

**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

**NOTICE OF MOTION  
(returnable October 14, 2005)**

The Applicants will make a motion to the Court, on Friday, October 14, 2005, at 10:00 a.m. or as soon after that time as the motion can be heard, at 393 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

- (a) An order:
- (i) abridging the time for, or dispensing with, service or further service of this Notice of Motion on any parties other than those served with the Motion Record herein;
  - (ii) extending the stay of proceedings in the Initial CCAA Recognition Order (hereinafter defined) to February 28, 2006 or such other date as to this Honourable appears just;
  - (iii) recognizing the Rejection Order (hereinafter defined);
  - (iv) declaring that the Globocam Action (hereinafter defined) is stayed in accordance with the provisions of the Initial CCAA Recognition Order (as hereinafter defined);

- (v) discharging the Caution (hereinafter defined) and vacating the Certificate of Pending Litigation (hereinafter defined); and
- (vi) granting such further and other relief as this Honourable Court may deem just.

### **THE GROUNDS FOR THE MOTION ARE:**

#### **Background**

- (a) on July 31, 2005, the Applicants filed voluntary petitions pursuant to Chapter 11 of the U.S. Bankruptcy Code in the United States Bankruptcy Court (the "**U.S. Proceeding**");
- (b) on August 1, 2005, the Applicants sought and obtained various first day orders from the U.S. Court (collectively, the "**First Day Orders**"), which provided additional protection to the Applicants and addressed other administrative matters, including the provision of post-petition debtor-in-possession financing ("**DIP Financing**");

#### **Ancillary Proceedings in Canada**

- (c) by Order dated August 2, 2005 (the "**Initial CCAA Recognition Order**"), this Honourable Court recognized the U.S. Proceeding as "foreign proceedings" as defined by section 18.6 of the *Companies' Creditors Arrangement Act*, R.S.C., 1985, chapter C-36, as amended (the "**CCAA**") and granted certain declaratory and other relief in connection with same, including recognition of certain of the First Day Orders (but not others as they were not available at that time);
- (d) by Order dated August 31, 2005, this Honourable Court recognized: (i) a number of the First Day Orders made by the United States Bankruptcy Court that were not available at the time of the hearing resulting in the Initial CCAA Recognition Order; and (ii) the final order of the United States Bankruptcy Court made August 24, 2005 authorizing the DIP Financing;

- (e) by Order dated September 30, 2005, this Honourable Court extended the stay of proceedings in the Initial CCAA Recognition Order to October 14, 2005 (the "**First Extension Order**");

### **Rejection of Executory Contracts**

- (f) 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: (i) certain real property leases in Canada; (ii) a transportation agreement with Volkswagon of America, Inc.; (iii) individual severance agreements with certain former employees of Allied Canada (the "**Severance Agreements**"); and (iv) a consulting agreement.
- (g) on September 27, 2005, the United States Bankruptcy Court heard the Second Rejection Motion and made an order: (i) authorizing the rejection of all of the contracts the Debtor's were seeking to reject save and except for the Severance Agreements; and (ii) adjourning the balance of the motion (namely, the request to reject the Severance Agreements) to October 25, 2005 (the "**Rejection Order**");

### **Termination of Employees**

- (h) as part of its on-going restructuring efforts, Allied Canada will likely have to terminate certain of its non-union and, perhaps, union employees;
- (i) 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;
- (j) 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;

- (k) 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;
- (l) Allied 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;
- (m) Allied Canada will deal with any terminated union employees in accordance with the applicable collective agreement;

#### **Globocam Claim**

- (n) On August 29, 2005 Globocam (Montreal) Inc. ("**Globocam**") commenced a proceeding against Allied Canada and a retired Allied employee seeking payment of certain funds owing by Allied Canada (the "**Globocam Action**");
- (o) It appears that the retired employee mistakenly executed the personal guarantee portion of Globocam's standard form agreement;
- (p) 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**

- (q) 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**");

- (r) 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;
- (s) on August 4, 2005, Wintru and 782777 Ontario Limited registered a Certificate of Pending Litigation against the Windsor Property;
- (t) Allied has provided a copy of the Initial CCAA Recognition Order to counsel for Wintru and 782777 Ontario Limited and demand that the Caution and the Certificate of Pending Litigation be removed forthwith;
- (u) as of October 4, 2005, the Caution and the Certificate of Pending Litigation remain registered against the Windsor Property;

#### **Extension of the Stay of Proceedings**

- (v) 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 streamlining and consolidating their operations to reduce operating costs;
- (w) 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;
- (x) 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;
- (y) 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;
- (z) the Initial CCAA Recognition Order;
- (aa) the First Extension Order;

- (bb) the provisions of the CCAA;
- (cc) Rules 2.03, 3.02 and 37 of the *Rules of Civil Procedure*; and
- (dd) such other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) the affidavit of Thomas King, sworn October 12, 2005 and the exhibits thereto;
- (b) such further and other materials as counsel may advise and this Honourable Court may permit.

Date: October 13, 2005

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Solicitors for the Applicants

**TO: THE ATTACHED SERVICE LIST**

**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 Driveaway 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.