

ONTARIO
SUPERIOR COURT OF JUSTICE

Applicant: IN THE MATTER OF THE
BANKRUPTCY OF SIRIUS
CONCRETE, OF CIM OF Counsel:

Respondent: WATERLOO IN PROVINCE Counsel:

Respondent: OF ONTARIO Counsel:

S.C.J. Court File No.:
35-2481393

Date Heard: AUGUST 16/19

Date of this Endorsement:

AUGUST 16/19

ENDORSEMENT

Vine for Trustee BDO
Trenton for agerswood developmt

This is the Estate Trustee's motion that seeks
the approval of the Trustee's first Report & Seal
Report (of activities & conduct of Trustee as
set out in its motion & draft ~~affidavit~~ order). It
also seeks direction re the 'Pre-Bankruptcy
agerswood payment (as detailed in the Seal Report).

at the date of Bankruptcy Trustee took possession of
a cheque for agerswood payable to Sirius
in amount of \$381,578. at the date of
the Bankruptcy Sirius books indicated an 015
receivable owing by agerswood in amt of \$158,652
as a holdback owing in amt of \$328,188.65.
The Trustee & agerswood advance offset position.

re pmt of ~~the~~ \$ 310,835.60 holdback
only for eyeswood to Sims.

The Trustee takes the view that Mitchell's
April 2nd 2017 Clean Proceeds Order governs
as that a SIA date ought to be set
to address the conflicting positions. In
particular it relies upon clause 21 which
provides that:

- Upon receipt of a notice of dispute
the Trustee may:

- i) attempt to casually resolve
the amount of the claim to the
lien claimant or Trustee;
and/or
- ii) schedule a meeting before
a judge of court to resolve
the claim

Eyeswood takes the view that the presently
dispute be addressed within the civil
claim (Court file # CV-19-0000203-0000).
That claim was commenced by the Trustee in
relation to ~~the above issues~~². What I will
call the Dulph Pmt of which names eyeswood
as a Defendant along with other entities Skyline
Equities + Banco Securities Inc.

I have reviewed the notices & considered
counsel's suggestions and as a result
agree with the Estate Trustee (BDO).

For these reasons, I make this order:

- approval & discharge order
to issue a trust set out
in the draft provided. I have
signed that order.
- Be 'Re-Burying eyeswood Payment' -
to return to regular notice set
on September 6/19 to set a
date for a special appointment to
address liability of eyeswood to
pay holdback

If I need to address costs for this notice
parties have until the end of the day on
August 30th to file brief with ~~agreement~~
of ~~the~~ submissions.


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ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

THE HONOURABLE)
JUSTICE *GEORGE*)

FRIDAY THE 16th
DAY OF AUGUST, 2019

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

APPROVAL AND DISTRIBUTION ORDER

THIS MOTION, made by BDO Canada Limited in its capacity as Trustee ("**BDO**" or the "**Trustee**") of Sirius Concrete Inc. (the "**Bankrupt**"), for an order:

1. If necessary, abridging the time for service, filing and confirmation of the notice of motion and the materials filed in support of the motion and validating the service thereof and dispensing with further service thereof such that this motion is properly returnable on August 16, 2019;
2. Approving the Trustee's First Report dated March 11, 2019 (the "**First Report**"), the Supplement to the First Report dated March 18, 2019 (the "**First Supplement**") and the Trustee's Second Report dated August 1, 2019 (the "**Second Report**"), filed, and the activities and conduct of the Trustee as detailed therein;
3. Approving the settlements reached by the Trustee with the customers of the Bankrupt as detailed in the Second Report (the "**Customer Settlements**");
4. Approving the fees and disbursements of the Trustee (the "**Trustee Fees**"), and its counsel, Harrison Pensa LLP ("**HP**") (the "**Counsel Fees**") for services rendered from the period of March 4, 2019 to July 22, 2019 as detailed in the Second Report and the fee affidavits of the Trustee and HP contained therein (the "**Fee Affidavits**").

5. That the Trustee maintain a sufficient reserve for final fees and final costs of administering the estate of the Bankrupt and administering the Claims Procedure Order (the “**Reserve**”) and authorizing the Trustee to disburse the funds obtained under the Claims Procedure Order pursuant to the Proposed Distribution as detailed and defined in the Second Report (the “**Proposed Distribution**”).

6. Directing the Accountant of the Superior Court of Justice to pay to the Trustee the amount of \$35,046.50 being held in Account No. 00002 010 88-03218 in London SCJ 1038-19.

7. Directing the Accountant of the Superior Court of Justice to pay to Stonerise Construction Inc. the amount of \$112,328.87 being held in Account No. 00002 010 88-03218 in London SCJ 1038-19.

8. That upon payment of the amounts referred to in paragraphs 6 and 7 above:

- (a) the lien of Gillies Lumber Inc., registered as Instrument Number WR1173899, and the certificate of action of Gillies Lumber Inc. registered as Instrument Number WR1183636;
- (b) the lien of James Koopman as Agent for the Christian Labour Association of Canada Construction Workers’ Local 6 registered as Instrument Number WR1175085;
- (c) the lien of Cooper Equipment Rentals Limited registered as Instrument Number WR1175877 and the certificate of action of Cooper Equipment Rentals Limited registered as Instrument Number WR1183662; and,
- (d) the lien of Sirius Concrete Inc. registered on April 5, 2019, as Instrument Number WR1177274;

each of which was vacated from title to the premises against which they were registered pursuant to the Order of the Honourable Madam Justice Rady made on May 28, 2019 in London SCJ 1038-19; and,

- (e) the certificate of action of James Koopman as Agent for the Christian Labour Association of Canada Construction Workers’ Local 6, Cooper Equipment Rentals Limited, and Sirius Concrete Inc. registered at Instrument Number WR1186532;

be discharged.

9. Requiring Stonerise Construction Inc. to pay to the Trustee the amount of \$15,713.79 as full settlement on the Kitchener Project as defined in the Second Report (the “**Kitchener Settlement**”).

10. That upon payment of the Kitchener Settlement, the Trustee be authorized to discharge from title to the property legally described as LOT 174 SUB.LOT 17 GERMAN COMPANY TRACT & PT. LOTS 16 TO 20 PLAN 398, BEING PTS. 3, 4, 5, 6, 7, 20 ON 58R-17696; SUBJECT TO AN EASEMENT IN GROSS AS IN WR520011; SUBJECT TO AN EASEMENT IN GROSS OVER PART 1 ON 58R-19137 AS IN WR1081722; CITY OF KITCHENER (the “**Kitchener Property**”) the following:

- (a) The Construction Lien and Certificate of Gilles Lumber Inc. registered as WR1173892 and WR1183635; and,
- (b) The Construction Lien and Certificate of Koopman, James registered as WR1175099 and WR1186757

(Collectively the “**Kitchener Property Lien Discharges**”)

was heard this day at 80 Dundas St., London, Ontario.

ON READING the First Report, the Second Report, the Fee Affidavits, and on hearing the submissions of counsel for the Trustee, ~~no one else appearing although served as evidenced by the Affidavit of [NAME] sworn [DATE], filed;~~ **AND COUNSEL FOR AYERSWOOD DEVELOPMENT CORPORATION:**

1. THIS COURT ORDERS that the time for service, filing and confirmation of the notice of motion and the materials filed in support of the motion and validating the service thereof and dispensing with further service thereof such that this motion is properly returnable on August 16, 2019.
2. THIS COURT ORDERS that the First Report, the First Supplement and the Second Report, and the activities and the conduct of the Trustee as detailed therein are hereby approved.
3. THIS COURT ORDERS that the Customer Settlements are hereby approved.
4. THIS COURT ORDERS that the Trustee Fees and the Counsel Fees, as particularized in the Second Report and the Fee Affidavits, are hereby approved.

5. THIS COURT ORDERS that the Trustee maintain the Reserve and authorizes the Trustee to disburse the funds obtained under the Claims Procedure Order pursuant to the Proposed Distribution.

6. THIS COURT ORDERS that the Accountant of the Superior Court of Justice pay to the Trustee the amount of \$35,046.50 being held in Account No. 00002 010 88-03218 in London SCJ 1038-19.

7. THIS COURT ORDERS that the Accountant of the Superior Court of Justice to pay to Stonerise Construction Inc. the amount of \$112,328.87 being held in Account No. 00002 010 88-03218 in London SCJ 1038-19.

8. THIS COURT ORDERS that upon payment by the Accountant of the Superior Court of Justice of the sum of \$35,046.50 to the Trustee and the sum of \$112,328.87 to Stonerise Construction Inc.:

- (a) the claim for lien of Gillies Lumber Inc. registered as Instrument Number WR1173899 and the certificate of action of Gillies Lumber Inc. registered as Instrument Number WR1183636;
- (b) the claim for lien of James Koopman as Agent for the Christian Labour Association of Canada Construction Workers' Local 6 registered as Instrument Number WR1175085;
- (c) the claim for lien of Cooper Equipment Rentals Limited registered as Instrument Number WR1175877 and the certificate of action of Cooper Equipment Rentals Limited registered as Instrument Number WR1183662; and,
- (d) the claim for lien of Sirius Concrete Inc. registered as Instrument Number WR1177274;


each of which was vacated from title to the premises against which they were registered pursuant to the Order of the Honourable Madam Justice Rady made on May 28, 2019 in London SCJ 1038-19; and,

- (e) the certificate of action of James Koopman as Agent for the Christian Labour Association of Canada Construction Workers' Local 6, Cooper Equipment Rentals Limited, and Sirius Concrete Inc. registered at Instrument Number WR1186532;

be and hereby are discharged and the Trustee be and is authorized to register discharges of liens and certificates as applicable and as required with respect to the instruments described in this paragraph.

9. THIS COURT ORDERS that Stonerise Construction Inc. pay to the Trustee the Kitchener Settlement.

10. THIS COURT ORDERS that upon payment of the Kitchener Settlement, the Trustee be and is authorized to register the Kitchener Property Lien Discharges.



Justice, Ontario Superior Court of Justice

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

AND IN THE MATTER OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, as amended

Court File No. 35-2481393
Estate File No. 35-2481393

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at
London, Ontario

APPROVAL AND DISTRIBUTION ORDER

Harrison Pensa LLP
Barristers and Solicitors
450 Talbot Street, P.O. Box 3237
London, Ontario N6A 4K3

Melinda Vine (LSO #53612R)
Tel: (519) 679-9660
Fax: (519) 667-3362

Solicitors for the Trustee,
BDO Canada Limited