

**District of:** Vancouver  
**Division No.** 04 - Vernon  
**Court No.** 11-1962432  
**Estate No.** 11-1962432

**TRUSTEE'S REPORT TO THE CREDITORS  
ON THE PRELIMINARY ADMINISTRATION  
IN THE MATTER OF THE BANKRUPTCY OF  
ARTHON EQUIPMENT LTD.**

**March 9, 2015**



ALVAREZ & MARSAL

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## APPENDIX

Appendix A – Certificate of Appointment

## 1.0 BACKGROUND

- 1.1 On February 18, 2015 (the “**Bankruptcy Filing Date**”) Arthon Equipment Ltd. (“**Equipment**”) filed a voluntary assignment in bankruptcy and Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed trustee (the “**Trustee**”), subject to affirmation by the creditors of Equipment at the first meeting of creditors to be held on March 10, 2015. A copy of the certificate of appointment is attached as Appendix “A”.
- 1.2 Equipment was previously subject to a stay of proceedings pursuant to an order pronounced by the Supreme Court of British Columbia on November 29, 2013 on the application of Arthon Industries Limited (“**Industries**”) and certain of its subsidiaries and affiliated companies including Equipment (collectively, the “**Arthon Group**” or the “**Company**”) under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). A&M acted as Monitor in the proceedings brought by the Arthon Group under the CCAA (the “**CCAA Proceedings**”). The stay of proceedings against Equipment in the CCAA Proceedings expired on the Bankruptcy Filing Date.
- 1.3 Equipment was a holding company that owned all of the heavy equipment and machinery used by Arthon Contractors Inc. (“**Contractors**”), the construction arm of the Arthon Group. Equipment was operated by management of Contractors and did not have any employees. By October 2013, much of Contractors’ operations had discontinued due to difficulties bidding for further work and an inability to access sufficient working capital to undertake new projects, and accordingly, much of Equipment’s machinery and equipment became redundant.
- 1.4 On January 29, 2015 an order was granted in the CCAA Proceedings approving and vesting the sale of the assets of Equipment (the “**Equipment Assets**”) to Industries. As consideration for the transfer of Equipment Assets from Equipment, Industries assumed certain secured liabilities of Equipment and reduced its claim against Equipment. The sale of Equipment Assets was completed on February 12, 2015.
- 1.5 Equipment is privately held and duly incorporated under the *Business Corporations Act* (British Columbia).
- 1.6 Further background on Equipment’s business affairs, financial difficulties and CCAA Proceedings is disclosed in the Monitor’s reports which, along with other related materials, are available on the Trustee’s website (the “**Trustee’s Website**”) at [www.alvarezandmarsal.com/arthon](http://www.alvarezandmarsal.com/arthon).

## **2.0 PRELIMINARY EVALUATION OF ASSETS**

- 2.1 As at the Bankruptcy Filing Date, Equipment had no remaining assets as its assets had been sold to Industries pursuant to an Asset Purchase Agreement (“APA”) dated January 23, 2015 and approved by the court on January 29, 2015. Details of the APA are provided in the Monitor’s Eleventh Report in the CCAA Proceedings dated January 27, 2015 which is available on the Trustee’s Website.

## **3.0 CREDITORS AND SECURITY INTERESTS**

- 3.1 As disclosed in the Statement of Affairs filed with the bankruptcy assignment documents of Equipment, there are 112 known unsecured creditors with total claims of \$3.6 million.
- 3.2 One secured claim of \$3.7 million is owed to Industries which is secured by, among other things, a General Security Agreement against all present and after acquired personal property of Equipment.
- 3.3 Callidus Capital Corporation (“**Callidus**”) has a contingent secured claim of approximately \$39.7 million with respect to debts owed to Callidus by Industries which are guaranteed by Equipment.
- 3.4 Based on the Trustee’s preliminary discussions with Equipment and review of Equipment’s books and records, it appears that there are no amounts due for wages that are eligible for priority claims in accordance with the Wage Earner Protection Program Act.
- 3.5 Equipment had no assets as at the Bankruptcy Filing Date and, accordingly, the Trustee does not expect there will be any realizations available for secured or unsecured creditors.

## **4.0 BOOKS AND RECORDS**

- 4.1 The Trustee has taken possession of the books and records of Equipment which are being held at the office of the Trustee.

## **5.0 LEGAL MATTERS AND REVIEWABLE TRANSACTIONS**

### Legal Matters

- 5.1 The Trustee has not commenced any legal proceedings and is not aware of any proceedings commenced against the estate.

Reviewable Transactions

- 5.2 The Trustee has not yet completed a review of the books and records of Equipment with respect to fraudulent preferences or transfers under value as defined in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B.3, as amended.

**6.0 THIRD PARTY DEPOSITS AND GUARANTEES**

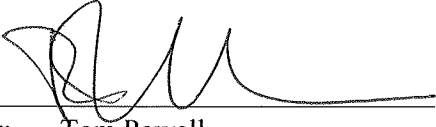
- 6.1 Industries has provided a guarantee to the Trustee with respect to its reasonable fees and disbursements, subject to taxation of the Trustee's accounts, and has provided a deposit to the Trustee of \$12,600 to support the guarantee.

**7.0 OTHER**

- 7.1 A potential perceived conflict of interest may exist due to A&M's previous appointment as Monitor of Equipment during the CCAA Proceedings. However, A&M is satisfied there is no such conflict that would prejudice it from acting as Trustee in the Bankruptcy of Equipment.

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**Alvarez & Marsal Canada Inc.,  
in its capacity as Trustee in the Bankruptcy  
of Arthon Equipment Ltd.**

  
Per: Tom Powell  
Director



Industry Canada

Industrie Canada

Office of the Superintendent  
of Bankruptcy CanadaBureau du surintendant  
des faillites Canada

District of: British Columbia  
 Division No.: 04 - Vernon  
 Court No.: 11-1962432  
 Estate No.: 11-1962432

In the Matter of the Bankruptcy of:

**Arthon Equipment Ltd.**

Debtor

**ALVAREZ & MARSAL CANADA INC.**

Trustee

Ordinary Administration

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Date and time of bankruptcy:	February 18, 2015, 15:05	Security:	\$0.00
Date of trustee appointment:	February 18, 2015		
Meeting of creditors:	March 10, 2015, 14:00 Sandman Hotel and Suites Westbank Room, 2130 Harvey Avenue Kelowna, British Columbia Canada,		
Chair:	Trustee		

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CERTIFICATE OF APPOINTMENT - Section 49 of the Act: Rule 85

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforementioned debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: February 18, 2015, 18:15

E-File/Dépôt Electronique

Official Receiver

300 Georgia Street W, Suite 2000, Vancouver, British Columbia, Canada, V6B6E1, (877)376-9902