Form 27
[Rules 6.3 and 10.52(1)]

Clerk's Stamp

CLERK OF THE COURT
FILED
OCT - 5 2015
CALGARY, ALBERTA

COURT FILE NUMBER	1201-10692
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** **AND IN THE MATTER OF 1357686 ALBERTA LTD.**
DOCUMENT	**APPLICATION**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	McCARTHY TÉTRAULT LLP Barristers & Solicitors Sean F. Collins / Walker W. MacLeod 4000, 421 – 7th Ave. S.W. Calgary, AB T2P 4K9 Telephone: 403-260-3531 403-260-3710 Facsimile: 403-260-3501 Email: scollins@mccarthy.ca wmacleod@mccarthy.ca

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	October 9, 2015
Time	10:30 am
Where	Calgary Courts Center
Before Whom	The Honourable Mr. 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 the court-appointed receiver and manager of all of the current and future assets, undertakings, and properties (collectively, the "**Property**") of 1357686 Alberta Ltd. (the "**Debtor**"), pursuant to the Order issued by the Honourable Justice S. LoVecchio on June 16, 2014 (the "**Receivership Order**"), applies for an order, substantially in the form attached as Schedule "**A**" hereto:

1. Declaring that the time for service of this application (the "**Application**") and the First Report of the Receiver, dated October 5, 2015 (the "**Receiver's Report**"), filed, is abridged, if necessary, the Application is properly returnable on October 9, 2015, that service of the Application and the 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 Receiver's Report or the Application.

2. Approving the Purchase Amending Agreement, between 1808464 Alberta Inc. ("**180 Alberta**"), as Buyer, and the Debtor, as Seller, attached as Appendix "A" to the Receiver's Report (the "**Purchase Amending Agreement**"), and directing and authorizing the Receiver, *nunc pro tunc*, to execute and deliver the Purchase Amending Agreement to the Buyer and to take any and all such steps as the Receiver determines necessary or advisable to close any and all transactions, as contemplated by the Purchase Amending Agreement.

3. Approving the Side Letter Agreement, between 180 Alberta, as Buyer, and the Debtor, as Seller, attached as Appendix "B" to the Receiver's Report (the "**Side Letter Agreement**"), and directing and authorizing the Receiver, *nunc pro tunc*, to execute and deliver the Side Letter Agreement to the Buyer and to take any and all such steps as the Receiver determines necessary or advisable to close any and all transactions, as contemplated by the Side Letter Agreement.

4. Ordering and declaring that service of any order, arising from the Application, by email, facsimile, registered mail, courier, regular mail, or personal delivery to the persons listed on the Service List shall constitute good and sufficient service of such orders and that no persons, other than those on the Service List, are entitled to be served with a copy of such orders.

5. Such further and other relief as counsel for the Receiver may advise.

<u>Grounds for making this application:</u>

6. The Receiver was appointed as receiver and manager of the Property pursuant to the Receivership Order. Pursuant to the Receivership Order the Receiver is empowered and authorized to take possession of and exercise control over the Property and to manage, operate, and carry on the business of the Debtor, including the ability to enter into any agreements, with the approval of this Honourable Court.

7. The Debtor's primary asset was certain lands (the "**Lands**") sold to 180 Alberta, pursuant to a Purchase and Sale Agreement, dated April 15, 2014, between the Debtor, as Seller, and 180 Alberta, as Buyer (the "**PSA**").

8. The PSA was approved pursuant to the Order, granted by the Honourable Madam Justice K.M. Eidsvik on April 30, 2014.

9. Pursuant to the PSA, the consideration for the sale of the lands was $8.4 million in cash and a $1.8 million vendor take back mortgage (the "**VTB Mortgage**"). The VTB Mortgage is subordinate to a $10 million mortgage (the "**Durum Mortgage**") in favour of Durum Properties LP ("**Durum**").

10. The VTB Mortgage was to be converted into equity once a certain threshold (the "**Threshold**") was reached.

11. The purpose of the Purchase Amending Agreement and the Side Letter Agreement is to lower the Threshold, due to current market conditions.

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

Material or evidence to be relied on:

13. The Receiver's Report, filed.

14. Such further and other material as counsel for the Receiver may advise and this Honourable Court may permit.

Applicable Rules:

15. Rule 6.3, 6.9, and 11.27 of the Rules.

16. Such further and other rules as counsel for the Receiver may advise and this Honourable Court may permit.

Applicable acts and regulations:

17. The *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

18. Such further and other acts and regulations as counsel for the Receiver may advise or this Honourable Court may permit.

Any irregularity complained of or objection relied on:

19. There are no irregularities complained of or objections relied on.

How the application is proposed to be heard or considered:

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

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 applicant.

SCHEDULE "A"

Clerk's Stamp

COURT FILE NUMBER	1201-10692
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** **AND IN THE MATTER OF 135686 ALBERTA LTD.**
DOCUMENT	**ORDER**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	McCARTHY TÉTRAULT LLP Barristers & Solicitors Sean F. Collins / Walker W. MacLeod 4000, 421 – 7th Ave. S.W. Calgary, AB T2P 4K9 Telephone: 403-260-3531 403-260-3710 Facsimile: 403-260-3501 Email: scollins@mccarthy.ca wmacleod@mccarthy.ca

DATE ON WHICH ORDER WAS PRONOUNCED:	October 9, 2015
NAME OF JUDGE WHO MADE THIS ORDER:	Justice G.C. Hawco
LOCATION OF HEARING:	Calgary, Alberta

UPON the application of Ernst & Young Inc., in its capacity as court appointed receiver and manager (the "**Receiver**") of the assets, properties, and undertakings (the "**Property**") of 1357686 Alberta (the "**Debtor**") pursuant to an order issued in the within proceedings on June 16, 2014 (the "**Receivership Order**"); **AND UPON** having read the Application (as defined below) and the First Report of the Receiver, dated October 5, 2015 (the "**Receiver's Report**"); **AND UPON** having read the Affidavit of Service of •, sworn October •, 2015 (the "**Service Affidavit**"); **AND UPON** hearing counsel for the Receiver and any other counsel present;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Service of the Notice of Application in respect of this Order (the "**Application**") and the Receiver's Report is abridged, the Application is properly returnable today, service of the Application and the Receiver's Report, in the manner described in the Service Affidavit, is good and sufficient, and no other persons are entitled to be served with or given notice of the Application or served with a copy of the Receiver's Report.

2. The Receiver, for and on behalf of the Debtor, is authorized and directed, *nunc pro tunc,* to execute and deliver the Purchase Amending Agreement, between 1808464 Alberta Inc. ("**180 Alberta**"), as the Buyer, and the Debtor, as the Seller, attached as Appendix "A" to the Receiver's Report (the "**Purchase Amending Agreement**"), to the Buyer, conclude any and all transactions contemplated by the Purchase Amending Agreement (collectively, the "**Amending Transactions**"), and to take all such steps and execute all such deeds, documents, and instruments as may reasonably be necessary to consummate the Amending Transactions contemplated by the Purchase Amending Agreement, substantially in accordance with the terms of the Purchase Amending Agreement. Following execution and delivery of the Purchase Amending Agreement, the Parties may agree to any amendments to the Purchase Amending Agreement which do not materially and adversely alter the Amending Transactions or the Purchase Amending Agreement.

3. The Receiver, for and on behalf of the Seller, is authorized and directed, *nunc pro tunc,* to execute and deliver the Side Letter Agreement, between 180 Alberta, as the Buyer, and the Debtor, as the Seller, attached as Appendix "B" to the Receiver's Report (the "**Side Letter Agreement**"), to the Buyer, conclude any and all transactions contemplated by the Side Letter Agreement (collectively, the "**Side Letter Transactions**" collectively, the Amending Transactions and the Side Letter Transactions are referred to as, the "**Transactions**"), and to take all such steps and execute all such deeds, documents and instruments as may reasonably be necessary to consummate the Side Letter Transactions contemplated by the Side Letter Agreement, substantially in accordance with the terms of the Side Letter Agreement. Following execution and delivery of the Side Letter Agreement, the Parties may agree to any amendments to the Side Letter Agreement which do not materially and adversely alter the Side Letter Transactions or the Side Letter Agreement.

4. The Transactions are hereby approved and ratified and it is hereby declared that the Transactions are commercially reasonable.

5. The Transactions shall not be void or voidable at the instance of any or all persons or entities of any kind whatsoever, including, without limitation, all individuals, firms, corporations, partnerships, joint ventures, trusts, unincorporated organizations, governmental and administrative bodies, agencies, authorities or tribunals and all other neutral persons or corporations, whether acting in their capacity as principals or agents, trustees, executives, administrators or other legal representatives (the "**Claimants**"), including, for greater certainty and without limitation: (i) any Claimants or persons served (either directly or through their solicitors) with the Application; or (ii) the beneficiary of any Claims (as defined herein) created or provided for pursuant to any previous Order in these proceedings including, without limitation, the Receivership Order; (iii) or who may have any security interest, claim, estate, security, right, title, interest and lien, including but not limited to, claims, hypothecs, mortgages, charges, liens (whether contractual, statutory or otherwise), security interests, assignments, actions, levies, taxes, judgments, writs of execution, trusts or deemed trusts (whether contractual, statutory or otherwise), options, agreements, disputes, debts, encumbrances or other rights, limitations or restrictions of any nature whatsoever, against the Debtor or the Property, including without limitation any rights or interests of any of the stakeholders or creditors of the Debtor, whether or not they have attached or been perfected, registered or filed, whether secured or unsecured or otherwise, whether liquidated, unliquidated, or contingent (the "**Claims**"); and such Transactions shall not constitute nor shall be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, or other challengeable or reviewable transaction under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended, or any other applicable federal or provincial legislation, and the Transactions or any actions taken therewith, shall not constitute conduct meriting an oppression remedy.

6. The Receiver is at liberty to reapply for further advice, assistance, and direction, as may be necessary to give full force and effect to the terms of this Order.

7. Service of this Order on the Service List by email, facsimile, registered mail, courier, or personal delivery shall constitute good and sufficient service of this Order, and no persons other than those on the Service List are entitled to be served with a copy of this Order.

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J.C.Q.B.A.