

2019 01G 2868

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

GENERAL DIVISION

IN THE MATTER OF: An Application by **Deloitte Restructuring Inc., Monitor of BRITISH CONFECTIONERY COMPANY LIMITED** and **BRITISH BAZAAR COMPANY LIMITED** (the "Monitor") for relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as am.

AFFIDAVIT OF R. BRUCE JOHNSON

I, **R. BRUCE JOHNSON**, make oath and give evidence as follows:

1. I am a partner with Ellsworth Johnson & Partners which represents Deloitte Restructuring Inc., in its capacity as the Court-appointed Monitor (the "**Monitor**") of **BRITISH CONFECTIONERY COMPANY LIMITED** and **BRITISH BAZAAR COMPANY LIMITED**, the Applicants pursuant to the *Companies Creditors Arrangement Act*.
2. I have personal knowledge of the evidence sworn to in this Affidavit except where otherwise stated to be based on information or belief.
3. I state, in this Affidavit, the source of any information that is not based on my personal knowledge, and I state my belief of the source.
4. Paragraph 22 of the May 1, 2019 Initial Order in these proceedings provided that the Monitor and counsel to the Monitor were to be paid their reasonable fees and disbursements by the Applicants at their standard rates. The Administration Charge created within the May 1, 2019 Charging Order provided security over the assets of the Applicants in respect of the fees and disbursements incurred by the Monitor and by the Monitor's counsel, both before and after the issuance of the Initial Order in an amount not to exceed \$100,000.00.
5. This Affidavit is made in support of a Motion by the Monitor for an Order which includes approval of the fees and disbursements of the Monitor and the Monitor's counsel for the period from October 31, 2018 to July 10, 2019 with the issuance of a Discharge Certificate (as defined in the draft Discharge Order).
6. It is my understanding that the Monitor's own accounts shall be appended to the Third Report of the Monitor, which is to be filed in support of the present Motion.
7. During the period between May 30, 2019 and July 3, 2019, Ellsworth Johnson & Partners recorded 56.2 hours of work in respect of these CCAA proceedings, which amounted to

fees totalling \$18,714.00. Disbursements incurred by Ellsworth Johnson & Partners during this same period totalled \$935.62, and HST Applicable to the accounts totalled \$2,947.45 for a grant total of \$22,597.07. Attached hereto marked as Exhibit "1" are the statements of account issued by Ellsworth Johnson & Partners in this matter in connection with these CCAA proceedings over the period described above.

- 8. Exhibit "1" contains a description of the services rendered to the Monitor in a fair, reasonable and detailed manner, together with the hourly rates of the lawyers working on the matter.
- 9. Each invoice attached in Exhibit "1" specifies the nature of the disbursement incurred on the file, the name of the timekeeper performing the work, his or her hourly rate, and the HST components applicable to the accounts.
- 10. I verily believe that the professional rates charged by Ellsworth Johnson & Partners throughout these CCAA proceedings are consistent with the rates charged by other Atlantic Canadian legal practitioners for the provision of similar services.
- 11. This Affidavit is sworn in respect of a Motion which included a request for the approval of the fees and disbursement of the Monitor's legal counsel, and for no other purpose.

SWORN TO at the City of Moncton,)
 In the County of Westmorland and)
 Province of New Brunswick, this)
 _____ day of July, 2019.)
BEFORE ME:-)
)
)
)
)
 _____)

.....
 R. BRUCE JOHNSON

A Commissioner of Oaths, being a
 Solicitor

SCHEDULE "1"

ELLSWORTH JOHNSON & PARTNERS

P.O. BOX 626
828 MAIN STREET
MONCTON, NB E1C 8M7

Phone: (506) 857-8228 Fax: (506) 859-4219

Deloitte Restructuring Inc., in its capacity as
Monitor of British Confectionary Company Ltd.
and British Bazaar Compay Limited
Suite 1500, Tower II. 1969 Upper Water St., Halifax, NS B3J 3R7

June 21, 2019
File #: 15552
Invoice #: 120301

Attention: Attention: Mr. James Foran

**Re: Monitor of British Confectionary Company
Limited and British Bazaar Company Limited**

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
May-30-19	Review of 1st and 2nd Report of Monitor and Orders.	2.40	936.00	RBJ
Jun-03-19	Call from Geoff Spencer.	0.30	117.00	RBJ
Jun-07-19	Review of Initial Order under CCAA; conference call with James and Kurt; review of stay issues.	2.00	780.00	RBJ
Jun-10-19	Receipt and review of email from James and review of material on Stalking Horse Bid for response to James.	2.50	975.00	RBJ
	To searching for requested documents on Stalking Horse Bid.	0.90	202.50	JPL
Jun-11-19	Matters pertaining to review of Stalking Horse Process.	1.40	546.00	RBJ
	To retrieving, reviewing and compiling Stalking Horse documents and precedents for solicitor Johnson; to brief conference with solicitor Johnson.	1.30	292.50	JPL
Jun-12-19	Review issues on Stalking Horse Asset Purchase Agreement; receipt of draft Stalking Horse Asset Purchase Agreement and Process Order; review legal issues pertaining to Process of Stalking Horse.	3.40	1,326.00	RBJ
Jun-13-19	Review of Stalking Horse Asset Purchase Agreement and Process Order; call with	3.40	1,326.00	RBJ

James and discussion on issues before conference call; conference call with British Confectionery representatives on the financing and Stalking Horse Asset Purchase Agreement.

Jun-14-19	Preparation of email to James on issues pertaining to Stalking Horse Asset Purchase Agreement and the Process Order and amendments; review legal issues related to approval of Stalking Horse Order.	4.50	1,755.00	RBJ
Jun-17-19	Emails from James and Kurt and response; attendance conference call with representatives of TCII; emails to James; call with James and Kurt in respect to TCII and Mark Mendelson offer and Stalking Horse issues.	2.30	897.00	RBJ
Jun-18-19	All matters relating to review of documentation and information; attendance conference call with TCII representative; review of email from Blair on concept of financing transaction; conference call with BMO representatives; call with James.	1.90	741.00	RBJ
Jun-20-19	Discussion with solicitor Johnson regarding file and upcoming Court appearance.	0.30	67.50	JHE
	Total Fees	26.60	\$9,961.50	
	HST		\$1,494.23	

DISBURSEMENTS

Administrative Disbursements (copies, faxes, print materials, postage, and data management)

	Disbursements	Receipts
	498.00	
Totals	\$498.00	\$0.00
HST on Disbursements	\$74.70	

Total Fees, Disbursements & HST

\$12,028.43

Balance Forward

\$0.00

Balance Due Now

\$12,028.43

Total Tax: \$1,568.93

HST #: 11216 6830 RT0001

* tax-exempt

Approved by

Ellsworth Johnson & Partners

per

E. & O.E.

Our invoice is due upon receipt and will incur a service charge of up to 18% upon the expiry of any period of credit which may apply. The itemization of fees and disbursements listed in our invoice includes direct costs as incurred and an amount of up to 5% of fees billed to cover the administrative costs of print material, photocopying, telephone, faxes, postage, local courier, and data management.

ELLSWORTH JOHNSON & PARTNERS

P.O. BOX 626
828 MAIN STREET
MONCTON, NB E1C 8M7

Phone: (506) 857-8228 Fax: (506) 859-4219

Deloitte Restructuring Inc., in its capacity as
Monitor of British Confectionary Company Ltd.
and British Bazaar Compay Limited
Suite 1500, Tower II, 1969 Upper Water St., Halifax, NS B3J 3R7

July 05, 2019
File #: 15552
Invoice #: 120396

Attention: Attention: Mr. James Foran

**Re: Monitor of British Confectionary Company
Limited and British Bazaar Company Limited**

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jun-19-19	Email from James on letters from Tim Hill and letter to Pollard.	0.20	78.00	RBJ
Jun-20-19	To conference with Bruce Johnson.	0.20	45.00	JPL
Jun-21-19	Emails and review of the outline of a Plan of Arrangement; receipt and review of revised POA; conference call with Deloitte and British representatives.	1.50	585.00	RBJ
Jun-27-19	Meeting with James and attendance conference call with James, Kurt and British representatives; call with James on receipt of Pollard Offer and other calls with James.	2.10	819.00	RBJ
Jun-28-19	Receipt and review of emails; call with James; review of Initial Order; receipt of email with letter of withdrawal of Expression of Interest and letter from Blair Connolly to Pollard threatening a law suit on his IP rights; further call with James and email; internal instruction on IP research for Memo.	4.90	1,911.00	RBJ
	Meetings with Bruce Johnson regarding file, required Court appearance and issues for consideration by Monitor and Court; researching PPSA provisions.	1.70	382.50	JHE
	To time in conference with Bruce Johnson; to time in searching patents.	2.00	300.00	VAD
Jun-30-19	Conference call with Deloitte representatives	0.80	312.00	RBJ

	on steps to take on letter from Pollard and Blair Connelly; call with Tim Hill and email to James.			
Jul-01-19	To review of PPR search results and security documents; to preparation of memoranda to file.	1.20	270.00	JPL
Jul-02-19	Email from Mat Harris and response; call with James; review of CCAA section on Transfers on under value; email to Deloitte on IP transfer and section 96 of BIA; emails to James; call with Deloitte and Company representatives; review of IP issues and memo on IP.	4.50	1,755.00	RBJ
	To conference with Bruce Johnson about PPR search review and security documents; to begin drafting Security Opinion.	1.20	270.00	JPL
	To time in conducting research regarding patents; to time in drafting memo regarding validity of assignment of patents.	5.30	795.00	VAD
Jul-03-19	Review and amendments to Patent Memo and call with Geoff Spencer; calls with James.	2.00	780.00	RBJ
	Researching relevant CCAA provisions; researching relevant federal and provincial legislation concerning intellectual property rights and transfers thereof; review of CCAA Order.	1.40	315.00	JHE
	To continue drafting Letter of Opinion on Security.	0.60	135.00	JPL
	Total Fees	29.60	\$8,752.50	
	HST		\$1,312.88	

DISBURSEMENTS


Administrative Disbursements (copies, faxes, print materials, courier, postage, and data management)

	Disbursements	Receipts
	437.62	
Totals	\$437.62	\$0.00
HST on Disbursements	\$65.64	

Total Fees, Disbursements & HST	\$10,568.64
Balance Forward	\$12,028.43
Balance Due Now	\$22,597.07

Total Tax: \$1,378.52
HST #: 11216 6830 RT0001

* tax-exempt

Approved by
Ellsworth Johnson & Partners

per
E. & O.E.

Our invoice is due upon receipt and will incur a service charge of up to 18% upon the expiry of any period of credit which may apply. The itemization of fees and disbursements listed in our invoice includes direct costs as incurred and an amount of up to 5% of fees billed to cover the administrative costs of print material, photocopying, telephone, faxes, postage, local courier, and data management.