



COURT FILE NUMBER 2103-02132
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON

In the Matter of the Receivership of P7 CONSTRUCTION LTD. et al

APPLICANT **BUSINESS DEVELOPMENT BANK OF CANADA**

RESPONDENTS **P7 CONSTRUCTION LTD., 1619904 ALBERTA LTD., HYOUNG JOON YOON aka JASON YOON, SUNG SOO CHOI aka RICHARD CHOI and EUNG CHANG KIM**

FILING PARTY BDO CANADA LIMITED in its capacity as the Court-appointed Receiver and Manager of P7 CONSTRUCTION LTD. and 1619904 ALBERTA LTD (and not in its personal capacity)

DOCUMENT **APPLICATION (Interim Distribution, Approval of Receiver's Actions, Conduct and Fees and Enforcement Relief)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **Caron & Partners LLP**
2120, 237 – 4th Avenue SW
Calgary, AB T2P 4K3
Tel: (403) 262-3000
Fax: (403) 237-0111
Attention: R.J. Daniel Gilborn / Lucinda A. Wong
Solicitors for BDO Canada Limited
Email: dgilborn@caronpartners.com / lwong@caronpartners.com
File No. 60899-000

NOTICE TO THE RESPONDENT(S): See the Service List attached to Service Letter

This Application is made against you or affects you. You are the Respondent(s) or are affected persons.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the Application is heard as shown below:	
Date:	October 24, 2022
Time:	2:00 PM
Where:	Court of King's Bench of Alberta, via WebEx (Commercial List Court) (see Appendix "1" for WebEx information)
Before Whom:	JUSTICE M. J. LEMA (Commercial List)

Go to the end of this document to see what else you can do and when you must do it.

Remedy Claimed or Sought:

1. BDO Canada Limited, which is acting in the capacity of the Court-appointed receiver and manager in this Action (the “**Receiver**”), applies for the relief set out under this heading.
2. The Receiver applies for an abridgement, if necessary, of the time for service of this Application and materials in support thereof, to the time actually given and an Order validating service and declaring the same to be good and sufficient.
3. The Receiver further applies for an Order substantially in the form attached hereto as **Appendix “2”** which includes substantially the following relief:
 - (a) Approval of a proposed interim distribution to the proposed payees (the “**Proposed Interim Distribution**”), and approval of a cash holdback of \$60,000 to complete administration of this matter (the “**Cash Holdback**”);
 - (b) Approving the Receiver’s interim statements of receipts and disbursements that is attached to the Receiver’s Second Report, dated October 14, 2022 (the “**Receiver’s Second Report**”);
 - (c) Approving the activities of the Receiver from December 1, 2021 to the current date, as set out in the Receiver’s Second Report; and
 - (d) Approval of the professional fees of the Receiver and its independent legal counsel.
4. The Receiver further applies for an Order substantially in the form attached hereto as **Appendix “3”** which includes substantially the following relief:
 - (a) An Order directing that Sung Soo Choi (also known as Richard Choi) (“**Mr. Choi**”) return forthwith to the Receiver the amount of \$10,000 withdrawn from the account of P7 on May 25, 2021, which was subsequent to the Receivership Order being granted in this matter (the “**Post Receivership Payment**”); and
 - (b) In the event Mr. Choi fails to comply with the foregoing, an Order requiring Choi to appear before this Court at a date and time to be determined by counsel for the Receiver to explain his failure to comply and make submissions as to why he should not be held in civil contempt of this Court.

5. The Receiver may also apply for such other and further relief as the circumstances may require and as this Honourable Court shall deem appropriate.

Grounds for Making This Application:

A. Approving the Proposed Interim Distribution, the Activities of the Receiver and Professional Fees Incurred to Date and the Interim R&D:

6. On May 21, 2021, the Receiver was appointed by this Court as the Receiver and Manager over all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all proceeds thereof (collectively, the “**Property**”) of P7 Construction Ltd. (“**P7**”) and 1619904 Alberta Ltd. (“**161**”) (collectively, the “**Companies**”) by Order of the Honourable Justice G.S Dunlop of the Alberta Court of King’s Bench. The said appointment was pursuant, *inter alia*, to s. 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”).
7. Prior to its insolvency and the appointment of the Receiver, the Companies were in the business of owning and operating a hotel known as the Holiday Inn & Suites Bonnyville located in the Town of Bonnyville, in the Province of Alberta.
8. The Receiver’s duties included the operation of the business since its appointment (until the sale thereof), as well as the marketing and liquidation the Property to a buyer.
9. The Sale Approval and Vesting Order for substantially the whole of the Property was pronounced on December 9, 2021. That transaction closed on May 5, 2022. Pursuant to the aforesaid Order, the proceeds from the sale are held by the Receiver pending distribution by Court Order.
10. The Receiver is proposing to make the Proposed Interim Distribution as follows (based upon priorities):
 - (a) Canada Revenue Agency (“**CRA**”) - \$9,840 on account of employee source deductions owed;
 - (b) CRA - \$4,458 on account of GST owed; and
 - (c) Business Development Bank of Canada - remainder of approximately \$3,595,189 on account of its secured indebtedness.

11. The Receiver is also proposing the Cash Holdback (\$60,000), as set out at paragraph 17 to the Second Report for the purposes of completing the administration of this matter.
12. The Proposed Interim Distribution and Cash Holdback are both reasonable and it is in the best interests of the stakeholders and just and convenient that they be approved.
13. The Receiver has prepared an interim statement of receipts and disbursements to October 14, 2022, which is set out at Appendix "C" to the Second Report (the "**Interim R&D**"). The Interim R&D it is in the best interests of the stakeholders and it is just and convenient that it be approved.
14. The Receiver and its counsel have rendered billings with professional fees in the total amounts as summarized in Appendix "E" of the Second Report and in Appendix "2" hereof.
15. All of the actions of the Receiver and its legal counsel to date in the administration of the receivership of the Companies were necessary, reasonable and appropriate in the circumstances. It is in the best interests of the stakeholders and it is just and convenient that they be approved.

B. Return of Property

16. The application for an Appointment of Receiver and Manager over the Companies was filed on May 17, 2021 by BDC.
17. Mr. Choi was aware of the Application for the Appointment Order, returnable on May 21, 2021 (the "**Appointment Application**"), which was served on Mr. Choi on May 17 and May 26, 2021. The Appointment Application, as is the practice of the Commercial List of this Court, contained a copy of the draft form of the Receivership Order, which contained a provision at paragraph 3 with respect to the Receiver's exclusive power and authority over the Property of the Companies.
18. The Appointment Application was heard and the Receivership Order was granted on May 21, 2021. Richard Choi did not attend the Application.
19. The Receivership Order grants the Receiver exclusive powers with respect to the Companies' Property, including the administration and distributions of proceeds contained in the Companies' bank accounts.
20. Paragraph 3 of the Receivership Order effectively prohibits others from withdrawing funds from bank accounts that fall within the Companies' Property.

21. On May 25, 2021, in breach of the Appointment Order, Mr. Choi withdrew the Post Receivership Payment (\$10,000) from the Toronto Dominion Bank (“TD”) business account number 5227649 of P7 and deposited the same into his personal TD Bank Account.
22. On May 26, 2021, confirmation that the Appointment Order was granted and was sent for filing was emailed to Mr. Choi.
23. On May 13, 2022, counsel for Mr. Choi has admitted on his behalf of Mr. Choi that the Post-Receivership payment was made contrary to the Receivership Order and would therefore be promptly returned to the Receiver. Despite the foregoing, the Post-Receivership Payment was never returned.

Material or Evidence to be Relied On:

24. This notice of Application, filed October 17, 2022;
25. The Receiver’s First Report, filed December 1, 2021;
26. The Receiver’s Second Report, dated October 13, 2022 (concurrently filed with this Application);
27. The Receivership Order granted by the Honourable Justice G.S. Dunlop on May 21, 2021, filed;
28. The Affidavit of Service of Krisztina E. Kiss, sworn October 13, 2022, filed;
29. The Affidavit of Kevin Meyler, dated October 17, 2022 (concurrently filed with this Application);
30. The Affidavit of Service of Judy Verrall, to be filed;
31. All other pleadings, Affidavits and other materials filed in the within Action;
32. The inherent jurisdiction of this Honourable Court to control its own process; and
33. Such further and other material as counsel may advise and this Honourable Court may permit.

Applicable Rules:

34. Rules 6.32, 6.47(a), (c), (d), (e) and (f), 6.11, 11.27 and 13.5 of the *Alberta Rules of Court*, AR 124/2010 (as amended).

Applicable Acts and Regulations:

35. The *Bankruptcy and Insolvency Act* (Canada) (as amended) and in particular, Part XI thereof;

36. The *Bankruptcy and Insolvency General Rules*, C.R.C., c 368 (as amended) and in particular sections 9 and 124-127 thereof;

37. The *Judicature Act*, RSA 2000, c J-2, as amended;

38. The *Business Corporations Act*, RSA 2000, c B-9, as amended; and

39. The *Personal Property Security Act*, RSA 2000, c P-7, as amended.

Any Irregularity Complained of or Objection Relied On:

40. None.

How the Application is Proposed to be Heard or Considered:

41. Via Webex before the Honourable Mr. Justice M. J. Lema in Chambers on the Commercial List in the virtual courtroom set out in Appendix “1” to this Application.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the Applicants what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this Application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an Affidavit or other evidence when the Application is heard or considered, you must reply by giving reasonable notice of the material to the Applicant.

APPENDIX “1”

Webex Confirmation 2103 02132 - BUSINESS DEVELOPMENT BANK OF CANADA v. P7 CONSTRUCTION LTD - Oct 24, 2022 02:00 PM - LEMA, J – Confirmed

Virtual Courtroom 86 has been assigned for the above noted matter:

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom86>

Instructions for Connecting to the Meeting

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
- 4. Note: Recording or rebroadcasting of the video is prohibited.**
- 5. Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

If you are a non-lawyer attending this hearing remotely, **you must** complete the undertaking located here: <https://www.albertacourts.ca/qb/resources/announcements/undertaking-and-agreement-for-non-lawyers>

For more information relating to Webex protocols and procedures, please visit:

<https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

You can also join the meeting via the “Cisco Webex Meetings” App on your smartphone/tablet or other smart device. You can download this via the App marketplace and join via the link provided above.

APPENDIX “2”

COURT FILE NUMBER 2103-02132

COURT COURT OF KING’S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

In the Matter of the Receivership of P7 CONSTRUCTION LTD. et al

APPLICANT **BUSINESS DEVELOPMENT BANK OF CANADA**

RESPONDENTS **P7 CONSTRUCTION LTD., 1619904 ALBERTA LTD., HYOUNG JOON YOON aka JASON YOON, SUNG SOO CHOI aka RICHARD CHOI AND EUNG CHANG KIM**

FILING PARTY BDO CANADA LIMITED in its capacity as the Court-appointed Receiver and Manager of P7 CONSTRUCTION LTD. and 1619904 ALBERTA LTD

DOCUMENT **ORDER (Interim Distribution, Approval of the Receiver’s Activities and Related Relief)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Caron & Partners LLP
2120, 237 – 4th Avenue SW
Calgary, AB T2P 4K3
Tel: (403) 262-3000
Fax: (403) 237-0111
Attention: R.J. Daniel Gilborn / Lucinda A. Wong
Solicitors for BDO Canada Limited
Email: dgilborn@caronpartners.com / lwong@caronpartners.com
File No. 60899-000

DATE ON WHICH ORDER WAS PRONOUNCED: October 24, 2022

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: JUSTICE M. J. LEMA

UPON THE APPLICATION filed on October 17, 2022 by **BDO Canada Limited** in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) of the undertakings, property and assets of **P7 Construction Ltd. and 1619904 Alberta Ltd.** (collectively, the “**Debtor**”) for an order for the interim distribution of proceeds, approval of the Receiver’s fees and disbursements (and those of its legal counsel), approval of the interim statement of receipts and disbursements and approval of the

Receiver's activities, , **AND UPON HAVING READ** the Application, the Receivership Order dated **May 21, 2021** (the "**Receivership Order**"), the Receiver's First Report, the Receiver's Second Report dated October 17, 2022 (the "**Second Report**"), the Affidavit of Kevin Meyler sworn on October 17, 2022 (the "**Meyler Affidavit**"), the Bench Brief of the Receiver filed on October 17, 2022 and the Affidavit of Service of Judy Verrall sworn on October __, 2022; **UPON IT** appearing that all interested and affected parties have been served with notice of the Application; **AND UPON HEARING** the submissions of counsel for the Receiver, the Business Development Bank of Canada, and all other interested parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this Application and supporting materials is hereby validated and declared to be good and sufficient, no other person is required to have been served with notice of this application (and the materials in support thereof) and time for service of this Application is abridged to that actually given (to the extent required).

DISTRIBUTION OF FUNDS

2. The Receiver is authorized and directed to make a final distribution of funds to the Canada Revenue Agency ("**CRA**") and to the Business Development Bank of Canada ("**BDC**"), as more particularly outlined in the Second Report and as more specifically set out below:
 - (a) Canada Revenue Agency ("**CRA**") - \$9,840 on account of employee source deductions owed;
 - (b) CRA - \$4,458 on account of GST owed; and
 - (c) Business Development Bank of Canada - remainder of approximately \$3,595,189 on account of its secured indebtedness.
3. A cash holdback from the funds the Receiver currently holds of \$6,000, to be used for the payment of certain post-receivership excise taxes, completion of the Receiver's duties (and that of its counsel), including a discharge Application, and the completion of the administration of these matters, is hereby approved (the "**Cash Holdback**").
4. To the extent the Cash Holdback is not expended, it may be dealt with by further order, including without limiting at the Application by the Receiver for its discharge,

APPROVAL OF ACCOUNTS & ACTIVITES

5. The accounts of the Receiver, BDO Canada Limited, for its fees and disbursements from the date of its engagement to September 30, 2022, as set out in the Second Report and the Meyler Affidavit (which a summary accounts appended to the Second Report) in the amount of \$285,149.56 (inclusive of GST), are hereby approved without the necessity of a formal assessment of those accounts and may be paid from the amounts the Receiver currently holds.
6. The accounts of the Receiver's legal counsel, Caron & Partners LLP, for its fees and disbursements from the date of its engagement to September 30, 2022, as set out in the Second Report and the Meyler Affidavit (which fulsome accounts were provided separately to the Court for review) in the amount of \$53,139.20 (inclusive of GST), are hereby approved without the necessity of a formal assessment of those accounts and may be paid from the amounts the Receiver currently holds.
7. The Receiver's activities as set out in the Second Report and the Interim Statement of Receipts and Disbursements as attached to the Second Report, are hereby ratified and approved.

APPROVAL OF STATEMENT OF INTERIM RECEIPTS AND DISBURSEMENTS

8. The interim statement of receipts and disbursements to October 14, 2022, set out as Appendix "C" to the Second Report, is hereby approved.

MISCELLANEOUS

9. The Receiver is at liberty to reapply for further advice, assistance and direction as may be necessary to give full force and effect to, and in carrying out the terms of, this Order.
10. This Order must be served only upon those interested parties attending or represented at the within Application and upon those given notice of the Application on the Service List and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the same business day as the transmission or delivery of such documents.
11. Service of this Order on any party not attending the Application is hereby dispensed with, except that the Receiver shall serve it upon the Service List in the same manner as the Application was.

The Honourable Mr. Justice M. J. Lema
Justice of the Court of King's Bench of Alberta

Clerk's Stamp

APPENDIX "3"

COURT FILE NUMBER 2103-02132
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON

In the Matter of the Receivership of P7 CONSTRUCTION LTD. et al

APPLICANT **BUSINESS DEVELOPMENT BANK OF CANADA**

RESPONDENTS **P7 CONSTRUCTION LTD., 1619904 ALBERTA LTD.,
HYOUNG JOON YOON aka JASON YOON, SUNG SOO
CHOI aka RICHARD CHOI AND EUNG CHANG KIM**

FILING PARTY BDO CANADA LIMITED in its capacity as the Court-appointed Receiver and Manager of P7 CONSTRUCTION LTD. and 1619904 ALBERTA LTD

DOCUMENT **ORDER (Accounting and Return of Debtors' Property)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Caron & Partners LLP
2120, 237 – 4th Avenue SW
Calgary, AB T2P 4K3
Tel: (403) 262-3000
Fax: (403) 237-0111
Attention: R.J. Daniel Gilborn / Lucinda A. Wong
Solicitors for BDO Canada Limited
Email: dgilborn@caronpartners.com / lwong@caronpartners.com
File No. 60899-000

DATE ON WHICH ORDER WAS PRONOUNCED: **October 24, 2022**

LOCATION WHERE ORDER WAS PRONOUNCED: **Edmonton, Alberta**

NAME OF JUSTICE WHO MADE THIS ORDER: **MR. JUSTICE M. J. LEMA**

UPON THE APPLICATION filed on October 17, 2022 by **BDO Canada Limited** in its capacity as the Court-appointed receiver and manager (the "Receiver") of the undertakings, property and assets of **P7 Construction Ltd. ("P7") and 1619904 Alberta Ltd.** (collectively, the "Debtor") for an order for return of the Debtor's property taken by Sung Soo Choi (aka Richard Choi), or in the alternative, a declaration that Sung Soo Choi (aka Richard Choi) must appear to show cause why he is not in

contempt of the Receivership Order, **UPON HAVING READ** the Application, the Receivership Order dated **May 21, 2021** (the “**Receivership Order**”), the Receiver’s First Report, the Receiver’s Second Report dated October 13, 2022 (the “**Second Report**”), the Affidavit of Kevin Meyler sworn on October 17, 2022 (the “**Meyler Affidavit**”), the Affidavit of Service of Krisztina E. Kiss, sworn on October 13, 2022, and the Affidavit of Service of Judy Verrall sworn on October ___, 2022; **UPON IT** appearing that all interested and affected parties have been served with notice of the Application; **UPON HEARING** the submissions of counsel for the Receiver, counsel for Sung Soo Choi (aka Richard Choi), counsel for the Business Development Bank of Canada and all other interested parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this Application and supporting materials is hereby validated and declared to be good and sufficient, no other person is required to have been served with notice of this application (and the materials in support thereof) and time for service of this Application is abridged to that actually given (to the extent required).

ACCOUNTING AND RETURN OF DEBTOR’S PROPERTY

2. The Respondent, Sung Soo Choi (aka Richard Choi) (“**Mr. Choi**”), is hereby ordered: To return to the Receiver the amount of \$10,000.00 taken from the bank account of P7 subsequent to the Receivership Order; and by no later than November 1, 2022.
3. In the event that Mr. Choi fails to comply with the foregoing, he is hereby Ordered to appear before this Court at a date and time to be determined by counsel for the Receiver (and subject to the Court’s availability) to explain his failure to comply and make submissions as to why he should not be held in civil contempt of this Court.
4. Service of this Order on Choi may be effected by email to the electronic address of richardchoi1299@gmail.com and to his legal counsel with delivery receipts requested. Service shall be deemed effective one business day following service by email.

5. Service of this Order on any party not attending the Application, with the exception of Choi, and not on the Service List, is hereby dispensed with.

The Honourable Mr. Justice M. J. Lema
Justice of the Court of King's Bench of Alberta