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COURT

COURT OF QUEEN'S BENCH OF ALBERTA

COM
Dec. 3 2020
Justice Jones

JUDICIAL CENTRE

CALGARY

PLAINTIFF

ROYAL BANK OF CANADA

DEFENDANTS

MTK PROPERTIES LTD., MCARTHUR FURNITURE
(ALBERTA) LTD, EDWIN POUND AND THERESA POUNDIN THE MATTER OF THE RECEIVERSHIP OF
MTK PROPERTIES LTD. AND
MCARTHUR FURNITURE (ALBERTA) LTD

APPLICANT

KPMG INC., IN ITS CAPACITY AS COURT APPOINTED
RECEIVER OF MTK PROPERTIES LTD. AND
MCARTHUR FURNITURE (ALBERTA) LTD

DOCUMENT

SECOND REPORT OF THE RECEIVER

DATE

November 23, 2020

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1. INTRODUCTION AND PURPOSE OF REPORT

Introduction

1. On application by Royal Bank of Canada (“**RBC**”), the Court of Queen’s Bench of Alberta (the “**Court**”) pronounced an order on February 4, 2020 (the “**Receivership Order**”), pursuant to which KPMG Inc. (“**KPMG**”) was appointed receiver and receiver manager (in such capacity, the “**Receiver**”), without security, of all of the current and future assets, undertakings, and properties of every nature and kind whatsoever, and wherever situate (collectively, the “**Property**”) of MTK Properties Ltd. (“**MTK**”) and McArthur Furniture (Alberta) Ltd. (“**McArthur**” and together with MTK, the “**Companies**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (“**BIA**”), section 13(2) of the *Judicature Act*, RSA 2000, c J-2, section 99(a) of the *Business Corporations Act*, RSA 2000, c B-9 and section 65(7) of the *Personal Property Security Act*, RSA 2000 c P-7.
2. Pursuant to a subsequent order of the Court pronounced on February 4, 2020, the effective date of the Receivership Order was stayed until 12:00PM on Tuesday, March 31, 2020 (the “**Receivership Date**”).
3. On May 8, 2020, the Receiver filed its first report (the “**First Report**”) which described, among other things, the Companies’ primary assets and liabilities, the Receiver’s activities to date, and the Receiver’s proposed inventory liquidation plan.
4. On May 12, 2020, an order was obtained approving the net minimum guarantee auction agreement (the “**Auction Agreement**”) with GD Auctions & Appraisals Inc. (“**GD Auctions**”). Concurrently, an order sealing the Receiver’s First Confidential Supplement was obtained to protect commercially sensitive information regarding the Auction Agreement.

Purpose of the Report

5. This is the Receiver’s second report to the Court (the “**Second Report**” or this “**Report**”) which has been prepared to provide the Court with:
 - a) An update on the actions of the Receiver since the First Report;
 - b) A summary of the inventory liquidation by GD Auctions;

- c) The Receiver's statement of receipts and disbursements;
 - d) A summary of the fees and disbursements of the Receiver and its legal counsel, Cassels Brock & Blackwell LLP, for the period of March 31, 2020 to October 31, 2020; and
 - e) The Receiver's recommendations.
6. Terms not otherwise defined herein shall have the meaning ascribed to them in the First Report.

Terms of Reference

7. All materials filed with the Court and all orders granted by the Court in connection with the receivership proceedings will be made available to creditors and other interested parties in electronic format on the Receiver's website <https://www.kpmg.com/ca/mcarthur> (the "**Receiver's Website**").
8. In preparing this Report, the Receiver has been provided with, and has relied upon, unaudited and other financial information, books and records (collectively, the "**Information**") prepared by the Companies and/or their representatives, and discussions with the Companies' management and/or representatives.
9. The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants Handbook, and accordingly the Receiver expresses no opinion or other form of assurance in respect of the Information.
10. The information contained in this Report is not intended to be relied upon by any prospective purchaser or investor in any transaction with the Receiver.
11. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

2. ACTIVITIES OF THE RECEIVER SINCE THE FIRST REPORT

12. The Receiver completed the liquidation of all inventory at the Calgary and Airdrie Properties, as further described in this Report.
13. The Receiver vacated the leased Calgary Property shortly after the completion of the auction of the inventory located therein.
14. The Receiver has arranged for the continued maintenance of the Airdrie Property, including cleaning of the interior, lawncare, and regular security patrols.
15. The Receiver has continued to market the Airdrie Property with Jones Lang Lasalle Real Estate Services Inc. (“**JLL**”). No acceptable offers have been received to date. On September 7, 2020, the list price of the Airdrie Property was reduced from \$4.5 million to \$4.25 million, in order to encourage more interest in the Airdrie Property.
16. In addition, the Receiver has carried out the following routine administrative tasks:
 - a) Prepared and filed various statutory returns, including GST returns;
 - b) Reviewed and administered Wage Earner Protection Program payments for terminated employees;
 - c) Responded to numerous inquiries from former retail customers of the Companies regarding pre-receivership deposits and un-completed sales orders; and
 - d) Attended to processing of weekly disbursements required in administering the estate and maintaining the Airdrie Property.

3. SALES PROCESS

17. As described in the First Report, the Receiver conducted an expedited sales process (the “**Sales Process**”) for the inventory of McArthur in order to limit occupancy rent holding costs on the Calgary Property.
18. The Sales Process resulted in four bids being received by the Receiver, which included bids from three of McArthur’s competitors and one bid from an auctioneer, GD Auctions.
19. The Receiver accepted the Auction Agreement offer from GD Auctions, which was subsequently approved by order of this Court.
20. The Auction Agreement included the liquidation of inventory and equipment located at the Calgary and Airdrie Properties. This included furniture inventory, warehouse tools, computers and electronics, and miscellaneous equipment.
21. GD Auctions conducted the liquidation of the inventory in two stages, with the Calgary Inventory liquidated in May 2020, and the Airdrie Inventory liquidated in June 2020.
22. After completion of both auctions, gross proceeds totaled \$876,135. The net proceeds to the estate, after auction commissions, fees, and costs, totaled \$654,175.

4. STATEMENT OF RECEIPTS AND DISBURSEMENTS

23. Below is the Receiver's interim receipts and disbursements for the period March 31, 2020 to November 18, 2020:

Interim Statement of Receipts and Disbursements	
March 31, 2020 to November 18, 2020	
	Amount (CAD \$)
Cash Receipts	
Gross Auction Sales	876,135
Receiver's certificate	100,000
Cash in bank	7,305
Sales	7,000
WCB Refund	2,433
GST Collections	350
Total cash receipts	993,224
Cash disbursements	
Auction commissions and fees	(221,960)
Rent	(31,055)
Property cleanup	(13,344)
Utilities	(19,311)
IT	(7,594)
Insurance	(7,645)
Contractor	(2,760)
GST paid	(2,583)
Security services	(2,916)
Miscellaneous	(2,593)
Total cash disbursements	(311,762)
Excess receipts over disbursements	681,462

24. Receipts primarily relate to the collection of auction proceeds, and the advance from RBC through a Receiver's certificate to fund initial receivership activities.
25. Disbursements primarily relate to auctions commissions and fees to GD Auctions, rent for the use of the Calgary Property, and miscellaneous holding costs on the Airdrie Property.
26. The Receiver and the Receiver's counsel have billed but unpaid fees in the total amount of \$193,098, for the period of March 31, 2020 to June 30, 2020 and March 31, 2020 to October 31, 2020 respectively (collectively, the "**Professional Fees**"). A summary of the Professional Fees is set out below:

Summary of Receivership Professional Fees			
Service Period	Fees and Disbursements	GST (5%)	Total Amount
KPMG Inc.			
March 31 - June 30, 2020	134,733	6,737	141,470
Total KPMG Inc.	134,733	6,737	141,470
Cassels Brock & Blackwell LLP			
April 1 - April 30, 2020	10,502	519	11,021
May 1 - May 31, 2020	21,748	1,082	22,830
June 1 - June 30, 2020	4,861	242	5,102
July 1 - July 31, 2020	1,886	94	1,980
August 1 - August 31, 2020	3,277	164	3,441
September 1 - September 30, 2020	909	45	954
October 1 - October 31, 2020	6,000	300	6,300
Total Cassels Brock & Blackwell LLP	49,182	2,447	51,628
Total Professional Fees	183,915	9,183	193,098

27. The Receiver is seeking the approval of the Professional Fees. Copies of the invoices described therein, including detailed time analysis, will be made available to the Court, if requested.
28. The Receiver is of the view that, in light of the nature, extent and value of the assets, and the Receiver's activities including: (a) the Receiver's activities since March 31, 2020; (b) the development and initiation of the Sales Process; (c) the maintenance of the Airdrie Property; and (d) the time required to respond to a significant number of retail customer inquiries, the Professional Fees are fair and reasonable.

5. DISTRIBUTIONS TO SECURED CREDITORS

29. The Companies' primary secured creditor is RBC, which has a mortgage over the in Airdrie Property, as well as a general security agreement over the assets of the Companies.
30. Due to unfiled GST returns on the date of receivership, it is anticipated that the CRA will have a deemed trust claim for unpaid GST amounts. Due to COVID-19, the CRA has not yet been able to perform a trust exam to confirm the same. The Receiver anticipates any such claim should not exceed \$50,000.
31. In June 2020, counsel to the Receiver was advised that VIP Distributors ("**VIP**"), a floor plan financier, was asserting a purchase money security interest ("**PMSI**") in relation to certain inventory previously held by McArthur (the "**VIP Claim**").
32. The Receiver reviewed the inventory list provided by VIP. This list included 601 items of inventory, with a total financed amount of \$340,420. Of the 601 items contained in the VIP inventory list, the Receiver identified 213 items (the "**VIP Inventory**") that were in McArthur's possession as at the date of receivership.
33. The total auction proceeds attributable to the VIP Inventory, up to a maximum of the amount financed for each item, was \$69,662.
34. Receiver's counsel reviewed the VIP Claim and concluded that VIP appears to have a valid and enforceable PMSI in relation to the VIP Inventory, subject to certain standard assumptions and qualifications. As such, the Receiver is proposing a distribution to VIP in the amount of \$69,662. The Receiver understands that RBC takes no issue with the proposed distribution to VIP in the amount of \$69,662.
35. Receiver's counsel has also undertaken a review of the validity and enforceability of the security held by RBC. The Receiver's counsel has advised that RBC appears to have a valid and enforceable security interest in and to the personal property of McArthur as well as a valid and enforceable mortgage against the Airdrie Property, subject to certain standard assumptions and qualifications. Accordingly, the Receiver is proposing an interim distribution of \$130,000 to RBC, as well as a \$100,000 repayment to RBC of the borrowings on the Receiver's certificate issued, for a total interim distribution to RBC of \$230,000 (the "**Interim RBC Distribution**").

36. As detailed above, after payment of professional fees, the VIP Claim and the Interim RBC Distribution, the Receiver will retain approximately \$200,000 for payment of any CRA deemed trust claim, for future maintenance and holding costs in respect of the Airdrie Property and for any other costs that may arise as part of the receivership proceedings.

6. RECEIVER'S RECOMMENDATIONS

37. The Receiver submits this Second Report, respectfully requesting that the Court:
- a) Approve the Second Report and the activities of the Receiver as set out therein;
 - b) Approve the Professional Fees; and
 - c) Approve the proposed distributions to secured creditors.

This Report is respectfully submitted this 23rd day of November, 2020.

KPMG Inc.

**In its capacity as Court-appointed Receiver of
MTK Properties Ltd. and McArthur Furniture (Alberta) Ltd
and not in its personal or corporate capacity**



Per: Neil Honess
Senior Vice President