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| COURT FILE NUMBER   | Q.B.G. 733 of 2021    |
| COURT OF QUEEN'S BENCH FOR SASKATCHEWAN<br>IN BANKRUPTCY AND INSOLVENCY |                       |
| JUDICIAL CENTRE   | SASKATOON             |
| APPLICANT   | ABBEY RESOURCES CORP. |

**IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*,  
RSC 1985, c C-36, AS AMENDED (the "CCAA")**

**AND IN THE MATTER OF A PROPOSED PLAN OF ARRANGEMENT FOR THE  
CREDITORS OF ABBEY RESOURCES CORP. ("ABBEY")**

**AFFIDAVIT OF ERIC URZADA**

I, Eric Urzada, of Regina, Saskatchewan, MAKE OATH AND SAY:

1. I am the Chief Operating Officer of Andjelic Land Inc. ("**Andjelic**") and as such I have personal knowledge of the matters and facts herein deposed to, except where stated to be on information and belief, and where so stated I do verily believe the same to be true. I make this Affidavit in opposition of the relief sought in Abbey's Notice of Application dated January 21, 2022.

**Surface Leases between Andjelic and Abbey**

2. Andjelic is in the business of leasing land to agricultural producers and natural resource developers.
3. As a result of various assignments by the original and subsequent lessors and lessees, Andjelic and Abbey are the present parties to 27 surface leases for Andjelic-owned lands located in the Rural Municipality of Lacadena No. 228 (the "**Surface Leases**").
4. 22 of the 27 Surface Leases are similarly but not identically worded to one another. These leases are attached as **Exhibit "A"** hereto and bear various dates between August 25, 2002 and April 28, 2008.

5. The other 5 of the 27 Surface Leases are similarly but not identically worded to one another. These leases are attached as **Exhibit "B"** hereto and bear various dates between October 4, 2002 and December 17, 2004.
6. For administrative purposes, Andjelic and Abbey have treated the lease year as running from May 1<sup>st</sup> to April 30<sup>th</sup> of the following year. The annual rent owing under these 27 Surface Leases, payable on a bi-annual basis, is \$59,575.00. This amount is split between a payment at the outset and in the midst of the lease year.

#### **Actions in Relation to the Surface Leases**

7. Around October 14, 2018, Andjelic commenced legal proceedings against Abbey due to Abbey's failure to remit the full, annual rent due under the Surface Leases. The legal proceedings followed after Abbey arbitrarily sought to reduce the rents owed on the Surface Leases between Andjelic and Abbey to approximately 50%, and failed to remit any rents owed unless Andjelic accepted these reduced payments.
8. Around March 4, 2020, the Honourable Mr. Justice T. J. Kenne of the Saskatchewan Court of Queen's Bench ordered Abbey to pay the sum of \$119,150.00 on account of unpaid rents for the 2018-2019 and 2019-2020 lease years and awarded costs in favour of Andjelic (the "**QB Order**"). Attached to this Affidavit and marked as **Exhibit "C"** is a copy of the QB Order. The reasons for Mr. Justice T.J. Keene's decision are attached to this Affidavit and marked as **Exhibit "D"**.
9. Around March 27, 2020, Abbey appealed the QB Order (the "**Appeal**"). On or about November 19, 2020, the Saskatchewan Court of Appeal dismissed Abbey's Appeal and ordered Abbey to pay Andjelic's costs for the Appeal (the "**CA Order**"). Attached to this Affidavit and marked as **Exhibit "E"** is a copy of the CA Order. I have been advised by my legal counsel, Kayla Romanow, and believe that the Court of Appeal's reasons are reported at *Abbey Resources Corp. v Andjelic Land Inc.*, 2020 SKCA 125 (CanLII).
10. Following the issuance of the CA Order, Andjelic received payments for the rents owing as ordered by the Court of Appeal, however no rents have been paid for Abbey's continued occupation of the leased lands since May 1, 2020. In other words, Andjelic has not received any of the rents owing under the Surface Leases from Abbey for either the 2020-2021 lease years or the 2021-2022 lease years. The rent arrears are approximately \$119,150.00.

11. On October 30, 2020, Aaron Tait of Millennium Land Ltd., emailed Andjelic with an Amendment of Surface Lease(s) for Andjelic's consideration. Attached to this Affidavit and marked as **Exhibit "F"** is a copy of the email and the proposed Amendment of Surface Lease(s). The Amendment of Surface Lease(s) proposes to reduce the "demised premises" under each Surface Lease.
12. On December 14, 2020, Abbey's legal counsel emailed Notices to Surrender Part of Lease for each of the Surface Leases. Attached to this Affidavit and marked as **Exhibit "G"** is a copy of the email and the Notices to Surrender Part of Lease. On this application, Abbey was seeking to reduce its rent payable under the Surface Leases on the ground that Abbey surrendered portions of the lands and wanted a corresponding reduction in its rent.
13. Shortly thereafter, around December 22, 2020, Andjelic received notice from the Surface Rights Board of Arbitration of a rent review application made by Abbey. Attached to this Affidavit and marked as **Exhibit "H"** is a copy of the letter from the Surface Rights Board of Arbitration advising Andjelic of Abbey's rent review application. In its rent review application, Abbey was seeking review of the rent payable under 12 of the Surface Leases. Based on my review of Abbey's rent review application, it appears as though Abbey intended to seek a reduction in the rent payable roughly proportionate to the reduction in acreage that Abbey was seeking to surrender.
14. Due to the commencement of the CCAA proceedings, the rent review hearing scheduled for September 9, 2021 was adjourned *sine die*. Had the hearing not been adjourned, Andjelic expected to present evidence, including the rates set as a result of relatively current rent reviews between Andjelic and other tenants on other properties. The rent reviews were to be used to show that an increase in the rents payable by Abbey was merited. Copies of these rent review documents are attached and marked as **Exhibit "I"** of this Affidavit.

### **CCAA Proceedings**

15. On or about July 26, 2021, Andjelic received a letter from Abbey's legal counsel, which advised Andjelic, among others, of Abbey's application under the CCAA. Attached to this Affidavit and marked as **Exhibit "J"** is a copy of the letter from Abbey's legal counsel.

16. On or about October 19, 2021, Andjelic received a letter from MNP Ltd., the court-appointed monitor of Abbey in the CCAA proceedings (the "**Monitor**"), which advised Andjelic, and other surface rights holders, of Abbey's intention to provide reduced rent payments to any "Unsigned Lessors" (such term being defined in the Monitor's letter). Attached to this Affidavit and marked as **Exhibit "K"** is a copy of the letter from the Monitor.
17. On November 5, 2021, Andjelic, via its legal counsel, responded to the Monitor's letter of October 19, 2021. Attached to this Affidavit and marked as **Exhibit "L"** is a copy of the letter from Andjelic's legal counsel to the Monitor. As noted in the letter, Andjelic objects to a reduced amount of rent or deferred rent payments.
18. In its response, Andjelic did not object to being paid a per diem rate under the Surface Leases for the period between the annual lease date for each of the Surface Leases and January 5, 2022, provided that the payment would be without prejudice to Andjelic's rights to seek recovery of any unpaid rents owed by Abbey for the periods which pre-date the most recent anniversary date for each Surface Lease. Andjelic has not received any payments on a per diem rate to date.
19. On or about November 30, 2021, Andjelic received a letter from Abbey's legal counsel, which advised Andjelic of the following:
  - (a) Abbey's notice of surrender and termination of the Surface Leases;
  - (b) Abbey's intention to stop making rent payments with respect to the Surface Leases; and
  - (c) Abbey's intention to decommission and reclaim the leased premises.Attached to this Affidavit and marked as **Exhibit "M"** is a copy of the letter from Abbey's legal counsel.
20. On December 8, 2021, Andjelic, via its legal counsel, responded to Abbey's legal counsel's letter of November 30, 2021. Attached to this Affidavit and marked as **Exhibit "N"** is a copy of the letter from Andjelic's legal counsel to Abbey's legal counsel. As noted in the letter, it is Andjelic's position that Abbey is required to make rent payments until the wells have been decommissioned and the leased premises have been reclaimed.

21. On January 17, 2022, Andjelic, via its legal counsel, received an email from Abbey's legal counsel which set forth the following:
  - (a) its opinion that Abbey lawfully terminated the Surface Leases;
  - (b) its obligation to decommission the wells;
  - (c) its intention to enter into new leasing arrangements; and
  - (d) if Andjelic is not amendable to entering into a new leasing arrangement, that Abbey will seek declaratory relief from the court and/or seek to disclaim the Surface Leases under the CCAA.
  
22. Attached to this Affidavit and marked as **Exhibit "O"** is a copy of the email from Abbey's legal counsel.
  
23. Having reviewed the Ninth Affidavit of James Gettis dated January 21, 2022 (the "**Gettis Affidavit**"), on behalf Andjelic, I can advise as follows:
  - (a) once received from Abbey, or its legal counsel, Andjelic intends to review the amended surface lease agreement referenced at para 26 of the Gettis Affidavit;
  - (b) Andjelic expects not to agree to a reduction of rents proportionate to a reduction in acreage, consistently with the position it has repeatedly taken thus far; and
  - (c) Andjelic expect to oppose aspects of the Occupancy Order referenced at para 27 of the Gettis Affidavit.
  
24. I make this Affidavit for the purpose referenced in paragraph 1 above.

SWORN BEFORE ME at Regina, in the Province of Saskatchewan, this 26 day of January, 2022



A COMMISSIONER FOR OATHS for Saskatchewan.  
 My commission expires: \_\_\_\_\_

OR  
 Being a Solicitor.

XCR

  
 ERIC URZADA