

COURT FILE
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COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

EDMONTON

APPLICANTS

ROYAL BANK OF CANADA

RESPONDENTS

INDEPENDENT ELECTRIC AND CONTROLS
LTD., IEC BUSINESS HOLDINGS INC.,
SUMMIT CONTROLS (2012) CORP., BLACK
KNIGHTS ELECTRIC INC., BRADLEY
TURNBULL, BRENT CAMERON ERICKSON
AND TODD GUY

AND IN THE MATTER OF THE
RECEIVERSHIP OF INDEPENDENT
ELECTRIC AND CONTROLS LTD., IEC
BUSINESS HOLDINGS INC., BLACK KNIGHTS
ELECTRIC INC. AND SUMMIT CONTROLS
(2012) CORP.

Clerk's Stamp

DOCUMENT

FIRST REPORT OF THE RECEIVER

NOVEMBER 8, 2017

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

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INTRODUCTION

1. Effective September 29, 2017 (the "**Receivership Date**"), pursuant to an order of the Honourable Justice K.G. Nielsen (the "**Receivership Order**"), Alvarez & Marsal Canada Inc. was appointed as receiver and manager (the "**Receiver**"), without security, of all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated including all proceeds thereof (the "**Property**") of Independent Electric and Controls Ltd., IEC Business Holdings Inc., Black Knights Electric Inc. and Summit Controls (2012) Corp. (collectively, the "**IEC**" or the "**Company**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), and sections 13(2) of the *Judicature Act*, R.S.A. 2000 c.J-2 and 65(7) of the *Personal Property Security Act*, R.S.A. 2000, c.P-7 in the within action (the "**Receivership Proceedings**").
2. The Receivership Order authorizes the Receiver, among other things, to manage, operate and carry on the business of IEC and to take possession and control of the property of IEC and any and all proceeds, receipts and disbursements arising out of or from the Property, and to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business with the approval of the Court.
3. The purpose of this first report of the Receiver (the "**First Report**" or this "**Report**") is to provide this Honourable Court with information in respect of the following:
 - a) the initial activities of the Receiver since the Receivership Date;
 - b) IEC's financial position as at the Receivership Date;
 - c) the sales process initiated by the Receiver to solicit offers for the purchase of certain of the Property;
 - d) the Receiver's request for an Order Approving Sale and Vesting Order pursuant to the Notice of Application; and
 - e) ongoing activities and the Receiver's future course of action.
4. All references to dollars are in Canadian currency unless otherwise noted.

TERMS OF REFERENCE

5. Prior to the Receivership Date, Alvarez & Marsal Canada ULC (“A&M”) was engaged as a financial advisor to the Applicant and this engagement was consented to by the Respondents. The engagement commenced on June 2, 2017 and terminated immediately prior to the Receivership Date. In that role, A&M from time to time reviewed, assessed and reported to the Applicant on the operations and ongoing viability of the Company, including a review of the process to sell or recapitalize undertaken by the Company with the assistance of its consultant, Spicer Capital.
6. In preparing this First Report, the Receiver has relied upon information obtained prior to the Receivership Proceedings, unaudited financial information, Company records and discussions with management of IEC. The Receiver has not performed an audit, review or other verification of such information. An examination of the financial forecast as outlined in the Canadian Institute of Chartered Accountants Handbook has not been performed. Future oriented financial information relied upon in this Report is based on management’s assumptions regarding future events and actual results achieved will vary from this information and the variations may be material.

BACKGROUND

7. Founded in Drayton Valley, Alberta in 2003, IEC is a privately-held company that specialized in providing electrical and instrumentation services throughout Alberta. IEC’s services included electrical and instrumentation maintenance, mechanical and refrigeration services, major facility construction and plant expansions and upgrades.
8. 100 per cent of the voting shares of the Company are held by IEC Business Holdings Inc. which in turn is owned by various individuals through their companies.
9. IEC reported consolidated revenue of \$83 million in fiscal 2015 (May 31) and \$43 million in fiscal year 2016 (May 31). IEC began to experience significant financial difficulties in late 2016 and early 2017, primarily as a result of the economic downturn and also due to a number of projects it had taken on that were not economically viable.
10. The Receiver has taken possession and control of the Property and has posted notice of the Receivership including the Receivership Order on its website at: www.alvarezandmarsal.com/iec.

INITIAL ACTIVITIES OF THE RECEIVER

Custody, Control and Securing the Property

11. Since the Receivership Date, the Receiver's initial activities have included the following:
 - a) attending the branch and head office location in Drayton Valley, Alberta as well as other branch locations in Edmonton, Grande Prairie, Athabasca and Barrhead to take possession and control of the Property;
 - b) changing the locks, security pass codes (where applicable) and restricting computer access and codes as appropriate and generally securing and safeguarding the Property of IEC;
 - c) confirming all known corporate bank accounts and providing the respective bank representatives with notices to freeze all accounts and remit net balances to the Receiver;
 - d) opening Receiver's trust accounts;
 - e) completing equipment counts at each of the IEC locations and creating a current equipment listing;
 - f) redirecting all mail for the Company to the office of the Receiver;
 - g) conducting an initial meeting of available employees on September 29, 2017 to explain the powers and duties of the Receiver, its role as an Officer of the Court, their rights under the Wage Earner Protection Program ("WEPP") and to retain those employees necessary for the administration of the Receivership;
 - h) retention of and instruction to the Receiver's independent legal counsel, Miller Thomson LLP, in respect of various matters;
 - i) compilation of final billing and invoicing and preparation of accounts receivable collection letters to customers and account debtors of IEC;
 - j) day to day administration of the IEC estate including contractor supervision, payroll matters, WEPPA matters;

- k) notifying IEC's insurance brokers of the Receivership Order, making arrangements for continuation of the insurance policies including payment of arrears and adding the Receiver as a named insured under the IEC policies;
- l) processing 30 day good claims and returning or paying for goods as required; and
- m) compiling a list of the equipment and inventory and seeking proposals from interested parties for the purchase or auction of IEC's assets.

Continuing Operations and Employees

- 12. IEC employed approximately 135 people prior to the Receivership as well as a number of contractors. On September 28, 2017, in anticipation of the Receivership Order being granted, management for IEC held a town-hall meeting with staff and advised them of the impending Receivership. As a result, many employees stopped working and some of IEC's contracts were taken over by the owners of those projects.
- 13. Upon its appointment, the Receiver assessed the viability of continuing current projects and determined that it would not be feasible to do so as many of the former employees had found employment and were not available to complete projects. Additionally, the Receiver performed a preliminary assessment to determine whether a project may be profitable and based on the Receiver's past experience with the Company that it was unlikely there would be any benefit to the estate.
- 14. All of the employees were terminated as a result of the Receivership. The Receiver has retained on a short term contract basis a number of former employees to assist in securing assets and to finalize billing and invoicing as well as completing employee regulatory reporting matters.

Wage Earner Protection Program & s.81.4 (1) BIA Priority Claims

- 15. Information regarding the WEPP has been completed and sent out to all employees. Employees were also provided a proof of claim for and T4 notices for 2017.
- 16. The Receiver estimates that there may be a WEPP priority claim of approximately \$250,000.

Statutory Mailing by Receiver

17. The Receiver notices required by sections 245 and 246 of the *Bankruptcy and Insolvency Act* (“**BIA**”) were provided to IEC’s known creditors and the Office of the Superintendent of Bankruptcy. A copy of the Receiver’s Notice can be found on the Receiver’s website.

Sale of Inventory and Equipment

18. As discussed in more detail later in this First Report, the Receiver initiated a process to solicit offers for the purchase of substantially all of IEC’s equipment and inventory.
19. The Receiver has also completed sales of some specific equipment out of the ordinary course that was below the thresholds provided for in paragraph 3(l) of the Receivership Order. Specifically, the Receiver has sold three enclosed utility trailers (the “**Trailers**”) for a total of \$8,850 plus GST as well as a computer server and server stand as well as customer data software (collectively the “**Computer Equipment**”) located in Athabasca, Alberta for \$2,000.
20. The Trailers were located on customer job-sites and were sold to former employees who are working on the job-sites. The Receiver obtained an estimated value for the Trailers from one of the auction companies and they estimated that the auction value would be \$6,000 to \$7,000 in good condition. Former IEC employees advised that the Trailers had been on job-sites for a lengthy period of time and the Trailers were in reasonable condition but not good condition. The Receiver determined that selling the Trailers “as is, where is” was appropriate and reasonable in the circumstances as there would have been costs and risks associated with transporting the Trailers back to one of the branch locations since the Trailers were all located on job-sites and each had some wear and tear.
21. The Computer Equipment was sold to a company owned by one of the former owners of IEC. The Receiver asked the IEC’s former IT manager if the price for the Computer Equipment was reasonable and he agreed it was. The Receiver also asked the auction companies the value of the Computer Equipment and they indicated that the value was minimal. Accordingly, the Receiver was of the view that the sale of the Computer Equipment was reasonable in the circumstances.

Leased Assets

22. IEC had leased a number of trucks, photocopiers and a caterpillar front end loader from various leasing companies (the "**Leased Assets**"). The Receiver and its legal counsel have reviewed the applicable leases and determined that the Leased Assets do not form part of the Property and accordingly, those assets without equity have been released to the applicable leasing company.
23. The Receiver determined there are six trucks that have sufficient equity beyond the buy-out value of the lease and the Receiver has agreed to buy-out these trucks (the "**Lease Buy-Outs**").

PRELIMINARY FINANCIAL POSITION – SEPTEMBER 29, 2017

24. Summarized in the table below is an estimated financial position of IEC that was prepared based on the available financial information as at September 29, 2017. The information contained in the summary table is based primarily on the books and records of IEC and has not been audited or otherwise verified by the Receiver; however, where information has been obtained by the Receiver during the course of the receivership and certain asset or liability amounts have been confirmed, these adjusted balances are reflected herein.
25. The financial position of IEC is prepared on a book value basis and the proceeds recovered during the Receivership will be less than the net book value. As such, the financial position in the table below is not indicative of what the Receiver will be able to recover and distribute to the stakeholders in these proceedings.

IEC Statement of Affairs As at September 29, 2017 (\$000's)	
Assets Available for Realization	Book Value
Accounts receivable	\$ 5,862
Other receivables	307
Holdbacks receivable	567
Unbilled revenue	1,369
Prepaid expenses and deposits	234
Inventory	1,946
Equipment	2,314
Goodwill	935
Intangible assets	506
Future income taxes	1,036
Total assets available for realization	<u>\$ 15,076</u>
Secured Creditors:	
Royal Bank of Canada	\$ 6,500
Other long term debt and notes payable	704
	<u>7,204</u>
Unsecured Creditors:	
Trade accounts payable and accrued liabilities	10,582
	<u>10,582</u>
Total liabilities	17,786
Net equity (deficit)	<u>(2,710)</u>
	<u>\$ 15,076</u>

26. While it appears IEC's assets have substantial book value, over \$8.1 million of book value is related to accounts receivable and unbilled revenue (collectively, the "Accounts Receivable". The Receiver has updated the Accounts Receivable using the available information and estimates that the book value is closer to \$5.9 million and of that amount, a significant portion relates to work in progress which may or may not be collectible. Additionally, the Receiver is aware that a number of liens have been filed and it anticipates that owner charge backs will further reduce the amount of Accounts Receivable collected by the Receiver. As a result, the Receiver estimates that it will collect substantially less than the \$5.9 million of Accounts Receivable.
27. Royal Bank of Canada ("RBC" or "Applicant") is the most significant creditor and has security over all of the Property. The Receiver currently estimates that realizations of the Property will not be sufficient to satisfy the debt to RBC.

THE SALES PROCESS

Receiver's Powers for Selected Sales Process

28. Pursuant to section 3 of the Receivership Order, the Receiver is empowered to among other things:

"3. . . . (k) to market any and all of 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;

(l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

(i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and

(ii) with the approval of the Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 60(8) of the PPSA shall not be required;

(m) to apply for any vesting order or other such orders necessary to convey the Property or and part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property; . . ."

Invitation For Offer Process

29. In the months preceding the Receivership, IEC undertook a process to sell and/or recapitalize the Company (the "**Restructuring Efforts**"). IEC initially engaged Spicer Capital which identified a number of parties who showed interest in purchasing IEC's assets and/or refinancing the Company. A number of parties reviewed IEC's financial information, however, the Restructuring Efforts were unsuccessful. At some point, the Company continued the Restructuring Efforts up to the Receivership Date without the assistance of Spicer Capital but those efforts were also unsuccessful. As a result, IEC was not successful in selling its assets on an enbloc basis. Consequently, as the assets were already exposed to a marketing process without success, there was no effort by the Receiver to try and sell IEC enbloc including contracts and the Receiver's solicitation process focused on selling the assets and collecting Accounts Receivable.
30. The Receiver commenced the sale process by developing an asset list that included all of the equipment and inventory of IEC including the Lease Buy-Outs (collectively, the "**IEC Assets**") as well as a proposal format which interested parties could use to make

their proposals (collectively, the “**Sales Information Package**”). The Receiver sent the Sales Information Package to five well-known auction companies and two other parties that had expressed interest in the IEC Assets including one party that was interested in the IEC Assets during the Restructuring Efforts (collectively, the “**Interested Parties**”). The Receiver also posted the Sales Information Package to its website. The Sales Information Package is attached hereto as **Appendix A** (note that the inventory list provided to prospective purchasers was 361 pages long and was not vetted for accuracy or completeness and prospective purchasers were advised that the inventory list was being provided for information purposes only. The Receiver has only included the first and last pages of the inventory list in Appendix A to this First Report). For ease of reference for the Court, the substantive information contained in the Sale Information Package is summarized below:

- a) description of invitation for offers process including the process to view the IEC Assets, the format for proposals and a deadline of October 30, 2017 for receipt of proposals;
- b) description of the IEC Assets including the equipment available for sale identified by location and a Company prepared inventory list; and
- c) terms and conditions of sale which includes among other things, receipt of a 10% deposit, Court approval of any sales transaction and that all sales are on an “as is, where is” basis with no representations or warranties expressed or implied as to title, condition or fitness for use.

31. The Receiver launched its sales process on October 18, 2017 by emailing the Sales Information Package to the Interested Parties and posting it to the Receiver’s website.
30. The deadline for submitting proposals to purchase (or auction) was October 30, 2017 but the Receiver extended the deadline to November 2, 2017 (the “**Extended Deadline**”) to permit a limited number of parties who had difficulty or logistical challenges inspecting IEC Assets in remote locations an opportunity to do so.

Proposals Received to Date

31. In total, the Receiver received four separate proposals for the IEC Assets by the Extended Deadline.

32. Prior and subsequent to the Extended Deadline, the Receiver confirmed or clarified certain proposals and the conditions contained in various proposals and extended the Extended Deadline to November 3, 2017 (the "**Final Deadline**"). All four parties who submitted offers at the Extended Deadline made revised offers at the Final Deadline.

Offer Accepted Subject to Court Approval and Summary of Offers Received

33. After review, analysis and clarification of certain terms of offers and related matters, the Receiver has accepted, subject to the Court's approval one offer (the "Offer") for the IEC Assets. A copy of the Offer is attached as **Confidential Appendix B**.
34. Attached as **Confidential Appendix C** is a summary and analysis of the various offers received.
35. The Receiver has provided notice of the application to approve the Offer to all parties listed on the Company's Alberta Personal Property Registry Search. The Receiver further advises that there are approximately 425 unsecured creditors with debt totalling approximately \$10.6 million who were provided notice of the Receivership. The Receiver limited service of the application to approve the Offer to all known unsecured creditors with debt over \$500,000 (total of four creditors).

Confidential Appendices and Temporary Sealing Order

36. The Confidential Appendices B and C contain confidential information of a commercial nature which if disclosed to third parties prior to the closing of the sale could materially jeopardize the sale or if the sale does not close could materially jeopardize the value that could subsequently be obtained. Accordingly, the Receiver is respectfully of the view that it is appropriate that this Honourable Court grant a Temporary Sealing Order in relation to the Appendices B and C.
37. In the Receiver's view, the Confidential Appendices indicate that the Offer is a commercially reasonable offer and is the best offer received in the Invitation for Offer process.
38. The Receiver is advised by RBC that it supports the Offer. The Receiver also advises that it contacted the former shareholders and guarantors who hold approximately 91 per cent of the voting shares of IEC Business Holdings Inc. and they are supportive of the

Offer. The Receiver was not able to contact one shareholder of IEC Business Holdings Inc. as it was not able to obtain a current email or current phone number.

Receiver's Recommendations

39. Based on the above analysis and other considerations the Receiver accepted, subject to the Court's approval, the Offer on an "as is, where is" basis and believes the Purchase Price is reasonable in the circumstances.
40. Accordingly, the Receiver believes that the Offer should be approved by the Court given:
- a) the Purchase Price is not materially different from other offers received during the Invitation for Offers process, and this process has adequately established the forced sale value of the IEC Assets;
 - b) the Purchase Price is to be paid in cash;
 - c) the Offer is "as is, where is" and has no closing conditions other than Court approval;
 - d) the Receiver is specifically authorized to market and sell property pursuant to the Receivership Order (subject to Court approval);
 - e) the Offer provides the highest net realization to the estate and reduces the risk and cost to the estate; and
 - f) RBC is supportive of the sale at least 91 per cent of the shareholders of IEC's parent company are supportive of the sale.
41. Accordingly, the Receiver is applying to this Honourable Court to approve the Offer and for the vesting of this IEC Assets to the purchaser on the terms discussed further below.

ORDER APPROVING SALE AND VESTING ORDER AND TEMPORARY SEALING ORDER

42. As contained in the Notice of Application, the Receiver is seeking the approval of the Offer (the "**Sale Approval and Vesting Order**"). The form of the Sale Approval and Vesting Order contains, among other things:

- a) the Court's approval of the sale activities and recommendation of the Receiver with respect to the Invitation for Offer process;
- b) the Court's approval and ratification of the Offer as accepted by the Receiver;
- c) an order vesting title of the IEC Assets to the purchaser free and clear of all liens, encumbrances and other such limitation or restrictions in respect of title; and
- d) the granting of a Temporary Sealing Order with respect to the Confidential Appendices B and C.

RECEIVER'S BORROWINGS

43. The Receiver has been empowered to borrow up to \$500,000 (or such greater amount as this Court may further Order). Effective October 16, 2017, and by way of issuance of Receiver's Certificate No. 1, the Receiver borrowed the amount of \$250,000 from RBC.
44. The terms of the Receiver's borrowings under the Receiver's Certificate No. 1 include a per annum interest rate of 3.0% above the prime commercial lending rate of RBC from time to time, which, in the Receiver's view, is commercially reasonable in the circumstances. Pursuant to paragraph 17 of the Receivership order, the Receiver's Certificate No. 1 has a charge over the whole of the Property by way of a fixed and specific charge as security for the payment of the monies borrowed, together with interest and charges, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, but subordinate in priority to the Receiver's Charge (as defined in the Receivership Order).
45. The Receiver borrowed \$250,000 to fund payment of the payroll arrears for the retained employees and other anticipated estate costs. The Receiver expects that Receiver Certificate No. 1 will be repaid shortly.

RECEIVER'S ON GOING ACTIVITIES AND FUTURE COURSE OF ACTION

46. The Receiver's next steps include:
 - a) vacating the five branch locations prior to the end of November 2017;
 - b) continuing the collection efforts of all outstanding accounts receivables;

- c) analyzing lien claims and other creditor claims that creditors may have that impact the collection of Accounts Receivable; and
- d) finalizing the administration of the estate and obtain discharge of the Receiver.

RECEIVER'S CONCLUSIONS AND RECOMMENDATIONS

- 47. The Receiver is of the view that it has made commercially reasonable efforts to obtain the highest realizations for the Property which has been the subject of the Invitation for Offer process. The offer which has been accepted by the Receiver and referenced herein is in the opinion of the Receiver, fair and commercially reasonable.
- 48. The Receiver is satisfied that the interests of the IEC's financial stakeholders have been considered during the course of the Invitation for Offer process and the Receivership Proceedings.
- 49. The Receiver is of a view that that Invitation for Offer process was efficient, effective and that the integrity of the process has been maintained throughout.
- 50. The Receiver is satisfied that the Invitation for Offer process is inherently fair and has been conducted in a manner such that no parties to the process have experienced preferential or unfair treatment.
- 51. The Receiver recommends that this Honourable Court approve the application for:
 - a) approval of the Offer and vesting of the property subject to that offer; and
 - b) the Temporary Sealing Order with respect to the Confidential Appendices B and C to this First Report.

All of which is respectfully submitted this 8th day of November, 2017.

**ALVAREZ & MARSAL CANADA INC.,
In its capacity as court-appointed Receiver
of Independent Electric and Controls Ltd.,
IEC Business Holdings Inc., Summit
Controls (2012) Corp., Black Knights
Electric Inc.**

Per:



Cal Shulha, CPA, LIT
Vice-President