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COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF JAGER HOLDINGS INC.

DEFENDANT JAGER ENGINEERED WOOD PRODUCTS LTD.

DOCUMENT **SECOND REPORT OF THE RECEIVER,
HARDIE & KELLY INC.
SEPTEMBER 18, 2018**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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**SECOND REPORT OF THE RECEIVER
HARDIE & KELLY INC.
SEPTEMBER 18, 2018**

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INTRODUCTION

1. On October 11, 2013, Jager Holdings Ltd. made an application to the Court of Queen's Bench of Alberta (the "Court") for the appointment of a receiver and manager (the "Receiver") of the current and future assets, property and undertakings of Jager Engineered Wood Products Ltd. ("Jager" or the "Company").
2. The Court granted an Order (the "Receivership Order") on October 11, 2013 (the "Date of Receivership") appointing Hardie & Kelly Inc. as the Receiver.
3. On March 7, 2014, the Receiver filed a report with the Court (the "First Report") in support of the Receiver's application seeking the Court's approval of the sale of the substantial majority of the Jager's physical assets (the "Assets") which were located at the Company's rented remises in Claresholm, Alberta (the "Site") to a purchaser: Louisiana-Pacific Corporation ("LP") based out of Nashville, Tennessee.
4. On March 13, 2014, the Court granted an Order approving the sale of the Assets to LP. Shortly thereafter, LP began the removal of the Assets from the Site, a process which continued through to early May 2014.
5. The purpose of this report (the "Second Report") is to provide information to the Court in respect of:
 - a. An update as to the status of the sale to LP including background information in respect of an action commenced by Bruce and Nathalie Hagel (the "Hagels"), the owners of the Site, subsequent to and in relation to the sale of the Assets to LP;
 - b. An updated Statement of Receipts and Disbursements and the Receiver's recommendation in respect of the distribution of the residual funds in its possession;

- c. Details of the Receiver's accounts and those of the Receiver's legal counsel in contemplation of the passing of the respective accounts and the Receiver's Discharge; and
- d. The Receiver's recommendation with respect to the disposition of the Company's pre-receivership books and records that came into the Receiver's possession (the "Corporate Records").

SALE TO LOUISIANA-PACIFIC CORPORATION

6. The sale to LP closed in March 2014; however, the terms of the sale to LP included a provision giving LP 60 days' access to the Site to remove the Assets.
7. On May 6, 2014, the Receiver was contacted by Mr. Hagel to advise that LP was in the process of dismantling a piece of industrial equipment called a dust collector (the "Dust Collector") from one of the two buildings located on the Site. Mr. Hagel took the position that the Dust Collector belonged to the Hagels, was part of the buildings on the Site, and therefore was not part of the Company's equipment sold to LP. Upon the intervention of the Receiver, LP agreed to cease the dismantling process on May 7, 2014.
8. In previous conversations with Mr. Hagel, the Receiver had agreed that the Dust Collector was a fixture of the Site. Therefore, in the course of marketing the Assets for sale, the Receiver had not purported to offer the Dust Collector for sale. This fact notwithstanding, LP had (without the Receiver's knowledge) added the Dust Collector to a purchase order it had prepared in respect of the sales transaction with the Receiver. The Receiver failed to notice that LP had added the Dust Collector to the Assets listed on the purchase order.
9. On or about May 7, 2014, the Receiver advised both the Hagels and LP of the fact that the Receiver had never offered the Dust Collector for sale or represented that the Dust Collector was available for sale.

10. LP did not ever remove the Dust Collector from the Site, but it remained on Site in a largely disassembled state. On February 11, 2015, the Hagels filed a Statement of Claim against LP in Court of Queen's Bench Action No. 1501-01634 (the "Action") seeking damages connected with the dismantling of the Dust Collector.
11. On June 1, 2015, LP filed a Third Party Claim in the Action naming the Receiver and Eurosource LLC ("Eurosource"), the sales agent that had been engaged by the Receiver to liquidate the Assets, as third party defendants in respect of the claim in the Action.
12. The Receiver's liability insurer then assumed carriage of the defence of the Action on behalf of the Receiver and retained independent counsel (the "Receiver's Litigation Counsel") in respect of the Receiver's defence of the Action.
13. On May 11, 2016, a Consent Order was granted by the Court lifting the stay of proceedings provided by the Receivership Order granting LP leave to continue its Third Party Claim as against the Receiver.
14. Over the course of the ensuing years, Statements of Defence were filed, Affidavits of Records were prepared and questionings took place.
15. All of the parties to the Action have recently agreed to a settlement of the Action (the "Settlement"). The Settlement includes a provision requiring that the Receiver pay the residual funds in the possession of the Receiver from the administration of the estate to Paramount Properties ("Paramount"), in full and final satisfaction of the funds which had been advanced to the Receiver by Paramount pursuant to Receiver Certificates which had been issued to Paramount by the Receiver. Paramount is a trade name used by the Hagels, and is therefore the landlord of the Site. Paramount was accordingly represented throughout by Mr. Hagel in its dealings with the Receiver. As these Receiver Certificates have a first charge on residual estate funds in any event, such a distribution to Paramount is what would have occurred in the ordinary course even absent the Settlement.

PROFESSIONAL FEES

16. To date, the Receiver has rendered seven accounts totalling \$67,945, plus GST (the "Receiver's Accounts") in relation to the proceedings. Copies of the Receiver's Accounts are available for the Court to review upon request.
17. The Receiver anticipates issuing a final account estimated in the amount of approximately \$7,000 (the "Receiver's Final Account") in connection with unbilled WIP, preparing this Second Report, preparing for and attending the Receiver's discharge application, addressing the disposal of Corporate Records and filing the final statutory report with the Office of the Superintendent of Bankruptcy pursuant to the *Bankruptcy & Insolvency Act*.
18. During the course of the proceedings, the Receiver's legal counsel (being, prior to March 2017, Norton Rose Fulbright Canada LLP, and since March 2017 Osler, Hoskin & Harcourt LLP), exclusive of the Receiver's Litigation Counsel, has issued twenty-three accounts totalling \$66,551.46, plus GST (the "Receiver's Counsel's Accounts"). Copies of the Receiver's Counsel's Accounts are available for the Court to review upon request.
19. The Receiver's legal counsel anticipates issuing a final account in connection with unbilled WIP and the Receiver's discharge application in an amount estimated at approximately \$7,500 (the "Receiver's Counsel's Final Account").
20. As provided for by the terms of the Receivership Order, the Receiver has paid the billings of the Receiver and its legal counsel rendered to date as advances subject to the passing of its accounts before this Honourable Court.
21. The Receiver is of the opinion that the Receiver's Accounts, the Receiver's Counsel's Accounts, the Receiver's Final Account and the Receiver's Counsel's Final Account (collectively referred to as the "Professional Accounts") are appropriate and reasonable in the circumstances particularly in light of the following:

- a. The extended length of time it took to locate a purchaser for the Assets; and
- b. The incremental time associated with attending to the Action.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

22. Attached as Appendix "A" is a copy of the Receiver's Statement of Receipts and Disbursements as at September 18, 2018 (the "R&D") indicating the Receiver currently maintains approximately \$191,000 in its trust account.
23. As set out on the R&D, the Receiver also estimates approximately \$16,000 in expenses still to bill/incur through to its discharge on account of the Receiver's Final Account, the Receiver's Counsel's Final Account and the destruction of the Corporate Records. Consequently, the Receiver anticipates there will ultimately be approximately \$175,000 of residual funds available for distribution subject to adjustment in respect of actual figures (the "Residual Funds").
24. As referenced earlier in this Second Report and reflected in the R&D, the Receiver borrowed approximately \$291,000 from Paramount by way of the issuance of Receiver Certificates pursuant to the provisions of Paragraph 20 of the Receivership Order. Upon receipt, the funds advanced by Paramount were immediately utilized in their entirety exclusively for the payment of occupation rent, plus applicable GST, payable back to Paramount in its capacity as landlord of the Site.
25. The Receiver recommends that the Residual Funds be distributed to Paramount in full and final settlement of the Receiver Certificates.

CORPORATE RECORDS

26. During the course of the receivership, the Receiver came into possession of the Corporate Records which it continues to maintain in storage pending the Receiver's discharge.

27. The Receiver is seeking the Court's authorization to destroy these Corporate Records unless they are claimed by Mr. Frank Klassen, the last known director of the Company (with any transfer costs and expenses being borne by Mr. Klassen) within 30 days of the Receiver being discharged. The Receiver will issue a letter advising Mr. Klassen of the forgoing, and will send the letter to the last known address of Mr. Klassen available to the Receiver.

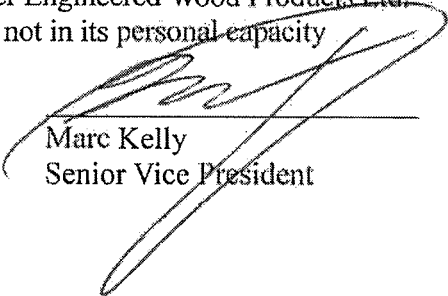
RECOMMENDATIONS

28. The Receiver is seeking and recommends to this Honourable Court the following:
- a. Approval of the R&D;
 - b. The approval of the Receiver's Accounts, the Receiver's Counsel's Accounts, the Receiver's Final Account and the Receiver's Counsel's Final Account without the need of further taxation;
 - c. Approval of the distribution of the Residual Funds to Paramount in full and final settlement of the Receiver Certificates;
 - d. Approval of the Receiver's proposed course of action to deal with the Corporate Records as set out in this Second Report; and
 - e. The discharge of the Receiver.

All of which is respectfully submitted this 18th day of September 2018.

Hardie & Kelly Inc.,
in its capacity as Receiver and Manager of
Jager Engineered Wood Products Ltd.
and not in its personal capacity

Per:



Marc Kelly
Senior Vice President

APPENDIX “A”

Jager Engineered Wood Products Ltd., in receivership
Statement of Receipts and Disbursements
as at September 18, 2018

Receipts

Sale of assets	584,388.10
Receiver Certificates	291,408.17
Accounts receivable	54,766.95
Miscellaneous	19,286.38
Costs award	3,750.00
GST collected	1,464.40

955,064.00

Disbursements

Occupation Rent	277,531.58
Utilities	89,724.68
Eurosource Commission	83,265.00
Legal fees	66,551.46
Receiver's fees	67,945.00
Consulting	51,399.67
Insurance	30,572.00
GST paid	29,828.42
Repairs, maintenance and cleanup	24,785.84
Environmental disposal	15,335.80
Storage	14,025.31
Accounting	6,174.38
Forklift rental	3,450.00
Locks and security	1,472.00
Computer back-ups	1,276.25
Miscellaneous	573.55

763,910.94

Funds on hand

\$ 191,153.06

Estimated costs through to discharge

Receiver's WIP and estimate to complete	7,000.00
Legal counsel's WIP and estimate to complete	7,500.00
Destruction of corporate records	1,500.00

16,000.00

Estimated funds available for Receiver Certificates

\$ 175,153.06