

Clerk's Stamp:

COURT FILE 2201 09318
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF **ARNAKI LTD.**
DEFENDANT **SOLVAQUA INC.**
DOCUMENT **AFFIDAVIT OF CHRIS TESARSKI**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Field LLP
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File No. 50500-8

AFFIDAVIT OF CHRIS TESARSKI
(Sworn December 6, 2022)

I, Chris Tesarski of the City of Calgary, in the Province of Alberta, MAKE OATH AND SAY THAT:

1. I am the Chief Executive Officer of Solvaqua Inc. ("**Solvaqua**") and as such, have knowledge of the matters hereinafter deposed to, except where stated to be based on information and belief, in which case I have stated the source of the information and believe it to be true.
2. In June, 2020, Solvaqua obtained a portfolio of export receivables insurance (the "**Policy**") from Export Development Canada ("**EDC**"). The Policy was sought by Solvaqua with respect to a transaction for construction and sale of equipment and the sale of associated chemicals (the "**Goods**") being conducted with the VivaVentures Inc. and its parent company Vivakor Inc. (the "**Transaction**"), among other transactions. I am advised by counsel for EDC and do believe that the Policy is attached to the Affidavit of Dan Barona to be sworn and filed in this matter.
3. As a condition of Solvaqua's loan agreement with Arnaki Ltd. ("**Arnaki**") and its parent company Murchinson Ltd. ("**Murchinson**"), any amounts paid under the Policy were directed to be paid to Murchinson, and Solvaqua executed a Direction to Pay accordingly.

4. In July, 2021, Solvaqua became aware that the Transaction was in jeopardy. At that time, Solvaqua had completed all of its obligations under the Transaction; the product had been built was ready to be shipped and Solvaqua had issued an invoice but the purchaser had indicated that it was unable to pay. At the same time, Solvaqua was having difficulty meeting its loan commitments and as a result, Murchinson was putting pressure on Solvaqua.
5. As a result of the foregoing, I communicated with Steve Rubayika of EDC and discussed making a claim for the failed Transaction under the Policy. EDC accepted the claim and it was agreed between myself and Mr. Rubayika that EDC would pay insurance proceeds directly to Murchinson and that, thereafter, EDC would be entitled to the proceeds of any sale of the Goods involved in the Transaction.
6. Because Solvaqua was in a better position to sell the Goods, it was agreed that Solvaqua would retain possession of the Goods for the benefit of EDC, and would attempt to sell them, with the proceeds going to EDC. EDC was also given an assignment of the Goods and of the Transaction and the rights thereunder.
7. At the relevant times, I was advised by Steve Rubayika of EDC and do believe, that Arnaki and Murchinson were aware of the agreement between Solvaqua and EDC and to my knowledge neither party objected or protested to either EDC, or myself, regarding same.
8. As a result of the foregoing discussions with EDC, it is Solvaqua's belief and position was that EDC had been assigned all rights with respect to the Goods and proceeds associated therewith and with respect to the Transaction. While this agreement was never formalized in writing, Solvaqua considered itself to be holding the Goods and any proceeds thereof in trust for EDC.
9. At no time was it ever considered that Murchinson and Arnaki would receive the insurance proceeds paid to them by EDC pursuant to the Policy and the failed Transaction and also take the benefit of the Goods themselves.

SWORN BEFORE ME at the City of Calgary,)
 in the Province of Alberta, this 6th)
 day of December 2022.)

 A Commissioner for Oaths in and for Alberta

Erika A. Carrasco
 Barrister and Solicitor



CHRIS TESARSKI