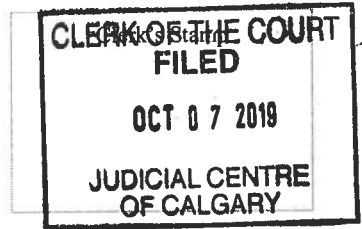


COURT FILE NUMBER 1501-08634
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF ROYAL BANK OF CANADA



DEFENDANTS SPRAGUE-ROSSER CONTRACTING CO. LTD., SPRAGUE-ROSSER DEVELOPMENTS INC., PACIFIC FEDERATION EQUITY GROUP INC., JEFFERY JESSAMINE, DANIEL EDWARDS AND MATTHEW MACKAY

DOCUMENT **THIRTEENTH REPORT OF ALVAREZ & MARSAL CANADA INC., IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF SPRAGUE-ROSSER CONTRACTING CO. LTD., SPRAGUE-ROSSER DEVELOPMENTS INC., PACIFIC FEDERATION EQUITY GROUP INC.**

October 7, 2019

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
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ALVAREZ & MARSAL

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Appendix B Summary of the Receiver’s Legal Fees and Disbursements for the period July 31, 2014 to August 31, 2019

1.0 INTRODUCTION AND PURPOSE OF REPORT

- 1.1 Alvarez & Marsal Canada Inc. was appointed Receiver (the “**Receiver**” or “**A&M**”) of all of the assets, undertakings and properties of Sprague-Rosser Contracting Co. Ltd. (“**Contracting**”), Sprague-Rosser Developments Inc. and Pacific Federation Equity Group Inc. (collectively, the “**Company**” or “**SR**”) pursuant to an order of Honourable Justice J. B. Veit granted on July 31, 2014 and amended on August 7, 2014 (the “**Receivership Order**”).
- 1.2 These receivership proceedings were commenced by Royal Bank of Canada (“**RBC**”). RBC was the senior secured operating, equipment lease and term lender to the Company and as at the date of the Receivership Order, RBC was owed approximately \$19.0 million. Business Development Bank of Canada (“**BDC**”) held a senior first charge over Contracting’s industrial facility located in Acheson, Alberta, in the amount of approximately \$8.5 million. The Company’s reported book value of assets was approximately \$67.2 million and liabilities was approximately \$57.8 million at the time of the receivership.
- 1.3 The Receiver has completed the administration of the receivership and concurrent with the submission of this thirteenth report of the Receiver (the “**Thirteenth Report**”), will be seeking an application for its discharge. The purpose of this Thirteenth Report is thus to provide information and background in connection with the Receiver’s application for an order discharging the Receiver in accordance with the provisions of the Alberta Template Discharge Order.
- 1.4 Further background including a copy of the Receivership Order, previous Receiver’s reports, court orders, and other motion materials are posted on the Receiver’s website at www.alvarezandmarsal.com/sprague.
- 1.5 Capitalized terms not defined in this Thirteenth Report of the Receiver are as defined in the Receivership Order or in previous reports of the Receiver.
- 1.6 All references to dollars are in Canadian currency unless otherwise noted.

2.0 UPDATE OF RECEIVER’S ACTIVITIES SINCE SEPTEMBER 4, 2019

- 2.1 The Receiver’s activities since the Receiver’s twelfth report dated September 4, 2019 have included the following:
 - a) communicating with various stakeholders and creditors including RBC;
 - b) successfully completing the administration of this Court’s trust and priority claims process (“**Priority Claims Process**”) in accordance with the order of Justice P.R. Jeffrey dated March 21, 2019. The Priority Claims Process was designed to solicit and determine claims from

third parties who provided goods and services to Contracting in connection with Contracting's contract with K+S Potash Canada General Partnership for site preparation and underground works performed at a potash mining project in Bethune, Saskatchewan. Claims totaling approximately \$1.2 million were assessed, resolved, and allowed for distribution in accordance with the Priority Claims Process Order;

- c) administering a distribution to RBC pursuant to the Distribution Order granted on July 17, 2015, as defined in section 3.4;
- d) reviewing correspondence from and periodic telephone conversations with the Receiver's legal counsel in respect of various matters including the distributions referenced in 2.1(b) and (c) above;
- e) attending to the retention of books and records;
- f) reviewing statutory tax obligations including GST and corresponding with Canada Revenue Agency; and
- g) preparing this Thirteenth Report.

3.0 OVERVIEW AND CHRONOLOGY OF SIGNIFICANT COURT PROCEEDINGS

- 3.1 By order dated August 28, 2014, Justice K.C. Nielsen authorized the Receiver to cause Contracting to make a voluntary assignment in bankruptcy on behalf of Contracting. On September 3, 2014, A&M filed a voluntary assignment in bankruptcy on behalf of Contracting.
- 3.2 On October 27, 2014 and March 18, 2016, pursuant to orders granted by Justice D.R. Thomas and Justice K.M. Horner, respectively, the Court approved the sale and vesting of certain capital assets including an industrial building and shop facility located in Acheson, Alberta, undeveloped land located in Edmonton, Alberta and equipment, machinery and materials inventory held at various locations across Alberta and Saskatchewan (the "**Capital Assets**").
- 3.3 On June 16, 2015, pursuant to the order of Justice J.J. Gill, the Court approved a settlement agreement between Contracting, Edmonton Heavy Equipment Rentals Ltd. ("**EHER**") and Sprague-Rosser Leasing Inc. ("**Leasing**") (both of whom were related bodies corporate to Contracting) which provided for, among other things, agreement as to the distribution of net proceeds from the disposition by EHER of certain construction equipment as well as approval of the allocation of costs incurred by the Receiver to secure and safeguard heavy equipment owned by Contracting, which were subject to ownership claims by EHER and Leasing in addition to prior secured claims asserted by equipment lessors.

- 3.4 On July 17, 2015, pursuant to the order of Justice J.B. Veit, the Court granted an order (the “**Distribution Order**”) which:
- a) declared the security granted by the Company to RBC to be valid and enforceable and, subject to the charges created in the Receivership Order, a first charge on the Company’s property; and
 - b) authorized the Receiver to make ongoing distributions from the monies it holds on behalf of the Company to RBC, until the indebtedness, liabilities, and obligations owed by SR to RBC are indefeasibly paid in full.
- 3.5 On May 5, 2016, pursuant to the order of Justice J.M. Ross, the Court granted an order (the “**RMWB Settlement Order**”) approving, among other things, certain settlement agreements between Contracting and the Regional Municipality of Wood Buffalo (“**RMWB**”), accounting of certain trust funds and the settlement of certain lien funds with respect to the Saline 3 project (the “**Lien Funds**”). Pursuant to the RMWB Settlement Order, the Receiver’s legal counsel was directed to hold the Lien Funds of \$4.4 million as security pending determination of the validity and enforceability of a builders’ lien registered by E Construction Ltd. (“**E Construction**”) who asserted a claim of approximately \$4.0 million. Subsequently, further orders were granted by Justice J.M. Ross on April 6, 2017 setting a process for trade creditors to prove a beneficial right and entitlement to the Lien Funds and on October 23, 2017 approving the settlement of trust claims with E Construction and Pioneer Truck Lines Ltd. (“**Pioneer Truck**”), and directing that the balance of Lien Funds be released to the Receiver.
- 3.6 On March 21, 2019, pursuant to the order of Justice P.R. Jeffrey, the Court granted an order authorizing and directing the Receiver to identify and determine any priority claims to \$2.75 million of settlement funds (the “**K+S Settlement Funds**”) received from K+S Potash Canada General Partnership, K+S Legacy GP Inc. and K+S Windsor Salt Ltd. (collectively, “**K+S**”) in respect of disputed project receivables relating to the development of a potash plant near Bethune, Saskatchewan. Subsequently on September 12, 2019, Justice K.M. Horner granted an order approving the distribution of the K+S Settlement Funds to claimants with proven and accepted priority claims totaling approximately \$1.2 million. The balance of the K+S Settlement Funds has been distributed to RBC pursuant to the Distribution Order.
- 4.0 RECEIVER’S FINAL STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS**
- 4.1 The Receiver’s final statement of cash receipts and disbursements for the period July 31, 2014 to October 3, 2019 is summarized below:

Sprague-Rosser Contracting Co. Ltd. - In Receivership Receiver's Final Statement of Cash Receipts and Disbursements For the period July 31, 2014 to October 3, 2019 \$000's	
Receipts	
Receiver borrowings	\$ 1,800
Sale of equipment ¹	5,589
Sale of land and buildings	9,438
Collections of contract receivables ²	6,180
RMWB settlement proceeds ³	4,002
K+S settlement proceeds	2,750
Insurance proceeds	262
Cost recoveries - equipment lenders	162
Other receipts	156
GST collected on sales	255
Total Receipts	30,593
Disbursements	
Wages and contractor payments	497
WEPPA claims	95
Equipment demobilization and transportation	129
Property tax	134
Insurance	94
Equipment financing payout	87
Utilities and services	160
Rent	38
Security	39
Other disbursements	451
GST paid on disbursements	240
GST remitted	46
Receiver fees and expenses	1,689
Legal fees and expenses	2,463
Receiver borrowings repayment	1,836
Receiver borrowings interest and fees	13
K+S priority claims distributions	1,230
Mortgage lender repayment - BDC	4,574
Distributions - RBC	16,400
Reserve to complete the administration of the receivership	378
Total Disbursements	30,593
Net cash flow	-
Closing cash balance	\$ -
<p>1. Proceeds from sale of the equipment is inclusive of the proceeds derived from the sale of collateral subject to the settlement agreement between EHER, Leasing and Contracting.</p> <p>2. Collections of contract receivables consist of RMWB Abasand Heights, South Rock, CNRL and other miscellaneous collections.</p> <p>3. RMWB settlement proceeds does not include the settlement of trust claims to E Construction and Pioneer Trucking of approximately \$400,000 and \$80,000, respectively, which were paid directly to the claimants by the Receiver's legal counsel.</p>	

4.2 To date, total receipts collected were \$28.8 million, excluding Receiver's borrowings and settlement of trust claims to E Construction and Pioneer Trucking of approximately \$400,000 and \$80,000, respectively, from the Lien Funds which were paid directly to the claimants by the Receiver's legal counsel. Total receipts consist primarily of the following:

- a) sale of equipment, land and building of \$15.0 million pursuant to a sales process of the Capital Assets;
- b) collection of contract receivables of \$6.2 million and settlement proceeds from RMWB and K+S of \$4.0 million and \$2.8 million, respectively. At the commencement of the receivership, the Company had approximately \$56.7 million of receivables, most of which related to disputed projects. A summary of the accounts receivables is tabled below:

Sprague-Rosser Contracting Co. Ltd. et al Summary of Accounts Receivable as at October 3, 2019		
Customer	Description	Net Book Value July 31, 2014
Regional Municipality of Wood Buffalo ("RMWB")	Damages claimed by SR for three municipal works contracts (Abasand, Saline Road & Bridge, Saline 3) in Fort McMurray for which RMWB issued notices of "termination for convenience" in February and March 2014.	\$ 30,659
K+S Potash Canada GP ("K+S")	Various claims under two contracts for site preparation and underground works performed in 2012 and 2013 at a potash mining project in Bethune, Saskatchewan.	14,114
South Rock Ltd. ("South Rock")	Damages claimed by SR for wrongful termination of a highway construction subcontract in Fort McMurray that was terminated in May 2010.	3,434
Canadian Natural Resources Limited ("CNRL")	Standby and delay claims resulting from changes to the work schedule of a civil works contract in May 2013.	2,901
Atco Electric Ltd.	Disputed progress billings and claims for work performed on a construction contract entered into in October 2011.	4,061
Other	Various project accounts receivable	1,567
Total		\$ 56,736

As a result of the Receiver's pursuit of the aforementioned contract receivables, through litigation and various corresponding settlements, the Receiver has collected \$13.4 million in connection with the resolution of the receivables set out above; and,

- c) other receipts of approximately \$835,000 from insurance proceeds, cost recoveries and GST collected.

4.3 As at the date of this Thirteenth Report, the closing cash balance held in trust by the Receiver is \$378,000 (the "**Reserve Funds**") and these funds have been reserved to fund the costs associated with the Receiver's discharge including Receiver's fees of approximately \$50,000, legal fees of approximately \$40,000, future documentation management, storage and destruction costs of

approximately \$30,000 and the balance to fund the administration of the bankruptcy estate. Any residuals funds will be forwarded to RBC pursuant to the Distribution Order following the Receiver's filing of any corresponding Discharge Certificate if granted as part of the Receiver's application.

- 4.4 The Receiver is not aware of any remaining realizable assets owned by the Company.

5.0 PROFESSIONAL FEES

- 5.1 The professional fees and disbursements of the Receiver and its legal counsel for the period July 31, 2014 to August 31, 2019 are set out in the table below:

Sprague-Rosser Contracting Co. Ltd. et al. Summary of Professional Fees for the Receiver and its Legal Counsel For the period July 31, 2014 to August 31, 2019 \$000's				
Firm	Fees	Disbursements	Tax	Total
Alvarez & Marsal Canada Inc.	\$ 1,641	\$ 48	\$ 84	\$ 1,773
McCarthy Tétrault	2,108	195	115	2,418
Stevenson Hood Thornton Beaubier	113	1	12	127
Burstall Winger Zammit	32	4	2	38
Peacock Linder Halt & Mack	2	-	-	2
Miller Thomson	1	-	-	1
Total	\$ 3,898	\$ 248	\$ 213	\$ 4,359

- 5.2 Attached as Appendix "A" is a summary of the Receiver's professional fees by staff classification, hourly rates and total fees for the period July 31, 2014 to August 31, 2019. Detailed statements of account of the Receiver are available upon request and will be made available at the application hearing. Total Receiver's fees of approximately \$1.8 million include out of pocket disbursements of \$48,000 and GST of approximately \$84,000.
- 5.3 Legal fees total approximately \$2.6 million for the entirety of the receivership proceedings and include approximately \$200,000 of out of pocket disbursements and \$129,000 of GST. Professional fees paid to McCarthy Tétrault LLP, in its capacity as legal counsel to the Receiver, total approximately \$2.4 million including \$195,000 of out of pocket expenses and \$115,000 of GST. Stevenson Hood Thornton Beaubier LLP, in its capacity as Saskatchewan-based legal counsel to the Receiver in respect of the K+S Settlement, incurred total fees of approximately \$127,000 including \$1,500 of out of pocket disbursements and \$12,000 of GST. Burstall Winger Zammit LLP and Miller Thomson LLP, both former counsel of SR which assisted with various litigation and insurance matters, incurred total fees of approximately \$38,000 and \$1,200, respectively. Attached as Appendix "B" is a summary of the legal fees by subject matter.

- 5.4 The Receiver has reviewed and approved the accounts of its legal counsel and the Receiver is of the view that these fees are fair and reasonable and necessarily incurred given the circumstances, which included the commencement, administration and completion of multiple complex claims including complicated and protracted litigation proceedings and extensive settlement negotiations, all in respect of numerous disputed project accounts receivables which originally comprised a significant portion of the SR estate and its recoveries.
- 5.5 The fees of the Receiver and its legal counsel for the entirety of the receivership proceedings total approximately \$4.2 million or 14% of the total cash receipts of \$28.8 million realized from SR's assets (excluding Receiver's borrowings from total cash receipts). The Receiver is of the view that the fees incurred: (i) are fair and reasonable; (ii) were necessary for the effective administration of the estate over a five year period; (iii) instrumental to the recovery of contract receivables and to assist with the sale of the Company's assets; and, (iv) are consistent with the context and complexity of the financial and legal issues surrounding the estate and the settlement of the various disputed contract receivables. For reference, the receivership proceedings included:
- a) taking possession, preserving and preparing inventory of capital assets located in several locations across Alberta and Saskatchewan, which were marketed through a court-approved sale process and resulted in multiple sales transactions; and
 - b) extensive legal consultation to determine alternative approaches to pursue recoveries of disputed project receivables and negotiate multiple settlements with RMWB, K+S and EHER, among others, to avoid protracted litigation. As part of the settlement negotiations, the Receiver and its legal counsel conducted thorough investigations which involved retaining former staff of SR to compile documentation, reviewing complex construction contracts, reviewing validity of the methodologies used to determine trust claims, engaging in discussions with SR's former legal counsel and various stakeholders, and preparing analyses of the voluminous documentation related to SR construction projects, most of which had been abandoned and/or were the subject of litigation as of the date of the Receivership Order.
- 5.6 RBC has been apprised of the quantum of the professional fees and disbursements incurred in the receivership proceedings and the Receiver has not been made aware of any concerns expressed by RBC or any other stakeholder regarding the Receiver's fees or those of its legal counsel.
- 5.7 As noted in section 4.3 above, a portion of the Reserve Funds will be allocated for professional fees of the Receiver and its legal counsel to complete the administration of the receivership and bankruptcy, which is not reflected in the table in section 5.1.

6.0 RECEIVER'S CONCLUSION AND RECOMMENDATION

6.1 Based on the forgoing, the Receiver respectfully recommends that this Honourable Court grant the following:

- a) an order approving the activities of the Receiver as set out in the Receiver's Thirteenth Report;
- b) an order approving the passing of the accounts for the fees and disbursements of the Receiver and its legal counsel, McCarthy Tétrault LLP and Stevenson Hood Thornton Beaubier LLP; and
- c) an order discharging the Receiver upon filing of a Discharge Certificate with this Honourable Court.

All of which is respectfully submitted to this Honourable Court this 7th day of October 2019.

**Alvarez & Marsal Canada Inc.,
in its capacity as Receiver and Manager of
Sprague-Rosser Contracting Co. Ltd,
Sprague-Rosser Developments Inc. and
Pacific Federation Equity Group Inc.
and not in its personal capacity**



Per: Todd M. Martin
Senior Vice President

Sprague-Rosser Contracting Co. Ltd.
Summary of the Receiver's Professional Fees and Disbursements
For the period July 1, 2014 to August 31, 2019

Name	Position	Hourly Rate	Hours	Total Fees
Todd Martin	Managing Director	\$575 - 625	601.90	\$ 361,140.00
Tim Reid	Managing Director	575	204.50	117,587.50
John Williams	Managing Director	625	5.00	3,125.00
Tom Powell	Senior Director	450 - 475	1,620.05	741,810.00
Cal Shulha	Senior Director	475	6.50	3,087.50
Vicki Chan	Director	375	21.40	8,025.00
David Adams	Senior Associate	375	251.00	94,125.00
Jill Strueby	Senior Associate	275 - 325	188.50	53,287.50
Marianna Lee	Senior Associate	200 - 300	489.50	134,825.00
Ray Wilk	Consultant	275	432.00	118,800.00
Monica Cheung	Executive Assistant	100	47.50	4,750.00
			<u>3,867.85</u>	<u>1,640,562.50</u>
			<u>\$ 424.15</u>	
		Average rate/hour		

Disbursements

Airfare and Travel	19,925.02
Advertisement	6,638.10
Courier and supplies	5,315.15
Hotel	6,539.65
Meals	2,858.33
Website Maintenance	922.50
Taxi	510.46
Storage fees	2,409.00
Mail forwarding	157.95
Other	2,730.06

48,006.22

HST/GST

84,428.43

Total fees, out of pocket expenses and tax

\$ 1,772,997.15

APPENDIX B

Sprague-Rosser Contracting Co. Ltd. et al.
Allocation of the Receiver's Legal Counsel Fees
For the period July 31, 2014 to August 31, 2019
\$000's

Matter	McCarthy Tétrault	Stevenson Hood Thornton Beaubier	Burstall Winger Zammit	Peacock Linder Halt & Mack	Miller Thomson	Total
Disposition of capital assets	\$ 16	\$ -	\$ -	\$ -	\$ -	\$ 16
CNRL	6	-	-	-	-	6
K+S	293	113	-	-	-	407
RMWB	363	-	-	-	-	363
South Rock	22	-	-	-	-	22
Western Surety	70	-	-	-	-	70
General administration	242	-	-	-	-	242
Other matters	1,097	-	32	2	1	1,132
Total	\$ 2,108	\$ 113	\$ 32	\$ 2	\$ 1	\$ 2,257