

COURT FILE NUMBER 1801-08520
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF INNOVATION CREDIT UNION AND CONCENTRA BANK
DEFENDANTS 1764239 ALBERTA LTD., OSTRANDER FAMILY HOLDINGS LTD.,
AND BRIAN OSTRANDER

COURT FILE NUMBER 1801-08521
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF INNOVATION CREDIT UNION AND CONCENTRA BANK
DEFENDANT 1885731 ALBERTA LTD., OSTRANDER FAMILY HOLDINGS LTD.,
PHILIP KRAHN, AND BRIAN OSTRANDER

APPLICATION

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **OSLER, HOSKIN & HARCOURT LLP**
Barristers and Solicitors
Suite 2500, TransCanada Tower
450 – 1 Street SW
Calgary, Alberta T2P 5H1
Solicitors: Randal Van de Mosselaer / Emily Paplawski
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NOTICE TO RESPONDENT:

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

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

Date: November 9, 2020
Time: 2:00 p.m.
Where: Calgary Courts Centre (BY WEBEX)
Before Whom: The Honourable Madam Justice Eidsvik

Go to the end of this document to see what else you can do and when you must do it.

Order Sought:

1. Deloitte Restructuring Inc. (the “**Receiver**”), in its capacity as receiver and manager of all current and future assets, undertakings, and properties of every nature and kind whatsoever and wherever situate of 1764239 Alberta Ltd. (“**176**”) and 1885731 Alberta Ltd. (“**188**”) and together with 176, the “**Debtors**”) is seeking an Order substantially in the form attached as Schedule “A” hereto:
 - (a) declaring that the time for service of this application is abridged and deemed good and sufficient and the application is properly returnable today;
 - (b) approving the actions of the Receiver as reported in the First Report of the Receiver filed in each of the within Actions, dated November 2, 2020 (the “**First Reports**”);
 - (c) approving the professional fees of the Receiver and its legal counsel as summarized in the First Reports;
 - (d) authorizing the Receiver, if the Receiver deems advisable, to assign the Debtors, or either one of them, into bankruptcy pursuant to the provisions of section 49 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (“**BIA**”), as amended, and amending the Receivership Orders granted in these proceedings by the Honourable Madam Justice Campbell on July 22, 2020 (as amended, the “**Receivership Orders**”), as may be necessary to provide the Receiver with such authority;
 - (e) providing that the Receiver shall not be disqualified from acting as Trustee in Bankruptcy by reason only of its role as Receiver;
 - (f) approving the Receiver’s retainer of Royal LePage Mission (“**Royal LePage**”) to market the HomeStay Inn & Suites, located at 954 7 Street SW, Medicine Hat, AB, and the HomeStay Inn Express, located at 815 East Lake Blvd NE, Airdrie, AB, generally in the form of the listing agreements attached to the First Reports; and
 - (g) granting such further and other relief as counsel may request and this Honourable Court may deem just.

Grounds for making this Application:

Assignment of the Debtors into Bankruptcy

2. The Receiver has identified: (a) approximately 86 unsecured trade creditors with potential unsecured claims against 176 totalling approximately \$2.2 million; and (b) approximately 50 unsecured trade creditors with potential unsecured claims against 188 totalling approximately \$511,500. The Debtors are accordingly “insolvent persons” within the meaning of the BIA, both of which have failed to meet their obligations generally as they become due.
3. The Receiver anticipates that it will investigate certain reviewable transactions involving the Debtors. The Receiver anticipates that a concurrent bankruptcy proceeding in respect of the Debtors may be required to allow access to the broad investigatory rights and remedies under the BIA to: (a) provide the Receiver/Trustee greater investigatory powers, (b) provide the Receiver/Trustee access to the preference and transfer for undervalue provision of the BIA (to the extent these provisions might be helpful to the estate), and (c) facilitate the crystallization of claims.
4. The relief requested is just, appropriate and in the best interest of the administration of the Debtors’ estates.

Approval of the Retainer of Royal LePage

5. Paragraph 3(k) of the Receivership Orders permit the Receiver to market any or all of the Property of the Debtors, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate.
6. The Receiver has received three proposals from national realty firms with expertise in the hospitality sector to list and market the Property for sale. The Receiver has determined that the proposal provided by Royal LePage should be accepted as it provides the most robust pricing outlook for the Property, Royal LePage has expertise in the marketing and sale of hotels of the kinds owned by the Debtors, and Royal LePage is well connected in the local hospitality market.

7. The Receiver is in the process of negotiating listing agreements with Royal LePage in respect of the Property. Such negotiations are largely complete and the Receiver is accordingly seeking approval of the listing agreements generally in the form attached to the First Reports, with such minor amendments as the Receiver deems appropriate.

Affidavit or other Evidence and Materials to be used in Support of this Application:

8. The First Reports of the Receiver, both dated November 2, 2020; and
9. Such further and other evidence or materials as counsel may advise and this Honourable Court may permit.

Applicable Rules:

10. *Alberta Rules of Court*, Alta Reg. 124/2010.

Applicable Acts and Regulations:

11. *Business Corporations Act*, RSA 2000, c. B-9, as amended.
12. *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended.
13. *Judicature Act*, RSA 2000, c J-2, as amended.
14. *Personal Property Security Act*, RSA 2000, c P-7, as amended.

Any Irregularity Complained of or Objection Relied On:

15. None.

How the Application is Proposed to be Heard or Considered:

16. By Webex before the Honourable Madam Justice Eidsvik on November 9, 2020 at 2:00 p.m.

WARNING

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 give evidence in

response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Schedule "A"

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ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **OSLER, HOSKIN & HARCOURT LLP**
Barristers and Solicitors
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450 – 1 Street SW
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Facsimile: (403) 260-7024
Email: rvandemosselaer@osler.com / epaplawski@osler.com

DATE ON WHICH ORDER WAS PRONOUNCED: November 9, 2020

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Madam Justice Eidsvik

LOCATION OF HEARING: Calgary Courts Centre
601 – 5th Street SW
Calgary, AB

UPON THE APPLICATION OF Deloitte Restructuring Inc. (the "**Receiver**"), in its capacity as receiver and manager of all current and future assets, undertakings, and properties of

every nature and kind whatsoever and wherever situate of 1764239 Alberta Ltd. and 1885731 Alberta Ltd. (together, the “**Debtors**”) pursuant to the Receivership Orders granted by the Honourable Madam Justice Campbell on July 22, 2020 (the “**Receivership Orders**”); **AND UPON** reviewing the First Reports of the Receiver, each dated November 2, 2020 (together, the “**First Reports**”); **AND UPON** hearing from counsel for the Receiver and any other interested party; **AND UPON** reviewing the Affidavit of Service of Elena Pratt, sworn November ____, 2020; **IT HEREBY ORDERED AND DECLARED THAT:**

Service

1. The time for service of this application is abridged and deemed good and sufficient and the application is properly returnable today.
2. Service by electronic mail or ordinary post of this application on those who are presently on the service list established in these proceedings constitutes good and sufficient service for all purposes.

Assignment into Bankruptcy

3. The Receiver is hereby authorized, if the Receiver deems advisable, to assign the Debtors, or either one of them, into bankruptcy pursuant to the provisions of section 49 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended (the “**BIA**”).
4. The Receivership Orders are hereby amended as may be necessary to provide the Receiver with authority to assign the Debtors, or either one of them, into bankruptcy pursuant to the provisions of section 49 of the BIA.
5. The Receiver shall not be disqualified from acting as Trustee in Bankruptcy by reason only of its role as Receiver.

Engagement of Royal LePage

6. The Receiver’s engagement of Royal LePage Mission to market the HomeStay Inn & Suites, located at 954 7 Street SW, Medicine Hat, AB, and the HomeStay Inn Express, located at 815 East Lake Blvd NE, Airdrie, AB, generally in the form of the listing

agreements attached to the First Reports, is hereby approved and the Receiver is authorized to execute same with such minor amendments as the Receiver deems appropriate.

Approval of Activities and Accounts

7. The actions of the Receiver and the fees of the Receiver and its legal counsel as reported in the First Reports are hereby approved.

J.C.Q.B.A.