



Court File No. VLC-S-S-1710393  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF THE *CANADIAN CORPORATIONS ACT*,  
R.S.C. 1985, c. C-44, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF  
ALL CANADIAN INVESTMENT CORPORATION

**AFFIDAVIT**

I, DOUGLAS B. HYNDMAN, Barrister and Solicitor, of 1100 One Bentall Centre,  
505 Burrard Street, in the City of Vancouver, in the Province of British Columbia,  
MAKE OATH AND SAY AS FOLLOWS:

1. I am a Partner with the law firm of Kornfeld LLP ("**Kornfeld**") and as such I have personal knowledge of the facts and matters hereinafter deposed to save and except where stated to be upon information and belief and where so stated I verily believe them to be true.
2. I am authorized by Kornfeld to make this Affidavit.

3. Kornfeld was retained by McEown and Associates Ltd. (the “**Monitor**”), court-appointed monitor in these proceedings, to act as legal counsel to the Monitor on or about November 15, 2017.
4. I am the lawyer responsible at Kornfeld for conduct of this matter.
5. I have been practicing in the insolvency area for 41 years.
6. Attached as **Exhibit “A”** to this my Affidavit is a true copy of a Curriculum Vitae, setting out the experience that I have obtained over that period of time.
7. From and including November 15, 2017, I worked with the Monitor, giving general advice to the Monitor, advising on the various Monitor’s Reports and appearing in Court on numerous applications on behalf of the Monitor.
8. From and including January 30, 2023 to and including July 20, 2023, I rendered accounts to the Monitor on a regular basis.
9. Attached as **Exhibit “B”** to this my Affidavit is a summary of the Kornfeld Accounts (defined below).
10. Attached as **Exhibit “C”** to this my Affidavit is a true copy of all of those accounts (redacted as to narrative) from and including January 30, 2023 to and including July 20, 2023 (the “**Kornfeld Accounts**”).
11. There have been periods of time during this proceeding where the Monitor has not had sufficient funds to pay the Kornfeld Accounts and I and my firm have agreed in those circumstances and from time to time to defer payment of those accounts.

12. Attached as **Exhibit "D"** to this my Affidavit is a breakdown of the lawyers and staff who charged out on this file at my office which, in this circumstance, was just me.
13. My hourly rate throughout this matter remained unchanged at \$500.00 per hour until the July 20, 2023 account.
14. The July 20, 2023 account was billed at my now-current rate of \$650.00 per hour.
15. This rate is my standard rate for insolvency matters such as this and for complex matters generally.
16. I verily believe that \$650.00 per hour is at the low end of hourly rates for professionals of my experience in matters such as this.
17. I hereby certify that all of the work billed in the accounts was necessary and proper and was performed by me.
18. From time to time, there was secretarial and administrative work that was performed, which included revising and formatting various of the Monitor's Reports along with attending to filing and circulating those Reports in order to ensure that they were available to the Court for the numerous applications that have taken place.
19. Any of those charges are covered by my hourly rates of \$500.00 and \$650.00 per hour.

20. I make this Affidavit in support of an application to pass the accounts of legal counsel to the Monitor and for no other or improper purpose.

SWORN BEFORE ME at the City of  
Vancouver, in the Province of  
British Columbia, this 23<sup>rd</sup>  
day of November, 2023.

Devin P. Lucas  
A Commissioner for taking Affidavits  
for British Columbia

  
DOUGLAS B. HYNDMAN

**Devin P. Lucas**  
Barrister & Solicitor  
Kornfeld LLP  
1100 - 505 Burrard Street  
Vancouver, B.C. V7X 1M5  
Telephone: (604) 331-8306

This is Exhibit " A " referred to in the  
affidavit of Douglas B. Hyndman  
sworn before me at Vancouver  
in the Province of British Columbia  
this 23<sup>rd</sup> day of November A.D. 20 23  
D Lucas  
A Commissioner for taking Affidavits  
within British Columbia

## DOUGLAS B. HYNDMAN

B.A. (McGill, 1976) L.L.B. (Dalhousie, 1979)

Mr. Hyndman's practice encompasses a broad range of commercial transactions with a focus on insolvency, real estate, lending and secured transactions. He acts as both a solicitor and counsel to his clients.

Mr. Hyndman regularly acts for financial institutions such as Bank of Montreal, The Bank of Nova Scotia and Business Development Bank of Canada and he and Kornfeld LLP have acted on residential and commercial mortgage transactions for, among others, Toronto Dominion Bank, Royal Bank of Canada, HSBC Bank Canada, Bank of Montreal and CIBC.

Some examples of the types of transactions on which Mr. Hyndman has worked over his career are:

- Sale to a large U.S. distillery of exclusive rights to distribute non-alcoholic beer in North America
- Commercial equipment leasing
- Financing of several neighborhood pubs
- Financing of several real estate development projects in the lower mainland
- Financing of motor vehicle dealerships
- Sale of athletic club
- Negotiating leases for landlords on a range of commercial buildings
- Financing of commercial fishing vessels
- Sale of feature motion picture and all intellectual property relating to the motion picture
- Revision of standard form *Bank Act* security for Hongkong Bank of Canada
- Land assemblies and real estate developments
- Revision of standard form bank security for Canadian Western Bank
- Secured lending transactions for Canadian Commercial Bank, Hongkong Bank of Canada, Canadian Western Bank, Bank of Montreal and many private lenders
- Collections, foreclosures and insolvency matters for many private lenders, The Bank of Nova Scotia, Scotia Mortgage Corporation,

Bank of Montreal, First City Trust Company, Hongkong Bank of Canada and Business Development Bank of Canada

During his 41 years of practice Mr. Hyndman has built up a substantial practice, acting for developers, businesses, lenders, creditors, debtors, receivers and licensed insolvency trustees on many complex matters ranging from collections and foreclosures through to bankruptcies, receiverships and re-organization.

Over the last several years Mr. Hyndman has worked extensively on a number of re-organizations and attempted re-organizations under the provisions of the *Companies Creditors Arrangement Act* and the *Bankruptcy and Insolvency Act*, acting for creditors, both secured and unsecured, lessors of equipment and debtor companies.

Those re-organizations have included the following:

- All Canadian Investment Corporation
- TLC - The Land Conservancy
- League Assets
- Cougar Services Ltd.
- Core-Mark International, Inc.
- Duthie's
- Woodward's Stores
- Westar Mining
- Quintette Coal
- Cassiar Mines
- Northland Properties (Sandman Inns)
- Stephanies Fashions
- Phillips Manufacturing
- Pacific National Leasing
- Tom Yee Produce
- Mrs. Willman's Baking Ltd.

Mr. Hyndman acted as counsel to Core-Mark International, Inc. in its reorganization under US Chapter 11 and the Canadian *Companies Creditors Arrangement Act*. Core-Mark had operations in the United States and Canada and annual sales in Canada of in excess of \$1 Billion. This reorganization required much negotiation and discussion with both federal and provincial governments (Ontario, Manitoba, Saskatchewan, Alberta and British Columbia), primarily relating to the collection of tobacco tax and GST. These negotiations were extremely intense and crucial to the reorganization. The success of these negotiations cleared the way for Core-Mark to emerge from both Chapter 11 and the CCAA proceedings.

As counsel, Mr. Hyndman has represented clients before courts at all levels, including the Supreme Court of Canada, the Federal Court of Canada, the British Columbia Court of Appeal and the British Columbia Supreme Court.

Many of these appearances have resulted in a number of significant decisions, some of which are as follows:

- *Re Sauer and others v. 648657 B.C. Ltd. and others*

In this case Mr. Hyndman successfully argued for a declaration of an implied easement in favour of his client over land-locked land.

- *Re Woodward*

This was a case where the novel point was argued on behalf of over 100 suppliers to Woodward, that those suppliers had rights to be paid for goods delivered to Woodward within the 30 days immediately preceding the date which Woodward took the protection of the *Companies Creditors Arrangement Act*.

- *Bank of Montreal v. Brett*

This case was the first decision clarifying the technical distinction between the Orders Nisi and Orders Absolute in foreclosure proceedings.

- *Bank of Montreal v. Fong*

This decision of the Court of Appeal (opposing counsel's leave to appeal to the Supreme Court of Canada denied) clarified the current law in British Columbia on a number of defences regularly relied upon by debtors including the defences of undue influence, duress and failure to obtain independent legal advice.

- *Bank of Montreal v. Bond*

This is a decision of the Court of Appeal for British Columbia establishing the circumstances under which a lender is obliged to commence advancing or to continue advancing funds to a customer.



- *Bank of Montreal v. Bonner*

With Neil Kornfeld as co-counsel at the trial, the Court dealt with the Bank's rights against the co-signer's capacity as a joint maker of the note and as guarantor of the indebtedness.

- *Hutton v. Lopushinsky*

In this case Mr. Hyndman argued in the Court of Appeal (opposing counsel's leave to appeal to the Supreme Court of Canada denied) on the novel point of whether a promissory note which contained a provision forgiving a debt upon the death of the creditor was a testamentary instrument which had to comply with the *Wills Act* to be valid, or a contract subject to a condition subsequent which had no formal requirements in order to be valid.

- *Van Norman v. Van Norman*

This decision of the Court of Appeal was the first British Columbia decision dealing with whether a payment to a spouse should be characterized maintenance which was not discharged by a bankruptcy, or a property settlement which was discharged.

- *Canadian Commercial Bank v. Greenwood Forest Products (1969) Ltd.*

In this case Messrs. Kornfeld and Hyndman argued a point in the Court of Appeal concerning registration requirements for debenture security, which ultimately resulted in amendments to the *Company Act*.

Mr. Hyndman has published a number of articles and spoken extensively on a wide variety of commercial topics, including:

- *Duty to Honour Overdraft Cheques*, National Banking Law Review (November-December, 1984)
- *The Receiver's Liability as Employer*, National Insolvency Review (January-February, 1985)
- *Recent Amendments to the Builders' Lien Act of British Columbia*, Construction Law Reports (March, 1985)
- *Trustee v. Landlord: The British Columbia Experience*, Canadian Bankruptcy Reports (December, 1985)
- *Bankruptcy Petitions: A Practical Guide*, National Creditor/Debtor Review (1991)
- *Case Comment: Dove Audio Inc. v. Bank of Montreal et al.*, National Creditor/Debtor Review (1992)

- *Case Comment: The Enforceability of Consent Judgments Held as Security*, National Creditor/Debtor Review (1992)
- *Fraudulent Preferences, Fraudulent Conveyances and Reviewable Transactions or "When is a Payment not a Payment"*, National Creditor/Debtor Review (1994)
- *Dormant CCAA Awakened, Filling the Gaps in Legislation, Turnarounds and Workouts Survey* (1992)
- A panelist at the following Continuing Legal Education seminars:
  - *Advanced Collection Procedures*
  - *Mortgages: Advanced Topics*
  - *Secured Transactions*
  - *Lender Liability*
  - *Bankruptcy in the '90's*
  - *Loss Prevention*
  - *Foreclosures*
  - *Fraudulent Preferences and Conveyances*
- Keynote speaker at the Annual Canadian Insolvency Association meeting held in Vancouver in 1986
- Lecturer for the British Columbia Bar Admission Program on creditors remedies, bankruptcy, foreclosures and civil litigation
- Speaker to the Credit Grantors Association on the new *Bankruptcy and Insolvency Act* (1992)
- Lecturer at in-house client seminars on such matters as the *Personal Property Security Act*, the *Companies Creditors Arrangement Act*, the *Bankruptcy and Insolvency Act* and environmental liability
- A panelist at the following Canadian Institute and Insight conferences:
  - *Receiverships and Realization: The New Bankruptcy and Insolvency Act*
  - *Dialogue on Bankruptcy and Insolvency*

Mr. Hyndman was the Regional Editor of a four volume Butterworths publication entitled *Canadian Forms and Precedents, Banking and Finance* and the creator of the Butterworths publication *National Creditor/Debtor Review*.

He has been a director of several publicly listed companies and an instrument rated commercial pilot, qualified to fly single engine, multi-engine and float planes.

Mr. Hyndman was called to the British Columbia Bar in January 1982.

## REPORTED AND UNREPORTED DECISIONS

### Supreme Court of Canada

*Bank of Montreal v. Voon Choo Yow (A.K.A. Judy Fong) et al*

*Hutton v. Loposhinsky*

### Federal Court of Canada

*Holachten Meadows Mobile Home Park Ltd. v. Her Majesty The Queen In Right Of Canada, Lakahahmen Indian Bank*

### British Columbia Court of Appeal

*National Trust Company, Limited v. Nussbaumer, et al*

*Canadian Commercial Bank v. Greenwood Forest Products*

*Bank of Montreal v. Voon Choo Yow (a.k.a. Judy Fong) et al*

*Williams S. Winters In His Capacity as Receiver of Hythe Inn Ltd. v. Canadian Imperial Bank of Commerce*

*North American Life Assurance Co. v. Ranoma Agent Ltd. et al*

*Bank of Montreal v. Bond*

*Bank of Montreal v. Walter Gerhard Volberg et al*

*Flanders Installations Ltd. v. Annette Kehler*

*Jack Victor Hutton et al V. Richard Allan Lopushinsky et al*

*Lloyds Bank of Canada and Continental Bank of Canada v. Lumberton Mills Ltd.*

*Bank of Montreal v. John David Kuntz*

*Canadian Commercial Bank v. Royal Oak Inn Ltd.*

*Hongkong Bank of Canada v. Adrian Brouwers*

*Saskatoon Credit Union Limited v. Creighton Holdings Ltd.*

*Re: Phillips Manufacturing Ltd.*

*Bank of Montreal v. Titan Landco Inc.*

*Re: Woodward's Ltd.*

*First City Trust Company v. N. R. Motors Ltd.*

*Sauer et al v. Kelowna Mountain Development Services Ltd.*

*First West Credit Union v. Burton*

### **British Columbia Supreme Court**

*Bank of Montreal v. Tucker Enterprises Ltd., Canadian Imperial Bank of Commerce*

*Re: Wakeman & Trimble Contractors Ltd.*

*Bank of Montreal v. Brett et al.*

*Bank of Montreal v. Tang Lim Holdings Co. Ltd. and Dennis Pylarinos Best Lumber & Supplies*

*Bank of Montreal v. Driftwood Estates Ltd.*

*Canadian Commercial Bank v. Greenwood Forest Products*

*Canadian Commercial Bank v. The Bank of Nova Scotia et al*

*Bank of Montreal v. 4-M Holdings Ltd. et al*

*Bank of Montreal v. William McCallum*

*Bank of Montreal v. Fong*

*Panek v. Brymark Installations Limited*

*Bank of Montreal v. Donald David Bond and Ursula Bond*

*Bank of Montreal v. Bonner*

*Bank of Montreal v. Van Egmond*

*Royal Trust Corporation v. Northland Properties Limited*

*Canadian Commercial Bank v. Royal Oak Inn Ltd.*

*Flanders Installations Ltd. v. Annette Kehler*

*Best Western International Inc. v. Sam Lo et al*

*Bank of Montreal v. Peter William Dyck and Thelma Louise Dyck*

*Lloyds Bank of Canada and Continental Bank of Canada v. Lumberton Mills Ltd.*

*Hongkong Bank of Canada v. Adrian Brouwers*

*Re: Woodward's Ltd.*

*Re: Philips Manufacturing Ltd.*

*Gresmak v. Yellowhead Town & Country Inn*

*Re: Gavex, A Resource Corporation*

*Metropolitan Trust Company of Canada v. Dunham Developments Corp. et al*

*Hongkong Bank of Canada v. Ormskirk Investments Ltd.*

*Royal Bank of Canada v. McCook*

*Re: Woodward's Ltd.*

*Dove Audio Inc. v. Bank of Montreal*

*Canadian Western Bank v. Hansen*

*Re: Stephanies*

*Re: Westar Mining Ltd.*

*Re: Pacific National Leasing Corporation*

*Royal Trust Corp. v. Northland Properties Ltd.*

*Bank of Montreal v. Peachey*

*The Bank of Nova Scotia v. Cheung*

*Wilson v. Gill*

*Dass No. 47 Holdings Ltd. v. Touch Wood Inc.*

*Sauer et al v. 648657 B.C. Ltd. et al*

*Sauer et al v. 0722955 B.C. Ltd. et al*

*Sauer et al v. Kelowna Mountain Development Services Ltd. et al*

*First West Credit Union v. Giesbrecht*

*Sauer et al v. Braich et al*

*The Toronto-Dominion Bank v. Blo Plastix Inc. et al*

**ALL CANADIAN INVESTMENT CORPORATION**  
**Summary of Professional Fees of Legal Counsel to the Monitor, McEown and Associates Ltd.**  
**January 30, 2023 to July 20, 2023**

**KORNFELD LLP**

|                                | <b>Fees</b>       | <b>Disb</b>     | <b>GST</b>      | <b>PST</b>      | <b>Total</b>       |
|--------------------------------|-------------------|-----------------|-----------------|-----------------|--------------------|
| Invoice dated January 30, 2023 | \$2,500.00        | \$624.95        | \$152.25        | \$175.77        | \$3,452.97         |
| Invoice dated July 20, 2023    | \$6,240.00        | \$189.79        | \$322.49        | \$436.80        | \$7,189.08         |
|                                | <u>\$8,740.00</u> | <u>\$814.74</u> | <u>\$474.74</u> | <u>\$612.57</u> | <u>\$10,642.05</u> |

This is Exhibit "B" referred to in the  
 Affidavit of Douglas B. Hyndman  
 sworn before me this 23<sup>rd</sup> day of  
November, 2023

D Lucas  
 A Commissioner for taking Affidavits  
 within British Columbia

This is Exhibit "C" referred to in the  
Affidavit of Douglas B. Hyndman

sworn before me this 23<sup>rd</sup> day of

November, 2023

*D Lucas*

A Commissioner for taking Affidavits  
within British Columbia

In Account With:

**KORNFELD LLP**  
1100 One Bentall Centre  
505 Burrard Street, Box 11  
Vancouver, BC V7X 1M5

Telephone: 604-331-8300 / Facsimile: 604-683-0570

January 30, 2023

File No: MCE003ALL171

Invoice No. 205300

McEown and Associates Ltd.  
110 – 744 West Hastings Street  
Vancouver, BC V6C 1A5

Attention: Mr. John McEown

---

**Re: All Canadian Investment Corporation ("ACIC")**

**TO ALL PROFESSIONAL SERVICES RENDERED** in connection  
with the above matter from and including November 30, 2022 to and  
including January 23, 2023, including:

**TO OUR FEE:**

Doug: 5 hours @ \$500.00 = \$2,500.00

**\$2,500.00**



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**TAXABLE ANCILLARY CHARGES**

|                                   |              |
|-----------------------------------|--------------|
| Agent's / Search Fees             | \$ 89.50     |
| Electronic Access and Search Fees | 11.00        |
| Document Reproduction Charges     | 432.45       |
| B.C. Online Charges               | <u>12.00</u> |

**TOTAL TAXABLE ANCILLARY CHARGES** **544.95**

**TAX EXEMPT ANCILLARY CHARGES**

|                              |                 |
|------------------------------|-----------------|
| Government Registration Fees | <u>\$ 80.00</u> |
|------------------------------|-----------------|

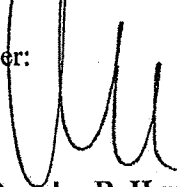
**TOTAL TAX EXEMPT ANCILLARY CHARGES** **80.00**

**GST/HST (Registration Number R135080513)** **152.25**  
**PST @ 7% (on fees and applicable ancillary charges)** **175.77**

**TOTAL FEES, ANCILLARY CHARGES AND TAXES:** **\$3,452.97**

THIS IS OUR ACCOUNT HEREIN

**KORNFELD LLP**

Per: 

**Douglas B. Hyndman**

DBH: SLR

*E. & O.E.*

\*Please send Interac e-transfers to [accounts@kornfeldllp.com](mailto:accounts@kornfeldllp.com), including your invoice number in notes.  
(Please do NOT send trust funds or retainers using this method.)

NOTE: All government filing fees paid in connection with this matter were incurred by us on your behalf as agents and are not subject to GST or PST. Other disbursements listed herein are subject to GST and/or PST where required by law. Accounts that remain unpaid thirty days following the date of the account will bear interest until paid at the rate of 12% per annum.



In Account With:

**KORNFELD LLP**

1100 One Bentall Centre  
505 Burrard Street, Box 11  
Vancouver, BC V7X 1M5

*Telephone: 604-331-8300 / Facsimile: 604-683-0570*

July 20, 2023

File No: MCE003ALL171

Invoice No. 207472

McEown and Associates Ltd.  
110 – 744 West Hastings Street  
Vancouver, BC V6C 1A5

*Attention: Mr. John McEown*

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**Re: All Canadian Investment Corporation ("ACIC")**

**TO ALL PROFESSIONAL SERVICES RENDERED** in connection  
with the above matter from and including January 31, 2023 to date,  
including:

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|   |   |                   |
|---|---|-------------------|
| <b>TO OUR FEE:</b>  | Doug: 9.6 Hours @ \$650.00 = \$6,240.00 | <b>\$6,240.00</b> |
| <b><u>TAXABLE ANCILLARY CHARGES</u></b>                     |   |                   |
| Delivery Charges  | \$ 9.89                                 |                   |
| Document Reproduction Charges                               | <u>199.90</u>                           |                   |
| <b>TOTAL TAXABLE ANCILLARY CHARGES</b>                      |   | <b>209.79</b>     |
| <b><u>TAX EXEMPT ANCILLARY CHARGES</u></b>                  |   |                   |
| Examination in aid of execution - Void Cheque (stale dated) | <u>\$ -20.00</u>                        |                   |
| <b>TOTAL TAX EXEMPT ANCILLARY CHARGES</b>                   |   | <b>-20.00</b>     |

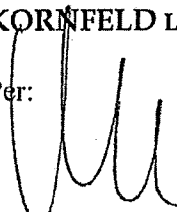
-3-

|   |                          |
|---|--------------------------|
| <b>TOTAL FEES (carried forward):</b>                        | <b>\$6,240.00</b>        |
| <b>TOTAL TAXABLE ANCILLARY CHARGES (carried forward)</b>    | <b>209.79</b>            |
| <b>GST/HST (Registration Number R135080513)</b>             | <b>322.49</b>            |
| <b>PST @ 7% (on fees and applicable ancillary charges)</b>  | <b>436.80</b>            |
| <b>TOTAL TAX EXEMPT ANCILLARY CHARGES (carried forward)</b> | <b><u>-20.00</u></b>     |
| <br>  |                          |
| <b>TOTAL FEES, ANCILLARY CHARGES AND TAXES:</b>             | <b><u>\$7,189.08</u></b> |

THIS IS OUR ACCOUNT HEREIN

**KORNFIELD LLP**

Per:



**Douglas B. Hyndman**

DBH: SLR

*E. & O.E.*

NOTE: All government filing fees paid in connection with this matter were incurred by us on your behalf as agents and are not subject to GST or PST. Other disbursements listed herein are subject to GST and/or PST where required by law.

Accounts that remain unpaid thirty days following the date of the account will bear interest until paid at the rate of 12% per annum.

## ALL CANADIAN INVESTMENT CORPORATION

Summary of Professional Fees of Legal Counsel to the Monitor, McEown and Associates Ltd.  
January 2023 to July 2023

## KORNFELD LLP

| NAME                                 | TITLE   | HOURS        | RATE     | FEE VALUE         |
|--------------------------------------|---------|--------------|----------|-------------------|
| Douglas B. Hyndman                   | Partner | 5.00         | \$500.00 | \$2,500.00        |
| Douglas B. Hyndman                   | Partner | 9.60         | \$650.00 | \$6,240.00        |
| <b>TOTAL PROFESSIONAL TIME/FEEES</b> |         | <b>14.60</b> |          | <b>\$8,740.00</b> |

This is Exhibit "D" referred to in the  
Affidavit of Douglas B. Hyndman  
sworn before me this 23<sup>rd</sup> day of  
November, 2023  
J. Stuar  
A Commissioner for taking Affidavits  
within British Columbia