## 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.

THIRD REPORT OF THE PROPOSAL TRUSTEE

AUGUST 12, 2015

#### INTRODUCTION

- 1. On June 9, 2015, Viceroy Homes Limited ("Viceroy") and Viceroy Building Solutions Ltd. ("VBS", and together with Viceroy, 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 NOIs.
- 2. The reports of the Proposal Trustee and other information in respect of these proceedings are posted on the Proposal Trustee's website at <a href="http://cfcanada.fticonsulting.com/viceroy/">http://cfcanada.fticonsulting.com/viceroy/</a>.

#### **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, this Honourable Court granted Orders extending the stay of proceedings for the Companies to August 21, 2015.

- 5. On July 27, 2015, the Proposal Trustee filed its second report (the "Second Report"), which informed the Court 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 for the period from June 29, 2015 to July 21, 2015, compared to the forecast filed on June 29, 2015 attached as Appendix B to the First Report; and
  - (c) The rationale for the implementation of a claims process for the determination of claims against the Companies (the "Claims Process").
- On July 30, 2015, this Honourable Court granted Orders (the "Claims Process Orders") authorizing the Proposal Trustee to commence the Claims Process and granting an administrative charge over the assets of the Companies in favour of the Proposal Trustee, its legal counsel and the Companies' legal counsel as security for payment of their respective fees and disbursements.
- 7. The purpose of this report, the third report of the Proposal Trustee (the "**Third Report**") is to provide the Court with an update on the following:
  - (a) The activities of the Companies since the filing of the Second Report;
  - (b) An update on the Claims Process commenced by the Proposal Trustee pursuant to the Claims Process Orders;
  - (c) A summary of the Companies' actual cash receipts and disbursements for the period from June 9, 2015 to August 9, 2015;
  - (d) The Companies' cash flow projection for the period from August 10, 2015 to October 9, 2015 (the "Cash Flow Projection"); and
  - (e) The Companies' request for an extension of the current stay of proceedings under the NOI from August 21, 2015 to October 5, 2015.

### TERMS OF REFERENCE

- 8. 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").
- 9. Except as described in this Third 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.
- 10. 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.
- 11. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

### UPDATE ON THE COMPANIES ACTIVITIES

- 12. As indicated in the Second Report, the Companies' legal counsel revised the Asset Purchase Agreement (the "APA") and forwarded it to the potential buyer (the "Potential Buyer"). Further information regarding the APA is set out in the First Report.
- 13. Subsequent to the Second Report, a second turn of the APA has been completed with comments from the Potential Buyer's legal counsel, the Proposal Trustee and the Proposal Trustee's legal counsel now being incorporated.
- 14. In addition to the APA, the negotiations with the Potential Buyer around the terms of an interim occupancy arrangement have been on-going.
- 15. Concurrently with these on-going negotiations, the Potential Buyer has continued to perform confirmatory due diligence primarily focused on the existing customer contracts.
- 16. The Potential Buyer has also financed maintenance work on the equipment located in the Companies' Richmond facility.

### UPDATE ON THE CLAIMS PROCESS

- 17. In accordance with the Claims Process Orders, the Proposal Trustee placed a notice in the national edition of the Globe and Mail and the Vancouver Sun on Thursday August 6, 2015 and in the Northumberland News on Wednesday August 5, 2015.
- 18. Attached as Appendix A are copies of the tear sheets for each of the respective newspaper notices.

- 19. On August 6, 2015, the Proposal Trustee also mailed to all known creditors, the Claims Package which consisted of the following documents:
  - (a) The Instruction Letter;
  - (b) Copies of the Claims Process Orders for Viceroy and VBS;
  - (c) A copy of the Notice to Creditors; and
  - (d) A blank form Proof of Claim for Viceroy and for VBS.

(all capitalized terms used above and not otherwise defined in the Third Report are defined in the Claims Process Orders).

- 20. As at the date of the Third Report, the Proposal Trustee has received 203 claims from creditors totaling \$6,981,380. The Proposal Trustee has done an initial review of all of the claims and forwarded them to the Companies for their review and comment.
- 21. To the date of the Third Report, no claims have been received asserting a security interest in the Companies' assets.
- 22. The Proposal Trustee spoke with Mr. Joseph Kwok, a representative of Viceroy, who confirmed delivery of the Claims Package to Dejun Yao who is one of the parties with a security registration against Viceroy.
- 23. Pursuant to the Claims Process Order, a creditor who wishes to assert a claim must file a proof of claim, with supporting documentation, with the Trustee by September 9, 2015.

### SUMMARY OF RECEIPTS AND DISBURSEMENTS

24. The following table indicates the consolidated actual cash receipts and disbursements for the period from June 9, 2015 to August 9, 2015.

Opening Cash (Canadian Dollar)	
Cash Receipts	
Interim Financing	1,100,000
Total - Operating Receipts	1,100,000
Cash Disbursements	
Rent	165,279
Insurance	61,232
Payroll	
G&A	39,904
Professional Fees	158,527
Other	549,687
Total - Operating Disbursements	974,629
Net Change in Cash from Operations	125,371
Total Net Cash Flow	125,371
Ending cash (Canadian Dollar)	125,371

- 25. The Interim Financing has been provided by Wiston Building Materials Co. pursuant to a prior lending agreement which the Proposal Trustee has been informed, is a secured facility. However, to date the Proposal Trustee has not had the opportunity to review the claimed security but anticipates that it will instruct its legal counsel to do so as part of the Claims Process.
- 26. The rent expense relates to the monthly lease payment for the Companies' facility in Richmond, British Columbia.

- 27. The insurance expense is for property and liability coverage for both the Richmond, British Columbia and Port Hope, Ontario locations. The amount represents 6 months' of premiums for the period expiring in January 2016.
- 28. The general and administrative expense consists of a prepayment to the Companies' enterprise resource planning service provider for the period to October 2015. The utility costs for the Richmond and Port Hope facility are being paid for by a company incorporated by the Potential Buyer.
- 29. Professional fees consist of payments made to the Proposal Trustee and the Companies' legal counsel for services performed relating to these proceedings. The expense includes a \$40,000 retainer remitted to the Companies' legal counsel as security for its fees in addition to the \$10,000 retainer provided prior to filing the NOIs.
- 30. As indicated in the Second Report, the other expense relates to the payment to Elle Mortgage Corporation 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.

#### **CASH FLOW PROJECTION**

- 31. The Companies prepared a consolidated Cash Flow Projection for the period from August 10, 2015 to October 9, 2015 (attached as Appendix B).
- 32. The Cash Flow Projection indicates a further cash need of approximately \$320,000 for the extension period being sought. The Potential Buyer has agreed to provide the necessary funding to the Companies.
- 33. The expenses during the forecast period primarily relate to the rent for the Richmond facility and professional fees.

### COMPANIES' REQUEST FOR AN EXTENSION OF THE STAY

- 34. The Companies are seeking an extension of the stay of proceedings to October 5, 2015. Absent such extension, the stay will expire on August 21, 2015. The Companies are seeking an extension for the following reasons:
  - (a) To provide the Companies with the time required to finalize its negotiations with the Potential Buyer for the purchase and sale of the Companies' assets and business;
  - (b) To formulate a proposal to their creditors in conjunction with the proposed sale transaction; and
  - (c) To allow the Proposal Trustee to complete the Claims Process, which will assist the Proposal Trustee in assessing the implications of the proposed sale transaction for the Companies' creditors.
- 35. The Proposal Trustee supports the Companies' request for an extension of its stay of proceedings based on the following:
  - (a) The Companies are acting in good faith and with due diligence;
  - (b) The Potential Buyer continues to provide the funding necessary to pay the post-filing obligations of the Companies as indicated in the Cash Flow Projection;
  - (c) Subject to review of the final APA, the proposed sale transaction would appear to provide a better financial recovery for the Companies' creditors, with the additional benefit of preserving employment for many of the currently laid off employees of the Companies and allowing for the completion of some customer contracts; and

(d) On the assumption that the proposed sale transaction closes with the Potential Buyer, the Proposal Trustee has no reason to believe that the Companies will not be able to make a viable proposal to their creditors.

All of which is respectfully submitted this 12<sup>th</sup> day of August, 2015.

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

Name:

Craig Munro

Title: Managing Director,

FTI Consulting Canada Inc.

# **APPENDIX A**

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## NOTICE TO CREDITORS IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF

#### AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF VICEROY BUILDING SOLUTIONS LTD. ("VBS")

VICEROY HOMES LTD. ("VHL")

TAKE NOTICE that by Orders of the Supreme Court of British Columbia pronounced on July 30, 2015 (the "Claims Process Orders"), the Proposal Trustee has been authorized to conduct a claims process for the determination of any and all claims against VHL and VBS.

VHL and VBS.

In order to participate in any voting or distribution associated with VHL and VBS' proceedings under the Bankruplcy and Insolvency Act and any proposal thereunder (the 'Proposal'), any credit having a claim against VHL and/or VBS must file a Proof of Claim before Tuesday September 8, 2015 (the "Claims Bar Date") in accordance with the Claims Process Orders.

If a creditor does not file a Proof of Claim by the Claims Bar Date, its claim will be forever barred and it will not be entitled to participate in acrows in the Proposal.

any way in the Proposal. Calim form and instructions as to how to make a claim may be obtained from the Proposal Trustee's website at http://ctcanada.filconsulting.com/viceroy/ or by sending a written request to the Proposal Trustee at:

FTI Consulting Canada Inc. Pacific Centre, Suite 1502 701 West Georgia Street Vancouver, BC V7Y 1C6

Attention: Scott Gallon Telephone No.: (604) 601-5691 Email: scott.gallon@fticonsulting.com

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DATED this 30th day of July 2015.

LINDSAY BELL PROFESSIONAL CORPORATION Barrister & Solicitor 202-200 Bond Street West Oshawa, Ontario L1J 2L7 Solicitor for the Executors, DONNA LOUISE LEE and PETER THOMAS TRIANTAFILOU





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the concerns about cost and complexity that coprorations expressity that coprorations expressity that coprorations expressity that coprorations expressity the comparison of the concerns of the conce



payratio role, 20.2004/incrituation
throof the statute," the said in a statement.
But some union analysts said that the agency appeared to give up too much ground in the final increase of the statement of the s

New York Times News Service

#### TICKER

#### Fiat Chrysler profit falls in United States

The U.S. arm of Hat Chrysler Automobiles NY solid its record-quarter profit layped more than a per cent with debt payments and gor crament fines in micking the or crament fines in micking the consumers snapped up bigger consumers snapped up bigger tacks and sport suffly vehicles (U.S.) from they permitted as a carlier. The company spent down million adone on fines is touch the U.S. Automal Highway Treffic sights in the recalls of its vehicles. - Dow Jones Monwood's - Dow Jones Monwood's - Like Service of the - Dow Jones Monwood's - Like Service of - Like Service - Like Service

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in bankruptky on the 31st day of July, 2015.
Pease take note that Armise LP, which now carries on the bushess previously operated by certain of the bankrupt entities has not filled an assignment in bankrupty.
The Fret Meeting of Creditors will be held on the 14th day of August, 2015, at the offices of Ernst & Young Inc., located at 222 Bry, 31st foot Foronto, Onlario at the following times:

- A.E. Concrete Precast Products Ltd. at 9:00 AM Pre-Con Inc. at 9:20 AM
- Pre-Con Inc. at 9:20 AM 2:149920 Ontario Limited at 9:40 AM 1746312 Limited Partnership along with its partners 1748612 Ontario Limited, 16:254100 Critario Interied at 10:00 AM 2:247279 Ontario Limited at 10:30 AM 187816 Canasta Lumbed at 10:50 AM 10:53137 Ontario Limited at 11:50 AM

To be eligible to vote, creditors must file with the Trustee, prior to the meeting, proofs of claim and, where necessary, proxies. Dated at Toronto, Ontario this 6th day of August, 2015.

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Dated at Toronto, Ontario bus 6th Ernst & Young Inc. P.O. Bax 251, 222 Bay Street Toronto, Ontario, MSK J.J? Contact: Franca Mazzulla Telephone: (855) 941-1795 Facs/mile: 416-943-3300 Email: armte-Fac-ey-com Website: www.ey.com/ca/armtec



# NOTICE TO CREDITORS IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF VICERCY HOMES LTD. ("VHL") AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF VICERCY BUILDING SOLUTIONS LTD. ("VBS")

TAKE NOTKE that by Orders of the Suprame Court of British Columna procounced on July 30, 2005 the "Calims Process Orders"), the Proposal Trustee has been architected on Condoct as driven sporess for the elementation of any and all chains against 11th, and 1455. In order to participate, in any vorting or distribution as associated with VFL and VSS proceedings under the Britishappity and insolvency Act and any proposal Intervende (the "Proposal"), any relation having a dain against VFL and VSS most file a Proof of Colim before treating, Suprambe Act and VFL and VSS most file a Proof of Colim before treating, Suprambe Act and VFL and VSS most file a Proof of Colim before treating, Suprambe Act and VFL an

If a creditor does not file a Proof of Claim by the Claims Process Orders well be forever barred and it will not be entitled to participate in any way of the Proposal.

FTI Consulting Canada Inc.

## IN THE MATTER OF THE BANKRUPTCY OF DAVID MULLIGAN PEEVER of the City of Mississauga, in the Province of Ontario

NOTICE OF FIRST MEETING OF CREDITORS NOTICE OF FIRST IMELING UP CREDITORS
Notice is breely given that, Durd Medican Rever, in the Produce or
Otalsio, Red an assignment in brahuspity on the 28th day of July, 2015
out that the first meeting of creditors will be held on the 11th day or
August, 2015, at the hour of 1000 am in the forecom, at his Tortect's
office, 5015 Other Divers, 5014 601, Nazissaga, Others and that to be
eligible to voite, oraclinus must few with us, prior to the meeting, proofs to
chain, and where executing process.

DATED at Mississauga, Ontario, this 31st day of July, 2015.

(COLUMN Shed the debt Fax: 903 351.0488 index goldburgs www.goldburgs

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#### TENDERS

#### **HOTEL & CONVENTION**

GRANT THORNTON LIBETED, in its capacity as count-appointed Receiver of Physics Receivers, and the Toronto Asport West Park Inn by Radsson Hotel and Grand Victorian Convention Centre, is bereby commercing a sale of the property and operations.

Additional information regarding the property and sale process can be obtained by contacting Auron Bongard at (46) 607-2794 or auon bongardig cagt com.

Grant Thornton

#### **GENWORTH MI** CANADA INC.

**Dividend Notice** 

The Board of Directors of Genworth MI Canada Inc. have declared a quarterly dividend of \$0.39 per common share payable August 31, 2015 to shareholders of record at the close of business on August 17, 2015. August 17, 2015.



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NOTICE TO CREATORS
IN THE MATTER OF THE
NOTICE OF INTERNION
TO MAKE A PROPOSAL
OF VICEROY HOURS
LITE, ("VHL")
AND
IN THE MATTER OF THE
NOTICE OF INTERNION

NOTICE OF INTENTION
TO MAKE A PROPOSAL
OF VICEROY BUILDING
SOLUTIONS LTD.
("VES")
TAKE NOTICE that by
Crders all the Supreme
Court of British Columbia
prosecured on July 31.
2015 (the Toches Process
Crders"). The Process
Indee has been afforbed
to corded a definish process

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PETULA DVORAK THE WASHINGTON POST

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Americans looked back at it and started to experience regret," he says.

Except for Trump, who apparently has no regrets — and no shame either.

Except for Trump, who apparently has no regrets — and no shame either and the started to the started of the started

generous toward his fellow veterans.

"Kids who came home had to take their uniforms off, because they were spit upon and derided in public," says Alvarez, who remarried and lives in Potomae, Md. "And they were not helped by the government. The bureau-cracy was no help. And a lot of these kids were troubled."

It also felt as though the only peers they had — Second World

The same of the same of the same states and the same of the same states and the same states are same states, related every day is grating or welcome.

We veterans — weren't on their side, either.

"They went out, they won the big war, and 25 to 30 years later, they're up in management, saccessful and then resonable the same states. America wasn't in the mood to deal with veterans from that or late years.

America wasn't in the mood to deal with veterans from that or late years.

America wasn't in the mood to deal with veterans from that search says.

"Starting with the Gulf War, it starting with the Gulf War, it says."

We was recognized that what we did to these soung sides we rough; lost of the politician, but don't blame the young kids. Blame the politician, but don't blame the war on the warrior.

Awarez so na served two tours in Iraq and Afghanistan representless than one per cent of the says.

They went out, they won the big war, and 25 to 30 years office and the relative sheet going on whether the knee-jerk. Thank you for your service five yet every day is grating or welcome.

Not that the lives of stat-teen thank the lives of stat-teen the says.

The went out, they went have a healthy debate going on whether the knee-jerk. Thank you for your service five yet every day is grating or welcome.

Not that the lives of stat-teen the says.

America wasn't in the mood to deal with veterans from that it except the says.

The went out, they went the says of the says.

America wasn't in the mood to deal with veterans from that it except the says.

The went out, they went the says of the says of the says of the says.

The went out, they went the wasn't is sometimes the political, but don't blame the young kids.

The went out, they went the wars of the wars and the wars of the wars and the say of the says of the says.

The went out, they went the wars of the wars and the wars of the war



Everett Alvarez Jr., who was a prisoner of war in Horth Vietnam with Sen. John McCain, says his 'jaw hit the floor' when he heard Donald Trump say McCain wasn't a war hero because he had been captured.



THE ASSOCIATIO PAISS FILES In this 1967 photo, American PoW John McCain receives medical treatment at a hospital in Hanof, North Vietnam.

ALEATAGAIN

MATTHEW EUSCH/SETTY MAGES
Donald Trump, Republican
presidential candidate, received
numerous draft deferments
during the Vietnam War,

## 'Extensive' aerial fight against ISIL set: foreign minister



A U.S. air force cargo plane manoeuvres on the runway after it landed at the Incirlik Air Base in Turkey on Friday. U.S. officials said the first armed drone missions out of Turkey began last weekend.

SUZAN FRASER

\*\*MANGANA\*\*—An armed drone aking off from Turkey launched a strike on the Islamic State of Iraq and the Levant on Wednesday, a U.S. official said, as Turkey's foreign minister said variety of the State of Turkey has eclose to the border with Syria and an "extensive" fight against the extremists would begin soon.

\*\*Meanwhile, Syria's foreign minister said on Wednesday that Damaseus would support efforts against the Strike State of Turkey began last tweekend. U.S. officials had said the first meanwhile, Syria's foreign minister said on Wednesday that Damaseus would support efforts against the Strike State of State S

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# APPENDIX B

	Week Beginning										
	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16	Week 17	Week 18	TOTAL	Notes
	900.01		800.5	954.75	355	dan	430.43	dac-02	30.0		
Opening Cash (Canadian Dollar)	125,000	85,000	405,000	345,000	262,345	202,345	202,345	142,345	59,690	125,000	н
Cash Receipts											
Interim Financing		320,000	ole Percental (Percentage)	Charles and the Contraction of the State of			3	•		320,000	7
Total - Operating Receipts	•	320,000								320,000	
Cash Disbursements											
Rent				82,655		•	•	82,655	•	165,310	m
G&A										1	4
Professional Fees	40,000		60,000		60,000	•	000′09		55,000	275,000	15
Other							Andrew School St. 1986		•	٠	
Total - Operating Disbursements	40,000		000'09	82,655	60,000		60,000	82,655	55,000	440,310	
Net Change in Cash from Operations	(40,000)	320,000	(60,000)	(82,655)	(60,000)	•	(000'09)	(82,655)	(55,000)	(120,310)	
Total Net Cash Flow	(40,000)	320,000	(60,000)	(82,655)	(60,000)	,	(000'09)	(82,655)	(55,000)	(120,310)	
Ending cash (Canadian Dollar)	85,000	405,000	345,000	262,345	202,345	202,345	142,345	29,690	4,690	4,690	

liquidity requirements of Viceroy Home Ltd. and Viceroy Building Solutions Ltd. (collectively "Viceroy") for the 9 week period from August 10, 2015 to October 9, 2015. Notes:
FIT Consulting Canada Inc. ("FII") has prepared this Projected Cash Flow Statement solely for the purposes of determining the The Projected Cash Flow Statement is based on the probable and hypothetical assumptions detailed in Notes 1 - 5. Consequently, actual results will likely vary from performance projected and such variations may be material.

- 1 Opening cash as at August 10, 2015.
- 2 Wiston Building Materials Co. has agreed to fund an additional \$320,000 to Viceroy. However at the date of this report the funds had not been transferred to the Companies.
- 3 Monthly rent for the Richmond facility and the Viceroy Building Solutions Ltd. office.
- 4- Note there are no G&A expenses as these cost will be paid by Viceroy Houses (2015), a new company set up by the potential purchaser.
- 5 Professional/legal fees include fee estimates provided by the trustee.