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COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANT	ATB FINANCIAL (FORMERLY ALBERTA TREASURY BRANCHES)
RESPONDENTS	HUGHSON TRUCKING INC., LEROY CHRISTIAN HUGHSON, DARREN JAMES HUGHSON, AND JUSTIN LEE HUGHSON
DOCUMENT	SECOND REPORT OF THE RECEIVER April 14, 2019
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<u>RECEIVER</u> ERNST & YOUNG INC. Calgary City Centre 2200, 215 - 2nd Street SW Calgary, Alberta T2P 1M4 Attention: Peter Chisholm Telephone: (403) 206-5061 Fax: (403) 206-5075 Email: peter.chisholm@ca.ey.com <u>COUNSEL</u> McCarthy Tétrault LLP Suite 4000, 421 7th Avenue SW Calgary, Alberta T2P 4K9 Attn: Walker MacLeod Pantelis Kyriakakis Telephone: (403) 260-3710 (403) 260-3536 Email: wmacleod@mccarthy.ca pkyriakakis@mccarthy.ca

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INTRODUCTION

1. Ernst & Young Inc. ("EYI") was appointed Receiver (the "Receiver") of the property, assets and undertakings (the "Property") of Hughson Trucking Inc. ("HTI" or the "Corporation") pursuant to an Order of this Honourable Court (the "Receivership Order") dated December 19, 2018 (the "Receivership Date").

2. The Receivership Order authorized the Receiver, among other things, to carry on the business of HTI, to sell, convey, transfer, lease, or assign the Property out of the normal course of business, subject to approval by this Honourable Court for any transactions exceeding $200,000, or the aggregate of multiple transactions exceeding $1,000,000, and to make such arrangements or agreements as deemed necessary by the Receiver.

3. The purpose of this second report of the Receiver (the "Second Report") is to provide this Honourable Court with the Receiver's comments with respect to:

   a) activities of the Receiver since the first report of the Receiver dated February 28, 2019 (the "First Report"), including a statement of receipts and disbursements of the Receiver from the Receivership Date to April 12, 2019;

   b) the request of the Receiver to withhold the amount of $380,068 (the "Holdback Amount"), on a without prejudice basis, to either pay for or perform reclamation or remediation work (the "Reclamation Work") that HTI may have some liability for in respect of the reclamation and remediation of certain real property, as legally defined, for environmental conditions or damage that existed on or before the Receivership Date;

   c) authorizing and directing the Receiver to make distributions, subject to the Holdback Amount, from the Property (as defined in the Receivership Order) to the parties who were owed debts, liabilities or obligations by the Debtor as of the Filing Date (the "Creditors"); and

   d) the Receiver's recommendation in respect of the same.

BACKGROUND

4. HTI is a corporation incorporated pursuant to the laws of the Province of Alberta which operated out of Milk River, Alberta and Sexsmith, Alberta in the business of grain hauling

services, and oilfield service and frac sand transportation services.

5. Due to a decline in its business, HTI undertook a sales process during 2018 to identify a transaction to sell its business. As a result of the sales process, on December 4, 2018, HTI and Tri-Line Carriers LP ("Tri-Line") executed an asset purchase agreement ("APA") pursuant to which Tri-Line acquired a substantial portion of the property owned or leased by HTI (the "TCL Transaction"). Amounts payable to the lessors in connection with the leased property acquired in the TCL Transaction have been paid and settled by Tri-Line pursuant to the APA.

6. The TCL Transaction did not provide HTI with sufficient sale proceeds to settle its debts as they became due or continue to operate its business. HTI dismissed the majority of its employees and effectively ceased its ongoing operations on December 7, 2018.

7. As at the Receivership Date, the aggregate of all indebtedness owed by HTI to ATB, the primary secured creditor of HTI, totaled approximately $5.53 million.

8. ATB applied to this Honourable Court for an order appointing EYI as receiver and manager, to exercise the powers and duties pursuant to section 243(1) of the *Bankruptcy and Insolvency Act,* R.S.C. 1985, c. B-3 and section 13(2) of the *Judicature Act*, R.S.A. 2000 c. J-2, of all the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the "Property") of HTI.

9. EYI was appointed as Receiver of the Property of HTI pursuant to the Receivership Order.

10. On January 29, 2019, (the "Bankruptcy Date"), HTI was adjudged bankrupt pursuant to an Order of this Honourable Court (the "Bankruptcy Order") and EYI was appointed as the trustee (the "Trustee") in the bankruptcy of HTI. At the meeting of creditors held on February 19, 2019, the appointment of EYI as Trustee of Hughson was affirmed.

11. Additional background on HTI is available on the Receiver's website www.ey.com/ca/hughson.

TERMS OF REFERENCE AND DISCLAIMER

12. In preparing this Second Report, the Receiver has relied upon unaudited financial information, HTI records and discussions with management of HTI. The Receiver has not

performed an audit, review or other verification of such information.

13. Capitated terms not defined in this Second Report are as defined in the Receivership Order, Bankruptcy Order and First Report.

14. All reference to dollars are in Canadian currency unless otherwise noted.

ACTIVITIES OF THE RECEIVER

Release of Tri-Line Holdback

15. As at the date of the First Report, HTI's counsel was continuing to hold approximately $420,000 of proceeds from the TCL Transaction, in trust, representing a holdback pursuant under the APA and GST arising from the TCL Transaction (the "Tri-Line Holdback").

16. The Receiver and Tri-Line have agreed upon the quantum of the adjustments in accordance with the APA and HTI's legal counsel has released $343,478 to the Receiver and $86,266 to Tri-Line.

Listing of the Milk River Properties

17. As at the Receivership Date, HTI owned real property in the Town of Milk River, as follows:

Civic Address	Legal	Parcel	Size	List Price
116 & 124 8 Ave. NW	17-18;37;7410759	II	2.48 Acres	$330,000
117 8 Ave. NW	18;40;8210427	III	1.78 Acres	$25,000
920 Service Rd. NW	4;43;1210426	N/A	11.00 Acres	$50,000

(the "Real Property")

18. The Receiver solicited proposals to sell the Real Property from eight reputable real estate agents.

19. Based upon the proposals received, the Receiver entered into a listing agreement with Avison Young in Lethbridge, Alberta and has listed the Real Property at the list prices per above. Avison Young is actively marketing the Real Property.

Collection of Accounts Receivable

20. The Receiver is continuing to solicit the collection of receivables owed to HTI as at the Receivership Date. To date, the Receiver has collected receivables of approximately $0.96 million, including approximately $0.8 million of deposits applied against HTI's revolving credit facility with ATB subsequent to the Receivership Date. While the disbursement feature of HTI's account with ATB has been locked, the Receiver is allowing funds to be deposited into this account for purposes of collecting receivables.

Statement of Receipts and Disbursements

21. The following is a summary of the receipts and disbursements that have occurred since the Receivership Date up to April 12, 2019 (the "Reporting Period").

HTI — Table 1.0
Statement of Receipts and Disbursements
December 19, 2018 to April 12, 2019
CAD $, unaudited

	Notes		
Opening cash balance		-	A
Receipts			
Net TCL sales proceeds	a	3,183	
Accounts receivable	b	159	
Other receipts	c	71	
Total receipts		3,412	B
Disbursements			
Amount paid to CRA on account of its deemed trust claim	d	(1,391)	
Rent and insurance	e	(169)	
Salaries and wages	f	(119)	
Other disbursements	g	(46)	
Professional fees	h	(144)	
Total disbursements		(1,869)	C
Cash on hand (A + B + C)		1,543	

22. Notes to the Receiver's Statement of Receipts and Disbursements are as follows:

a) residual sale proceeds from the TCL Transaction collected by the Receiver including the holdback held by HTI's legal counsel pursuant to the APA;

b) after issuing accounts receivable collection notices in early February, the Receiver has collected approximately $159,000 in accounts receivable, excluding approximately $800,000 of deposits applied against HTI's revolving credit facility with ATB as described in paragraph 20;

c) other receipts are comprised of insurance proceeds, interest earned on the Receiver's trust account and miscellaneous refunds;

d) as described in the First Report, the Receiver settled the CRA's deemed trust claim for unremitted source deductions of $1.39 million on February 25, 2019;

e) rent and insurance costs of approximately $169,000 were paid over the Reporting Period;

f) salaries and wages paid to employees of HTI to inventory the equipment of Hughson and assist with the auction and provide accounting-related services;

g) other disbursements are comprised, among other things, of utilities, bank charges, computer services, and repairs and maintenance costs; and

h) approximately $144,000 in professional fees were paid over the Reporting Period.

GRAVEL PIT

23. The Receiver understands that in February 2008, ServAgro entered into a verbal arrangement with Mr. Barry Snow ("Mr. Snow") to lease a gravel pit (the "Gravel Pit") existing on his land legally defined as real property and legally described as NW-26-02-17W4M (the "Lands").

24. In December 2010, 1010307 Alberta Ltd., a related party corporation to HTI, acquired from ServAgro the lease for the Gravel Pit and certain equipment to operate the Gravel Pit.

25. The Receiver has had discussions with the Mr. Justin Hughson who represents HTI and 1010307 Alberta Ltd. and understands the following regarding the Gravel Pit:

a) prior to ServAgro entering into the lease with Mr. Snow February 2008, the Receiver understands that the Gravel Pit was constructed and operated by Mr. Snow and/or other third parties;

b) pursuant to the verbal agreement between ServAgro and Mr. Snow, the lessee agreed to pay a royalty of $1.50 per tonne of gravel extracted to the latter. Mr. Snow was to provide water from the Milk River for washing the gravel on his water license; and

c) the licensing of the Gravel Pit was never discussed with Mr. Snow and it was always assumed that the Gravel Pit was properly licensed as the Gravel Pit had been operated prior to ServAgro entering into the verbal agreement with Mr. Snow to lease the Gravel Pit.

26. On July 6, 2018, Alberta Environment Parks (the "AEP") issued a letter to HTI advising that it had identified the Gravel Pit from aerial imagery and HTI must immediately cease performing work at the Gravel Pit.

27. The Receiver has not taken possession of the Gravel Pit or the gravel inventory located on-site at the Gravel Pit.

28. The Receiver recognizes that any potential liability arising from the operation of the Gravel Pit by HTI and the Reclamation Work may have to be addressed prior to the Creditor Distributions (as defined herein) being made. The Receiver has not undertaken a determination as to HTI's liability, if any, arising from the Gravel Pit or potential Reclamation Work.

29. In March 2019, the Receiver and its legal counsel communicated with AEP to understand the AEP's view of HTI's liability arising from the environmental condition or damages to the Lands that occurred prior to the Receivership Date.

30. The Receiver further sought to implement a process whereby the Receiver would retain an accredited environmental consultant to estimate the cost to fully reclaim the Lands (the "Estimated Reclamation Cost"). The Receiver would hold the Estimated Reclamation Cost, in trust, pending the determination of HTI's liability, if any, in respect of the Lands.

31. The reserve would permit the Receiver to monetize the Property of HTI and issue distributions to the creditors of HTI, while maintaining a sufficient reserve to satisfy any liabilities of HTI which may arise from the Reclamation Work.

32. The Receiver retained Wood PLC (the "Environmental Consultant"), a multinational consulting, engineering and project management firm with expertise in reclamation of sites such as the Lands, pursuant to a scope of work agreement dated March 26, 2019, to provide the Receiver with the Estimated Reclamation Cost.

33. The Environmental Consultant has completed its work including a physical survey of the Gravel Pit and subsoil testing to provide the Estimated Reclamation Cost. The Environmental Consultant consulted directly with AEP to ensure that the scope of work was appropriate to satisfy the requirements of the AEP.

34. On April 12, 2019, the Environmental Consultant advised that the Estimated Reclamation Cost is $345,516 and includes costs to cover Reclamation Work including, but not limited to:

a) soil replacement;

b) decompaction;

c) seedbed preparation;

d) revegetation; and

e) land certification.

35. The Receiver is proposing to withhold the Holdback Amount of $380,068 which represents the Estimated Reclamation Cost plus an additional reserve of 10%.

CREDITOR DISTRIBUTIONS

36. This Honourable Court granted an order dated March 5, 2019 (the "Mach 5 Order") approving an agreement (the "Auction Agreement") entered into between the Receiver and Century Services Corp (the "Auctioneer") whereby the Auctioneer would auction certain Property of HTI during April 2019.

37. The March 5 Order further authorized the Receiver to sell, convey, or transfer all of the goods proposed to be sold in the Auction Agreement (the "Auction Assets"), which goods are comprised of equipment, inventory and rolling stock goods HTI has an interest in (the "Authority to Sell").

38. The Authority to Sell the leased or financed Auction Assets of HTI (the "Leased Assets") was obtained on the basis that the Receiver would settle the buy-out values due to financing or leasing companies with sale proceeds of the Leased Assets pursuant to the Auction Agreement (the "Lessor Distributions"), subject to the Receiver's legal counsel concluding that the lessors had valid and enforceable first-ranking security against the Leased Assets.

39. The auction is scheduled to be held on April 25, 2019. The equity in the Leased Assets represents a material recovery to the receivership of HTI and the Auctioneer has been actively marketing the Leased Assets to potential buyers. Removing the Leased Assets from the Auction would cause a significant decline in the recovery to the receivership of HTI and is not viable in the present circumstances. The Receiver seeks confirmation that, subject to maintaining the Holdback Amount, it can make the Lessor Distributions.

40. As described in the First Report, the Receiver obtained an independent review from its legal counsel indicating that, subject to the customary assumptions and qualifications, the security granted by HTI to ATB constitutes a valid and enforceable first charge security over all present and after acquired assets and undertakings of HTI. As of the Receivership Date, HTI owed ATB approximately $5.53 million (the "ATB Indebtedness") excluding interest and professional fees accruing during the Receivership Period.

41. The Receiver was granted authorization pursuant to the March 5 Order to make such future distributions to satisfy the ATB Indebtedness, subject to holding necessary reserves to complete the administration of the receivership (the "ATB Distributions").

42. As at the date of this Second Report, the Receiver has not issued any ATB Distributions. The Receiver seeks confirmation that, subject to maintaining the Holdback Amount, it can make the ATB Distributions in accordance with the March 5 Order.

43. The Lessor Distributions and ATB Distributions are jointly referred to as the "Creditor Distributions".

RECEIVER'S COMMENTS ON THE HOLDBACK AMOUNT AND CREDITOR DISTRIBUTIONS

44. The Receiver is supportive of the Holdback Amount and Creditor Distributions as:

a) the Receiver retained an Environmental Consultant to evaluate the Estimated Reclamation Cost in accordance with a scope of work based upon direction from AEP;

b) the Holdback Amount represents the Estimated Reclamation Cost plus a reserve of 10% and will be sufficient to satisfy 100% of the Estimated Reclamation Cost associated with the Reclamation Work. The Receiver notes that the Gravel Pit was constructed and operated prior to HTI commencing operations of the Gravel Pit in February 2008. HTI may not be liable for the full, or any, Reclamation Work;

c) the Receiver is proposing to establish the reserve for the Holdback Amount with cash-on-hand as at the date of this Second Report and the funding of the Holdback Amount is not contingent upon future recoveries;

d) the establishment of the Holdback Amount will permit the Receiver to monetize the equity in the vehicle, trailer and equipment financing leases existing as at the Receivership Date. This lease equity represents a material recovery to the receivership of HTI; and

e) the Receiver has consulted with ATB regarding the establishment of the Holdback Amount and ATB supports the Receiver's application for the authority and direction to withhold the Holdback Amount.

RECEIVER'S RECOMMENDATIONS

45. The Receiver respectfully recommends that this Honourable Court grant the Receiver:

a) the authority and direction to withhold the Holdback Amount; and

b) the authority to issue the Creditor Distributions.

Dated at Calgary, this 14th day of April, 2019.

ERNST & YOUNG INC.
in its capacity as the Receiver of Hughson

Peter Chisholm CA, CPA, CIRP, LIT
Vice President