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| COURT FILE NUMBER | 2303-06543 | Clerk's Stamp |
| COURT | COURT OF KING'S BENCH OF ALBERTA | |
| JUDICIAL CENTRE | EDMONTON | |
| APPLICANTS | IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED<br><br>AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF J.W. CARR HOLDINGS LTD., SPRUCE GROVE INDUSTRIAL PARK INC., 272649 ALBERTA LTD., 279896 ALBERTA LTD., GRANDE PRAIRIE PLACE ENTERPRISES (1996) INC., 1170292 ALBERTA LTD. AND 627612 ALBERTA LTD. | |
| DOCUMENT | **SIXTH REPORT OF ERNST & YOUNG INC. IN ITS CAPACITY AS MONITOR OF THE APPLICANTS**<br><br>**August 1, 2023** | |
| ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT | **MONITOR**<br><br>ERNST & YOUNG INC.<br>EPCOR Tower<br>10423 – 101 Street, Suite 1400<br>Edmonton, Alberta T5H 0E7<br>Attention: Matt McCulloch / Peter Chisholm<br>Telephone: 780.638.6642 / 403.206.5061<br>Fax: 780.428.8977<br>Email: matt.mcculloch@parthenon.ey.com<br>peter.chisholm@partnenon.ey.com<br><br>**MONITOR'S COUNSEL**<br><br>McCarthy Tétrault LLP<br>Suite 4000, 421 7th Ave SW<br>Calgary, Alberta, T2P 4K9<br>Attn: Sean Collins / Erinn Wilson<br>Telephone: 403.260.3531<br>Email: scollins@mccarthy.ca<br>erinnwilson@mccarthy.ca | |

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## INTRODUCTION

1. On April 19, 2023, J.W. Carr Holdings Ltd. ("**JW Carr**") and certain of its subsidiaries and affiliates; namely, Spruce Grove Industrial Park Inc. ("**SGIP**"), 272649 Alberta Ltd. ("**272 AB**"), 279896 Alberta Ltd. ("**279 AB**"), Grande Prairie Place Enterprises (1996) Inc. ("**GPPE**"), 1170292 Alberta Ltd. ("**117 AB**") and 627612 Alberta Ltd. ("**627 AB**"), (collectively, the "**Subsidiaries**" and together with JW Carr, the "**JW Group**", the "**Companies**" or the "**Applicants**") were granted protection and permission to commence proceedings pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C-36 (the "**CCAA**") pursuant to an Order of this Honourable Court (the "**Initial Order**"). The Initial Order was confirmed by an Amended and Restated Initial Order granted on April 26, 2023 (the "**ARIO**").

2. The Initial Order appointed Ernst & Young Inc. as Monitor ("**EY**" or the "**Monitor**") in the CCAA proceedings and established a stay period ("**Stay**") in favour of the Applicants up to and including April 29, 2023. The Stay has been extended from time to time, most recently by an Order of the Court granted on July 26, 2023, wherein the Stay is presently set to expire on October 31, 2023.

3. On July 31, 2023, 114 Development Ltd. ("**114 Ltd.**") filed a notice of application (the "**114 Notice of Application**") to appear before this Honourable Court on August 3, 2023, for, *inter alia*, the following relief:

   a.) a Sale Approval and Vesting Order (the "**114 SAVO**"), approving the purchase and sale of JW Carr's shares (the "**JW Shares**") held in 114 Ltd. as contemplated by the Share Purchase Agreement, dated July 31, 2023 (the "**114 SPA**"), among 114 Ltd, JW Carr, TID Holdings Inc. ("**TID**"), 234035 Alberta Ltd. ("**234 Ltd.**"), and Profectus Capital Inc. ("**Profectus**"), Profectus, 234 Ltd., and TID are collectively, the "**Remaining Shareholders**");

   b.) a Sealing Order, sealing the Confidential Exhibits numbered 1 though 6 of the Affidavit of Ward Fleming, dated July 31, 2023 (the "**Fleming Affidavit**"), until the earlier of December 30, 2023 or further Order of this Court,

   (collectively, the "**114 Ltd. Relief**").

## PURPOSE OF THIS REPORT

4. The purpose of this report (the "**Monitor's Sixth Report**") is to provide this Honourable Court

and the Applicants' stakeholders with information and the Monitor's comments with respect to the 114 Ltd. Relief.

## TERMS OF REFERENCE AND DISCLAIMER

5. In preparing the Monitor's Sixth Report, the Monitor has been provided with, and has relied upon certain information, including unaudited financial information of the Companies, books and records, and discussions with the Applicants' Management.

6. Except as described in this report, the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Canadian auditing standards pursuant to the Chartered Processional Accountants of Canada Handbook.

7. Future oriented information referred to in the Monitor's Sixth Report was prepared based on Management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable; the actual results may vary from the projections and the variances may be material.

8. All references to dollars are in Canadian dollars.

9. Capitalized terms not defined herein are as defined in previous reports of the Monitor and other materials filed in connection with these CCAA proceedings to date.

10. Additional background information on the Applicants and these CCAA proceedings is available on the Monitor's website, located at: www.ey.com/ca/jwcarr (the **"Monitor's Website"**).

## 114 SAVO AND 114 SPA

11. As noted in the Fifth Carr Affidavit, the Monitor has been working with 114 Ltd. and the Applicants, to advance the transaction contemplated by the 114 SPA to an executable transaction.

12. The Monitor has reviewed the 114 Notice of Application and the Fleming Affidavit, in relation to the application returnable on August 3, 2023, seeking the 114 Relief. The Monitor's review of the 114 SAVO and 114 SPA is based upon the facts as set out in the Fleming Affidavit.

13. In the Fleming Affidavit it is deposed that JW Carr is the registered and beneficial owner of 101 issued and outstanding Class "A" Common shares representing 9.9% of the issued and

outstanding shares of that class (the "**JW Shares**") in the share capital of 114 Ltd. and has agreed to sell the JW Shares to the other three shareholders of 114 Ltd.: TID, 234, and Profectus, each of whom will purchase the JW Shares in an amount proportionate to their respective interests in 114 Ltd. for the nominal purchase price of $10.00.

14. 114 Ltd. is special purpose entity that was formed to develop and construct a 6 storey, 132 residential unit apartment building at 11329 University Avenue NW, Edmonton (the "**SPE Project**").

15. 114 Ltd. obtained project financing from MCAP Financial Corporation ("**MCAP**"). The balance outstanding under the MCAP Mortgage is set out in Confidential Exhibit "1" to the Fleming Affidavit. MCAP holds first lien security over the SPE Project. JW Carr and Marjorie Carr have both granted unlimited guarantees in favour of MCAP in relation to 114 Ltd.'s obligations to MCAP.

16. Pagnotta Inc. ("**Pagnotta**"), holds the second lien security over the lands comprising the SPE Project in the registered amount of $1.25 million. The balance owing to Pagnotta as at July 31, 2023 is attached as Confidential Exhibit "2" to the Ward Affidavit.

17. TID has made capital contributions in the aggregate amount of $1,900,000, which was provided by TID to 114 in exchange for the issuance of redeemable 1,900,000 Class II Preferred Non-Voting shares in 114 (the "**114 Preferred Shares**").

18. 114 Ltd. has also received advances in the form of shareholder loans from 234 Ltd. in the aggregate amount of $2,277,398.05.

19. The secured claims against the JW Shares are as follows:

    a.) Romspen Investment Corporation ("**Romspen**"), pursuant to a registration in the Alberta PPR on February 2, 2011, bearing registration number 11020245562;

    b.) Canadian Western Bank ("**CWB**"), pursuant to a General Security Agreement, dated December 6, 2017, and perfected by way of registration in the Alberta Personal Property Security Registry (the "**Alberta PPR**") bearing registration number 07020124371;

    a.) Servus Credit Union Ltd. ("**Servus**"), pursuant to a General Security Agreement, dated August 25, 2020, and perfected by way of registration in the Alberta PPR on May 10, 2018, bearing registration number 18051033151, dated and 20082526952;

b.) Roynat Inc.("**Roynat**"), pursuant to a General Security Agreement dated March 26, 2020, and perfected by way of registration in the Alberta PPR on November 21, 2019, bearing registration number 19112128207;

c.) Monitor, its counsel and the Applicants' counsel, pursuant to the Administrative Charge granted under the ARIO; and,

d.) Interim Lender, pursuant to the Interim Lender's Charge granted under the ARIO.

20. As further deposed to in the Fleming Affidavit: the SPE Project is 70% complete; the interest rate under the MCAP credit facility is equal to MCAP's prime rate plus 305 basis points, per annum ; and 114 Ltd. is in late discussions in obtaining a commitment from Equitable Bank to refinance the MCAP project financing and to provide additional project financing necessary to make the SPE Project commercially viable including by virtue of an interest rate of prime minus 5 basis point with an interest rate cap of 4.10% per annum. Equitable Bank has stipulated that the new financing is conditional upon JW Carr selling its shares in 114 Ltd. (the "**Refinancing**") to the Remaining Shareholders.

21. The Monitor has reviewed the 114 SPA and is of the view that the terms of the 114 SPA are reasonable in the circumstances. Specifically, the 114 SPA includes the following material terms:

a.) Purchase Price of $10.00;

b.) Closing Date of August 4, 2023;

c.) 114 Ltd. covenants:

i.) to bring forward the Application seeking approval of the 114 SAVO;

ii.) in the event that 114 Ltd. retires the indebtedness owed to MCAP in full, 114 Ltd. shall refrain from accepting any further advances from MCAP under any credit facility or lending agreement guaranteed by JW Carr;

d.) the Parties (as defined in the 114 SPA) each irrevocably waive any and all rights any of them may have arising pursuant to the Shareholders' Agreement (as defined in the 114 SPA) concerning or relating to JW Carr's transfer of the JW Shares to the Remaining Shareholders;

e.) 114 Ltd. and the Remaining Shareholders, and JW Carr, mutually agree to release each other from all claims of any kind whatsoever that 114 Ltd. and the Remaining Shareholders, or JW Carr may have against each other, arising from or in connection with the Shareholders' Agreement (as defined in the 114 SPA);

f.) 114 Ltd. and the Remaining Shareholders agree to enter into an Amending Agreement taking effect immediately prior to the 114 SPA's closing to remove JW Carr as a party to the Shareholders' Agreement (as defined in the 114 SPA) and delete any provisions in the Shareholders' Agreement relating to JW Carr; and

g.) upon closing, 114 Ltd. and the Remaining Shareholders agree to indemnify JW Carr for all claims or demands upon JW Carr arising from any Guarantee (as defined in the 114 SPA), and agree to pledge to JW Carr all right, title and interest in and to the respective Class "A" Common Share of the Remaining Shareholders as collateral security for the payment and performance of such obligations.

22. The Monitor has been provided with a copy of a Calculation Valuation Report (the "**Valuation Report**") prepared by Grant Thornton LLP dated July 28, 2023 (with a valuation date of July 18, 2023) in respect of the Fair Market Value of 114 Development Ltd. The Valuation Report is attached as Confidential Exhibit "6" to the Fleming Affidavit.

23. The Monitor has reviewed the Valuation Report and concurs with the assessment of the value of the JW Shares as set out in the Valuation Report.

24. The Monitor has been advised by 114 Ltd., that as part of the Refinancing, MCAP will release JW Carr and Marjorie Carr from all obligations under their respective guarantees. Moreover, the SPA contains an indemnity in favour of JW Carr and Marjorie Carr from the purchasing shareholders in respect of all obligations arising under their respective guarantees.

25. The Monitor is of the view that the 114 SAVO is reasonable in the circumstances given:

a.) the value of the JW Shares as set out in the Valuation Report;

b.) JW Carr will benefit from the Refinancing given that the MCAP Guarantee will be released upon the Refinancing and, in any event, JW Carr will be indemnified by the remaining shareholders against its liability under the MCAP Guarantee; and

c.) The evidence tendered by 114 Ltd. that each of the Carr Key Stakeholders (as defined in the Fleming Affidavit) do not intend upon opposing the 114 Ltd. Relief.

## CONCLUSION

26. Based on the information and content provided in this Monitor's Sixth Report, the Monitor recommends that the 114 Ltd. Relief be granted.

Dated at Edmonton, this 1st day of August, 2023.

**ERNST & YOUNG INC.**
Licensed Insolvency Trustee
acting solely in its capacity as the Monitor of the JW Group
and not in its personal or corporate capacity

per:

Matt McCulloch, CPA, CA, CIRP, LIT
Senior Vice President, Ernst & Young Inc.