

Form 10

[Rule 3.25]

COURT FILE NUMBER 25-2642858

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

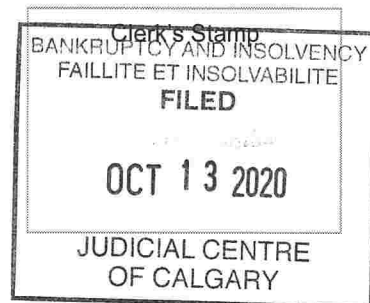
APPLICANT IN THE MATTER OF THE NOTICE OF INTENTION TO FILE A PROPOSAL OF OLYMPUS FOOD (CANADA) INC.

DOCUMENT **APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Carole Hunter
DLA Piper (Canada) LLP
1000 - 250 2nd Street SW
Calgary, AB T3B 5L5

Phone: 403-698-8782
Fax: 403-697-6600
Email: carole.hunter@dlapiper.com

File No.: 101195-00001/CJH



NOTICE TO RESPONDENT(S)

This application is made against you. You are Respondents.

You have the right to state your side of this matter before the Master/Judge.

To do so, you must be in Court when the application is heard as shown below:

Date: October 14, 2020
Time: 2:00 p.m.
Where: Calgary Courts Centre (via Webex)
 601 5th Street S.W.
 Calgary, Alberta
Before Whom: The Honourable Justice B.E.C. Romaine on the Commercial List

Go to the end of this document to see what else you can do and when you must do it.

Remedy Claimed or Sought:

1. The Applicant, Olympus Food (Canada) Inc. ("**Olympus**") respectfully seeks:
 - (a) an Order substantially in the form attached hereto as Schedule "A":
 - (i) abridging the time for service of this Application and the supporting materials, as necessary, and deeming service thereof to be good and sufficient; and
 - (ii) pursuant to section 65.13 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the "**BIA**") approving the settlement agreement between Olympus and The Cadillac Fairview Corporation Limited ("**CFC**"), as agent for Le Carrefour Laval (2013) Inc. ("**Carrefour Laval**"), Les Galeries D'Anjou Leaseholds Inc. and Ontrea Inc. (collectively, the "**CFC Landlords**") dated October 9, 2020; and
 - (b) such further and other relief as counsel may request and this Honourable Court may deem appropriate in the circumstances

Grounds for making this Application

2. Olympus is insolvent and filed a Notice of Intention to Make a Proposal (the "**NOI**") with the Official Receiver on May 1, 2020. BDO Canada Limited is the proposal trustee of the Olympus (the "**Proposal Trustee**").
3. The time for Olympus to file a proposal has been extended on four occasions, with the final extension expiring on October 30, 2020.
4. Olympus has been working diligently on the formulation of a proposal and the final issue to be resolved before Olympus will be able to file a proposal relates to the disclaimer of a lease with Carrefour Laval (the "**Lease**").
5. On July 30, 2020, Olympus served Carrefour Laval with a Notice by Debtor Company to Disclaim or Resiliate an Agreement in respect of the Lease (the "**Disclaimer Notice**"). The Disclaimer Notice was served pursuant to section 65.2 of the BIA.
6. On August 14, 2020, CFC, as agent for Carrefour Laval filed an application objecting to the Disclaimer Notice in respect of Olympus' former leased premises at Carrefour Laval Shopping Centre in Laval, Quebec (the "**Disclaimer Application**"). On August 28,

2020, CFC served the supporting affidavit in respect of the Disclaimer Application on Olympus. The Disclaimer Application was scheduled to be heard on October 14, 2020.

7. Olympus and Carrefour Laval have reached a settlement in respect of the Disclaimer Application which is subject to approval by this Honourable Court.

Material of Evidence to be Relied On:

8. The Affidavit of Noli Tingzon sworn October 13, 2020;
9. The Fifth Report of the Proposal Trustee dated October 13, 2020; and
10. Such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable Rules:

11. The Alberta *Rules of Court*, AR 124/2010, as amended.

Applicable Acts and Regulations

12. The *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended; and
13. Such further and other Acts and Regulations as counsel may advise and that this Honourable Court may Permit.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE "A"

Form 10

[Rule 3.25]

Clerk's Stamp

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COURT COURT OF QUEEN'S BENCH OF
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JUDICIAL CENTRE CALGARY

APPLICANT IN THE MATTER OF THE NOTICE OF
INTENTION TO FILE A PROPOSAL OF
OLYMPUS FOOD (CANADA) INC.

DOCUMENT **ORDER**
(Approval of Settlement Agreement)

ADDRESS FOR SERVICE
AND
CONTACT INFORMATION
OF
PARTY FILING THIS
DOCUMENT Carole Hunter
DLA Piper (Canada) LLP
1000 - 250 2nd Street SW
Calgary, AB T3B 5L5

Phone: 403-698-8782
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Email: carole.hunter@dlapiper.com

File No.: 101195-00001/CJH

DATE ON WHICH ORDER WAS PRONOUNCED: October 14, 2020

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

JUSTICE WHO MADE THIS ORDER: The Honourable Justice B.E.C. Romaine

UPON THE APPLICATION of Olympus Food (Canada) Inc. ("**Olympus**") filed October 13, 2020; AND UPON reading the Affidavit of Noli Tingzon sworn October 13, 2020 (the "**Tingzon Affidavit**"); AND UPON reading the Fifth Report of BDO Canada Limited, in its capacity as proposal trustee of Olympus (the "**Proposal Trustee**") dated October 13, 2020; AND UPON hearing submissions by counsel for Olympus and any other counsel or other interested parties present,

IT IS HEREBY ORDERED THAT:

SERVICE

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today, and no other than those persons served is entitled to service of the notice of application.

APPROVAL OF SETTLEMENT AGREEMENT

2. The settlement agreement between Olympus and The Cadillac Fairview Corporation Limited, as agent for Le Carrefour Laval (2013) Inc., Les Galeries D’Anjou Leaseholds Inc. and Ontrea Inc. dated October 9, 2020 and attached as Exhibit “A” to the Tingzon Affidavit, be and is hereby approved pursuant to section 65.13 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended.

3. Service of this Order shall be deemed to be achieved by posting a copy of this Order of the website of the Proposal Trustee and by delivering a copy of this Order to those parties listed on the Service List prepared by counsel for Olympus.

J.C.Q.B.A

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