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



SECOND AFFIDAVIT OF ROB MORRIS

ADDRESS FOR SERVICE AND CONTACT

INFORMATION OF PARTY FILING THIS

DOCUMENT

Darren R. Bieganek, QC Barrister and Solicitor Phone: 780.441.4386 Fax: 780.428.9683

Email: dbieganek@dcllp.com

File # 204-204417

Clerk's Stamp

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:
- I am a Director and Principal of MCG Restaurants Ltd. ("MCG") and, as such, the matters 1. 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

- 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.
- 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.

25. I make this Affidavit in support of MCG's NOI stay extension.

SWORN BEFORE ME at the City of Edmonton, in the Province of Alberta, this 13th day of January, 2020.

(Commissioner for Oaths in and for the Province of Alberta)

DARREN F. BIEGANER EXPRISTER & SOLICITOR Rob Morris

CATHEN R. BEGANEK PATRICTER O SOLICION

This is Exhibit " A " referred to in the

Bok Swam before me

District of: Alberta

Division No.: 01 - Edmonton Court No.: 24-2582587 Estate No.: 24-2582587

IN THE COURT OF QUEEN'S BENCH OF ALBERTA in and for the Province of Alberta

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

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

CDN\$ unaudited	Forecast	Actual	Variance
For the Seven Week Period Ended December 3	1, 2019		
Operating receipts		er.	
Cash sales	2,622,699	2,590,200	(32,500)
GST Collected	125,366	125,624	258
Total operating receipts	2,748,065	2,715,824	(32,241)
Operating disbursements	2000 10 100000		
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	4 275	3,250
Equipment & Technology Costs	8,875	4,275	4,600
Rent - Base	176,975	242,104	(65,129) 52,124
Common Area Costs and Property Taxes	58,995	6,871	(6,500)
Utilities	44,113	50,613	39,928
Professional fees	63,000	23,072	(6,950)
Head Office Charges	21,345	28,295 15,046	(15,046)
Cash Float	160.074	99,748	60,326
GST remittances Total operating disbursements	160,074 2,517,212	2,401,874	115,338
	230,853	313,950	83,097
Cash from operations	250,655	313,930	03,037
Financing receipts and disbursements	40.306	40 306	2000
CWB Loan Interest	40,396	40,396	
CWB Loan Principal	-	2 100	(3,100)
Rye Inc. / Ric Young Loan Interest	-	3,100 (113)	(3,100)
Interest Income Cash used for financing	40,396	43,383	(2,987)
		270 F67	80,110
Net cash-flow	190,457 287,755	270,567 287,755	80,110
Opening Cash		558,321	(80,110)
Closing Cash	478,212	550,521	(50,110)

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 over stating 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



Our File:

204-204417

Your File:

Lawver:

Darren R. Bieganek, QC

Telephone: Email: 780.441.4386 dbieganek@dcllp.com

Fax:

780.428.9683

December 30, 2019

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Ailidavit of

Morris

REGISTERED LETTER

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

Dear Sir/Madam:

In and for the Province CATHEN R. BEGANER

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

DARREN R. BIEGANEK, QC

DRB/kjs

cc:

MCG Restaurants Ltd.

cc: Miller Thomson LLP

Attention: Stephanie Wanke/Spencer Norris

District of: Alberta Division No.: 03 - Edmonton Court No.: 24-2562587 Estate No.: 24-2562587

IN THE COURT OF QUEEN'S BENCH OF ALBERTA IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF MCG RESTAURAN'S LTD. OF THE CITY OF EDMONTON, IN THE PROVINCE OF ALBERTA

				FOR THE P	ERIOD OF JAN	FOR THE PERIOD OF JANUARY 1, 2020 TO MARCH 31, 2020	TO MARCH 31,	2020						
CDNs unaudited Wk # Week ending:	Forecast 8 7-Jan-20	Forecast 9 14-Jan-20	Forecast 10 21-Jan-20	Forecast 11 28-Jan-20	Forecast 12 4-Feb-20	Forecast 13 11-Feb-20	Forecast 14 18-Feb-20	Forecast 15 25-Feb-20	Forecast 16 3-Mar-20	Forecast 17 10-Mar-20	Forecast 18 17-Mar-20	Forecast 19 24-Mar-20	Forecast 20 31-Mar-20	Forecast Total
Operating receipts	1	1	0.00	A 15 200	360.674	322 736	445,434	334,309	343,314	338,741	352,908	378,333	357,988	4,401,764
Cash sales	314,565	310,909	15,430	15.617	12.460	15,426	21,292	15,980	16,410	15,809	16,869	18,084	17,112	210,404
GST Collected Total operating receipts	329,601	325,770	338,596	342,331	273,135	338,152	466,725	350,289	359,724	346,550	369,777	396,418	375,100	4,612,168
Oracating disbursements								-	100	31.4.02	0.5 66.7	F5 40	86, 306	1 061 173
Parchages - Cost of Goods Sold	75,806	75,016	77,923	28,829	62,874	77,733	107,266	780,557	32,730	(3,72)	16.587	17 783	16.805	206,000,0
Advertising and Promotions	14,785	14,613	15,188	15,356	12,252	15,168	25,03	15/15	10,130		100000	1111111		60,285
Bank and CC Charges	22,128		4 3		18,419	1000	. 6.8.2	4.615	5.150	4.961	5.294	5,675	5,376	66,025
Repairs and Maintenance	4,718	4,654	4,847	4,901	3,910	40.447	14.002	10 549	10 832	10.424	11,149	11,957	11.326	138,916
Supplies	41.6.5	9,836	10,239	10,334	2,230	10,100 x 0.30	8 107	6 101	6 311	6,065	6,490	7,009	6,572	80,461
Quality Control Meals	5,684	16975	5,885	2007 0.	12 520	15,499	21 388	16,053	16,484	15,881	16,944	18,164	17,188	211,363
Royalties	15,166	14,930	2000	13,000	1 KB 405		142 972		150,746		147,894		155,933	1,060,125
Salaries - Variable	164,576		147,399		50 135		47,657		50,249		49,298		51.978	353,375
Salanes - Fixed	669,66	176 22	2007	55.833		52.391		37 087		62,662		65,971		325,709
Payroll Source Remittances		23,704		24,000		1,308				7,206			ni i	10,003
Group Benefits		1000000		10.299					10,499				9,476	40,973
WCB	B24 30B	100			19,708				18,017					56,434
Cleaning	137710		3.250				3,250	(4)			3,124			9,624
Waste Kemoval	B 835				8.875			700	8,774		ā V		9	26,524
Caupment and rechaecity costs	86,720				86,720		40		86,719					200,138
Hent - Dane	18 995				58,995				58,998					170,980
Coffingin Area Casas and Property takes	100.00	51 332		9		36,998			10	30,751			- 1	120,581
Others	9 769	5 769	55,769	5,769	5,769	5.769	5,769	5,769	5,769	5,769	5,769	3,769	5,759	125,000
Mand Office Charpean	7 112		7,115		7,115		7,115		7,120		7,173		07:1	779'68
CST remittances					73,421				49,437	130 480	25 A 725	333 660	441 886	4 631 173
Total operating disbursements	554,259	251,601	392,505	199,189	583,554	225,684	385,183	175,644	663,683	100 tot	55.455	2000		20000
Cash from operations	(224,658)	74,169	(53,909)	143,142	(310,419)	112,468	81,542	173,445	(243,959)	108,061	15,042	172,858	(66,785)	(19,005)
of comparate daily bean about a section of the												260.00		E-35 07
Financing receipts and disoursements			l'a	20,529	2.5	20		20,529				19,738	65 6	197,261
CWR Loan Principal Costs			7	22,949				22,949	, Bon			PC0,0+	2 830	10 900
Bur Youms and Ree Inc	7,580				2,800			23.470	2 833			08 U 99	2 890	163 895
Cash from financing	2,500			43,478	2,800			47.470	7,000					
		47.160	183.0001	99 664	(313 219)	112,468	81,542	129,967	(246,759)	108,061	15,042	106,819	(69,585)	(182,900)
Net cash-flow 6.0	558 336	331 162	405,331	351,422	451,387	137,868	250,336	331,878	451,845	215,085	323,147	336,189	445,007	558,320
Opening Cash	224 163	405 331	351.422	451.087	137.858	72, 250,336	531,878	461,845	215,085	323,147	338.189	445,007	3/3 2/4	373.419
Closing Cash	The state of the s	And in concession of the last												

with the Trustee's Report on Cash-Flaw Statement wêm hafeve This Statement of Projected Cash-Flow is prepared in accordance with Subsection 50.4(2) of the Bankrupkcy and Insolvengy Act and and

Dated this 13th day of January 2020

DELOJITE RESTRUCTURING INC.
In its capacity at Trische in re: The Retice of Intention to Make a Proposal of
MCG Restaurants Lid.
And Restaurants Lid.

Per: Garrett Chan CIRP, LIT Vice-President

MCG RESTAURANTS LTD.

ROB

January

CARREN R. BEGANER PARAMETER & POLICITOR

Per: Rab Morris Director

to Exhibit * C referred to in the Attidavit of .