

|Court File No. CV-19-627184-00CL  
CV-19-627185-00CL  
and CV-19-627186-00CL

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

IN THE MATTER OF THE BANKRUPTCY OF QUADRIGA FINTECH  
SOLUTIONS CORP., WHITESIDE CAPITAL CORPORATION AND 0984750  
B.C. LTD. D/B/A QUADRIGA CX AND QUADRIGA COIN EXCHANGE

**WRITTEN SUBMISSIONS OF**  
**THE OFFICIAL COMMITTEE OF AFFECTED USERS**

October 11, 2019

**MILLER THOMSON LLP**  
Scotia Plaza  
40 King Street West, Suite 5800  
P.O. Box 1011  
Toronto, ON Canada M5H 3S1

**Gregory Azeff (LSO #: 45324C)**  
Tel: 416.595.2660  
Fax: 416.595.8695

**Asim Iqbal (LSO #: 61884B)**  
Tel: 416.597.6008  
Fax: 416.595.8695

**Tamie Dolny (LSO #: 77958U)**  
Tel: 416.597.6076  
Fax: 416.595.8695

Representative Counsel for the Affected Users

**COX & PALMER LLP**  
Purdy's Warf Tower  
1959 Upper Water Street  
Halifax, NS  
B3J 3N2

**Gavin MacDonald**  
Tel: 902.421.6262  
Fax: 905.421.3130

Representative Counsel for the Affected Users

Court File No. CV-19-627184-00CL  
CV-19-627185-00CL  
and CV-19-627186-00CL

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

IN THE MATTER OF THE BANKRUPTCY OF QUADRIGA FINTECH  
SOLUTIONS CORP., WHITESIDE CAPITAL CORPORATION AND 0984750  
B.C. LTD. D/B/A QUADRIGA CX AND QUADRIGA COIN EXCHANGE

**WRITTEN SUBMISSIONS OF**  
**THE OFFICIAL COMMITTEE OF AFFECTED USERS**

**A. OVERVIEW**

1. Representative Counsel submits these written submissions in support of the Settlement Approval Order.

**B. FACTS**

2. Except as necessary, the facts are set out in the Reports filed by Ernst & Young Inc. in its capacity as the trustee in bankruptcy (the “Trustee”) of 0984750 B.C. Ltd. dba Quadriga CX and Quadriga Coin Exchange, Quadriga Fintech Solutions Corp. and Whiteside Capital Corporation (collectively, “Quadriga”) under the *Bankruptcy and Insolvency Act*<sup>1</sup> (the “BIA”).

**C. SUBMISSIONS**

3. This Court has the inherent jurisdiction to approve the enclosed Settlement Agreement, including the releases.

---

<sup>1</sup> R.S.C. 1985, c. B-3.

4. Under the BIA, the Court may exercise its inherent jurisdiction if two preconditions are met:<sup>2</sup>

1. the BIA must be silent on a point or not have dealt with the matter exhaustively; and
2. after balancing competing interests, the benefits of granting the relief must outweigh the relative prejudice to those affected by it.

5. In *Samji*, the British Columbia Supreme Court held that a court may exercise inherent jurisdiction to approve a settlement agreement.<sup>3</sup>

6. *Samji* related to a fraudulent Ponzi scheme in which some investors were paid more than their investment (the “net winners”), and some investors lost their investment (the “net losers”).<sup>4</sup>

Similar to this case, in *Samji*:

- (a) there was one large body of creditors that had any significance;
- (b) the trustee entered into a settlement agreement with certain of the net winners, which was approved by the inspectors; and
- (c) the trustee sought court approval of the settlement agreement, which included a release of claims against the settling net winner by the bankruptcy estate and the bankrupt’s creditors.<sup>5</sup>

7. Against the opposition of some creditors, in approving the settlement agreement (including the releases), the court in *Samji* determined that the BIA was silent on the approval of a settlement

---

<sup>2</sup> *Samji, Re*, 2013 BCSC 2101 at para 20 [*Samji*] at Tab 1 of the Book of Authorities.

<sup>3</sup> *Ibid* at para 19.

<sup>4</sup> *Ibid* at paras 3-9.

<sup>5</sup> *Ibid* at para 14.

between a bankrupt and a third party that included a full and final settlement of all claims and a release from the bankrupt and its creditors.<sup>6</sup> This principle is directly applicable to this case.

8. In balancing the competing interests, the court in *Samji* determined that the approach taken by the trustee maximized returns to the creditors by avoiding costly litigation against all of the net winners for fraudulent preferences.<sup>7</sup>

9. The court held that the decision of the trustee and inspectors to enter into the settlement was a legitimate business decision. The court cited case law for the principle that a court should show deference to the business decisions made by the trustee and inspectors.<sup>8</sup>

10. It is submitted that this case is analogous to *Samji*, except that the support for the Settlement Agreement in this case goes a step further. In *Samji*, certain creditors opposed the approval of the settlement agreement. Here, the Official Committee, as court-appointed voice of the overwhelming majority of creditor claims, negotiated the Settlement Agreement and supports its execution.

11. Like *Samji*, the Official Committee's decision to enter into the Settlement Agreement in this case was a business decision centered around avoiding the time, cost and delay associated with litigation while returning a substantial amount of assets into the Quadriga estate for distribution to creditors. It is respectfully submitted that this business decision, and the support of the Official Committee, should be weighed heavily.

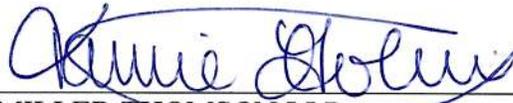
---

<sup>6</sup> *Ibid* at para 26.

<sup>7</sup> *Ibid* at para 36.

<sup>8</sup> *Ibid* at para 22.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 11th day of October, 2019.

A handwritten signature in blue ink, appearing to read "Annie Holms", is written over a horizontal line.

MILLER THOMSON LLP

Gregory Azeff (LSO #: 45324C)  
Tel: 416.595.2660  
Fax: 416.595.8695

Asim Iqbal (LSO #: 61884B)  
Tel: 416.597.6008  
Fax: 416.595.8695

Tamie Dolny (LSO #: 77958U)  
Tel: 416.597.6076  
Fax: 416.595.8695

Representative Counsel for the Affected Users

IN THE MATTER OF THE BANKRUPTCY OF QUADRIGA  
FINTECH SOLUTIONS CORP., WHITESIDE CAPITAL  
CORPORATION AND 0984750 B.C. LTD. D/B/A QUADRIGA CX  
AND QUADRIGA COIN EXCHANGE

Court File No. CV-19-627184-00CL  
CV19-627185-00CL  
and CV-19-627186-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
**PROCEEDING COMMENCED AT TORONTO**

**WRITTEN SUBMISSIONS**

**MILLER THOMSON LLP**

Scotia Plaza  
40 King Street West, Suite 5800. P.O. Box 1011  
Toronto, ON Canada M5H 3S1

**Gregory Azeff (LSO #: 45324C)**

Tel: 416.595.2660  
Email: gazeff@millerthomson.com

**Asim Iqbal (LSO #: 61884B)**

Tel: 416.597.6008  
Email: aiqbal@millerthomson.com

**Tamie Dolny (LSO #: 77958U)**

Tel : 416.597.6076  
Email : tdolny@millerthomson.com

Representative Counsel for the Affected Users

**Cox & Palmer LLP**

Purdy's Warf Tower  
1959 Upper Water Street  
Halifax, NS B3J 3N2

**Gavin MacDonald**

Tel: 902.421.6262  
Email: gmacdonald@coxandpalmer.com

Representative Counsel for the Affected Users