

COURT FILE NUMBER Q.B.G. No. 480 of 2019

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

JUDICIAL CENTRE SASKATOON

PLAINTIFF ROYAL BANK OF CANADA

DEFENDANTS P.S. ELECTRIC LTD. and HARVEY KING

IN THE MATTER OF THE RECEIVERSHIP OF P.S. ELECTRIC LTD.

NOTICE OF APPLICATION

(Interim Distribution and Claims Process Order)

NOTICE TO: Those Parties Identified on The Attached Service List.

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Where: Court House
 520 Spadina Crescent East
 Saskatoon, Saskatchewan, Canada

Date: Monday, May 3, 2021

Time: 10:00 a.m. Saskatchewan Time

Due to the health risks posed by the COVID-19 pandemic, all chambers applications will be heard by telephone unless the presiding judge has decided otherwise. To confirm the telephone number where you can be reached on the date of the application, you must immediately contact the office of the local registrar at (306) 933-5135 and provide your telephone number. You must remain available by telephone at that number on that date until your matter is heard.

Remedy claimed or sought:

1. An Order in substantially the form of proposed draft Order (Interim Distribution) filed herewith authorizing and directing BDCO Canada Limited, court-appointed receiver of the property, assets and undertakings of P.S. Electric Ltd. (the "**Receiver**"), to make the following interim distributions from the receivership estate:
 - (a) to Canada Revenue Agency, the sum of \$19,263.70 (comprising \$15,928.57 in respect of GST and \$3,335.13 in respect of unremitted source deductions);
 - (b) to Service Canada, the sum of \$16,178.74;

- (c) to the Saskatchewan Ministry of Finance, the sum of \$23,486.99;
 - (d) to Royal Bank of Canada, the sum of \$379,557.02 (plus any interest and/or costs accruing from and after April 6, 2021); and
 - (e) to Business Development Bank of Canada, the sum of \$516,300.80 (plus any interest and/or costs accruing from and after March 31, 2021).
2. An Order approving the activities, fees, and disbursements of the Receiver and the fees and disbursements of legal counsel to the Receiver.
 3. A Claims Process Order setting out a process by which the Receiver may receive, assess, and adjudicate the claims of the remaining creditors of P.S. Electric Ltd. (the “**Debtor**”).
 4. Such further and other relief as counsel may request and this Honourable Court may allow.

Grounds for making this application:

Order for Interim Distribution

5. The Debtor carried on business as an electrical contractor in and around Estevan, Saskatchewan, prior to the appointment of the Receiver on October 13, 2020.
6. In January and early February of 2021, the Receiver caused all or substantially all of the Debtor’s equipment and inventory to be sold at auction through McDougall Auctioneers Ltd., yielding net sale proceeds in the amount of \$694,072.
7. Since the appointment of the Receiver in October of 2020, the Receiver has successfully collected accounts receivable owing to the Debtor in the amount of \$344,567. As well, upon assuming control of the Debtor’s bank accounts, the Receiver came into possession of cash in the amount of \$120,032.
8. The amounts collected by the Receiver to date are more than sufficient to:
 - (a) pay all amounts owed by the Debtor to Canada Revenue Agency and to other creditors on a super-priority basis;
 - (b) satisfy the indebtedness owed by the Debtor to its senior secured creditor, Royal Bank of Canada (“**RBC**”); and
 - (c) satisfy the indebtedness owed by the Debtor to its second secured creditor, Business Development Bank of Canada (“**BDC**”).

9. The Receiver has received opinions from its independent legal counsel confirming that, subject to customary assumptions and qualifications, the security interests in the Debtor's property held by RBC and BDC, respectively, are valid and enforceable.
10. As more particularly detailed in the Second Report of the Receiver dated April 27, 2021, the actions of the Receiver have at all times been conducted with efficiency and integrity, with due regard for the interests of all parties, and with the support of RBC and BDC, the senior secured creditors.

Claims Process Order

11. After the interim distribution contemplated above is made (and as a result of the Receiver's ongoing efforts to collect additional accounts receivable) there are expected to be funds in the Receivership estate to fund a distribution to the Debtor's unsecured creditors.
12. In order to ensure that the remaining funds are distributed *pro rata* in accordance with the remaining unsecured claims, the Receiver respectfully requests that this Honourable Court grant a Claims Process Order in order that the claims of the unsecured creditors may be solicited, proven and adjudicated in an orderly fashion.

Material or evidence to be relied on:

13. The Applicant relies upon:
 - (a) this Notice of Application;
 - (b) the Second Report of the Receiver dated April 27, 2021;
 - (c) a form of draft Order (Interim Distribution);
 - (d) a form of draft Claims Process Order;
 - (e) a redline document showing the changes in the proposed form of Claims Process Order from the current working draft of the proposed Saskatchewan Template Claims Process Order;
 - (f) Book of Authorities containing:
 - i) excerpts from previous cases in which interim distributions were approved, namely:
 - A. *Tuscany Energy Ltd. (Re)* (unreported), QB No 900 of 2016, Judicial Centre of Saskatoon (22 November 2016, Smith J);

- B. *JMV Enterprises Ltd. (Re)* (unreported), QB 434 of 2017, Judicial Centre of Saskatoon (8 January 2018, Scherman J); and
 - C. *Beckerland Farms Ltd. (Re)* (unreported), QBG 915 of 2019, Judicial Centre of Saskatoon (4 February 2020, Rothery J); and
- ii) examples of prior Claims Process Orders granted by this Honourable Court, namely:
- A. *Advance Engineered Products Ltd. (Re)* (unreported), QB 454 of 2015, Judicial Centre of Saskatoon (16 June 2015, Gabrielson J.); and
 - B. *Morris Industries Ltd. et al. (Re)* (unreported), QB No 1884 of 2019, Judicial Centre of Saskatoon (16 January 2020, Smith J); and
- (g) such further and other material as this Honourable Court may allow.


Applicable Acts and Regulations:

14. The *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, Part XI.

DATED at Saskatoon, Saskatchewan, this 20th day of April, 2021.

MLT AIKINS LLP

Per: 

 Paul Olfert, counsel for the Receiver, BDO
Canada Limited

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

Name of firm: MLT Aikins LLP
Name of lawyer in charge of file: Paul Olfert
Address of legal firms: 1201 – 409 3rd Avenue South, Saskatoon, SK S7K 5T6
Telephone number: (306) 975-7100
Fax number: (306) 975-7145
E-mail address: POlfert@mltaikins.com
File No: 63921.8