

Court File No.: CV-24-00715153-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

BETWEEN:

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

AND

Court File No.: CV-24-00718718-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF 256 VICTORIA STREET WEST ULC

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

256 VICTORIA STREET WEST ULC

Respondent

**MOTION RECORD
(Trust Claims Process Order)
Returnable March 26, 2025**

March 19, 2025

BLAKE, CASSELS & GRAYDON LLP

Barristers and Solicitors

199 Bay Street

Suite 4000, Commerce Court West

Toronto, Ontario M5L 1A9

Linc Rogers, LSO #43562N

Tel: 416-863-4168

Email: linc.rogers@blakes.com

Caitlin McIntyre, LSO #72306R

Tel: 416-863-4174

Email: caitlin.mcintyre@blakes.com

Lawyers for the Receiver

TO: SERVICE LIST

Court File No.: CV-24-00715153-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

BETWEEN:

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

AND

Court File No.: CV-24-00718718-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF 256 VICTORIA STREET WEST ULC

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

256 VICTORIA STREET WEST ULC

Respondent

**SERVICE LIST
(as of February 25, 2025)**

TO:	<p>FASKEN MARTINEAU DuMOULIN LLP Barristers and Solicitors 333 Bay Street, Suite 2400 Bay Adelaide Centre, Box 20 Toronto ON M5H 2T6</p> <p>Stuart Brotman (LSO: 43430D) sbrotman@fasken.com Tel: 416 865 5419</p> <p>Mitch Stephenson (LSO: 73064H) mstephenson@fasken.com Tel: 416 868 3502</p> <p>Julia (Yun Ji) Chung jchung@fasken.com</p> <p>Lawyers for the Applicant</p>
AND TO:	<p>EXPORT DEVELOPMENT CANADA 155 Wellington Street West, Suite 3400 Toronto, ON M5V 3H1</p> <p>Adam Smith adsmith@edc.ca</p> <p>Wojtek Karwala wkarwala@edc.ca</p> <p>Applicant</p>
AND TO:	<p>DELOITTE RESTRUCTURING INC. 8 Adelaide Street West, Suite 200 Toronto, ON M5H 0A9</p> <p>Phil Reynolds philreynolds@deloitte.ca Tel: 647 320 2996</p> <p>Gianluca Berardi giberardi@deloitte.ca</p> <p>Receiver</p>

AND TO:	<p>BLAKE, CASSELS & GRAYDON LLP 199 Bay Street Suite 4000, Commerce Court West Toronto, ON M5L 1A9</p> <p>Linc Rogers (LSO: 43562N) linc.rogers@blakes.com Tel: 416 863 4168</p> <p>Caitlin McIntyre (LSO: 72306R) caitlin.mcintyre@blakes.com Tel: 416 863 4174</p> <p>Lawyers for the Receiver</p>
AND TO:	<p>ANTAMEX INDUSTRIES ULC 210 Great Gulf Drive Concord, ON L4K 5W1</p> <p>Tel: 905 660 4520</p> <p>Ryan Spurgeon rspurgeon@antamex.com</p> <p>Jeff Dicker jdicker@antamex.com</p> <p>Jeremy Ozen jozen@o3indus.com</p> <p>Respondent</p>
AND TO:	<p>NAVERRA LLC (formerly SOLAR SEAL ARCHITECTURAL LLC) 40 Wisconsin Avenue Norwich, Connecticut 06360</p> <p>Jeremy Ozen jozen@o3indus.com</p> <p>Guarantor (a Delaware limited liability company)</p>

AND TO:	256 VICTORIA STREET WEST ULC Suite 2300, Bentall 5 550 Burrard Street Vancouver, BC V6C 2B5 Jeremy Ozen jozen@o3indus.com Tel: 818 414 5166 Ryan Spurgeon rspurgeon@antamex.com
AND TO:	WAYGAR CAPITAL INC. 25 King St W Suite 1700 Toronto, ON M5L 2A1 Tel: 416 572 0025 Wayne R. Ehgoetz, President & CEO wehgoetz@waygarcapital.com Tel: 416 219 6034 Terrence G. Kruk, Managing Director, Operations and Compliance tkruk@waygarcapital.com Tel: 416 526 5374 Contract counterparty
AND TO:	O3 INDUSTRIES LLC 3 Columbus Circle, Suite 1420 New York, NY 10019 Jeremy Ozen jozen@o3indus.com Tel: 818 414 5166 PPSA registrant
AND TO:	BERCON RENTALS INC. 420 Grays Road Hamilton, ON L8E 4H6 ar@berconrentals.ca Tel: 905 560 5500 PPSA registrant

AND TO:	TIP FLEET SERVICES CANADA LTD. 1880 Britannia Road East Mississauga, ON L4W 1J3 ca-customercare@tip-group.com Tel: 905 670 7077 Jim MacIntosh, President jim.macintosh@tip-group.com Tel: 905 740 3958 PPSA registrant
AND TO:	CWB NATIONAL LEASING INC. 1525 Buffalo Place (3019264) Winnipeg, MB R3T 1L9 customerservice@cwbnationalleasing.com Tel: 204 954 9000 PPSA registrant
AND TO:	PERFORMANCE EQUIPMENT LTD. (formerly GREAT LAKES TRUCK LEASING & SERVICE LTD.) <i>operating as VISION TRUCK GROUP and VISION LEASING & RENTAL</i> 1220 Franklin Blvd. Cambridge, ON N1R 8B7 admin@visiontruckgroup.com marketing@visiontruckgroup.com Tel: 519 653 7161 Julie Langdon jlangdon@visiontruckgroup.com Tel: 905 564 8333 ext 1223 PPSA registrant
AND TO:	CANADIAN IMPERIAL BANK OF COMMERCE 595 Bay Street, 5th Floor Toronto, ON M5G 2C2 info@cibc.com Tel: 416 861 3801 PPSA registrant

AND TO:	DENTONS LLP 77 King St West, Suite 400 Toronto-Dominion Centre Toronto, ON M5K 0A1 Vera Vynohrad vera.vynohrad@dentons.com Tel: 416 863 4551 Counsel to Canadian Imperial Bank of Commerce, PPSA registrant
AND TO:	DREAM SUMMIT INDUSTRIAL (ONTARIO) INC. 30 Adelaide Street East State Street Financial Centre, Suite 301 Toronto, ON M5C 3H1 Robert Hughes rhughes@dream.ca Tel: 416 365 6345 Landlord to the Respondent
AND TO:	NORWICH 40 TGCI LLC One Adams Place, 859 Willard St., Ste., 501 The Grossman Companies, Inc. Quincy, MA 02169 Jacob Grossman jake@grossmanco.com Paul Dawson paul@grossmanco.com Landlord to Naverra LLC
AND TO:	DEPARTMENT OF JUSTICE (CANADA) Ontario Regional Office 120 Adelaide Street West, Suite 400 Toronto, ON M5H 1T1
AND TO:	MINISTER OF FINANCE INSOLVENCY UNIT 6th Floor, 33 King Street West Oshawa, ON L1H 8H5 Insolvency Unit insolvency.unit@ontario.ca

AND TO:	CANADA REVENUE AGENCY 1 Front Street West Toronto, ON M5J 2X6 Wendy Rueger Email: wendy.rueger@cra-arc.gc.ca General Inbox for Service AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca
AND TO:	STIKEMAN ELLIOTT LLP 1155 boul. Rene-Levesque Ouest 41e etage Montreal, QC H3B 3V2 Nathalie Nouvet NNouvet@stikeman.com Tel: 514 397 3128 Counsel to O3 Industries LLC
AND TO:	DENTONS LLP 77 King Street West, Suite 400 Toronto-Dominion Centre Toronto, ON M5K 0A1 John Salmas john.salmas@dentons.com Tel: 416 863 4737 Sarah Lam sarah.lam@dentons.com Tel: 416 863 4689 Mark Freake mark.freake@dentons.com Tel: 416 863 4456 Counsel to Royal Bank of Canada

AND TO:	YOUNGMAN LAW PROFESSIONAL CORPORATION 90 Eglinton Avenue East Suite 980 Toronto, ON M4P 2Y3 Patrick Bernard pbernard@youngmanlaw.com Tel: 416 363 3351 ext. 245 Counsel to TIP Fleet Services Canada Ltd.
AND TO:	MCMILLAN LLP Brookfield Place, Suite 4400 181 Bay Street Toronto, ON M5J 2T3 Wael Rostom Wael.Rostom@mcmillan.ca Tel: 416 865 7790 Jeffrey Levine Jeffrey.Levine@mcmillan.ca Tel: 416 865 7791 Lawyers for the Respondent
AND TO:	BORDEN LADNER GERVAIS LLP Bay Adelaide Centre, East Tower 22 Adelaide Street West, Suite 3400 Toronto, ON M5H 4E3 Alexander MacFarlane AMacFarlane@blg.com Tel: 416 367 6305 Andrew Punzo APunzo@blg.com Tel: 416 367 6005 James MacLellan JMacLellan@blg.com Tel: 416 367 6592 Lawyers for the Surety, Euler Hermes North America Insurance Company

AND TO:	<p>BORDEN LADNER GERVAIS LLP Bay Adelaide Centre, East Tower 22 Adelaide Street West, Suite 3400 Toronto, ON M5H 4E3</p> <p>Alexander MacFarlane AMacFarlane@blg.com Tel: 416 367 6305</p> <p>Denise Bambrough DBambrough@blg.com Tel: 416 367 6008</p> <p>Mark Borgo MBorgo@blg.com Tel: 416 367 7887</p> <p>Lawyers for the Sureties, Aviva Insurance Company of Canada and Nationwide Mutual Insurance Company</p>
AND TO:	<p>WATT, TIEDER, HOFFAR & FITZGERALD, LLP 175 Federal Street Suite 1225 Boston, MA 02110</p> <p>Bradford R. Carver bcarver@watttieder.com Tel: 857 504 1140</p> <p>Lawyers for the Sureties, Aviva and Nationwide</p>
AND TO:	<p>SEYFARTH SHAW 620 Eighth Avenue 32nd Floor New York, NY 10018-1405</p> <p>James M. Sullivan jmsullivan@seyfarth.com Tel: 212 218 5582</p> <p>US Counsel to the Landlord, Norwich 40 TGCI LLC</p>

AND TO:	GARDINER ROBERTS LLP Bay Adelaide Centre – East Tower 22 Adelaide Street West, Suite 3600 Toronto, ON M5H 4E3 Chris Besant cbesant@grllp.com Tel: 416 865 4022 Lawyers to the Landlord, Norwich 40 TGCI LLC
AND TO:	THORNTON GROUT FINNIGAN LLP 100 Wellington Street West Suite 3200, P.O. Box 329 Toronto, ON M5K 1K7 Grant B. Moffat gmoffat@tgf.ca Tel: 416 304 0599 Alexander Soutter asoutter@tgf.ca Tel: 416 304 0595 Rebecca Kennedy rkennedy@tgf.ca Tel: 416 304 1313 Lawyers for Suffolk Construction Co., Inc.
AND TO:	KAGAN SHASTRI DEMELO WINER PARK LLP 188 Avenue Road Toronto, ON M4R 2J1 David Winer dwiner@ksllp.ca Tel: 416 368 2100 x 225 Lawyers for Noram Glass Corporation

AND TO:	PERKINS COIE LLP 1155 Avenue of the Americas, 22 nd Floor New York, New York 10036-2711 Tina N. Moss TMoss@perkinscoie.com Tel: 212 262 6910 US Counsel to the Receiver
AND TO:	SUTHERLAND LAW 3300 Hwy 7, Suite 904 Vaughan, ON L4K 4M3 Jonathan L. Frustaglio jfrustaglio@sutherlandlaw.com Tel: 905 695 5500, ext. 2760 Lawyers to Krisro Metal Industries Corp.
AND TO:	MARGIE STRUB CONSTRUCTION LAW LLP 2300 Yonge Street Suite 2001, Mailbox 2331 Toronto, ON M4P 1E4 John Margie jmargie@margiestrub.com Tel: 289 778 0972 Lawyers for Klimer Platforms Inc.
AND TO:	NUYORK INVESTMENTS LIMITED 40 Pleasant Blvd., Suite 800 Toronto, ON M4T 1J9 Spencer York spencer_york@newrealinvestments.com
AND TO:	GARDINER ROBERTS LLP 22 Adelaide Street West, Suite 3600 Toronto, ON M5H 4E3 Christopher Besant cbesant@grllp.com Tel: 416 865 4022 Lawyers for The Grossman Companies

AND TO:	DLA PIPER 1 First Canadian Place, Suite 6000 100 King Street West, PO Box 367 Toronto, ON M5X 1E2 Edmond Lamek edmond.lamek@dlapiper.com Tel: 416 365 3444 Lawyers for Glass Enterprises Northeast LLC
AND TO:	FRIDMAR PROFESSIONAL CORPORATION 242 Applewood Crescent, Unit 5-Ground Concord, ON L4K 4E5 Dan Fridmar dan@fridmar.com Tel: 416 697 0107 Lawyers for Alumicor Limited
AND TO:	CASSELS BROCK & BLACKWELL LLP Suite 3200, Bay Adelaide Centre - North Tower 40 Temperance Street Toronto, ON M5H 0B4 John Birch jbirch@cassels.com Tel: 416 860 5225 Lawyers for Gilbane Building Company
AND TO:	PALIARE ROLAND ROSNBERG ROTHSTEIN LLP 155 Wellington Street West, 35 th Floor Toronto, ON M5V 3H1 Massimo (Max) Starnino max.starnino@paliareroland.com Tel: 416 646 7431 Lawyers for PJ Dick

AND TO:	GOWLING WLG 1 First Canadian Place 100 King Street West, Suite 1600 Toronto, ON M5X 1G5 Asim Iqbal asim.iqbal@gowlingwlg.com Tel: 647-202-6621 Patryk Sawicki patryk.sawicki@gowlingwlg.com Tel: 416-369-7246 Lawyers for Stuart Olson
AND TO:	BURCHELL WICKWIRE BRYSON LLP 1800 – 1801 Hollis Street Halifax, NS B3J 3N4 Sarah L. MacCallum smaccullum@bwblp.ca Tel: 902 422 3581 Lawyers for Toromont Industries Ltd.
AND TO:	CAPO CLARK PROFESSIONAL CORPORATION 216 Chrislea Road, Suite 502 Woodbridge, ON L4L 8S5 Vanessa Capo vcapo@capoclarklaw.ca Lawyers for the Purchaser, 2831450 Ontario Inc.
AND TO:	CBRE LIMITED 5935 Airport Road, Suite 700 Mississauga, ON L4V 1W5 Evan White Email: evan.white@cbre.com Leila Vidimlic Email: leila.vidimlic@cbre.com

EMAIL SERVICE LIST

sbrotman@fasken.com; mstephenson@fasken.com; jchung@fasken.com; adsmith@edc.ca; WKarwala@edc.ca; philreynolds@deloitte.ca; giberardi@deloitte.ca; rwilliams@brileyfin.com; linc.rogers@blakes.com; caitlin.mcintyre@blakes.com; rspurgeon@antamex.com; jdicker@antamex.com; jozen@o3indus.com; wehgoetz@waygarcapital.com; tkruk@waygarcapital.com; ar@berconrentals.ca; ca-customer@tip-group.com; jim.macintosh@tip-group.com; customerservice@cwbnationalleasing.com; admin@visiontruckgroup.com; marketing@visiontruckgroup.com; jlangdon@visiontruckgroup.com; info@cibc.com; vera.vynohrad@dentons.com; rhughes@dream.ca; jake@grossmanco.com; paul@grossmanco.com; insolvency.unit@ontario.ca; wendy.rueger@cra-arc.gc.ca; AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca; NNouvet@stikeman.com; john.salmas@dentons.com; sarah.lam@dentons.com; mark.freake@dentons.com; pbernard@youngmanlaw.com; Wael.Rostom@mcmillan.ca; Jeffrey.Levine@mcmillan.ca; AMacFarlane@blg.com; APunzo@blg.com; JMacLellan@blg.com; DBambrough@blg.com; MBorgo@blg.com; bcarver@watttieder.com; jmsullivan@seyfarth.com; cbesant@grllp.com; gmoftat@tgf.ca; asoutter@tgf.ca; rkennedy@tgf.ca; dwiner@ksllp.ca; TMoss@perkinscoie.com; jfrustaglio@sutherlaw.com; jmargie@margiestrub.com; spencer_york@newrealinvestments.com; edmond.lamek@dlapiper.com; dan@fridmar.com; jbirch@cassels.com; max.starnino@paliarerland.com; asim.iqbal@gowlingwlg.com; patryk.sawicki@gowlingwlg.com; smacallum@bwblp.ca; vcapo@capoclarklaw.ca; evan.white@cbre.com; leila.vidimlic@cbre.com;

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

BETWEEN:

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

AND

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF 256 VICTORIA STREET WEST ULC

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

256 VICTORIA STREET WEST ULC

Respondent

**MOTION RECORD
I N D E X**

Tab	Description	Page
1.	Notice of Motion	1

Tab	Description	Page
2.	Fifth Report of the Receiver, dated March 19, 2025	12
A.	Appendix “A”: Fourth Report, without Appendices	27
B.	Appendix “B”: Endorsement dated February 18, 2025	46
3.	Draft Trust Claims Process Order	59
A.	Schedule “A”: Proof of Claim	69
B.	Schedule “B”: Notice of Disallowance	72
C.	Schedule “C”: Dispute Notice	73

TAB 1

Court File No.: CV-24-00715153-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

BETWEEN:

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

AND

Court File No.: CV-24-00718718-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF 256 VICTORIA STREET WEST ULC

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

256 VICTORIA STREET WEST ULC

Respondent

**NOTICE OF MOTION
(Returnable March 26, 2025)**

Deloitte Restructuring Inc. (“**Deloitte**”) in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of the Property of Antamex Industries ULC (“**Antamex**”) and 256 Victoria Street West ULC (“**256 Victoria**”) will make a motion to a judge of the Ontario Superior Court of Justice (Commercial List) on March 26, 2025 at 10:00 a.m., or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- ☐ In writing under subrule 37.12.1(1) because it is (*insert one of* on consent, unopposed *or* made without notice);
- ☐ In writing as an opposed motion under subrule 37.12.1(4);
- ☐ In person;
- ☐ By telephone conference;
- ☒ By video conference.

at the following location:

Zoom Link:

<https://ca01web.zoom.us/j/64683302309?pwd=hk4renYSbUXbUn41tPpZqSX8FIZNTl.1%20%27>

Please advise if you plan to attend the motion by emailing Caitlin McIntyre at caitlin.mcintyre@blakes.com.

THIS MOTION IS FOR:¹

1. An order substantially in the form appended to the Receiver’s Motion Record (the “**Trust Claims Process Order**”) approving a process for the solicitation, validation and quantification of potential trust claims by subcontractors against Antamex (the “**Claims Process**”).
2. Such further and other relief as counsel may request and this Honourable Court may permit.

¹ Capitalized terms not otherwise defined herein have the meanings given to them in the Fifth Report of the Receiver dated March 19, 2025.

THE GROUNDS FOR THE MOTION ARE:

Background

Antamex Appointment

3. Antamex was a British Columbia corporation in the business of designing, engineering, manufacturing and installing custom modular glass façade solutions for multi-story buildings. Antamex operated from two locations: (i) a head office and assembly plant at 210 Great Gulf Drive, Concord, Ontario (the “**Concord Premises**”), and (ii) a fabrication manufacturing facility at 256 Victoria Street West, Alliston, Ontario (the “**Alliston Premises**” and together the “**Premises**”).

4. On March 5, 2024, this Court granted an order (the “**Partial Appointment Order**”) on application by Export Development Canada (“**EDC**”) appointing Deloitte as Receiver over certain priority collateral of Antamex located primarily in the United States. On March 13, 2024, the Receiver’s appointment was expanded by an order of this Court (the “**Appointment Order**”) to include all the Property of Antamex.

256 Victoria Appointment

5. 256 Victoria was a British Columbia corporation that operated as a real estate holding company and was the owner of the Alliston Premises. Antamex leased the Alliston Premises from 256 Victoria and guaranteed 256 Victorias’s obligations (the “**Guarantee**”) to Royal Bank of Canada (“**RBC**”).

6. On April 23, 2024, pursuant to an order (the “**256 Appointment Order**”) of this Court, Deloitte was appointed as Receiver of the assets, undertakings and property of 256 Victoria. The 256 Appointment Order authorized the procedural consolidation of the receivership proceedings in respect of the Debtors (the “**Receivership Proceedings**”).

7. On December 31, 2024, the Receiver closed a transaction for the sale of the Alliston premises (the “**Transaction**”).

Activities of the Receiver since the date of the Fourth Report

US Property

8. The Receiver was initially appointed in respect of certain US Collateral constituting the priority collateral of EDC pursuant to the Partial Appointment Order. The US Collateral consists primarily of certain glass manufacturing equipment (the “**US Glass Equipment**”) located in Norwich, Connecticut. Antamex asserted ownership of the US Glass Equipment.

9. The US Glass Equipment is stored at a property (the “**Norwich Premises**”) formerly leased to Antamex’s affiliate, Naverra LLC by Norwich 40 TGCI, LLC (the “**Norwich Landlord**”). Naverra ceased operations and was evicted from the Norwich Premises in November 2023, jeopardizing the US Glass Equipment.

10. Third-party possession of the US Glass Equipment by the Norwich Landlord was a primary motivation for granting the Partial Appointment Order and the stay of proceedings contained therein.

11. On March 12, 2024, the Norwich Landlord confirmed that it had leased the Norwich Premises to Glass Enterprises Northeast LLC (“**GEN**”). On May 6, 2024, the Receiver and its counsel received a letter from counsel to GEN (the “**GEN Letter**”) setting out the basis of GEN’s purported ownership interest in the US Glass Equipment and enclosing documentation not previously made available to the Receiver.

12. Since the date of the Fourth Report, the Receiver has continued discussions with GEN in an effort to arrive at a consensual solution. At this time, no consensual resolution has been reached.

The Receiver anticipates seeking the assistance of the Court in short order in the absence of a consensual resolution.

Sureties

13. On February 3, 2025, the Receiver's motion for directions regarding the proper interpretation of paragraph 5 of the Ancillary Relief Order (the "**Surety Motion**") was heard by this Court.

14. On February 18, 2025, the Court released its endorsement directing the Sureties to make payment of the \$2 million payable under the Ancillary Relief Order, including interest thereon from April 25, 2024 and costs.

Bankruptcies and Distribution

15. Following the sale of the Alliston Premises, the realization process in respect of the Debtors' Property was complete. Accordingly, on January 31, 2025, the Receiver sought and obtained the Distribution and Ancillary Relief Order providing for the following relief:

- (a) authorizing and directing the Receiver to file assignments in bankruptcy in respect of the Debtors pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, naming B. Riley Farber Inc. as trustee in bankruptcy;
- (b) authorizing and directing the Receiver to make Distributions from the estates of 256 Victoria and Antamex to RBC to repay all RBC Indebtedness; and
- (c) authorizing the Receiver to maintain the 256 Reserve.

16. The Receiver made the Distributions to RBC on January 31, 2025. RBC's claims against 256 Victoria and Antamex have now been fully paid out. The Receiver anticipates making assignments in bankruptcy on behalf of 256 Victoria and Antamex in short order.

17. As set out in the Fourth Report, the Receiver is maintaining the 256 Reserve in the amount of \$650,0000 from the proceeds of the Transaction pending final accounting matters in connection with the estate of 256 Victoria, including certain confirmatory discussions with the CRA regarding potential tax issues which are currently ongoing.

Basis for Relief²

18. The Receiver seeks this Court's approval of a process to solicit and evaluate potential Trust Claims against Antamex. The proposed Claims Process will broadly call for all potential Trust Claims against Antamex on any project on which it was retained prior to the Receiver's appointment (each a "**Project**").

Segregation of Project Funds

19. Since its appointment, the Receiver has been contacted by a number of Subcontractors who wish to advance, among other things, lien claims and/or breach of trust claims against Antamex pursuant to the Construction Act or similar legislation. In order to ensure potential Trust Claims were preserved, the Receiver deposited all Project-specific receipts to segregated accounts. The Receiver is currently holding segregated funds in respect of the following Projects located in the following jurisdictions:

- (a) South Station (Massachusetts);
- (b) 109 Brookline (Massachusetts);
- (c) 520 Matteo (California);
- (d) 22001 – Ford Hub – Courtyard (Michigan);
- (e) Bay Street Glass Replacement – 55 Bloor St West (Manulife Centre) (Ontario);

² Capitalized terms in this section shall have the meanings given to them in the Trust Claims Process Order.

- (f) York University Markham Centre Campus Phase 1 (1 University Avenue Markham) (Ontario);
- (g) University of Toronto – Academic Wood Tower (Ontario);
- (h) 55 Charles Street (Ontario); and
- (i) Xmbly Project (Assembly Innovation Park Phase I) (Massachusetts).

20. Prior to the Receiver's appointment, Antamex did not maintain Project-specific, segregated accounts. Similarly, Antamex did not maintain 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.

Claims Process

21. The Receiver will provide notice of the Trust Claims Process Order to (i) all Persons on the Service List in this proceeding, (ii) all Subcontractors who have, as of the date hereof, provided the Receiver with notice of an asserted Trust Claim, and (iii) any other Person that the Receiver, in its sole discretion, determines may hold a Trust Claim against the Debtor (including any Subcontractor on a Project that the Receiver is aware was owed project funds at the time of its appointment). All Subcontractors owed amounts by Antamex at the date of the Receiver's appointment shall be permitted to file a Trust Claim in the Trust Claims Process.

22. 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. Such Proof of Claim must be filed no later than April 11, 2025 (the "**Claims Bar Date**").

23. 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 (as defined in the Appointment Order).

24. 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.

25. Where a Trust Claim is disallowed (in whole or in part) the Receiver shall provide notice of disallowance (in whole or in part) to the Subcontractor by serving it or its counsel with a Notice of Disallowance and include the reasons for disallowance and any related documentation in support. Trust Claims may be disallowed by the Receiver on the basis that:

- (a) the Receiver determines that it is not holding any identifiable funds related to a particular Project on which a Trust Claim is asserted;
- (b) the jurisdiction in which a particular Project is located does not have legislation equivalent to that provided for under the *Construction Act*, R.S.O. 1990, c. C.30 ("**Construction Act**") providing for a Trust Claim in respect of amounts unpaid to Subcontractors;
- (c) that such Subcontractor has failed to provide adequate proof of its purported Trust Claim; or
- (d) the Receiver otherwise determines such Trust Claim to be invalid or unenforceable.

26. Any Subcontractor who intends to dispute a Notice of Disallowance shall file a Notice of Dispute with the Receiver as soon as reasonably possible, but in any event, such Notice of Dispute shall be received by the Receiver on or before 5:00 p.m. (EST) on the day that is fourteen (14) calendar days after the Receiver sends the Notice of Disallowance.

27. Where a Subcontractor receives a Notice of Disallowance and fails to file a Notice of Dispute with the Receiver within the timeframe required, the amount and status of such Subcontractor's Trust Claim shall be deemed to be as set out in the Notice of Disallowance and such amount and status, if any, shall constitute such Subcontractor's Proven Claim.

28. As soon as practicable after the delivery of the Notice of Dispute to the Receiver, the Receiver and the Subcontractor shall attempt to resolve and settle the Trust Claim. In the event that the dispute between the Subcontractor and the Receiver is not settled within a time period or manner satisfactory to the Receiver, the Receiver may bring the dispute before the Court for determination, or before an Associate Judge specializing in construction lien matters if the Court so directs.

ADDITIONAL GROUNDS

29. The provisions of the *Bankruptcy and Insolvency Act*, and the inherent and equitable jurisdiction of this Honourable Court;

30. Rules 1.04, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

31. Such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The Fifth Report of the Receiver dated March 19, 2025;
- (b) Such further and other evidence as counsel may advise and this Honourable Court permit.

Date: March 19, 2025

BLAKE, CASSELS & GRAYDON LLP
Barristers and Solicitors
199 Bay Street
Suite 4000, Commerce Court West
Toronto, Ontario M5L 1A9

Linc Rogers, LSO#: 43562N

Tel: (416) 863-4168

Email: linc.rogers@blakes.com

Caitlin McIntyre, LSO#: 72306R

Tel: (416) 863-4174

Email: caitlin.mcintyre@blakes.com

Lawyers for the Receiver

TO: SERVICE LIST

Court File No.: CV-24-00715153-00CL

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

Court File No.: CV-24-00718718-00CL

IN THE MATTER OF THE RECEIVERSHIP OF 256 VICTORIA STREET WEST ULC

ROYAL BANK OF CANADA

Applicant

- and -

256 VICTORIA STREET WEST ULC

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)

Proceeding Commenced at Toronto

NOTICE OF MOTION

BLAKE, CASSELS & GRAYDON LLP

Barristers and Solicitors

199 Bay Street

Suite 4000, Commerce Court West

Toronto, Ontario M5L 1A9

Linc Rogers, LSO #43562N

Tel: 416-863-4168

Email: linc.rogers@blakes.com

Caitlin McIntyre, LSO #72306R

Tel: 416-863-4174

Email: caitlin.mcintyre@blakes.com

Lawyers for the Receiver

TAB 2

Court File No.: CV-24-00715153-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

BETWEEN:

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

AND

Court File No.: CV-24-00718718-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF 256 VICTORIA STREET WEST ULC

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

256 VICTORIA STREET WEST ULC

Respondent

**FIFTH REPORT OF DELOITTE RESTRUCTURING INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER
DATED MARCH 19, 2025**

TABLE OF CONTENTS

	Page
I. INTRODUCTION AND PURPOSE OF THIS REPORT	4
II. TERMS OF REFERENCE	5
III. BACKGROUND	5
IV. ACTIVITIES OF THE RECEIVER SINCE FOURTH REPORT	7
V. BASIS FOR RELIEF	10
VI. CONCLUSION AND RECOMMENDATION	14

APPENDICES

APPENDIX “A” FOURTH REPORT

APPENDIX “B” ENDORSEMENT DATED FEBRUARY 18, 2025

I. INTRODUCTION AND PURPOSE OF THIS REPORT

1. On March 13, 2024, the Ontario Superior Court of Justice (the “**Court**”) granted the Appointment Order (defined below) appointing Deloitte Restructuring Inc. (“**Deloitte**”) as receiver and manager (in such capacity, the “**Antamex Receiver**”) of all the assets, undertakings and property acquired for or used in connection with the business of Antamex Industries ULC (“**Antamex**”).
2. On April 23, 2024, pursuant to the 256 Appointment Order (defined below), Deloitte was appointed as receiver (in such capacity, the “**256 Receiver**” and together with the Antamex Receiver, the “**Receiver**”) of the property of 256 Victoria Street West ULC (“**256 Victoria**” and together with Antamex, the “**Debtors**”). 256 Victoria is a related party to Antamex which owned the Alliston Premises (defined below) where Antamex was a tenant. The 256 Appointment Order authorized the procedural consolidation of the receivership proceedings in respect of the Debtors.
3. The purpose of this fifth report of the Receiver (the “**Fifth Report**”) is to provide information to the Court with respect to:
 - a) The activities of the Receiver since the Fourth Report dated January 27, 2025 (the “**Fourth Report**”);
 - b) The distributions (the “**Distributions**”) to Royal Bank of Canada (“**RBC**”), reserve (the “**256 Reserve**”) and bankruptcies authorized by this Court on January 31, 2025 by way of the Distribution and Ancillary Matters Order; and
 - c) the Receiver’s request that the Court grant an Order (the “**Trust Claims Process Order**”), *inter alia*, approving a process for the solicitation, validation and quantification of potential trust claims by subcontractors (“**Trust Claims**”) against Antamex (the “**Claims Process**”).

II. TERMS OF REFERENCE

4. In preparing this Fifth Report, Deloitte has been provided with, and has relied upon unaudited, draft, and/or internal financial information, the Debtors' books and records, discussions with the Debtors' former management, shareholders, and employees, and information from third-party sources (collectively, the "**Information**"). Except as otherwise described in this Fifth Report:
 - a) Deloitte has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, Deloitte has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CAS**") pursuant to the *Chartered Professional Accountants Canada Handbook*, and accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CAS in respect of the Information.
 - b) Deloitte has filed this Fifth Report solely for the purpose of providing information to this Court. Parties using the Fifth Report other than for the purposes outlined herein are cautioned it may not be appropriate for their purposes.
5. Capitalized terms not otherwise defined herein have the meanings given to them in the Fourth Report, a copy of which is attached hereto as **Appendix "A"** without Appendices.
6. Unless otherwise stated, all dollar amounts contained in this Fifth Report are expressed in Canadian Dollars.

III. BACKGROUND

A. Antamex Appointment

7. On February 27, 2024, EDC made an application (the "**Application**") to the Court for an order appointing Deloitte as receiver of the property, assets, and undertakings of Antamex.

Antamex was in the business of designing, engineering, manufacturing and installing customer modular glass façade solutions for multi-story buildings.

8. Antamex operated from two locations: (i) the Concord Premises which functioned as a head office and assembly plant, and (ii) the Alliston Premises (defined below) which was a fabrication manufacturing facility (together the “**Premises**”).
9. The Court adjourned the Application to March 4, 2024 to provide Antamex with an opportunity to pursue interim financing from its surety bond providers.
10. On March 4, 2024, both EDC and Antamex delivered status updates to the Court. On the basis of such updates, on March 5, 2024, the Court granted an order (the “**Partial Receivership Order**”) appointing Deloitte as Receiver of certain priority collateral located primarily in the United States and described on Schedule “A” to the Partial Receivership Order (the “**US Collateral**”).
11. On March 12, 2024, EDC advised the Court that no deal had been reached regarding funding from the Sureties. The Sureties requested an additional 24 hours to attempt to arrive at an agreed upon form of receivership order.
12. On March 13, 2024 the Court issued an amended and restated receivership order (the “**Appointment Order**”) expanding Deloitte’s appointment as Antamex Receiver to all of the Property of Antamex.

B. 256 Victoria Appointment

13. On April 23, 2024, RBC made an application to appoint Deloitte as Receiver of all of the assets, undertakings and properties of 256 Victoria.
14. 256 Victoria operated as a real estate holding company and was the owner of real property located at 256 Victoria Street West, Alliston, Ontario (the “**Alliston Premises**”). Antamex

leased the Alliston Premises from 256 Victoria and guaranteed 256 Victoria's obligations to RBC.

15. On April 23, 2024, pursuant to an order (the "**256 Appointment Order**") of the Court, Deloitte was appointed as the 256 Receiver. The 256 Appointment Order authorized the procedural consolidation of the 256 Victoria receivership estate and the Antamex receivership estate. Specifically, the Receiver is authorized: (a) to administer both estates as if they were a single receivership estate for the purpose of carrying out the Receiver's administrative duties and responsibilities pursuant to the Appointment Order and the 256 Appointment Order and the requirements of the *Bankruptcy and Insolvency Act*; (b) to maintain a consolidated website for both estates; (c) issue consolidated reports in respect of both proceedings; and (d) perform consolidated marketing and sales efforts in respect of the Property of 256 Victoria and the Property of Antamex.
16. As set out in greater detail in the Fourth Report, the Receiver closed a transaction for the sale of the Alliston Premises on December 31, 2024 (the "**Transaction**").

IV. **ACTIVITIES OF THE RECEIVER SINCE FOURTH REPORT**

A. **US Property**

17. As described above, the Receiver was initially appointed in respect of certain US Collateral constituting the priority collateral of EDC pursuant to the Partial Appointment Order.
18. As described in the Affidavit of Adam Smith sworn February 21, 2024 (the "**Smith Affidavit**"), filed by EDC in support of the Application, the US Collateral consists primarily of certain glass manufacturing equipment (the "**US Glass Equipment**") located in Norwich, Connecticut. Antamex asserted ownership of the US Glass Equipment.
19. The US Glass Equipment is stored at a property (the "**Norwich Premises**") formerly leased to Antamex's affiliate, Naverra LLC by Norwich 40 TGCI, LLC (the "**Norwich**

Landlord”). As described in greater detail in the Smith Affidavit, Naverra ceased operations and was evicted from the Norwich Premises in November 2023, jeopardizing the US Glass Equipment.

20. Third-party possession of the US Glass Equipment by the Norwich Landlord was a primary motivation for granting the Partial Appointment Order and the stay of proceedings contained therein.
21. As set out in greater detail in the Second Report, on March 12, 2024, the Norwich Landlord confirmed that it had leased the Norwich Premises to Glass Enterprises Northeast LLC (“**GEN**”). On May 6, 2024, the Receiver and its counsel received a letter from counsel to GEN (the “**GEN Letter**”) setting out the basis of GEN’s purported ownership interest in the US Glass Equipment and enclosing documentation not previously made available to the Receiver.
22. In its Fourth Report, the Receiver advised that discussions with GEN were ongoing in an effort to arrive at a consensual resolution. Since the date of the Fourth Report, the Receiver has continued such discussions but, at this time, no consensual resolution has been reached. The Receiver anticipates seeking the assistance of the Court in short order in the absence of a consensual resolution.

B. Sureties

23. As set out in detail in the Receiver’s Third Report dated November 11, 2024, on November 11, 2024, the Receiver brought a motion for directions from the Court regarding the proper interpretation of paragraph 5 of the Ancillary Relief Order (the “**Surety Motion**”). The Surety Motion was heard by this Court on February 3, 2025.
24. On February 18, 2025, the Court released its endorsement directing the Sureties to make payment of the \$2 million payable under the Ancillary Relief Order, along with interest

thereon from April 25, 2024 and costs. A copy of the Court's endorsement (the "**Surety Endorsement**") is attached hereto as **Appendix "B"**.

25. The Receiver has received full payment from the Sureties of amounts payable under the Surety Endorsement, other than costs and interest. In the Surety Endorsement, the Court directed that the Receiver and the Sureties attempt to agree on the appropriate quantum of costs. The Sureties and the Receiver reached a consensual resolution on March 19, 2025. The Receiver anticipates receiving payment for costs and interest in short order.

C. Bankruptcies and Distribution

26. The primary role of the Receiver on its appointment was to sell the Debtors' Property for the benefit of both Debtors' creditors. Following the sale of the Alliston Premises, the realization process in respect of the Debtors' Property was complete. Accordingly, on January 31, 2025, the Receiver sought and obtained the Distribution and Ancillary Relief Order providing for the following relief:
- (a) authorizing and directing the Receiver to file assignments in bankruptcy in respect of the Debtors pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, naming B. Riley Farber Inc. as trustee in bankruptcy;
 - (b) authorizing and directing the Receiver to make Distributions from the estates of 256 Victoria and Antamex to RBC to repay all RBC Indebtedness; and
 - (c) authorizing the Receiver to maintain the 256 Reserve.
27. Immediately following the granting of the Distribution and Ancillary Relief Order on January 31, 2025, the Receiver made the Distributions to RBC. RBC's claims against 256 Victoria and Antamex have now been fully paid out.

28. The Receiver intends to make assignments in bankruptcy on behalf of 256 Victoria and Antamex in short order.
29. As set out in the Fourth Report, the Receiver intended to maintain the 256 Reserve in the amount of \$650,0000 from the proceeds of the Transaction pending final accounting matters in connection with the estate of 256 Victoria, including certain confirmatory discussions with the CRA regarding potential tax issues.
30. The Receiver's discussions with the CRA are ongoing. As set out in the Fourth Report, following the Antamex Distribution, Antamex guaranteed the obligations of 256 Victoria to RBC and following the Antamex Distribution, holds a subrogated claim to that of RBC against 256 Victoria. Consistent with the Distribution and Ancillary Relief Order, the Receiver intends to hold any remaining amount of the 256 Reserve following resolution of all matters in the estate of 256 Victoria for the benefit of Antamex's estate up to the amount of the Antamex Distribution in satisfaction of Antamex's subrogated claim.

V. BASIS FOR RELIEF¹

31. The Receiver seeks this Court's approval of a process to solicit and evaluate potential Trust Claims against Antamex. The proposed Claims Process will broadly call for all potential Trust Claims against Antamex on any project on which it was retained prior to the Receiver's appointment (each a "**Project**").

A. Segregation of Project Funds

32. Since its appointment, the Receiver has been contacted by a number of Subcontractors who wish to advance, among other things, lien claims and/or breach of trust claims against

¹ Capitalized terms in this section have the meanings given to them in the Trust Claims Process Order.

Antamex pursuant to the Construction Act or similar legislation. In order to ensure potential Trust Claims were preserved, the Receiver deposited all Project-specific receipts to segregated accounts. The Receiver is currently holding segregated funds in respect of the following Projects located in the following jurisdictions:

- (a) South Station (Massachusetts);
- (b) 109 Brookline (Massachusetts);
- (c) 520 Matteo (California);
- (d) 22001 – Ford Hub – Courtyard (Michigan);
- (e) Bay Street Glass Replacement – 55 Bloor St West (Manulife Centre) (Ontario);
- (f) York University Markham Centre Campus Phase 1 (1 University Avenue Markam) (Ontario);
- (g) University of Toronto – Academic Wood Tower (Ontario);
- (h) 55 Charles Street (Ontario); and
- (i) Xmbly Project (Assembly Innovation Park Phase I) (Massachusetts).

33. Prior to the Receiver's appointment, Antamex did not maintain Project-specific, segregated accounts. Similarly, Antamex did not maintain 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.

B. Scope of Claims Process

34. The Receiver will provide notice of the Trust Claims Process Order to (i) all Persons on the Service List in this proceeding, (ii) all Subcontractors who have, as of the date hereof, provided the Receiver with notice of an asserted Trust Claim, and (iii) any other Person that the Receiver, in its sole discretion, determines may hold a Trust Claim against the Debtor (including any Subcontractor on a Project that the Receiver is aware was owed project funds at the time of its appointment). All Subcontractors owed amounts by Antamex at the date of the Receiver's appointment shall be permitted to file a Trust Claim in the Trust Claims Process.
35. The Trust Claims Process permits the filing of Trust Claims by transferees or assignees (including, for greater certainty, by way of subrogation), provided that the transferee or assignee must provide written notice and satisfactory evidence of such transfer or assignment of the Trust Claim. This includes any Trust Claim filed by the Sureties.
36. As set out in greater detail in the Receiver's First Report dated May 16, 2024, the Receiver is party to a Project Material Agreement dated April 19, 2024 with Stuart Olson, pursuant to which all materials related to the York University project were released to Stuart Olson upon payment by Stuart Olson of outstanding accounts receivable related to the project. Stuart Olson disputed that certain amounts forming part of the accounts receivable are payable to Antamex. Pursuant to the Project Material Agreement, the Receiver is obligated to hold the disputed amount (the "**Disputed Amount**") in trust pending a consensual resolution of the parties entitlement to the disputed amount.
37. To date, Stuart Olson has not contacted the Receiver to pursue recovery of the Disputed Amount. Stuart Olson will be served with a copy of the Receiver's motion and will be entitled to assert a claim to the Disputed Amount as part of the Claims Process.

C. Proving Claims

38. 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. Such Proof of Claim must be filed no later than April 11, 2025 (the “**Claims Bar Date**”).
39. 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 (as defined in the Appointment Order).

D. Evaluation of Trust Claims

40. 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.
41. Where a Trust Claim is disallowed (in whole or in part) the Receiver shall provide notice of disallowance (in whole or in part) to the Subcontractor by serving it or its counsel with a Notice of Disallowance and include the reasons for disallowance and any related documentation in support. Trust Claims may be disallowed by the Receiver on the basis that:
 - (a) the Receiver determines that it is not holding any identifiable funds related to a particular Project on which a Trust Claim is asserted;
 - (b) the jurisdiction in which a particular Project is located does not have legislation equivalent to that provided for under the *Construction Act*, R.S.O. 1990, c. C.30 (“**Construction Act**”) providing for a Trust Claim in respect of amounts unpaid to Subcontractors;
 - (c) that such Subcontractor has failed to provide adequate proof of its purported Trust Claim; or
 - (d) the Receiver otherwise determines such Trust Claim to be invalid or unenforceable.

E. Dispute Resolution Mechanism

42. Any Subcontractor who intends to dispute a Notice of Disallowance shall file a Notice of Dispute with the Receiver as soon as reasonably possible, but in any event, such Notice of Dispute shall be received by the Receiver on or before 5:00 p.m. (EST) on the day that is fourteen (14) calendar days after the Receiver sends the Notice of Disallowance.
43. Where a Subcontractor receives a Notice of Disallowance and fails to file a Notice of Dispute with the Receiver within the timeframe required, the amount and status of such Subcontractor's Trust Claim shall be deemed to be as set out in the Notice of Disallowance and such amount and status, if any, shall constitute such Subcontractor's Proven Claim.
44. As soon as practicable after the delivery of the Notice of Dispute to the Receiver, the Receiver and the Subcontractor shall attempt to resolve and settle the Trust Claim. In the event that the dispute between the Subcontractor and the Receiver is not settled within a time period or manner satisfactory to the Receiver, the Receiver may bring the dispute before the Court for determination, or before an Associate Judge specializing in construction lien matters if the Court so directs.

VI. CONCLUSION AND RECOMMENDATION

45. In the Receiver's view, the proposed Claims Process is both fair and efficient, for the benefit of all stakeholders. The Receiver respectfully recommends that this Court grant the Trust Claims Process Order.

All of which is respectfully submitted at Toronto, Ontario this 19th day of March, 2025

DELOITTE RESTRUCTURING INC.,
solely in its capacity as Court-Appointed
Receiver of Antamex Industries ULC and
256 Victoria Street West ULC,
and without personal or corporate liability

Per:



Phil Reynolds, LIT
Senior Vice-President

APPENDIX “A”

Court File No.: CV-24-00715153-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

BETWEEN:

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

AND

Court File No.: CV-24-00718718-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF 256 VICTORIA STREET WEST ULC

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

256 VICTORIA STREET WEST ULC

Respondent

**FOURTH REPORT OF DELOITTE RESTRUCTURING INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER
DATED JANUARY 27, 2024**

TABLE OF CONTENTS

	Page
I. INTRODUCTION AND PURPOSE OF THIS REPORT	4
II. TERMS OF REFERENCE	5
III. BACKGROUND	6
IV. ACTIVITIES OF THE RECEIVER SINCE SECOND REPORT	8
V. BASIS FOR RELIEF	13
VI. CONCLUSION AND RECOMMENDATION	17

APPENDICES

APPENDIX “A”	SECOND REPORT
APPENDIX “B”	AMENDED AND RESTATED AVO
APPENDIX “C”	RECEIVER’S CERTIFICATE
APPENDIX “D”	PPSA SEARCH RESULTS FOR 256 VICTORIA
APPENDIX “E”	TITLE SEARCH RESULTS
APPENDIX “F”	PPSA SEARCH RESULTS FOR ANTAMEX

I. INTRODUCTION AND PURPOSE OF THIS REPORT

1. On March 13, 2024, the Ontario Superior Court of Justice (the “**Court**”) granted the Appointment Order (defined below) appointing Deloitte Restructuring Inc. (“**Deloitte**”) as receiver and manager (in such capacity, the “**Antamex Receiver**”) of all the assets, undertakings and property acquired for or used in connection with the business of Antamex Industries ULC (“**Antamex**”).
2. On April 23, 2024, pursuant to the 256 Appointment Order (defined below), Deloitte was appointed as receiver (in such capacity, the “**256 Receiver**” and together with the Antamex Receiver, the “**Receiver**”) of the property of 256 Victoria Street West ULC (“**256 Victoria**” and together with Antamex, the “**Debtors**”). 256 Victoria is a related party to Antamex which owns the Alliston Premises (defined below) where Antamex was a tenant. The 256 Appointment Order authorized the procedural consolidation of the receivership proceedings in respect of the Debtors.
3. The purpose of this fourth report of the Receiver (the “**Fourth Report**”) is to provide information to the Court with respect to:
 - a) The activities of the Receiver since the Second Report dated September 26, 2024 (the “**Second Report**”) and the closing of the transaction contemplated by the APS (defined below) (the “**Transaction**”);
 - b) a proposed distribution of the RBC Indebtedness (defined below) to Royal Bank of Canada (“**RBC**”) from the proceeds of the Transaction (the “**256 Distribution**”),
 - c) a proposed reserve in the amount of \$650,000 (the “**256 Reserve**”) to be held by the Receiver from the cash proceeds of the Transaction;

- d) a proposed distribution of the balance of the RBC Indebtedness from the proceeds of realization from Antamex to RBC (the “**Antamex Distribution**” together with the 256 Distribution, the “**Distributions**”);
- e) certain relief sought by the Receiver authorizing the Receiver to file assignments in bankruptcy in respect of Antamex and 256 Victoria and name B.Riley Farber Inc. (“**Farber**”) as trustee in bankruptcy in connection therewith.
- f) the Receiver’s request that the Court grant an Order, *inter alia*,
 - i) authorizing and directing the Receiver to make the Distributions to RBC from the estates of 256 Victoria and Antamex to repay all RBC Indebtedness owing to RBC;
 - ii) authorizing the Receiver to maintain the 256 Reserve; and
 - iii) authorizing the Receiver to file assignments in bankruptcy on behalf of Antamex and 256 Victoria.

II. TERMS OF REFERENCE

- 4. In preparing this Fourth Report, Deloitte has been provided with, and has relied upon unaudited, draft, and/or internal financial information, the Debtors’ books and records, discussions with the Debtors’ former management, shareholders, and employees, and information from third-party sources (collectively, the “**Information**”). Except as otherwise described in this Fourth Report:
 - a) Deloitte has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, Deloitte has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CAS**”) pursuant to the *Chartered Professional Accountants Canada Handbook*,

and accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CAS in respect of the Information.

- b) Deloitte has filed this Fourth Report solely for the purpose of providing information to this Court. Parties using the Fourth Report other than for the purposes outlined herein are cautioned it may not be appropriate for their purposes.
- 5. Capitalized terms not otherwise defined herein have the meanings given to them in the Second Report, a copy of which is attached hereto as **Appendix “A”** without Appendices.
- 6. Unless otherwise stated, all dollar amounts contained in this Fourth Report are expressed in Canadian Dollars.

III. BACKGROUND

A. Antamex Appointment

- 7. On February 27, 2024, EDC made an application (the “**Application**”) to the Court for an order appointing Deloitte as receiver of the property, assets, and undertakings of Antamex. Antamex was in the business of designing, engineering, manufacturing and installing customer modular glass façade solutions for multi-story buildings.
- 8. Antamex operated from two locations: (i) a head office and assembly plant at 210 Great Gulf Drive, Concord, Ontario (the “**Concord Premises**”), and (ii) the Alliston Premises (defined below) which was a fabrication manufacturing facility (together the “**Premises**”).
- 9. The Court adjourned the Application to March 4, 2024 to provide Antamex with an opportunity to pursue interim financing from its surety bond providers.
- 10. On March 4, 2024, both EDC and Antamex delivered status updates to the Court. On the basis of such updates, on March 5, 2024, the Court granted an order (the “**Partial Receivership Order**”) appointing Deloitte as Receiver of certain priority collateral located

primarily in the United States and described on Schedule “A” to the Partial Receivership Order (the “**US Collateral**”).

11. On March 12, 2024, EDC advised the Court that no deal had been reached regarding funding from the Sureties. The Sureties requested an additional 24 hours to attempt to arrive at an agreed upon form of receivership order.
12. On March 13, 2024 the Court issued an amended and restated receivership order (the “**Appointment Order**”) expanding Deloitte’s appointment as Antamex Receiver to all of the Property of Antamex.

B. 256 Victoria Appointment

13. On April 23, 2024, RBC made an application to appoint Deloitte as Receiver of all of the assets, undertakings and properties of 256 Victoria.
14. 256 Victoria operated as a real estate holding company and is the owner of real property located at 256 Victoria Street West, Alliston, Ontario (the “**Alliston Premises**”). Antamex leased the Alliston Premises from 256 Victoria and guaranteed 256 Victoria’s obligations to RBC.
15. On April 23, 2024, pursuant to an order (the “**256 Appointment Order**”) of the Court, Deloitte was appointed as the 256 Receiver. The 256 Appointment Order authorized the procedural consolidation of the 256 receivership and the Antamex receivership estate. Specifically, the Receiver is authorized: (a) to administer both estates as if they were a single receivership estate for the purpose of carrying out the Receiver’s administrative duties and responsibilities pursuant to the Appointment Order and the 256 Appointment Order and the requirements of the *Bankruptcy and Insolvency Act*; (b) to maintain a consolidated website for both estates; (c) issue consolidated reports in respect of both

proceedings; and (d) perform consolidated marketing and sales efforts in respect of the Property of 256 Victoria and the Property of Antamex.

IV. ACTIVITIES OF THE RECEIVER SINCE SECOND REPORT

A. Auction

16. On May 22, 2024, the Court granted an Order (the “**Auction Services and Ancillary Relief Order**”), among other things, approving an Auction Services Agreement (the “**ASA**”) with Platinum Asset Services Inc. (“**Platinum**”) with respect to an auction of assets at the Premises.
17. Pursuant to the ASA, Platinum conducted a sale process (the “**Sale Process**”) in respect of all machinery and equipment owned by Antamex located at the Premises. Platinum conducted a marketing campaign in order to generate the highest possible value for Antamex’ machinery and equipment.
18. The Sale Process in respect of the Concord Premises was originally scheduled to conclude on June 30, 2024 as the Receiver was obligated to vacate the Concord Premises before this date. The Receiver ultimately received an extension from the landlord of the Concord Premises and the auction in respect of Antamex’s Property located at the Concord Premises concluded on July 31, 2024. The auction in respect of Property located at the Alliston Premises concluded on September 1, 2024.
19. As set out in the Second Report, The Receiver is currently holding the Proceeds, being \$2,273,455 (the “**Auction Proceeds**”), in trust pending distribution.

B. US Property

20. As described above, the Receiver was initially appointed in respect of certain US Collateral constituting the priority collateral of EDC pursuant to the Partial Appointment Order.

21. As described in the Affidavit of Adam Smith sworn February 21, 2024 (the “**Smith Affidavit**”), filed by EDC in support of the Application, the US Collateral consists primarily of certain glass manufacturing equipment (the “**US Glass Equipment**”) located in Norwich, Connecticut. Antamex asserted ownership of the US Glass Equipment.
22. The US Glass Equipment is stored at a property (the “**Norwich Premises**”) formerly leased to Antamex’s affiliate, Naverra LLC by Norwich 40 TGCI, LLC (the “**Norwich Landlord**”). As described in greater detail in the Smith Affidavit, Naverra ceased operations and was evicted from the Norwich Premises in November 2023, jeopardizing the US Glass Equipment.
23. Third-party possession of the US Glass Equipment by the Norwich Landlord was a primary motivation for granting the Partial Appointment Order and the stay of proceedings contained therein.
24. As set out in greater detail in the Second Report, on March 12, 2024, the Norwich Landlord confirmed that it had leased the Norwich Premises to Glass Enterprises Northeast LLC (“**GEN**”). On May 6, 2024, the Receiver and its counsel received a letter from counsel to GEN (the “**GEN Letter**”) setting out the basis of GEN’s purported ownership interest in the US Glass Equipment and enclosing documentation not previously made available to the Receiver.
25. In the Second Report, the Receiver advised that it had concluded its investigation and intended to send a response to GEN in short order advising it of the Receiver’s conclusions. Such response was sent to GEN on October 4, 2024.
26. The Receiver has since continued to exchange correspondence with GEN in an effort to arrive at a consensual resolution of this issue. At this time, no such consensual resolution

has been reached. The Receiver will require the assistance of this Court in the absence of a consensual resolution.

C. Lien Claims

27. After its appointment, the Receiver was contacted by a number of subcontractors who wish to advance, among other things, lien claims and/or breach of trust claims against Antamex pursuant to the *Construction Act*, R.S.O. 1990, c. C.30 (the “**Construction Act**”). In order to ensure potential trust claims are preserved, the Receiver has deposited all project-specific receipts to segregated trust accounts.
28. The Receiver is in the process of developing an orderly process for the submission and evaluation of lien claims. The Receiver intends to seek approval of such process from this Court at a later date.

D. Sale of Alliston Premises

29. As set out in the Second Report, following execution of the Listing Agreement, CBRE executed its detailed marketing plan for the Alliston Premises. The Receiver ultimately accepted a bid from 2834150 Ontario Inc. (the “**Original Purchaser**”). On August 14, 2024, the Receiver and the Purchaser entered into an Agreement of Purchase and Sale in respect of the Alliston Premises (the “**APS**”).
30. On October 2, 2024, this Court granted an Approval, Vesting and Ancillary Relief Order in respect of the Transaction contemplated by the APS (the “**AVO**”). The Court also granted a sealing order in respect of the APS until the successful closing of the Transaction contemplated by the APS (the “**Sealing Order**”).
31. On December 17, 2024, it came to the attention of the parties that a typographical error was made in the name of the purchaser in the bid underlying the APS and, as a result, the APS and AVO incorrectly identified the purchaser.

32. On December 19, 2024, the Purchaser and the Receiver executed an amendment to the APS (the “**APS Amendment**”) to correct the identity of the Purchaser. The APS Amendment also extended the Completion Date (as defined therein) of the Transaction to December 30, 2024 and permitted the Original Purchaser to assign all or part of its rights or obligations under the APS to an affiliate at any time prior to the granting of an amended AVO.
33. On December 19, 2024, the Original Purchaser delivered an Assignment and Assumption Agreement of Purchase and Sale (the “**Assignment and Assumption Agreement**”) to the Receiver advising that it had assigned its rights and obligations under the APS to its affiliate, 256 Victoria Alliston Inc.
34. On December 20, 2024, the Court issued an Amended and Restated AVO identifying the purchaser as 256 Victoria Alliston Inc. A copy of the Amended and Restated AVO is attached hereto as **Appendix “B”**.
35. On December 31, 2024, the Receiver issued its certificate in respect of the closing of the Transaction, certifying that the Transaction was completed to the satisfaction of the Receiver. A copy of the Receiver’s certificate is attached hereto as **Appendix “C”**. Now that the Transaction has closed, the Sealing Order is no longer in effect and the APS is no longer required to be treated as confidential.
36. The Receiver is now holding the net proceeds of sale, being approximately \$7,900,000 pending distribution (the “**256 Proceeds**”).

E. Sureties

37. Since the date of the Second Report, the Receiver has continued to respond to Surety Information Requests.
38. The Receiver also engaged in negotiations with one of the Sureties, Aviva Insurance Company of Canada (“**Aviva**”), regarding the assignment of a claim commenced by

Antamex against EllisDon Corporation prior to the Receiver's appointment (the "**EllisDon Litigation**"). The Receiver determined that the potential benefit to Antamex's estate of the EllisDon Litigation did not outweigh the costs of pursuit of such litigation and, at the request of the Sureties, entered into an Assignment Agreement on October 24, 2024 to facilitate and permit Aviva to pursue the EllisDon Litigation. To the extent that any surplus recoveries are generated from the EllisDon Litigation beyond Aviva's "Indemnity Losses" (as defined in the Indemnity Agreement between Antamex and Aviva dated January 19, 2019), such surplus shall be paid to Antamex's estate.

39. The Receiver has also advanced efforts to recover the \$2 million payable by the Sureties pursuant to paragraph 5 of the Ancillary Relief Order.
40. On November 11, 2024, the Receiver brought a motion for directions from the Court regarding the proper interpretation of paragraph 5 of the Ancillary Relief Order (the "**Surety Motion**"). The Surety Motion was originally scheduled to proceed on December 3, 2024.
41. Prior to this date, however, the Sureties requested a broad range of information from the Receiver (the "**Requested Information**"). The Receiver disputed the relevance of the information. The December 3 date was ultimately converted by the Court into a production motion (the "**Production Motion**").
42. On December 2, 2024, the Sureties withdrew the Production Motion. The Surety Motion is now scheduled to be heard on February 3, 2025.
43. Additional information regarding the Surety Motion is set out in detail in the Receiver's Third Report dated November 11, 2024 and the supplements thereto.

V. BASIS FOR RELIEF

A. Proposed Bankruptcy of the Debtors

44. Based on the Debtors' books and records, the Receiver understands that there are approximately \$790,000 of potential HST claims against Antamex and \$20,973.22 of potential HST claims against 256 Victoria.
45. The Receiver is bringing a motion for an order (the "**Bankruptcy Order**") authorizing and directing the Receiver to file assignments in bankruptcy in respect of the Debtors pursuant to the *Bankruptcy and Insolvency Act* and naming Farber as trustee in bankruptcy and authorizing and empowering Farber to act in this capacity. The proposed Bankruptcy Order contemplates, among other things, that all proceeds of the Property of the Debtors that are realized by the Receiver prior to, on or after the commencement of the bankruptcy proceedings in respect of the Debtors will continue to be maintained by the Receiver in a segregated account, separate and apart from the bankrupt estate, to be distributed by the Receiver as directed by the Court.
46. The primary role of the Receiver on its appointment was to sell the Debtors' Property for the benefit of both Debtors' creditors. With the conclusion of the Sale Process and closing of the sale of the Alliston Premises, this process is now complete. The Debtors are now dormant companies that are no longer carrying on business and no longer own material realizable assets.. The next step in the receivership proceedings is distribution of the proceeds generated from the Sale Process and the Alliston Premises to creditors.
47. As the Debtors are dormant, insolvent shells, in the Receiver's view, the priority regime set out in the *Bankruptcy and Insolvency Act* is the one that appropriately applies in these circumstances. In such priority regime, the potential HST claims against Antamex and 256 Victoria rank behind the claims of secured creditors.

48. The Receiver notes that it is not unusual for the Court to grant orders in similar form to the proposed Bankruptcy Order in these circumstances and that courts have commented that such orders are not inappropriate in similar circumstances. Both RBC and EDC are supportive of the requested relief.
49. The payments and distributions recommended by the Receiver in this report assume that the Bankruptcy Order is granted by the Court.

B. Proposed Distributions to RBC and Reserves

i. RBC Security

50. As described in detail in the Affidavit of John Borch sworn April 15, 2024 in support of the application for appointment of the 256 Receiver, at the time the 256 Receiver was appointed, RBC was owed the amount of \$6,961,873.28 by 256 Victoria pursuant to a Facility Letter dated July 12, 2022 (the “**Facility Letter**”). Interest has continued to accrue on this amount since appointment of the 256 Receiver. 256 Victoria is now indebted to RBC in the amount of \$7,517,443.13 as set out in the payout statement received by the Receiver from RBC on January 27, 2025 and agreed to by the Receiver (together with all interest and applicable costs incurred up to the date of the Distributions, the “**RBC Indebtedness**”).
51. 256 Victoria’s obligations under the Facility Letter are secured by a first-ranking charge on the personal property of 256 Victoria derived from the General Security Agreement dated August 12, 2021 by 256 Victoria in favour of RBC (the “**256 GSA**”) and by a Charge/Mortgage on the Alliston Premises registered on August 12, 2021 (the “**Mortgage**”). Attached hereto as **Appendix “D”** are copies of *Personal Property Security Act* (“**PPSA**”) search results for 256 Victoria in Ontario (current to January 19, 2025) and British Columbia (current to January 20, 2025). As reflected in such search results, HSBC

(now RBC) registered its security interest against 256 Victoria on August 10, 2021 in British Columbia and July 30, 2021 in Ontario and is the first-in-time registration in each jurisdiction. The only other registrations against 256 Victoria are by the Sureties which were made on the eve of appointment of the Antamex Receiver. Attached hereto as **Appendix “E”** is a copy of the title search results in respect of 256 Victoria which reflect the registration of the Mortgage on August 12, 2021 and subsequent deletion of the Mortgage as a result of the Amended and Restated AVO.

52. Antamex has guaranteed the obligations of 256 Victoria to RBC pursuant to a guarantee dated August 12, 2021 (the “**Guarantee**”) and RBC holds a first-ranking secured interest over the Property of Antamex pursuant to a General Security Agreement dated August 12, 2021, as reflected in the PPSA search results for Ontario and British Columbia attached hereto as **Appendix “F”**.
 53. The Receiver requested that Blake, Cassels & Graydon LLP (“**Blakes**”), as its counsel, conduct a review of the security granted by the Debtors to RBC. Following its review, Blakes provided the Receiver with an opinion that, subject to standard assumptions and qualifications, pursuant to the applicable security documentation, RBC created valid security interests or charges, as applicable, against the Property of Antamex and 256 Victoria.
- ii. Distributions*
54. The Receiver is requesting authorization from the Court to distribute the 256 Proceeds (subject to the 256 Reserve) to RBC in satisfaction of the RBC Indebtedness. To the extent that the 256 Proceeds are insufficient to satisfy the full RBC Indebtedness, the Receiver is also requesting authorization from the Court to make a distribution from the Auction Proceeds to repay the balance of the RBC Indebtedness.

55. The Receiver intends to maintain the 256 Reserve of \$650,000 from the 256 Proceeds pending final accounting of matters in connection with the estate of 256 Victoria, including certain confirmatory discussions with the CRA regarding potential tax issues.
56. The Receiver expects that following payment of certain fees and expenses associated with the Transaction from the 256 Proceeds and maintenance of the 256 Reserve, there will be a shortfall in recovery to RBC following the 256 Distribution. As set out above, the Receiver is currently holding the Auction Proceeds of the Sale Process. The Receiver, as set out in the Third Supplement to the Third Report dated January 17, 2024, is also holding proceeds generated from the collection of Antamex's outstanding accounts receivable upon its appointment.
57. As set out above, Antamex has guaranteed the obligations of 256 Victoria to RBC and RBC holds a first registered secured interest over the Property of Antamex. In order to cover the balance of the RBC Indebtedness following the 256 Distribution and maintenance of the 256 Reserve, the Receiver is seeking authorization from the Court to make a distribution to RBC from Antamex's estate. In the Receiver's view, it is in the best interest of Antamex's estate and creditors to make the Distributions to RBC as soon as possible to cease the ongoing accrual of interest on RBC's debt, which is eroding value that may otherwise be used to satisfy the claims of other creditors.
58. Since its appointment, the Receiver has received a number of lien claims in respect of Antamex. The Receiver has reviewed such lien claims and confirmed that, notwithstanding the proposed Antamex Distribution to RBC, there are sufficient funds in Antamex's estate to satisfy any amounts that may have priority to RBC's claim under the *Construction Act*, R.S.O., 1990, c C30. In the Receiver's view, therefore, there will be no prejudice to any

lien claimant from the Antamex Distribution. The Receiver intends to serve all known lien claimants with a copy of this Fourth Report and the Receiver's motion.

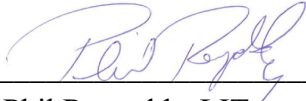
59. The Receiver has also confirmed that there are sufficient funds in Antamex's estate to satisfy all priority payables, including employee amounts, notwithstanding the Antamex Distribution.
60. To the extent that the Antamex Distribution is made on account of the Guarantee, Antamex will hold a subrogated claim to that of RBC against 256 Victoria. The Receiver is seeking an Order from the Court that, following resolution of final accounting matters in connection with the 256 Victoria estate, the Antamex Receiver shall hold the remaining amount of the 256 Reserve for the benefit of Antamex's estate up to the amount of Antamex's subrogated claim. The distribution of any residual amount in the 256 Reserve shall be determined by further order of the Court.

VI. CONCLUSION AND RECOMMENDATION

61. The Receiver respectfully recommends that this Court grant an Order (i) authorizing and directing the Receiver to make the Distributions, (ii) authorizing the Receiver to maintain the 256 Reserve, and (iii) authorizing the Receiver to file assignments in bankruptcy on behalf of Antamex and 256 Victoria.

All of which is respectfully submitted at Toronto, Ontario this 27th day of January, 2025

DELOITTE RESTRUCTURING INC.,
solely in its capacity as Court-Appointed
Receiver of Antamex Industries ULC and
256 Victoria Street West ULC,
and without personal or corporate liability

Per: 

Phil Reynolds, LIT
Senior Vice-President

Court File No.: CV-24-00715153-00CL

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

Court File No.: CV-24-00718718-00CL

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

ROYAL BANK OF CANADA

Applicant

- and -

256 VICTORIA STREET WEST ULC

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)
 Proceeding Commenced at Toronto

FOURTH REPORT OF THE RECEIVER
Dated January 27, 2024

BLAKE, CASSELS & GRAYDON LLP
 Barristers and Solicitors
 199 Bay Street
 Suite 4000, Commerce Court West
 Toronto, Ontario M5L 1A9

Linc Rogers, LSO #43562N
 Tel: 416-863-4168
 Email: linc.rogers@blakes.com

Caitlin McIntyre, LSO #72306R
 Tel: 416-863-4174
 Email: caitlin.mcintyre@blakes.com

Lawyers for the Receiver

APPENDIX “B”



SUPERIOR COURT OF JUSTICE
COUNSEL SLIP/ ENDORSEMENT FORM

COURT FILE NO.: CV-24-00715153-00CL **HEARD:** February 3, 2025

NO. ON LIST: 2

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

BEFORE: JUSTICE W.D. BLACK

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Mitch Stephenson, Counsel	Export Development Canada	mstephenson@fasken.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Andrew Punzo, Counsel	Aviva Insurance Company of Canada, Nationwide Mutual Insurance Company and Euler Hermes North America Insurance Company	apunzo@blg.com
Caitlin McIntyre, Counsel Linc Rogers, Counsel	Deloitte Restructuring Inc. in its capacity as the Court-appointed Receiver of the property of Antamex Industries ULC	caitlin.mcintyre@blakes.com linc.rogers@blakes.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE BLACK:

Overview and Context

[1] This was a motion by Deloitte Restructuring Inc. (“Deloitte”) in its capacity as court-appointed receiver (in such capacity, the “Receiver”) of all of the assets, undertakings and property (the “Property”) acquired for or used in connection with the business of Antamex Industries ULC (“Antamex”), for an order directing and ordering the Sureties (as defined in the materials and below), to make the payment that the Receiver asserts is contemplated and required by paragraph 5 of the Ancillary Relief Order (again as defined) that I made on March 5, 2024.

[2] Some context is required.

A. Antamex

[3] Antamex was in the business of designing, manufacturing, supplying and installing modular glass facades for multi-story buildings, with operations throughout North America. EDC was a senior secured creditor of Antamex.

B. The Sureties

[4] Certain of Antamex’s construction contracts were bonded by Aviva Insurance Company of Canada (“Aviva”), Nationwide Mutual Insurance Company (“Nationwide”) and/or Euler Hermes North America Insurance Company (“Euler” and together with Aviva and Nationwide the “Sureties”). In connection with and as a condition of issuing the bonds, the Sureties required Antamex and others to execute certain indemnity and security agreements in favour of the Sureties.

C. Adjournment of Initial Application Hearing

[5] On February 22, 2024, the applicant Export Development Canada (“EDC”) filed an application to appoint Deloitte as Receiver, without security, of the Property, including all proceeds thereof. The application was initially heard on February 27, 2025.

[6] At that time, Antamex (supported by the Sureties) requested a 2-week adjournment of the hearing to allow Antamex to engage in discussions with the Sureties about the possibility of the Sureties providing funding to Antamex. EDC did not consent to the adjournment, on the basis that the Sureties disclosed no clear objective and offered no protection of EDC’s interest during the proposed adjournment period.

[7] Rather than granting a 2-week adjournment as requested by Antamex, I instead granted a 1-week adjournment in order to provide Antamex with an opportunity to pursue interim financing from the Sureties, and directed that the discussions should also include what assurances and consideration could be provided to EDC to give it comfort about extending the adjournment to March 12, 2024 (as Antamex was requesting).

D. Negotiations re Further Adjournment

[8] Of note, on March 4, 2024 Antamex delivered a proposal to EDC setting out the Sureties’ proposed terms of a further adjournment to March 12, 2024. The Sureties proposed that:

“[The Sureties] to pay an amount up to \$1,000,000 CAD into the Antamex bank account(s) promptly following March 12, 2024 in the event the Sureties do not commit to providing financial support to Antamex by March 12, 2024. Such amount will be equal to the verified amount disbursed by Antamex during the adjournment period of March 4, 2024 to March 12, 2024.”

[9] Based on the submissions that I had heard on February 27, 2024 and the parties’ reports about their negotiations up to and including March 4, 2024, in addition to appointing Deloitte on March 4, 2024 as receiver over the so-called EDC Collateral and related materials (a portion of the overall Property located primarily in the United States), I held that:

“b. The Sureties are to pay an amount up to \$2 million CAD into the Deloitte trust account immediately following March 12, 2024 in the event the Sureties do not commit, by March 12, 2024, to providing necessary and sufficient financial support to Antamex.”

[10] I directed the parties to agree on a form of order to reflect the results summarized in my March 4, 2024 endorsement.

[11] The following day, March 5, 2024, Antamex requested a further adjournment to March 12, 2024. I wrote a further endorsement on March 6, 2024, in which I granted two orders, the contents of which were then agreed among the parties: the “Partial Appointment Order” appointing Deloitte as receiver of the EDC Collateral; and, the “Ancillary Relief Order.”

E. Paragraph 5 of the Ancillary Relief Order

[12] The Ancillary Relief Order contained, at paragraph 5, the following:

“5. THIS COURT ORDERS that, in the event the Sureties do not commit, by March 12, 2024, to providing necessary and sufficient financial support to the Debtor, the Sureties shall pay to the Receiver, in trust for the benefit of the Debtor’s receivership estate, an amount equal to the lesser of (a) CAD \$2 million and (b) the total of all expenditures made by the Debtor between February 27, 2024 and March 12, 2024, inclusive. The Debtor shall provide to EDC and the Receiver reasonable access to the books and records of the Debtor for the purpose of verifying the amount of such expenditures and disbursements.”

[13] It is noteworthy that the language of my March 4 endorsement, and in particular the language of paragraph 5 of the Ancillary Relief Order, largely replicates and tracks the language of the Sureties’ March 4 proposal. The additional language confirming that the amount would be the lesser of \$2 million and the total expenditures during the Adjournment Period (defined below) is self-evidently for the benefit of the Sureties, capping their exposure, and was a product of the ongoing negotiation between the parties.

[14] Between March 5, 2024 and March 12, 2024, EDC and the Receiver awaited the expected proposal from the Sureties to provide “necessary and sufficient financial support” to Antamex, but received no such funding proposal on or before March 12, 2024.

- [15] In my endorsement of March 12, 2024, I confirmed the advice from counsel to the Sureties that “the sureties were now prepared to support a receivership but that certain mechanics had yet to be worked out. Counsel for the Sureties suggested that another 24 hours to attempt to work out the necessary mechanics would be helpful, notwithstanding the acknowledged intention that today’s hearing would be peremptory.” In the circumstances I agreed to adjourn the application for another 24 hours, to March 13, 2024.
- [16] The Sureties sent a letter to counsel for EDC on March 13, 2024 (the “March 13 Letter”) approximately an hour before the hearing convened that day. As the letter itself stated, it was not a commitment to fund Antamex as a going concern, but provided “proposed terms on which the Sureties were prepared to fund the receivership of Antamex with a view to the Receiver operating Antamex’s business until the completion of the bonded projects.”
- [17] The Receiver determined and advised the Sureties that the March 13 Letter was incapable of acceptance including because it did not account in any material way for additional costs and risks to the Receiver and to Antamex’s estate if the Receiver elected to operate Antamex’s business. Despite further discussions between the Receiver and the Sureties, the Sureties did not submit any further or revised proposal to address the Receiver’s concerns.

F. March 13 Order

- [18] On March 13, 2024, I granted an amended and restated receivership order (the “Appointment Order”), expanding Deloitte’s role to Receiver to all of the Property of Antamex, on an unopposed basis.
- [19] Following the granting of the Appointment Order, the Receiver reviewed Antamex’s books and records to determine the amount owing by the Sureties pursuant to the Ancillary Relief Order on account of expenditures and disbursements made during the period February 27, 2024 to March 12, 2024 (the “Adjournment Period”). The Receiver determined, and it is not contested, that the actual expenditures and disbursements made in the Adjournment Period by Antamex exceeded CAD \$2 million.

G. Receiver’s Request for Payment and Sureties’ Response

- [20] On April 25, 2024 the Receiver’s counsel wrote to the Sureties to request the payment of \$2 million into the Receiver’s trust account in accordance with the terms of the Ancillary Relief Order.
- [21] In a May 14, 2024 letter, and by and large before me in this motion, the Sureties, in refusing to pay the \$2 million, took the position that:
- (a) The Sureties had committed to provide financial support to Antamex on terms and conditions that would have permitted Antamex to continue to operate, complete its bonded projects and make the necessary monthly payments to EDC;
 - (b) The reason the financing commitment was rejected by EDC was because it did not contemplate the immediate repayment of the EDC loan; and,
 - (c) Deposits made during the Adjournment Period should be taken into account in determining whether or not the \$2 million payment required by paragraph 5 of the Ancillary Relief Order should be made and that, in light of the deposits, “it is inequitable for the Receiver to seek recovery for disbursements made during the Adjournment Period.”

- [22] The parties continued thereafter to disagree about the appropriate interpretation and effect of paragraph 5 of the Ancillary Order, and ultimately the Receiver brought this motion for advice and direction from the court.

Overview of the Receiver's Position

- [23] The Receiver suggests that the matter comes down to two questions:
- (a) Did the Sureties commit, by March 12, 2024, to providing necessary and sufficient financial support to Antamex?
 - (b) Should the Sureties be excused from their obligations under paragraph 5 of the Ancillary Relief Order on the basis of receipts collected by Antamex in the Adjournment Period or on the basis of whether or not certain disbursements may have been paid by the Receiver if appointed earlier?
- [24] The Receiver maintains that the answer to both of these questions is “no” and that paragraph 5 of the Ancillary Relief Order is clear and unambiguous and should be enforced as written.
- [25] As noted above, the language of paragraph 5 of the Ancillary Relief Order was largely based on the Sureties’ proposal for an adjournment from March 4 to March 12, 2024, and the terms on which the Sureties adjournment proposal was premised.
- [26] There was an exchange of further proposals following from the Sureties’ proposal, the conclusion of which was that the amount of \$1 million included in the Sureties’ proposal was increased to \$2 million (as specified in the agreed language of paragraph 5 of the Ancillary Relief Order). There were otherwise no substantive changes to the concept underlying the Sureties’ proposal nor to the language in that proposal.

Preliminary Observations

- [27] In my view, it is significant that the language of paragraph 5 of the Ancillary Relief Order was considered and negotiated between and among the parties, and was based on and closely followed the concept and language that the Sureties themselves proposed.
- [28] It is also noteworthy that these parties were and are all sophisticated commercial actors; as between EDC and Deloitte, on one hand, and the Sureties on the other, it cannot be credibly claimed that there was an imbalance of bargaining power, or that one side or the other had the wherewithal to impose its will or take advantage of the counterparty.
- [29] While of course the court may take surrounding context into account in appropriate circumstances, equally the court can and should rely on the plain meaning of the words in the document to which the parties agreed. Where the words and their meaning is clear, particularly where the parties are sophisticated commercial actors like these, there is no imperative to reach for extrinsic contextual factors to construe the parties’ bargain.
- [30] With that backdrop, I turn now to consider the specific arguments the parties make. In discussing those arguments below, I refer to the arguments on one side as the Receiver’s arguments. I should note that counsel for EDC supported the Receiver’s submissions and made brief additional arguments on that side.

As such where I refer to the Receiver's arguments it should be understood that I am also referring to the position of EDC.

Details of the Receiver's Argument

- [31] The Receiver first points out that the Ancillary Relief Order requires that the Sureties commit, by March 12, 2024, to providing necessary and sufficient financial support to Antamex. The Receiver argues that "Whether or not any commitment was made by the Sureties by March 12, 2024 is an objective question of fact. A commitment was either received by Antamex on or before March 12, 2024, or it was not."
- [32] On this issue, the Receiver acknowledges that the Sureties delivered a "Support Agreement" to Antamex on March 7, 2024. However, that Support Agreement was explicitly not a commitment to fund Antamex, and at the time of its delivery the Sureties were expressly "continuing to consider whether a funding commitment will be made." The Sureties also delivered a proposed Intercreditor Agreement to EDC and the Receiver which contained no commitment or proposal to provide financial support to Antamex.
- [33] Thus, it appears clear that no funding proposal was delivered by the Sureties to either the Receiver or EDC on or before March 12, 2024. The March 13 Letter, the only proposal ever delivered to the Receiver or EDC, was delivered on March 13, 2024, after the deadline set out in the Ancillary Relief Order and after all parties had agreed that the Receiver would be appointed.
- [34] As such, the Receiver notes, the Sureties did not commit by March 12, 2024 to providing financial support to Antamex.
- [35] It is difficult to gainsay the Receiver's argument based on the bare chronological facts; the Sureties' proposal was delivered after the deadline in the Ancillary Relief Order. That said, the parties, it appears, were in ongoing discussions at various points in the Adjournment Period and, on March 12, I expressly agreed to allow the Sureties another 24 hours. While the fact that their proposal was late does not help the Sureties, I set that tardiness to the side while I consider the Receiver's other arguments.
- [36] Next in that lineup is the Receiver's contention that the March 13 Letter did not, in any event, provide an offer of "necessary and sufficient financial support" to Antamex.
- [37] The Receiver asserts that, once again, the question is an objective one, and that either the March 13 Letter proposed to fund Antamex on terms that were necessary and sufficient, or it did not. In emphasizing the objectivity of the inquiry, the Receiver responds to the Sureties' argument that the March 13 Letter was rejected because it did not contemplate immediate repayment of the EDC loan. The Receiver maintains that it does not rely on EDC's subjective views of the March 13 Letter in its determination of whether or not the March 13 Letter provided necessary or sufficient support.
- [38] The Receiver notes that the March 13 Letter was not in fact a proposal to fund Antamex, which is an explicit threshold requirement in paragraph 5 of the Ancillary Relief Order (which requires "financial support" for "the Debtor"). The Receiver argues that the March 13 Letter was instead "an incomplete and imprecise proposal to fund the receivership proceeding of Antamex with a view to the Receiver operating Antamex's business until the completion of the 'Bonded Projects.'"

- [39] The Receiver asserts that this distinction is telling; “in order to constitute ‘necessary and sufficient support,’” the Receiver says “the March 13 Letter needed to adequately account for the additional costs and risks that the Receiver and the estate would incur in operating Antamex’s business.” The Receiver argues that “any proposal that did not account for such additional costs and risks was incapable of acceptance in the context of the receivership.”
- [40] Among other omissions, the Receiver says that the March 13 Letter did not specify which bonded projects that Sureties intended to ask Antamex to complete, and/or how many employees and what machinery the Receiver would be required to retain for such purpose.
- [41] The Receiver emphasizes, fairly in my view, that as a court-appointed officer it has a duty to maximize value for all stakeholders, and that in the Receiver’s opinion and business judgment, which is entitled to deference, the proposal in the March 13 Letter did not do so.
- [42] I find no clear evidence before me that the Sureties’ proposal in fact provided “necessary and sufficient support” as required.
- [43] The crux of the Receiver’s argument is that to interpret an order the court must use accepted principles of statutory and contractual interpretation. It argues that the “preferred interpretation” of an order is the “judicious meaning, consistent with the text (read in context).” That means, according to Moir J. in *Royal Bank v. Robertson*, 2016 NSSC 176 (cited with approval by Kristjanson J. in *Kuang v. Young*, 2023 ONSC 2429) that “The words of an order “are to be read in their entire context in their grammatical and ordinary sense harmoniously with the scheme of the...[order], the object of the...[order] and the intention of the...[court].”
- [44] The Receiver argues that paragraph 5 of the Ancillary Relief Order is clear, unambiguous and unequivocal. The paragraph explicitly requires, if the Sureties failed to provide necessary and sufficient financial support to Antamex, that they would be obliged to pay the lesser of CAD \$2 million or the total expenditures and disbursements made by Antamex in the Adjournment Period.
- [45] As noted above, the Receiver also emphasizes that paragraph 5 of the Ancillary Relief Order was not imposed on the Sureties. Rather, paragraph 5 is a direct and largely duplicative product of the Sureties’ own proposal to EDC, made in order to persuade EDC to consent to a further adjournment of the application. As they bargained for, the Sureties got the benefit of the full two-week adjournment to consider whether or not to fund Antamex’s ongoing business. The Receiver asserts that the Sureties now seek to avoid paying the cost of exactly what they proposed and bargained for.
- [46] The Receiver adds that the text of paragraph 5 of the Ancillary Relief Order was also a product of the collective efforts of the Sureties, EDC and the Receiver to craft an order that clearly sets out when payment from the Sureties would be required, and how to calculate that payment. It appears that, relative to the agreed metric of expenditures and disbursements, Antamex paid approximately \$3.5 million in disbursements during the Adjournment Period. While therefore the required payment of CAD \$2 million is already considerably less than what would be required to recoup all such expenditures, the Receiver points out that the deal reflected in paragraph 5 of the Ancillary Relief Order could “easily have worked against Antamex’s estate if, instead of approximately \$3.5 million of disbursements, Antamex had made \$5 million or \$10 million of disbursements.”

- [47] I take the Receiver's point to be that there were risks for each side in the agreement negotiated, and that it is not open to the Sureties to resile from that agreement based on a retrospective perception that they agreed to pay too much.
- [48] On that note, the Receiver argues that by now seeking to introduce into the equation the amounts that Antamex received during the Adjournment Period, the Sureties are seeking to change the deal after the fact. It would have been open to the Sureties, at the time of the negotiation, to bargain to pay the lower of \$2 million or "net disbursements or expenditures," and thereby to have Antamex's receipts during the Adjournment Period taken into account. They clearly did not do so, and cannot now, the Receiver argues, rewrite the agreement.
- [49] Likewise, the Receiver argues, it is not open to the Sureties to now insist that disbursements that would have to be made if the Receiver had been appointed at the outset of the Adjournment period should not be taken into account.
- [50] Not only was this not the bargain, the Receiver maintains, but to introduce these additional parameters would require the court to embark on analyzing an array of factors simply not contemplated by the plain language of the provision at issue, introducing complexity and uncertainty that is not necessary nor efficient. It would require the court to judge the character and necessity of each individual expenditure (or receipt), an exercise simply not envisioned in the plain words of the agreement the parties made.
- [51] This is exactly the type of extrinsic evidence that, as counsel for EDC put it, need not be relied upon where, as here, the plain meaning of the language agreed between the parties, is clear.
- [52] The Receiver also argues that, while not labelled as a "consent order" per se, the Ancillary Relief Order effectively amounts to one. It was collectively and carefully crafted by the parties, and was the product of a bargain that the Sureties proposed and concluded with EDC in order to obtain EDC's consent to a further adjournment.
- [53] A consent order, the Receiver says, "is a contract and can only be amended when it does not express the real intention of the parties or where there is fraud" (citing *Chitel v. Rothbart*, 1984 CarswellOnt 358).

Details of the Sureties' Response

- [54] The Sureties, for their part, dispute that paragraph 5 of the Ancillary Relief Order is akin to a consent order.
- [55] They note that although the language of the order was agreed, the agreed language was an attempt to construe the words of my endorsement in relation to a disputed adjournment.
- [56] The Sureties argue that, even if the adjournment order could be considered a consent order, it is nonetheless appropriate for the court to take into account, in interpreting the order, the "context and surrounding circumstances" in which the order was made.
- [57] They point to the familiar strain of caselaw, articulated for example by the Court of Appeal for Saskatchewan in *Campbell v. Campbell*, 2016 SKCA 39, to the effect that court orders (like contracts) are "not interpreted in a vacuum." As the court said in that case:

“[55] In my view, the interpretation of a court order is not governed by the subjective views of one or more of the parties as to its meaning after the order is made. Rather an order, whether by consent or awarded in an adjudicated disposition, is a decision of the court. As such, it is the court, not the parties, that determines the meaning of its order. In my view, the correct approach to interpreting the provisions of a court order is to examine the pleadings of the action in which it is made, the language of the order itself, and the circumstances in which the order was granted.”

[58] Focusing on the latter factor – the circumstances in which the order was granted – the Sureties urge that I in turn should focus on what they say was the relevant consideration when I made the order. That is, that the Sureties had been directed to consider “what assurance and consideration could be provided to EDC to address the concern about the erosion of cash on hand should the Sureties require an extension of the adjournment beyond March 4, 2024.”

[59] The Sureties point out that in their proposal, their rationale for making the adjournment proposal was expressly stated:

“Accordingly, to address EDC’s concern without affording it a windfall, the negotiated quantum of any reimbursement by the Sureties ought to consider the amount actually disbursed from the Antamex bank accounts during the applicable Adjournment Period and the amount of any prejudice to EDC.”

[60] This is really the essence of the Sureties’ argument. In effect they say that the whole point of their proposal was simply to ensure that EDC would not be prejudiced by the erosion of Antamex’s cash position during the Adjournment Period.

[61] That being the goal, which the Sureties say is a critical part of the surrounding circumstances to be taken into account, they argue that to interpret the meaning of paragraph 5 of the Ancillary Relief Order, I ought to take into account what actually happened in terms of prejudice to EDC. They urge that if I take into account receipts during that timeframe, and amounts that would have been incurred regardless of the adjournment, then I will find no harm or prejudice to EDC, and no reason to enforce what was in effect only a potential payment required of up to CAD \$2 million.

[62] In a nutshell, the Sureties say that they “made clear their intention in making the Adjournment Proposal” which was to address the net prejudice to the Antamex estate,” and that “EDC also made its intention clear in its submissions to the court regarding its concern about the potential erosion of the case on hand at the February 27, 2024 hearing.”

Analysis and Conclusions

[63] In my view, the Sureties’ argument invites what the caselaw makes clear ought not to be imported into the analysis. That is, assuming for the sake of argument that it was the Sureties’ subjective intention and interpretation that they would only be on the hook for any net amount of erosion of Antamex’s cash during the Adjournment Period, I do not find that subjective intention in the language of paragraph 5. Nor is it evident even from the surrounding circumstances that this was the Sureties’ intention.

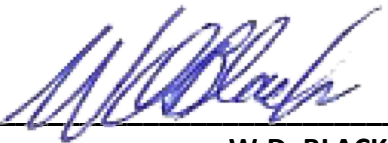
- [64] The clear and unambiguous language of paragraph 5, in my opinion, confirms that, in consideration for an additional week to consider whether and to what extent to fund Antamex, the Sureties agreed to pay the lesser of CAD \$2 million or the amount of Antamex's disbursements and expenditures during the Adjournment Period.
- [65] That interpretation not only emerges with clarity from the language used in paragraph 5, but it is entirely consistent with what the Sureties themselves proposed (albeit that the amount changed, as a result of ongoing discussions and submissions, from CAD \$1 million to \$2 million).
- [66] As the author of the proposal, it was open to the Sureties to specify (or at least propose) that the relevant disbursements and expenditures were to be net of receipts, or that only certain types of expenditures should be taken into account.
- [67] They did not do so.
- [68] Moreover, and in terms of surrounding circumstances, they did not do so notwithstanding that they say the surrounding circumstances were such that all concerned knew that only "net prejudice" was compensable; if that was the case one would expect a clear articulation of that proposition in the context of the discussion of terms, and there is no evidence of any such statement. I understand that the Sureties say that this notion was evident in the language of their proposal confirming that the key concern was the amount of prejudice to EDC. In my view, the agreed language of paragraph 5, interpreted in the way that I have, equally serves to address any potential prejudice to EDC. In other words, it does not follow from the Sureties focus on prejudice that the quantification of such prejudice necessarily includes the evaluation and calculation of a host of unspecified factors to arrive at a net number.
- [69] In my view, the plain meaning of the language at issue is in fact clear, and, because the expenditures are agreed to have exceeded CAD \$2 million, the Sureties are therefore obliged to pay CAD \$2 million to the Receiver.

Issue re Without Prejudice Communications

- [70] I should note that there was an argument between the parties about whether or not I should take into account, in determining what paragraph 5 means, the contents of an email exchange between the parties at a certain point, stated to be without prejudice. The Sureties argued that despite the "without prejudice" label, the contents of the exchange make clear that it was not without prejudice at all, and that its contents show that the Receiver/EDC's position was aligned with that of the Sureties.
- [71] In my view, leaving aside whether or not it would be appropriate in the circumstances to treat the communications as being "with prejudice", the exchange would in any event suffer from the same shortcomings that preclude me from considering the Sureties peripheral subjective thoughts about what the bargain was or was not. A party's subjective observations about the meaning of the language of the order, unless recorded in the text of the order, or unless shown to have had a direct influence on the formulation of the language at issue, have no meaningful impact on the interpretive exercise.
- [72] As such, the email exchange in question does not alter my conclusion that the Sureties are liable to pay CAD \$2 million.

Interest and Costs

- [73] Interest should run on that principal amount from April 25, 2024, the date by which the parties had agreed that the relevant expenditures and disbursements exceeded CAD \$2 million and the Receiver requested payment.
- [74] Costs should follow the event. It does not appear that either side uploaded a costs outline to Case Center. I ask that the parties attempt to agree on costs. If they cannot do so within two weeks of the date of release of this decision, then I may be spoken to about a procedure to make that determination.



W.D. BLACK J.

RELEASED: FEBRUARY 18, 2024

Court File No.: CV-24-00715153-00CL

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

EXPORT DEVELOPMENT CANADA

- and -

ANTAMEX INDUSTRIES ULC

Applicant

Respondent

Court File No.: CV-24-00718718-00CL

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

ROYAL BANK OF CANADA

- and -

256 VICTORIA STREET WEST ULC

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)
 Proceeding Commenced at Toronto

FIFTH REPORT OF THE RECEIVER
Dated March 19, 2025

BLAKE, CASSELS & GRAYDON LLP
 Barristers and Solicitors
 199 Bay Street
 Suite 4000, Commerce Court West
 Toronto, Ontario M5L 1A9

Linc Rogers, LSO #43562N
 Tel: 416-863-4168
 Email: linc.rogers@blakes.com

Caitlin McIntyre, LSO #72306R
 Tel: 416-863-4174
 Email: caitlin.mcintyre@blakes.com

Lawyers for the Receiver

TAB 3

Court File No.: CV-24-00715153-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)

THE HONOURABLE)	TUESDAY, THE 26 th
)	
JUSTICE DIETRICH)	DAY OF MARCH, 2025

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

BETWEEN:

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

TRUST CLAIMS PROCESS ORDER

THIS MOTION, made by Deloitte Restructuring Inc. in its capacity as Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of Antamex Industries ULC (the “**Debtor**”) for an order directing a claims process with respect to certain potential construction lien trust claims was heard this day by judicial videoconference via Zoom in Toronto, Ontario

ON READING the Fifth Report of the Receiver dated March 19, 2025 and the Appendices thereto, and on hearing the submissions of counsel for the Receiver and such other parties listed

on the counsel slip, no one appearing for any other person on the service list, although properly served as it appears from the Lawyer's Certificate of Service of Caitlin McIntyre dated March [●], 2025, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record is hereby validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings ascribed thereto in the Fifth Report.

RECEIVER'S ROLE

3. **THIS COURT ORDERS** that the Claims Process is hereby approved and the Receiver shall be authorized and directed to take all steps necessary to implement the Claims Process.
4. **THIS COURT ORDERS** that the Receiver, in addition to its prescribed rights and obligations under the Receivership Order, is hereby directed and empowered to take such other actions and fulfill such other roles as are authorized by this Order.

CLAIMS PROCESS

5. The following terms shall have the following meanings ascribed thereto:
 - (a) **"Business Day"** means a day, other than a Saturday or Sunday, on which banks are normally open for business in Toronto, Ontario;
 - (b) **"CA"** means the *Construction Act*, R.S.O. 1990, c. C.30;
 - (c) **"BIA"** means *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3), as amended;

- (d) **“Claims Bar Date”** means 5:00 p.m. (EST) on April 25, 2025, or such later date as the Receiver may determine on written notice to the Service List or as ordered by the Court;
- (e) **“Claims Process”** means the claims process set out in this Order and as described in the Fifth Report;
- (f) **“Court”** means the Ontario Superior Court of Justice (Commercial List);
- (g) **“Notice of Disallowance”** means a notice in substantially the form attached as **Schedule “B”** hereto advising a Subcontractor that the Receiver has revised or rejected all or part of such Subcontractor’s Claim set out in its Proof of Claim;
- (h) **“Notice of Dispute”** means a written notice to the Receiver in substantially the form attached as **Schedule “C”** hereto, delivered to the Receiver by a Subcontractor who has received a Notice of Disallowance indicating such Subcontractor’s intention to dispute such Notice of Disallowance and provide further evidence to support its Claim;
- (i) **“Person”** includes any individual, partnership, joint venture, trust, corporation, unincorporated organization, government or agency or instrumentality thereof, or any other juridical entity however designated or constituted;
- (j) **“Project”** means any project on which Antamex was retained prior to the appointment of the Receiver for the purposes of constructing, renovating, refurbishing, retrofitting, adopting, upgrading or improving a building or other build asset;

- (k) **“Proof of Claim”** means the form of Proof of Claim in substantially the form attached as **Schedule “A”** hereto;
- (l) **“Proof of Claim Document Package”** means a document package that includes a copy of the Proof of Claim and such other materials as the Receiver may consider appropriate or desirable;
- (m) **“Proven Claim”** has the meaning ascribed to that term in paragraph 14 of this Order;
- (n) **“Subcontractor”** means any Person retained by Antamex to perform work in relation to a Project; and
- (o) **“Trust Claim”** means:
 - i. Any potential trust claim arising under section 8 of the CA; and
 - ii. Any potential trust claim arising under any statute or other law providing for substantially the same rights as section 8 of the CA.

NOTICE TO SUBCONTRACTORS

6. **THIS COURT ORDERS** that the Receiver shall give notice of this Order, including a Proof of Claim Document Package, to (i) all Persons on the Service List in this proceeding, (ii) all Subcontractors who have, as of the date hereof, provided the Receiver with notice of an asserted Trust Claim, and (iii) any other Person that the Receiver, in its sole discretion, determines may hold a Trust Claim against the Debtor.

7. **THIS COURT ORDERS** that, other than the Persons set out in paragraph 6 hereof, the Receiver shall not be under any obligation to give notice to any Person of the Claims Process and no other Person shall be entitled to make a Trust Claim within the Claims Process unless authorized

by the Receiver or by further order of this Court, including, for greater certainty, any Person purporting to hold a security interest in a Trust Claim.

CLAIMS BAR DATE

8. **THIS COURT ORDERS** that Proofs of Claim shall be filed with the Receiver in the manner provided for herein and that any Subcontractor that does not file a Proof of Claim with the Receiver before the Claims Bar Date shall be and is hereby forever barred from making or enforcing any Trust Claim against Antamex's estate or the Property (as defined in the Appointment Order).

PROOFS OF CLAIM

9. **THIS COURT ORDERS** that the Receiver may, where it is satisfied that a Trust Claim has been adequately proven, waive strict compliance with the requirements of this Order as to completion and execution of Proofs of Claim.

10. **THIS COURT ORDERS** that the only Subcontractors entitled to file Proofs of Claim shall be Subcontractors in respect of the Projects and that any Proof of Claim received by the Receiver in relation to any project that is not a Project shall not form part of this Claims Process and shall be disallowed.

REVIEW OF PROOFS OF CLAIM

11. **THIS COURT ORDERS** that 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. At any time, the Receiver may request additional information with respect to a Trust Claim, and may request that a Subcontractor file a revised Proof of Claim.

12. **THIS COURT ORDERS** that the Receiver shall be entitled to disallow a Trust Claim, in whole or in part, on the basis that:

- (a) the Receiver determines that it is not holding any identifiable funds related to a particular Project on which a Trust Claim is asserted;
- (b) the jurisdiction in which a particular Project is located does not have legislation equivalent to the CA providing for a Trust Claim in respect of amounts unpaid to Subcontractors;
- (c) that such Subcontractor has failed to provide adequate proof of its purported Trust Claim; or
- (d) the Receiver otherwise determines such Trust Claim to be invalid or unenforceable.

13. **THIS COURT ORDERS** that, where a Trust Claim is disallowed (in whole or in part) the Receiver shall provide notice of disallowance (in whole or in part) to the Subcontractor by serving it or its counsel with a Notice of Disallowance and include the reasons for disallowance and any related documentation in support.

14. **THIS COURT ORDERS** that, where the Receiver disallows part of the Trust Claim, only the part of the Trust Claim that the Receiver allowed shall be a Proven Claim subject to increase only if the Subcontractor successfully challenges or settles the disallowed portion with the Receiver.

15. **THIS COURT ORDERS** that the amount and status of every Trust Claim as finally determined in accordance with the forms and procedures hereby authorized (a “**Proven Claim**”), including any determination as to the nature, amount, value, priority or validity of any Trust Claim,

shall be final for all purposes and including without limitation for any distribution made to creditors of the Debtor.

NOTICE OF DISPUTE

16. **THIS COURT ORDERS** that any Subcontractor who intends to dispute a Notice of Disallowance shall file a Notice of Dispute with the Receiver as soon as reasonably possible, but in any event, such Notice of Dispute shall be received by the Receiver on or before 5:00 p.m. (EST) on the day that is fourteen (14) calendar dates after the Receiver sends the Notice of Disallowance. The filing of a Notice of Dispute with the Receiver within the foregoing timeframe shall constitute an application to have the amount or status of such Trust Claim determined as set out in paragraphs 17-18 hereof.

17. **THIS COURT ORDERS** that, where a Subcontractor receives a Notice of Disallowance and fails to file a Notice of Dispute with the Receiver within the timeframe required at paragraph 15 hereof, the amount and status of such Subcontractor's Trust Claim shall be deemed to be as set out in the Notice of Disallowance and such amount and status, if any, shall constitute such Subcontractor's Proven Claim.

RESOLUTION OF CLAIMS

18. **THIS COURT ORDERS** that as soon as practicable after the delivery of the Notice of Dispute to the Receiver, the Receiver and the Subcontractor shall attempt to resolve and settle the Trust Claim.

19. **THIS COURT ORDERS** that in the event that the dispute between the Subcontractor and the Receiver is not settled within a time period or manner satisfactory to the Receiver, the Receiver

may bring the dispute before the Court for determination, or before an Associate Judge specializing in construction lien matters if the Court so directs.

TRANSFEREES

20. **THIS COURT ORDERS** that the Receiver shall not be obligated to give notice to or to otherwise deal with a transferee or assignee (including, for greater certainty, by way of subrogation) in respect of a Trust Claim as the creditor in respect thereof unless and until actual written notice of transfer or assignment together with satisfactory evidence of such transfer or assignment and thereafter such transferee or assignee shall for the purposes hereof constitute the “Subcontractor” in respect of such Trust Claim. Any such transferee or assignee shall be bound by any notices given or steps taken in respect of such Trust Claim in accordance with this Order prior to receipt by the Receiver of satisfactory evidence of such transfer or assignment.

21. **THIS COURT ORDERS** that if the holder of a Trust Claim has transferred or assigned the whole of such Trust Claim to more than one Person, or part of such Trust Claim to another Person or Persons, such transfer or assignment shall not create a separate Trust Claim or Trust Claims. Such Trust Claim shall continue to constitute and be dealt with as a single Trust Claim notwithstanding such transfer or assignment, and the Receiver shall in each such case not be bound to recognize any such transfer or assignment and shall be entitled to give notices to and to otherwise deal with such Trust Claim only as a whole and then only to and with the Person last holding such Trust Claim in whole as the creditor in respect of such Trust Claim. However, such creditor may by notice in writing to the Receiver, direct that subsequent dealings in respect of such Trust Claim, but only as a whole, shall be with a specified Person and in such event, such creditor, such transferee or assignee of the Trust Claim and the whole of such Trust Claim shall be bound by any notices given or steps taken in respect of such Trust Claim by or with respect to such Person in accordance with this Order.

PROTECTIONS FOR THE RECEIVER

22. **THIS COURT ORDERS** that (i) in carrying out the terms of this Order, the Receiver shall have all of the protections and Orders given to it by the BIA and the Receivership Order or as an officer of this Court, including the stay of proceedings in its favour and the Receiver's Charge granted under the Receivership Order; (ii) the Receiver shall incur no liability or obligation as a result of the carrying out of the provisions of this Order, and (iii) the Receiver shall be entitled to rely on the books and records of the Debtor, and such use of the Debtor's records shall not be deemed a breach of the implied undertaking rule by the Receiver, and the Receiver shall not be liable for any claims or damages resulting from any errors or omissions in such books and records.

23. **THIS COURT ORDERS** that the Receiver may, at any time, and with such notice as this Court may require, seek directions from the Court with respect to this Order and the Claims Process set out herein, including the forms attached as Schedules hereto.

SERVICE AND NOTICE

24. **THIS COURT ORDERS** that the Receiver shall be at liberty to deliver the Proof of Claim Document Package, and any letters, notices or other documents to the Subcontractors or counsel to the Subcontractors, by forwarding true copies thereof by electronic or digital transmission and that any such service or notice by electronic or digital transmission shall be deemed to be received on the same Business Day if sent prior to 5:00 PM (EST) and the next Business Day if sent following 5:00 PM (EST).

25. **THIS COURT ORDERS** that any notice or other communication (including, without limitation, Proofs of Claim, Notices of Disallowance and Notices of Dispute) to be given under this Order by a Subcontractor to the Receiver shall be in writing in substantially the form, if any,

provided for in this Order and will be sufficiently given only if given by courier, personal delivery or electronic or digital transmission addressed to:

Deloitte Restructuring Inc. as receiver of Antamex Industries Inc. and not in its personal or corporate capacity.

Attention: Gianluca Berardi
E-mail antamex@deloitte.ca

Any such notice or other communication by a Subcontractor or counsel for a Subcontractor shall be deemed received only upon actual receipt thereof during normal business hours on a Business Day.

GENERAL

26. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

28. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Toronto time) on the date of this Order, and this Order shall be immediately enforceable at such time and thereafter without the need for entry and filing.

SCHEDULE “A”

PROOF OF CLAIM RELATING TO ALL TRUST CLAIMS AS AGAINST ANTAMEX INDUSTRIES ULC

(Unless otherwise defined herein, capitalized terms shall have the meaning as ascribed in the Order of Justice Dietrich dated March 26, 2025 under the Ontario Superior Court of Justice (Commercial List) CV-24-00715153-00CL

Please read carefully the enclosed Instruction Letter for completing this Proof of Claim.

A. PARTICULARS OF CLAIMANT:

1. Full Legal Name of Claimant (the “**Claimant**”): _____

2. Full Mailing Address of the Claimant:

3. Telephone Number: _____

4. E-Mail Address: _____

5. Attention (Contact Person): _____

6. Has the Trust Claim been sold or assigned by the Subcontractor to another party, [check one]?
 Yes: ☐ No: ☐

B. PARTICULARS OF ASSIGNEE(S) (IF ANY):

7. Full Legal Name: _____

8. Full Mailing Address:

9. Telephone Number: _____

10. E-Mail Address: _____

11. Attention (Contact Person): _____

C. PROOF OF CLAIM:

I, _____

(name of Claimant or Representative of the Claimant), of

_____ do hereby certify: (city
and province)

(a) that I [check one]

☐

am an unpaid former Subcontractor of Antamex.; OR

☐

purport to hold a subrogated Trust Claim(s) to that of an unpaid former
Subcontractor of Antamex

(b) I have knowledge of all the circumstances connected with the Trust Claim referred to below;

(c) the Claimant asserts its Trust Claim against Antamex Industries ULC with respect to the Project(s):

(d) Antamex was/were and still is/are indebted to the Subcontractor as follows (if Trust Claim relates to multiple Projects, please provide the amount of the Trust Claim in respect of each Project separately):

\$_____ [insert \$ value of claim] CAD.

D. PARTICULARS OF CLAIM:

Other than as already set out herein, the particulars of the undersigned's total Trust Claim are attached.

(Provide all particulars of the Trust Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Trust Claim, and amount of invoices, particulars of all credits, discounts, etc. claimed.)

This Proof of Claim must be received by the Receiver by no later than 5:00 p.m. (EST Time) on April 25, 2025, by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission at the following address:

Deloitte Restructuring Inc. as receiver of Antamex Industries Inc. and not in its personal or corporate capacity.

Attention:
E-mail

Gianluca Berardi
antamex@deloitte.ca

E. FILING OF CLAIM

Failure to file your proof of claim as directed by 5:00 p.m., on April 25, 2025 (EST time) will result in your claim being barred and in you being prevented from making or enforcing a Claim against the estate of Antamex. In addition, you shall not be entitled to further notice in, and shall not be entitled to participate as, a creditor in these proceedings.

Dated at _____ this _____ day of _____, 20____.

Signature of Claimant:

SCHEDULE “B”

NOTICE OF DISALLOWANCE

TO:

Deloitte Restructuring Inc. as receiver Antamex Industries Inc. and not in its personal or corporate capacity hereby gives you notice that it has reviewed your Claim and has revised or rejected your Claim as follows:

	The Proof of Claim as Submitted	The Claim as Accepted
Claim relating to facts existing on or prior to March 13, 2024		

Reasons for Disallowance or Revision (which, for greater certainty, may include because the Receiver is not holding any identifiable funds related to the Project on which the Trust Claim is asserted):

If you do not agree with this Notice of Disallowance, please take notice of the following:

1. If you dispute this Notice of Disallowance, you must, no later than 05:00 p.m. (EST time) on fourteen (14) days after the Notice of Disallowance is sent by the Receiver, notify the Receiver by delivery of a Dispute Notice. The form of Dispute Notice is enclosed.
2. If you do not deliver a Dispute Notice, your Claim shall be deemed to be as set out in this Notice of Disallowance.

IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF DISALLOWANCE WILL BE BINDING UPON YOU.

DATED at Toronto this _____ day of _____, 20____.

**Deloitte Restructuring Inc. as receiver of Antamex Industries ULC
and not in its personal or corporate capacity**

SCHEDULE "C"

DISPUTE NOTICE

We hereby give you notice of our intention to dispute the Notice of Disallowance bearing Reference Number _____ and dated _____ issued in respect of our Trust Claim.

Reasons for Dispute (attach additional sheet and copies of all supporting documentation if necessary):

Name of Claimant _____

(Signature of individual completing this Dispute)

Date

(Please print name)

Telephone Number: _____

E-mail Address:

Full Mailing Address _____

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

EXPORT DEVELOPMENT CANADA
Applicant

- and -

ANTAMEX INDUSTRIES ULC
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)

Proceeding Commenced at Toronto

TRUST CLAIMS PROCESS ORDER

BLAKE, CASSELS & GRAYDON LLP

Barristers and Solicitors

199 Bay Street

Suite 4000, Commerce Court West

Toronto, Ontario M5L 1A9

Linc Rogers, LSO #43562N

Tel: 416-863-4168

Email: linc.rogers@blakes.com

Caitlin McIntyre, LSO #72306R

Tel: 416-863-4174

Email: caitlin.mcintyre@blakes.com

Lawyers for the Receiver

Court File No.: CV-24-00715153-00CL

IN THE MATTER OF THE RECEIVERSHIP OF ANTAMEX INDUSTRIES ULC

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

Court File No.: CV-24-00718718-00CL

IN THE MATTER OF THE RECEIVERSHIP OF 256 VICTORIA STREET WEST ULC

ROYAL BANK OF CANADA

Applicant

- and -

256 VICTORIA STREET WEST ULC

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)

Proceeding Commenced at Toronto

MOTION RECORD
(Trust Claims Process Order)
Returnable March 26, 2025

BLAKE, CASSELS & GRAYDON LLP
Barristers and Solicitors
199 Bay Street
Suite 4000, Commerce Court West
Toronto, Ontario M5L 1A9

Linc Rogers, LSO #43562N
Tel: 416-863-4168
Email: linc.rogers@blakes.com

Caitlin McIntyre, LSO #72306R
Tel: 416-863-4174
Email: caitlin.mcintyre@blakes.com

Lawyers for the Receiver