

**CANADA**  
**Province of Ontario**  
**Court No. 31-2694356**  
**Estate No. 31-2694356**

**TRUSTEE'S PRELIMINARY REPORT**

**IN THE MATTER OF THE BANKRUPTCY OF  
DEL EQUIPMENT INC.  
OF THE CITY OF TORONTO  
IN THE PROVINCE OF ONTARIO**

*The information contained in this Preliminary Report has been prepared from the available books and records of the Company and discussions with Management. These books and records have not been reviewed or otherwise audited by the Trustee and, consequently, the Trustee expresses no opinion whatsoever with respect to the validity, the exactness or the reliability of the information taken from those records contained herein.*

**SECTION A - BACKGROUND**

Del Equipment Inc. ("**DEL**" or the "**Company**") is a private corporation incorporated under the laws of Ontario and is a Canadian truck body and equipment "up-fitter" that engineered, designed, manufactured and sold special truck bodies, attachments, equipment and work-ready vehicles through its nation-wide distribution network. DEL's products served the requirements of utility service providers, municipalities, construction companies and landscapers. DEL previously was headquartered in Newmarket, Ontario, operated out of leased premises in Vancouver, Calgary, Edmonton, Newmarket, Montreal and Moncton, and had employed approximately 174 people.

DEL's shares are 100% owned by Diesel Equipment Ltd. ("**Diesel**"). Diesel was also DEL's senior secured creditor as a result of paying out DEL's indebtedness to The Bank of Montreal ("**BMO**") and taking an assignment of the security held by BMO associated such credit facility.

***CCAA Proceedings***

On October 22, 2019, DEL was granted protection from its creditors under the *Companies' Creditors Arrangement Act* (the "**CCAA**") pursuant to the Initial Order of the Court (the "**Initial Order**") by the Ontario Superior Court of Justice (the "**Court**"). The Initial Order, among other things, (i) appointed MNP Ltd. ("**MNP**") as the monitor (the "**Monitor**") of DEL in the CCAA

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proceedings (the “**CCAA Proceedings**”), (ii) granted a stay of proceedings in respect of DEL and (iii) approved DEL’s commencement of a sale and investment solicitation process (“**SISP**”).

In the course of the CCAA Proceedings and following receiving a series of extensions to the stay of proceedings, DEL completed a going concern sale of its Ontario based business (which represented a significant portion of DEL’s overall business) and certain additional assets, as well as completed an orderly liquidation of its remaining branches, collected the vast majority of its outstanding accounts receivables, wound-down its business operations, repaid in full all of its secured debt to Diesel and favourably resolved a payment dispute as between DEL and Gin-Cor Industries Inc. (“**Gin-Cor**”).

On October 29, 2020, the Court granted an order (the “**CCAA Termination Order**”), which among other things, authorized the filing of assignment of bankruptcy and terminating the CCAA Proceedings and discharging the Monitor on its filing with the Court, a certificate (the “**Monitor’s Certificate**”) certifying that all matters to be attended to in connection with the CCAA Proceedings have been completed. On December 4, 2020, the Monitor’s Certificate dated December 3, 2020 was acknowledged as being received by the Court.

### **Receivership**

On April 29, 2020, on the application of Diesel, MNP was appointed as the receiver (the “**Receiver**”), without security, over the DEL bank account specified in the limited receivership Order to a maximum of \$20 pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”).

The purpose of the issuance of the Limited Receivership Order was to provide for a mechanism by which employees of DEL would be eligible for making applications to the Wage Earner Protection Program (“**WEPP**”), which was otherwise unavailable in the CCAA Proceedings.

On October 29, 2020, the Court granted an order (the “**Receivership Discharge Order**”), which among other things, discharged the Receiver on the filing with the Court of a certificate (the “**Receiver’s Certificate**”) certifying that the Receiver had completed all of its remaining activities. On December 7, 2020, the Receiver’s Certificate dated December 3, 2020 was acknowledged as being received by the Court.

### **Bankruptcy**

As the Company’s business activities had been wound down and the Company’s assets having been substantially realized during the CCAA Proceedings, it was determined that assigning the Company into bankruptcy would be the most cost-effective method to conduct a claims process and make dividend distributions of the approximately \$4 million remaining funds, as opposed to under the CCAA Proceedings.

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On December 2, 2020 pursuant to the CCAA Termination Order the Company executed an assignment in bankruptcy (the "**Assignment**") which was accepted by the Office of the Superintendent of Bankruptcy Canada ("**OSB**") on December 3, 2020 (the "**Bankruptcy Date**"). MNP was appointed as Licensed Insolvency Trustee (the "**Trustee**") of the bankruptcy estate, subject to affirmation by the creditors at the First Meeting of Creditors.

On December 10, 2020, the Notice to Creditors advising of the bankruptcy and the First Meeting of Creditors ("**FMOC**"), a list of creditors and a proof of claim form, along with a proxy, were sent to all known creditors of the Company. Pursuant to subsection 102(4) of the BIA, notice of DEL's bankruptcy was published in the December 23, 2020 national edition of the National Post newspaper. Given the size and geographic dispersion of the creditors and with the holiday season approaching, the Trustee obtained from the OSB an extension of time to hold the FMOC.

Information in respect of the CCAA Proceedings, the receivership and bankruptcy are available on MNP's website.

**SECTION B - PRELIMINARY EVALUATION OF ASSETS AND SECURITY INTERESTS**

DEL's assets and their estimated realizable value, according to its Statement of Affairs ("**SOA**") are as follows:

- Cash on hand and on deposit at a financial institution - \$4,238,736.79 as per the SOA.
  - Represents the funds held in two (2) BMO accounts and \$60,000 that was previously held by the Monitor as a retainer.
  - The Trustee has now realized on all of the cash on hand and on deposit at a financial institution which in total amounts to \$4,235,075.35.
- Accounts receivable - \$639,546.26 as per the SOA.
  - Represents a total of \$486,558.61 of "Good" accounts receivable and \$152,987.65 of "Doubtful" accounts receivables that are estimated to produce \$486,558.61. Out of this total, \$458,688.67 is associated with trade receivable amounts owed by Gin-Cor and entities related thereto.
  - Certain of the accounts receivables may be subject to contra or a right of offset which would reduce the realizations but would correspondingly also reduce such creditor's claim.
- Cost award against Gin-Cor - \$121,678.90 as per the SOA.
  - Represents an unliquidated amount owed for reimbursement of costs to Del by Gin-Cor associated with the payment dispute litigation where Gin-Cor was unsuccessful. The amount to be actually realized is subject to a determination and setting by the Court.

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All security interests in the assets of DEL were addressed and discharged through and during the CCAA Proceedings and the receivership.

**SECTION C - BOOKS AND RECORDS**

The Trustee is in the process of taken possession and control of the Company's books and records necessary to complete the administration of the estate.

**SECTION D - CONSERVATORY AND PROTECTIVE MEASURES**

As the Company had no physical assets on the Bankruptcy Date, no conservatory or protective measures were necessary. No security or bond has been set by the OSB; however, this issue is to be revisited with the Inspectors of the estate.

**SECTION E - PROVABLE CLAIMS AND CREDITOR GROUPS**

***Provable Claims***

The claims of creditors as per the Company's sworn Statement of Affairs ("SOA") and the claims filed and admitted for voting purposes only, if appropriate, as at 4:00 pm on January 7, 2021 are summarized below:

Creditor Group	Statement of Affairs	Claims as Filed
Unsecured creditors	\$ 18,114,001.63	\$ 14,335,538.31
Preferred creditors	Nil	Nil
Secured creditors	Nil	Nil
Contingent, trust claims	2.00	Nil
Total	\$ 18,114,003.63	\$ 14,335,538.31

The Trustee was appointed/received 11 proxies in the amount of \$472,804.11.

With respect to the \$14,335,538.31 noted above as being the Claims Filed, such creditors' claims were reflected on the SOA at \$14,486,798.95. Please note that the Trustee has not determined the admissibility or value of the above-noted claims for dividend purposes.

***Creditor Groups***

Unsecured creditors - The largest unsecured creditors identified by the Company were Diesel and Gin-Cor and its related entities, which as per the SOA total approximately \$9.96 million and represent 55% of the total unsecured creditors identified on the SOA.

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Preferred creditors – The Trustee is not aware of any preferred creditors under section 136 of the BIA.

Secured creditors – The Trustee is not aware of any secured creditors, as such were previously addressed through and during the CCAA Proceedings and the receivership.

Contingent, trust claims – The SOA reflects two (2) potential contingent claims associated with assumed old warranty matters that were never fully resolved. The Trustee is not aware of any trust claims that could be asserted against DEL in connection with any unpaid and relate to source deductions, withholding taxes deducted or withheld and not remitted, pension contributions, or employee wages or vacation pay.

**SECTION F - LEGAL PROCEEDINGS**

To date, the Trustee has not commenced any legal proceedings. The Trustee has retained Jennifer Stam of Norton Rose Fulbright as its independent legal counsel, who also acted as legal counsel to the Monitor.

**SECTION G – REVIEWABLE TRANSACTIONS**

The Trustee is still in the process of completing its review of the Company's books and records in order of identifying any potential transfers at undervalue or preference payments. The scope of the review will be limited to a review of disbursements made in the 12 months preceding the CCAA Proceedings and inquiries with management. The Trustee will discuss this matter and any findings with the Inspectors once the review is complete.

**SECTION H - ANTICIPATED REALIZATIONS AND DISTRIBUTIONS**

Given the forgoing and the SOA, the Trustee anticipates that there will be a dividend distribution to the unsecured creditors; however, it is uncertain what such percentage of the creditors' claim will be received as it will be dependent on, among other things, additional realizations from accounts receivables, including potential set-offs, the ultimate number and the value of the claims filed and proven.

**SECTION I - OTHER MATTERS**

The fees and expenses of the Trustee are to be paid from the realizations of the assets of DEL.

As noted earlier in this report, the Company's former employees' eligibility and the administration of the WEPP was addressed in the receivership proceeding. The time period for applying for the WEPP has now passed and the Receiver has now been discharged.

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Notwithstanding, any former employees who did not make a claim under the WEPP may still contact Service Canada in order to request an exception and an extension to submit a claim.

The following four (4) individuals have submitted a request to be appointed and serve as an Inspector of the estate, which is to be voted on at the First Meeting of Creditors:

1. Paul LaFontaine;
2. Bryan Fleming;
3. Sarah Blashe; and
4. Paul Cudmore

Pursuant Section 116 of the BIA, up to five (5) Inspectors may be appointed.

Dated at Toronto, Ontario this 7<sup>th</sup> day of January 2021.

**MNP LTD.**  
**Trustee of the Estate of**  
**Del Equipment Inc., a bankrupt**  
Per:



Matthew E. Lem, CIRP  
Licensed Insolvency Trustee