

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) WEDNESDAY, THE 10TH
JUSTICE DUNPHY) DAY OF OCTOBER, 2018

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF ARALEZ PHARMACEUTICALS INC. AND
ARALEZ PHARMACEUTICALS CANADA INC.

Applicants

UNOFFICIAL TYPED VERSION OF DUNPHY J.'S ENDORSEMENT

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Company seeks three Orders:

1. Stay extension

The cash flow to the proposed extension time remains robust and viable in the sense that there is adequate margin for error/unexpected contingencies. The process has been pursued in good faith viable purchase agreements are now tabled and an auction process (stalking horse) about to begin. The applicant has satisfied all the requirements and an extension is warranted and Order signed as asked. (2 copies)

2. Claims Procedure

This claims procedure as proposed will include a D + O claims process. I am satisfied this is warranted due to D + O indemnity and due to share sale being contemplated. While the notice period (approx. 6 weeks) is not overly long it is reasonable and the court retains discretion to extend if necessary to avoid an injustice. See also Blue Range. The contemplated process will be conducted with the Monitor and claims resolution procedures will not be dealt with until the size, number, complexity of claims to be dealt with is known. Approved as reasonable and

reasonably necessary to advance the process and the objects of the CCAA. Order signed (2 copies).

3. Stalking Horse/Bid Procedures

I note that the break fees/exp. reimbursement have the potential to exceed 4.5% depending on purchase price adjustments but are not expected to exceed 5%. This is definitely getting into the high end of reasonable. It is not my role to second guess the parties. I am satisfied this has been the result of arm's length and hard bargaining on all sides. Commercially reasonable is a concept that will vary from case to case and depend on all the surrounding facts and context. The fact that (a) the debtor could have run a Soundair process and (b) has run something near a Soundair process in coming up with this proposal (public process - no others have emerged to challenge fairness of stalking horse process) gives me comfort regarding reasonableness as does any conviction that Mr. Zweig would not have agreed unless this were the best option nor would the Monitor have recommended it.

The Bid Procedures require consultation with the U.S UCC. The question of the degree of standing of the U.S. UCC remains an open issue that I am not deciding one way or the other. The processes in the U.S and Canada are separate. In my view standing should be addressed when it is material and that is not now. My order is thus without prejudice to the question one way of the other.

Genus amendment is approved and is unopposed. Order signed (2 copies).

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