

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 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, February 19, 2021

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 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 transaction (the "**Transaction**") respecting certain assets owned by certain of the Morris Group, as more particularly described in the Asset Purchase Agreement (the "**APA**") between Morris Industries Ltd. ("**MIL**") and Contour Realty Inc. ("**Contour**"), by the Monitor, on the one hand, and Morris Equipment Ltd. (the "**Purchaser**"), on the other, a copy of which APA will, if and when finalized, be attached to the Confidential Appendix to the Fourteenth

Report of the Monitor (the "**Confidential Appendix**"), in accordance with the APA, and vesting in the Purchaser 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 (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 March 31, 2021;
 - (b) approving the actions, activities and conduct of the Monitor from January 26, 2021 to and including February 16, 2021, as more particularly described in the Fourteenth Report of the Monitor dated February 16, 2021 (the "**Fourteenth Report**"); and
 - (c) approving the professional fees and disbursements of the Monitor and its legal counsel, MLT Aikins LLP, from January 1, 2021 to and including January 31, 2021, as more particularly described in the Fourteenth 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 125 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, May 29, July 3, July 31, August 31, September 18, November 26, and December 18, 2020, and January 29, 2021. 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 (the "**CCAA**") 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 the 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 is working to achieve a signed APA with the Purchaser by February 18, 2021.
10. As detailed in the Fourteenth 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 APA. The Monitor is satisfied that the Transaction represents the best realistic possibility of maximizing the value of the assets of Morris Group for the benefit of its stakeholders.
11. Further, the Transaction is supported by Bank of Montreal and Farm Credit Canada, the senior secured lender to Morris Group.
12. The transaction contemplated in the Order granted by the Court on December 18, 2020 did not ultimately close. The requirements of the Purchaser's equity sponsor were such that the previously proposed Transaction needed to be revised, and the Monitor is working to present it to the Court in that revised form.

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 Sunday, February 28, 2021.
14. The Monitor is working to complete and close the Transaction as expeditiously as possible.

15. Pending the closing of the Transaction, the Monitor continues to oversee the day-to-day operations and business activities of the Morris Group as more particularly discussed in the Fourteenth Report.
16. The Morris Group, by and through the Monitor, has acted and continues to act in good faith and with due diligence in regard to these proceedings commenced by it pursuant to the CCAA.

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

17. As more particularly detailed in the Fourteenth 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.
18. Accordingly, the Monitor seeks approval of its actions, activities and conduct from January 26, 2021 (the date upon which its activities were last approved) to February 16, 2021, as well as approval of the fees and disbursements of the Monitor and its legal counsel from January 1, 2021 to and including January 31, 2021.

Sealing Order

19. The Confidential Appendix to the Fourteenth Report of the Monitor will contain commercially sensitive and private information, including the APA, which specifies the purchase price being paid thereunder.
20. Publicly disclosing this commercially sensitive and private information prior to the closing of the Transaction 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 Transaction does not close for any reason.
21. The Monitor has given notice to the media of its intention to seek a sealing order, as required by General Application Practice Directive #3.
22. Such further or other grounds as counsel may advise and this Honourable Court may allow.

Material or evidence to be relied on:

23. This Notice of Application, with proof of service;

24. Fourteenth Report of the Monitor dated February 16, 2021;
25. Confidential Appendix to the Fourteenth Report of the Monitor
26. The First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, and Thirteenth Reports of the Monitor, with appendices, previously filed;
27. A form of draft Sale Approval and Vesting Order;
28. A redline document showing the changes made in the proposed Sale Approval and Vesting Order from the Saskatchewan Template Sale Approval and Vesting Order;
29. A form of Draft Order (Extension of Stay of Proceedings and Other Relief);
30. Brief of Law (to be filed);
31. Proof of compliance with General Application Practice Directive #3; and
32. Such further and other materials as counsel may advise and this Honourable Court may allow.

Applicable Acts and regulations:

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

DATED at Saskatoon, Saskatchewan, this 16th day of February, 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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| Lawyer in charge of file: | Jeffrey M. Lee, Q.C. and Paul Olfert |
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