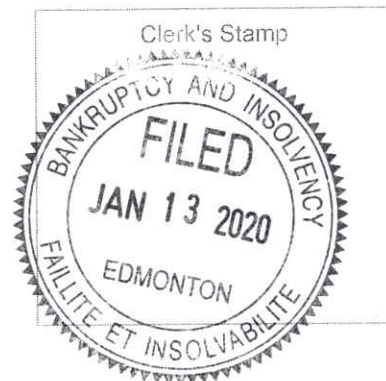


COURT FILE NO. B203 582587  
ESTATE NO. 24-2582587  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE EDMONTON



IN THE MATTER OF THE NOTICE OF  
INTENTION TO MAKE A PROPOSAL OF  
**MCG RESTAURANTS LTD.**  
OF THE CITY OF EDMONTON,  
IN THE PROVINCE OF ALBERTA

DOCUMENT **SECOND AFFIDAVIT OF ROB MORRIS**

ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

Darren R. Bieganeck, QC  
Barrister and Solicitor  
Phone: 780.441.4386  
Fax: 780.428.9683  
Email: dbieganeck@dcllp.com  
File # 204-204417

**DUNCAN CRAIG LLP**  
LAWYERS MEDIATORS  
2800 Scotia Place  
10060 Jasper Avenue  
Edmonton, Alberta Canada T5J 3V9

**AFFIDAVIT OF ROB MORRIS**

**Sworn on January 13, 2020**

I, **ROB MORRIS**, of the City of Edmonton, in the Province of Alberta, Businessman, MAKE OATH AND SAY THAT:

1. I am a Director and Principal of MCG Restaurants Ltd. ("**MCG**") and, as such, the matters herein deposed to are based on my personal knowledge, on my review of the books and records maintained by MCG in the ordinary course of its business, or on information and belief and, where so stated, I do verily believe the same to be true.

### **Activities Since the First Extension Order of December 11, 2019**

2. Since the First Extension Order granted by the Court on December 11, 2019, operations have continued at each of the five remaining restaurants.
3. Attached and marked **Exhibit "A"** is a copy of the projected cashflow (adjusted) versus actual results reported for the period of November 13, 2019 to December 31, 2019. There are variances to actual which will be explained below. However, the results show an actual cash balance of \$691,728.00 at the end of December 31, 2019.

### **Cashflow Variances**

4. The cashflow variances are anticipated to be explained in more depth by the Trustee in its Report. In general:
  - (a) Sales at the Kingsway location were approximately \$71,000.00 less than expected over the seven week period;
  - (b) Vendors of purchases (food costs) are the same vendors used for supply expenses. As such, it is difficult to identify specific invoices related to supplies. Accordingly, some supply costs were coded to the food account during the reporting period overstating purchases of food and understating supply;
  - (c) The cashflow projection originally included franchise fees associated with advertising however these have been recorded as payable to the franchisor under royalties. Amounts recorded to advertising and promotion are non-cash sales such as promotions;
  - (d) Variable and fixed salaries reported on the cashflow projection included net amounts paid to employees, taxes withheld and an employee portion of group benefits paid. Payroll source remittances projected were employee and employer portion of CPP and EI. Actual results reported variable and fixed salaries as net amounts paid to employees. The entire amount of source deductions paid, income tax plus employee and employer CPP and EI are reported as payroll source remittances;
  - (e) Installments paid to WCB was supplied to an amount owed before the Notice of Intention. The company has not paid any other amount;
  - (f) Certain adjustments have been made to the original projected cashflow to provide a more accurate forecast of costs expected to be incurred for certain items such as waste removal, equipment and technology, rent and common area cost property taxes;
  - (g) The original projected cashflow did report cash floats required for providing employees with tips earned. These were reviewed by the Trustee and the petty cash disbursements are reconciled with sales receipts.

5. MCG has been able to reconcile the opening cash balances now. The reconciliation has resulted in a reduction of original cash from \$287,755.00 to a revised balance of \$264,738.00.
6. In addition thereto, rent was understated in the original cashflow. The cashflow presented to the Court originally was a consolidated cashflow. Rent was reported by MCG to the Trustee at the outset however payments were inputted on a weekly basis. When attempts were made to correct the input to the time for actual rent payments, I am informed by Deloitte Restructuring Inc. ("Deloitte") and do believe that the formulas on the Excel spreadsheets on three lines were broken and referenced incorrect cells, so were reflected in equipment and technology costs, rent and common area costs/property taxes, all marked yearly. This has now been rectified.
7. Interest payments to Rye Inc. (approximately \$2,500.00 per month), and as well as the cash float out for tips were also, as noted above, previously overlooked.
8. Certain pre-NOI payments were withdrawn from MCG's bank account either by automatic debits or cheques clearing post-filing of the NOI. Those payments are listed in the Trustee's Report and total \$68,974.79.
9. MCG did take steps to put stop payments in respect of all of these payments with its bank and paid the necessary fees. However, the bank did advise at the time that it could not guarantee that each and every payment or each and every cheque would have the payments stopped on it.

#### **CRA Filings and Payments**

10. MCG has filed its source deduction returns with Canada Revenue Agency ("CRA") and it is expected that a trust examination will be undertaken very shortly to verify the amount. MCG's number is that it does oppose CRA for pre-filing unremitted source deductions in the approximate amount of \$580,000.00.
11. MCG remains current with its filing and source deduction payments post-NOI.

#### **Restructuring Activities Since the First Extension**

12. As noted in my First Affidavit, MCG rents a small office in the west part of Edmonton located at #200, 17811 – 106 Avenue, Edmonton, Alberta.
13. On December 30, 2019, MCG's legal counsel sent a 30 day notification of MCG's intention to disclaim the Lease. Attached and marked as **Exhibit "B"** to this my Affidavit is a copy of the registered letter sent in that regard.
14. As of the swearing of this Affidavit, the head office landlord, Delta Square Developments Ltd. ("Delta Square") has not taken any steps to apply to the Court to challenge the disclaimer.

15. MCG remains cashflow positive notwithstanding the variances.
16. MCG has not had sufficient time to formulate a plan to its creditors. At the moment, the primary consideration is downsizing operations further. Prior to being able to do that, however, we need to undertake a sensitivity analysis on the cashflow forecast, considering the variances, to determine net profitability on a go-forward basis in the event that further downsizing is to take place.
17. In the meantime, MCG is cognisant of concerns raised by Canadian Western Bank ("CWB") with the fact that it is on interest only payments to the end of March. At the time MCG sought payment relief from CWB it was in the process of negotiating a further investment into the company which would have included, as part of the transaction, royalty payment relief for a period of time. The request of the Bank to reduce payments to interest only was made in consideration of this investment and the royalty holiday being extended by the franchisor.
18. As the investment did not materialize, the royalty holiday was suspended.
19. Given the cash availability, MCG has reached out to CWB to propose paying one-half of a principal payment by the end of January, and a further one-half of a principal payment by the end of February with regular payments to resume consistent with the agreement reached with the Bank prior to the NOI filing.

#### **Anticipated Plans and Extension of the Stay**

20. Attached and marked **Exhibit "C"** is an updated 13-week rolling cashflow. The cashflow indicates that MCG will have a surplus of cash at the end of the timeframe. This accounted for by the lower revenue anticipated to be experienced by MCG during the months of January and February, traditionally the slowest period for MCG in any calendar year.
21. MCG still needs an opportunity to assess its position (as noted above) and discuss matters with certain of its stakeholders but is now through the Christmas period and will be better able to concentrate its efforts on finalizing a plan to discuss with its major financial stakeholders and then finalize a Proposal to be put to its creditors.
22. In the circumstances, MCG continues to work towards putting itself in a position where it is able to formulate a Proposal to its creditors. It simply need additional time to do so. The passage of time has illustrated that the Company can be and will likely continue to be cashflow positive through the period.
23. In the circumstances, MCG believes that a 45 day extension to Monday, March 9, 2020 is reasonable and appropriate in the circumstances.
24. I do believe that MCG is acting in good faith and with due diligence in its efforts to put together a Proposal and that if afforded a continuing opportunity to do so, is likely to make a viable Proposal. I know of no facts which suggest that a creditor would be materially prejudiced if the extension that is sought is granted.



District of: Alberta  
 Division No.: 01 - Edmonton  
 Court No.: 24-2582587  
 Estate No.: 24-2582587

This is Exhibit " A " referred to in the Affidavit of  
 Rob Morris  
 Sworn before me this 13<sup>th</sup> day  
 of January, A.D., 2020  
 A Notary Public, A Commissioner for Oaths  
 in and for the Province of Alberta

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
 MCG RESTAURANTS LTD.  
 OF THE CITY OF EDMONTON, IN THE PROVINCE OF ALBERTA

DARRIN H. DIEGANER  
 BARRISTER & SOLICITOR

PROJECTED CASH-FLOW (ADJUSTED) vs. ACTUAL RESULTS REPORTED  
 FOR THE PERIOD OF NOVEMBER 13, 2019 TO DECEMBER 31, 2019

CDN\$ unaudited For the Seven Week Period Ended December 31, 2019	Forecast	Actual	Variance
<b>Operating receipts</b>			
Cash sales	2,622,699	2,590,200	(32,500)
GST Collected	125,366	125,624	258
<b>Total operating receipts</b>	<b>2,748,065</b>	<b>2,715,824</b>	<b>(32,241)</b>
<b>Operating disbursements</b>			
Purchases - Cost of Goods Sold	631,542	689,579	(58,037)
Advertising & Promotions	123,266	38,544	84,722
Bank & CC Charges	22,160	20,627	1,533
Repairs and Maintenance	39,340	17,345	21,995
Supplies	82,333	13,809	68,524
Quality Control Meals	47,230	46,766	464
Royalties	125,960	182,003	(56,043)
Salaries - Variable	572,564	497,122	75,442
Salaries - Fixed	189,578	165,257	24,321
Payroll source remittances	103,422	217,582	(114,160)
Group benefits	2,984	15,381	(12,397)
WCB	20,998	10,500	10,498
Cleaning	19,208	17,339	1,870
Waste Removal	3,250	-	3,250
Equipment & Technology Costs	8,875	4,275	4,600
Rent - Base	176,975	242,104	(65,129)
Common Area Costs and Property Taxes	58,995	6,871	52,124
Utilities	44,113	50,613	(6,500)
Professional fees	63,000	23,072	39,928
Head Office Charges	21,345	28,295	(6,950)
Cash Float	-	15,046	(15,046)
GST remittances	160,074	99,748	60,326
<b>Total operating disbursements</b>	<b>2,517,212</b>	<b>2,401,874</b>	<b>115,338</b>
<b>Cash from operations</b>	<b>230,853</b>	<b>313,950</b>	<b>83,097</b>
<b>Financing receipts and disbursements</b>			
CWB Loan Interest	40,396	40,396	-
CWB Loan Principal	-	-	-
Rye Inc. / Ric Young Loan Interest	-	3,100	(3,100)
Interest Income	-	(113)	113
<b>Cash used for financing</b>	<b>40,396</b>	<b>43,383</b>	<b>(2,987)</b>
<b>Net cash-flow</b>	<b>190,457</b>	<b>270,567</b>	<b>80,110</b>
<b>Opening Cash</b>	<b>287,755</b>	<b>287,755</b>	<b>-</b>
<b>Closing Cash</b>	<b>478,212</b>	<b>558,321</b>	<b>(80,110)</b>

Notes:

1. Sales at the Kingway location are about \$71,000 less than expected over the seven week period.
2. Vendors of Purchases (food costs) are often the same vendors used for Supplies expense. The Debtor has coded some supply costs to the Purchases account during the reporting period, thus overstating Purchases of food and understating Supplies expense. The remaining variance is immaterial.
3. The cash flow projection originally included franchise fees associated with advertising. During the seven week period, the Debtor has recorded Advertising payable to the franchisor under Royalties. Amounts recorded to advertising and promotion are non-cash sales such as Promotions. After considering franchise advertising fees, the company has incurred less promotional
4. Variable and fixed salaries reported on the cash flow projection included net amounts paid to employees, taxes withheld, and employee portion of group benefits paid. Payroll source remittances projected were employee and employer portion of CPP and EI. Actual results reported variable and fixed salaries as net amounts paid to employees. The entire amount of actual source deductions paid, income tax plus employee and employer CPP and EI, are reported as payroll source remittances.
5. The installment paid to WCB was applied to an amount owed before the Notice of Intention. The company has not paid any other amounts.
6. The Debtor has made adjustments to the original projected cashflow to provide a more accurate forecast of costs expected to be incurred for Waste Removal, Equipment and Technology, Rent, and Common Area Costs and Property Taxes.
7. Epcor withdrew a total of \$16,956 for utilities owed before the date of the NOI.
8. The original projected cash flow did report cash floats required for providing employees with tips earned. The trustee reviewed the cash float procedures and the petty cash disbursements are reconciled with sales receipts.
9. The Debtor has reconciled the opening cash balance of the projected cash flow. The original cash flow had an opening balance \$287,755 and the revised balance balance is \$264,738

**DUNCAN CRAIG** LLP  
LAWYERS MEDIATORS  
CELEBRATING 125 YEARS

Our File: 204-204417

Your File:

Lawyer:  
Telephone:  
Email:  
Fax:

Darren R. Bieganeck, QC  
780.441.4386  
dbieganeck@dcllp.com  
780.428.9683

December 30, 2019

Delta Square Developments Ltd.  
101, 17871 106 Avenue  
Edmonton, AB T5S 2H1

This is Exhibit "B" referred to in the  
Affidavit of

Rob Morris

Sworn before me this 13<sup>th</sup>

of January A.D. 2020



A Notary Public, A Commissioner of the Court  
in and for the Province of Alberta

DARREN R. BIEGANEK  
BARRISTER & SOLICITOR

REGISTERED LETTER

Dear Sir/Madam:

**Re: Offer to Lease Interim Agreement - MCG Restaurants Ltd., #200, 17811 -  
106 Avenue, Edmonton, Alberta**

With reference to the above captioned matter, we write to advise that our office acts as legal counsel to MCG Restaurants Ltd. ("MCG").

MCG has filed a Notice of Intention to Make a Proposal under the provisions of the *Bankruptcy and Insolvency Act* (Canada) ("BIA"). What that means in plain language is that MCG is seeking to restructure its affairs under the protection of the BIA.

As part of its restructuring, MCG has made a determination that it wishes to terminate the above noted lease for its head office premises.

Under the BIA, MCG is in a position to provide you with 30 days notice of its intention to disclaim the lease. On behalf of our client we hereby provide you with that notice and advise that on the expiry of 30 days from today's date, MCG will consider its lease for the above noted premises to be disclaimed.

Under the legislation you have 15 days after being given notice of this disclaimer to apply to the Court for a declaration that the legislation does not apply to you. That application must be made on notice to our office as well as the Trustee, Deloitte Restructuring Inc. who is represented by Ms. Stephanie Wanke and Mr. Spencer Norris at Miller Thomson LLP.

Please note upon disclaimer you will have no ability to claim for accelerated rent, but will have the ability to file a proof of claim, once the time for doing so arises, in the proposal proceedings.



**Duncan Craig LLP**

December 30, 2019

Page 2

If you have any questions in respect of the foregoing, please do not hesitate to contact our office.

Yours truly,

**DUNCAN CRAIG LLP**

Per:

A handwritten signature in black ink, appearing to read "Darren R. Bieganeq", is written over the typed name. To the left of the signature, the letters "for" are written vertically.

DARREN R. BIEGANEK, QC  
DRB/kjs

cc: MCG Restaurants Ltd.  
cc: Miller Thomson LLP  
Attention: Stephanie Wanke/Spencer Norris

