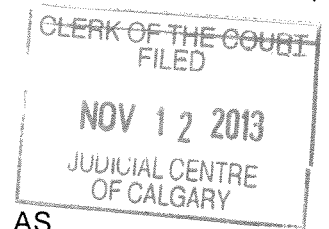


COURT FILE NUMBER 1301-08518
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANT(S) ERNST & YOUNG INC. IN ITS CAPACITY AS
COURT APPOINTED MONITOR OF 1252064
ALBERTA LTD., AND NOT IN ITS PERSONAL OR
CORPORATE CAPACITY
RESPONDENT(S) BENCHMARK CAPITAL CORPORATION AND
1211951 ALBERTA INC.

Clerk's Stamp



DOCUMENT APPLICATION

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McCARTHY TÉTRAULT LLP
Barristers & Solicitors
Sean F. Collins / Pantelis Kyriakakis
Suite 3300, 421 – 7th Avenue SW
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Phone: 403-260-3531/403-260-3536
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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 Court.

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

Date	November 15, 2013
Time	3:30 p.m.
Where	Calgary Courts Centre
Before Whom	Justice R.G. Stevens

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

Remedy Claimed or Sought:

Ernst & Young Inc. (the "**Receiver**") is the court appointed receiver and manager of the property, assets and undertakings (the "**Property**") of Benchmark Capital Corporation ("**Benchmark**") and 1211951 Alberta Inc. ("**121 Alberta**", 121 Alberta and Benchmark are collectively referred to as, the "**Debtors**") pursuant to the order (the "**Receivership Order**") issued in Court File No. 1301-08518 (the "**Receivership Proceedings**") on August 13, 2013 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 second report of the Receiver, dated October 30, 2013, (the “**Second Receiver’s Report**”) is abridged, and that the Application is properly returnable on November 15, 2013, that service of the Application and the Second Receiver’s Report on the Service List is validated, and no other persons are entitled to service of the Second Receiver’s Report or the Application.
2. Approving, *nunc pro tunc*, the agreement of purchase and sale (the “**Purchase and Sale Agreement**”) between 121 Alberta, as vendor, and EMG Holdings Inc. (“**EMG**”), as purchaser, dated October 24, 2013, attached as Appendix “**A**” to the Second Receiver’s Report.
3. Authorizing and empowering the Receiver to execute, deliver, and take such steps as the Receiver determines necessary or advisable to complete the various steps and transactions as contemplated in the Purchase and Sale Agreement.
4. Such further and other relief as counsel for the Receiver may advise.

Grounds for Making this Application

5. The Receiver was appointed as receiver and manager of the Debtors pursuant to the Receivership Order.
6. 121 Alberta owns a 50% beneficial interest in a condominium unit in Edmonton, Alberta. EMG is the registered owner of the condominium unit. The appraised value of the condominium unit is \$210,000, which implies a value of \$105,000 to 121 Alberta’s 50% beneficial interest.
7. EMG has agreed to purchase 121 Alberta’s 50% beneficial interest in the condominium unit for \$110,000 pursuant to the Purchase and Sale Agreement. The Receiver is of the view that the Purchase and Sale Agreement represents the best value to be obtained in the circumstances.
8. The Receiver is expressly authorized and empowered to sell, convey and transfer any of the property of the Debtors with the approval of this Honourable Court in respect of any transaction which exceeds \$100,000. The Purchase and Sale Agreement is therefore conditional on this Honourable Court’s approval.

Affidavit or other evidence to be used in support of this application:

9. The Second Receiver’s Report.

10. Such further and other material as counsel for the Receiver may advise.

Applicable Acts and Regulations

11. Rules 6.3(1) and 6.9(1) of the Alberta *Rules of Court*.
12. Such further and other acts and regulation as counsel for the Receiver may advise.

Any irregularity complained of or objection relied on:

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

How the application is proposed to be heard or considered:

14. The Receiver proposes that this 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 time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

SCHEDULE "A"

Clerk's Stamp

COURT FILE NUMBER 1301-08518

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT(S) ERNST & YOUNG INC. IN ITS CAPACITY AS
COURT APPOINTED MONITOR OF 1252064
ALBERTA LTD., AND NOT IN ITS PERSONAL OR
CORPORATE CAPACITY

RESPONDENT(S) BENCHMARK CAPITAL CORPORATION AND
1211951 ALBERTA INC.

DOCUMENT **ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT McCARTHY TÉTRAULT LLP
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Fax: 403-260-3501
Email: scollins@mccarthy.ca / pkiriakakis@mccarthy.ca

DATE ON WHICH ORDER WAS PRONOUNCED: **November 15, 2013**

NAME OF JUDGE WHO MADE THIS ORDER: **Justice R.G. Stevens**

LOCATION OF HEARING: **Calgary, Alberta**

UPON THE APPLICATION of Ernst & Young Inc. (the "**Receiver**") in its capacity as court appointed receiver and manager of 1211951 Alberta Inc. ("**121 Alberta**") and Benchmark Capital Corporation ("**Benchmark**"), pursuant to the Order granted by this Honourable Court on August 13, 2013 (the "**Receivership Order**"); **AND UPON** having read the Application and the second report of Ernst & Young Inc., dated ●, 2013, in its capacity as court appointed receiver and manager of the Applicants (the "**Second Receiver's Report**"); **AND UPON** having read the Affidavit of Service of ●, sworn November ●, 2013; **AND UPON** hearing counsel for the Receiver, and counsel present for other parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Service of the Application filed on November •, 2013 (the "**Application**") and the Second Receiver's Report on the persons listed on the Service List is hereby validated and deemed good and sufficient in accordance with the Service Affidavit and the Application is properly returnable today.
2. All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the purchase and sale agreement between EMG Holdings Inc., as purchaser, and 121 Alberta, as vendor, dated effective as of October 24, 2013, as set forth in Appendix "**A**" of the Second Receiver's Report (the "Purchase and **Sale Agreement**").
3. The Purchase and Sale Agreement be and is hereby approved. The Receiver is authorized and empowered, *nunc pro tunc* and for and on behalf of the Vendor, to execute and deliver the Purchase and Sale Agreement and to perform the various covenants, terms, transactions and obligation specified therein. The Purchaser and the Vendor are further authorized to make non-material amendments to the Purchase and Sale Agreement, as may be reasonably required to perform and give effect to the terms of the Purchase and Sale Agreement
4. Upon the completion of the transactions as contemplated by the Purchase and Sale Agreement, all rights, title, interest, estate and equity of redemption of the Vendor, if any, and any persons claiming by, through or under the Vendor, in and to the Beneficial Interest shall vest absolutely in the Purchaser free and clear of and from all security interests (whether contractual, statutory or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing any encumbrances or charges created by the Receivership Order. For greater certainty, this Court orders that all of the Claims affecting or relating to the Beneficial Interest are hereby expunged and discharged as against the Beneficial Interest.
5. The net proceeds from the closing of the Purchase and Sale Agreement shall be held by the Receiver in accordance with the terms of the Receivership Order and stand in the place and stead of the Beneficial Interest and any person may assert a Claim against such proceeds with the same right and priority that such Claim had against the Beneficial Interest immediately prior to the sale of the Beneficial Interest and as if the Beneficial Interest had not been sold by the

Vendor. For greater certainty, the Receiver shall remain at liberty to apply reasonable amounts from the net proceeds against its fees and disbursements, and the fees and disbursements of its legal counsel, pursuant to and in accordance with paragraph 20 of the Receivership Order.

6. 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.

J.C.Q.B.A.