

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

IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended

BETWEEN:

NATIONAL BANK OF CANADA

Applicant

and

**NIMBUS ENVIRONMENTAL SOLUTIONS INC., OAKDALE ENTERPRISES INC.,
NIMBUS WATER SYSTEMS INC., 365 PRO INSTALLATION INC.,
2242462 ONTARIO LIMITED AND WATER FILTER CART INC.**

Respondents

**Affidavit of Stefan CASERTA
Sworn November 10, 2021**

I, Stefano Caserta, of Mississauga, Ontario, MAKE OATH AND SAY THAT:

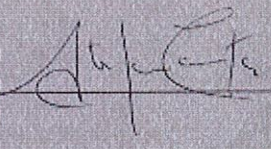
1. I am the Chief Financial Officer of Sincere Distribution Inc., the proposed financier of the purchase by Acquamia Inc. of the assets of the Nimbus Group, in receivership.
2. I met Peter Bozzo on or about August 17, 2021 for the purpose of evaluating his request to refinance the Nimbus group of companies. We commenced a review of paperwork involving the Nimbus Group, provided by Mr. Bozzo initially and subsequently by BDO.
3. On or about September 13, 2021, I was informed that the National Bank of Canada was successful in having BDO appointed as the Receiver of the Nimbus Group Assets.
4. The Receivership order included a SISF protocol and I was advised at that time that there was an approved Stalking Horse Agreement in place. I was

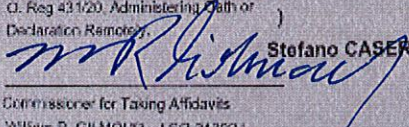
subsequently advised that the Stalking Horse Agreement was controlled by a numbered company owned/controlled by Michael Davidson, who I understand maintains, directly or indirectly, an interest in the Nimbus Group.

5. I consulted with Colin James, a Toronto Lawyer and corporate Counsel for the proposed funding group, to review the terms of the SISP. Mr. James and I agreed we would retain the services of Alan Page, President of Schwartz, Levitsky, Feldman, Inc. as a consultant.
6. Subsequently, Brandon Jaffe, a lawyer that I understand to specialize in Bankruptcy/Receivership matters, was referred by Alan Page to and retained by Acquamia Inc..
7. Mr. Jaffe, Mr. Page, Mr. James and I discussed the language of the SISP and determined its procedures were unclear and required a better defined process.
8. As part of the funding process, the funding group provided evidence of its financial capability by providing a Term Sheet, a Proof of Funds supported by a Current dated Bank Statement, a copy of a bank draft for \$30,000,000 USD payable to Sincere and transactional references through Goggle, referencing EDGAR (SEC) filings, with appropriate links.
9. Subsequently, I was informed by Mr. Christopher Abi, President of Carbon Development Inc., the lead funder of the project, that neither BDO nor the National Bank of Canada had made any attempt to verify the funding by way of bank-to-bank communication. I have known Mr. Abi for some 7 years and have no reason not to believe his statement.
10. On numerous occasions, I was copied on emails sent to BDO that requested clarification of the SISP protocols. An amendment of the SISP was provided that clearly stated the deposit was due at 3pm on the day of the auction, subject to Acquamia being the successful bidder.
11. BDO, in email form, requested payment of deposit outside what I understood to be the terms of the SISP protocols, including the Amendment referenced above. On two occasions BDO requested payment of deposit monies amounting to \$905,000 CDN, in advance. I saw no basis to claim that this was in accordance with the bidding process.

12. October 16, 2021, Mr. James sent Brian Trainor at BDO an email that expressed his concerns that additional qualifications to the bidding process were not in accordance with the approved SISP. Mr. James also confirmed the funder's willingness to proceed with funding subject to the adherence to the terms of the SISP.
13. On or about October 20, 2021 I was provided an email from Mr. Bozzo, whereas Leanne Williams confirmed that the auction would not take place and that it was not rescheduled.
14. On or about October 20, 2021, I was provided a copy of an email written by Leanne Williams to Brandon Jaffe suggesting the Receiver had provided ample time to the Acquama to provide the required deposit. She then extended the time for submission of deposit funds to October 26, 2021. Apparently, as I was advised, the auction had been cancelled without rescheduling.
15. The foregoing has all been reported to the funding group and its US counsel. They are concerned over what they perceive as unilateral material modification of the SISP terms. I am advised and verily believe that those terms are being relied upon by the funders as an essential element of the closing process. They are concerned that should they participate in the process going forward that they may well risk deposit monies, and more, to the whims of a Receiver that is ready, willing and able to change its mind and processes at any time. They imagine the payment of a deposit and the subsequent amendment of the terms of closing to which they cannot agree, and then to have to resort to the courts to obtain a return of those funds.

Affirmed remotely by Stefano CASERTA,
stated as being located in the City of
MISSISSAUGA in the Province of Ontario
on November 10, 2021 in accordance with
O. Reg. 431/20, Administering Oath or
Declaration Remotely.


Stefano CASERTA


Commissioner for Taking Affidavits
William R. GILMOUR - LSO 31392J
At Her Majesty's pleasure

NATIONAL BANK OF CANADA - and - **NIMBUS ENVIRONMENTAL SOLUTIONS INC. et al**
Applicant Respondents

Court File No. CV-21-00667395-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at **TORONTO**

AFFIDAVIT OF STEVE CACERTA
(Sworn November 10, 2021)

GILMOUR BARRISTERS
PROFESSIONAL CORPORATION
Barristers and Solicitors
1 Royce Ave., Unit 3
Brampton, ON L6Y 1J4

WILLIAM R. GILMOUR
LSUC No. 31392J

Tel. (905) 451-6682
Fax (905) 866-5177
Email: bill@wgilmour.ca

Lawyers for the Respondents and Peter
Bozzo