

HON. SAMUEL J. STEINER
Chapter 15
HEARING DATE: April 16, 2009
HEARING TIME: 1:30 pm
RESPONSE DEADLINE: At Hearing

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re
DELOITTE & TOUCHE, INC.
as Foreign Representative of
EVERGREEN GAMING CORP.,
Debtor in a Foreign Proceeding.

Case No. 09-13567 (SJS)
ORDER RECOGNIZING FOREIGN
PROCEEDING PURSUANT TO
CHAPTER 15

THIS MATTER having come before the Court upon the application of Deloitte & Touche as the Monitor appointed in the Evergreen Group CCAA Proceeding¹ now pending in the Supreme Court of British Columbia, by and through their counsel of record, Bruce MacIntyre and Perkins Coie LLP, for entry of an order, pursuant to 11 U.S.C. § § 105(a), 1504, 1507, 1515, 1517, 1519, 1520 and 1521, recognizing the CCAA Proceeding as a foreign main proceeding (the "Application"); the Court having considered the Declarations of Cory Coyle, Jervis Rodrigues and John Sandrelli filed in support of the Application and the Chapter 15 Petition, as well as the pleadings and other materials on file in this case; and

¹ Capitalized terms not defined herein shall have the same meaning as in the Application for Recognition of Foreign Main Proceeding and Memorandum of Law In Support Thereof (the "Application") on file in this case.

ORDER RECOGNIZING FOREIGN PROCEEDING
PURSUANT TO CHAPTER 15 – 1

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 the Court finding that the CCAA Proceeding pending in Vancouver, British Columbia,
2
3 Canada under the Canadian Companies' Creditors Arrangement Act which was commenced
4
5 by the Debtors on April 15, 2009 and remains pending before the Supreme Court of British
6
7 Columbia (Canada) as In the Matter of Evergreen Gaming Corporation and Washington
8
9 Gaming, Inc., and Their Subsidiaries, S- _____; the Court makes the following
10
11 findings of fact and conclusions of law:

12
13 A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§157
14
15 and 1334;

16
17 B. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(P);

18
19 C. Venue is properly located in this District pursuant to 28 U.S.C. §1440;

20
21 D. These Chapter 15 cases were properly commenced pursuant to §§1504 and
22
23 1515 of the United States Bankruptcy Code (the "Code") and the petitions on file in these
24
25 cases meet all requirements of §1515 of the Code;

26
27 E. The CCAA Proceeding now pending before the Supreme Court of British
28
29 Columbia is a "foreign proceeding" within the meaning of §101(23) of the Code;

30
31 F. The Monitor is a duly appointed "foreign representative" within the meaning
32
33 of §101(24) of the Code;

34
35 G. Notwithstanding the fact that some members of the Evergreen Group are
36
37 Washington Corporations, the center of main interest of the Evergreen Group is in British
38
39 Columbia, Canada, and the CCAA Proceeding is properly designated a "foreign main
40
41 proceeding" within the meaning of §§1502(4) and 1517(b)(1) of the Code with respect to
42
43 each of the Debtors;

1 H. The relief requested by the Monitor herein is necessary and appropriate and
2 in the interest of international comity and the purposes of chapter 15 as provided in §1501 of
3 the Code;
4

5
6 I. As the duly appointed foreign representative of a foreign main proceeding,
7 the Monitor is entitled to all of the relief provided under §1520 of the Code;
8
9

10 J. The relief sought by the Monitor pursuant to §1521 of the Code is necessary
11 and appropriate to effectuate the purposes of chapter 15 and to protect the assets of the
12
13 Evergreen Group in the United States and to protect the interests of all creditors of the
14
15 Debtors; and.
16
17

18 K. Notice of these proceeds has been sufficient and proper under the
19
20 circumstances and no further notice is required or necessary.
21

22 NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:
23

- 24
25 1. The Application is granted;
26
27 2. This Court recognizes the Evergreen Group CCAA Proceeding as a foreign
28
29 main proceeding pursuant to Chapter 15 as to each of the Debtors in the Evergreen Group;
30
31 2. Pursuant to §1520 of the Code,
32
33 a. §§361 and 362 are applicable to the proceedings and to the Evergreen
34
35 Group and all property of the Evergreen group within the territorial
36
37 jurisdiction of the United States to the same extent that the sections would
38
39 apply to property of an estate; and
40
41 b. The Monitor and the Debtors may operate the Debtors' Business and
42
43 exercise the rights and powers of a trustee under as provided in the
44
45 CCAA Order and to the full extent provided by §§363 and 552.
46
47

1 3. Pursuant to §§1521(a)(6) of the Code, the provisions of this Court's Interim
2 Order Granting Emergency Relief in this Case prohibiting the termination of executory
3 contracts with the Debtors shall remain in place and shall be to the same extent as provided
4 in the CCAA Order. Any party wishing to terminate, modify, alter, or interfere with any
5 executory contract with a Debtor in the United States, for any reason, must bring an action
6 or proceeding for such relief in the CCAA Proceeding prior to taking any action with respect
7 to such contract(s);
8
9

10 4. The Monitor and Debtors are hereby authorized to continue using cash
11 collateral in the exercise of their powers and subject to the terms of the CCAA Order.
12 Pursuant to Bankruptcy Code Section 361, as adequate protection for the use of their
13 collateral by the Debtors and to secure any diminution of value occurring in their collateral
14 as a result of the Debtors' use of such cash collateral, all creditors claiming a perfected
15 security interest in Debtors' cash, including but not limited to Fortress Credit Corporation,
16 as agent for the Lenders, are hereby granted a replacement lien in the Evergreen Group's
17 Assets, of the same kind, type and nature, and in the same order of priority, as existed on the
18 date of the commencement of the CCAA Proceeding;
19
20
21
22
23
24
25
26
27
28
29
30
31

32 5. The Monitor shall have the same powers in the United States with respect to
33 performance of its duties under the CCAA Order as the Monitor has in the CCAA
34 Proceeding, including but not limited to the right to access to the Property, books, records
35 and employees of the Debtors; the authority to compel production of Debtors' books and
36 records and the examination of any person pursuant to Bankruptcy Rule 2004; to monitor
37 the Debtors' receipts and expenses, and to perform such other duties as required by the
38 Court in the CCAA Proceeding; and
39
40
41
42
43
44
45
46
47

1 5. The Debtors shall cooperate fully with the Monitor with respect to the rights
2
3 and duties of the Monitor under this Order and as the recognized foreign representative with
4
5 respect to the CCAA Proceeding recognized by this Court as a foreign main proceeding.
6

7 DONE IN OPEN COURT this ____ day of _____, 2009.
8
9

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

United States Bankruptcy Court Judge

Presented by:

Perkins Coie LLP

By: /s/ Bruce G. MacIntyre

Bruce G. MacIntyre, WSBA No. 18984

Attorney for Foreign Representative Deloitte & Touche, Inc.