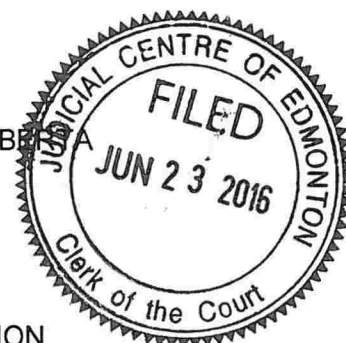


COURT FILE NUMBER 1603 09140  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE EDMONTON  
PLAINTIFF ROYAL BANK OF CANADA  
DEFENDANT GRAHAM BROTHERS CONSTRUCTION GROUP LTD.  
DOCUMENT **AMENDED SUPPLEMENTAL THIRD REPORT OF THE RECEIVER, DELOITTE RESTRUCTURING INC., DATED JUNE 23, 2016**



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Ogilvie LLP  
1400, 10303 Jasper Avenue  
Edmonton AB T5J 3N6  
Attention: Kentigern A. Rowan, Q.C.  
Phone: 780.429.6236  
Fax: 780.429.4453  
File No.: 3089.57

**Service will be accepted by delivery or fax. No other form of service will be accepted.**

**I. INTRODUCTION AND PURPOSE OF THIS REPORT**

1. This Supplemental Third Report of the Receiver, Deloitte Restructuring Inc. should be read in conjunction with the Third Report of the Receiver, filed in the within proceedings on June 17, 2016.
2. On March 18, 2016, the Defendant, Graham Brothers Construction Group Ltd. ("Graham Brothers") filed a Notice of Intention to Make a Proposal (the "Proposal Proceedings"), at which time, Deloitte Restructuring Inc. ("Deloitte" or the "Receiver") was named as Proposal Trustee. Graham Brothers subsequently failed to file a Proposal, and was deemed bankrupt May 16, 2016, at which time the Receiver became Trustee in Bankruptcy of Graham Brothers.
3. By Order granted in this action on May 25, 2016, Deloitte was appointed Receiver over the property of Graham Brothers.

4. Pursuant to Orders granted in the Proposal Proceedings, Graham Brothers was authorized to sell certain of its property pursuant to the terms of the said Orders.
5. The Receiver is in possession of funds totalling \$2,635,789.00 (the "Funds") from the sale of the property of Graham Brothers.
6. The purpose of this report is to support an Application to this Honourable Court for directions with respect to payment of the Funds to creditors of Graham Brothers, who hold security on the property of Graham Brothers.

## II. ORDER GRANTED IN THE PROPOSAL PROCEEDINGS

7. As indicated above, Graham Brothers filed a Notice of Intention to Make a Proposal ("NOI") under the *Bankruptcy and Insolvency Act* on March 18, 2016.
8. As a result of the filing of the NOI, a stay of all proceedings against Graham Brothers became effective.
9. While operating under the NOI, Graham Brothers proposed to sell certain of its property.
10. By Order of this Honourable Court granted in the Proposal Proceedings on April 1, 2016, Graham Brothers was authorized to sell its property described in Schedules 1 and 2 to the Proposal Trustee's Report filed with the Court on March 30, 2016, through public auction at Ritchie Bros. or by such other means as may be approved by both the Trustee and Royal Bank of Canada ("RBC").
11. Attached hereto as **Schedule 1** to this Report is a copy of the April 1, 2016 Order (the "April 1 Order").
12. Pursuant to the April 1 Order, RBC was to file an Affidavit with this Honourable Court in the Proposal Proceedings setting forth the basis of their claim to the proceeds of sale of the property of Graham Brothers.
13. The April 1 Order also provided for a mechanism for payment to RBC of the proceeds of the sale of assets described in Schedule 1 to the Proposal Trustee's Report and those assets described in Schedule 2 to the Proposal Trustee's Report as being secured to RBC Leasing.
14. By Order dated April 19, 2016, granted in the Proposal Proceedings (the "April 19 Order"), Graham Brothers was authorized to sell Additional Equipment and Further Equipment (to a total value of \$500,000.00), as those terms are defined in the April 19 Order.

15. Attached hereto as **Schedule 2** to this Report, is a copy of the April 19 Order.
16. In addition, the April 19 Order directed any person claiming to be a secured creditor of Graham Brothers to prepare and file with this Honourable Court an Affidavit setting forth the basis of their claim against the property of Graham Brothers, all as more particularly provided for in the April 19 Order.
17. In addition, the April 19 Order authorized Graham Brothers to enter into a lease with Mortenson Canada Corporation ("Mortenson") of certain of its equipment.
18. The April 19 Order allowed the Proposal Trustee to release certain funds to Graham Brothers. No funds were paid to Graham Brothers pursuant to the April 19 Order since Graham Brothers was bankrupted by reason of failing to file a Proposal prior to any funds being disbursed.
19. By Order of this Honourable Court granted May 13, 2016 (the "May 13 Order"), the April 19 Order was amended to increase the amount of further Further Equipment that could be sold from \$500,000.00 to \$1,000,000.00.
20. Attached hereto as **Schedule 3** to this Report is a copy of the May 13 Order.
21. Pursuant to the Order of this Honourable Court granted in these proceedings on May 25, 2016 concurrent with the appointment of Deloitte as Receiver, the aforesaid Orders granted in the Proposal Proceedings were transmitted and continued in these proceedings and were deemed to constitute Orders in these proceedings.

### III. **SALES COMPLETED TO DATE**

22. Pursuant to Orders granted in the Proposal Proceedings, Graham Brothers has completed sales of some of its property, which is detailed in Schedule A to the Receiver's Third Report dated June 16, 2016, and filed June 17, 2016. This Schedule is reproduced as **Schedule 4** to this Report.
23. The sale of Graham Brothers' property has been completed in three ways, being:
  - (a) Private sales;
  - (b) Sales at Ritchie Bros. Auctions;
  - (c) Sales at Osmond Auctions.
24. The items detailed on page 1 of **Schedule 4** represent items sold by private sale with total sale proceeds of \$659,327.00.

25. The items detailed on pages 2 and 3 of **Schedule 4**, are items sold at Ritchie Bros. Auctions, totalling net proceeds of \$1,162,342.00.
26. The items detailed on page 4 of **Schedule 4** provide details of items sold at Osmond Auctions, with net sale proceeds of \$1,025,171.00.
27. In the case of sales at Ritchie Bros. Auctions and at Osmond Auctions, the sale proceeds represent net sale proceeds after commissions and other costs agreed to be paid to Ritchie Bros. and Osmond Auctions respectively.
28. The items listed in **Schedule 4** to this Report do not align with the listing of items in Schedules 1 and 2 to the Proposal Trustee's First Report in the Proposal Proceedings.
29. Upon review of the sales detailed in **Schedule 4** to this Report and Schedules 1 and 2 to the Proposal Trustee's First Report in the Proposal Proceedings, it was determined that some of the items in Schedules 1 and 2 to the Proposal Trustee's First Report in the Proposal Proceedings did not actually exist or were double-counted, or some of the items were sold as attachments to equipment that is otherwise listed on Schedules 1 and 2 of the Proposal Trustee's First Report in the Proposal Proceedings.
30. In **Schedule 4** to this Report, the Receiver has listed the net sale proceeds received on any item which has been sold. In addition, the Schedule indicates whether there is a potential claim by a secured party other than RBC on any individual item, by indicating the estimated amounts owed to the potential secured party on any particular item.

#### **IV. SECURED CREDITORS' AFFIDAVITS**

31. Caterpillar Financial Services Limited ("CFSL") has filed an Affidavit in the Proposal Proceedings, supplying details of its security and claim against specific items.
32. CFSL claims to be owed the sum of \$2,371,669.11 as at April 7, 2016.
33. Ogilvie LLP, counsel for the Receiver ("Receiver's Counsel"), has reviewed the security of CFSL on the property that it claims and has reviewed Personal Property Security searches on Graham Brothers (the "PPR Searches").
34. Receivers' Counsel has informed the Receiver that:
  - (a) in their opinion, CFSL holds valid first priority security on each of the pieces of equipment described in the CFSL security attached to their Affidavit, with the exception of the first two items claimed in Exhibit "A", which were sold prior to Graham Brothers filing their NOI (the "CFSL Secured Equipment");

- (b) in their opinion, the CFSL security cross-collateralizes CFSL for all debts owed to them and the CFSL Secured Equipment is subject to a first priority CFSL security for the cross-collateralization;
- (c) in their opinion, CFSL has a first priority secured charge on the CFSL Secured Equipment for all debts owed by Graham Brothers to CFSL.
35. As indicated in **Schedule 4** to this Report, three items subject to CFSL Secured Equipment were sold, resulting in net sale proceeds of \$132,908.00.
36. The Receiver proposes to pay to CFSL the total net sale proceeds of \$132,908.00.
37. Coast Capital Equipment Finance ("Coast") has provided a sworn Affidavit of Patricia Anne Ballance (the "Ballance Affidavit") sworn June 14, 2016 providing details of Coast's claims against Graham Brothers.
38. As of the date of this Report, the Receiver has not received a filed copy of the Ballance Affidavit.
39. Receiver's counsel has reviewed the Ballance Affidavit and attachments thereto and the PPR Searches.
40. The Receiver has been informed by Receiver's Counsel that, in their opinion, Coast has first priority security on the "Motor Grader" as that term is defined in the Ballance Affidavit.
41. As indicated in the Ballance Affidavit, as of June 1, 2016, Graham Brothers was indebted to Coast in the sum of \$83,660.26.
42. As indicated in **Schedule 4** to this report, the "Motor Grader" was sold by the Receiver and net sale proceeds of \$76,259.00 were received.
43. Subject to receiving a filed copy of the Ballance Affidavit, the Receiver proposes to pay to Coast the total net sale proceeds of \$76,259.00.
44. CIT Financial Ltd. ("CIT") has provided the sworn Affidavit of Karen Greatorex (the "Greatorex Affidavit") sworn June 13, 2016, providing details of CIT's claims against Graham Brothers.
45. As of the date of this Report, the Receiver has not received a filed copy of the Greatorex Affidavit.

46. The Receiver has been informed by Receiver's Counsel that, in their opinion, CIT has a first priority security on the two pieces of equipment as described in the Greatorex Affidavit (the "CIT Equipment").
47. As indicated in the Greatorex Affidavit, as of May 31, 2016, Graham Brothers was indebted to CIT in the sum of \$60,079.90, plus per diem interest at the rate of \$13.58 thereafter.
48. As indicated in **Schedule 4** to this Report, the CIT Equipment was sold by the Receiver and net sale proceeds of \$115,500.00 was received.
49. Subject to receiving a filed copy of the Greatorex Affidavit, the Receiver proposes to pay to pay to CIT from the net sale proceeds of CIT Equipment the sum of \$60,079.90 plus per diem interest of \$13.58 from May 31, 2016 to the date of payment, in full satisfaction of the claims of CIT to the CIT Equipment and against Graham Brothers.
50. By Affidavit of Andrew Holmes sworn April 19, 2016 and filed April 20, 2016 in the Proposal Proceedings (the "Holmes Affidavit") RBC provided details of its claims as against Graham Brothers.
51. The claims of RBC arise out of:
  - (a) Visa account agreements;
  - (b) Irrevocable Standby Letters of Credit issued by RBC in favour of Graham Bros.;
  - (c) Lease schedules to a Master Lease Agreement dated effective April 18, 2016.
52. As indicated in the Holmes Affidavit, the total indebtedness to RBC was \$4,700,526.13 as at April 18, 2016.
53. RBC claims security on the assets of Graham Brothers pursuant to:
  - (a) a Master Lease Agreement dated April 17, 2014, and related Schedules; and
  - (b) a General Security Agreement dated November 25, 2013, granting to RBC security on all present and after-acquired personal property of Graham Brothers to secure all present and future indebtedness of Graham Brothers to RBC.
54. Receiver's Counsel has reviewed the RBC security and the PPR Searches and provided an opinion to the Receiver.
55. Receiver's Counsel is of the opinion that:

- (a) RBC has a first priority secured charge on all of the serial numbered goods listed in all of the lease schedules relating to the Master Lease Agreement;
- (b) RBC has the first priority charge on all of the present and after-acquired personal property of Graham Brothers, other than personal property of Graham Brothers which are serial numbered goods subject to prior serial number registrations by other secured parties or of personal property other than serial numbered goods which were provided to Graham Brothers pursuant to purchase money security agreements where registration against such personal property was effected by the secured party within fifteen (15) days of Graham Brothers receiving possession of the subject property.

56. The Receiver is therefore of the opinion that:

- (a) RBC is entitled to first priority to the proceeds of the sale of those items listed in **Schedule 4** where it is indicated that RBC leasing is the secured party;
- (b) RBC is entitled to the proceeds of sale of all personal property listed in **Schedule 4** to this Report, where no other party is indicated as having security thereon;
- (c) RBC is entitled to the proceeds of sale of any equipment listed in **Schedule 4** where any other secured party has a first priority charge on the equipment where the proceeds of sale exceed the amount required to pay the secured party holding the first priority secured charge.

57. Pursuant to the provisions of the April 1 Order, the Receiver has paid to RBC the sum of \$211,050.00, being the net sale proceeds of Ford trucks being property of Graham Brothers listed in **Schedule 1** to the Proposal Trustee's First Report in the Proposal Proceedings.

58. As of the date of this Report, the Receiver has not received Affidavits providing details of security claimed by the following parties having registrations at the Personal Property Registry against Graham Brothers:

- (a) 1615046 Alberta Ltd.;
- (b) Diamond International Trucks Ltd.;
- (c) Roynat Inc.;
- (d) National Leasing Group Inc.;
- (e) John Deere Financial Inc.;
- (f) Ford Credit Canada Leasing;
- (g) 711428 Alberta Ltd.;
- (h) Business Development Bank of Canada;

- (i) Bodkin Capital Corporation;
- (j) Gregg Distributors;
- (k)  $\Delta$ ;
- (l) Lease Plus Financial Services Inc.

58a. American Piledriving Equipment Inc. has provided an Affidavit providing details of the security claimed by it. Receivers' Counsel has not reviewed the security or provided an opinion to the Receiver. The Receiver is of the opinion that none of the property of Graham Brothers giving rise to the Funds is property over which American Piledriving Equipment Inc. has a claim.

59. As indicated on **Schedule 4** to this Report, and except as otherwise explained herein, the Receiver is in possession of net sale proceeds of equipment which may be subject to claims of:

(a) Roynat Inc. in the amount of:	\$ 21,184.00
(b) National Leasing Group Inc. in the amount of:	\$155,355.00
(c) Lease Plus Financial Services Inc. in the amount of:	<u>\$ 57,521.00</u>
(d) <b>TOTAL:</b>	<b>\$234,060.00</b>

60. The Receiver proposes to continue to hold the aforesaid net sale proceeds pending determination of the claims of secured parties making claims against the equipment which generated the net proceeds.

## V. SUMMARY

61. Based on the foregoing, and **Schedule 4** to this Report, the Receiver proposes to deal with the Funds as follows:

- (a) Pay to CFSL \$132,908.00, being the net sale proceeds from the three pieces of equipment subject to CFSL's first secured charge.
- (b) Subject to receiving a filed copy of the Ballance Affidavit, paying to Coast the sum of \$76,259.00, being the net sale proceeds from the sale of the "Motor Grader" for application against the indebtedness owed to Coast by Graham Brothers.
- (c) Subject to receiving a filed copy of the Greatorex Affidavit, paying to CIT, the sum of \$60,079.90, plus interest at a per diem rate of \$13.58 per day from May 31, 2016 to the date of payment in satisfaction of the first priority CIT claim against the CIT Equipment, with the balance of the sale proceeds from the CIT Equipment being paid to RBC as hereinafter indicated.



(d) Continue to hold the net sale proceeds from the sale of equipment claimed by Roynat Inc., National Leasing Group Inc. and Lease Plus Financial Services Inc. as follows:

a. Roynat Inc.:	\$ 21,184.00
b. National Leasing:	\$155,355.00
c. Lease Plus:	\$ 57,521.00
d. TOTAL:	\$234,060.00

(e) Pay the balance of the Funds (net of the Ford truck payment), after payments and reservations aforesaid to RBC, which funds would consist of:

- a. the sale proceeds of serial numbered equipment over which RBC has a first priority security claim;
- b. the excess of the sale proceeds of the CIT Equipment not required to pay CIT's first priority claim;
- c. the proceeds of sale of all other personal property of Graham Brothers as listed in **Schedule 4** to this Report, being property not subject to any security claims in priority to RBC.

#### **VI. MORTENSON LEASE**

62. Graham Brothers entered into a lease of certain of its equipment with Mortenson as authorized in the April 19 Order.
63. The Receiver has received and continues to receive the lease payments under the Mortenson lease.
64. The Mortenson lease has not been terminated and continues to generate income for Graham Brothers.

#### **VII. FUNDS FOR RECEIVERSHIP**

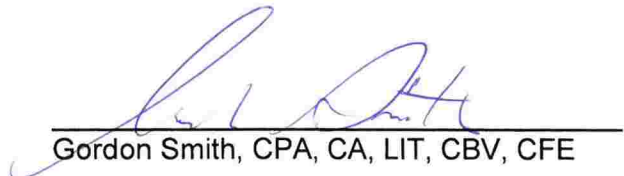
65. After making payments and distribution of the Funds as proposed in this Report, the Receiver will continue to have sufficient funds to fund the Receivership, which funds consist of the Mortenson lease payments, further anticipated proceeds from the sale of the property of Graham Brothers, and other recoveries including, but not limited to, GST refunds, income tax refunds, collection of receivables, and settlements of claims.

**VIII. FURTHER SALES**

66. Pursuant to the Order of this Honourable Court granted in these proceedings on June 13, 2016, the Receiver was authorized, with the approval of RBC and 1615046 Alberta Ltd. ("161 Ltd."), being another party holding general security on the assets of Graham Brothers, to proceed to sell additional assets of Graham Brothers listed in Schedule "A" (the "June 13 Order Equipment") to the said Order, by either public auction or private sale.
67. Approval has been received by RBC and 161 Ltd. to sell the June 13 Order Equipment by public auction at Ritchie Bros. Auction, which sale was conducted on June 14, 15 and 16, 2016.
68. As of the date of this Report, the Receiver has not received the proceeds of the sale of equipment aforesaid.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 23 day of June, 2016.

**DELOITTE RESTRUCTURING INC.,**  
In its capacity as Court appointed Receiver  
of Graham Brothers Construction Group  
Ltd. and not in its personal capacity.

  
\_\_\_\_\_  
Gordon Smith, CPA, CA, LIT, CBV, CFE

# SCHEDULE 1

I hereby certify this to be a true copy of the original.

D. Wankentin  
for Registrar in Bankruptcy

Clerk's stamp:



COURT FILE NUMBER

District of Alberta  
Division No. 01 - Edmonton  
Court No. 24-2101043  
Estate No. 24-2101043

COURT

COURT OF QUEEN'S BENCH OF ALBERTA  
IN BANKRUPTCY & INSOLVENCY

JUDICIAL CENTRE

EDMONTON

IN THE MATTER OF THE NOTICE OF  
INTENTION TO MAKE A PROPOSAL OF  
GRAHAM BROTHERS CONSTRUCTION  
GROUP LTD.

DOCUMENT

**ORDER**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT

Attention: Cherrisse Killick-Dzenick  
Reynolds Mirth Richards & Farmer LLP  
3200 Manulife Place  
10180 - 101 Street  
Edmonton, AB T5J 3W8  
Telephone: (780) 425-9510  
Fax: (780) 429-3044  
File No: 65064-019-CKD

DATE ON WHICH ORDER WAS PRONOUNCED:

APRIL 1, 2016

NAME OF MASTER/JUDGE WHO MADE THIS ORDER:

JUSTICE K.J. NIELSEN

JUDICIAL CENTRE WHERE THE ORDER WAS MADE:

EDMONTON

**ORDER**

UPON THE application of Graham Brothers Construction Group Ltd. (the "Applicant"); AND UPON hearing read the Affidavit of Thomas William Graham sworn March 30, 2016 and the March 29, 2016 Trustee's Report to Court; AND UPON hearing counsel for the Applicant and counsel for the Royal Bank of Canada; AND UPON being satisfied that the Applicant is acting in good faith and with due diligence; AND UPON being satisfied that it is appropriate to authorize the Applicant to dispose of assets outside of the ordinary course of business under the circumstances, IT IS ORDERED:

1. Time for service of Notice of this Application and the materials in support is hereby abridged and service is deemed good and sufficient.

**EXTENSION OF TIME**

2. The Stay of Proceedings effected by the Applicant having filed a Notice of Intention to Make a Proposal on March 18, 2016 is extended for 45 days from today's date, to Monday, May 16, 2016.

**SALE OF ASSETS**

3. The Applicant shall be entitled to sell all or any of those assets described in Schedule 1 and Schedule 2 of the Trustee's Report to Court filed March 30, 2016 (the "Trustee's Report") through public auction at Ritchie Brothers or by such means as may be approved by both the Trustee and the Royal Bank of Canada.
4. Subject to paragraph 5 of this order, such sale shall be free and clear of any security, charge or other restriction on such assets and, more particularly, shall be free and clear of any security for which there is a registration pursuant to the *Personal Property Security Act*, or otherwise.
5. The proceeds of sale of each of the assets described in the Schedules to the Trustee's Report shall stand in place of the asset sold and subject to the same claims and priorities as was the asset sold as at the date of sale.

**Disposition of Funds**

Schedule 1 Assets

✓ K.S. Nielsen  
✓

6. The proceeds of sale of the assets described in Schedule 1 of the Trustee's Report and those assets in Schedule 2 of the Trustee's Report ~~of~~ being secured by RBC Leasing shall be held by the Trustee pending compliance with this Order or subsequent order of this Honourable Court.
7. The Royal Bank of Canada shall:
  - a. be at liberty to file with this Honourable Court an affidavit appending a copy of any security pursuant to which the Royal Bank of Canada claims the proceeds of the disposition of the sale of the assets in Schedules 1 and 2 and a statement of the balance outstanding to it;
  - b. after filing such affidavit, serve that affidavit on the parties served with this application and, unless, within 10 days of such service, an application is brought to this Honourable Court for an order granting alternative relief, the whole of the proceeds of the sale of the assets described in Schedule 1, except the proceeds of the asset for which alternative relief has been sought, shall be paid to the Royal Bank of Canada.

Schedule 2 Assets

8. The terms of paragraph 7 shall also apply to the proceeds of disposition of those assets described in Schedule 2 of the Trustee's Report described as being secured by RBC Leasing.

9. The proceeds of disposition of those assets described in Schedule 2 of the Trustee's Report as secured by someone other than RBC Leasing shall be held by the Trustee pending the following:
- a. The party described as the secured creditor in Schedule 2 shall, within 3 weeks of the date of this Order, provide the Trustee with a copy of its security, any information required to support a claim for priority and a statement of balance outstanding;
  - b. At the expiry of that period, the Trustee shall provide both the Royal Bank of Canada and the above described person claiming to be a secured creditor with notice of its opinion as to entitlement to the funds;
  - c. Unless application is brought to this Honourable Court for a determination to the contrary, the proceeds shall be distributed as recommended by the Trustee upon the expiry of 2 weeks from its providing its opinion as to entitlement to such proceeds;
  - d. In the event of such a dispute, entitlement to the proceeds of the sale of any such asset shall be determined by this Honourable Court, in due course.

" Justice K. J. Nielsen "

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Justice of the Court of Queen's Bench of Alberta

# SCHEDULE 2

COURT FILE NUMBER

District of Alberta  
Division No. 01 – Edmonton  
Court No. 24-2101043  
Estate No. 24-2101043



COURT

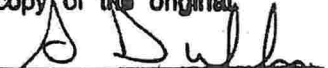
COURT OF QUEEN'S BENCH OF ALBERTA  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE

EDMONTON

IN THE MATTER OF THE NOTICE OF  
INTENTION TO MAKE A PROPOSAL OF  
GRAHAM BROTHERS CONSTRUCTION  
GROUP LTD.

I hereby certify this to be a  
true copy of the original.

  
for Registrar in Bankruptcy

DOCUMENT

ORDER

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF PARTY  
FILING THIS DOCUMENT

Ogilvie LLP  
1400, 10303 Jasper Avenue  
Edmonton AB T5J 3N6  
Attention: Kentigern A. Rowan, Q.C.  
Phone: 780.429.6236  
Fax: 780.429.4453  
File No.: 3089.57  
Service will be accepted by delivery or fax. No  
other form of service will be accepted.

DATE ON WHICH ORDER WAS PRONOUNCED:

APRIL 19, 2016

NAME OF MASTER/JUDGE WHO MADE THIS ORDER:

JUSTICE K.G. NIELSEN

JUDICIAL CENTRE WHERE THE ORDER WAS MADE:

EDMONTON

ORDER

UPON THE APPLICATION of Graham Brothers Construction Group Ltd. (the "Corporation"); AND UPON hearing read the Affidavit of Thomas William Graham, sworn April 19, 2106; AND UPON reading the Report of Deloitte Restructuring Inc., the Trustee pursuant to a Notice of Intention to Make a Proposal filed by the Corporation (the "Proposal Trustee") (the "Proposal Trustee's Report"); AND UPON noting that:

- (a) the Corporation had previously sold six (6) Ford pickup trucks, being the last six (6) pieces of equipment described in paragraph 8 of the Proposal Trustee's Report (the "Ford Trucks");



- (b) the Proposal Trustee is in receipt of the net proceeds from the sale of the Ford Trucks after payment of amounts owed to Ford Credit on the Ford Trucks (the "Net Ford Proceeds");
- (c) the Corporation proposes to sell the first seven (7) items as described in paragraph 8 of the Proposal Trustee's Report (the "Additional Equipment");
- (d) the Corporation proposes to obtain permission from this Honourable Court to sell up to an additional \$500,000.00 in aggregate of the Corporation's property without further Order of this Honourable Court (the "Further Equipment");
- (e) the Corporation wishes to enter into a lease of some of its equipment (including equipment leased to the Corporation by Royal Bank Leasing) to Mortenson Canada Corporation ("Mortenson") pursuant to the terms of the proposed lease attached as Appendix 1 to the Proposal Trustee's Report and have the proceeds received from the lease paid to the Proposal Trustee;
- (f) the Proposal Trustee proposes to pay to the Corporation from funds it presently has in trust or such further funds as it may receive in accordance with this Order and such previous or subsequent Orders granted in these proceedings, the amounts indicated as "transfer to Graham Brothers" on Appendix 2 to the Proposal Trustee's Report for the purposes of payment of those amounts as set forth under the heading "Cash Disbursements" on the said Appendix 2;

AND UPON hearing counsel for the Corporation, counsel for the Proposal Trustee and counsel for the Royal Bank of Canada ("RBC"); AND UPON noting that RBC is a secured creditor of the Corporation and holds general security on all of the Corporation's personal property; AND UPON being satisfied that the Corporation is acting in good faith and with due diligence; AND UPON being satisfied that it is appropriate to authorize the Corporation to proceed in accordance with this Order; IT IS HEREBY ORDERED AND ADJUDGED THAT:

#### **SERVICE**

1. Time for service of notice of this Application and materials in support is hereby abridged and service is deemed good and sufficient.

#### **SALE OF FORD TRUCKS**

2. To the extent required, the Corporation be and is hereby granted authority and permission *nunc pro tunc* to sell and dispose of the Ford Trucks in the manner and for the price received on the sale of the Ford Trucks.
3. The Proposal Trustee shall hold the Net Ford Proceeds and disburse same only in accordance with the terms of this Order or such further Order of this Honourable Court.

4. The Net Ford Proceeds or, as required, the portions thereof attributable to any individual one of the Ford Trucks, shall stand in place of the Ford Trucks, or any individual Ford Truck and are subject to the same claims, security and priorities of persons claiming security on the Ford Trucks or any individual Ford Truck, as existed as of the date of the sale.

#### **SALE OF ADDITIONAL EQUIPMENT**

5. The Corporation be and is hereby authorized to sell the Additional Equipment by such method and for such price as may be agreed upon by the Corporation, the Proposal Trustee, RBC and such other secured creditors who may hold first priority contractual security on any individual piece of Additional Equipment.
6. Subject to the provisions of this Order, the sale of the Additional Equipment pursuant to this Order shall be free and clear of any security interest, charge or other claim on the Additional Equipment including, but not limited to, any security for which there is a registration pursuant to the *Personal Property Security Act* or otherwise.
7. The net sale proceeds of the Additional Equipment, being gross proceeds less only commissions and other costs of sale (the "Additional Equipment Sale Proceeds") shall be paid to the Proposal Trustee and disbursed only in accordance with the terms of this Order or such further Order of this Honourable Court.
8. The Additional Equipment Sale Proceeds or, as required, the portions thereof attributable to any individual piece of Additional Equipment, shall stand in place of the Additional Equipment or such individual piece of Additional Equipment and are subject to the same claims, security and priorities of persons claiming security on the Additional Equipment, or any portion thereof, as existed as of the date of sale.

#### **FURTHER EQUIPMENT SALES**

9. In addition to the equipment and other personal property of the Corporation for which permission for sale has been given in this or any other Orders of this Honourable Court, the Corporation is authorized to sell additional personal property owned by the Corporation of an aggregate value not exceeding \$500,000.00, without further Order of this Honourable Court provided that the method of sale and the proceeds of sale are agreed to by the Corporation, the Proposal Trustee, and such secured creditors who may hold first priority contractual security on any individual piece of Further Equipment or any portion thereof.
10. Subject to the provisions of this Order, the sale of the Further Equipment pursuant to this Order shall be free and clear of any security interest, charge or other claim on the Further Equipment including, but not limited to, any security for which there is a registration pursuant to the *Personal Property Security Act* or otherwise.

11. The net sale proceeds of the Further Equipment sales being gross proceeds less only commissions and other costs of sale (the "Further Equipment Sale Proceeds") shall be paid to the Proposal Trustee and disbursed only in accordance with the terms of this Order or such further Order of this Honourable Court.
12. The Further Equipment Sale Proceeds or, as required, the portions thereof attributable to any individual piece of Further Equipment, shall stand in place of the Further Equipment or such individual piece of Further Equipment and are subject to the same claims, security and priorities of persons claiming security on the Further Equipment, or any portion thereof, as exists as at the date of sale.

#### **DISCHARGE OF SECURITY**

13. RBC and any other party holding security against the Ford Trucks, the Additional Equipment, the Further Equipment, or any of the property of the Corporation being sold pursuant to the Order of this Honourable Court granted in these proceedings on April 1, 2016 (in the aggregate, the "Corporation's Property") may file discharges of security held on the Corporation's Property or any portion thereof at any Registry where such security is registered and the discharge of such security shall not affect that secured party's priority to the proceeds of the sale of the Corporation's assets or any portion thereof as are provided for in this or any other Order of this Honourable Court granted in these proceedings.

#### **LEASE OF EQUIPMENT**

14. The Corporation be and is hereby authorized to enter into a lease with Mortenson of the equipment described in the lease attached as Appendix 1 to the Proposal Trustee's Report substantially on the terms and conditions as set forth in the lease attached as Appendix 1 to the Proposal Trustee's Report subject only to such modifications thereof as are agreed to by the Corporation, the Proposal Trustee and RBC (the "Lease").
15. All rental payments to be paid pursuant to the terms of the Lease shall be paid to the Proposal Trustee and shall be held and disbursed by the Proposal Trustee only in accordance with the terms of this Order or such further Order of this Honourable Court.
16. The rental payments are subject to the claims, security and priorities of persons claiming security in the Equipment subject to the Lease, or any portion thereof, as existed as of the date of entering into the Lease.

#### **DISBURSEMENT OF FUNDS BY THE PROPOSAL TRUSTEE**

17. The Proposal Trustee be and is hereby authorized to pay to the Corporation from funds presently held or in the future received by the Proposal Trustee as a result of the terms of this or any other Order of this Honourable Court or from any other source respecting their appointment as Proposal Trustee, the amounts as set forth in Appendix 2 to the Proposal Trustee's Report referenced in the line "transfers to Graham Brothers" in the amounts and

at the times as set forth in Appendix 2 of the Proposal Trustee's Report (the "Distributed Funds")

18. The Corporation shall use the Distributed Funds for payment of the items set forth under the heading "Cash Disbursements" in Appendix 2 to the Proposal Trustee's Report.
19. Nothing in this Order shall affect the requirement to make the payments to RBC as provided for in the Order granted by this Honourable Court in these proceedings on April 1, 2016.

#### **DISPOSITION OF FUNDS**

20. Except as provided in this or any previous Order of this Honourable Court, any monies received by the Proposal Trustee as a result of the disposition of any assets of the Corporation, the Lease or for any other reason as a result of being the Proposal Trustee of the Corporation, shall be held by the Proposal Trustee and disbursed only in accordance with the terms of this Order or such further Order of this Honourable Court (the "Held Funds").
21. Any person claiming to be a secured creditor of the Corporation, including RBC, shall, within fourteen (14) days of service of a copy of this Order on them, or such further period as this Honourable Court may on application allow, prepare and file with this Honourable Court and serve on the Proposal Trustee an Affidavit which shall include:
  - (a) the basis upon which the party claims to be secured against any or all of the assets of the Corporation;
  - (b) a copy of any Security Agreement held by the alleged secured party;
  - (c) copies of any registrations made by the alleged secured party at any public registries with respect to the security claimed;
  - (d) a statement of the amounts owed to the alleged secured party by the Corporation which are subject to the alleged security.
22. The Proposal Trustee shall serve a copy of this Order upon any person it identifies as potentially being a secured person against any or all of the assets of the Corporation.
23. Any secured party, including RBC, who has filed an Affidavit substantially in accordance with this Order as a result of any previous Order granted in these proceedings can refer the Proposal Trustee to the said Affidavit in which case it shall be deemed to have complied with the terms of this Order.
24. Within ten (10) days of receiving the Affidavits from those secured persons upon whom the Proposal Trustee has served a copy of this Order in accordance with Paragraph 19 of

this Order, the Proposal Trustee shall prepare a proposed distribution of the Held Funds (the "Proposed Distribution").

25. The Proposal Trustee shall serve a copy of the Proposed Distribution on each of the secured parties who has submitted an Affidavit in accordance with Paragraph 18 of this Order.
26. If no secured party disputes the Proposed Distribution within ten (10) days of service upon them, the Proposal Trustee shall proceed to disburse the Held Funds in accordance with the Proposed Distribution.
27. The Proposal Trustee shall from time to time make Application to this Honourable Court for directions respecting the disposition of the Held Funds.

*"Hitesman"*

J.C.Q.B.A.

*APRIL 29, 2016*

APPROVED AS TO THE ORDER GRANTED:

REYNOLDS MIRTH RICHARDS & FARMER LLP

DENTONS (CANADA) LLP

Per:


  
\_\_\_\_\_  
CHERRISSE KILLICK-DZENICK  
Counsel for Graham Brothers Construction  
Group Ltd.

Per:

\_\_\_\_\_  
DEAN HITESMAN  
Counsel for Royal Bank of  
Canada

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25. The Proposal Trustee shall serve a copy of the Proposed Distribution on each of the secured parties who has submitted an Affidavit in accordance with Paragraph 18 of this Order.
26. If no secured party disputes the Proposed Distribution within ten (10) days of service upon them, the Proposal Trustee shall proceed to disburse the Held Funds in accordance with the Proposed Distribution.
27. The Proposal Trustee shall from time to time make Application to this Honourable Court for directions respecting the disposition of the Held Funds.

  
\_\_\_\_\_  
J.C.Q.B.A.

APRIL 29, 2016

APPROVED AS TO THE ORDER GRANTED:

REYNOLDS MIRTH RICHARDS & FARMER LLP

DENTONS (CANADA) LLP

Per: \_\_\_\_\_

CHERRISSE KILLICK-DZENICK  
Counsel for Graham Brothers Construction  
Group Ltd.

Per: \_\_\_\_\_

  
DEAN HITESMAN  
Counsel for Royal Bank of  
Canada

# SCHEDULE 3

COURT FILE NUMBER

District of Alberta  
Division No. 01 – Edmonton  
Court No. 24-2101043  
Estate No. 24-2101043



COURT

COURT OF QUEEN'S BENCH OF ALBERTA  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE

EDMONTON

IN THE MATTER OF THE NOTICE OF  
INTENTION TO MAKE A PROPOSAL OF  
GRAHAM BROTHERS CONSTRUCTION  
GROUP LTD.

I hereby certify this to be a  
true copy of the original.

  
for Registrar in Bankruptcy

DOCUMENT

ORDER

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF PARTY  
FILING THIS DOCUMENT

Ogilvie LLP  
1400, 10303 Jasper Avenue  
Edmonton AB T5J 3N6  
Attention: Kentigern A. Rowan, Q.C.  
Phone: 780.429.6236  
Fax: 780.429.4453  
File No.: 3089.57  
**Service will be accepted by delivery or fax. No  
other form of service will be accepted.**

DATE ON WHICH ORDER WAS PRONOUNCED:

MAY 13, 2016

NAME OF MASTER/JUSTICE WHO MADE THIS ORDER:

Justice J. M. Ross

JUDICIAL CENTRE WHERE THE ORDER WAS MADE:

EDMONTON

ORDER

UPON THE APPLICATION of Graham Brothers Construction Group Ltd. ("Graham Brothers"); AND UPON reading the Affidavits and Trustee's Reports previously filed in these proceedings; AND UPON reading the Affidavit of Thomas William Graham and the Trustee's Third Report filed in support of this Application; AND UPON noting the provisions of the Orders granted in these proceedings on April 1, 2016 and April 19, 2016 (the "April Orders"); AND UPON hearing from counsel for Graham Brothers, counsel for Royal Bank of Canada ("RBC"), and counsel for Deloitte Restructuring Inc. in their capacity as proposal trustee (The "Trustee"); AND UPON being informed that the Superintendent of Bankruptcy's office has been informed of this Application and provided with copies of the April Orders and copies of the materials in support of this Application; AND UPON being further informed that the Superintendent in Bankruptcy's office has indicated that they agree that no levy is payable on payments made by the Trustee pursuant to the April Orders; IT IS HEREBY ORDERED AND ADJUDGED THAT:



1. Service of notice of this Application and supporting materials by the method described in the Affidavit of Service is deemed good and sufficient and time is abridged as required.
2. Paragraph 9 of the Order of Mr. Justice K.G. Nielsen granted in these proceedings on April 19, 2016 be and is hereby amended by deleting the figure "\$500,000.00" and replacing it with the figure "\$1,000,000.00".
3. It is declared that the Trustee is the receiver of all monies payable to it pursuant to the terms of the April Orders and the disbursement by the Trustee of those monies pursuant to the terms of the April Orders shall not result in the deduction or remittance of levy pursuant to the *Bankruptcy and Insolvency Act*.
4. Except as provided in this Order, the remaining provisions of the April Orders remain in effect.

" J. Ross "

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J.C. Q.B.A.

# SCHEDULE 4

SCHEDULE "A" TO THE THIRD REPORT OF THE RECEIVER

Asset Unit #	Manufacturer	Model	Year	Sale Proceeds	Schedule	RBC Leasing Est. Debt	CIT Financial Est. Debt	National Leasing Est. Debt	Roynat Est. Debt	Caterpillar Finance Est. Debt	Coast Capital Est. Debt	Lease Plus Est. Debt	Proceeds in Excess of Debt
<b>PRIVATE SALES</b>													
AT-167	John Deere	Smooth Bucket For HL760K Loader		3,780	1								3,780
HT-115	International	Workstar Tandem Dump Truck	2013	57,750	1		31,000						26,750
HT-116	International	Workstar Tandem Dump Truck	2012	57,750	-		31,000						26,750
HT-244	Ford	F-550 Crew Flat Deck 4x4	2013	28,350	1	28,350							0
LT-179	Ford	F-550 Service Truck	2001	5,250	1	5,250							0
LT-250	Ford	F-150	2013	19,425	1	19,425							0
LT-254	Ford	F-150	2013	17,850	1	17,850							0
LT-260	Ford	F-150	2013	17,850	1	17,850							0
LT-261	Ford	F-150	2013	18,375	1	18,375							0
LT-262	Ford	F-150	2013	17,850	1	17,850							0
LT-266	Ford	F-150	2013	17,850	1	17,850							0
LT-267	Ford	F-150	2013	17,850	1	17,850							0
LT-269	Ford	F-150	2013	17,850	1	17,850							0
LT-277	Chevrolet	3500HD Silverado Service Truck	2008	15,750	1	15,750							0
LT-278	Chevrolet	3500HD Silverado Service Truck	2009	16,800	1	16,800							0
LT-308	Dodge	Ram 3500 Reg Cab Flat Deck	2014	(1,337)	-								(1,337)
LT-328	Ford	F-250	2015	1,105	-								1,105
LT-330	Ford	F-250	2015	1,341	-								1,341
LT-331	Ford	F-250	2015	974	-								974
LT-336	Ford	F-150	2014	1,277	-								1,277
LT-337	Ford	F-150	2014	1,722	-								1,722
LT-338	Ford	F-150	2014	1,402	-								1,402
HT-109	Western Star	Conventional Tandem Axle Winch Tractor Day Cab	1994	12,600	1								12,600
MT-001	Suzuki	Carry 4x4 Mini Truck Offroad Use Only	1992	3,675	1								3,675
SE-225	Wacker	BS60-4S Vibratory Rammer	2014	950	1								950
SS-102	Case	440CT Skid Steer	2010	18,900	1								18,900
TR-261	Double A	14000lb Tandem Low Profile Dump Trailer	2013	4,463	1								4,463
TR-283	CJAY	CJ820 Cargo 20ftx8ftx4in T/A Insula Enclosed Trailer	2006	3,150	1								3,150
LT-177	Dodge	Ram 3500 Crew Flat Deck 4x4	2012	16,275	1								16,275
BH-148	Caterpillar	336E Hydraulic Excavator For Piling Head	2014	262,500	-	244,100							18,400
				659,327		455,150	62,000	0	0	0	0	0	142,177

SCHEDULE "A" TO THE THIRD REPORT OF THE RECEIVER

Asset Unit #	Manufacturer	Model	Year	Sale Proceeds	Schedule	RBC Leasing Est. Debt	CIT Financial Est. Debt	National Leasing Est. Debt	Roynat Est. Debt	Caterpillar Finance Est. Debt	Coast Capital Est. Debt	Lease Plus Est. Debt	Proceeds In Excess of Debt
RITCHIE - APRIL													
AT-017	Welco Beales	Wrist Blade 150 Series Adapter		2,615	1								2,615
AT-023	CAT	BA18 Angle Brush/Sweeper For CAT299D		2,615	1								2,615
AT-030	VIRNIG	Bucket Sweeper For CAT299D		1,307	1								1,307
AT-031	AMI	Matt Grapple For Hyundai 757 Q		2,397	1								2,397
AT-042	Tysea	HYS-20MAL12-10 Matt Grapple For CAT299D		3,704	1								3,704
AT-109	Tysea	HYS-20MAL12-10 Mat Grapple For CAT299D	2013	3,486	1								3,486
AT-124	CAT	10' Hydraulic Sweeper For Sold Kawasaki Loader PN:2	2014	2,179	1								2,179
AT-142	Weldco Beales	84" Wrist Bucket 300 Series For Excavator		7,190	1								7,190
AT-148	Sweepster	10' Manual Angle Broom PN:21321MH2-BLNK For HL7		414	1								414
AT-157	SEC	Excavator Ripper to fit 300 Series		784	1								784
AT-163	Brandt	Jib Boom For HL760K Loader		2,397	1								2,397
AT-175	EFI	Excavator Mat Grapple 250 Series		15,688	1								15,688
HT-128	Western star	4964FX Water Truck	2001	39,219	1								39,219
MG-110	Caterpillar	163-H Motor Grader, 14' Blade w/2' ext, Imac Snow W	2006	65,365	1								65,365
PD-049	JCB	VM75D Smooth Drum Packer	2007	31,375	1								31,375
SE-219	Florens	20ft SeaCan Jobshack Mounted on 30ft Skid		2,397	1								2,397
SE-224	Rapid Camp	Office Trailer 50ft Offices/Kitchen	2000	14,816	1								14,816
SE-228	Buhler Farmking	Post Pounder 2400 Trailer Mounted PN:EZ92400HE	2014	5,883	1								5,883
SE-251	AT&S	AT&S 13717L Fuel Tank 120VAC Pump Hose Reel	2015	13,944	1								13,944
SE-252	Northern Steel	Northern Steel 15000 Liter Fuel Tank	2003	13,509	1								13,509
SS-101	Case	440CT Skid Steer	2006	19,174	1								19,174
TR-211	Trailking	Trailking Tridem Lowbed	1998	26,146	1								26,146
TR-237	Midland	Midland	2005	20,917	1								20,917
TR-245	Double A	Excel Series 3500 lb Utility Trailer	2013	872	1								872
TR-246	Double A	Excel Series 3500 lb Utility Trailer	2013	872	1								872
TR-248	Neville	53DD Step Deck Trailer with Manual Ramps	2013	27,017	1								27,017
TR-250	Double A	14000 lb Tandem Low Profile Dump Trailer	2013	7,408	1								7,408
TR-254	Double A	EUT36-12 Single Utility Trailer	2014	1,089	1								1,089
TR-262	Double A	Single Axle Utility Trailer	2014	1,089	1								1,089
TR-280	Diamond C	Road Clipper Utility Trailer 26SSAL12X77	2014	1,089	1								1,089
TR-281	Diamond C	Road Clipper Utility Trailer 2PASAL12X77	2014	1,089	1								1,089
TR-282	Diamond C	Road Clipper Utility Trailer 2PASAL12X77	2014	1,525	1								1,525
TR-284	Stoughton	53FT T/A Parts Van Trailer	1997	4,576	1								4,576
TR-285	Load Trail	Tri Axle 16' Gooseneck Dump Trailer	2014	10,458	1								10,458
TR-286	Load Trail	Tri Axle 16' Gooseneck Dump Trailer	2015	9,587	1								9,587
TR-288	Load Trail	Tri Axle 16' Gooseneck Dump Trailer	2015	9,587	1								9,587
TR-289	Load Trail	Tri Axle 16' Gooseneck Dump Trailer	2015	8,715	1								8,715
TR-290	Knight	16 Wheeler Low Bed	1981	25,274	1								25,274
TR-291	Scona	8 Wheeler T/A Jeep	1985	8,715	1								8,715
TR-292	Fruehauf	S/A Dolly	1986	784	1								784
zzAT-106 (A-71)	CAT	BR378	2013	3,050	1								3,050
zzAT-110	Tysea		2013	3,704	1								3,704
zzAT-114	Virvig			1,220	1								1,220
zzBH-123B chg to at	Craig	200 Series	2012	1,220	1								1,220
zzBH-126 Mat Grapple		250 Weldco Beales		18,738	1								18,738
zzBH-137 Mat Grapple		250 WBMQ		11,766	1								11,766
zzBH-142 Mat Grapple	AMI	Mat Grapple		16,123	1								16,123



