

**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 CERTAIN PROCEEDINGS
TAKEN IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS EASTERN DIVISION
WITH RESPECT TO THE COMPANIES LISTED ON
SCHEDULE "A" HERETO (THE "CHAPTER 11 DEBTORS")**

**APPLICATION OF
MASSACHUSETTS ELEPHANT & CASTLE GROUP, INC.**

**UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

NOTICE OF MOTION

The Respondent will make a Motion, without notice, to a Judge presiding over the Commercial List on Thursday, December 8, 2011 at 9:30 a.m., or as soon after that time as the Motion can be heard at the court house, 330 University Avenue, 8th Floor, Toronto, Ontario, M5G 1R7.

PROPOSED METHOD OF HEARING: The Motion is to be heard

in writing under subrule 37.12.1(1);

in writing as an opposed motion under subrule 37.12.1(4);

orally.

THE MOTION IS FOR

- (a) An order, in the form of Schedule A hereto,
 - (i) An order that this motion is properly brought without notice;
 - (ii) Receiving the First Report of the Court Appointed Information Officer to date; and,
 - (iii) Such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE

- (b) R. 37.07(2) and R. 37.12 of the *Rules of Civil Procedure*;
- (c) BDO Canada Limited was appointed pursuant to section 46 of the CCAA to act as Information Officer in connection with the Chapter 11 US Bankruptcy Code proceedings of Massachusetts Elephant & Castle Group, Inc ("E&C");
- (d) The Initial Order of this Court requested that the Information Officer report to this court periodically in connection with the insolvency process;
- (e) The Information Officer has included his report with this Motion;
- (f) There are no particular matters requiring any particular determination by this Court at this time and the First Report is for information only;
- (g) The nature of this motion (report to the court) and the circumstances (no relief sought) render service of the notice of motion unnecessary;

- (h) The First Report has been posted on the Information Officer's web site and is available to the public. Notifications of the First Report and if requested, courtesy copies, have been provided to those parties on the Service List maintained by the Information Officer;
- (i) Such further and other grounds as the lawyers may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

- (a) First Report of the Court Appointed Information Officer;
- (b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

December 2, 2011

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Schedule A

Court File No.:

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

THE HONOURABLE) **●DAY, THE ●DAY**
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JUSTICE) **OF DECEMBER, 2011**

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

**AND IN THE MATTER OF CERTAIN PROCEEDINGS
TAKEN IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS EASTERN DIVISION
WITH RESPECT TO THE COMPANIES LISTED ON
SCHEDULE "A" HERETO (THE "CHAPTER 11 DEBTORS")**

**APPLICATION OF
MASSACHUSETTS ELEPHANT & CASTLE GROUP, INC.**

**UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

ORDER

(Re First Report of the Information Officer)

THIS MOTION, made by the Court Appointed Information Officer, BDO Canada Limited, in the proceedings brought by the Massachusetts Elephant & Castle Group, Inc. (the "Applicant"), for an Order reporting to this Court as to the Chapter 11 proceedings referred to above and as required by the Interim Initial Order of Mr. Justice Morawetz dated June 29, 2011 in this matter, was heard this day at 330 University Avenue, Toronto, Ontario, without notice.

ON READING the Notice of Motion and the First Report of the Information Officer, BDO Canada Limited filed, and upon hearing the submissions of counsel for the Information Officer,

1. **THIS COURT ORDERS** the nature of this motion and the circumstances are such that no notice is necessary and that this motion is accordingly properly brought without notice.
 2. **THIS COURT ORDERS** that the First Report of the Information Officer, BDO Canada Limited in these proceedings be received by this Court as contained in the Motion Record.
 3. **THIS COURT ORDERS** that the First Report of the Information Officer shall be made available on the Information Officer's website in these proceedings.
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SCHEDULE “A”

1. Massachusetts Elephant & Castle Group, Inc.
2. Repechage Investments Limited
3. Elephant & Castle Group Inc.
4. The Elephant and Castle Canada Inc.
5. Elephant & Castle, Inc. (a Texas Corporation)
6. Elephant & Castle Inc. (a Washington Corporation)
7. Elephant & Castle International, Inc.
8. Elephant & Castle of Pennsylvania, Inc.
9. E & C Pub, Inc.
10. Elephant & Castle East Huron, LLC
11. Elephant & Castle Illinois Corporation
12. E&C Eye Street, LLC
13. E & C Capital, LLC
14. Elephant & Castle (Chicago) Corporation

RCP-E 37A (July 1, 2007)

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF MASSACHUSETTS EASTERN DIVISION WITH RESPECT TO THE COMPANIES LISTED ON SCHEDULE "A"
HERETO(THE "CHAPTER 11 DEBTORS")MASSACHUSETTS ELEPHANT & CASTLE GROUP, INC.**

Court File No. CV-11-9279-00CL

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

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

(Motion without notice re i\Information Officer's First Report)

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RCP-E 4C (July 1, 2007)