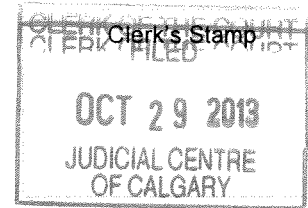


COURT FILE NUMBER 1201-06934
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



APPLICANTS **IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, as amended**

AND IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, R.S.A. 2000, c. B-9

AND IN THE MATTER OF 1252064 ALBERTA LTD., 1330075 ALBERTA LTD. and HARVEST CAPITAL MANAGEMENT INC.

DOCUMENT **APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McCARTHY TÉTRAULT LLP
Barristers & Solicitors
Sean Collins / Walker MacLeod
Suite 3300, 421 - 7 Avenue S.W.
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NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date: November 4, 2013
Time: 11:30 am
Where: Calgary Courts Center
Before Whom: Justice G.C. Hawco

Go to the end of this document to see what else you can do and when you must do it.

Remedy Claimed or Sought: Ernst & Young Inc. (the "**Receiver**"), in its capacity as court appointed receiver and manager of 1330075 Alberta Ltd. ("**133 Alberta**") pursuant to the order issued by Justice G. C. Hawco in the within proceedings on September 30, 2013 (the "**Receivership Order**") and pursuant to the order issued by Justice G. C. Hawco, also in the

within proceedings on September 30, 2013 (the “**CCAA Termination Order**”) terminating the proceedings (the “**CCAA Proceedings**”) commenced pursuant to the order granted by Justice B.E.C. Romaine on June 7, 2012 (the “**CCAA Initial Order**”) wherein 133 Alberta and various other related entities obtained protection from their creditors pursuant to the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”), applies for an order, substantially in the form attached as Schedule “**A**” hereto:

1. Declaring that the time for service of this Application and the first report of the Receiver, dated October 28, 2013 (the “**First Receiver’s Report**”), is abridged, if necessary, the Application is properly returnable today, that service of the Application and the First Receiver’s Report on the Service List is validated, good and sufficient and that no persons other than those on the Service List are entitled to service of the First Receiver’s Report or the Application.
2. Approving and declaring the quantum and priority of the charges (the “**Charges**”), as established in the Initial CCAA Order, with respect to and over the proceeds of the sale of the Balsam House and Balsam Land (the “**Proceeds**”).
3. Declaring that the Receiver is authorized and empowered to distribute the Proceeds in accordance with the priorities of the Charges.
4. Declaring that any remaining Proceeds shall be held by the Receiver, pending further order of this Honourable Court.
5. Such further and other grounds as counsel for the Receiver may advise.

Grounds for Making this Application: The grounds for the Application are as follows:

6. Pursuant to the CCAA Termination Order, any charge in the Initial CCAA Order will endure and continue, notwithstanding the termination of the Initial CCAA Order and the CCAA Proceedings.
7. Pursuant to an order granted on September 6, 2013, this Honourable Court approved the sales of the Balsam House and Balsam Land (both of which are defined in the First Receiver’s Report).
8. Legacy Communities Inc. (“**Legacy**”) registered a notice claiming a beneficial interest in the Balsam Land and Balsam House (collectively, the “**Balsam Properties**”) as a result of

Legacy's claim that the funds used to purchase the Balsam Properties were wrongfully diverted from Legacy to 133 Alberta (the "**Legacy Claim**").

9. As such, Legacy requested that, and the Receiver (at the time Monitor) acquiesced to, the Proceeds being held in trust pending resolution of the Legacy Claim.

10. The Receiver, (at the time Monitor) completed a reconstruction (the "**Sources and Uses Analysis**") of the Harvest Group's accounting records, which included 133 Alberta. As a result, the Receiver has determined that the funds used to purchase the Balsam Properties did not come from Legacy, and in fact, the purchase of the Balsam Properties was funded by 133 Alberta and 1252064 Alberta Ltd.

11. Such further and other grounds as counsel for the Receiver may advise.

Material or Evidence to be Relied On: The Receiver will rely on the following evidence:

12. The First Receiver's Report.

13. Such further and other evidence as counsel for the Receiver may advise.

Applicable Rules:

14. Rule 6.3(1) and 6.9 of the *Alberta Rules of Court*.

15. Such further and other rules as counsel for the Receiver may advise.

Applicable Acts and Regulations:

16. The *Companies' Creditors Arrangement Act* (Canada).

17. Such further and other acts and regulations as counsel for the Receiver may advise.

Any Irregularity Complained of or Objection Relied On:

18. There are no irregularities complained of, or objections relied on.

How the Application is Proposed to be Heard or Considered:

19. The Receiver proposes that the Application be heard in person with one, some, or all of the parties present.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicants.

SCHEDULE "A"

Clerk's Stamp

COURT FILE NUMBER 1201-06934

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANTS **IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, as amended**

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DOCUMENT **ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

McCARTHY TÉTRAULT LLP
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Email: scollins@mccarthy.ca / wmacleod@mccarthy.ca

DATE ON WHICH ORDER WAS PRONOUNCED: November 4, 2013

LOCATION OF HEARING OR TRIAL: Calgary, Alberta

NAME OF MASTER/JUDGE WHO MADE THIS ORDER: Justice G.C. Hawco

UPON THE APPLICATION of Ernst & Young Inc. (the "**Receiver**"), in its capacity as court appointed receiver and manager of 1330075 Alberta Ltd. ("**133 Alberta**") pursuant to the order issued by Mr. Justice G. C. Hawco in the within proceedings on September 30, 2013 (the "**Receivership Order**") and pursuant to the order issued by Justice G. C. Hawco, also in the within proceedings on September 30, 2013 (the "**CCAA Termination Order**") terminating the proceedings commenced pursuant to the order granted by Justice B.E.C. Romaine on June 7, 2012 (the "**CCAA Initial Order**") wherein 133 Alberta and various other related entities obtained protection from their creditors pursuant to the *Companies' Creditors Arrangement Act* (Canada)

(the "**CCAA**"); **AND UPON** having read the first report of the Receiver, dated October 28, 2013 (the "**Receiver's First Report**"); **AND UPON** having read the Affidavit of Service of •, sworn November •, 2013 (the "**Service Affidavit**"); **AND UPON** hearing counsel for the Receiver, and counsel present for other parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the First Receiver's Report.
2. The time for service of the corresponding Application and the First Receiver's Report is abridged, the Application is properly returnable today, service of the Application and the First Receiver's Report on the Service List, in the manner described in the Affidavit of Service, is validated, good and sufficient and no other persons are entitled to service of the First Receiver's Report or the Application.
3. The charges (the "**Charges**") established in the Initial CCAA Order, the quantum of the Charges and their respective priorities be and are hereby approved, with respect to, and over, the proceeds resulting from the sale of the Balsam House and Balsam Land (the "**Proceeds**").
4. The Receiver is hereby authorized and empowered to distribute the Proceeds on account of and in accordance with the relative priority of the Charges.
5. Any remaining Proceeds shall be held by the Receiver in accordance with the provisions of the Receivership Order.
6. Service of this Order by email, facsimile, registered mail, courier or personal delivery to the persons listed on the Service List shall constitute good and sufficient service of this Order, and no persons other than those listed on the Service List are entitled to be served with a copy of this Order.

J.C.Q.B.A.