

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE) TUESDAY, THE 28TH
)
JUSTICE KOEHNEN) DAY OF JULY, 2020

B E T W E E N :

BANK OF MONTREAL

Applicant

- and -

**BEST MADE TOYS INTERNATIONAL, ULC, BEST MADE TOYS LLC,
BEST MADE TOYS GLOBAL ENTERPRISES LIMITED and BEST MADE TOYS
HOLDINGS LLC**

Respondents

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED; AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

DISTRIBUTION AND DISCHARGE ORDER

THIS MOTION, made by Deloitte Restructuring Inc. (“**Deloitte**”), in its capacity as the court-appointed receiver and manager (in such capacity, the “**Receiver**”), of the assets, undertakings and properties of Best Made Toys International, Best Made Toys LLC, Best Made Toys Global Enterprises Limited (“**BMTGE**”) and Best Made Toys Holdings LLC (collectively, the “**Company**”), for an Order:

- (a) abridging the time for service of the Notice of Motion herein, the Notice of Motion and the First Report of Deloitte, in its capacity as Receiver, dated July 22, 2020 (the “**First Report**”) so that this Motion is properly returnable on July 28, 2020, and dispensing with further service thereof;
- (b) approving the First Report, and the activities of the Receiver as described therein;
- (c) approving the Receiver’s statement of receipts and disbursements dated July 21, 2020 (the “**Receiver’s R&D**”);
- (d) authorizing the Receiver to make distributions to certain employees of BMTGE on account of employee claims in the total approximate amount of USD20,000 (the “**BMTGE Employee Claims**”);
- (e) authorizing an interim distribution to Bank of Montreal (“**BMO**”) in the amount of USD4,400,000, (the “**BMO Interim Distribution**”), and a final distribution of the remaining cash in the receivership estate to BMO following (the “**BMO Final Distribution**”):
- i. the payment of the Remaining Fees (as defined herein), plus any other amounts outstanding pursuant to the Receiver’s charge; and
 - ii. the payment of any priority payables and BMTGE Employee Claims, with such claims to be delivered and paid within 45 days after the granting of this Order (the “**Employee Payment Period**”), failing which the amount of the BMTGE Employee Claims shall be distributed to BMO;

- (f) approving the fees and disbursements of the Receiver as set out in the affidavit of Jordan Sleeth sworn July 22, 2020, the fees and disbursements of the Receiver's counsel, Dentons Canada LLP ("**Dentons**"), as set out in the affidavit of Robert Kennedy sworn July 22, 2020 (collectively, the "**Fee Affidavits**"), together with the estimated fees and disbursements to be incurred by the Receiver and Dentons through completion of the remaining activities in connection with these receivership proceedings, as set out in the First Report (the "**Remaining Fees**");
- (g) discharging and releasing Deloitte as Receiver of the Company, upon the Receiver filing with the Court the certificate in the form attached hereto as Schedule "A" (the "**Receiver's Discharge Certificate**"); and
- (h) such further and other grounds as counsel may advise and this Honourable Court may permit;

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Receiver dated July 22, 2020 and the First Report, and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Amanda Campbell sworn July 23, 2020, filed,

SERVICE

1. **THIS COURT ORDERS** that the timing and method of service of the Notice of Motion and Motion Record is hereby abridged and validated and this Motion is properly returnable today.

DISTRIBUTIONS

2. **THIS COURT ORDERS** that the Receiver is authorized and directed to make distributions to the employees of BMTGE in satisfaction of the BMTGE Employee Claims, as described in the First Report, provided that such distributions on account of the BMTGE Employee Claims are completed and delivered to the employees prior to the expiry of the Employee Payment Period.

3. **THIS COURT ORDERS** that the Receiver is authorized and directed to make the BMO Interim Distribution to BMO in partial satisfaction of the amounts owing by the Company to BMO, and to make the Final BMO Distribution of the remaining cash in the receivership estate to BMO following:

- (a) the payment of the Remaining Fees, plus any other amounts outstanding pursuant to the Receiver's charge; and
- (b) upon the earlier of the payment of all BMTGE Employee Claims or, the expiry of the Employee Payment Period.

RECEIVER'S ACTIVITIES

4. **THIS COURT ORDERS** that the First Report and the activities of the Receiver as set out in the First Report are hereby approved.

5. **THIS COURT ORDERS** that: (i) the fees and disbursements of the Receiver and Dentons, as set out in the First Report and the Fees Affidavits are hereby approved, (ii) the Remaining Fees are hereby approved and no further approval of the fees and disbursements of the Receiver or Dentons is required in respect of the Remaining Fees, and (iii) the Receiver is hereby authorized to pay any unpaid fees and disbursements.

6. **THIS COURT ORDERS** that the Receiver's R&D is hereby approved.

DISCHARGE

7. **THIS COURT ORDERS** that, after payment of the amounts herein approved, and upon the Receiver filing the Receiver's Discharge Certificate certifying that it has completed the remaining activities described in the First Report, Deloitte shall be discharged as Receiver, provided however, that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership proceedings, and (b) 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, in its capacity as Receiver.

8. **THIS COURT ORDERS** that upon filing the Receiver's Discharge Certificate, Deloitte shall be released and discharged from any and all liability that Deloitte now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Deloitte while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, Deloitte shall be hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.



Schedule “A” – Form of Receiver’s Discharge Certificate

Court File No.: CV-19-00618506-00CL

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DISCHARGE CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Haaney of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated April 25, 2019, Deloitte Restructuring Inc. (“**Deloitte**”) was appointed as receiver and manager (in such capacity, the “**Receiver**”), of the assets, undertakings and properties of Best Made Toys International, Best Made Toys LLC, Best Made Toys Global Enterprises Limited and Best Made Toys Holdings LLC (collectively, the “**Company**”).

B. Pursuant to an Order of the Court dated July 28, 2020 (the “**Distribution and Discharge Order**”), Deloitte was discharged as Receiver of the Company, effective upon the filing by the Receiver with the Court of a certificate confirming that all matters to be attended to in

connection with the completion of the administration of the receivership proceeding herein have been completed to the satisfaction of the Receiver (the “**Remaining Activities**”), as set out in the Receiver’s First Report dated July 22, 2020 (the “**First Report**”), provided however that, notwithstanding its discharge: (a) Deloitte will remain Receiver for the performance of the Remaining Activities, and (b) Deloitte as Receiver will continue to have the benefit of the provisions of all Orders made in this proceeding including all approvals, protections and stays of proceedings in favour of Deloitte, in its capacity as the Receiver.

THE RECEIVER CERTIFIES the following:

1. The Receiver has paid all amounts required to be paid pursuant to the Distribution and Discharge Order; and
2. The Receiver is satisfied that all Remaining Activities have been completed to the satisfaction of the Receiver.

THIS CERTIFICATE was delivered by the Receiver on _____, 2020.

DELOITTE RESTRUCTURING INC., solely in its capacity as the court-appointed receiver of the Company, and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

BANK OF MONTREAL
Applicant

- and -

BEST MADE TOYS INTERNATIONAL, ULC, et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
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PROCEEDING COMMENCED AT TORONTO

DISTRIBUTION AND DISCHARGE ORDER

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*Lawyers for Deloitte Restructuring Inc., in its capacity as
Court-appointed Receiver of Best Made Toys
International., ULC, et al.*