

COURT FILE NUMBER QBG 40 of 2019

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

JUDICIAL CENTRE YORKTON

IN THE MATTER OF THE RECEIVERSHIP OF
EMW INDUSTRIAL LTD., EMW INDUSTRIAL INC., E&S MORRISON FAMILY
HOLDINGS LTD., PEPPER MAINTENANCE CANADA (2005) INC., EMW
HOLDINGS LTD., and EMW REAL ESTATE CO. LTD.

ORDER

(Approval of 2019 Farm Management Agreement and Specified Grain Sales)

Before the Honourable Mr. Justice D.H. Layh in Chambers the 22nd day of May, 2019.

Upon the application of Deloitte Restructuring Inc. (the "Receiver"), in its capacity as the court-appointed receiver of all of the personal property of the debtors, EMW Industrial Ltd., EMW Industrial Inc., E&S Morrison Family Holdings Ltd., Pepper Maintenance Canada (2005) Inc., EMW Holdings Ltd., and EMW Real Estate Co. Ltd. (collectively, the "Debtors"), and upon hearing from Robert J. Taylor of Deloitte Restructuring Inc., Michael W. Milani, Q.C., counsel on behalf of the Receiver, Jeffrey M. Lee, Q.C., counsel on behalf of The Toronto-Dominion Bank, Janine L. Lavoie-Harding, counsel on behalf of Farm Credit Canada, James P. Kroczyński, counsel on behalf of Rabobank Canada and Richardson Pioneer Limited, and Rob Phillips, president of Commercial Sand Blasting & Painting and Western Urethane (1995) Ltd., and upon reading the Notice of Application dated May 15, 2019, the First Report of the Receiver dated May 17, 2019 (the "First Report"), and a proposed draft Order, all filed; and the pleadings and proceedings taken herein:

The Court Orders:

GENERAL

1. Capitalized terms not otherwise defined in this Order have the meanings ascribed to them in the Order of the Honourable Mr. Justice D.H. Layh issued April 11, 2019 (the "Receivership Order") and the First Report, respectively.

SERVICE

2. Service of the Notice of Application on behalf of the Receiver and the materials filed in support thereof (collectively, the "Application Materials") on all parties listed in the Service List established in these proceedings shall be and is hereby deemed to be good and valid and, further, shall be and is hereby abridged, such that service of such Application Materials is deemed to be timely and sufficient.

RECEIVER'S ACTIONS, RECEIPTS, AND DISBURSEMENTS

3. The Receiver's activities, actions, conduct, fees, disbursements, and proposed courses of action, including the legal fees of the Receiver's legal counsel, as outlined in Appendix C to the First Report, are approved.

APPROVAL OF THE INTER-CREDITOR PRIORITY AGREEMENT AND THE 2019 FARM MANAGEMENT AGREEMENT

4. The Receiver's execution of a 2019 Farm Management Agreement and related agreements (collectively, the "Farming Agreements") between the Receiver, in its capacity as the court-appointed receiver of all of the personal property of E&S Morrison Family Holdings Ltd. ("E&S"), and Farm Credit Canada, in a substantially similar form to the drafts appended to the First Report as Appendix B, are hereby approved.
5. The Receiver's execution of an Inter-Creditor Priority Agreement (the "Inter-Creditor Priority Agreement") between the Receiver, in its capacity as the court-appointed receiver of all of the personal property of E&S, E&S, Farm Credit Canada, The Toronto-Dominion Bank, and Richardson Pioneer Limited ("Richardson Pioneer"), in a substantially similar form to the draft appended to the First Report as Appendix B1, is hereby approved.
6. The Receiver is authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable in to finalize the Inter-Creditor Priority Agreement and Farming Agreements, as the case may be, and to enable E&S to carry on its farming operation as contemplated by the same.

GRAIN SALES FROM THE E&S' GRAIN INVENTORY

7. The Receiver is authorized and directed to complete the grain sales (the "Transactions") from E&S' grain inventory (the "Grain") to Richardson Pioneer and Cargill (collectively, the "Purchasers"), as more particularly described in paragraphs 64-65 of the First Report.
8. For greater certainty and by virtue of the stay of proceedings imposed by paragraph 9 of the Receivership Order, any rights or remedies the Purchasers may have against E&S or any other Person arising from any matters occurring prior to the date of the Receivership Order (including, without limitation, any set-off rights) are stayed and suspended (except with the written consent of the Receiver or leave of this Court), such that the Purchasers shall be required to pay the full amount of the purchase price contemplated by the Transactions (the "Proceeds") to the Receiver.

9. Upon the completion of the Transactions, the Proceeds shall stand in the place and stead of the Grain and all security interests (whether contractual, statutory, or otherwise), hypothecs, interests, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, judgments, enforcement charges, levies, charges, or other financial or monetary claims (collectively, the "Encumbrances") and all rights of others, whether or not they have attached or been perfected, registered, or filed and whether secured, unsecured, or otherwise (collectively, the "Claims") shall attach to the Proceeds with the same priority as they had with respect to the Grain immediately prior to the Transactions, as if the Grain had not been sold and remained in the possession or control of E&S or the Receiver.
10. The Receiver shall hold the Proceeds in trust pending a future determination of the nature and relative priority of the Encumbrances and the Claims and further Order of the Court.

MISCELLANEOUS MATTERS

11. The Receiver and any other interested party shall be at liberty to apply for further advice, assistance, and direction from this Honourable Court as may be required to enforce or carry out the terms of this Order.
12. This Court hereby requests the aid and recognition of any court, tribunal, regulatory, or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders as to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
13. This Order shall be served on the Service List in accordance with the Protocol established in these proceedings.

ISSUED at Saskatoon, Saskatchewan this 21st day of May, 2019.


(Deputy) Local Registrar

**DUPLICATE
ORIGINAL**

CONTACT INFORMATION AND ADDRESS FOR SERVICE

Name of firm:	McDougall Gauley LLP
Lawyer in charge of file:	Michael W. Milani, Q.C.
Address of firm:	1500 - 1881 Scarth Street, Regina SK S4P 4K9
Telephone number:	306-565-5117
Facsimile number:	306-359-0785
E-mail address:	<u>mmilani@mcdougallgauley.com</u>