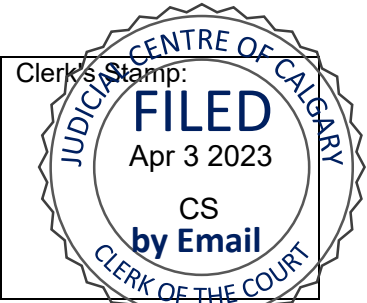


COURT FILE NUMBER 2301 04501

C40260



COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

MATTERS IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT, RSC*
1985, c. B-3.

IN THE MATTER OF KERNHEM INTERNATIONAL B.V.

\$250.00
COM
Apr 6 2023

APPLICANT RAGNILD MEULENBERG, AS FOREIGN REPRESENTATIVE

DOCUMENT **ORIGINATING APPLICATION**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

STIKEMAN ELLIOTT LLP
4300 Bankers Hall West
888 – 3rd Street S.W.
Calgary, AB T2P 5C5

Solicitor: Karen Fellowes, K.C.
Phone Number: (403) 724-9469
Email: kfellowes@stikeman.com
Fax Number: (403) 266-9034
File No.: 148767.1001

Counsel for the Applicant

NOTICE TO RESPONDENT: None

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: April 6, 2023

Time: 2:00pm

Where: Edmonton Law Courts
VIA WEBEX: <https://albertacourts.webex.com/meet/virtual.courtroom86>

Before: The Honourable Justice Marta E. Burns

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. The Applicant, Ragnild Meulenberg (the "**Foreign Representative**"), applies for an Order (the "**Proposed Order**") in substantially the form attached as **Appendix A** to this application, as follows:

- (a) if necessary, abridging the time for service of the within application and directing that any further service of this application be dispensed with and this application is properly returnable on April 6, 2023;
 - (b) recognizing and giving full force and effect in Canada pursuant to section 269 the *Bankruptcy and Insolvency Act*, Rsc 1985, C. B-3 ("**BIA**") a bankruptcy order of Kernhem International B.V. (the "**Debtor**") dated September 27, 2022 granted by Ms. C.J. Hofman (the "**Foreign Order**") in the Amsterdam District Court of the Netherlands made in Court Action No. C/16/22/221 (the "**Foreign Proceeding**"), a copy of the Foreign Order is attached as **Schedule "A"** to the Proposed Order;
 - (c) granting ancillary relief pursuant to section 272 of the *BIA*, among other provisions, concerning the Debtor's Property as further particularized at paragraphs 2 to 4 of the Proposed Order;
 - (d) appointing BDO Canada Limited (the "**Administrative Delegate**") as delegate of the Foreign Representative to assist with the administration or realization of all the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, located in Canada (collectively, the "**Property**"); and
 - (e) an administrative charge in favour of the Foreign Representative, Administrative Delegate and counsel to the Administrative Delegate, if any (the "**Administration Charge**"),
2. Such further and other relief as counsel may advise and this Honourable Court deems just.

Grounds for making this application:

3. On September 8, 2022, KNOC KAZ B.V., a creditor of the Debtor, filed a petition for bankruptcy of the Debtor in the Foreign Proceeding.
4. On September 27, 2022, Ms. C.J. Hoffman granted the Foreign Order which, among other things, appointed as trustee the Foreign Representative, Ragnild Meulenberg.
5. The Foreign Representative seeks aid of the Canadian Court to recognize the Foreign Order in order to execute and realize against certain Property held by the Debtor in Canada. In particular, the Debtor owns certain shares (the "**Black Hill Shares**") in a Canadian company named Knoc Black Hill Ltd. that are subject to a court-approved sales process and asset purchase agreement in the Netherlands (the "**Transaction**").
6. In order to close the Transaction, the Foreign Representative must seize the Black Hill Shares located in Canada.

7. The Administrative Delegate has consented to act to assist the Foreign Representative with the administration or realization of all the Debtor's Property in Canada, including with respect to the seizure of the Black Hill Shares.
8. To aid the Administrative Delegate and Foreign Representative, the Foreign Representative seeks an administration charge on the Property in Canada, which charge shall not exceed an aggregate amount of \$50,000.00 (the "**Administration Charge**").
9. The Administrative Delegate's professional fees and disbursements shall rank in priority to the Foreign Representative's fees and disbursements on the Administration Charge.
10. The Administration Charge shall be used as security for professional fees and disbursements incurred by the Foreign Representative, Administrative Delegate and Administrative Delegate's counsel, if any.
11. The Foreign Representative pleads and relies upon provisions of the *BIA* and, in particular, sections 269, 270, 271, and 272 therein.
12. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

13. The pleadings and materials filed in the within action;
14. The Affidavit of Ragnild Meulenberg, sworn April ____, 2023, filed; and
15. Such further and other evidence as counsel may advise and this Court may permit.

Applicable Acts and regulations:

16. *Alberta Rules of Court*, Alta Reg 124/2010, as amended;
17. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended; and
18. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

19. None.

How the application is proposed to be heard or considered:

20. Via WebEx videoconference before the presiding Justice on the Commercial List.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

APPENDIX A
FORM OF ORDER

COURT FILE NUMBER

Clerk's Stamp:

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

MATTERS IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, c. B-3, AS AMENDED

IN THE MATTER OF KERNHEM INTERNATIONAL B.V.

APPLICANT RAGNILD MEULENBERG, AS FOREIGN REPRESENTATIVE

DOCUMENT **ORDER**

ADDRESS FOR **STIKEMAN ELLIOTT LLP**

SERVICE AND 4300 Bankers Hall West

CONTACT 888 – 3rd Street S.W.

INFORMATION OF Calgary, AB T2P 5C5

PARTY FILING THIS DOCUMENT

Solicitor: Karen Fellowes, K.C.

Phone Number: (403) 724-9469

Email: kfellowes@stikeman.com

Fax Number: (403) 266-9034

File No.: 148767.1001

Counsel for the Applicant

DATE ON WHICH ORDER WAS PRONOUNCED: April 6, 2023

NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Justice Marta E. Burns

LOCATION OF HEARING: Edmonton Courthouse, via Webex

THIS APPLICATION, by Ragnild Meulenberg in her capacity as the trustee (the “**Foreign Representative**”) of Kernhem International B.V. (the “**Debtor**”) pursuant to section 269 the *Bankruptcy and Insolvency Act*, Rsc 1985, C. B-3 (“**BIA**”), seeks an order recognizing and enforcing the Order granted by Ms. C.J. Hofman dated September 27, 2022 (the “**Foreign Order**”), of the Amsterdam District Court of the Netherlands made in Court Action No. F/16/22/221 (the “**Foreign Proceeding**”), a certified copy of the Foreign Order is attached as Schedule “A” to this Order;

ON READING the Notice of Application, the affidavit of the Foreign Representative, Ragnild Meulenberg, sworn April 3, 2023; AND UPON hearing the submissions of counsel for the Foreign

Representative, and on reading the consent of BDO Canada Limited to act as administrative delegate pursuant to section 272(1)(c) of the *BIA*;

RECOGNITION OF FOREIGN ORDER

1. THIS COURT ORDERS that the Foreign Order in the Foreign Proceeding attached as Schedule "A" to this Order is hereby recognized as a foreign non-main proceeding and given full force and effect in all provinces and territories of Canada pursuant to Section 269 of the *BIA*, however, that in the event of any conflict between the terms of the Foreign Order and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

2. THIS COURT ORDERS that until such date as this Court may order (the "**Stay Period**") no proceeding or enforcement process in any court or tribunal in Canada (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Debtor or affecting their business (the "**Business**") or their Property except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Debtor or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

3. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Debtor or the Foreign Representative or affecting the Business or the Property, are hereby stayed and suspended except with leave of this Court, provided that nothing in this Order shall (i) prevent the assertion of or the exercise of rights and remedies outside of Canada, (ii) empower any of the Debtors to carry on any business in Canada which that Debtor is not lawfully entitled to carry on, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

4. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor and affecting the Business in Canada, except with leave of this Court.

APPOINTMENT OF ADMINISTRATIVE DELEGATE

5. THIS COURT ORDERS that BDO Canada Limited (the “**Administrative Delegate**”) is hereby appointed as a delegate of the Foreign Representative to assist with the administration or realization of all the Debtor’s current and future assets, undertakings and properties of every nature and kind whatsoever, located in Canada (the “**Property**”).

6. THIS COURT ORDERS that the Administrative Delegate:

- (a) is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;
- (b) shall have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Debtor, to the extent that is necessary to perform its duties arising under this Order;
- (c) be entitled to conduct examination of witnesses or take evidence in respect of the Property or Business of the Debtor and/or deliver to the Foreign Representative information concerning the Debtor’s Property and Business pursuant to Section 272 of the *BIA*; and
- (d) shall be at liberty to engage independent legal counsel or such other persons as the Administrative Delegate deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order.

7. THIS COURT ORDERS that the Foreign Representative shall (i) advise the Administrative Delegate of all material steps taken by the Foreign Representative in these proceedings or in the Foreign Proceedings, (ii) co-operate fully with the Administrative Delegate in the exercise of its powers and discharge of its obligations, and (iii) provide the Administrative Delegate with the assistance that is necessary to enable the Administrative Delegate to adequately carry out its functions.

ACCOUNTS AND ADMINISTRATION CHARGE

8. THIS COURT ORDERS that the Foreign Representative, Administrative Delegate and their respective legal counsel, if any, shall be paid by the Debtor their reasonable fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court.

9. THIS COURT ORDERS that the Foreign Representative, Administrative Delegate and their respective legal counsel, if any, shall pass their accounts from time to time, and the accounts of the

Foreign Representative, Administrative Delegate and their respective legal counsel, if any, shall not be subject to approval in the Foreign Proceeding.

10. THIS COURT ORDERS that the Foreign Representative, Administrative Delegate and their respective legal counsel, if any, shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property in Canada, which charge shall not exceed an aggregate amount of **\$50,000.00** as security for their professional fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order.

11. THIS COURT ORDERS that the Administration Charge shall constitute a charge on the Property in Canada and such charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise in favour of any person.

12. THIS COURT ORDERS that the professional fees and disbursements of the Administrative Delegate and their counsel, if any, shall rank in first priority to the Administration Charge.

13. THIS COURT ORDERS that the professional fees and disbursements of the Foreign Representative and their counsel, if any, shall rank in second priority to the Administration Charge.

SERVICE AND NOTICE

14. The time for service of this Application together with all supporting materials is hereby declared good and sufficient and no other person is required to have been served with such documents, and this hearing is properly returnable before this Honourable Court today and further service thereof is dispensed with.

15. Service of this Order shall be deemed good and sufficient by:

(a) pursuant to section 276 of the *BIA*, after the granting of this order, the Foreign Representative shall publish a copy of this Order in the prescribed form once a week for two consecutive weeks, or as otherwise directed by the court, in one or more newspapers in Canada; and

(b) by posting a copy of this Order on the Administrative Delegate’s website at:
<https://www.bdo.ca/en-ca/extranets/kernhem>.

16. No other Persons are entitled to be served with a copy of this Order.

GENERAL

17. THIS COURT ORDERS that the Foreign Representative and the Administrative Delegate may from time to time apply to this Court for advice and directions in the discharge of their respective powers and duties hereunder.

18. THIS COURT ORDERS that nothing in this Order shall prevent the Administrative Delegate from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Debtor, the business or the Property.

19. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the Court of the Netherlands to give effect to this Order and to assist the Debtor, the Foreign Representative, the Administrative Delegate, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Debtor, the Foreign Representative, and the Administrative Delegate, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Debtor, the Foreign Representative, and the Administrative Delegate and their respective agents in carrying out the terms of this Order.

20. THIS COURT ORDERS that the Foreign Representative and the Administrative Delegate be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

21. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Debtor, the Foreign Representative, the Administrative Delegate and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

22. THIS COURT ORDERS that this Order shall be effective as of September 27, 2022 on the date of this Order.

Justice of the Alberta Court of King's Bench

SCHEDULE "A"
FOREIGN ORDER



vonniis

CENTRAL COURT OF THE NETHERLANDS

Civil law Location

Lelystad

Case number: C/16/22/221 F

**Judgment under section 1 Fw (application for bankruptcy)
dated 27 September 2022**

in the case of

the private company

KNOC KAZ B.V.,

based in Amsterdam.

applicant.

Advocate mr. B.T. Verdam.

against

the private company

KERNHEM INTERNATIONAL B.V.,

having its registered office in Hilversum.

defendant.

1. The procedure

I. I. The applicant filed a petition for bankruptcy of the defendant with the court on 8 September 2022.

I.2. The petition was, in accordance with the temporary order, heard at an online (Teams) session of this court on 27 September 2022. On behalf of the respondent, although duly summoned, no one appeared. Verdam has now appeared on behalf of the applicant.

2. The review

2.1. Since it has not been established or shown that the centre of the defendant's main interests is in a Member State other than that in which the location of its statutory head office is located, the court, under the provisions of Article 3 of the EU Insolvency Regulation from the jurisdiction, of the Dutch court.

..., ..., After summary examination, the existence of facts and circumstances showing that the defendant was in the condition of having ceased to pay was established. Summary evidence of the applicant's right of action was also established.

2.3. The, request shall, subject to the provisions of Articles I. 2. 4. 6. and 1-i
Fw be assigned.

3. The decision

The court:

3. I. declares

the private company

KERNHEM INTERNATIONAL B.V.,

registered in the trade register at the Chamber of Commerce under number 09078087.

statutory seat Hilversum.

, business address: 12 I 7 KR Hilversum. Koninginneweg 3 I. in bankruptcy.

3.1. Appoints supervisory judge Mr K.G. van de Streek. Member of this court. and
appoints as trustee now. R. Meulenberg. attorney at law in Bussum. telephone number 020-
5216699.

3.3. orders the trustee to open the letters and telegrams addressed to the bankrupt

This judgment was rendered by Mr C.J. Hofman and publicly pronounced on
27 September 2022 at 10:38 am.



VOOR AFSCHRIFT CONFORM
DE GEBELDEN VAN DE
RECHTEN NEDERLAND