

COURT FILE NUMBER

QB No. 1884 of 2019

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE

SASKATOON

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, AS  
AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 101098672  
SASKATCHEWAN LTD., MORRIS INDUSTRIES LTD., MORRIS SALES AND SERVICE LTD.,  
CONTOUR REALTY INC., and MORRIS INDUSTRIES (USA) INC.

**NOTICE OF APPLICATION**

**(Sale Approval and Vesting Order and Seventh Extension of Stay of Proceedings)**

**NOTICE TO RESPONDENTS: All parties listed in the enclosed 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

Date: Friday, September 18, 2020

Time: 2:00 p.m.

**NOTE:** 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. Dial-in particulars may be obtained upon request by contacting MLT Aikins LLP, counsel for the Monitor.

*(Read the Notice at the end of this document to see what else you can do and when you must do it.)*

**Remedy claimed or sought:**

1. An Order in substantially the form of the proposed draft Sale Approval and Vesting Order:
  - (a) approving, authorizing and directing Alvarez & Marsal Canada Inc. (the "**Monitor**"), the Court-appointed Monitor of 101098672 Saskatchewan Ltd., Morris Industries Ltd., Morris Sales and Service Ltd., Contour Realty Inc., and Morris Industries (USA) Inc. (collectively, the "**Morris Group**") to complete the proposed purchase and sale transactions (the "**Transactions**") respecting certain assets owned by certain of the Morris Group, as more particularly described in:

- (i) an Asset Purchase Agreement dated June 30, 2020 (the “**RW Roads APA**”) between Morris Industries Ltd. (“**MIL**”) and Contour Realty Inc. (“**Contour**”), on one hand, and RW Roads Solutions Limited Partnership, by and through its general partner RW Roads Solutions Inc. (“**RW Roads**”), on the other; and
- (ii) an Asset Purchase Agreement dated June 30, 2020 (the “**SFLP APA**”; together with the RW Roads APA, the “**APAs**”) between MIL, on one hand, and SuperiorFarms Solutions Limited Partnership, by and through its general partner Rite Way Mfg. Co. Ltd. (“**SFLP**”; together with RW Roads, the “**Purchasers**”), on the other;

both attached to the Confidential Supplement to the Seventh Report of the Monitor previously filed in these proceedings, in accordance with the APAs; and

- (b) vesting in the respective Purchasers all right, title and interest of MIL and/or Contour (as the case may be) to the purchased assets, free and clear of all liens, charges, and encumbrances.
2. An Order in substantially the form of the proposed draft Order (Seventh Extension of Stay of Proceedings) filed herewith:
- (a) extending the term of the Amended and Restated Initial Order of the Honourable Mr. Justice R.S. Smith granted in these proceedings on January 16, 2020 (the “**ARI Order**”), and the stay of proceedings provided for therein, to 11:59 p.m. Saskatchewan time on November 30, 2020;
  - (b) approving the actions, activities and conduct of the Monitor from August 14, 2020 to and including September 14, 2020, as more particularly described in the Tenth Report of the Monitor; and
  - (c) approving the professional fees and disbursements of the Monitor and its legal counsel, MLT Aikins LLP, from August 1, 2020 to and including August 31, 2020, as more particularly described in the Tenth Report of the Monitor dated September 14, 2020 (the “**Tenth Report**”).
3. Such further and other relief as counsel may request and this Honourable Court may allow.

**Grounds for making this application:**

- 4. The Morris Group employs, in aggregate, approximately 134 persons in the Provinces of Saskatchewan and Manitoba.

5. There are no remaining directors or officers of Morris Group. Accordingly, the Monitor, is responsible for all management and oversight of the business operations of the Morris Group.
6. The Monitor was appointed pursuant to the Amended and Restated Initial Order granted in these proceedings on January 16, 2020 by the Honourable Mr. Justice R.S. Smith (the “**ARI Order**”), the term of which (and the stay of proceedings thereunder) was previously extended by Orders of the Court to May 8, 2020, May 29, 2020, July 3, 2020, July 31, 2020, August 31, 2020, and September 18, 2020. If the ARI Order and the stay of proceedings thereunder are not extended, the Morris Group will be left without any directors, officers, senior management, means of funding operations, court officer oversight or means to pay its employees.
7. The Morris Group was granted protection pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, s 36 by means of an Initial Order of the Honourable Mr. Justice R.S. Smith granted on January 8, 2020 and the ARI Order granted by Justice Smith on January 16, 2020.
8. Pursuant to paragraph 3(d) of the Order (Enhancement of Monitor’s Powers) of the Honourable Mr. Justice R.W. Elson granted on February 18, 2020 (the “**EMP Order**”), the Monitor is empowered, *inter alia*, to take any steps reasonably incidental to certain enumerated powers described therein and to exercise statutory rights and remedies on behalf of Morris Group.

#### Sale Approval and Vesting Order

9. Pursuant to the Order (Approving Sale and Investment Solicitation Process) granted in these proceedings by the Honourable Mr. Justice R.S. Smith on January 16, 2020 (the “**SISP Order**”), the Monitor (then with the assistance of the Morris Group) undertook to market the assets of Morris Group for sale. Although the Sale and Investment Solicitation Process contemplated in the SISP Order (the “**SISP**”) did not, ultimately, result in the submission of any qualified bids within the meaning of the SISP, it did identify for the Monitor parties with potential interest in purchasing the assets of the Morris Group. Accordingly, after subsequent negotiations following the conclusion of the SISP, the Monitor was able to reach agreement on the APAs with the respective Purchasers.
10. As detailed in the Tenth Report, as well as other reports previously filed in these proceedings, the Monitor has undertaken very extensive efforts to market the assets of Morris Group for sale and in negotiating, and working toward the removal of conditions in respect of, the APAs. The Monitor is satisfied that the Transactions represent the best realistic possibility of maximizing the value of the assets of Morris Group for the benefit of its stakeholders.
11. Further, the Transactions are supported by Bank of Montreal, the senior secured lender to Morris Group.

12. The proposed Sale Approval and Vesting Order contains provisions which will facilitate prompt delivery of payments by the Monitor to over 75 employees of MIL's Yorkton facility, whose employment is expected to be terminated shortly after the closing of the Transactions. These payments include expedited delivery of payments which these terminated employees would be entitled to under the *Wage Earner Protection Program Act*, SC 2005, c 47 and additional payments under a proposed COVID Hardship Fund to be created and administered by the Monitor.

#### Extension of the ARI Order and the Stay of Proceedings

13. The ARI Order and the stay of proceedings provided for thereunder are scheduled to expire at 11:59 p.m. on Friday, September 18, 2020.
14. The Monitor is working to complete and close the Transactions as expeditiously as possible.
15. Pending the closing of the Transactions,, the Monitor continues to oversee the day-to-day operations and business activities of the Morris Group as more particularly discussed in the Tenth Report.

#### Approval of Activities of the Monitor and Fees and Disbursements of the Monitor and its Legal Counsel

16. As more particularly detailed in the Tenth Report:
  - a) the Monitor's mandate has at all times been carried out with efficiency and integrity and with due regard for the interests of all parties; and
  - b) the professional fees and disbursements of the Monitor and its legal counsel are fair and reasonable in the circumstances.
17. Accordingly, the Monitor seeks approval of its actions, activities and conduct from August 14, 2020 (the date upon which its activities were last approved) to September 14, 2020, as well as approval of the fees and disbursements of the Monitor and its legal counsel from August 1, 2020 to and including August 31, 2020.

#### Sealing Order

18. The Confidential Supplement to the Tenth Report of the Monitor contains commercially sensitive and private information, including the Letter of Understanding between MIL and Retail, Wholesale and Department Store Union, Local 955 and sensitive private information identifying names and length of service of employees and amounts of proposed payments to individual employees whose employment is expected to be terminated upon the bankruptcy of MIL.

19. Publicly disclosing this commercially sensitive and private information prior to the closing of the Transactions would be prejudicial to any future sale in the event that this Honourable Court does not grant the Sale Approval and Vesting Order sought or if the Transactions do not close for any reason.
20. The Monitor has given notice to the media of its intention to seek a sealing order, as required by General Application Practice Directive #3.
21. Such further or other grounds as counsel may advise and this Honourable Court may allow.

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

22. This Notice of Application, with proof of service;
23. Tenth Report of the Monitor dated September 15, 2020;
24. The First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and Ninth Reports of the Monitor, with appendices, previously filed;
25. A form of draft Sale Approval and Vesting Order;
26. A redline document showing the changes made in the proposed Sale Approval and Vesting Order from the Saskatchewan Template Sale Approval and Vesting Order;
27. A form of Draft Order (Seventh Extension of Stay of Proceedings);
28. Brief of Law (to be filed);
29. Proof of compliance with General Application Practice Directive #3; and
30. Such further and other materials as counsel may advise and this Honourable Court may allow.

**Applicable Acts and regulations:**

31. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, s 36.

DATED at Saskatoon, Saskatchewan, this 15<sup>th</sup> day of September, 2020.

**MLT AIKINS LLP**

Per: 

Jeffrey M. Lee, Q.C. and Paul Olfert  
Counsel for the Monitor, Alvarez & Marsal Canada  
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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