

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

**IN THE MATTER OF SECTION 18.6 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36**

**AND IN THE MATTER OF
ALLIED HOLDINGS, INC. AND THOSE
SUBSIDIARIES LISTED ON SCHEDULE "A" HERETO**

Applicants

**AFFIDAVIT OF THOMAS H. KING
(sworn October 12, 2005)**

**I, Thomas H. King, of the City of Toronto, in the Province of Ontario, MAKE
OATH AND SAY:**

1. I am the Executive Vice President and Chief Financial Officer of Allied Holdings, Inc. ("**Allied Holdings**" and, together with its direct and indirect subsidiaries, the "**Allied Group**"). In this capacity, I have knowledge of the corporate structure, business operations, lending relationships, and financial condition of Allied Holdings and the other applicants herein (collectively, the "**Debtors**"). As such I have personal knowledge of the matters hereinafter deposed, save and except those matters based expressly upon information, in which case I have stated the source of such information all of which I believe to be true.

Background

2. Allied Holdings is a publicly-held, Georgia corporation with its corporate headquarters located in Decatur, Georgia. I believe that the Allied Group is the largest transporter of new automobiles, sport-utility vehicles and light trucks in North America.

Its business operations fall into two main categories. The largest category of business operations is providing "short-haul" delivery services for new and used vehicles over a distance averaging less than three hundred miles. A smaller category of business operations is providing various support services with respect to vehicle transportation and distribution.

3. The Allied Group has over 6,400 employees. Most of these employees are based at the Allied Group's 133 terminals located throughout the United States, Canada and Mexico. Over 3,900 of these employees are unionized drivers represented by the collective bargaining units affiliated with the International Brotherhood of Teamsters (the "**Teamsters**"). The Allied Group also contracts with Teamster owner-operators in its system.

4. The Allied Group owns approximately 3,100 tractors and over 3,800 trailers specially designed for transporting vehicles. Allied also leases approximately 450 tractor-trailer units and uses over 650 tractor-trailer units owned by its owner-operators. Thus, in total, Allied has approximately 4,200 tractor-trailer units under management in its North American operations.

5. Three of the Debtors, Allied Systems (Canada) Company ("**Allied Canada**"), Axis Canada Company ("**Axis Canada**") and AH Industries, Inc. ("**AH**" and, together with Allied Canada and Axis Canada, the "**Canadian Debtors**") are headquartered and carry on business in Canada.

6. Allied Canada and Axis Canada are unlimited liability companies incorporated pursuant to the laws of Nova Scotia. AH is a corporation incorporated pursuant to the laws of Alberta.

7. There is a significant degree of inter-dependence between the Canadian Debtors and the other members of the Allied Group such that the companies are reliant upon each other for their individual continued operation.

8. On July 31, 2005, the Debtors filed voluntary petitions for relief pursuant to Chapter 11 of the United States Bankruptcy Code (the "**Chapter 11 Proceedings**").

Pursuant to the terms of the *United States Bankruptcy Code*, all actions and proceedings have been stayed as against the Debtors. The facts leading up to the commencement of the Chapter 11 Proceedings are further described in my affidavit sworn August 2, 2005 filed with this Honourable Court.

9. The Debtors also sought and obtained a number of orders (the "**First Day Order**") from the United States Bankruptcy Code that, among other things, authorized the Debtors to continue to fund employee benefit plans, pay critical suppliers and obtain financing detailed below.

10. To provide financing for Allied during the reorganization, Allied entered into an agreement with General Electric Capital Corporation ("**GE Capital**"), Morgan Stanley Senior Funding, Inc. ("**Morgan Stanley**"), Marathon Structured Finance Fund, L.P. ("**Marathon**") and GECC Capital Markets Group, Inc. ("**GECCMG**") for the provision of post-petition debtor-in-possession financing ("**DIP Financing**"). On August 1, 2005, the United States Bankruptcy Court made an order (the "**Initial DIP Order**") authorizing the DIP Financing on an interim basis pending the hearing of a motion to approve the DIP Financing could made on proper notice to all affected parties. On August 24, 2005, the United States Bankruptcy Court made a final order (the "**Final DIP Order**") authorizing the DIP Financing.

11. The Debtors are in the early stages of reorganizing their business so as to enable the Allied Group to continue to carry on business going forward. At this stage in the reorganization process, the Debtors are focussing on a comprehensive business review and planning process in order to assess opportunities to improve financial performance through reductions in costs and the enhancement of pricing with certain customers.

Ancillary Proceedings in Canada

12. On August 2, 2005, the applicants sought and obtained an order (the "**Initial CCAA Recognition Order**") under section 18.6 of the Companies' Creditors Arrangement Act (the "**CCAA**") which, among other things, (a) recognized the Chapter

11 Proceeding as "foreign proceedings" as defined by section 18.6 of the CCAA; (b) imposed a stay of proceedings in respect of the Debtors until October 3, 2005; and (c) recognized three First Day Orders and the Initial DIP Order. Attached and marked as **Exhibit "A"** hereto is a true copy of the Initial CCAA Recognition Order.

13. In accordance with the Initial CCAA Recognition Order, Allied Canada has: (a) established a website at www.gowlings.com/restructuring/allied; (b) notified each of its known creditors of the commencement of the ancillary proceedings; and (c) published notice of the ancillary proceedings in The Globe and Mail and The National Post.

14. A number of the First Day Orders made by the United States Bankruptcy Court were not available at the time of the hearing resulting in the Initial CCAA Recognition Order. On August 31, 2005, an order was made recognizing these other First Day Orders as well as the Final DIP Order. Attached and marked as **Exhibit "B"** hereto is a true copy of this Order.

15. On September 30, 2005 Allied Canada sought and obtained an Order extending the stay of proceedings in the Initial CCAA Recognition Order to October 14, 2005 (the "**First Extension Order**"). Attached and marked as **Exhibit "C"** hereto is a true copy of the First Extension Order.

Financial Reporting

16. On September 28, 2005, the Debtors filed Monthly Operating Reports for the period from July 31, 2005 through to August 31, 2005 with the United States Bankruptcy Court. Attached and marked as **Exhibit "D"** hereto is a true copy of the Monthly Operating Reports filed by the Canadian Debtors.

Rejection of Executory Contracts

17. On September 6, 2005, the Debtors filed a motion (the "**Second Rejection Motion**") with the United States Bankruptcy Court seeking, among other things, an order permitting the rejection of: (a) certain real property leases in Canada; (b) a transportation agreement with Volkswagon of America, Inc. regarding the transportation

of vehicles at one location in the United States; (c) individual severance agreements with certain former employees of Allied Canada (the "**Severance Agreements**"); and (d) a consulting agreement. Attached and marked as **Exhibit "E"** hereto is a true copy of the Second Rejection Motion.

18. The parties impacted by the relief sought in the Second Rejection Motion were each provided with formal notice of the Second Rejection Motion. In addition, Allied Canada notified each of the landlords whose leases Allied Canada was seeking to reject and each of the employees whose severance agreement Allied Canada was seeking to reject of Allied Canada's intentions.

19. On September 27, 2005, the United States Bankruptcy Court heard the Second Rejection Motion and made an order: (a) authorizing the rejection of all of the contracts the Debtor's were seeking to reject save and except for the Severance Agreements; and (b) adjourning the balance of the motion (namely, the request to reject the Severance Agreements) to October 25, 2005. Attached and marked as **Exhibit "F"** hereto is a true copy of this Order.

20. In the case of real property leases rejected by Allied Canada, Allied Canada has paid or will pay occupation rent for the period from the commencement of the Chapter 11 Proceedings to the date Allied Canada actually vacates (or vacated) the leased premises.

Termination of Employees

21. As part of its on-going restructuring efforts, Allied Canada will likely have to terminate certain of its non-union and, perhaps, union employees.

22. The First Day Orders include an order that permits, but does not require, the Debtors to continue any employee termination program in place prior to the commencement of the Chapter 11 Proceedings.

23. There was not a written employee termination program in place in Canada for non-union employees as at July 31, 2005. In the ordinary course of business if a non-

union employee was terminated without cause, Allied Canada dealt with that employee on a case-by-case basis in accordance with the applicable law.

24. I am informed by Gowling Lafleur Henderson LLP ("**Gowlings**"), Canadian counsel for the Debtors and therefore believe that the *Canada Labour Code* applies to Allied Canada. I am further informed by Gowlings and therefore believe that The *Canada Labour Code* requires that Allied Canada provide any employee who has been employed for three months with two weeks pay in lieu of notice and in addition provided any employee who has been employed for 12 months with the greater of two days per year and five days' wages. Recognizing that employees who are terminated without cause may also be entitled to receive additional notice of termination at common law, it had been Allied Canada's practice prior to July 31, 2005 to negotiate with terminated employees for an additional period of pay in lieu of notice and to obtain a release in exchange for payment.

25. Allied Canada intends to continue to deal with any non-union employees that are terminated without cause after July 31, 2005 in the same manner as it dealt with such employees prior to July 31, 2005.

26. Allied Canada intends to provide any employees who are terminated without cause with the statutory pay in lieu of notice required by the *Canada Labour Code* as well as additional pay in lieu of notice negotiated with the terminated employee. In return for this additional pay in lieu of notice, employees will be asked to execute a release in favour of Allied Canada.

27. Allied Canada will deal with any terminated union employees in accordance with the applicable collective agreement.

Litigation Claims

28. As at July 31, 2005, Allied Canada was the defendant in a number of claims in various provinces arising out of traffic accidents (the "**Litigation Claims**"). The Litigation Claims were at various stages of the litigation process. Attached and marked as **Exhibit "G"** hereto is a list of the Litigation Claims.

29. As a result of the Chapter 11 Proceedings and the Initial CCAA Recognition Order, the Litigation Claims have been stayed.

30. Allied Canada is in the process of notifying all of the defendants in the Litigation Claims of the fact that the Litigation Claims have been stayed.

31. Allied Canada intends to put in place a procedure for determining all claims against the companies by Canadian creditors, including the Litigation Claims. In terms of timing, the date by which Allied's creditors will be required to file proofs of claim will be the same in the United States and Canada.

Globocam Claim

32. On August 24, 2005, Globocam (Montreal) Inc. ("**Globocam**") commenced an action against Allied Canada and a retired Allied employee seeking payment of \$80,897.15 (the "**Globocam Action**"). Attached and marked as **Exhibit "H"** hereto is a true copy of Globocam Action.

33. It appears that the retired employee mistakenly executed the personal guarantee portion of Globocam's standard form agreement (the "**Globocam Agreement**"). Attached and marked as **Exhibit "I"** hereto is a true copy of the Globocam Agreement.

34. Allied Canada would never expect or require one of its employees to guarantee the obligations of Allied Canada.

Certificate of Pending Litigation against Windsor Property

35. On July 27, 2005, Wintru Developments Inc. ("**Wintru**") registered a caution (the "**Caution**") against title to certain of the real property of Allied Canada in Windsor, Ontario (the "**Windsor Property**"). Attached and marked as **Exhibit "J"** is a true copy of the Caution.

36. On August 3, 2005, Wintru and 782777 Ontario Limited obtained an order without notice to Allied Canada permitting it to register a Certificate of Pending Litigation against the Windsor Property. Attached and marked as **Exhibit "K"** is a true copy of this Order.

37. On August 4, 2005, Wintru and 782777 Ontario Limited registered a Certificate of Pending Litigation against the Windsor Property. Attached and marked as **Exhibit "L"** is a true copy of the application and the parcel register for the Windsor Property evidencing this registration.

38. I am informed by Heath Whiteley of Gowlings and therefore believe that by email sent August 8, 2005 to counsel for Wintru and 782777 Ontario Limited he provided a copy of the Initial CCAA Recognition Order. Attached and marked as **Exhibit "M"** is a true copy of this email.

39. I am further informed by Mr. Whiteley and therefore believe that he communicated further with counsel for Wintru and 782777 Ontario Limited and demanded that their registrations be removed forthwith. Attached and marked as **Exhibit "N"** is a true copy of the further communication between Mr. Whiteley and counsel for Wintru and 782777 Ontario Limited in this regard.

40. As of October 4, 2005, the Caution and the Certificate of Pending Litigation remain registered against the Windsor Property. Attached and marked as **Exhibit "O"** is a true copy of the parcel register for the Windsor Property evidencing same


Extension of the Stay of Proceedings

41. The Debtors are requesting an Order further extending the stay of proceedings in the Initial CCAA Recognition Order and extended by the First Extension Order to February 28, 2006.

42. The Debtors are diligently and in good faith working to develop a plan to reorganize the companies. The continuation of the stay in Canada is essential to ensure that all of the Debtors' creditors are treated equally.

43. I swear this affidavit in support of a motion by the Debtors extending the stay of proceedings in the Initial Ancillary Proceedings Order and for no other or improper purpose.

SWORN BEFORE ME at the County of)
DeKalb, in the State of Georgia, of the)
United States of America, on this 12th day of)
October, 2005)



Notary Public



THOMAS H. KING

NOTARY PUBLIC, NEWTON COUNTY, GEORGIA
MY COMMISSION EXPIRES DEC. 22, 2007

SCHEDULE "A"

Allied Automotive Group, Inc.

Allied Systems, Ltd. (L.P.)

Allied Systems (Canada) Company

QAT, Inc.

RMX LLC

Transport Support LLC

F. J. Boutell Driveway LLC

Allied Freight Broker LLC

GACS Incorporated

Commercial Carriers, Inc.

Axis Group, Inc.

Kar-Tainer International LLC

Axis Netherlands, LLC

Axis Areta, LLC

Logistic Technology, LLC

Logistic Systems, LLC

CT Services Inc.

Cordin Transport LLC

Terminal Services LLC

Axis Canada Company

Ace Operations, LLC

AH Industries, Inc.