

**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 PROPOSED PLAN OF COMPROMISE OR
ARRANGEMENT WITH RESPECT TO
BRAKE PRO, LTD.**

MONITOR'S FIFTH REPORT TO THE COURT

A. INTRODUCTION

1. BDO Dunwoody Limited (the "Monitor") was appointed Monitor of Brake Pro, Ltd. (also referred to as "Brake Pro", the "Applicant" or the "Company") by an Initial Order of the Honourable Mr. Justice Stinson of the Ontario Superior Court of Justice on 24 July 2007 (the "Initial Order"), pursuant to the application (the "Application") to the Court by the Applicant for protection from its creditors under the *Companies' Creditors Arrangement Act* (the "CCAA"). The Applicant was granted protection for an initial period of 24 days until 17 August 2007 (the "Stay Period").
2. The Application was made on notice to the Applicant's major secured creditor, Wachovia Capital Finance Corporation (Canada) ("Wachovia" or the "Bank"), which did not oppose the Initial Order. Pursuant to the Initial Order, Wachovia is an unaffected creditor.
3. On 23 July 2007, Brake Pro entered into a Forbearance Agreement with Wachovia (the "Forbearance Agreement"), pursuant to which Wachovia agreed to extend credit to Brake Pro through the CCAA process subject to various conditions.

4. In addition to the Stay Period, the Initial Order authorized Brake Pro and the Monitor to undertake a sale process (the “Sale Process”) whereby the assets of the Company would be marketed for sale as a going-concern.
5. By Order dated August 17, 2007, Justice Spence granted an extension of the stay of proceedings established in the Initial Order, to October 1, 2007. On October 1, 2007, Justice Campbell granted a further extension of the stay of proceedings to October 15, 2007 (the “Second Extension Order”) to enable the Company to determine if a going-concern sale was possible and, in the alternative, enable the Company, with the assistance of the Monitor, to prepare a winding-up plan. On October 12, 2007, Justice Siegel granted a further extension of the stay of proceedings to October 25, 2007 (the “Third Extension Order”) to enable the Company, with the assistance of the Monitor, to negotiate, if possible, an en-bloc sale of the assets of the Company. As well, on October 15, 2007, Justice Siegel granted an order (the “BRF Order”) approving the sale of certain inventory to BRF Precision Inc. Then, on October 25, 2007, Justice Lederman granted a further extension of the stay of proceedings to November 8, 2007 (the “Fourth Extension Order”) to enable the Company, with the assistance of the Monitor, to finalize an en-bloc sale of certain of the assets of the Company and to approve an additional sale of certain inventory to BRF Precision Inc. (the “Second BRF Order”).
6. The purpose of this report is to advise the Court on the following:
 - (a) Brake Pro’s activities since the last report of the Monitor;
 - (b) The Monitor’s activities to date;
 - (c) Brake Pro’s planned activities during the requested extension of the Stay Period to February 29, 2008.
7. This Report is filed in order to recommend in favour of Brake Pro’s request for:
 - (a) approval of an En-Bloc (as subsequently defined) sale of the Company’s machinery and equipment and intellectual property (the “Purchased Assets”) to Affinia Canada Corp. (the “Purchaser”);

- (b) Authorization of the payment of the proceeds from the sale of the Purchased Assets and of the inventory of the Company to Wachovia, less a hold back to be retained by the Monitor in the amount of \$525,000 for the payment, subject to taxation of professional fees (inclusive of Goods and Services Tax) and other expenses related to the process, including the payment of vacation pay to Canadian employees; and
- (c) an extension of the Stay Period to February 29, 2008 to enable the Company to continue to realize upon the remaining assets of the Company, consisting primarily of inventory and accounts receivable, while, at the same time, providing the Purchaser with a reasonable time to remove the Purchased Assets from the Company's premises.

B. EXECUTIVE SUMMARY

8. In summary, the Monitor reports as follows:
- The Company, with the advice of the Bank's consultants, Lissner Associates Ltd. ("Lissner"), continues to collect accounts receivable and to sell inventory to customers;
 - The Company and the Monitor have negotiated a transaction relating to the En-Bloc assets with the Purchaser, with the concurrence of Wachovia. An Agreement of Purchase and Sale (the "APS") has been executed and is filed herewith as Confidential Appendix "T";
 - The Purchaser estimates that it will take until February 29, 2008 to remove the significant quantity of purchased equipment; and
 - The Company with the assistance of the Monitor is winding up its affairs.

Terms of Reference

9. The information contained in this report has been obtained from the accounting records of Brake Pro and is based on discussions with, and representations made by management, including in particular Mr. Russ Armer, President.
10. The Monitor assumes no responsibility or liability for any loss or damage occasioned by any party as a result of the circulation, publication, re-production or use of this report. Any use

which any party, other than the Court, makes of this report, or any reliance on or decision made based on it, is the responsibility of such party.

11. Capitalized terms not otherwise defined are as defined in the Initial Order and/or in the Affidavit of Russell Armer, sworn July, 23 2007. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

C. BACKGROUND

12. As previously reported, Brake Pro and the Monitor pursued the marketing timetable to sell the Company as a going concern established in agreement with Wachovia as part of the terms of the Forbearance Agreement. A number of interested parties were identified and information was distributed. Four potential purchasers submitted expressions of interest or letters of intent. Two potential bidders conducted substantial due diligence while a third was interested in conducting due diligence but was unable to meet the deadline. Notwithstanding the extensive due diligence conducted, no binding offers were submitted by the September 19, 2007 deadline that was provided for in the Forbearance Agreement. As a result, a condition of the Forbearance Agreement entered into between Brake Pro and Wachovia was not met.
13. During the period following the Initial Order, the Company continued to pursue its business, within the parameters of the Forbearance Agreement. During the first number of weeks operating under the CCAA, the Company exceeded forecast with respect to its income and expenses. Unfortunately, starting on or about September 10, 2007, the Canadian dollar appreciated rapidly against the US Dollar. As a result, over a two week period, the borrowing availability from Wachovia was reduced by some \$400,000. The Company was able neither to meet many of its obligations nor to purchase new raw materials.
14. On September 25, 2007, Wachovia advised that it would no longer support the Company. The Company determined that, in the circumstances, it had no choice but to shut down the plant and lay off all employees.

15. Employees were paid up to and including September 25, 2007. However, due to the lack of funds, the Company has been unable to pay certain liabilities incurred since the Initial Order. As previously reported, the Company has calculated that the unpaid balance of post-filing obligations is approximately \$460,000, owed to some 100 creditors. Based on the information available to the Monitor, it appears that there will be a shortfall to the Bank.
16. Subsequent to the September 25, 2007 cessation of operations, the Company, with the assistance of the Monitor, continued to market the business of the Company seeking either a going concern or an en-bloc sale. In consultation with the Bank, it was determined that an offer would be sought that would yield the best net price, had the greatest probability of closing and had the earliest closing date. The Company and the Monitor continued to market the business of the Company until an offer acceptable to the Company, the Monitor and the Bank, subject to the approval of this Honourable Court, was received.
17. Simultaneously, the Bank obtained liquidation proposals for the assets of the Company.
18. The Company and the Monitor contacted the parties that had previously shown interest in the Company. As well, various additional parties came forward to express interest in some or all of the assets of the Company.
19. Two parties showed active interest in purchasing the machinery and equipment and intellectual property of the Company (an "En-Bloc" offer) and two parties were interested in purchasing all of the assets of the Company on a going-concern basis, including inventory and accounts receivable. When the Monitor asked the parties to make their offers firm, one of the parties interested in a going-concern purchase dropped out as it could not clear all of its conditions. The Company received three offers, as summarized in Confidential Appendix "II".
20. The Company and the Monitor analyzed the offers. As outlined above, the key decision criteria were:

(i) Greatest recovery for the benefit of the creditors

The offers of the Purchaser and Offer A were significantly better than Offer B based on the criterion listed above. The going-concern offer, Offer B, yielded the lowest estimated overall return. In particular, it specifically required the termination of the BRF sale of \$530,000. As well, it required specific levels of inventory and accounts receivable with a dollar for dollar adjustment to the purchase price for any reductions. As of October 29, 2007, the anticipated future recovery from inventory and accounts receivable is an estimated \$1.5 million.

(ii) Certainty of Closing

The Purchaser had conducted extensive due diligence and was known to have dedicated resources to completing the transaction and taking possession of the Purchased Assets. The Company and the Monitor believed that the maker of Offer A had not planned the taking of possession of the Purchased Assets in sufficient detail nor yet devoted the resources to be able to adhere to its proposed timetable, therefore risk of not closing the transaction as compared to the Purchaser.

(iii) Timing of Closing

The Purchaser was ready to close as soon as possible. Offer A, though marginally higher, specified a later November 30 2007 closing.

21. The Monitor has reviewed an appraisal of machinery and equipment obtained by the Company effective 10 May 2007, and is of the view that the aggregate Purchase Price exceeds the appraised value. In addition, the offer from the Purchaser attributed significant value to the intangibles, which are very difficult to sell in a liquidation scenario.

22. Based on the above, the Monitor recommends the offer by the Purchaser as the best offer in the circumstances. The Bank concurs with this recommendation. The Monitor is advised by the Bank that the Purchaser's offer for the Purchased Assets exceeds the anticipated net recovery from the liquidation proposals.

23. The Company and its legal counsel, with the assistance of the Monitor, have negotiated the APS with the Purchaser, which was executed on October 31, 2007. A deposit of \$265,700 has been received and is being held in trust.

D. BRAKE PRO'S ACTIVITIES SINCE THE ISSUANCE OF THE THIRD EXTENSION ORDER

24. The Company, with the assistance of Lissner, has continued to conduct its winding-up process of collecting receivables and of selling inventory. The Company has contacted some 35 former customers believed to have an interest in acquiring some of the Company's inventory. Based on interest received, the Company has, with the guidance of Lissner, and, as necessary with the approval of the Bank, the Monitor and this Honourable Court, negotiated the sale of some of the inventory to various parties. By Order dated October 25, 2007, this Honourable Court authorized the Company to negotiate sales of inventory on such terms and at such prices as the Company could negotiate with the consent of the Bank and the Monitor, without the need for further Court approval.

25. The Company has notionally divided its finished and semi-finished inventory into "A", "B", "C" and "D" categories in terms of demand and salability. "A" inventory would be expected to sell with the least discount and effort, while "D" inventory would be expected to be the hardest to sell and would require the greatest effort to realize. The sale of inventory has also been used as a tool to collect outstanding receivables.

26. As at October 29, 2007 inventory sales have been about \$1 million. The Company estimates further sales totaling approximately \$500,000 over the next four weeks. To date, sales of inventory have been at prices, on average, 20% above book value. All sales are being made on an "As is, Where is" basis.

27. As well the Company has collected some \$1.2 million of Accounts Receivable. The Company estimates further recoveries of approximately \$800,000.

28. All funds received from the collection of accounts receivable have been paid into the lockbox arrangement maintained in favour of Wachovia as permitted by the provisions of the Initial Order. All but \$250,000 of the proceeds of the sales of inventory to BRF have been retained by the Company, in its bank accounts, as required by the BRF Order and the Second BRF Order. The \$250,000 was remitted to the Bank.

E. EXTENSION OF THE STAY PERIOD

29. The agreement with the Purchaser allows, on the payment of occupancy costs, occupancy up to February 29, 2008 in order allow the orderly removal of the Purchased Assets. There is a significant quantity of machinery and equipment on site, which the Purchaser's expert "Riggers" have estimated will take up to four months to properly and safely decommission, remove and ship. During this time, the Company will also complete the collection of accounts receivable, the sale of inventory to customers at the best possible prices under the circumstances and the winding up of its affairs.

F. DISTRIBUTION OF PROCEEDS OF SALE

30. Counsel for the Monitor is preparing an opinion as to the security of Wachovia in respect of the assets of the Company in the form of a supplement to this report which will be circulated to the service list and filed with this Honourable Court prior to the hearing.

31. The Monitor contemplates that additional costs will be incurred by the Company and the Monitor to complete the liquidation and wind-up of the Company. These costs will include professional fees, rent, utilities, employee salaries and expenses and other related costs, which the Monitor estimates to be \$611,000, net of occupancy cost contributions from the Purchaser, to the end of February, 2008. The Company's cash flow projection in the form of a supplement to this report is proposed to be circulated to the service list and filed with this Honourable Court prior to the hearing. Wachovia has agreed to fund the necessary costs to complete realization of the assets of the Company and to complete the wind-up of its affairs.

32. The Company is proposing the distribution of the proceeds of sale of the Purchase Agreement, as well as the proceeds of sale of inventory, to Wachovia. The Monitor supports this distribution, subject to the hold back, and the payment of professional fees, discussed below.

G. PAYMENT OF PROFESSIONAL FEES

33. In addition to the budgeted costs going forward, there is an amount payable by the Company on account of professional fees and disbursements already incurred by the Monitor, its legal counsel, and legal counsel to the Company up to and including October 31, 2007 and with respect to vacation pay owing to the former Canadian employees of the Company. These amounts, inclusive of GST, total approximately \$514,000. The Monitor proposes a holdback in the amount of \$525,000 in order to pay these obligations.

34. Attached hereto as Appendices III and IV are affidavits of the Monitor and of Fraser Milner Casgrain LLP, counsel to the Monitor, attesting to their respective fees and disbursements to October 31, 2007. The Monitor is seeking approval of the fees and disbursements disclosed therein.

35. The Monitor is additionally seeking authorization to pay the fees and disbursements of the Monitor and, its counsel, to date, once approved, out of the holdback amount.

H. RECOMMENDATION

36. The Monitor has reviewed a draft copy of this Report with Brake Pro's management who concurred with the factual content of same.

37. The Monitor is of the view that Brake Pro is acting in good faith and with due diligence. Based on the information currently available, the Monitor believes that creditors would not be materially prejudiced by an extension of the Stay Period and recommends that this

Honourable Court approve an extension of the Initial Stay of Proceedings until February 29, 2008.

38. The Monitor therefore makes this Report in support of an Order:

- (a) Approving the En-Bloc sale of the Purchased Assets to the Purchaser;
- (b) Authorizing the payment of the proceeds of sale of the Purchase Agreement and the inventory of the Company to Wachovia, subject to a hold back to be retained by the Monitor in the amount of \$525,000 for the payment of professional fees and Canadian vacation pay; and
- (c) Extending the Stay Period to February 29, 2008 to permit the Company to complete its obligations under the APS, the liquidation of its other assets, and the winding-up of its affairs.

All of which is respectfully submitted this 2nd day of November, 2007.

BDO DUNWOODY LIMITED

Monitor

Per:



Uwe Manski, FCA, FCIRP

President

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.

Court File No. 07-CL-7106

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

MONITOR'S FIFTH REPORT TO COURT

FRASER MILNER CASGRAIN LLP
1 First Canadian Place
4100 – 100 King St. W.
Toronto, Ontario
M5K 1B2

Daniel R. Dowdall LSUC#16737D
Tel: (416) 863-4700
Fax: (416) 863-4792

Solicitors for the Monitor