

COURT FILE NUMBER Q.B. 434 of 2017

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

JUDICIAL CENTRE SASKATOON

PLAINTIFF CANADIAN IMPERIAL BANK OF COMMERCE

DEFENDANT JMV ENTERPRISES LTD.

IN THE MATTER OF THE RECEIVERSHIP OF JMV ENTERPRISES LTD.

**NOTICE OF APPLICATION**

**(Sale Approval and Vesting Order)**

**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  
520 Spadina Crescent East  
Saskatoon, Saskatchewan, Canada

Date: Monday, January 8, 2018

Time: 9:00 a.m. Saskatchewan Time

**Remedy claimed or sought:**

1. An Order in substantially the form of proposed draft Order filed herewith:
  - (a) approving, authorizing and directing Deloitte Restructuring Inc., in its capacity as Receiver (the "**Receiver**") of the assets, undertakings and properties of JMV Enterprises Ltd. ("**JMV**"), to complete the proposed purchase and sale transaction (the "**Transaction**") respecting certain real property in Regina, Saskatchewan (the "**JMV Lands**") more particularly described in the Offer to Purchase and Agreement for Sale between JMV and 20<sup>th</sup> Century Investments Ltd. (the "**Purchaser**") dated November 28, 2017, as amended December 19, 2017 (collectively, the "**Sale Agreement**") attached to the Confidential Supplement to the Second Report of the Receiver dated January 4, 2018 (the "**Confidential Supplement**"), in accordance with the Sale Agreement;

- (b) vesting in the Purchaser all right, title and interest of JMV in and to the JMV Lands, free and clear of all liens, charges, and encumbrances;
- (c) approving the activities and disbursements of the Receiver;
- (d) approving an interim distribution of the net proceeds of the Transaction;
- (e) sealing the Confidential Supplement on the Court file; and
- (f) such further and other relief as counsel may request and this Honourable Court may allow.

**Grounds for making this application:**

- 2. JMV was a Saskatchewan corporation engaged in the business of bookkeeping, income tax return preparation, accounting, and holding real estate properties under the direction of Frank Garrett of Roleau, Saskatchewan.
- 3. In June of 2016, Mr. Garrett died in a scuba diving accident near Craik, Saskatchewan. JMV's obligations to its senior secured creditor, Canadian Imperial Bank of Commerce ("**CIBC**") subsequently fell into default.
- 4. On March 29, 2017, on the application of CIBC, Deloitte Restructuring Inc. was appointed as Receiver of the assets, undertakings and properties of JMV pursuant to the Order of the Honourable Mr. Justice B.J. Scherman in these proceedings (the "**Receivership Order**").
- 5. Pursuant to the Sales Process Order granted by Justice Scherman on May 26, 2017 (the "**Sales Process Order**"), the Receiver undertook to market for sale, and to sell, two classes of assets owned by JMV: namely, the JMV Lands (comprising eight pieces of real property in the City of Regina) and JMV's substantial art collection.

Approval of Transaction and Vesting of Title to the JMV Lands

- 6. The Sales Process Order set out a procedure for concluding the purchase and sale of some or all of the JMV Lands without further recourse to Court, provided that an offer of at least 85% of the appraised value for each property was obtained. As more particularly described in the Second Report of the Receiver dated January 4, 2018 (the "**Second Report**") and the Confidential Supplement thereto, despite the efforts of the Receiver, an offer of at least 85% of the appraised value could not be obtained for any of the JMV Lands.

7. Despite the fact that it is less than 85% of the appraised value of the JMV Lands, the offer made by the Purchaser (referred to as the "Second En-Bloc Offer" in the Second Report and Confidential Supplement) represents the best value that can be obtained for the JMV Lands in the circumstances in light of the state of the Regina real estate market, the Receiver's costs for continuing to maintain the JMV Lands, and other factors more particularly detailed in the Confidential Supplement.
8. The Transaction has the support of CIBC, the senior secured creditor of JMV
9. The Transaction is currently scheduled to close on January 12, 2018.

#### Approval of the Activities and Disbursements of the Receiver

10. As more particularly detailed in the Second Report and the Confidential Supplement, the procedures contemplated in the Sales Process Order and the other actions of the Receiver have at all times been conducted with efficiency and integrity, with due regard for the interests of all parties, and with the support of CIBC, the senior secured creditor.

#### Interim Distribution

11. Although the Sales Process Order provided for interim distributions in certain circumstances, the currently proposed Transaction cannot be closed in sole reliance upon the Sales Process Order for the reasons set out above. Accordingly, a further Order for interim distribution is required in order to confirm that an interim distribution of the net sale proceeds (less all legal and professional costs and all other costs of and incidental to the receivership) may be made to CIBC.

#### Sealing of the Confidential Supplement

12. The Confidential Supplement contains commercially sensitive information, including details of the offers received for the JMV Lands, as well as the Sale Agreement, which in turn references the purchase price being paid in the Transaction.
13. Publicly disclosing this commercially sensitive information prior to the closing of the Transaction would be prejudicial to any future sale in the event that this Honourable Court does not grant the Sale Approval and Vesting Order, or if the Transaction does not close for any reason.
14. The Receiver has given notice to the media of its intention to seek a sealing order, as required by General Application Practice Directive #3.

15. Such further or other grounds as counsel may advise and this Honourable Court may allow.

**Material or evidence to be relied on:**

16. The Applicant relies upon:

- (a) this Notice of Application;
- (b) a proposed form of draft Order;
- (c) the Second Report of the Receiver dated January 4, 2018;
- (d) the Confidential Supplement to the Second Report of the Receiver dated January 4, 2018;
- (e) certain template and previous vesting orders which may be of assistance, namely:
  - i) the Alberta Template Approval and Vesting Order;
  - ii) Approval, Vesting & Distribution Order granted July 21, 2017 by the Honourable Mr. Justice B.J. Scherman in *Re Namraw Lumber Ltd.*, Q.B. No. 999 of 2017, Judicial Centre of Saskatoon; and
  - iii) Sale Approval and Vesting Order granted December 20, 2017 by the Honourable Mr. Justice N.G. Gabrielson in *Re Copper Sands Land Corp. et al.*, Q.B. No. 1693 of 2017 (currently subject to an application for leave to appeal to the Saskatchewan Court of Appeal);
- (f) proof of compliance with General Application Practice Directive #3; and
- (g) such further and other material as this Honourable Court may allow.

**Applicable Acts and Regulations:**

17. The *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, Part XI.

18. The *Personal Property Security Act*, 1993, SS 1993, c P-6.2, sections 63-64.

19. *The Queen's Bench Act, 1998*, SS 1998, c Q-1.01, section 12.

DATED at Saskatoon, Saskatchewan, this 4th day of January, 2018.

MLT AIKINS LLP

Per 

Jeffrey M. Lee, Q.C. and Paul Olfert, 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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