



COURT FILE NUMBER

2401-04879

COURT

COURT OF KING'S BENCH OF ALBERTA

COM
Nov 13, 2024

JUDICIAL CENTRE

CALGARY

IN THE MATTER OF THE RECEIVERSHIP OF
CANDESTO ENTERPRISES CORP., D3
INFRASTRUCTURE SERVICES INC., AND SAFE
ROADS ALBERTA LTD.

APPLICANT

DURISOL LTD.

RESPONDENTS

CANDESTO ENTERPRISES CORP.,
D3 INFRASTRUCTURE SERVICES INC., AND
SAFE ROADS ALBERTA LTD.

DOCUMENT

APPLICATION

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT

GOWLING WLG (CANADA) LLP

Suite 1600, 421 – 7th Avenue SW
Calgary, AB T2P 4K9

Telephone: 403-298-1018

Fax: 403-263-9193

Email: sam.gabor@gowlingwlg.com

File No.: A172830

Attention: Sam Gabor

NOTICE TO RESPONDENT(S):

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Judge.

To do so, you must be in Court when the application is heard as shown below:

Date: November 13, 2024

Time: 11:00am

Where: Calgary Courts Centre, Calgary, Alberta
VIA WEBEX (See Appendix "1")
Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom60>

Before Whom: The Honourable Justice C.J. Feasby – Commercial List

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. Alvarez & Marsal Canada Inc., in its capacity as Court-appointed receiver and manager (“**A&M**”, or the “**Receiver**”) over all of the current and future assets, undertaking and properties of every nature and kind whatsoever and wherever situate, including the proceeds thereof, of Candesto Enterprises Corp. (“**CEC**”), Safe Roads Alberta Ltd. (“**Safe Roads**”) and D3 Infrastructure Services Inc. (“**D3**”) (collectively, the “**Debtors**”), seeks the following relief:
 - (a) an Order substantially in the form attached hereto as **Schedule “A”**:
 - (i) declaring that the within Application is properly returnable and that service of this Application on the service list established in these proceedings is deemed good and sufficient;
 - (ii) authorizing and directing that the Receiver make distributions to Durisol Inc. (“**Durisol**”) in the amount of \$1,186,000, plus all remaining amounts in the Receiver’s account after payment of the Receiver’s and its legal counsel’s final fees and disbursements after the completion by the Receiver and its legal counsel of any incidental duties as may be required to complete the administration of the receivership herein;
 - (iii) approving the Assignment of Accounts Receivable Agreement (the “**Assignment Agreement**”) between the Receiver and Durisol as appended to the Second Report of the Receiver dated November 4, 2024 (the “**Second Report**”);
 - (iv) directing that any surplus amounts recovered by Durisol arising from the receivables as set out in the Assignment Agreement (the “**Receivables**”) which causes Durisol to recover an amount greater than the interim financing provided by Durisol to the Debtors pursuant to the Commitment Letter defined in the Amended and Restated Initial Order of Justice Johnston under Court of King’s Bench of Alberta File No. 2301-16982 (the “**Commitment Letter**”), shall be paid into Court by Durisol to the credit of this action on notice to the service list maintained in the receivership proceeding herein;

- (v) approving the Receiver's and its legal counsel's professional fees, costs and disbursements for the period up to and including October 31, 2024 as set out in the Second Report;
 - (vi) approving without the necessity of a formal assessment of accounts the Forecast Fees & Costs, including the Receiver's and Gowling's estimated fees and disbursements, as defined and set out in the Second Report, for incidental duties as may be required to complete the administration of the receivership herein;
 - (vii) ratifying and approving the Receiver's and its legal counsel's activities as set out in the Second Report;
 - (viii) ratifying and approving the Receiver's final receipts and disbursements as set out in the Second Report;
 - (ix) approving the discharge of the Receiver as receiver and manager over the assets, undertaking and property of the Debtors;
 - (x) approving the delivery of the books and records of the Debtors to the current or prior directors and/or shareholders, or alternatively, following 30 day after the Receiver's discharge, the destruction of the records.
- (b) such further and other relief as the Receiver may request and this Honourable Court may grant.

Grounds for making this application:

2. On December 20, 2023, this Honourable Court granted an initial order (the "**Initial Order**") under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (as amended, the "**CCAA**") with respect to the Debtors (the "**CCAA Proceeding**"). On December 20, 2023 this Honourable Court concurrently granted an amended and restated Initial Order ("**ARIO**"). Pursuant to the Initial Order and ARIO, A&M was appointed as Court appointed Monitor of the business and financial affairs of the Debtors and Durisol was granted an interim lender's charge up to \$450,000 (the "**Interim Lender's Charge**") securing interim financing extended by Durisol to the Debtors pursuant to a commitment letter between Durisol and the Debtors dated December 19, 2023 (the "**Commitment Letter**"). A&M was further granted an administration charge for its professional fees and disbursements within the CCAA Proceeding (the "**Administration Charge**").

3. Pursuant to an extension order of the Honourable Justice Jones in the CCAA Proceeding dated January 12, 2024, the Interim Lender's Charge was increased to \$1,400,000.
4. On April 17, 2024, the CCAA Proceeding was terminated and a receivership order was concurrently granted by the Honourable Justice Sidnell ("**Receivership Order**") converting the CCAA Proceeding into these receivership proceedings (the "**Receivership Proceeding**") and making A&M receiver over all of the assets, undertaking and property of the Debtors. The Interim Lender's Charge continued on in the Receivership Proceeding, being subordinate to only the Receiver's Charge and Receiver's Borrowing Charge created under the Receivership Order, and the Administration Charge.
5. All of the \$1,400,000 of interim financing available to the Debtors under the Commitment Letter has been extended by Durisol to the Debtors, and Durisol is the Debtors fulcrum creditor.
6. Capitalized terms not otherwise defined in this Application have the meanings set forth in the Receivership Order and/or the Second Report.

Distribution to Interim Lender

7. Pursuant to the Receivership Order, the Receiver was authorized to, *inter alia*:
 - (a) market any or all of the Property (as defined in the Receivership Order, the "**Property**"), including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem; appropriate;
 - (b) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting the Property; and
 - (c) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by the Receivership Order.
8. In accordance with the Receivership Order, the Receiver entered into an auction agreement with McDougall Auctioneers which was approved by this Honourable Court in the Receivership Proceeding. The auction has completed and the Receiver recommends distributing the proceeds

from the auction to Durisol, less the Receiver and its counsel professional fees and disbursements including to the conclusion of the Receivership Proceeding. Following the conclusion of the Receiver's remaining administrative tasks in the Receivership Proceeding, any remaining funds in the Receiver's accounts will be distributed by the Receiver to Durisol.

Assignment of Accounts Receivable

9. Prior to the commencement of the Receivership Proceeding, Candesto accrued the Receivables through the performance of projects it worked on. The Receiver has made commercially reasonable efforts to collect the Receivables but it is no longer economic, in the best interest of the Debtors stakeholders or supported by Durisol and the Debtors' other senior secured creditors that the Receiver continue to attempt to realize upon the Receivables.
10. Durisol, as the fulcrum creditor of the Debtors, and the Receiver have entered into the Assignment Agreement in order to assign the Receivables to Durisol so that the Receivables can remain collectable for the benefit of the Debtors' stakeholders.
11. After the Receiver provides its distribution to Durisol, as discussed above, Durisol will suffer a shortfall under its interim lending to the Debtors. In the event any surplus amounts recovered by Durisol arising from the Receivables cause Durisol to recover an amount greater than the interim financing provided by Durisol to the Debtors pursuant to the Commitment Letter, Durisol is agreeable to pay the surplus into Court to the credit of this action on notice to the service list maintained in the receivership herein.
12. The Receiver has the power under the Receivership Order to assign the Receivables to Durisol.

Activities of the Receiver

13. The Second Report sets out a description of the activities which have been undertaken by the Receiver since the filing of the Receiver's First Report dated June 5, 2024. The Second Report further sets out the receipts and disbursements of the Receiver. All actions, activities and conduct of the Receiver have been undertaken in accordance with the Receivership Order and have been performed in the best interest of the Debtors' estates and their stakeholders.

Professional Fees and Disbursements

14. The professional fees and disbursements, and the Forecast Fees & Costs, including the Receiver's and its counsel Gowling WLG (Canada) LLP's estimated fees and disbursements, as set out in the Second Report, are fair and reasonable in the circumstances.

Discharge Order

15. The Receiver seeks its discharge over the Debtors' assets, undertaking and property. Certain ancillary administrative tasks remain in the Receivership Proceeding pending the Receiver's discharge, including performing the distributions to Durisol and the Receiver performing its statutory reporting to the office of superintendent of bankruptcy. The Receiver intends on either returning the books and records of the Debtors to their former current or prior directors/shareholders, or destroying them following 30 days after its final discharge.

Material or Evidence to be Relied on:

16. The pleadings and proceedings herein
17. The pleadings and proceedings in the CCAA Proceedings bearing Court File No. 2301-16982
18. The Second Report of Alvarez & Marsal Canada Inc. dated November 4, 2024;
19. Bench Brief of the Receiver;
20. Such further and other material or evidence as counsel may advise and this Honourable Court may permit.

Applicable Rules:

21. Bankruptcy Rules 3 and 6(1);
22. The *Alberta Rules of Court*, Alta Reg. 124/2010, including Rules 1.2, 1.4, 6.1, 6.2 and 6.3; and
23. Such further and other Rules as counsel may advise and this Honourable Court may permit.

APPLICABLE ACTS AND REGULATIONS:

24. *Bankruptcy and Insolvency Act* (R.S.C., 1985, c. B-3) ss. 243(1); and
25. Such further and other Acts and Regulations as counsel may advise and this Honourable Court may permit.

HOW THE APPLICATION IS PROPOSED TO BE HEARD OR CONSIDERED:

26. By Web-Ex, before the Honourable Justice C.J. Feasby Chambers sitting on the Commercial List.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what it wants in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

APPENDIX “1”
Webex Details

Virtual Courtroom 60 has been assigned for the above noted matter:

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom60>

Instructions for Connecting to the Meeting:

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom 15 minutes prior to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
4. Note: Recording or rebroadcasting of the video is prohibited.
5. **Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

For more information relating to Webex protocols and procedures, please visit:
<https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

You can also join the meeting via the “Cisco Webex Meetings” App on your smartphone/tablet or other smart device. You can download this via the App marketplace and join via the link provided above

SCHEDULE "A"

DRAFT ORDER

COURT FILE NUMBER 2401-04879

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT DURISOL LTD.

RESPONDENT CANDESTO ENTERPRISES CORP.,
D-3 INFRASTRUCTURE SERVICES INC.,
AND SAFE ROADS ALBERTA LTD.

Clerk's Stamp

DOCUMENT **ORDER FOR FINAL DISTRIBUTION, APPROVAL
OF ASSIGNMENT,
APPROVAL OF RECEIVER'S FEES AND
DISBURSEMENTS, APPROVAL OF RECEIVER'S
ACTIVITIES, DISCHARGE OF RECEIVER AND
OTHER RELIEF**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

Gowling WLG (Canada) LLP
1600, 421 – 7th Avenue S.W.
Calgary, AB T2P 4K9

Telephone (403) 298-1018
Facsimile (403) 263-9193
Email sam.gabor@gowlingwlg.com

File No. A172830

Attention: Sam Gabor

DATE ON WHICH ORDER WAS PRONOUNCED: November 13, 2024

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice C.J. Feasby

UPON THE APPLICATION of Alvarez & Marsal Canada Inc. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Candesto Enterprises Corp., D-3 Infrastructure Services Inc. and Safe Roads Alberta Ltd. (the "**Debtors**") for an Order for the final distribution of proceeds, approval of the assignment of certain accounts receivables of the Debtors to Durisol Ltd. as interim lender of the Debtors ("**Durisol**"), approval of the Receiver's fees and

disbursements, approval of the Receiver's receipts and disbursements, approval of the Receiver's activities and discharge of the Receiver;

AND UPON reading the Receiver's Second Report dated November 4, 2024 (the "**Receiver's 2ND Report**"); **AND UPON** hearing from counsel for the Receiver, counsel for the Debtors, counsel for Durisol and counsel for any other parties in attendance; **AND UPON** being satisfied that it is appropriate to do so;

IT IS ORDERED AND DECLARED THAT:

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

ASSIGNMENT OF RECEIVABLES

2. The Assignment of Receivables Agreement appended as **Schedule "A"** to this Order (the "**Assignment Agreement**") is hereby approved.
3. Any surplus amounts recovered by Durisol arising from the Receivables (as defined in the Assignment Agreement) which causes Durisol to recover an amount greater than the DIP Indebtedness (as defined in the Assignment Agreement, the "**DIP Indebtedness**") provided by Durisol to the Debtors pursuant to the Commitment Letter defined in the Amended and Restated Initial Order of Justice Johnston under Court of King's Bench of Alberta File No. 2301-16982 (the "**Surplus**") shall be paid into Court by Durisol to the credit of this action on notice to the Service List maintained in the receivership herein.
4. Until the filing of the Receiver's Certificate attached hereto as Schedule "B", the Receiver is hereby authorized and permitted to deliver to Durisol at its own expense copies of any records in the possession and control of the Receiver relating to the Receivables.

APPROVAL OF RECEIPTS, DISBURSEMENTS, ACCOUNTS AND ACTIVITIES

5. The Receiver's accounts for fees and disbursements, as set out in the Receiver's 2ND Report, are hereby ratified and approved without the necessity of a formal passing of its accounts.

6. The accounts of the Receiver's legal counsel Gowling WLG (Canada) LLP (“**Gowling**”) for its fees and disbursements, as set out in the Receiver's 2ND Report, are hereby ratified and approved without the necessity of a formal assessment of its accounts.
7. The Forecast Fees & Costs, including the Receiver’s and Gowling’s estimated fees and disbursements, as set out in the Receiver's 2nd Report, for incidental duties as may be required to complete the administration of the receivership herein are hereby approved without the necessity of a formal assessment of accounts.
8. The Receiver's and Gowling’s actions, activities and conduct as set out in the Receiver's Report and in all of the Receiver’s other reports filed herein, and the Final Statement of Receipts and Disbursements as attached to the Receiver's Report, are hereby ratified and approved.

APPROVAL OF DISTRIBUTIONS

9. The Receiver is authorized and directed to make the following distributions:
 - To Durisol - \$1,186,000, plus all remaining amounts in the Receiver’s account after payment of the Receiver’s and Gowling’s final fees and disbursements after the completion by the Receiver and Gowling of any incidental duties as may be required to complete the administration of the receivership herein, up to the amount sufficient to repay the DIP Indebtedness owing by the Debtors to Durisol pursuant to the Commitment Letter defined in the Amended and Restated Initial Order of Justice Johnston under Court of King’s Bench of Alberta File No. 2301-16982.

DISCHARGE OF RECEIVER

10. On the evidence before the Court, the Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the within proceedings up to and including the date hereof, and the Receiver shall not be liable for any act or omission on its part including, without limitation, any act or omission pertaining to the discharge of its duties in the within proceedings, save and except for any liability arising out of any in fraud, gross negligence or willful misconduct on the part of the Receiver, or with leave of the Court. Subject to the foregoing any claims against the Receiver in connection with the performance of its duties are hereby stayed, extinguished and forever barred.

11. No action or other proceedings shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver, except with prior leave of this Court on Notice to the Receiver, and upon such terms as this Court may direct.
12. The Receiver is hereby authorized and permitted to deliver to the current or former directors of the Debtors at his/her own expense copies of any corporate record in the possession and control of the Receiver relating to the Debtors. In the event corporate records remain in the possession and control of the Receiver 30 days following the filing of the Receiver's Certificate attached hereto as **Schedule "B"**, the Receiver is hereby authorized and directed to destroy or dispose of such records in whatever manner the Receiver deems appropriate.
13. Upon the filing of the Receiver's Certificate attached hereto as Schedule "B" confirming, among other things, that the Receiver has made all distributions set out in the Receiver's 2nd Report in accordance with paragraph 9 of this Order, the Receiver shall be absolutely and unconditionally discharged as Receiver of the Property and shall have no further duty, liability or obligation with respect to the Property, provided however, that notwithstanding its discharge, the Receiver shall:
(a) remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership; and (b) shall continue to have the benefit of the provisions of this Order and all Orders granted in these proceedings, including all approvals, protections and stays of proceedings in favor of the Receiver in its capacity as Receiver.

MISCELLANEOUS

14. The Receiver has leave to reapply to this Honourable Court for such further advice and directions as may be necessary.
15. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by Facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
16. Service of this Order on any party not attending this application is hereby dispensed with.

Justice of the Court of King's Bench of
Alberta

SCHEDULE “A”

ASSIGNMENT OF RECEIVABLES AGREEMENT

COURT FILE NUMBER 2401-04879

COURT COURT OF KING’S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT DURISOL LTD.

RESPONDENT CANDESTO ENTERPRISES CORP.,
D-3 INFRASTRUCTURE SERVICES INC.,
AND SAFE ROADS ALBERTA LTD.

DOCUMENT **RECEIVER’S CERTIFICATE**

Clerk’s Stamp

ADDRESSFOR
SERVICEAND
CONTACT
INFORMATIONOF
PARTY FILING THIS
DOCUMENT

Gowling WLG (Canada) LLP
1600, 421 – 7th Avenue S.W.
Calgary, AB T2P 4K9

Telephone (403) 298-1018
Facsimile (403) 263-9193
Email sam.gabor@gowlingwlg.com

File No. A172830

Attention: Sam Gabor

RECITALS

- A. Pursuant to the receivership order dated April 17, 2024 of the Honourable Justice Sidnell (“**Receivership Order**”) of the Court of King’s Bench of Alberta, Judicial District of Calgary (the “**Court**”), Alvarez & Marsal Canada Inc., LIT was appointed as the receiver and manager (the “**Receiver**”) of the assets, undertaking and property of Candesto Enterprises Corp., D-3 Infrastructure Services Inc. and Safe Roads Alberta Ltd. (the “**Debtors**”).
- B. Pursuant to an Order of the Court dated November 13, 2024 in the receivership proceedings (“**Discharge Order**”), the Court ordered that the Receiver be fully discharged from any further obligations in its administration of an estate of the Debtors.

THE RECEIVER CERTIFIES the following:

- a) All applicable matters set out in paragraph 9 of the Discharge Order and all incidental duties as may be required to complete the administration of the receivership have been completed with respect to the estates of the Debtors under the administration of the Receivership Order.

ALVAREZ & MARSAL CANADA INC., in its capacity as receiver and manager of Candesto Enterprises Corp. D3 Infrastructure Services Inc. and Safe Roads Alberta Ltd. and not in its personal or corporate capacity

Name: _____

Title: _____