

COURT FILE NUMBER

Q.B. 61 of 2018

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE

SWIFT CURRENT

IN THE MATTER OF THE RECEIVERSHIP OF SWIFT HOTELS GROUP LTD.

NOTICE OF APPLICATION

(Distribution and Discharge of Receiver)

NOTICE TO: Those Parties Identified on The Attached Service List.

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Where:	Court House 121 Lorne Street West Swift Current, Saskatchewan, Canada
Date:	Monday, December 6, 2021
Time:	10:00 a.m. Saskatchewan Time

Due to the health risks posed by the COVID-19 pandemic, all chambers applications will be heard by telephone unless the presiding judge has decided otherwise. The dial-in number for this application is 1-866-296-5646, conference code: 627846. If you are unable to connect, please contact the office of the local registrar at (306) 778-8400 and provide your telephone number.

Remedy claimed or sought:

1. An Order in substantially the form of the proposed draft Order filed herewith:
 - (a) abridging the time for service of this Notice of Application, the Third Report of the Receiver dated December 1, 2021 (the "**Third Report**"), a Draft Order, and any other materials filed in support thereof (collectively, the "**Application Materials**"), such that service of such Application Materials shall be deemed to be good, valid and timely;
 - (b) approving the professional fees and disbursements of the Receiver and its legal counsel, as set out in the Third Report;
 - (c) approving, ratifying and confirming as valid all activities, actions and proposed courses of action of the Receiver (collectively, the "**Actions of the Receiver**") to date in relation to the discharge of its mandate as Receiver of the assets, undertakings and properties

of Swift Hotels Group Ltd. (the "**Debtor**") acquired for or used in relation to the business carried on by the Debtor (collectively, the "**Property**") pursuant to the Order (the "**Receivership Order**") of the Honourable Mr. Justice R.S. Smith granted on November 28, 2019 in these proceedings (the "**Receiver's Mandate**") as such Actions of the Receiver are more particularly described in the First, Second, and Third Reports of the Receiver;

- (d) authorizing and directing the Receiver to make the final distribution to the Debtor's senior secured creditor, Innovation Credit Union, as more particularly described in the Third Report;
- (e) providing that, upon the Receiver making the final distribution to creditors more particularly described in the Third Report, the Receiver shall be discharged as Receiver of the Property, provided that notwithstanding its discharge:
 - i) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein including, in particular: (1) the authority to receive any funds paid or realized upon any judgments obtained by the Receiver on behalf of the Debtor in the course of carrying out the Receiver's Mandate; (2) the authority to administer any action commenced by the Receiver on behalf of the Debtor in carrying out the Receiver's Mandate; and (3) the authority to discontinue any action commenced by the Receiver on behalf of the Debtor in carrying out the Receiver's Mandate; and
 - ii) the Receiver shall continue to have the benefit of the provisions of all Orders made in these proceedings, including all approvals, protections and stays of proceedings in favour of Deloitte Restructuring Inc. in its capacity as Receiver;
- (f) declaring that, based upon the evidence that is currently before this Honourable Court in regard to the Actions of the Receiver:
 - i) the Receiver has acted honestly and in good faith, and has dealt with the Property and carried out the Receiver's Mandate in a commercially reasonable manner;
 - ii) the Receiver has satisfied all of its duties and obligations pursuant to the Receiver's Mandate;
 - iii) the Receiver shall not be liable for any act or omission, including, without limitation, any act or omission arising from, relating to or in connection with its discharge of the Receiver's Mandate, save and except for any liability arising

out of fraud, gross negligence or wilful misconduct on the part of the Receiver;
and

- iv) no person shall commence or continue an action or proceeding asserting a claim against the Receiver arising from, relating to or in connection with its discharge of the Receiver's Mandate without first obtaining an Order of this Honourable Court (on notice to the Receiver) granting such person leave to commence such action or proceeding, and any such action or proceeding commenced without such leave being obtained is a nullity.
- (g) providing that, subject to the foregoing, any claims against the Receiver in connection with the Receiver's Mandate are hereby stayed, extinguished and forever barred; and
- (h) such further and other relief as counsel may request and this Honourable Court may allow.

Grounds for making this application:

Approval of Final Distribution

- 2. The final distribution proposed by the Receiver accords with the priority position of Innovation Credit Union as determined by the Receiver, and is not in dispute.

Approval of the Fees and Disbursements of the Receiver and Its Legal Counsel, Approval of the Actions of the Receiver, Discharge of the Receiver and Limitation of Liability and Protection of the Receiver

- 3. The Receiver has carried out the Receiver's Mandate honestly, in good faith and in compliance with the Orders of this Honourable Court and the duties imposed upon the Receiver by the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, *The Queen's Bench Act, 1998*, SS 1998, c Q-1.02, *The Personal Property Security Act, 1993*, SS 1993, c P-6.2, and at common law.
- 4. The Receiver has substantially completed the Receiver's Mandate, such that it is appropriate that this receivership be concluded and that the Receiver obtain an Order approving the fees of the Receiver and its legal counsel and granting its discharge, with the requisite provisions to protect the Receiver, as an officer of the Court, from liability.

Material or evidence to be relied on:

- 5. The Applicant relies upon:
 - (a) this Notice of Application;
 - (b) the Third Report of the Receiver dated December 1, 2021;

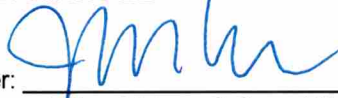
- (c) Draft Order (Distribution and Discharge of Receiver);
- (d) Redline document showing the changes in the enclosed Draft Order (Distribution and Discharge of Receiver) from the Saskatchewan Template Distribution and Discharge Order;
- (e) the pleadings and proceedings herein; and
- (f) such further and other material as this Honourable Court may allow.

Applicable Acts and Regulations:

- 6. *The Bankruptcy and Insolvency Act*, RSC 1985, c B-3.
- 7. *The Personal Property Security Act, 1993*, SS 1993, c P-6.2.
- 8. *The Queen's Bench Act, 1998*, SS 1998, c Q-1.01.

DATED at Saskatoon, Saskatchewan, this 1st day of December, 2021.

MLT AIKINS LLP

Per: 
 Jeffrey M. Lee, Q.C. and Marek Coutu,
 counsel for the Receiver, Deloitte
 Restructuring Inc.

NOTICE

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

CONTACT INFORMATION AND ADDRESS FOR SERVICE

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