Docket #0022 Date Filed: 4/4/2016

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

In re: **SANJEL (USA) INC.,** **Debtor in a foreign proceeding.**	§ § § §	**Case No. 16-50778** **Chapter 15**
In re: **SANJEL CORPORATION,** **Debtor in a foreign proceeding.**	§ § § §	**Case No. 16-50784** **Chapter 15**
In re: **SURETECH GROUP LTD.,** **Debtor in a foreign proceeding.**	§ § § §	**Case No. 16-50786** **Chapter 15**
In re: **SANJEL ENERGY SERVICES (USA) INC.,** **Debtor in a foreign proceeding.**	§ § § § §	**Case No. 16-50795** **Chapter 15**
In re: **SURETECH COMPLETIONS (USA) INC.,** **Debtor in a foreign proceeding.**	§ § § § §	**Case No. 16-50789** **Chapter 15**
In re: **SANJEL CAPITAL (USA) INC.,** **Debtor in a foreign proceeding.**	§ § § §	**Case No. 16-50783** **Chapter 15**
In re: **TERRACOR GROUP LTD.,** **Debtor in a foreign proceeding.**	§ § § §	**Case No. 16-50790** **Chapter 15**
In re: **TERRACOR (USA) INC.,** **Debtor in a foreign proceeding.**	§ § § §	**Case No. 16-50791** **Chapter 15**
In re: **TERRACOR RESOURCES (USA) INC.,** **Debtor in a foreign proceeding.**	§ § § §	**CASE NO. 16-50793** **Chapter 15**
In re: **TERRACOR LOGISTICS (USA) INC.,** **Debtor in a foreign proceeding.**	§ § § §	**CASE NO. 16-50794** **Chapter 15** **Joint Administration Pending**

DECLARATION OF PAUL J. DARBY IN SUPPORT OF FIRST DAY MOTIONS INCLUDING (1) MOTION FOR AN ORDER DIRECTING JOINT ADMINISTRATION OF BANKRUPTCY CASES, (2) MOTION FOR ENTRY OF ORDER LIMITING NOTICE AND ESTABLISHING NOTICE PROCEDURES, (3) EMERGENCY EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND RELIEF PURSUANT TO SECTIONS 105(A) AND 1519 OF THE BANKRUPTCY CODE, (4) MOTION FOR AN ORDER (I) SPECIFICALLY RECOGNIZING CANADIAN COURT ORDER AUTHORIZING DEBTORS TO BORROW UNDER A POST-PETITION CREDIT FACILITY, (II) APPROVING LIENS ON ASSETS LOCATED IN THE TERRITORIAL JURISDICTION OF THE UNITED STATES, AND (III) GRANTING ADEQUATE PROTECTION TO PRE-PETITION SECURED PARTIES AND (5) EXPEDITED PETITION FOR RECOGNITION AS FOREIGN MAIN PROCEEDING PURSUANT TO SECTIONS 1515 AND 1517 OF THE UNITED STATES BANKRUPTCY CODE AND RELATED RELIEF

1. I am Paul J. Darby, Senior Vice President and designated as one of the Administrators by PricewaterhouseCoopers Inc. ("PwC" or "Monitor"). PwC has been appointed as the Monitor and the Foreign Representative for the above-captioned debtors (collectively, the "Chapter 15 Debtors") in proceedings commenced under Canada's Companies' Creditors Arrangement Act, R.S.C. 1985, c. C36, as amended (the "CCAA") and pending before the Court of Queen's Bench of Alberta (the "Canadian Court") (the "CCAA Proceedings"). I am generally familiar with the current day-to-day operations, business affairs, and books and records of the Chapter 15 Debtors.

2. In a CCAA Proceeding, the Monitor is an officer of the Court and acts as the "eyes and ears" of the Court during the CCAA proceedings. As a general rule, the Monitor's role is detailed in the initial order commencing the CCAA Proceeding (the "Initial Order") and includes but is not limited to, monitoring the CCAA Debtor's operations and cash flow during the CCAA proceedings; reporting to the Court as to the CCAA Debtor's restructuring efforts and compliance with the Initial Order; advising the Court and the creditors as to the reasonableness and fairness of any plan of arrangement that may be proposed by the CCAA

Debtor and its creditors; and overseeing the claims process and reviewing creditors' proofs of claim. In these CCAA Proceedings, the Monitor has expanded duties as outlined in the Initial Order which is attached to the *Notice of Filing Documents In Support of First Day Pleadings* (the "Notice") as **Exhibit A.**

3. To minimize the immediate adverse effects on the filing for Chapter 15 protection and to enhance the Chapter 15 Debtors' prospects of a successful reorganization, the Monitor has filed a number of motions requesting various types of "first day" relief (individually a "**First Day Motion**" and collectively, the "**First Day Motions**"). I am familiar with the contents of each First Day Motion (including the exhibits and other attachments thereto), and I believe that the relief sought in each First Day Motion: (i) is necessary to enable the Chapter 15 Debtors to operate in Chapter 15 with minimum disruption or loss of productivity or value; (ii) is critical to the Chapter 15 Debtors' ability to successfully prosecute the CCAA Proceedings and these Chapter 15 Cases; and (iii) best serves the Chapter 15 Debtors' estates and the interests of the creditors. I submit this Declaration (the "**Declaration**") in support of the First Day Motions.

4. I have reviewed and adopt the *Proposed Monitor's Pre-Filing Report To Court Submitted By PricewaterhouseCoopers Inc.* (the "Monitor's Report") filed in the CCAA Proceedings and attached to the Notice as **Exhibit "D"**. On information and belief, all information in the Monitor's Report is true and correct.

5. I have reviewed the *Affidavit of Paul Crilly* filed in the CCAA Proceedings attached as **Exhibit "F"** to the Notice (the "**Crilly Affidavit**"). I have also reviewed the *Declaration of Paul Crilly in Support of (A) Emergency Ex Parte Application for Temporary Restraining Order and Relief Pursuant to Sections 105(A) and 1519 of the Bankruptcy Code, (B) Expedited Petition for Recognition as Foreign Main Proceeding Pursuant to Sections 1515*

and 1517 of the United States Bankruptcy Code and Related Relief, and (C) Motion for an Order (I) Specifically Recognizing Canadian Court Order Authorizing Debtors to Borrow Under a Post-Petition Credit Facility, (II) Approving Liens on Assets Located in the Territorial Jurisdiction of the United States, and (III) Granting Adequate Protection to Pre-Petition Secured Parties filed in these Chapter 15 cases (together with the Crilly Affidavit, the "**Crilly Declarations**") and would testify, on information and belief, that the information contained in the Crilly Declarations is true and correct.

6. Except as otherwise indicated, all statements set forth in this Declaration are based upon: (i) my personal knowledge, (ii) documents and other information prepared or collected by other members of the Chapter 15 Debtors' management, their employees, or their professionals, (iii) documents and other information prepared or collected by PwC management, its employees, or its professionals (iv) my review of relevant documents, and/or (v) my opinion based upon my experience and knowledge of the Chapter 15 Debtors' operations and financial condition. If I were called upon to testify, I could and would testify competently to the facts set forth herein based upon my personal knowledge, review of documents, and/or opinion.

7. I am authorized to submit this Declaration on behalf of PwC, as Monitor and Foreign Representative.

BACKGROUND

A. Ownership Structure

8. As set forth in the *Statement of Foreign Representative Under Bankruptcy Rule 1007(A)(4)*, filed contemporaneously herewith, MacDonald Group Ltd. owns 100% of the equity interests in Sanjel Corporation ("**Sanjel Corp**"). Sanjel Corp. directly or indirectly owns 100% of the equity interests in the remaining Chapter 15 Debtors.

9. As more fully set out in the Crilly Declarations, the business of Sanjel Corporation and its affiliates (the "**Sanjel Group**") was established in 1982. Over the last 34 years, the business has grown into a fully-integrated industry leader provider of fracturing, cementing, coiled tubing and reservoir solutions services to the oil and gas industry in Canada, the U.S. and Saudi Arabia. The Sanjel Group is headquartered in Calgary.

10. Sanjel Corp, through its subsidiaries comprising the Sanjel Group, is an independent oil and gas services company. The Sanjel Group's pressure pumping operations provide fracturing, cementing, coiled tubing and reservoir solutions services in Canada, the U.S. and Saudi Arabia (via its joint venture). Through the Suretech entities, the Sanjel Group offers patented multistage completions system solutions for unconventional reservoir development with operations in the U.S., Canada and the other international locations. Finally, through Terracor Group, the Sanjel Group distributes third-party proppant through its strategically-located transload facilities, and is in the process of developing a premium, quality northern white fracturing sand mine to service the North American energy industry.

11. The Sanjel Group, along with all its competitors in the energy services industry, has been severely impacted by the precipitous and sustained drop in global commodity prices since mid-2014. Severely depressed crude oil and natural gas prices have resulted in oil and gas exploration and production companies in North America materially reducing their capital expenditure budgets over the last 18 months. This capital expenditure reduction has directly and negatively impacted the revenues and profitability of energy service companies like the Sanjel Group and its competitors.

Pre-Petition Financing

12. Pursuant to an Amended and Restated Credit Agreement dated as of April 21, 2015 (the "**Bank Credit Agreement**"), Sanjel Corp and Sanjel (USA) Inc. ("**SUSA**"), as borrowers, are party to a secured credit facility with a three-year term (the "**Facility**") with a syndicate of twelve financial institutions led by Alberta Treasury Branches ("**ATB**" or the "**Agent**") (collectively the "**Syndicate**"). A copy of the Bank Credit Agreement (with amendments, but excluding the lengthy exhibits and schedules appended thereto) is attached as **Exhibit "K"** to the Notice. The total amount currently outstanding under the Bank Credit Agreement is approximately $396.7 million (CDN$345.1 million and USD$40.3 million (at an exchange rate of USD$1.00 to CAD$1.2971).

13. Sanjel Corp and SUSA are the only borrowers under the Facility. Each of the Chapter 15 Debtors appears to have guaranteed the borrowings under the Facility including any cash management or hedge liabilities of the Sanjel Group with the Lenders, as security for which each Applicant purported to grant a floating security interest over all of its present and future property.

14. As part of its duties, the Monitor will cause a review of the Lenders' security interests to determine the extent, validity, priority and perfection of such security interests in substantially all of the Chapter 15 Debtors' assets.

15. On March 18, 2016, the Agent issued Notices of Intention to Enforce Security pursuant to Section 244 of the Bankruptcy and Insolvency Act (Canada) are, which attached to the Notice as **Exhibit "Q".**

16. On June 18, 2014, Sanjel Corp issued US$300,000,000 principal amount 7.5% Senior Bonds due June 19, 2019 (the "**Senior Bonds**"). Sanjel Corp is required to pay the

interest accruing under the Senior Bonds semi-annually on June 19 and December 19. A true copy of the Bond Agreement related to the Senior Bonds, entered into on June 18, 2014 between Sanjel Corp and Nordic Trustee ASA (the "**Trustee**"), as trustee (the "**Bond Agreement**") is attached to the Notice as **Exhibit "L"**. The proceeds of the Senior Bond issuance were used by Sanjel Corp primarily to pay down borrowings under the Facility and permanently reduce the loan amounts thereunder, and for working capital purposes.

17. The Senior Bonds appear to have been guaranteed by SUSA and the other Applicants but are otherwise unsecured. The Trustee has issued a Summons to bondholders for a meeting currently scheduled for April 14, 2016. The Summons s attached as **Exhibit "N"** to the Notice.

18. The Bond Agreement is governed by Norwegian law.

FIRST DAY MOTIONS

19. To facilitate the ability to successfully prosecute the CCAA Proceedings and these Chapter 15 Cases, the Monitor has caused to be filed a number of so-called First-Day Motions, as more fully discussed below:

1. Joint Administration

20. The Monitor and the Chapter 15 Debtors have filed a *Motion for an Order Directing Joint Administration of Bankruptcy Cases*. I believe that joint administration of these Chapter 15 Debtors' cases will facilitate the coordinated administration of their cases. Furthermore, I understand that joint administration of these Chapter 15 Debtors' cases is appropriate because the Chapter 15 Debtors intend to file with this Court such motions and applications reasonably necessary to effect a smooth process for the business during the bankruptcy. Moreover, the assets and operations of the respective Chapter 15 Debtors are

intertwined. As such, the joint administration of these cases, including the combining of notices to creditors of the respective estates, as well as the notices and hearings of all matters at the same time, including, without limitation, motions and adversary proceedings, will promote the economical, efficient and convenient administration of the Chapter 15 Debtors' estates. With multiple debtors, each with its own case docket, the failure to jointly administer these cases would result in duplicative pleadings repeatedly being filed. I believe that such duplication of substantially identical documents would be wasteful and would unnecessarily burden the Clerk of the Court.

21. Joint administration will permit the Clerk to use a single general docket for these Chapter 15 Debtors' cases and to combine notices to creditors and other parties in interest of the Chapter 15 Debtors' respective estates. Joint administration will also protect parties in interest by ensuring that such parties in interest in each of the Chapter 15 Debtors' respective Chapter 15 cases will be apprised of the various matters before the Court in all of these Chapter 15 cases.

22. The rights of the respective creditors of each of the Chapter 15 Debtors will not be adversely affected by joint administration of these Chapter 15 cases inasmuch as the relief sought is purely procedural and is in no way intended to affect substantive rights.

23. Each creditor and party in interest will maintain whatever rights it has against the particular estate in which it allegedly has a claim or right. Indeed, the rights of all creditors will be enhanced by the reduction in costs resulting from joint administration. The Court will also be relieved of the burden of entering duplicative orders and keeping duplicative files.

2. Limit Notice

24. The number of creditors and other parties in interest involved in these Chapter 15 Debtors' Chapter 15 cases exceeds 5000 and service of all pleadings on the entire creditor matrix

will impose heavy administrative and other burdens. By their *Motion for Entry of Order Limiting Notice and Establishing Notice Procedures* ("Limit Notice Motion"), the Debtors wish to limit notice sent to creditors and other parties in interest.

25. Service of papers by electronic mail or by the Court's ECF system where applicable will substantially reduce costs to the Chapter 15 Debtors' estates for photocopying and postage.

26. The mailing of notices of all pleadings and other documents in these Chapter 15 cases to all creditors and parties-in-interest, and the mailing of notices of all pleadings and other documents to insured depository institutions in contested matters and adversary proceedings via certified mail, would be both impractical and impose an administrative and economic burden upon the Debtors' estates.

27. Limiting service as called for in the Limit Notice Motion will make the administration of these Chapter 15 Cases more efficient and cost-effective. Furthermore, because all creditors and other parties in interest will have the right to request notice of all proceedings in these Chapter 15 Cases and to be included on the limited service list (the "**Master Service List**") at any time, the notice procedures requested in the motion will not prejudice the rights of any creditor or other party in interest. The Limit Notice Motion is in the best interest of the Chapter 15 Debtors' estates and creditors because it will limit administrative costs and will not prejudice the rights of any creditor or party-in-interest.

28. The Monitor requests that this Court authorize the Monitor and the Chapter 15 Debtors to maintain and file the Master Service List for future filings and service of ongoing bankruptcy notifications in these Chapter 15 Cases.

29. The Monitor has also requested pursuant to 11 U.S.C. § 1514, to serve the Notice attached as **Exhibit "E"** to the Limit Notice Motion to the entire creditor list in lieu of serving the Chapter 15 Petitions. The Notice provides a clear and concise notification of the Chapter 15 Cases and tracks the form of notice provided in CCAA Proceedings.

3. Post-Petition Financing

30. The Monitor, jointly with the Chapter 15 Debtors, have filed a *Motion for An Order (I) Specifically Recognizing Canadian Court Order Authorizing Debtors to Borrow Under a Post-Petition Credit Facility, and (II) Approving Liens On Assets Located in the Territorial Jurisdiction of the United States and (III) Granting Adequate Protection to Prepetition Secured Parties* (the "**Post-Petition Financing Motion**").

31. The Monitor and the Chapter 15 Debtors have determined that it is necessary to obtain post-petition financing to operate their business in Chapter 15. There are over 2000 employees and other expenses which need to be paid during these Chapter 15 cases. As set out in the cash flow forecast attached as **Exhibit "M"** to the Notice, the Chapter 15 Debtors' principal use of cash during these bankruptcy proceedings will consist of the payment of ongoing day-to-day operational expenses, office related expenses, and the professional fees and disbursements in connection with the CCAA and Chapter 15 proceedings. As indicated in the cash flow forecast, it is projected that the Chapter 15 Debtors will require substantial additional credit during the CCAA Proceedings, notwithstanding that the Chapter 15 Debtors are seeking to complete these proceedings as quickly as reasonably possible in order to minimize costs and the impact on the Sanjel Group's business. The Chapter 15 Debtors' cash reserves will be insufficient to cover all their expenses during these restructuring proceedings. Without the provision of interim and final lending during these proceedings, the Chapter 15 Debtors would

not be able to successfully prosecute the CCAA Proceedings and these Chapter 15 Cases, to what I believe would be to the detriment of all their stakeholders. Based on the Chapter 15 Debtors' Cash Flow Forecasts (attached to the Notice as **Exhibit M")** and anticipated operations, revenues and expenditures, on an initial basis, under the proposed Interim Order of this Court pending the entry of a Final Order on the Motion, the Chapter 15 Debtors will likely expend approximately CDN$60 to $62 million for ongoing post-petition obligations. Thus, based on the amount of funds expected to be on hand as of the filing date, the Chapter 15 Debtors may need to borrow (on an interim basis pending a final hearing) approximately CDN$25 to $30 million under the post-petition facility.

32. It is the opinion of the Monitor that no other lender would be willing to advance up to $50 million dollars (the total amount of the post-petition facility) on an unsecured basis, given the current financial condition of the Chapter 15 Debtors. Further, given the current value of the Chapter 15 Debtors' assets, the Agent and the Syndicate are unwilling to allow a secured loan from a third party lender which is senior or of equal rank to the loans of the Syndicate.

33. On April 4, 2016, Sanjel Corp and all the members of the Syndicate entered into a Post-Petition Credit Agreement (attached to the Notice as **Exhibit S")** with Sanjel Corp. as Borrower, and ATB, as the Agent. Each of the Chapter 15 Debtors and certain other members of the Sanjel Group have guaranteed the obligations under the Post-Petition Credit Agreement (the "Post-Petition Guarantee"). A true and correct copy of the Post-Petition Guarantee is attached as **Exhibit "T"** to the Notice. The Post-Petition Credit Agreement and the Post-Petition Guarantee were negotiated in good faith and at arm's length. The material terms of the Post-Petition Credit Agreement are, and, in the opinion of the Monitor, at, or in some instances below, market for a

loan of this type these Chapter 15 Debtors. The material terms of the Post-Petition Credit Agreement include:

(a) an initial maximum credit amount of up to CAD $50 million;

(b) an interest rate of Canadian Prime, plus 6% for Canadian dollar advances or U.S. Base Rate, plus 6% for U.S. dollar advances;

(c) an upfront commitment fee of 35 basis points, and an undrawn fee of 35 basis points;

(d) a maturity date of May 30, 2016;

(e) a requirement that each of the Chapter 15 Debtors, other than Sanjel Corp. (which is to be the borrower under the Post-Petition Agreement), will guarantee the obligations of Sanjel Corp. under the Post-Petition Credit Agreement pursuant to the Post-Petition Guarantee;

(f) customary covenants, events of default and milestones, including a milestone requiring that the Post-Petition Credit Agreement be approved by the Court; and

(g) as security for the Post-Petition Credit Agreement, the Agent will be granted a fully perfected first ranking charge (i.e., first priority lien) on all of the existing and after acquired real and personal property of Sanjel Corp. and the Guarantors (including the Chapter 15 Debtors) (collectively, the "Collateral") including a lien on previously unencumbered assets, if any, and assets located within the territorial jurisdiction of the United States, subject only to the Administrative Charge.

4. Application for Temporary Restraining Order.

34. The Monitor has filed its *Emergency Ex Parte Application For Temporary Restraining Order And Relief Pursuant To Sections 105(A), 1519, 1521 And Other Sections Of The Bankruptcy Code* ("**TRO Application**"). The Monitor has contemporaneously filed petitions for recognition for each Chapter 15 Debtor, seeking a recognition and a ruling that the CCAA Proceedings are foreign main proceedings under 11 U.S.C. §§ 1517(b)(1) and 1520. Although "[a] petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time," there is necessarily a gap between the time the petition for recognition is filed and the time the Court makes a decision on whether a proceeding should be recognized, and if so, whether such proceeding is a foreign main proceeding or a foreign nonmain proceeding. The Monitor and the Chapter 15 Debtors are concerned that absent such provisional relief,

creditors of the Chapter 15 Debtors could possibly take actions against the Chapter 15 Debtors or their assets located in the United States and that such actions would greatly disrupt its efforts to successfully prosecute the CCAA Proceedings and these Chapter 15 Cases. Accordingly, the Monitor seeks emergency provisional relief (the "Provisional Relief") under 11 U.S.C. § 1519 and 11 U.S.C. § 105(a).

35. The Initial Order in the CCAA Proceedings provides for a stay period whereby no proceeding or enforcement process in any court (each, a "**Proceeding**") may be commenced or continued against or in respect of the Chapter 15 Debtors or the Monitor, or affecting the Business or the Property, except with leave of the Canadian Court, and any and all Proceedings currently under way against or in respect of the Chapter 15 Debtors or any one of them, or affecting the Business or the Property are stayed and suspended pending further order of the Canadian Court (the "Stay Period"). The Initial Order further provides that during the Stay Period, all rights and remedies of any persons, whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Chapter 15 Debtors or the Monitor, or affecting the Chapter 15 Debtors' Business or the Property, are stayed and suspended and may not be commenced, proceeded with or continued except with leave of the Canadian Court.

36. The Provisional Relief requested is similar to the Stay Period relief already ordered by the Canadian Court, but it will specifically protect the Chapter 15 Debtors and their assets in the United States.

37. Accordingly, the Monitor requests the following provisional relief, which appears in the Initial Order[1] attached to the Notice as **Exhibit "A"**:

[1] Capitalized terms used but not otherwise defined in this paragraph shall have the meaning ascribed to them in the Initial Order and/or the TRO Application as applicable.

(1) Except with respect to the Interim Financing and the Interim Financing Charge,[2] the terms of the Initial Order be given full force and effect in the United States on an interim basis until otherwise ordered by the Court.

(2) The commencement or continuation of any action or proceeding concerning the assets, rights, obligations or liabilities of the Chapter 15 Debtors, including any action or proceeding against PwC in its capacity as Monitor and the foreign representative of the Chapter 15 Debtors, be stayed. 11 U.S.C. §§ 1519(a)(3); 1521(a)(7).

(3) Permitting the continued use of the Cash Management System pursuant to existing agreements between the Chapter 15 Debtors and their existing depository and disbursement banks (collectively, the "**Banks**"), including, but not limited to, continuing to make payments to the Banks for fees for services rendered thereunder.

(4) Execution against the assets of the Chapter 15 Debtors be stayed. 11 U.S.C. § 1519(a)(1).

(5) The administration or realization of all or part of the assets of the Chapter 15 Debtors within the territorial jurisdiction of the United States be entrusted to the Chapter 15 Debtors, and the terms of the Initial Order shall apply to the Chapter 15 Debtors, its creditors, the Monitor, and any other parties-in-interest. 11 U.S.C. § 1519(a)(2).

(6) The right of any person or entity, other than the Chapter 15 Debtors, or the Monitor, to transfer or otherwise dispose of any assets of the Chapter 15 Debtors be suspended unless authorized in writing by the Chapter 15 Debtors or by Order of this Court. 11 U.S.C. §§ 1519(a)(3); 1521(a)(3).

(7) The Monitor may undertake the examination of witnesses, the taking of evidence, the production of documents, or the delivery of information concerning the assets, affairs, rights, obligations or liabilities of the Chapter 15 Debtors. 11 U.S.C. §§ 1519(a)(3); 1521(a)(4).

(8) Notwithstanding Rule 7062 of the Bankruptcy Rules, made applicable to this case by Rule 1018 of the Bankruptcy Rules, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry and, upon its entry, shall become final and appealable.

(9) This Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order, any request for additional relief or any adversary proceeding brought in and through these Chapter 15 foreign proceedings, and any request by an entity for relief from the

[2]As noted in note 3, *infra,* issues related to the Interim Financing and Interim Financing Charge will be addressed in the Court's rulings on the Post-Petition Financing Motion.

provisions of this Order, for cause shown, that is properly commenced and within the jurisdiction of this Court.

(10) If the Monitor has not already filed a copy of the Initial Order with this Court, it shall do so within ten days of the entry of this Order.

(11) The security provision provided in Rule 65(c) of the Federal Rules of Civil Procedure, made applicable through Rule 7065 of the Bankruptcy Rules, is unnecessary in this case and should be waived.

38. I understand that standards, procedures and limitations applicable to an injunction applies to the relief requested in the TRO Application. I believe that the facts support the Provisional Relief.

39. A substantial likelihood of success on the merits. There is no real issue as to whether the Canadian Proceedings should be recognized, as other courts have recognized CCAA proceedings and the proper documentation has been submitted. The Monitor also contends that the center of main interests is in Canada, since the headquarters, management, most employees, the majority of assets (on the basis of book value), and the majority of debts payable by the Chapter 15 Debtors are in Canada.

40. A substantial threat of irreparable injury if the injunction is not issued. The Initial Order provides for a stay against seizure of assets and litigation similar to the automatic stay of the Bankruptcy Code. The Initial Order and papers submitted in conjunction therewith establishes that the Chapter 15 Debtors are currently insolvent and unable to pay their debts as they become due and, as discussed above, are in default on certain obligations. The Monitor and the Chapter 15 Debtors are concerned that these facts may cause creditors to seek prejudgment attachments and other remedies against the Chapter 15 Debtors and their assets in the United States. Through the Canadian Proceedings, the Chapter 15 Debtors will attempt to reorganize

and/or sell their assets. If the Provisional Relief is not ordered, such restructuring and/or sale could be jeopardized.

41. That the threatened injury to the movant outweighs any damage the injunction might cause to the opponent. The Provisional Relief would actually benefit the Debtors' creditors by ensuring an equitable and orderly distribution of assets and facilitate the Canadian Proceedings as opposed to a piecemeal attack through a race to the courthouse by various creditor entities.

42. That the injunction will not disserve the public interest. The Provisional Relief will not disserve the public interest. The Provisional Relief is in the public interest as it will facilitate a cross-border reorganization that will provide a benefit to the estates of the Chapter 15 Debtors and their creditors. The Provisional Relief is supported by notions of comity and will allow the Chapter 15 Debtors to craft a productive solution for their estates. These goals are consistent with the express objectives of Chapter 15 which include, inter alia, encouraging cooperation between the courts of the United States and courts of foreign countries, "fair and efficient administration of cross-border insolvencies", and "protection and maximization of the value of the debtor's assets".

43. In sum, the relief sought is necessary and appropriate, in the interest of the public and international comity, understand consistent with the United States public policy, and will not cause any hardship to any party in interest that is not outweighed by the benefits of granting the requested relief. The Monitor respectfully suggests that no bond be required. The Monitor will be carrying out its duties under the CCAA and the Initial Order subject to the jurisdiction of the Canadian Court, and any bond would necessarily come from the Chapter 15 Debtors' assets and would represent unnecessary costs and expenses to the Chapter 15 Debtors.

CONCLUSION

44. There are a number of first-day matters that must be addressed. I believe the relief we have requested in our First Day Motions is appropriate to achieve those goals, and that the circumstances weigh heavily in favor of scheduling hearings on the First Day Motions immediately, granting the relief requested in each First Day Motion, and granting such other relief as the circumstances may require to help the Debtors achieve a successful reorganization in these cases.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 4th day of April, 2016.

Paul J. Darby, Senior Vice President
PricewaterhouseCoopers Inc. in its capacity as
Monitor and Foreign Representative