



District of Ontario
Division No. 09

Court No.
Estate No. 31-OR-207787-T

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN BANKRUPTCY AND INSOLVENCY

**IN THE MATTER OF THE BANKRUPTCY OF
TARBRAC HOLDINGS INC.
of the City of Pickering,
in the Province of Ontario**

APPLICATION FOR BANKRUPTCY ORDER

BANK OF MONTREAL ("BMO"), hereby applies to the Court to have Tarbrac Holdings Inc. (the "**Debtor**") adjudged bankrupt and have a bankruptcy order made in respect of the property, assets and undertaking of the Debtor (the "**Property**"), of the City of Pickering, in the Province of Ontario, lately carrying on business at 1389 Rougemount Drive, in the City of Pickering, in the Province of Ontario, and BMO say:

1. THAT the Debtor has at some time during the six months next preceding the filing of this application carried on business at 1389 Rougemount Drive, in the City of Mississauga, in the Province of Ontario (the "**Rougemount Premises**"), within the jurisdiction of this Court.
2. THAT the greater portion of the property of the Debtor is situated at the Rougemount Premises or at 6815 Davand Drive, Mississauga, Ontario, within the jurisdiction of this Court.
3. THAT the Debtor is justly and truly indebted to BMO in the sum of US\$17,483,987.40 and CDN\$50,142.55 as at November 4, 2010 exclusive of accruing interest, legal fees and costs from November 4, 2010 to the date of this application.
4. THAT BMO holds security from the Debtor for the payment of part of the aforementioned sums in the form of, *inter alia*, a general security agreement (collectively, the "**Security**"), and BMO estimates the value of the Security to be US\$17,483,987.40 and CDN\$47,642.55.
5. THAT the unsecured portion of BMO's claim is estimated to be approximately CDN\$2,500.
6. THAT BMO made written demand on the Debtor for repayment of the Debtor's indebtedness to BMO and issued a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada) to the Debtor on November 5, 2010. Pursuant to the Security, BMO brought application to the Court to appoint Ernst

& Young Inc. ("E&Y") as interim receiver in respect of all of the assets, undertaking and property of the Debtor, pursuant to which such appointment was made by Order of the Court dated November 10, 2010, following which, BMO brought application to the Court to appoint E&Y as receiver and receiver and manager of the Debtor on November 26, 2010 pursuant to which such appointment was made by Order of the Court dated November 26, 2010.

7. THAT the Debtor, within the six months next preceding the date of the filing of this application, has committed the following act of bankruptcy, namely:

it has ceased to meet its liabilities generally as they become due,
in that it has failed to pay its obligations to the applicant creditor
and to other creditors.

8. THAT E&Y of the City of Toronto, in the Province of Ontario, is a person qualified to act as trustee of the Property, has agreed to act as such, and is acceptable to the undermentioned creditor:

Creditor	Address	Amount of Debt
Bank of Montreal	First Canadian Place 100 King Street West, 11 th Floor Toronto, Ontario M5X 1A1	US\$17,483,987.40 CDN\$50,142.55

DATED at Toronto, this 30th day of November, 2010.

Signed by the applicant creditor
in the presence of

[Signature]
Witness

BANK OF MONTREAL

[Signature]
Name: Robert Kiefer
Title: Senior Account Manager

ISSUED at the City of Toronto, in the Province of Ontario, this 1 day of December, 2010.

[Signature]
S.W. NETTIE
REGISTRAR IN BANKRUPTCY

Court No. _____
Estate No. _____

AFFIDAVIT OF TRUTH OF STATEMENTS IN THE APPLICATION

I, ROBERT KIEFER, of the Town of Goodwood, in the Province of Ontario,
MAKE OATH AND SAY AS FOLLOWS:

1. THAT I am a Senior Account Manager of Bank of Montreal ("**BMO**"), the applicant creditor herein, and, as such, have knowledge of the facts hereinafter deposed to.
2. THAT BMO made written demand on Tarbrac Holdings Inc. (the "**Debtor**") for repayment of the Debtor's indebtedness to BMO and issued a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada) to the Debtor on November 5, 2010. Pursuant to the Security, BMO brought application to the Court to appoint Ernst & Young Inc. ("**E&Y**") as interim receiver in respect of all of the assets, undertaking and property of the Debtor, pursuant to which such appointment was made by Order of the Court dated November 10, 2010, following which, BMO brought application to the Court to appoint E&Y as receiver and receiver and manager of the Debtor on November 26, 2010 pursuant to which such appointment was made by Order of the Court dated November 26, 2010.
3. THAT the Debtor is justly and truly indebted to BMO in the sum of US\$17,483,987.40 and CDN\$50,142.55 as at November 4, 2010 exclusive of accruing interest, legal fees and costs from November 4, 2010 to the date of this application, as stated in the said application.
4. THAT the facts alleged in the said application are within my own knowledge true.

SWORN BEFORE ME at the City of
Toronto, this 30th day of
November, 2010.

Commissioner for taking affidavits

ROBERT KIEFER

TO: Tarbrac Holdings Inc.

District of Toronto
Division No. 09

Court No. _____
Estate No. _____

TAKE NOTICE that a application that a bankruptcy order be made in respect of your property will be heard before the presiding Judge in Chambers (or if unopposed, before the Registrar in Chambers), at 330 University Avenue, 7th Floor, in the City of Toronto, on _____, the _____ day of _____, at the hour of 10:00 o'clock in the forenoon, or so soon thereafter as the application can be heard.

AND FURTHER TAKE NOTICE that if notice of cause against the application is not filed in Court and a copy thereof served on the solicitor for the applicant creditor at least two days before the hearing and if you do not appear at the hearing the Court may make a bankruptcy order on such proof of the statements in the application as the Court shall think sufficient.

DATED at Toronto, Ontario on this ____ day of _____.

TO: Tarbrac Holdings Inc.
1389 Rougemount Drive
Pickering, Ontario
L1V 1N2,

Attention: Taragh Bracken, President

Official Receiver

**ONTARIO
SUPERIOR COURT OF JUSTICE**

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**APPLICATION
FOR BANKRUPTCY ORDER**

AIRD & BERLIS LLP

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Lawyers for Bank of Montreal, the
applicant creditor