



District of British Columbia
Division No. 03 - Vancouver
Court No. B180368
Estate No. 11-254143

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE RECEIVERSHIP OF
PE CONSULTING LTD.**

APPLICATION RESPONSE

Application response of: G. Powroznik Group Inc., the Former Receiver of PE Consulting Ltd. (the "application respondent")

THIS IS A RESPONSE TO the notice of application of Ernst & Young Inc. ("EYI"), in its capacity as the receiver and receiver manager (and in such capacity, the "Receiver") of all of the assets, undertakings and property of PE Consulting Ltd., filed 16/Oct/2019.

Part 1: ORDERS CONSENTED TO

The application respondent consents to the granting of the orders set out in **NIL** paragraphs of Part 1 of the notice of application.

Part 2: ORDERS OPPOSED

The application respondent opposes the granting of the orders set out in **NIL** paragraphs of Part 1 of the notice of application.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The application respondent takes no position on the granting of the vesting order set out in Schedule "B" to the notice of application on the following terms:

1. The following language be added to paragraph 4 of the order:

"... and that subject to paragraph 9 hereof, the proceeds from the sale of the Property adequate to pay the Former Receivers fees and disbursements and those of its counsel, shall be held by the Receiver until the Claims are resolved by agreement between the Receiver and the Former Receiver or by further order after service on this application respondent "

2. Paragraph 9(c) of the vesting order should be added;

(c) to pay the Former Receiver and its counsel such fees and disbursements as are approved by agreement or taxation

3. The application respondent does not oppose the orders sought in Schedule "C" but seeks to clarify and correct certain positions taken in the Substituted Receiver's Report and seeks to qualify the order set out in Schedule "C" to the notice of application on the following terms:

There will be added to the first paragraph in the order the words "provided that the approval of the Receiver's activities is not binding on the Former Receiver during the proceedings for taxation of the Former Receivers accounts."

Part 4: FACTUAL BASIS

1. The Former Receiver is the beneficiary of an administrative charge for its fees and disbursements.
2. Taxation of the fees and disbursements has been ordered and hearing is not yet set.
3. At paragraphs 30(g) and 38, the First Report of the Substituted Receiver reports, effective October 6, 2019, that it prepared application response material. No such material has been served as of the date of this response (page 15).
4. The Former Receiver and Former Trustee and its counsel were in receipt of letters dated June 10, 2019 from the Substituted Receiver criticizing their accounts. The approval of the Former Receivers accounts is related to the approval of the former Trustees accounts in the Yang Bankruptcy estate.
5. The Former Receiver's and Former Trustee's counsel set down a hearing before Master Baker for direction which proceeded by consent on July 22, 2019 and required material one week later. The Former Trustee, Former Receiver, and its counsel agreed to provide affidavits by July 29, 2019. The requirement for delivery of affidavit material within seven (7) days is a short timeline.
6. The Former Receiver's counsel prepared unfiled affidavit material for July 29, 2019. The Former Receiver delivered its affidavit regarding its accounts on July 30, 2019 and the report on August 1, 2019. The Former Receiver and its counsel detailed the reasons for its time and costs comprehensively.
7. Counsel for the Former Receiver advised the trustee that he, on or about August 1, 2019, provided a draft copy of the order providing for delivery of the notices of application on a non-specified date. There is no consensus on whether notices of

application were required for a specific date, but affidavits were committed for July 29, 2019.

8. It was contemplated at the hearing before Master Baker that the material for approval of the Former Trustee's accounts would be delivered to the OSB for comment. Prior to the delivery of the Former Trustee's Report, the OSB indicated that it would refuse to comment. That position persists. Sometime later, the Former Trustees counsel confirmed the same to the OSB in a letter dated August 14, 2019, attached as Exhibit "A" to the Affidavit #4 of Gary Powroznik.
9. It is material that on or about September 5, 2019, counsel for the major creditor wrote to counsel for the Former Trustee and Former Receiver demanding that the notices of application be filed before September 6, 2019 thereby unilaterally imposing a short-fuse deadline.
10. Notices of application were filed September 6, 2019. Because a date is required for an application, the Former Trustee and Former Receiver's counsel filed motions returnable September 30, 2019. The Substituted Receiver had then been in receipt of the affidavits and the Report for two months. The Former Receiver did not intend to insist on a hearing on September 30, 2019 and so indicated. The Former Receiver confirmed that the application could be adjourned pending receipt of material from the Substituted Receiver.
11. Counsel for the Former Receiver advised the Former Receiver that on September 27, 2019, the Receiver's counsel and PTI's counsel contacted the Former Receiver's counsel confirming that the September 30, 2019 hearing would not proceed. Mr. Enns indicated that the Receiver's material was forthcoming.
12. By October 23, 2019, no material has been served.
13. The Former Receiver has comments and differences of opinion on the Substituted Receiver's First Report but says those issues relate to the taxation of the Former Receiver's fees and disbursements and the Former Receiver will particularize its comments at the taxation.

Part 5: LEGAL BASIS

1. The Former Receiver refers to and relies on the charges set out in the order under which it was appointed.

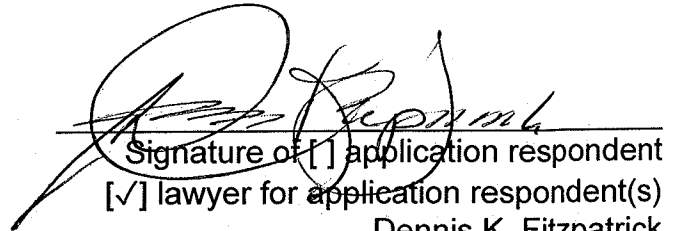
Part 6: MATERIAL TO BE RELIED ON

1. Affidavit #4 of Gary Powroznik made 24/Oct/2019

The application respondent estimates that the application will take fifteen (15) minutes.

The application respondent has filed in this proceeding a document that contains the application respondent's address for service.

Date: 24 /Oct/2019


Signature of ☐ application respondent
☒ lawyer for application respondent(s)
Dennis K. Fitzpatrick