



S.C. No.: 09-A0100
Estate No: 11-1292335
Estate No: 11-252902

SUPREME COURT OF YUKON

**IN THE MATTER OF THE PROPOSAL OF
GOLDEN HILL VENTURES LTD.**

**IN THE MATTER OF THE PROPOSAL OF
GOLDEN HILL VENTURES LIMITED PARTNERSHIP**

**NOTICE OF APPLICATION
(returnable Friday, December 18, 2009)**

TAKE NOTICE that an application will be made by Golden Hill Ventures Ltd. (“**GHV Ltd.**”) and Golden Hill Ventures Limited Partnership (“**GHV LP**”) to the presiding judge at The Law Courts, 2134 Second Avenue, Whitehorse, Yukon on Friday, December 18, 2009 at 1:30 p.m., or as soon after that time as the application can be heard, for an order that:

1. the time for service of the Notice of Application and the Application Record be abridged so that this application is properly returnable today and hereby dispenses with further service thereof;
2. the time for each of GHV Ltd. and GHV LP to file a proposal to its creditors be extended, in each case, for a period of 45 days after the expiry of the 30 day period provided for in Section 69 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (“**BIA**”); and
3. such further and other relief as counsel may advise and this Court may permit.

The applicants will rely on Section 50.4 of the BIA, a copy of which is attached hereto as Schedule “A”.

At the hearing of the application, the applicants will rely on the following affidavit and other documents:

- (a) The Affidavit of Jon T. Rudolph, sworn December 15, 2009; and
- (b) The First Report of the Proposal Trustee, dated December 15, 2009.

The applicants estimate that the application will take 20 minutes.

If you wish to receive notice of the time and date of the hearing or to respond to the application, you must, within the proper time for response:

- (a) deliver to the applicant
 - (i) 2 copies of a Response in Form 11, and
 - (ii) 2 copies of each of the affidavits and other documents, not already in the court file, on which you intend to rely at the hearing , and
- (b) deliver to every other party of record
 - (i) one copy of a Response in Form 11, and
 - (ii) one copy of each affidavit and other document, not already in the court file, on which you intend to rely at the hearing.

TIME FOR RESPONSE

The Response must be delivered on or before the 8th day after the later of

- (a) the last date fixed for entry of appearance by you, and
- (b) the date on which the Notice of Application was delivered to you.

MACDONALD & COMPANY, LAWYERS

Dated December 15, 2009

Per: _____

Grant Macdonald
Counsel for GHV Ltd. and GHV LP

TO: Clerk of the Court

AND TO: THE ATTACHED SERVICE LIST

SCHEDULE "A"

Excerpt from the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3

50.4 (1) Before filing a copy of a proposal with a licensed trustee, an insolvent person may file a notice of intention, in the prescribed form, with the official receiver in the insolvent person's locality, stating

- (a) the insolvent person's intention to make a proposal,
- (b) the name and address of the licensed trustee who has consented, in writing, to act as the trustee under the proposal, and
- (c) the names of the creditors with claims amounting to two hundred and fifty dollars or more and the amounts of their claims as known or shown by the debtor's books,

and attaching thereto a copy of the consent referred to in paragraph (b).

Certain things to be filed

(2) Within ten days after filing a notice of intention under subsection (1), the insolvent person shall file with the official receiver

- (a) a statement (in this section referred to as a "cash-flow statement") indicating the projected cash-flow of the insolvent person on at least a monthly basis, prepared by the insolvent person, reviewed for its reasonableness by the trustee under the notice of intention and signed by the trustee and the insolvent person;
- (b) a report on the reasonableness of the cash-flow statement, in the prescribed form, prepared and signed by the trustee; and
- (c) a report containing prescribed representations by the insolvent person regarding the preparation of the cash-flow statement, in the prescribed form, prepared and signed by the insolvent person.

Creditors may obtain statement

(3) Subject to subsection (4), any creditor may obtain a copy of the cash-flow statement on request made to the trustee.

Exception

(4) The court may order that a cash-flow statement or any part thereof not be released to some or all of the creditors pursuant to subsection (3) where it is satisfied that

- (a) such release would unduly prejudice the insolvent person; and

(b) non-release would not unduly prejudice the creditor or creditors in question.

Trustee protected

(5) If the trustee acts in good faith and takes reasonable care in reviewing the cash-flow statement, the trustee is not liable for loss or damage to any person resulting from that person's reliance on the cash-flow statement.

Trustee to notify creditors

(6) Within five days after the filing of a notice of intention under subsection (1), the trustee named in the notice shall send to every known creditor, in the prescribed manner, a copy of the notice including all of the information referred to in paragraphs (1)(a) to (c).

Trustee to monitor and report

(7) Subject to any direction of the court under paragraph 47.1(2)(a), the trustee under a notice of intention in respect of an insolvent person

(a) shall, for the purpose of monitoring the insolvent person's business and financial affairs, have access to and examine the insolvent person's property, including his premises, books, records and other financial documents, to the extent necessary to adequately assess the insolvent person's business and financial affairs, from the filing of the notice of intention until a proposal is filed or the insolvent person becomes bankrupt;

(b) shall file a report on the state of the insolvent person's business and financial affairs — containing the prescribed information, if any —

(i) with the official receiver without delay after ascertaining a material adverse change in the insolvent person's projected cash-flow or financial circumstances, and

(ii) with the court at or before the hearing by the court of any application under subsection (9) and at any other time that the court may order; and

(c) shall send a report about the material adverse change to the creditors without delay after ascertaining the change.

Where assignment deemed to have been made

(8) Where an insolvent person fails to comply with subsection (2), or where the trustee fails to file a proposal with the official receiver under subsection 62(1) within a period of thirty days after the day the notice of intention was filed under subsection (1), or within any extension of that period granted under subsection (9),

(a) the insolvent person is, on the expiration of that period or that extension, as the case may be, deemed to have thereupon made an assignment;

(b) the trustee shall, without delay, file with the official receiver, in the prescribed form, a report of the deemed assignment;

(b.1) the official receiver shall issue a certificate of assignment, in the prescribed form, which has the same effect for the purposes of this Act as an assignment filed under section 49; and

(c) the trustee shall, within five days after the day the certificate mentioned in paragraph (b) is issued, send notice of the meeting of creditors under section 102, at which meeting the creditors may by ordinary resolution, notwithstanding section 14, affirm the appointment of the trustee or appoint another licensed trustee in lieu of that trustee.

Extension of time for filing proposal

(9) The insolvent person may, before the expiry of the 30-day period referred to in subsection (8) or of any extension granted under this subsection, apply to the court for an extension, or further extension, as the case may be, of that period, and the court, on notice to any interested persons that the court may direct, may grant the extensions, not exceeding 45 days for any individual extension and not exceeding in the aggregate five months after the expiry of the 30-day period referred to in subsection (8), if satisfied on each application that

(a) the insolvent person has acted, and is acting, in good faith and with due diligence;

(b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and

(c) no creditor would be materially prejudiced if the extension being applied for were granted.

Court may not extend time

(10) Subsection 187(11) does not apply in respect of time limitations imposed by subsection (9).

Court may terminate period for making proposal

(11) The court may, on application by the trustee, the interim receiver, if any, appointed under section 47.1, or a creditor, declare terminated, before its actual expiration, the thirty day period mentioned in subsection (8) or any extension thereof granted under subsection (9) if the court is satisfied that

(a) the insolvent person has not acted, or is not acting, in good faith and with due diligence,

(b) the insolvent person will not likely be able to make a viable proposal before the expiration of the period in question,

(c) the insolvent person will not likely be able to make a proposal, before the expiration of the period in question, that will be accepted by the creditors, or

(d) the creditors as a whole would be materially prejudiced were the application under this subsection rejected,

and where the court declares the period in question terminated, paragraphs (8)(a) to (c) thereupon apply as if that period had expired.

1992, c. 27, s. 19; 1997, c. 12, s. 32; 2004, c. 25, s. 33(F); 2005, c. 47, s. 35; 2007, c. 36, s. 17.

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