

# RSM Richter

March 22, 2011

**VIA MAIL**

To the Creditors of  
Western Construction & Combustion Services Inc.

RSM Richter Inc.

Bow Valley Square 2, Suite 3810  
205 - 5th Avenue SW  
Calgary, AB T2P 2V7  
Tel: 403.233.8462 Fax: 403.233.8688  
www.rsmrichter.com

Direct dial: 403.233.7112  
E-mail: btaylor@rsmrichter.com

Dear Sirs:

**Re: Western Construction & Combustion Services Inc. ("Western") – In Bankruptcy**

Creditors were previously notified that RSM Richter Inc. ("Richter") was appointed Receiver and Manager of Western pursuant to a private appointment by Alberta Treasury Branches ("ATB") on January 14, 2011.

Western filed an assignment in bankruptcy on March 16, 2011, which was accepted by the Official Receiver on March 18, 2011. Richter was appointed trustee of the bankrupt estate by the Official Receiver subject to affirmation or substitution thereof by the creditors.

Enclosed with this letter are the following documents:

1. Notice of Bankruptcy and First Meeting of Creditors;
2. Statement of affairs and list of creditors of Western; and
3. Proof of Claim and Proxy form with instructions for its completion.

The first meeting of creditors of Western will be held on April 12, 2011 at 2:00 pm at:

RSM Richter Inc.  
3810, 205 5 Avenue SW  
Calgary, AB T2P 2V7

ATB is owed approximately \$10.1 million and holds security over all the assets of Western. ATB is expected to suffer a significant shortfall on its loans, and consequently any distribution to preferred or unsecured creditors is unlikely.

Should you have any questions with respect to the above, please contact:

Bob Taylor  
Telephone: 403.233.7112

Wayne Palmer  
Telephone: 416.932.6016

Yours very truly,

**RSM RICHTER INC**



Robert J. Taylor, CA, CIRP

LH/lh  
Encl.(s)

LTC 110322

District of: Alberta  
Division No. 02 - Calgary  
Court No. 25-1475758  
Estate No. 25-1475758

\_FORM 67\_

Notice of Bankruptcy and First Meeting of Creditors  
(Subsection 102(1) of the Act)

In the matter of the bankruptcy of  
Western Construction & Combustion Services Inc.  
of the City of Calgary, in the Province of Alberta

Take notice that:

1. Western Construction & Combustion Services Inc. filed (or was deemed to have filed) an assignment on the 18th day of March 2011, and the undersigned, RSM Richter Inc., was appointed as trustee of the estate of the bankrupt by the official receiver (or the Court), subject to affirmation by the creditors of the trustee's appointment or substitution of another trustee by the creditors.

2. The first meeting of creditors of the bankrupt will be held on the 12th day of April 2011, at 2:00 o'clock PM, at the office of RSM Richter Inc., at 3810, 205 5 Avenue SW, Calgary, Alberta.

3. To be entitled to vote at the meeting, a creditor must lodge with the trustee, before the meeting, a proof of claim and, where necessary, a proxy.

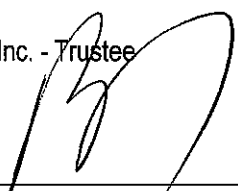
4. Enclosed with this notice is a proof of claim form, proxy form, and list of creditors with claims amounting to \$25 or more showing the amounts of their claims.

5. Creditors must prove their claims against the estate of the bankrupt in order to share in any distribution of the proceeds realized from the estate.

Dated at the City of Calgary in the Province of Alberta, this 22nd day of March 2011.

RSM Richter Inc. - Trustee

Per:

  
\_\_\_\_\_  
Robert J. Taylor  
Suite 3810, 205 - 5th Avenue SW  
Calgary AB T2P 2V7  
Phone: (403) 233-8462 Fax: (403) 233-8688

District of: Alberta  
 Court No. 02 - Calgary  
 Court No.  
 Estate No.

Original  Amended

- FORM 78 -  
 Statement of Affairs ( Business Bankruptcy ) made by an entity  
 (Subsection 49(2) and Paragraph 158(d) of the Act / Subsections 50(2) and 62(1) of the Act)  
 In the matter of the bankruptcy of  
 Western Construction & Combustion Services Inc.  
 of the City of Calgary, in the Province of Alberta

To the bankrupt

You are required to carefully and accurately complete this form and the applicable attachments showing the state of your affairs on the date of your bankruptcy, on the 14th day of March 2011. When completed, this Form and the applicable attachments will constitute the Statement of Affairs and must be verified by oath or solemn declaration.

LIABILITIES (As stated and estimated by the officer)		ASSETS (as stated and estimated by the officer)	
1. Unsecured creditors as per list "A" .....	7,267,058.13	1. Inventory .....	0.00
Balance of claims unsecured as per list "A" ..	8,478,893.16	2. Trade fixtures, etc. ....	0.00
Total unsecured creditors .....	16,745,952.29	3. Accounts receivable and other receivables, as per list "E"	
2. Secured creditors value of security as per list "B" .....	652,661.14	Good .....	265,395.00
3. Preferred creditors as per list "C" .....	0.00	Doubtful .....	4,947,762.78
4. Contingent, trust claims or other liabilities as per list "D" estimated to be reclaimable for .....	0.00	Bad .....	0.00
Total liabilities .....	17,398,613.43	Estimated to produce .....	455,395.00
Surplus .....	NIL	4. Bills of exchange, promissory note, etc., as per list "F" ..	0.00
		5. Deposits in financial institutions .....	0.00
		6. Cash .....	989.14
		7. Livestock .....	0.00
		8. Machinery, equipment and plant .....	0.00
		9. Real property or immovables as per list "G" .....	0.00
		10. Furniture .....	0.00
		11. RRSPs, RRIAs, life insurance, etc. ....	0.00
		12. Securities (shares, bonds, debentures, etc.) .....	0.00
		13. Interests under wills .....	0.00
		14. Vehicles .....	0.00
		15. Other property, as per list "H" .....	196,277.00
		If bankrupt is a corporation, add:	
		Amount of subscribed capital .....	0.00
		Amount paid on capital .....	0.00
		Balance subscribed and unpaid .....	0.00
		Estimated to produce .....	0.00
		Total assets .....	652,661.14
		Deficiency .....	16,745,952.29

I, Frank D'Addario, of the City of <sup>OTTAWA</sup> Calgary in the Province of <sup>DISTRICT</sup> Alberta, do swear (or solemnly declare) that this statement and the attached lists are to the best of my knowledge, a full, true and complete statement of my affairs on the 14th day of March 2011 and fully disclose all property of every description that is in my possession or that may devolve on me in accordance with the Act.

SWORN (or SOLEMNLY DECLARED)  
 before me at the City of <sup>DISTRICT</sup> Calgary in the Province of Alberta,  
 on this 14th day of March 2011.

*[Signature]*  
 \_\_\_\_\_

*[Signature]*  
 \_\_\_\_\_  
 Frank D'Addario  
 Director

## *Debtor Mailing List*

In the matter of the bankruptcy of  
Western Construction & Combustion Services Inc.  
of the City of Calgary, in the Province of Alberta

Debtor Type	Name	Attention	Address	Claim \$
Secured	Alberta Treasury Branches			652,661.14
	ATCO Structures & Logistics Ltd.			
	AXA Pacific Insurance Company			
	GMAC LeaseCo Corporation			
	Kal Tire - Calgary			
	Royal Bank of Canada			
	The Guarantee Company of North America			
	Toyota Credit Canada Inc.			
Unsecured	1268080 Alberta Ltd.			2,131.50
	1469694 Alberta Ltd.			535.50
	652395 Alberta Ltd.			6,555.24
	A Acoustic Supply Ltd.			52,258.50
	Accurate Coring & Cutting 2004 Ltd.			6,742.05
	Acron Metal Fabrications Ltd.			3,257.94
	Adler Firestopping Ltd.			3,074.63
	Adria Contracting Ltd.			14,175.00
	Affordable Communications Services Ltd.			82.95
	AGF-Alberta Rebar Inc.			4,736.51
	Agra Foundations Ltd.			185,148.18
	Airtherm Sales (1998) Ltd.			23,283.75
	Alberta Fresh Springs Water Co. Ltd.			30.00
	Alberta Landscape Construction Corp.			3,150.00
	Alberta Porta Podi & Septic			850.50
	Allied Projects Ltd.			10,133.98
	Allmar Distributors Ltd. (Calgary)			3,714.90
	Allpriser Ltd.			572.25
	Allwest Commercial Furnishings			2,328.38
	Alpha Better Landscaping			100,595.98
	Ambassador Carpets and Tile (2000) Inc.			11,799.27
	Anchor Construction Industrial Products Ltd.			335.81
	Arte Roofing & Construction Inc.			9,261.65
	Artrim Contracting Inc.			3,465.00
	ATCO Structures			7,165.20
	Avanzar Janitorial Services Ltd.			273.00
	AVWD Ltd.			6,749.48
	B.W. Construction Products Ltd.			3,802.57
	Backflow Solutions Inc.			833.91
	Barely Farm Equipment Inc.			997.50
	Bateman Petroleum			1,310.13
	Bel-Aire Welding Ltd.			188,038.94
BFI Canada			1,942.59	

## *Creditor Mailing List*

In the matter of the bankruptcy of  
Western Construction & Combustion Services Inc.  
of the City of Calgary, in the Province of Alberta

Creditor Type	Name	Attention	Address	Claim \$
Unsecured	Blue Grass Ltd.			80,461.08
	Bock Roofing Ltd.			21,507.79
	Boma Enterprises Ltd.			353.85
	Bow Valley Electrical Services Ltd.			128,103.04
	Bramlea Elevator Ltd.			9,825.37
	Brautigam Holdings LTD.			
	Brentwood Interiors Ltd.			19,687.50
	Brian's Porta-Potties			148.85
	Brindle Construction Ltd.			4,914.60
	Bruce Steel Fabricators Inc.			87,993.15
	Burnco Rock Products Ltd.			8,560.10
	Butte Home Hardware Building Centre			2,503.49
	Calgary Fasteners			1,067.47
	Cal-Gas Inc.			84.00
	CANADA REVENUE AGENCY	BANKRUPTCY UNIT		
	Canwest Propane Partnership			2,807.52
	Capital Steel Inc.			441.00
	Casey's Will-Sand Custom Woodwork			30,463.01
	CCL Calibre Coatings (Edmonton) Ltd.			4,488.75
	Challenger Building Supplies Ltd.			4,948.77
	City Disposal Containers Inc.			162.75
	City of Lethbridge			349.42
	Commander Warehouse Equipment Ltd.			3,059.19
	Computer Environment & Cleaning Specialist			14,931.00
	Concept Electrical			391.65
	Constant Fire Protection Systems Ltd.			11,062.81
	Contour Earth Moving Ltd.			40,409.19
	Corona Electric Ltd.			157,626.00
	Corporate Express			2,067.90
	Country Kitchen Catering			1,024.10
	CP Distributors			12,208.35
	Crane Supply Ltd.			3,134.87
	Creative Door Services Ltd.			7,810.42
	Cronkrite Supply			29.61
	Culligan			227.49
	D.A. Electric Ltd.			211,933.42
	DDL Holdings			9,182.26
	Derksen & Son Construction Ltd.			141,562.05
	Derochie Painting Ltd.			2,268.00
	Design Flooring Centre			83,438.96
	Diamond Valley Gravel Sales			2,879.30

## *Creditor Mailing List*

In the matter of the bankruptcy of  
Western Construction & Combustion Services Inc.  
of the City of Calgary, in the Province of Alberta

Creditor Type	Name	Attention	Address	Claim \$
Unsecured	Direct Energy Regulated Services			265.43
	DMI Services Ltd.			35,453.67
	Duffy Enterprises Ltd.			76,195.42
	EBA Engineering Ltd.			1,254.29
	Echo Dispatch Industries (Bin There)			668.63
	Edmonton Construction Association			3,465.00
	Edmonton Fasteners & Tools Ltd.			542.31
	EMCO Limited Distribution			4,158.98
	Emona Sales Limited			80,918.25
	Empire Formworx Inc.			17,497.50
	ERGO Electric Inc.			8,591.83
	ESC Automation Inc.			67,731.93
	Everclear Consulting Ltd.			2,520.00
	Executive Mat Service			504.35
	Express Signs			598.50
	F.L.C. Janitorial Services			2,190.30
	Fire Safety Services Ltd.			29.40
	Flesher Marble & Tile 1910 Ltd.			6,847.07
	Flynn Canada Ltd.			78,001.98
	Framcon Construction Ltd.			33,584.25
	Fraser Bros Roofing Ltd.			840.00
	Freeze Maxwell Roofing (Calgary) Ltd.			3,955.41
	Garnet's Trucking (2005) Ltd.			262.50
	Gateway Safety Services Ltd.			136.50
	Gienow Windows & Doors			981.20
	Gold Standard Sheet Metal Inc.			65,852.27
	Grant Structural Engineering Ltd.			441.00
	Gregg Distributors			1,117.56
	Greyhound Courier Express			29.78
	Gridline Group Ltd.			9,450.00
	Grizzly Disposal Solutions Inc.			2,362.50
	Gunther's Masonry Construction Ltd.			1,759.28
	Hanover Wall Systems			93,119.25
	Harris Steel Services Ltd.			13,574.65
	HCM Contractors Inc.			11,576.25
	Henry's Electric Service			105,470.00
	Hertz Equipment Rentals			1,141.79
	Hilti (Canada) Corporation			152.79
	Home Depot Credit Services			405.04
	Hotflash Electric Ltd.			66,415.07
	HRR Rentals			3,085.95
	ICS Group Inc.			41,438.25
	Incom Electric Corp			53,799.19

## *Creditor Mailing List*

In the matter of the bankruptcy of  
Western Construction & Combustion Services Inc.  
of the City of Calgary, in the Province of Alberta

Creditor Type	Name	Attention	Address	Claim \$
Unsecured	IONA Contractors Ltd.			298,997.09
	James Electric Motor Services Ltd.			15,767.25
	Jims Welding Ltd.			8,332.82
	Johnson Controls LP #C3039			14,857.50
	KAL Tire			4,164.73
	KAL Tire-Calgary			3,271.79
	KB Heating & Air Conditioning Ltd.			47,056.27
	KBM Commercial Floor Coverings Inc.			9,511.01
	KDL Electrical Services Inc.			4,985.61
	Kerridge Concrete Ltd.			3,195.41
	Knelson Sand & Gravel Ltd.			54,032.24
	LaCrete Transport (79) Ltd.			112.41
	Lafarge Construction Materials			8,899.82
	Lealta Bulding Supplies			75.36
	Lehman Plumbing SP			2,354.83
	Lelthbridge Fasteners & Tools			2,025.89
	Lethbridge - Varbar			41,862.61
	Lethbridge Construction Association			950.00
	Liberty Enterprises			2,464.00
	Liberty Trucking Ltd.			236.25
	Liberty Water Treatment Services			4,935.00
	Linde Canada			89.88
	Little Jon's			259.09
	Longbow Sales Inc.			32,560.45
	M & N Truck & Crane Service Ltd.			1,228.50
	Mackenzie Regional Waste Mgmt Comm			617.45
	Macleods True Value Hardware			230.10
	Maltais Geomatics Inc.			2,034.38
	Mantei Woodcraft Ltd.			40,363.30
	Martin Geomatic Consultants Ltd.			2,173.50
	Master Image Ltd.			1,375.55
	Maxim Glass & Aluminum Ltd.			14,632.57
	McGreggor & Thompson Hardware Ltd.			84,477.75
	McKinley & Taylow Production Center			7,402.50
	Megafab Industries Ltd.			83,215.86
	MerX			521.80
	Metropolis Glass Incorporated			5,550.67
	Mission building Slupplies (1985) Ltd.			1,259.94
	Monarch Messenger Services Ltd.			728.88
	National Concrete Accessories			531.09
	New Age Couriers			125.74
	Noble Concrete			58,820.50



## *Creditor Mailing List*

In the matter of the bankruptcy of  
Western Construction & Combustion Services Inc.  
of the City of Calgary, in the Province of Alberta

Creditor Type	Name	Attention	Address	Claim \$
Unsecured	Northland Construction Supplies			95,912.71
	Nucor Systems Inc.			5,591.01
	Ossa Terra			91,447.71
	Park Brick & Block Ltd.			134,666.05
	P-Ban Enterprises			6,240.99
	Peace River Heating (1971) Ltd.			247,722.30
	Pearson Mechanical Ltd.			8,951.42
	Penzen Limited			3,005.94
	Pipestone Welding Inc.			11,566.80
	Porter Tile & Marble (1991) Ltd.			12,007.27
	Prairie Machine & Parts			2,070.00
	Praxair Distribution (Praxair Canada Inc.)			1,786.27
	Prime Boiler Services			462.00
	Pro Glass Commercial Inc.			11,969.48
	Pro West Exteriors			2,316.09
	PRO-CON Road Works Ltd.			56,024.63
	Propane Levac			1,257.61
	ProRoots Developments Ltd.			6,762.00
	Proulx Lawn & Shrub Care Inc			6,992.68
	Pure Water Oasis			59.90
	Purolater Courier Ltd.			1,771.66
	QSI Interiors Ltd.			4,397.19
	Quantum Murray LP			3,503.85
	R& R Mechanical Developments			61,453.38
	R. Hughes Technical Services Group			3,228.02
	R.L. Cushing Millwork Co. Ltd.			28,090.44
	Raffin Electric Co. Ltd.			12,474.00
	Rainbow Centre Hotel			587.83
	Raydon Rentals Ltd. (The Cat Rental Store)			36,184.79
	RBK Millwork Ltd.			15,437.52
	RBT Electric Ltd.			508,222.98
	Real 1 Ltd.			19,005.00
	Rendek Communications Inc.			111.51
	Richard's Portable Welding			1,338.75
	Ridgewood Interiors			45,910.18
	Rite-way Fencing Inc.			786.24
	Robert Elsworthy Architecture			14,587.42
	Robson Crushing & Demolition Inc.			9,716.00
	Roest Acoustics Ltd.			116,235.00
	Rona Revy Inc.			4,532.21
	Rona Rightway			58,527.20
	RSC Equipment Rental			3,642.45
	Rug Rat Ltd.			1,242.81

## *Creditor Mailing List*

In the matter of the bankruptcy of  
Western Construction & Combustion Services Inc.  
of the City of Calgary, in the Province of Alberta

Creditor Type	Name	Attention	Address	Claim \$
Unsecured	SAS-CAN Masonry Ltd.			14,107.30
	Sealtech Restorations Ltd.			33,120.96
	Sentinel Maintenance (Calgary), Inc.			609.00
	Shanahan's Alberta Ltd.			7,924.35
	Shane Cody Ent Ltd (Rapid Portable Fence)			157.50
	SHAW CABLE			199.55
	Sherwood Steel Ltd.			162.75
	Siemens Canada Ltd.			5,258.40
	Sierra Painting & Blasting Ltd.			6,142.50
	Simmons Landscaping Ltd.			6,195.00
	Simplex Grinnell			18,809.22
	Skyline Concrete Services Ltd.			1,334.49
	South Alta Basements Ltd.			22,774.01
	Specified Technical Sales Ltd.			1,138.46
	Stampede Crane Rigging			1,995.00
	Staples - The Office Superstore			165.11
	Steel Industrial Products Lts.			7,542.62
	Stevens & Assoc. Millwork Ltd.			2,390.85
	Stewart Sales & Rentals			7,092.75
	StonCor Group			34,760.88
	Super Save Disposal Inc.			3,065.59
	Super Save Fence Rentals Inc.			2,160.92
	Super Save Toilet Rentals Inc.			718.20
	Super Silings Inc.- Nisku			1,952.58
	Sure Digital Print			1,502.55
	Teamwork Training Ltd. (Select)			7,118.84
	Telus Communications			966.97
	The Cat Rental Store			1,027.82
	The Recharge Centre			982.50
	The Rental Store			252.00
	Thyssen Krupp Elevator			15,143.62
	Timberwolf Post & Beam Inc.			214,127.55
	Tollestrup Construction Inc.			732,596.62
	Toshiba Business Solutions			567.29
	Touch of Glass Installations Ltd.			934.50
	Town of Rainbow Lake			70.63
	Trimtech Industries Inc.			13,633.20
	TRU Exteriors			17,039.76
	Ultra-Lite Doors			2,006.55
	UN Tree Service 2008 Ltd.			53,393.13
	Unicon Concrete Specialties			415.80
	United Association Local Union 496			2,800.00

## ***Creditor Mailing List***

In the matter of the bankruptcy of  
Western Construction & Combustion Services Inc.  
of the City of Calgary, in the Province of Alberta

<b>Creditor Type</b>	<b>Name</b>	<b>Attention</b>	<b>Address</b>	<b>Claim \$</b>
Unsecured	United Decorating Inc.			13,107.40
	United Rentals of Canada Inc.			25,931.89
	Varko Excavating Inc.			216,673.62
	Venture Painting Ltd.			35,040.45
	Wall Street Painting			19,467.00
	Walway Waste Management Inc.			2,580.46
	Waterhouse Mechanical			235,540.20
	Westech Sanitation Systems Ltd.			2,693.25
	Western Canadian Site Services Ltd.			111,175.85
	Western Pump			10,720.88
	Western Weather Protectors Ltd.			4,832.10
	Westglas Insulation Ltd.			5,890.93
	WHS Heating & Ventilation Ltd.			36,913.06
	Wind River Glass Ltd.			29,488.92
	Winwood Construction Ltd.			17,181.99
	Wolseley Canada Inc.			36,953.71
	Work Area Protection Service Inc.			770.36
	Worker's Compensation Board - Alberta			12,485.00
	X & D Construction Co.			614.25
	Zerodraft Calgary (600847 Alberta Inc.)			8,717.62

**PROOF OF CLAIM AND PROXY**

IN THE MATTER OF THE BANKRUPTCY OF: **Western Construction & Combustion Services Inc.**

**RSM! Richter**

RSM Richter Inc.  
Bow Valley Square 2, Suite 3810  
205 - 5 Avenue SW Calgary, AB T2P 2V7  
Tel: 403.233.8462 Fax: 403.233.8688  
[www.rsmrichter.com](http://www.rsmrichter.com)

and the claim of:

**Creditor Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Account No.:** \_\_\_\_\_

**Tele:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**Email:** \_\_\_\_\_

1. I, \_\_\_\_\_ of \_\_\_\_\_ do hereby certify;
2. THAT I have knowledge of all the circumstances connected with this claim.
3. THAT the said debtor was at March 18, 2011 and still is, indebted to the creditor in the sum of \$ \_\_\_\_\_ as specified in the statement of account attached and marked Exhibit "A", after deducting any counterclaims to which the debtor is entitled.
4. THAT this claim is (choose only one):
  - \_\_\_\_\_ A. An UNSECURED CLAIM and I do not claim a right to a priority. That in respect of this debt, I do not hold any assets of the debtor as security.
  - \_\_\_\_\_ B. A PREFERRED CLAIM and I claim a right to a priority under Section 136 of the Act. That in respect of this debt, I do not hold any assets of the debtor as security.
  - \_\_\_\_\_ C. A SECURED CLAIM. That in respect of this debt, I hold assets of the debtor valued at \$ \_\_\_\_\_ as security. (attach copies of registered documents and financing statements).
  - \_\_\_\_\_ D. A CLAIM BY FARMER, FISHERMAN OR AQUACULTURIST. That I hereby make a claim Under subsection 81.2(1) of the Act for the unpaid amount of \$ \_\_\_\_\_.
  - \_\_\_\_\_ E. A CLAIM BY WAGE EARNER. That I hereby make a claim under subsection 81.3 of the Act.
5. THAT, to the best of my knowledge, I [am] or [am not] related to the debtor within the meaning of section 4 of the Act.
6. THAT the following are the payments that I have received from, and the credits I have allowed to, the debtor within the three months (or, if the creditor and the debtor are related within the meaning of section 4 of the Act, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Section 2 of the Act (provide details of payments and credits):
7. PROXY APPOINTED: No \_\_\_\_\_ Yes \_\_\_\_\_ (If yes, please complete the proxy).  
I, (WE) HEREBY APPOINT: \_\_\_\_\_ (name of individual) to be my (our) general proxy in the above matter except as to the receipt of dividends with (or without) power to appoint another general proxy in his or her place.
8. DATED AT \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Print name of person signing

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Position

**WARNING: SECTION 201(1) OF THE BANKRUPTCY AND INSOLVENCY ACT PRESCRIBES SEVERE PENALTIES FOR MAKING A FALSE CLAIM, PROOF, DECLARATION OR STATEMENT OF ACCOUNT.**

## INSTRUCTIONS TO CREDITORS RESPECTING PROOF OF CLAIM FORM

Note: A properly completed and supported Proof of Claim form must be submitted to the Trustee in order to have a voice in the affairs of the debtor and in order to be eligible for any potential dividend distributions.

### **Please follow these instructions:**

- Heading:
- a) The name of the debtor has been supplied.
  - b) Provide the complete name and address, including postal code, telephone and fax numbers and an e-mail address where all notices or correspondence regarding your claim is to be forwarded.
  - c) Provide an account number, if applicable.
- Clause 1: Print your name and the company name if applicable.
- Clause 2: No action needed.
- Clause 3:
- a) The effective date of the bankruptcy has been supplied.
  - b) Provide the amount of your claim in Canadian funds. The amount claimed for debts owing should be calculated to the effective **DATE OF THE BANKRUPTCY ONLY**.
  - c)
    - i) A statement of Account must be attached in support of the amount claimed.
    - ii) Ensure that the final balance on your Statement of Account agrees to the amount claimed on the Proof of Claim form.
    - iii) The Statement of Account must specify each voucher/invoice and/or other evidence in support of the claim, together with the date of each charge and the amount thereof. A schedule, which indicates only the **BALANCE OF ACCOUNT, IS NOT SUFFICIENT**. The Statement of Account must be clearly marked "Exhibit A" and be attached to the Proof of Claim form submitted. If "Exhibit A" is not attached, your Proof of Claim will be returned.
    - iv) The Statement of Account must also include the last three months transactions, or if the creditor and the debtor are related as defined in Section 4 of the *Bankruptcy and Insolvency Act* (copy attached), the last twelve months transactions. These transactions must include payments and credits received from or allowed to the debtor as well as contra items (if any).
- Clause 4: Choose the appropriate section (A), (B), (C), (D) or (E) which properly applies to the status of your claim and check the appropriate line.
- A. Applies if you are a creditor without any security or priority.
  - B. Applies if you are a creditor to whom any subsection of Section 136 is applicable. A copy of this section of the *Bankruptcy and Insolvency Act* is enclosed for your convenience. Please provide details to support a priority claim.
  - C. Applies if you are a creditor with a statutory or contractual claim against some specific asset of the bankrupt. Ensure you record the value of your security.
  - D. Applies if you are a Farmer, Fisherman or Aquaculturist.
  - E. Applies if you are a wage earner. A copy of Section 81.3 of the *Bankruptcy and Insolvency Act* is enclosed for your convenience.
- Clause 5: Copy of Section 4 of the *Bankruptcy and Insolvency Act* is provided for your convenience. Delete the inapplicable wording to indicate whether the creditor is related or not.
- Clause 6: Provide details of any payments received or credits given within the three months (or within twelve months if the creditor and debtor are related) before the date of the initial bankruptcy event.
- Clause 7: Complete this section if:
- a) The creditor is an individual and you wish someone else to vote on your behalf.
  - b) The creditor is a corporation. An individual must be appointed to vote.
- Clause 8: Ensure that the form is dated, witnessed and signed in the appropriate places. You must also print your name and indicate your position.

Mail the completed Proof of Claim form together with "Exhibit A" to:

**RSM Richter Inc.**  
**Bow Valley Square 2, Suite 3810**  
**205 – 5<sup>th</sup> Avenue SW**  
**Calgary, AB T2P 2V7**

Excerpts from the *Bankruptcy and Insolvency Act*

**Section 4 – RELATED PARTIES**

**(1) Definitions** - In this section

“related group” means a group of persons each member of which is related to every other member of the group;

“entity” means a person other than an individual;

“unrelated group” means a group of persons that is not a related group.

**(2) Definition of “related persons”** - For the purposes of this Act, persons are related to each other and are “related persons” if they are

- (a) individuals connected by blood relationship, marriage, common-law partnership or adoption;
- (b) an entity and
  - i) a person who controls the entity, if it is controlled by one person,
  - ii) a person who is a member of a related group that controls the entity, or
  - iii) any person connected in the manner set out in paragraph (a) to a person described in subparagraph (i) or (ii); or
- (c) two entities
  - i) both controlled by the same person or group of persons,
  - ii) each of which is controlled by one person and the person who controls one of the entities is related to the person who controls the other entity,
  - iii) one of which is controlled by one person and that person is related to any member of a related group that controls the other entity,
  - iv) one of which is controlled by one person and that person is related to each member of an unrelated group that controls the other entity,
  - v) one of which is controlled by a related group a member of which is related to each member of an unrelated group that controls the other entity, or
  - vi) one of which is controlled by an unrelated group each member of which is related to at least one member of an unrelated group that controls the other entity.

**(3) Relationships** - For the purposes of this section,

- (a) if two entities are related to the same entity within the meaning of subsection (2), they are deemed to be related to each other;
- (b) if a related group is in a position to control an entity, it is deemed to be a related group that controls the entity whether or not it is part of a larger group by whom the entity is in fact controlled;
- (c) a person who has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, ownership interests, however designated, in an entity, or to control the voting rights in an entity, is, except when the contract provides that the right is not exercisable until the death of an individual designated in the contract, deemed to have the same position in relation to the control of the entity as if the person owned the ownership interests;
- (d) if a person has ownership interests in two or more entities, the person is, as holder of any ownership interest in one of the entities, deemed to be related to himself or herself as holder of any ownership interest in each of the other entities;
- (e) persons are connected by blood relationship if one is the child or other descendant of the other or one is the brother or sister of the other;
- (f) persons are connected by marriage if one is married to the other or to a person who is connected by blood relationship or adoption to the other;
- (f.1) persons are connected by common-law partnership if one is in a common-law partnership with the other or with a person who is connected by blood relationship or adoption to the other and;
- (g) persons are connected by adoption if one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is connected by blood relationship, otherwise than as a brother or a sister to the other.

**(4) Question of fact** – It is a question of fact whether persons not related to one another were at a particular time dealing with each other at arm’s length.

**(5) Presumption** – Persons related to each other are deemed not to deal with each other at arm’s length while so related.

**Section 136 - SCHEME OF DISTRIBUTION**

**(1) Priority of claims** - Subject to the rights of secured creditors, the proceeds realized from the property of a bankrupt shall be applied in priority of payment as follows:

- (a) in the case of a deceased bankrupt, the reasonable funeral and testamentary expenses incurred by the legal representative of the deceased bankrupt;
- (b) the costs of administration, in the following order,
  - (i) the expenses and fees of any person acting under a direction made under paragraph 14.03(1)(a),
  - (ii) the expenses and fees of the trustee, and
  - (iii) legal costs;
- (c) the levy payable under section 147;
- (d) the amount of any wages, salaries, commissions, compensation or disbursements referred to in sections 81.3 and 81.4 that was not paid;
  - (d.01) the amount equal to the difference a secured creditor would have received but for the operation of sections 81.3 and 81.4 and the amount actually received by the secured creditor;
  - (d.02) the amount equal to the difference a secured creditor would have received but for the operation of sections 81.5 and 81.6 and the amount actually received by the secured creditor;
- (d.1) claims in respect of debts or liabilities referred to in paragraph 178(1)(b) or (c), if provable by virtue of subsection 121(4), for periodic amounts accrued in the year before the date of the bankruptcy that are payable, plus any lump sum amount that is payable;
- (e) municipal taxes assessed or levied against the bankrupt, within the two years immediately preceding the bankruptcy, that do not constitute a secured claim against the real property or immovables of the bankrupt, but not exceeding the value of the interest of the bankrupt in the property in respect of which the taxes were imposed as declared by the trustee;
- (f) the lessor for arrears of rent for a period of three months immediately preceding the bankruptcy and accelerated rent for a period not exceeding three months following the bankruptcy if entitled to accelerated rent under the lease, but the total amount so payable shall not exceed the realization from the property on the premises under lease, and any payment made on account of accelerated rent shall be credited against the amount payable by the Trustee for occupation rent;
- (g) the fees and costs referred to in subsection 70(2) but only to the extent of the realization from the property exigible thereunder;
- (h) in the case of a bankrupt who became bankrupt before the prescribed date, all indebtedness of the bankrupt under any Act respecting workers' compensation, under any Act respecting unemployment insurance or under any provision of the *Income Tax Act* creating an obligation to pay to Her Majesty amounts that have been deducted or withheld, rateably;
- (i) claims resulting from injuries to employees of the bankrupt in respect of which the provisions of any Act respecting workers' compensation do not apply, but only to the extent of moneys received from persons guaranteeing the bankrupt against damages resulting from those injuries; and
- (j) in the case of a bankrupt who became bankrupt before the prescribed date, claims of the Crown not mentioned in paragraphs (a) to (i), in right of Canada or any province, ratably notwithstanding any statutory preference to the contrary.

**(2) Payment as funds available** - Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, payment in accordance with subsection (1) shall be made as soon as funds are available for the purpose.

**(3) Balance of claim** - A creditor whose rights are restricted by this section is entitled to rank as an unsecured creditor for any balance of claim due him.

### **Section 81.3 - WAGE EARNER PROTECTION**

- (1) **Security for unpaid wages, etc. – bankruptcy** - The claim of a clerk, servant, travelling salesperson, labourer or worker who is owed wages, salaries, commissions or compensation by a bankrupt for services rendered during the six months immediately before the date of bankruptcy is secured, as of that date, to the extent of \$2,000, by security on all the current assets of the bankrupt on that date.
- (2) **Commissions** - For the purposes of subsection (1), commissions payable when goods are shipped, delivered or paid for, if shipped, delivered or paid for within the six month period referred to in that subsection, are deemed to have been earned in those six months.
- (3) **Security for disbursements – bankruptcy** - The claim of a travelling salesperson who is owed money by a bankrupt for disbursements properly incurred in and about the bankrupt's business during the six months immediately before the date of bankruptcy is secured, as of that date, to the extent of \$1,000, by security on all the bankrupt's current assets on that date.
- (4) **Rank of security** - A security under this section ranks above every other claim, right, charge or security against the bankrupt's current assets, regardless of when that other claim, right, charge or security arose, except rights under sections 81.1 and 81.2 and amounts referred to in subsection 67(3) that have been deemed to be held in trust.
- (5) **Liability of trustee** - If the trustee disposes of current assets covered by the security, the trustee is liable for the claim of the clerk, servant, travelling salesperson, labourer or worker to the extent of the amount realized on the disposition of the current assets, and is subrogated in and to all rights of the clerk, servant, travelling salesperson, labourer or worker of the amounts paid to that person by the trustee.
- (6) **Meaning of “compensation”** - For the purpose of this section and section 81.4, “compensation” includes vacation pay but does not include termination or severance pay.
- (7) **Proof by delivery** - A claim referred to in this section is proved by delivering to the trustee a proof of claim in the prescribed form.