



No. S1813437
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF SECTION 211 OF
THE CANADA BUSINESS CORPORATIONS ACT,
R.S.C. 1985, c. C-44, AS AMENDED**

WEQ HOLDINGS INC.

PETITIONER

NOTICE OF APPLICATION

Name of applicant: Bowra Group Inc., (“**Bowra**” or the “**Liquidator**”) in its capacity as the liquidator of WEQ Holdings Inc. (“**WEQ**”)

To: The Inspectors and to the Director, *Canada Business Corporations Act* (“CBCA”)

TAKE NOTICE that an application will be made by the applicant to the presiding judge at the courthouse at 800 Smithe Street, in the City of Vancouver, in the Province of British Columbia, on **December 16, 2020 BY TELEPHONE CONFERENCE** at the hour of 9:45 a.m for the order set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. The applicant applies for an order substantially in the form attached as Schedule “A”:
 - (a) Abridging the time for and validating service of this Notice of Application and supporting materials such that the application is properly returnable as per above, and dispensing with further service thereof;
 - (b) Approving the activities and accounts of the Liquidator;
 - (c) Approving the Liquidator making a final distribution to shareholders as required in s. 233(2)(a) of the CBCA;
 - (d) Discharging the Liquidator; and

- (e) Ordering the dissolution of the Company under s. 260 of the CBCA.

Part 2: FACTUAL BASIS

A. Background

2. At a special meeting of shareholders on November 28, 2018 (the “**Special Meeting**”), the Shareholders passed a special resolution approving, among other things:
 - (a) a transaction between WEQ and United Rentals of Canada, Inc. (the “**Purchaser**”) pursuant to an asset purchase agreement (the “**APA**”), whereby WEQ sold substantially all of the assets of its remaining business platform which operated under the name of WesternOne Infrastructure Services Inc (the “**Transaction**”).
 - (b) the voluntary liquidation and dissolution of WEQ pursuant to section 211(8) of the CBCA at a time to be determined by the directors of WEQ; and
 - (c) the plan of liquidation and dissolution substantially in the form attached to the notice of Special Meeting (the “**Liquidation Plan**”).
3. The Liquidation Plan appointed Bowra as liquidator of WEQ. The Liquidation Plan became effective on December 17, 2018.
4. In an order of this Court in these proceedings dated December 17, 2018 (the “**Liquidation Order**”), the court among other things, (i) approved and affirmed the Liquidation Plan, (ii) granted an Administration Charge (as defined in the Liquidation Order), (iii) dispensed with any requirements and obligations that WEQ or the Liquidator place before WEQ’s shareholders any further audited financial statements as required under s. 155(1) and 159(1) of the CBCA or otherwise, (iv) declared that WEQ and the Liquidator are exempt from any requirements under Part XIV of the CBCA regarding the appointment and duties of an auditor and (v) declared that WEQ and the Liquidator are relieved of any obligation to call and hold a meeting of WEQ’s shareholders.

5. In an order of this Court in these proceedings dated December 17, 2018, the Court approved and established a procedure for the solicitation, determination and resolution of certain claims against WEQ and its former directors and officers (the “**Claims Procedure**”).

B. Extending the Time for Approval of Final Accounts and Distribution

6. By Order pronounced January 10, 2020, the Liquidator obtained an extension under section 223(2)(b) of the CBCA for iapproval of final accounts and permitting the Liquidator to distribute the remaining property of WEQ to its shareholders according to their respective rights.
7. At that time, the issues that were required to be completed by the Liquidator in order to complete its duties under the CBCA, and order appointing the Liquidator, included:
 - (a) Obtaining a clearance certificates pursuant to the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) as amended, from the Canada Revenue Agency (“CRA”). The process for obtaining clearance certificates can only commence once WEQ’s final tax return is filed (the “**Tax Return**”);
 - (b) Various lingering issues, including with respect to issues relating to WEQ’s subsidiaries and PST in Manitoba and fees from the Customs Border and Services Agency have delayed the Liquidator’s ability to file the Tax Return.
 - (c) A final review and determination of any other potential recoverable assets that may be received from QEQ’s subsidiaries.

C. Status and Summary of Liquidator’s Activities and Work

8. The Liquidator has now administered the liquidation over a period of approximately two years pursuant to the Liquidation Plan.
9. During that time, the Liquidator’s has undertaken the following work as particularized in the Liquidator’s Second Report:
 - (a) General Administration of the Liquidation;

- (b) Administration of the Claims Procedure;
- (c) Completion of Transaction with the Purchaser including dealing with the payables noted above;
- (d) Investigation of the Company's assets to determine all realizable assets have been liquidated;
- (e) Addressing tax issues;
- (f) Wind up and Dissolution of WEQ and Subsidiaries; and
- (g) Payments to Debenture Holders and Shareholders.

D. Remaining Work in the Liquidation:

10. The Liquidation is largely complete, except for the following issues:

- (a) Discharge of trustee in the bankruptcy proceedings of Pacific Coast Modular Construction LP – The trustee in the bankruptcy proceedings of Pacific Coast Modular Construction LP has not been discharged. The trustee is in process of applying for their discharge which is estimated to be in January 2021. Upon discharge of the trustee and completion of administration of the bankruptcy of Pacific Coast Modular Construction LP, the wind up and dissolution of WEQ's subsidiaries will be complete.
- (b) Calculation and payment of final distribution to shareholders – The Liquidator is required to finalize remaining liquidation expenses and calculate and pay the final distribution to shareholders.
- (c) Filing of final tax return for WEQ – The Liquidator is required to finalize its accounting and prepare the final tax return for WEQ.
- (d) Request final clearance certificate from CRA – Upon submission of the final tax return the Liquidator is required to request the final clearance certificate from the CRA.

- (e) Wind up and dissolution of WEQ – The Liquidator is required to wind up and dissolve WEQ.

E. Estimated Final Distribution

11. The Liquidator currently holds \$2.39 million in its trust accounts.
12. The Liquidator’s interim statement of receipts and disbursements for the period December 17, 2018 to November 30, 2020 which is summarized in the table below:

	\$000's
Receipts	
Cash transferred from WEQ's bank account	85,534
Holdback received from URI	14,899
Other income	1,017
	<u>101,450</u>
Disbursements	
Payment to debenture holders	53,849
Interim distribution to shareholders	36,084
Payment of Restricted Share Units (RSU's)	2,841
Post-closing banking adjustment to URI	1,945
Operating and other expenses	1,640
Preliquidation expenses	623
Lease surrender payments	616
Liquidator's fees and disbursements	535
Liquidator's legal fees and disbursements	503
Other professional fees including accounting and tax	325
Claims paid	101
	<u>99,062</u>
Balance in the Liquidator's account on November 30, 2020	<u>2,388</u>

13. The Liquidator estimates a final distribution to shareholders of between \$0.10 to \$0.12 per common share after payment of remaining liquidation expenses.
14. The total distribution to shareholders is estimated to be between \$2.30 and \$2.32 per common share at the conclusion of the liquidation proceedings.
15. Such a distribution is consistent with pre-liquidation expectations. Specifically, management of the Company had provided an estimate of a total distribution of \$2.20 and \$2.43 per common share in the information circular submitted to the shareholders dated October 26, 2018.

16. To the best of the Liquidator's knowledge, there are no outstanding issues that would affect the final distribution to shareholders. However, until the liquidation proceedings are complete the final distribution may change as there may be unknown issues that arise that materially impact the final distribution to shareholders.
17. The Order being sought contemplates that the Liquidator may seek directions from the court and such further orders as may be necessary, which would include approval of any distribution that is materially different from that set out above, or as estimated in the reporting to shareholders.

F. Approval of Final Accounts and Distribution

18. The timing of the completion of the remaining work is subject to the discharge of the trustee in the bankruptcy proceedings of Pacific Coast Modular Construction LP and obtaining a clearance certificate from the CRA which are outside of the control of the Liquidator. The Liquidator estimates the remaining work will be complete by June 30, 2021.
19. The Liquidator is therefore requesting an approval of final accounts including a provision for additional professional and legal fees and an extension for making a final distribution to shareholders pursuant to CBCA s. 223(2)(b) until remaining work can be completed and the discharge of the Liquidator upon completion of the remaining work.
20. A summary of the details of the Liquidator's and legal counsels' work follows in support of approval of the final accounts follows.

Summary of Liquidator's Accounts: for the period June 18, 2018 to November 30, 2020 are as follows:

	\$
Fees	517,878
Disbursements	16,711
GST	24,533
Total	<u>559,121</u>

Legal Fees

The Liquidator engaged Lawson Lundell LLP (“Lawson”) as its independent legal counsel. The total legal fees of Lawson were \$26,474 and disbursements were \$407 as summarized in the table below:

	\$
Fees	26,474
Disbursements	407
GST	1,340
PST	1,853
Total	<u>30,074</u>

The Company engaged Farris LLP (“Farris”) as its legal counsel. The total legal fees of Farris were \$445,250 and disbursements were \$31,321 as summarized in the table below:

	\$
Fees	445,250
Disbursements	31,321
GST	23,194
PST	31,562
Total	<u>531,326</u>

21. The hourly rates charged by the Liquidator are consistent with the average hourly rates billed by the Liquidator on its other engagements and, to the Liquidator’s knowledge, consistent with other insolvency firms of comparable size engaged on similar liquidation matters.
22. The Liquidator requests that the Court summarily approve the Liquidator’s fees incurred to date and approve additional fees, disbursements and taxes to a maximum of \$75,000 to complete the administration of the liquidation. The estimated fees relate to work required to prepare for the final distribution, wind up and dissolution of WEQ, discharge of the Liquidator, and other unbilled work in process.

23. The Liquidator has reviewed the invoices rendered by Lawson and Farris and believes them to be reasonable and proper. The legal services provided were necessary for the Liquidator to fulfill its obligations under the CBCA and the tasks undertaken were done at the request and with the consent of the Liquidator. The legal services provided to WEQ by Farris were reasonable and proper.
24. The Liquidator requests that the Court summarily approve the legal fees incurred to date and approve additional fees, disbursements and taxes to a maximum of \$75,000 to complete the administration of the liquidation. The estimated fees relate to work required to prepare for the final distribution, wind up and dissolution of WEQ, discharge of the Liquidator, and other unbilled work in process.

Part 3: LEGAL BASIS

25. The provisions of the CBCA.
26. The inherent and equitable jurisdiction of this Honourable Court.
27. Such further and other grounds as counsel may advise and this Honourable Court may permit.

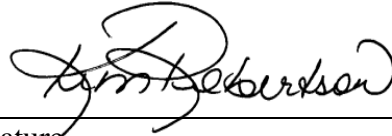
Part 4: MATERIAL TO BE RELIED ON

At the hearing of this Petition will be read the following:

28. The Liquidation Order pronounced December 17, 2018;
29. The Claims Procedure Order pronounced December 17, 2018;
30. The First Report to the Court of the Liquidator dated December 16, 2019; and
31. The Second Report to the Court of the Liquidator dated December 7, 2020.
32. Such further and other evidence as counsel may advise and this Honourable Court permits.

The Petitioner estimates that the application will take 20 minutes.

Dated: December 7, 2020



Signature

Applicant Lawyer for applicant

Kimberly A. Robertson

THIS NOTICE OF APPLICATION is prepared and delivered by the firm Lawson Lundell LLP, Barristers & Solicitors, whose place of business and address for service is 1600 - 925 West Georgia Street, Vancouver, British Columbia, V6C 3L2. Telephone: (604) 685-3456. Facsimile: (604) 669-1620. Attention: **Kimberly A. Robertson.**

To be completed by the court only:

Order made

- in the terms requested in paragraphs of Part 1 of this notice of application*
- with the following variations and additional terms:*

Dated:

Signature of

Judge ***Master***

SCHEDULE "A"

No. S1813437
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF SECTION 211 OF THE CANADA BUSINESS CORPORATIONS ACT,
R.S.C. 1985, c. C-44, AS AMENDED**

WEQ HOLDINGS INC.

PETITIONER

ORDER

BEFORE THE HONOURABLE) WEDNESDAY THE 16TH DAY
)
) OF DECEMBER 2020

ON THE APPLICATION of the Bowra Group Inc. (the "**Liquidator**"), in its capacity as the liquidator of WEQ Holdings Inc. ("**WEQ**"), as appointed by court order pronounced December 17, 2018 pursuant to the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended (the "**CBCA**") coming on for hearing by telephone conference at 800 Smithe Street, Vancouver, British Columbia on December 16, 2020, and on hearing Kimberley Robertson, counsel for the Liquidator and Teresa M. Tomchak counsel for the Petitioner and no one else appearing and on reading the First Report of the Liquidator dated December 16, 2019, and the Second Report of the Liquidator filed December 7, 2020 (collectively, the "**Liquidator's Reports**");

THIS COURT ORDERS THAT:

SERVICE

1. The time for service of this application is hereby abridged and validated so that this Notice of Application is properly returnable today and hereby dispenses with further service thereof, without need for publication pursuant to s. 223(4) of the CBCA.
2. The notice requirements under s. 223(4) of the CBCA, for the purposes of the relief granted herein pursuant to s. 223(2) of the CBCA, shall be satisfied by providing notice to the Director (as defined in the CBCA) and to the Inspectors.

DISCHARGE

3. The Liquidator's Reports is accepted for filing, and the activities and conduct of the Liquidator as described therein is hereby ratified as being in compliance with s. 221 of the CBCA, and hereby approved.

4. The fees and disbursements of the Liquidator and its counsel, as set out in the Liquidators' Report, are hereby approved.

5. After payment of the fees and disbursements of the Liquidator as herein approved, the Liquidator shall make the distributions as required by s. 221(i) of the CBCA.

6. Upon:

- (a) The Order of Discharge being pronounced in respect of the Trustee in Bankruptcy of Pacific Coast Modular Construction LP ;
- (b) Payment of amounts set out in paragraph 4 and 5 above;
- (c) The Liquidator calculating and paying a final distribution to shareholders of WEQ;
- (d) The Liquidator preparing and filing the final tax return for WEQ; and
- (e) The Canada Revenue Agency issuing a final tax clearance certificate for WEQ;

the Liquidator shall file a certificate certifying that it has completed the remaining outstanding activities described herein (the "**Completion Certificate**"), and upon the filing the Completion Certificate, the Liquidator shall be discharged, provided that notwithstanding its discharge herein: (a) the Liquidator shall remain Liquidator for the performance of such incidental duties as may be required to complete the administration including under paragraph 7 below, and (b) the Liquidator shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of the Bowra Group Inc., in its capacity as Liquidator, and under the CBCA.

7. The Liquidator shall hereby be granted an extension pursuant to s. 223(2)(b) of the CBCA as necessary to complete its duties and obligations as set out in paragraph 6 above.

DISSOLUTION AND RETENTION OF RECORDS

8. Upon being provided with a certified true copy of the Completion Certificate and this Order and the Articles of Dissolution, the Director appointed under s. 260 of the CBCA is hereby authorized and directed to issue a certificate of dissolution of WEQ in accordance with s. 262 of the CBCA.

9. Upon receipt of the Certificate of Dissolution, any shares outstanding are deemed to be cancelled.

10. The Liquidator shall retain custody of the documents and records of WEQ until December 31, 2022.

GENERAL PROVISIONS

11. If there are any assets of WEQ which have not been realized and/or disposed of, shall vest to Her Majesty in right of Canada, pursuant to s. 228 of the CBCA.

12. The Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT.

Signature
 Party Lawyer for the Liquidator
Kimberley A. Robertson

Signature
 Party Lawyer for the Petitioner
Teresa M. Tomchak

By the Court

Registrar

APPENDIX

[The following information is provided for data collection purposes only and is of no legal effect.]

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts
- other