

Clerk's Stamp



Estate FILE NUMBER 1803 – 21971
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF BUSINESS DEVELOPMENT BANK OF CANADA
DEFENDANTS 1119658 ALBERTA LTD. AND
101285461 SASKATCHEWAN LTD.
DOCUMENT **FIFTH REPORT OF THE RECEIVER
BDO CANADA LIMITED
OCTOBER 10, 2023**

RECEIVER

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**FIFTH REPORT OF THE RECEIVER
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INTRODUCTION

1. On December 5, 2018, the Business Development Bank of Canada (“**BDC**”) sought and obtained an Order (the “**Receivership Order**”) of the Court of Queen’s Bench of Alberta (as it then was) (the “**Court**”) appointing Hardie & Kelly Inc. (“**H&K**”) as Receiver (the “**Receiver**”) of the assets, undertakings and properties (collectively, the “**Property**” or the “**Properties**”) of 1119658 Alberta Ltd. (“**1119 AB**”) and 101285461 Saskatchewan Ltd. (“**1012 SK**”), collectively the “**Companies**”.
2. On July 30, 2019, the Receiver filed its First Report and Confidential Supplement to the First Report with this Court in connection with seeking, *inter alia*, court approval for the sale of the substantial asset of 1119 AB, being a 53-room limited-service hotel located in Drayton Valley, Alberta operating as the Westwood Inn, with such relief granted on August 8, 2019. The Receiver advises that this sale closed on September 3, 2019.
3. On August 8, 2019, pursuant to an application by BDC, the Court issued in Court File No. BK03-116029 (the “**Bankruptcy Proceedings**”) an Order adjudging 1119 AB bankrupt and appointing Hardie & Kelly Inc. as Licensed Insolvency Trustee of its estate pending affirmation by its creditors which was obtained at its first meeting of creditors held on August 29, 2019.
4. On September 23, 2019, the Receiver filed its Second Report and Confidential Supplement to the Second Report with this Honourable Court in connection with seeking, *inter alia*, court approval for the sale of the substantial asset of 1012 SK being a 97 room, mid-service hotel located in Yorkton, Saskatchewan operating as the Quality Inn – Yorkton, with such relief granted on October 2, 2019. The Receiver advises that this sale closed on October 17, 2019.
5. On March 16, 2022, the Court issued an Order (the “**Bonnyville Lands Order**”) in the Bankruptcy Proceedings directing the Registrar of Lands Titles to cancel the then existing title of the following lands and issuing a new title of such lands in the name of 1119 AB Ltd.:

Plan 1622416
Block 21
Lot 1
Excepting Thereout All Mines and Minerals

And

Plan 9520604
Area 4
Containing 1.54 Hectares (3.81 Acres) More or Less
Excepting Thereout: Hectares (Acres) More or Less
A) Plan 1622416 Subdivision 0.623 1.54
Excepting Thereout All Mines and Minerals

(collectively, the “**Bonnyville Lands**”).

6. On June 30, 2020, pursuant to a merger of H&K and BDO Canada Limited (“**BDO**”), Madam Justice K.M. Horner of this Honourable Court granted an Order, substituting BDO for H&K in its capacity as Receiver, with the effect that references to Receiver herein shall refer to both H&K and BDO in such capacity.
7. On December 17, 2020, pursuant to an application by BDC, the Court of Queen’s Bench of Saskatchewan, in Bankruptcy and Insolvency, issued an Order declaring 1012 SK bankrupt and appointing BDO as Licensed Insolvency Trustee of its estate pending affirmation by its creditors which was obtained at its first meeting of creditors held on January 7, 2021.
8. On March 1, 2021, the Receiver filed its Third Report in connection with its application seeking Court approval of, *inter alia*, an interim distribution to the creditors of 1119 AB, a final distribution to the creditors of 1012 SK, and the Receiver’s discharge over the estate of 1012 SK, with such relief all granted on March 10, 2021.
9. On February 6, 2023, the Receiver filed its Fourth Report and Confidential Supplement to the Fourth Report in connection with its application seeking Court approval of, *inter alia*, the Receiver’s application seeking to amend paragraph 3(l)(i) of the Receivership Order, to permit the Receiver to sell Property (as such term is defined in the Receivership Order) at a higher dollar threshold without the prior approval of the Court, with such relief all granted on February 14, 2023. The purpose of this was to facilitate a sale of the Bonnyville Lands by way of auction.

10. The purpose of this report (the “**Fifth Report**”) is to provide information to the Court in respect of:
 - (a) The Receiver’s activities after the date of the Fourth Report;
 - (b) A statement of receipts and disbursements to completion of the 1119 AB receivership;
 - (c) Details of the professional fees incurred and forecast to be incurred by the Receiver and its counsel with respect to the receivership of 1119 AB;
 - (d) Details of the proposed distribution of the remaining net proceeds of the 1119 AB receivership;
 - (e) The Receiver’s proposed discharge and request to terminate the proceedings in respect of 1119 AB;
 - (f) The Receiver’s request to destroy any records of the Companies, as outlined herein; and
 - (g) The Receiver’s recommendations thereon as appropriate.
11. Capitalized terms not defined in this Fifth Report are as defined in the Receivership Order, or the Receiver’s First through Fourth Report.
12. All references to currency are in Canadian dollars unless otherwise noted.
13. This document, together with other information regarding these proceedings, will be posted by the Receiver to its website at <https://www.bdo.ca/en-ca/extranets/1119658-alberta-ltd/>

TERMS OF REFERENCE

14. In preparing this Fifth Report, the Receiver has relied upon unaudited financial information contained in the books and records of the Companies, discussions with former management of 1119 AB and 1012 SK (“**Management**”), and discussions and correspondence with various realtors and auctioneers consulted during the Receiver’s duties.
15. The Receiver has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of such information and accordingly, the Receiver expresses no opinion or other form of assurance in respect of such information contained in this Fifth Report.

ACTIVITIES OF THE RECEIVER

16. Subsequent to the Fourth Report and the date of the last fee approval, the Receiver's activities have included, *inter alia*:
- (a) In consultation with BDC, marketing the Bonnyville Lands for sale through the use of a realtor prior to auctioning said Lands through a public auction process administered by through Ritchie Bros Real Estate Services Ltd., ultimately closing a sale transaction with the successful bidder on May 18, 2023, following several extensions. As a result of the increased sales thresholds received in its February 14, 2023, application, the Receiver did not require Court approval of this transaction pursuant to the terms of the Receivership Order;
 - (b) Attending to miscellaneous matters towards concluding the receivership of 1119 AB;
 - (c) Providing updates to the stakeholders as required; and
 - (d) Attending to various other administrative matters as it pertains to the Receivership.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

17. The Receiver has attached a statement of receipts and disbursements in respect of 1119 AB for the period of December 5, 2018, to completion (the "**Final 1119 AB SRD**") as **Appendix "A"**. As illustrated in the Final 1119 AB SRD, the Receiver is holding approximately \$68,059 as of October 6, 2023.

PROFESSIONAL FEES

18. The Receiver and its counsel have incurred professional fees subsequent to those detailed and approved in previous applications of the Receiver of approximately \$35,083 and \$16,440 respectively, pertaining to the estate of 1119 AB.
19. The Receiver will be concurrently filing an Affidavit containing copies of its billings and a summary of those of its counsel for which it is currently seeking approval.
20. It is the Receiver's position that its counsel's services have been duly authorized and rendered and that the charges are in the Receiver's opinion fair and reasonable in the circumstances.

21. The Receiver and its counsel have also estimated costs to complete the 1119 AB receivership proceedings not to exceed approximately \$7,500 and \$5,000, respectively, plus \$625 GST for an aggregate of \$13,125 (the “**Professional Fees Holdback**”). The Receiver also believes that the Professional Fees Holdback is fair and reasonable in the circumstances.

PROPOSED DISTRIBUTION

22. As described above, the Receiver is currently holding \$68,059 in the 1119 AB estate. Following payment of the Professional Fees Holdback the Receiver will be holding approximately \$54,934 in distributable proceeds (the “**1119 AB Final Distributable Proceeds**”).
23. As indicated in the former reports of the Receiver in which the Receiver sought and received court approval for an interim distribution to BDC, the Receiver has obtained an independent legal opinion as to the validity and enforceability of the security held by BDC over the assets of 1119 AB, with such opinion noting that, subject to the standard limitations, the security of BDC is valid and enforceable.
24. As a result, the Receiver is seeking the approval of this Honourable Court for a further distribution to BDC of the 1119 AB Final Distributable Proceeds from the estate of 1119 AB (the “**1119 AB Final Distribution**”).

DISCHARGE OF THE RECEIVER

25. Following the distribution of the net proceeds in the 1119 AB receivership, the Receiver will have substantially completed its administration with primarily administrative tasks remaining; therefore, it is seeking the Court’s approval for its discharge as Receiver of 1119 AB and termination of the proceedings, upon the filing of a discharge certificate with the Court.

DESTRUCTION OF RECORDS

26. The Receiver is holding certain books and records of 1119 AB and/or 1012 SK. Therefore, the Receiver is proposing that it keep these records for a period of 30 days from the date a copy of the related order is posted to the Receiver’s website, for any entitled party to claim possession and take transfer, after which the Receiver shall be entitled to destroy any of the books and records remaining in its possession or control.

RECOMMENDATIONS

27. The Receiver respectfully recommends that this Honourable Court approve:

- (a) the activities of the Receiver as currently before the Court;
- (b) the Final 1119 AB SRD;
- (c) the professional fees of the Receiver and its counsel and the Professional Fees Holdback in respect of 1119 AB;
- (d) the 1119 AB Final Distribution;
- (e) the discharge of the Receiver and termination of the proceedings in respect of 1119 AB; and
- (f) the destruction of the Companies' records as outlined herein.

All of which is respectfully submitted this 10th day of October 2023

BDO Canada Limited

In its capacity as Receiver of 1119658 Alberta Ltd.
and not in its personal or corporate capacity.

Per: 

Kevin Meyler, CA, CPA, CIRP, LIT
Senior Vice-President



Breanne Scott, CPA, CIRP, LIT
Vice President

APPENDIX “A”

**1119658 Alberta Ltd. (o/a Westwood Inn) - In Receivership
Statement of Receipts and Disbursements ("ISR")
For the period December 5, 2018 to October 6, 2023**

Cash Receipts:

Sale of assets - Hotel	815,000
Room revenues	315,199
Sale of assets - Bonnyville Lands	151,143
Insurance claim proceeds	15,979
Cash in bank	15,847
Receiver's Borrowings	7,643
GST refund	4,686
Other receipts	3,138
Total receipts	<u>1,328,634</u>

Cash Disbursements:

Interim distribution to BDC	691,343
Receiver's fees and disbursements	126,145
Property taxes	89,048
Repairs and maintenance	64,089
Insurance	60,207
Legal Fees	54,957
Wages and benefits	50,843
Utilities	48,513
Realtor commissions	20,375
GST	19,741
Office expenses	11,232
Hotel tax	7,698
Misc. disbursements	6,329
Auctioneer Commission	6,040
Auction advertising	2,500
Bank charges and interest	1,513
Total disbursements	<u>1,260,575</u>

Net cash in trust at October 6, 2023

\$ 68,059

Professional Fee Holdback 13,125

Final distribution to BDC

\$ 54,934