



No. B200434  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3,  
AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF RED DOG DELI  
RAW FOOD COMPANY INC., OF THE CITY OF VANCOUVER, IN THE PROVINCE OF BRITISH  
COLUMBIA

**NOTICE OF APPLICATION**



Name(s) of Applicant(s): Red Dog Deli Raw Food Company ("Red Dog")

To: Service List

TAKE NOTICE that an application will be made by the applicant(s) to the presiding judge or master at the  
courthouse at 800 Smithe Street, Vancouver, British Columbia on November 12, 2020 at 09:45 a.m. for the order(s)  
set out in Part 1 below. 13

To be heard by telephone counsel for the applicant Martin Sennott, Boughton Law at #700-595 Burrard Street,  
Vancouver, BC V7X 1S8, (604)-647-4106; msennott@boughtonlaw.com.

**Part 1: ORDER(S) SOUGHT**

1. Any time limits be abridged so that this application and its supporting materials may be heard.
2. An order for an extension of the time for the Applicant to file a proposal under Section 50.4(9) of the *Bankruptcy and Insolvency Act*, including the stay of proceedings be extended to **December 29, 2020**.
3. Such further and other relief as counsel may advise and this Honourable Court may deem just.

**Part 2: FACTUAL BASIS**

General Background

1. Red Dog is a British Columbia based corporation that was incorporated under the *British Columbia Business Corporations Act* on July 15, 2004.

2. Red Dog is a company in the business of selling high quality pet food. It was founded on the belief that pets deserve higher quality food and care and, as such, emphasize the use of humanely raised meat, wild-caught fish, and certified organic vegetables in their pet food recipes.
3. Red Dog is committed to creating positive changes in the pet food industry by emphasizing food safety, whole foods, natural balance and a health and wellness philosophy based on prevention rather than disease and suppression. As such, Red Dog makes substantial investments in educating employees and associated parties about food processing, pet food safety, food quality, and other aspects of the food industry that impact the value of the foods people provide their pets. Red Dog prides themselves on continual improvement in processes and products, their professional and personal growth, and in the creation of partnerships with suppliers, vendors, and retailers.

#### Creditor History

4. On or around May 11, 2017, Red Dog signed a Convertible Secured Promissory Note (the "Note", attached as **Exhibit "A"** to the Affidavit of Inna Shekhtman) with Red Dog Investment GP ("RDGP") for a principal amount of CAD\$2,000,000.00, due on May 11, 2022, with an initial advance to Red Dog of CAD\$435,000.00. Pursuant to the Note, the principal amount and any unpaid interest are convertible into Common Shares of Red Dog as provided under the terms and conditions. Interest is set to accrue at 6% per annum and is payable quarterly in cash, with any unpaid quarterly amount accruing at 10% per annum. The aggregate outstanding amount owing under the Note is approximately \$2,505,825.45 as of August 1, 2020.
5. On or around May 11, 2017, Red Dog entered into a General Security Agreement (the "GSA", attached as **Exhibit "B"** to the Affidavit of Inna Shekhtman) in favour of RDGP to secure RDGP's interest under the Note. This GSA provided a security interest in all present and after acquired personal property of Red Dog.
6. On or around May 11, 2019, the Note reached its Second Anniversary. Pursuant to the terms and conditions of the Note, this date triggered quarterly interest payments at the above-mentioned interest rates. Further, should any payments be outstanding, other creditors were not to be paid without the permission of RDGP, with that permission not to be unreasonably withheld.
7. On or around August 10, 2019, the first quarterly interest payment was made. Following this, Red Dog and RDGP made the decision to better organize their financial condition by skipping the next quarterly interest payment, triggering higher interest accrual. At this time it was also agreed that payments to other shareholder loans would also be accrued, but Red Dog would pay two creditors who provided interest-only periods to allow Red Dog to increase cash flows and whose arrangements did not provide the possibility of missing payments.
8. On or around November 26, 2019, RDGP provided a notice to Red Dog to cease payments to all lenders, stating the decision to make payments to other creditors constituted a breach under the Note.
9. On or around March 5, 2020, counsel for RDGP, sent a demand letter to counsel for Red Dog enclosing a Notice of Intention to Enforce Security pursuant to Section 244(1) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the "BIA"). This was withdrawn on or around May 23, 2020, with a second letter dated August 10, 2020.

10. The 10-day notice period under section 244(1) of the BIA expired on August 21, 2020. Counsel for RDGP confirmed multiple extensions following this initial period.
11. On or around August 31, 2020, as a result of RDGP's 244(1) notice, the Directors of Red Dog passed a Resolution to file a Notice of Intention to make a Proposal ("NOI") under Form 33 pursuant to section 50.4(1) of the BIA, with Derek Lai of Crowe MacKay & Company Ltd. acting as Red Dog Deli's Proposal Trustee and Karen Fraser acting as the appointed officer.
12. On or around August 31, 2020, Red Dog's NOI was executed and a certificate of filing received (attached as Exhibit "C" to the Affidavit #1 of Inna Shekhtman).
13. At all material times before and after the filing of the NOI, Red Dog believes that the decision to skip a payment is not an event of default, nor is its financial standing a reasonable basis for any other alleged defaults under the Note.

#### Extension of Stay of Proceedings

14. The expiry of the initial 30 day stay of proceedings from August 31, 2020, was September 30, 2020. On September 23, 2020, the court extended the stay of proceedings and the time to file a proposal by an additional 45 days to November 14, 2020
15. Since the commencement of these NOI proceedings, Red Dog has successfully maintained and improved operations. The additional challenges relating to Covid-19 protocols have been overcome, and financial performance of Red Dog has improved. The improvement in financial performance will greatly improve the likelihood of a successful proposal as both lenders and investors will be more attracted to Red Dog due to such financial gains. Red Dog has also retained consultants to assist with sourcing new investment or financing, and a sales consultant to assist in increasing sales.
16. No creditors will be materially prejudiced by an extension of the stay of proceedings to November 14, 2020. The Second Report, prepared by Red Dog's Proposal Trustee, reflects that Red Dog will have sufficient liquidity to cover any restructuring costs throughout the proposed extension of the stay of proceedings, and as the performance of Red Dog has continued to improve, the position of the stakeholders has also improved.
17. Red Dog has been acting in good faith and with due diligence to make a proposal to its creditors.
18. The Proposal Trustee supports the requested stay extension and other relief sought on this motion, and will be setting out the reasons for its support in the First Report to be filed with the Court.

#### **Part 3: LEGAL BASIS**

##### Extension of Stay of Proceedings

1. Pursuant to Section 50.4(9) of the BIA, a debtor in a proposal proceeding may, before the expiry of the time to file a proposal, apply to the court for an order extending the time to file a proposal, by a maximum of 45 days, and the court may extend the time if it is satisfied that:
  - (a) the insolvent person has acted, and is acting, in good faith and with due diligence;
  - (b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and,
  - (c) no creditor would be materially prejudiced if the extension being applied for were granted.

**Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit #1 of Inna Shekhtman, sworn September 14, 2020.
2. Affidavit #2 of Inna Shekhtman, sworn November 5, 2020
3. The First Report of the Proposal Trustee dated September 15, 2020.
4. The Second Report of the Proposal Trustee dated November 2, 2020
5. Such further and other material as counsel may advise and this Honourable Court permits.

The applicant(s) estimate(s) that the application will take 30 minutes.

This matter is within the jurisdiction of a master.

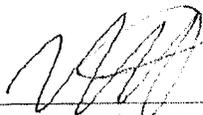
This matter is not within the jurisdiction of a master.

**TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION:** If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing or this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed application response;

- (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
- (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated: November 5, 2020

 Martin Sennott  
Signature of Lawyer for Applicant  
Martin C. Sennott

This NOTICE OF APPLICATION is delivered by Martin C. Sennott of Martin C. Sennott Law Corporation on behalf of Boughton Law Corporation, whose place of business and address for delivery is PO Box 49290, 700 - 595 Burrard Street, Vancouver, BC V7X 1S8, 604-687-6789. (File No. 87001.12)

*To be completed by the court only:*

Order made

in the terms requested in paragraphs \_\_\_\_\_ of Part I of this notice of application

with the following variations and additional terms:

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Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Judge Master

**APPENDIX**

THIS APPLICATION INVOLVES THE FOLLOWING:

discovery: comply with demand for documents  
discovery: production of additional documents  
other matters concerning document discovery  
extend oral discovery  
other matter concerning oral discovery  
amend pleadings  
add/change parties  
summary judgment  
summary trial  
service  
mediation  
adjournments  
proceedings at trial  
case plan orders: amend  
case plan orders: other  
experts.