



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00715153-00CL

DATE: March 26, 2025

NO. ON LIST: 10

TITLE OF PROCEEDING: EXPORT DEVELOPMENT CANADA v. ANTAMEX INDUSTRIES ULC
et al

BEFORE: JUSTICE DIETRICH, J.

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

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For Defendant, Respondent, Responding Party:

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For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
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ENDORSEMENT OF JUSTICE DIETRICH, J. :

Introduction

- [1] Deloitte Restructuring Inc. (“**Deloitte**”) as receiver and manager (in such capacity, the “**Receiver**”) of all the assets, undertakings and property acquired for or used in connection with the business of Antamex Industries ULC and 256 Victoria Street West ULC seeks an order approving a process for the solicitation, validation and quantification of potential Trust Claims by subcontractors against Antamex (the “**Claims Process**”).
- [2] Terms not otherwise defined herein have the meaning given to them in the factum of the Receiver filed on this motion.
- [3] The relief sought by the Receiver is not opposed, however, Ms. Bambrough, counsel for certain sureties, made some submissions on the wording of the order which were resolved during the hearing.

Background

- [4] The Receiver was appointed by orders dated March 13, 2024 and April 23, 2024. The 256 Appointment Order authorized the procedural consolidation of the receivership proceedings in respect of the Debtors.
- [5] Antamex was in the business of designing, engineering, manufacturing and installing customer modular glass façade solutions for multi-story buildings. 256 Victoria is a related party to Antamex which owns the Alliston Premises where Antamex was a tenant.
- [6] The Receiver is currently holding funds collected both prior to and following its appointment in respect of various projects. The proposed Claims Process will allow the Receiver to assess the totality of claims against the funds it is holding and ensure that such funds are ultimately distributed to the appropriate stakeholders.
- [7] To the extent that Antamex has received amounts in respect of a particular project or subcontract, and to the extent that, prior to the appointment of the Receiver, Antamex had not paid all of its subcontractors on such project, the *Construction Act* R.S.O. 1990, c. C.30, and other equivalent legislation, provides that unpaid subcontractors may be entitled to assert a Trust Claim over the project-specific funds now held by the Receiver.
- [8] After its appointment, in order to ensure potential trust claims are preserved, the Receiver deposited all project-specific receipts received by it into segregated trust accounts. The Receiver is currently holding segregated funds in respect of nine Projects located in Massachusetts, California, Michigan, and Ontario.

- [9] Prior to the Receiver's appointment, Antamex did not maintain Project-specific, segregated accounts, separate books and records for each Project's funds or treat project receipts and expenditures as separate in its books and records. All Project receipts were deposited in the same accounts and used to fund Antamex's obligations across multiple projects and other working capital needs. The Receiver is currently in the process of determining whether any funds in Antamex's possession on its appointment can be traced to a specific Project, such that Trust Claims could be maintained over such funds. However, at this time, it is not clear the extent to which funds will be available for distribution on any Project for which segregated funds are not maintained.
- [10] The proposed Claims Process permits filing of a Proof of Claim by any Subcontractor on a Project wishing to assert a Trust Claim against Antamex. Any Subcontractor wishing to advance a Trust Claim is required to file a Proof of Claim with the Receiver in the form appended to the Trust Claims Process Order. Subject to the terms of the proposed Order, such Proof of Claim must be filed no later than 5:00 p.m. on April 25, 2025 (the "**Claims Bar Date**"). Conversely, any Subcontractor that does not file a Proof of Claim with the Receiver before the Claims Bar Date shall be barred from making or enforcing any Trust Claim against Antamex's estate or the Property. The Receiver shall review all Proofs of Claim filed on or before the Claims Bar Date and shall accept or disallow (in whole or in part) the amount and/or status of such Trust Claims. The proposed Claims Process provides a process by which a disallowance by the Receiver (in whole or part) may be disputed.

Issue

- [11] The only issue to be determined is should the proposed Claims Process be approved.

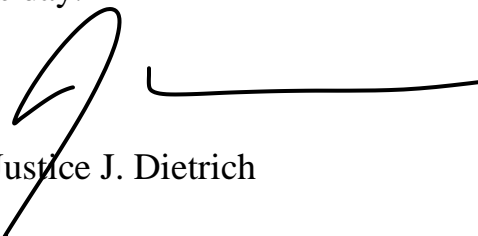
Analysis

- [12] In the context of receivership proceedings, this Court has granted claims process orders that call for the solicitation, evaluation and quantification of potential lien and trust claims under the *Construction Act* or similar legislation see for example: *Quality Rugs of Canada Limited v. Waygar Capital Inc.*, CV-23-00703933-00CL, CV-23-00703292-00CL and CV-23-00703874 00CL (Order and Endorsement of Justice Penny, Ont. S.C.J., November 24, 2023).
- [13] In an insolvency proceeding, a claims process is intended to be an efficient and flexible process that will allow the claims of creditors to be established expeditiously with a view to the distribution of available funds as soon as reasonably possible: see *Computershare Trust Co. of Canada v. Cookstown Holding Ltd.*, 2014 ONSC 685 at para. 13.
- [14] The Claims Process proposed by the Receiver fulfills these purposes and provides the stakeholders of Antamex with an efficient and fair process for the adjudication of Trust Claims, while ensuring that if a party disputes the Receiver's determination, that party is entitled to have their dispute reviewed by an independent adjudicator.

[15] Accordingly, the Claims Process, with the amended wording discussed during today's hearing, is approved.

Disposition

[16] Order to go in the form signed by me this day.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line.

March 26, 2025

Justice J. Dietrich