

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

BANK OF MONTREAL

Applicant

- and -

AFI HYDRO INC.

Respondent

**APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

MOTION RECORD
(Motion Returnable April 30, 2014)

Davies Ward Phillips & Vineberg LLP
155 Wellington Street West
Toronto, ON M5V 3J7

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Lawyers for the Receiver

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Court File No. CV-14-10456-00CL

**ONTARIO
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TAB 1

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

BANK OF MONTREAL

Applicant

- and -

AFI HYDRO INC.

Respondent

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BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

**NOTICE OF MOTION
(Returnable April 30, 2014)**

Richter Advisory Group Inc., in its capacity as the court-appointed receiver (the "**Receiver**") of AFI Hydro Inc. ("**AFI**") will make a motion to a judge presiding over the Commercial List on April 30, 2014 at 10:00 a.m., or as soon thereafter as the motion can be heard, at the Courthouse located at 330 University Avenue, Toronto, Ontario, Canada.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR AN ORDER:

1. if necessary, validating and abridging the time of service of the Notice of Motion and Motion Record and directing that any further service of the Notice of Motion and Motion Record be dispensed with such that this Motion is properly returnable on the date scheduled for the hearing of this Motion;
2. approving the Asset Purchase Agreement entered into as of April 25, 2014 (the "**APA**"), between the Receiver and Andritz Hydro AFI, Inc. (the "**Purchaser**") and vesting all of

AFI's right, title and interest in and to the Purchased Assets (as defined in the APA) in the Purchaser;

3. sealing the Supplementary Report to the First Report of the Receiver dated April 25, 2014 (the "**Supplementary Report**"), pending the closing of the transaction contemplated under the APA (the "**Transaction**").

THE GROUNDS FOR THE MOTION ARE:

Approval and Vesting Order

1. The Receiver has made a sufficient effort to obtain the best price and has not acted improvidently;
2. The sales process was reasonable in the circumstances and the market for the Purchased Assets was thoroughly canvassed;
3. The secured lender, who is suffering a significant shortfall, supports the approval of the Transaction;
4. There has been no unfairness in the working act of the process, the Receiver having acted fairly and reasonably throughout;

Sealing Order

5. The Supplementary Report contains confidential and commercially sensitive information which, if made public, would detrimentally affect the price that could be obtained on the subsequent sale of the Purchased Assets should the Transaction not close;
6. There are no reasonable alternative measures to sealing such information from the public record pending closing of the Transaction;
7. The salutary effects of sealing such information from the public record pending closing of the Transaction greatly outweigh the deleterious effects of doing so under the circumstances;

Miscellaneous

8. Rules 1.04, 2.03, 3.02, 16.04 and 37 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

9. Such further and other grounds as counsel may advise and this Court may permit.

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

1. the First Report of the Receiver dated April 25, 2014;
2. Supplementary Report to the First Report (filed on a sealed basis); and
3. such further material as counsel may advise and this Court may permit.

April 25, 2014

Davies Ward Phillips & Vineberg LLP
155 Wellington Street West
Toronto, ON M5V 3J7

Robin B. Schwill (LSUC #38452I)
Tel: 416.863.5502
Fax: 416.863.0871

Lawyers for the Receiver

TO: THE ATTACHED SERVICE LIST

SERVICE LIST
(as at April 24, 2014)

TO: CASSELS BROCK & BLACKWELL LLP

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40 King Street West
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Fax: 416.644.9368
E-Mail: mmercier@casselsbrock.com

Attention: Larry Ellis (LSUC# 49313K)

Tel: 416.869.5406
Fax: 416.640.3004
E-Mail: lellis@casselsbrock.com

Lawyers for the Applicant, Bank of Montreal, and for BMO Capital Corporation

AND THORNTON GROUT FINNICAN LLP

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Toronto, Ontario M5K 1 K7

Attention: Kyla Mahar

Tel: 416-304-1616
Fax: 416-304-1313
E-mail: kmahar@tgf.ca

Lawyers for the Respondent, AFI Hydro Inc.

AND CANADIAN PORTABLE STRUCTURES (199 2) LTD.

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Burlington, Ontario L7L 5R3

Attention: Paul Redden

Email: paul.redden@cdnportable.com

AND NATIONAL LEASING GROUP INC.

TO: 1525 Buffalo Place
Winnipeg, Manitoba R3T 1L9

Peter.Cyr@nationalleasing.com
customer.service@nationalleasing.com

AND **ONTARIO POWER GENERATION INC.**
TO: 700 University Ave.
 Toronto, Ontario M5G 1X6

Attention: John Kalm
Tel: 416-592-6703
Fax: 416-592-1466
Email: john.kalm@opg.com

AND **SILVERBRIDGE BUSINESS CENTER LIMITED**
TO: c/o Cello Products
 210 Avenue Road
 P.O. Box 37
 Cambridge, Ontario N1R 5S9

Attention: Philip W. McColeman
Email: philmccoleman@rogers.com

AND **WATEROUS HOLDEN AMEY HITCHON LLP**
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Lawyers for Blastech, division of T.F. Warren Group Inc.

AND **Neopost**
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AND **Securtek**
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AND
TO:

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Waterloo, ON N2V 2X9

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Email: scalesofficesystems@rogers.com

AND
TO:

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Barristers & Solicitors
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Attention: Alex Rose
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Email: ARose@stikeman.com

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Lawyers for the Purchaser, Andritz Hydro Canada Inc.

Court File No. CV-14-10456-00CL

BANK OF MONTREAL – and – AFI HYDRO INC.

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

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

(PROCEEDING COMMENCED AT TORONTO)

**NOTICE OF MOTION
(Returnable April 30, 2014)**

**Davies Ward Phillips & Vineberg LLP
155 Wellington Street West
Toronto, ON M5V 3J7**

**Robin B. Schwill
(LSUC #: 38452I)**

Telephone: 416.863.5502
Facsimile: 416.863.0871

Lawyers for the Receiver

TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 30TH
JUSTICE) DAY OF APRIL, 2014

BANK OF MONTREAL

Applicant

- and -

AFI HYDRO INC.

Respondent

**APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

APPROVAL AND VESTING ORDER

THIS MOTION, made by Richter Advisory Group Inc. in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of AFI Hydro Inc. (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and Andritz Hydro AFI, Inc. (the "Purchaser") dated April 25, 2014 and appended to the Report of the Receiver dated April 25, 2014 (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the

service list, although properly served as appears from the affidavit of [NAME] sworn [DATE] filed:

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby approved. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Wilton-Siegel dated February 24, 2014; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "Encumbrances"), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the

sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

7. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act (Canada)* in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act (Canada)* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act (Ontario)*.

9. THIS COURT ORDERS that, notwithstanding the provisions of Section 171(3) of the *Business Corporations Act* (Ontario) (the "OBCA"), the Receiver be and is hereby authorized and directed to complete, execute and file articles of amendment for and on behalf of the Debtor and any officer and director of the Debtor (such articles of amendment to be deemed to have been signed by a director or an officer of the Debtor and executed in accordance with the OBCA when so signed by the Receiver as directed by this Court) for the sole purpose of changing the corporate name of AFI Hydro Inc. to a corporate name that does not include the words "AFI" or "Allied Fabricators" (and such amendment shall be deemed to have been duly authorized by Section 168 and 170 of the OBCA (as applicable) without any shareholder or director resolution approving such amendment being required) and this Court hereby directs the Director (as defined in the OBCA) to endorse thereon a certificate of amendment upon being in receipt from the Receiver of two duplicate originals of such articles of amendment together with the prescribed fees and any other required documents under the OBCA (which the Receiver be and is hereby also authorized and directed to complete, execute and file for and on behalf of the Debtor and any officer and director of the Debtor if and as required) except for any such documents as have been dispensed or otherwise dealt with pursuant to the deeming provisions contained herein.

10. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-14-10456-00CL

BANK OF MONTREAL

Applicant

- and -

AFI HYDRO INC.

Respondent

**APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Wilton-Siegel of the Ontario Superior Court of Justice (the "Court") dated February 24, 2014, Richter Advisory Group Inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of AFI Hydro Inc. (the "Debtor").

B. Pursuant to an Order of the Court dated April 30, 2014, the Court approved the agreement of purchase and sale made as of April 25, 2014 (the "Sale Agreement") between the Receiver and Andrtiz Hydro AFI, Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 3 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Article 3 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**RICHTER ADVISORY GROUP INC., in its
capacity as Receiver of the undertaking,
property and assets of AFI HYDRO INC.,
and not in its personal capacity**

Per: _____

Name:

Title:

Court File No. CV-14-10456-00CL

BANK OF MONTREAL – and – AFI HYDRO INC.

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

(PROCEEDING COMMENCED AT TORONTO)**

APPROVAL AND VESTING ORDER

Davies Ward Phillips & Vineberg LLP
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Lawyers for the Receiver

TAB 3

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE — _____) WEEKDAY WEDNESDAY, THE #30TH
JUSTICE — _____) DAY OF MONTH APRIL, 20YR 2014

BETWEEN:

PLAINTIFF

Plaintiff

BANK OF MONTREAL

Applicant

- and -

DEFENDANT

Defendant

AFL HYDRO INC.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED

APPROVAL AND VESTING ORDER

THIS MOTION, made by [RECEIVER'S NAME] Richter Advisory Group Inc. in its capacity as the Court-appointed receiver (the "'Receiver'") of the undertaking, property and assets of [DEBTOR] AFL Hydro Inc. (the "'Debtor'") for an order approving the sale transaction (the "'Transaction'") contemplated by an agreement of purchase and sale (the "'Sale Agreement'") between the Receiver and [NAME OF PURCHASER] Andritz Hydro AFL Inc.

(the "Purchaser") dated ~~[DATE]~~April 25, 2014 and appended to the Report of the Receiver dated ~~[DATE]~~April 25, 2014 (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, ~~[NAMES OF OTHER PARTIES APPEARING]~~, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ sworn ~~[DATE]~~ filed⁴:

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. ~~4~~-THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved,² and the execution of the Sale Agreement by the Receiver³ is hereby ~~authorized and approved,~~ with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. ~~2~~-THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~[and listed on Schedule B hereto]~~⁴ shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether

⁴ ~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

² ~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

³ ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

⁴ ~~To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice [NAME] Wilton-Siegel dated [DATE]; February 24, 2014; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; ~~and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D)~~ "Encumbrances"), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3 ~~THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the *Land Registration Reform Act* duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*]⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

4. 4-THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all

⁵ The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

⁶ Elect the language appropriate to the land registry system (Registry vs. Land Titles).

⁷ The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. ~~5~~-THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. ~~6~~-THIS COURT ORDERS that, pursuant to clause ~~7(3)(c)~~ of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, ~~including personal information of those employees listed on Schedule "•" to the Sale Agreement.~~ The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

7. ~~7~~-THIS COURT ORDERS that, notwithstanding:

(a) ~~7.1~~ the pendency of these proceedings;

(b) ~~7.2~~ any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and

(c) ~~7.3~~ any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable

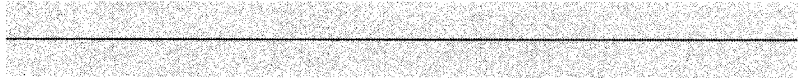
⁸ ~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. ~~§~~ THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

9. THIS COURT ORDERS that, notwithstanding the provisions of Section 171(3) of the *Business Corporations Act* (Ontario) (the "OBCA"), the Receiver be and is hereby authorized and directed to complete, execute and file articles of amendment for and on behalf of the Debtor and any officer and director of the Debtor (such articles of amendment to be deemed to have been signed by a director or an officer of the Debtor and executed in accordance with the OBCA when so signed by the Receiver as directed by this Court) for the sole purpose of changing the corporate name of AFI Hydro Inc. to a corporate name that does not include the words "AFI" or "Allied Fabricators" (and such amendment shall be deemed to have been duly authorized by Section 168 and 170 of the OBCA (as applicable) without any shareholder or director resolution approving such amendment being required) and this Court hereby directs the Director (as defined in the OBCA) to endorse thereon a certificate of amendment upon being in receipt from the Receiver of two duplicate originals of such articles of amendment together with the prescribed fees and any other required documents under the OBCA (which the Receiver be and is hereby also authorized and directed to complete, execute and file for and on behalf of the Debtor and any officer and director of the Debtor if and as required) except for any such documents as have been dispensed or otherwise dealt with pursuant to the deeming provisions contained herein.

10. ~~§~~ THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



Schedule A – Form of Receiver’s Certificate

Court File No. CV-14-10456-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

BETWEEN:

PLAINTIFF

Plaintiff

BANK OF MONTREAL

Applicant

- and -

DEFENDANT

Defendant

AELHYDRO INC.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~Mr. Justice Wilton-Siegel of the Ontario Superior Court of Justice (the “~~Court~~”) dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]”~~Court”) dated February 24, 2014, Richter Advisory Group Inc. was appointed as the receiver (the “Receiver”) of the undertaking, property and assets of ~~[DEBTOR]~~AEL Hydro Inc. (the “Debtor”).

B. Pursuant to an Order of the Court dated [~~DATE~~], April 30, 2014, the Court approved the agreement of purchase and sale made as of [~~DATE OF AGREEMENT~~] April 25, 2014 (the "'Sale Agreement"') between the Receiver [~~Debtor~~] and [~~NAME OF PURCHASER~~] and Andrtiz Hydro AFL, Inc. (the "'Purchaser"') and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in ~~section~~ Article 3 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

~~1-1.~~ The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;

~~2-2.~~ The conditions to Closing as set out in ~~section~~ Article 3 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and

~~3-3.~~ The Transaction has been completed to the satisfaction of the Receiver.

~~4-4.~~ This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

~~[NAME OF RECEIVER]~~ RICHTER
ADVISORY GROUP INC., in its capacity as
 Receiver of the undertaking, property and
 assets of [~~DEBTOR~~] AFL HYDRO INC., and
 not in its personal capacity

Per: _____

Name:

Title:

Court File No. CV-14-10456-00CL

BANK OF MONTREAL – and – AFI HYDRO INC.
APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

(PROCEEDING COMMENCED AT TORONTO)

APPROVAL AND VESTING ORDER

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Lawyers for the Receiver

~~Schedule B—Purchased Assets~~

~~Schedule C—Claims to be deleted and expunged from title to Real Property~~

~~Schedule D—Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property~~

~~(unaffected by the Vesting Order)~~

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Legend:	
<u>Insertion</u>	
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Statistics:	
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Deletions	119
Moved from	0
Moved to	0
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Format changed	0
Total changes	218

Court File No. CV-14-10456-00CL

BANK OF MONTREAL – and – AFI HYDRO INC.
APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(PROCEEDING COMMENCED AT TORONTO)

MOTION RECORD
(Returnable April 30, 2014)

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