

ENDORSEMENT

RE: In the matter of the Notice of Intention to make a proposal of Fun and Fitness Trampolines Inc., a corporation incorporated under the *Canada Business Corporations Act*

Counsel: Mr. B. Bissell and Mr. J. Turgeon for the Debtor
 Mr. B. Sarsh, for the proposal Trustee
 Mr. H. Rizarri, principal of Crowe Soberman Inc., proposal
Trustee

Court File No.: 35-2677628

Date: November 6, 2020

On October 3, 2020 the Debtor filed a notice of intention to make a proposal to creditors under the *BIA*.

This is the return of the Debtor's motion for orders to allow its proposal Trustee to conduct a sale of its assets; approving the stalking horse asset purchase agreement, including its break fee; extending the time for the Trustee to file a proposal to creditors (to December 21, 2020, a 45 day extension permitted by the *BIA*); granting a first ranking charge in the maximum amount of \$50,000 to secure payment of the reasonable fees and expense of counsel for the Debtor, the Trustee and counsel for the Trustee; and temporarily sealing confidential appendix 1 to the affidavit of Dr. Memon, the President of the debtor and one of its directors) sworn October 26, 2020.

On the first return date of this motion, the sealing order was granted as well as an extension order to December 2, 2020.

The motion was adjourned to today at the request of the Royal Bank, the only secured, and the largest creditor, of the Debtor to allow the Royal Bank to undertake a valuation of the Debtor's assets.

On the return of the motion today, it is notable that there was no appearance or other participation by any parties on the service list.

Counsel for the Debtor advised that they are seeking a further extension of time to file a proposal to December 21, 2020, an order approving the administration charge in relation only to the reasonable fees and expenses of the Trustee and counsel for the Trustee and an order approving the sale process.

The extension request

I find that the moving party has satisfied the requirements of s.50.4(9) of the *BIA* and order that the time for the Trustee to file a proposal is extended to December 21, 2020.

The administration charge request

I find the quantum of the proposed charge fair and reasonable for necessary professional services (noting that no charge for DIP financing is requested).

The requested order for the first ranking administration charge is granted pursuant to s.64.2 of the *BIA*.

The request to approve the sale process and the stalking horse agreement

I note that the proposal Trustee supports approval of the proposed sale process and the stalking horse agreement for the reasons set out in his report.

The price and terms of the proposed sale agreement are commercially fair and reasonable noting in particular the information contained in the confidential materials.

As counsel for the Debtor has pointed out, the proposed sale protects the interests of employees and the landlord by providing for the continuation of the business.

I agree with the submission of counsel for the Debtor that the stalking horse agreement provides a “floor”, the commercial reasonableness of which will be assessed “in real life” through the proposed sale process, which process may also allow the Debtor to locate arm’s length and additional offers. This process also ensures that only serious parties are attracted to the sale process and the process itself is fair and reasonable in relation to providing opportunities for other purchasers to make a competitive bid.

I further note the submission of counsel for the Debtor that if the stalking horse agreement is ultimately established as the best offer, the Debtor believes that the transaction will allow a viable proposal to creditors, and likely afford greater recovery than in a receivership/liquidation/bankruptcy scenario.

Considering s.65.13 and 65.13(5) of the *BIA*, I am satisfied that the relief sought in respect of the sale process and the stalking horse asset purchase agreement is in the best interests of all stakeholders, including customers, suppliers, creditors and employees of the Debtor.

I have signed the form of order presented by counsel for the Debtor.



Justice L.C. Leitch