



No.S-085453
Vancouver Registry

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 Sixth Report to the Court

January 6, 2009

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 extended and is currently in effect until April 30, 2009.

The Monitor has previously submitted five 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.
- Its fifth report dated November 28, 2008 reviewed the progress made in the sale of assets;

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”.

The Order dated October 31 also established a Creditors’ Committee comprised of a designated representative from Teal and Western to review the efforts of Hayes with respect to the sale of Bill 13 contracts with those parties. This report does not cover the activities of that Committee.

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 5 WEEKS ENDED DECEMBER 22 2008 COMPARED TO FORECAST

This can be summarised as follows:

	\$000's		
	<u>Actual</u>	<u>Forecast*</u>	<u>Variance</u>
Total Receipts	3,234	1,049	2,185
Disbursements:			
Wages and Benefits	918	320	598
Rent/Insurance	120	117	3
Leases	297	159	138
Utilities	26	28	(2)
Payables	330	76	254
Other	<u>486</u>	<u>163</u>	<u>323</u>
Total Disbursements	<u>2,177</u>	<u>862</u>	<u>1,315</u>
Net Cash Flow	<u>1,057</u>	<u>187</u>	<u>870</u>

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

The total cash receipts in the period were more than forecast primarily due to timing differences referred to in our fifth report. 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. There was an additional \$770,000 in proceeds for logging production on the Western Forest Products ("WFP") and Teal Bill 13 contracts that was not forecasted to occur in this period.

BC Forest Revitalization Trust proceeds of \$991,000 originally forecast to be received in January were received on December 15th and a settlement with WFP of \$300,000 was received in the period as well.

These receipts were partially offset by timing differences relating to slower than expected log sales and collections.

Wages and benefits and payables were greater than expected due to production on the WFP and Teal Bill 13 contracts that had not been forecasted in the period. This production also resulted in higher than expected lease costs as payments were made on the Jim Pattison Pickup Fleet to support the logging.

Other fees were higher than expected due to CCAA professional fees timing differences referred to in our fifth report and higher than expected professional fees overall.

In summary, the variances between forecast and actual cash flows for the period were primarily due to BC Forest Revitalization Trust proceeds and production on Bill 13 contracts that had not been forecasted to take place.

III. ASSETS AND ASSET DISPOSAL

Asset disposals

Since our fifth report, the company has sold a number of small items of equipment. All of these transactions, which total \$51,500, have been approved both by CIBC and the Monitor and 90% of the net proceeds will be used to repay CIBC loans.

Asset disposal planning and status

The Company advertised its major equipment assets for sale in the December issue of Supply Post, as noted in our fifth report. The advert will be repeated in the January issue.

The Company has now almost fully compiled a full list of its helicopter parts, including engines, spares, service items, work in progress, etc. The Company continues to estimate that the asking price will be in the region of \$6 million to \$7 million. The Company has advertised the higher value (parts over \$1,000) items on the Parts Base website but has not to date finalised any sales. 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

Sale progress

The Company advises that it 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. We noted in our fifth report that the Company expected to receive offers on both contracts by mid-December. The Company now expects to finalise an agreement to sell the Teal Bill 13 contract early in the new year.

On January 6, 2009 Western announced an indefinite curtailment of logging operations. This action may impact the sale price that can be obtained for the Western Bill 13 contract.

The Creditors Committee, composed of representatives of Western and Teal, met on December 5, 2008 to review the Company's efforts to market the Bill 13 contracts.

Teal and Western contract issues

The rate issues with Teal have been settled and the documentation of that settlement agreement between the parties is expected to be finalised shortly. This settlement will extinguish the claim of \$2.5 million that Teal may have advanced against Hayes.

There is an outstanding issue to be resolved between Teal and Hayes with respect to Bill 28 matters and volumes for which Hayes has filed a statement of claim.

The TSE issues with Western have been resolved. There remain outstanding issues with Western concerning legal and arbitration costs that may result in Western having a claim against Hayes. It is estimated that those claims will not exceed \$100,000 and we will comment further on this matter in our next report.

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 have now concluded and there is no fixed date for recommencing operations. The Company has also continued to perform minimal shop work for Finning.

Court Orders

On December 12, 2008 an Order of the Supreme Court of British Columbia was made. This was further to the Order of October 31, 2008 by which Hayes was permitted to file an assignment in bankruptcy, with further proceedings under the bankruptcy stayed. This latest Order confirmed that the Trustee shall not be required to take any steps nor perform any acts or duties as may be required by the provisions of the Bankruptcy and Insolvency Act other than filing the assignment in bankruptcy for Hayes Forest Services Limited and notifying the Superintendent of Bankruptcy of the filing. The Trustee is not required to send out any notices or hold any meetings until further Order of the court.

As at the date of this report the December 12 Order has not yet been entered; when entered, a copy of the Order will be posted on the Monitor's website. The assignment in bankruptcy was filed on December 10, 2008.

The Company finalized the settlement agreement with Western and a payment of \$300,000 was received by the Company on November 28, 2008.

On November 28, 2008, Reasons for Judgment were handed down in the action by the Klahoose First Nation ("the Klahoose") with respect to TFL 10. This action was brought by the Klahoose seeking a judicial review of the decision dated February 15, 2008 approving a Forest Stewardship Plan ("FSP") for a Forest Development Unit ("FDU") submitted by Hayes with respect to a small portion of TFL 10.

The Klahoose argued that the Sunshine Coast Forest District owed a duty to consult with the Klahoose in good faith and the declaration that the approval decision was unlawful and the FSP should be set aside. Hayes opposed this action.

The decision by the Honourable Mr Justice Grauer noted that:

- Hayes is the lawful holder of TFL 10 which gives it the right to harvest timber in the Toba River watershed. It does not give Hayes any right to access through IR#1
- The Klahoose is not entitled to a veto in relation to the granting of an FSP to Hayes
- Hayes has developed access plans and maps showing detailed cut block layouts since the FSP was approved and both the Klahoose and Hayes have developed further archaeological data

His ruling was that an appropriate remedy would be to order a stay of all further activities and operations under the FSP and that the Sunshine Coast Forest District should consider the amendment application to extend the FDU to the entirety of TFL 10. This process would involve consultation with the Klahoose aimed at finding a satisfactory interim solution that would also permit appropriate harvesting of timber resources.

The form of Order is still to be agreed between the parties

V. ACTIVITIES OF THE MONITOR

The Monitor's activities since November 29, 2008 can be summarised as follows:

- 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.

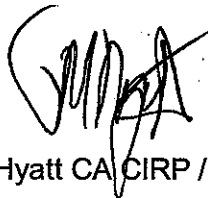
VIII. CONDUCT OF THE PETITIONERS

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 6th day of January, 2009.

**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