

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

BETWEEN

MACQUARIE EQUIPMENT FINANCE LIMITED

Applicant

- and -

**VALIDUS POWER CORP., IROQUOIS FALLS POWER CORP., BAY POWER
CORP., KAP POWER CORP., VALIDUS HOSTING INC., KINGSTON COGEN
LIMITED PARTNERSHIP AND KINGSTON COGEN GP INC.**

Respondents

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED; AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS
AMENDED

**COMPENDIUM OF KEY DOCUMENTS OF THE APPLICANT
(Application re: Receivership Order,
returnable August 2, 2023)**

August 1, 2023

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Limited, the Applicant

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1.	Chronological Summary of Key Events: Appendix “A” to the Affidavit of Joshua Hamilton Stevens sworn July 31, 2023, Tab 2 of the Applicant’s Application Record (“Stevens Affidavit”)
2.	Debtors’ admission of certain defaults and acknowledgement that the Applicant may pursue its rights and remedies in respect of same: Acknowledgement and Reservation of Rights Agreement, s 3.2
3.	Evidence of the Debtors’ mismanagement and defaults:
3(a)	<p>Alleged Breach of Hut 8 PPA</p> <p>Stevens Affidavit, paras 70-75</p> <p>Statement of Claim filed by Hut 8 Mining Corp. in the Hut 8 Litigation, dated January 25, 2023</p> <p>Amended Statement of Defence and Counterclaim filed by Validus Power Corp. and Bay Power Corp. in the Hut 8 Litigation, dated April 11, 2023</p>
3(b)	<p>Failure to pay Base Rent plus HST</p> <p>Demand Letter from the Applicant to IFPC dated July 24, 2023</p> <p>Stevens Affidavit, para 59</p>
3(c)	<p>Unpaid and Unremitted HST</p> <p>Liens registered by Canada Revenue Agency against IFPC’s Real Property on or around March 8, 2023</p> <p>Stevens Affidavit, para 54(b)</p>
3(d)	<p>Potential Unremitted Source Deductions</p> <p>Stevens Affidavit, para 54(c)</p>
3(e)	<p>Unpaid Municipal Taxes</p> <p>Stevens Affidavit, para 54(d)</p>
3(f)	<p>Alleged Misappropriation of Funds</p> <p>Letter from Canadian Imperial Bank of Commerce’s counsel dated May 12, 2023</p>

Item	Hyperlinked Document	
3(g)	Alleged Failure to Provide Benefit Coverage and Match/Remit RRSP Contributions	Letter from The International Union of Operating Engineers Local 865's counsel dated May 25, 2023
3(h)	Failure to Maintain Insurance Coverage	Notice of Cancellation in respect of the Debtors' property insurance coverage dated June 8, 2023 Stevens Affidavit, paras 57-58
3(i)	Deficient Recordkeeping	Stevens Affidavit, para 54(a)
4.	Applicant's right to accelerate the Accelerated Payments: Lease Agreement, s 13.1(f)	
5.	Accommodations given by the Applicant to the Debtors:	
5(a)	Rent Holiday	Acknowledgement and Reservation of Rights Agreement, Recitals E-F Stevens Affidavit, para 80
5(b)	Proposed Sale of IFPC	Acknowledgement and Reservation of Rights Agreement, s 4(a) Email from M&A Advisor to the Applicant re: final bidder not closing its offer
5(c)	Amounts Paid by Applicant on Debtors' Behalf	Stevens Affidavit, paras 85-86
6.	Applicable provisions specifying the applicable "Lease Events of Default" under the Lease Agreement:	
6(a)	Monetary Defaults	Lease Agreement, ss 12(a) and (b)
6(b)	Unpaid and Unremitted Taxes	Participation Agreement, s 4.10 Lease Agreement, s 12(i)
6(c)	Incurrence of CRA Lien	Lease Agreement, ss 7 and 12(i) Participation Agreement, s 4.10

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6(d)	Failure to Maintain Insurance Coverage	Lease Agreement, s 12(c) Participation Agreement, s 4.22
6(e)	Alleged Breach of Hut 8 PPA	Lease Agreement, s 12(j) and (k) Participation Agreement, Appendix A, “Material Project Documents” definition
6(f)	Deficient Recordkeeping	Participation Agreement, ss 4.12 and 4.23 Lease Agreement, s 12(i)
7.	Sample Demand Letters and Section 244 Notices:	
7(a)	Demand Letter re: Base Rent and HST in arrears delivered by the Applicant to IFPC on June 9, 2023	
7(b)	Notice of Intention to Enforce Security under Section 244 of the BIA delivered by the Applicant to IFPC on June 9, 2023	
7(c)	Demand Letter re: Base Rent and HST in arrears delivered by the Applicant to IFPC on July 24, 2023	
7(d)	Demand Letter re: Accelerated Payment delivered by the Applicant to IFPC on July 24, 2023	
8.	Security Documents granting the Applicant the right to appoint a receiver in respect of each of the following Debtors:	
8(a)	Validus Power Corp.	Securities Pledge Agreement, s 13 , as amended by Acknowledgement, Confirmation and Amendment Agreement, s 3(c)
8(b)	Iroquois Falls Power Corp. (IFPC)	Amended and Restated Lease Agreement, s 13.1(g) General Security Agreement from IFPC, ss 11(q) and (r) Demand Debenture from IFPC, s 3.1(o)
8(c)	Bay Power Corp.	General Security Agreement from Bay Power, ss 11(q) and (r) Demand Debenture from Bay Power, s 3.1(o)

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8(d)	Kap Power Corp.	General Security Agreement from Kap Power, ss 11(q) and (r) Demand Debenture from Kap Power, s 3.1(o)
8(e)	Kingston GP	General Security Agreement from Kingston GP and Kingston LP, ss 11(q) and (r) Demand Debenture from Kingston GP, s 3.1(o)
8(f)	Kingston LP	General Security Agreement from Kingston GP and Kingston LP, ss 11(q) and (r) Demand Debenture from Kingston LP, s 3.1(o)

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Proceeding commenced at TORONTO

COMPENDIUM OF THE APPLICANT

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