

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Commercial Division)

(Sitting as a court designated pursuant to the
Bankruptcy and Insolvency Act, RSC 1985, c B-3)

No.: 500-11-057470-193
500-11-057469-195

**IN THE MATTER OF THE AMENDED PROPOSAL
OF:**

BOUCLAIR INC.

-and-

BOUCLAIR INTERNATIONAL INC.

Debtors

-and-

DELOITTE RESTRUCTURING INC.

Petitioner/Trustee/Proposed Receiver

APPLICATION FOR A RECEIVERSHIP ORDER
(Section 243 of the *Bankruptcy and Insolvency Act*)

**TO THE HONOURABLE JUSTICE CORRIVEAU OF THE SUPERIOR COURT,
SITTING IN COMMERCIAL DIVISION, IN THE JUDICIAL DISTRICT OF MONTRÉAL,
THE PETITIONER/TRUSTEE/PROPOSED RECEIVER RESPECTFULLY SUBMITS AS
FOLLOWS:**

I. INTRODUCTION

1. On November 11, 2019, Bouclair Inc. and Bouclair International Inc. (collectively, "**Bouclair**", or the "**Debtors**") each filed a Notice of intention to make a proposal ("**NOI**") under the relevant provisions of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 ("**BIA**") and Deloitte Restructuring Inc. was appointed as trustee thereto ("**Deloitte**" or the "**Trustee**"), the whole as appears from the Court record.
2. By the present application, the Trustee is seeking a receivership order (the "**Receivership Order**"), appointing Deloitte as receiver (in such capacity, the

“Receiver”) without security of the Debtors over a certain limited pool of funds, for the sole purpose of allowing the Debtors’ employees to benefit from payments provided under the *Wage Earner Protection Program Act* (S.C. 2005, c. 47, s. 1) (the “**WEPPA**”), the whole in accordance with the draft Receivership Order communicated herewith as **Exhibit P-1**.

II. EVENTS LEADING TO THE PRESENT APPLICATION

3. As described more fully in various applications filed by the Debtors to the Court record, as at November 11, 2019, Bouclair employed approximately 1,150 non-unionized employees. Of these:
 - (a) approximately 688 employees were located in Québec;
 - (b) approximately 329 were employed full-time, whereas approximately 792 were employed part-time;
 - (c) approximately 992 employees were associates in the Stores; and
 - (d) approximately 158 were employed at Bouclair's head office located in Pointe-Claire, Québec.
4. In addition, approximately 90 additional employees were hired through an agency to work at Bouclair’s warehouse located in Pointe-Claire, Québec.
5. On May 22, 2020, in the context of these NOI proceedings, the Court approved a sale transaction (the “**Transaction**” and the “**Approval Order**”), whereby substantially all of the Debtors’ assets were sold to a purchaser, the whole as appears from the Court record.
6. Pursuant to the Transaction and the Approval Order, a substantial majority of the Debtors’ employees (i.e. approximately 800 employees) were transferred to the Purchaser.
7. Unfortunately, the remainder of the Debtors’ employees (i.e. approximately 380 employees) have been, or are contemplated to be, terminated in the course of the Debtors’ restructuring process (the “**Terminated Employees**”). Most of these Terminated Employees were terminated or will be terminated due to the closure of thirty-eight (38) of the Debtors’ retail locations during the course of these proceedings.
8. Even though a majority of the Terminated Employees were terminated several months ago, the Terminated Employees have not yet received any compensation on their claims against the Debtors.
9. On May 11, 2020, the Debtors, with the assistance of the Trustee, filed a proposal to their creditors (as subsequently amended, the “**Proposal**”) with the Office of the Superintendent of Bankruptcy Canada pursuant to section 62 of the BIA.

10. Pursuant to the filing of the Proposal, and in accordance with the Omnibus Order issued on April 30, 2020, by the Honourable Justice Louis J. Guin, j.c.s., in *Proposition de St-Pierre*, 2020 QCCS 1374, the Debtors have until July 21, 2020, to hold a meeting of creditors as provided by section 51 of the BIA (the “**Meeting of Creditors**”).
11. On July 8, 2020, the Debtors, with the assistance of the Trustee, filed an *Amended Proposal* in which, *inter alia*, the amount of the basket amount to be paid to unsecured creditors was increased from \$500,000 to \$1,325,000, as appears from a copy of the *Amended Proposal* communicated herewith as **Exhibit P-2**.
12. On or around July 9, 2020, the Trustee sent to the Petitioners’ creditors:
 - (a) a *Notice of Amended Proposal to Creditors* pursuant to section 51 of the BIA, in which, *inter alia*, the Trustee advised the Petitioners’ creditors that the Meeting of Creditors will be held on July 21, 2020, at 10:00 a.m. by videoconference;
 - (b) the *Trustee’s Report on the Amended Proposal* pursuant to section 50(10) of the BIA; and
 - (c) other relevant documents in connection with the Meeting of Creditors;

the whole as appears from the Amended Proposal’s materials sent by the Trustee to the Debtors’ creditors, copies of which are communicated herewith, *en liasse*, as **Exhibit P-3**.

III. GROUNDS FOR THIS APPLICATION

13. Pursuant to the Proposal, other than the priority amounts payable to the employees pursuant to section 81.4 of the BIA, most Terminated Employees will only receive a fraction of the amounts owed to them due to their termination.
14. Pursuant to the WEPPA, individuals may be eligible to receive certain payments from the government in respect of wages and severance payments owed to them by employers who are bankrupt or subject to a receivership. Employees of an employer that filed a proposal under the BIA are not eligible to receive payments under the WEPPA. Therefore, the Terminated Employees are currently not eligible to receive any such payments.
15. In these circumstances, the Trustee is of the view that it would be just and convenient to allow for the appointment of the Receiver under section 243(1) of the BIA over cash in the amount of \$100.00, deposited in a bank account with the National Bank of Canada, identified as Schedule “A” to the draft Receivership Order (Exhibit P-1), and over no other property of the Debtors, in order to allow the Terminated Employees to receive certain payments in respect of “eligible wages” under the WEPPA, in addition to the amounts they will be entitled to pursuant to the Proposal.

16. The Trustee is making the present application in its capacity as secured creditor of the Debtors, in accordance with section 243(1) of the BIA, given that all outstanding professional fees owing by the Debtors to the Trustee are guaranteed by a super-priority charge ordered by this Court.
17. The appointment of the Receiver will be limited to what is necessary in order to allow the Terminated Employees to benefit from the WEPPA, and will not affect the present proceedings nor the transactions concluded in the context thereof.
18. Considering the Trustee's reporting obligations under the BIA, it seeks a declaration relieving the Receiver from compliance with the provisions of sections 254(1), 245(2) and 246 of the BIA.
19. The appointment of the Receiver will not cause any prejudice to any party and would only serve to benefit the Terminated Employees.
20. Deloitte consents to its appointment as receiver in these circumstances.
21. The Debtors support this application.

FOR THESE REASONS, MAY IT PLEASE THIS HONOURABLE COURT TO:

GRANT the present *Application for a receivership order* (the "**Application**");

ISSUE an order substantially in the form of the draft Receivership Order communicated herewith as Exhibit P-1;

ORDER the provisional execution of the order to be rendered on the present Application notwithstanding appeal and without security;

THE WHOLE WITHOUT COSTS, save in the event of contestation.

MONTREAL, July 15, 2020

Osler, Hoskin & Harcourt LLP

Osler, Hoskin & Harcourt LLP

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AFFIDAVIT

I the undersigned, Martin Franco, CPA, CA, CIRP, LIT, domiciled for the purpose hereof at 1190 Avenue des Canadiens-de-Montréal, Suite 500, Montréal, Province of Québec, H3B 0M7, solemnly declare the following:

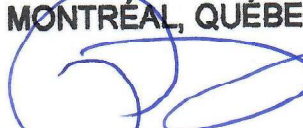
1. I am a Senior Vice President of Deloitte Restructuring Inc. and a duly authorized representative for the purposes hereof.
2. I have taken cognizance of the attached *Application for a receivership order* (the "**Application**").
3. All of the facts alleged in the Application of which I have personal knowledge are true.
4. Where I have obtained facts alleged in the Application from others, I believe them to be true.

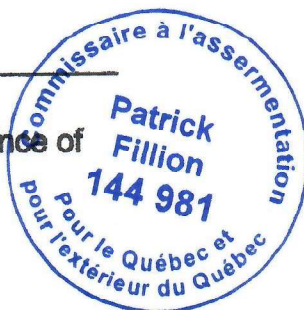
AND I HAVE SIGNED:



MARTIN FRANCO

SOLEMNLY DECLARED BEFORE ME BY
TECHNOLOGICAL MEANS IN
MONTREAL, QUEBEC, ON JULY 15, 2020.


Patrick Fillion
Commissioner for Oaths for the Province of
Québec



NOTICE OF PRESENTATION

TO: SERVICE LIST (SEE ATTACHED)

TAKE NOTICE that the *Application for a receivership order* will be presented for hearing and allowance in the Superior Court (Commercial Division), on **July 17, 2020**, at a time and in such manner as the Court may direct, which shall be communicated to the Service List.

MONTREAL, July 15, 2020

Osler, Hoskin & Harcourt LLP

Osler, Hoskin & Harcourt LLP

Attorneys for Petitioner/Trustee/Proposed Receiver

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LIST OF EXHIBITS

- P-1 Draft Receivership Order
- P-2 Amended Proposal
- P-3 Amended Proposal's materials, *en liasse*

MONTRÉAL, July 15, 2020

Osler, Hoskin & Harcourt LLP

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Attorneys for Petitioner/Trustee/Proposed Receiver