

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

IN THE MATTER OF

**TITAN INVESTMENS LIMITED PARTNERSHIP, and TITAN GENPAR INC., and
EVOLUTION CAPITAL MANAGEMENT LTD., and THE ESTATE OF DAVID
COMTE, DECEASED, and THE COMTE FAMILY TRUST and
PREDATOR HOLDINGS LTD.**

**IN THE MATTER OF THE JUDICATURE ACT, R.S.A. 2000 c. J-2, and
RULES 467 and 468 OF THE ALBERTA RULES OF COURT**

NOTICE OF MOTION

TAKE NOTICE that an application will be made on behalf of the Receiver and Manager, Alger & Associates Inc. (the "Receiver"), before the Honourable Mister Justice S.L. LoVecchio on Thursday the 28th day of October, 2010, at the hour of nine o'clock (9:00 A.M.) in the forenoon or so soon thereafter as counsel may be heard, for the following relief:

1. An Order deeming service of this Notice of Motion and materials in support thereof good, valid, timely and sufficient.
2. An Order abridging the time for service of the notice of this application.
3. An Order providing advice and directions as to the Receiver's ability to assign the Estate of David Comte, Deceased (the "Comte Estate") into bankruptcy under the terms of the Receiver and Manger Order – Estate of David Comte, deceased, Predator Holdings Ltd. and the Comte Family Trust granted in the within proceedings by the Honourable Mister Justice S.L. LoVecchio on January 13, 2005 (the "Receivership Order").
4. Alternatively, an Order authorizing the Receiver to assign the Comte Estate into bankruptcy, to the making of a Receiving Order against the Comte Estate, and authorizing the Receiver to take such other proceedings under the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 (the "*BIA*"), as the Receiver may deem appropriate.

5. Alternatively, an Order granting the Receiver leave to petition the Comte Estate into bankruptcy.
6. An Order granting such other and further relief as the circumstances may require and as the Honourable Court deems just.

AND FURTHER TAKE NOTICE that in support of this application, the Receiver relies upon the following:

- (a) This Notice of Motion, filed;
- (b) The Receivership Order, filed;
- (c) The Receiver and Manger's First Report dated January 19, 2005, filed;
- (d) The Receiver and Manger's Second Report dated April 14, 2005, filed;
- (e) The Receiver and Manager's Third Report dated August 5, 2010, filed;
- (f) Sections 42, 44 and 49 of the *BIA*;
- (g) Rule 548 of the *Alberta Rules of Court*;
- (h) Such further and other material as counsel may advise and this Honourable Court may permit.

AND FURTHER TAKE NOTICE that the grounds for this application are that:

- (a) Pursuant to the terms of the Receivership Order granted January 15, 2005, the Receiver was appointed receiver and manager, without posting security, of all present and future assets, property and undertakings of the Comte Estate, Predator Holdings Ltd. and the Comte Family Trust with the authority to manage and operate and investigate the assets, property and undertakings of the Comte Estate, Predator Holdings Ltd. and the Comte Family Trust
- (b) Paragraph 16 of the Receivership Order appears to grant the Receiver the authority to, in its sole and absolute discretion and without further Order of this

Court, to cause each of the Comte Estate, Predator Holdings Ltd. and the Comte Family Trust to make an assignment in bankruptcy. It is unclear however on the face of the Receivership Order whether such authority extends to each of the Comte Estate, Predator Holdings Ltd. and the Comte Family Trust, or is limited to just Predator Holdings Ltd. and the Comte Family Trust.

- (c) The Comte Estate is insolvent and has no assets.
- (d) A bankruptcy of the Comte Estate is necessary in order to permit the Receiver to be discharged as receiver and manager over all present and future assets, property and undertakings of the Comte Estate.

DATED at the City of Calgary, in the Province of Alberta, this 21 day of October, 2010.

MacPHERSON LESLIE & TYERMAN LLP

Per:



Dean A. Hutchison
Counsel for the Receiver, Alger & Associates
Inc.

TO: CLERK OF THE COURT

AND TO: EXECUTRIX OF THE ESTATE OF DAVID COMTE
#134, 670 Kenderdine Road
Saskatoon, SK S7N 4W3
Attention: Janet Murias (formerly known as Janet Comte)

AND TO: CANADA REVENUE AGENCY
640 – 3rd Avenue North
Saskatoon, SK S7K 0A8
Attention: Jennifer Flegel

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File No. 3510-5

