

COURT FILE NUMBER 2001-04485

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT SANDTON CREDIT SOLUTIONS MASTER FUND IV, LP

RESPONDENTS ACCEDE ENERGY SERVICES LTD., ACCEDE FIRE & SAFETY LTD., 1537723 ALBERTA INC., AND ACCESS VALVE LTD.

DOCUMENT **THIRD REPORT OF FTI CONSULTING CANADA INC., IN ITS CAPACITY AS COURT APPOINTED RECEIVER AND MANAGER OF ACCEDE ENERGY SERVICES LTD., ACCEDE FIRE & SAFETY LTD., 1537723 ALBERTA INC., AND ACCESS VALVE LTD.**

**October 13, 2020**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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## INTRODUCTION

1. On March 23, 2020 (the “**Date of Appointment**”), FTI Consulting Canada Inc. was appointed as receiver and manager (the “**Receiver**”) of all the assets, undertakings and properties (the “**Property**” or “**Business**”) of Accede Energy Services Ltd. (“**Accede Energy**”), Accede Fire & Safety Ltd. (“**AFS**”), 1537723 Alberta Inc. (“**153 AB**”), and Access Valve Ltd. (“**Access Valve**”), collectively referred to as the “**Debtors**” or the “**Company**”, pursuant to an Order of the Honourable Justice K.M. Horner (the “**Receivership Order**”).
2. The Receivership Order authorized the Receiver, among other things, to manage, operate and carry on the Business of the Company, to market any or all of the Property including advertising and soliciting offers to purchase the Property, and to make such arrangements or agreements as deemed necessary by the Receiver.
3. On June 25, 2020, the Receiver sought and was granted four (4) sale approval and vesting orders (“**Approval and Vesting Orders**”). The Approval and Vesting Orders provided the Receiver with the Court’s approval to close three (3) separate purchase and sales agreements (“**PSAs**”) and one (1) auction services agreement (“**McDougall ASA**”) which contemplated, in aggregate, the sale of all the assets of the Company.
4. On July 9, 2020, the Receiver was authorized and directed to make an interim distribution in the amount of \$6,585,989 payable to Sandton Credit Solutions Master Fund IV, LP (“**Sandton**”), with a holdback for any potential priority amounts and the expenses of the receivership estate for any priority charges and the legal and professional fees necessary to complete the administration of the Debtors’ estates.

5. The Receiver's reports and other publicly available information in respect of these proceedings (the "**Receivership Proceedings**") are posted on the Receiver's website at <http://cfcanada.fticonsulting.com/accedeenergy> (the "**Receiver's Website**").
  
6. The purpose of this report ("**Third Report**" or this "**Report**") is to provide this Honourable Court with:
  - (a) an update of the activities of the Receiver since the Receiver's Second Report;
  - (b) an update on the status of the Receiver's review of the lien filed by Axiom Equipment Group/Axiom Equipment Inc. ("**Axiom Lien**");
  - (c) an update on the administration of the WEPPA claims;
  - (d) a summary of receipts and disbursements from the Date of Appointment to October 9, 2020;
  - (e) the Receiver's proposed second interim distribution to the Debtors' senior secured lender Sandton Credit Solutions Master Fund IV, LP ("**Sandton**") and the required holdback of certain funds; and
  - (f) the Receiver's anticipated next steps.
  
7. The Receiver is requesting the following relief from this Honourable Court:
  - (a) approval of the activities of the Receiver since the Receiver's Second Report reported herein, including the approval of its receipts and disbursements;

- (b) approval of the fees and expenses of the Receiver and the Receiver's Legal Counsel, MLT Aikins LLP ("**Receiver's Counsel**") related to the administration of these receivership proceedings; and
- (c) approval of the proposed second interim distribution to Sandton and required holdback.

## **TERMS OF REFERENCE**

8. In preparing this Third Report, the Receiver has relied upon audited and unaudited financial information, other information available to the Receiver and, where appropriate, the Company's books and records and discussions with various parties (collectively, the "**Information**").
9. Except as described in this Third Report:
  - (a) The Receiver 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 Receiver has not examined or reviewed financial forecasts and projections referred to in this Third 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 Third Report is based on assumptions regarding future events. Actual results may vary from forecasts and such variations may be material.

11. The Receiver has prepared this Third Report in connection with the Receiver's Application that is to be heard on October 22, 2020. This Third Report should not be relied on for other purposes.
12. Information and advice described in this Third Report that has been provided to the Receiver by its legal counsel, MLT Aikins LLP (the "**Receiver's Counsel**"), was provided to assist the Receiver in considering its course of action, is not intended as legal or other advice to, and may not be relied upon by, any other person.
13. All capitalized terms not defined herein are as defined in the Receiver's First Report.
14. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

## **RECEIVER'S ACTIVITIES SINCE THE SECOND REPORT**

15. Since the date of the Receiver's Second Report, the Receiver has, among other things, completed the following:
  - (a) Received the twenty-five (25) percent net minimum guarantee ("**NMG**") as defined in the McDougall ASA and made the Proposed Interim Distribution to Sandton in the amount of \$6,585,989 as approved by this Honourable Court as outlined in the Receiver's Second Report;
  - (b) Pursuant to the Approval and Vesting Orders granted on June 25, 2020, the Receiver was paid the remaining seventy-five (75) percent of the NMG as defined in the McDougall ASA. Pursuant to the McDougall ASA, the auction was completed by August 21, 2020 and the Receiver was provided with the final sales report on September 11, 2020. Overage on the sale, as calculated under the McDougall ASA, and paid to the Receiver, was in the amount of \$452,416;

- (c) Reviewed and assessed the validity of the Axiom Lien and determined it was valid and enforceable. The lien amount was paid in full (\$56,625);
- (d) Finalized the submission of eligible employee WEPPA claims to Service Canada and determined the amount of their respective super-priority charge;
- (e) In consultation with the Company, the Receiver issued ROE's to all terminated employees and T4 Slips for 2020 were prepared and mailed to all employees of Accede Energy and AFS;
- (f) Complied with and responded to CRA GST/HST audit for Access Valve and are working to provide additional information requested and finalize a response to the CRA regarding the GST/HST audit for Accede Energy;
- (g) The Receiver terminated the remaining five (5) employees on or around August 12, 2020;
- (h) The Receiver disclaimed the lease for the remaining leased vehicle as well as disclaimed the lease for the three (3) remaining premises that are no longer occupied by the Company. Subsequent to the close of the auction, the Receiver has requested all insurance policies be cancelled and has sent out notices to terminate all remaining services; and
- (i) Determined the estimated holdback and proposed second interim distribution as discussed in further detail below.

## **MCDUGALL AUCTIONS**

16. Pursuant to the Approval and Vesting Orders granted by the Court on June 25, 2020, the Receiver executed the McDougall ASA for the Remaining Equipment of the Debtors. Twenty-five (25) percent of the NMG under the McDougall ASA was paid to the Receiver upon close, the remaining seventy-five (75) percent was received prior to the commencement of the McDougall auctions.
17. The final sales report was received on September 11, 2020, which provided the detailed results from the auction of the Remaining Assets. The Receiver's split of the excess auction proceeds, as calculated under the McDougall ASA, was paid to the Receiver the same day. Total cash proceeds received to date pursuant to the McDougall ASA is \$4,409,832.
18. Since the date of completion of the McDougall auctions, the Receiver was notified by McDougall that additional assets (included in the McDougall ASA) have since been located at third party sites. The assets are being delivered to McDougall and a second online auction will be conducted with the proceeds distributed pursuant to the terms of the McDougall ASA.

## **LIEN REVIEW**

19. As at the date of this Report, the Receiver is aware of one (1) lien ("**Lien**") filed against the Company. The Lien was filed by Axiom Equipment Group/Axiom Equipment Inc. ("**Axiom**") for services and materials that were provided to the Debtors and sold to Crescent Point Energy Corp. The amount claimed in respect of services or materials that were provided is \$56,625. The Receivers' Legal Counsel performed a full review and determined that the lien was valid and enforceable, as such payment was made by the Receiver to satisfy the Lien claim in full.

## WEPPA

20. The Receiver completed the submission of all eligible employee WEPPA claims to Service Canada. Based on the notices provided, the table below summarizes the claims submitted by type:

Schedule of Eligible WEPPA Claims			
Type of Claim	Number of Claims Issued to Eligible Employees	Total Claim Amount	Maximum Super-Priority Claim Amount
Super-Priority Claim (unpaid wages and vacation)	55	\$ 132,168	\$ 85,431
Super-Priority Claim (unpaid expenses)	5	3,489	2,970
Severance	57	349,792	n/a
<b>Total</b>	<b>117</b>	<b>\$485,449</b>	<b>\$ 88,401</b>

21. Under WEPPA, a super-priority charge over the current assets is given in respect of claims for unpaid wages/vacation up to a maximum of \$2,000 per claim and for unpaid expense of a travelling salesperson of up to a maximum of \$1,000 per claim.
- (a) As of the date of this Report, 55 claims (total claim amount of \$132,168) have been submitted to Service Canada (“SC”) for unpaid wages or vacation pay, 26 of which are in excess of the \$2,000 threshold for a super-priority charge, as such the calculated total priority charge for unpaid wages and vacation claims is \$85,431.
- (b) In addition to super-priority claims for unpaid wages and expenses, there are five (5) claims for unpaid expenses that are eligible for super-priority, one (1) of which is in excess of the \$1,000 threshold, as such the calculated total priority charge for unpaid expenses is \$2,970.



- (c) The total super-priority charge based on the claims submitted to SC is \$88,401. The Receiver is waiting on final confirmation from SC of their total super-priority claim, as such the Receiver has requested the total amount calculated by the Receiver as the super-priority claim due to SC (\$88,401) be included as part of the holdback as discussed in further detail below.
  
- 22. As of the date of this Report, the deadline for the Company's employees to submit their respective proofs of claim has expired. The Receiver has accounted for all potential super-priority claims in the proposed holdback referenced above and does not consider it necessary to holdback any additional funds.

#### **SUMMARY OF RECEIPTS AND DISBURSEMENT**

- 23. Receipts and Disbursements from the Date of Appointment to October 9, 2020 are summarized as follows:

**Schedule of Receipts and Disbursements**  
**As at October 9, 2020**  
**\$ CAD**

<b>Receipts</b>	
Opening Cash	\$ 306,429
Revenue	4,233,336
PSA Receipts, excl GST	3,837,735
ASA Receipts, excl GST	4,409,832
Miscellaneous Receipts	47,898
GST / PST Collected	<u>250,264</u>
<b>Total - Receipts</b>	<b>13,085,493</b>
<b>Disbursements</b>	
Operating Expenses	584,645
Payroll and Employee Related Obligations	1,032,564
Rent	430,841
Insurance	78,044
Property Taxes	44,122
GST / PST Paid	119,819
Bank Charges	2,157
Selling Agent & Other Professional Fees	696,506
Interim Distribution to Secured Creditor	<u>6,585,989</u>
<b>Total - Disbursements</b>	<b>9,574,687</b>
<b>Total Cash on Hand</b>	<b><u>\$ 3,510,806</u></b>

- (a) Opening Cash – cash balance in Debtors bank account at Date of Appointment that transferred to Receiver’s account;
- (b) Revenue – amounts collected from customers related to work completed and rental assets contracted out, prior to and during, the Receivership Proceedings;
- (c) PSA Receipts – relates to the cash proceeds received from the three executed PSA’s as approved by the Court since the date of the First Report;
- (d) McDougall ASA Receipts – relates to the cash proceeds received from the executed McDougall ASA as approved by the Court since the date of the First Report;

- (e) Miscellaneous Receipts – minor refunds from deposits held;
- (f) GST / PST Collected – relates to tax credits collected on the revenue generated throughout the receivership period;
- (g) Operating expenses – relates to the payment of ongoing operating costs and costs associated with the wind down of operations;
- (h) Payroll and employee related obligations – costs relating to employee wages, payroll remittances, and benefits;
- (i) Rent – comprises rent paid related to all occupied, leased premises from which the Debtors were operating;
- (j) Insurance – costs incurred relating to insurance on the Remaining Equipment and operations;
- (k) Property Taxes – relate to costs incurred relating to property taxes on leased premises from which the Debtors were operating;
- (l) GST/PST paid – relates to goods and services tax remittances;
- (m) Bank charges – relates to banking fees;
- (n) Selling Agent & Other Professional fees – relates to fees paid for the asset appraisals and other professionals in respect of the Receivership Proceedings; and
- (o) Interim Distribution to Secured Creditor – relates to the interim distribution to the Sandton, as authorized by this Honourable Court pursuant to the Receiver’s Second Report.

24. As at October 13, 2020 the Receiver held \$3,510,806 in cash on hand.

## PROPOSED HOLDBACK AND FINAL DISTRIBUTION

25. The Receiver is currently holding cash of \$3,510,806 and is seeking approval to make a second interim distribution to the secured creditor in the amount of \$3,262,405 after considering monies required to be held back (as outlined above).
26. As outlined above, the Receiver is in the process of responding to a CRA GST/HST audit and confirmation from Service Canada on their super-priority charge is still pending. The Receiver intends to holdback sufficient funds to satisfy these potential claims, as well as a small holdback of funds required to support the completion of the receivership proceedings (i.e. accrued but unpaid professional fees, record storage costs, destruction of records) and bankruptcy application, as required.
27. The Receiver's proposed holdbacks and second interim distribution are summarized in the table below:

<b>Schedule of Holdbacks and Proposed Second Interim Distribution</b>	
<b>\$ CAD</b>	
Net Cash on Hand	\$3,510,806
Required Holdbacks:	
G&A	50,000
CRA GST Audit	50,000
Super-priority WEPPA Claims	88,401
Bankruptcy	10,000
Receiver Fees and Legal Counsel	50,000
<b>Total Required Holdbacks</b>	<b>248,401</b>
<b>Funds Available for Distribution</b>	<b>\$3,262,405</b>
<b>Proposed Second Interim Distribution:</b>	
Beneficiary to Sandton	<b>\$3,262,405</b>

28. The following table provides a summary of the initial distribution and proposed second interim distribution relative to the secured creditors claim.

**Recovery of Secured Creditors Claim**

**\$ CAD**

Sandton's Secured Claim	\$ 28,818,846
Less:	
Initial distribution to Sandton	6,585,989
Proposed second interim distribution to Sandton	3,262,405
<b>Unpaid Amount of Sandton's Secured Claim</b>	<b>\$ 18,970,452</b>

**APPROVAL OF FEES**

29. Invoices rendered by the Receiver for fees and expenses exclusive of GST since the Date of Appointment total \$420,757 and the Receiver anticipates an additional \$39,000 accrued unbilled work to date and administrative work to complete these receivership proceedings (collectively the “**Receiver’s Fees**”). The accounts for services rendered will be made available upon request.
30. Invoices rendered for fees and expenses exclusive of GST by the Receiver’s Counsel since the Date of Appointment total \$121,413 and the Receiver’s Counsel anticipates an additional \$11,000 accrued unbilled work to date and administrative work to complete these receivership proceedings (collectively the “**Receiver’s Counsel’s Fees**”). The accounts for services rendered will be made available upon request.
31. The Receiver believes the Receiver’s Fees and the Receiver’s Counsel’s Fees are appropriate and reasonable in the circumstances given the length of the receivership proceedings, the work required to operate the business from the Date of Appointment through to closing multiple asset sales, the time required to complete a fulsome sales process, run a WEPPA process, and make distributions to secured creditors. The Receiver is requesting that this Honourable Court approve the Receiver’s Fees and the Receiver’s Counsel’s Fees.

## **BANKRUPTCY OF ACCEDE ENERGY & AFS**

32. The Receiver expects that it will be at some point required to investigate potential reviewable transactions involving Accede Energy & AFS and at that time will require a Bankruptcy Order in respect of Accede Energy & AFS to assist with this task and help facilitate the crystallization of claims and the streamlined administration of the Debtors estate. The Receiver understands that Sandton will be making an application to expand the Receiver's powers necessary to give it authorization to assign Accede Energy & AFS into bankruptcy.

## **NEXT STEPS**

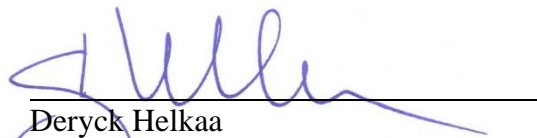
33. Should this Honourable Court approve the proposed second interim distribution, the Receiver's remaining steps would include:
- (a) make the proposed second interim distribution;
  - (b) finalize the CRA GST/HST audit for Accede Energy;
  - (c) finalize the super-priority charge with Service Canada;
  - (d) support the additional auction process and collect proceeds from the sale of the additional assets;
  - (e) complete any remaining administrative tasks; and
  - (f) propose a final distribution and seek to be discharged once the auction is complete and the remaining funds received.

## RECEIVER'S RECOMMENDATIONS


34. The Receiver respectfully requests that this Honourable Court grant the following relief:
- (a) approval of the Receiver's activities since the date of the Second Report, including its receipts and disbursements;
  - (b) approval of the fees and expenses of the Receiver and the Receiver's Counsel related to the administration of these receivership proceedings;
  - (c) approval of the proposed second interim distribution of \$3,262,405; and
  - (d) authorize an expansion of the Receiver's powers in order to allow the Receiver to assign AFS & Accede Energy into Bankruptcy.

All of which is respectfully submitted this 13<sup>th</sup> day October 2020.

FTI Consulting Canada Inc.,  
in its capacity as receiver and manager of  
Accede Energy Services Ltd., Accede Fire &  
Safety Ltd., 1537723 Alberta Inc., and Access  
Valve Ltd., and not in its personal or corporate  
capacity



\_\_\_\_\_  
Deryck Helkaa  
Senior Managing Director



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Dustin Olver  
Senior Managing Director