



COURT FILE NUMBER 1901- 06027

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF/APPLICANT ATB FINANCIAL

DEFENDANTS/RESPONDENTS SOLO LIQUOR STORES LTD., SOLO LIQUOR HOLDINGS LTD., GENCO HOLDINGS LTD., PALI BEDI, JASBIR SINGH HANS, AND TARLOK SINGH TATLA

DOCUMENT AFFIDAVIT (APPOINTMENT OF RECEIVER)

PARTY FILING THIS DOCUMENT ATB FINANCIAL

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT BLAKE, CASSELS & GRAYDON LLP
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File Ref.: 81518/161

AFFIDAVIT OF TRINA HOLLAND

Sworn on April 29, 2019

I, **TRINA HOLLAND**, of the City of Calgary, in the Province of Alberta **SWEAR AND SAY THAT:**

1. I am the Interim Managing Director of the Turnaround Assistance Group of ATB Financial, formerly Alberta Treasury Branches ("**ATB**"). I have reviewed the business records of ATB relevant to Solo Liquor Stores Ltd. and Solo Liquor Holdings Ltd. (collectively, "**Solo**").
2. I have personal knowledge of the matters deposed to in this Affidavit.
3. I am authorized to make this Affidavit on behalf of ATB.

I. OVERVIEW

4. I believe it is appropriate in the circumstances that a receiver (the "**Receiver**") be appointed pursuant to section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985 c B-3 (the "**BIA**") over all of the assets, undertakings, and properties of Solo.
5. Solo Liquor Stores Ltd., formerly Solo Liquor Holdings (2) Ltd. ("**SLS**"), is an Alberta corporation with a registered office in Calgary. It operates the "Solo Liquor" chain of retail liquor stores in Alberta. Attached hereto and marked as **Exhibit "A"** is a copy of the Alberta corporate search results for SLS.
6. Solo Liquor Holdings Ltd. ("**SLH**") is the sole shareholder of, and operates as a holding company for, SLS. Attached hereto and marked as **Exhibit "B"** is a copy of the Alberta corporate search results for SLH.
7. Genco Holdings Ltd. ("**Genco**") is an Alberta corporation with a registered office in Calgary. Certain properties of Genco have already had a receiver appointed over them pursuant to the receivership orders of Justice P.R. Jeffrey dated March 22, 2019 and Justice B.E.C. Romaine dated April 5, 2019.
8. Pali Bedi, Jasbir Singh Hans, and Tarlok Singh Tatla (the "**Personal Guarantors**") are all individuals who reside in Alberta. They are the directors of SLS and SLH.
9. ATB seeks the payment of certain amounts owing from credit facilities that ATB advanced to Solo, which were guaranteed by Genco and the Personal Guarantors (collectively, the "**Guarantors**").

II. THE OUTSTANDING INDEBTEDNESS

A. The Facilities

10. Pursuant to an amended and restated commitment letter dated June 5, 2017 (the "**Commitment Letter**"), between Solo, as borrower, and ATB, as lender, ATB made certain demand credit facilities (the "**Facilities**") available to Solo. Attached hereto and marked as **Exhibit "C"** is a copy of the Commitment Letter.

11. The Facilities are payable in full by Solo on demand by ATB pursuant to the Commitment Letter and include:

- (a) Facility #1 – Operating Loan Facility (Revolving) with a limit up to \$25,000,000.00;
- (b) Facility #2 – Non-Revolving Reducing Loan Facility with a limit up to \$7,470,780.01; and
- (c) Facility #3 – Corporate Mastercard facility with a limit up to \$300,000.00.

12. As of February 1, 2019, the total indebtedness of Solo to ATB pursuant to the Commitment Letter was \$29,534,090.37 (the "**Outstanding Indebtedness**") with contractual interest accruing thereafter, plus all legal and other costs and expenses incurred by ATB in respect of the Facilities.

B. The Security

13. As security for all amounts owing by Solo to ATB, SLH entered into a general security agreement dated April 1, 2015 (the "**SLH GSA**") and SLS entered into a general security agreement dated December 13, 2014 (the "**SLS GSA**"), which both granted ATB security over all of Solo's present and after-acquired property (collectively, the "**Security**"). Attached hereto and marked as **Exhibit "D"** are copies of the Security.

14. ATB has registered the Security against Solo at the Alberta Personal Property Registry (the "**PPR**"). Attached hereto and marked as **Exhibit "E"** are copies of the PPR search report in respect of Solo.

15. The Guarantors have also provided certain guarantees in respect of the repayment of the Outstanding Indebtedness.

C. The Default, Demand for Payment, and Forbearance Agreements

16. Solo has been experiencing significant cash flow issues for a number of months and continues to operate at a loss. Solo has required additional funding from ATB over and above the amounts available under the Facilities.

17. Solo has committed the following events of default pursuant to the Commitment Letter and the Security (the "**Events of Default**"):

- (a) SLH and SLS have failed to perform their obligations under a credit agreement dated February 24, 2017 (the "**Crown Capital Agreement**") between Crown Capital Partner Funding, LP, formerly Crown Capital Fund IV, LP, as lender, and SLH and SLS, as borrowers, which is contrary to section 7(c) of the Security;
- (b) There has been a material adverse change in the financial position of SLH and SLS, which is contrary to section 7(j) of the Security;
- (c) SLH and SLS have failed to make punctual payments or perform all of their obligations under the Crown Capital Agreement, which is contrary to section 6(e) of the Security; and
- (d) Solo has failed to pay the Outstanding Indebtedness when demanded by ATB, which is contrary to section 7(a) of the Commitment Letter.

18. On February 1, 2019, ATB served Solo with demand letters and Notices of Intention to Enforce Security pursuant to section 244 of the BIA (the "**Demand**"), which sought payment of the Outstanding Indebtedness. The Demand was served on Solo via both hand delivery and email. Attached hereto and marked as **Exhibit "F"** is a copy of the Demand.

19. On February 19, 2019, ATB and Solo entered into a form of forbearance and amending agreement (the "**Forbearance Agreement**"), whereby ATB agreed to forbear from enforcing its rights under the Security and to provide further funding to Solo. Attached hereto and marked as **Exhibit "G"** is a copy of the Forbearance Agreement.

20. Pursuant to the terms of the Forbearance Agreement, FTI Consulting Canada Inc., LIT ("**FTI**"), was retained as advisor by Solo and the Guarantors. Pursuant to this engagement of FTI under the Forbearance Agreement, FTI could report on cash flow and other financial information of Solo directly to ATB. Solo was also required to provide updated inventory numbers and

reporting. FTI also conducted an independent inventory count of the Solo retail stores. Solo also executed a form of Consent Receivership Order as part of the terms of the Forbearance Agreement and waived any further requirements for notice under the BIA.

21. On February 20, 2019, Solo formally retained Eight Capital as a financial advisor to market and sell its property, assets, and undertakings through a sales process (the "**Sales Process**"). The Forbearance Agreement provided milestones for the completion of a sales and marketing process that was to occur over the next month that would facilitate a sale of the property, assets, and undertakings of Solo.

22. On March 19, 2019, Solo and the Guarantors entered into an amended forbearance and amending agreement with ATB in respect of the Outstanding Indebtedness (the "**Amended Forbearance Agreement**"). Attached hereto and marked as **Exhibit "H"** is a copy of the Amended Forbearance Agreement.

23. The Amended Forbearance Agreement extended the original milestones under the Sales Process to allow for Solo to obtain unconditional asset purchase agreements by March 29, 2019 and close the sales contemplated by those agreements by April 30, 2019.

24. On April 4, 2019, ATB and Solo entered into a further agreement that amended the Amended Forbearance Agreement (the "**Amending Agreement**"). The Amending Agreement extended the deadline under section 12(a) for the milestones related to the Sales Process, namely for Solo to obtain binding purchase and sales agreements from purchasers by April 11, 2019. Attached hereto and marked as **Exhibit "I"** is a copy of the Amending Agreement.

25. Section 19(a) and (b) of the Amended Forbearance Agreement states that the failure to meet the milestones for the Sales Process constitutes a Forbearance Terminating Event. The commission of a Forbearance Terminating Event entitles ATB to terminate the Amended Forbearance Agreement and immediately take steps to recover the Outstanding Indebtedness, including by relying on the Consent Receivership Order executed by Solo pursuant to section 5 of the Amended Forbearance Agreement.

26. Solo failed to obtain unconditional purchase and sale agreements from prospective purchasers in accordance with section 12(a) of the Amended Forbearance Agreement (as amended by the Amending Agreement) and thus committed a Forbearance Terminating Event as at April 12, 2019.

27. The Sales Process that was conducted by Eight Capital has been completed and Solo has not been able to finalize or close any of the offers to purchase certain of its retail locations that it received through the Sales Process in accordance with the milestones under the Amended Forbearance Agreement. FTI has worked closely and has been in direct contact with Eight Capital during the entire Sales Process and is aware of the offers that have been received to date.

28. Section 14 of the Amended Forbearance Agreement also requires that certain additional security be provided to ATB by the Personal Guarantors as a condition of ATB agreeing to forbear enforcement in respect of the Outstanding Indebtedness (the "**Additional Security**").

29. ATB has provided Solo and the Personal Guarantors with multiple opportunities to execute the Additional Security as required by the Amended Forbearance Agreement. To date, however, the Personal Guarantors have either failed or refused to execute the Additional Security. This failure constitutes a further breach of the Amended Forbearance Agreement and another Forbearance Terminating Event.

D. Necessity of the Appointment of a Receiver

30. As a result of the foregoing, I believe that the appointment of the Receiver pursuant to section 243 of the BIA over the assets, undertakings, and properties of Solo is just and convenient, and necessary to protect the interests of ATB and to preserve and realize on the Security in an orderly fashion.

31. ATB has lost trust and confidence in Solo's management to conduct the business and affairs of Solo, including to complete and finalize any of the offers that have been received through the Sales Process.

32. I believe that FTI is a licensed trustee in bankruptcy and that FTI has consented to being appointed the Receiver of Solo. Attached hereto and marked as **Exhibit "J"** is an executed copy of FTI's consent to act as the Receiver.

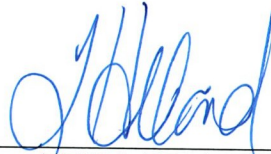
33. I swear this Affidavit in support of ATB's Application for the appointment of FTI as the Receiver with respect to Solo.

SWORN BEFORE ME at the City of
Calgary, in the Province of Alberta, this
29th day of April 2019.



A Commissioner for Oaths in and for
Alberta

MATTHEW J. SUMMERS
Barrister & Solicitor



TRINA HOLLAND