

COURT FILE NUMBER B-150645  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**IN THE BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL  
OF VICEROY HOMES LTD.**

**SECOND REPORT OF THE PROPOSAL TRUSTEE**

**JULY 27, 2015**

## INTRODUCTION

1. On June 9, 2015, Viceroy Homes Limited (“**Viceroy**”) and Viceroy Building Solutions Ltd. (“**VBS**”) (collectively the “**Companies**”) each filed a Notice of Intention to File a Proposal (“**NOI**”) pursuant to Part III, Division I of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the “**BIA**”). FTI Consulting Canada Inc. (“**FTI**”) was appointed as the Trustee (the “**Proposal Trustee**”) under the NOI’s.
2. The reports of the Proposal Trustee and other information in respect of these proceedings are posted on the Proposal Trustee’s website at <http://cfcanada.fticonsulting.com/viceroy/>.

## PURPOSE

3. On June 29, 2015, the Proposal Trustee filed its first report (the “**First Report**”), which informed the Court on the following:
  - (a) The activities of the Companies since the filing of their NOI’s;
  - (b) An analysis of the Companies’ actual cash receipts and disbursements to date, compared to the forecast filed on June 19, 2015;
  - (c) The Companies’ cash flow projection for the period from June 29, 2015 to August 21, 2015;
  - (d) The rationale for the proposed Professional Charge (as defined in the First Report) over the Companies’ assets to secure the professional fees and disbursements in relation to these proceedings; and
  - (e) The Companies’ request for an extension of the current stay of proceedings under the NOI from July 9, 2015 to August 21, 2015.
4. On July 6, 2015, an Order of this Honourable Court was granted extending the stay of proceedings for the Companies to August 21, 2015.

5. The purpose of this report, the second report of the Proposal Trustee (the “**Second Report**”), is to provide the Court with an update on the following:
  - (a) The activities of the Companies since the filing of the First Report;
  - (b) An analysis of the Companies’ actual cash receipts and disbursements to date, compared to the forecast filed on June 29, 2015; and
  - (c) The rationale for the implementation of a claims process for the determination of claims against the Companies (the “**Claims Process**”).

#### **TERMS OF REFERENCE**

6. In preparing this report, the Proposal Trustee has relied upon unaudited financial information, other information available to the Proposal Trustee and, where appropriate, the Companies’ books and records and discussions with various parties (collectively, the “**Information**”).
7. Except as described in this Second Report:
  - (a) The Proposal Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook; and
  - (b) The Proposal Trustee has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Canadian Institute of Chartered Accountants Handbook.
8. Future oriented financial information reported or relied on in preparing this report is based on assumptions regarding future events; actual results may vary from forecast and such variations may be material.

9. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

#### **UPDATE ON THE COMPANIES ACTIVITIES**

10. Subsequent to the date of the First Report, the Companies' legal counsel completed its revision of the Asset Purchase Agreement (the "APA") between the Companies and its potential buyer (the "**Potential Buyer**").
11. The revised APA was forwarded to legal counsel for the Potential Buyer and is currently being reviewed. The Potential Buyer has requested its legal counsel to assess the structure of the transaction which has resulted in a delay in providing comments back to the Companies' legal counsel.
12. The Potential Buyer has continued to perform its confirmatory due diligence concurrently with the negotiation of the revised APA.
13. The interim occupancy agreement referenced in the First Report has also been drafted by the Companies' legal counsel and forwarded to the Potential Buyer's legal counsel for review.
14. As indicated in the First Report, Viceroy's facility in Port Hope, Ontario has an existing mortgage registered against it in favour of Elle Mortgage Corporation ("**Elle**") in the approximate amount of \$2.6 million.
15. On or around June 10, 2015, Elle obtained an order for possession of the Port Hope property in proceedings commenced in the Ontario Superior Court of Justice.

16. Viceroy instructed its legal counsel to negotiate a forbearance agreement with Elle. As of July 9, 2015, Viceroy and Elle entered into an agreement (the “**Forbearance Agreement**”) whereby Viceroy agreed to pay the sum of \$500,000 to Elle to be applied against amounts owing under the mortgage. In exchange, Elle would allow Viceroy unfettered access to the property until September 15, 2015.
  
17. Wiston Building Material Co. (“**Wiston**”), a company related to the Potential Buyer, provided the funds to Viceroy to enable it to comply with the terms of the Forbearance Agreement.

## COMPARISON OF FORECAST TO ACTUAL

18. The following table indicates the consolidated actual cash receipts and disbursements for the period from June 29, 2015 to July 21, 2015 as compared to the forecast filed by the Companies on June 29, 2015.

### Viceroy Homes Ltd. and Viceroy Building Solutions Ltd. (Forecast vs. Actual)

	Period covering June 29, 2015 to July 21, 2015		Variance
	Forecast	Actual	
	Week 4 - Week 7	Week 4 - Week 7	
Opening Cash (Canadian Dollar)	201,857	197,928	
<b>Cash Receipts</b>			
Interim Financing	350,000	800,000	(450,000)
<b>Total - Operating Receipts</b>	<b>350,000</b>	<b>800,000</b>	<b>(450,000)</b>
<b>Cash Disbursements</b>			
Rent	99,595	84,879	(14,715)
Insurance	20,000	16,207	(3,793)
Payroll	9,149	-	(9,149)
G&A	26,425	37,064	10,639
Professional Fees	120,000	26,980	(93,020)
Other	-	549,687	549,687
<b>Total - Operating Disbursements</b>	<b>275,169</b>	<b>714,817</b>	<b>439,648</b>
<b>Net Change in Cash from Operations</b>	<b>74,831</b>	<b>85,183</b>	<b>(889,648)</b>
<b>Total Net Cash Flow</b>	<b>74,831</b>	<b>85,183</b>	<b>10,352</b>
<b>Ending cash (Canadian Dollar)</b>	<b>276,689</b>	<b>283,111</b>	<b>10,352</b>

19. The details for the significant variances are as follows:

- (a) Additional interim financing was required by the Companies to satisfy the terms of the Forbearance Agreement;

- (b) The forecast had provided for the payment of interest relating to the Port Hope mortgage in the rent disbursement line. This payment was not made as a result of the Forbearance Agreement;
  - (c) No amounts have been disbursed for payroll. This is expected to be a permanent difference to the cash flow, as all of the Companies' employees have been laid off;
  - (d) Viceroy was required to make a lump sum payment for its Enterprise Resource Planning service provider as opposed to the monthly payments expected in the forecast. This negative timing difference is partially offset by other general and administrative expenses due to the timing of receipt of invoices;
  - (e) The professional fee variance is a timing difference that is expected to reverse in future weeks; and
  - (f) The variance in the other expense relates to the payment to Elle under the terms of the Forbearance Agreement and a payment to a supplier for dust collector equipment which would be necessary to re-start the Companies' facility in Richmond. As noted previously, the additional funds paid to Elle were provided by Wiston.
20. The Proposal Trustee notes that the additional disbursements made by the Companies that were not in its forecast have been funded by additional interim financing and permanent timing differences in the forecast.
21. The Proposal Trustee has reviewed with the Companies the remaining weeks of the forecast period covered by the Cash Flow Projection appended to the First Report and has confirmed management's view that the Cash Flow Projection is still reasonable and does not require any revisions.

## COMPANIES' APPLICATION FOR CLAIMS PROCESS ORDER

22. The Companies are seeking an order authorizing the implementation of the Claims Process (the "**Claims Process Order**").
23. The Claims Process provides for:
  - (a) the Proposal Trustee to conduct the Claims Process with assistance from the Companies;
  - (b) the mailing of a claims package to all known creditors of the Companies and publication of a notice to creditors in the Vancouver Sun, the Northumberland News and the Globe and Mail, being the newspapers in circulation in the locations of the Companies' operations;
  - (c) the submission of proofs of claims and the establishment of a claims bar date; and
  - (d) a process for the determination of creditors' claims and for the resolution of disputes relating to creditors' claims.
24. In its original mailing to creditors, the Proposal Trustee included a blank form proof of claim and has to date received approximately 156 claims totaling \$4,613,395.
25. However, based on the Companies books and records, there are still approximately 473 creditors who have not filed a proof of claim with the Proposal Trustee.
26. The Proposal Trustee supports the Companies' application for the Claims Process Order for the following reasons:

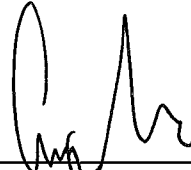


- (a) The Proposal Trustee is aware of several security registrations that have been filed in both British Columbia and Ontario, but to the date of this report the Proposal Trustee has received no communication from any of the holders of those registrations;
- (b) None of the Companies' former accounting or finance staff are currently employed or providing assistance to the Companies. As a result, it has been difficult for the Proposal Trustee to obtain information or documents relating to creditors' claims on a timely or efficient basis;
- (c) In order to be in a position to make a recommendation to creditors on any proposal(s) that may eventually be filed by the Companies, the Proposal Trustee requires the Claims Process in order to quantify the number and amount of creditor claims, including the amount and validity of any secured claims that may be asserted against the proceeds from a proposed sale transaction; and
- (d) In the event a proposal is unsuccessful and a bankruptcy ensues, the Trustee in Bankruptcy would require a claims process for the administration of the estate and therefore the costs would have to be incurred in any event.

27. Accordingly, the Proposal Trustee recommends the granting of the Claims Process Order by this Honourable Court.

All of which is respectfully submitted this 27<sup>th</sup> day of July, 2015.

FTI Consulting Canada Inc.,  
in its capacity as Proposal Trustee under a  
notice of intention to make a proposal filed by  
Viceroy Homes Limited

A handwritten signature in black ink, appearing to read 'Craig Munro', is written over a horizontal line.

Name: Craig Munro  
Title: Managing Director,  
FTI Consulting Canada Inc.