

Re NATIONAL BANK OF CANADA

- ① This Motion was heard by teleconference in accordance with the changes to the operation of the Commercial List in light of the Covid-19 Crisis and the Chief Justice's Notices to the Profession.
- ② I am satisfied the Motion should be granted on the terms of the attached order.
- ③ The order is effective today and does not have to be entered.

Hainey J.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) TUESDAY, THE 6TH
JUSTICE HAINEY) DAY OF MAY, 2020

BETWEEN:

NATIONAL BANK OF CANADA

Applicant

- and -

EVERGREEN CONSUMER BRANDS INC.

Respondent

ORDER
(Distribution and Approval of Activities, etc.)

THIS MOTION, made by Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Evergreen Consumer Brands Inc. (the "**Debtor**") for an order **(i)** abridging or confirming where necessary the time and manner for service of the motion record and dispensing with further service thereof, **(ii)** approving the distribution of \$5,500,000 to the senior secured creditor, National Bank of Canada ("**NBC**"), and such further distributions to NBC from time to time as the Receiver may determine up to the maximum amount of \$18,000,000 without further order of this Court, **(iii)** approving the activities of the Receiver to date, **(iv)** approving the fees, costs and expenses of the Receiver and its counsel as set out in the materials filed, **(v)** and such further relief as may

be requested and the Court may permit was heard this day by means of teleconference in accordance with the then directions pertaining to the hearing of matters on the Commercial List.

ON READING the Second Report of the Receiver dated March 27, 2020 (the “**Second Report**”), the affidavits of Mario J. Forte and Hartley Bricks, filed and on hearing the submissions of counsel for the Receiver, as well as such other counsel who identified themselves as being in attendance by teleconference, no one appearing for any other person on the service list, although properly served:

1. **THIS COURT ORDERS** that the time for service of the Motion Record in respect of this motion and the Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.
2. **THIS COURT ORDERS** subject to the paragraph 3 of this Order, and further subject to any priority claim that Canada Revenue Agency may make, the Receiver be and is hereby authorized to distribute to NBC the sum of \$5,500,000, and such further amounts from time to time in respect of the realization of the assets of Debtor subject to the security held by NBC, subject to such reserves as the Receiver may deem prudent, up to the amount of \$18,000,000 without further Order of this Court.
3. **THIS COURT ORDERS** that, notwithstanding paragraph 2 hereof, any future distributions by the Receiver hereunder of proceeds of realization or collection where the Receiver has notice of the interest of a party or parties other than NBC claiming ownership, security interests, or both in priority to NBC, shall only be made upon further Order of the Court on notice to NBC and to such other party or parties.

RECEIVER'S ACTIVITIES AND PROFESSIONAL FEES

4. **THIS COURT ORDERS** that the activities of the Receiver to April 24, as outlined in of the First Report of the Receiver dated March 6, 2020 (attached as Appendix “C” to the Second Report) and the Second Report, and the Receiver’s Statement of Receipts and Disbursement for the period February 13 to April 20, 2020 are hereby approved.
5. **THIS COURT ORDERS** that the professional fees and disbursements of the Receiver in the amount of \$381,309.52 (including HST) are hereby approved.

6. **THIS COURT ORDERS** that the professional fees and disbursements of the Goldman Sloan Nash & Haber LLP, as independent counsel of the Receiver, in the amount of \$95,241.00 (including HST) are hereby approved.

7. **THIS COURT ORDERS** that the Receiver is authorized to pay all such fees and disbursements from the available funds.

A handwritten signature in blue ink, appearing to read "Hainey", is written over a horizontal line. The signature is cursive and includes a large, stylized flourish at the end.

IN THE MATTER OF SECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT AND SECTION 101 OF THE COURTS OF JUSTICE
ACT BETWEEN NATIONAL BANK OF CANADA, APPLICANT, AND
EVERGREEN CONSUMER BRANDS INC., RESPONDENT

Court File No. CV-20-00636080-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced in TORONTO

ORDER
(Distribution and Approval of Activities, etc.)

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Lawyers for Deloitte Restructuring Inc. in its
capacity as receiver and manager of the assets,
undertakings and properties of Evergreen
Consumer Brands Inc.