

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

File: No: 500-11-064403-245

SUPERIOR COURT
Commercial Division

Montreal, July 23, 2024

Present: The Honourable David R. Collier,
J.S.C.

**IN THE MATTER OF NOTICE OF INTENTION
TO MAKE A PROPOSAL OF:**

**BENTLEY & CO. LTD. / BENTLEY & CIE
LTÉE**

Applicant / Debtor

-and-

RAYMOND CHABOT INC.

Trustee

**ORDER APPROVING AN ADMINISTRATION CHARGE, A D&O CHARGE
AND EXTENDING THE TIME TO FILE A PROPOSAL**

ON READING the *Application for the Issuance of (i) an Order Approving an Administration Charge, a D&O Charge and Extending the Time To File a Proposal (ii) and Approval and Vesting Order* (the "**Application**") filed by Bentley & Co. Ltd. / Bentley & Cie Ltée ("**Bentley**" or the "**Debtor**"), the affidavit and the exhibits filed in support of the Application, as well as the Reports of Raymond Chabot Inc. (the "**Trustee**"), in its capacity as Trustee, and relying upon the submissions of counsel and being advised that the interested parties, including secured creditors who are likely to be affected by the charges created herein were given prior notice of the presentation of the Application;

WHEREFORE, THE COURT:

1. **GRANTS** the Application.

JCOB37,

SERVICES

2. **DECLARES** that sufficient prior notice of the presentation of the Application has been given to interested parties, including the secured creditors who are likely to be affected by the charges created herein.

DIRECTORS' INDEMNIFICATION AND CHARGE

3. **ORDERS** that Bentley shall indemnify its directors (the "**Directors**") from all claims relating to any obligations or liabilities they may incur and which have accrued by reason of or in relation to their respective capacities as directors or officers of Bentley after as of 12:01 AM Montreal time, on the date of this Order (the "**Effective Time**"), except where such obligations or liabilities were incurred as a result of such directors' or officers' gross negligence, wilful misconduct or gross or intentional fault as further detailed in Section 64.1 of the *Bankruptcy and Insolvency Act* (the "**BIA**").
4. **ORDERS** that the Directors of Bentley shall be entitled to the benefit of and are hereby granted a charge and security in its present and future assets, rights, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all proceeds thereof (collectively the "**Property**") to the extent of the aggregate amount of \$500,000 (the "**Directors' Charge**"), as security for the indemnity provided in paragraph 3 of this Order as it relates to obligations and liabilities that the Directors may incur in such capacity after the Effective Time. The Directors' Charge shall have the priority set out in paragraphs 7 and 8 of this Order.
5. **ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Directors shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts for which the Directors are entitled to be indemnified in accordance with paragraph 3 of this Order.

ADMINISTRATION CHARGE

6. **DECLARES** that the Trustee, the Trustee's legal counsel and Bentley's legal counsel as security for the professional fees and disbursements incurred in connection with these proceedings under the BIA, both before and after the issuance of this Order or any other proceedings in the present matter, be entitled to the benefit of and are hereby granted a charge and security in the Property to the extent of the aggregate amount of \$300,000 (the "**Administration Charge**"), having the priority set out in paragraphs 7 and 8 hereof.

PRIORITIES AND GENERAL PROVISIONS RELATING TO THE CHARGES

7. **DECLARES** that the priorities of the Administration Charge and Directors' Charge (collectively, the "**NOI Charges**"), as between them with respect to any Property to which they apply, shall be as follows:
- (a) first, the Administration Charge; and
 - (b) second, the Directors' Charge;
8. **DECLARES** that each of the NOI Charges shall rank in priority to any and all other hypothecs, mortgages, liens, security interests, priorities, charges, encumbrances or security of whatever nature or kind (collectively, the "**Encumbrances**") affecting the Property charged by such Encumbrances.
9. **ORDERS** that, except as otherwise expressly provided for herein, Bentley shall not grant any Encumbrances in or against any Property that rank in priority to, or *pari passu* with, any of the NOI Charges unless Bentley obtains the prior approval of the Court.
10. **DECLARES** that each of the NOI Charges shall attach, as of the Effective Time, to all present and future Property of Bentley, notwithstanding any requirement for the consent of any party to any such charge or to comply with any condition precedent.
11. **DECLARES** that notwithstanding: (i) these proceedings and any declaration of insolvency made herein, (ii) any petition for a receiving order filed pursuant to the BIA in respect of Bentley and any receiving order allowing such petition or any assignment in bankruptcy made or deemed to be made in respect of Bentley, and (iii) the provisions of any federal or provincial statute, the payments or disposition of Property made by

Bentley pursuant to the Order and the granting of the NOI Charges do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions or conduct meriting an oppression remedy under any applicable law.

12. **DECLARES** that the NOI Charges shall be valid and enforceable as against all Property of Bentley and against all Persons, including, without limitation, any trustee in bankruptcy, receiver, receiver and manager or interim receiver of Bentley, for all purposes.

EXTENSION OF THE TIME TO FILE A PROPOSAL

13. **DECLARES** that the time period within which the Debtor may file a proposal under the BIA is hereby extended to September 6, 2024.

GENERAL

14. **ORDERS** that no Person shall commence proceedings or enforcement process in any court or tribunal (each, a "**Proceeding**") against any of the Directors, employees, legal counsel or financial advisers of Bentley in relation to Bentley's business operations and activities or Property of Bentley, without first obtaining leave of this Court, upon five (5) days written notice to Bentley's counsel and to all those referred to in this paragraph whom it is proposed be named in such Proceedings.
15. **DECLARES** that, except as otherwise specified herein, Bentley and the Trustee are at liberty to serve any notice, proof of claim form, proxy, circular or other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to Persons or other appropriate parties at their respective given addresses as last shown on the records of Bentley and that any such service shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three business days after mailing if by ordinary mail.
16. **DECLARES** that Bentley and any party to these proceedings may serve any court materials in these proceedings on all represented parties electronically, by emailing a PDF or other electronic copy of such materials to counsels' email addresses, provided

that Bentley shall deliver "hard copies" of such materials upon request to any party as soon as practicable thereafter.

17. **DECLARES** that, unless otherwise provided herein, under the BIA, or ordered by this Court, no document, order or other material need be served on any Person in respect of these proceedings, unless such Person has served a Notice of Appearance on the solicitors for Bentley and the Trustee and has filed such notice with this Court, or appears on the service list prepared by the Trustee or its attorneys, save and except when an order is sought against a Person not previously involved in these proceedings;
18. **DECLARES** that any interested Person may apply to this Court to vary or rescind the Order or seek other relief upon five (5) days' notice to Bentley, the Trustee and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order;
19. **DECLARES** that the Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada.
20. **ORDERS** the provisional execution of the Order notwithstanding any appeal.

THE WHOLE WITHOUT COST.



DAVID R. COLLIER, J.S.C.