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for Clerk of the Court

Clerk's stamp



COURT FILE NUMBER 1603 20704
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF ROYAL BANK OF CANADA
DEFENDANTS ELEMENTS WEST INC., DAMEN TRUCKING LTD.,
PETER DAMEN, DAVID DAMEN, ANDREW DAMEN,
and KAREN DAMEN
DOCUMENT ORDER FOR FINAL DISTRIBUTION, APPROVAL OF
RECEIVER'S FEES AND DISBURSEMENTS,
APPROVAL OF RECEIVER'S ACTIVITIES AND
DISCHARGE OF RECEIVER

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF PARTY
FILING THIS DOCUMENT

Dentons Canada LLP
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File No.: 131048-86/DAH
Attention: Dean A. Hitesman

DATE ON WHICH ORDER WAS PRONOUNCED: November 4, 2019

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Madam Justice J.H. Goss

UPON THE APPLICATION of Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Elements West Inc. and Damen Trucking Ltd. (collectively, the "**Debtors**") for an Order for the final distribution of proceeds, approval of the Receiver's fees and disbursements, approval of the Receiver's activities and discharge of the Receiver; AND UPON having read the Receiver's Fourth Report dated October 28, 2019 (the "**Receiver's Report**") and Affidavit of Darren Crocker sworn October 28, 2019; AND UPON hearing counsel for the Receiver and such other parties as may be present in person or by counsel; AND UPON being satisfied that it is appropriate to do so; IT IS HEREBY ORDERED THAT:

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given;
2. The Receiver's accounts for fees and disbursements, as set out in Exhibit "A" to the Affidavit of Darren Crocker sworn October 28, 2019, are hereby approved without the necessity of a formal passing of its accounts.
3. The accounts of the Receiver's legal counsel, Dentons Canada LLP ("**Dentons**") and MLT Aikins LLP, for their respective fees and disbursements, as set out in the Receiver's Report, are hereby approved without the necessity of a formal assessment of their respective accounts.

4. The Receiver's activities as set out in the Receiver's Report and in all of its other reports filed herein, and the Proposed Final Statement of Receipts and Disbursements, subject to the actual amount received by the Receiver for the 2017 federal tax return regarding Damen Trucking Ltd., as attached to the Receiver's Report, are hereby ratified and approved.
5. The Receiver is authorized and directed to make the following distributions:
 - (a) Receiver's anticipated final fees and disbursements of \$9,207.45 (inclusive of GST), and in the event that the Receiver's actual final fees and disbursements are in an amount less than \$9,207.45 (inclusive of GST), the difference between the anticipated amount and the actual amount shall be distributed by the Receiver to Royal Bank of Canada ("RBC");
 - (b) Anticipated final legal fees and disbursements of the Receiver's legal counsel, Dentons, of \$10,000.00 (inclusive of GST), and in the event that the actual final fees and disbursements of the Receiver's legal counsel, Dentons, are in an amount less than \$10,000.00 (inclusive of GST), the difference between the anticipated amount and the actual amount shall be distributed by the Receiver to RBC; and
 - (c) In addition to any distributions made to RBC in accordance with paragraphs 5(a) and 5(b) of this Order, \$65,932.05, plus such further amounts received by the Receiver for the 2017 federal tax return regarding Damen Trucking Ltd., as the final payment from the estate assets of the Debtors to RBC in respect of RBC's secured claim.
6. On the evidence before the Court, the Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the within proceedings up to and including the date hereof, and the Receiver shall not be liable for any act or omission on its part including, without limitation, any act or omission pertaining to the discharge of its duties in the within proceedings, save and except for any liability arising out of any in fraud, gross negligence or willful misconduct on the part of the Receiver, or with leave of the Court. Subject to the foregoing any claims against the Receiver in connection with the performance of its duties are hereby stayed, extinguished and forever barred.
7. No action or other proceedings shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver, except with prior leave of this Court on Notice to the Receiver, and upon such terms as this Court may direct.
8. Upon the Receiver filing with the Clerk of the Court a sworn Affidavit of a licensed Trustee employed by the Receiver confirming that:
 - (a) all matters set out in paragraph 5 of this Order have been completed;
 - (b) the submission of a final statutory report to the Office of the Superintendent of Bankruptcy pursuant to section 246(3) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3; and
 - (c) a final reconciliation of the Receiver's estate bank account;

then the Receiver shall be discharged as Receiver of the Debtor, provided however, that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders

made in this proceeding, including all approvals, protections and stays of proceedings in favour of the Receiver in its capacity as Receiver.

9. Counsel for RBC, MLT Aikins LLP, shall have 30 days from the date of service of the within Order upon them, or such further time as agreed to by the Receiver, to make copies of the books and records of the Debtors.
10. The Receiver shall provide the Directors of the Debtors 30 days' written notice to retrieve the books and records of the Debtors, after which time the Receiver shall be authorized to dispose the said books and records without further notice.
11. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by Facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
12. Service of this Order on any party not attending this application is hereby dispensed with.

"J. H. Goss"

Justice of the Court of Queen's Bench of Alberta