

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR.) TUESDAY, THE 17TH DAY
)
JUSTICE CAVANAGH) OF NOVEMBER, 2020

B E T W E E N:

CANADIAN EQUIPMENT FINANCE & LEASING INC.

Applicant

- and -

EVELEY INTERNATIONAL CORPORATION

Respondent

DISCHARGE ORDER

THIS MOTION, made by msi Spergel inc. (“**Spergel**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Eveley International Corporation (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, for an Order, *inter alia*: (i) approving the First Report of msi Spergel inc., in its capacity of the Court-appointed interim receiver of the Debtor (in such capacity, the “**Interim Receiver**”), dated May 21, 2020 (the “**IR Report**”) and the actions and activities of the Interim Receiver described therein; (ii) approving the First Report of the Receiver dated November 3, 2020 (the “**First Report**”) and the actions and activities of the Receiver described therein, including, without limitation, approving the Receiver’s Interim

Statement of Receipts and Disbursements appended to the First Report; (iii) sealing the confidential appendices to the First Report (the “**Confidential Appendices**”) until the closing of the transaction contemplated by the agreement of purchase and sale between the Receiver and 2771276 Ontario Inc. dated October 20, 2020 (the “**Transaction**”) or further Order of the Court; (iv) authorizing and directing the Receiver to distribute certain funds without further Order of this Court; (v) approving the fees and disbursements of the Interim Receiver and the Receiver and those of their counsel, Aird & Berlis LLP, including an accrual for fees and disbursements to be incurred to the completion of these proceedings; (vi) discharging Spergel as the Receiver, effective upon the filing of a certificate by the Receiver certifying that all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver, in substantially the form attached hereto as Schedule “A” (the “**Discharge Certificate**”); and (vii) releasing Spergel from any and all liability, as set out in paragraph 8 of this Order, was heard this via videoconference because of the Covid-19 pandemic.

ON READING the IR Report and appendices thereto, the First Report and the appendices thereto, including, without limitation, the affidavit of Mukul Manchanda sworn November 3, 2020 (“**Spergel’s Fee Affidavit**”) and the affidavit of Damian Lu sworn November 2, 2020 (“**A&B’s Fee Affidavit**” and, together with Spergel’s Fee Affidavit, the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Receiver, Canadian Equipment Finance & Leasing Inc., the Debtor, 2565698 Ontario Inc. and such other counsel as were present, no one appearing for any other person on the service list, although properly served,

1. **THIS COURT ORDERS** that the time for service and filing of a notice of motion and motion record is hereby abridged and validated so that this motion is properly returnable today and is hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the IR Report and the actions and activities of the Interim Receiver described therein be and are hereby approved.

3. **THIS COURT ORDERS** that the First Report and the actions and activities of the Receiver described therein be and are hereby approved, including, without limitation, the Receiver's Interim Statement of Receipts and Disbursements appended to the First Report.

4. **THIS COURT ORDERS** that the Confidential Appendices be and are hereby sealed until closing of the Transaction or further Order of the Court.

5. **THIS COURT ORDERS** that the fees and disbursements of the Interim Receiver and the Receiver and those of their counsel, Aird & Berlis LLP, as out in the Fee Affidavits, be and are hereby approved, including the Fee Accrual (as defined in the First Report).

6. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to make the distributions that are stated at paragraph 58 of the First Report, without further Order of this Court, in full and final satisfaction of all the obligations ranking in priority to the secured indebtedness owing by the Debtor to Canadian Equipment Finance & Leasing Inc.

7. **THIS COURT ORDERS** that, upon the Receiver filing the Discharge Certificate, the Receiver shall be discharged as the Receiver of the Debtor, provided however that notwithstanding its discharge herein, Spergel: (a) shall remain the Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein (including, without limitation, to assign the Debtor into bankruptcy); and (b) shall continue to have the benefit of the provisions of all Orders made in these proceedings, including all approvals, protections and stays of proceedings in favour of the Receiver.

8. **THIS COURT ORDERS AND DECLARES** that, upon the Receiver filing the Discharge Certificate, Spergel is hereby released and discharged from any and all liability that Spergel now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Spergel while acting in its capacity as any of the Interim Receiver or the Receiver herein, save and except for any gross negligence or wilful misconduct on the part of the Interim Receiver or the Receiver, as applicable. Without limiting the generality of the foregoing, Spergel is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within interim receivership or receivership proceedings, save and except for any gross negligence or wilful misconduct on the part of the Interim Receiver or the Receiver, as applicable.

9. **THIS COURT HEREBY 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, the Receiver and their 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 and the Receiver, as officers of this Court, as may be necessary or desirable to give effect to this Order or to assist the Interim Receiver, the Receiver and their agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that, notwithstanding Rule 59.05 of the *Rules of Civil Procedure* (Ontario), this Order is effective from the date on which it is made, and is enforceable without any need for entry and filing; provided, however, that any party may nonetheless submit a formal order for original, signing, entry and filing, as the case may be.

Amundson.

SCHEDULE “A”

Court File No. CV-20-00639897-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

CANADIAN EQUIPMENT FINANCE & LEASING INC.

Applicant

- and -

EVELEY INTERNATIONAL CORPORATION

Respondent

DISCHARGE CERTIFICATE

RECITALS

(A) Pursuant to an Order of the Honourable Mr. Justice McEwen of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on April 23, 2020, as amended by His Honour’s endorsements made on May 26, 2020, May 28, 2020 and June 4, 2020, msi Spergel inc. (“**Spergel**”) was appointed on: (i) April 23, 2020 as interim receiver (in such capacity, the “**Interim Receiver**”), without security, of all of the assets, undertakings and properties of Eveyley International Corporation (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor; and (ii) May 26, 2020 as receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor.

(B) Pursuant to an Order of the Court made on June 25, 2020 (the “**IR Discharge Order**”), Spergel was discharged as the Interim Receiver, and, notwithstanding the Interim Receiver’s discharge, the Receiver was granted authority to bring one or more motions on the Interim

Receiver's behalf for the purposes of seeking the approval of, amongst other things, the discharge of liability with respect to the Interim Receiver, save and except for any gross negligence or wilful misconduct by the Interim Receiver, and any corresponding ancillary relief.

(C) Pursuant to an Order of the Court made on November 17, 2020 (the "**Discharge Order**"), Spergel was discharged as the Receiver to be effective upon the filing by the Receiver with the Court of a certificate confirming that all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver, provided, however, that notwithstanding its discharge, Spergel: (a) will remain the Receiver for the performance of such incidental duties as may be required to complete the administration of these receivership proceedings (including, without limitation, to assign the Debtor into bankruptcy); and (b) will continue to have the benefit of the provisions of all Orders made in these proceedings, including all approvals, protections and stays of proceedings in favour of the Receiver.

(D) Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Discharge Order.

THE RECEIVER CERTIFIES the following:

1. all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of Receiver, other than the performance of such incidental duties as may be required to complete the administration of these receivership proceedings (including, without limitation, to assign the Debtor into bankruptcy); and

2. this Certificate was filed by the Receiver with the Court on the _____ day of _____, 2020.

MSI SPERGEL INC., solely in its capacity as
the Court-appointed receiver of the Debtor, and
not in its personal capacity

Per: _____

Name:

Title:

CANADIAN EQUIPMENT FINANCE & LEASING INC.

- and -

EVELEY INTERNATIONAL CORPORATION

Applicant

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Court File No. CV-20-00639897-00CL

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Proceedings commenced at Toronto

DISCHARGE ORDER

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