

## **Endorsement of Gilmore, J.**

A hearing was held in this matter on July 29, 2020 with respect to directing the Receiver to distribute certain funds from the sale of the primary asset of TamTan being land located at 1405 Morningside Avenue, Toronto.

While there was no opposition to the payout of the mortgage of the secured creditor (Roynat Inc.) and related fees, disbursements and funds borrowed by the Receiver in relation to Roynat, there was an issue related to the request of other creditors including Reliable Consultants Inc., an unsecured creditor of Tamtan and EZ Food Group, and Dairy Central who obtained a judgment for \$206,671.09 plus costs against EZ Food Group.

It was not until after the appointment of the Receiver that Dairy Central became aware of restraint orders in relation to the bank accounts of EZ Food Group and the bank accounts and property of TamTan. The restraint orders were issued in connection with criminal proceedings brought against the principal of TamTan.

The sale of the Morningside property generated considerable proceeds even after the payout of Roynat. As this was a joint receivership, approximately \$98,000 of the Receivers fees, taxes and disbursements has been allocated to EZ Foods. The sale of EZ Foods' assets generated only \$223,000.

Dairy Central and Reliable request that **all** of the Receiver's fees, disbursements and counsel fees be paid out of the Morningside proceeds. The Seized Property Management Directorate does not agree and takes the position that the restraint order relates only to an exception for TamTan and not other creditors. All of the balance of the Morningside proceeds must therefore be paid to the Management Directorate. Dairy Central and Reliable argue that the court has discretion in this matter and that if the Receiver's fees are paid from EZ Food's assets, the unsecured creditors will receive less than \$0.50 on the dollar.

Attached is the Consent Order with respect to payments related to Roynat. The balance of the issues including the payment of Receiver's fees and disbursements in relation to the unsecured creditors and other arguments raised by Dairy Central and Reliable will be addressed by way of written reasons which will be released within the next several weeks.

Counsel present were as per the attached counsel slip.

*C. Gilmore, J.*  
*July 30, 2020*