



from a bank account (the “**RBC Swift Hotels Account**”) maintained by Swift Hotels Group Ltd. at Royal Bank of Canada (“**RBC**”) in Calgary, Alberta and paid to the order of Odyssey Hotels Group Ltd. subsequent to the pronouncement of the Receivership Order.

3. An Order providing that Phil Krahn, Brian Ostrander and Odyssey Hotels Group Ltd. shall be jointly and severally liable to pay to the Receiver its costs of this Application on a solicitor and his own client full indemnity basis.
4. Such further and other relief as counsel may request and this Honourable Court may allow.

**Grounds for making this application:**

5. The Receivership Order was pronounced by Mr. Justice Smith in Open Court at approximately 9:20 a.m. (local Saskatchewan time) on Thursday, November 28, 2019.
6. One or more of Phil Krahn, Brian Ostrander and Odyssey Hotels Group Ltd. caused the following two withdrawals (the “**Subject Withdrawals**”) in the following amounts to be made from the RBC Swift Hotels Account in Calgary, Alberta and paid to the order of Odyssey Hotels Group Ltd. subsequent to the pronouncement of the Receivership Order, namely:
  - a) a withdrawal of \$32,000 from the RBC Swift Hotels Account which was processed at 9:34 a.m. Mountain Standard Time on Thursday, November 28, 2019; and
  - b) a withdrawal of \$20,000 from the RBC Swift Hotels Account which was processed at 12:44 p.m. Mountain Standard Time on Thursday, November 28, 2019.
7. The Subject Withdrawals appear to the Receiver to have been carried out in a manner contrary to and in breach of paragraph 9 of the Receivership Order, which paragraph reads as follows:
  9. All rights and remedies (including, without limitation, set-off rights) against the Debtor or the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall: (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on; (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a mortgage or security interest; or (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect a lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further steps shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Debtor and the Receiver. The stay and suspension shall not apply in respect of any "Eligible Financial Contract" as defined in section 65.1 of the BIA. [Emphasis added]

8. By letter dated December 6, 2019, the Receiver made demand upon Phil Krahn, Brian Ostrander and Odyssey Hotels Group Ltd. to repay to the Receiver, on or before December 13, 2019, the \$52,000 comprising the proceeds of the Subject Withdrawals, failing which the Receiver would have no alternative but to seek relief from the Court.
9. As at the date of the preparation of this Notice of Application, the Receiver has not received repayment of the \$52,000 comprising the proceeds of the Subject Withdrawals.

**Material or evidence to be relied on:**

10. This Notice of Application, with proof of service;
11. The Receivership Order of the Honourable Mr. Justice R.S. Smith pronounced in these proceedings on November 28, 2019 (and, specifically, paragraphs 9, 25 and 29 thereof);
12. *Bankruptcy and Insolvency General Rules*, CRC c 368, s 14;
13. The First Report of the Receiver dated December 11, 2019; and
14. Such further and other materials as counsel may advise and this Honourable Court may allow.

**Applicable rules:**

15. *Bankruptcy and Insolvency General Rules*, CRC c 368, s 14.

DATED at Saskatoon, Saskatchewan, this 11th day of December, 2019.

**MLT AIKINS LLP**

Per: 

Jeffrey M. Lee, Q.C., Counsel to the Receiver,  
Deloitte Restructuring Inc.

**NOTICE**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

**CONTACT INFORMATION AND ADDRESS FOR SERVICE:**

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