VANCOUVER
NOV 24 2016
SUPREME COURT SCHEDULING

No. S-169079
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C36, AS AMENDED

AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS WITH RESPECT TO THE COMPANIES LISTED ON SCHEDULE "A" HERETO

APPLICATION OF CHC GROUP LTD.
UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

NOTICE OF APPLICATION

Name of Applicant: CHC Group Ltd.

To: 0921528 B.C. Ltd.

TAKE NOTICE that an application will be made by CHC Group Ltd. ("**CHC Group**" or the "**Applicant**") to the presiding judge at the courthouse at 800 Smithe Street, Vancouver, British Columbia on December 9, 2016 at 10:00 a.m. for the order set out in Part 1 below.

Capitalized terms not otherwise defined herein have the meanings ascribed to them in Affidavit #1 of Robert A. Del Genio filed in this proceeding on October 3, 2016.

Part 1: ORDER SOUGHT

1. The Applicant, in its capacity as foreign representative of the Debtors (as defined below), seeks an Order:

(a) declaring that the proper jurisdiction and legal process for adjudicating the disclaimer or rejection of the Boundary Bay Lease (as defined below), and any issues arising with respect to such disclaimer or rejection, is the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "**U.S. Bankruptcy Court**"); and

(b) granting such further and other relief as counsel may advise and this Honourable Court deems to be just and appropriate.

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Part 2: FACTUAL BASIS

2. On October 13, 2016, upon the application of CHC Group, in its capacity as foreign representative of CHC Global Operations (2008) ULC, CHC Global Operations Canada (2008) ULC, CHC Global Operations International ULC, Heli-One Canada ULC, Heli-One Leasing ULC (collectively, the "**Canadian Debtors**") and the other affiliated companies listed on Schedule "A" hereto (together with the Canadian Debtors, the "**Debtors**", and, together with their non-Debtor affiliates, "**CHC**" or the "**Company**"), this Court granted an Initial Recognition Order (Foreign Main Proceeding) and a Supplemental Recognition Order (Foreign Main Proceeding) (together, the "**Recognition Orders**").

3. The Recognition Orders, among other things: (i) recognized the Debtors' voluntary reorganization proceedings (the "**Chapter 11 Proceedings**") in the U.S. Bankruptcy Court as "foreign main proceeding"; (ii) recognized CHC Group as the "foreign representative" of the Debtors; (iii) recognized certain orders granted by the U.S. Bankruptcy Court in the Chapter 11 Proceedings; and (iv) stayed all proceedings against the Canadian Debtors and their directors and officers.

4. The Petition for the Recognition Orders and supporting affidavits filed by CHC Group advised this Court and interested parties that one focus of the Debtors' restructuring efforts is the status of the lease for Heli-One Canada ULC's Boundary Bay facility in Delta, British Columbia (the "**Boundary Bay Lease**") and that, failing a negotiated restructuring of its terms, the Debtors anticipated (i) that the Boundary Bay Lease would likely be rejected through a motion before the U.S. Bankruptcy Court or pursuant to the Debtors' chapter 11 plan; and (ii) that Heli-One Canada ULC anticipated that it would commence taking steps to vacate the premises subject to the Boundary Bay Lease over the next several weeks in order to allow for an orderly transition to new premises.

5. To date, Heli-One Canada ULC and 0921528 B.C. Ltd., the landlord (the "**Landlord**") under the Boundary Bay Lease, have not been able to reach a negotiated restructuring of the Boundary Bay Lease, and Heli-One Canada ULC has now entered into a lease for new smaller premises and commenced taking steps to vacate the premises subject to the Boundary Bay Lease.

6. CHC Group currently anticipates that a motion to reject the Boundary Bay Lease will be filed with the U.S. Bankruptcy Court during the month of November 2016. The Company will continue to pay the rent due under the Boundary Bay Lease until it has fully vacated the Boundary Bay facility, which it anticipates will take until the end of the year.

7. On November 3, 2016, the Landlord's legal counsel in the United States filed both a Motion for Admission *Pro Hac Vice* and a Notice of Appearance and Request for Service of Papers with respect to the Chapter 11 Proceedings and will accordingly be served with the Company's rejection motion.

8. The Company has negotiated a restructuring deal, including a Plan Support Agreement, Backstop Agreement and related term sheets (together, the **"Support Agreements"**), which involves a financial and fleet restructuring of the Debtors' business.

9. The Support Agreements represent a framework for a plan of reorganization that has the support of the Company's key creditors, including (i) the statutory committee of unsecured

creditors (the "**Official Committee of Unsecured Creditors**") appointed by the United States Trustee in the Chapter 11 Proceedings pursuant to the United States Code (the "**U.S. Bankruptcy Code**"), (ii) holders of over 67% of the 9.25% Senior Secured Notes due 2020, (iii) holders of over 73% of the of 9.375% Unsecured Notes, and (iv) the Milestone Aviation Group Limited, which is the Company's largest lessor, and certain of its affiliates (collectively, the "**Consenting Creditor Parties**").

10. Pursuant to the Plan Support Agreement, the Debtors are obligated to file a plan of reorganization incorporating the terms of the restructuring contemplated by the Support Agreements along with a disclosure statement by no later than November 11, 2016, and to obtain entry of an order confirming the plan of reorganization by no later than March 17, 2017, and to emerge from the Chapter 11 Proceedings in early 2017.

11. The restructuring contemplated by the Support Agreements is based upon a business plan which was developed in consultation with the Consenting Creditor Parties. That business plan, which can only be changed pursuant to the approval of a certain threshold of Consenting Creditor Parties, requires a reduction of costs across the Company's various business operations of approximately US $40 million. In the negotiations related to the business plan, a number of the Company stakeholders specifically raised the need to rationalize the Boundary Bay lease, and this is contemplated in the approved business plan.

12. If approved by the U.S. Bankruptcy Court and recognized by this Court, the rejection of the Boundary Bay Lease would provide material costs savings towards the cost reduction commitment contemplated by the Company's business plan.

13. CHC Group brings this application in order to establish a certain and efficient process for adjudicating any issues that may arise with respect to the rejection of the Boundary Bay Lease before the U.S. Bankruptcy Court in accordance with the principles governing cross-border insolvency proceedings.

Part 3: LEGAL BASIS

This Court has the jurisdiction to grant the relief requested by the Applicant

1. Pursuant to Part IV (*Cross-Border Insolvencies*) of the CCAA, this Court may, if it is satisfied that that it is necessary for the protection of a debtor company's property or the interests of a creditor or creditors, make any order that it considers appropriate.

CCAA, §§49(1) and 50.

2. Consistent with the CCAA being remedial legislation, the Court's authority to make further orders under Part IV of the CCAA should be given a liberal interpretation to facilitate the purpose of the CCAA generally and the purpose of Part IV specifically.

***Babcock & Wilcox Canada Ltd.*, (2000), 18 C.B.R. (4th) 157 (Ont. S.C.J. [Commercial List) [*Babcock*], ¶11.**

Purpose of the CCAA cross-border regime

3. Section 44 of the CCAA states that the purpose of the CCAA's cross-border regime is to promote:

(a) cooperation between the courts and other competent authorities in Canada with those of foreign jurisdictions in cases of cross-border insolvencies;

(b) greater legal certainty for trade and investment;

(c) the fair and efficient administration of cross-border insolvencies that protects the interests of creditors and other interested persons, and those of debtor companies;

(d) the protection and the maximization of the value of debtor company's property and

(e) the rescue of financially troubled business to protect investment and preserve employment.

4. The underlying basis of Part IV of the CCAA is the doctrine of comity and cooperation between courts of various jurisdictions.

***Babcock*, ¶21.**

The doctrine of comity

5. The Supreme Court of Canada has emphasized the following principles as being representative of the doctrine of comity as recognized by Canadian courts:

(a) The principle of comity is not an end in itself but is rather grounded in the notion of order and fairness to participants in litigation with connections to multiple jurisdictions.

(b) The principle of comity calls for the promotion of order and fairness, an attitude of respect and deference to other states, and a degree of stability and predictability in order to facilitate reciprocity.

(c) The application of the principle of comity will often involve a "balancing exercise" between respect for a nation's acts, international duty, convenience and protection of a nation's citizens.

(d) As cross-border transactions and interactions continue to multiply, comity requires an increasing willingness on the part of courts to recognize the acts of other states.

(e) A generous application of comity is essential to allow individuals and companies to conduct international business without worrying that their participation in such relationships will jeopardize or negate their legal rights.

***Chevron Corp. v Yaijuaje*, 2015 SCC 42, ¶¶42, 52, 53, and 75.**

The need for comity in the context of cross-border insolvencies

6. Consistent with the principles of comity set out above, Canadian courts have made efforts to complement, coordinate and, where appropriate, accommodate the proceedings of U.S. bankruptcy courts in a number of cross-border insolvency cases, including by allowing the U.S. bankruptcy court to exercise principal jurisdiction over a multi-jurisdictional insolvency process. U.S. bankruptcy courts have shown themselves willing to grant comity to Canadian courts in similar circumstances.

Babcock, ¶¶9-11.
Roberts v. Picture Butte Municipal Hospital, (1998) 4 W.W.R. 443 (A.B.Q.B.), ¶21.

7. In considering whether a foreign court should exercise principal control over a cross-border insolvency process in accordance with the principles of comity, a Canadian court will consider whether the operations of a debtor are most closely connected to a foreign jurisdiction and whether Canadian operations are inextricably linked with the business located in that foreign jurisdiction.

Lear Canada (Re), (2009) 55 C.B.R. (5th) 57 (Ont. SCJ [Commercial List]), ¶15.

8. The objective of coordination between Canadian and foreign courts in the context of insolvency proceedings is to ensure that creditors are treated as equitably and fairly as possible, *wherever they are located.*

Matlack Inc. (Re), (2001) 26 C.B.R. (4th) 45 (Ont. SCJ [Commercial List]), ¶3.

9. The following factors, among others, have been referenced by Canadian courts as guidelines as to how issues arising from cross-border insolvencies should be addressed:

(a) The recognition of comity and cooperation between the courts of various jurisdictions are to be encouraged.

(b) Respect should be accorded to the overall thrust of foreign bankruptcy and insolvency legislation in any analysis, unless in substance generally it is so different from the bankruptcy and insolvency law of Canada or perhaps because the legal process that generates the foreign order diverges radically from the process here in Canada.

(c) All stakeholders are to be treated equitably, and to the extent reasonably possible, common or like stakeholders are to be treated equally, regardless of the jurisdiction in which they reside.

(d) The enterprise is to be permitted to implement a plan so as to reorganize as a global unit, especially where there is an established interdependence on a transnational basis of the enterprise and to the extent reasonably practicable, one jurisdiction should take charge of the principal administration of the enterprise's reorganization, where such principal type approach will facilitate a potential reorganization and which respects the claims of the stakeholders and does not inappropriately detract from the net benefits which may be available from alternative approaches.

(e) Stakeholders in the ancillary jurisdiction should be afforded appropriate access to the proceedings in the principal jurisdiction.

***Babcock*, ¶21.**

10. In applying the above factors to Canada – United States cross-border insolvency proceedings, Canadian courts have consistently recognized that substantive and procedural aspects of the U.S. Bankruptcy Code are not substantively different or divergent from the CCAA.

***Babcock*, ¶6.**
***United Airlines Inc.* (Re), (2003) 43 C.B.R. (4th) 284, ¶1.**

A rejection of the Boundary Bay Lease should be addressed by the U.S. Bankruptcy Court in the context of the Chapter 11 Proceedings

11. CHC Group submits the U.S. Bankruptcy Court is the proper forum for adjudicating the disclaimer or rejection of the Boundary Bay Lease, and any issues arising with respect to such disclaimer or rejection, for, among others, the following reasons:

(a) CHC is patently an international business operating in a variety of different countries across the world as the demand for its services dictates. The evidence indicates that the central controlling location for CHC's worldwide business, including the businesses operated at the facilities subject to the Boundary Bay Lease, is the United States;

(b) The scope of CHC's international business operations necessarily affects multiple stakeholders who have a collective interest in the adjudication and outcome of disputes with respect to CHC's assets;

(c) The proposed rejection of the Boundary Bay lease is an issue that affects the rights and interests of a number of the Debtors' stakeholders, not simply the rights and interests of Heli-One Canada ULC and the Landlord;

(d) The principles and objectives set out in Section 46 of the CCAA and the doctrine of comity – the recognition that for international restructurings it is preferable that one court exercise primary jurisdiction over the restructuring of a group of international debtors – can only be realized if the U.S. Bankruptcy Court is permitted to takes charge of the principal administration of the Debtors' reorganization;

(e) The designation of a principal forum for the administration of the Debtors' reorganization gives all of the Debtors' stakeholders, including the Landlord and the Plan Sponsors, an equally accessible forum for the adjudication of issues affecting the Debtors' assets;

(f) A declaration by this Court that the U.S. Bankruptcy Court is the proper forum for adjudicating the disclaimer or rejection of the Boundary Bay Lease, and any issues arising with respect to such disclaimer or rejection, is consistent with the principle that, to the extent reasonably possible, all of a debtor group's stakeholders should be treated equally, regardless of the jurisdiction in which they reside;

(g) The adjudication of the disclaimer or rejection of the Boundary Bay Lease, and any issues arising with respect to such disclaimer or rejection, would promote certainty in the context of cross-border insolvency proceedings and dissuade the commencement of multiple proceedings by stakeholders in other foreign jurisdictions which could give rise to inconsistent judgments;

(h) The substantive and procedural aspects of the U.S. Bankruptcy Code relating to the disclaimer or rejection of the Boundary Bay Lease are not substantively different or divergent from the CCAA; and

(i) The Landlord is represented by U.S. counsel with respect to the Chapter 11 Proceedings and at all times has had, and continues to have, appropriate access to, and full rights of participation in and notice of, the Chapter 11 Proceedings.

12. Any prejudice which would be caused to the Landlord by the granting of the relief requested herein is balanced by the prejudice to the Debtors' other stakeholders, including the Consenting Creditor Parties, of having an issue affecting the Debtors' restructuring efforts litigated outside of the U.S. Bankruptcy Court currently exercising primary jurisdiction over all issues affecting the Chapter 11 Proceedings.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Robert Del Genio, made September 29, 2016;

2. Affidavit #2 of Robert Del Genio, made November 7, 2016;

3. Affidavit #1 of Paul King, made September 29, 2016;

4. Affidavit #2 of Paul King, made November 5, 2016; and

5. Affidavit #1 of Hoa Ung, made November 7, 2016.

6. Such further and other materials as counsel may advise and this Honourable Court may permit.

The Applicant estimates that the application will take one full day.

This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

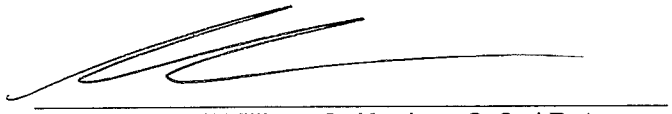
(a) file an application response in Form 33,
(b) file the original of every affidavit, and of every other document, that

    (i) you intend to refer to at the hearing of this application, and
    (ii) has not already been filed in the proceeding, and

(c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:

    (i) a copy of the filed application response;
    (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
    (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: November 24, 2016



Signature of William C. Kaplan, Q.C. / Peter Bychawski
Lawyers for the Applicant, CHC Group Ltd.

To be completed by the court only:

Order made

[ ] in the terms requested in paragraphs ..... of Part 1 of this notice of application

[ ] with the following variations and additional terms:

_____
_____
_____

Date:_____

_____
Signature of [ ] Judge [ ] Master

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

[ ] discovery: comply with demand for documents
[ ] discovery: production of additional documents
[ ] extend oral discovery
[ ] other matter concerning oral discovery
[ ] amend pleadings
[ ] add/change parties
[ ] summary judgment
[ ] summary trial
[ ] service
[ ] mediation
[ ] adjournments
[ ] proceedings at trial
[ ] case plan orders: amend
[ ] case plan orders: other
[ ] experts

SCHEDULE "A"

LIST OF COMPANIES

CHC Group Ltd.
6922767 Holding SARL
Capital Aviation Services B.V.
CHC Cayman ABL Borrower Ltd.
CHC Cayman ABL Holdings Ltd.
CHC Cayman Investments I Ltd.
CHC Den Helder B.V.
CHC Global Operations (2008) ULC
CHC Global Operations Canada (2008) ULC
CHC Global Operations International ULC
CHC Helicopter (1) S.á.r.l.
CHC Helicopter (2) S.á.r.l.
CHC Helicopter (3) S.á.r.l.
CHC Helicopter (4) S.á.r.l.
CHC Helicopter (5) S.á.r.l.
CHC Helicopter Australia Pty Ltd
CHC Helicopter Holding S.á.r.l.
CHC Helicopter S.A.
CHC Helicopters (Barbados) Limited
CHC Helicopters (Barbados) SRL
CHC Holding (UK) Limited
CHC Holding NL B.V.
CHC Hoofddorp B.V.
CHC Leasing (Ireland) Limited
CHC Netherlands B.V.
CHC Norway Acquisition Co AS
Heli-One (Netherlands) B.V.
Heli-One (Norway) AS
Heli-One (U.S.) Inc.
Heli-One (UK) Limited
Heli-One Canada ULC
Heli-One Holdings (UK) Limited
Heli-One Leasing (Norway) AS
Heli-One Leasing ULC
Heli-One USA Inc.
Heliworld Leasing Limited
Integra Leasing AS
Lloyd Bass Strait Helicopters Pty. Ltd.
Lloyd Helicopter Services Limited
Lloyd Helicopter Services Pty. Ltd.
Lloyd Helicopters International Pty. Ltd.
Lloyd Helicopters Pty. Ltd.
Management Aviation Limited