

SUPERIOR COURT

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No: 500-11-041322-112

DATE: September 15, 2011

PRESENT : THE HONOURABLE JUSTICE CHANTAL CORRIVEAU, J.S.C.

IN THE MATTER OF THE RECEIVERSHIP OF:

GEORGES MARCIANO

Debtor

And

JOSEPH FAHS

STEVEN CHAPNICK

ELIZABETH TAGLE,

Petitioners

And

PRICEWATERHOUSECOOPERS INC.

Receiver

And

DAVID GOTTLIEB

Mis en cause

ORDER

(INTERIM RECEIVER)

- [1] **CONSIDERING** the Petitioners' *Motion to appoint an Interim Receiver* dated September 13, 2011 (the "Motion"), the affidavit of Bradley E. Brook and the exhibits filed in support thereof;
- [2] **CONSIDERING** the representations of the counsel for the Petitioners;

[3] **CONSIDERING** section 46 of the *Bankruptcy and Insolvency Act*;

FOR THESE REASONS THE COURT:

[4] **GRANTS** the present Motion to Appoint An Interim Receiver (the "**Motion**");

SERVICE

[5] **ORDERS** that the time for service of this Motion is abridged so that the Motion is properly presentable today and dispense with further service thereof.

[6] **DECLARES** that in light of the circumstances further described in this Motion, said Motion can be presented *ex parte*;

APPOINTMENT

[7] **ORDERS** that pursuant to Section 46 of the *Bankruptcy and Insolvency Act*, PricewaterhouseCoopers is hereby appointed interim receiver (the "**Interim Receiver**"), without security, in respect of the Debtor/Respondent, with the powers hereinafter set forth until further order of this Court.

INTERIM RECEIVER'S POWERS

[8] **GRANTS** to the Interim Receiver all powers provided by law, including and without limitation, the following discretionary powers;

[9] **ORDERS** that the Interim Receiver is hereby empowered and authorized, of the following :

- a) to supervise and monitor all activities with regard to the preservation, protection, removal, consolidation, possession, and/or control of the Debtor/Respondent's assets, including the assets owned or controlled by the Debtor/Respondent indirectly, and without limiting the generality of the foregoing, the assets in the name of Chloe M ULC, 1305066 Alberta ULC, 9204-7570 Québec Inc., 9211-9882 Québec Inc., 9213-4568 Québec Inc. and the CKSM Family Trust (hereinafter the "**Property**"), wherever situated, including without limitation, to relocate any of the Property in order to safeguard it, to retain the services of security personnel, to take physical inventory and to enter into an agreement on behalf of the Debtor/Respondent for such insurance coverage as may be necessary or desirable;
- b) to take possession of all or part of the **Property**, if needed;

- c) to take any conservatory measures appropriate, to defend or to contest any proceedings relating to the Property that may be instituted by any of the secured creditors, lien holders or others if;
- d) to institute any proceedings, to obtain the authorization to seize assets or to search premises or to obtain any necessary declaration on the rights of ownership of the Debtor on any given asset;
- e) make arrangements with such agents, consultants, assistants and employees as the Interim Receiver may consider necessary or desirable to secure their assistance in the exercise of the Interim Receiver's powers and the performance of the Interim Receiver's duties hereunder;
- f) to manage, operate and carry on the business of the Debtor;
- g) obtain appraisals of the Property;
- h) solicit offers to purchase the Property;
- i) take steps for the preservation and protection of the Property;
- j) employ and retain such agents, assistants, experts, auditors, advisors, consultants, employees, solicitors and counsel to carry out management of some or all of the Property;
- k) receive, attorn and collect all monies and deposits now or hereafter owing to the Debtor/Respondent pertaining to the Property;
- l) take such steps as in the opinion of the Interim Receiver are necessary to establish and maintain control over the Property or including the changing of locks and security codes, the engaging of independent security personnel, the taking of physical inventories and the placement of adequate insurance coverage as required;

AND WITHOUT LIMITING THE FOREGOING POWERS:

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE INTERIM RECEIVER

- [10] **ORDERS** that the Debtor/Respondent and its employees, agents and any other person acting on the instructions or on behalf of the Debtor/Respondent shall forthwith allow the Interim Receiver immediate, continuous and unrestricted access to the Property;

[11] **ORDERS** that all Notified Persons shall grant immediate and continued access to the Interim Receiver to all of the Debtor/Respondent's books, documents, securities, contracts, orders, corporate and accounting records and all computer records, computer programs, computer tapes, computer disks, data storage media and programs containing any such information, relating thereto in their possession or control (all of the foregoing being collectively referred to as the "Records"), and shall provide to the Interim Receiver or permit the Interim Receiver to make, retain and take away copies thereof and grant to the Interim Receiver access to and use of accounting, computer, software and physical facilities relating thereto;

NO PROCEEDINGS AGAINST THE INTERIM RECEIVER

[12] **ORDERS** that no proceeding shall be commenced against the Interim Receiver except with the written consent of the Interim Receiver or with leave of this Court;

LIMITATION ON THE INTERIM RECEIVER'S LIABILITY

[13] **ORDERS** that the Interim Receiver shall incur no liability or obligation as a result of its appointment or the fulfillment of its duties as interim receiver in carrying out the provisions of the Order to be rendered on the present Motion, save and except for any gross negligence or wilful misconduct on its part;

INTERIM RECEIVER'S ACCOUNTS

[14] **ORDERS** that any expenditure or liability which shall properly be made or incurred by the Interim Receiver, including the fees of the Interim Receiver and the fees and disbursements of its legal counsel, incurred at the current rates and charges of the Interim Receiver and its counsel, shall be allowed to it in passing its accounts and shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any person (the "Receiver's Charge");

[15] **ORDERS** that the Interim Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Interim Receiver and its legal counsel are hereby referred to the registrar or a judge of the Commercial Division of this Court;

GENERAL

[16] **ORDERS** that the Interim Receiver may from time to time apply to this Court for further instructions related to its mandate;

- [17] **ORDERS** that nothing in this Order shall prevent the Interim Receiver from acting as a receiver or a trustee in bankruptcy of the Debtor/Respondent at a later stage;
- [18] **REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States of America to give effect to the Order to be rendered on the present Motion and to assist the Interim Receiver and its agents in carrying out the terms of the Order to be rendered on the present Motion. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Interim Receiver, as an officer of this Court, as may be necessary or desirable to give effect to the Order to be rendered on the present Motion or to assist the Interim Receiver and its agents in carrying out the terms of the Order to be rendered on the present Motion;
- [19] **ORDERS** that the Interim Receiver is at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of the Order to be rendered on the present Motion and for assistance in carrying out the terms of the Order to be rendered on the present Motion;
- [20] **ORDERS** the provisional execution of the Order to be rendered on the present Motion notwithstanding appeal and bankruptcy;
- [21] **THE WHOLE**, without the Interim Receiver intervening otherwise in the Debtor/Respondent's business; and
- [22] **THE WHOLE** with costs against the mass of creditors.

Montréal, September 15, 2011

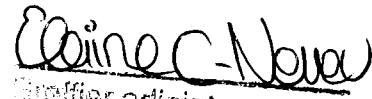


CHANTAL CORRIVEAU, J.S.C.

Mtre Bernard Boucher
Mtre Patrick Kergin
Blake, Cassels & Graydon LLP
Attorneys for Petitioners

Dates of hearing: September 14, 15, 2011.

COPIE CONFORME



Chantal Corriveau
Brouillier adjoint

