

DISTRICT OF: NOVA SCOTIA
DIVISION NO: 01 – HALIFAX
COURT NO: 2021 HFX NO. 503367
ESTATE NO: 51-126312



**FOURTH REPORT OF DELOITTE RESTRUCTURING INC.
IN ITS CAPACITY AS RECEIVER OF
3304051 NOVA SCOTIA LIMITED**

NOVEMBER 12, 2021

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INTRODUCTION AND PURPOSE OF THIS REPORT

1. On January 22, 2021, Deloitte Restructuring Inc. ("**Deloitte**") was appointed interlocutory receiver and manager (the "**Interlocutory Receiver**") without security, over certain assets, undertakings and properties of 3304051 Nova Scotia Limited operating as Hefler Forest Products ("**Hefler**") pursuant to an order (the "**Interlocutory Receivership Order**") granted by the Supreme Court of Nova Scotia in Bankruptcy and Insolvency (the "**Court**").
2. On February 11, 2021, Deloitte was appointed as the receiver and manager (in such capacity the "**Receiver**") without security, of all of the assets, undertakings and properties of Hefler acquired for, or used in relation to, a business carried on by Hefler pursuant to an order (the "**Appointment Order**") of the Court.
3. In addition to the Appointment Order, the Court also issued the following orders on February 11, 2021:
 - a) an order (the "**Sale Process Order**") authorizing the Receiver to complete the sale and investment solicitation process (the "**SISP**") as outlined in the First Report; and
 - b) an order (the "**Bankruptcy Order**") adjudging Hefler bankrupt. The Receiver was appointed as the Licensed Insolvency Trustee (the "**Trustee**"), which appointment was affirmed by the creditors during the first meeting of creditors held on March 2, 2021.
4. On April 27, 2021, the Court issued the following orders:
 - a) an order (the "**MacAdam Sale Approval and Vesting Order**") authorizing the Receiver to sell the real property and certain personal property to MacAdam Construction Inc. ("**MacAdam**");
 - b) an order (the "**Nova Scotia Power Sale Approval and Vesting Order**") authorizing the Receiver to sell the power purchase agreements to Nova Scotia Power Inc. ("**NSPI**"); and
 - c) an order (the "**Confidentiality Order**") sealing certain information regarding the Sale Process for a period of six months.
5. On June 18, 2021, the Receiver filed its third report (the "**Third Report**") with the Court which, amongst other things, sought the following orders:
 - a) an order (the "**Interim Distribution Order**") authorizing the Receiver to distribute funds to Canadian Imperial Bank of Commerce ("**CIBC**");
 - b) an order (the "**Initial Professional Fee Order**") approving the activities, fees and disbursements of the Receiver and its independent legal counsel, Wickwire Holm ("**Wickwire**"); and
 - c) an order (the "**Initial Discharge Order**") discharging the Receiver subject to certain conditions.
6. Following consultation with estate stakeholders, namely CIBC and legal counsel to the guarantors, the Receiver agreed to withdraw the Initial Professional Fee and the Initial Discharge Order.

7. On June 30, 2021 the Court, amongst other things, issued the following orders:
- a) the Interim Distribution Order authorizing the Receiver to distribute \$3,344,219.00 to CIBC; and
 - b) an order (the "**Wickwire Fee Order**") approving the fees and disbursements of Wickwire in the amount of \$36,340.74, inclusive of HST, up to and including May 31, 2021.
8. The purpose of this fourth report (the "**Fourth Report**") is to provide information to the Court with respect to:
- a) the Receiver's activities and its administration of the estate since the filing of the Third Report;
 - b) an update on the administration of the Hefler bankruptcy estate;
 - c) the Receiver's request that the Court issue an order (the "**Final Distribution Order**") authorizing the Receiver to pay all remaining funds in the estate to CIBC;
 - d) the Receiver's request for an order (the "**Amended Professional Fee Order**") approving the activities and fees and disbursements of the Receiver and Wickwire as described in the Fourth Report; and
 - e) the Receiver's request for an order (the "**Amended Discharge Order**") discharging the Receiver.
9. The Appointment Order, together with related Court documents and other materials relevant to the Receivership, are posted on the Receiver's website at <https://www.insolvencies.deloitte.ca/en-ca/Pages/3304051-Nova-Scotia-Limited.aspx>.

TERMS OF REFERENCE

10. In preparing this Fourth Report, Deloitte has been provided with, and has relied upon, unaudited, draft and/or internal financial information, Hefler's books and records, and information from third-party sources (collectively, the "**Information**"). Except as described in this Fourth Report:
- a) Deloitte has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, Deloitte has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Audit Standards ("**CAS**") pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CAS in respect of the Information.
 - b) Deloitte has prepared this Fourth Report in its capacity as Receiver to provide information to the Court for its consideration of the relief being sought. Parties using this Fourth Report other than for the purposes outlined herein are cautioned that it may not be appropriate for their purposes.
11. Unless otherwise stated, all dollar amounts contained in this Fourth Report are expressed in Canadian Dollars.

ACTIVITIES OF THE RECEIVER

12. Since the filing of the Third Report, the Receiver's activities have included, but were not limited to:

- a. worked in conjunction with Wickwire to realize upon scaffolding, Hefler's business name and Hefler's interest in Westfor Management Inc. ("**Westfor**") (collectively referred to in the Third Report as the "**Unrealized Assets**") as follows:
 - i. on June 17, 2021, following the conclusion of a claims process involving the scaffolding, the Receiver transferred the scaffolding to MacAdam pursuant to the terms of the MacAdam Sale Approval and Vesting Order;
 - ii. on July 8, 2021, the Receiver sold its right, title and interest in the business name of Hefler to MacAdam for \$1,500.00 inclusive of HST. Taking into consideration challenges faced by organizations operating under the businesses over the last decade (i.e. two insolvency events) and the limited marketability of the asset, the Receiver believes the proceeds received to be reasonable;
 - iii. on August 13, 2021, the Receiver sold its right, title and interest in Hefler's equity holding (the "**Share**") in Westfor to Westfor for \$7,500.00 inclusive of HST.

The Receiver arrived at this decision for following reasons:

1. After acquiring the assets of Hefler Forest Products Limited, Hefler did not complete documentation to legally transfer the Share, however, continued to trade with Westfor. The Receiver claimed that a beneficial ownership over the Share existed; however, legal counsel to Westfor did not necessarily accept this position;
 2. Equity interests in Westfor are not openly traded and limited information was available to the Receiver to establish a recent market value. Furthermore, given the nature of the Share, the number of potential interested parties would be limited, reducing the likelihood of receiving additional value through an open sale process; and
 3. The Receiver consulted with a Chartered Business Valuator when considering the offer from Westfor whose analysis indicated that, outside of a formal windup of Westfor, the Share had only nominal value;
- b. worked in conjunction with representatives from the Canada Revenue Agency ("**CRA**") to complete the trust examination of Hefler's payroll source deduction account (the "**CRA Trust Exam**");
 - c. participated in discussions with legal counsel for the Guarantors to understand the Guarantors' concerns about the Receiver's professional fees and subsequently resolved these concerns; and
 - d. participated in discussions with CIBC and its legal counsel regarding the conclusion of the estate.
13. A summary of estate receipts and disbursements (the "**R&D**") as at November 9, 2021, is enclosed as **Appendix A**.

14. Significant receipts contained within the R&D include:
 - a) proceeds from the sale of assets of Hefler, including refundable deposits of \$4,921,626.09;
 - b) collection of trade accounts receivable of \$437,735.02;
 - c) collection of harmonized sales tax ("HST") of \$383,979.91; and
 - d) collection of CEWS amounts totaling \$111,669.77.
15. Significant disbursements contained within the R&D include:
 - a) repayment of deposits to unsuccessful bidders of \$1,463,785.00;
 - b) HST remitted to CRA of \$369,288.50;
 - c) payment of professional fees and disbursements paid to the Receiver of \$217,365.76 and Wickwire of \$38,973.50 for the administration of the estate;
 - d) payments to contractors who provided security and maintenance services of \$100,978.00;
 - e) payment of insurance premiums of \$63,870.42;
 - f) payment of utilities of \$63,703.24; and
 - g) payment of property taxes to the Halifax Regional Municipality of \$38,698.19.
16. As of the date of the Fourth Report, the Receiver is holding \$112,110.60 in trust (the "Trust Funds").
17. With the CRA Trust Exam and disposition of the Unrealized Assets complete, the Receiver anticipates that its remaining activities will include:
 - a) filing HST returns and collecting all remaining refunds;
 - b) completing any outstanding filings with CRA; and
 - c) if the Court sees fit to grant the Final Distribution Order, distribute all remaining funds to CIBC (the "Distributable Funds").

BANKRUPTCY OF HEFLER

18. The Receiver has previously provided the Court with updates regarding the administration of the bankrupt estate of Hefler. The bankruptcy of Hefler was completed to align creditor priorities and there will be no distributions from the estate.
19. As at the date of the Fourth Report, the administration of the bankruptcy estate is substantially complete and the Trustee will be making an application for its discharge shortly.

FINAL DISTRIBUTION

20. On February 24, 2021, the Receiver, in its capacity as the Trustee of the Hefler bankrupt estate, received, reviewed and accepted a proof of claim from CIBC claiming indebtedness as of the date of bankruptcy of \$6,646,978.45 (the "CIBC Proof of Claim").
21. The Receiver has previously provided the Court with copies of the independent security opinion (the "Security Opinion") received from Wickwire advising that CIBC holds a first ranking valid

- and enforceable security interest over Hefler's assets with the exception of one piece of equipment that was not included in the SISP.
22. On July 8, 2021, the Receiver distributed \$3,344,219.00 to CIBC pursuant to the Initial Distribution Order (the "Initial Distribution").
 23. In addition to the Initial Distribution, CIBC has advised the Receiver that it has received a payment from the Guarantors as a partial settlement on the guarantee claim.
 24. On November 3, 2021, CIBC advised the Receiver that the revised indebtedness owing is \$110,867.08 (the "CIBC Indebtedness").
 25. As outlined and discussed above, the Receiver is currently holding \$112,110.60.
 26. The Receiver has completed a schedule (the "Final Distribution Summary") that outlines the anticipated receipts and disbursements still to occur in the estate, a copy of which is enclosed as **Appendix B**. As of the date of the Fourth Report, the Receiver is projecting to have \$81,883.46 available for distribution (the "Projected Distribution Funds") after payment of remaining costs and fees in the Hefler receivership.
 27. As the CIBC Indebtedness exceeds the Projected Distribution Funds, and based on the Security Opinion, the Receiver is seeking approval from the Court to distribute the Projected Distribution Funds to CIBC.
 28. Given the information presented and discussed herein, the Receiver requests that the Court grant the Final Distribution Order as outlined and enclosed with the Receiver's motion materials.

PROFESSIONAL FEES

29. The Receiver, and its independent legal counsel, Wickwire, have maintained detailed records of their professional time and costs since the granting of the Interlocutory Receivership Order.
30. The total fees of the Receiver for the period January 22 to November 10, 2021 total \$227,261.00, together with expenses and disbursements of \$16,729.11 and HST of \$31,718.72 for a total of \$275,708.83. Included in the fees up to and including, November 10, 2021, the Receiver has accrued \$2,956.31 inclusive of HST to conclude the administration of the receivership estate. Further information regarding the fees and disbursements of the Receiver are contained within the Foran Affidavit which has been filed separately with the Court.
31. Fees and disbursements of Wickwire up to and including May 31, 2021, were approved by the Court pursuant to the Wickwire Fee Order. During the period June 1 to October 31, 2021 Wickwire has incurred fees of \$9,018.00 together with expenses and disbursements of \$160.25 and HST of \$1,356.53 for a total of \$10,534.78. In addition to the fees incurred between June 1 and October 31, 2021, the Receiver has accrued \$5,342.60 inclusive of HST to conclude the administration of the receivership estate. Further information regarding the fees and disbursements of Wickwire are contained within the Dunning Affidavit, which has been filed separately with the Court.
32. Based on the information outlined above and contained within the Foran Affidavit and Dunning Affidavit, the Receiver respectively submits that its fees and disbursements, together with the fees and disbursements of Wickwire, together with the estimated remaining fees, are reasonable in the circumstances and have been or will be validly incurred in accordance with the provisions contained within the appointment.

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33. The Receiver is currently seeking the approval of the Court for the Receiver's activities and its fees and disbursements, including the fees and disbursements of its legal counsel as described herein.

RECEIVER'S DISCHARGE

34. The Receiver's remaining activities and duties will include:
- a) the filing and collection of excise tax returns;
 - b) the filing of outstanding corporate tax returns;
 - c) the payment of all outstanding invoices of Deloitte and Wickwire;
 - d) distributing funds pursuant to the Final Distribution Order, if the Court sees fit to grant it; and
 - e) the filing of the Receiver's interim report pursuant to section 246(2) of the *Bankruptcy and Insolvency Act* ("BIA") and the Receiver's final report pursuant to section 246(3) of the BIA.
35. To the best of the Receiver's knowledge and belief, all duties of the Receiver as outlined in the Appointment Order have been or will be completed and the Receiver respectfully requests that this Court grant an Order discharging the Receiver.

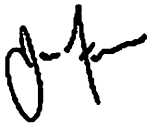
CONCLUSION

36. The Fourth Report has been prepared to provide this Court with information regarding the Receiver's activities since the Third Report, and in support of the relief requested herein.
37. Based on the foregoing, the Receiver requests the Court grant the orders in the form submitted by its counsel.

All of which is respectively submitted on November 12, 2021.

DELOITTE RESTRUCTURING INC.

In its capacity as
Receiver of 3304051 Nova Scotia Limited
and not in its personal capacity.



James Foran
Senior Vice President

FOURTH REPORT DELOITTE RESTRUCTURING INC.
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Appendix A

STATEMENT OF RECEIPTS AND DISBURSEMENTS

District of: Nova Scotia
Division No: 01
Estate No: 51-126312

In the matter of the receivership of
3304051 Nova Scotia Limited
the town of Middle Sackville, in the Province of Nova Scotia

Form 12
Interim Statement of Receipts and Disbursement
for the period from January 22 to November 9, 2021

RECEIPTS

1. Payment receipts		
Proceeds from asset sales	2,835,826.09	
Deposits received from sale process	2,085,800.00	
Collection of accounts receivable	437,735.02	
HST collected	383,979.91	
Collection of CEWS	111,669.77	
Collection of pre-receivership HST refund	18,458.34	
HST refund	29,824.37	
Refund of Insurance premiums	2,482.16	
Sale of Inventory	2,040.00	
Cash on hand	<u>235.35</u>	5,908,051.01

TOTAL RECEIPTS

5,908,051.01

DISBURSEMENTS

2. Operating disbursements		
Return of deposits - sale process	1,463,785.00	
HST remitted	369,288.50	
Receiver fees and disbursements	217,365.76	
Contractors	100,978.00	
Insurance	63,870.42	
Utilities	63,703.24	
HST paid	47,264.93	
Property taxes (Note 1)	38,698.19	
Legal fees	38,973.50	
WEPPA (Accrual)	15,647.02	
Transfer to third party account	15,000.00	
Appraisal fees	4,000.00	
Security	2,768.89	
Telephone and internet services	2,655.43	
Miscellaneous	2,383.82	
Locksmith	1,758.17	
Advertising	1,601.50	
Bank charges	1,382.50	
Repairs and maintenance	525.00	
Fees paid to official receiver	<u>71.54</u>	2,451,721.41

3. Distribution to secured creditor		
Payment to CIBC	<u>3,344,219.00</u>	3,344,219.00

TOTAL DISBURSEMENTS

5,795,940.41

AMOUNT RETAINED IN TRUST ACCOUNT

112,110.60

Notes to the Interim Receipts and Disbursements

Note 1 - The above amount was paid directly by Wickwire Holm to the Halifax Regional Municipality.

DELOITTE RESTRUCTURING INC.

Acting in its capacity as
Court Appointed Receiver of 3304051 Nova Scotia Limited
and not in its personal capacity

Per: 

James Foran
Senior Vice President

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Appendix B

FINAL DISTRIBUTION SUMMARY

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3304051 Nova Scotia Limited - in Receivership
Final distribution summary
Prepared by Deloitte Restructuring Inc. ("Deloitte") - Court appointed Receiver
Prepared on November 9, 2021

Funds held in trust	112,110.60
Adjustments	
Final invoice of Deloitte (including accrual)	(30,085.52)
Final invoice of Wichwire (including accrual)	(7,500.00)
Collection of utilities refund	169.80
Excise taxes recoverable	<u>7,188.58</u>
	(30,227.14)
Funds estimated to be available for distribution	<u>81,883.46</u>