

2019

Province of Nova Scotia
Division No. 01-Halifax
Court No. 43211, 43212, 43213
Estate No. 51-2499072, 51-2498986,
51-2498985

**IN THE SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY**

**IN THE MATTER OF THE BANKRUPTCY OF QUADRIGA FINTECH SOLUTIONS
CORP., WHITESIDE CAPITAL CORPORATION AND 0984750 B.C. LTD. D/B/A
QUADRIGA CX AND QUADRIGA COIN EXCHANGE**

SECOND REPORT OF THE TRUSTEE

August 26, 2019

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STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Elizabeth Pillon LSO#: 35638M
Tel: (416) 869-5623
Email: lpillon@stikeman.com

Maria Konyukhova LSO#: 52880V
Tel: (416) 869-5230
Email: mkonyukhova@stikeman.com

Lee Nicholson LSO#: 66412I
Tel: (416) 869-5604
Email: leenicholson@stikeman.com
Fax: (416) 947-0866

Lawyers for the Trustee-in-Bankruptcy,
Ernst & Young Inc.

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INTRODUCTION

1. On February 5, 2019 (the “**Filing Date**”), Quadriga Fintech Solutions Corp., Whiteside Capital Corporation and 0984750 B.C. Ltd. (“**Quadriga**” or the “**Company**”) d/b/a Quadriga CX and Quadriga Coin Exchange (collectively, the “**Applicants**”) were granted protection from their creditors by the Nova Scotia Supreme Court (the “**Court**”) under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”). Pursuant to an Order of Justice Wood dated February 5, 2019 (the “**Initial Order**”), Ernst & Young Inc. (“**EY**”) was appointed as the monitor (the “**Monitor**”) of the Applicants.
2. On April 11, 2019, a Termination and Bankruptcy Assignment Order (the “**Termination Order**”) was issued by Justice Wood approving the process by which the Applicants’ CCAA proceedings would transition to bankruptcy proceedings (the “**Bankruptcy Proceedings**”) under the *Bankruptcy and Insolvency Act* (the “**BIA**”).

3. On April 15, 2019, each of the Applicants were assigned into bankruptcy. Ernst & Young Inc. consented to act as Trustee-in-Bankruptcy (the “**Trustee**”) of each bankrupt estate, which role was affirmed at the First Meeting of Creditors held on May 2, 2019. Five individuals were named as Estate Inspectors (the “**Inspectors**”) at the First Meeting of Creditors including four (4) members of the Committee of Affected Users (the “**User Committee**”) and one (1) individual from their legal team.

PURPOSE

4. The purpose of the Second Report of the Trustee (the “**Second Report**”) is to provide the Court and stakeholders with information in respect of the proposed transfer of the Bankruptcy Proceedings to Ontario.

TERMS OF REFERENCE

5. In preparing this Second Report and previous reports of the Monitor and Trustee, the Trustee has relied upon unaudited financial information, the Company’s books and records, financial information prepared by the Company (the “**Information**”) and discussions with the Applicants’ directors, senior management team, consultants (“**Management**”) and legal advisors. The Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards (“**GAAS**”) pursuant to the *Chartered Professional Accountants Canada Handbook*, and accordingly the Trustee expresses no opinion or other form of assurance in respect of the Information.

6. Except as otherwise stated, the Trustee's understanding of factual matters expressed in this Report concerning the Applicants and their business is based on the Information, and not independent factual determinations made by the Trustee.
7. The Trustee has relied upon the information available to it from Quadriga, its independent contractors and other parties with historical involvement with Quadriga. The Trustee has attempted to independently review and corroborate the information received, where possible.
8. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

BACKGROUND INFORMATION

9. As set out in prior reports of the Monitor and the Trustee, Quadriga operated an online cryptocurrency exchange platform (the "**QCX Platform**") whereby parties interested in buying, selling or exchanging various cryptocurrencies were able to complete such transactions on the QCX Platform. The QCX Platform allowed users to deposit cash or cryptocurrency with Quadriga and then initiate trades with other users on the platform. Given difficulties in obtaining bank accounts with Canadian banks, Quadriga did not have any of its own bank accounts to receive, hold or disburse cash. Instead it used payment processors to do so.
10. Quadriga faced significant liquidity issues in 2018 resulting in an inability to satisfy user withdrawal requests for funds. This was exacerbated when CIBC froze a significant amount of funds held in an account of a third party payment processor in January 2018.

Those funds were the subject of an interpleader motion brought by CIBC before the Ontario Superior Court of Justice.

11. On December 9, 2018, Gerald Cotten, Quadriga's founder, Chief Executive Officer and sole director passed away unexpectedly. Quadriga had no other management or employees. Quadriga did utilize the services of a small number of independent contractors however, given Mr. Cotten was primarily responsible for managing Quadriga, the Company was left without the ability to appropriately manage the business.
12. The Trustee (and Proposed Monitor at the time) was advised at the time that representatives of Quadriga were unable to access or locate cryptocurrency and funds sufficient to satisfy liabilities owed to users of the QCX Platform (the "**Affected Users**").
13. All of this resulted in the QCX Platform being shut down and the Applicants seeking CCAA protection.
14. In connection with the CCAA proceedings, the Monitor and subsequently the Trustee conducted an investigation into the business and affairs of the Applicants. The Monitor filed several reports including, the Fifth Report of the Monitor dated June 19, 2019 (the "**Fifth Report**"), providing updates on its investigation. The Monitor outlined its principal concerns and findings in the Fifth Report.
15. The Monitor and Trustee have reported that the funds realized from third party payment processors and the minimal Cryptocurrency located in Quadriga's cryptocurrency wallets are significantly less than the amounts expected to be held on behalf of users as recorded in the QCX Platform. A claims process has recently been commenced by the Trustee and

we are actively logging claims submissions. The Trustee will provide an update on claim details in a subsequent report.

TRUSTEE'S CURRENT ACTIVITIES

16. The Trustee's efforts are primarily focused on three areas of activity at the current time as follows:

(a) *Claims Process*: On June 27, 2019, this Court approved a claims process for Affected Users, in which Affected Users were asked to file claims with the Trustee prior to August 31, 2019. The Trustee continues to receive, and review claims from Affected Users. Claim details will be disclosed to the Court and stakeholders at a later date.

(b) *Preserved Assets*: On April 11, 2019, this Court issued the Asset Preservation Order pursuant to which Ms. Robertson in her personal capacity and as the executor of Mr. Cotten's estate agreed to disclose all assets and to restrain from selling or disposing of such assets subject to the consent of the Monitor / Trustee. As previously noted to this Court, the accumulation of Ms. Robertson and Mr. Cotten's personal assets were sourced from Quadriga funds. The Trustee previously disclosed its intention to seek the recovery of these assets for the benefit of Quadriga's creditors. The Trustee has been engaged in productive discussions with counsel to Ms. Robertson regarding the recovery of these assets for the benefit of the Quadriga estate. The Trustee will provide an update on the results of this process at a later date.

- (c) *Law Enforcement and Regulators:* The Trustee has become involved in significant discussions with certain law enforcement and regulatory officials in relation to investigations or other activities undertaken by these organizations. Further details are set out below.

COOPERATION WITH LAW ENFORCEMENT AND REGULATORY AGENCIES

17. As reported in the Monitor's Fifth Report, the Monitor and Trustee have responded to communications from law enforcement and regulatory officials, communicated the Monitor's interim information and assessments to these officials and cooperated with law enforcement and regulator requests where made.
18. The Trustee is aware of at least four (4) independent active law enforcement or regulatory reviews in progress which have included inquiries or in some cases formal requests for documents and/or data disclosure from the Trustee. The Trustee has received a formal request for documents and data from the RCMP Financial Crime Division in Milton, Ontario. The Trustee has been in communication with the RCMP and Crown. Other agency requests may subsequently materialize.
19. We understand that there is an interest in the current requests being responded to on an urgent basis. The RCMP has stressed the importance of dealing with the requests and any court proceedings relating thereto on an expeditious basis. At least one of the current requests is subject to a confidentiality restriction as to the fact of or details of the request. As a result of confidentiality requirements and / or statutory prohibitions, the Trustee is limited in its ability to publicly disclose further details.

20. The law enforcement and regulatory agencies have the power to require formal cooperation of Quadriga and/or the Trustee by way of production order, search warrant, summons, subpoena or other similar means. Certain law enforcement or regulatory agencies based in Ontario have already done so. The Trustee has attempted to discuss protocols to address the various requests being made of the Trustee in a coordinated and efficient manner to minimize costs to the Quadriga estate. However, the Trustee has determined that it will be necessary to seek a court's assistance with respect to a number of issues arising from the requests. Given the nature of the reviews, the Trustee expects that it may need assistance of a court on multiple occasions and that at least of some of the attendances may be on an urgent and confidential basis. The Trustee anticipates that various stakeholders including law enforcement and regulators will be involved in some or all of these attendances.

TRANSFER OF PROCEEDINGS TO ONTARIO

21. Section 187(7) of the BIA provides that: “[t]he court, on satisfactory proof that the affairs of the bankrupt can be more economically administered within another bankruptcy district or division, or for other sufficient cause, may by order transfer any proceedings under this Act that are pending before it to another bankruptcy district or division.”

Cost Effectiveness

22. When the Monitor recommended to this Court that the CCAA Proceedings be transitioned to Bankruptcy Proceedings, a primary consideration was cost effectiveness. At the time, it was anticipated that few court attendances and/or formal reports to the

Court would be required given the nature of the BIA process, the role of inspectors and the facts known at the time.

23. The Monitor indicated in paragraph 17(a) of its Fourth Report that “[f]ormal updates to the Court on the CCAA proceedings would not be required. Updates would continue through the inspectors appointed under the BIA and Representative Counsel. It would remain available to the Trustee to provide reports to Affected Users during the bankruptcy.”. In paragraph 17(d), the Monitor noted “A bankruptcy proceeding would require fewer attendances before the Court than a CCAA proceeding...”.
24. As described above, the Trustee’s efforts are primarily focussed on three areas of activity at the current time including the claims process, the Preserved Assets and the law enforcement and/or regulator activities.
25. The claims process and the efforts to recover the Preserved Assets were anticipated at the time of the transition to the Bankruptcy Proceedings.
26. The Trustee does not foresee requiring further significant assistance from the Court with respect to the claims process.
27. With respect to the Preserved Assets and as set out above, the Trustee is in discussions with counsel to Ms. Robertson in relation to said assets. The Trustee is optimistic that there will be minimal additional assistance required from the Court. The Trustee notes that the Preserved Assets which are the subject matter of the Asset Preservation Order are currently held in Nova Scotia, Ontario, Alberta and British Columbia. Some assets have been monetized to date in accordance with the Asset Preservation Order.

28. The extent of the law enforcement and regulator involvement, and the complexity of the issues which that involvement raises was not known or foreseen at the time of the transition to the Bankruptcy Proceedings. The Trustee expects the level of ongoing involvement and cooperation required of the Trustee to satisfy law enforcement and regulator demands may be significant. Furthermore, as a result of the confidentiality and non-disclosure restrictions inherent in these processes, the Trustee is unable to share details with and obtain approval of its activities from the Inspectors and therefore will require ongoing direction from a court. In addition, given the complexity of the requests made or anticipated to be made of the Trustee, it is expected that multiple court attendances will be required to obtain assistance with these issues and provide direction to the Trustee.
29. The Trustee notes the majority of the stakeholder groups and professionals expected to be involved in these court attendances, including those representing the law enforcement and / or regulators are located in Ontario. For further clarity:
- (a) The Trustee's team is split between Halifax and Toronto. A responsible partner and Licensed Insolvency Trustee from each of these offices has been involved in the CCAA and Bankruptcy Proceedings throughout. Staff from both offices are engaged in the administration of the estate.
 - (b) Counsel to the Trustee is located in Toronto.
 - (c) Rep Counsel is comprised of Miller Thomson LLP located in Toronto and Cox & Palmer in Halifax. Miller Thomson LLP in Toronto acts as lead counsel.

- (d) The RCMP investigation is being managed by the Financial Crimes Section in Milton, Ontario. The Crown Attorney involved is based in Toronto.
 - (e) Representatives in Nova Scotia and British Columbia of a federal agency have been in communication with the Trustee. No counsel representing this agency has been identified yet.
 - (f) Multiple law enforcement agencies or regulators and their counsel are located in Ontario, and
 - (g) Ms. Robertson's counsel is based in Halifax.
30. Given the above and the fact that the majority of the professionals expected to be involved with the court attendances are based in Toronto, the Trustee expects that it would be more cost-effective for future motions to be heard by a court in Toronto, eliminating the need for a significant number of professionals to incur costs to travel from Toronto to Halifax.
31. The Trustee has discussed the potential transfer of judicial jurisdiction with Representative Counsel. The Committee of Affected Users and Representative Counsel are supportive of the Bankruptcy Proceedings being transferred to Ontario.
32. The Trustee has also advised Ms. Robertson and her counsel of the upcoming motion and understands that Ms. Robertson will not be taking a position in respect of the motion.
33. The Trustee has also conferred with multiple law enforcement agencies or regulators that have made formal requests of the Trustee and no objection has been raised with respect to

the transfer of proceedings to Ontario. The RCMP has advised that while it has no preference to the jurisdiction, however the expediency of the Trustee's ability to respond to requests for information to investigate this matter is a concern to the RCMP and if a change in venue will assist in providing an expeditious response, consistent with the interests of justice, then the RCMP supports the request.

34. The Trustee has also considered other factors that might be relevant in respect of a transfer of jurisdiction, including the provisions of the BIA with respect to appropriate jurisdiction, the previous considerations of this Court with respect to both the CCAA and BIA jurisdiction, the location of creditors, location of books and records and other factors.

Jurisdiction Guidance

35. For both the CCAA Proceedings and Bankruptcy Proceedings, the Trustee (previously as Monitor) supported Nova Scotia as the appropriate jurisdiction to initiate the proceedings relating to the Applicants.
36. The Trustee now seeks a transfer of the proceedings from Nova Scotia to Ontario as a result of the current circumstances. To assist the Court in applying the test for a transfer of jurisdiction the Trustee has reviewed the considerations for jurisdiction under the BIA when initially filing for bankruptcy and provides the following comments.

Previous Considerations by this Court

37. In the application to commence CCAA proceedings, information with respect to appropriate jurisdiction was presented to this Court to satisfy the CCAA test for the correct jurisdiction. It was noted to this Court by the Applicants that:

- (a) Quadriga had no physical office location;
- (b) Quadriga's registered address was in British Columbia but otherwise, Quadriga had no significant ties to that province;
- (c) Quadriga's primary assets consisted of the BMO Drafts held in Ontario, certain other bank drafts received from Affected Users originally held in British Columbia and moved to Nova Scotia and funds held by third party payment processors in various locations. These assets are described in further detail below;
- (d) Quadriga had no employees. It utilized a number of individuals operating as independent contractors who were located throughout Canada and outside Canada. The individual that played the most significant role in the operations of the Company was understood to be Mr. Cotten who managed the Company's affairs from his laptop computer, wherever he was at any point but most often from his home in Nova Scotia; and
- (e) Three new directors were appointed after Mr. Cotten's death – two of those directors being Ms. Robertson and Mr. Beazley (Ms. Robertson's stepfather) both resided in Nova Scotia (as a result of the Bankruptcy Proceedings, these

individuals have resigned and no longer have any role in the governance of Quadriga).

38. At that time, this Court determined that Nova Scotia was an appropriate jurisdiction to commence the CCAA proceedings. The Court and counsel to the Applicants and the Monitor discussed the issue of jurisdiction during the initial hearing. As reflected in the (unofficial) transcript of the relevant excerpts of the initial hearing, which is attached as Appendix “A” to the Second Report, the possibility of a future motion to consider some other jurisdiction was discussed. At that time, the other alternative jurisdiction that was referenced was British Columbia given that was where the Applicants’ registered head offices were located.
39. The Trustee notes that it was not able to obtain final official transcripts of the initial hearing in advance of the motion to transfer proceedings, however is in the process of having the transcripts obtained and will file the relevant transcript if available.

BIA Jurisdiction Guidance

40. The Trustee understands that in considering the transfer of the Bankruptcy Proceedings, the Court may consider the factors for initially determining jurisdiction under the BIA. The BIA provides that an assignment in bankruptcy shall be made in the “*locality of a debtor*”. Locality of a debtor is defined in the BIA as: “*the principal place*
- (a) *where the debtor has carried on business during the year immediately preceding the date of the initial bankruptcy event,*

- (b) *where the debtor has resided during the year immediately preceding the date of the initial bankruptcy event, or*
- (c) *in cases not coming within paragraph (a) or (b), where the greater portion of the property of the debtor is situated.”*

41. The Trustee has considered the factors set out above. While none of these factors have changed since the original assignment into bankruptcy, the Trustee reviews these factors again now for the benefit of the Court in addressing the Trustee’s transfer motion. The Trustee notes that all considerations are based on the facts as at the time of the initial bankruptcy event (i.e. the Filing Date being February 5, 2019).

Where Quadriga Carried on Business

42. Quadriga did not have a physical office location. Business was conducted on-line. Affected Users interacted with Quadriga on-line. The business was operated by Mr. Cotten with the assistance of various independent contractors all of whom operated remotely. As set out above, in the initial application for the CCAA protection, it was noted to this Court that Mr. Cotten resided in Nova Scotia and primarily worked from his home there. The Trustee also understands that Mr. Cotten managed Quadriga from numerous other places. The independent contractors resided in numerous provinces in Canada as well as outside of Canada.

Residence of Quadriga

43. Quadriga’s registered head office was in British Columbia. Quadriga had no other significant ties to British Columbia.

Location of Debtor's Property

44. As previously reported to this Court, Quadriga held no physical assets nor any funds in its own accounts at the Filing Date. The bulk of the realizations to date have come from funds previously held by third party payment processors and certain uncashed bank drafts received from Affected Users. These realizations can be broken down as follows:

- (a) \$25.3 million or approximately 80% of recoveries to date - These funds came from the bank drafts issued by Bank of Montreal (“**BMO Drafts**”) to a third party payment processor that held funds on behalf of Quadriga. At the Filing Date, the BMO Drafts were held by the third party payment processor in Ontario. As set out in the Monitor's Pre-Filing Report, the third party payment processor's bank account was frozen by CIBC in January 2018 and the funds were ultimately paid into the Ontario Superior Court of Justice (Commercial List) in connection with an interpleader motion brought by CIBC and then returned to the Third Party Processor. Subsequent to the issuance of the Order of this Court addressing the BMO Drafts, the Monitor was able to take possession of and deposit the bank drafts.
- (b) \$5.5 million or approximately 17% of recoveries to date - These funds came from over 1,000 individual drafts received by Quadriga from Affected Users and previously held in British Columbia until immediately prior to the CCAA proceedings when they were transferred to New Brunswick and subsequently Nova Scotia.

- (c) Remaining 3% - These are recoveries from a number of different third party payment processors located in different jurisdictions as well as cryptocurrency that has been recovered to date and which is virtually held and therefore cannot be tied to a specific location.
45. It is difficult to determine where the greater portion of Quadriga's property was located. The closest tie is to Ontario in which the bulk of the fiat funds were previously held by a third party payment processor in Ontario.
46. Further jurisdictional issues were not explicitly raised in connection with the motion to transition the CCAA proceedings to Bankruptcy Proceedings. However, as previously noted, it was not anticipated that a significant number of court attendances would be required in connection with the Bankruptcy Proceedings and therefore, there appeared to be no significant reason to seek a change in jurisdiction at that time.

Other Factors

Location of Creditors

47. The Trustee notes that in addition to the above factors, courts have previously considered the location of the creditors in determining appropriate jurisdiction for proceedings under the BIA. As this Court is aware, there are no secured creditors other than Ms. Robertson's potential secured claim in connection with the DIP financing provided in the CCAA proceedings.
48. The primary group of Quadriga's creditors are the Affected Users represented by Miller Thomson LLP in Toronto. The Trustee has analyzed the geographical location of the

Affected Users based upon addresses maintained within the Quadriga Platform. In terms of provincial representation, the most significant concentration of Affected Users are based in Ontario where 39.4% of all Affected Users (or 42.4% of Canadian Affected Users) list that province as their primary residence. This is followed by British Columbia (19.4% of all Affected Users or 21% of Canadian Affected Users) and Quebec (14.1% of all Affected Users or 15.2% of Canadian Affected Users). The number of Affected Users listing Nova Scotia as their home address is 1.4% of all Affected Users or 1.5% of Canadian Affected Users.

Books and Records

49. The Trustee notes that the location of books and records has also been a consideration when assessing proper jurisdiction. As set out in previous reports to this Court, the Trustee has been unable to locate any traditional corporate or accounting records maintained by Quadriga. However, the Trustee currently has in its possession 12 electronic devices previously utilized by Mr. Cotten including mobile phones, laptops, a desktop computer and USB devices. All but one of these devices are currently being held in Toronto.

Future Litigation

50. Should it become necessary for the Trustee to commence litigation in order to recover on the Preserved Assets, the Trustee anticipates that the litigation will be framed, in part, on the provisions of the BIA and as such would remain under the supervision of court overseeing the Bankruptcy Proceedings.

Trustee Resources

51. From the outset of the CCAA proceedings and throughout the Bankruptcy Proceedings, the Quadriga case has been managed by a joint team from the Monitor/Trustee comprised of individuals based in Halifax and Toronto.
52. As set out above, the proceedings have been jointly managed by Licensed Insolvency Trustees in Halifax (George Kinsman) and Toronto (Sharon Hamilton). Currently, resources in Halifax are focussed on activities in connection with recovery of the Preserved Assets to the Quadriga estate. Resources in Toronto are managing the claims process and dealing with issues in respect of analyzing data from the electronic devices and other matters.
53. With respect to the law enforcement and regulatory reviews, it is anticipated that the responses to any requests, summons or orders will be managed primarily out of Toronto given the location of the documents, data, devices and counsel.
54. The document review and production process which must be undertaken in order to respond to these requests is being managed through the Trustee's discovery services team

in Toronto and external Toronto counsel. All counsel to counsel communications related to law enforcement / regulator requests have been with Ontario counsel on both sides.

Court Availability

55. As noted above, the Trustee has determined that it will be necessary to seek a court's assistance with respect to a number of issues arising from the requests. The Trustee is under increasing pressure to comply with the requests made by law enforcement officials. The Trustee expects to make production in September. It will be necessary for the Trustee to return to a court within a short time frame in order to address a variety of issues relating to the reviews.
56. While cost effectiveness objectives combined with the fact that the substantial document production efforts are being managed from Toronto are the primary reasons for seeking the transfer, the Trustee also notes the Court's limited availability. The Trustee appreciates that the Nova Scotia Court has a busy docket which may not easily be able to accommodate the anticipated multiple attendances, potentially on short notice.

CONCLUSION

57. The Trustee is aware that BIA proceedings are seldom moved from one jurisdiction to another after having been commenced. However, as set out above, section 187(7) of the BIA explicitly provides for a transfer of jurisdiction when warranted. While courts have considered a number of factors when considering whether a transfer is warranted, section 187(7) is clear that the primary test must be whether the affairs of the bankrupt can be more economically administered in another jurisdiction.
58. As set out above, the involvement of numerous law enforcement agencies and regulators has added significant complexity to the administration of the bankruptcy and shifted the geographic location of the majority of the relevant parties to Ontario. It is expected that these activities will be ongoing for some time and that significant formal demands will be made of the Trustee. These demands may necessitate multiple court attendances which would require numerous professionals to be in attendance. As the majority of the professionals are located in Ontario, there would be significant cost savings to transferring the proceedings to Ontario. There are a very few remaining ties to Nova Scotia at this time.
59. As set out above, the Bankruptcy Proceedings are currently managed by a joint team from Halifax and Toronto. If a transfer of jurisdiction is approved, there would be no change in resources from a day to day perspective and therefore, no disruption to the administration of the estates.

60. The request to transfer the proceedings is supported by Quadriga's majority stakeholders, as indicated through the support of the Official Committee of Affected Users and Representative Counsel.

61. As a result of the above, the Trustee respectfully requests that this Court transfer the jurisdiction of the Bankruptcy Proceedings to Toronto, Ontario.

All of which is respectfully submitted this 26th day of August 2019.

ERNST & YOUNG INC.

Licensed Insolvency Trustee

acting its capacity as Trustee in Bankruptcy
of Quadriga Fintech Solutions Corp., Whiteside Capital Corporation and
0984750 B.C. Ltd. and not in its personal capacity



George Kinsman CPA, CA, CIRP, LIT
Senior Vice President

Appendix "A"

Submissions at Initial Application – Unofficial Transcript

10:19:08

Mr. Chaisson: The first question, I guess, which we raised in our brief, which Your Lordship hasn't asked but we thought we would raise it for Your Lordship's consideration as well, is why Nova Scotia?

Court: Good question.

Mr. Chaisson: It is. Which is why we raised it. The *Companies' Creditors Arrangement Act* in section 9 states any application under this Act may be made to the court that has jurisdiction in the province in which the head office or chief place of business of the company is situated or if the company has no place of business in Canada, in any province within any provinces which company assets are located. In most cases that is a fairly simple test. You can determine where the head office is, you can determine where the operations are located. That normally spits out one or maybe two potential candidates. This case is a little different. You have a company that operates on some guy's computer, largely. There is no office.

Court: There are registered offices for all the companies in BC.

Mr. Chaisson: That is correct. These companies were formed in the province of British Columbia, but they have no other connection there. They have an agent there as required under the BC Corporations Statutes. Otherwise, no physical presence, no employees, no physical assets, no office you can go to and say that's QuadrigaCX's office. There is nothing. Entry inside the BC corporate registry. That is the only connection to that province. Every other connection seems to point you to Nova Scotia. Mr. Cotten resided here and for the most part he did business wherever he was and Ms. Robertson's affidavit says that was most often their home in Fall River. Now that Mr. Cotten has passed away his estate has been probated here and the majority shareholder being his widow lives here, two of the three directors reside here, so the extent someone is carrying on the business as it were, it is here. Now...

Court: So what if it is said that it is not carrying on business?

Mr. Chaisson: Well that's just it. But before this application, it was to the extent there was anything to be carried on. The business takes place virtually. So you cannot even look at its customer base and say they are all located here or they are all located there or the product is sold here. It's all over the place. So we would submit that if you look at the indicia, Nova Scotia is as good as place as any. Again, we haven't heard from anyone as part of the application that anyone objects to it being held here.

Court: Well I think Mr. Chaisson, the lack of objection is a good indication that people are content to have it be here. But given the fact that there has been no formal notice to other parties, if someone wishes to come forward and argue that some other jurisdiction, probably British Columbia, is where the proceedings should be then the Court will entertain that and if need be, the proceeding could be transferred to British Columbia.

Mr. Chaisson: That is fine.

Court: And that has happened in other cases, so. But that is an argument for another day, if someone wants to bring it forward because it is a factual question. If someone wants to bring forward evidence that in fact, the principal place of business is a different jurisdiction then obviously the Court will have to consider that.

Mr. Chaisson: And were not saying that the Court should or could make an order today for all time. What were saying is based on the information as we understand it, Nova Scotia certainly fits the requirements under section 9 and if Your Lordship chooses to take this matter and deal with it then it certainly within his, Your Lordship's power.

Court: Well we'll deal with it today and what happens on another day is a different question.

Mr. Chaisson: We'll see what happens.

12:01:50

Ms. Pillon: Two other points my Lord, one is on the issue of forum in Nova Scotia. A lot of the commentary of these cryptocurrency, there has not been very many insolvencies, there have been some in Japan and then Justice Newbould had to deal with an issue of whether or not a recognition would be dealt with in Ontario, but a lot of the commentary is, its almost like it's a nation wide forum and in this case, and so you want to make sure Canada is the right country to be taking on this role, in this case, you have a Canadian company before you and therefore so you don't have another country trying to take the primary role in this case and then after that you have, there are touch points to Nova Scotia, as my friend has already taken to you to. And I want to raise one other touch point, which is that a case that our court also looked at, is the assets. You do have \$5 million of bank drafts in this jurisdiction and that is also a point that should be worth noting in terms of when the court exercises the initial jurisdiction. As you rightly pointed out, we would have a comeback motion at some point if people do really want to argue that this is not the right forum they could come back and raise that issue. I am aware of one circumstance where that happened, in Pope & Talbot where they started in one jurisdiction and then moved to another, but I think once people understand the players who are involved in the process and the court may not be facing that at all, so I think I just wanted to raise that. Some of the commentary is sort of a nation wide forum that is being dealt with.

And my Lord, I think those were the points that I wanted to highlight for you. If there is any other questions you have for me or in respect of what the Monitor's role may or may not be in this case, I am happy to answer.

12:18:42

Court: An order under the CCAA ought to be issued today and including an interim stay. The reasons are reflected in the submissions of council today, both written and verbal. Clearly the court has jurisdiction, the statutory conditions are met, the \$5,000,000.00 in debt, the company being insolvent. The companies are associated within the meaning of the CCAA, so all three of them are encompassed. I'm also satisfied that based on what I've heard today, that Nova Scotia is the appropriate filing jurisdiction so, as I say, I am prepared to issue the order. I want to reflect

for a little bit on what counsel have provided to me in terms of submissions on the form of order. I've had some questions asked, they've all been answered. What I do with the answers and how that reflects on the form will be something I need to think a little bit about, but I did have a few more questions which may devolve more into drafting than anything else, but I thought... what I'm going to do is take a break and reflect on what I've heard about what the order should look like, but before I do that, I just have a few more what I would call drafting types of questions that I just want to throw out there and see what all counsel have to say about it. These are written on the form attached to your brief Mr. Chaisson, so rather than deal with what I know is close to the final form, I'm going to be referencing that as we go through. So, I'm looking – do you have that handy?