

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR.) FRIDAY, THE 16th DAY
)
JUSTICE NEWBOULD) OF OCTOBER, 2015



**IN THE MATTER OF THE CONSTRUCTION LIEN ACT,
R.S.O. 1990, c. C.30, AS AMENDED**

**AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

ORDER

(re Interim Distributions and Ancillary Matters)

THIS MOTION made by Collins Barrow Toronto Limited, in its capacity as Court-appointed trustee over the lands and premises known municipally as 142, 144 and 148 Park Street and 21 Allen Street West, Waterloo, Ontario (the "**Property**") pursuant to section 68(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (the "**Trustee**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Fifth Report of the Trustee dated October 13, 2015 (the "**Fifth Report**") and the Appendices thereto, including the Affidavit of Sam Rappos sworn October 13,

2015 (the “**Rappos Affidavit**”) and the Affidavit of Bryan Tannenbaum sworn October 13, 2015 (the “**Tannenbaum Affidavit**”), and on hearing the submissions of counsel for the Trustee and other counsel listed on the Counsel Slip, no one else from the service list appearing although duly served as appears from the affidavit of service of Lynn Lee sworn October 14, 2015, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

DISTRIBUTION TO LAURENTIAN BANK OF CANADA

2. **THIS COURTS ORDERS** that the Trustee is hereby authorized and directed to make an interim distribution(s) of up to \$6 million to Laurentian Bank of Canada.

DISTRIBUTION TO CONSTRUCTION LIEN CLAIMANTS

3. **THIS COURT ORDERS** that the Trustee is authorized to make distributions in the aggregate sum of \$932,948.74 to those construction lien claimants, and in the amounts referenced, listed in **Schedule “A”** hereto, on account of the entitlements of such construction lien claimants for the deficiency in the holdbacks required to be retained pursuant to the *Construction Lien Act* (Ontario).

4. **THIS COURT ORDERS** that the funds to be distributed by the Trustee pursuant to paragraph 3 hereof shall be withdrawn from the \$5.4 million being held by the Trustee in an interest bearing account pursuant to paragraph 8 of the Order of Mr. Justice Newbould dated August 5, 2015.

APPROVAL OF FEES AND DISBURSEMENTS

5. **THIS COURT ORDERS** that the fees and disbursements of the Trustee for the period July 1, 2015 to August 31, 2015, as described in the Fifth Report and the Tannenbaum Affidavit, are hereby approved.

6. **THIS COURT ORDERS** that the fees and disbursements of counsel to the Trustee, Chaitons LLP, for the period June 26, 2015 to August 31, 2015, as described in the Fifth Report and the Rappos Affidavit, are hereby approved.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:
OCT 13 2015



SCHEDULE "A"

CONSTRUCTION LIEN CLAIMANT	AGREED TO OUTSTANDING HOLDBACK AMOUNT
Global Fire Protection Ltd.	85,645.54
J & I Gaweda Construction Limited	103,632.60
T.I.C. Contracting Ltd.	292,217.30
Global Precast Inc.	115,179.62
2050491 Ontario Inc. o/a The Downsview Group	54,202.46
Weston Flooring Limited	68,639.79
Great Pyramid Aluminum Ltd.	9,410.75
DKS Stone Fabrication & Design Inc.	42,087.16
Aluminum Window Design Installations Inc.	161,933.52

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UNDER SECTION 68(1) OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED

Court File No. CV15-10843-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER
(re Interim Distributions and
Ancillary Matters)

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