Affidavit #4 of Gary D. Powroznik
Sworn October 24, 2019

Court No. B-180368
Vancouver Registry
Estate No. 11-254143

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY

IN THE MATTER OF THE RECEIVERSHIP OF
PE CONSULTING LTD.

AFFIDAVIT

I, **GARY D. POWROZNIK**, Licensed Insolvency Trustee and CIRP, of the City of Vancouver, do hereby make oath and say:

1. I am a Licensed Insolvency Trustee and Managing Director with G. Powroznik Group Inc. ("GPGI") of G-Force Group, who was appointed the Receiver-Manager ("Receiver") for the receivership of PE Consulting Ltd.(the "PE") on June 8, 2018, and as such, am authorized to make this Affidavit in this proceeding, and have personal knowledge of the facts deposed to in this Affidavit, except where stated to be based on information and belief, in which case, I believe that such information is true and accurate.

2. Where facts are alleged in the application response, made pursuant to a notice of application filed by the Substituted Receiver and returnable October 29, 2019, I verily believe them to be true.

3. Attached hereto and marked **Exhibit "A"** to this my affidavit is a true copy of copy of a letter by Mr. Fitzpatrick dated August 14, 2019 to the Office of the Superintendent of Bankruptcy ("OSB").

SWORN BEFORE ME at the City of Vancouver, in the Province of British Columbia, this 24 day of October, 2019.

A Commissioner for Taking Affidavits for the Province of British Columbia

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This is Exhibit "A" referred to in the affidavit of GARY POWROZNIK sworn before me this 24 day of OCTOBER A.D. 2019

A Commissioner for taking Affidavits for British Columbia

File No. 020747

August 14, 2019

Office of the Superintendent of Bankruptcy Canada
300 West Georgia Street, Suite 200
Vancouver, BC V6B 6E1
Attention: Gary Sam

Dear Mmes. and Messrs.:

Re: In the Matter of the Bankruptcy of Jizhe (Mary) Yang
Statement of Receipts and Disbursements
Estate No. 11-2375063
Court No. B180368

1. We are instructed that G. Powroznik Group Inc. (the "Former Trustee") has provided you with its statement of receipts and disbursements ("SRD") in form 12 and that you have rejected the inclusion of its fees and disbursements in the body of the SRD and recommended inclusion as a footnote only. For policy reasons, there will be no comment on them. That creates an issue for us as the Former Trustee will be asked for the comments of the OSB when it attends before the registrar for taxation.

2. You have advised that the Former Trustee should not present its SRD (including the full amount of fees and disbursements) to the OSB for comment prior to taxation because there are no funds **in the estate** to pay the fees and disbursements for which taxation is sought. Again, this creates an issue because the fees are to be taxed in any event.

3. You further advise that legal bills incurred by the Former Trustee cannot be included in the SRD for comment before they are taxed.

4. As we understand it, it is the OSB position that the Former Trustee is not entitled to list a deficiency amount on the SRD for comment. Prior to comment, you require sufficient monies in the estate to pay the fees and only $124.96 is now held by the Former Trustee. The concern of the OSB is that the Former Trustee could potentially receive further funds in the estate and could then avoid submitting a supplementary SRD for comment and taxation, because the deficiency will have been previously reviewed and taxed by the court.

5. For three reasons as follows, we suggest that the SRD proposed is acceptable:

    (i) there is just one estate; there are indeed surplus funds in the estate and the estate is now administered by Ernst & Young, so there are funds to pay the fees;

    (ii) there is no prospect of the Former Trustee receiving further funds from the assets because it has been replaced and has transferred the assets to Ernst & Young; and

    (iii) there is no risk that there will not be full disclosure of the estate accounting because Ernst & Young will report all of the receipts and disbursements after substitution in its SRD. That will include funds paid to the Former Trustee. The Former Trustee has also committed to resubmit, on receipt of the fees when approved, taxed, and paid. In all likelihood, there will be two such reports.

6. The Former Trustee is required to get its accounts taxed. This is becoming urgent as the Substituted Trustee is demanding a motion for taxation. This must happen frequently in estates with successive trustees. The court is required to approve the actions and accounts of both the former receiver and the former trustee and it makes sense to go to court once. Since the court would like to receive the comments of the OSB on the trustee's activities prior to approving the fees, including the trustee's legal fees, our planned process avoids an unnecessary second application and additional costs for interested parties.

7. This issue was considered by the court in *0409725 B.C. Ltd. (Bankruptcy Of)*, 2019 BCSC 451, copy attached. See paragraph 13 where the court determined that it is not a requirement to have surplus funds before there is a taxation. The court concludes that, in this case, the state of affairs will not be used to avoid filing a further SRD. For the reasons set out in paragraph 5 of our letter above, the same applies here. We refer to the words of the court which are appropriate in this case, as well: "...the trustee has performed all of the work and it is appropriate to have it reviewed at this time." See also paragraph 20 of *0409725 B.C. Ltd. (Bankruptcy Of)*, 2019 BCSC 451.

8. It seems that we will need to prepare our application on the basis that the fees of the Former Trustee in this case are included as expenses in the SRD as required in form 12, line 20, and the Former Trustee will submit them for comment.

If there are no comments by the OSB on the fees as a whole, that will work a hardship on the Former Trustee and the creditors because we have attended with other interested parties before the registrar and obtained directions for a taxation of the Former Trustee's fees and those of its counsel. A pre-taxation hearing proceeded on the basis that the OSB's comments would be forthcoming. If that is not the case, we may need to reappear and seek further directions on how to proceed.

We thank you in advance for your consideration of these issues.

Yours truly,

BURNS FITZPATRICK LLP

Per: Dennis K. Fitzpatrick*
*Denotes a Professional Law Corporation

cc: Cassels Brock, Attn: Jared Enns