



ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE M.R. **HAINES**) WEDNESDAY, THE 20th DAY
)
) OF AUGUST, 2014

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

**AFI HYDRO INC.
(NOW 1817870 ONTARIO INC.)**

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43 AS AMENDED

ORDER

THIS MOTION, made by Richter Advisory Group Inc., in its capacity as court appointed receiver and manager (the "**Receiver**") of AFI Hydro Inc. (now 1817870 Ontario Inc.) (the "**Company**"), for an order:

1. dispensing with further service of this motion;
2. authorizing the Receiver to pay \$5,887.41 to Canada Revenue Agency ("**CRA**") in full and final settlement of the deemed trust claim asserted by CRA;
3. authorizing the Receiver to pay to the Bank of Montreal ("**BMO**") and BMO Capital Corporation (together with BMO, the "**Lenders**") (a) the amount of \$4.8 million on account of the secured indebtedness (the "**Indebtedness**") owed by the Company to the Lenders which totals approximately \$13.1 million, exclusive of costs, and (b) after satisfying any Prior Ranking Claims (as defined below), any other amounts currently held or received by the Receiver after the date of this Order up to the full amount of the Indebtedness, without the need for further Court approval;
4. authorizing the Receiver to pay any and all amounts that rank in priority to the Indebtedness (the "**Prior Ranking Claims**") up to the aggregate amount of \$0.9 million, without the need for further Court approval;
5. approving the Second Report of the Receiver dated July 25, 2014 (the "**Second Report**") and the Third Report of the Receiver dated August 13, 2014 (the "**Third Report**" and together with the Second Report, the "**Reports**") and the activities of the Receiver set out therein; and
6. approving the fees and disbursements of the Receiver and its counsel, Davies Ward Phillips & Vineberg LLP ("**Davies**") up to and including June 30, 2014, as set out in the Affidavit of Pritesh Patel sworn August 13, 2014 (the "**Patel Affidavit**") and the Affidavit of Natalie Renner sworn August 11, 2014 (the "**Renner Affidavit**"),

was heard on this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report and the Appendices and the Third Report and the Appendices including the Patel Affidavit and the Renner Affidavit, and on hearing the submissions of counsel for the Receiver and no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed.

SERVICE

1. **THIS COURT ORDERS** that service of the Motion Record, including the Reports is deemed adequate and hereby dispenses with further service thereof.

PAYMENTS TO CREDITORS

2. **THIS COURT ORDERS** that the Receiver be and is hereby authorized to pay CRA the amount of \$5,997.41 in full and final settlement of the deemed trust claim asserted by CRA.

3. **THIS COURT ORDERS** that the Receiver be and is hereby authorized to pay the Lenders (a) the amount of \$4.8 million on account of the Indebtedness, and (b) after satisfying any Prior Ranking Claims, any other amounts currently held or received by the Receiver after the date of this Order, without the need for further Court approval.

4. **THIS COURT ORDERS** that the Receiver is authorized to pay any Prior Ranking Claim from monies held or received to date up to the aggregate amount of \$0.9 million, including the further fees and disbursements of the Receiver and Davies,

without the need for further Court approval, unless the Receiver receives an objection from a creditor of the Company prior to paying any Prior Ranking Claim.

5. **THIS COURT ORDERS** that any payments made by the Receiver pursuant to the authorizations granted to the Receiver under this Order are not and shall not be deemed to be distributions that are subject to the provisions of any one of subsection 159(2) of the *Income Tax Act*, R.S.C., 1985, c.1 (5th Supplement), as amended, subsection 23(5) of the *Canada Pension Plan*, R.S.C. 1985, c. C-8, as amended, subsection 86(3) of the *Employment Insurance Act*, S.C. 1996, c. 23, as amended, subsections 81(1) and 270(3) of the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended, subsection 19(2) of the *Employer Health Tax Act*, R.S.O. 1990, c. E. 11, as amended, and subsection 107(2) of the *Corporations Tax Act*, R.S.O. 1990, c. C.40, as amended, and subsection 22(5) of the *Retail Sales Tax Act*, R.S.O, c. R.31, as amended, and the Receiver be and is hereby directed not to obtain any certificate pursuant to any such statutory provisions and the Receiver shall not be liable in any manner for failure to obtain any certificate pursuant to any such statutory provisions prior to making the payments pursuant to the authorizations granted to the Receiver under this Order.

APPROVAL OF THE SECOND REPORT AND THE THIRD REPORT

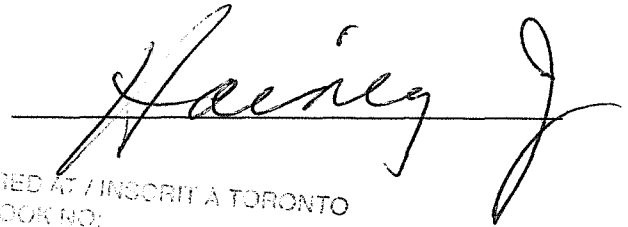
6. **THIS COURT ORDERS** that activities of the Receiver, as set out in the Second Report, and the Second Report, including the appendices, are hereby and approved.

7. **THIS COURT ORDERS** that activities of the Receiver, as set out in the Third Report, and the Third Report, including the appendices, are hereby and approved.

FEEES AND DISBURSEMENTS OF THE RECEIVER AND DAVIES

8. **THIS COURT ORDERS** that the fees and disbursements of the Receiver for the period of February 24, 2014 to June 30, 2014 as described in the Patel Affidavit are hereby approved.

9. **THIS COURT ORDERS** that the fees and disbursements of Davies for the period of February 24, 2014 to June 30, 2014 as described in the Renner Affidavit, are hereby approved.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO..

AUG 23 2014

NB

BANK OF MONTREAL – and – AFI HYDRO INC. (NOW 1817870 ONTARIO INC.)
APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*,
R.S.O. 1990, c. C.43, AS AMENDED

Court File No. CV-14-10456-00Cb . . .

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

ORDER

DAVIES WARD PHILLIPS & VINEBERG LLP
155 WELLINGTON STREET WEST
TORONTO, ON M5V 3J7

Robin B. Schwill (LSUC #38452I)
Natalie Renner (LSUC#55954A)
Tel: 416.863.5502
Fax: 416.863.0871

Lawyers for the Receiver

Aug 20-14

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

August 20/14
N. Macfarland for applicant
Z. Ellis for BofM

MOTION RECORD

Motion is unopposed.
Order granted on terms
of attached Order.

Haining J.

DAVIES WARD PHILLIPS & VINEBERG LLP
155 WELLINGTON STREET WEST
TORONTO, ON M5V 3J7

Robin B. Schwill (LSUC #384521)
Tel: 416.863.5502
Fax: 416.863.0871

Lawyers for the Receiver

