

Exhibit “I”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

KOOY BROTHERS LAWN EQUIPMENT LIMITED

Applicant

- and -

**AMSEN QUARRY LIMITED, ROYAL CANADIAN
BEDROCK INC. and TPNP HOLDINGS INC.**

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

SECOND REPORT OF THE COURT-APPOINTED RECEIVER

OCTOBER 9, 2018

Appendices

- “A” - Pattillo Order, Appointment Order and Endorsements (July 26, 2018 and September 12, 2018)
- “B” - Rosen Report (September 21, 2018)
- “C” - Letters from A&B (September 20, 2018 and September 23, 2018)
- “D” - Endorsement of the Honourable Mr. Justice Penny (September 24, 2018)
- “E” - First Report (September 28, 2018)
- “F” - Endorsement of the Honourable Madam Justice Chiappetta (October 2, 2018)
- “G” - High-level comments on the Rosen Report by the Applicant’s legal counsel (without appendices)
- “H” - 2016 Leases

INTRODUCTION

1. Pursuant to the Order of the Honourable Madam Justice Chiappetta of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made September 12, 2018 (the “**Appointment Order**”), which was made on the application of Kooy Brothers Lawn Equipment Limited (the “**Applicant**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), The Fuller Landau Group Inc. was appointed receiver (in such capacity, the “**Receiver**”), without security, of:

- (a) all the assets, undertakings and properties of Amsen Quarry Limited (“**Amsen**”), including, without limitation, the real property located at the address known municipally as 136 The Bury Road, South Bruce Peninsula, Ontario (the “**Amsen Quarry**”), and all proceeds thereof, including, without limitation, any interest that TPNP Holdings Inc. may have therein (collectively, the “**Amsen Property**”); and
- (b) the equipment of Royal Canadian Bedrock Inc. (“**RCB**”, and together with Amsen, the “**Debtors**”) that is listed on Schedule “A” to the Appointment Order (the “**RCB Equipment**”, and together with the Amsen Property, the “**Property**”).

BACKGROUND

2. The Receiver understands that the application seeking the Appointment Order was originally returnable on April 18, 2018 but was opposed by the Debtors, which resulted in the exchange of responding and reply materials and cross-examinations (together with the original application record, the “**Historical Materials**”), such that there were several Court attendances,

adjournments, endorsements and Orders between April 18, 2018 and the eventual issuance of the Appointment Order on September 12, 2018.

3. The Receiver understands that one of these Orders was made by the Honourable Mr. Justice Pattillo of the Court on July 26, 2018 (the “**Pattillo Order**”), which, amongst other things:

- (a) required the Debtors to pay to the Applicant, by no later than August 25, 2018, the amount of \$1,488,674.97 (the “**Payment**”), comprised of:
 - (i) \$558,647.50, being the full amount of indebtedness due by Amsen as claimed by the Applicant (the “**Amsen Indebtedness**”);
 - (ii) \$880,027.47, being the full amount of indebtedness due by RCB as claimed by the Applicant (together with the Amsen Indebtedness, the “**Indebtedness**”); and
 - (iii) \$50,000, being the Applicant’s costs of its application as at the date of the Pattillo Order, as agreed to by the Applicant and the Debtors and taxed by the Court;
- (b) declared that the Payment was not to be held in trust but shall belong to the Applicant absolutely, as payment of the indebtedness due from the Debtors;
- (c) declared that, if the Debtors failed to make the Payment, the Appointment Order would be issued;
- (d) declared that the Debtors had until September 24, 2018 to schedule a motion to raise any issues of accounting with respect to the Indebtedness (the “**Accounting**”).

Motion”), but that the commencement of the Accounting Motion shall not relieve the Debtors from making the Payment to the Applicant; and

- (e) prohibited the Debtors from disposing of any Property outside the ordinary course of business and, furthermore, prohibited the Debtors from disposing of any of the equipment that is the subject of any agreement with the Applicant.

4. The Receiver understands that the Payment was not made by August 25, 2018 (or since that time), and that the Appointment Order was therefore eventually issued on September 12, 2018. A copy of the Pattillo Order (without schedules), the Appointment Order and their corresponding endorsements are attached collectively as **Appendix “A”** to this second report to Court of the Receiver (the **“Second Report”**).

5. After the Appointment Order was granted, and notwithstanding the Debtors’ failure to make the Payment, the Debtors attempted to schedule the Accounting Motion on September 24, 2018, supported by a report from Rosen & Associates Limited (the **“Rosen Report”**). A copy of the Rosen Report is attached as **Appendix “B”** to this Second Report.

6. By way of letters dated September 20, 2018 and September 23, 2018 from the Receiver’s legal counsel (Aird & Berlis LLP (**“A&B”**)) to the Debtors’ legal counsel (Chaitons LLP) and the Debtors’ principal (Mr. Anthony Guido), copies of which are attached collectively as **Appendix “C”** to this Second Report, A&B advised, amongst other things, that the Receiver had difficulty understanding how the Debtors or Mr. Guido could still purport to have the legal jurisdiction to bring the Accounting Motion (the **“Jurisdictional Question”**). Specifically, and even putting aside the Debtors’ failure to make the Payment (in full or in part), the Appointment Order expressly

empowers and authorizes the Receiver – to the exclusion of all other Persons (as defined in the Appointment Order), including the Debtors, and without interference from any other Person – to:

- (a) take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property; and
- (b) initiate, prosecute and continue the prosecution of any and all proceedings in any court or tribunal with respect to the Property and any and all proceeds, receipts and disbursements arising out of or from the Property.

7. As of the date of this Second Report, no response to the Jurisdictional Question has been received by the Receiver or A&B.

8. On September 24, 2018, the Honourable Mr. Justice Penny adjourned the Debtors' request to schedule the Accounting Motion to a 9:30 court attendance on October 2, 2018 before the Honourable Madam Justice Chiappetta, who is seized of this matter. A copy of His Honour's endorsement is attached as **Appendix "D"** to this Second Report.

9. On September 28, 2018, the Receiver filed its first report to Court (the "**First Report**"). The purpose of the First Report was to advise the Court of the Receiver's requests for information about the Debtors and the Property from Mr. Guido, many of which requests had gone unanswered despite repeated follow-up requests by the Receiver. A copy of the First Report (without appendices) is attached as **Appendix "E"** to this Second Report.

10. On October 2, 2018, Her Honour asked the Applicant and the Receiver to provide their high-level comments on the Rosen Report and further adjourned the Debtors' request to schedule

the Accounting Motion to a 9:30 court attendance on October 11, 2018. A copy of Her Honour's endorsement is attached as **Appendix "F"** to this Second Report.

11. The Receiver understands that the Applicant's legal counsel previously provided its high-level comments on the Rosen Report to the Debtors' legal counsel. A copy of that communication, which has since been forwarded to the Receiver and A&B, is attached (without appendices) as **Appendix "G"** to this Second Report.

12. The purpose of this Second Report is:

- (a) to advise the Court, at Her Honour's request, of the Receiver's high-level comments on the Rosen Report; and
- (b) to provide an update to the Court regarding the level of cooperation by Mr. Guido with the Receiver.

TERMS OF REFERENCE

13. In preparing and filing this Second Report, the Receiver has been provided with limited information and has relied on: (a) discussions and correspondence with Mr. Guido, the Applicant, the Applicant's legal counsel and the Debtors' legal counsel; (b) certain of the Historical Materials; and (c) the Rosen Report and the high-level response thereto provided by the Applicant's legal counsel (collectively, the "**Information**"). Other than its high-level comments on the Rosen Report, the Receiver expresses no opinion, or other form of assurance, in respect of the Information.

RECEIVER'S HIGH-LEVEL COMMENTS ON THE ROSEN REPORT

14. The Rosen Report undertakes an analysis of a series of historical leases and purported payments from 2010 onwards; it does not undertake an analysis (or even refer to) the resulting two leases from 2016 into which the Receiver understands the historical leases were refinanced.

15. The resulting two leases from 2016 were exhibits in the Applicant's application record and are reattached collectively as **Appendix "H"** to this Second Report. They are:

- (a) equipment lease agreement number 629925 dated May 25, 2016 between the Applicant and Amsen (the "**2016 Amsen Lease**"); and
- (b) equipment lease agreement number 629927 dated May 25, 2016 between the Applicant and RCB (the "**2016 RCB Lease**", and together with the 2016 Amsen Lease, the "**2016 Leases**").

The 2016 Amsen Lease

16. The 2016 Amsen Lease requires 60 monthly lease payments, starting June 25, 2016, of \$8,322.76 for 59 months and \$8,323.03 for the 60th month (totalling \$499,365.87, inclusive of HST), plus a buyout option of a further \$100,100.00 (which buyout option is then confirmed to be exercised in the 2016 Amsen Lease), such that the total amount of payments to be received under the 2016 Amsen Lease (prior to penalties or interest for late or missed payments) is \$599,465.87.

17. The Rosen Report does not identify any payments as having been made pursuant to the 2016 Amsen Lease or its predecessor leases since the 2016 Amsen Lease came into effect. However, the Receiver understands from the Applicant's counsel that two regular monthly

payments described in the Rosen Report as having been made in 2015 were in fact made in the summer of 2016, such that these two payments totalling in the aggregate less than \$17,000 should be credited against the \$599,465.87 specified by the 2016 Amsen Lease (prior to penalties and interest for late or missed payments).

The 2016 RCB Lease

18. The 2016 RCB Lease also requires 60 monthly lease payments, starting June 25, 2016, of \$14,853.82 for 59 months and \$14,853.80 for the 60th month (totalling \$891,229.18, inclusive of HST), plus a buyout option of a further \$100,100.00 (which buyout option is then confirmed to be exercised in the 2016 RCB Lease), such that the total amount of payments to be received under the 2016 RCB Lease (prior to penalties or interest for late or missed payments) is \$991,329.18.

19. The Rosen Report identifies a total amount of \$198,271.63 as having been realized in respect of the 2016 RCB Lease after it came into effect (comprised of \$87,876.13 in payments on behalf of RCB and \$110,395.50 in gross realizations from the liquidation of certain equipment). The Receiver understands from the Applicant's counsel that the costs associated with the liquidation of this equipment totalled approximately \$35,000, which the Applicant believes should be deducted for accounting purposes from the gross realizations. Depending on whether the Applicant's assertion is accurate, a total of between approximately \$163,271.63 and \$198,271.63 should be credited against the \$991,329.18 specified by the 2016 RCB Lease (prior to penalties and interest for late or missed payments).

20. Based on the foregoing, a total amount of between approximately \$180,000 and \$215,000 should be credited against the \$1,590,795.05 specified by the 2016 Leases (prior to penalties and interest for late or missed payments).

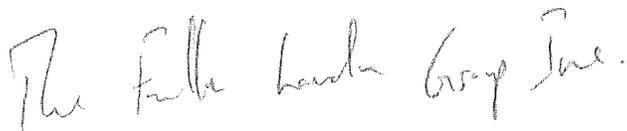
CONTINUED LACK OF COOPERATION FROM MR. GUIDO

21. The First Report sets out, in some length, Mr. Guido's overall lack of cooperation with the Receiver. Paragraph 25 of the First Report lists the Receiver's information requests and questions that had gone unanswered by Mr. Guido as at the date of the First Report (the "**Outstanding Assistance**").

22. Other than confirming the status of keys for four pieces of equipment that the Receiver understands are currently inoperable and currently located at Mr. Guido's other properties, none of the Outstanding Assistance has been provided by Mr. Guido to the Receiver.

23. The Receiver reiterates that it has serious and increased concerns about its ability to execute its mandate: (a) without Mr. Guido's immediate and complete cooperation; and (b) while the Accounting Motion continues to cast a shadow over the Receiver's exclusive powers granted to it under the Appointment Order to deal with the Property, its proceeds and any associated proceedings. Of particular concern, as set out in the First Report, is the need for the Receiver to develop and implement a formal marketing and sale process for the Property, and to otherwise take action to deal with and protect the Property, prior to the commencement of adverse weather conditions during the fall and winter months.

All of which is respectfully submitted this 9th day of October 2018.

A handwritten signature in cursive script that reads "The Fuller Landau Group Inc.".

The Fuller Landau Group Inc.,
in its capacity as the court-appointed receiver of the Property

TAB A

COUNSEL SLIP

Court File No. CV-18-CO595/77-CCCL

Date: 26/07/2018

No. On List 11

Title of Proceeding

KOOY BROTHERS LAWN EQUIPMENT LTD. v AMSEN QUARRY LTD. (ET AL)

Counsel for:

Plaintiff(s)
Applicant(s)
Petitioner(s)

Graham Phoenix for Kooy Bros.
jphoenix@loonix.com

Phone No. 416 748 4776
Fax No. 416 746 8319

Counsel for:

Defendant(s)
Respondent(s)

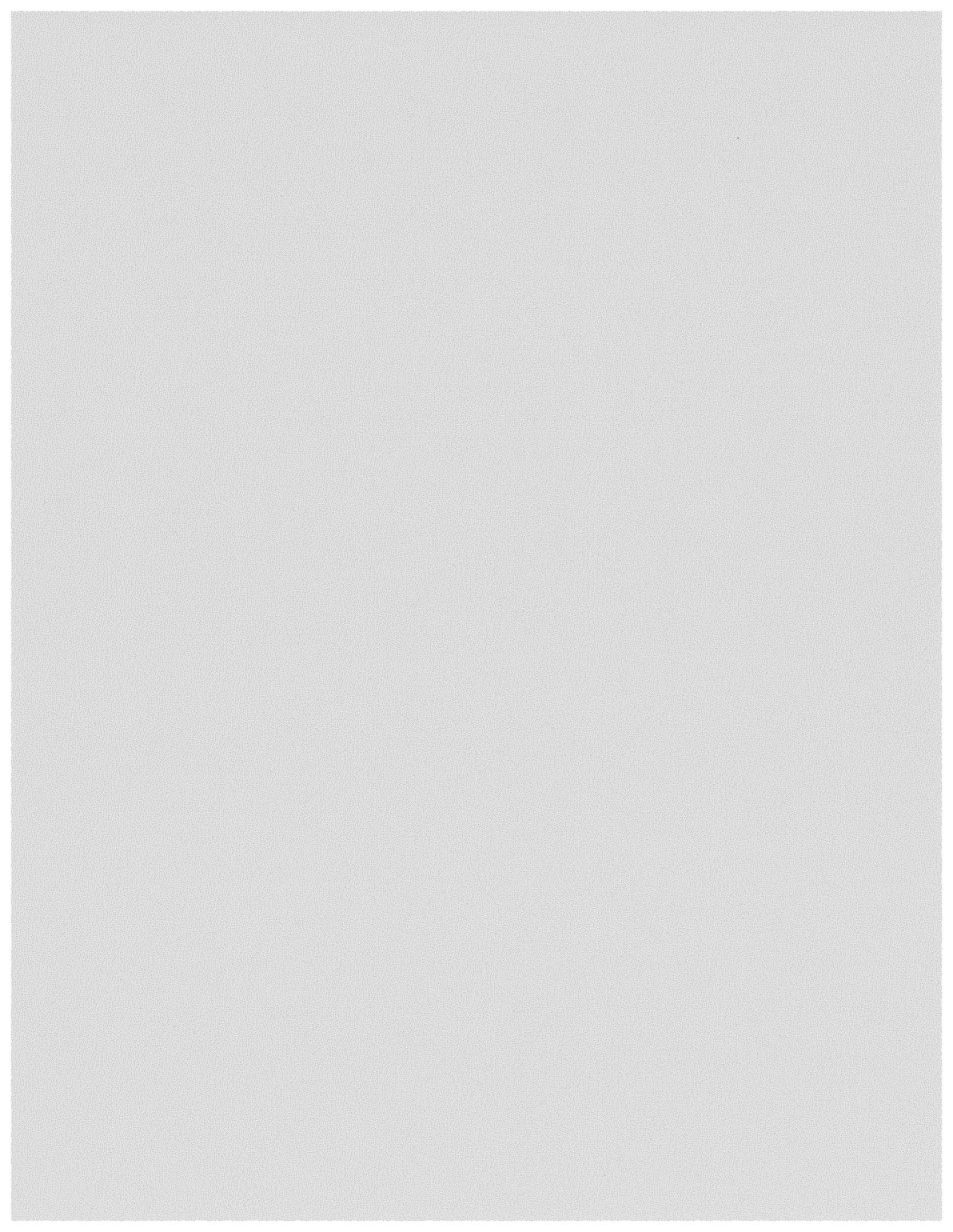
Alex Flesias

Phone No. 905-850-8550
Fax No. 905-850-9998

July 26, 2018

The parties have settled this application on the basis of the terms set forth in my order of today which I have signed.

[Signature]
A. Lattalo, J.



ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.) THURSDAY, THE 26th
)
JUSTICE PATTILLO) DAY OF JULY, 2018
)

KOORY BROTHERS LAWN EQUIPMENT LIMITED

Applicant

- and -



**AMSEN QUARRY LIMITED,
ROYAL CANADIAN BEDROCK INC.
and TPNP HOLDINGS INC.**

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED and
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, as amended**

ORDER

THIS APPLICATION made by Koory Brothers Lawn Equipment Limited (“**Koory**”) for an Order pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing The Fuller Landau Group Inc. as receiver and inspector (in such capacity, the “**Receiver**”), without security, on the term set out below: (a) all of the assets, undertakings and properties of Amsen Quarry Limited (“**Amsen**”) acquired for, or used in relation to a business carried on by Amsen; and (b) certain equipment of Royal Canadian

Bedrock Inc. (“RCB” and, together with Amsen, the “Debtors”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Kevin Ford sworn April 3, 2018 and the exhibits thereto, the affidavit of Anthony Guido sworn June 1, 2018, the second affidavit of Kevin Ford, sworn June 11, 2018, the second affidavit of Anthony Guido sworn June 26, 2018, the transcript of the examination of Kevin Ford on his affidavits, dated June 27, 2018, the transcript of the examination of Anthony Guido on his affidavits, dated June 27, 2018, and on hearing the submissions of counsel for Kooy and the Debtors, no one appearing for any other party although duly served as appears from the affidavit of service of Sandra Radanovic sworn April 13, 2018 and on reading the consent of The Fuller Landau Group Inc. to act as the Receiver:

1. **THIS COURT ORDERS** that the Respondents, Amsen Quarry Limited (“Amsen”) and Royal Canadian Bedrock Inc. (“Royal”), shall, within thirty (30) days of this order, pay to the Applicant, Kooy Brothers Lawn Equipment Limited (“Kooy”):

- (a) the amount of \$558,647.50, being the full amount of the indebtedness due by Amsen claimed on the within Application;
- (b) the amount of \$880,027.47, being the full amount of the indebtedness due by Royal claimed on the within Application; and
- (c) the amount of \$50,000, being Kooy’s costs of the within application to date, agreed to by the parties and taxed by this Court,

(collectively, the “Payment”).

2. **THIS COURT ORDERS** that, in the event the Amsen and Royal fail to make the Payment, an order will issue in the form attached hereto appointing a receiver on the terms thereof; and that, in such case, Kooy shall be entitled to appear before this Court on a 9:30 am Chambers Motion, on two (2) days’ notice to Amsen and Royal, to have the order issued.

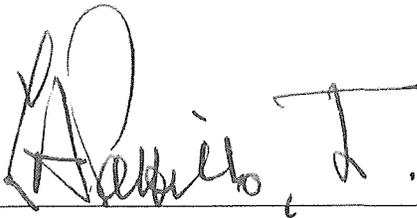
3. **THIS COURT ORDERS** that the Applicant shall, within fifteen (15) days of this Order, provide an accounting to Amsen and Royal of only such amounts that are to be credited to Amsen or Royal on account of equipment repossessed and sold, and that such credits shall be

applied by to reduce the payment required by Amsen or Royal (as applicable) under paragraph 1 above.

4. **THIS COURT ORDERS** that, for greater certainty, the payments above are not to be held in trust but, rather, upon receipt shall belong to the Kooy absolutely, as payment of the indebtedness due from Amsen and Royal.

5. **THIS COURT ORDERS** that Amsen and Royal shall have sixty (60) days from the date hereof to schedule a motion to raise any issues of accounting with respect to the indebtedness, which motion may be scheduled by (a) filing a notice of motion and supporting motion materials with the Court and (b) attending at a 9:30 Chambers Motion, on notice to Kooy, to set a hearing date. In the event on any such motion the Court determines that Amsen and/or Royal is entitled to a credit, such credit amount shall be reimbursed to such party by Kooy within thirty (30) days. For greater certainty, the commencement of any such motion shall not relieve Amsen and Royal from making the Payment to Kooy in accordance with paragraph 1 hereof, provided that any judicial determination resulting in an accounting credit in favour of Amsen and/or Royal prior to the due date of the Payment, shall be applied to reduce the Payment accordingly.

6. **THIS COURT ORDERS** that from and after the date hereof, Amsen and Royal shall continue to operate in the ordinary course of business and shall not dispose of any assets out of the ordinary course of business and shall not dispose of any of the equipment that is the subject of any agreement with Kooy.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JUL 27 2018

PER / PAR: RW

SCHEDULE "A"
FORM OF RECEIVERSHIP ORDER

[see attached]

KOoy BROTHERS LAWN EQUIPMENT
LIMITED

- and -

AMSEN QUARRY LIMITED, ROYAL CANADIAN
BEDROCK INC. and TPNP HOLDINGS INC.

Applicant

Respondents

IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION
243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-
3, AS AMENDED and SECTION 101 OF THE COURTS OF JUSTICE ACT,
R.S.O. 1990, c. C.43, as amended

Court File No. CV-18-00595177-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

Proceeding commenced at **TORONTO**

ORDER

LOOPSTRA NIXON LLP
135 Queens Plate Drive – Suite 600
Toronto, ON M9W 6V7

R. Graham Phoenix (LSUC # 52650N)

Tel: (416) 748-4776

Fax: (416) 746-8319

Email: gphoenix@loonix.com

Lawyers for the Applicant, Kooy Brothers Lawn
Equipment Limited

Court File Number: CV - 18 - 00545 177 -

Superior Court of Justice
Commercial List

OCL

FILE/DIRECTION/ORDER

Kooy Brothers
Plaintiff(s)

AND

Am sen Quarry
Defendant(s)

Case Management Yes No by Judge: _____

| Counsel | Telephone No: | Facsimile No: |
|------------|---------------|---------------|
| G. Phoenix | | |
| A. Ziaie | | |

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: _____
- Time Table approved (as follows):

On June 26, 2018, Justice Patillo ordered the Respondents Am sen Quarry Limited ("Am sen") and Royal Canadian Bedrock Inc. ("Royal") to pay the Applicant certain funds within 30 days. In the event Am sen and Royal failed to pay the funds within 30 days, Justice Patillo ordered that "an order will issue in the form attached here to appointing a receiver on terms thereof and that, in such case, Kooy shall be entitled to

Sept 12, 2018
Date

[Signature]
Judge's Signature

Additional Pages 5

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

appear before this Court on a 9:30am Chambers Motion, on two (2) days' notice to Amesen and Royal, to have the order issued."

Amsen and Royal failed to make the payment as set out in the Patillo order. Pursuant to the Patillo order Kooy appeared before me on September 4th, 2018 on two days notice to Amesen and Royal to have the order issued appointing a receiver, as entitled to do so by the Patillo order.

Counsel for Amesen and Royal on September 4, 2018 advised the court that he was here "to throw himself on the mercy of the court" and requested more time than the 30 days provided by the Patillo order to make the payment therein and avoid the order appointing a receiver that was to issue

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

by the nonpayment. **Judges Endorsment Continued**

Upon discussion, counsel for Kooy agreed to provide Amesen and Royal more time to make the payment but only on the condition that if the payment was not made during the additional period, Amesen and Royal would not oppose its efforts to have the order appointing a receiver issued as entitled to do so by the Patillo order.

Amsen and Royal were given until the end of business September 6, 2018 to make the payment as ordered by Patillo J and a further 9:30 am appointment before me was scheduled for September 9, 2018.

Amsen and Royal did not make the payment as ordered by Patillo J. by the end of business September 6, 2018.

On September 9, 2018, Kooy attended before me to issue the order appointing a receiver

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

in accordance with the Patillo order. The attendance was adjourned to today in observance of the Jewish holiday.

Amisen and Royal are now represented by new counsel. Their new counsel served counsel for Kooy with a Notice of Appeal of the order of Justice Patillo dated July 26, 2018 and my order of September 4, 2018. The Notice of Appeal has not been issued. Counsel advises that this is due to an irregularity ~~in~~ its drafting. Counsel submits that the matter is now stayed in accordance with s 63.0(5) of the Rules of Civil Procedure such that Kooy is not entitled to have the receiver appointment order issued, despite the fact that Amisen and Royal did not make the payment and the clear wording of the Patillo order.

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

I disagree.

The Notice of Appeal is not issued. An appeal from the Patillo order is well out of time. The Patillo order was made on consent. The proper procedure would be a variance of the order and not an appeal in any event. There is no evidence demonstrating a reason to vary. Finally the Patillo order is made pursuant to subsection 243(1) of the BIA, R.S.C. 1985, c. B-3. Leave to Appeal is required. The Notice of Appeal fails to seek leave.

The Patillo order is clear. There is a specific consequence to Ansen and Royal if payment was not made as ordered within 30 days. An indulgence was given and still Ansen and Royal remain in non-payment. The consequence as ordered by

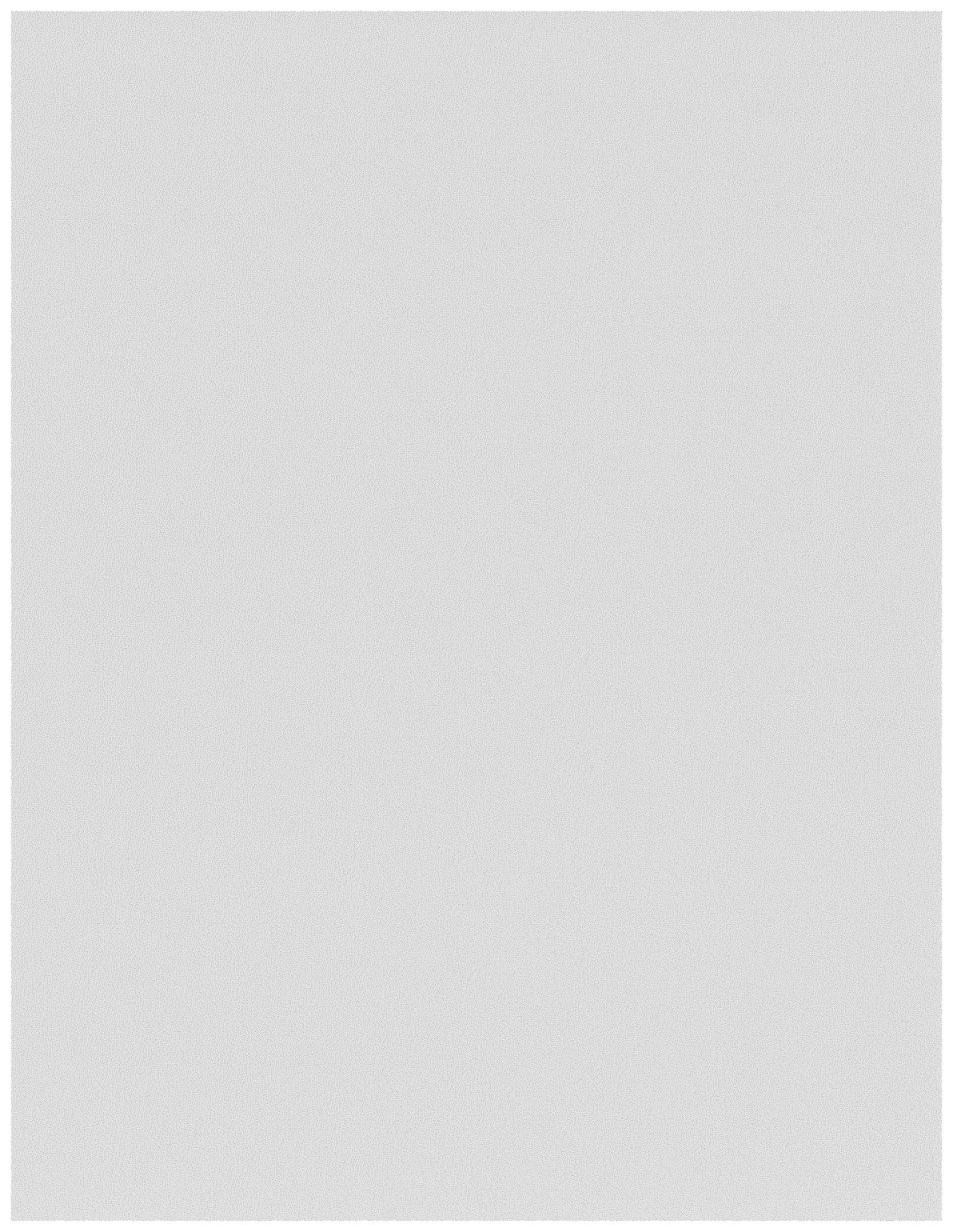
Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

Patillo J is that an order will issue appointing a receiver. Such order will issue today. Having the materials before him Patillo J made a clear order. It is my role only to implement that order. Kooy seeks it costs in receiving its order as entitled to do so by the Patillo order in the amount of \$ 3,500. In my view, some costs are warranted. The representation made to the court to secure the indulgence to September 6, 2018 for payment was that payment was to be made ~~or~~ or the order would issue unopposed. This is not what came to be, requiring a further attendance and argument. Costs are therefore fixed at \$1,000 payable within 30 days by Amson and Royal to Kooy.

I will remain seized, at the request of Counsel



ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)

WEDNESDAY, THE 12th

JUSTICE CHIAPPETTA)

DAY OF SEPTEMBER, 2018



KOOY BROTHERS LAWN EQUIPMENT LIMITED

Applicant

- and -

**AMSEN QUARRY LIMITED,
ROYAL CANADIAN BEDROCK INC.
and TPNP HOLDINGS INC.**

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED and
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, as amended**

**ORDER
(appointing Receiver)**

THIS APPLICATION made by Kooy Brothers Lawn Equipment Limited (“**Kooy**”) for an Order pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing The Fuller Landau Group Inc. as receiver (in such capacity, the “**Receiver**”), without security, of: (a) all of the assets, undertakings and properties of Amsen Quarry Limited (“**Amsen**”) acquired for, or used in relation to a business carried on by Amsen;

and (b) certain equipment of Royal Canadian Bedrock Inc. (“**RCB**” and, together with Amsen, the “**Debtors**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the order and endorsement of the Honourable Justice Pattillo made July 26, 2018 (the “**Pattillo Order**”) and the affidavit of Kevin Ford sworn August 29, 2018 and the Affidavit of Anthony Guido sworn September 3, 2018, and on hearing the submissions of counsel for Kooy and the Debtors on September 4, 10, and 12, 2018, and all such other counsel as were present, no one appearing for any other party although duly served and on reading the consent of The Fuller Landau Group Inc. to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the notice of application and the application record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to the Pattillo Order, and subsection 243(1) of the BIA and section 101 of the CJA, The Fuller Landau Group Inc. is hereby appointed as the Receiver, without security, of: (a) all of the assets, undertakings and properties of Amsen acquired for, or used in relation to a business carried on by Amsen, including, but not limited to, the real property located at the address known municipally as 136 The Bury Road, South Bruce Peninsula, Ontario and identified as PIN #33135-0103(LT) (the “**Quarry**”), and all proceeds thereof (collectively, the “**Amsen Property**”), which for greater certainty includes any interest of TPNP Holdings Inc. therein; and (b) the equipment of RCB enumerated in **Schedule “A”** attached hereto (the “**RCB Equipment**” and, together with the Amsen Property, the “**Property**”).

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) as it concerns Amsen and the Amsen Property:
 - (i) to take possession of and exercise control over the Amsen Property and any and all proceeds, receipts and disbursements arising out of or from the Amsen Property;
 - (ii) to receive, preserve and protect the Amsen Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
 - (iii) to manage, operate, and carry on the business of Amsen, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of Amsen;
 - (iv) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;
 - (v) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of Amsen or any part or parts thereof;

- (vi) to receive and collect all monies and accounts now owed or hereafter owing to Amsen and to exercise all remedies of Amsen in collecting such monies, including, without limitation, to enforce any security held by Amsen;
- (vii) to settle, extend or compromise any indebtedness owing to Amsen;
- (viii) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Amsen, for any purpose pursuant to this Order;
- (ix) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to Amsen, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (x) to market any or all of the Amsen Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (xi) to sell, convey, transfer, lease or assign the Amsen Property or any part or parts thereof out of the ordinary course of business,
 - (1) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (2) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price

exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (xii) to apply for any vesting order or other orders necessary to convey the Amsen Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Amsen Property;
- (xiii) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Amsen Property and these receivership proceedings, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (xiv) to register a copy of this Order and any other Orders in respect of the Amsen Property against title to any of the Amsen Property;
- (xv) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of Amsen;
- (xvi) to enter into agreements with any trustee in bankruptcy appointed in respect of Amsen, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by Amsen;
- (xvii) to exercise any shareholder, partnership, joint venture or other rights which Amsen may have; and

- (xviii) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- (b) as it concerns RCB and the RCB Equipment:
 - (i) to take possession of and exercise control over the RCB Equipment and any and all proceeds, receipts and disbursements arising out of or from the RCB Equipment;
 - (ii) to receive, preserve and protect the RCB Equipment, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of RCB Equipment to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
 - (iii) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;
 - (iv) to settle, extend or compromise any indebtedness owing to RCB insofar as it pertains to or impacts the RCB Equipment;
 - (v) to execute, assign, issue and endorse documents of whatever nature in respect of any of the RCB Equipment, whether in the Receiver's name or in the name and on behalf of RCB, for any purpose pursuant to this Order;
 - (vi) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the RCB Equipment or the Receiver, and to settle or compromise any such proceedings. The authority hereby

conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (vii) to market any or all of the RCB Equipment, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (viii) to sell, convey, transfer, lease or assign the RCB Equipment or any part or parts thereof out of the ordinary course of business,
 - (1) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (2) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required;

- (ix) to apply for any vesting order or other orders necessary to convey the RCB Equipment or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such RCB Equipment;
- (x) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the RCB Equipment and these receivership proceedings, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (xi) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of RCB, in respect of the RCB Equipment; and
- (xii) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that: (i) the Debtors and TPNP Holdings Inc., (ii) all of such parties' current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request. Without limiting the foregoing, the Debtors and Mr. Anthony Guido shall, forthwith upon the Receiver's request, advise the Receiver of the known locations of any of (a) the RCB Equipment or (b) equipment leased, owned or held by Amsen, regardless of whether such equipment is in "possession or control" of the Debtors or Mr. Guido.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of Amsen or related to the RCB Equipment, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the

Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of Amsen, the Amsen Property or the RCB Equipment shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of Amsen, the Amsen Property or the RCB Equipment are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against Amsen, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by Amsen, without written consent of the Receiver or leave of this Court.

LIMITATIONS RE: RCB and TPNP HOLDINGS INC.

12. **THIS COURT ORDERS** that, for greater certainty:

- (a) as concerns RCB:

- (i) the stay of proceedings established pursuant to this Order shall extend only to the RCB Equipment and RCB's interest in the same, and shall not extend to RCB generally or to any other assets, properties or undertakings of RCB; and
 - (ii) the Receiver is not, and shall not be deemed to be, a "receiver" as defined in section 243 of the BIA and is hereby relieved from any notice, reporting or obligations of a receiver to creditors, employees or any other Persons as may be required pursuant to the BIA, the *Wage Earner Protection Program Act* or any other applicable legislation; and
- (b) as concerns TPNP Holdings Inc. ("TPNP"):
- (i) the Receiver is hereby appointed in respect of TPNP only to the extent of TPNP's interest in the Quarry, if any, which Quarry comprises part of the Amsen Property;
 - (ii) the stay of proceedings established pursuant to this Order shall extend only to TPNP's interest in the Quarry, if any, and shall not extend to TPNP generally or to any other assets, properties or undertakings of TPNP; and
 - (iii) the Receiver is not, and shall not be deemed to be, a "receiver" as defined in section 243 of the BIA and is hereby relieved from any notice, reporting or obligations of a receiver to creditors, employees or any other Persons as may be required pursuant to the BIA, the *Wage Earner Protection Program Act* or any other applicable legislation,

provided that, in all cases, each of the foregoing limitations is subject to further order of the Court.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of Amsen's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

14. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

15. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, if so empowered hereby, on the subject Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing

to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers

under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

18. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

19. **THIS COURT ORDERS** that the Receiver and its counsel shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and its counsel shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

20. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

22. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

23. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

24. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "B"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

25. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

26. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (the "**Rules**") this Order shall constitute an order for substituted service pursuant to

Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://fullerllp.com/selected-active-engagements/>.

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

28. **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.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of either of the Debtors.

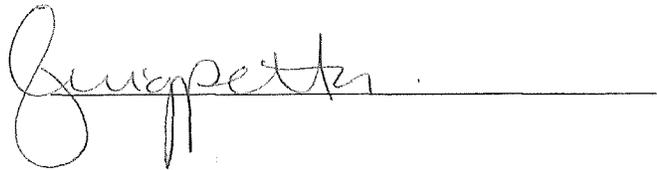
30. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, 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.

31. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that

the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. **THIS COURT ORDERS** that Kooy shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of Kooy's security or, if not so provided by Kooy's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estates with such priority and at such time as this Court may determine.

33. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

A handwritten signature in cursive script, appearing to read "Giuseppe", is written over a horizontal line.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

SEP 12 2018

PER / PAR:

Handwritten initials, possibly "ML", written in cursive script.

SCHEDULE "A"

RCB EQUIPMENT

| Year | Make | Model | Serial | Description |
|-------------|-----------------|--------------|---------------------------|---------------------------|
| 2003 | Wilson | 11-6 | HD30-11630-03149 | Overhead Gantry Saw |
| 1997 | CAT | 980G | 2KR01235 | Wheel Loader |
| 2013 | Kubota | IKX057-4GA | 21846 | Excavator |
| 2005 | Volvo | L220E | EV3530 | Wheel Loader |
| 2014 | Kubota | ISVL90-2HFC | 13943 | Skid Steer Loader |
| 2008 | JCB | 436HT | JCB43600L7 1305303 | Wheel Loader |
| 2011 | JCB | 456HT | JCB45600H 01304170 | Wheel Loader |
| 2010 | Park Industries | PYTHON II | 138368 | Diamond Saw |
| 2013 | Daewoo | LOLAR 3000-V | 1305 | Excavator C/W RTS SA |
| 1998 | Fiat Allis | FR220 | DGM40659 MOEST010 M | Wheel Loader |
| 2005 | CAT | 908 | CAT00908L TAR00543 | Wheel Loader |
| 2000 | OGDEN | 8-40300 | OG1058 | Stone Splitter |
| 2008 | Park Industries | 36-16-150 | 109542 | Stone Splitter |
| 2008 | Park Industries | PCDC-30-120 | 109543 | Conveyer with skid loader |

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that The Fuller Landau Group Inc., the receiver (in such capacity, the "**Receiver**"), without security, of: (a) all of the assets, undertakings and properties of Amsen Quarry Limited ("**Amsen**") acquired for, or used in relation to a business carried on by Amsen; and (b) certain equipment of Royal Canadian Bedrock Inc. ("**RCB**" and, together with Amsen, the "**Debtors**") (the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the [REDACTED] day of [REDACTED], 2018 (the "**Order**") made in an application having Court file number [REDACTED], has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$[REDACTED], being part of the total principal sum of \$[REDACTED] which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the [REDACTED] day of each month] after the date hereof at a notional rate per annum equal to the rate of [REDACTED] per cent above the prime commercial lending rate of Royal Bank of Canada from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

The Fuller Landau Group Inc., solely in its capacity as the Receiver of the Property, and not in its personal capacity

Per: _____

Name:

Title:

KOORY BROTHERS LAWN EQUIPMENT LIMITED

- and -

AMSEN QUARRY LIMITED, ROYAL CANADIAN
BEDROCK INC. and TPNP HOLDINGS INC.

Applicant

Respondents

IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION 243(1) OF
THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED
and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, as
amended

Court File No. CV-18-00595177-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

Proceeding commenced at **TORONTO**

ORDER
(appointing Receiver)

LOOPSTRA NIXON LLP
135 Queens Plate Drive – Suite 600
Toronto, ON M9W 6V7

R. Graham Phoenix (LSUC # 52650N)

Tel: (416) 748-4776

Fax: (416) 746-8319

Email: gphoenix@loonix.com

*Lawyers for the Applicant, Koory Brothers Lawn
Equipment Limited*

TAB B

Rosen & Associates Limited

LITIGATION AND INVESTIGATIVE ACCOUNTANTS

Forensic Accounting
Business Valuation
Public Company Analysis
Quantification of Damages
Public Accountants' Negligence

802-90 Adelaide Street West
Toronto, Ontario M5H 3V9
Tel 416-363-4515
Fax 416-363-4849
www.rosen-associates.com

Privileged & Confidential

Chaitons LLP
5000 Yonge Street
10th Floor
Toronto, Ontario
M2N 7E9

September 21, 2018

Attention: Stephen Schwartz

Re: Amsen Quarry Limited, Royal Canadian
Bedrock Inc. and TPNP Holdings Inc. ats
Kooy Brothers Lawn Equipment Limited

I. INTRODUCTION

Chaitons LLP has engaged me, a forensic accountant, on behalf of Amsen Quarry and Royal Canadian Bedrock Inc. ("Royal Canadian"), to analyze documents and prepare a report in a legal dispute which involves Kooy Brothers Lawn Equipment Limited ("Kooy Brothers").

In view of the extensive volumes of documents that are in need of reference, and the opposing commentary of the parties, my report is a "First Stage Analysis," and would require an update should further data become available. Sources of information have been shown, where available.

A deadline of September 24-25 2018, was set by the Ontario Superior Court of Justice for an in-depth analysis of at-issue financial matters. A time extension for assembling a more complete report may have to be requested because important

documents may be in the process of being collected for evaluation purposes, from various external parties.

In broad terms, I have been requested to analyze available information so as to determine the amount of dollars that are owed in a dispute between Royal Canadian and Kooy Brothers. Such an accounting was ordered by the Honourable Mr. Justice Pattillo on July 26, 2018.

On the basis of what I have observed to date, the precise dollar amounts at stake are not totally clear. But, with confirmations of dollar figures from Kooy Brothers, the dollar amounts at stake could be easy to resolve. Meanwhile, I have had to make some assumptions. For example, it was asserted in an Affidavit rendered on behalf of Kooy Brothers in June 2018, that "... the Quarry is not operational at all." Royal Canadian controls about 10 quarries. Hence, Royal Canadian is being accounted for as a going concern.

In contrast to the Kooy Brothers' assertion, public accountants KPMG LLP rendered a "Review Engagement Report" for Royal Canadian's 2017 fiscal year, dated October 18, 2017. (Such is less than one year ago). The balance sheet shows over nine million dollars of assets and over one and one-half million dollars of shareholder's equity. The KPMG LLP Review Report is worded in "standard terms," meaning that the companies are "going concerns," and not "in liquidation."

Royal Canadian's fiscal 2016 "Reviewed" financial statements show sales revenue of over two million, with net earnings of \$585,060 in 2016 and \$241,242 in fiscal 2015. Liquidity of entities may differ from profitability, and could be relevant. But, in my opinion, liquidation accounting is not appropriate.

Nevertheless, a possible liquidity issue has to be briefly pursued; and such may require a reporting extension beyond the Court date of September 24-25, 2018. For instance, KPMG LLP's 2016 report was dated December 9, 2016 (meaning that

KPMG LLP may not complete their 2018 Review until December 2018.) As also applied for fiscal year 2017, no indication of a “going concern” problem was displayed in the Reviewed 2016 financial statements of Royal Canadian. Hence, KPMG LLP’s opinion could differ significantly from Kooy Brothers’ assertions or assumptions.

In brief, evidence-gathering and evaluation has to concentrate upon obtaining sufficient proof of what Kooy Brothers alleges that it is owed, including acknowledging all of its past receipts, which lowered dollars allegedly being owed. Similarly, Royal Canadian may have to assemble proof that Kooy Brothers received and cashed alleged cheques and bank transfers. Court orders to produce outstanding documents by a stated date may prove beneficial and necessary in resolving any disagreements.

Appendices A and B to this report provide a declaration of my independence in this matter and my C.V.

II. SCOPE OF ANALYSIS

This report had to be based on information that was available. The ideal quality of data would constitute signed receipts acknowledging that cheques, bank withdrawals, certified cheques and similar had lowered the outstanding debts to Kooy Brothers and Kubota, and the current amount still outstanding was agreed upon to be specific stated dollars.

In some cases we had, and utilized, such quality information, often in the form of available bank statements, which showed pre-authorized amounts being deducted from account balances. However, in overall dollar terms, mainly we had to rely upon the payment information that Kooy Brothers represented in the signed Affidavit of Kevin Ford, dated June 11, 2018, in its various Appendices such as I, J, and K.

In short, in our view, the Kooy Brothers' Affidavit had admitted to having received the money due, and the payment was not in dispute. Accordingly, cancelled cheques were not required as further evidence because the source was the signed Affidavit evidence of the Applicant.

For the "lease dollars receivable" we relied upon information assembled by Kooy Brothers. It is possible that dollar amounts changed for situations where leases had to be renewed. We did not have the Kooy Brothers ledger cards for each lease, and therefore could not check for any discrepancies.

We have stated on the following pages where discrepancies might exist as well as where disputes could still be current.

Overall, the tabulations on the following pages should provide enough information so as to be able to commence negotiations towards a resolution.

III. PAYMENTS MADE

Two sets of leases exist in this case. The first set involves Amsen Quarry Limited ("Amsen"). The second set of leases was signed on behalf of Royal Canadian. Financial payments for each have to be analyzed separately even though both involve Kooy Brothers and its supplier.

Financial records that have been made available to me indicate that, including HST, the original (first set) leases Amsen #578894, #580977, and #597051, total an amount initially owing of \$810,430.35. (Applicant's Compendium, July 23, 2018, Volume 1, Appendix A, B and C.) When deposits that were initially made are subtracted, totalling \$72,600, the net amount owing is \$737,830.35 for the first set.

At issue is what the provable documentation shows as having been paid, excluding late payment or other fees, and after netting out payments that did not clear the bank on the due dates.

The second set of leases are for Royal Canadian and are numbered as leases #611787, #611789, #612688, #615375, and #615540. Including HST, the amount owing initially on these leases totalled to \$926,707.35.

A material complication might arise in continuing with the tabulation of current amounts owing for the first set of leases, because the legality of Amsen Quarry Limited lease #580977 is in dispute. Royal Canadian and Amsen are alleging that the equipment being financed by the lease was never received by Amsen. Hence, Kooy Brothers could have been incorrectly paid by the new owners of Amsen (being Royal Canadian), and accordingly could potentially be owed repayments from Kooy Brothers.

Given that I was not able to find documents concerning the resolution of Amsen lease #580977, it is necessary to proceed utilizing an assumption. For arithmetic purposes my assumption is that the \$737,830.35 noted above is relevant until proven otherwise.

First set of leases (Amsen Quarry):

A tabulation by Royal Canadian shows:

| | |
|--|---------------------|
| Net lease dollars, after deposit | <u>\$737,830.35</u> |
| Less payments made: | |
| By previous owners (according to Kevin Ford Affidavit, June 11, 2018, Appendix I, J, and K) to Kubota: | |
| #578894 | 106,098.72 |
| #580977 | 395,457.60 |
| #597051 | <u>44,600.50</u> |
| | <u>546,156.82</u> |

| | |
|--|-----------------------|
| Net owing | <u>191,673.53</u> |
| Other payments made | |
| (July 2014 – April 2016) | |
| (Ford Affidavit June 11, 2018) | |
| 20 payments at \$12,222.05) | <u>244,441.00</u> |
| <u>Overpayments made (based on Kevin Ford Affidavit tabulations)</u> | <u>(52,767.47)</u> |
| Additional overpayments made to Kubota: | |
| Bank of Montreal documents: | |
| (October 2015) | (25,000.00) |
| (December 2015) | (25,000.00) |
| (December 2015) | <u>(15,000.00)</u> |
| | <u>(65,000.00)</u> |
| Overpayments, based on the above | <u>(117,767.47)</u> |
| Further payments to Kooy Brothers: | |
| Bank of Montreal | |
| (June and August 2015, plus | |
| February 2016): | |
| Cheque #323 | (8,391.55) |
| Cheque #327 | (8,391.55) |
| Cheque #194 | <u>(7,287.62)</u> |
| | <u>(24,070.72)</u> |
| Total <u>overpayments</u> , based on the | |
| above sources | <u>\$(141,838.19)</u> |

As indicated under Section II of this report, Scope of Analysis, we did not conduct forensic audits on each of the involved entities. Accordingly, we cannot “guarantee” that each of the items noted above were made as payments on the various leases. However, what has been assembled, based on the available evidence, calls into question (in my opinion) the issue of whether Royal Canadian and Amsen Quarry still owe money on the original leases, to Kooy/Kubota.

Seemingly, in the absence of communicated data about the dollars of payments that were made by the previous owners of Amsen, Royal Canadian paid money that may very well have not been owed. However, we are not certain what caused the control problems, but they may have arisen from poor-quality control systems.

Based on the above data, Kooy/Kubota could owe money to Royal Canadian for the overpayments on the Amsen leases.

Second set of leases (Royal Canadian):

A tabulation assembled with the assistance of Royal Canadian shows:

| | |
|---|---------------------|
| Original leases #611787, #611789, #612688, #615375, and #615540, including HST | <u>\$926,707.35</u> |
|---|---------------------|

Less payments and credits to date:

Based on Kevin Ford's
Sworn Affidavit, June 11, 2018,
Appendix S

| | |
|-----------------|-------------------|
| Leases: #611787 | 37,065.47 |
| #611789 | 16,695.62 |
| #612688 | 56,170.70 |
| #615375 | 20,727.65 |
| #615540 | <u>65,715.30</u> |
| | <u>196,374.74</u> |

| | |
|---------------------------------------|-------------------|
| Net outstanding before the undernoted | <u>730,332.61</u> |
|---------------------------------------|-------------------|

| | |
|---|--------------------|
| Payment by lawyer's certified cheque to Kooy Brothers (Ford Affidavit, June 11, 2018, Appendix S) | <u>(87,876.13)</u> |
|---|--------------------|

| | |
|-------------------|-------------------|
| Net due on leases | <u>642,456.48</u> |
|-------------------|-------------------|

Less proceeds generated by the Kooy
Liquidation of the undernoted

(According to August 8, 2018 invoices;
Loopstra Nixon):

| | |
|---|---------------------|
| Kubota Excavator: | 72,998.00 |
| Cat Wheel Loader: | 25,000.00 |
| Hitachi Loader: | <u>12,397.50</u> |
| | <u>110,395.50</u> |
| Net owing after liquidation | <u>532,060.98</u> |
| | |
| Possibly in dispute cash payment allegedly given by Anthony Guido to Kevin Ford in 2015 for Royal Canadian lease payments | <u>(25,000.00)</u> |
| | |
| Net owing for Royal Canadian leases | \$507,060.98 |
| | |
| Should the calculated overpayments for the Amsen leases be subtracted, the credit would be | <u>(141,838.19)</u> |
| | |
| Amount due to Kooy/Kubota | <u>\$365,222.79</u> |

Adjustments may be needed to the above for various sales commissions, legal fees and similar.

As previously stated, should better quality evidence become available, dollar adjustments can be made. (An example would be the \$25,000 payment allegedly given to Kevin Ford.)

IV. RESTRICTIONS

This forensic accounting report has been prepared for litigation purposes involving Royal Canadian Bedrock Inc. This report is not intended for general circulation or publication, nor is it to be reproduced for any purpose other than as outlined above without our written permission in each specific instance. We will not be responsible for losses occasioned to any party as a result of the circulation, publication, reproduction or use of this report contrary to the provisions of this paragraph. We reserve the right to revise our opinion in light of any facts, trends, or changing circumstances that become known to us subsequent to the date of this report.

Respectfully submitted,

ROSEN & ASSOCIATES LIMITED

L. S. Rosen

L.S. Rosen

APPENDIX A
ACKNOWLEDGEMENT OF EXPERT'S INDEPENDENCE

1. My name is Lawrence S. Rosen. I live in the City of Toronto in the Province of Ontario.
2. I have been engaged on behalf of Royal Canadian Bedrock Inc. to provide a forensic examination of financial transactions.
3. I acknowledge that it is my duty to prepare a report that:
 - a) provides an opinion that is fair, objective and non-partisan;
 - b) provides an opinion that is related only to matters that are within my area of expertise; and,
 - c) provides such additional assistance as may reasonably be required to determine a matter in issue.
4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

September 21, 2018

Date

L. S. Rosen

L.S. Rosen

APPENDIX B**DR. LAWRENCE ROSEN'S C.V****LAWRENCE S. ROSEN**

Personal Data

*(January 2009)***EDUCATION**

M.B.A. (1964, University of Washington; focus: financial accounting); Ph.D. (1966, University of Washington; multi-fields; thesis focus: cash flows and financial reporting)

B. Com. (1957, University of British Columbia)

Chartered Accountant (1960, British Columbia), Alberta and Ontario

Certified Management Accountant (Registered Industrial Accountant, 1970)

DESIGNATIONS

FCA, Ontario

FCA, Alberta

FCMA, Canada

CGA, (Ontario and Canada)

CFE, (Certified Fraud Examiner and Life Member) Canada and U.S.A.

CIP, (Chartered Insurance Professional)

CPA (Certified Public Accountant, Illinois)

CA•IFA (Specialist, Investigative and Forensic Accounting)

CPA/CFE (Certified in Financial Forensics)

FCPA (Fellow of the Hong Kong Society of Certified Public Accountants)

EMPLOYMENT

Professor, York University, Toronto, Canada (Professor 1972 – 2001, Professor Emeritus 2001 to present; teaching focused on accounting, auditing and the integration of a professional accounting programme; Director, MBA Program 1992-1994)

Principal, Rosen & Associates Limited, (2000 -)

Principal, Rosen & Vettese Limited, (1990 - 2000)

Partner or Associate, Mintz & Partners, (1986 – 1990)

Technical advisor to three Auditors' General of Canada, (1978 – 1993)

Consultant to Clarkson Gordon, (Accounting principles, litigation, education), (1972 – 1986) (Now called Ernst & Young)

Manager, Accounting Standards and Research group, Clarkson Gordon, Toronto, (1970 – 1972)

Lecturer, (part-time), Faculty of Administrative Studies, York University, Toronto, (1970 – 1972)

Professor and Associate Professor, University of Alberta, (1966 – 1970)

Predoctoral Instructor, University of Washington, (1964 – 1966)

Instructor, University of British Columbia, 1961 - 1963 (part-time, 1960 -1961)

Chartered Accountant and Student, Peat, Marwick Mitchell & Co., (1957 – 1961) (Now called KPMG)

LITIGATION AND RELATED CASES

Since 2004:

Bellan v. Curtis, Pricewaterhouse Coopers LLP, Nesbitt Burns Inc., Wellington West Capital Inc., Crocus Capital Inc., The Manitoba Securities Commission and The Crocus Investment Fund, et. al (Class action suit in which Dr. Rosen was retained to represent the class against all defendants. The issues involved financial statement presentation, share valuation and statement of asset values. Status: Settled out of Court.)

General Refrigeration of Canada Ltd. v. Finnpower Canada Ltd. (Dr. Rosen was retained by the defendants. The issues involved financial statement presentation and damages. Status: Settled.)

Refrigerated Construction & Services Inc. v. Coldmatic Refrigeration of Canada Ltd. (Dr. Rosen was retained by the defendants. The issues involved the purchase and sale of a business, financial statement presentation, fair presentation. Status: Settled.)

Saskferco Products Inc. v. Her Majesty the Queen (Dr. Rosen was retained by the Crown in a tax case and the application of hedge accounting principles. Status: Judgment for the Crown, upheld on appeal.)

Silver and Cohen v. IMAX Corporation et al. (Dr. Rosen was retained by the Class in a class action case. The issues involve GAAP and whether the financial information was false and misleading. Status: Ongoing.)

Kingsway Insurance v. PriceWaterhouseCoopers (Dr. Rosen was retained by the plaintiff in a case involving US GAAS and GAAP, including issue of whether the liabilities were misstated and whether there was fraud. Status: Ongoing.)

Kingsway Insurance v. 118997 Canada Inc., Mr. Raymond David, and Mr. Michel Gauthier (Dr. Rosen was retained by the plaintiff in an arbitration case involving issues related to fraud, financial statement presentation. Status: Arbitrator's decision for the plaintiff.)

Kingsway Insurance v. Ernst & Young (Dr. Rosen was retained by the plaintiff and has written reports for the Court. Status: Ongoing.)

Other Cases:

Waxman v. Waxman (Dr. Rosen was retained by the plaintiff and gave evidence relevant to materiality and the obligation to disclose related party transactions. Status: Judgment rendered for the plaintiff, and upheld on appeal.)

Sherman v. Orenstein & Partners (Dr. Rosen was retained by the CA firm (defendants). The issue involved the standard of care required in the performance of a review engagement. Status: Judgment for defendant, upheld on appeal.)

A-1 Floor & Wall v. Partridge Pelissero Iggulden (Dr. Rosen was retained by the CA firm (defendants) in a case involving GAAP and fair presentation. Status: Judgment for defendants.)

Pineridge Capital Corp. v. BDO Dunwoody (Dr. Rosen was retained by the CA firm (defendants) and gave evidence on GAAS, GAAP, fair presentation and, more particularly, sufficient appropriate audit evidence, bank confirmations, professional judgment and contingent liabilities. Status: Judgment in part for the defendant.)

Kripps v. Touche Ross & Co. [Dr. Rosen was retained by the plaintiffs and gave evidence on GAAS and GAAP, fair presentation. Prepared an affidavit submitted by the Plaintiffs / Respondents to the Supreme Court of Canada. (Leave to Appeal was denied.) Status: Judgment for plaintiffs.]

Hercules Managements Ltd. v. Ernst & Young (Dr. Rosen was retained by Hercules Management on issues related to auditor's negligence and damages. Status: Judgment.)

Bloor Italian Gifts Ltd. v. Dixon (Dr. Rosen acted for the CA (defendants) in a case involving review engagement standards. Status: Judgment in part for defendant.)

QEW 427 Dodge Chrysler (1991) Inc. v. Ontario (Minister of Revenue) (Dr. Rosen was retained by the Crown on the meaning of "accounts payable" in a tax case. Status: Judgment.)

Tucci Construction v. Lockwood (Dr. Rosen was retained by the CA firm (defendants) in a case involving financial statement presentation. Status: Judgment.)

Surrey Credit Union v. Willson et al. (Dr. Rosen was retained by the plaintiff against the two accounting firms in the "Northland Bank" case. The issues include GAAS & GAAP. Status: Settled.)

National Business Systems (Dr. Rosen was retained by the CA firm (defendants) in a case involving the alleged negligence of auditors. Status: Settled.)

Hyundai Motor Co. (Dr. Rosen was retained by the company in a case involving financial analysis before the Canadian Import Tribunal. Status: Judgment for the company.)

Teachers' Investment & Housing Co-operative (Dr. Rosen was retained by the Attorney-General for British Columbia in a case involving alleged negligence of lawyers and public accountants. Status: Settled.)

Ontario Ministry of Labour v. Massey Ferguson (Dr. Rosen was retained by the union workers in connection with an investigation involving asset and liability distributions among segments of Varsity Corporation. Status: Settled.)

Calgroup Graphics and PriceWaterhouse (Dr. Rosen was retained by the Ontario Securities Commission in a case involving alleged Securities Act violations. Status: Disciplinary action against the auditor; cease-trading order issued.)

Miscellaneous Cases:

Many cases are currently in progress.

Several other cases re professional negligence and preparation of expert reports could be listed; most were settled prior to a Court Judgment.

Testimony before courts in Ontario, British Columbia and Quebec re contract disputes, competition legislation, matrimonial, alleged frauds, automobile accidents and other litigation.

Forensic accounting; patent infringements; insurance claims before Tribunals or Commissions.

Preparation of pre-trial reports, and expert witness appearances with respect to:

- accounting and auditing principles and policies
- loss of profits, and valuation
- patent infringements
- predatory pricing
- contract disputes

PROFESSIONAL AND ACADEMIC ASSOCIATIONSMemberships:

Institute of Chartered Accountants of Alberta, Ontario, and British Columbia (FCA, Ontario; FCA, Alberta)

Society of Management Accountants of Ontario (FCMA, Canada)

Certified General Accountants of Ontario, and of Canada

Canadian Comprehensive Auditing Foundation

American Institute of Certified Public Accountants

American Accounting Association

Hong Kong Society of Certified Public Accountants

Canadian Academic Accounting Association

Association of Certified Fraud Examiners

Chartered Insurance Professional

Positions Held:

Elected to the Board of Directors of the Canadian Justice Review Board (2006 – present)

Co-founder of Accountability Research Corporation (from 2001 to present) (Research for mutual funds, pension funds and money managers)

Elected to the Council of the Institute of Chartered Accountants of Ontario (3 years, early 1990s, governance issues affecting the profession)

Director of the MBA Program, York University

Member, Senate, York University

Area Coordinator, Accounting Area, York University
Chairman, Senate Appeal Committee, York University

Advisory Board, Comprehensive Auditing, Society of Management Accountants of Canada

Editor, "Education Research", *The Accounting Review*, 1979 - 1984

Board of Directors, Society of Management Accountants of Canada, 1980 - 1983

Governor, Canadian Comprehensive Auditing Foundation, 1980 - 1983

Director and President, The Canadian Academic Accounting Association, 1976 - 1978

Editorial Board, *The Accounting Review*, 1975 - 1978

Executive, Canadian Region, American Accounting Association (3 years) Chairman (1 year) and member (3 years), Manuscript Awards Committee, American Accounting Association

Editor "Education", *CA Magazine*, 1972 - 1977

Member of numerous committees of professional associations or academic bodies

PUBLICATIONS

Articles:

Monthly columnist for Canadian Business magazine (2000 – present) and the National Post newspaper (2004 – present)

Boardroom, various articles published in 2000s

"CICA Exposure Draft: A Comment", *The Philanthropist* (Summer 1992)

"Restoring the Importance of Accounting Education", *CA Magazine* (September 1982)

"An Empirical Study of Materiality Judgments by Auditors, Bankers and Analysts", In S. Basu and J. Alex Milburn, Proceedings of the 1981 Clarkson Gordon Foundation Research Symposium (Toronto, 1982)

"Dialogue on Accounting Education", (with R. Denham), *CA Magazine* (September 1981)

"Accounting Education: A Grim Report Card", *CA Magazine* (June 1978)

"New Auditing Concepts for Current Value Accounting?", in Auditing Research Symposium - 1977 (Toronto: CICA, 1978)

- "Accounting for Inflation in Canada" in Accounting For Changes In The Value of Money, (Munich: 11th International Congress of Accountants, 1977)
- "Autumn of Our Discontent", CA Magazine, (October 1976). (Granted the W.J. MacDonald Memorial Award for the best article in 1976-77)
- "Alternatives to Historic Cost: An Introductory Analysis", CA Magazine, (July 1976)
- "Professional Judgment and Multi-Subject Accounting", CA Magazine, (May 1976)
- "Comprehensive Problem - Philosophy and Technique", Cost and Management, (March - April 1976)
- "Current Practitioner - Academic Relations", CA Magazine, (September 1975)
- "Comprehensive Case Examinations", CA Magazine, (March 1975)
- "Funds Statements", CA Magazine, (July 1974)
- "Tailoring Accounting Techniques to Management Decisions", CA Magazine, (March 1974)
- "Accountancy Examinations", Canadian Chartered Accountant, (July 1972)
- "Chartered Accountancy Education and Examinations", Canadian Chartered Accountant, (July 1971)
- "A Framework for Studies in Accountancy", Canadian Chartered Accountant, (July 1971)
- "Accounting and the Behavioral Sciences", (with C.J. McMillan), Canadian Chartered Accountant, (October 1970)
- "Alternatives to Historical Cost", Canadian Chartered Accountant, (March 1970)
- "General Price-Level Restated Reports", Canadian Chartered Accountant, (January and February 1970)
- "Funds Statements: A Historical Perspective", (with Don T. DeCoster), The Accounting Review, (January 1969)
- Series on "Funds" Statement Concepts, Canadian Chartered Accountant, (October, November, December, 1968). One article in three-part series reproduced in T.J. Burns and H.S. Hendrickson, The Accounting Sampler, second edition, (New York, McGraw-Hill Book Company, 1972)
- "Some Behavioral Consequences of Accounting Measurement Systems", (with R.E. Schneck) Cost and Management, (October 1967). Reprinted in W. Bruns, Jr. and Don T. DeCoster (editors), Accounting and Its Behavioral Implications, (New York: McGraw-Hill Book Company, 1969)
- "On the Conflict between Custodial and Operational Accounting", Cost and Management, (June and July - August 1967)
- "Replacement Value Accounting", The Accounting Review, (January 1967)
- "Historical Cost and Replacement Value Accounting", The Illinois C.P.A., (Spring 1966)

"Operations Research", (with C. Rosen), Certified General Accountant, (November - December 1964)

"Price-Level Adjustments and Cost Systems", Cost and Management, (October 1964)

Books:

Understanding Accounting – The Lawyers' Guide, Lawrence S. Rosen, Frank M. Vettese, Jim Muccilli, (Canada Law Book Inc., 1999), 272 pages.

Accounting: A Decision Approach, (Toronto: Prentice-Hall, 1986). Also accompanying instructors' manual

Study Guide for Accounting: A Decision Approach, (Toronto: Prentice-Hall, 1986)

Topics in Managerial Accounting, (Third Edition, Editor), Toronto: McGraw-Hill Ryerson Limited, 1984

Financial Accounting: A Canadian Casebook with Multiple Subject Cases, (Toronto: Prentice-Hall, 1982). Also accompanying instructors' manual.

An Introduction to Accounting Case Analysis, Second Edition, (Toronto: McGraw-Hill, 1981). Also accompanying instructors' manual.

Canadian Financial Accounting, (with M. Granof) (Toronto: Prentice-Hall, 1980).

Self Study Problems for Canadian Financial Accounting, (with G. Richardson) (Toronto: Prentice-Hall, 1980)

An Introduction to Accounting Case Analysis, (Toronto: McGraw-Hill Ryerson Limited, 1975), 195 pages

Topics in Managerial Accounting, (Second Edition Editor), (Toronto: McGraw-Hill Ryerson Limited, 1974), 412 pages

Instructors' Manual for Topics in Managerial Accounting, (Second Edition, 1974), 32 pages

Valeurs Actuelles Et Indexation Des Etats Financiers, (Toronto: Canadian Institute of Chartered Accountants, 1973), 150 pages. French Translation of 1972 book.

Current Value Accounting and Price-Level Restatements, (Toronto: Canadian Institute of Chartered Accountants, 1972), 143 pages.

Topics in Managerial Accounting, (Editor), (Toronto: McGraw-Hill Company of Canada Ltd., 1970), 365 pages.

Cas De Compatibilite Et D'Administration, (Montreal: McGraw-Hill Company of Canada Ltd., 1970), 475 pages. French translation of 1968 book.

Cases in Accounting and Business Administration, (Toronto: McGraw-Hill Company of Canada Ltd., 1968), 405 pages, and companion book, Instructors' Notes for Cases in

Accounting and Business Administration, (Toronto: McGraw-Hill Company of Canada Ltd., 1969), 385 pages.

Several other book and article reviews, lesson manuals and papers.

Chapters written for books that were edited by others.

TAB C

AIRD BERLIS

Ian Aversa
Direct: 416.865.3082
E-mail: iaversa@airdberlis.com

September 20, 2018

BY EMAIL (stephen@chaitons.com, aziaie@chaitons.com and anthony@royalcanadianbedrock.com)

Chaitons LLP
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Attention: Stephen Schwartz and Aryan Ziaie

Anthony Guido
16 Amos Maynard Circle
Woodbridge, ON L4L 3B8

Dear Sirs:

Re: Court File No. CV-18-595177-00CL / Kooy Brothers Lawn Equipment Limited v. Amsen Quarry Limited, Royal Canadian Bedrock Inc. and TPNP Holdings Inc.

As you know from our previous letter to you dated September 17, 2018 (our "**Previous Letter**") and our follow-up email to Chaitons LLP of September 18, 2018 (our "**Follow-up Email**"), both of which are enclosed (without attachments), we are the lawyers for The Fuller Landau Group Inc. ("**FLG**"), in its capacity as the court-appointed receiver (in such capacity, the "**Receiver**") of:

- (i) all the assets, undertakings and properties (collectively, the "**Amsen Property**") of Amsen Quarry Limited ("**Amsen**"), including, without limitation, the real property located at the address known municipally as 136 The Bury Road, South Bruce Peninsula, Ontario and identified as PIN 33135-0103 (LT), and all proceeds thereof, including, without limitation, any interest that TPNP Holdings Inc. may have therein; and
- (ii) the equipment of Royal Canadian Bedrock Inc. ("**RCB**", and together with Amsen, the "**Debtors**") that is listed on Schedule "A" to the Appointment Order (as defined below, the "**RCB Equipment**", and together with the Amsen Property, the "**Property**").

Unless otherwise stated, all capitalized terms are defined as they appear in our Previous Letter.

As you know, we sent the Previous Letter after both the Debtors and Mr. Guido repeatedly failed to provide the Receiver with the requested Records and the location of the Equipment, despite repeated requests by the Receiver and express requirements to do so in the Appointment Order.

Apart from read receipts from Chaitons LLP and email marked "without prejudice" from Mr. Guido (which does not provide the Receiver with the requested Records or the location of the Equipment), we have not received any response to our Previous Letter. We have also not received any response to our Follow-up Email as it relates to the issues raised in our Previous Letter. Both the requested Records and the location of the Equipment remain undelivered

and/or unknown to the Receiver, as applicable, such that the breaches of the Appointment Order by both the Debtors and Mr. Guido continue.

We understand that you have scheduled a 9:30 a.m. Court attendance for September 24, 2018 to schedule "a *Motion for an accounting pursuant to [the] Order of Justice Pattillo dated July 26, 2018*" (the "**September 24 Court Attendance**").

As you know, the Appointment Order expressly empowers and authorizes the Receiver, to the exclusion of all other Persons, including the Debtors, and without interference from any other Person, to take possession of and exercise control over the Amsen Property, the RCB Equipment and any and all proceeds, receipts and disbursements arising out of or from any of the Amsen Property or the RCB Equipment. The Appointment Order also expressly empowers and authorizes the Receiver to initiate, prosecute and continue the prosecution of any and all proceedings with respect to the Amsen Property, the RCB Equipment and any and all proceeds, receipts and disbursements arising out of or from any of the Amsen Property or the RCB Equipment. Accordingly, the Receiver has difficulty understanding how any of Amsen, RCB or Mr. Guido could still purport to have the jurisdiction to bring the proposed motion for accounting, and we request that you advise the Receiver prior to the September 24 Court Attendance of the basis for same so that the Receiver can consider same ahead of the September 24 Court Attendance. We also repeat our request made previously to you in the Follow-Up Email to be served with any and all materials and correspondence in respect of the proposed motion for accounting, as we have not yet received a notice of motion (or motion record).

In any event, and without limiting any of the proposed courses of action raised in our Previous Letter (including, without limitation, contempt and/or other proceedings, plus costs, against both the Debtors and Mr. Guido personally), the Receiver does intend to raise the repeated breaches of the Appointment Order by both the Debtors and Mr. Guido with the Court as part of the September 24 Court Attendance. It will be the Receiver's position that the Debtors and Mr. Guido must first comply, in full, with the Appointment Order before they may advance an argument, should one exist, that they retain jurisdiction to bring the proposed motion.

The Receiver continues to rely on the totality of what is set out in our Previous Letter. Complete and immediate compliance with the Appointment Order is required and is expected.

AIRD & BERLIS LLP

per:  M —
Ian Aversa
IA/jn
Encls.

cc: Client

33744321.1

AIRD BERLIS



Ian Aversa
Direct: 416.865.3082
E-mail: iaversa@airdberlis.com

September 23, 2018

BY EMAIL (stephen@chaitons.com, aziaie@chaitons.com and anthony@royalcanadianbedrock.com)

Chaitons LLP
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Attention: Stephen Schwartz and Aryan Ziaie

Anthony Guido
16 Amos Maynard Circle
Woodbridge, ON L4L 3B8

Dear Sirs:

Re: Court File No. CV-18-595177-00CL / Kooy Brothers Lawn Equipment Limited v. Amsen Quarry Limited, Royal Canadian Bedrock Inc. and TPNP Holdings Inc.

As you know from our previous letter to you dated September 17, 2018 (our "**First Letter**"), our follow-up email to Chaitons LLP of September 18, 2018 (our "**Follow-up Email**") and our follow-up letter to you dated September 20, 2018 (our "**Follow-up Letter**"), all three of which are enclosed (without attachments), we are the lawyers for The Fuller Landau Group Inc. ("**FLG**"), in its capacity as the court-appointed receiver (in such capacity, the "**Receiver**") of:

- (i) all the assets, undertakings and properties (collectively, the "**Amsen Property**") of Amsen Quarry Limited ("**Amsen**"), including, without limitation, the real property located at the address known municipally as 136 The Bury Road, South Bruce Peninsula, Ontario and identified as PIN 33135-0103 (LT), and all proceeds thereof, including, without limitation, any interest that TPNP Holdings Inc. may have therein; and
- (ii) the equipment of Royal Canadian Bedrock Inc. ("**RCB**"), and together with Amsen, the "**Debtors**") that is listed on Schedule "A" to the Appointment Order (as defined below, the "**RCB Equipment**"), and together with the Amsen Property, the "**Property**").

Unless otherwise stated, all capitalized terms are defined as they appear in our Follow-up Letter.

As you know, we sent our First Letter, our Follow-up Email and our Follow-up Letter after both the Debtors and Mr. Guido repeatedly failed to provide the Receiver with the requested Records and the location of the Equipment, despite repeated requests by the Receiver and express requirements to do so in the Appointment Order.

At the close of business on Friday, September 21, we understand that the Receiver received certain limited information from Mr. Guido. Based on a preliminary review, we understand that the information provided by Mr. Guido raises certain questions and/or inconsistencies vis-à-vis

the information that is already in evidence, including, without limitation, what Mr. Guido now describes as the purported non-existence of a significant portion of the Equipment. In this regard, the Receiver and/or its counsel will be in contact with you shortly to address these questions/inconsistencies.

We also received your motion record earlier today with respect to your proposed motion for accounting, which we understand you intend to attempt to schedule as part of tomorrow's September 24 Court Attendance. However, despite our request, and despite the fact that the September 24 Court Attendance is scheduled for tomorrow morning, we have still not been advised by you as to the basis for how any of Amsen, RCB or Mr. Guido still have the jurisdiction to bring the proposed motion for accounting in light of the exclusive powers granted to the Receiver in the Appointment Order. The Receiver did receive an email from Mr. Guido yesterday, in which Mr. Guido appears to equate a motion for accounting with "*a motion to terminate the receivership*," and our preliminary review of your motion record served today appears to suggest that this may be the intention. Please be advised that the Appointment Order remains in force and both the Debtors and Mr. Guido are required to comply with same and cooperate fully with the Receiver.

The Receiver continues to rely on the totality of what is set out in our First Letter, our Follow-up Email and our Follow-up Letter. The Receiver also intends to advise the Court of the foregoing tomorrow during the September 24 Court Attendance.

Yours truly,

AIRD & BERLIS LLP


Ian Aversa
IA/jn
Encls.

cc: Client

cc: Graham Phoenix, counsel for Kooy Brothers Lawn Equipment Limited

33764512.2

AIRD BERLIS

TAB D

COUNSEL SLIP

9:30

COURT FILE NO CV-18-00595171-00CC

DATE 24-SEP-2018

NO ON LIST 2

TITLE OF PROCEEDING
KOOY BROTHERS LAWN EQUIPMENT LTD.
v.
AMSEN QUARRY LTD. et al.

COUNSEL FOR: PLAINTIFF(S)
APPLICANT(S)
PETITIONER(S)
STEPHEN SCHWARTZ
PHONE & FAX NOS
(416) 218-4132
(416) 218-1832

COUNSEL FOR: DEFENDANT(S)
RESPONDENT(S)
Jeremy Nemers
for the Court-appointed Receiver
of Amsen Quarry Ltd.
and the enumerated equipment of Royal Canadian Bedrock Inc.
PHONE & FAX NOS
T 416-863-1500
F 416-863-1515

Graham Phoenix
for Kooy Bros.
416 478 4776
416 476 8319
gphoenix@loontix.ca

Sept. 24, 2018

Judge Chesapelle is seized at this matter. There is no urgency to this attendance. The issues engaged require some familiarity with the background in any event. Parties to attend before Judge Chesapelle at a 9:30 AM court.

Director, etc

→ Tuesday, October 2, 2018. Costs of
today's attendance shall be ~~covered~~ provided
at least ~~for~~ attendance.

Randy T.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

KOOY BROTHERS LAWN EQUIPMENT LIMITED

Applicant

- and -

**AMSEN QUARRY LIMITED,
ROYAL CANADIAN BEDROCK INC.
and TPNP HOLDINGS INC.**

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED and
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, as amended**

**UNOFFICIAL TRANSCRIPTION OF THE ENDORSEMENT OF
THE HONOURABLE JUSTICE PENNY
DATED SEPTEMBER 24, 2018**

September 24, 2018

Justice Chiappetta is seized of this matter. There is no urgency to this attendance. The issues engaged require some familiarity with the background in any event. Parties to attend before Justice Chiappetta at a 9:30 am appointment on Tuesday, October 2, 2018. Directions as to Costs of today's attendance shall be provided at that attendance.

Penny, J.

TAB E

Court File No. CV-18-00595177-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

KOBY BROTHERS LAWN EQUIPMENT LIMITED

Applicant

- and -

**AMSEN QUARRY LIMITED, ROYAL CANADIAN
BEDROCK INC. and TPNP HOLDINGS INC.**

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION 243(1) OF
THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

FIRST REPORT OF THE COURT-APPOINTED RECEIVER

SEPTEMBER 28, 2018

Appendices

- “A” - Appointment Order and Endorsement
- “B” - First Information Request (September 12, 2018)
- “C” - Second Information Request, without attachments (September 14, 2018)
- “D” - Third Information Request, without attachments (September 15, 2018)
- “E” - Fourth Information Request, without attachments (September 17, 2018)
- “F” - Mr. Guido’s email response (September 17, 2018)
- “G” - Email from A&B to Mr. Guido regarding purported “without prejudice” communications (September 17, 2018)
- “H” - Fifth Information Request, without attachments (September 18, 2018)
- “I” - Sixth Information Request, without attachments (September 21, 2018)
- “J” - Mr. Guido’s email response (September 21, 2018)
- “K” - Endorsement of the Honourable Mr. Justice Penny (September 24, 2018)
- “L” - Seventh Information Request, without attachments (September 25, 2018)
- “M” - Eighth Information Request (September 26, 2018)
- “N” - Mr. Guido’s email response (September 26, 2018)
- “O” - Email from the Receiver to Mr. Guido regarding purported “without prejudice” communications (September 27, 2018)

INTRODUCTION

1. Pursuant to the Order of the Honourable Madam Justice Chiappetta of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made September 12, 2018 (the “**Appointment Order**”), which was made on the application of Kooy Brothers Lawn Equipment Limited (the “**Applicant**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), The Fuller Landau Group Inc. was appointed receiver (in such capacity, the “**Receiver**”), without security, of:

- (a) all the assets, undertakings and properties of Amsen Quarry Limited (“**Amsen**”), including, without limitation, the real property located at the address known municipally as 136 The Bury Road, South Bruce Peninsula, Ontario (the “**Amsen Quarry**”), and all proceeds thereof, including, without limitation, any interest that TPNP Holdings Inc. may have therein (collectively, the “**Amsen Property**”); and
 - (b) the equipment of Royal Canadian Bedrock Inc. (“**RCB**”, and together with Amsen, the “**Debtors**”) that is listed on Schedule “A” to the Appointment Order (the “**RCB Equipment**”, and together with the Amsen Property, the “**Property**”).
2. A copy of the Appointment Order and corresponding endorsement are attached collectively as **Appendix “A”** to this first report to Court of the Receiver (the “**First Report**”).
3. The purpose of this First Report is to advise the Court of the Receiver’s requests for information about the Debtors and the Property from Mr. Anthony Guido, the Debtors’ principal, and Mr. Guido’s responses to date.

TERMS OF REFERENCE

4. In preparing and filing this First Report, the Receiver has been provided with limited information and has relied on discussions and correspondence with Mr. Guido and the Applicant (the “**Information**”). The Receiver expresses no opinion, or other form of assurance, in respect of the Information.

RECEIVER’S COMMUNICATIONS WITH MR. GUIDO

5. On September 12, 2018, the Receiver sent two e-mails to Mr. Guido, providing him with, amongst other things, the Appointment Order, a listing of the RCB Equipment and a listing of certain of Amsen’s equipment (together with the RCB Equipment, the “**Equipment**”), and requesting that he: (a) provide the Receiver with certain information/documents, including, without limitation, the location of the Equipment; and (b) meet with the Receiver the next day at the Amsen Quarry (collectively, the “**First Information Request**”). A copy of the First Information Request (without the Appointment Order) is attached as **Appendix “B”** to this First Report.

6. Mr. Guido responded on that date by an email to the Receiver marked “without prejudice,” which, amongst other things, did not disclose the location of the Equipment. He advised the Receiver that he would not be at the Amsen Quarry on September 13, but that someone would be there to meet the Receiver.

7. On September 13, 2018, the Receiver attended at the Amsen Quarry. Only one piece of the Equipment was identified, but the Receiver could not access the two buildings onsite because large boulders were blocking entry. The Receiver drove to another nearby quarry in which the

Receiver understands that Mr. Guido has an interest. Mr. Guido was not there, and the Receiver met with someone who identified himself as an employee. The Receiver requested a tour of this nearby quarry for the purpose of determining if any of the Equipment were onsite, but the employee advised the Receiver that Mr. Guido would not allow access without an appointment and that Mr. Guido would email the locations of the Equipment to the Receiver.

8. On September 14, 2018, the Receiver sent a second email to Mr. Guido (the “**Second Information Request**”), requesting for a second time the information/documents requested in the First Information Request. A copy of the Second Information Request (without attachments) is attached as **Appendix “C”** to this First Report.

9. Mr. Guido did not respond to the Second Information Request.

10. On September 15, 2018, the Receiver sent a third email request to Mr. Guido (the “**Third Information Request**”), requesting for a further time the information/documents requested in the First Information Request and the Second Information Request. A copy of the Third Information Request (without attachments) is attached as **Appendix “D”** to this First Report.

11. By September 17, 2018, Mr. Guido had still not responded to the Second Information Request or the Third Information Request.

12. The Receiver’s legal counsel, Aird & Berlis LLP (“**A&B**”), therefore wrote to Mr. Guido and the Debtors’ legal counsel on September 17, 2018, reiterating the requirement of Mr. Guido and the Debtors to cooperate with the Receiver, requesting their immediate cooperation and requesting for a further time the information/documents requested in the First Information Request, the Second Information Request and the Third Information Request (the “**Fourth Information**

Request”). A copy of the Fourth Information Request (without attachments) is attached as **Appendix “E”** to this First Report.

13. Mr. Guido responded to the Third Information Request by email a few minutes after the Fourth Information Request was sent. A copy of Mr. Guido’s email is attached as **Appendix “F”**, in which he advises that:

- (a) he is out of the office;
- (b) there are no financial statements, trial balances, T2 statements or accounting software for “Amsen Quarry” since its acquisition in May 2014;
- (c) most of the Equipment “*is bogus as it never existed nor confirmed to be delivered*”;
- (d) he would provide the Receiver shortly with a list of equipment that is not Property and which he requires to be removed from the Amsen Quarry; and
- (e) he would “*follow up with remainder of information shortly.*”

14. Mr. Guido also responded on September 17, 2018 to the Fourth Information Request by way of an email that was once again marked “without prejudice.” This email once again did not disclose the location of the Equipment. The Receiver’s legal counsel immediately replied to Mr. Guido, advising, in substance, that responses to the Receiver’s requests for information could not be provided on a without prejudice basis. A copy of this communication from A&B is attached as **Appendix “G”** to this First Report.

15. On September 18, 2018, the Debtors' legal counsel advised that it intended to schedule a motion for an accounting at a 9:30 court attendance on Monday, September 24, 2018, which prompted a series of emails amongst the Debtors' legal counsel, the Applicant's legal counsel and A&B. As part of this email chain, A&B reiterated that the Receiver's information requests had largely gone unanswered and requested for a further time that the information/documents requested in the First Information Request, the Second Information Request, the Third Information Request and the Fourth Information Request be provided (the "**Fifth Information Request**"). A copy of the Fifth Information Request (without attachments) is attached as **Appendix "H"** to this First Report.

16. By September 20, 2018, Mr. Guido had still not responded to the Fifth Information Request.

17. A&B therefore wrote to Mr. Guido and the Debtors' legal counsel once again on September 20, 2018, reiterating the requirement of Mr. Guido and the Debtors to cooperate with the Receiver, requesting their immediate cooperation and requesting for a further time the information/documents requested in the First Information Request, the Second Information Request, the Third Information Request, the Fourth Information Request and the Fifth Information Request (the "**Sixth Information Request**"). A copy of the Sixth Information Request (without attachments) is attached as **Appendix "I"** to this First Report.

18. At the end of the day on Friday September 21, 2018, Mr. Guido provided partial responses to the Receiver, including the location of 8 of the 25-plus pieces of Equipment. Mr. Guido also claimed that, of the remaining 17-plus pieces of Equipment, 13 pieces did not exist. A copy of

Mr. Guido's response, which the Receiver notes also attaches certain past communications that he had marked "without prejudice", is attached as **Appendix "J"** to this First Report.

19. On Monday, September 24, 2018, the Honourable Mr. Justice Penny adjourned the Debtors' scheduling request to a 9:30 court attendance before the Honourable Madam Justice Chiappetta on Tuesday, October 2, 2018. A copy of His Honour's endorsement is attached as **Appendix "K"** to this First Report.

20. On September 25, 2018, the Receiver wrote to Mr. Guido (the "**Seventh Information Request**"), a copy of which is attached (without attachments) as **Appendix "L"**, seeking, amongst other things:

- a) Mr. Guido's cooperation in permitting the removal of the Equipment that he identified as being located at other properties under his control;
- b) an explanation/clarification regarding the purported 13 pieces of non-existent Equipment; and
- c) a further request for a response to the outstanding items and information from the First Information Request, the Second Information Request, the Third Information Request, the Fourth Information Request, the Fifth Information Request and the Sixth Information Request, including, without limitation, the location of three pieces of Equipment that Mr. Guido had still not addressed.

21. By September 26, 2018, Mr. Guido had not responded to the Seventh Information Request.

22. On September 26, 2018, the Receiver sent Mr. Guido a follow-up request (the “**Eighth Information Request**”), seeking a response to the Seventh Information Request and specifically seeking confirmation as to whether the Equipment located at Mr. Guido’s other properties is operable so that Receiver can coordinate their immediate removal. A copy of the Eighth Information Request is attached as **Appendix “M”** to this First Report.

23. Mr. Guido responded by email on September 26, 2018 to the Eighth Information Request, indicating that he would call the following day to coordinate a time and access for the removal of the Equipment located at his other properties and to “*follow up on other open items.*” A copy of this email from Mr. Guido is attached as **Appendix “N”** to this First Report.

24. Mr. Guido did speak to the Receiver on September 27, 2018, but once again only on a purported “without prejudice” basis. Following the telephone call, Mr. Guido also sent an email to the Receiver, which was also marked “without prejudice.” The Receiver emailed Mr. Guido once again, requiring that his answers to the Receiver’s information requests be on a “with prejudice” basis. A copy of the Receiver’s email is attached as **Appendix “O”** to this First Report.

CONCLUSION

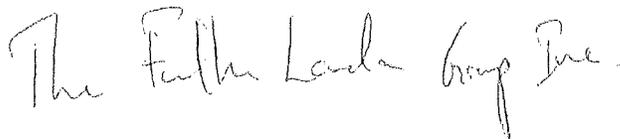
25. As of the time of finalizing this First Report, and putting aside Mr. Guido’s purported “without prejudice” communications, Mr. Guido has not responded to the balance of the Receiver’s information requests and questions as outlined below:

- a) an explanation/clarification regarding the purported 13 pieces of non-existent Equipment, including, without limitation, the location of this Equipment if it does in fact exist;

- b) the location of an additional three pieces of Equipment that Mr. Guido has still not addressed in any fashion;
- c) keys for all the Equipment;
- d) machine hours for all the Equipment;
- e) a list of all equipment/property (including, without limitation, the respective serial numbers) at the Amsen Quarry that Mr. Guido claims does not constitute Property, together with supporting documents proving its ownership;
- f) the status of any insurance policies;
- g) an aged payable trial balance, or confirmation that there are no unsecured creditors, and copies of the most recent assessments and a statement of account from Canada Revenue Agency for payroll source deductions and HST;
- h) application documents and site plans relating to Amsen's class A license, and documents/details related to the quality and quantity of the remaining reserves at the Amsen Quarry;
- i) appraisal reports, geological reports, and rehabilitation reports;
- j) building/floor plans; and
- k) details relating to the known local and regional royalty rates, or agreements to extract material.

26. The limited cooperation, delayed and partial answers and lack of records provided by Mr. Guido has delayed and hindered the Receiver's ability to execute its mandate. Of particular concern is the need for the Receiver to develop and implement a formal marketing and sale process for the Property, and to otherwise take action to deal with and take steps to protect the Property, prior to the commencement of adverse weather conditions during the fall and winter months.

All of which is respectfully submitted this 28th day of September 2018.

A handwritten signature in cursive script that reads "The Fuller Landau Group Inc.".

The Fuller Landau Group Inc.,
in its capacity as the court-appointed receiver of the Property