

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF H WORK, LLC, RGN-GROUP HOLDINGS, LLC, RGN-
NATIONAL BUSINESS CENTERS, LLC, RGN-FORT LAUDERDALE III, LLC, RGN-
COLUMBUS IV, LLC, RGN-CHICAGO XVI, LLC AND RGN-CHAPEL HILL II, LLC**

**APPLICATION OF RGN-NATIONAL BUSINESS CENTERS, LLC
UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, C. C-36, AS AMENDED**

(Applicant)

**FACTUM OF THE APPLICANT
(Re: Recognition of Foreign Main Proceedings)
(Returnable August 24, 2020)**

August 22, 2020

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PART I - OVERVIEW

1. H Work, LLC (f/k/a HQ Global Workplaces LLC), RGN-Group Holdings, LLC, RGN-National Business Centres, LLC ("**RGN-NBC**"), RGN-Fort Lauderdale LII, LLC, RGN-Columbus IV, LLC, RGN-Chicago XVI, LLC, RGN-Chapel Hill II, LLC and RGN-Chicago XVI, LLC (collectively, the "**Chapter 11 Debtors**", and each, a "**Chapter 11 Debtor**") are direct or indirect subsidiaries of Regus Corporation, a non-debtor Delaware corporation that, together with its affiliates (collectively, "**IWG**" or the "**Company**"), offer a network of on-demand office and co-working spaces, and ancillary services and support, to a variety of clients across a host of industries in over 1,000 locations in the United States and Canada.

2. Due to external factors caused by the COVID-19 pandemic, on August 17, 2020, H Work, LLC, RGN-Group Holdings, LLC, and RGN-NBC (collectively, the "**Guarantor Debtors**") filed voluntary petitions for relief pursuant to chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") with the United States Bankruptcy Court for the District of Delaware (the "**U.S. Court**"). The Guarantor Debtors' voluntary petitions for relief pursuant to the Bankruptcy Code in the U.S. Court followed on earlier voluntary petitions filed

by certain of their affiliates (such affiliates, the “**SPE Debtors**”): RGN-Columbus IV, LLC (July 30, 2020), RGN-Chapel Hill II, LLC (August 2, 2020), RGN-Chicago XVI, LLC (August 3, 2020), and RGN-Fort Lauderdale III, LLC (August 8, 2020). All of the Chapter 11 Debtors elected for Subchapter V of the Bankruptcy Code to apply to their chapter 11 cases (the “**Chapter 11 Cases**”), which is the subsection of the Bankruptcy Code for small business debtors.

3. On August 20, 2020, the U.S. Court entered orders that, among other things, directed the joint administration of the Chapter 11 Cases and authorized RGN-NBC, to act as the foreign representative of itself and the other Chapter 11 Debtors and commence these proceedings under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”).

4. This factum is filed in support of a motion by the Chapter 11 Debtors for orders substantially in the form of the draft orders attached as Tabs 3 and 5 to the Application Record granting, among other things, the following relief:

- (a) an Initial Recognition Order (Foreign Main Proceeding) that, among other things:
 - (i) abridges and validates the time for service;
 - (ii) declares that RGN-National Business Centres, LLC is a “foreign representative” (the “**Foreign Representative**”) as defined in s. 45 of the CCAA in respect of the Chapter 11 Cases and is entitled to bring this Application pursuant to s. 46 of the CCAA;
 - (iii) declares that the centre of main interest for each of the Chapter 11 Debtors is the United States of America and recognizes the Chapter 11 Cases commenced by the Chapter 11 Debtors pursuant to the

Bankruptcy Code in the U.S. Court as “foreign main proceeding[s]” as defined in s. 45 of the CCAA; and

- (iv) grants a stay of proceedings in respect of the Chapter 11 Debtors and orders the other mandatory relief set out in s. 48(1) of the CCAA;
- (b) a Supplemental Order (Foreign Main Proceeding) that, among other things:
 - (i) recognizes and enforces the terms of the interim and/or final orders made by the U.S. Court; and
 - (ii) appoints KSV Kofman Inc. (“**KSV**”) as information officer (in such capacity, the “**Information Officer**”) in respect of these proceedings.

PART II - THE FACTS

5. The facts with respect to this motion are more fully set out in the affidavit of James S. Feltman, sworn on August 22, 2020 (the “**Feltman Affidavit**”) and the Declaration of James S. Feltman sworn August 17, 2020 and filed with the U.S. Court in support of the motions filed by the Guarantor Debtors upon the commencement of their Chapter 11 Cases. Capitalized terms used herein but not otherwise defined have the meanings ascribed to them in the Feltman Affidavit.

A. The Chapter 11 Debtors

6. IWG is in the business of entering into long-term non-residential leases with Landlords that provide the Company with unoccupied office space (the “**Centres**”). IWG engineers each of the Centres to meet specific standards, and then markets the Centres under a brand name. Occupants enter into Occupancy Agreements to use portions of the Centres, which are customizable as to duration, configuration, services, and amenities.

Feltman Affidavit at para. 10, Application Record at Tab 2.

7. Generally, the Lease Holder under each Lease is a special-purpose entity formed for this specific purpose. Another IWG entity may then partially or fully guarantee the Lease Holder's obligations under the Lease. In the case of the Guarantor Debtors, they are guarantors of, or co-liable as original tenant-assignor, of 653 Leases in total—85 of which are in respect of Centres in Canada.

Feltman Affidavit at paras. 11 and 16, Application Record at Tab 2.

8. The COVID-19 pandemic has caused significant challenges for IWG, including reduced occupancy rates as a result of work-from-home policies. Many Occupants have also had difficulty paying their Occupancy Fees on time.

Feltman Affidavit at para. 30, Application Record at Tab 2.

9. IWG has implemented various measures to reduce the impact of the COVID-19 pandemic, including deferring rent payments and engaging with Landlords to negotiate forbearances, temporary accommodations, and, in certain instances, permanent modifications to various Leases. IWG has had various successes in negotiations with Landlords; however, in certain instances, the negotiations have reached an impasse.

Feltman Affidavit at para. 31, Application Record at Tab 2.

10. The breakdown of negotiations between the SPE Debtors and the Landlords resulted in the Landlords issuing notices of their intention to lock the SPE Debtors out of their respective Centres, which subsequently prompted the SPE Debtors to commence their respective Chapter 11 Cases. The Guarantor Debtors commenced their Chapter 11 Cases shortly thereafter to pre-empt both a potential "run on the bank" by Landlords exercising their rights under the various guarantee agreements and to attempt to restructure their obligations while maintaining the Company's viable lease portfolio.

Feltman Affidavit at para. 32, Application Record at Tab 2.

B. Connection To Canada

11. The Chapter 11 Debtors do not carry on business in Canada and are managed solely from the United States. The SPE Debtors do not have any connection to Canada. The Guarantor Debtors' connection to Canada is related to the guarantees described below and receivables owed by certain Canadian Affiliates in connection with the guarantees of their respective Leases.

Feltman Affidavit at paras. 15 – 20, Application Record at Tab 2.

12. Each of the Chapter 11 Debtors are incorporated in Delaware. All of them have registered offices in Wilmington, Delaware, and their principal place of business is at 3000 Kellway Drive, Suite 140, Carrollton (Dallas), Texas 75006.

Feltman Affidavit at paras. 15 and 20, Application Record at Tab 2.

13. IWG conducts its business in Canada through the non-debtor Canadian Affiliates. In total, the Canadian Affiliates operate 137 Centres in Canada. The Guarantor Debtors are liable or partially liable for 85 of the Leases related to these Canadian Centres (the "**Guaranteed Canadian Leases**"). The Leases in respect of the other Centres are not guaranteed or are guaranteed by other affiliates of IWG which are not debtors in the Chapter 11 Cases.

Feltman Affidavit at para. 26, Application Record at Tab 2.

14. The corporate structure of the Canadian Affiliates is similar to the structure of the Chapter 11 Debtors. Specifically, each Lease Holder is typically a special purpose limited partnership formed specifically to enter into individual Leases with various Landlords and to hold an individual Lease for a single Centre in Canada (each a "**Canadian Tenant SPE**").

Feltman Affidavit at para. 22, Application Record at Tab 2.

15. The Canadian Tenant SPEs have, in the majority of cases, continued paying rent to the Landlords in respect of the Leases for the Centres in Canada. The Company has also engaged in negotiations with certain Landlords in Canada, which negotiations have generally been positive and not resulted in the delivery of lock-out notices.

Feltman Affidavit at para. 33, Application Record at Tab 2.

16. Most of the Guaranteed Canadian Leases provide that the commencement of insolvency and/or bankruptcy proceedings by any indemnitor or guarantor under the Lease is an event of default. Subject to the particular terms of the Lease and provincial law, including the current eviction moratoriums in place in certain provinces, the Landlords' rights and remedies in the case of an event of a default under their respective Guaranteed Canadian Lease may include (a) terminating the applicable Guaranteed Canadian Lease; or (b) "locking-out" the Canadian Tenant LPs, including by extension the Occupants, and retaking of possession of the Centres.

Feltman Affidavit at para. 34, Application Record at Tab 2.

C. Path Forward

17. The Chapter 11 Debtors intend to use the Chapter 11 process to fully explore the possibility of restructuring its various contractual obligations to put its North American portfolio on a stable footing going forward and to emerge from the Chapter 11 Cases in a financially stronger and more viable position. If these restructuring efforts prove unsuccessful, the SPE Debtors, and possibly other Lease Holders that may file for creditor protection, will have to commence an orderly wind down of the applicable Centres and determine the claims of Landlords and other creditors against the SPE Debtors and/or Guarantor Debtors.

Feltman Affidavit at para. 36, Application Record at Tab 2.

18. In Canada, the Company plans to maintain its current portfolio of viable Canadian Centres, including where guarantees have been provided by the Guarantor Debtors, through constructive discussions with Landlords. Such discussions have already begun. The Chapter 11 Debtors believe that to maximize the chances of a successful restructuring, they require a brief period of time during which they can continue to engage with the Landlords, prior to the Landlords exercising any purported “lock-out” or termination rights. The Chapter 11 Debtors are seeking lease notice procedures from the U.S. Court to ensure there is a brief opportunity before a Landlord can exercise any termination and/or “lock-out” rights. The specifics of the lease notice procedures are described in greater detail in the Feltman Affidavit at paragraphs 50 to 52. The Foreign Representative plans to seek recognition of any relief granted by the U.S. Court in connection with the lease notice procedures as soon as possible.

Feltman Affidavit at para. 37, Application Record at Tab 2.

PART III - THE ISSUES

19. The issues before this Court, as addressed below, are whether:
- (c) this Court should recognize the Chapter 11 Cases as “foreign main proceeding[s]” pursuant to Part IV of the CCAA; and
 - (d) this Court should grant the relief sought in the Initial Recognition Order and the Supplemental Order, including,
 - (i) granting a stay of proceedings;
 - (ii) recognizing certain First Day Orders; and
 - (iii) appointment KSV as Information Officer.

PART IV - THE LAW

A. The Chapter 11 Cases are Foreign Main Proceedings

20. Part IV of the CCAA establishes a process for addressing the administration of cross-border and multi-national insolvencies in a coordinated and cooperative manner with foreign courts. The overall purpose of Part IV is to provide mechanisms for dealing with cross-border insolvencies and to promote, among other things, the fair and efficient administration of cross-border insolvencies that protect the interests of creditors and other interested persons, and those of debtor companies.

CCAA, s. 44.

21. Section 47(1) of the CCAA contains mandatory provisions that require the court to make an order recognizing a foreign proceeding if it is satisfied that:

- (a) the application for recognition relates to a “foreign proceeding”; and
- (b) the applicant is a “foreign representative in respect of that foreign proceeding”.

CCAA, s. 47(1).

22. If the Court grants an order under s. 47(1) of the CCAA, s. 47(2) requires that the Court specify whether the foreign proceeding is a “foreign main proceeding” or a “foreign non-main proceeding”.

CCAA, s. 47(2).

23. As discussed below, the Chapter 11 Cases are “foreign main proceedings” and the Applicant is a “foreign representative”.

1. The Chapter 11 Cases are “Foreign Proceedings”

24. Section 45(1) of the CCAA defines a “foreign proceeding” as follows:

[...] a judicial or an administrative proceeding, including an interim proceeding, in a jurisdiction outside Canada dealing with creditors' collective interests generally under any law relating to bankruptcy or insolvency in which a debtor company's business and financial affairs are subject to control or supervision by a foreign court for the purpose of reorganization.

CCAA, s. 45(1), "foreign proceeding".

25. The Chapter 11 Proceedings satisfy the definition of a "foreign proceeding":

- (a) the Chapter 11 Cases are judicial proceedings conducted pursuant to the Bankruptcy Code in the U.S. Court, and the goal of these proceedings is to reorganize the Chapter 11 Debtors' business;
- (b) the Chapter 11 Debtors are "debtor companies": (i) they are each incorporated entities pursuant to the laws of the State of Delaware, and (ii) they are presumed "insolvent" by means of s. 59 of the CCAA, which provides that a foreign insolvency order constitutes proof of a company's insolvency.

CCAA, s. 2(1) *sub verbo* "company" and "debtor company"; s. 59.

26. This Court has, on many occasions in the past, held that proceedings under Bankruptcy Code constitute "foreign proceedings" for the purposes of the CCAA.

Caesars Entertainment Operating Company, Inc. (Re), 2015 ONSC 712 at para. 28 ([CanLII](#)).

Payless Holdings LLC (Re), 2017 ONSC 2242 at para. 22 ([CanLII](#)).

Hollander Sleep Products, LLC et al. (Re), 2019 ONSC 3238 at para. 1 ([CanLII](#)).

27. Based on the foregoing, the Chapter 11 Cases are "foreign proceedings" for the purposes of Part IV of the CCAA.

2. The Chapter 11 Cases are “Foreign Main Proceedings”

28. Section 45(1) provides that a “foreign main proceeding” is a foreign proceeding in a jurisdiction where the debtor company has the “centre of its main interests” (“**COMI**”).

CCAA, s. 45(1).

29. The CCAA does not provide a definition of COMI; however, s. 45(2) of the CCAA establishes that, in the absence of proof to the contrary, the location of a debtor company’s registered office is deemed to be its COMI.

CCAA, s. 45(2).

30. There is no evidence to suggest that the Chapter 11 Debtors’ COMI is anywhere but the United States of America. The registered head offices of all of the Chapter 11 Debtors are in Wilmington, Delaware, and all of the Chapter 11 Debtors have their head offices or principal place of business in Carrollton, Texas. The Chapter 11 Debtors do not carry on business in Canada, they are managed solely from the United States, and they do not have any Canadian assets or property other than receivables payable in respect of guarantee fees.

Feltman Affidavit at paras. 15 - 20, Application Record at Tab 2.

31. Based on the foregoing, the Applicant submits that its COMI and the COMI of the other Chapter 11 Debtors is located in the United States. As such, the Chapter 11 Cases should be recognized as “foreign main proceedings”.

(i) The Applicant is a “Foreign Representative”

32. The CCAA defines a “foreign representative” as:

[...] a person or body, including one appointed on an interim basis, who is authorized, in a foreign proceeding [in] respect of a debtor company, to

(a) monitor the debtor company's business and financial affairs for the purpose of reorganization; or

(b) act as a representative in respect of the foreign proceeding.

CCAA, s. 45(1), *sub verbo* "foreign representative"

33. Pursuant to paragraph 3 of the Foreign Representative Order entered August 20, 2020, the U.S. Court appointed the Applicant as the foreign representative: "RGN-National is hereby authorized to [...] act as the Foreign Representative of the Debtors [...] and [...] seek recognition of these chapter 11 cases in the Canadian Proceeding [...]". As such, the Applicant meets the definition in s. 45(1) of the CCAA because it is authorized to act as a representative in respect of the foreign proceeding.

In re RGN-Group Holdings, LLC, et al., Case No. 20-11961 (BLS) (Jointly Administered), United States Bankruptcy Court for the District of Delaware – *Order Authorizing RGN-National Business Centers, LLC to Serve as Foreign Representative on Behalf of the Debtors' Estates* at para. 3, Applicant's Compendium at Tab 3B.

(ii) The Initial Recognition Order Should be Granted

34. Based on the foregoing, this application for relief under the CCAA "relates to a foreign proceeding" and the Applicant "is a foreign representative in respect of that foreign proceeding". As such, pursuant to s. 47(1) of the CCAA, the court should make an order recognizing the foreign proceeding.

CCAA, s. 47(1).

B. The Relief Sought in the Initial Recognition Order and the Supplemental Order Should be Granted

1. The Stay of Proceedings is Required and Appropriate

35. Pursuant to s. 48(1) of the CCAA, this Court is required to grant certain mandatory relief, including a stay of proceedings, once it determines that a foreign proceeding is a "foreign main proceeding". The Court also has the authority to grant a stay of proceedings pursuant to s. 49(1) of the CCAA, which provides that the Court may make any order that it

considers appropriate if it is satisfied that the order is necessary for the protection of the debtor company's property or the interests of the creditors.

CCAA, s. 48(1), 49(1) and 50.

36. The Chapter 11 Debtors have already obtained the benefit of a stay of proceedings in the United States of America by operation of the Bankruptcy Code. The Initial Recognition Order and Supplemental Order establish a stay of proceedings against the Chapter 11 Debtors in Canada. The language in the Initial Recognition Order and Supplemental Order establishing the stay of proceedings is consistent with the terms of this Court's Model CCAA Initial Recognition Order (Foreign Main Proceeding) and Model CCAA Supplemental Order (Foreign Main Proceeding). The stay of proceedings will preserve the *status quo* in Canada and ensure any claims of Landlords are properly addressed in the Chapter 11 Cases rather than in an action or litigation commenced in Canada.

Feltman Affidavit at para. 46, Application Record at Tab 2.

2. Recognition of the First Day Orders is Appropriate

37. The Chapter 11 Debtors are seeking an order recognizing and giving effect to certain First Day Orders entered by the U.S. Court following the First Day Motions.

Feltman Affidavit at paras. 47, Application Record at Tab 2.

38. The list of First Day Orders that the Applicant is seeking to have recognized are set out in the Feltman Affidavit. The relief provided by these First Day Orders includes: (a) an order directing the joint administration of the Chapter 11 Cases for procedural purposes only; (b) the appointment of Epiq Corporate Restructuring, LLC as claims and noticing agent *nunc pro tunc* to the Petition Date; (c) the order appointing RGN-NBC as foreign representative of the Chapter 11 Debtors.

39. Section 49 of the CCAA provides that the Court may make any order that it considers appropriate if it is satisfied that it is necessary for the protection of the debtor company's property or the interests of a creditor or creditors.

CCAA, s. 49.

40. Section 50 of the CCAA further provides that an order made under Part IV of the CCAA, including pursuant to s. 49, may be made on any terms and conditions that the Court considers appropriate.

CCAA, s. 50.

41. The central principle governing Part IV of the CCAA is comity, which mandates that Canadian courts should recognize and enforce the judicial acts of other jurisdictions, provided that those other jurisdictions have assumed jurisdiction on a basis consistent with principles of order, predictability and fairness.

Hollander Sleep Products, LLC et al. (Re), 2019 ONSC 3238 at paras. 41-42 ([CanLII](#)).

See also *Caesars Entertainment Operating Company, Inc. (Re)*, 2015 ONSC 712 at para. 38 ([CanLII](#)).

42. In furtherance of the principle of comity, Canadian courts should allow a foreign court to exercise principal control over the insolvency process if that other jurisdiction has the closest connection to the proceeding.

See generally *Hollander Sleep Products, LLC et al. (Re)*, 2019 ONSC 3238 at para. 43. ([CanLII](#)).

43. The granting of an order recognizing and giving effect to the First Day Orders is appropriate for the following reasons:

- (a) The U.S. Court has appropriately taken jurisdiction over the Chapter 11 Cases, so comity will be furthered by this Court's recognition of and support for the proceedings already under way in the United States;
- (b) Coordination of proceedings in the two jurisdictions will ensure equal and fair treatment of all stakeholders;
- (c) Given the close connection between the Chapter 11 Debtors and the United States, it is reasonable and sensible for the U.S. Court to have principal control over the insolvency process; and
- (d) The First Day Orders were obtained by the Chapter 11 Debtors to protect their property and to ensure the efficient administration of the Chapter 11 Cases.

Feltman Affidavit at para. 49, Application Record at Tab 2.

44. For the foregoing reasons, the Applicant submits that this Court should recognize the First Day Orders.

3. The Information Officer Should be Appointed

45. KSV has consented to its appointment as Information Officer. KSV is a licensed insolvency trustee in Canada, and its principals have acted as information officer in several previous ancillary proceedings under the CCAA.

Feltman Affidavit at para. 44, Application Record at Tab 2.

46. Although the CCAA does not require that an information officer be appointed, a practice has developed whereby the court appoints an information officer pursuant to their discretionary powers in s. 49(1) and 50 of the CCAA. The role of the information officer is to assist the court and keep the court apprised of the status of the foreign proceedings.

CCAA, s. 49(1), and 50.

Hollander Sleep Products, LLC et al. (Re), 2019 ONSC 3238 at para. 55
([CanLII](#)).

47. The Information Officer will facilitate cooperation between this Court and the U.S. Court, as required by s. 52(1) of the CCAA. The Information Officer will also provide information to the Court, creditors, the Landlords, and other stakeholders as is necessary in a cross-border restructuring.

48. The terms of KSV's appointment as Information Officer and its proposed role is consistent with the terms of the Model Order.

49. Accordingly, the Applicant submits that it is appropriate for this Court to appoint KSV as the Information Officer.

PART V - ORDER SOUGHT

50. For the foregoing reasons, the Applicant respectfully requests that this Court grant the requested Orders substantially in the form of the draft orders attached at Tabs 3 and 5 to the Applicant's motion record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 22nd day of August, 2020.



Stikeman Elliott LLP
Lawyers for the Foreign Representative

SCHEDULE "A"
LIST OF AUTHORITIES

Cases

1. *Caesars Entertainment Operating Company, Inc. (Re)*, 2015 ONSC 712 ([CanLII](#))
2. *Hollander Sleep Products, LLC et al. (Re)*, 2019 ONSC 3238 ([CanLII](#))
3. *Payless Holdings LLC (Re)*, 2017 ONSC 2242 ([CanLII](#))

**SCHEDULE “B”
RELEVANT STATUTES**

Companies’ Creditors Arrangement Act, RSC 1985, c C-36 _____

**PART IV
CROSS-BORDER INSOLVENCIES**

Purpose

44 The purpose of this Part is to provide mechanisms for dealing with cases of cross-border insolvencies and 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 businesses to protect investment and preserve employment.

Interpretation

Definitions

45 (1) The following definitions apply in this Part.

foreign court means a judicial or other authority competent to control or supervise a foreign proceeding. (tribunal étranger)

foreign main proceeding means a foreign proceeding in a jurisdiction where the debtor company has the centre of its main interests. (principale)

foreign non-main proceeding means a foreign proceeding, other than a foreign main proceeding. (secondaire)

foreign proceeding means a judicial or an administrative proceeding, including an interim proceeding, in a jurisdiction outside Canada dealing with creditors’ collective interests generally under any law relating to bankruptcy or insolvency in which a debtor company’s business and financial affairs are subject to control or supervision by a foreign court for the purpose of reorganization. (instance étrangère)

foreign representative means a person or body, including one appointed on an interim basis, who is authorized, in a foreign proceeding respect of a debtor company, to

(a) monitor the debtor company's business and financial affairs for the purpose of reorganization; or

(b) act as a representative in respect of the foreign proceeding. (représentant étranger)

Centre of debtor company's main interests

45 (2) For the purposes of this Part, in the absence of proof to the contrary, a debtor company's registered office is deemed to be the centre of its main interests.

Recognition of Foreign Proceeding

Application for recognition of a foreign proceeding

46 (1) A foreign representative may apply to the court for recognition of the foreign proceeding in respect of which he or she is a foreign representative.

Documents that must accompany application

46 (2) Subject to subsection (3), the application must be accompanied by

(a) a certified copy of the instrument, however designated, that commenced the foreign proceeding or a certificate from the foreign court affirming the existence of the foreign proceeding;

(b) a certified copy of the instrument, however designated, authorizing the foreign representative to act in that capacity or a certificate from the foreign court affirming the foreign representative's authority to act in that capacity; and

(c) a statement identifying all foreign proceedings in respect of the debtor company that are known to the foreign representative.

Documents may be considered as proof

46 (3) The court may, without further proof, accept the documents referred to in paragraphs (2)(a) and (b) as evidence that the proceeding to which they relate is a foreign proceeding and that the applicant is a foreign representative in respect of the foreign proceeding.

Other evidence

46 (4) In the absence of the documents referred to in paragraphs (2)(a) and (b), the court may accept any other evidence of the existence of the foreign proceeding and of the foreign representative's authority that it considers appropriate.

[...]

Order recognizing foreign proceeding

47 (1) If the court is satisfied that the application for the recognition of a foreign proceeding relates to a foreign proceeding and that the applicant is a foreign representative in respect of that foreign proceeding, the court shall make an order recognizing the foreign proceeding.

Nature of foreign proceeding to be specified

47 (2) The court shall specify in the order whether the foreign proceeding is a foreign main proceeding or a foreign non-main proceeding.

Order relating to recognition of a foreign main proceeding

48 (1) Subject to subsections (2) to (4), on the making of an order recognizing a foreign proceeding that is specified to be a foreign main proceeding, the court shall make an order, subject to any terms and conditions it considers appropriate,

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken against the debtor company under the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act;

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the debtor company;

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the debtor company; and

(d) prohibiting the debtor company from selling or otherwise disposing of, outside the ordinary course of its business, any of the debtor company's property in Canada that relates to the business and prohibiting the debtor company from selling or otherwise disposing of any of its other property in Canada.

Scope of order

48 (2) The order made under subsection (1) must be consistent with any order that may be made under this Act.

When subsection (1) does not apply

48 (3) Subsection (1) does not apply if any proceedings under this Act have been commenced in respect of the debtor company at the time the order recognizing the foreign proceeding is made.

Application of this and other Acts

48 (4) Nothing in subsection (1) precludes the debtor company from commencing or continuing proceedings under this Act, the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act in respect of the debtor company.

Other orders

49 (1) If an order recognizing a foreign proceeding is made, the court may, on application by the foreign representative who applied for the order, if the court is satisfied that it is necessary for the protection of the debtor company's property or the interests of a creditor or creditors, make any order that it considers appropriate, including an order

(a) if the foreign proceeding is a foreign non-main proceeding, referred to in subsection 48(1);

(b) respecting the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor company's property, business and financial affairs, debts, liabilities and obligations; and

(c) authorizing the foreign representative to monitor the debtor company's business and financial affairs in Canada for the purpose of reorganization.

Restriction

49 (2) If any proceedings under this Act have been commenced in respect of the debtor company at the time an order recognizing the foreign proceeding is made, an order made under subsection (1) must be consistent with any order that may be made in any proceedings under this Act.

Application of this and other Acts

49 (3) The making of an order under paragraph (1)(a) does not preclude the commencement or the continuation of proceedings under this Act, the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act in respect of the debtor company.

Terms and conditions of orders

50 An order under this Part may be made on any terms and conditions that the court considers appropriate in the circumstances.

[...]

52 (1) If an order recognizing a foreign proceeding is made, the court shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding.

Cooperation — other authorities in Canada

52 (2) If any proceedings under this Act have been commenced in respect of a debtor company and an order recognizing a foreign proceeding is made in respect of the debtor company, every person who exercises powers or performs duties and functions under the proceedings under this Act shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding.

Forms of cooperation

52 (3) For the purpose of this section, cooperation may be provided by any appropriate means, including

(a) the appointment of a person to act at the direction of the court;

(b) the communication of information by any means considered appropriate by the court;

(c) the coordination of the administration and supervision of the debtor company's assets and affairs;

(d) the approval or implementation by courts of agreements concerning the coordination of proceedings; and

(e) the coordination of concurrent proceedings regarding the same debtor company.

[...]

Presumption of insolvency

59 For the purposes of this Part, if an insolvency or a reorganization or a similar order has been made in respect of a debtor company in a foreign proceeding, a certified copy of the order is, in the absence of evidence to the contrary, proof that the debtor company is insolvent and proof of the appointment of the foreign representative made by the order.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C 36, AS AMENDED AND IN THE MATTER OF H WORK, LLC, RGN-GROUP HOLDINGS, LLC, RGN-NATIONAL BUSINESS CENTERS, LLC, RGN-FORT LAUDERDALE III, LLC, RGN-COLUMBUS IV, LLC, RGN-CHICAGO XVI, LLC AND RGN-CHAPEL HILL II, LLC

Court File No.: _____

APPLICATION OF RGN-NATIONAL BUSINESS CENTERS, LLC UNDER SECTION 46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

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(RETURNABLE AUGUST 24, 2020)

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