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File Reference: SM001411-337

January 26, 2023

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FAX AND EMAIL

Prothonotary
Supreme Court of Nova Scotia
The Law Courts
1815 Upper Water Street
Halifax, NS B3J 1S7

Prothonotary:

Re: In the Matter of the Receivership of 11016946 Canada Inc. – Hfx No. 501252
Motion Date: Friday, January 27, 2023 – 9:30 a.m.

We are counsel for the Applicant, the Business Development Bank of Canada, in the above noted matter.

Please direct the attached correspondence to the Honourable Justice Jamieson at your earliest convenience, for the motion scheduled for Friday, January 27 at 9:30 a.m.

Thank you for your assistance with this matter.

Yours very truly,

Sara L. Scott

SLS/ecm

Enclosures

c. Service List
Client

4128-6519-4308



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January 26, 2023

Via Fax (902-424-0524) and Email

Honourable Justice Darlene Jamieson
Supreme Court of Nova Scotia
The Law Courts
1815 Upper Water Street
Halifax, NS B3J 1S7

Justice Jamieson:

Re: In the Matter of the Receivership of 11016946 Canada Inc. – Hfx No. 501252
Motion Date: Friday, January 27 - 9:30 a.m.

We are counsel for Business Development Bank of Canada, the Applicant in the above noted proceeding. We write further to Mark Charles' letter of yesterday's date requesting an adjournment of the motion scheduled for Friday, January 27, 2023 at 9:30 a.m. We note that the letter was not sent to us directly; however, Mr. Kingston; counsel for Deloitte Restructuring Inc., has forwarded the letter.

Mr. Charles' letter has requested an adjournment to allow the guarantor, Ian Cousins, the opportunity to retain counsel. BDC is not in agreement with the adjournment sought for the following reasons:

- Mr. Cousins' lack of counsel was raised in previous appearances with this Court, with no steps being taken to remedy the situation in over a year:
 - On December 2, 2021, on a call with this Court, Mr. Charles stated that Mr. Cousins was looking to retain Kyle Peck at McInnes Cooper; and
 - On January 12, 2022, on a call with this Court, Mr. Charles indicated that Mr. Cousins had not retained counsel and although he was aware of the call, he was not planning to participate. The Court asked to have Mr. Cousins' contact information;

4128-8046-4196

- A receivership order was consented to by the Respondent as part of the forbearance agreement with BDC. The forbearance period ended on July 29, 2022;
- The receivership order being sought is narrower than what the Respondent has already agreed to, being limited to the property located at 123-125 Prince William Street in Saint John, New Brunswick; and
- The Respondent has had two years to address the amount remaining owing to BDC by refinancing or selling its property and all efforts have been unsuccessful.

It is respectfully submitted that the adjournment request should be denied, as it is an attempt to further delay the matter. Should this Court be prepared to grant the adjournment request, BDC would ask that:

1. The matter stay with Your Ladyship, given the long history of the matter; and
2. The adjournment be shorter than the requested time.

BDC wishes to raise one additional point. As BDC has made clear to the Respondent, the loans have been demanded and the full amount is due and owing. Mr. Charles' letter raises a proposed payment by the Respondent to reduce the amount owing to BDC. BDC does not object to the payment being made by the Respondent, but was not agreeable to providing the Respondent additional time in exchange for receiving the payment.

After two years of unsuccessful attempts by the Respondent to address its indebtedness to BDC, there is no solution being proposed that can realistically succeed. While the current situation is unfortunate for all the parties, BDC believes the appointment of Deloitte is necessary and warranted in the circumstances.

Honourable Justice Darlene Jamieson

January 26, 2023

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Yours respectfully,

A handwritten signature in blue ink that reads "Sara L. Scott". The signature is written in a cursive style with a large initial 'S'.

Sara L. Scott

SLS/lis/ecm

c. Service List
Client