

**COMPREHENSIVE CASE II  
SEPTEMBER 2018**

**COMPREHENSIVE CASE II BACKGROUND AND CASE FACTS**

**Hanks Excavation Equipment Inc.**

Hanks Excavation Equipment Inc. (the “Company”) operates a construction excavation business. The Company received a demand to settle the BMO Bank (“BMO”) indebtedness in the amount of \$1.2 million, on February 1, 2018 requiring the Company to repay the entire indebtedness before February 12, 2018.

The Company does not repay debt as set out above. It is now the end of March 2018 which is just before the busy construction season starts when the Company would be at its busiest time, most number of employees and equipment at various job sites.

You receive a call from the lawyers acting for BMO asking for you to provide some options.

- 1) Based on the limited information above, what would you consider to be the key risks with this engagement?**
- 2) Do you think suggesting your role would be to monitor the Company and its progress on completion of various contracts, provide reasons for and against?**

Shortly after your call with the lawyers, you receive an email from the lawyer with a copy of the NOI to file a proposal filed by the Company

- 3) What would you advise the lawyers and BMO? What would the next steps be?**

Given the above, BMO wants to proceed to appoint your firm as Court Appointed Receiver. Assuming you confirm to act, the lawyer has obtained April 28, 2018 as the date to appear in the Superior Court to hear the application. In advance of the court date you are provided with the following information:

- BMO advises you that the deposits into the operating account just stopped in early April 2018;
- the Company operates from rented premises owned by a related party;
- BMO has not been able to receive accurate accounts receivable reporting;
- BMO advises they believe the Company uses quick books for payroll, they are not certain the Company is current on all remittances;
- PPSA results report 58 various registrations against the Company and its equipment;
- BMO does not have a list of equipment;

BMO provides the last borrowing base reporting from January 2018 with the following information:

- Accounts receivable total \$1,250,000;
- Inventory reported \$150,000;
- No employee source deductions;
- No amounts due for HST;
- Rent is current; and
- NBV of equipment is \$2.5 million.

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Assuming the appointment is issued on April 28, 2018:

**4) What are the initial procedures you would need to take as Receiver?**

When you attend the premises, you meet with Hank and the bookkeeper. You are advised of the following:

- they switched banks to Desjardin because their lawyer and proposal trustee told them to;
- the Company is currently on 6 different job sites with various pieces of equipment at each location;
- all employees are current on payroll however, the next payroll is due the next day, if not paid they will walk off the site;
- their largest job is bonded and currently several liens have been placed on the project;
- they have a complete list of assets they are prepared to provide you;
- the accounting is current using quick books software;
- the insurance company provided notice they will cease coverage on May 15, 2018;
- the building has been sold and the closing is scheduled for June 30, 2018;
- they can provide the most recent project draw reports;
- several pieces of equipment on the list provided by Hank and the bookkeeper were sold prior to January 2018 to help fund the operations over the slow winter months;
- bookkeeper states she will only assist if paid;
- Hank has personal guarantees to BMO;

**5) In reaction to the above, what procedures/measures would you take?**

It is now August 2018, you provide BMO with an update as follows:

- you determined that the Company could maintain the various contracts because the customers used the receivership as a reason to terminate the relationship;
- you seized the new bank account and obtained \$85,000 in remaining cash from the sale of a piece of equipment;
- the appraisal for the equipment you hold is \$900,000 and the auction is scheduled for September 15, 2018;
- there was limited inventory at the time of our appointment, liquidator assumes no more than \$20,000 in value;
- you collected \$120,000 and there remains another \$75,000 in holdback payments to be released once the projects are complete;
- you did not pay the employees and the one week of vacation pay and wages totaled \$52,000;
- the Company was one month behind in source and owed \$25,000;
- they filled all HST returns and received a refund of \$6,000 which was paid to the Receiver;
- you have incurred legal costs of \$12,500 to deal with file matters; and your WIP is \$45,000.

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- 6) **Provide an estimated security position based on the above.**

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