



COURT FILE NUMBER 25-1799518
25-1799530
25-1799540
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25-1799555
25-1800429

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE BANKRUPTCY OF
PLG CORPORATE SERVICES INC.
PLG RESIDENTIAL SERVICES INC.
SAS-CAN MASONRY AND RESTORATION INC.
ASTY CONSTRUCTION INC.
CON-FORTE CONTRACTING COMPANY INC.
PLUMB-LINE GROUP HOLDINGS INC.
(collectively referred to as the "Plumb-Line Group")

APPLICANT **DELOITTE RESTRUCTURING INC., IN ITS CAPACITY AS TRUSTEE IN BANKRUPTCY, and not in its personal capacity**

DOCUMENT **APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Field LLP
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File No. 58083-2

NOTICE TO RESPONDENT

This Application is made against you. You are a Respondent.

You have the right to state your side of this matter before the Justice.

To do so, you must be in Court when the application is heard as shown below:

DATE Monday, September 19, 2016
TIME 2:00 p.m. – Commercial List
WHERE Court House, Calgary, Alberta
BEFORE WHOM Justice K. M. Eidsvik

Go to the end of this document to see what else you can do and when you must do it.

The Applicants seek an Order:

1. Abridging the time for service of this Application and the supporting materials, as necessary, and deeming service thereof to be good and sufficient.
2. Approving or confirming the settlement between Deloitte Restructuring Inc., in its capacity as Trustee in Bankruptcy of Con-Forte Contracting Company Inc., (the "**Trustee**") and Remington Development Corporation ("**Remington**"), as outlined in the Trustee's Sixth Report dated September 12, 2016 (the "**Sixth Report**") and directing the Trustee to take such steps as may be necessary or desirable to effect the settlement.
3. Approving or confirming the settlement between the Trustee of Con-Forte, Asty Construction Inc. ("**Asty**") and Sas-Can Masonry and Restoration Inc. ("**Sas-Can**"), (Con-Forte, Asty and Sas-Can collectively referred to as the "**Companies**"), and Clark Builders ("**Clark**"), as outlined in the Sixth Report and directing the Trustee to take such steps as may be necessary or desirable to effect the settlement.
4. Such further and other relief as Counsel may seek.

Grounds of the Application:

5. The Plumb-Line Group was assigned into bankruptcy on October 16, 2013 and October 18, 2013.
6. In the course of the Bankruptcy, the Trustee has been pursuing and settling accounts owed to the Bankrupt.

Remington Settlement:

7. At the date of bankruptcy, Con-Forte's books and records reported an account receivable of approximately \$319,718 as being due from Remington (the "**Remington Receivable**"). The Remington Receivable related to a project known as the Champagne condominium project (the "**Champagne Project**") for which Remington acted as the general contractor.
8. On November 4, 2013, the Trustee registered two builders' liens against the Champagne Project (the "**Champagne Liens**"). The Trustee is not aware of any sub-liens having been filed in respect of the Champagne Project.

9. On November 8, 2013, an Order (the "**November 8, 2013 Order**") was granted in this matter requiring Remington to deposit the sum of \$319,718 plus an allowance of 10% for costs, interest and all applicable taxes for a total of \$351,690 with Norton Rose Fullbright Canada LLP as security for the Champagne Liens (the "**Champagne Security**"). The Champagne Liens were discharged pursuant to the November 8, 2013 Order.
10. Following the November 8, 2013 Order having been granted, the Trustee became aware that an Irrevocable Order and Direction for Payment of Funds (the "**Direction to Pay**") had been provided by Con-Forte to Remington, which authorized and directed Remington to pay \$184,149 of the amount that would have been payable to Con-Forte to a third party. The Direction to Pay had not been included in the calculation of the amount due to Con-Forte by Remington for work done on the Champagne Project. As such, on November 13, 2016, a further Order was granted reducing the amount of the Champagne Security to \$149,126 consisting of the sum of \$135,569 plus an allowance of 10% for costs, interest and applicable taxes.
11. Remington disputed the amount of the Remington Receivable alleging various set-off and deficiency claims. Following negotiations between the Trustee and Remington, both parties agreed to a settlement pursuant to which \$25,000 of the funds held for the Champagne Security would be released to Con-Forte with the remainder being released to Remington.

Clark Settlement

12. At the date of bankruptcy, the Companies' books and records reported accounts receivable totalling approximately \$970,173 as being due from Clark (the "**Clark Receivables**"). Of the total Clark Receivables, approximately \$38,640 was due from Asty in respect of the project known as Covenant Health Phase 1 (the "**Covenant Project**"), approximately \$608,787 was due from Sas-Can in respect of the projects known as Ecole Notre-Dame des Vallee (the "**Notre-Dame Project**"), the Mustard Seed (the "**Mustard Seed Project**"), Airdrie P3 School (the "**Airdrie Project**"), the Covenant Project and Chestermere Public P3 School (the "**Chestermere Project**") and approximately \$322,476 was due from Con-Forte in respect of the Mustard Seed Project. The Notre Dame Project, the Mustard Seed Project, the Airdrie Project, the Covenant Project and the Chestermere Project will collectively be referred to as the "Clark Projects". On November 8, 2013, the Trustee registered the four builders' liens, on behalf of Asty against the Covenant Project and on behalf of Sas-Can against the Notre-Dame, Covenant, Mustard Seed and Airdrie Projects (the "**Clark Liens**").

13. On November 20, 2013, the following Orders (the "November 20, 2013 Orders") were granted in respect of the Clark Liens:
- (a) Requiring Clark to deposit \$38,640 plus an allowance of 10% for costs, interest and all applicable taxes for a total of \$42,504 with the Clerk of the Court as security for the Asty-Covenant Lien (the "**Asty-Covenant Security**").
 - (b) Requiring Clark to deposit \$81,753 plus an allowance of 10% for costs, interest and all applicable taxes for a total of \$89,753 with the Clerk of the Court as security for the Notre Dame – Sas-Can Lien (the "**Notre Dame – Sas-Can Security**");
 - (c) Requiring Clark to deposit \$134,531 plus an allowance of 10% for costs, interest and all applicable taxes for a total of \$147,984 with the Clerk of the Court as security for the Mustard Seed – Sas-Can Lien (the "**Mustard Seed – Sas-Can Security**"); and
 - (d) Requiring Clark to deposit \$134,988 plus an allowance of 10% for costs, interest and all applicable taxes for a total of \$148,486 as security for the Airdrie – Sas-Can Lien (the "**Airdrie – Sas-Can Security**")
14. Pursuant to the November 20, 2013 Orders, each of the Asty-Covenant Lien, the Notre Dame – Sas-Can Lien, the Mustard Seed – Sas-Can Lien and the Airdrie Sas-Can Lien were discharged.
15. Clark disputed the amount of the Clark Receivable alleging various set-off and deficiency claims. Following negotiations between the Trustee and Clark, both parties agreed to a global settlement (the "Clark Settlement") pursuant to which \$300,000 of the funds held in trust in respect of the Asty-Covenant Security, the Notre-Dame – Sas-Can Security, the Mustard Seed – Sas-Can Security and the Airdrie – Sas-Can Security (collectively, the "**Clark Security**") would be released to the Companies with the balance of the Clark Security being released to Clark.
16. The Trustee is allocating the funds payable pursuant to the Clark Settlement to each of the Clark Projects on a pro-rata basis (the "**Clark Allocation**").
17. The Clark Settlement and the Clark Allocation have been approved by Canada Revenue Agency ("**CRA**"), who have an outstanding deemed trust claim in respect of Sas-Can in the amount of approximately \$146,295 (the "**Sas-Can Trust Claim**"). Payment of the Sas-Can Trust Claim was approved pursuant to an Order granted on August 13, 2015 (the "**August 13, 2015 Order**"). Should there be excess funds available from the Clark Settlement beyond what is required to pay

professional fees and disbursements and the Sas-Can Trust Claim, Human Resources and Skills Development Canada ("HRDC") has an outstanding super-priority claim under the *Wage earner Protection Plan* ("WEPP") for approximately \$76,818 (the "Sas-Can WEPP Claim"). Payment of the Sas-Can WEPP Claim was also approved pursuant to the August 13, 2015 Order.

18. The Clark Settlement and the Clark Allocation were also approved by PNC, who has a general security agreement over all present and after acquired personal property of the PLG Group. All funds collected for both Con-Forte and Asty, net of professional fees and disbursements will be payable to PNC, as approved pursuant to the February 9, 2016 Order.
19. The Trustee, with the approval of the Estate's Inspectors, have entered into a settlement agreement with Remington and Clark, subject to approval of the Court.
20. Such further and other grounds as counsel may advise.

Material or evidence to be relied on:

21. Sixth Report of the Trustee dated September 12, 2016; and
22. Such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable Rules:

23. *Alberta Rules of Court*, Rule 372.
24. Such further and other rules as counsel may advise.

Applicable Acts and Regulations:

25. *The Bankruptcy and Insolvency Act*, R.S.C. 1985, c B-3.
26. *Builders' Lien Act*, R.S.A. 2000, c.B-7.
27. *Income Tax Act*.
28. *Excise Tax Act*.
29. The inherent jurisdiction of this Honourable Court.
30. Such further and other Acts and regulations as counsel may advise.

Any irregularity complained of or objection relied on:

31. N/A

How the Application is proposed to be heard or considered:

32. This Application is proposed to be heard in Justice Chambers.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the Applicant what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the Applicant.