

COURT FILE NUMBER	1001-11456
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF(S)	ALBERTA TREASURY BRANCHES
DEFENDANT(S)	CHOCOLATERIE BERNARD CALLEBAUT PARTNERSHIP, BY ITS MANAGING PARTNER, CHOCOLATERIE BERNARD CALLEBAUT LTD., 1013988 ALBERTA LTD., CHOCOLATERIE BERNARD CALLEBAUT LTD., 1054796 ALBERTA LTD., BERNARD CALLEBAUT AND FRANCESCA CALLEBAUT
DOCUMENT	THIRD SUPPLEMENT TO THE THIRD REPORT OF THE COURT- APPOINTED RECEIVER AND MANAGER OF CHOCOLATERIE BERNARD CALLEBAUT PARTNERSHIP, BY ITS MANAGING PARTNER, CHOCOLATERIE BERNARD CALLEBAUT LTD., 1013988 ALBERTA LTD., CHOCOLATERIE BERNARD CALLEBAUT LTD. AND 1054796 ALBERTA LTD. DATED MARCH 18, 2011 PREPARED BY DELOITTE & TOUCHE INC.
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	BLAKE, CASSELS & GRAYDON LLP 3500, 855 – 2nd Street S.W. Calgary, AB T2P 4J8 Attn: Kelly J. Bourassa/Ryan Zahara Telephone/Facsimile: 403-260-9697/9628/ 403-260-9700 File: 38358/10013 Email: kelly.bourassa@blakes.com ryan.zahara@blakes.com

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INTRODUCTION AND BACKGROUND

1. Pursuant to a Consent Order of the Court of Queen's Bench of Alberta (the "Court") granted on August 3, 2010 (the "Receivership Order"), Deloitte & Touche Inc. ("Deloitte") was appointed as receiver and manager (the "Receiver") of Chocolaterie Bernard Callebaut Partnership ("Callebaut Partnership"), 1013988 Alberta Ltd., Chocolaterie Bernard Callebaut Ltd. ("CBCL") and 1054796 Alberta Ltd. ("105") (collectively "Callebaut" or the "Company"). Subsequently, on August 18, 2010, the Callebaut Partnership, CBCL and 105 made assignments in bankruptcy and Deloitte was appointed as trustee of the estates of the bankrupts.
2. Capitalized terms, not otherwise defined in this report, are as defined in the third report of the Receiver filed on February 3, 2011 (the "Third Report"), the supplement to the third report of the Receiver filed on February 18, 2011 and the second supplement to the third report filed on February 22, 2011 (the "Second Supplement").

Background

3. The Second Supplement was filed in support of the Receiver's application on February 23, 2011 (the "Feb 23 Application"), at which the Receiver requested that the Court grant the following Order:
 - a. Declaring Bernard and Francesca Callebaut ("B&F Callebaut") in contempt of the Receivership Order;
 - b. Approving the Receiver's intended plan of action with respect to the Removed Assets, as outlined herein;
 - c. Directing that B&F Callebaut pay over to the Receivership estate an amount equal to the value of any property of Callebaut which they removed and then used in contravention of the Receivership Order (the "Used Assets") as determined by an accounting, which would be based on the resale value of finished product that was produced with the Used Assets, less the estimated cost of the other ingredients contained therein and any other agreed upon direct costs;
 - d. Directing that B&F Callebaut purge their contempt by delivering up any additional property of Callebaut that was removed prior to or after the date of Receivership; and
 - e. Ordering B&F Callebaut to pay costs with respect to the Contempt Application (as defined below).
4. The application requesting that B&F Callebaut be found in contempt of the Receivership Order and purge their contempt by delivering up any additional property of Callebaut that was removed prior to or after the date of Receivership (the "Contempt Application") was originally heard by the

Court on February 10, 2011 but was subsequently adjourned first to February 23, 2011 and then to March 23, 2011.

5. The Second Supplement reported on the following matters related to the Contempt Application:
 - a. The accounting provided by B&F Callebaut on February 18, 2011 (the "February 18 Accounting") of the Used Assets; and
 - b. The contents of the affidavit of Veronica Amaya sworn on February 22, 2011 (the "Amaya Feb 22 Affidavit"), which listed two statues (the "Statues"), a MAC computer and an IPAD as still being missing from Callebaut as of that date.
6. This report constitutes the Third Supplement to the Third Report of the Receiver (the "Third Supplement"). The Third Supplement is being filed in support of the Receiver's application on March 23, 2011 (the "March 23 Application") requesting that the Court grant the following Order:
 - a. Declaring B&F Callebaut in contempt of the Receivership Order;
 - b. Approving the Receiver's intended plan of action with respect to the Removed Assets (as defined herein);
 - c. Directing that B&F Callebaut pay such amount for the Used Assets, as may be ordered by the Court;
 - d. Directing that B&F Callebaut pay costs related to the Contempt Application (the "Contempt Costs");
 - e. Approving the Fee Allocation (as defined herein);
 - f. Approving the payment of a final distribution to Invesco Mortgage Inc. ("Invesco") in the amount of \$132,113, consisting of the balance of the Land Proceeds less the Land Costs (as those terms are defined herein) in partial satisfaction of Invesco's secured claim; and
 - g. Approving the payment of all funds held by or collectible by the Receiver, net of costs required to complete the administration of the receivership, into the bankrupt estate of the Callebaut Partnership, where such funds will be distributed to the unsecured creditors pursuant to the provisions of the *Bankruptcy and Insolvency Act* (the "BIA").

ADDITIONAL ASSETS

7. At the Feb 23 Application, B&F Callebaut's former legal counsel, Burnet Duckworth & Palmer LLP ("BDP") indicated that two Mac computers, one laptop, one iPad, miscellaneous computer accessories and the Statues (the "Feb 23 Assets") had been delivered by B&F Callebaut to BDP's office. The Feb 23 Assets are currently being held by the Receiver.
8. On March 4, 2011, Mr. Callebaut delivered a letter to the Court (the "B&F Callebaut Letter") advising the Court that B&F Callebaut would be representing themselves at the March 23

Application and providing certain additional information regarding those assets that were removed from Callebaut in contravention of the Receivership Order (the "Removed Assets"). The Receiver notes as follows with respect to the B&F Callebaut Letter:

- a. B&F Callebaut suggest that the packaging, included in the Removed Assets, either had no value or could not be used by a potential purchaser because it was labeled with Mr. Callebaut's personal signature or the trademark "Bernard and Sons" or because it consisted of items used in past seasons. As previously reported, it is the Receiver's view that all of Callebaut's intellectual property (the "IP") was conveyed to 1563181 Alberta Ltd. ("156") pursuant to the Asset Purchase Agreement dated October 13, 2010 (the "APA") between the Receiver and 156, and that any dispute as to the use of the IP is between 156 and B&F Callebaut. The Receiver notes that its review of the Removed Assets identified only 420 burlap sacks as being labeled with Mr. Callebaut's signature and a small amount of sample packaging as being displayed with the trademark "Bernard and Sons".
- b. B&F Callebaut suggest that the Statues were removed on the morning of October 23, 2010 (the "Oct 23 Removal"), at which time the Receiver attended the Callebaut premises to allow B&F Callebaut to pick up their personal items prior to the sale of Callebaut's assets to 156 (the "156 Sale") being completed. We have been advised; however, that a former employee of Callebaut, who is now employed by 156, recalls removing the Statues early on the morning of August 3, 2010 at the request of B&F Callebaut. At the Oct 23 Removal, the Receiver prepared a general list of those items removed by B&F Callebaut (the "Oct 23 Listing"). The Receiver cannot recall definitively whether the Statues were present at the Oct 23 Removal; however, they were not included in the Oct 23 Listing.
- c. We understand from representatives of 156 that there may still be one Mac computer that has not been accounted for. The Receiver does not have any further information to suggest that additional property of Callebaut continues to be held by B&F Callebaut.

THE REMOVED ASSETS

9. The Receiver's review of the Removed Assets indicates a total book value of approximately \$158,600.
10. The APA, pursuant to which the Partnership Assets were sold to 156, allowed for the purchase price of the Partnership Assets to be adjusted to reflect differences between the inventory available at closing and the inventory held by Callebaut on September 24, 2010. The definition of inventory in the APA includes all raw materials, finished goods, packaging, accessories and shipping and office supplies.
11. As previously reported, the Receiver's intended plan of action with respect to the Removed Assets is as follows:
 - a. Any items included in the definition of Property in the APA, which are not subject to adjustment, will be provided to 156;
 - b. The portion of the Removed Assets falling within the definition of Inventory in the APA will be adjusted for, as agreed between the Receiver and 156, in the final statement of adjustments related to the 156 Sale;
 - c. Any Callebaut records falling within the definition of Property Documents in the APA will be provided to 156, with any remaining records being retained by the Receiver until the administration of the Receivership is complete; and
 - d. All IP will be provided to 156 and the Receiver will not take a position with respect to the ongoing use of the IP.

THE USED ASSETS

12. As previously reported, the Feb 18 Accounting provided by B&F Callebaut estimated the value of the Used Assets as follows:
 - a. 400 kilograms of chocolate (the "Used Chocolate"), which was valued at \$8.50 per landed kilogram for a total cost of \$3,400; and
 - b. 140 diamond shaped molds, which were in use by B&F Callebaut in the operation of papa chocolat (a company that the Receiver understands is owned and operated by B&F Callebaut), which were estimated by B&F Callebaut to have a replacement value of \$13.50 per mold for a total cost of \$1,890.
13. The Receiver does not have sufficient information to either confirm or refute whether or not the quantity of Used Chocolate identified is accurate. Based on a review of invoices from ICAM, the cost per landed kilogram as estimated in the Accounting Letter appears reasonable.

14. We note that the Receiver took possession of additional diamond and bar shaped molds beyond those included in the Feb 18 Accounting. As stated above, we do not have sufficient information to either confirm or refute whether these additional molds were being used in papa chocolat's operations.
15. The Receiver previously took the position that including only the cost of the Used Assets did not accurately account for their value and that an accounting based on the resale value of the finished product produced with the Used Assets, less the estimated cost of other ingredients contained therein and any other agreed upon direct costs, may more accurately reflect the value of the Used Assets.
16. At the Receiver's request, B&F Callebaut provided an accounting based on the resale value of the Finished Product, which was estimated at approximately \$52,500. Mr. Callebaut advised that the only chocolate being used in production between November and January 2011 was that taken from Callebaut. B&F Callebaut have indicated that when taking into account labour, rent, packaging (product and design) and other raw materials, no profit was generated by papa chocolat between November and January 2011.

THE FINAL DISTRIBUTION TO INVESCO

17. On February 10, 2011, the Court granted an Interim Distribution Order (the "Distribution Order") authorizing the Receiver to distribute up to \$2,249,341 to Invesco Mortgage Inc. ("Invesco"). On February 11, 2011, the Receiver distributed \$2,088,344.33 to Invesco, which represented the Land Proceeds net of both costs directly attributable to the Hwy 1 Lands and a holdback (the "Holdback") for the professional fees and disbursements of both the Receiver and the Receiver's legal counsel (respectively the "Receiver Fees" and the "Legal Fees"). The Holdback was held by the Receiver pending agreement as to the appropriate allocation of the Receiver Fees and the Legal Fees between the Land Proceeds and the Partnership Receipts.
18. The Third Report contemplated that the Receiver Fees would be allocated 80 percent to the Partnership Receipts and 20 percent to the Land Proceeds and that the Legal Fees would be allocated 70 percent to the Partnership Receipts and 30 percent to the Land Proceeds. Subsequent to the Distribution Order, both the Receiver and legal counsel for Invesco completed detailed reviews of the time entries of both the Receiver and the Receiver's legal counsel and agreed that the Receiver Fees would be allocated 87.5% to the Partnership Receipts and 12.5% to the Land Proceeds and the Legal Fees would be allocated 70% to the Partnership Receipts and 30% to the Land Proceeds (the "Fee Allocation"). The Fee Allocation would result in Receiver's Fees of approximately \$77,705 and Legal Fees of approximately \$70,977 being allocated to the Land Proceeds and a final distribution to Invesco of approximately \$132,113, consisting of the balance of the Land Proceeds less the Fee Allocation.

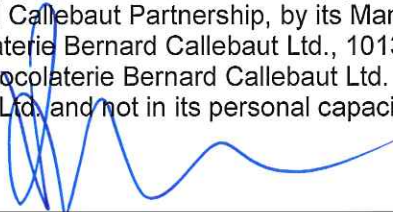
THE CONTEMPT COSTS

19. The Receiver will be seeking costs at the March 23 Application to reimburse the estate for time incurred in relation to the Contempt Application. Both the Receiver and the Receiver's legal counsel have reviewed the time spent on the Contempt Application and estimate that the costs incurred to the estate are approximately \$36,400 for Receiver's fees and disbursements and \$18,500 for the Receiver's legal counsel's fees and disbursements for a total of \$54,900 (the "Contempt Costs").

RECOMMENDATIONS AND CONCLUSION

20. As outlined above, the Receiver is requesting that the Court grant the following Order on March 23, 2011:
- a. Declaring B&F Callebaut in contempt of the Receivership Order;
 - b. Approving the Receiver's intended plan of action with respect to the Removed Assets, as outlined herein;
 - c. Directing that B&F Callebaut pay such amount for the Used Assets as may be ordered by the Court;
 - d. Directing that B&F Callebaut pay the Contempt Costs;
 - e. Approving the allocation of the professional fees and disbursements of both the Receiver and the Receiver's legal counsel between the Land Proceeds and the Partnership Receipts (as outlined herein);
 - f. Approving the payment of a final distribution to Invesco in the amount of \$132,113, consisting of the balance of the Land Proceeds less the Land Costs (as those terms are defined herein) in partial satisfaction of Invesco's secured claim; and
 - g. Approving the payment of all funds held by or collectible by the Receiver, net of costs required to complete the administration of the receivership, into the bankrupt estate of the Callebaut Partnership, where such funds will be distributed to the unsecured creditors pursuant to the provisions of the BIA.

DELOITTE & TOUCHE INC.,
in its capacity as Receiver and Manager of Chocolaterie
Bernard Callebaut Partnership, by its Managing Partner,
Chocolaterie Bernard Callebaut Ltd., 1013988 Alberta
Ltd., Chocolaterie Bernard Callebaut Ltd. and 1054796
Alberta Ltd. and not in its personal capacity



Victor P. Kroeger, CA-CIRP, CFE
Senior Vice President