



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

**THE HONOURABLE MR.
JUSTICE NEWBOULD**

) **MONDAY, THE 16TH**
)
) **DAY OF MAY, 2011**

**IN THE MATTER OF THE RECEIVERSHIP OF 2110458 ONTARIO LIMITED o/a
LORETTA FLOUR, 2131413 ONTARIO LIMITED o/a LORETTA FOODS, 787755
ONTARIO LIMITED o/a NEW DURHAM TRADING, and o/a NDT FOOD SERVICE
and o/a SKYWAY WHOLESALE and TARBRAC HOLDINGS INC.**

**IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY*
ACT, R.S.C. 1985, c. B-3, as amended, and SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C. 43, as amended**

**APPROVAL AND VESTING ORDER
(re Flour Business)**

THIS MOTION, made by Ernst & Young, Inc., in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of 2110458 Ontario Limited o/a Loretta Flour, 2131413 Ontario Limited o/a Loretta Foods, 787755 Ontario Limited o/a New Durham Trading, and o/a NDT Food Service and o/a Skyway Wholesale and Tarbrac Holdings Inc. (collectively, the "**Debtors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and JE Fininvest Ltd. (the "**Purchaser**") dated March 31, 2011 and appended to the Third Report of the Receiver dated May 9, 2011 (the "**Third Report**"), and vesting in the Purchaser the Debtors' right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Motion Record and the Third Report and on hearing the submissions of counsel for the Receiver, and such other counsel as were present, no

one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of Miriam Sinclair, sworn May 10, 2011, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is and is hereby abridged such that the motion is returnable today and that further service thereof is hereby dispensed with.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Wilton-Siegel dated November 26, 2010; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all

Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtors' past and current employees employed in relation to the Flour Division of the Debtors. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtors.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that the activities of the Receiver, as described in the Third Report, be and are hereby approved.

11. **THIS COURT ORDERS** that the unredacted version of the Sale Agreement, and the Summary of Offers referred to in the Third Report, be and are hereby sealed from the public record and shall not be opened until the filing with the Court of the Receiver's Certificate.

W. J. T.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO.:
LE / DANS LE REGISTRE NO.:

MAY 16 2011

PER/PAR:

NB

Schedule A – Form of Receiver's Certificate

Court File No. CV-10-8991-00CL

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

IN THE MATTER OF THE RECEIVERSHIP OF 2110458 ONTARIO LIMITED o/a LORETTA FLOUR, 2131413 ONTARIO LIMITED o/a LORETTA FOODS, 787755 ONTARIO LIMITED o/a NEW DURHAM TRADING, and o/a NDT FOOD SERVICE and o/a SKYWAY WHOLESALE and TARBRAC HOLDINGS INC.

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, as amended, and SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C. 43, as amended

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Wilton-Siegel of the Ontario Superior Court of Justice (the "**Court**") dated November 26, 2010, Ernst & Young, Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of 2110458 Ontario Limited o/a Loretta Flour, 2131413 Ontario Limited o/a Loretta Foods, 787755 Ontario Limited o/a New Durham Trading, and o/a NDT Food Service and o/a Skyway Wholesale and Tarbrac Holdings Inc. (the "**Debtors**").

B. Pursuant to an Order of the Court dated •, the Court approved the agreement of purchase and sale made as of March 31, 2011 (the "**Sale Agreement**") between the Receiver and JE Fininvest Ltd. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 8 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 8 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at [TIME] on _____ [DATE].

**Ernst & Young Inc., in its capacity as
Receiver of the undertaking, property and
assets of 2110458 Ontario Limited o/a Loretta
Flour, 2131413 Ontario Limited o/a Loretta
Foods, 787755 Ontario Limited o/a New
Durham Trading, and o/a NDT Food Service
and o/a Skyway Wholesale and Tarbrac
Holdings Inc., and not in its personal capacity**

Per: _____

Name:

Title:

SCHEDULE B

PURCHASED ASSETS

Custom built 16'L intake inclined chain grain conveyor c/w 40 TPH capacity

Custom built 26'H bucket grain elevator c/w 40 TPH capacity

Horizontal 33'L chain conveyor, c/w 40 TPH capacity, & (3) pneumatic slides

(3) 25MT conical bottom grain storage silos

Horizontal 33'L auger conveyor & inclined auger conveyor

Custom built 26'H bucket grain elevator c/w 40 TPH capacity

2001 Indopol classifier separator c/w vibro motors

2001 Indopol dry stoner c/w vibro motors & 10HP fan

2001 Indopol model CC horizontal scourer, 50RPM s/n 1001, c/w aspiration channel

2001 Indopol model ID intensive dampening unit, s/n 133 c/w rotameter

Indopol 49-bag filter system c/w airlock

(4) 26'H bucket grain bucket elevators, pneumatic slides, auger conveyors, magnets, 40HP fan, spouting, & exhaust piping

2001 Ingersol Rand model 2340-T30 5HP, horizontal air compressor, s/n 9007439

2001 Ingersol Rand model 2475-T30 5HP, horizontal air compressor, s/n 1015752

2001 Ingersol Rand model 2475-T30 5HP, horizontal air compressor, s/n 1015490

2009 Ingersol Rand model 2475-T30 5HP, horizontal air compressor, s/n 9011223

(3) 25MT conical bottom grain storage silos

2001 Indopol aspirator separator

(3) 2001 Indopol model IPRM04, double roller mills, s/n 339, 340, 341

2001 Indopol model RM04, double roller mill, s/n 225

(2) 2001 Indopol model MM-IPRM04, double roller mills, s/n 94007, 94008

(2) 2001 Indopol 8:16 plansifters

(2) 2001 Indopol model FF flour purifiers c/w motors, s/n 164, n/a

(2) Indopol horizontal bran finishers (one unit not in use)

10HP Fan purifier & filter

(2) Indopol impact detachers

(2) Indopol 49-bag reverse jet filters

2001 Indopol model SC turbo sifter, s/n 96

(40) Indopol lift, cyclone, & airlock pneumatic systems

(2) 50HP high pressure fan systems

(5) Indopol additive feeders, entoletter, elevators, auger conveyors, spouting & exhaust, (2) bin dischargers, (5) pneumatic slides, mezzanine system, motors, cabling, etc

Milestone model MAS10-D106 control panel c/w
Allen Bradley model PanelView 600 controls

(5) American Ingredients Corp. model A-378
magnets, s/n BD-0036, BD-0038, 2010, BD-0037, BD-0035

ArcoPak Inc model FMC-AIR-Packer c/w
hopper, scale, & AcroPak digital read out, s/n C-
3250 c/w screw conveyor, & bucket elevator

Westeel model SeedStor conical bottom storage-silo

(3) FlyLight Jr UV bug lights

Assorted equipment not in use consisting of: (3)
storage silos, screw conveyors, blowers, motors

38 Blister packaging machine c/w conveyor (as is)

39 Assorted aluminum extension ladders & warehouse ladders

(2) compressors heads, manual chain hoist, etc

Lincoln model AC-225 arc welder c/w cart

Toyota model 7FBEU18 3-wheel electric forklift
c/w finger controls, side shift, 3-stage mast, 189"
lift, 3,000lbs capacity, & charger, s/n 10149

Wulftec model WHP-150 automatic pallet wrapper, s/n 0700-6295

Raymond model 102T-F45L, 4,500lbs capacity
electric pallet truck, s/n 107-07-090292

Champion 25HP tank mount v-twin horizontal air compressor

2001 Ultra-air model UA1100AC in-line air
dryer, s/n U-33832-42

Kilo model ND300 stainless steel digital scale

Cardinal 5,000lbs capacity digital floor scale

(2) chop saws

Taylor Products model AFSR-A-TE valve bag air
packer c/w mezzanine system, a/n AFSR-5976-TE

(3) Pallet jacks

Hapman stainless steel bulk bag loader

Paglierani model DA40/575/110 horizontal bag
filling & closing machine, s/n 501103

2004 Shawpack model CON5014 plastic conveyor & metal detector
s/n 25144

Ideal model 7100.187 shrink wrapper & heat shrink tunnel, s/n
1089201

Contents of parts room & shipping office
consisting of: computer, Zebra model 220xi
IIIplus label printer, etc

Toyota model 5FBEC15 3-wheel, 2,500lbs
capacity electric forklift, c/w 185" lift, 3-stage
mast, side shift, & charger, s/n 36217

(5) Sections of shelving c/w parts, motors, piping, etc.

Assorted equipment consisting of: dust collector,
grain elevators, sifting screens, piping, rollers, etc

Husky 7HP, 80gallon vertical air compressor

Contents of offices & lunch room

Daymark model Classic electric scooter

All outstanding accounts receivable resulting from the sale of goods to third parties by 2110458
Ontario Limited o/a Loretta Flour

All inventory of 2110458 Ontario Limited o/a Loretta Flour located at 1700 McEwen Drive,
Whitby, Ontario

The Canadian trademark "County Fair"

The Registered trade name "Loretta Flour"

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ONTARIO

**SUPERIOR COURT OF JUSTICE
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PROCEEDINGS COMMENCED AT TORONTO

APPROVAL AND VESTING ORDER
(re Flour Business)

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Limited o/a Loretta Foods, 787755 Ontario Limited o/a New
Durham Trading, and o/a NDT Food Service and o/a Skyway
Wholesale and Tarbrac Holdings Inc.
TOR01: 4613976: v2