

COURT FILE NUMBER: 1603- 11387
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF ROYAL BANK OF CANADA
DEFENDANTS GRANDE PRAIRIE RAINBOW AUTOMOTIVE LTD., CW BUILDCO LTD., DUBAY PELOSKI HOLDINGS LTD., WAYNE TIMOTHY PELOSKI and CHANDRA ANNETTE DUBAY



DOCUMENT

AFFIDAVIT

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

MacPherson Leslie & Tyerman LLP
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Attention: Dean A. Hutchison
Solicitors for Royal Bank of Canada
File: 1480-126 DAH

AFFIDAVIT OF ANDREW HOLMES
Sworn on June 28, 2016

I, **ANDREW HOLMES**, of the City of Calgary, in the Province of Alberta, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Manager, Special Loans and Advisory Services, with the Royal Bank of Canada ("RBC"), the Plaintiff herein, and as such, I have personal knowledge of the matters deposed to herein, except where stated to be based upon information and belief, and whereso stated, I do verily believe such facts and matters to be true.

Purpose of this Affidavit

2. I am swearing this Affidavit in support of an application by RBC for an Order, *inter alia*, appointing MNP Ltd. ("MNP") as Receiver and Manager, pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA") and section 13(2) of the *Judicature Act*, R.S.A. 2000, c. J-2 (in such capacity, the "Receiver"), without

security, of the current and future assets and undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (collectively, the "**Property**") of Grande Prairie Rainbow Automotive Ltd. ("**GP Auto**"), CW Buildco Ltd. ("**CW**") and Dubai Peloski Holdings Ltd. ("**DPHL**").

Operations, History and Relationship of Defendants

3. GP Auto operates an automotive repair and maintenance business in the City of Grande Prairie, Alberta. CW is a holding company which is the registered owner of lands legally described as:

Plan 0621904
Block 4
Lot 1
Excepting Thereout All Mines and Minerals
Area: 0.834 Hectares (2.06 Acres) More or Less

(the "**CW Lands**"). GP Auto's business operations are located on the Lands. Attached hereto and marked as **Exhibit "1"** to this my Affidavit is a true copy of title to the CW Lands.

4. GP Auto, CW and DPHL are related companies. The Directors of each of the three companies are Wayne Timothy Peloski ("**Mr. Peloski**") and Chandra Annette Dubay ("**Ms. Dubay**"). DPHL is the sole voting shareholder of GP Auto. Attached hereto and marked as **Exhibit "2"** to this my Affidavit is a true copy of the Alberta Corporate Registry name search results for GP Auto.

A. History of CW (Amalgamation of 1632628 Alberta Ltd. and 1506696 Alberta Ltd.)

5. CW was initially 1632628 Alberta Ltd. As a result of a name change that occurred on September 18, 2014, 1632628 Alberta Ltd. became CW. On October 1, 2014 the entity amalgamated with 1506696 Alberta Ltd. to form the amalgamation predecessor entity CW. Attached hereto and marked collectively as **Exhibit "3"** are the Alberta Corporate Registry name search results for each of CW, 1632628 Alberta Ltd. and 1506696 Alberta Ltd.

B. History of DPHL (Amalgamation of 1632613 Alberta Ltd. and 1268280 Alberta Ltd.)

6. DPHL was initially 1632613 Alberta Ltd. As a result of a name change that occurred on September 18, 2014, 1632613 Alberta Ltd. became DPHL. On October 1, 2014, the entity amalgamated with 1268280 Alberta Ltd. to form the amalgamation predecessor entity DPHL. Attached hereto and marked collectively as **Exhibit "4"** are the Alberta Corporate Registry name search results for each of DPHL, 1632613 Alberta Ltd. and 1268280 Alberta Ltd.
7. RBC, in its capacity as the senior secured creditor of each of GP Auto, CW and DPHL, is seeking the appointment of the Receiver because:
 - (a) the Loan Agreements (as defined below) and Credit Facilities (as defined below) advances to GP Auto and CW, by RBC, are payable on demand, defaults have occurred thereunder, demand for payment has been delivered to each of GP Auto and CW, and the indebtedness is now repayable in full;
 - (b) the repayment of the indebtedness of each of GP Auto and CW, to RBC, has been cross-guaranteed and further guaranteed by DHPL;
 - (c) GP Auto's, CW's and DPHL's respective current financial circumstances, in particular their inability to pay debts as such debts become due, seriously impair GP Auto's, CW's and DPHL's viability and negatively impact the value of RBC's collateral, which is set out in more detail below; and
 - (d) it is unlikely that any of GP Auto, CW or DPHL will be able to repay its indebtedness owing to RBC without liquidating its property.

Loan Agreements

A. GP Auto Loan Agreement and GP Debt

8. By a Commitment Letter dated May 9, 2012, and accepted May 14, 2012, as amended by Amending Agreement dated April 1, 2013, and as further amended by an Amending Agreement dated September 26, 2014, (collectively, the "**GP Auto Loan Agreement**"),

RBC agreed to advance funds to GP Auto on certain terms and conditions agreed to by GP Auto. Attached hereto and marked as **Exhibit "5"** to this my Affidavit is a true copy of the GP Auto Loan Agreement.

9. In accordance with the GP Auto Loan Agreement, RBC made the following credit facilities available to GP Auto:
 - (a) Demand Facility – a \$50,000 revolving demand facility, payable on demand, with interest accruing at a rate of RBC's prime rate, plus 4.90%, per annum (the "**Operating Line Facility**");
 - (b) Credit Card Facility – a VISA business credit card up to a maximum amount of \$50,000 (the "**Credit Card Facility**"); and
 - (c) RCAP Lease – an equipment financing lease (the "**Equipment Lease Facility**").
10. Attached hereto and marked as **Exhibit "6"** to this my Affidavit is a true copy of the RBC Royal Bank VISA Business Card Agreement signed June 4, 2007, by GP Auto regarding the Credit Card Facility.
11. Attached hereto and marked as **Exhibit "7"** to this my Affidavit is a true copy of the RCAP Leasing Lease Contract #403-027-289874 signed June 1, 2015, regarding the Equipment Lease Facility.
12. As of June 27, 2016, GP Auto is indebted to RBC in respect of amounts advanced pursuant to the GP Auto Loan Agreement and the Operating Line Facility, Credit Card Facility and the Equipment Facility in the total amount of \$107,419.18, with interest accruing after June 27, 2016, at a daily rate of \$36.02 (collectively, the "**GP Auto Debt**").

B. CW Loan Agreement and CW Debt

13. By a Commitment Letter dated May 9, 2012, and accepted May 14, 2012, as amended by Amending Agreement dated April 1, 2013, and as further amended by Amending Agreement dated June 16, 2015, (collectively, the "**CW Loan Agreement**"), RBC agreed to advance funds to 1506696 Alberta Ltd. (the predecessor entity to CW) on certain terms

and conditions agreed to by 1506696 Alberta Ltd. (the predecessor entity to CW). Attached hereto and marked as **Exhibit "8"** to this my Affidavit is a true copy of the CW Loan Agreement.

14. In accordance with the CW Loan Agreement, RBC made a \$2,492,000 non-revolving term facility (the "**Term Facility**"), payable on demand, available to 1506696 Alberta Ltd. (as the predecessor entity to CW), with interest accruing at a rate of 4.00% per annum.
15. As of June 27, 2016, CW is indebted to RBC in respect of amounts advanced pursuant to the CW Loan Agreement in the amount of \$2,036,123.28, with interest accruing after June 27, 2016, at a daily rate of \$410.36 (collectively, the "**CW Debt**").
16. (The GP Auto Loan Agreement and the CW Loan Agreement shall hereinafter be collectively referred to as the "**Loan Agreements**". The Operating Line Facility, the Credit Card Facility, the Lease Facility and the Term Facility shall hereinafter be collectively referred to as the "**Credit Facilities**". The GP Auto Debt and the CW Debt shall hereinafter be collectively referred to as the "**Debt**".)

General Security Agreements

A. The GP Auto GSA

17. As security for all amounts owing from GP Auto to RBC, GP Auto entered into a General Security Agreement – Floating Charge on Land, dated June 4, 2007, in favour of RBC (the "**GP Auto GSA**"). The GP Auto GSA grants RBC a security interest in all of GP Auto's present and after-acquired personal property, and real property, both for current indebtedness and future advances. The GP Auto GSA is governed by the laws of the Province of Alberta. Attached hereto and marked as **Exhibit "9"** to this my Affidavit is a true copy of the GP Auto GSA.
18. RBC registered the GP Auto GSA at the Alberta Personal Property Registry. Attached hereto and marked as **Exhibit "10"** to this my Affidavit is a true copy of the results of a

name search of GP Auto of the Alberta Personal Property Registry (the "PPR") evidencing such registration.

B. The CW GSA

19. As security for all amounts owing from CW to RBC, CW (through its predecessor entity, 1506696 Alberta Ltd.) entered into a General Security Agreement – Floating Charge on Land dated October 1, 2010, in favour of RBC (the "CW GSA"). The CW GSA grants RBC a security interest in all of CW's present and after-acquired personal property and real property, both for current indebtedness and future advances. The CW GSA is governed by the laws of the Province of Alberta. Attached hereto and marked as **Exhibit "11"** to this my Affidavit is a true copy of the CW GSA.
20. RBC registered the CW GSA at the Alberta PPR as against 1506696 Alberta Ltd. (the predecessor entity to CW) and as against CW. Attached hereto and marked collectively as **Exhibit "12"** to this my Affidavit is a true copy of the results of a name search of each of 1506696 Alberta Ltd. and CW of the Alberta PPR evidencing such registration.

C. The DPHL GSA

21. As security for all amounts owing from 1268280 Alberta Ltd. (a predecessor to DPHL) to RBC, 1268280 Alberta Ltd. entered into a General Security Agreement – Floating Charge on Land dated October 1, 2010, in favour of RBC (the "**1268280 GSA**"). The 1268280 GSA grants RBC a security interest in all of 1268280 Alberta Ltd.'s (a predecessor to DPHL) present and after-acquired personal property and real property, both for current indebtedness and future advances. The 1268280 GSA is governed by the laws of the Province of Alberta. Attached hereto and marked as **Exhibit "13"** to this my Affidavit is a true copy of the 1268280 GSA.
22. RBC registered the 1268280 GSA at the Alberta PPR. Attached hereto and marked as **Exhibit "14"** to this my Affidavit is a true copy of the results of a name search of 1268280 Alberta Ltd. and DPHL of the Alberta PPR evidencing such registration.

23. As security for all amounts owing from 1632613 Alberta Ltd. (a predecessor to DPHL) to RBC, 1632613 Alberta Ltd. entered into a General Security Agreement – Floating Charge on Land dated October 1, 2010, in favour of RBC (the "**1632613 GSA**"). The 1632613 GSA grants RBC a security interest in all of 1632613 Alberta Ltd.'s (a predecessor to DPHL) present and after-acquired personal property and real property, both for current indebtedness and future advances. The 1632613 GSA is governed by the laws of the Province of Alberta. Attached hereto and marked as **Exhibit "15"** to this my Affidavit is a true copy of the 1632613 GSA.
24. RBC registered the 1632613 GSA at the Alberta Personal Property Registry. Attached hereto and marked as **Exhibit "16"** to this my Affidavit is a true copy of the results of a name search of 1632613 Alberta Ltd. of the Alberta Personal Property Registry evidencing such registration.
25. (The 1268280 GSA and the 1632613 GSA shall hereinafter be collectively referred to as the "**DPHL GSA**".)

The CW Collateral Mortgage

26. As security for all amounts owed by CW to RBC, CW (through its predecessor entity, 1506696 Alberta Ltd.) granted RBC a Collateral Mortgage over the CW Lands in the amount of \$2,613,000 dated October 1, 2010, (the "**CW Collateral Mortgage**"). Attached hereto and marked as **Exhibit "17"** to this my Affidavit is a true copy of the CW Collateral Mortgage.
27. The CW Collateral Mortgage was registered against title to the CW Lands as Instrument No. 102 352 903 on October 5, 2010. A true copy of title of the CW Lands is attached as Exhibit "1" to this my Affidavit.

The Dubai Peloski Collateral Mortgage

28. As security for all amounts owed by Ms. Dubai and Mr. Peloski to RBC, Ms. Dubai and Mr. Peloski granted RBC a Collateral Mortgage over lands legally described as Plan 9524585, Lot 6, Excepting Thereout All Mines and Minerals (the "**Lot 6 Property**") and

over lands legally described as Plan 9524585, Lot 7, Excepting Thereout All Mines and Minerals (the "**Lot 7 Property**") in the amount of \$188,000 dated June 5, 2010, (the "**Dubay Peloski Collateral Mortgage**"). Attached hereto and marked as **Exhibit "18"** to this my Affidavit is a true copy of the Dubay Peloski Collateral Mortgage.

29. The Dubay Peloski Collateral Mortgage was registered against title to the each of the Lot 6 Property and the Lot 7 Property as Instrument No. 122 178 741 on June 7, 2010. A true copy of title of each of the Lot 6 Property and the Lot 7 Property is attached hereto and collectively marked as **Exhibit "19"** to this my Affidavit.

Guarantees of GP Auto Debt

30. By a Guarantee and Postponement of Claim executed May 14, 2012, in the amount of \$363,000 by each of Mr. Peloski and Ms. Dubay in favour of RBC (the "**Peloski Dubay GP Auto Guarantee**"), each of Mr. Peloski and Ms. Dubay agreed to pay on demand all indebtedness owed by GP Auto to RBC up to a maximum amount of \$363,000 together with interest from the date of demand for payment at a rate of RBC's prime rate plus 5.0% per annum. Attached hereto and marked as **Exhibit "20"** to this my Affidavit is a true copy of the Peloski Dubay GP Auto Guarantee.
31. By a Guarantee and Postponement of Claim executed May 14, 2012, in the amount of \$363,000 by 1268280 Alberta Ltd. (as a predecessor entity to DPHL) in favour of RBC (the "**1268280 GP Auto Guarantee**"), 1268280 Alberta Ltd. (as a predecessor entity to DPHL) agreed to pay on demand all indebtedness owed by GP Auto to RBC up to a maximum amount of \$363,000 together with interest from the date of demand for payment at a rate of RBC's prime rate plus 5.0% per annum. Attached hereto and marked as **Exhibit "21"** to this my Affidavit is a true copy of the 1268280 GP Auto Guarantee.
32. By a Guarantee and Postponement of Claim executed May 14, 2012, in the amount of \$363,000 by 1632613 Alberta Ltd. (as a predecessor entity to DPHL) in favour of RBC (the "**1632613 GP Auto Guarantee**"), 1632613 Alberta Ltd. (as a predecessor entity to DPHL) agreed to pay on demand all indebtedness owed by GP Auto to RBC up to a maximum amount of \$363,000 together with interest from the date of demand for

payment at a rate of RBC's prime rate plus 5.0% per annum. Attached hereto and marked as **Exhibit "22"** to this my Affidavit is a true copy of the 1632613 GP Auto Guarantee.

33. By a Guarantee and Postponement of Claim executed May 14, 2012, in the amount of \$363,000 by 1506696 Alberta Ltd. (as a predecessor entity to CW) in favour of RBC (the "**1506696 GP Auto Guarantee**"), 1506696 Alberta Ltd. (as a predecessor entity to CW) agreed to pay on demand all indebtedness owed by GP Auto to RBC up to a maximum amount of \$363,000 together with interest from the date of demand for payment at a rate of RBC's prime rate plus 5.0% per annum. Attached hereto and marked as **Exhibit "23"** to this my Affidavit is a true copy of the 1506696 GP Auto Guarantee.
34. By a Guarantee and Postponement of Claim executed May 14, 2012, in the amount of \$363,000 by 1632638 Alberta Ltd. (as a predecessor entity to CW) in favour of RBC (the "**1632638 GP Auto Guarantee**"), 1632638 Alberta Ltd. (as a predecessor entity to CW) agreed to pay on demand all indebtedness owed by GP Auto to RBC up to a maximum amount of \$363,000 together with interest from the date of demand for payment at a rate of RBC's prime rate plus 5.0% per annum. Attached hereto and marked as **Exhibit "24"** to this my Affidavit is a true copy of the 1632638 GP Auto Guarantee.
35. The Peloski Dubai GP Auto Guarantee, 1268280 GP Auto Guarantee, the 1632613 GP Auto Guarantee, the 1506696 GP Auto Guarantee and the 1632638 GP Auto Guarantee shall hereinafter be collectively referred to as the "**Guarantees of the CW Auto Debt**".

Guarantees of CW Debt

36. By a Guarantee and Postponement of Claim executed October 1, 2010, in the amount of \$2,613,000 by GP Auto in favour of RBC (the "**GP Auto CW Guarantee**"), GP Auto agreed to pay on demand all indebtedness owed by 1506696 Alberta Ltd. (the predecessor entity to CW) to RBC up to a maximum amount of \$2,613,000 together with interest from the date of demand for payment at a rate of RBC's prime rate plus 5.0% per annum. Attached hereto and marked as **Exhibit "25"** to this my Affidavit is a true copy of the GP Auto CW Guarantee.

37. By a Guarantee and Postponement of Claim executed October 1, 2010, in the amount of \$2,613,000 by 1268280 Alberta Ltd. (as a predecessor entity to DPHL) in favour of RBC (the "**1268280 CW Guarantee**"), 1268280 Alberta Ltd. (as a predecessor entity to DPHL) agreed to pay on demand all indebtedness owed by 1506696 Alberta Ltd. (the predecessor entity to CW) to RBC up to a maximum amount of \$2,613,000 together with interest from the date of demand for payment at a rate of RBC's prime rate plus 5.0% per annum. Attached hereto and marked as **Exhibit "26"** to this my Affidavit is a true copy of the 1268280 CW Guarantee.
38. By a Guarantee and Postponement of Claim executed May 14, 2012, in the amount of \$2,502,000 by 1632613 Alberta Ltd. (as a predecessor entity to DPHL) in favour of RBC (the "**1632613 CW Guarantee**"), 1632613 Alberta Ltd. (as a predecessor entity to DPHL) agreed to pay on demand all indebtedness owed by 1506696 Alberta Ltd. (the predecessor entity to CW) to RBC up to a maximum amount of \$2,052,000 together with interest from the date of demand for payment at a rate of RBC's prime rate plus 5.0% per annum. Attached hereto and marked as **Exhibit "27"** to this my Affidavit is a true copy of the 1632613 CW Guarantee.
39. By a Guarantee and Postponement of Claim executed May 14, 2012, in the amount of \$2,502,000 by 1632638 Alberta Ltd. (as a predecessor entity to CW) in favour of RBC (the "**1632638 CW Guarantee**"), 1632638 Alberta Ltd. (as a predecessor entity to CW) agreed to pay on demand all indebtedness owed by 1506696 Alberta Ltd. (the predecessor entity to CW) to RBC up to a maximum amount of \$2,052,000 together with interest from the date of demand for payment at a rate of RBC's prime rate plus 5.0% per annum. Attached hereto and marked as **Exhibit "28"** to this my Affidavit is a true copy of the 1632638 CW Guarantee.
40. By a Guarantee and Postponement of Claim executed May 14, 2012, in the amount of \$2,502,000 by each of Mr. Peloski and Ms. Dubay in favour of RBC (the "**Peloski Dubay CW Guarantee**"), each of Mr. Peloski and Ms. Dubay agreed to pay on demand all indebtedness owed by 1506696 Alberta Ltd. (the predecessor entity to CW) to RBC up to a maximum amount of \$2,502,000 together with interest from the date of demand

for payment at a rate of RBC's prime rate plus 5.0% per annum. Attached hereto and marked as **Exhibit "29"** to this my Affidavit is a true copy of the Peloski Dubai CW Guarantee.

41. The GP Auto CW Guarantee, the 1268280 CW Guarantee, 1632613 CW Guarantee, 1632638 CW Guarantee and the Peloski Dubai CW Guarantee shall hereinafter be collectively referred to as the "**Guarantees of the CW Debt**".

Writ of Seizure and Sale Against GP Auto of Canada Revenue Agency

42. The Alberta PPR search results for GP Auto (a true copy of which is attached hereto as Exhibit 10 to this my Affidavit) reveals that the Canada Revenue Agency obtained and registered a Writ of Seizure and Sale (Federal Writ) on January 5, 2016, with respect to a judgment obtained against GP Auto on December 9, 2015, in the amount of \$151,070.07.

February 2016 De-market Letter

43. By letter dated February 17, 2016, (the "**February 17 De-Market Letter**") addressed to GP Auto to the attention of Ms. Dubay and Mr. Peloski, RBC advised that RBC would not be renewing the Credit Facilities under the Loan Agreement and that arrangements should be made for the Debt to be repaid in full by April 30, 2016. Attached and marked as **Exhibit "30"** to this my Affidavit is a true copy of the February 17 De-Market Letter.
44. The Debt was not repaid by April 30, 2016, and remains outstanding.

Default Under the Loan Agreements and Demand for Payment

45. By a letter dated May 13, 2016, from its legal counsel, MacPherson Leslie & Tyerman LLP ("**MLT**"), RBC demanded immediate payment of the GP Auto Debt in full from GP Auto (the "**May 13 GP Auto Demand Letter**"). The May 13 GP Auto Demand Letter noted that GP Auto had defaulted under the terms of the GP Auto Loan Agreement. Enclosed with the May 13 GP Auto Demand Letter was a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "**BIA**"). The May 13 GP Auto Demand Letter further noted GP Auto's obligations under the GP Auto CW Guarantee, that CW had defaulted under the terms of the CW

Loan Agreement, and demanded payment of the CW Debt pursuant to GP Auto's obligations under the GP Auto CW Guarantee. Attached hereto and marked collectively as **Exhibit "31"** to this my Affidavit is a true copy of the May 13 GP Auto Demand Letter together with the Notice of Intention to Enforce Security issued pursuant to section 244 of the BIA enclosed therein.

46. By a letter dated May 13, 2016, from its legal counsel, MLT, RBC demanded immediate payment of the CW Debt in full from CW (the "**May 13 CW Demand Letter**"). The May 13 CW Demand Letter noted that CW had defaulted under the terms of the CW Loan Agreement. Enclosed with the May 13 CW Demand Letter was a Notice of Intention to Enforce Security pursuant to section 244 of the BIA. The May 13 CW Demand Letter further noted CW's obligations under the 1506696 GP Auto Guarantee and the 1632638 GP Auto Guarantee, that GP Auto had defaulted under the terms of the GP Auto Loan Agreement, and demanded payment of the GP Auto Debt pursuant to CW obligations under the 1506696 GP Auto Guarantee and the 1632638 GP Auto Guarantee. Attached hereto and marked collectively as **Exhibit "32"** to this my Affidavit is a true copy of the May 13 CW Demand Letter together with the Notice of Intention to Enforce Security issued pursuant to section 244 of the BIA enclosed therein.
47. By a letter dated May 13, 2016, from its legal counsel, MLT, RBC demanded immediate payment of the Debt in full from DPHL (the "**May 13 DPHL Demand Letter**"). The May 13 DPHL Demand Letter noted that each of GP Auto and CW had defaulted under the terms of the Loan Agreements. Enclosed with the May 13 DPHL Demand Letter was a Notice of Intention to Enforce Security pursuant to section 244 of the BIA. The May 13 DPHL Demand Letter further noted DPHL's obligations under the 1268280 GP Auto Guarantee, the 1632613 GP Auto Guarantee, the 1268280 CW Guarantee and the 1632613 CW Guarantee (collectively, the "**DPHL Guarantees**"), that GP Auto and CW had defaulted under the terms of the Loan Agreements, and demanded payment of the Debt pursuant to DPHL's obligations under the DPHL Guarantees. Attached hereto and marked collectively as **Exhibit "33"** to this my Affidavit is a true copy of the May 13 DPHL Demand Letter together with the Notice of Intention to Enforce Security issued pursuant to section 244 of the BIA enclosed therein.

48. By a letter dated May 13, 2016, from its legal counsel, MLT, RBC demanded immediate payment of the Debt in full from Mr. Peloski and Ms. Dubay (the "**May 13 Peloski Dubay Demand Letter**"). The May 13 Peloski Dubay Demand Letter noted that each of GP Auto and CW had defaulted under the terms of the Loan Agreements. Enclosed with the May 13 Peloski Dubay Demand Letter was a Notice of Intention to Enforce Security pursuant to section 244 of the BIA. The May 13 Peloski Dubay Demand Letter further noted Mr. Peloski's and Ms. Dubay's respective obligations under the Peloski Dubay GP Auto Guarantee and the Peloski Dubay CW Guarantee (collectively, the "**Peloski Dubay Guarantees**"), that GP Auto and CW had defaulted under the terms of the Loan Agreements, and demanded payment of the Debt pursuant to Mr. Peloski's and Ms. Dubay's respective obligations under the Peloski Dubay Guarantees. Attached hereto and marked collectively as **Exhibit "34"** to this my Affidavit is a true copy of the May 13 Peloski Dubay Demand Letter together with the Notice of Intention to Enforce Security issued pursuant to section 244 of the BIA enclosed therein.

Request for Forbearance and Failed Restructuring Efforts

49. By email of May 20, 2016, from Ms. Dubay to myself and legal counsel for RBC, Dean Hutchison of MLT ("**Mr. Hutchison**"), Ms. Dubay attached a letter from Fuse Realty indicating that they had agreed to act on behalf of the owners of the CW Lands to seek an appropriate buyer in a sale and lease-back scenario. The said e-mail from Ms. Dubay indicated that in addition to pursuing a sale and lease-back of the CW Lands, the GP Auto group was also in talks with Alberta Treasury Branches ("**ATB**") with respect to a potential refinancing. Attached hereto and collectively marked as **Exhibit "35"** to this my Affidavit is a true copy of the foregoing described e-mail and letter.
50. By e-mail of May 20, 2016, I responded to Ms. Dubay's e-mail in which I indicated that RBC did not consider the letter from Fuse Realty, or the apparent refinancing talks with ATB, as compelling evidence to warrant a forbearance. Attached hereto and marked as **Exhibit "36"** to this my Affidavit is a true copy of my responding e-mail.
51. On May 21, 2016, Ms. Dubay sent Mr. Hutchison and me an e-mail requesting a forbearance arrangement so that the GP Auto group can "get caught up on loan payments

while at the same time seeking a buyer for the property". The e-mail from Ms. Dubay indicated that the GP Auto group was currently working with Fuse Realty with the concept of pursuing a sale and lease-back transaction with respect to the CW Lands. I responded by way of e-mail to Ms. Dubay of May 25, 2016 in which I set out the basic terms upon which RBC would be prepared to consider forbearance arrangements. Such terms included:

- (a) that GP Auto close its Credit Card Facility;
- (b) that GP Auto and CW provide updated statements of account with respect to their accounts with the Canada Revenue Agency;
- (c) that GP Auto reduce its indebtedness under the Operating Line Facility to \$50,000;
- (d) that CW acknowledge its arrears of the weekly loan payments under the Term Facility and upon execution of a Forbearance Agreement, resume making the weekly loan payments.

Such e-mail further indicated that such fundamental forbearance terms should be discussed with legal counsel and that Ms. Dubay should have her legal counsel contact Mr. Hutchison as soon as possible. Attached hereto and marked as **Exhibit "37"** to this my Affidavit is true copy of the foregoing described e-mail.

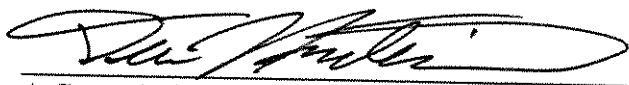
52. I am advised by Mr. Hutchison, and do verily believe to be true, that on May 26, 2016, Mr. Hutchison was contacted by Gordon Chrenek of Lewis Chrenek ("**Mr. Chrenek**") via telephone and e-mail indicating that he was acting for GP Auto and their related corporations and principals, and requesting that he be provided with a draft form of Forbearance Agreement. I am further advised by Mr. Hutchison, and do verily believe to be true, that he responded to Mr. Chrenek by way of e-mail of May 30, 2016, indicating that he was presently in the process of drafting a Forbearance Agreement and would be providing a copy of same shortly for his review. Attached hereto and marked as **Exhibit "38"** to this my Affidavit is a true copy of the foregoing described e-mail correspondence.

53. I am further advised by Mr. Hutchison, and do verily believe to be true, that by e-mail of June 3, 2016, Mr. Hutchison provided to Mr. Chrenek a draft form of Forbearance Agreement. Attached hereto and marked as **Exhibit "39"** to this my Affidavit is a true copy of such e-mail.
54. I am further advised by Mr. Hutchison, and do verily believe to be true, that on June 8, 2016 he received communications from Mr. Chrenek indicating that he believed he had a conflict and could not act for the GP Auto group regarding the matter.
55. I am still further advised by Mr. Hutchison that on June 10, 2016, he received a letter from Todd Strang of KMSC Law ("**Mr. Strang**") indicating that his office was now counsel for GP Auto and their related corporations, and requesting copies of the Loan Agreements and Guarantees. Mr. Hutchison responded by letter of June 14, 2016, enclosing copies of the requested documentation. Attached hereto and marked collectively as **Exhibit "40"** to this my Affidavit is a true copy of such correspondence.
56. I am still further advised by Mr. Hutchison, and do verily believe to be true, that on June 22, 2016, he had a telephone call with Mr. Strang, at Mr. Strang's request, to discuss a possible Forbearance Agreement and the GP Auto's group's restructuring efforts. Mr. Strang indicated that the Realtor for the GP Auto group had advised that there were some parties who had expressed some interest in purchasing the CW Lands, but there had been nothing "concrete". Mr. Hutchison indicated that unless there was something concrete, such as signed Purchase and Sale Agreement, that RBC sees little point to agreeing to a Forbearance Agreement since the GP Auto group has been unable, to date, to meet other fundamental terms of a possible forbearance arrangement, namely payment of the weekly loan payments required under the Term Facility and the reduction of the amounts owing under the Operating Line Facility. Mr. Strang indicated that he would follow up with the Realtor that afternoon and advise as to the level of seriousness of the apparently interested party.
57. I am still further advised by Mr. Hutchison, and do verily believe to be true, that Mr. Hutchison did not hear back from Mr. Strang on the afternoon of June 22, 2016. As a result, Mr. Hutchison sent Mr. Strang an e-mail on the morning of afternoon of June 23,

2016, indicating that considering the direness of the GP Auto groups' current financial situation, unless a signed Purchase and Sale Agreement was brought forward immediately indicating a sale that will generate sufficient proceeds to retire the Debt, RBC would be moving forward with the enforcement of its security interests. Mr. Hutchison also requested Mr. Strang's advice as to whether he would accept service of court materials on behalf of his clients. Mr. Strang responded by e-mail on the morning of June 24, 2016, wherein Mr. Strang indicated that he had now spoken with the GP Auto groups' Realtor who advised that he does not believe that the interested party will put forth an offer on the CW Lands. Mr. Strang also indicated that his firm will not be representing the GP Auto group beyond the negotiation stage and thus would not be accepting service of court materials on behalf of the GP Auto group. Attached hereto and marked as **Exhibit "41"** to this my Affidavit is a true copy of the foregoing described e-mail correspondence.

58. I am still further advised by Mr. Hutchison, and do verily believe to be true, that on the afternoon of June 27, 2016, Mr. Hutchison received an e-mail from Mr. Strang attaching an executed Commercial Seller Brokerage Agreement between CW, as "Seller", and Fuse Realty Inc., as the "Brokerage" which was signed on June 25, 2016, together with a Certificate of Authenticity regarding the execution of the Commercial Seller Brokerage Agreement. The said e-mail from Mr. Strang further indicated that as per Mr. Strang's prior e-mail of June 24, 2016, Mr. Strang's firm will not be taking any further steps on behalf of the various indebted parties going forward. Attached hereto and collectively marked as **Exhibit "42"** to this my Affidavit is a true copy for the foregoing described e-mail and the attachments thereto.
59. Each of GP Auto GSA, the CW GSA, 1268280 GSA and the 1632613 GSA (collectively, the "GSAs") provide that upon default, RBC may appoint a Receiver over the Property of each of GP Auto, CW and DPHL. Each of GP Auto, CW and DPHL are in default of the GSAs.

- 60. MNP Ltd. has consented to act as the Receiver and Manger of the Property of GP Auto, CW and DPHL. Attached hereto and marked as **Exhibit "42"** to this my Affidavit is a true copy of the Consent to Act as Receiver executed by MNP Ltd. ^{43 - P. 26}
- 61. I make this Affidavit in support of an application for an Order appointing MNP Ltd. as Receiver of all of the Property of GP Auto, CW and DPHL, and for no other or improper purpose.

SWORN BEFORE ME at the City of Calgary,)
 in the Province of Alberta, this 28th day of)
 June, 2016.)
)

)
 A Commissioner of Oaths in and for the)
 Province of Alberta)



ANDREW HOLMES