Court File No. CI 11-01-72347

**THE QUEEN'S BENCH**
Winnipeg Centre

**IN THE MATTER OF THE APPOINTMENT OF A RECEIVER PURSUANT TO SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT* R.S.C. 1985 c.B-3 AS AMENDED**

**BETWEEN:**
**GE Canada Finance Holding Company**
**(the "Applicant")**

**and**

**Paramount Truck Lines Ltd.**
**(the "Respondent")**

**ERNST & YOUNG INC.**
**Receiver of the Respondents**

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# SIXTH REPORT OF THE RECEIVER

**JUNE 1, 2012**

## INTRODUCTION

1. On June 1, 2011 this Honourable Court granted an order (the "Receivership Order") appointing Ernst & Young Inc. as receiver ("E&Y" or the "Receiver") of certain assets, property and undertaking of Paramount Truck Lines Ltd. ("Paramount") pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c.B-3, as amended.

2. E&Y filed its first report dated June 7, 2011 (the "First Report") which provided an update on the Receiver's activities to date.

3. E&Y filed its second report dated July 25, 2011 (the "Second Report") which provided an update on the Receiver's activities, a summary of expected retrieval costs, a plan for allocation of the retrieval costs, and an allocation of payroll source deduction obligations. E&Y filed its supplemental report to the Second Report on July 29, 2011, providing a further update on amounts claimed by Canada Revenue Agency.

4. E&Y filed its third report dated August 29, 2011 (the "Third Report"), along with a confidential report to this Honourable Court dated August 29, 2011, which provided information and recommendations in respect of the Receiver's request for liquidation proposals for the Paramount fleet.

5. E&Y filed its fourth report dated January 24, 2012 (the "Fourth Report") which provided an update on the Receiver's activities, Canada Revenue Agency's ("CRA") amended claims for unpaid source deductions, and the Receiver's proposed interim distribution. E&Y filed its supplemental report to the Fourth Report on January 30, 2012, providing further information regarding the components of the amounts proposed to be allocated to the secured creditors of Paramount.

6. E&Y filed its fifth report dated February 23, 2012 (the "Fifth Report"), along with a confidential report to this Honourable Court dated February 23, 2012, which provided

information and recommendations in respect of the Receiver's efforts to sell the real property owned by Paramount.

7. The purpose of this sixth report of the Receiver (the "Sixth Report") is to provide information to this Honourable Court with respect to:

a) the Receiver's activities to May 31, 2012;

b) the Receiver's consolidated statement of receipts and disbursements, and the Receiver's proposed distribution of remaining funds on hand;

c) the fees and disbursements of the Receiver and its counsel;

d) the indebtedness of certain secured creditors;

e) assets remaining to be realized upon;

f) the Receiver's release and discharge; and

g) the Receiver's conclusions and recommendations.

8. In preparing this Sixth Report, the Receiver has relied upon unaudited financial information, books and records of the Company, financial information prepared by the Company and discussions with management of the Company and the Applicant. The Receiver has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the information and, accordingly, the Receiver expresses no opinion or other form of assurance on the information contained in this Sixth Report.

9. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

## RECEIVER'S ACTIVITIES TO MAY 31, 2012

### Bankruptcy of Paramount

10. On February 15, 2012, a bankruptcy order was granted adjudging Paramount to be bankrupt. Ernst & Young Inc. was named as trustee in bankruptcy, pending affirmation of such appointment at the first meeting of creditors.

11. The first meeting of creditors was held on March 7, 2012, during which the appointment of Ernst & Young Inc. as trustee was affirmed by the creditors.

### Employee matters

12. The Receiver has responded to inquiries from former Paramount employees in respect of preparation and signature of forms to enable the former employees to complete their annual income tax returns.

### Sale of real property

13. Paramount operated from owned premises at 1196-1200 Fife Street in Winnipeg (the "Property"). The Receiver listed the Property for sale with Colliers International, a commercial real estate brokerage firm.

14. On October 13, 2011, the Receiver was presented with an offer to purchase the premises by 338148 Manitoba Ltd. (the "Purchaser"). After a series of counter offers, the Receiver entered into an agreement of purchase and sale (the "Sale Agreement") on November 30, 2011.

15. This Honourable Court granted an order on March 1, 2012 authorizing the Receiver to convey the Property to the Purchaser, and to pay out the first mortgage on the Property to Reimer World Properties Corp. ("RWPC").

16. The Sale Agreement contemplated that the Purchaser would be permitted to assign its rights pursuant to the Sale Agreement to a nominee prior to closing. The Purchaser

advised the Receiver that it intended to nominate 6350853 Manitoba Ltd. as a bare trustee for the purposes of the closing of the Sale Agreement.

17. The Sale Agreement closed on March 7, 2012 and the Receiver was paid the proceeds due at closing. Gross proceeds realized (including various closing adjustments) were $1,355,400.60. The Receiver's legal counsel paid RWPC $985,574.23 (including accrued interest) to pay out the first mortgage, and paid the balance to the Receiver.

**Statement of claim filed by Sunrise Equipment Ltd.**

18. The Second Report noted that a caveat was registered against title to the Property on April 7, 2011 to secure advances made to Paramount by Sunrise Equipment Ltd. ("Sunrise").

19. The Fifth Report noted that the Receiver prepared and filed with the Winnipeg Land Titles Office ("WLTO") a Request to Issue Thirty Day Notice to Caveator, and a request to lapse the Sunrise caveat, which was processed by WLTO officials on November 16, 2011.

20. On November 29, 2011, the Receiver and its legal counsel were provided with a copy of a statement of claim filed on November 4, 2011 by Sunrise, requesting a declaration that the Sunrise equitable mortgage forms a charge on the Paramount real property. A copy of the statement of claim is attached as Appendix A.

21. Through December 2011 to February 2012, the Receiver's legal counsel has requested supporting information from Sunrise's legal counsel in respect of certain assertions set out in the Statement of Claim. Copies of correspondence from the Receiver's legal counsel to legal counsel for Sunrise are attached as Appendix B. As of the date of this Sixth Report, the Receiver or its legal counsel has still not received any of the requested information.

## THE RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS

22. The Receiver's consolidated interim statement of receipts and disbursements for the period June 1, 2011 to June 1, 2012 (the "Reporting Period") is attached as Appendix C to this the Sixth Report.

23. Receipts during the Reporting Period totalled approximately $3.3 million CAD and $0.8 million USD, comprised of the following:

    (a) Cash in the debtor's bank accounts totalling approximately $57,000 CAD and $66,000 USD, which represents funds on hand in Paramount's bank accounts at the commencement of the receivership;

    (b) Accounts receivable collections of approximately $756,000 CAD and $695,000 USD which represents collection of accounts receivable during the Reporting Period, including pre-receivership accounts receivable and proceeds from the completion of deliveries in process as at the date of the receivership;

    (c) Auction proceeds and proceeds from miscellaneous equipment sales of approximately $1.5 million CAD;

    (d) Insurance proceeds of approximately $96,000 CAD, representing payments received from Manitoba Public Insurance ("MPI") in respect of vehicle damage claims, net of related deductibles. Additional damage claims are outstanding, but Manitoba Insurance officials have advised that they have exercised a right of set-off as against Paramount for licence and registration fees during the period of the receivership;

    (e) Recovery of retrieval and preservation costs of approximately $73,000 CAD, including the net effect of the refunds as authorized by the order of this Honourable Court dated January 31, 2012;

(f) Recovery of proposed allocation of source deduction priority claims of approximately $120,000, paid prior to retrieval of Paramount fleet assets subject to purchase money security interest claims, and prior to any refunds as described in the previous section;

(g) Net proceeds of approximately $370,000 on the sale of the Property, net of the amount of the pay out of the RWPC mortgage (which was paid directly by the Receiver's legal counsel);

(h) Miscellaneous receipts of approximately $76,000 CAD and $10,000 USD, which includes insurance premium refunds, GST and PST collections/refunds, bank interest, and other miscellaneous refunds; and

(i) Funds transferred from the US-dollar estate trust bank account of approximately $153,000 (inclusive of the related foreign exchange), which funds were transferred shortly after the commencement of the receivership.

24. Disbursements during the Reporting Period totalled approximately $0.9 million CAD and $0.2 million USD, comprised of the following:

(a) Payroll and related costs of approximately $264,000 CAD which represents payroll, source deductions and other benefits paid, including unpaid wages existing as of the date of the Receivership, and post Receivership wages to employees involved in the return and marshalling of the Paramount fleet to Winnipeg;

(b) Fuel, insurance, site security, and vehicle repairs (including the deductible portion the insurance claim for the tractor unit that was repaired) of approximately $141,000 CAD;

(c) Building occupancy costs of approximately $73,000 CAD, representing utilities, property tax payments, and disposal fees for chemicals and used oil drums that had been stored at Paramount's premises;

(d) Real estate commissions payable upon the sale of the Property, calculated at 4% of the gross sales price before closing adjustments;

(e) Miscellaneous disbursements of approximately $43,000 CAD and $1,000 USD which represents amounts paid for GST and PST on disbursements, asset appraisal fees, office supplies, bank fees, satellite tracking fees and other miscellaneous disbursements;

(f) Transfers to Ernst & Young Inc. in its capacity as trustee in bankruptcy, to fund the anticipated professional fees and disbursements of the bankruptcy proceedings, as authorized by this Honourable Court on January 31, 2012;

(g) Professional fees of approximately $342,000 CAD, representing payments in respect of advances on the Receiver's and its legal counsel's fees and disbursements; and

(h) Funds transferred from the US-dollar estate trust bank account of approximately $159,000 USD.

25. The statement of receipts and disbursements also reflects payments by the Receiver of the interim distributions authorized by the order of this Honourable Court on January 31, 2012.

26. As at May 20, 2012 the Receiver had cash on hand of approximately $389,000 CAD and $2,000 USD. Subject to payment of the remaining fees of the Receiver and its legal counsel, and payment of statutory priorities ranking in priority to the secured creditors, the funds are available for distribution to secured creditors.

27. The Receiver proposes to distribute the remaining cash on hand as follows:

(a) Service Canada and/or former employees of Paramount – the aggregate amount of approximately $18,700, representing the amounts payable pursuant to s.81.4 of the BIA for unpaid wages as at the date of the receivership, to a maximum of $2,000 per employee, less any amounts paid by the Receiver. The Receiver has not yet finalized these claims with Service Canada, but the amounts noted above represent the Receiver's upper limit of possible known claims;

(b) GE Equipment – the sum of $7,478.69, representing additional proceeds from written off units over which GE Equipment held security; and

(c) the balance to the Applicant, to the maximum of its indebtedness and accrued interest.

28. On May 22, 2012, the Applicant advised the Receiver that the outstanding balance of the indebtedness owed by Paramount was $516,459.36 CAD, before application of $12,463.40 in surplus USD funds in the Applicant's possession after retirement of its USD-denominated loans. The Applicant further advised the Receiver that per diem interest is $115.60 CAD.

29. Although the Receiver is of the view that it will be unlikely that there are funds in the Receiver's possession after payout of the remaining funds in its possession to the Applicant and to GE Equipment, any such surplus funds will be paid over to Ernst & Young Inc. in its capacity as trustee in bankruptcy of Paramount, for distribution in accordance with the provisions of the *Bankruptcy and Insolvency Act*.

**PROFESSIONAL FEES OF THE RECEIVER AND ITS LEGAL COUNSEL**

30. A summary of the Receiver's accounts from the date of the Receivership to May 20, 2012 is attached as Appendix D to this Sixth Report. The Receiver's total fees to date are $223,418.47 (excluding applicable taxes). The Receiver estimates that its fees to complete the receivership will be approximately $10,000.

31. A summary of the bills and costs (excluding applicable taxes) for the Receiver's counsel, Pitblado LLP ("Pitblado") from the date of the Receivership to May 20, 2012 is also set out in Appendix D. Pitblado's total fees and disbursements to date are $118,695.74 (excluding applicable taxes). The Receiver estimates that unbilled legal fees to date and

estimated legal fees to complete the receivership will total approximately $5,000.00 (inclusive of applicable taxes).

32. The Receiver has examined the legal bills of costs referred to above. In the Receiver's opinion, the services referred to therein have been duly authorized and rendered and the charges therein are reasonable.

33. In the Receiver's view the fees and disbursements incurred by the Receiver and its counsel are reasonable. The hourly rates charged by the Receiver and its counsel throughout the course of these proceedings are comparable to the hourly rates charged by E&Y and Pitblado for services rendered in relation to similar proceedings.

**INDEBTEDNESS OF CERTAIN SECURED CREDITORS**

34. At the commencement of the receivership, the affidavit of David Kopchick sworn March 15, 2011 indicated that the following creditors held registered general security agreements over the assets of Paramount:

   (a) the Applicant;

   (b) GE Canada Equipment Finance G.P., GE Canada Leasing Services Company, General Electric Canada Equipment Finance G.P., GE Technology Finance, GE VFS Canada Limited Partnership (collectively "GE Equipment"); and

   (c) Business Development of Canada ("BDC").

35. In addition to the above-noted registered general security agreements, the Applicant, GE Equipment, and Sunrise filed caveats against title to the Property. The caveat registered by Sunrise was lapsed by WLTO as noted previously in this Sixth Report.

36. The Receiver is aware that BDC and GE Equipment also registered cross-collateral security to secure guarantees given to each of BDC and GE Equipment by a related company, Paramount Storage Ltd. ("Storage"). In June 2011, BDC appointed the firm

Lazer Grant Inc. ("LGI") as receiver of Storage. The Receiver is further advised that Sunrise registered a general security agreement against the assets of Storage.

37. Representatives of LGI have advised the Receiver that BDC and Sunrise have been paid in full from proceeds related to the sale of assets of Storage.

38. Neither of BDC or Sunrise filed proofs of claim in the bankruptcy of Paramount.

## ASSETS REMAINING TO BE REALIZED

39. The Receiver is continuing its collection action on certain accounts receivable, and anticipates that it will realize additional proceeds from collection of minor refunds for utility payments and GST. In aggregate, the Receiver expects that such realizations will total less than $25,000.

40. Paramount and GE Equipment are jointly owed approximately $50,000 from MPI in respect of insurance proceeds on units that were written off prior to the receivership. The Receiver completed the required proof of loss forms to allow MPI to take possession of the damaged units. The proof of loss form indicated that the insurance proceeds were to be payable jointly to Paramount and GE Equipment (the secured creditor with registered security on the written off units). MPI officials have advised the Receiver that it has exercised a right of set off against licence and registration fees owed by Paramount during the period of the receivership, and for out of jurisdiction licence fees paid by MPI to other provinces and US states.

41. Based on the foregoing, the Receiver is of the view that any realizations achieved as a result of challenging the set off by MPI may be offset by assessments against the Receiver for vehicle licensing fees. As a result, the Receiver does not intend to pursue the MPI set off matter further.

## RECEIVER'S DISCHARGE AND RELEASE

42. After the Receiver has concluded its collection efforts on the remaining accounts receivable, has paid the Distribution amounts, and has paid the fees and disbursements of the Receiver and its legal counsel to completion of the engagement, there will be no remaining funds in the possession of the Receiver.

43. To avoid the expense of a further Court application, the Receiver is seeking the approval of this Honourable Court to grant to the Receiver a general discharge now of Ernst & Young Inc. as Receiver over all assets of the Companies (other than accounts receivable of the Companies). Thereafter, the Receiver requests that, once its administration of the receivership as it pertains to the accounts receivable of the Companies is complete (in the Receiver's professional opinion), the Receiver be authorized to file with the Court a certificate certifying that it has completed its collection efforts and paid all outstanding amounts. Once the Receiver has filed such certificates in each receivership estate, the administration of each such receivership estate will be complete (without further Order of the Court).

44. In accordance with customary receivership practice, the Receiver is seeking an Order approving the Receiver's conduct, discharging the Receiver and barring any claims against it.

## CONCLUSION AND RECOMMENDATIONS

45. For the reasons described herein the Receiver is seeking an Order:

    a. Approving the Receiver's activities to date;

    b. Approving the Receiver's statement of receipts and disbursements and the distribution to Paramount's secured creditors;

c. Approving the Receiver's fees and disbursements;

d. Approving the Receiver's counsels' fees and disbursements;

e. Releasing E&Y from any and all liability; and

f. Discharging E&Y as Receiver of Paramount.

All of which is respectfully submitted this 1st day of June, 2012.

**ERNST & YOUNG INC.**
**In its capacity as Receiver of Paramount Truck Lines Ltd.**

Per:

Joe Healey, CA, CIRP
Senior Vice President

# Appendix A

File No. CI 11-01-

<u>THE QUEEN'S BENCH</u>

<u>WINNIPEG CENTRE</u>

IN THE MATTER OF : Subsection 150(1) of *The Real Property Act*

BETWEEN:

SUNRISE EQUIPMENT INC.,

plaintiff,

- and -

ERNST & YOUNG INC., as Receiver of Paramount Truck Lines Ltd., and the said PARAMOUNT TRUCK LINES LTD.,

defendants.

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# STATEMENT OF CLAIM

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Thompson Dorfman Sweatman LLP
Barristers and Solicitors
201 Portage Avenue, Suite 2200
Winnipeg MB R3B 3L3

(Matter No. 0105781 AJS)
(A. J. Stacey 934-2537)
(Fax. No. 934-0537)


TDSLAW 1353033v1

THE QUEEN'S BENCH

WINNIPEG CENTRE

IN THE MATTER OF: Subsection 150(1) of *The Real Property Act*

BETWEEN:

SUNRISE EQUIPMENT INC.,

plaintiff,

- and -

ERNST & YOUNG INC., as Receiver of Paramount Truck Lines Ltd., and the said PARAMOUNT TRUCK LINES LTD.,

defendants.

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a Manitoba lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Queen's Bench Rules, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it in this Court Office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Manitoba.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

November 9th, 2011

S. STRITZ
DEPUTY REGISTRAR
Issued by COURT OF QUEEN'S BENCH
Deputy Registrar FOR MANITOBA
100c - 408 York Avenue
Winnipeg MB R3C 0P9

TO: Ernst & Young Inc., as Receiver of Paramount Truck Lines Ltd.
2700 - 360 Main Street
Winnipeg MB R3C 4G9

AND TO: Paramount Truck Lines Ltd.
1200 Fife Street
Winnipeg MB R2X 2N6

CLAIM

1. The plaintiff claims as against the defendants:

(a) a Declaration of this Honorable Court that it has a valid and enforceable equitable mortgage in the lands legally described as:

Title 2382691:
SP Lot 5 Plan 27659 WLTO
In OTM Lots 44 and 45 Parish of Saint John
In OTM Lots 1 to 3 Parish of Kildonan and
Closed Government Road Allowance
and

<u>Title 2382695</u>:
Lot 2 Block 4 Plan 6464 WLTO
In OTM Lots 44 and 45 Parish of St John

(collectively the Lands);

(b) a Declaration of this Honourable Court that the said equitable mortgage forms a charge upon the Lands in priority to all other interests therein other than instruments numbered 2636475 and 3799845;

(c) a Declaration of this Honourable Court that said equitable mortgage is in default and that the plaintiff is entitled to enforce all remedies available to it at law thereunder, including the right to foreclose from the title those interests at law subordinate to the interest granted by said equitable mortgage, including any interest of the Defendants, or either of them, in the Lands;

(d) such further and other relief as to this Honourable Court may seem just in the circumstances; and

(e) costs.

2. The plaintiff is a corporation incorporated under the laws of the Province of Manitoba and carries on business from offices in the City of Winkler, Manitoba.

3. The defendant, Ernst & Young Inc. ("E&Y") is a corporation incorporated under the laws of the Province of Ontario and is registered to carry on business in the Province of Manitoba.

4. The defendant, Paramount Truck Lines Ltd. ("Paramount") is a corporation incorporated under the laws of the Province of Manitoba and at all material times carried on business from offices in the City of Winnipeg, Manitoba.

5. By Order of this Honourable Court dated June 1, 2011, E&Y was appointed the Receiver of the assets and undertakings of Paramount.

6. Paramount is the owner of the Lands.

7. Pursuant to an agreement made on or about March 22, 2011 between the plaintiff and Edgar Thiessen ("Thiessen"), at all material times the directing mind of Paramount, the plaintiff and Thiessen agreed that the plaintiff would acquire all of the issued and outstanding shares in Paramount (the "Agreement").

8. The terms of the Agreement included the following:

(a) that prior to the closing thereof, the plaintiff would advance to Paramount as a loan the sum of One Hundred Thousand ($100,000.00) Dollars, and would provide further credit to Paramount as required from time to time for its operations prior to the closing of the Agreement;

(b) that the amount of such advances and credit would be repaid to the plaintiff in the event the Agreement was not closed and

(c) that the assets of Paramount, including the Lands, would be charged as security for the repayment to the plaintiff of all sums advanced and all credit provided to Paramount, whether or not the Agreement was closed.

9. In reliance upon the Agreement as aforesaid, the plaintiff advanced as a loan to Paramount the principal sum of One Hundred Thousand ($100,000.00) Dollars and thereafter provided certain other credit to Paramount totaling Ninety Nine Thousand One Hundred and Forty Two Dollars ($99,142.59) and Fifty Nine Cents. In the result Paramount became indebted to the plaintiff in the sum of $199,142.59 (collectively the "Indebtedness").

10. On or about April 7, 2011, the plaintiff caused a caveat to be registered against the titles to the Lands in order to record its mortgage security in the Lands.

11. By reason of the matters hereinbefore set forth, the plaintiff says that it has a valid and enforceable equitable mortgage in the Lands and that such interest has priority over all other interests in the Lands for the repayment of the Indebtedness and interest thereon, other than a certain caveat in favour of MTS Communications Inc. and registered as Instrument No. 2636475 and a certain

mortgage given in favour of Reimer World Properties Ltd. as Instrument No. 3799845.

12. In default of the Agreement, Thiessen failed, refused or neglected to close the sale of its assets and undertakings to the plaintiff whereupon Thiessen became obliged to repay the Indebtedness and the said equitable mortgage became enforceable.

13. In the premises, the plaintiff is entitled to the relief as claimed in paragraph 1 hereof.

November 4th, 2011

THOMPSON DORFMAN SWEATMAN LLP
Barristers and Solicitors
201 Portage Avenue, Suite 2200
Winnipeg MB R3B 3L3
Art Stacey
934-2537

# Appendix B

## Chantale DeBlois

| | |
|---|---|
| **From:** | Chantale DeBlois |
| **Sent:** | May 31, 2012 3:12 PM |
| **To:** | 'ajs@tdslaw.com' |
| **Subject:** | Paramount Truck Lines Ltd. |
| **Attachments:** | Letter to A. Stacey.pdf |
| **Importance:** | High |

Mr. Stacey,

Please find attached our letter in connection with the above referenced matter.

Thank you.

**Chantale DeBlois** Legal Assistant to Richard Buchwald & Catherine Howden
Email [illegible]pitblado.com
Direct [illegible] ext 332

**Pitblado**

[illegible] Main Street Winnipeg, Manitoba, Canada R3C 4H6
Phone [illegible] Fax 204 957 0227 www.pitblado.com

Pit bLAWg!

Pitblado LAW

2500 - 360 Main Street
Winnipeg, Manitoba
Canada R3C 4H6

Tel. (204) 956 0560
Fax (204) 957 0227
E-mail firm@pitblado.com

Reply to:
**Catherine E. Howden**
**Direct (204) 956 3532**
howden@pitblado.com

File No. 3992/6

**VIA EMAIL**

May 31, 2012

Thompson Dorfman Sweatman LLP
2200 - 201 Portage Avenue
Winnipeg, MB R3B 3L3

**Attention: Art Stacey**

Dear Sir:

**Re: Paramount Truck Lines Ltd.**

As the sale of real property in this matter has now been concluded, the Receiver is in a position to distribute proceeds of sale, and seek to pass its accounts and obtain its discharge as Receiver of Paramount Truck Lines Ltd. Time has been set before Justice Dewar on Wednesday, June 6, 2012 at 1:00 p.m. for that purpose. We will be serving you with a Notice of Motion shortly.

In the Motion, we will be seeking an Order striking out the Statement of Claim filed on behalf of Sunrise Equipment Inc. on November 4, 2011, for the following reasons:

(a) The Statement of Claim was filed without leave of the Court or consent of the Receiver contrary to the provisions of the Receivership Order;

(b) The Caveat claiming the equitable mortgage was lapsed under Section 150(1) of *The Real Property Act*;

(c) Despite requests since July 2011 to provide evidence in support of your client's Claim for an equitable mortgage, no documentary evidence has been produced.

Please advise whether your client is prepared to voluntarily discontinue its Statement of Claim. We look forward to hearing from you forthwith.

Yours truly,

**PITBLADO LLP**

per:

**Catherine E. Howden**

CEH/cd

c.c. Joe Healey, Ernst & Young, Inc.

**From:** Art Stacey [mailto:AJS@tdslaw.com]
**Sent:** Tuesday, January 31, 2012 3:39 PM
**To:** Catherine Howden
**Subject:** Paramount / Sunrise

Catherine:
I confirm our telephone conversation this afternoon wherein you advised me that the Receiver has an offer for the purchase of the Paramount Truck Lines building, but that the offer is presently subject to conditions which remain to be fulfilled. I understand that once those conditions are fulfilled the Receiver will seek Court approval of the sale and that we will be given notice of that application.

In the interim I will provide your office with documentation in support of our client's claim to an equitable mortgage.

Thank you.

Art

Art Stacey
Partner
Phone: 204-934-2537
Fax: 204-934-0537

Thompson
Dorfman
Sweatman
LLP
201 Portage Avenue. Suite 2200
Winnipeg, Manitoba R3B 3L3

Email: ajs@tdslaw.com
Website: www.tdslaw.com/ajs

**Chantale DeBlois**

---

**From:** Chantale DeBlois
**Sent:** Monday, December 05, 2011 1:24 PM
**To:** 'ajs@tdslaw.com'
**Subject:** Paramount Truck Lines Ltd.
**Attachments:** Letter to A. Stacey.pdf

Mr. Stacey,

Please find attached our letter in connection with the above referenced matter.

Thank you.

Chantale DeBlois
On behalf of Catherine Howden

Pitblado LLP
2500 - 360 Main Street
Winnipeg MB R3C 4H6
T (204) 956-0560 ext. 332
F (204) 957-0227
e-mail: deblois@pitblado.com

Visit Pitblado LLP's firm blog @ **PitbLAWg.com**

Pitblado LAW

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Reply to:
**Catherine E. Howden**
**Direct (204) 956 3546**
howden@pitblado.com

File No. 3992.6

**VIA EMAIL**

December 5, 2011

Thompson Dorfman Sweatman LLP
2200 - 201 Portage Avenue
Winnipeg, MB R3B 3L3

**Attention: Arthur Stacey**

Dear Sir:

**Re: Paramount Truck Lines Ltd.**

This will acknowledge that on Friday, November 25, 2011, I received by email a copy of a Statement of Claim you filed on behalf of Sunrise Equipment Inc. in the Court of Queen's Bench on November 4, 2011. This will further acknowledge the Statement of Claim was sent by email to Joe Healey of Ernst & Young, Inc.

By correspondence dated July 22, 2011 and August 26, 2011 we requested that you provide documentary evidence respecting Sunrise Equipment Inc.'s claim for an equitable mortgage in the property as registered by caveat no. 4057134. We received no reply to our requests. Accordingly, a Thirty-Day Notice to Caveator was served upon your clients. As no satisfactory evidence was provided to the District Registrar within 30 days of the service of the notice, the said caveat has been lapsed. You have now provided to us a Statement of Claim filed on or about November 4, 2011.

Without production of documentary evidence, the Receiver cannot assess nor report meaningfully to the Court respecting your client's Claim. We request that you produce documentary evidence in support of the agreement alleged in paragraphs 7 and 8 of the Statement of Claim; and proof of the monetary advances referenced in paragraph 9 of the Statement of Claim.

In light of the court ordered stay of proceedings in this matter, we are awaiting our client's instructions respecting this Statement of Claim and will advise you as soon as this has been determined.

In the circumstances, we ask that you provide us with a reasonable extension to file any Statement of Defence and your undertaking not to note default, without reasonable written notice to us.

Yours truly,

**PITBLADO LLP**

per:

**Catherine E. Howden**

CEH/cd

## Cat' ine Howden

**From:** Catherine Howden
**Sent:** Friday, August 26, 2011 2:01 PM
**To:** 'Art Stacey'; 'Doug Forbes'
**Cc:** 'Joe.A.Healey@ca.ey.com'
**Subject:** Paramount Truck Lines Ltd.

Further to my letter of July 22, 2011, I have asked you to provide evidence in support of the equitable mortgage claimed by caveat registered against title nos. 2382891 and 2382695. Please provide any relevant documents to support the secured claim as soon as possible.

Regards, Catherine

Catherine Howden
**PITBLADO LLP**
Barristers & Solicitors
2500 - 360 Main Street
Winnipeg, MB R3C 4H6
Telephone: (204) 956-3532
Facsimile: (204) 957-0227
email: howden@pitblado.com

**Chantale DeBlois**

**From:** Chantale DeBlois
**Sent:** Friday, July 22, 2011 11:30 AM
**To:** 'ajs@tdslaw.com'; 'djf@tdslaw.com'
**Subject:** Paramount Truck Lines Ltd.
**Attachments:** Letter to TDS.pdf

Mr. Stacey and Mr. Forbes,

Attached is our letter, together with enclosure in connection with the above referenced matter.

Thank you.

Chantale DeBlois
On behalf of Catherine Howden
Pitblado LLP
2500 - 360 Main Street
Winnipeg MB R3C 4H6
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**Pitblado** LAW

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E-mail firm@pitblado.com

Reply to:
**Catherine E. Howden**
**Direct (204) 956 3532**
howden@pitblado.com

File No. 3992/6

**VIA EMAIL**

July 22, 2011

Thompson Dorfman Sweatman LLP
2200 - 201 Portage Avenue
Winnipeg, MB R3B 3L3

**Attention: Art Stacey/Doug Forbes**

Dear Sirs:

**Re: Paramount Truck Lines Ltd.**

As you are aware, we are counsel to Ernst & Young, Inc. in its capacity as Receiver for Paramount Truck Lines Ltd. We enclose herewith copy of a Caveat, which you filed on behalf of Sunrise Equipment Inc. against Titles Nos. 2382891 and 2382695 in the Winnipeg Land Titles Office. By virtue of the Caveat, Sunrise Equipment Inc. is claiming an interest in and an equitable Mortgage against the property as Security for repayment of a loan of $100,000.00 from Sunrise Equipment Inc. to Paramount Truck Lines Ltd.

Please provide us with evidence in support of the Caveat, including a copy of any loan documentation, evidence that a loan was advanced, and any documents to support the claim and equitable Mortgage.

This will acknowledge receipt of Mr. Stacey's letter to Joe Healey dated June 28, 2011 referencing a Promissory Note dated March 22, 2011 for a loan in the sum of $162,033.73. Please advise whether the Promissory Note and Demand dated June 28, 2011 relate to the same debt identified in the enclosed Caveat.

We look forward to hearing from you at your earliest opportunity.

Yours truly,

**PITBLADO LLP**

per:

**Catherine E. Howden**

CEH/cd
Encl.
c.c. Joe Healey, Ernst & Young, Inc.

1364265\1\3992 6

Approved as to form - Registrar General - Registration No. 2391349
Where an instrument is registered that does not conform with the form of the instrument prescribed by regulation, the Registrar General and the District Registrar disclaim liability for loss resulting from the non-conformance.

Manitoba
Consumer and
Corporate Affairs
Land Titles

# CAVEAT

Form 18.1

District of Winnipeg

4057134

**1. CAVEATOR(S)** *include address and postal code*

~~I(We),~~ Sunrise Equipment Inc., c/o RR 1 Box 119, Winkler, Manitoba R6W 4A1

claim an interest in the following land or mortgage, and I forbid the registration of any instrument affecting the interest unless such instrument be expressed to be subject to my claim.

**2. PARTICULARS OF ESTATE OR INTEREST CLAIMED**

By virtue of a letter agreement given by the Registered Owner to the Caveator wherein the Registered Owner granted the Caveator an interest and an equitable mortgage in and to the Land as security for the repayment of a loan of $100,000.00 from the Caveator to the Registered Owner.

see schedule ☐

**3. LAND DESCRIPTION**

Title 2382691: SP LOT 5 PLAN 27659 WLTO
IN OTM LOTS 44 AND 45 PARISH OF SAINT JOHN
IN OTM LOTS 1 TO 3 PARISH OF KILDONAN AND
CLOSED GOVEERNMENT ROAD ALLOWANCE

Title 2382695: LOT 2 BLOCK 4 PLAN 6464 WLTO
IN OTM LOTS 44 AND 45 PARISH OF ST JOHN

MORTGAGE NUMBER

TITLE NUMBER(S) 2382691, 2382695

see schedule ☐

**4. NAME AND ADDRESS OF REGISTERED OWNER(S)** *include postal code*

Paramount Truck Lines Ltd., 1214 Fife Street, Winnipeg, Manitoba R2X 2N6

see schedule ☐

**5. ADDRESS OF CAVEATOR(S) FOR SERVICE** *include postal code*

Same as Box 1 above.

**6. SIGNATURE OF CAVEATOR(S)**

1. That I (we) am (are) the within (Agent of or Caveator(s) and the statements herein are true in substance and in fact.
2. The within Caveator(s) has (have) a good and valid claim upon the within land and this caveat is not filed for the purpose of delaying or embarrassing any person.

| DATE |
|---|
| Y M D |
| 2011 04 5 |
| |

Douglas J. Forbes,
Barrister and Solicitor for the Caveator

Name — Signature

Name — Signature

**7. FARM LANDS OWNERSHIP DECLARATION**

BY VIRTUE OF ☐ Agreement to Purchase ☐ Lease ☐ Loan ☐ Option to Purchase

The registration of this instrument does not contravene the provisions of The Farm Lands Ownership Act because:

*Strike out inappropriate statement(s) and initial*

1. The within land is not farm land as defined in The Farm Lands Ownership Act.
2. ~~The within farm land is exempt by Regulation 325/87R of The Real Property Act, i.e. it is 5 acres or less.~~
3. ~~The aggregate holdings of farm land by the Caveator is less than 40 acres (including the land in this instrument).~~
4. ~~The Caveator is a Canadian citizen, permanent resident of Canada, agency of the government, municipality, local government district, Qualified Canadian Organization, Family Farm Corporation or a Qualified Immigrant as defined in The Farm Lands Ownership Act.~~
5. ~~The interest in farm land is being claimed pursuant to a bona fide debt obligation.~~
6. ~~The Caveator is exempt by the Farm Lands Ownership Board (Order Enclosed).~~
7. ~~Other (specify section of The Farm Lands Ownership Act)~~

Particulars:

| DATE |
|---|
| Y M D |
| 2011 04 5 |
| |

Douglas J. Forbes,
Barrister and Solicitor for the Caveator

Name — Signature

c/o 2200-201 Portage Avenue, Winnipeg, Manitoba
R3B 3L3

Name — Signature

~~Caveator or~~ Agent

**8. INSTRUMENT PRESENTED FOR REGISTRATION BY** *include address, postal code, contact person and phone number*

Thompson Dorfman Sweatman LLP, 2200-201 Portage Avenue, Winnipeg, Manitoba R3B 3L3
Contact: Douglas J. Forbes Phone: 934-2426 Matter No. 0104118

# Appendix C

**IN THE MATTER OF THE RECEIVERSHIP OF PARAMOUNT TRUCK LINES LTD.**

**STATEMENT OF RECEIPTS AND DISBURSEMENTS**

**For the period from June 1, 2011 to June 1, 2012**

| | CAD | USD |
|---|---|---|
| **RECEIPTS** | | |
| Cash in debtor's bank accounts | $ 57,059.55 | $ 66,149.67 |
| Accounts receivable collections | 755,645.51 | 695,217.00 |
| Auction proceeds / Sale of equipment | 1,549,174.10 | - |
| Insurance proceeds - damaged vehicles | 95,923.09 | - |
| Recovery of retrieval and preservation costs (net of refund) | 72,576.73 | - |
| Recovery of proposed allocation of source deduction priority claims | 120,404.00 | - |
| Sale of real property, net of first mortgage (Note 1) | 369,826.37 | - |
| GST / HST / PST collected and refunds | 76,246.08 | 9,960.17 |
| Transfers from USD accounts (including foreign exchange) | 152,828.94 | - |
| Other | - | 191.01 |
| **Total receipts** | $3,249,684.37 | $ 771,517.85 |
| **DISBURSEMENTS** | | |
| Payroll / source deductions | $ 263,562.90 | $ - |
| Fuel / Insurance / Security / Repairs | 140,969.44 | - |
| Utilities / property tax / occupancy | 72,759.73 | - |
| Real estate commissions | 54,000.00 | - |
| Appraisal / other | 12,693.02 | |
| GST / PST paid and remitted | 38,849.06 | 937.66 |
| Advance to Ernst & Young Inc. in its capacity as trustee in bankruptcy | 10,000.00 | - |
| Transfers to CAD accounts | - | 158,871.24 |
| Professional fees - receiver and legal | 342,114.21 | - |
| **Total disbursements** | $ 934,948.36 | $ 159,808.90 |
| **Excess of receipts over disbursements before distributions** | **$ 2,314,736.01** | **$ 611,708.95** |
| **Distributions** | | |
| Deemed trust (source deductions) - Canada Revenue Agency | $ 314,205.50 | $ - |
| GE Canada Finance Holding Company | 331,275.00 | 610,000.00 |
| GE Canada Equipment Finance G.P. et.al. | 1,279,975.00 | - |
| **Excess of receipts over disbursements** | **$ 389,280.51** | **$ 1,708.95** |

*Note 1 - the Receiver's legal counsel paid the amount of $985,574.23 directly to discharge the RWPC mortgage*

# Appendix D

**In the Matter of the Receivership of Paramount Truck Lines Ltd.**

**Schedule of Professional Fees**

**Summary of Invoices issued by Ernst & Young Inc.**

| Invoice # | Date | Total Hours | Fees | Expenses | Total (excl. GST) | |
|---|---|---|---|---|---|---|
| CA0189637470 | 29-Jun-11 | 242.4 | $ 46,661.34 | $ 4,527.24 | $ 51,188.58 | |
| CA0189640542 | 12-Jul-11 | 174.4 | 32,321.00 | 2,908.89 | 35,229.89 | |
| CA0189666340 | 22-Dec-11 | 525.8 | 102,000.00 | - | 102,000.00 | |
| CA0189665565 | 20-Dec-11 | 123.5 | 35,000.00 | - | 35,000.00 | |
| **Total** | | | **$ 215,982.34** | **$ 7,436.13** | **$ 223,418.47** | **A** |

**Summary of Invoices issued by Pitblado LLP**

| Invoice # | Date | Total Hours | Fees | Expenses | Total (excl. GST) | |
|---|---|---|---|---|---|---|
| 343541 | 26-Jul-11 | 218.1 | $ 38,225.00 | $ 1,164.45 | $ 39,389.45 | |
| 345095 | 15-Sep-11 | 136.6 | 31,572.00 | 816.41 | 32,388.41 | |
| 349321 | 23-Dec-11 | 48.8 | 14,670.00 | 196.19 | 14,866.19 | |
| 354573 | 23-May-12 | 109.5 | 31,346.50 | 705.19 | 32,051.69 | |
| **Total** | | | **$ 115,813.50** | **$ 2,882.24** | **$ 118,695.74** | **B** |

**Total Professional Fees as reported on the Statement of Receipts and Disbursements** **$ 342,114.21** **A + B**