



IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c.C-36

-AND-

IN THE MATTER OF THE BUSINESS CORPORATION ACT,
S.B.C. 2002, c.57

-AND-

IN THE MATTER OF

**HAYES FOREST SERVICES LIMITED
HAYES HOLDINGS SERVICES LIMITED
and HAYES HELICOPTER SERVICES LIMITED**

Monitor's Fifth Report to the Court

November 28, 2008

I. INTRODUCTION

On July 31, 2008 upon the application of Hayes Forest Services Limited, Hayes Holding Services Limited and Hayes Helicopter Services Limited (The Petitioners), The Supreme Court of British Columbia issued an order (“the Initial Order”) declaring that Hayes Forest Services Limited, Hayes Holding Services Limited and Hayes Helicopter Services Limited (“Hayes” or “The Company”) are Companies to which the *Companies’ Creditors Arrangement Act* (CCAA) applies.

The Initial Order granted, inter alia, a stay of proceedings against the Petitioners until August 29, 2008; this stay was subsequently twice extended and is currently in effect until April 30, 2009.

The Monitor has previously submitted four reports:

- Its first report dated August 14, 2008 dealt with matters concerning two major customers and critical suppliers.
- Its second report dated August 29, 2008 reviewed the Petitioners’ activities since the filing date including its actual and projected cash flows.
- Its third report dated October 6, 2008 reviewed operations, results, forecasts and assets in detail.
- Its fourth report dated October 27, 2008 reviewed the asset disposal plan and the restructuring.

Terms of Reference

In his oral reasons for judgment dated October 31, 2008 the Honourable Mr. Justice Burnyeat ordered that the Monitor will continue to provide monthly reports to all of the creditors. He noted that “the Monitor will continue to monitor the situation and provide the professional opinion to the

Court and to the creditors regarding the progress that is being made as well as difficulties that are foreseen and, in a general way to advise regarding non-confidential dealings that Hayes is having with potential purchasers in order to sell some assets for the maximum price”.

In preparing this Report, the Monitor has relied upon unaudited financial information, Petitioners' records, Petitioners' prepared financial information and projections, discussions with management and employees of the Petitioners and information from various other sources. The Monitor has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of such information except where stated. Accordingly, the Monitor expresses no opinion or other form of assurance in respect of such information. The Monitor may revise or alter its observations as further information is obtained or is brought to its attention after the date of this Report.

Certain of the information referred to in this Report consists of forecasts and projections. An examination or review of financial forecasts and projections, as outlined in the Canadian Institute of Chartered Accountants Handbook, has not been performed. Future oriented financial information referred to in this Report was prepared based on management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, even if the assumptions materialise, and the variations could be significant.

Copies of relevant information with respect to these proceedings including the various Orders and the Monitor's Reports are available on the Monitor's website www.bowragroup.com

II. ACTUAL CASH FLOWS FOR THE 4 WEEKS ENDED NOVEMBER 15 2008 COMPARED TO FORECAST

This can be summarised as follows:

	\$000's		
	<u>Actual</u>	<u>Forecast*</u>	<u>Variance</u>
Total Receipts	1,712	2,904	(1,192)
Disbursements:			
Wages and Benefits	839	931	(92)
Rent/Insurance	69	131	(62)
Leases	221	217	4
Utilities	31	15	16
Payables	504	695	(191)
Other	<u>183</u>	<u>426</u>	<u>(243)</u>
Total Disbursements	<u>1,847</u>	<u>2,415</u>	<u>(568)</u>
Net Cash Flow	<u>(135)</u>	<u>489</u>	<u>(624)</u>

*Revised asset disposal cash flow as at October 16, 2008

The total cash receipts were less than forecast primarily due to timing differences. The receivable of \$306,000 from Finning for maintenance work performed has yet to be received. The \$850,000 receivable from Teal that was expected to be received on November 15th was actually received in two instalments on November 18th and 21st.

Wages and Benefits were less than expected as actual vacation accrual payouts for terminations on October 27th were less than anticipated.

Rent and insurance costs were below the projected amount for the period. However, as the November aviation insurance was paid directly out of proceeds from the sales of Helicopter HHR, the variance is the result of a classification difference between asset disposal receipts and Insurance expenditures.

The payables payment is less than expected due to lower than expected contractor usage on Western and Teal Bill 13 contracts as well as timing differences on trade payables.

Other expenditures are less than expected due to timing differences with respect to the payment of CCAA related professional fees. These fees were larger than expected, but due to timing differences, were not a cash outflow during the period.

In summary, the variances between forecast receipts and actual receipts for the period were primarily due to timing differences thus not resulting in significant permanent cash variances from the forecast.

III. ASSETS AND ASSET DISPOSAL

Asset disposals

The Company completed a sale of a leased helicopter HHR (a Sikorsky S61N) for US\$ 3.2 million.

Since our fourth report, the company has completed the sale of the two leased yarders, has finalised an insurance payout settlement on a boat, has arranged for the sale of a tugboat to complete in December and has sold sundry other smaller assets. All of these transactions, which total approximately \$800,000 have been approved both by CIBC and the Monitor.

Asset disposal planning

The Company has compiled a price list for all of its major ground based items of equipment (excluding helicopters and boats) and the aggregate asking price for these various assets will be \$6.1 million. The Company will be advertising these assets for sale in the December issue of Supply Post. Supply Post is Canada's number one heavy equipment and truck newspaper. In addition, the Company will be advertising these major equipment assets on its website.

The Company believes that industry buyers for these assets are unlikely to be coming forward to any great extent before the end of January 2009 at which time, depending on planned logging

activities, there is likely to be considerable interest from prospective purchasers. In particular, early spring should be a prime selling time for these assets.

The Company is not putting any assets into the Ritchie Brother's Vancouver auction in December except for sundry small items. It intends, however, to conduct an auction around the middle of April 2009 in Hayes' Duncan yard. At that time it is intended that all the remaining large and small assets would be offered for sale.

The Company has also compiled a full list of its helicopter parts, including engines, spares, service items, work in progress, etc. It is expected that there will be 6,500 line items available for sale. The Company is still lot packaging these items and its current estimate is that the asking price will be in the region of \$7 million. Some prospective purchasers have been reviewing these assets to date. The Company intends to advertise these assets on the Parts Base website; this industry specific website will not include the dollar values but will list all available items and is a website that is widely used by prospective purchases of aircraft parts.

The Sikorsky and Bell helicopters continue to be listed for sale with brokers. No further sales are anticipated in the short term.

All of the boats are listed for sale with Harlow Marine; no sales are expected in the short term.

Bill 13 contracts

In Section IV of the Monitor's fourth report to Court dated October 27, 2008, the following sentence was included: "The Company has received Expressions of Interest from 64 prospective purchasers, resulting in several serious expressions of interest". That sentence should have read: "The Company has *requested* Expressions of Interest from 64 prospective purchasers, resulting in several serious expressions of interest".

In his oral reasons for judgment of October 31, 2008, the Honourable Mr. Justice Burnyeat set up a Creditors Committee. The Creditors Committee is composed of representatives of Western and Teal and its activities are restricted to getting information regarding the progress being made on the Bill 13 contracts, being information which will not be made available to other parties. The two committee members are to receive this information on a confidential basis.

The Monitor was directed by the Court to meet with the Creditors Committee and make known, on a confidential basis, past and future efforts to market the Bill 13 contracts. As at the date of this report there have been two meetings of the Creditors Committee.

The Company is continuing to meet with prospective purchasers ("the Purchasers"). The company has entered into confidentiality agreements with several Purchasers and has provided requested diligence materials. The Company expects to receive offers on both contracts within the next two weeks. Several of the Purchasers have also expressed interest in certain of the logging equipment assets in addition to the contract assets.

TFL10

The Company continues its discussions with parties who have expressed interest in acquiring this asset but to date no agreement has been reached with any of those parties.

IV. OTHER MATTERS

Activities

The Company has continued logging under the Bill 13 Contracts with Teal and WFP. These operations are expected to be concluded by November 28, 2008. The Company has also continued to perform shop work for Finning but expects future maintenance services work to be minimal.

Court Orders

On October 31, 2008 a further Order of the Supreme Court of British Columbia was made that included the following terms:

- The stay of proceedings is extended to April 30, 2009;
- The Company is authorized to file an assignment in bankruptcy with KPMG Inc. with further proceedings under the bankruptcy stayed until further Order of the Court or until such stay is waived by the Company; the net sale proceeds of the assets of the Company shall be distributed in accordance with the priorities as provided in the

Bankruptcy and Insolvency act, Wage Earner Protection Program Act and as set out in the Initial Order;

- The Company is authorized to sell the remainder of its assets, with certain exceptions, provided that any such sale is approved by the Monitor and CIBC;
- A Creditors Committee is to be established to review the state and progress of the sale of the Bill 13 contracts;
- The Monitor is to file monthly reports with the Court on these proceedings.

A copy of this Order is included on the Monitor's website.

On November 26, 2008 the Supreme Court of British Columbia made a further Order covering the following matters:

- The reasonable legal fees and disbursements of Fasken Martineau DuMoulin for legal work after the commencement of these proceedings are to be secured and covered by the Administrative Charge set out in the Initial Order.
- The amount of the Administrative Charge provided for in the Initial Order is increased to \$ 350,000.
- Hayes is authorized to enter into a settlement agreement with Western with respect to various matters in dispute between the parties.
- Any rate disputes between Teal and Hayes for the years 2005 to 2008 must be initiated by Teal and those rate disputes must be concluded by February 28, 2009 (subject to extension by application to the Court); any rate disputes not so concluded will be barred and Teal will have no further claim against Hayes in respect of any rate disputes.
- On or before December 5, 2008 Hayes and Teal must file an agreed schedule for the conduct of the arbitration of the rate disputes.

A copy of this Order will be included on the Monitor's website once it has been entered.

The Company is finalizing the settlement agreement with Western and a payment of \$300,000 is expected to be received by the Company shortly.

On November 28, 2008 a judgment was handed down on the action by the Klahoose First Nation for a judicial review with respect to TFL 10. We have just been provided with the Reasons for Judgment and will comment in more detail on this matter in our next report.

V. ACTIVITIES OF THE MONITOR

The Monitor's activities since October 27, 2008 can be summarised as follows:

- Discussions with various parties interested in TFL 10 or the Bill 13 contracts.
- Review asset disposal plan expense cash flow.
- Monitor actual cash flow against forecast.
- Review cheques written and discuss payment with Hayes' accounting personnel.
- Discussion with senior management to review Bill 13 contracts, asset disposal strategy, operations, personnel, issues arising etc.
- Liaise with KPMG as consultant to CIBC and provide information as required.
- Meet with Creditors Committee.
- Respond to enquiries from counsels for Bill 13 contract holders; confirm payments made under the Bill 13 contracts and amounts outstanding to ensure payments made to the Company
- Review proposed asset sales.
- Reviewing expressions of interest.
- Post information on Monitor's website.

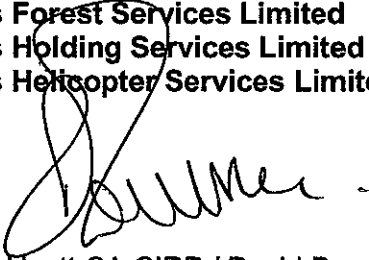
VIII. CONDUCT OF THE PETITIONERS

To date, Hayes has provided the Monitor with full co operation and unrestricted access to its premises, books and records. The Monitor and Hayes have implemented procedures for the daily monitoring of receipts and disbursements, and the weekly analysis of actual cash flow results as compared to the cash flow forecast filed with the Court at the time of the Initial Order. Hayes has acted diligently and in good faith in the post filing period, and is developing an asset disposal plan that will ensure that the creditors recover significantly more than they would in a forced liquidation through a receivership or bankruptcy process.

All of which is respectfully submitted this 28th day of November, 2008.

**The Bowra Group Inc.
Court appointed Monitor of
Hayes Forest Services Limited
Hayes Holding Services Limited and
Hayes Helicopter Services Limited**

per:



Martin Hyatt CA CIRP / David Bowra CA CIRP