

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF AN APPLICATION UNDER SECTION 192 OF THE
CANADA BUSINESS CORPORATIONS ACT, R.S.C. 1985, c. C-44, AS
AMENDED;**

**AND IN THE MATTER OF RULES 14.05(2) AND 14.05(3)(f) OF THE
RULES OF CIVIL PROCEDURE; and**

**AND IN THE MATTER OF A PROPOSED ARRANGEMENT
INVOLVING FORTUNE BAY CORP., ITS SHAREHOLDERS
AND 9617337 CANADA LIMITED**

FORTUNE BAY CORP.

Applicant



NOTICE OF APPLICATION

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the Applicant appears on the following pages.

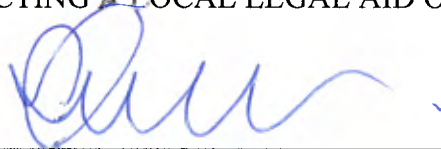
THIS APPLICATION will come on for a hearing before a judge presiding over the Commercial List at 330 University Avenue, Toronto, Ontario, on a date to be scheduled at a 9:30am Hearing on Thursday, May 12, 2016.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2:00 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: May 6, 2016

Issued by 
Local registrar

Address of court office: 330 University Avenue, 7th floor^L
Toronto, Ontario
M5G 1R7

- TO: ALL HOLDERS OF COMMON SHARES OF FORTUNE BAY CORP. AS AT MAY 11, 2016
- AND TO: ALL HOLDERS OF OPTIONS TO PURCHASE COMMON SHARES OF FORTUNE BAY CORP. AS AT MAY 11, 2016
- AND TO: ALL HOLDERS OF WARRANTS TO PURCHASE COMMON SHARES OF FORTUNE BAY CORP. AS AT MAY 11, 2016
- AND TO: THE DIRECTORS OF FORTUNE BAY CORP.
- AND TO: THE AUDITOR OF FORTUNE BAY CORP.
- AND TO: THE DIRECTOR UNDER THE *CANADA BUSINESS CORPORATIONS ACT*
Compliance & Policies Directorate
Corporations Canada, Industry Canada
9th Floor, Jean Edmonds Tower South
365 Laurier Avenue West
Ottawa, Ontario K1A 0C8

APPLICATION

1. **THE APPLICANT, FORTUNE BAY CORP., MAKES APPLICATION FOR:**

- (a) an *ex parte* Interim Order for advice and directions of this Honourable Court pursuant to subsection 192(4) of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended (the “**CBCA**”), in connection with a proposed plan of arrangement (the “**Arrangement**”) involving Fortune Bay Corp. (“**Fortune**”) pursuant to a transaction agreement dated February 9, 2016 (the “**Transaction Agreement**”);
- (b) a final Order approving the Arrangement proposed by Fortune pursuant to subsections 192(3) and 192(4) of the CBCA; and
- (c) such further and other relief as this Honourable Court may deem just.

2. **THE GROUNDS FOR THE APPLICATION ARE:**

- (a) Fortune is a corporation existing under the laws of Canada. Fortune's registered office is in Toronto and its shares trade on the Toronto Stock Exchange (“**TSX**”);
- (b) the purpose of the Arrangement is to allow for Fortune to spin-out its resources properties into a newly formed company, 9617337 Canada Limited (“**SpinCo**”). The Arrangement is the first step of a larger transaction whereby Fortune will subsequently acquire 100% of the issued and outstanding shares (the “**Kneat Shares**”) of Kneat Solutions Limited (“**Kneat**”) by way of a concurrent scheme of

arrangement in Ireland (the "**Merger**" and together with the Arrangement, the "**Transaction**").

- (c) The Transaction will result, through a series of steps, in:
 - (i) Shareholders of Fortune ("**Fortune Shareholders**") receiving one (1) new common share of Fortune ("**New Fortune Share**") and one and one half (1.5) of a common share in Spinco ("**SpinCo Share**") in exchange for each three (3) Fortune Shares held by them;
 - (ii) Shareholders of Kneat ("**Kneat Shareholders**") receiving that number of New Fortune Shares representing 68.7% of the issued and outstanding New Fortune Shares in exchange for the acquisition by Fortune of all the issued and outstanding Kneat Shares;
 - (iii) the change of Fortune's name to "*Kneat Solutions Inc.*";
 - (iv) delisting of the Fortune Shares from the TSX and listing of the New Fortune Shares on the TSX Venture Exchange; and
 - (v) the change of SpinCo's name to "*Fortune Bay Corp.*"
- (d) Thus, upon completion of the Transaction, SpinCo will own and operate the existing business of Fortune, and Fortune will own and operate the existing business of Kneat.
- (e) all statutory requirements under the CBCA either have been fulfilled or will be fulfilled by the date of the return of the Application, subject to the terms of the Interim Order;
- (f) Fortune will not be insolvent (as such term is defined in subsection 192(2) of the CBCA) at the time of the Arrangement;
- (g) it is not practicable for Fortune to effect the Arrangement under any other provision of the CBCA;

- (h) the Arrangement is in the best interests of, and fair to, the securityholders of Fortune and is put forward in good faith;
- (i) the Arrangement is procedurally and substantively fair and reasonable overall;
- (j) certain holders of Fortune Shares are resident outside of Ontario and will be served at their addresses as they appear on the books and records of Fortune as at May 11, 2016, pursuant to Rules 17.02(n) and 17.02(o) of the *Rules of Civil Procedure* and the terms of any Interim Order for advice and directions granted by this Honourable Court;
- (k) if made, the final Order approving the Arrangement will constitute the basis for an exemption from the registration requirements of Section 3(a)(10) of the *Securities Act of 1933*, as amended, of the United States of America with respect to the securities to be exchanged and/or distributed in the United States of America pursuant to the Arrangement;
- (l) Section 192 of the CBCA;
- (m) National Instrument 54-101 of the Canadian Securities Administrators;
- (n) Rules 14.05(2) and 14.05(3)(f) of the *Rules of Civil Procedure*; and
- (o) such further and other grounds as counsel may advise and this Honourable Court may permit.

3. THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:

- (a) such Interim Order as may be granted by this Honourable Court;

- (b) an Affidavit of Sarah Oliver, the Chief Financial Officer of Fortune, to be sworn (with exhibits attached thereto) outlining the basis for an Interim Order for advice and directions;
- (c) a further Affidavit to be sworn by a senior officer or director of Fortune (with exhibits attached thereto) reporting as to compliance with any Interim Order and the results of any meeting of securityholders conducted pursuant to such Interim Order; and
- (d) such further and other documentary evidence as counsel may advise and this Honourable Court permit.

May 6, 2016

FOGLER, RUBINOFF LLP

Lawyers
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Lawyers for the Applicant,
Fortune Bay Corp.

FORTUNE BAY CORP.

Applicant

Court File No. **CV-16-11383-00CL**

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LIMITED**

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

Proceeding commenced at Toronto

NOTICE OF APPLICATION

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