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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

BANK OF MONTREAL

Applicant

and

2110458 ONTARIO LIMITED, 2131413 ONTARIO LIMITED, 787755 ONTARIO LIMITED and TARBRAC HOLDINGS INC.

Respondents

APPLICATION UNDER SUBSECTION 47(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

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SECOND REPORT TO THE COURT OF ERNST & YOUNG INC., AS INTERIM RECEIVER

18 May 2012

Background

1. Ernst & Young Inc. ("**EYI**") was appointed interim receiver (the "**Interim Receiver**") of 2110458 Ontario Limited, 2131413 Ontario Limited, 787755 Ontario Limited, and Tarbrac Holdings Inc. (collectively, the "**Debtors**" or the "**Loretta Group**") (the "**Interim Receivership Proceedings**") by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated 10 November 2010 (the "**Interim Receivership**

Order"). The Interim Receivership Order was made pursuant to section 47(1) of the *Bankruptcy and Insolvency Act* (the "**BIA**") and section 101 of the *Courts of Justice Act* ("**CJA**"). Attached as **Appendix "A"** is a copy of the Interim Receivership Order.

2. On 26 November 2010, EYI was appointed as receiver and receiver and manager (together, the "**Receiver**") of the Debtors pursuant to section 243 of the BIA and section 101 of the CJA ("**Receivership**" or "**Receivership Proceedings**"). Attached as **Appendix "B"** is a copy of the Receivership Order.

3. The appointment of the Interim Receiver has expired under the provisions of the BIA. Pursuant to section 47(1) of the BIA, an interim receiver may be appointed over the debtor's property until the earliest of:

    (a) the appointment of a receiver under section 243 of the BIA over the debtor's property;

    (b) the appointment of a trustee in bankruptcy over the debtor's property over which the interim receiver was appointed; and

    (c) the expiry of 30 days after the day on which the interim receiver was appointed or of any period specified by the court.

4. The Receiver was appointed by the Court on 26 November 2010. Notwithstanding that the Interim Receivership Proceedings have been superseded by the Receivership Proceedings, the Interim Receiver has not yet obtained its discharge as Interim Receiver of the Loretta Group, nor has the Interim Receiver taxed its accounts and those of its legal counsel.

Purpose of Report

5. The purpose of this second report of the Interim Receiver (the "**Second IR Report**") is to request that the Court grant an Order:

(a) approving the activities of the Interim Receiver as described in the First Report of the Interim Receiver dated 25 November 2010 (the "**First IR Report**"), attached hereto as **Appendix "C"**, and in the Second IR Report;

(b) dispensing with the requirement that the Interim Receiver tax its accounts and seek its discharge in accordance with the General Rules of the *Bankruptcy and Insolvency Act* (the "***BIA General Rules***");

(c) approving the fees and disbursements of the Interim Receiver and its counsel, Borden Ladner Gervais LLP ("**BLG**");

(d) discharging EYI as Interim Receiver; and

(e) releasing EYI from any and all liability.

Activities of the Interim Receiver

6. The activities of the Interim Receiver from the date of its appointment (10 November 2010) are set out in the First IR Report, attached as Appendix "C" and in the Second IR Report.

7. the Interim Receiver's activities from the date of the First IR Report to the issuance of the Receivership Order consisted primarily of (a) monitoring the receipts and disbursements of the Debtor, which included reviewing support for proposed payments and shipments by the Debtors, and (b) reviewing vehicle registration records from the Ministry of Transportation and discussing them with Loretta operating management in an attempt to identify all owned and leased vehicles in the possession of the Debtors. The activities of the Interim Receiver following the date of the Receivership Order have been limited to the preparation of this Second IR Report and coordinating the preparation of the related affidavits.

Professional Fees and Disbursements

8. In respect of the fees and disbursements of the Interim Receiver, the Affidavit of Mike Dean sworn May 18, 2012 (the "**Dean Affidavit**") is attached hereto as **Appendix "D"**.

In respect of the fees and disbursements of BLG, the Affidavit of Roger Jaipargas sworn 18 May 2012 (the "**Jaipargas Affidavit**") is attached hereto as **Appendix "E"**.

9. During the Interim Receivership Proceedings, for the period 8 November 2010 to 26 November 2010, the Interim Receiver's accounts amounted to $173,989.20 in fees, $16,248.90 in disbursements and $24,730.95 in HST for a total amount of $214,969.05. In respect of such fees and disbursements, the Dean Affidavit is attached as Appendix "D" and includes copies of the accounts rendered by the Interim Receiver.

10. During the Interim Receivership Proceedings, for the period 9 November 2010 to 26 November 2010, BLG rendered legal services to the Interim Receiver for a total of $38,953.85, comprising of $33,278.96 in fees, $1,194.51 in taxable and non-taxable disbursements and $4,480.38 in HST. In respect of such fees and disbursements, the Jaipargas Affidavit is attached as Appendix "E" and includes copies of the accounts rendered by BLG.

Taxation of Accounts and Discharge of Interim Receiver

11. The *BIA General Rules* (rules 79-82) set out the procedure for taxing the accounts of an interim receiver and for obtaining its discharge. That process involves the interim receiver sending a notice (in prescribed form) to certain parties, including creditors of the debtor, informing them of the interim receiver's intention to pass its accounts and seek its discharge and also advising them that they can object to the taxation of accounts and discharge by filing a notice of objection with the court within 30 days of the notice. If no objections are filed within the 30 day period, then the interim receiver's accounts are deemed to have been taxed and the interim receiver is deemed to be discharged. If objections are filed, then the court will tax the interim receiver's accounts and may authorize its discharge.

12. The *BIA General Rules* do not apply in these Interim Receivership Proceedings since (i) the Interim Receivership Order requires the Interim Receiver and its legal counsel to pass their accounts with the Court, and (ii) the *BIA General Rules* do not apply to receivers

appointed under the CJA. The Interim Receiver was also appointed receiver under the CJA.

13. Accordingly, since the Interim Receiver completed its duties on 26 November 2010 upon the appointment of the Receiver, the Interim Receiver requests that the Court approve its accounts and those of its counsel and authorize its discharge.

Relief Sought by the Interim Receiver

14. The Interim Receiver respectfully requests that this Court grant an Order:

(a) approving the activities of the Interim Receiver as described in the First IR Report and in the Second IR Report;

(b) approving the fees and disbursements of the Interim Receiver, and its counsel, BLG;

(c) discharging EYI as Interim Receiver; and

(d) releasing EYI from any and all liability.

All of which is respectfully submitted this 18th day of May 2012.

ERNST & YOUNG INC., in its capacity as Interim Receiver
of 2110458 Ontario Limited, 2131413 Ontario Limited,
787755 Ontario Limited and Tarbrac Holdings Inc.,
and not in its personal or corporate capacity.

Per: ____________________
Mike P. Dean, CA•CIRP
Senior Vice-President

Per: ____________________
Rahn Dodick, CA•CIRP
Vice-President

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PROCEEDINGS COMMENCED AT TORONTO

SECOND REPORT TO THE COURT OF ERNST & YOUNG INC., AS INTERIM RECEIVER

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