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 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

MOTION RECORD

(returnable 7 November 2011)

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Barristers and Solicitors
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Toronto, Ontario
M5H 3Y4

Tel.: 416.367.6000
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Michael MacNaughton -LSUC No. 25889U
Mary Arzoumanidis - LSUC No. 53915V
Harriet Greenwood - LSUC No. 58915H

Lawyers for Ernst & Young Inc., in its capacity as Receiver 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.

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TAB 1

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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IN THE MATTER OF SECTION 243 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

NOTICE OF MOTION
(returnable 7 November 2011)

ERNST & YOUNG INC., ("EYI") in its capacity as receiver and receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of 2110458 Ontario Limited o/a Loretta Flour ("**211**"), 2131413 Ontario Limited o/a Loretta Foods ("**213**"), 787755 Ontario Limited o/a New Durham Trading ("**787**"), and o/a NDT Food Service and o/a Skyway Wholesale and Tarbrac Holdings Inc. ("**Tarbrac**", and together with 211, 213 and 787, the "**Debtors**") will make a motion before The Honourable Mr. Justice Morawetz on 7 November 2011 at 9:30 a.m. at 330 University Avenue, Toronto, Ontario.

THE MOTION WILL BE HEARD ORALLY. IT IS REQUESTED THAT THIS MOTION BE HEARD IN ABSENCE OF THE PUBLIC.

THE MOTION IS FOR AN ORDER:

1. abridging the time of service of this Notice of Motion and Motion Record if necessary, and directing that any further service of this Notice of Motion and the Motion Record be dispensed with such that this Motion is properly returnable on 7 November 2011;

2. granting leave for this motion to be heard in absence of the public;

3. unsealing the First Confidential Report of the Receiver dated 4 February 2011, the Notice of Motion and the Motion Record of the Receiver related thereto, and the Order of The Honourable Mr. Justice Morawetz dated 10 February 2011 (the "**Confidential Order**"), (collectively, the "**Confidential Motion Materials**");

4. removing all of the restrictions contained in the Confidential Order; and

5. such further and other relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

1. EYI was appointed Receiver of the Debtors by Order of Mr. Justice Wilton-Siegel dated 26 November 2010;

2. on 10 February 2011, the Receiver sought and obtained the Confidential Order, which among other things, sealed and treated as confidential the Confidential Motion Materials;

3. the purpose of the Confidential Order (which was to give access to and copies of books, records, and information of the Debtors' in possession of the Receiver to the Debtors' two senior secured lenders (Bank of Montreal and Signature Bank) on a confidential basis so that they may determine against whom they have causes of action and whether to trace funds and property) has been exhausted. Accordingly, the restrictions contained in the Confidential Order are no longer necessary and should be removed;

4. the sealing of the Confidential Motion Materials is no longer necessary;

5. the hearing of this motion in absence of the public is necessary in light of the Confidential Order;

6. section 135(2) of the *Courts of Justice Act*;

7. rules 1.04, 2.01, 2.03, 3.02, 37 and 37.11(2) of the *Rules of Civil Procedure* (Ontario); and

8. such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. the Second Confidential Report of Ernst & Young Inc., as Receiver dated 31 October 2011; and

2. such further and other material as counsel may advise and this Honourable Court may permit.

31 October 2011

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TO:

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Tel: (416) 863-1500
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Attention: Steven L. Graff
Email: sgraff@airdberlis.com

Attention: Aaron Collins
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Lawyers for Bank of Montreal

AND TO:

LENCZNER SLAGHT ROYCE SMITH GRIFFIN LLP
130 Adelaide St. W., Suite 2600
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Fax: (416) 865-9010

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Lawyers for Signature Bank

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

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 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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

NOTICE OF MOTION
(returnable 7 November 2011)

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TOR01: 4754321: v2

TAB 2

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

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

31 October 2011

BACKGROUND

Appointments

1. On 10 November 2010, Bank of Montreal (“**BMO**”) made an application to the Court for an order, and the Court made an order (the “**Interim Receivership Order**”), appointing Ernst & Young Inc. (“**EYI**”) as an interim receiver (the “**Interim Receiver**”) pursuant to Section 47(1) of the *Bankruptcy & Insolvency Act* and pursuant to Section 101 of the *Courts of Justice Act* of 2110458 Ontario Limited (“**211**”), 2131413 Ontario Limited (“**213**”), 787755 Ontario Limited (“**787**”) and Tarbrac Holdings Inc. (“**Tarbrac**”).

2. On 26 November 2010, Bank of Montreal (“**BMO**”) made an application to the Court for order, and the Court made an order (the “**Receivership Order**”), appointing EYI as receiver and receiver and manager (the “**Receiver**”) pursuant to Section 243(1) of the

Bankruptcy & Insolvency Act and pursuant to Section 101 of the *Courts of Justice Act* of the assets, undertakings and properties of 211 o/a Loretta Flour , 213 o/a Loretta Foods, 787 o/a New Durham Trading, and o/a NDT Food Service and o/a Skyway Wholesale and Tarbrac (collectively, the "**Debtors**"). A copy of the Receivership Order is attached as Appendix "**A**" to this Report.

PURPOSE

3. This is the second confidential report of the Receiver. The purpose of this Second Confidential Report is to:

   (a) report to the Court concerning the outcome of the requests made by BMO and Signature Bank ("**Signature**") for access to the books and records of the Debtors; and

   (b) recommend the making of an Order by the Court unsealing the First Confidential Report of the Receiver dated 4 February 2011 (the "**First Confidential Report**"), the motion materials related thereto; and the Order of The Honourable Mr. Justice Morawetz dated 10 February 2011 (the "**Confidential Order**") (collectively, the "**Confidential Motion Materials**") and removing all of the restrictions contained in the Confidential Order.

TERMS OF REFERENCE

4. In developing this Report, the Receiver has relied upon the books and records of the Debtors, including images of the electronic information contained on the Debtors' computers and servers, and other information from various sources. The Receiver has not audited, reviewed or otherwise verified such information. Further, the Receiver has not reviewed all of the information and documents in its possession or under its control.

REQUESTS FOR INFORMATION

5. As reported in the First Confidential Report, attached as Appendix "**B**" (without appendices), two of the Debtors' senior secured creditors, BMO and Signature, independently requested information and documentation in the Receiver's possession.

6. The purpose of those requests was to allow each of BMO and Signature to conduct its own investigation to determine whether it had causes of action relating to the unusual circumstances surrounding assets represented to be property of the Debtors (as set out in the First Confidential Report), and if so, against whom it had causes of action and whether any other remedies were available to it.

7. At the time that the requests were made by BMO and Signature in January 2011, public disclosure of the requests or the information requested might have fundamentally restricted the ability of BMO and Signature to employ remedies.

8. On 10 February 2011, the Receiver brought a motion, in absence of the public, to request an order authorizing the Receiver to allow BMO, Signature and their respective legal and financial advisors to have access to and make copies of, the records of the Debtors in the possession of the Receiver (the "**Information**") on certain terms. Mr. Justice Morawetz granted the Order (the "**Confidential Order**"). A copy of the Confidential Order is attached hereto as Appendix "**C**".

9. The Confidential Order also contained several terms and restrictions including the restriction that BMO and Signature could not disclose any of the Information except during the course of litigation.

10. Further, the Confidential Order provided the Confidential Motion Materials would be sealed, treated as confidential, would be secured by the Registrar and the public would not have access to those materials without an order from the Court.

TERMS AND RESTRICTIONS OF CONFIDENTIAL ORDER NO LONGER NECESSARY

11. Since the making of the Confidential Order, and as authorized under the Confidential Order, BMO has made use of information made available to it under the Confidential Order to initiate litigation against, among others, many of the individuals and entities described in the First Confidential Report.

12. Since the making of the Confidential Order, Signature has taken information available to it under the Confidential Order into account in its responses to motions in the Chapter 7

proceedings of Synergy Brands, Inc., PHS Inc., SYBR.com Inc. and Quality Food Brands, Inc. These proceedings, and the business dealings of the Debtors with certain of these entities prior to the commencement of the Chapter 7 proceedings, have been described in previous reports of the Receiver.

13. The continued sealing of the Confidential Motion Materials appears to provide little, if any, benefit to BMO and Signature in investigating and pursuing potential claims in connection with the unusual circumstances surrounding the Debtors' assets.

14. BMO and Signature do not object to the unsealing of the Confidential Motion Materials. Accordingly, the Receiver recommends that the Confidential Motion Materials be unsealed.

15. Further, given that the purpose of the Confidential Order has been exhausted since each of BMO and Signature have made use of the Information provided to them, the terms and restrictions in the Confidential Order, including the restriction from disclosing the Information to third parties except during the course of litigation, are no longer necessary. Accordingly, the Receiver recommends that the terms and restrictions in the Confidential Order be removed.

RELIEF SOUGHT BY THE RECEIVER

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

(a) unsealing the First Confidential Report of the Receiver dated 4 February 2011, the motion materials related thereto, and the Order of The Honourable Mr. Justice Morawetz dated 10 February 2011; and

(b) removing all of the restrictions contained in the Confidential Order.

All of which is respectfully submitted this 31st day of October, 2011.

ERNST & YOUNG INC., in its capacity as Receiver and Receiver and Manager 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 or corporate capacity.

Per:

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

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.

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

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

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

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TOR01: 4757621: v2

APPENDIX "A"

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

THE HONOURABLE MR.) FRIDAY, THE 26th

JUSTICE H.J. WILTON-SIEGEL) DAY OF NOVEMBER, 2010

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

BETWEEN:

BANK OF MONTREAL

Applicant

and

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 WHOLESAE
AND TARBRAC HOLDINGS INC.

Respondents

ORDER

THIS MOTION made by the Applicant for an Order pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing Ernst & Young Inc. ("**E&Y**") as receiver and receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of 2110458 Ontario Limited o/a Loretta Flour ("**211**"), 2131413 Ontario Limited o/a Loretta Foods ("**213**"), 787755 Ontario Limited o/a New Durham Trading, NDT Food Service and Skyway Wholesale ("**787**") and Tarbrac Holdings Inc. ("**Tarbrac**", and, together with 211, 213 and 787, the "**Debtors**") was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING the affidavit of Robert Kiefer, sworn November 10, 2010, and the Exhibits thereto, and the first report of E&Y, dated November 25, 2010 (the "**First Report**"), prepared in its capacity as interim receiver of the Debtors (in such capacity, the "**Interim Receiver**"), and on hearing the submissions of counsel for Bank of Montreal, ~~counsel for Signature Bank, both secured creditors of the Debtors,~~ counsel for the Interim Receiver and proposed Receiver and counsel for the Debtors, no one else appearing although duly served as appears from the affidavit of service of Stella Kostopoulos sworn November 25, 2010, and on reading the consent of E&Y to act as the Receiver, HW S

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

TITLE OF PROCEEDINGS

2. THIS COURT ORDERS that the title of the within proceedings is hereby amended to such that the Respondents shall be hereafter identified as "**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.**".

APPOINTMENT

3. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, E&Y is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (the "**Property**").

RECEIVER'S POWERS

4. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality

of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

(a) to take possession of, and exercise control over, the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

(b) to receive, preserve, and protect of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

(c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;

(d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;

(e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;

(f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;

(g) to settle, extend or compromise any indebtedness owing to the Debtors;

(h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;

(i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;

(j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

(k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

(l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

(i) without the approval of this Court in respect of any transaction not exceeding $250,000, provided that the aggregate consideration for all such transactions does not exceed $1,000,000; and

(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

(m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

(n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

(o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

(p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;

(q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;

(r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have;

(s) to conduct examinations of any Person as the Receiver considers necessary or appropriate, including, without limitation, examinations of Guiseppe Gatti, Peter Nelipa, Taragh Bracken, Terry Mak, Michael Falcone or any other current or former director, officer, employee or independent contractor of the Debtors;

(t) to undertake any investigations deemed necessary by the Receiver with respect to the location and/or disposition of assets reasonably believed to be, or to have been, property of the Debtors, including, without limitation, investigating the transactions entered into between one or more of the Debtors and North Dakota Holdings Ltd. ("**NDHL**"); and

(u) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

5. THIS COURT ORDERS that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons

acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. THIS COURT ORDERS that NDHL, its current and former directors, officers, employees and independent contractors shall provide such access to books records and documents. information, documents and assistance to the Receiver as the Receiver may request in connection with the dealings between NDHL and any of the Debtors and in connection with the business and affairs of NDHL as they relate to the business and affairs of the Debtors.

7. THIS COURT ORDERS that all Persons, including, without limitation, the current and former officers, directors and employees of any of the Debtors and NDHL shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, any transfer of Property outside of the ordinary course of business or obligation incurred by the Debtors outside of the ordinary course of business, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver

due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

8. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

9. THIS COURT ORDERS any and all Persons shall render any necessary assistance to the Receiver to locate, decode, access, and decrypt the Records and any and all information or electronic data to which the Receiver may not have ready and immediate access, including the provisions of all keys, information codes, passwords, pass phrases, or any other such information or knowledge necessary to achieve access thereto, and for the purpose of accessing electronic mail or other data operated or maintained by, or accessible to, the Debtors which may contain any of the Records, including, but not limited to, any electronic mail or other data stored on or pertaining to any email addresses used by the Debtors or their directors, officers and employees.

10. THIS COURT ORDERS that no Person shall destroy or alter any books, records, documents, information, material or Records related to or touching upon the Property, the Debtors, NDHL, or the business, affairs or dealings of the Debtors or NDHL.

11. THIS COURT ORDERS that, notwithstanding the generality of paragraphs 5 to 10 hereof, upon the Receiver's request:

(a) NDHL shall provide copies of all Records in its possession relating to any transactions with one or more of the Debtors;

(b) any financial institution which holds or has held accounts for one or more of the Debtors shall confirm the existence of such account(s) and shall provide copies of all statements relating to such account(s); and

(c) Bell Sympatico, or any other provider of information technology services to the Debtors shall provide copies of any information related to the business of the Debtors requested by the Receiver.

NO PROCEEDINGS AGAINST THE RECEIVER

12. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

13. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "**eligible financial contract**" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

15. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

16. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the

date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

17. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

18. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

19. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal

information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

20. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in

Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

21. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

22. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

23. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

24. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates

and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

25. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed $500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

26. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

27. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

28. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates

evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SALE PROCESS FOR THE "FOOD SERVICE AND CATERING DIVISION"

29. THIS COURT ORDERS that the sale process developed by E&Y, in its capacity as the Interim Receiver, as outlined in the First Report, shall be carried out by the Receiver substantially in accordance with the timeline annexed as **Schedule "B"** hereto, with such changes as the Receiver deems appropriate in its sole discretion, acting reasonably.

GENERAL

30. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

31. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

32. 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.

33. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the

within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

34. THIS COURT ORDERS that the Applicant shall have its costs of this Motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

35. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver 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.

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

NOV 26 2010

PER / PAR:

SCHEDULE "A"

RECEIVER'S CERTIFICATE

CERTIFICATE NO. ______________

AMOUNT $_____________________

1. THIS IS TO CERTIFY that Ernst & Young Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties 2110458 Ontario Limited o/a Loretta Flour ("**211**"), 2131413 Ontario Limited o/a Loretta Foods ("**213**"), 787755 Ontario Limited o/a New Durham Trading and NDT Food Service ("**787**") and Tarbrac Holdings Inc. ("**Tarbrac**", and, together with 211, 213 and 787, the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the ___ day of November, 2010 (the "**Order**") made in an action having Court file number __-CL-_______, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of $__________, being part of the total principal sum of $__________ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _______ day of each month] after the date hereof at a notional rate per annum equal to the rate of ______ per cent above the prime commercial lending rate of Bank of _________ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of ______________, 20__.

ERNST & YOUNG INC., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: ________________________________

Name:

Title:

SCHEDULE "B"

TIMELINE FOR MARKETING AND SALE OF FRESH FOODS AND CATERING DIVISION

November 29 to December 11, 2010	• Prepare brief Confidential Information Memorandum (CIM), including required terms of sale and timeline for submission of purchase offers, and brief Investment Overview e-mail for distribution to prospective purchasers. • Compile list of industry participants that are most likely to be prospective purchasers. • Accumulate available due diligence information and populate electronic data room.
December 14, 2010 to January 7, 2011	• Contact prospective purchasers by phone and e-mail. • Circulate Confidentiality Agreements to interested parties. • Parties executing a Confidentiality Agreement will receive the CIM and access to the electronic data room. • Provide facility tours, as requested.
January 14, 2011	• Deadline for submission of purchaser offers, including required terms of sale.
January 15, 2011 to January 28, 2011	• Analysis and negotiation of purchaser offers. • Selection of successful purchaser. • Application to Court for approval of sale agreement and vesting order. • Closing of sale transaction.

BANK OF MONTREAL

Applicant

- and -

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 WHOLESAE AND TARBRAC HOLDINGS INC.

Respondents

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceedings commenced at Toronto

RECEIVERSHIP ORDER

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Lawyers for the Applicant

APPENDIX “B”

Court File No.10-CV-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

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FIRST CONFIDENTIAL REPORT TO THE COURT OF ERNST & YOUNG INC. AS RECEIVER

4 February 2011

BACKGROUND

Appointments

1. On 10 November 2010, Bank of Montreal ("**BMO**") made an application to the Court for an order, and the Court made an order (the "**Interim Receivership Order**"), appointing Ernst & Young Inc. ("**EYI**") as an interim receiver (the "**Interim Receiver**") pursuant to Section 47(1) of the *Bankruptcy & Insolvency Act* and pursuant to Section 101 of the *Courts of Justice Act* of 2110458 Ontario Limited ("**211**"), 2131413 Ontario Limited ("**213**"), 787755 Ontario Limited ("**787**") and Tarbrac Holdings Inc. ("**Tarbrac**"). A copy of the issued Interim Receivership Order is attached as Appendix "A" to this Report.

2. On 26 November 2010, Bank of Montreal ("**BMO**") made an application to the Court for an order, and the Court made an order (the "**Receivership Order**"), appointing EYI as receiver and receiver and manager (the "**Receiver**") pursuant to Section 243(1) of the *Bankruptcy & Insolvency Act* and pursuant to Section 101 of the *Courts of Justice Act* of the assets, undertakings and properties of 211 o/a Loretta Flour , 213 o/a Loretta Foods, 787 o/a New Durham Trading, and o/a NDT Food Service and o/a Skyway Wholesale and Tarbrac (collectively, the "**Debtors**"). A copy of the issued Receivership Order is attached as Appendix "**B**" to this Report.

3. Both the Interim Receivership Order and the Receivership Order, among other things, authorize and empower the Interim Receiver/Receiver to conduct any examinations deemed necessary and to undertake any investigations deemed necessary with respect to the location and/or disposition of assets reasonably believed to be, or to have been, property of the Debtors.

4. Paragraph 4(n) of the Receivership Order authorizes and empowers the Receiver to report to, meet with and discuss with such affected Persons as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable.

Business of the Debtors

5. 211 operates primarily from leased premises located in Whitby, Ontario. 211 operates under the registered trade name "**Loretta Flour**" and is also known as the "Loretta Flour Division" of the Loretta Group's operations. 211 produces various types of hard wheat flour from wheat sourced from Ontario and Western Canada.

6. 213 operates from leased premises in Mississauga, Ontario under the registered trade name "**Loretta Foods**" and is also known as the "Loretta Spice Division" of the Loretta Group's operation. 213 is responsible for sourcing and redistributing spices and food mixes globally, as well as blending and repackaging spices for use in various packs and sizes to satisfy home use and institutional customers.

7. 787 operates from leased premises in Mississauga, Ontario, and is also known as the "Food Service and Catering Division" of the Loretta Group's operations. Operating under the registered trade name **"NDT Food Service"**, 787 is responsible for the daily production of food items for sale by or in mobile caterers, vending machines, contract caterers and convenience stores. In the recent past, 787 has also engaged in trading bulk sugar, flour, spices and other items, operating under the registered trade names **"New Durham Trading"** and/or **"Skyway Wholesale."**

Secured Creditors

8. The primary secured creditors of the Debtors are BMO and Signature Bank, a New York-based financial institution (**"Signature"**).

9. The Receiver understands that BMO is owed approximately US$17.6 million and C$50,000 excluding costs and excluding interest accruing from November 4, 2010 (the **"BMO Debt"**). The Receiver understands that BMO has security upon all of the personal property of the Debtors (including a pledge of the shares of 787) as security for those obligations, and these obligations are cross guaranteed by each of the four Debtors. The BMO Debt arises under two agreements. The first is a term sheet pursuant to which BMO provided four credit facilities to 787, 213 and 211. The second is a discounting facility agreement between 787 and BMO pursuant to which BMO factored certain of 787's accounts receivable. The Receiver has been provided with an opinion by its counsel, Borden Ladner Gervais LLP ("BLG"), that subject to usual qualifications, the security provided by the Debtors to BMO is registered in accordance with the Ontario *Personal Property Security Act* ("OPPSA") against all forms of collateral except consumer goods and is valid and enforceable. The security granted by each of the Debtors to BMO includes charges upon all of the "personal property" Debtors, which includes all of the Debtors books, records, documents and property upon which electronic information is stored.

10. The Receiver understands that 787, 211 and 213 are indebted to Signature in the amount of approximately US$12.3 million (the **"Signature Debt"**) and that those Debtors have granted security to Signature for that obligation. The Receiver also understands that the

principal of the Loretta Group and Tarbrac have guaranteed those obligations to Signature. The Receiver has been provided by BLG with an opinion that, subject to usual qualifications, the security granted by each of the Debtors to Signature is registered in accordance with the OPPSA against all forms of collateral except consumer goods and is valid and enforceable. The security granted by each of the Debtors to Signature includes charges upon all of the "personal property" of the Debtors, which includes all of the Debtors' books, records, documents and property upon which electronic information is stored.

11. The Receiver understands that there are approximately nine equipment lessors, some of whom may have priority over both BMO and Signature. The Receiver's counsel has not provided the Receiver with opinions in respect of that security.

Sales Process

12. The Receiver is currently implementing a sales process for the Food Service and Catering Division of the Debtors that was authorized by the Receivership Order. The sales process is proceeding in the ordinary course.

13. The Receiver has recently began to implement a marketing and sales process for the Loretta Flour Division and the Loretta Spice Division of the Debtors that was approved by Order of Marrocco J. of the Ontario Superior Court of Justice dated 17 January 2011.

Requests for Information

14. By letter dated 20 January 2011, the Receiver's counsel received a request from BMO's counsel for documentation in the Receiver's possession. Specifically, BMO requested copies of the Debtors' financial records and non-privileged correspondence, electronic and otherwise. A copy of the letter from BMO's counsel is attached as Appendix "C" to this Report.

15. By letter dated 11 January 2011, the Receiver's counsel received a request from Signature's counsel for documentation, electronic materials and information in the Receiver's possession and control. Specifically, Signature requested details regarding the

Debtors' financial records, the tracing of funds and unusual transactions, and information relating to investigations of the Debtor companies and their principals. A copy of the letter from Signature's counsel is attached as Appendix "D" to this Report.

16. As noted, the security granted by the Debtors to each of BMO and Signature extends to the books, records and information to which BMO and Signature have requested access.

PURPOSE

17. This is the first confidential report of the Receiver. The purpose of this First Confidential Report is to:

(a) report to the Court concerning the requests received from BMO and Signature;

(b) report to the Court on unusual circumstances relating to the Debtors; and,

(c) support the making of an Order by the Court authorizing and directing the Receiver to comply with the requests made by BMO and Signature on terms as to confidentiality that will safeguard the rights and interests of BMO, Signature and the Receiver.

TERMS OF REFERENCE

18. In developing this Report, the Receiver has relied upon the books and records of the Debtors, including images of the electronic information contained on the Debtors' computers and servers, and other information from various sources. The Receiver has not audited, reviewed or otherwise verified such information. Nor, for the reasons set out in this Report has the Receiver reviewed all of the information and documents in its possession or under its control.

PRELIMINARY INVESTIGATIVE PROCEDURES

19. The Interim Receivership Order contained powers of examination, and the Receivership Order contained powers of examination and investigation broader than those set out in the model orders.

20. As part of its preliminary review, the Receiver reviewed the Debtors' books and records, and imaged electronic information contained on the Debtors' computers and servers. Much of the information detailed below was obtained by the Receiver in its preliminary investigations. Some information was obtained from BMO, especially that information related to the factored accounts receivable.

ASSET EXISTENCE, OWNERSHIP AND/OR REALIZATION ISSUES

21. As a result of its preliminary investigations and inquiries, the Receiver has noted the following unusual circumstances surrounding assets represented to be property of the Debtors:

(a) As reported in the First Report of the Interim Receiver to the Court, the Interim Receiver was unable to obtain access to the accounting system of the Debtors until November 18, 2010;

(b) At or about the time of the appointment of the Interim Receiver, a principal of the Debtors advised the Interim Receiver that the inventory and accounts receivable balances (book value) recorded on the Debtors' most recent unaudited internal financial statements was overstated by approximately \$43 million (as against a stated book value of approximately \$58 million);

(c) Certain inventory that was apparently represented to BMO to be property of the Debtors, and that was recorded on the Debtors' most recent unaudited internal financial statements at a book value of more than \$10 million, either never existed, was never property of the Debtors, or is unaccounted for;

(d) There is some evidence of unusual and large transfers of money (millions of dollars) to third parties, including the wiring of money to US bank accounts, for which the Receiver has no explanation;

(e) The Debtors conducted business with a group of companies in the US. While the relationship between the Debtors and the US entities is unclear, the Receiver has documents and information that appear to indicate that:

(i) sales by the Debtors to the US entities were below the Debtors' cost;

(ii) some of the Debtors' inventory that is unaccounted for may have been located, or reported to have been located, on premises owned or leased by the US entities;

(iii) some of the large unexplained transfers appear to have been to persons or places related to or near the US entities or their principals;

(iv) there are records of communications between the principals of the Debtors and senior officers of the US entities that may indicate an arrangement that was designed to, and had the effect of, transferring significant amounts from the Debtors to others for no benefit to the Debtors;

(f) The Receiver has communicated or attempted communications with account debtors or apparent account debtors in respect of outstanding factored accounts receivable (in the aggregate amount of approximately U.S. $16.5 million). As of the date of this Report, the Receiver has received the following responses: Either

(i) the account debtors have denied any knowledge of or dealings with the Debtors and alleged that documentation related to the account debts was fabricated;

(ii) the account debtors do not exist; or

(iii) no response has been received.

CURRENT STATUS

22. Based on the above, and on the responses received to date in the Receiver's sale initiatives, the realizations by the Receiver from the Debtors' will be substantially less than the BMO debt. The receivership is being funded by BMO through receiver's certificates. While certain of the businesses continue to operate in order to provide the prospect of going concern sales, they are cash flow negative, even before professional fees.

23. The principals of the Debtors have been unable to explain to the satisfaction of the Receiver how the assets of the Debtors dissipated to the extent described above, or the disposition of approximately $30 million advanced to the Debtors by their secured creditors.

24. The Receiver believes that the Debtors and those through whom and with whom they were dealing are not likely aware that the Receiver has imaged the computers and has this information.

25. In the course of discussions about assets and realizations and the whereabouts of assets and the collectability of accounts receivable, the Receiver has disclosed to BMO and to Signature some information concerning the unusual circumstances of this case. In general terms, except for (i) information related to factored accounts receivable that has been provided to BMO (though more has been provided by BMO to the Receiver) and (ii) details of selected e-mails made available to BMO for illustrative purposes to assist BMO in deciding whether to fund further investigative work by the Receiver, the Receiver has not provided documentation or access to BMO or Signature.

26. Paragraph 4(n) of the Receivership Order permits the Receiver to share information with such affected persons as the receiver deems appropriate subject to such terms as to confidentiality as the receiver deems advisable.

27. Both Signature and BMO, through their counsel, have made written requests for access to and copies of books, records and information in the possession of the Receiver.

28. Public disclosure of these requests or the information requested may fundamentally restrict the ability of BMO and Signature to employ remedies.

29. The Receiver believes that the fundamental interests of BMO and Signature are in determining against whom they may have causes of action and in tracing funds and property. Therefore, it would be appropriate for the Receiver to provide the information requested on a confidential basis.

30. The provision of information to BMO and Signature is permitted by the Receivership Order. BMO and Signature both have proprietary security interests in the records to which they seek access.

31. In these circumstances, the Receiver respectfully recommends that it be authorized and directed to provide copies of documents in its possession as receiver and access to documents in its possession or under its control to BMO and Signature at their own cost and expense (including the fees and expenses incurred by the Receiver as proof of that process), and that the Receiver, acting reasonably, be authorized to request that BMO and/or Signature provide a retainer for the payment of the Receiver's fees and expenses in connection therewith.

32. The Receiver respectfully recommends that such copies and access be provided on terms as to confidentiality that will protect and not prejudice BMO or Signature as a consequence of the making of the Receiver's motion and the filing of this Report.

RELIEF SOUGHT BY THE RECEIVER

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

(a) authorizing the Receiver to allow BMO, Signature and their respective legal and financial advisors to have access to and make copies of, the records of the Debtors in the possession of the Receiver (the "Information"), at their own expense;

(b) providing that BMO and Signature shall not disclose the Information to any person except during the course of litigation;

(c) providing that if BMO or Signature obtain an order through the use of any Information, they shall advise the Receiver on a confidential basis;

(d) providing that if BMO or Signature commence public proceedings related to the Debtors they shall advise the Receiver and provide the Receiver with a copy of any originating process;

(e) sealing and treating as confidential the First Confidential Report of the Receiver and all motion materials relating thereto and any Order or endorsement made by the Court in connection therewith; and,

(f) providing that nothing in the Order affects the right of the Receiver to seek advice and directions from the Court.

All of which is respectfully submitted this 4 February 2011.

ERNST & YOUNG INC.
Acting in its capacity as Receiver and Receiver and Manager 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 or corporate capacity.

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

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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.

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

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

FIRST CONFIDENTIAL REPORT TO THE COURT OF ERNST & YOUNG INC., AS RECEIVER

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APPENDIX “C”

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.	)	THURSDAY, THE 10th DAY
	)	
JUSTICE MORAWETZ	)	OF FEBRUARY, 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

ORDER

THIS MOTION, made *in camera* by Ernst & Young Inc., in its capacity as receiver and receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of 2110458 Ontario Limited o/a Loretta Flour ("**211**"), 2131413 Ontario Limited o/a Loretta Foods ("**213**"), 787755 Ontario Limited o/a New Durham Trading, NDT Food Service and Skyway Wholesale ("**787**") and Tarbrac Holdings Inc. ("**Tarbrac**", and, together with 211, 213 and 787, the "**Debtors**") was heard at 330 University Avenue, Toronto, Ontario.

ON ORDERING that this motion be held *in camera*, and **ON READING** the Notice of Motion dated 4 February 2011, filed, and the First Confidential Report of the Receiver dated 4 February 2011, filed, and the Order of Justice Wilton-Siegel dated 26 November 2010 (the "**Receivership Order**") and **ON HEARING** the submissions of counsel for the Receiver,

1. **THIS COURT ORDERS** that service of the Notice of Motion and the Motion Record is hereby dispensed with so that this Motion is returnable today;

2. **THIS COURT ORDERS** that the Receiver is hereby authorized to grant Bank of Montreal ("**BMO**") and Signature Bank ("**Signature**"), and their respective legal and financial advisors, access to, and to permit BMO and Signature, and their respective legal and financial advisors to make, retain and take away copies of, the books, records, documents and other information of the Debtors' in the possession or control of the Receiver (the "**Information**"), at their own cost and expense, including the fees and expenses incurred by the Receiver in connection therewith, and the Receiver may, acting reasonably, request that BMO and/or Signature provide a retainer for the payment of the Receiver's fees and expenses in connection therewith;

3. **THIS COURT ORDERS** that BMO, Signature, and their respective legal and financial advisors are hereby restrained and enjoined from disclosing to any person the terms of this Order or any of the Information except during the course of litigation; and nothing in this paragraph precludes the Receiver, BMO or Signature from moving, on notice to each of the Receiver, BMO and Signature, to vary this Order to permit disclosure to third parties;

4. **THIS COURT ORDERS** that in the event that BMO or Signature obtains an order of the court through the use of any of the Information, they shall forthwith advise the Receiver, on a confidential basis, unless and until any action commenced is made public;

5. **THIS COURT ORDERS** that in the event that BMO or Signature commence public proceedings related to the Debtors, they shall forthwith advise the Receiver and provide the Receiver with a copy of any originating process;

6. **THIS COURT ORDERS** that BMO and Signature are at liberty to commence proceedings against any of the Debtors provided that no such proceeding and no order made in any such proceeding shall affect the authority of the Receiver to deal with the Property (as defined in the Receivership Order) or any other order made in the receivership proceeding, and in no event shall the Receiver be obliged to defend the proceedings nor shall the Receiver be subject to production or discovery;

7. **THIS COURT ORDERS** that the First Confidential Report of the Receiver and all motion materials relating thereto and any Order or endorsement made by the Court in connection therewith (collectively, the "**Motion Materials**") be sealed from the date of this Order, and treated as confidential, and shall be secured by the Registrar, and the public shall not be granted access to the Motion Materials without an order of the Court;

8. **THIS COURT ORDERS** that nothing in this Order affects the right of the Receiver to seek advice and directions from the Court.

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

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PER / PAR:

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.

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

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

ORDER

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TAB 3

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE	)	**, THE DAY**
	)	
JUSTICE	)	**OF , 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

ORDER

THIS MOTION, made in absence of the public, by Ernst & Young Inc., in its capacity as receiver and receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of 2110458 Ontario Limited o/a Loretta Flour, 2131413 Ontario Limited o/a Loretta Foods, 787755 Ontario Limited o/a New Durham Trading, NDT Food Service and Skyway Wholesale and Tarbrac Holdings Inc. was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion dated 31 October 2011, the Motion Record and the Second Confidential Report of the Receiver dated 31 October 2011, and on hearing the submissions of counsel for the Receiver and such other counsel as were present, and on reading the Affidavit of Service of •, sworn on • 2011;

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record in respect hereof be and is hereby dispensed with.

2. **THIS COURT ORDERS** that the First Confidential Report of the Receiver dated 4 February 2011, the Notice of Motion and the Motion Record related thereto, and the Order of The Honourable Mr. Justice Morawetz dated 10 February 2011 (the "**10 February Order**") be and are hereby unsealed.

3. **THIS COURT ORDERS** that all of the restrictions contained in the 10 February Order are hereby removed.

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

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 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

ONTARIO
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PROCEEDINGS COMMENCED AT TORONTO

ORDER

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

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.

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

MOTION RECORD
(returnable 7 November 2011)

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