

Vancouver Registry
Court No. B130731
Estate No. 11-1755571



**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY**

**In the matter of the bankruptcy of
177398 Canada Inc.
dba. Advantage Services**

**Trustee's Report to the Creditors on Preliminary Administration
August 19, 2013**

Submitted to: The Creditors of 177398 Canada Inc.
 and
 The Official Receiver of the
 Office of the Superintendent of Bankruptcy

Submitted by: G. Powroznik Group Inc. of G-Force Group
 Trustee in Bankruptcy

**TRUSTEE’S REPORT TO THE CREDITORS
ON PRELIMINARY ADMINISTRATION**

TABLE OF CONTENTS

	Page
Background Statement	3
Details of Security Interest and Preliminary Evaluation of Assets	5
Books & Records	6
Conservatory and Protective Measures	6
Provable Claims and Description of Creditors	6
Legal proceedings and Preference Payments	7
Fee Guarantees, Third Party Deposits and Disclosures	8
Intention to Act for Secured Creditor(s)	8
Projected Distribution and Anticipated Asset Realization	8
Restrictions and Qualifications	10

A. Background

Summary and Causes of Financial Difficulty

177398 Canada Inc. dba. Advantage Services (the "Company") had been in business for 40 years and its core business had traditionally been plumbing, heating and drainage repair work for residential and commercial customers. More recently the Company had begun doing home renovation contracts as its core business and revenues had suffered a steady decline over the prior several years. The Company first approached G. Powroznik Group Inc. of G-Force Group ("G-Force") in mid-May 2013 when it was clear the Company was not viable moving forward and it was hopelessly insolvent. G-Force began to assess the Company's financial position with management and noted several immediate and critical problems with the financial state of the Company:

- The Company had very little cash and a significant amount of current liabilities that were not being paid;
- The Royal Bank of Canada ("RBC"), one of the secured creditors of the Company, recently reduced the Company's revolving line of credit, creating a further "cash crunch";
- The Company had entered into a Forbearance Agreement with Business Development Bank of Canada ("BDC"), another secured creditor of the Company, in March 2013 but was struggling to make monthly payments BDC required under the Forbearance Agreement. Also since it previously issued the proper legal notices, BDC had maintained the right to appoint a receiver at any time;
- The Company's bookkeeping was not updated in several areas and it seemed to have moved to a "cash basis" of accounting which ignored the growing payables and depleted realization from the receivables and inventory;
- There were Canada Revenue Agency ("CRA") debts including a GST/HST liability of \$79,000;
- The Company had been funding operations to an extent through the use of several personal (management) credit cards;
- The Company had an excess number of leased vehicles and no immediate plan to downsize or curtail costs to match its reduced cash flow; and
- The Company's core business lines (plumbing & heating) were struggling and it was apparent that the Company was only surviving on the basis of renovation contracts given to it by the VictorEric Design Group ("VictorEric").

At the time, the Company was in negotiations to sell its assets to VictorEric or a company related to it (the "Potential Purchaser") as there were key synergies that existed between the business of VictorEric and the business conducted by the Company. Therefore, the Potential Purchaser was interested in acquiring the Company's assets and operations as a going-concern so that it could continue certain aspects of the Company's business and retain the Company's staff and business relationships. The Company had been canvassing the market for a few years in search of a buyer; however, except for the Potential Purchaser, none had been forthcoming.

G-Force and the Company's insolvency counsel, Lawson Lundell LLP ("Lawson"), recommended that the Company file a Notice of Intention to make a proposal ("NOI") to creditors under the *Bankruptcy and Insolvency Act* ("BIA") in order to allow the Company to alleviate pressures that were mounting from its excess debt, preserve its going-concern business, and continue negotiations with the Potential Purchaser or any other prospects to maximize asset recoveries (the "Restructuring Plan"). This would provide a stay of proceedings against the Company while it rationalized certain aspects of its business, focused on key profit-making activities and maximized the value of its assets compared to a forced sale under a bankruptcy or receivership.

In late May and early June 2013, the Company prepared the necessary information for the NOI filing and, together with G-Force, attempted to communicate its Restructuring Plan to RBC and BDC to obtain their support and fund the NOI and the Company's efforts to maximize recoveries. RBC and BDC did not object to the Restructuring Plan but would not provide any funding for it or take any steps to assist in maximizing the recovery from their security.

NOI, DIP loan & Company's sale of Assets

On June 5, 2013, the Company filed an NOI under section 50.4 of the BIA pursuant to which G. Powroznik Group Inc. of G-Force Group was appointed as proposal trustee (the "Proposal Trustee"). The NOI gave the Company an initial stay of proceedings, and thirty days in which to file a proposal, by July 5, 2013. The Company carried on its business while continuing to pay suppliers and vendors for any supply of goods and or services after the date of the filing (the "Post-filing Suppliers").

On June 12, 2013, the Court made an Order (the "June 12 Order") authorizing the Company to obtain and borrow under a revolving operating loan credit facility, to a maximum of \$50,000, from a party related to VictorEric, 0890461 B.C. Ltd. (the "DIP Lender"), in order to finance the continuation of the Company's business and preserve the going-concern value of its assets. The DIP Lender was granted a charge on all the Debtor's current and future assets which ranked in priority to all other security interests, including those of RBC and BDC, except CRA's claim for employee withholdings. Neither RBC or BDC objected to the application for the June 12 Order.

On July 3, 2013, the Court made an order extending the time for the filing of the proposal (the "Extension Order") by the Debtor from July 5, 2013 to August 2, 2013. The Extension Order was sought to allow the Potential Purchaser sufficient time to submit an offer for the Company's assets as a going-concern.

On July 12, 2013, 0890461 B.C. Ltd. (the "Purchaser") who is also the DIP Lender, submitted an offer to the Company to purchase all of its assets for gross sale proceeds of \$127,100 (the "Subject Offer") which the Company accepted as it represented a significant premium over the assets' liquidation values (see Section B below). The Company applied to Court for approval of the Subject Offer and the Proposal Trustee submitted a report to the Court dated July 16,

2013 to comment on the reasonableness of the sale process and the sale proceeds and to recommend approval of the Subject Offer¹. On July 23, 2013, the Court made an order approving the sale of the Company's assets to the Purchaser or its assignee (the "July 23 Order"). RBC and BDC did not object to the sale and did not appear in Court.

Subsequent Bankruptcy of the Company

The Court-approved Subject Offer for gross sales proceeds of \$127,100, if completed, would result in a significant shortfall to RBC or BDC as secured creditors. When the subjects were removed from the Subject Offer, it was clear the Company could not make a viable proposal to its creditors. As a result, the Company made an assignment in bankruptcy on August 1, 2013 and G-Force was appointed as the Trustee in bankruptcy (the "Trustee"). On that same date, the Purchaser's assignee, 0976551 B.C. Ltd. ("097"), closed the sale with the Trustee and the Company's assets vested in 097 on that date in accordance with the terms of the July 23 Order.

B. Details of Security Interest and Preliminary Evaluation of Assets

Security Interests

The Company had two secured creditors at the time of filing the NOI: BDC for debts estimated at \$60,000 and RBC for debts estimated at \$150,000. The Company had granted general security agreements in favour of BDC and RBC in 1998 and in 2009, respectively. Both lenders executed a priority agreement in 2009 which gave RBC priority over the receivables and inventory and BDC priority over equipment and other assets. At this time, the Trustee has not obtained an independent legal opinion to confirm the validity and enforceability of the RBC or BDC security against a trustee in bankruptcy or confirm the relative priorities between the two lenders since it is not clear whether there will be any realization proceeds for them.

The DIP Lender has a secured charge of \$50,000 which ranks ahead of the claims of RBC and BDC pursuant to the terms of the June 12 Order.

Evaluation of Assets

The Company's assets were sold to 097 with approval of the Court as discussed in Section A above. The Trustee currently holds a sum of \$111,100 in trust which represents the purchase proceeds of the sale, net of employees' accrued vacation obligations which were assumed by 097 and which would have otherwise ranked as priority secured claims in the estate. The remaining funds in trust will be distributed in the manner set forth in the July 23 Order. There will be no remaining funds for the unsecured creditors and RBC and BDC are each expected to suffer a large shortfall.

¹ A copy of the Proposal Trustee's Second Report to Court dated July 16, 2013 can be made available to creditors upon request.

C. Books & Records

The Trustee has not taken possession of the Company's books and records because 097 acquired all the Company's books and records as part of the sale agreement. The Trustee has the ability to access any historical financial information of the Company if required.

D. Conservatory and Protective Measures

No unusual conservatory or protective measures have been required to date due to the fact there are no remaining assets in the estate. There was no perishable property required to be sold, nor was there an active business to continue as the Trustee. Upon its appointment the Trustee was required to complete the sale of all the assets pursuant to the July 23 Order. The Company's business operations have effectively been continued by 097 as of the date of bankruptcy.

E. Provable Claims and Description of Creditors

Secured claims

The estimated positions of the secured creditors are outlined in Section B above. At of the date of this report, BDC has filed a proof of secured claim for \$60,309.29. RBC and the DIP Lender have not yet filed a proof of secured claim.

Unsecured claims

The Company has over 250 unsecured creditors including members of the former "Advantage Protection Program", a loyalty program in which the Company's customers could trade prepaid deposits for repair services, with total unsecured claims approximating \$809,000 as disclosed on its Statement of Affairs. To date, the Trustee has received less than ten proof of claim forms from unsecured creditors. The Trustee has not validated any of those claims to date as there is no recovery expected for unsecured creditors. It is expected that the total amount of unsecured claims will increase significantly once the shortfalls to RBC and BDC on their secured claims are calculated.

As part of the purchase agreement, 097 has agreed to pay any of the Post-filing Suppliers (i.e. those who provided goods or services to the Company after June 5, 2013) who were not otherwise paid by the Company as of the date of the bankruptcy. The Trustee will monitor payments to Post-filing Suppliers to ensure the terms of the purchase agreement are honoured.

Other priority claims

As at the date of this report, the Trustee is awaiting confirmation from CRA as to whether it has any deemed trust claim relating to potential unremitted source deductions that arose prior

to the NOI. CRA performed a trust audit (the "Trust Audit") in July 2013 up to June 15, 2013 and the Company has provided some follow-up information to CRA subsequent to the Trust Audit. A valid CRA deemed trust claim for employee withholdings, if any, would take priority to the claims of the DIP Lender, RBC and BDC. At this time, we expect that a deemed trust claim, if any, would be relatively insignificant (i.e. \$5,000 or less) as there has been no indication of a significant problem arising from the CRA Trust Audit. At the date of this report, CRA informally claims a balance owing for unpaid source deductions of \$53.54 as at June 15, 2013. It is not expected that there is any balance owing for the period June 16, 2013 to the date of bankruptcy however CRA has not yet submitted its formal proof of claim and is not expected to do so for at least 2-3 weeks.

In addition, the Trustee confirms that the former employees of the Company were hired by 097 under new employment terms which included 097 agreeing to honour any outstanding accrued vacation balances for those employees. The Trustee has obtained confirmation from the former employees that they will not file claims in the bankruptcy because they have no outstanding claims. Accordingly, the Trustee does not expect there to be any employee claims under s. 81.3 of the BIA and/or under the *Wage Earner Protection Program Act* ("WEPPA").

F. Legal Proceedings and Preference Payments

The Trustee is not aware of any legal proceedings against the Company.

As it relates to preference payments, section 95(1)(a) of the *BIA* reads as follows:

95. (1) A transfer of property made, a provision of services made, a charge on property made, a payment made, an obligation incurred or a judicial proceeding taken or suffered by an insolvent person

(a) in favour of a creditor who is dealing at arm's length with the insolvent person, or a person in trust for that creditor, with a view to giving that creditor a preference over another creditor is void as against ... the trustee if it is made, incurred, taken or suffered, as the case may be, during the period beginning on the day that is three months before the date of the initial bankruptcy event and ending on the date of the bankruptcy

Under the BIA, the "date of the initial bankruptcy event" as it pertains to the Company would be the date that was 3 months before the Company's filing of the NOI, i.e. March 5, 2013.

As at the date of this report, the Trustee has not performed a detailed review of payments made by the Company to creditors in the 3 month period prior to the filing of the NOI. The Trustee has made a cursory review of the Company's accounting general ledger for the relevant period and has noted there are a high volume of transactions which would have been expected as the Company was actively in business on multiple jobs/projects. Without performing a detailed review of each transaction, it is not possible to determine whether payments were preferential in nature.

It is clear that in the months leading to the NOI, the Company was experiencing a cash shortage and it had likely been operating in "survival mode" which usually means that cash was being used in the areas deemed most critical by management in order to continue in business. This is not unusual for a company experiencing severe financial difficulty comparable to what occurred with the Company.

To date, the Trustee has seen no evidence of distributions to the Company's shareholders or distributions to RBC or BDC outside of the existing security arrangements before the filing of the NOI. The Company's President has also confirmed that transfers of this nature did not occur in the three month period noted above.

G. Fee Guarantees, Third Party Deposits and Disclosures

The Trustee had no involvement with the Company or any of its principals prior to being approached by the Company to consider its options including the filing of an NOI under the BIA.

As Trustee of the Company's estate, we report that 0890461 B.C. Ltd. has provided a deposit to the Trustee for its fees and disbursements in the bankruptcy in the amount of \$10,000. There are no other fee guarantees or third party deposits outstanding as of the date of this report.

We disclose that the Proposal Trustee may be an unsecured creditor of the estate for its unpaid costs during the NOI that it cannot recover from the sale proceeds (further discussed in Section H below). There is not a conflict for the Trustee because there are no further unencumbered assets in the estate to realize upon and although the determination of the Proposal Trustee's costs may impact the recoveries of RBC and BDC as secured creditors, it will not impact the unsecured creditors as RBC and BDC will suffer a shortfall in any event.

H. Intention to Act for Secured Creditor(s)

The DIP Lender is expected to recover its DIP Loan of \$50,000 plus accrued interest in full from the sale proceeds, provided that CRA does not have a significant deemed trust claim for unremitted source deductions. At this time it is unclear if there will be any proceeds remaining for distribution to the RBC or BDC. There does not appear to be any circumstances in which the Trustee will be asked to act for any of the secured creditors.

I. Projected Distribution and Anticipated Asset Realization

The sum of secured claims including the claim of the DIP Lender, and excluding potential statutory deemed trust claims, far exceeds the gross amount paid by the Purchaser for the Company's assets (\$127,100). 097 has acquired all of the Company's assets and beyond the

net purchase proceeds (see Section B above) there are no remaining assets in the estate. Accordingly, there will be no unencumbered assets in the bankrupt estate for the Trustee to realize on and therefore there will not be any distribution to the Company's unsecured creditors.

Under the July 23 Order, the net sale proceeds held by the Trustee of \$111,100 are to be distributed in the following order:

- a) First, all amounts owing to Her Majesty the Queen (CRA) in respect of amounts withheld or deducted from an employee in respect of income taxes or Canada Pension Plan or Employment Insurance Act premiums, if any;
- b) Secondly, all amounts owing pursuant to s. 81.3 of the BIA and WEPPA that have not been paid; and
- c) Thirdly, to the Company's legal counsel, Lawson, to be held in trust pending further court order or agreement between the Company, Proposal Trustee, DIP Lender, RBC and BDC.

The distribution under "c" above is subject to determination of the priority of the legal costs of Lawson and the Proposal Trustee's costs. It is expected that the Proposal Trustee will not recover all of its costs due to the complexities of assisting the Company in negotiating the sale to the Purchaser which also resulted in an unavoidable prolonged time period to complete the sale.

(continued on next page)

RESTRICTIONS AND QUALIFICATIONS

This report on the preliminary administration of the bankrupt estate of 177398 Canada Inc. summarizes the Trustee's findings and conclusions from its review of the Company's records and other information received, and from its investigations since the date of bankruptcy. It is subject to change based on subsequent findings or receipt of additional information.

In conducting our research and preparing our report, we obtained certain information and representations from the Director, former employees of the Company, creditors and other third parties. Information, data and documentation furnished by others was presumed to be reliable and, except as expressly noted in our report, was not verified. Accordingly, the Trustee or G-Force assumes no responsibility for the accuracy of third party information provided. We are pleased to answer any questions you may have.

Dated at Vancouver, British Columbia this 19th day of August, 2013

G. Powroznik Group Inc.
In its capacity as Trustee in bankruptcy for the estate
of 177398 Canada Inc. and not in its personal capacity



Per: Gary Powroznik FCA, CIRP



Per: Chris Sinclair CA