

T. Major #2
Sworn: July 29, 2009

No. S-088488
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 *Canada Business Corporations Act*
R.S.C., 1985 c. C-44

AND

IN THE MATTER OF HYDROXYL SYSTEMS INC.

PETITIONER

AFFIDAVIT

I, THOMAS MAJOR, of 202 - 26 Bastion Square, Victoria, British Columbia, MAKE OATH AND SAY AS FOLLOWS:

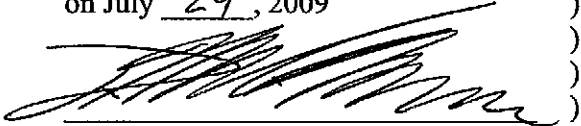
1. I am the former Chief Operating Officer of the Petitioner, Hydroxyl Systems Inc. ("Hydroxyl") and am now employed by Headworks, Inc. and, as such, I have personal knowledge of the matters hereinafter deposed to, except where stated to be on information, in which case, because of my belief in the veracity of the informant I identify, I believe both the information and the resulting statement I make to be true.

2. I understand that Hydroxyl has applied for permission to terminate the Licence Agreements between it and Aquapoint Ltd. ("Aquapoint") and IDI Degremont, Inc. ("IDI").
3. Under the terms of the Aquapoint Licence Agreement (which is for smaller installations), Aquapoint is obliged to meet certain performance-based minimum purchase requirements based on the average of the two best previous years' sales (4.0(f)). For the years ended August 2007 and August 2008, the average sales were 108 cubic meters. Now shown to me, marked and attached as Exhibit "A" to this my Affidavit is a table that I have prepared. To date for the year ended August 2009, Aquapoint has ordered only 56 cubic meters, leaving it 52 short of the required minimum.
4. Under Clause 3.0(f) of the Licence Agreement, Aquapoint is required to pay Hydroxyl's invoices within 15 days of the date of the invoice. At present, Aquapoint is in default of this provision, in that Hydroxyl's most recent invoice, which has been outstanding for more than 60 days, has not been paid in full. There is a balance of \$6,857.60 outstanding.
5. Quite apart from these defaults, the Aquapoint Licence has not been a success for Hydroxyl. Since the inception of the Licence Agreement in August 2005, Hydroxyl has sold only approximately \$151,000 of products to Aquapoint, resulting in a profit of only approximately \$50,000 in four years (if Aquapoint pays the arrears owing).
6. When the Licence Agreement was entered into, it was anticipated that Aquapoint would generate 10 times the volume of sales that have actually occurred.
7. The IDI License, which is for larger, municipal treatment installations in the US, also has been a disappointment. Sales have been approximately \$1.3 million in four years, resulting in a profit (or anticipated profit) to Hydroxyl of less than \$280,000, approximately \$160,000 of which has not yet been earned.
8. As set out in the Affidavit #9 of David Gray filed in this proceeding, Hydroxyl and IDI entered into a Purchase Order agreement on July 17th (Exhibit "D" to Mr. Gray's Affidavit). The anticipated profit on this contract (approximately \$158,000) represents a

mark-up over Hydroxyl's anticipated costs of 15%. This is 11% less than the IDI License Agreement rate of 26%.

9. As with the Aquapoint license, the volume of work and profits from the IDI License (even taking into account the new PO) have been significantly less than what Hydroxyl anticipated at the outset of the relationship with IDI.
10. Furthermore, IDI is in default under the terms of the July 17th Purchase Order, in that it has not made the first \$75,000 payment, which was due on signing.

SWORN BEFORE ME at the City of)
Victoria, British Columbia,)
on July 29, 2009)


A commissioner for taking)
affidavits in British Columbia)


THOMAS MAJOR

Daniel J. Mildenberger
Affidavit #2 **Barister and Solicitor**
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