

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF SHERBROOKE

No. 450-11-000056 - 139

DATE: March 7th 2013

PRESIDING: M^e Maryse Gauthier, Reg. J. J.

IN THE MATTER OF THE RECEIVERSHIP OF:

9055-8453 QUÉBEC INC.

Debtor

-and-

PRIME RESTAURANTS INC.

Petitioner

-and-

RICHTER ADVISORY GROUP INC.

Interim Receiver

ORDER APPOINTING AN INTERIM RECEIVER
(Section 47 of the *Bankruptcy and Insolvency Act*)

- [1] **ON READING** the Petitioner, Prime Restaurants Inc.'s Motion to Appoint an Interim Receiver (the "**Motion**") pursuant to Sections 243 and 47 of the *Bankruptcy and Insolvency Act* (the "**BIA**"), the affidavit and the exhibits in support thereof;
- [2] **CONSIDERING** that the Motion was validly served;

- [3] **CONSIDERING** the submissions of Petitioner, Prime Restaurants Inc.'s attorneys;
- [4] **CONSIDERING** that Petitioner, Prime Restaurants Inc., sent the Debtor, 9055-8453 Québec Inc, a notice pursuant to the terms of Section 244 of the BIA and that the ten- (10) day delay following issuance thereof has not yet elapsed;
- [5] **CONSIDERING** that it is appropriate to appoint an interim receiver to the Property (as defined herein) of the Debtor;

WHEREFORE THE COURT:

- [6] **GRANTS** the Motion;

SERVICE

- [7] **DECLARES** that this Motion was validly served upon the Debtor, 9055-8453 Québec Inc., and is properly returnable today and hereby dispenses with further service thereof;

APPOINTMENT

- [8] **APPOINTS** Richter Advisory Group Inc., trustee, to act as interim receiver (the "**Interim Receiver**") to all of the assets, undertakings and properties of the Debtor, 9055-8053 Québec Inc. (the "**Debtor**") acquired for, or used in relation to the business carried on by the Debtor, including all proceeds thereof (the "**Property**") until one of the following events comes to pass:
- (a) The taking of possession by a receiver, within the meaning of Subsection 243(2) of the BIA of the Debtor's property over which the Interim Receiver was appointed; or
 - (b) Further order of this Court;

INTERIM RECEIVER'S POWERS

- [9] **AUTHORIZES** the Interim Receiver to do any of the following where the Interim Receiver considers it necessary or desirable:
- (a) to have full access to all of the Debtor's premises, to access and obtain possession of all books and records, computer, data storage media, software, or other information, compilations and documentations related to the Debtor and their business operations and to make, retain and remove copies thereof;
 - (b) to control the receipts and disbursements of the Debtor and, if deemed appropriate in its discretion, to open bank account(s) to receive and disburse funds, to receive and collect all monies and accounts now owed

or hereafter owing to the Debtor, and to authorize and approve all payments and disbursements to be made by the Debtor;

- (c) to monitor (i) the Debtor's business and all transactions in respect thereof, including, without limitation, all sales, orders and contracts, and in such regard, to communicate directly with the Debtor's employees, customers, financial institutions and suppliers, and (ii) the Debtor's efforts to refinance their business and existing indebtedness or sell all or substantially all of their assets;
- (d) to report to, meet with and discuss with such affected Persons (as defined below) as the Interim Receiver deems appropriate on all matters relating to the Property and the Interim Receivership, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable. Provided that all offers to purchase the Property or to provide financing to the Debtor or any expressions of interest in that regard received by the Interim Receiver or the Debtor will be communicated, in a timely manner, to the Debtor or the Interim Receiver, as applicable. The Debtor shall be provided with the same information and reporting as the Interim Receiver may provide to any other creditors of the Debtor contemporaneously with the communication of such information to such creditors;
- (e) to monitor whether and to what extent the Debtor is continuing the operations and maintaining a proper quality of service, and to the extent operations cease or quality of service is insufficient, the Interim Receiver shall be entitled to enter into a management arrangement with the Petitioner, Prime Restaurants Inc., without further order of this Court; and
- (f) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Interim Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

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

- [10] **ORDERS** that (i) the Debtor, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Interim Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and

continued access to the Property to the Interim Receiver, and shall deliver all such Property to the Interim Receiver upon the Interim Receiver's request.

- [11] **ORDERS** that all Persons shall forthwith advise the Interim Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, 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 unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph [11] or in paragraph [12] of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Interim Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.
- [12] **ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Interim Receiver for the purpose of allowing the Interim Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Interim Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Interim Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Interim Receiver with all such assistance in gaining immediate access to the information in the Records as the Interim Receiver may in its discretion require including providing the Interim Receiver with instructions on the use of any computer or other system and providing the Interim Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE INTERIM RECEIVER

- [13] **ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Interim Receiver except with the written consent of the Interim Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

- [14] **ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Interim Receiver or with leave of this Court and any and all Proceedings currently under

way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

- [15] **ORDERS** that all rights and remedies against the Debtor, the Interim Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Interim Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Interim Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Interim Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE INTERIM RECEIVER

- [16] **ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Interim Receiver or leave of this Court.

CONTINUATION OF SERVICES


- [17] **ORDERS** that any person having an oral or written agreement with the Debtor, as well as any supplier of goods or services to the Debtor is hereby restrained until further order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services, as may be required by the Receiver and that the Interim Receiver shall be authorized to continue use of the Debtor's current premises, telephone numbers, facsimile numbers, internet addresses, domain names and other services, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Interim Receiver, in accordance with the normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Interim Receiver, or as may be ordered by this Court;

LIMITATION OF THE INTERIM RECEIVER'S LIABILITY

- [18] **ORDERS** that the Interim Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, whether civil, statutory, environmental or otherwise, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Interim Receiver under the BIA, including, without limitation, section 14.06 thereof, or under any other applicable legislation.

GENERAL

- [19] **ORDERS** that the Interim Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
- [20] **ORDERS** that nothing in this Order shall prevent the Interim Receiver from acting as receiver and/or trustee in bankruptcy of the Debtor.
- [21] **REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Interim Receiver and its agents in carrying out the terms of this Order. 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 this Order or to assist the Interim Receiver and its agents in carrying out the terms of this Order.
- [22] **ORDERS** that the Interim Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Interim Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
- [23] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever;



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