

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

IN THE MATTER OF the *Companies' Creditors
Arrangement Act*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER of a Plan of Compromise or Arrangement
of BRAKE PRO, LTD.

Applicant

AFFIDAVIT OF RUSSELL L. ARMER
(Sworn July 23rd, 2007)

I, **Russell Armer** of the City of Woodstock, in the State of Georgia, in the United States of America, **MAKE OATH AND SAY AS FOLLOWS:**

Introduction

1. I am the President and CEO of Brake Pro, Ltd. ("Brake Pro, or the "Company"), and as such have knowledge of the matters deposed to in this Affidavit. Where this affidavit is not based on my direct personal knowledge, it is based on information and belief and I verily believe such information to be true.

Nature of Application and Overview of Relief Sought

2. This affidavit is sworn in support of the Company's application for relief under the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA").
3. The Company carries on business in Concord, Ontario, manufacturing brake friction material for heavy vehicles such as transport trucks and buses for sale in

the North American markets to customers such as truck and transit part suppliers and original equipment axle and brake manufacturers.

4. The Company is well known for the quality of its product, and is recognized in the market place as being a “top-line” niche manufacturer, with North American market share of 12-15%. However, despite the high quality of its product, the Company’s business has sustained significant decline in profitability in the last 2 years, largely due to increases in raw material costs and a rising Canadian dollar. Over the past 24 months, the Company has had net losses of approximately \$1.2 million, including losses of approximately \$500,000 in the first 6 months of 2007.
5. The Company has been in default of its obligations to its senior secured lender, Wachovia Capital Finance Corporation (Canada), (“Wachovia”, or the “Bank”, formerly known as Congress Financial Corporation (Canada)) since February 16, 2006. By letter dated February 16, 2006, Wachovia gave the Company notice of this default. Further notices of continuing default were delivered by letters dated June 27, 2006, August 11, 2006, December 15, 2006, and March 9, 2007. Each time, the Bank has conditionally agreed to extend its financing, on terms, but without waiver of the continuing defaults.
6. On July 6, 2007, the Bank delivered a proposed amendment to its credit facilities that provides for reductions in the line of credit provided by the Bank to the Company (the “Credit Amendment”) commencing July 10, 2007. The proposed amendment contemplates a retirement of the credit facilities provided by the Bank to the Company (the “Credit Facilities”) by October 10, 2007. The Bank advised

the Company that it would only be prepared to further extend the Credit Facilities if the Company complied with the proposed timetable for reduction of amounts outstanding to the Bank.

7. By letter dated July 9, 2007, the Bank gave further notice of continuing default, and agreed to extend the credit facilities to Friday July 20, 2007, on terms, without waiver of the default.
8. The Company is also facing increasing demands from unpaid suppliers, who are discontinuing credit and are threatening to discontinue supply if accounts are not paid up.
9. In the circumstances, the Company has insufficient cash to pay its liabilities in the ordinary course without further financing.
10. The Company is insolvent, and needs a stay of proceedings to allow it to conduct an expedited sale process for the business, or alternatively to implement an orderly liquidation of its assets for the benefit of its creditors.
11. The Company is requesting that this Court appoint BDO Dunwoody Limited as monitor ("Monitor") in these proceedings.

The Company

12. The Company is an Ontario corporation, which carries on business in Concord, Ontario. The Company also has offices and warehouse space in Kennesaw, Georgia.

13. The Company is a wholly owned subsidiary of BPS Holding Corporation, which is incorporated in the state of Delaware, USA.
14. The Company is a sister company to BPM Co, also a Delaware corporation, and also a wholly owned subsidiary of BPS Holding Corporation. BPM Co. carries on the business of rebuilding heavy duty brake shoes whereby it rivets the brake lining manufactured by the Company onto new or exchanged brake shoes. BPM Co. is a significant account debtor of the Company, for inventory purchased by BPM Co. from the Company. BPM Co. is not financed by the Bank.

Employees

15. The Company currently has approximately 170 hourly and 53 salaried employees across North America. The hourly employees are represented by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union Local 5338 ("USW"). The USW collective agreement expired on June 10, 2007.

Financial Position

16. The Company had sales of approximately \$35 million in the year ended December 31, 2006. The Company has about 40% of the Canadian market for friction material, which represents about 36% of the Company's overall sales.
17. A copy of the Company's audited financial statements for the year ended December 31, 2005 and internal statements for the year ended December 31, 2006 and 6 months ended June, 2007 (unaudited) are attached hereto as Exhibit "A".

18. As can be seen from the attached financial statements, the Company has suffered losses since 2005. This has been largely as a result of high production and labour costs that have made it difficult for the Company to compete in the export market. The Company has a large sales and marketing staff as well as a strong unionized work-force. The difficulties have been exacerbated by the strengthening Canadian dollar, which has caused margins to erode.

Assets

19. As the financial statements indicate, the Company's assets as of June, 2007 consisted of the following:

Current Assets:.....	(Canadian dollars in thousands)
Cash and cash equivalents	\$ 439
Receivables, net	4,767
Inventories, net	6,660
Other current assets	<u>282</u>
Total current assets.....	12,148
Property, plant and equipment, net	4,947
Other assets (goodwill)	<u>5,909</u>
Total assets	<u>\$ 23,004</u>

The foregoing figures represent book value, and not liquidation value, of the Company's assets.

20. The Company's inventory of approximately \$6.6 million consists mainly of finished goods available for shipping to customers. The inventory is located mainly at the Company's plant in Concord, and its premises in Georgia, but some proportion is also located in various customer and warehouse facilities in Ontario, Quebec, Nebraska, Utah, and Florida.

21. The book value of the Company's fixed assets is approximately \$4.9 million.

Secured Debt of the Company

The Bank

22. The Company's senior secured lender is Wachovia, pursuant to an Amended and Restated Loan Agreement made as of July 31, 1996, and amended and restated as of December 11, 2001 (the "Loan Agreement"). The Loan Agreement has been amended subsequently by a First Amending Agreement Loan Agreement dated April 12, 2002, a Second Amending Agreement to Amended and Restated Loan Agreement dated December 11, 2003, and a Third Amending Agreement to Amended and Restated Loan Agreement dated March 14, 2005. The Credit Facilities provided pursuant to these agreements consist of:

- (a) a revolving loan up to the amount of \$11.5 million. Approximately \$5,280,000 million is currently outstanding on this loan as of June 2007; and
- (b) a term loan in the amount of \$4.2 million, with approximately \$2.4 million outstanding as of June 2007.

Attached hereto as Exhibit "B" is a copy of the Loan Agreement.

23. The amounts advanced are secured by security over all of the assets and undertaking of the Company pursuant to a General Security Agreement, an Intellectual Property Security Agreement, a General Assignment of Accounts Receivable, a Hypothec and a Pledge Agreement dated July 31, 1996, and

registered under the Ontario Personal Property Security Act (“PPSA”) on July 16, 1996. Attached hereto as Exhibit “C” is a copy of the security documents.

24. The Company is in default of a covenant to the Bank under the Credit Facilities, by failing to maintain a minimum EBITDA, as outlined in the default letters dated February 16, 2006, June 27, 2006, August 11, 2006, December 15, 2006, and March 9, 2007. Pursuant to the March 9, 2007 letter, all amounts owing were to be repaid in full no later than July 10, 2007.
25. On July 6, 2007, the Bank delivered the Credit Amendment, which provided for an aggressive timetable for the reduction of the amounts outstanding to the Bank on the Credit Facilities.
26. By letter dated July 9, 2007, the Bank gave further notice of continued default, and agreed to extend credit to the Company only to July 20, 2007, on terms, without waiver of the outstanding default. Attached hereto as Exhibit “D” is a copy of the July 9, 2007 letter.

Tenneco

27. The Company is also indebted to a second secured lender, Tenneco Canada Inc. (“Tenneco”) under the terms of a junior subordinated promissory note dated December 11, 2001 in the original principal amount of US \$5,000,000, and under the terms of a junior subordinated promissory note dated December 11, 2001 in the original principal amount of US \$2,000,000 (the “Subordinated Notes”). The terms of the financing are set out in a Debt Restructuring Closing Agreement

dated December 11, 2001. Attached hereto as Exhibit "E" is a copy of the Debt Restructuring Closing Agreement.

28. There is currently \$3,765,000 U.S. outstanding and owing to Tenneco under the Subordinated Notes. The Bank has not permitted any pay-down of the Tenneco debt since January 2006.
29. Payment of the Subordinated Notes is secured by a Debenture originally granted by the Company's predecessor, Tenneco Heavy Brake Ltd., and assumed by the Company. The security was registered against the Company under the PPSA on July 13, 2006. Attached hereto as Exhibit "F" is a copy of the Debenture.
30. The indebtedness to Tenneco has been subordinated, by agreement, to the indebtedness to Wachovia, pursuant to a Subordination Agreement dated as of December 11, 2001, as subsequently amended from time to time (The "Subordination Agreement"). Attached hereto as Exhibit "G" is a copy of the Subordination Agreement.

Other Secured Creditors

31. The Company also has the following secured creditors who have registered security against the Company in respect of certain specific equipment:
 - (a) Xerox Canada Ltd: December 7, 2005;
 - (b) Citicorp Vendor Finance, Ltd.: February 24, 2004 and November 19, 2003;

- (c) Kempenfelt Capital Inc.: August 8, 2003;
 - (d) Onset Capital Corporation: August 8, 2003;
 - (e) G.N. Johnston Equipment Co. Ltd.: January 25, 2002;
32. Attached hereto as Exhibit "H" is a certified copy of the PPSA registrations against the Company as of July 5, 2007.

Unsecured Liabilities

33. The Company also has approximately \$5.3 million of trade liabilities, as of June, 2007. Of these liabilities, approximately \$1.4 million is over 90 days.
34. Suppliers have started to cut off supply to the Company as payables have gone unpaid.
35. The Company's payroll is approximately \$200,000 per week. It has maintained its obligations for payroll, source deductions, and GST throughout, and is not in arrears in respect of these items.

The Leases

36. The Company leases 100,000 square feet of manufacturing and office premises at 250 Doney Crescent, Concord, Ontario (the "Premises") from its landlord, Circle Land Investments Ltd. pursuant to a Lease Agreement dated as of June 16, 2003. This lease expires in May, 2009. It is currently in good standing.

37. The Company is also a tenant at premises located at 1000 Cobb International Blvd., Suite A1, Keenesaw, Georgia. Some inventory of the Company is stored there, and it has a small office located there. The lease in respect of these premises is also in good standing.

Sale Process

38. The Company has taken steps to market itself over the last year and a half, with the assistance of various investment bankers. Many expressions of interest have been made, and are still being made, but to this point no firm offers have been forthcoming. I believe that a formal sales process through a CCAA proceeding will lead to such an offer.
39. The Order being sought herein under the CCAA contemplates a sale process to take place subsequent to the issuance of the Order, to be conducted by the Monitor and the Company. The Company is advised that the Bank is prepared to support such a process, in order to ensure that the best value for all stakeholders is generated in respect of the Company.
40. It is contemplated that a CCAA proceeding will provide a reasonable and effective forum within which marketing, negotiations, and discussions can take place in order to generate value for stakeholders.
41. It is contemplated that the Monitor and the Applicant will undertake the sale process in such manner as the Monitor reasonably determines is necessary, in consultation with the Company and the Bank.

42. The Company seeks, as part of the Initial Order, an Order approving the proposed sale.

Need for Stay

43. The Company does not have sufficient cash resources to pay its liabilities to creditors as they come due. Suppliers are not prepared to continue to supply the Company with raw materials or extend further credit to the Company without payment of outstanding payables. The Company is not in a position financially to comply.
44. Given the current state, absent Court protection and relief, it is likely that increasing numbers of the Company's creditors will take their own remedial steps and damage any potential of the Company to survive on a going-concern basis.
45. The Company must take steps to wind-up its business, through a going-concern sale or otherwise. A going-concern sale will enable the Company to preserve jobs that will otherwise be lost through a shut-down and liquidation.
46. During the course of the proposed sale process, the Company intends to continue operations in order to fulfill customer orders, thereby minimizing customer set-off claims and increasing recovery on accounts receivable.
47. In light of the insolvency of the Company and the problems it currently faces, including the issues with suppliers, the Company urgently requires a stay of proceedings in order to preserve the interests of the Company's stakeholders and to avoid the immediate shut-down of its business.

Payments

48. During the period of the CCAA process, the Company intends to make current payments as set out in the draft Initial Order.

The Monitor

49. BDO Dunwoody Limited (“BDO”) has agreed to act as Monitor in these proceedings. A copy of the consent signed by BDO is attached hereto as Exhibit “I”.

Financing During the Process

50. The Company and the Bank are in the process of negotiating an amendment to the current Credit Facilities to provide for a forbearance by the Bank (the “Forbearance Agreement”). It is contemplated by the parties that under the Forbearance Agreement, the Bank will make financing available to the Company during the CCAA proceedings. The Company will be seeking to have the Bank carved out of the stay imposed by the Initial Order. The Initial Order sought provides for the Bank’s existing security to continue in respect of monies advanced by the Bank during the CCAA proceedings.
51. The Company is subject to a blocked account and “lock-box” arrangement (the “Blocked Account System”), whereby payments received by the Company are deposited into an account maintained by the Bank of Montreal, and the cash in that account is remitted back to the Bank. The cash is then re-advanced to the Company in accordance with the availability provided for under the Credit

Facilities. It is contemplated that this Blocked Account System will continue to be used by the Company and the Bank under the terms of the Forbearance Agreement being negotiated.

Cash Flow

52. A projected cash flow of the Company has been prepared for the purposes of these proceedings, from the week ending July 6, 2007 up to and including the week ending September 28, 2007. A copy of the cash flow is attached hereto as Exhibit "J".

Officers and Directors

53. In order to continue to carry on business during these proceedings, the Company requires at least one director and certain remaining officers (together with the Company's former directors and officers, the "Directors") to remain committed. Although the Company intends to comply with applicable laws with respect to matters affecting it, including, without limitation, employee source deductions, vacation pay, GST, provincial sales tax and regulatory trust fund requirements, the failure to successfully complete a process may result in significant personal liability for Directors.
54. As such, the Company requests a charge (the "Directors' Charge") to indemnify the Directors in respect of any such liabilities as they may incur in these proceedings.

Administration Charge

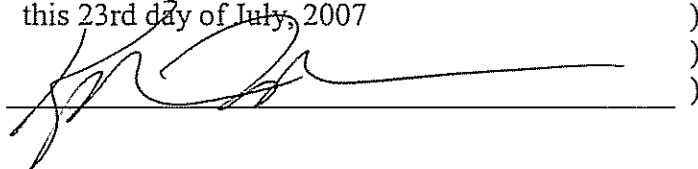
55. The Company seeks a charge in favour of the Monitor, counsel to the Monitor and counsel to the Company to secure payments of their reasonable fees and disbursements incurred both in the period prior to filing for the Initial Order requested herein, and incurred post-filing (the "Administration Charge"). It is requested that the Administration Charge will have first priority against the property of the Company, subject to certain limitations as contained in the draft Initial Order filed herewith.


Conclusion

56. I believe that a better result for all stakeholders of the Company will be achieved through an orderly sale process and/or wind-down scenario, as described herein, than would be the case under any other available alternative. The order sought by the Company will provide the Company with the necessary opportunity to engage in an expedited marketing process and orderly wind-down to protect employees and third party stakeholders.

57. This Affidavit is therefore made in support of the Company's application for an Order under the CCAA and for no other or improper purpose.

SWORN BEFORE ME at the City of)
in the Province of Ontario)
this 23rd day of July, 2007)


_____)


_____)
RUSSELL L. ARMER

IN THE MATTER OF THE COMPANIES CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
BRAKE PRO, LTD.
AND IN THE MATTER OF THE APPLICATION OF BRAKE PRO, LTD.

Court File No. 07-CL-7106

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

AFFIDAVIT OF RUSSELL L. ARMER
(sworn, July 23, 2007)

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