



District of Ontario
Division No. 12 - Ottawa
Court File No. BK-23-03025642-0033
Bankruptcy Estate File No. 33-3025642

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)

THE HONOURABLE REGIONAL)
)
SENIOR JUSTICE C. MACLEOD)

TUESDAY, THE 28TH

DAY OF MAY, 2024

IN THE MATTER OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF OEM AUTOMOTIVE SOLUTIONS
INC., OEM AUTOMOTIVE CORNWALL INC. AND OEM
AUTOMOTIVE HOLDINGS INC.

INTERIM DISTRIBUTION ORDER

THIS MOTION, made by BDO Canada Limited (“**BDO**”), in its capacity as proposal trustee (in such capacity, the “**Proposal Trustee**”) of OEM Automotive Solutions Inc. (“**Solutions**”), OEM Automotive Cornwall Inc. (“**Cornwall**”) and OEM Automotive Holdings Inc. (“**Holdings**”, and collectively with Solutions and Cornwall, the “**Companies**”), each of which Companies filed a Notice of Intention to Make a Proposal (an “**NOI**”) pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, as amended (the “**BIA**”), for an interim distribution order (this “**Order**”) in these NOI proceedings (the “**NOI Proceedings**”) including, among other things:

- (a) if necessary, abridging the time for service and filing of the notice of motion and the motion record or, in the alternative, dispensing with same;

(b) authorizing and directing the Proposal Trustee to make an interim distribution (the “**Interim Distributions**”) during the NOI Proceedings to fully pay Bank of Montreal (“**BMO**”), to fully pay Glenn Joseph MacDonell (“**MacDonell**”), and to partly pay Christina Grant, 1921534 Ontario Ltd. (“**192**”), Seaway Toyota (1990) Inc. and/or 11678833 Canada Inc. (collectively, “**GrantCo**”) at this time, in the amounts set out in the Fourth Report of the Proposal Trustee dated May 22, 2024 (the “**Fourth Report**”), from the available or remaining net proceeds, subject to the Holdbacks (as defined below), from the sale of the “Purchased Assets” described in the Agreement of Purchase and Sale dated March 27, 2024 between Mark Motors of Ottawa (1987) Limited, Mrak Holdings Inc. and the Proposal Trustee, including the real property located at 628 Pitt Street, Cornwall, Ontario and 632 Pitt Street, Cornwall, Ontario and any other ancillary asset realizations or recoveries related to the Companies (the “**Sale Proceeds**”);

(c) authorizing and directing the Proposal Trustee to make such subsequent distributions from the Sale Proceeds (the “**Subsequent Distributions**”) during the NOI Proceedings to BMO, MacDonell and GrantCo (the “**Secured Creditors**”) if the Companies are still legally indebted to the Secured Creditors after the Interim Distributions and as the Proposal Trustee determines appropriate, without further order of this Court, provided that any such Subsequent Distributions to the respective Secured Creditors shall be limited to the outstanding amount of principal, interest and costs under its provable secured claim against the Companies, and shall be subject to and before making any Subsequent Distributions, the Proposal Trustee shall maintain sufficient reserves or holdbacks from the Sale Proceeds (the “**Holdbacks**”) to satisfy the Charges, Accrued

Obligations and the Remaining Costs set out and defined in the Fourth Report (collectively, the “**Outstanding Disbursements**”);

(d) Authorizing and directing the Proposal Trustee to pay the Outstanding Disbursements from the Holdbacks or to maintain the Holdbacks in the amount of the Outstanding Disbursements before making the Interim Distributions and any Subsequent Distributions;

(e) Authorizing the Companies and/or Proposal Trustee during the NOI Proceedings to pay any outstanding Accrued Obligations and Remaining Costs from the available cash on hand and any subsequent cash receipts regarding the Companies, without further approval of this Court;

(f) Declaring that, notwithstanding any deemed bankruptcies of the Companies, the Interim Distributions, any Subsequent Distributions, Holdbacks and payment of Outstanding Disbursements shall be binding on any licensed insolvency trustee in respect of the Companies and shall not be void or voidable by creditors of the Companies, nor shall they constitute nor be deemed to be a fraudulent preference, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation; and

(g) Declaring that, upon the full payment or satisfaction of the outstanding debt, liability or obligations secured by the Charges (as defined in the Fourth Report) or if there is no debt, liability or obligations secured by the Charges, the termination, release and discharge of the Charges without any further act or formality,

was heard by this Honourable Court (the “**Court**”) on this day by way of judicial video conference in Ottawa, Ontario.

ON READING the Fourth Report, and on hearing the submissions of counsel for the Proposal Trustee, counsel for the Companies, counsel for BMO, counsel for GrantCo and the other parties listed on the participant information form, no one else appearing although properly served as appears from the affidavit of service of Michelle Pham, sworn May 23, 2024, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

INTERIM DISTRIBUTIONS

2. **THIS COURT ORDERS** that the proposed Interim Distributions by the Proposal Trustee from the Sale Proceeds during the NOI Proceedings to fully pay BMO, to fully pay MacDonell and to partly pay GrantCo at this time, in the amounts set out in the Fourth Report, are hereby approved and that subject to paragraph 5 of this Order, the Proposal Trustee is authorized and directed to make or pay the said Interim Distributions. For greater certainty, the Interim Distributions at this time regarding GrantCo, in the amount of \$98,450, are specifically being made to 192, and shall be payable to 192's counsel, Chaitons LLP in trust.

SUBSEQUENT DISTRIBUTIONS

3. **THIS COURT ORDERS** that subject to paragraph 5 of this Order, the Proposal Trustee is authorized and directed to make any Subsequent Distributions from the Sale Proceeds during the NOI Proceedings to BMO, MacDonell and GrantCo (the “**Secured Creditors**”) if the Companies are still legally indebted to the Secured Creditors after the Interim Distributions and as the Proposal Trustee determines appropriate, without further order of this Court, provided that any such Subsequent Distributions to the respective Secured Creditors shall be limited to the outstanding amount of principal, interest and costs under its provable secured claim against the Companies. For greater certainty, the Proposal Trustee's reduction, set-off or offset of the amount of the secured claim of GrantCo or any of the GrantCo parties against or in relation to the Companies, as set out in the Fourth Report (the “**Revised GrantCo Amount**”), is without prejudice and with a reservation of all rights, remedies and arguments regarding the said set-off and Revised GrantCo Amount, in favour of GrantCo, any of the GrantCo parties, the Companies and Caroline Bourret.

HOLDBACKS

4. **THIS COURT ORDERS** that the Proposal Trustee is authorized and directed during the NOI Proceedings to maintain or preserve the Holdbacks from the Sale Proceeds to satisfy or pay the Outstanding Disbursements.

5. **THIS COURT ORDERS** that before making any Interim Distributions and Subsequent Distributions, the Proposal Trustee is authorized and directed to pay the Outstanding Disbursements from the Holdbacks or to maintain or preserve the Holdbacks in the amount of the Outstanding Disbursements.

6. **THIS COURT ORDERS** that the Companies and/or Proposal Trustee during the NOI Proceedings are authorized to pay any outstanding Accrued Obligations and Remaining Costs from the available cash on hand and any subsequent cash receipts regarding the Companies, without further approval of this Court.

DEEMED BANKRUPTCIES

7. **THIS COURT ORDERS** that, notwithstanding any deemed bankruptcies of the Companies, the Interim Distributions, any Subsequent Distributions, the Holdbacks and the payment of the Outstanding Disbursements shall be binding on any licensed insolvency trustee in respect of the Companies and shall not be void or voidable by creditors of the Companies, nor shall they constitute nor be deemed to be a fraudulent preference, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT ORDERS** that, upon the full payment or satisfaction of the outstanding debt, liability or obligations secured by the Charges or if there is no debt, liability or obligations secured by the Charges, the Charges shall be terminated, released and discharged without any further act or formality.

GENERAL

9. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from today's date and is enforceable without the need for entry and filing.

C. MacLeod RSJ

Issued on May 28th, 2024

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Proceedings commenced at Ottawa

INTERIM DISTRIBUTION ORDER

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