

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

THE HONOURABLE) WEDNESDAY, THE 27TH DAY
MR. JUSTICE McEWEN) OF SEPTEMBER, 2017

BETWEEN:

BRIDGING FINANCE INC.,
as agent for SPROTT BRIDGING INCOME FUND L.P.

Applicant

- and -

THOMAS CANNING (MAIDSTONE) LIMITED
and 692194 ONTARIO LIMITED

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTIONS 47(1) AND
243(1) OF THE *BANKRUPTCY ACT 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**

ORDER

THIS MOTION made by William Thomas (“**Mr. Thomas**”) for an Order authorizing Mr. Thomas to represent Thomas Canning (Maidstone) Limited, in the matter of *R v Thomas Canning (Maidstone) Limited and William Thomas*, and which charges are currently before the Ontario Court of Justice, Court file Number 0811 998 15 20670 (the “**Criminal Proceeding**”), concerning an investigation by the Canadian Food Inspection Agency, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of Mr. Thomas, and on hearing the submissions of counsel for the moving party, the Receiver, and those other parties present, and no one appearing for any other person although duly served as appears from the affidavit of service of Alexandra Teodorescu, filed,

THIS COURT HEREBY ORDERS that

1. Mr. Thomas is authorized to represent Thomas Canning (Maidstone) Limited in the matter of the Criminal Proceeding;
2. Counsel representing Mr. Thomas in the matter of the prosecution of the Criminal Proceeding, is authorized to represent both Mr. Thomas and Thomas Canning (Maidstone) Limited;
3. The representation of the said corporation in the said prosecution as provided for in paragraphs 1 and 2 hereof is limited to or for the sole purpose of a resolution of the Criminal Proceeding, specifically,
 - a. Counsel for Mr. Thomas and Thomas Canning (Maidstone) Limited, and the Crown will propose the following joint submission to the Honourable Justice presiding in the Criminal Proceeding, so as to resolve the matter:
 - i. That Thomas Canning (Maidstone) Limited, will plead guilty to count 1 on the Information, namely that the said corporation did commit the offence under section 5(1) of the *Food and Drugs Act*, RSC 1985, c. F-27, during the period September 1, 2013 to July 3, 2015, by unlawfully labelling canned tomato products in a manner that created an erroneous impression that regular tomato products were organic;
 - ii. That Thomas Canning (Maidstone) Limited and the Crown will submit to the Court an Agreed Statement of Facts outlining all of the facts;
 - iii. That Thomas Canning (Maidstone) Limited and the Crown have agreed that an appropriate sentence for this offence is a fine of \$40,000, to be paid forthwith,

in light of all of the current and changed financial circumstances and status of Thomas Canning (Maidstone) Limited;

- iv. That the said proposed guilty plea is to be entered by the corporation by November 6, 2017, or earlier but no later than November 23, 2017, which dates are currently set for the prosecution to continue, after which this authorization expires;
- v. That the said proposed joint submission of a fine in the amount of \$40,000, will be made to the Ontario Court of Justice, however, Thomas Canning (Maidstone) Limited and Mr. Thomas accept that the Court is not bound by the said joint submission;
- vi. That the amount of the fine, whether it be the proposed joint fine of \$40,000 accepted by the Ontario Court of Justice or the fine ultimately imposed by the Court, will be at no cost to Richter Advisory Group Inc., in its capacities as Court-appointed Interim Receiver, Court-appointed Monitor and Court-appointed Receiver in this proceeding, or requires no payment by the Receiver from any amounts recovered or collected in connection with this proceeding; and further that it will be the responsibility of Mr. Thomas to make the payment, whatever the sentence imposed;
- vii. That the joint submission of a sentence of \$40,000, or the fine ultimately imposed by the Court, is contingent on the fine being paid forthwith by Mr. Thomas;
- viii. That the ultimate sentence and fine imposed, will be paid into Court, as required by the Criminal Code, payable to the Ministry of Finance, Court File Number 0811 998 15 20670;
- ix. That all other charges against the said corporation will be withdrawn upon the entering of the guilty plea and sentence;

- x. That all charges against the Director, Mr. Thomas, will be withdrawn upon the corporation entering a plea of guilty and being sentenced.



A handwritten signature in black ink, appearing to read 'McEust', is written over a horizontal line.

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OCT 06 2017

PER / PAR 

IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTIONS 47(1) AND 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

Commercial List Court File No. CV-17-11773-00CL

**BRIDGING FINANCE INC., AS AGENT
FOR SPROTT BRIDGING INCOME FUND L.P.**
Applicant

**THOMAS CANNING (MAIDSTONE) LIMITED
and 692194 ONTARIO LIMITED**
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

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