

District of ONTARIO  
Division No. 08 - Waterloo  
Court File No. 35-2481393  
Estate No. 35-2481393

ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF  
THE BANKRUPTCY OF

SIRIUS CONCRETE INC.  
OF THE CITY OF WATERLOO,  
IN THE PROVINCE OF ONTARIO

SUPPLEMENT TO THE FOURTH REPORT TO THE COURT  
SUBMITTED BY BDO CANADA LIMITED

October 16, 2020

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## **1.0** INTRODUCTION AND PURPOSE

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- 1.1 BDO Canada Limited was appointed as the trustee in Bankruptcy (“BDO” or the “Trustee”) of the property of Sirius Concrete Inc. (the “Company” or “Sirius”). This follows BDO’s first report of the Trustee, the Supplement to the First Report, the Second Report and the Third Report, the Supplement to the Third Report and the Fourth Report. All terms not otherwise defined shall be as defined in the First Report, the First Supplement, the Second Report, the Third Report, the Third Supplement and the Fourth Report.
- 1.2 This report is a supplement to the Fourth Report (the “Fourth Supplement”). The purpose of this Fourth Supplement is to provide the information necessary for the Judge to make a determination with respect to the Trustee’s request for directions. Specifically, this report encompasses the following:
  - A response to the affidavit of John Camara sworn October 9, 2020.

## **2.0** *Response to the Affidavit of John Camara*

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### **2.1 Meeting with BDO and Sirius**

- 2.1.1 BDO was first contacted by Sirius on February 26, 2019.
- 2.1.2 BDO had its first meeting with Sirius, at the Sirius head office, at 10:00 am on February 27, 2019.
- 2.1.3 BDO met with the owner of Sirius, Mr. David Forbes, and the Accounts Manager, Sarah Hazell, to discuss the current and past operations as well as the options available to the business.
- 2.1.4 BDO provided a bankruptcy application to Sirius on February 27, 2019. Sirius returned the completed application on the morning of March 1, 2019.

### **2.2 Collection of Accounts Receivable**

- 2.2.1 At the first meeting between BDO and Sirius the current status of the various jobs along with the billing, receivables and holdbacks were discussed.
- 2.2.2 The accounts receivable listing provided by Sirius indicated that \$381,578.40 was due from Ayerswood related to work done from January 1<sup>st</sup> to 30<sup>th</sup>, 2019.
- 2.2.3 Sirius indicated that the payment was due on 30 day terms, Friday March 1<sup>st</sup>, 2019.
- 2.2.4 BDO asked if the work on the January invoice had been completed and Sirius stated the work has been done and they had completed an additional month of work in February, 2019. According to the records of Sirius the billing was equal to the percentage of completion of the project.
- 2.2.5 BDO saw no reason to prevent Sirius from collecting the pre-bankruptcy accounts receivable and turning the proceeds over to the Trustee for the benefit of the estate. As the payment was made by company cheque, as opposed to wire, electronic transfer or bank draft, the cheque was taken to the bank and certified.
- 2.2.6 A copy of the cheque for \$381,578.40 (the "March Payment") is attached hereto as **Appendix A**. The payment indicates that it is for invoice 19.001, dated January 30, 2019 and the cheque was written on March 1, 2019.
- 2.2.7 BDO had no reason not to accept the March Payment. Further, once appointed by the Office of the Superintendent of Bankruptcy it is the responsibility of the Trustee to maximize the realizations of the estate, including the collection of pre-bankruptcy accounts receivable.

### **2.3 Truist Quantity Surveyors**

- 2.3.1 The Trustee was provided a copy of the Truist Quantity Surveyors report (the "Quality Report").
- 2.3.2 Following a review of the report by BDO, and input from former Sirius employees, it was determined that the damages of Ayerswood exceeded the remaining February 2019 invoice of \$158,652 which had yet to be paid by Ayerswood. BDO consented to Ayerswood setting off the February invoice.
- 2.3.3 The Trustee does not agree that the damages of Ayerswood are \$702,551.61 as set out in the Quality Report or that they would exceed the already provided set off of \$158,652.
- 2.3.4 In the event the Trustee is unsuccessful we would request the \$381,578.40 remain in the possession of the Trustee until the value of the Ayerswood damages can properly be determined.

3.1 We submit this Fourth Supplement to the Court in support of our Motion respectfully requesting this Court to:

- i. Provide direction for the Trustee with respect to the \$381,578.40 payment received by Sirius on March 1, 2019.

This Supplement to the Fourth Report is respectfully submitted this 16<sup>th</sup> day of October, 2020.

**BDO CANADA LIMITED  
TRUSTEE OF  
SIRIUS CONCRETE INC.**



Per: Stephen N. Cherniak, CPA, CA, CIRP  
Licensed Insolvency Trustee  
Senior Vice President