

COURT FILE NUMBER Q.B. 434 of 2017

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE SASKATOON

PLAINTIFF CANADIAN IMPERIAL BANK OF COMMERCE

DEFENDANT JMV ENTERPRISES LTD.

IN THE MATTER OF THE RECEIVERSHIP OF JMV ENTERPRISES LTD.

SALE APPROVAL AND VESTING ORDER

Before the Honourable Mr. Justice B.J. Scherman in Chambers the 8th day of January, 2018.

On the application of Jeffrey M. Lee, Q.C. and Paul Olfert, counsel on behalf of the Receiver, Deloitte Restructuring Inc. (the "**Receiver**") of the assets, undertakings and properties of JMV Enterprises Ltd. ("**JMV**"), and upon hearing from Jeffrey M. Lee, Q.C., counsel on behalf of the Applicants, and upon reading the Notice of Application dated January 4, 2018, the Second Report of the Receiver dated January 4, 2018 (the "**Second Report**"); the Confidential Supplement to the Second Report of the Receiver dated January 4, 2018 (the "**Confidential Supplement**"), proof of compliance with General Application Practice Directive #3, and a proposed draft Order, all filed; and the pleadings and proceedings herein:

The Court orders:

1. Service of the Notice of Application on behalf of the applicants and the materials filed in support thereof (collectively, the "**Application Materials**") shall be and is hereby deemed to be good and valid and, further, shall be and is hereby abridged, such that service of such Application Materials is deemed to be timely and sufficient.

Approval of Sale of JMV Lands

2. The sale (the "**Transaction**") by the Receiver to 20th Century Investments Ltd. (the "**Purchaser**") of certain lands in the City of Regina described in **Schedule A** to this Order (the "**JMV Lands**") as more particularly described in, and subject to the terms and conditions set forth in, the Offer to Purchase and Agreement for Sale between JMV and the Purchaser dated November 28, 2017, as amended December 19, 2017 (collectively, the "**Sale Agreement**"), copies of which have been filed as an Exhibit to the Confidential Supplement to the Second Report of the Receiver dated January 4, 2018 and filed in these proceedings, for the purchase price identified in the Sale Agreement (the "**Purchase Price**") is declared to be commercially reasonable and in the best interests of JMV and its stakeholders and is hereby authorized, approved, ratified and confirmed by this Honourable Court.
3. JMV and the Receiver are hereby authorized and given directions by this Honourable Court to complete the Transaction in accordance with the Sale Agreement (subject to such amendments as JMV and the Purchaser may agree upon, provided that any such amendments do not materially affect the Purchase Price) and to execute such documents and perform such acts as may reasonably be required in order to close the Transaction in accordance with the Sale Agreement, including any steps necessary or desirable to satisfy and/or comply with any

applicable laws, regulations or orders of any courts, tribunals, regulatory bodies or administrative bodies.

4. The Registrar of Titles for the Province of Saskatchewan shall be and is hereby directed to accept an application to cancel the existing title to the JMV Lands, to cancel such existing title, and to issue a new title to the JMV Lands in the name of the Purchaser as owner, free and clear of all encumbrances save and except for the encumbrances set forth in **Schedule A** to this Order ("**Permitted Encumbrances**"), and such title shall issue to, and vest in, the Purchaser free and clear of any and all Encumbrances (as hereinafter defined) except Permitted Encumbrances.

Vesting of Title to the JMV Lands in the Name of the Purchaser

5. Upon the Receiver determining that the Transaction has closed to the satisfaction of the Receiver and on terms substantially as approved by this Honourable Court pursuant to this Order, the Receiver shall deliver to the Purchaser a certificate to that effect substantially in the form set out at **Schedule B** to this Order (the "**Closing Certificate**"), whereupon title to the JMV Lands shall vest, without further instrument of transfer or assignment, absolutely in the Purchaser free and clear of and from any and all security interests (whether contractual, statutory or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory or otherwise), liens, leases, pledges, encumbrances, taxes and arrears of taxes, licenses, assignments, judgments, title retention agreements, reservations of ownership, demands, legal hypothecs, executions, levies, charges (including any charges pursuant to the Receivership Order granted in these proceedings), options or other rights to acquire any interests in any assets, or other financial or monetary claims, whether or not they are liquidated, unliquidated or contingent or they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, or any other rights (whether contractual, statutory, arising by operation of law or created by or pursuant to Orders made in these proceedings), of any persons, corporations, firms or entities of any kind whatsoever, and all contracts to create any of the foregoing (collectively, "**Encumbrances**") and of all rights of others, save and except for the Permitted Encumbrances, and, for greater clarity, this Court orders that all of the Encumbrances and all rights of others affecting or relating to the JMV Lands are hereby expunged and discharged as against the JMV Lands.
6. The Purchaser shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Encumbrances or claims against JMV.
7. JMV and all persons who claim by, through or under JMV in respect of the JMV Lands, save and except for the persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the JMV Lands and, to the extent that any such persons remains in possession or control of any of the JMV Lands, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
8. The Purchaser shall be entitled to enter into and upon, hold and enjoy the JMV Lands for its own use and benefit without any interference of or by JMV, or any person claiming by or through or against JMV.
9. Immediately after the closing of the Transaction, the holders of the Permitted Encumbrances shall have no claim whatsoever against the Receiver or JMV.
10. The Receiver is to file with the Court a copy of the Closing Certificate, forthwith after delivery thereof to the Purchaser.

Payment of Purchase Price

11. On the Closing Date (as defined in the Sale Agreement), the Purchaser shall pay the Purchase Price to the Receiver (less the amount of any deposit which has previously been paid to the Receiver or to counsel for JMV pursuant to the Sale Agreement). For the purposes of determining the nature and priority of the Encumbrances:
 - a) the net proceeds from the sale of the JMV Lands shall stand in the place and stead of the JMV Lands; and
 - b) from and after the delivery of the Closing Certificate, all Encumbrances and all rights of others shall attach to the net proceeds from the sale of the JMV Lands with the same priority as they had with respect to the JMV Lands immediately prior to the sale, as if the JMV Lands had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the Transaction.
12. The Receiver may rely on written notices from JMV and the Purchaser regarding fulfillment or, if applicable, waiver of conditions to closing of the Transaction under the Sale Agreement and shall have no liability with respect to the delivery of the Closing Certificate.
13. Notwithstanding:
 - a) the pendency of these proceedings;
 - b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of JMV and any bankruptcy order issued pursuant to such applications;
 - c) any assignment in bankruptcy made in respect of JMV; and
 - d) the provisions of any federal statute, provincial statute or any other law or at equity,

the vesting of the JMV Lands in the Purchaser pursuant to this Order and the obligations of JMV under the Sale Agreement, shall be binding on any trustee in bankruptcy that may be appointed in respect of JMV and shall not be void or voidable by creditors of JMV, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.
14. The Transaction is exempt from any requirement under any applicable federal or provincial law to obtain shareholder approval and is exempt from the application of any bulk sales legislation in any Canadian province or territory.

Activities and Disbursements of the Receiver

15. The Receiver's actions, conduct and activities, as outlined in the Second Report and Confidential Supplement, are approved.
16. The Receiver's Statement of Receipts and Disbursements for the period from March 29, 2017 to December 31, 2017, as set out in the Second Report, is approved.

Interim Distribution

17. The Receiver shall be and is hereby authorized and directed to deal with the net proceeds derived from the Transaction in the following manner:
- a) The Receiver may make one or more interim distributions, in a maximum aggregate amount not to exceed the lesser of (i) the net proceeds derived from the Transaction, less all legal and professional costs and all other costs of and incidental to the receivership (the "**Net Proceeds**"); and (ii) the amount owed by JMV to the Canadian Imperial Bank of Commerce ("**CIBC**"), the senior secured creditor of JMV; to CIBC on account of and in partial satisfaction of the valid and enforceable claim of CIBC; and
 - b) Subject to paragraph 19 of the Receivership Order granted March 29, 2017 in these proceedings by the Honourable Mr. Justice B.J. Scherman (and, for greater certainty, subject to paragraph 9 of the Sales Process Order granted May 26, 2017 in these proceedings by Justice Scherman), the Receiver shall hold back the remainder of the Net Proceeds, and not distribute same, until further order of the Court.

Sealing Order

18. Counsel for the Receiver having complied with Practice Directive #3, the Confidential Supplement to the Second Report of the Receiver filed in relation to this matter shall be kept sealed and confidential and shall not form part of the public record, but rather shall be placed, kept separate and apart from all other contents of the Court file, in sealed envelopes each of which shall bear a notice which sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further order of the Court or upon the filing of the Closing Certificate.

General

19. Any interested person (including, without limitation, JMV, the Purchaser and the Receiver) may apply to this Honourable Court for advice or directions in regard to the execution of this Order or any matter arising out of or necessarily incidental to this Order.
20. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist JMV, the Receiver, the Purchaser and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested:
- a) to make such orders and to provide such assistance to JMV, the Receiver (as an officer of this Court) and the Purchaser as may be necessary or desirable to give effect to this Order;
 - b) to grant representative status to the Receiver in any foreign proceeding; and
 - c) to assist JMV, the Receiver, the Purchaser and their respective agents in carrying out the terms of this Order.

ISSUED at Saskatoon, Saskatchewan, this 9th day of January, 2018.



(Deputy) Local Registrar

CONTACT INFORMATION AND ADDRESS FOR SERVICE:

Name of the firm: MLT Aikins LLP
Lawyer in charge of file : Jeffrey M. Lee Q.C. / Paul Olfert
Address of firm: 1500, 410 22nd Street E, Saskatoon SK S7K 5T6
Telephone number: 306.975.7100
Fax number: 306.975.7145
Email address: JMLee@mltakins.com / POlfert@mltakins.com

SCHEDULE A - DESCRIPTION OF THE JMV LANDS AND PERMITTED ENCUMBRANCES

	Civic Address in the City of Regina	Legal Description	Permitted Encumbrances
1	305 Dewdney Avenue East	Lot D, Block 96, Plan No. FX6187, Extension 10 Surface Parcel #145011866 Lot D Blk/Par 96 Plan No FX6187 Extension 0 Mineral Parcel #111827594	None
2	2113 Smith Street	Lot 22, Block 406, Plan No. 98RA28309, Extension 0 Surface Parcel #107011336 Mineral Parcel #111402414	Power Corporation Act Easement (s. 23) registered July 7, 2014 in favour of Saskatchewan Power Corporation as Interest Register #120157556 against title to Surface Parcel #107011336
3	2211 Smith Street	Lot 2, Block 431, Plan No. OLD33, Extension 0 Surface Parcel #107010559 Mineral Parcel #111405125	None
4	2235 Smith Street	Lot 21, Block 431, Plan No. 98RA28309, Extension 0 Surface Parcel #107010223 Mineral Parcel #111391219	None
5	2237 Smith Street	Lot 22, Block 431, Plan No. 98RA28309, Extension 0 Surface Parcel #107010212 Mineral Parcel #111260685	None
6	2307 Smith Street	Lot 21, Block 458, Plan No. 98RA28309, Extension 0 Surface Parcel #107011369 Mineral Parcel #111391837	None
7	2352 Smith Street	Lot 29, Block 457, Plan No. 98RA28309, Extension 0 Surface Parcel #111001183	None
8	2064 Rae Street	Lot 52, Block 374, Plan No. 98RA28311, Extension 0 Surface Parcel #110988221 Mineral Parcel #111439694	None

SCHEDULE B – CLOSING CERTIFICATE

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JUDICIAL CENTRE **SASKATOON**

PLAINTIFF **CANADIAN IMPERIAL BANK OF COMMERCE**

DEFENDANT **JMV ENTERPRISES LTD.**

IN THE MATTER OF THE RECEIVERSHIP OF JMV ENTERPRISES LTD.

TO: **20TH CENTURY INVESTMENTS LTD.** (the "**Purchaser**"), c/o Duchin Bayda & Kroczyński, 2515 Victoria Avenue, Regina, SK S4P 0T2, Attention: Bernard Duchin

AND TO: **JMV ENTERPRISES LTD.** ("**JMV**"), c/o CIBC Trust Corporation, 1200 – 18 York Street, Toronto, ON M5J 2T8, Attention: Ravi Hulikal

RECITALS:

- A. Pursuant to an order of the Honourable Mr. Justice B.J. Scherman of the Saskatchewan Court of Queen's Bench (the "**Court**") dated March 29, 2017, Deloitte Restructuring Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of JMV.
- B. Pursuant to an Order of the Court dated January 8, 2017 (the "**Sale Approval and Vesting Order**"), the Court approved the Offer to Purchase and Agreement of Sale between JMV and the Purchaser dated November 28, 2017, as amended December 19, 2017 (collectively, the "**Sale Agreement**") and provided for the vesting in the Purchaser of all of JMV's right, title and interest in and to the JMV Lands (as defined in the Sale Approval and Vesting Order), which vesting is to be effective with respect to the JMV Lands upon delivery by the Receiver to the Purchaser of a certificate confirming that the Transaction has closed to the satisfaction of the Receiver on terms substantially as approved by the Court.
- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Approval and Vesting Order.

THE RECEIVER CERTIFIES the following:

- 1. The Purchaser has paid and the Receiver has received the Purchase Price for the JMV Lands payable pursuant to the Sale Agreement;
- 2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and

3. The Transaction has been completed to the satisfaction of the Receiver and on terms substantially as approved pursuant to the Order.

DATED this ___ day of _____, 2018 at _____ o'clock in the a.m./p.m.

DELOITTE RESTRUCTURING INC., in its capacity as
Receiver of JMV ENTERPRISES LTD., and not in its
personal capacity.

Per: _____

CONTACT INFORMATION AND ADDRESS FOR SERVICE:

Name of the firm: MLT Aikins LLP
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