

**SUPERIOR COURT
(COMMERCIAL DIVISION)**

Canada
Province of Québec
District of Montréal
No : 500-11-049838-150
Date : June 20, 2018

Presiding: The Honourable David R. Collier, S.C.J.

In the matter of the Companies' Creditors Arrangement Act, RSC 1985, c C-36:

9323-7055 Québec inc. (formerly known as Aquadis International inc.)

Debtor

and

Raymond Chabot Inc.

Monitor

and

Sovereign General Insurance Company

Mis en cause

SOVEREIGN TRANSACTION APPROVAL AND RELEASE ORDER

- [1] CONSIDERING the Application, the affidavit and the exhibits in support thereof, as well as the Report of the Monitor dated April 30, 2018, as amended on May 22, 2018;
- [2] CONSIDERING the notification of the Application;
- [3] CONSIDERING the Initial Order rendered by the Court pursuant to the Companies' Creditors Arrangement Act, RSC 1985, c C-36, in the present matter on December 9, 2015;
- [4] CONSIDERING the support of the Creditors' Committee;
- [5] CONSIDERING the representations of the lawyers present;

THE COURT:

Service

- [6] DECLARES that the Monitor has given sufficient prior notice of the presentation of the Application to interested parties.
- [7] ORDERS that any prior delay for the presentation of this Application is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses

with further service thereof.

[8] PERMITS service of this Order at any time and place and by any means whatsoever.

Definitions

[9] ORDERS that capitalized terms used herein shall have the following meaning:

- (a) “**Application**” means the Demande modifiée d’approbation de transactions et de quittances du 8 juin 2018 (2e modification) [Amended Application to approve Transactions and Releases dated June 8, 2018 (2nd Amendment)] filed with the Court in the matter 500-11-049838-150 and asking the Court to render this Order;
- (b) “**Aquadis Asia**” means Aquadis Asia International Corp., a corporation governed by the laws of the Republic of China;
- (c) “**Aquadis Group**” means 9318-7581 Quebec inc., formerly known as Aquadis Group Inc. / Le Groupe Aquadis inc., a corporation governed by the laws of Québec, Canada;
- (d) “**Aquadis**” means 9323-7055 Québec Inc., formerly known as Aquadis International Inc., a corporation governed by the laws of Québec, Canada;
- (e) “**Certificate of the Monitor**” means a certificate of the Monitor substantially similar to the draft certificate of the Monitor attached as Schedule “A” hereof and to be issued pursuant to the terms of this Order;
- (f) “**Claims**” means past, present and future claims, causes of action, obligations, rights, liens suits, judgments, orders, applications of any kind including for judicial review, remedies, interests, actions, liabilities, demands, duties (including, without limitation, a duty to defend), injuries, compensation, damages, expenses, fees, and/or costs of whatever kind or nature (including attorney’s fees and expenses), whether foreseen or unforeseen, known or unknown, asserted or unasserted, contingent or matured, liquidated or unliquidated, whether in tort, contract, extra-contractual responsibility or otherwise, whether statutory, at common law, civil law (including, without limitation, pursuant to articles 2500, 2501 and 2503 of the Civil Code of Québec), public law or in equity, regardless of the legal theory, including but not limited to claims for breach of contract, tort, breach of the implied covenant of good faith and fair dealing, statutory or regulatory violations, for indemnity or contribution, for any damages either moral, material, bodily injury, punitive, exemplary or extra-contractual damages of any type, in any jurisdiction, whether a direct claim, cross-claim, third-party claim, warranty claim, recursory claim, subrogation claim, forced intervention, contribution claim, class action or otherwise, including but not limited to any claims for property damage or product liability;
- (g) “**Contributing Insurer**” means Sovereign General Insurance Company, a legal person having a place of business at 1750-2001 McGill College Ave, Montréal, Québec, H3A 1G1, Canada;

- (h) “**Creditors’ Committee**” means the creditors’ committee established pursuant to paragraph 24 of the Initial Order rendered by the Court in the present matter on December 9, 2015;
- (i) “**Discharged**” means fully, finally, absolutely, unconditionally, completely, irrevocably and forever compromised, remised, released, discharged, cancelled and barred;
- (j) “**Effective Date**” means the day on which the Monitor has filed with the Court the Certificate of the Monitor as contemplated by paragraph [12] hereof or such other date as the Monitor and the Contributing Insurer may agree;
- (k) “**Fubon Agreement**” means the Transaction and Release Agreement entered into between the Monitor, Aquadis and Fubon Insurance Co., Ltd., for which the Monitor seeks approval of the Court by the Application;
- (l) “**Gearex**” means Gearex Corporation, a corporation governed by the laws of the Republic of China;
- (m) “**Hsien**” means Hsien Chang Metals Co., Ltd., a corporation governed by the laws of the Republic of China;
- (n) “**JYIC**” means Jing Yudh Industrial Co., Ltd., a corporation governed by the laws of the Republic of China;
- (o) “**Monitor**” means Raymond Chabot inc., a corporation governed by the laws of Québec, Canada, acting as the court-appointed monitor of Aquadis under the Companies’ Creditors Arrangement Act, RSC 1985, c C-36 (Canada);
- (p) “**Person**” means and includes an individual, a natural person or persons, a group of natural persons acting as individuals, a group of natural persons acting in collegial capacity (e.g., as a committee, board of directors, etc.), a corporation, partnership, limited liability company or limited partnership, a proprietorship, joint venture, trust, legal representative, or any other unincorporated association, business organization or enterprise, any government entity and any successor in interest, heir, executor, administrator, trustee, trustee in bankruptcy, or receiver of any person or entity;
- (q) “**Policies**” means (1) the Policy No SOV79151450 issued by Sovereign and Royal and Sun Alliance Insurance Company of Canada to Aquadis and Aquadis Group for the period from May 30, 2006 to April 20, 2007; (2) the Policy No SOV79151450 issued by Sovereign and Royal and Sun Alliance Insurance Company of Canada to Aquadis and Aquadis Group for the period from April 20, 2007 to April 20, 2008; (3) the Policy No SOV79151450 issued by Sovereign and Royal and Sun Alliance Insurance Company of Canada to Aquadis and Aquadis Group for the period from April 20, 2008 to April 20, 2009; (4) the Policy No SOV79151450 issued by Sovereign and Royal and Sun Alliance Insurance Company of Canada to Aquadis and Aquadis Group for the period from April 20, 2009 to July 1, 2009; (5) the Policy No SOV79151450 issued by Sovereign and

Royal and Sun Alliance Insurance Company of Canada to Aquadis and Aquadis Group for the period from July 1, 2009 to September 1, 2009; (6) the Policy No SOV79151450 issued by Sovereign and Royal and Sun Alliance Insurance Company of Canada to Aquadis and Aquadis Group for the period from September 1, 2009 to December 8, 2009; (7) the Policy No SOV79151450 issued by Sovereign and Royal and Sun Alliance Insurance Company of Canada to Aquadis and Aquadis Group for the period from December 8, 2009 to June 8, 2010; (8) the Policy No SOV79153299 issued by Sovereign and Royal and Sun Alliance Insurance Company of Canada to Aquadis and Aquadis Group for the period from June 8, 2010 to June 8, 2011; (9) the Policy No SOV79153299 issued by Sovereign and Royal and Sun Alliance Insurance Company of Canada to Aquadis and Aquadis Group for the period from June 8, 2011 to July 15, 2011;

- (r) **“Product Claims”** means all Claims in any way arising out of, based upon, or relating in any way to, in whole or in part, directly or indirectly, the Products;
- (s) **“Products”** means all faucet products manufactured or distributed by Aquadis Asia, Hsien, JYIC, or Gearex, and imported, distributed or sold by Aquadis and Aquadis Group;
- (t) **“Purchasers”** means the Person which purchased, directly or indirectly, Products from Aquadis and sold Products, including but not limited to The Home Depot of Canada Inc., RONA Inc., Gestion BMR inc., Groupe BMR inc., Groupe Patrick Morin inc. and Patrick Morin inc.;
- (u) **“Settlement Allocation Amount”** means, for each Product Claim, the portion of the Settlement Amount allocated to this Product Claim as set out in Schedule “B” to the Transaction and Release Agreement;
- (v) **“Settlement Amount”** means the amount of \$180,000 paid by the Contributing Insurer to the Monitor on behalf of itself and its insureds Aquadis and Aquadis Group;
- (w) **“Total Recovered Amounts”** means all of the amounts paid to the Monitor as a result of the recovery or settlement of Claims, including the Settlement Amounts;
- (x) **“Transaction and Release Agreement”** means the Transaction and Release Agreement entered into at Montréal, Québec, on April 30, 2018 between Aquadis, the Monitor, and the Contributing Insurer, and filed as Exhibit P-16 to the Application; and
- (y) **“Under”** means arising out of, based upon, or relating in any way to.

Approval of the Transaction and Release Agreement

- [10] ORDERS that the Transaction and Release Agreement is approved, and the execution of the Transaction and Release Agreement by the Monitor and Aquadis is approved and ratified.

[11] DECLARES that the Transaction and Release Agreement is fair and commercially reasonable.

Certificate of the Monitor and public information on the releases

[12] ORDERS the Monitor, upon the satisfaction or waiver of the conditions set out in section 3 of the Transaction and Release Agreement, to forthwith:

- (a) issue and file with the Court the Certificate of the Monitor stating that all conditions to the Transaction and Release Agreement have been satisfied or waived in accordance with the terms of this Order and the terms of the Transaction and Release Agreement; and
- (b) post on its website this Order and a notice containing information regarding the releases granted by the Court in favour of the parties having signed the Transaction and Release Agreement.

Releases, injunctions and no further rights of the Contributing Insurers on the Settlement Amounts

[13] ORDERS that, on the Effective Date:

- (a) all Product Claims of any Person Under the Policies shall be Discharged as against the Contributing Insurer, including the Product Claims listed at schedule "C" to the Transaction and Release Agreement;
- (b) all Persons shall be permanently and forever barred, estopped, stayed and enjoined from pursuing, continuing or commencing any Product Claim against the Contributing Insurer Under the Policies;
- (c) the Contributing Insurer shall be permanently and forever barred, estopped, stayed and enjoined from pursuing, continuing or commencing any Product Claims against Aquadis, Aquadis Asia, Gearex, Hsien or JYIC, or any of their insurers, affiliates, officers, directors, employees, agents, representatives;
- (d) all Product Claims of any Person in respect of any damages which occurred during the policy period of the Policies, including the Product Claims listed at schedule "C" to the Transaction and Release Agreement which occurred during the policy period of the Policies, shall be Discharged as against Aquadis Group, Menard Inc., Handy Hard Wholesale Inc. and Moore Supply;
- (e) the Contributing Insurer, as well as, for greater certainty, Aquadis Group, Menard Inc., Handy Hard Wholesale Inc. and Moore Supply, shall have no further rights on the Settlement Amount;
- (f) each Product Claim of any Person shall be Discharged as against the Purchasers for the Settlement Allocation Amount for that Product Claim; and
- (g) the Monitor, acting for and on behalf of Aquadis or its creditors, Aquadis and any creditor or potential creditor of Aquadis shall be permanently and forever barred,

estopped, stayed and enjoined from pursuing, continuing or commencing any Product Claim against the Purchasers for the Settlement Allocation Amount.

- [14] ORDERS that, for greater certainty and notwithstanding anything to the contrary herein, no Person other than the Contributing Insurer, the Purchasers, Aquadis Group, Menard Inc., Handy Hard Wholesale Inc. and Moore Supply are Discharged of any Claims pursuant to this Order.

Claims against the Purchasers

- [15] In any action or proceeding in respect of a Product Claim against any Purchaser, the liability of that Purchaser, shall be reduced by:
- (a) the Settlement Allocation Amount, if any; and
 - (b) any amount which relates to the liability of Aquadis Group, Menard Inc., Handy Hard Wholesale Inc. and Moore Supply Discharged pursuant to this Order which could have been in fact recovered against those parties, had the liability not been Discharged pursuant to this Order, as demonstrated by that Purchaser.

Settlement Amounts

- [16] ORDERS the Monitor to hold in trust the Settlement Amounts for future distribution in accordance with the plan of compromise or arrangement to be filed by the Monitor under the Companies' Creditors Arrangement Act, RSC 1985, c C-36 (Canada), the Restructuring Support Agreement, Exhibit P-4, and any order of the Court.
- [17] APPROVES the Professional Fee Agreement contained in the Restructuring Support Agreement, Exhibit P-4.
- [18] AUTHORIZES the Monitor, notwithstanding paragraph [16] of this Order, on the Effective Date, to remit to Raymond Chabot Inc. an amount equal to the sum of 25 % of the first \$5,000,000 of the Total Recovered Amounts (in addition to applicable taxes) and 35% of any amount over the initial \$5,000,000 of the Total Recovered Amounts (in addition to applicable taxes), as professional fees and disbursements of the Monitor and the lawyers of the Monitor in accordance with the Professional Fee Agreement contained in the Restructuring Support Agreement, Exhibit P-4, less any amounts previously remitted by the Monitor to Raymond Chabot Inc., if any, for such purpose.

General matters

- [19] ORDERS that notwithstanding:
- (a) the pendency of these proceedings;
 - (b) any petition for a receiving order now or hereafter issued pursuant to the Bankruptcy and Insolvency Act (Canada) and any order issued pursuant to any such petition; or
 - (c) the provisions of any federal or provincial legislation;

the Transaction and Release Agreement is to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a 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, as against Aquadis or the Monitor.

- [20] DECLARES that no action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Monitor or belonging to the same group as the Monitor shall benefit from the protection arising under the present paragraph.
- [21] DECLARES that this Order shall have full force and effect in all provinces and territories in Canada.
- [22] DECLARES that the Monitor shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the Monitor shall be the foreign representative of Aquadis. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.
- [23] REQUESTS the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order.
- [24] ORDERS the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.



The Honorable Justice David R. Collier
Superior Court of the Province of Québec,
Canada

Schedule "A" – draft certificate of the Monitor

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No : 500-11-049838-150
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Debtor

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**CERTIFICATE OF THE MONITOR
(SOVEREIGN TRANSACTION AND RELEASE)**

The Court issued an Sovereign Transaction Approval and Release Order dated June 20, 2018 (the "**Order**") pursuant to the Companies' Creditors Arrangement Act, which contemplates the issuance of this Certificate of the Monitor. Any capitalized terms not defined herein will have the meaning ascribed to them in such order.

The Monitor certifies that all the conditions set out in section 3 of the Transaction and Release Agreement have been satisfied or waived, in accordance with the terms of the Order and the terms of the Transaction and Release Agreement.

This Certificate was issued by the Monitor at ● on ●.

**Raymond Chabot inc., acting as the court-
appointed monitor of the affairs of 9323-7055
Québec inc. under the Companies' Creditors
Arrangement Act**

per: Jean Gagnon