCCE Estate, and the projected value of the BCCE Claim, the Trustee estimates recovery by creditors in the Joint Debtor Estate and the BCCE Estate, net of priority payables, holdbacks for professional fees, and estate costs, under the current CPO as follows:
 - a) Joint Debtor Estate – 49% recovery of proven losses

b) BCCE Estate – 16% recovery of proven losses

50. In light of its concerns about potential unfairness arising from the Conian Claims Process, and based on the Conian Inspectors' concerns regarding treatment of Involuntary Lenders, the Trustee explored the possibility of amending the CPO to achieve a more fair and equitable outcome, in consultation with the BCCE Trustee and the Conian Inspectors. Ultimately, the Trustee identified and considered two potential amendments to the CPO, as described further below.

Option 1 - Take Back Involuntary Lenders Group

51. As set out above, the Conian Inspectors have suggested that Involuntary Lenders who advanced funds to BCCE, but did so knowing and intending that those funds would be used for the La Voda Projects and other activities of the Conian Entities should be treated as Direct Lenders, and their claims adjudicated in, and paid out from, the Joint Debtor Estate. Based on the Conian Inspectors' input, the Trustee considered whether it would be appropriate to amend the CPO, to retain all Involuntary Lender claims in the Joint Debtor Estate, rather than redirecting those to be dealt with in the BCCE Estate (the "**Take-Back Option**").
52. The Trustee recognizes that there are creditors with claims in the BCCE Estate who, like the Involuntary Lenders who submitted claims in the Joint Debtor Estate, advanced money to BCCE with the expectation that those funds would be used to fund the La Voda Projects and other activities of the Conian Entities. In the Trustee's view, it would be arbitrary and unfair for the Trustee to retain Involuntary Lenders in the Joint Debtor Estate, but exclude creditors in the BCCE Estate, with substantively identical claims, especially because those creditors were expressly excluded from the Conian Claims Process under the CPO. In other words, it would be inappropriate to retain Involuntary Lenders who filed claims in the Joint Debtor Estate contrary to the CPO, and exclude those who complied with that court-approved process and filed in the BCCE Estate instead. Under the Take-Back Option, therefore, the Trustee would need to both retain the Involuntary Lenders *and* receive claims in the BCCE Estate, by creditors whose funds were, without their knowledge or intention, transferred to or used by the Conian Entities.
53. Additionally and in any event, it would be virtually impossible for the Trustee to objectively assess claims based on the creditor's subjective intentions or expectations as to how and by which entity their funds would be used. For many such claims, documentation purporting to confirm those intentions is non-existent or not contemporaneous with the transfer of funds, meaning that, if it were to differentiate between Involuntary Lenders who meant for their funds to go to the Conian Entities and those who did not, the Trustee would be adjudicating claims (to the benefit and corresponding detriment of particular creditors) based on uncorroborated creditor reports as to their subjective intentions and expectations.

54. The Trustee estimates recovery by creditors in the Joint Debtor Estate and the BCCE Estate under the Take-Back Option as follows:
- a) Joint Debtor Estate – 19% recovery of proven losses
 - b) BCCE Estate – 17% recovery of proven losses

Option 2 – Consolidation of Distribution

55. The second option considered by the Trustee, and the one it recommends, is a consolidation of the Joint Debtor Estate and the BCCE Estate for distribution purposes only (the “**Proposed Consolidation**”).
56. Under the Proposed Consolidation:
- a) The assets of the Joint Debtor Estate and the BCCE Estate will be treated as common assets (the “**Consolidated Fund**”) for the purposes of distributing property to any creditor with a proven claim in either the Joint Debtor Estate or the BCCE Estate, on a pro rata basis.
 - b) The assets of the FLII estate will remain separate from the Consolidated Fund, and creditors with proven claims in the FLII Estate will receive a distribution of property from the FLII estate, and not from the Consolidated Fund.
 - c) The BCCE Trustee will abandon the BCCE Claim (that claim being no longer relevant, as estate funds will be consolidated).
 - d) The Trustee and the BCCE Trustee will each remain responsible for adjudication of claims filed in their respective estates.
 - e) Involuntary Lender claims filed in the Joint Debtor Estate will be adjudicated by the Trustee on their merits, rather than categorically disallowed.
 - f) The Trustee and the BCCE Trustee will each review and provide each other with non-binding feedback in respect of their adjudication of claims.
 - g) The Trustee will administer the Consolidated Fund, and facilitate distributions to all creditors with proven claims, regardless of whether their claims were made in the Joint Debtor Estate or the BCCE Estate.
57. The Trustee estimates recovery by creditors in the Joint Debtor Estate and the BCCE Estate under the Proposed Consolidation as follows:
- a) Joint Debtor Estate – 20% recovery of proven losses

- b) BCCE Estate – 20% recovery of proven losses
58. The Trustee recommends that the CPO be amended in accordance with the Proposed Distribution because, among other things, it:
- a) treats all unsecured creditors affected by the Loan Scheme equally, without undue preference, in accordance with the *BIA* priority scheme;
 - b) addresses the principal concerns of the Trustee and the Conian Inspectors, regarding exclusion of Involuntary Lenders from the Conian Claims Process; and
 - c) provides for a cost-effective and efficient process that ensures fair and equal treatment of claims advanced in the BCCE Estate and the Joint Debtor Estate, including by reducing anticipated professional fees associated with completing the Trustee's administration.
59. The BCCE Trustee and its inspectors support the Proposed Consolidation, as it would result in substantially equivalent recovery for creditors of the BCCE Estate as for those of the Joint Debtor Estate.
60. A spreadsheet detailing estimated distributions to creditors of the Joint Debtor Estate and the BCCE Estate under the current CPO, the Take-Back Option, and the Proposed Consolidation is attached hereto as **Appendix B**.

The Conian Inspectors' Objections and Alternative Proposal

61. The Trustee discussed both the Take-Back Option and the Proposed Consolidation with the Conian Inspectors in detail, over the course of multiple inspectors meetings. The Trustee explained the benefits and key points of the Proposed Consolidation, as set out above.
62. The Trustee further emphasized the need to proceed with administration of the herein bankruptcy without further delay.
63. Ultimately, the Conian Inspectors indicated that they do not support either of those options, and refused to pass a resolution approving the Trustee's intended application for approval of the Proposed Consolidation. In fact, the Conian Inspectors have confirmed that they will oppose any application by the Trustee to amend the CPO in accordance therewith. In particular, the Trustee understands that the Conian Inspectors are opposed to the Proposed Consolidation because:
- a) they do not believe that certain creditors of the BCCE Estate, including Kuzco, should be eligible to participate in a dividend distribution from the Joint Debtor Estate; and

- b) in their view, creditors who advanced funds (whether to BCCE or to the Conian Entities) for the specific and intentional purpose of funding the La Voda Projects or other activities of the Conian Entities, should receive a greater recovery from the Joint Debtor Estate than other groups of unsecured creditors.
64. During the Sixth Meeting of Inspectors, the Conian Inspectors requested time to present alternative amendments to the Conian Claims Process that, in their view, would result in a more appropriate outcome for stakeholders. The Trustee agreed to hear from the Conian Inspectors in that regard, and the Conian Inspectors proposed three alternative amendments as follows (to the best of the Trustee's understanding):
- a) Proposal 1:
 - i. The definition of "Direct Lender" under the Conian Claims Process will be expanded to include Involuntary Lenders who intended that funds they advanced to BCCE would be transferred to, or otherwise used by, the Conian Entities, such that those Involuntary Lenders will receive a distribution from the Joint Debtor Estate;
 - ii. The claims of all other Involuntary Lenders (in other words, those who did not intend that their funds would be transferred from BCCE to, or otherwise used by, the Conian Entities) and of all BCCE creditors who do not fall within the Involuntary Lender category (for example, Kuzco) will remain in the BCCE Estate, such that those creditors will not receive any distribution from the Joint Debtor Estate; and
 - iii. The BCCE Claim will be reduced to approximately \$754,000, which amount was calculated by the Conian Inspectors as the difference between the BCCE Claim and the preliminary proven Involuntary Lender claims.
 - b) Proposal 2:
 - i. All Involuntary Lender claims will be dealt with in, and paid out from, the Joint Debtor Estate;
 - ii. The claims of all BCCE creditors who do not fall within the Involuntary Lender category (for example, Kuzco) will remain in the BCCE Estate, such that those creditors will not receive any distribution from the Joint Debtor Estate; and

- iii. The BCCE Claim will be reduced to nil, such that no funds that were transferred from BCCE to the Conian Entities will be available for distribution to creditors of the BCCE Estate.

c) Proposal 3:

- i. All Involuntary Lender claims, and claims by BCCE creditors up to a maximum amount of approximately \$5,000,000, will be dealt with in, and paid out from, the Joint Debtor Estate;
- ii. All other claims of BCCE creditors, over and above the approximate \$5,000,000 amount, will remain in the BCCE Estate, such that those creditors will not receive any distribution from the Joint Debtor Estate; and
- iii. The BCCE Claim will be reduced to nil, such that no funds that were transferred from BCCE to the Conian Entities will be available for distribution to creditors of the BCCE Estate

(collectively, the “**Inspectors’ Proposals**”)

- 65. A spreadsheet detailing the particulars of the Inspectors’ Proposals, as provided by the Conian Inspectors to the Trustee, is attached hereto as **Appendix C**.
- 66. Under each of the Inspectors’ Proposals, creditors in the Joint Debtor Estate and the BCCE Estate (as those categories are sought to be amended) would receive estimated distributions as follows:

a) Proposal 1:

- i. Joint Debtor Estate – 48.62% recovery of proven losses
- ii. BCCE Estate – 5.14% recovery of proven losses

b) Proposal 2:

- i. Joint Debtor Estate – 30.71% recovery of proven losses
- ii. BCCE Estate – 5.92% recovery of proven losses

c) Proposal 3:

- i. Joint Debtor Estate – 28.57% recovery of proven losses
- ii. BCCE Estate – 8.57% recovery of proven losses

67. The Conian Inspectors rationalize the Inspectors' Proposals by looking selectively at certain periods of time during which funds were transferred from BCCE to the Conian Entities, and the source of those funds. Essentially, the Conian Inspectors contend that (to the best of the Trustee's understanding), between 2019 and the date of the herein bankruptcies, a relatively small amount was transferred from BCCE to the Conian Entities, as compared to earlier years, when a much higher volume of funds were moved from BCCE to the Conian Entities. On that basis, they say that no creditor who advanced funds to BCCE during the period immediately preceding bankruptcy should recover from funds now in the Joint Debtor Estate, since the Joint Debtor Estate is mostly comprised of funds transferred in before those creditors' investments were made. Instead, those more recent creditors should be paid out only from those funds still remaining in the BCCE Estate.
68. The Trustee notes that one could seek to justify any number of proposed distributions by selectively considering only certain periods of time, and transactions as between BCCE and the Conian Entities during those periods. That exercise is particularly arbitrary and inappropriate when dealing with an arrangement like the Loan Scheme, where funds were commingled liberally, without proper record of transfers, and without the knowledge or consent of those who injected the subject funds. In the Trustee's view, no creditor should be prejudiced by arbitrary decisions by Mr. Khaliq as to how and when to commingle funds.
69. In the Trustee's view, the Inspectors' Proposals cannot be accepted, because they:
- a) would result in an arbitrary and unlawful preference for certain Direct Lenders and Involuntary Lenders over other unsecured creditors (including Involuntary Lenders who advanced funds to BCCE without intending that those be used to fund the La Voda Projects or other activities of the Conian Activities, and Ordinary Creditors), contrary to the *BIA*;
 - b) would impose an untenable evidentiary burden on creditors who would have to prove (or disprove) their subjective intentions at the time of advancing funds to BCCE or the Conian Entities, as the case may be (which, in turn, would impose on the Trustee a very complicated adjudicative task);
 - c) are designed to reduce recoveries to those creditors who the Conian Inspectors perceive as less deserving of pro rata distributions (including

Kuzco), based on their subjective views of fairness, rather than legislated priorities;

- d) are based on the Conian Inspectors' arbitrary and selective consideration of only certain periods during which funds were transferred from BCCE to the Conian Entities; and
- e) would reduce recovery for creditors of the BCCE Estate, and will not, therefore, be supported by the BCCE Trustee or its inspectors.

70. At the request of the Conian Inspectors, the Trustee presented the Inspectors' Proposals to the BCCE Trustee for its consideration. The BCCE Trustee confirmed that it will not support any application to amend the CPO in accordance with the Inspectors' Proposals.

Conian Inspectors' Conflict of Interest

- 71. The Trustee notes that each of the Conian Inspectors is, or is a representative of, an Involuntary Lender. As set out in the Second Report, the Trustee has maintained concerns throughout its administration of the herein bankruptcy, about the Conian Inspectors' apparent conflict of interest. In particular, the Trustee has been concerned that the Conian Inspectors might attempt to influence the bankruptcy and claims adjudication process to produce a more favourable result for themselves as creditors, which self-interest might impact their ability to act impartially.
- 72. The Trustee is concerned that, in opposing the Proposed Consolidation, and advocating for the Inspectors' Proposal instead, the Conian Inspectors may be acting out of motivation to maximize their recovery as creditors, even if that is contrary to the best interests of stakeholders more broadly.
- 73. Throughout discussions regarding the disallowance of Involuntary Lender claims and proposed amendments to the CPO from both the Trustee and the Conian Inspectors, the Conian Inspectors have repeatedly accused the Trustee of misconduct, including by deliberately deceiving the Conian Inspectors. As set out above, the Trustee wholly disputes those allegations.
- 74. The Trustee had reiterated to the Conian Inspectors that while they perform a supervisory and consultative function, it is not the role of the Conian Inspectors to influence the Trustee for their preferred outcome, adjudicate claims, or to mandate the Trustee's actions with respect to the administration of the Joint Debtor Estate.
- 75. The Trustee has experienced increasing difficulty in obtaining the attendance and cooperation of the Conian Inspectors to progress administration matters, particularly with respect to the Conian Claims Process. These challenges have resulted in increased delays and expense, which have, in turn, been challenged by the Conian

Inspectors, and cited as a basis for their refusal to approve the Trustee's fees and those of Lawson Lundell.

76. The Trustee reiterates its concerns as set out in the Second Report, that the Conian Inspectors may need to be replaced as inspectors of the Conian Estates or, at minimum, abstain from voting on certain resolutions, should their individual interests as creditors impede their objectivity and ability to act in the best interests of stakeholders generally.
77. The Trustee is specifically concerned that, if this Court does not approve the Inspectors' Proposal, the Conian Inspectors may cease to approve the Trustee and legal professional fees, attend inspectors meeting, and otherwise progress the administration.

VII. RELIEF SOUGHT

78. The Trustee seeks an Order varying the Conian Claims Process in accordance with Proposed Consolidation.
79. All of which is respectfully submitted this 29th day of July, 2024.

BDO Canada Limited

in its capacity as the Trustee of
Conian Developments Inc., Conian Developments (La Voda) Inc.,
Conian Developments (La Voda II) Inc., and FLII Construction Ltd.
and not in its personal capacity

Per:



Martin Chan, CPA, CGA, CFE
Senior Manager



Appendices



Appendix A

Claims Received:	#	Amount (CAD)	Amount (USD)
Consolidated Estate			
Direct Lenders	2	1,487,000.00	-
Involuntary Lenders	42	18,057,000.00	1,447,000.00
Ordinary Creditor	16	16,377,000.00	-
FLII Estate			
Ordinary Creditor	9	932,000.00	-

Admitted claims:	#	Amount (CAD)	Amount (USD)
Consolidated Estate			
Direct Lenders	2	1,487,000.00	-
Ordinary Creditor	13	10,532,000.00	-
FLII Estate			
Ordinary Creditor	8	248,000.00	-

Disallowed claims:	#	Amount (CAD)	Amount (USD)
Consolidated Estate			
Ordinary Creditor	3	827,000.00	-
FLII Estate			
Ordinary Creditor	1	682,000.00	-



Appendix B



Appendix B

	Current CPO	Option 1 Take back Involuntary Lender	Option 2 Proposed Consolidation
Joint Debtor Estate			
Funds in Joint Debtor Estate	6,761,215.41	6,761,215.41	7,761,215.41
Less: WEPP Super Priority	4,000.00	4,000.00	4,000.00
Less: Professional fees to end of estate	400,000.00	400,000.00	200,000.00
Less: Reserves	450,000.00	450,000.00	50,000.00
Available for unsecured distribution	5,907,215.41	5,907,215.41	7,507,215.41
Less: OSB Levy	72,748.04	72,748.04	77,768.24
Net available for unsecured distribution	5,834,467.37	5,834,467.37	7,429,447.17
Unsecured Creditors:			
Conian Direct Lenders and Ordinary Creditors, exclude BCCE Claim	2,019,000.00	2,019,000.00	2,019,000.00
BCCE Claim	10,000,000.00	10,000,000.00	-
Preliminary Admitted Involuntary Lenders (Conian)	-	9,245,520.05	9,245,520.05
Lenders (BCCE)		9,709,015.86	9,709,015.86
Other BCCE unsecured creditors (non-lenders)	-	-	16,892,152.98
Unsecured Totals - Joint Debtor Estate	12,019,000.00	30,973,535.91	37,865,688.89
Estimated % dividend - for Joint Debtor Estate	49%	19%	20%

BCCE Estate			
Funds in BCCE Estate	1,000,000.00	1,000,000.00	-
Dividend from Joint Debtor Estate	4,854,370.06	1,883,694.32	-
Available funds for unsecured distribution	5,854,370.06	2,883,694.32	-
Unsecured Creditors:			
Preliminary Admitted Involuntary Lenders (Conian)	9,245,520.05	-	-
Lenders (BCCE)	9,709,015.86	-	-
Other BCCE unsecured creditors (non-lenders)	16,892,152.98	16,892,152.98	-
Unsecured Totals - BCCE	35,846,688.89	16,892,152.98	-
Estimated % dividend - for BCCE	16%	17%	20%



Appendix C

Approaches	#2	#3	#4	#5	
Line 22 percentage	0%	0%	30%		
	Current CPO	Revised Def'n Conian Lender	Take in Lenders (BCCE)	semi-consolidate	Consolidation of Distribution
Conian Estate					
Funds in Conian Estate	6,761,215.41	6,761,215.41	6,761,215.41	7,761,215.41	7,761,215.41
Less: WEPP Super Priority	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00
Less: Professional fees to end of estate	400,000.00	400,000.00	200,000.00	200,000.00	200,000.00
Less: Reserves	450,000.00	450,000.00	50,000.00	50,000.00	50,000.00
Available for unsecured distribution	5,907,215.41	5,907,215.41	6,507,215.41	7,507,215.41	7,507,215.41
Less: OSB Levy	72,748.04	72,748.04	72,748.04	72,748.04	77,768.24
Net available for unsecured distribution	5,834,467.37	5,834,467.37	6,434,467.37	7,434,467.37	7,429,447.17
Unsecured Creditors:					
Conian Direct Lenders and Creditors	2,000,089.00	2,000,089.00	2,000,089.00	2,000,089.00	2,000,089.00
McTown BCCE Claim	10,000,000.00	754,479.95			
Involuntary Lenders (Conian)		9,245,520.05	9,245,520.05	9,245,520.05	9,245,520.05
Lenders (BCCE)			9,709,015.86	9,709,015.86	9,709,015.86
Other BCCE unsecured creditors (non-lenders)				5,067,645.89	16,892,152.98
Unsecured Totals - Conian	12,000,089.00	12,000,089.00	20,954,624.91	26,022,270.81	37,846,777.89
Estimated % dividend - for Conian creditors/lenders	48.62%	48.62%	30.71%	28.57%	20%
BCCE Estate					
Funds in BCCE Estate	1,000,000.00	1,000,000.00	1,000,000.00		
Dividend from Conian estate	4,862,020.08	366,829.67		1,447,807.85	
Available funds for unsecured distribution	5,862,020.08	1,366,829.67	1,000,000.00	1,447,807.85	
Unsecured Creditors:					
Involuntary Lenders (Conian)	9,245,520.05				
Lenders (BCCE)	9,709,015.86	9,709,015.86			
Other BCCE unsecured creditors (non-lenders)	16,892,152.98	16,892,152.98	16,892,152.98	16,892,152.98	
Unsecured Totals - BCCE	35,846,688.89	26,601,168.84	16,892,152.98	16,892,152.98	
Estimated % dividend - for BCCE creditors/lenders	16.3530%	5.1382%	5.9199%	8.5709%	