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MNP
LTD

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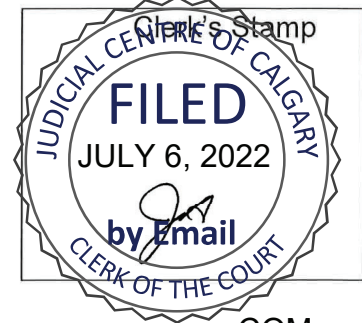
BK01 095206

COURT

COURT OF QUEEN'S BENCH OF
ALBERTA

JUDICIAL
CENTRE

CALGARY



COM
July 7, 2022
Justice Romaine

IN THE MATTER OF THE BANKRUPTCY OF
NORTH AMERICAN STEEL ERECTORS INC.

DOCUMENT

FIRST REPORT OF THE TRUSTEE, MNP LTD.

DATED

JULY 6, 2022

ADDRESS
FOR
SERVICE
AND
CONTACT
INFORMATI
ON OF
PARTY
FILING
THIS
DOCUMENT

Trustee's Legal Counsel

CARON & PARTNERS LLP
Fifth Avenue Place – West Tower
2120, 237 – 4th Avenue, S.W.
CALGARY, AB T2P 4K3

ATTN: DEAN HUTCHISON
TEL: 403-770-4023
EMAIL: dhutchison@caronpartners.com

Trustee

MNP LTD.
1500, 640 – 5 Avenue S.W.
CALGARY, AB T2P 3G4

ATTN: VICTOR P. KROEGER / RICK ANDERSON
TEL: 403.298.8479 / 403-537-8424
EMAIL: victor.kroeger@mnp.ca /
rick.anderson@mnp.ca

APPENDICES

- Appendix A - Bankruptcy Order Granted July 29, 2021
- Appendix B - Corporate Registry Search Results for North American Steel Erectors Inc.
- Appendix C – Copies of Pleadings from Shield Action
- Appendix D – Proof of Claim of Borden Ladner Gervais LLP
- Appendix E – Copy of the Inspector's Minutes held February 9, 2022
- Appendix F – Creditor Notice dated February 23, 2022
- Appendix G - Creditor Notice dated April 13, 2022
- Appendix H – Copies of Pleadings from Manitoba Exact Actions
- Appendix I – Copies of Pleadings from Ontario Exact Action
- Appendix J – Settlement Agreement and Mutual Release dated October 28, 2021
- Appendix K – Copies of Consent Orders granted November 9, 2021 in Manitoba Exact Actions
and copy of Consent Order granted November 22, 2021 in Ontario Exact Action
- Appendix L – Minutes from Inspector's Meetings held September 7, 2021 and September 28,
2021
- Appendix M – March 25, 2022 E-mail Correspondence between Counsel for the Trustee and
Counsel for Steeve Toupin
- Appendix N – April 21, 2022 E-mail Correspondence between Counsel for Steeve Toupin and
Counsel for the Trustee
- Appendix O – May 16, 2022 E-mail from Counsel for the Trustee to Counsel for Steeve Toupin
- Appendix P – June 1 to 30, 2022 E-mail Correspondence between Counsel for the Trustee and
Counsel for Steeve Toupin
- Appendix Q – July 4 and 5, 2022 E-mail Correspondence from Ramsay Law Office and Notice
of Withdrawal of Lawyer of Record (of Ramsay Law Office as counsel for
Steeve Toupin) filed July 4, 2022

INTRODUCTION AND BACKGROUND

1. On July 29, 2021 the Honourable Mr. Justice C.M. Jones Court of the Queen's Bench of Alberta (the "**Court**") granted an Order (the "**Bankruptcy Order**") adjudging North American Steel Erectors Inc. ("**NASE**" or the "**Company**") bankrupt and appointing MNP Ltd. as the trustee (the "**Trustee**") of the bankrupt estate. A copy of the Bankruptcy Order is attached hereto as **Appendix "A"**.
2. NASE operated a steel structure fabrication company on lands owned by a related company, 2127712 Alberta Ltd. ("**212**"), located at 160 Griffin Ranch Road, Cochrane, Alberta. 212 was placed into receivership pursuant to a Receivership Order granted by the Honourable Madam Justice B.E.C. Romaine in Court File Number: 2101-10276 on August 2021. MNP Ltd. acts as the receiver of 212.
3. At the time of NASE's bankruptcy, Steeve Toupin ("**Mr. Toupin**") was the sole director of NASE, and Mr. Toupin (holding 77.78%) and Gordon Spalding (holding 22.22%) were the voting shareholders of NASE. Attached hereto as **Appendix "B"** are the Alberta Corporate Registry search results for NASE as of the date of bankruptcy, July 29, 2021.
4. Copies of the relevant documents relating to these proceedings are available on the Trustee's website: <https://mnpdebt.ca/en/corporate-engagements/north-american-steel-erectors-inc>.

REPORT LIMITATIONS

5. In preparing this first report (the "**First Report**") and in making comments herein, the Trustee has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information of the Company, books and records of the Company, and information from other third-party sources (collectively, the "**Information**"). The Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with generally accepted assurance standards or other standards established by the Chartered Professional Accountants of Canada (the "**Standards**"). Additionally, none of the Trustee's procedures were intended to disclose defalcations or other irregularities. If the Trustee were to perform additional procedures or to undertake an audit examination of the information in accordance with the Standards,

additional matters may have come to the Trustee's attention. Accordingly, the Trustee does not express an opinion, nor does it provide any other form of assurance on the financial or other information presented herein. The Trustee may refine or alter its observations as further information is obtained or brought to its attention after the date of this report.

6. The Trustee assumes no responsibility or liability for any loss of damage occasioned by any party as a result of the use of the First Report. Any use, which any party makes of this report, or any reliance or decision to be made based on this report, is the sole responsibility of such party.
7. All amounts included herein are in Canadian dollars unless otherwise stated.

PURPOSE OF THE REPORT

8. The purpose of the First Report is to provide this Honourable Court with information in respect of an application filed by Mr. Toupin on May 30, 2022 (the "**Toupin Application**") for an Order seeking the assignment of the Trustee's interests in the following legal actions concerning NASE, to Mr. Toupin:
 - i. North American Steel Erectors Inc. v. Shield Industries Ltd. and Wynward Insurance Group – Court of Queen's Bench of Alberta Court File No. 2001-16202 (the "**Shield Action**");
 - ii. North American Steel Erectors Inc. v. Exact Detailing Ltd. – Court of Queen's Bench of Manitoba Court File No. CI-20-01-27129 and CI-19-01-24911 (collectively, the "**Manitoba Exact Actions**"); and
 - iii. Exact Detailing Ltd. v. North American Steel Erectors Inc., Pickering Developments (Squires) Inc., Pickering Developments (Bayly) Inc., Pickering Developments (401) Inc. and Ontario Gaming GTA Limited Partnership, by its general partner 2569129 Ontario Inc., also known as Pickering Casino – Ontario Superior Court of Justice Court File No.: CV-19-0003223-000 (the "**Exact Ontario Action**").

9. The Toupin Application states that it is brought under sections 37 and 38 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B-3 (the “**BIA**”).

NO PROOF OF CLAIM SUBMITTED BY STEEVE TOUPIN

10. As of the date the First Report, Mr. Toupin has not submitted a Proof of Claim of any kind to the Trustee with respect to any amounts claimed to be owed to Mr. Toupin by NASE.

THE SHIELD ACTION

11. The Shield Action concerns a construction project, specifically the 9th Avenue vehicle bridge replacement project located in Calgary, Alberta (the “**9th Avenue Bridge Project**”), in which: (i) NASE was engaged to supply, fabricate and install structural steel to the 9th Avenue Bridge Project; (ii) Shield Industries Ltd. (“**Shield**”) is alleged to have agreed to fabricate and supply steel for the 9th Avenue Bridge Project; and (iii) the Wynward Insurance Group (“**Wynward**”) is alleged to have issued a performance bond with respect to the 9th Avenue Bridge Project, specifically a performance bond in which NASE was the named Obligee, Shield was the named Principal, and Wynward was the named Surety.

12. The Shield Action was commenced by way of a Statement of Claim filed on behalf of NASE by Borden Ladner Gervais LLP (“**BLG**”) in the amount of \$3,673,856.02. The Shield Action was defended by Wynward, who filed a Statement of Defence. The Trustee was advised by BLG that Shield was insolvent and did not defend the Shield Action. Attached hereto and collectively marked as **Appendix “C”** are copies of the pleadings filed in the Shield Action that were provided to the Trustee by BLG, consisting of: (i) the Statement of Claim filed by NASE; (ii) the Statement of Defence filed by Wynward; and (iii) the Reply to the Statement of Defence filed by NASE.

13. Following its appointment, the Trustee and its legal counsel had discussions with BLG, who was acting for NASE with respect to the Shield Action. BLG advised the Trustee that the Shield Action was at the Affidavit of Records / exchange of documents phase. BLG further advised the Trustee that they were owed \$28,861.31 by NASE for unpaid legal fees and disbursements and that BLG was asserting a solicitor’s lien over its file and NASE’s documents.

14. Notwithstanding the solicitor's lien, BLG did provide copies of NASE's documents to the Trustee for the purposes of the Trustee's administration of the estate.
15. BLG has also submitted a Proof of Claim to the Trustee, a copy of which is attached hereto as **Appendix "D"**.
16. The Trustee and its legal counsel reviewed the pleadings and documents concerning the Shield Action provided by BLG. The Trustee determined that it did not have access to the funds necessary to pursue further litigation of the Shield Action. The estate Inspector at the 7th meeting of the Inspectors, a copy of which is attached hereto as Appendix "E", directed the Trustee to provide the required Section 38 of the BIA notice to the estate creditors. The notice to creditors was sent on February 23, 2022 (the "**Creditor Notice**"). A copy of the Creditor Notice is attached hereto as **Appendix "F"** the Creditor Notice was sent to all known creditors and potential creditors of NASE. The Creditor Notice summarized the Shield Action, advised that the Trustee had preformed its due diligence and an investigation regarding the Shield Action and determined that it did not have access to funds to pursue the Shield Action. The Creditor Notice further indicated that section 38 of the BIA provides that any one or more creditors may apply to the Court for an Order authorizing them to pursue the Shield Action in their own name and at their own expense.
17. Following the issuance of the Creditor Notice, the Trustee and or its legal counsel were contacted by counsel for three different creditors or possible creditors of NASE, including counsel for Mr. Toupin, who indicated that they may be interested in bringing an application under section 38 of the BIA concerning the Shield Action.
18. The Trustee then issued a second notice to all known creditors and potential creditors of NASE dated April 13, 2022 (a copy of which is attached as **Appendix "G"**) advising that any creditors seeking to pursue an application under section 38 of the BIA may, at their own risk and expense within thirty days of the notice, view those records of NASE in the Trustee's possession concerning the Shield Action by contacting the Trustee's legal counsel. Such notice further stated that any creditors seeking to view the said records shall do so at their own risk and expense and shall be responsible for reimbursing the Trustee and its legal counsel for any costs and expenses incurred in making said records available for viewing.

THE MANITOBA EXACT ACTION AND THE ONTARIO EXACT ACTIONS

19. The Manitoba Exact Actions concerned a claim made by NASE regarding steel procurement and structural steel design concerning the design and construction of the Artis Tower in Winnipeg, Manitoba (the "**Winnipeg Tower Project**"). NASE commenced the Manitoba Exact Actions by way of a Statement of Claim filed on its behalf by David Marr of Marr Finlayson Pollock LLP ("**Mr. Marr**"), and Exact Detailing Ltd. ("**Exact**") defended by way of a Statement of Defense and Exact brought a Counterclaim for \$205,152.41 for alleged unpaid services provided to NASE concerning the Winnipeg Tower Project. Attached hereto and collectively marked as **Appendix "H"** are copies of the Statement of Claim filed by NASE, the Statement of Defence and Counterclaim filed by Exact, and the Consent Order concerning the discharge of the aforementioned builder's lien and payment of monies into Court.
20. The Ontario Exact Action concerned a claim made by Exact against NASE for the sum of \$232,106.86 plus interest and costs brought by way of a Statement of Claim filed with the Ontario Superior Court of Justice for alleged unpaid fees for the supply of structural steel design and erection drawings concerning the construction of a casino in Pickering, Ontario (the "**Casino Project**"). Exact registered a construction lien regarding the alleged unpaid sum, which construction lien had been vacated as a result of NASE posting a letter of credit from the Bank of Nova Scotia in the amount of \$282,106.87 with the Ontario Superior Court of Justice. NASE defended the Ontario Exact Action by way of a Statement of Defence filed on its behalf by Andrea Lee of Glahot Bowels LLP ("**Ms. Lee**"). The Statement of Defence sought set-off regarding amounts alleged to be owed to NASE by Exact with respect to the Winnipeg Tower Project. Attached hereto and collectively marked as **Appendix "I"** are copies of the Statement of Claim, Statement of Defence and Consent Order concerning the discharge of the said builder's lien and posting of the said letter of credit with the Court.
21. Following its appointment, the Trustee and its legal counsel had discussions with both NASE's legal counsel, Mr. Marr in Manitoba concerning the Manitoba Exact Actions, Ms. Lee in Ontario concerning the Ontario Exact Action. With respect to the Manitoba Exact Actions, the Trustee was advised by Mr. Marr that the action was to be dealt with by way of arbitration but that as of the date of bankruptcy, no arbitration had occurred or been scheduled. With respect to the Ontario Exact Action, the Trustee was advised by Ms. Lee

that as of the date of bankruptcy, the action was at the document exchange phase.

22. Following the discussions with Mr. Marr and Ms. Lee, the Trustee, with the consent of the inspector of the bankrupt estate of NASE, engaged in settlement discussions with Exact which resulted in a Settlement Agreement and Mutual Release made between the Trustee and Exact dated October 28, 2021 (the "**Settlement Agreement**"), a copy of which is attached hereto as **Appendix "J"**. The terms of the Settlement Agreement are as follows:

- (a) the monies that had been paid into Court in the Manitoba Exact Actions were paid to Exact;
- (b) the letter of credit that had been posted with the Court in the Ontario Exact Action was released and returned to the Trustee;
- (c) the Trustee paid Exact the sum of \$1,500.00 as an agreed upon contribution to the legal fees incurred by Exact;
- (d) the Manitoba Exact Actions were discontinued on a without costs basis;
- (e) the Ontario Exact Action was discontinued on a without costs basis; and
- (f) any and all claims of NASE and Exact against one another concerning the Manitoba Exact Actions, the Winnipeg Tower Project, the Ontario Exact Action and the Casino Project were mutually released, save for any trust obligations or duties owed by directors or officers of NASE to Exact under any lien legislation and any possible claims by Exact against the directors or officers of NASE for breach of trust or any other duty owed under any lien legislation, at law or equity.

23. Attached hereto and collectively marked as **Appendix "K"** are copies of: (i) Consent Orders granted November 9, 2021 in the Manitoba Exact Actions directing that the monies that had been paid into Court, with interest, be paid to Exact and that the actions are dismissed without costs; and (ii) the Consent Order granted November 22, 2021 in the Ontario Exact Action discharge Exact's lien to the lands upon which the Casio Project is located, directing the Clerk of the Court to return to the letter of credit that had been posted with the Court to

the Trustee, for delivery to the Bank of Nova Scotia, and dismissing the action without costs.

The Settlement Agreement was entered into by the Trustee with the approval of the inspector of the estate of NASE. Attached hereto as **Appendix "L"** are copies of inspectors meeting minutes of September 21, 2021 and September 28, 2021 regarding such Inspector approval. The September 21, 2021 Inspector minutes had not yet been signed by the Inspector as of the date of the First Report.

COMMUNICATIONS WITH MR. TOUPIN / HIS LEGAL COUNSEL

24. On March 25, 2022, legal counsel for the Trustee, Dean Hutchison of Caron & Partners LLP (**Mr. Hutchison**), received a voicemail message from Dan Ramsay of Ramsay Legal Counsel (**Mr. Ramsay**), then legal counsel for Mr. Toupin, inquiring on the status of the Manitoba Exact Actions. By e-mail correspondence between Mr. Hutchison and Mr. Ramsay of March 25, 2022, Mr. Hutchison advised that the Manitoba Exact Actions and the Ontario Exact Action had been resolved and discontinued in October/November 2021. Attached hereto as **Appendix "M"** is a copy of this e-mail correspondence.
25. On April 21, 2022, Mr. Ramsay sent an e-mail to Mr. Hutchison indicating he was in the process of filing an application on behalf of Mr. Toupin for the assignment of NASE's legal actions to him and requested a copy of NASE's list of creditors. Mr. Hutchison responded by e-mail of that same day providing a copy of an Affidavit of Mailing of the Trustee sworn August 19, 2021 containing the Creditor Mailing List of NASE's known creditors and potential creditors. Attached hereto as **Appendix "N"** is a copy of the e-mail.
26. On May 16, 2022, Mr. Hutchison sent Mr. Ramsay an e-mail advising him, as a courtesy, that the Trustee will be moving forward to seek its discharge in the near future. Attached hereto as **Appendix "O"** is copy of the e-mail.
27. On June 1, 2022 the Trustee was served with a copy of the Toupin Application and the supporting Affidavit of Mr. Toupin sworn April 20, 2022 from Mr. Ramsay's office. The Trustee's legal counsel was not served.
28. During the period of June 1, 2022 to June 30, 2022, Mr. Hutchison sent Mr. Ramsay several e-mails outlining the Trustee's concerns with that portion of the Toupin Application seeking

relief under section 37 of the BIA and seeking to assign the Manitoba Exact Actions and the Ontario Exact Action to Mr. Toupin. Such correspondence noted that the Manitoba Exact Actions and the Ontario Exact Action had been resolved and discontinued, and that should Mr. Toupin proceed with that portion of the Toupin Application, that such relief will be vigorously opposed by the Trustee and the Trustee would be seeking costs against Mr. Toupin on a solicitor and own client, full indemnity basis. Such correspondence requested multiple times that Mr. Toupin confirm whether he would be proceeding with such portions of the Toupin Application. The responses from Mr. Ramsay were that he was seeking instructions from Mr. Toupin and would advise. Such correspondence further noted that Mr. Toupin had not submitted a Proof of Claim to the Trustee, and therefore his standing to make an application under section 38 of the BIA was potentially at issue. Attached hereto and collectively marked as **Appendix "P"** are copies of such e-mail correspondence.

29. On July 4, 2022, Mr. Hutchison received an e-mail from Mr. Ramsay's office attaching an unfiled copy of a Notice of Withdrawal of Lawyer of Record and advising that Mr. Ramsay had advised Mr. Toupin of the hearing scheduled in this matter on July 7, 2022, and that Mr. Ramsay's office did not know what Mr. Toupin will choose to do with respect to the Toupin Application. On July 5, 2022, Mr. Hutchison received a filed copy of the Notice of Withdrawal of Lawyer of Record filed July 4, 2022 from Mr. Ramsay's office. Attached hereto and collectively marked as **Appendix "Q"** is a copy of the foregoing described correspondence and filed copy of Notice of Withdrawal of Lawyer of Record filed by Mr. Ramsay.

30. As of the time this First Report was signed, neither the Trustee or Mr. Hutchison have received any communications from Mr. Toupin regarding his intentions concerning the Toupin Application, nor a Proof of Claim from Mr. Toupin.

RECOMMENDATION AND CONCLUSION

31. Based upon the foregoing the Trustee respectfully recommends that this Honorable Court:

- i. Deny the Toupin Application; and
- ii. Grant costs in favour of the Trustee concerning the Toupin Application payable by Mr. Toupin on a solicitor and own client, full indemnity basis.

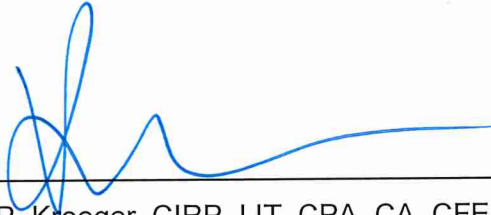
All of which is respectfully submitted this 6th day of July, 2022.

MNP Ltd.

In its capacity as trustee in bankruptcy of

North American Steel Erectors Inc.

and not in its personal or corporate capacity

A handwritten signature in blue ink, consisting of a large, stylized initial 'V' followed by a series of loops and a long horizontal stroke extending to the right.

Per: Victor P. Kroeger, CIRP, LIT, CPA, CA, CFE
Senior Vice President

COURT FILE NUMBER: BK01 095206
COURT COURT OF QUEEN'S BENCH
OF ALBERTA IN BANKRUPTCY
AND INSOLVENCY
JUDICIAL CENTRE CALGARY
APPLICANT THE BANK OF NOVA SCOTIA
RESPONDENT NORTH AMERICAN STEEL
ERECTORS INC.



#704596

**IN THE MATTER OF THE
BANKRUPTCY OF NORTH
AMERICAN STEEL ERECTORS
INC.**

DOCUMENT **BANKRUPTCY ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McMillan LLP
421 7th Avenue SW, Suite 1700
Calgary, Alberta T2P 4K9
Phone: 403.531-4700
Fax: 403.531.4720
Attention: Preet Saini
preet.saini@mcmillan.ca
File No. 269071

DATE ON WHICH ORDER WAS PRONOUNCED:	July 29, 2021
NAME OF JUSTICE WHO MADE THIS ORDER:	Justice C.M. Jones
LOCATION OF HEARING:	Calgary, Alberta

UPON THE APPLICATION FOR BANKRUPTCY ORDER being made by The Bank of Nova Scotia (the “Applicant”); **AND UPON** having read the application for Bankruptcy Order of the Applicant; **AND UPON** having read the Affidavit of Josh Coonan, filed in the within action; **AND UPON** reading the consent of MNP Ltd. to act as trustee in the bankruptcy of the estate of North American Steel Erectors Inc. (“NASE”); **AND UPON** hearing from counsel for the Applicant, NASE and the proposed trustee; **AND UPON** it appearing that all interested and affected parties have been served with notice of this application; **AND UPON** it appearing to the Court that the following acts of bankruptcy have been committed by NASE:

- (a) the debt owing by NASE exceeds \$1,000; and
- (b) within the 6 months preceding the date of filing of the application for Bankruptcy Order, NASE has ceased to meet its liabilities generally as they come due;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Service of the notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application, and the time for service of this application is abridged to that actually given.
2. NASE, be and is hereby adjudged bankrupt and that a Bankruptcy Order is hereby made against NASE.
3. MNP Ltd. be and is hereby appointed as trustee of the estate of the bankrupt NASE, without security.
4. The costs of and incidental to this application and of this Order be paid to the applicant, on a full indemnity, solicitor and own client basis, out of the assets of the estate of the bankrupt NASE.



Justice of the Court of Queen's Bench of
Alberta

Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2021/07/29
 Time of Search: 01:21 PM
 Search provided by: CARON & PARTNERS LLP
 Service Request Number: 35891440
 Customer Reference Number: DAH:lrc

Corporate Access Number: 2019448758
Business Number: 739358497
Legal Entity Name: NORTH AMERICAN STEEL ERECTORS INC.

Name History:

Previous Legal Entity Name	Date of Name Change (YYYY/MM/DD)
CENTRAL ERECTORS INC.	2016/03/08

Legal Entity Status: Active
Alberta Corporation Type: Named Alberta Corporation
Registration Date: 2016/01/18 YYYY/MM/DD

Registered Office:

Street: 160 GRIFFIN RANCH ROAD
City: COCHRANE
Province: ALBERTA
Postal Code: T4C2B8

Records Address:

Street: 160 GRIFFIN RANCH ROAD
City: COCHRANE
Province: ALBERTA
Postal Code: T4C2B8

Email Address: MGOSWAMI@NASTEELERECTORS.COM

Directors:

Last Name: TOUPIN
First Name: STEEVE
Street/Box Number: 264095 MONTERRA DRIVE
City: COCHRANE
Province: ALBERTA

Postal Code: T4C0A7

Voting Shareholders:

Last Name: SPALDING
First Name: GORDON
Street: 10432 GLENROSE DRIVE
City: DELTA
Province: BRITISH COLUMBIA
Postal Code: V4C0A6
Percent Of Voting Shares: 22.22

Last Name: TOUPIN
First Name: STEEVE
Street: 264095 MONTEERRA DRIVE
City: COCHRANE
Province: ALBERTA
Postal Code: T4C0A7
Percent Of Voting Shares: 77.78

Details From Current Articles:

The information in this legal entity table supersedes equivalent electronic attachments

Share Structure: 100 CLASS "A" SHARES
Share Transfers Restrictions: NONE
Min Number Of Directors: 1
Max Number Of Directors: 5
Business Restricted To: NONE
Business Restricted From: NONE
Other Provisions: NONE

Other Information:

Last Annual Return Filed:

File Year	Date Filed (YYYY/MM/DD)
2021	2020/12/15

Filing History:

List Date (YYYY/MM/DD)	Type of Filing
2016/01/18	Incorporate Alberta Corporation
2016/03/08	Name Change Alberta Corporation
2017/06/07	Name/Structure Change Alberta Corporation
2019/01/11	Change Address
2019/03/08	Change Director / Shareholder
2020/02/22	Update BN
2020/12/15	Enter Annual Returns for Alberta and Extra-Provincial Corp.

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



COURT FILE NUMBER 2001-16202
COURT COURT OF QUEEN’S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF **NORTH AMERICAN STEEL ERECTORS INC.**
DEFENDANT(S) **SHIELD INDUSTRIES LTD. and WYNWARD
INSURANCE GROUP**



DOCUMENT **STATEMENT OF CLAIM**

ADDRESS FOR SERVICE AND Jeffrey D. Vallis, Q.C. / Theron Davis
CONTACT INFORMATION OF Borden Ladner Gervais LLP
PARTY FILING THIS 1900, 520 3rd Ave. S.W.
DOCUMENT Calgary, AB T2P 0R3
 Telephone: (403) 232-9404 / 9761
 Facsimile: (403) 266-1395

File No. 446270-000001

NOTICE TO DEFENDANT(S)

You are being sued. You are a defendant.

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

Note: State below only facts and not evidence (Rule 13.6)

Statement of facts relied on:

1. North American Steel Erectors Inc. (“**NASE**”) is a body corporate, duly incorporated pursuant to the laws of the Province of Alberta. NASE carries on the business of supplying and installing structural steel on commercial, institutional, bridge and sports facility projects.
2. The Defendant, Shield Industries Ltd. (“**Shield**”) is a body corporate, duly incorporated pursuant to the laws of the Province of Alberta. Shield carries on business as a fabricator of, among other things, structural steel.
3. The Defendant, Wynward Insurance Group (“**Wynward**”) is a body corporate, duly incorporated pursuant to the laws of Canada and is duly authorized to transact the business of suretyship in Canada, including in the Province of Alberta.

The Project

4. Pursuant to Subcontract #463022 – OS, dated May 30, 2019, NASE was engaged by PCL Construction Management Inc. (“**PCL**”) to supply, fabricate and install structural steel on the 9th Ave Vehicle Bridge Replacement project (the “**Project**”), located in Calgary, Alberta (the “**Subcontract**”).
5. On or about April 4, 2019, NASE and Shield entered into Purchase Order Number 1906-002 (the “**Purchase Order**”), whereby Shield agreed to fabricate and supply the structural steel for the Project as described in Shield’s Quotation No. 6317, dated January 31, 2019 (the “**Work**”), for a stipulated price of \$3,720,348.03 (including GST) (the “**Purchase Order Price**”).
6. The Purchase Order incorporated the terms and conditions of the Subcontract by express reference and Shield was bound to adhere to those terms and conditions in the performance of the Work.

The Performance Bond

7. Pursuant to clause 4 of the special conditions of the Subcontract, Shield was obligated to provide a performance bond in favour of NASE, providing a penal sum equivalent to one-half of the Purchase Order Price.
8. On or about October 9, 2019, Wynward issued Performance Bond No. W086-102-001P/L-A (the “**Bond**”), with a penal limit of \$1,860,174.02 (the “**Bond Amount**”), which replaced Bond No. W0186-102-001P/L. Under the Bond, NASE was the named Obligee, Shield was the Principal, and Wynward was the Surety. NASE pleads and relies upon the terms and provisions of the Bond.
9. In the event that Shield defaulted on any of its obligations under the Purchase Order, NASE could deliver to Wynward a written statement that Shield was in such default and request that Wynward fulfill its obligations under the Bond (a “**Demand**”).
10. In advance of making a Demand on the Bond, NASE was, entirely at its own discretion, entitled to notify Wynward if Shield was, or was soon to be, in default and request that the parties attend a conference to communicate those concerns (a “**Pre-Demand Conference**”).
11. Upon receipt of a Demand, Wynward would be afforded a reasonable time within which to conduct an investigation of the Demand and determine its liability under the Bond.
12. Twenty-one days following receipt of the information required to conduct the investigation, Wynward was obligated to complete its investigation and advise NASE of its decision. Alternatively, if Wynward required more time to complete its investigation then, before the expiry of the aforementioned twenty-one days, it was obligated to write to NASE and set out the status of the investigation and provide an estimate of when the investigation would be complete.
13. While Wynward performed its investigation, NASE was entitled under the terms of the Bond to engage a replacement contractor or contractors to proceed with the Work for the benefit and protection of the Project and in order to mitigate its losses.
14. Where NASE engaged a replacement contractor, and subject to the conditions of the Bond, the reasonable costs incurred by NASE were to be reimbursed by Wynward.
15. Following an investigation, if the conditions precedent have been satisfied and Shield’s default confirmed, Wynward would then be obligated to promptly:

- (a) remedy the default;
- (b) complete the Purchase Order in accordance with its terms and conditions;
- (c) obtain a bid, or bids, for submission to NASE for completing the Purchase Order in accordance with its terms and conditions, and upon determination by NASE and Wynward of the lowest responsible bidder, arrange for a contract between such bidder and NASE, and make available as work progresses (even though there should be a default, or a succession of defaults, under the contract or contracts of completion, arranged under this option) sufficient funds to pay to complete Shield's obligations in accordance with the terms and conditions of the Purchase Order, and to pay those expenses incurred by NASE as a result of Shield's default relating directly to the performance of the Work under the Purchase Order, less the balance of the Purchase Order Price; or,
- (d) pay NASE the lesser of: (1) the Bond Amount; or, (2) NASE's proposed cost of completion less the balance of the Subcontract price.

Shield's Default and the Surety's Investigation

- 16. In order to ensure that Shield was meeting its obligations under the Purchase Order on or about October 31, 2019, among other times, NASE, PCL and Shield met and discussed Shield's progress. Part of that meeting included potential options that would ensure that Shield met the Purchase Order with respect to schedule, and conformed to the plans and specifications incorporated into the Purchase Order. Among the options discussed was the possibility that Shield engage a subcontractor to assist with portions of its Work.
- 17. Entirely of its own volition, Shield subcontracted with Supreme Steel LP to perform portions of the Work.
- 18. In the months subsequent to the October 31, 2019 meeting, it began to become clear to NASE that Shield was unable to adequately manage its obligations under the Purchase Order. As a result, on December 11, 2019, NASE issued a notice of non-compliance to Shield requesting that Shield take steps to avoid a default (the "**Notice of Non-Compliance**").
- 19. NASE received and reviewed Shield's response to the Notice of Non-Compliance upon returning from a shut down for the holiday season and, on or about January 2, 2020, NASE contacted a representative of Wynward regarding its continuing concerns related to Shield's performance.
- 20. Without any appreciable improvement following receipt of Shield's response to the Notice of Non-Compliance, on January 16, 2020, NASE informed Wynward in writing that Shield was in default under the Purchase Order, and that NASE had become aware that Shield was facing financial difficulties, and requested a Pre-Demand Conference. That Pre-Demand Conference was held on January 30, 2020, during which Shield confirmed that it was facing financial difficulties.
- 21. On or about February 20, 2020, Shield indicated that it would be laying off its employees and that its financial difficulties would prevent it from being able to continue with the Work.
- 22. Further, Shield's performance had not improved following the Pre-Demand Conference and, on or about February 27, 2020, NASE made a Demand to Wynward, declared that Shield was in default and requested that Wynward fulfill its obligations under the Bond (the "**Bond Claim**").

23. On or about March 2, 2020 to March 5, 2020, Shield made the final deliveries of materials and then subsequently abandoned the Project.
24. Following the Bond Claim, Wynward began an investigation, with the full cooperation of NASE.
25. Shield failed to satisfy its obligations under the Purchase Order. These failures include, but are not limited to, the following:
 - (a) Shield issued invoices that included, and Shield sought payment for, Work that was not complete;
 - (b) Shield failed to follow the change request requirements of the Purchase Order and failed to justify additional costs for which it was seeking payment, which in turn resulted in NASE being unable to obtain a corresponding approval from PCL;
 - (c) Shield failed or otherwise refused to perform the Work as outlined in the plans, specifications, or as otherwise contemplated within the Purchase Order;
 - (d) Shield performed the Work negligently and in breach of the express or implied terms of the Purchase Order;
 - (e) Shield failed or refused to adequately correct significant portions of its negligent and deficient Work, but even where some portions of the Work were corrected, Shield failed to do so in a timely manner;
 - (f) Shield failed to implement adequate quality assurance and quality control processes;
 - (g) Shield failed to staff and maintain a sufficient number of employees, agents or subcontractors to complete the Work properly, on time, and in accordance with the express or implied terms of the Purchase Order;
 - (h) Shield failed to staff appropriately skilled and competent employees, agents or subcontractors so that the Work could be completed properly, on time, and in accordance with the express or implied terms of the Subcontract;
 - (i) Shield failed to properly train the employees, agents or subcontractors that it did have to ensure they were adequately qualified to perform the Work;
 - (j) Shield failed to properly manage and supervise its employees, agents, or subcontractors;
 - (k) Shield failed to maintain a safe work site at all times in accordance with the express or implied terms of the Subcontract; and
 - (l) Shield failed to complete its scope of Work and abandoned the Purchase Order

(collectively, “**Shield’s Defaults**”).
26. By contrast, NASE has satisfied all of its obligations under the Purchase Order including, but not limited to, having made timely payment to Shield for all of its validly performed Work and properly submitted invoices.

27. At no point in time did NASE relieve Shield from its contractual obligations, or otherwise waive, acquiesce or abandon its right to demand that Shield perform its obligations under the Purchase Order.
28. On or about August 8, 2020, Wynward and NASE entered into a mitigation agreement (the “**Mitigation Agreement**”), whereby Wynward agreed that NASE could proceed with a remedial plan (the “**Remedial Plan**”) to complete the remaining work (the “**Remaining Work**”), as described in Schedules to the Mitigation Agreement. Pursuant to the Mitigation Agreement, Wynward agreed not to challenge or dispute the completion of the Remaining Work performed by NASE in accordance with the Remedial Plan.
29. Wynward and NASE entered into the Mitigation Agreement without prejudice to the rights and/or obligations of the parties under the Bond.
30. To date, Wynward has failed or otherwise refused to provide a decision with respect to the Bond Claim and, despite repeated demands, has further failed to fulfill its obligations under the Bond.

The Costs to Complete

31. At this time, and subject to uncovering further deficiencies in Shield’s work, the total cost to NASE to complete Shield’s Work will be not less than \$4,336,846.93.
32. NASE had already paid to Shield \$1,919,409.12 and, as a result, the balance of the contract price is \$1,800,938.91.
33. The resulting short fall from Shield’s Defaults and abandonment of the Purchase Order is, therefore, not less than \$2,535,908.02.

Claims against the Defendants

34. Shield has failed, refused, or been otherwise unable to perform its obligations under the Purchase Order. As a result of Shield’s Defaults, negligence, and breaches of the Purchase Order, NASE has suffered and continues to suffer damages and losses.
35. Wynward has failed to fulfill its obligations under the Bond. Specifically, Wynward has failed to take the steps necessary to see that Shield’s Defaults were corrected and the Work completed. By so doing, Wynward has exacerbated the delay on the Project to such an extent that NASE has had to incur significant additional costs and its losses have been substantially increased.
36. Further, Wynward has failed and or otherwise refused to render a decision regarding the Demand and has taken an unreasonable amount of time in so delaying.
37. As a result of both Shield’s Defaults or its negligence in carrying out the Work under the Purchase Order, and Wynward’s conduct and breaches of the Bond, NASE has suffered, and continues to suffer, serious damages including, but not limited to, losses from delay, additional costs, Work deficiencies, bank charges, interest costs, increased administrative and overhead costs, and costs to complete Shield’s unfinished Work. NASE currently estimates such losses, the particulars and total amount of which shall be proven at trial, to be not less than as follows:
 - (a) Shortfall on costs to complete of \$2,535,908.02;

- (b) Additional manpower costs of \$385,948.00;
- (c) Delay and acceleration costs of \$648,000.00;
- (d) Liquidated damages losses of approximately \$104,000.00; and,
- (e) Such additional costs as may be proven at trial.

Remedy sought:

38. The Plaintiff, NASE, claims against the Defendant, Wynward:
- (a) a declaration that the Performance Bond remains in full force and effect; and,
 - (b) a declaration that NASE has discharged all preconditions for payment under the Performance Bond, or alternatively for relief from forfeiture in respect thereof.
39. The Plaintiff, NASE, claims against the Defendants, Wynward and Shield, jointly and severally:
- (a) judgment in the amount of \$3,673,856.02, or in the case of Wynward the Bond Amount;
 - (b) pre-judgment and post-judgment interest in accordance with the *Judgment Interest Act*, RSA 2000, c J-1;
 - (c) costs of this action on a solicitor-client basis or on such other basis as may be determined by this Honourable Court;
 - (d) such further and other relief as this Honourable Court may deem just.

NOTICE TO THE DEFENDANT(S)

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's(s') address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.

COURT FILE NO.: 2001-16202

COURT Court of Queen's Bench of Alberta

JUDICIAL CENTRE CALGARY

PLAINTIFF NORTH AMERICAN STEEL ERECTORS INC.

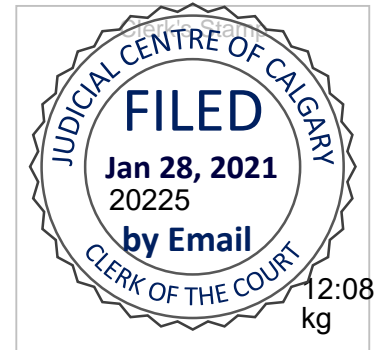
DEFENDANTS SHIELD INDUSTRIES LTD. and WYNWARD INSURANCE GROUP

DOCUMENT **STATEMENT OF DEFENCE**

PARTY FILING THIS DOCUMENT WYNWARD INSURANCE GROUP

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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File: A163536



Statement of facts relied on:

1. The Defendant Wynward Insurance Group (“**Wynward**”) adopts the terms emboldened in the Statement of Claim to name the parties and subjects in this matter, except where otherwise stated in the within Statement of Defence.
2. In respect of paragraph 3 of the Statement of Claim, Wynward is a company incorporated pursuant to the laws of the Province of Manitoba and licensed to carry on business as an insurance company and surety in the Province of Alberta.
3. Except as expressly admitted herein, Wynward denies each and every allegation contained in the Plaintiff’s Statement of Claim. Wynward admits paragraphs 1, 2, 4, 5 and 8 of the Statement of Claim.
4. As admitted by NASE in paragraph 5 of the Statement of Claim, Wynward agrees that the terms and conditions of Shield’s Quotation No. 6317 dated January 31, 2019 (the “**Quotation**”) were incorporated into and formed part of the Purchase Order.

5. The Quotation provided, *inter alia*, that Shield did not assume or agree to any obligations or liabilities other than expressly provided for in the Quotation.
6. The Quotation did not include reference to the Subcontract and expressly excluded any losses, damages or costs suffered by NASE resulting from any defects in workmanship.
7. In specific reply to paragraph 6 of the Statement of Claim, Wynward denies that the terms and conditions of the Subcontract entered into by NASE and PCL on May 30, 2019, more than fifty days after the Purchase Order was entered into by NASE and Shield on April 4, 2019, apply to the Purchase Order.
8. As a result, an executed finalized copy of the Subcontract was not, and could not be, attached to the Purchase Order as required by the Purchase Order.
9. Further, in the alternative, the reference to the Subcontract in the Purchase Order does contain sufficient specificity to identify which terms of the Subcontract, if any, were to be incorporated into the Purchase Order.
10. As admitted by NASE in paragraph 8 of the Statement of Claim, the original Performance Bond No. W0186-102-001P/L issued by Wynward was replaced with Performance Bond No. W086-102-001P/L (the "**Bond**").
11. NASE did not pay, and has not paid, for the Bond and should not be entitled to rely upon or be entitled to the benefits of the Bond.
12. Further, Wynward denies that NASE has complied with the obligations required of it under the Bond.
13. For instance, NASE has failed to comply with the obligations required of it under the Bond by failing to provide timely notice to Wynward of changes to fundamental terms and conditions of the Purchase Order.
14. NASE unilaterally revised and extended the schedule for the completion of the Work eleven separate times (the "**Schedule Extensions**").
15. The Schedule Extensions resulted in the extension of the original delivery date of the fabricated steel from October 15, 2019 to March 15, 2020.
16. The last Schedule Extension was issued by NASE on January 13, 2020.
17. No notice whatsoever of any of the Schedule Extensions was provided to Wynward by NASE.
18. At no time was the consent of Wynward sought by or provided to NASE with respect to the Schedule Extensions.
19. Further, the delivery of the steel was significantly delayed and was not completely received until December 22, 2019 (the "**Late Delivery of Steel**"), more than two months after the original completion date of the Work on October 15, 2019.

20. When all of the steel finally did arrive on December 22, 2019, the steel had to undergo extensive testing and additional approvals in order to comply with the specifications due to the fact that the steel was foreign sourced and had an excessively high boron content.
21. No notice whatsoever of the Late Delivery of the Steel was provided to Wynward by NASE.
22. Further, NASE unilaterally revised the Specifications for the Work nine months after the commencement of the Work requiring Shield to perform additional Work and incur additional costs that were not included in the original Purchase Order (the "**Revised Specifications**").
23. No notice whatsoever of any of the Revised Specifications was provided to Wynward by NASE.
24. At no time was the consent of Wynward sought by or provided to NASE with respect to the Revised Specifications.
25. Further, NASE has failed to comply with the obligations required of it under the Bond by failing to provide timely notice to Wynward of Shield's default under the Purchase Order.
26. On October 31, 2019 NASE and PCL met with Shield to express serious concerns about Shield's performance of the Work to date and required that Shield subcontract out a portion of the steel fabrication Work to Supreme Steel Ltd. ("**Supreme**"), a third party steel fabricator.
27. Based on discussions at the October 31, 2010 meeting, a portion of the steel fabrication Work was subsequently subcontracted to Supreme by Shield at NASE's instruction and with its full knowledge and approval (the "**Subcontracted Work**").
28. No notice whatsoever of the Subcontracted Work was provided to Wynward by NASE.
29. At no time was the consent of Wynward sought by or provided to NASE with respect to the Subcontracted Work.
30. There were problems with the completion of the Subcontracted Work by Supreme which required additional rework and costs.
31. As admitted by NASE in paragraph 18 of the Statement of Claim, in the months subsequent to the October 31, 2019 meeting, it became clear to NASE that Shield was unable to adequately manage its obligations under the Purchase Order.
32. Instead of noting Shield in default and providing notice to Wynward under the Bond based on Shield's inability to adequately manage its obligations under the Purchase Order, NASE required Shield to hire additional welding labour in order to accelerate the performance of the Work.
33. As further admitted by NASE in paragraph 18 of the Statement of Claim, on December 11, 2019, a formal Notice of Non-Conformance was issued to Shield by NASE which confirmed the serious concerns that NASE had with Shield's performance.

34. Contrary to the allegation contained in paragraph 18 of the Statement of Claim, the Notice of Non-Compliance did not mention or refer to Shield taking steps to avoid a default, but rather mentioned that the steps needed to be taken by Shield in to avoid further issues on the Project.
35. A copy of the formal Notice of Non-Conformance issued by NASE on December 11, 2019 was not provided to Wynward by NASE nor was Wynward advised of the issuance of the Notice of Non-Compliance.
36. On December 16, 2019 Shield sent a letter to NASE objecting to NASE's allegations as set out in the Notice of Non-Conformance ("**Shield's Response**"). A copy of Shield's Response was not provided to Wynward by either Shield or NASE.
37. Shield contended in its response that it had completed seventy-seven percent of its Work but had only been paid thirty-three percent of the value of the Purchase Order.
38. On or about January 16, 2020, NASE sent a letter to Wynward to advise Wynward of the problems being experienced with Shield's performance and provided Wynward with notice of a potential claim under the Bond (the "**Initial Notice**").
39. Shield responded to the Initial Notice on the same day denying that it was in default of its obligations under the Purchase Order and provided details of non-payment by NASE and other factors that had made Shield's performance of the Work more arduous.
40. The Initial Notice was provided to Wynward by NASE more than a month after the Notice of Non-Compliance had been provided to Shield by Wynward and more than three months after the original completion date of October 15, 2019 as specified in the Purchase Order had been revised by NASE without the knowledge or the consent of Wynward.
41. The Initial Notice was the first time that Wynward had been formally advised of any issues in relation to the performance of the Work by Shield.
42. On or about January 20, 2020, a Pre-Demand Conference was held between representatives of NASE, Shield and Wynward (the "**Pre-Demand Conference**").
43. At the Pre-Demand Conference, based on representations made by NASE and Shield as to the status of the Work, it was decided by NASE and Shield that Shield would continue to complete the Work.
44. No independent investigation was conducted by Wynward at this time based on the representations of both NASE and Shield as to the status of the Work.
45. Accordingly, the Initial Notice of a potential claim provided to Wynward by NASE was effectively withdrawn by NASE.
46. Based on the absence of a formal default by Shield, Wynward did not further investigate any of the issues raised in the Initial Notice or object to Shield continuing with the Work.
47. Subsequently, NASE provided Shield with a payment of \$350,000.00 in order to provide Shield with funds to complete the Work.

48. There was no further communication between NASE and Wynward, or Shield and Wynward, until over six weeks later when on February 27, 2020 NASE formally declared that Shield was in default of its obligations under the Purchase Order and called upon Wynward to respond to NASE's claim under the Performance Bond (the "**Notice of Default**").
49. The Notice of Default contended that Shield was at that time four months behind in the completion of its Work.
50. The Notice of Default was provided to Wynward considerably after NASE knew in the months following October 31, 2019, as admitted in paragraph 18 of the Statement of Claim, that Shield was unable to adequately manage its obligations under the Purchase Order.
51. NASE's failure to provide timely notice of Shield's default has caused significant irreparable prejudice to Wynward by limiting Wynward's ability to address, remedy and mitigate the impact of Shield's default.
52. NASE's failure to provide timely notice of Shield's default also minimized Wynward's ability to address, remedy and mitigate its obligations under Labour and Material Payment Bond W086-102-001 P/L (the "**L&M Bond**") under which Wynward has paid \$1,860,174.02 into the Court of Queen's Bench for the payment of unpaid suppliers and subcontractors of Shield (the "**Interpleader Proceedings**").
53. Upon receipt of the Notice of Default, Wynward took steps to investigate the claim made by NASE in the Notice of Default, including the retention of a forensic engineering firm to sample the quality of the steel used and welding performed by Shield.
54. Wynward's expert was to provide advice with respect to the welds undertaken by Shield in its performance of the Work given that the steel was showing significant signs of cracking where the welds had been made.
55. After repeated requests, samples of the steel and welds were obtained from NASE.
56. The results of these investigations on Wynward's behalf were shared with NASE.
57. At all times, Wynward took reasonable and appropriate steps to advise NASE of its investigation and the need for additional information from NASE in order to conduct and complete its investigation.
58. At all times, the steps taken by Wynward were reasonable and appropriate in the circumstances, and were carried out in a timely manner even in the face of the global pandemic and the fact that Shield's project records or personnel were not available to Wynward to assist it in conducting its investigation.
59. On March 2, 2020, after the Notice of Default had been issued by NASE to Wynward, NASE unilaterally, and without the involvement of Wynward, entered into an agreement with Shield for the purchase of certain fabricated steel components from Shield (the "**Material Purchase Arrangement**").

60. Pursuant to the Material Purchase Arrangement, NASE paid directly to Shield a lump sum of \$200,000.00.
61. The Material Purchase Arrangement was confirmed in writing by an agreement between NASE and Shield dated March 2, 2020 (the "**Bill of Sale**").
62. The Bill of Sale included an acknowledgement that expressly provided that the amount being paid by NASE was a "final lump sum" and included "any and all costs to repair or replace any deficiencies in the fabrication of fully or partially completed work, including but not limited to transportation, galvanizing, painting, re-work and project delay costs".
63. Wynward denies that NASE is entitled to the remedies listed in paragraph 38 of the Statement of Claim.
64. Wynward admits that on or about August 8, 2020 NASE and Wynward entered into a mitigation agreement whereby NASE was entitled to proceed to complete the Work in an effort to mitigate the impact of Shield's alleged default (the "**Mitigation Agreement**"). Wynward had offered to enter in to the Mitigation Agreement with NASE on June 17, 2020
65. The Mitigation Agreement provided that neither Wynward or NASE relinquished any rights or remedies other than as stated in the Mitigation Agreement. Wynward did not relinquish any defences that it was entitled to under the Performance Bond or waive any obligations that NASE was obligated to perform under the Performance Bond or the Purchase Order.
66. The Purchase Order stated the price for the Work as \$3,720,348.03 including GST. The Material Purchase Arrangement as confirmed by the Bill of Sale stated that the amount paid to Shield to March 2, 2020 was \$1,741,926.27 leaving the sum of \$1,978,421.76 available to NASE to complete any deficiencies in the Work (the "**Balance of Contract Funds**").
67. The penal sum of the Bond is \$1,860,174.02 (the "**Penal Sum**").
68. On March 17, 2020 NASE advised Wynward that the costs to complete the Work would result in a shortfall to NASE of \$1,751,860.23, an amount less than the penal sum of the Bond and within the Balance of Contract Funds available to NASE to complete the Work.
69. The costs to complete the Work being claimed by NASE in its Statement of Claim are \$3,673,856.02, more than double NASE's previous advice.
70. NASE has neglected, failed or refused to use the Balance of Contract Funds appropriately and efficiently to complete the Work and mitigate any losses, damages or costs.
71. Wynward denies that NASE has suffered the losses, damages, or costs as alleged, or at all.
72. If NASE has suffered or will suffer any losses, damages or costs, which is not admitted but denied, NASE's losses, damages or costse as claimed are, in any event, excessive, too remote, are contrived to exceed the Penal Sum, and not recoverable under the terms of the Performance Bond, or the Purchase Order.

Any matters that defeat the claim of the Plaintiff:

73. NASE neglected, failed or refused to pay for the Bond and should not be entitled to rely upon or be entitled to the benefits of the Bond
74. The Purchase Order expressly precluded the recovery by NASE of any losses, damages or costs that may have been suffered by NASE as a result of any defects in Shield's Work.
75. The Subcontract had not been entered into at the time it was purported to have been incorporated into the Purchase Order and was not attached to the Purchase Order.
76. Alternatively, the reference in the Purchase Order to the Subcontract did not contain sufficient specificity to identify which terms of the Subcontract, if any, were to be incorporated into the Purchase Order.
77. NASE did not provide Wynward with the Notice of Default within a period of time that allowed Wynward with a reasonable opportunity to address, remedy and mitigate the impact of Shield's default and has caused irreparable prejudice to Wynward.
78. NASE neglected, failed or refused to perform its own obligations and comply with the terms of the Purchase Order, or the Bond, properly or at all, the particulars of which are known to NASE and include, but are not limited to:
 - (a) NASE neglected, failed or refused to make payments to Shield in accordance with and as required by the terms of the Purchase Order;
 - (b) NASE neglected, failed or refused to deal with issues causing delay in Shield's performance of the Purchase Order that resulted from factors beyond Shield's control or scope of Work;
 - (c) NASE unilaterally, and without the knowledge or consent of Wynward, revised the completion date of the Work on eleven different occasions such that the original completion date under the Purchase Order of October 15, 2019 was ultimately changed to March 15, 2020;
 - (d) NASE unilaterally, and without the knowledge or consent of Wynward, changed the specifications relating to the Work nine months after the Work had been commenced by Shield causing Shield to undertake additional Work, expense and delay;
 - (e) Pursuant to the Final Purchase Arrangement as confirmed by the Bill of Sale, NASE effectively, for consideration, waived any entitlement, if any, to recover any costs relating to any defects in the workmanship or materials provided by Shield; and
 - (f) NASE neglected, failed or refused to use the Contract Balance appropriately and efficiently to complete the Work.
79. Obligations arise on the part of Wynward under the Bond, if at all, only in the event that Shield is in default under the Purchase Order, Shield is properly noted in default under the terms of the Purchase Order and NASE has met all of its obligations under the Purchase

Order. These conditions precedent have not been met and consequently, no obligations arise or can arise on the part of Wynward under the Bond.

80. Further, or in the alternative, if any such loss, damage or cost was incurred, which is not admitted but denied, then such loss, damage or cost arises from unknown, unanticipated or undisclosed conditions, material imperfections, design errors, onerous or impossible specifications, and are not the responsibility or fault of Shield under the Purchase Order, or Wynward under the Bond.
81. Further, or in the alternative, if any such losses, damages or costs were incurred, which is not admitted but denied, then such losses, damages or costs result from the breach of contract, negligent acts or omissions of parties other than Shield, including NASE, and are not the responsibility or fault of Shield under the Purchase Order, or Wynward under the Bond.
82. Further, or in the alternative, if any such losses, damages, or costs were incurred, which is not admitted but denied, then the Balance of Contract Funds are well in excess of any reasonable and proper losses, damages or costs incurred or that might be incurred in completing or correcting any of the Work.
83. If NASE has suffered or will suffer any losses, damages or costs, which is not admitted but denied, NASE's losses, damages or costs claimed are, in any event, excessive and too remote. NASE's claim for delay damages, acceleration, and liquidated damages are not compensable by the terms of the Purchase Order, or the Bond.
84. Further, or in the alternative, if NASE has suffered or will suffer any losses, damages or costs, which is not admitted but denied, NASE has failed to take any or, alternatively, proper steps to mitigate such losses, damages or costs.
85. Further, or in the alternative, if NASE has suffered or will suffer any losses, damages or costs, which are not admitted but denied, all or a portion of such losses, damages or costs improperly relate to the payment by NASE of suppliers and subcontractors who have claimed under the L&M Bond and will be, or have been, paid under the Interpleader Proceedings.
86. Further, or in the alternative, the amounts sought by NASE are overstated.

Remedy sought:

87. A denial of the declarations sought by the Plaintiff;
88. Dismissal of the Plaintiff's claim for judgement;
89. Dismissal of the Plaintiff's claim for interest;
90. Costs of this action on a solicitor-client basis or on such other basis as may be determined by this Honourable Court; and
91. Such further and other relief as this Honourable Court may deem just.

COURT FILE NUMBER **2001-16202**
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF **NORTH AMERICAN STEEL ERECTORS INC.**
DEFENDANTS **SHIELD INDUSTRIES LTD. and WYNWARD
INSURANCE GROUP**
DOCUMENT **REPLY TO DEFENCE**



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11.46

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File No. 446270-000001

This is the Reply of the Plaintiff, North American Steel Erectors Inc., to the Statement of Defence, filed by Wynward Insurance Group, Defendant, on January 28, 2021

Statement of facts relied on:

1. The Plaintiff, North American Steel Erectors Inc., denies each and every allegation in the Statement of Defence of Wynward Insurance Group, filed January 28, 2021 (the "**Statement of Defence**") and puts the Defendant to the strict proof thereof.
2. The Plaintiff, North American Steel Erectors Inc. repeats and relies on the allegations set out in its Statement of Claim, filed December 9, 2020 (the "**Statement of Claim**")
3. All capitalized terms used in this Reply have the same meanings as set out in the Statement of Claim, unless otherwise indicated herein.
4. In reply to paragraphs 4, 5, and 6, NASE states and the fact is, that on January 31, 2019, Shield provided a quote to NASE (the "**Quotation**"). Upon receipt of the Quotation, and in the context of the Subcontract, NASE issued the Purchase Order. On April 4, 2019, NASE provided Shield with the Purchase Order, which clearly detailed the Work, the Purchase Order Price, and the terms

and conditions of the Purchase Order. On the date that it was issued to Shield, Shield accepted the Purchase Order. The Work was done pursuant to both the Purchase Order and the Subcontract.

5. In reply to paragraphs 7, 8, 9, 75, and 76 of the Statement of Defence, NASE states and the fact is that the Subcontract was incorporated by reference and by attachment to the Purchase Order. Shield's Work was done pursuant to both the Purchase Order and the Subcontract.
6. In reply to paragraph 10 of the Statement of Defence, NASE states and the fact is that the Bond Number is "W086-102-001P/L-A", as stated in the Statement of Claim, not "W086-102-001P/L", as stated in the Statement of Defence.
7. In reply to paragraphs 11, 12, and 73 of the Statement of Defence, NASE states and the fact is that NASE paid for the Bond, has complied with its obligations under the Bond, and is entitled to rely upon the Bond. As detailed in the Statement of Claim, it is Wynward that has failed to comply with its obligations under the Bond.
8. In reply to paragraphs 13 through 18 of the Statement of Defence, NASE states and the fact is that while Shield breached the Purchase Order, resulting in significant delay, there were no changes to any fundamental terms or conditions of the Purchase Order. NASE denies unilaterally revising or extending the schedule for completion of the Work, as alleged or at all. The fact is that Shield's delay breached the Purchase Order, and the schedule agreed to therein. NASE acted reasonably in response to Shield's breaches, insisted that Shield's delay was not agreed to, and never waived its rights in relation to the Purchase Order or the Bond. NASE denies that Shield's delay is attributable to or acquiesced to by NASE, and puts Wynward to the strict proof of any allegations to the contrary. Wynward was aware of Shield's delay, and specifically involved in meetings between PCL, NASE, and Shield in relation to Shield's delay.
9. In reply to paragraphs 19 and 21 of the Statement of Defence, NASE states and the fact is that Shield never completed its delivery of steel obligations under the Purchase Order.
10. In reply to paragraph 20 of the Statement of Defence, NASE states and the fact is that all steel testing was completed prior to delivery and compliant with agreed to specifications.
11. NASE denies the allegations of fact stated in paragraphs 22 through 24 and puts Wynward to the strict proof thereof. The explicit and implicit specifications of the Work did not change. Accordingly, no notice of any revised specifications was necessary or possible.
12. In reply to paragraphs 26 to 31 of the Statement of Defence, NASE states and the fact is that PCL, NASE, and Shield met to discuss Shield's delay and default under the Purchase Order, and to

discuss ways in which the issues and damages accruing as a result of Shield's breaches of the Purchase Order and delay could be mitigated. NASE never required Shield to subcontract any portion of the Work, nor did NASE direct the means and methods that Shield was to accomplish the Work.

13. In reply to paragraphs 33 through 39 of the Statement of Defence, NASE states and the fact is that NASE complied with its obligations under the Purchase Order, and the Bond, making all reasonable efforts to mitigate its potential and actual damages, and losses in its dealings with both Shield and Wynward. While Shield has suggested that as of December 16, 2019 seventy-seven percent (77%) of the Work was complete, the fact is that Shield had only completed and delivered sixteen percent (16%) of the Work. NASE paid all invoices for Work completed that also complied with the mandatory invoicing requirements of the Purchase Order.
14. In reply to paragraphs 42 through 45 of the Statement of Defence, NASE states and the fact is that Wynward raised no concerns with NASE's actions in relation to the Bond at the January 20, 2020 meeting or otherwise. Subsequent to that meeting or otherwise, NASE denies waiving any rights under the Bond or implicitly or explicitly withdrawing the Initial Notice or its claims under the Bond. NASE puts Wynward to the strict proof of any allegations to the contrary.
15. In reply to paragraph 46 of the Statement of Defence, NASE states and the fact is that NASE is unaware of what investigative efforts were made by Wynward, but denies that NASE was obligated to note Shield in default prior to when it did.
16. In reply to paragraph 47 of the Statement of Defence, NASE states and the fact is that the \$350,000 payment from NASE to Shield was expressly consented to by Wynward.
17. In reply to paragraph 48 of the Statement of Defence, NASE states and the fact is that Wynward was in regular communication with both NASE and Shield throughout January and February 2020 and leading up to NASE's formal issuance of its Notice of Default upon Shield.
18. In reply to paragraph 52 of the Statement of Defence, NASE states and the fact is that NASE complied with its obligations under the Bond, provided timely notice to Wynward, and denies that Wynward has suffered significant irreparable prejudice, as alleged or at all in relation to any notice that NASE provided. NASE puts Wynward to the strict proof of any allegation to the contrary.
19. In reply to paragraphs 53 through 56 of the Statement of Defence, NASE states and the fact is that none of its actions affected Wynward's ability to address, remedy, or mitigate its obligations under the Bond. NASE denies that repeated requests of it were made or necessary to obtain samples. In contrast to the allegations made in the referenced paragraphs, NASE provided Wynward's experts

prompt access to the site and Shield's work. NASE puts the Defendant Wynward to the strict proof of any allegations to the contrary.

20. In reply to paragraphs 57 and 58 of the Statement of Defence, NASE states and the fact is that NASE has no knowledge of Wynward's internal investigative efforts, which are irrelevant to Wynward's refusal to comply with its obligations under the Bond.
21. In reply to paragraphs 59 through 62 of the Statement of Defence, NASE states and the fact is that the Bill of Sale does not preclude, limit, or estop NASE from its entitlements in this Action and the Bond.
22. In reply to paragraphs 64 through 69 of the Statement of Defence NASE states and the fact is that the Balance of the Contract Funds, as that term is defined in the Statement of Defence will not make NASE whole, and does not preclude, limit, or estop NASE from its entitlements in this Action and the Bond. NASE has suffered the damages it has plead in the Statement of Claim, and is entitled to the Bond Amount.
23. In reply to paragraph 74 of the Statement of Defence, NASE disagrees that the Purchase Order or any of its terms preclude recovery from the Defendants or either of them.

Any matters that defeat the claim/defence of the defendant:

24. In reply to paragraph 25, 28, 29, 31, 32, 35, 36, 40, 41, 63, 77, 78, 79, 80, and 81 of the Statement of Defence, and the Statement of Defence generally, NASE states and the fact is that NASE complied with the terms of the Bond and is entitled to the remedies sought through this Action, as against the Defendant, Wynward. NASE puts Wynward to the strict proof of any allegation to the contrary.
25. In reply to paragraphs 82 through 86 of the Statement of Defence, NASE states and the fact is that the losses, damages, and costs incurred and suffered by NASE as a result of the actions of the Defendants exceed any amounts owed under the Subcontract and will exceed the balance of the of the penal limit under the Bond. NASE has taken all reasonable steps and fulfilled its obligations to mitigate its losses, damages, and costs incurred and suffered. The damages suffered by NASE and plead are reasonably foreseeable, calculated correctly, proximate, compensable, conservatively stated, and specifically contemplated by the Bond. The losses, damages, and costs suffered by NASE do not relate to the suppliers and subcontractors who have claimed under the L&M Bond, as that term is defined in the Statement of Defence.

Remedy sought:

26. The Plaintiff, NASE, reiterates and incorporates herein the relief sought in its Statement of Claim, at paragraphs 38 and 39.

NOTE

This reply may only make admissions or respond to matters raised for the first time in the statement of defence (Rules 3.33(2)(b) and 13.10).

District of: Alberta
Division No. 02 - Calgary
Court No. 25-095246
Estate No. 25-095246

FORM 31 / 36
Proof of Claim / Proxy
In the Matter of the Bankruptcy of
North American Steel Erectors Inc.

All notices or correspondence regarding this claim must be forwarded to the following address:
Borden Ladner Gervais LLP, 1900, 520 - 3 Ave SW, Calgary, AB T2P 0R3

In the matter of the bankruptcy of North American Steel Erectors Inc. of the town of Cochrane in the Province of Alberta and the claim of Borden Ladner Gervais LLP, creditor.

I, _____, of the city of _____, a creditor in the above matter, hereby appoint _____, of _____, to be my proxyholder in the above matter, except as to the receipt of dividends, _____ (with or without) power to appoint another proxyholder in his or her place.

I, Locklyn E. Price (name of creditor or representative of the creditor), of the city of Calgary in the province of Alberta do hereby certify:

1. That I am a creditor of the above named debtor (or I am associate (position/title) of Borden Ladner Gervais LLP creditor).

2. That I have knowledge of all the circumstances connected with the claim referred to below.

3. That the debtor was, at the date of bankruptcy, namely the 29th day of July 2021, and still is, indebted to the creditor in the sum of \$ 28,861.31 _____, as specified in the statement of account (or affidavit or solemn declaration) attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)

4. (Check and complete appropriate category.)

A. UNSECURED CLAIM OF \$ 28,861.31 _____

(other than as a customer contemplated by Section 262 of the Act)

That in respect of this debt, I do not hold any assets of the debtor as security and
(Check appropriate description.)

Regarding the amount of \$ _____, I claim a right to a priority under section 136 of the Act.

Regarding the amount of \$ _____, I do not claim a right to a priority.
(Set out on an attached sheet details to support priority claim.)

B. CLAIM OF LESSOR FOR DISCLAIMER OF A LEASE \$ _____

That I hereby make a claim under subsection 65.2(4) of the Act, particulars of which are as follows:

(Give full particulars of the claim, including the calculations upon which the claim is based.)

C. SECURED CLAIM OF \$ _____

That in respect of this debt, I hold assets of the debtor valued at \$ _____ as security, particulars of which are as follows:
(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

D. CLAIM BY FARMER, FISHERMAN OR AQUACULTURIST OF \$ _____

That I hereby make a claim under subsection 81.2(1) of the Act for the unpaid amount of \$ _____

(Attach a copy of sales agreement and delivery receipts.)

E. CLAIM BY WAGE EARNER OF \$ _____

That I hereby make a claim under subsection 81.3(8) of the Act in the amount of \$ _____,

That I hereby make a claim under subsection 81.4(8) of the Act in the amount of \$ _____,

F. CLAIM BY EMPLOYEE FOR UNPAID AMOUNT REGARDING PENSION PLAN OF \$ _____

That I hereby make a claim under subsection 81.5 of the Act in the amount of \$ _____,

That I hereby make a claim under subsection 81.6 of the Act in the amount of \$ _____,

G. CLAIM AGAINST DIRECTOR \$ _____

(To be completed when a proposal provides for the compromise of claims against directors.)

That I hereby make a claim under subsection 50(13) of the Act, particulars of which are as follows:

(Give full particulars of the claim, including the calculations upon which the claim is based.)

H. CLAIM OF A CUSTOMER OF A BANKRUPT SECURITIES FIRM \$ _____

That I hereby make a claim as a customer for net equity as contemplated by section 262 of the Act, particulars of which are as follows:

(Give full particulars of the claim, including the calculations upon which the claim is based.)

5. That, to the best of my knowledge, I am not (am/am not) (or the above-named creditor is not (is/is not)) related to the debtor within the meaning of section 4 of the Act, and have not (have/has/have not/has not) dealt with the debtor in a non-arm's-length manner.

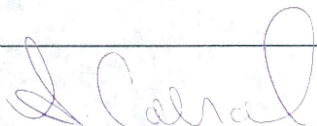
6. That the following are the payments that I have received from, and the credits that I have allowed to, and the transfers at undervalue within the meaning of subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Section 2 of the Act: (Provide details of payments, credits and transfers at undervalue.)

7. (Applicable only in the case of the bankruptcy of an individual.)

Whenever the trustee reviews the financial situation of a bankrupt to redetermine whether or not the bankrupt is required to make payments under section 68 of the Act, I request to be informed, pursuant to paragraph 68(4) of the Act, of the new fixed amount or of the fact that there is no longer surplus income.

I request that a copy of the report filed by the trustee regarding the bankrupt's application for discharge pursuant to subsection 170(1) of the Act be sent to the above address.

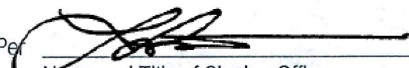
Dated at Calgary, Alberta, this 29th day of September, 2021.

Witness 

Witness _____

Individual Creditor _____

Borden Ladner Gervais LLP
Name of Corporate Creditor

Per 
Name and Title of Signing Officer

Locklyn E. Price
Associate
Phone Number: 403-232-9793
Fax Number: 402-266-1395
E-mail Address: lprice@blg.com

Return To:

MNP Ltd. - Licensed Insolvency Trustee
Per:

Victor Kroeger - Licensed Insolvency Trustee
1500, 640 - 5 Avenue SW
Calgary AB T2P 3G4
Fax: (403) 537-8437
E-mail: calgary.insolvency@mnp.ca

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: A trustee may, pursuant to subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 201(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.



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blg.com

North American Steel Erectors
160 Griffin Ranch Road
Cochrane, AB T4C 2B8

June 28, 2021

Attention: Steeve Toupin

Invoice # 697991364

Page 1

Re: Wynward Insurance Group

File No: 446270/000001

PROFESSIONAL SERVICES rendered to May 31, 2021 in connection with the above matter as described in the attached.

Fees	\$ 3,962.00
Other Charges	0.00
Total Fees and Other Charges	<u>3,962.00</u>
Disbursements	55.82
GST on Fees and Taxable Disbursements and Other Charges	200.89
Total this Invoice	<u>\$ 4,218.71</u>

THIS IS OUR ACCOUNT - E. & O.E.

BORDEN LADNER GERVAIS LLP

For: Locklyn Price

North American Steel Erectors
Re: Wynward Insurance Group

June 28, 2021
Invoice # 697991364
File No: 446270/000001
Page 2

PROFESSIONAL SERVICES RENDERED to May 31, 2021

May 4, 2021	L. Price	0.20	Receive and respond to email from S. Carter-Edwards; follow up with client regarding sworn Affidavit of Records.	\$ 104.00
May 6, 2021	L. Price	0.50	Final Revision of Noting in Default Application, Affidavit, and Noting in Default.	260.00
May 14, 2021	L. Price	0.10	Email to client, following up on sworn Affidavit of Records.	52.00
May 17, 2021	L. Price	0.30	Receive and respond to emails from S. Toupin; receive and respond to email from S. Carter-Edwards; email to S. Toupin and S. Unrau.	156.00
May 18, 2021	L. Price	0.20	Receive and respond to email from S. Unrau regarding further documents and project meeting minutes, and daily site reports.	104.00
May 19, 2021	L. Price	0.30	Receive and respond to email from J. Vallis; review voicemail from Jeremy Kate; email to client.	156.00
May 19, 2021	J.D. Vallis	0.10	Telephone call from J. Taitinger.	84.50
May 19, 2021	J.D. Vallis	0.10	Memorandum to L. Price.	84.50
May 19, 2021	J.D. Vallis	0.10	Telephone call to J. Taitinger.	84.50
May 19, 2021	J.D. Vallis	0.20	Memorandum from L. Price and reply (x2).	169.00
May 20, 2021	L. Price	0.30	Briefly review records; provide records to discovery services for Supplemental Affidavit of Records; instructions to provide service letter.	156.00
May 21, 2021	L. Price	0.20	Receive and respond to email from S. Toupin regarding exchange of records and Trial dates; review critical dates in relation to exchange of records and rules in relation to Trial dates.	104.00
May 25, 2021	J. Mason	2.40	Perform work regarding Affidavit of Records.	588.00
May 25, 2021	L. Price	0.10	Emails with discovery services regarding Supplemental Affidavit of Records.	52.00

June 28, 2021

Invoice # 697991364

File No: 446270/000001

Page 3

North American Steel Erectors
Re: Wynward Insurance Group

May 25, 2021	G. Song	0.60	Conduct data processing to prepare data for analysis, including expand client data from containers, extract metadata from files, normalize data into reviewable format, identify duplicate data and de-duplicate to reduce time and cost of document review.	126.00
May 25, 2021	G. Song	0.30	Populate client data received via dropbox on 05/20/2021 from repository to review workspace, build and update searchable index to allow for increased efficiency in custom searching of data.	63.00
May 27, 2021	L. Price	1.10	Emails with Discovery services regarding document review of supplemental records; review records.	572.00
May 28, 2021	L. Price	1.10	Review records for Supplemental Affidavit of Records.	572.00
May 31, 2021	J. Mason	1.30	Perform work regarding Affidavit of Records; prepare electronic production documents for other Party.	318.50
May 31, 2021	L. Price	0.30	Emails with Discovery Services; review records; draft Supplemental Affidavit of Records and Supplemental Schedule 1.	156.00

TO OUR FEES

\$ 3,962.00

FEE SUMMARY

<u>Timekeeper</u>	<u>Hours</u>	<u>Avg. Rate/Hr.</u>	<u>Amount</u>
J. Mason	3.70	\$ 245.00	\$ 906.50
L. Price	4.70	520.00	2,444.00
G. Song	0.90	210.00	189.00
J.D. Vallis	0.50	845.00	422.50

PAYABLE ON RECEIPT

INTEREST AT THE RATE OF 12.0% PER ANNUM MAY BE CHARGED ON ACCOUNTS WHICH ARE OVERDUE

GST/HST REGISTRATION # R869096974RT0004



Borden Ladner Gervais LLP
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North American Steel Erectors
Re: Wynward Insurance Group

June 28, 2021
Invoice # 697991364
File No: 446270/000001
Page 4

<u>9.80</u>	<u>\$ 3,962.00</u>
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DISBURSEMENTS:

Taxable

G=GST; Q=QST; H=HST; P=PST

Relativity – Data Hosting Fee	\$ 53.22	G
Relativity Processing Fee	<u>2.60</u>	G

Total Taxable Disbursements	<u>55.82</u>
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Total Disbursements	55.82
---------------------	-------

Total Fees and Disbursements and Other Charges	<u>4,017.82</u>
--	-----------------

GST on Fees and Taxable Disbursements and Other Charges	<u>200.89</u>
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TOTAL THIS INVOICE	<u>\$ 4,218.71</u>
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North American Steel Erectors
160 Griffin Ranch Road
Cochrane, AB T4C 2B8

June 28, 2021
Invoice # 697991364
LP/LP

Re: Wynward Insurance Group

File No: 446270/000001

REMITTANCE COPY

Fees	\$ 3,962.00
Other Charges	0.00
Total Fees and Other Charges	3,962.00
Disbursements	55.82
GST on Fees and Taxable Disbursements and Other Charges	200.89
Total this Invoice	\$ 4,218.71

PLEASE REFER TO PAYMENT OPTIONS PAGE FOR REMITTANCE INFORMATION.



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 blg.com

North American Steel Erectors
 160 Griffin Ranch Road
 Cochrane, AB T4C 2B8

June 28, 2021
 Invoice # 697991364
 LP/LP

Use one of the following payment methods and ensure your payment contains the details provided in the example.

Client Name	Client #	Invoice #	Amount	Comments
North American Steel Erectors	446270	697991364	4,218.71 (CAD)	Payment for Invoice # 697991364

Payment method # 1 - EFT/WIRE (Preferred Method)

Beneficiary Customer: Borden Ladner Gervais, LLP Bay Adelaide Centre, East Tower 22 Adelaide Street West Toronto, ON, Canada M5H 4E3	Beneficiary Bank: Canadian Clearing Code: //CC000247696 Bank of Nova Scotia PO Box 4234 STN A Toronto, ON, Canada M5W 5P6
Payments Originating from Canada or International Locations (Excluding US Dollars from the USA): 12 Digit Account #: 80002 14221 11 Bank #: 002 Transit #: 80002 Swift Code: NOSCCATT IBAN #: CA002800021422111 *IBAN number only required for clients OUTSIDE NORTH AMERICA	Payments Originating from the USA in US Dollars: 12 Digit Account #: 80002 51181 15 Bank #: 002 Transit #: 80002 Swift Code: NOSCCATT Intermediary Bank (If required): Bank of America NA 222 Broadway New York, N.Y. Swift Code: BOFAUS3N 10038 United States ABA #: 026009593
Remittance email required: Payment confirmation must be sent by email to remittanceadvice@blg.com and reference made to the invoice(s) paid.	

Payment method # 2 - ONLINE PAYMENTS, CANADIAN FUNDS ONLY

You may pay your invoice(s) to BLG through participating Canadian financial institution's online banking. Select Borden Ladner Gervais through your financial institution and enter your client #, 446270 Remittance email required: Payment confirmation must be sent by email to remittanceadvice@blg.com and reference made to the invoice(s) paid. *Please note we do not accept Interac e-Transfers.
--

Payment method # 3 - CHEQUES

Send by mail: Borden Ladner Gervais, LLP PO Box # 81100 World Exchange Plaza 100 Queen Street Ottawa, ON, Canada K1P 1B1	Send by courier: Borden Ladner Gervais, LLP World Exchange Plaza 100 Queen Street, Suite 1000 Ottawa, ON, Canada K1P 1J9
Attach remittance details with payment and reference invoice(s) paid.	

For additional information contact cashreceiptscoe@blg.com OR (613) 369-4777



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North American Steel Erectors
160 Griffin Ranch Road
Cochrane, AB T4C 2B8

May 26, 2021

Attention: Steeve Toupin

Invoice # 697980145

Page 1

Re: Wynward Insurance Group

File No: 446270/000001

PROFESSIONAL SERVICES rendered to April 30, 2021 in connection with the above matter as described in the attached.

Fees	\$ 6,877.50
Less Discount	(2,000.00)
Fee Balance	<u>4,877.50</u>
Other Charges	<u>2.00</u>
Total Fees and Other Charges	4,879.50
Disbursements	98.55
GST on Fees and Taxable Disbursements and Other Charges	<u>248.91</u>
Total this Invoice	<u>\$ 5,226.96</u>

THIS IS OUR ACCOUNT - E. & O.E.

BORDEN LADNER GERVAIS LLP

For: Locklyn Price

North American Steel Erectors
Re: Wynward Insurance Group

May 26, 2021
Invoice # 697980145
File No: 446270/000001
Page 2

PROFESSIONAL SERVICES RENDERED to April 30, 2021

Apr 5, 2021	T. Sadac	1.00	Conduct data processing to prepare data for analysis, including expand client data from containers, extract metadata from files, normalize data into reviewable format, identify duplicate data and de-duplicate to reduce time and cost of document review.	\$ 210.00
Apr 6, 2021	L. Price	0.10	Email with discovery services regarding document production.	52.00
Apr 6, 2021	T. Sadac	0.30	Populate litigation team review workspace with data identified in repository workspace from 003 Documents received via Dropbox 03/25/2021. Build and update searchable index of 003 Documents received via Dropbox 03/25/2021 to allow for increased efficiency in custom searching of data.	63.00
Apr 13, 2021	T. Nguyen	0.60	Prepare images of data for legal team's document review.	144.00
Apr 13, 2021	L. Price	1.10	Document review; emails to discovery services in relation to corrupted documents; further emails with discovery services; document review.	572.00
Apr 14, 2021	T. Nguyen	0.20	Prepare extracted text to reflect the text in the documents that were imaged to aid in the efficiency of the legal team's document review.	48.00
Apr 14, 2021	L. Price	0.50	Phone call with J. Mason regarding unviewable pdfs; document review for privilege and relevance.	260.00
Apr 15, 2021	L. Price	1.10	Document review.	572.00
Apr 15, 2021	L. Price	0.90	Document review; email to discovery services.	468.00
Apr 16, 2021	J. Mason	0.40	Perform work in evidence database for legal team's document review.	98.00
Apr 16, 2021	L. Price	2.10	Document review; emails with discovery services.	1,092.00

May 26, 2021

Invoice # 697980145

File No: 446270/000001

Page 3

North American Steel Erectors
Re: Wynward Insurance Group

Apr 19, 2021	J. Mason	0.50	Perform work regarding Affidavit of Records.	122.50
Apr 19, 2021	L. Price	0.20	Receive and respond to client email; emails with discovery services.	104.00
Apr 20, 2021	L. Price	0.80	Phone call with J. Mason regarding production; email with J. Mason; review documents; email to client.	416.00
Apr 21, 2021	L. Price	1.40	Phone call with S. Unrau; review production to find unredacted copy of bond; email with discovery services; phone call with discovery services regarding redacted/highlighted copy of bond; gave instructions to proceed with schedules; perform bankruptcy and insolvency searches, corporate search; phone call to Century auctions in relation to auction of Shield's assets; pulled Personal Property Registry search; review Civil Enforcement Act; email to assistant regarding PPR searches; email to S. Unrau regarding PPR searches and further operations.	728.00
Apr 21, 2021	V. Smith	0.20	Receive instructions from A. Cabral. Respond via email. Attendance to Alberta PPR search and BIA and CCAA searches and send results via email.	51.00
Apr 22, 2021	J. Mason	4.60	Perform work regarding Affidavit of Records.	1,127.00
Apr 22, 2021	L. Price	0.30	Receive and respond to email from S. Unrau.	156.00
Apr 23, 2021	L. Price	0.90	Receive and review schedule of records; draft Affidavit of Records; receive and respond to email from S. Unrau; receive and respond to emails from S. Toupin; proceed to serve unsworn copies on Defendants.	468.00



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North American Steel Erectors
 Re: Wynward Insurance Group

May 26, 2021
 Invoice # 697980145
 File No: 446270/000001
 Page 4

Apr 26, 2021	G. Song	0.60	Complete quality control of productions, identify redacted documents, prepare electronic productions including prepare branded images, export load files, production images, natives and text per required specifications, prepare data in zipped format for ease of delivery to opposing counsel.	126.00
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TO OUR FEES	\$ 6,877.50
Less Discount	(2,000.00)
FEE BALANCE	4,877.50

FEE SUMMARY

<u>Timekeeper</u>	<u>Hours</u>	<u>Avg. Rate/Hr.</u>	<u>Amount</u>
J. Mason	5.50	\$ 173.75	\$ 955.64
T. Nguyen	0.80	170.20	136.16
L. Price	9.40	368.78	3,466.55
T. Sadac	1.30	148.93	193.61
V. Smith	0.20	180.85	36.17
G. Song	0.60	148.95	89.37
	<u>17.80</u>		<u>\$ 4,877.50</u>



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North American Steel Erectors
Re: Wynward Insurance Group

May 26, 2021
Invoice # 697980145
File No: 446270/000001
Page 5

OTHER CHARGES:

<u>Taxable</u>	G=GST; Q=QST; H=HST; P=PST	
Remote Database Fee		\$ 2.00 G
Total Other Charges		<u>2.00</u>
Total Fees and Other Charges		4,879.50

DISBURSEMENTS:

<u>Taxable</u>	G=GST; Q=QST; H=HST; P=PST	
Corporate Registry Search		14.20 G
Industry Canada Search		7.00 G
Postage		8.00 G
PPSA Searches		14.69 G
Relativity – Data Hosting Fee		3.00 G
		<u>51.66 G</u>
Total Taxable Disbursements		<u>98.55</u>
Total Disbursements		98.55
Total Fees and Disbursements and Other Charges		<u>4,978.05</u>
GST on Fees and Taxable Disbursements and Other Charges		<u>248.91</u>
TOTAL THIS INVOICE		<u>\$ 5,226.96</u>



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Calgary, AB, Canada T2P 0R3
T 403.232.9500 F 403.266.1395
blg.com

North American Steel Erectors
160 Griffin Ranch Road
Cochrane, AB T4C 2B8

May 26, 2021
Invoice # 697980145
LP/LP

Re: Wynward Insurance Group

File No: 446270/000001

REMITTANCE COPY

Fees	\$ 6,877.50
Less Discount	(2,000.00)
Fee Balance	<u>4,877.50</u>
Other Charges	<u>2.00</u>
Total Fees and Other Charges	4,879.50
Disbursements	98.55
GST on Fees and Taxable Disbursements and Other Charges	248.91
	<u><u>\$ 5,226.96</u></u>

PLEASE REFER TO PAYMENT OPTIONS PAGE FOR REMITTANCE INFORMATION.



Borden Ladner Gervais LLP
 Lawyers | Patent & Trade-mark Agents
 Centennial Place, East Tower
 1900, 520 - 3rd Avenue S W
 Calgary, AB, Canada T2P 0R3
 T 403.232.9500 F 403.266.1395
 blg.com

North American Steel Erectors
 160 Griffin Ranch Road
 Cochrane, AB T4C 2B8

May 26, 2021
 Invoice # 697980145
 LP/LP

Use one of the following payment methods and ensure your payment contains the details provided in the example.

Client Name	Client #	Invoice #	Amount	Comments
North American Steel Erectors	446270	697980145	5,226.96 (CAD)	Payment for Invoice # 697980145

Payment method # 1 - EFT/WIRE (Preferred Method)

Beneficiary Customer: Borden Ladner Gervais, LLP Bay Adelaide Centre, East Tower 22 Adelaide Street West Toronto, ON, Canada M5H 4E3	Beneficiary Bank: Canadian Clearing Code: //CC000247696 Bank of Nova Scotia PO Box 4234 STN A Toronto, ON, Canada M5W 5P6
Payments Originating from Canada or International Locations (Excluding US Dollars from the USA): 12 Digit Account #: 80002 14221 11 Bank #: 002 Transit #: 80002 Swift Code: NOSCCATT IBAN #: CA002800021422111 *IBAN number only required for clients OUTSIDE NORTH AMERICA	Payments Originating from the USA in US Dollars: 12 Digit Account #: 80002 51181 15 Bank #: 002 Transit #: 80002 Swift Code: NOSCCATT Intermediary Bank (If required): Bank of America NA 222 Broadway New York, N.Y. Swift Code: BOFAUS3N 10038 United States ABA #: 026009593
Remittance email required: Payment confirmation must be sent by email to remittanceadvice@blg.com and reference made to the invoice(s) paid.	

Payment method # 2 - ONLINE PAYMENTS, CANADIAN FUNDS ONLY

You may pay your invoice(s) to BLG through participating Canadian financial institution's online banking. Select Borden Ladner Gervais through your financial institution and enter your client #, 446270 Remittance email required: Payment confirmation must be sent by email to remittanceadvice@blg.com and reference made to the invoice(s) paid. *Please note we do not accept Interac e-Transfers.
--

Payment method # 3 - CHEQUES

Send by mail: Borden Ladner Gervais, LLP PO Box # 81100 World Exchange Plaza 100 Queen Street Ottawa, ON, Canada K1P 1B1	Send by courier: Borden Ladner Gervais, LLP World Exchange Plaza 100 Queen Street, Suite 1000 Ottawa, ON, Canada K1P 1J9
Attach remittance details with payment and reference invoice(s) paid.	

For additional information contact cashreceiptscoe@blg.com OR (613) 369-4777



Borden Ladner Gervais LLP
Lawyers | Patent & Trade-mark Agents
Centennial Place, East Tower
1900, 520 - 3rd Avenue S W
Calgary, AB, Canada T2P 0R3
T 403.232.9500 F 403.266.1395
blg.com

North American Steel Erectors
160 Griffin Ranch Road
Cochrane, AB T4C 2B8

August 26, 2021

Attention: Steeve Toupin

Invoice # 698012030

Page 1

Re: Wynward Insurance Group

File No: 446270/000001

PROFESSIONAL SERVICES rendered to July 31, 2021 in connection with the above matter as described in the attached.

Fees	\$ 17,093.00
Other Charges	13.00
Total Fees and Other Charges	<u>17,106.00</u>
Disbursements	129.96
GST on Fees and Taxable Disbursements and Other Charges	861.80
Total this Invoice	<u>\$ 18,097.76</u>

THIS IS OUR ACCOUNT - E. & O.E.

BORDEN LADNER GERVAIS LLP

For: Locklyn Price

North American Steel Erectors
Re: Wynward Insurance Group

August 26, 2021
Invoice # 698012030
File No: 446270/000001
Page 2

PROFESSIONAL SERVICES RENDERED to July 31, 2021

Jun 1, 2021	L. Price	0.80	Emails with Discovery Services; instructions to assistant to draft Service Letter; revise draft Service Letter; email to clients regarding Supplemental Affidavit of Records and strategy; serve unsworn Affidavit of Records.	\$ 416.00
Jun 2, 2021	L. Price	1.30	Receive and respond to email from client; set up appointment to swear Affidavit of Records; email in relation to Summary Judgment; receive and forward email from K. Powell to client; respond to K. Powell email; emails with client; attend to swearing Supplemental Affidavit of Records with client; discussed Summary Judgment Application; email to K. Powell.	676.00
Jun 8, 2021	L. Price	0.20	Receive and forward email from S. Carter-Edwards; emails with client.	104.00
Jun 17, 2021	L. Price	0.20	Receive and respond to email from S. Toupin; email to Y. Lui.	104.00
Jun 18, 2021	L. Price	0.20	Emails with student regarding Summary Judgment research.	104.00
Jun 23, 2021	Y. Liu	0.40	Research re Summary Judgment against the Defendants.	102.00
Jun 24, 2021	Y. Liu	1.80	Research re Summary Judgment against the Defendants.	459.00
Jun 24, 2021	L. Price	0.20	Correspondence with student; review of provided case law.	104.00
Jun 25, 2021	Y. Liu	0.60	Research re Summary Judgment against the Defendants.	153.00
Jun 27, 2021	Y. Liu	6.40	Research re Summary Judgment against the Defendants.	1,632.00
Jun 28, 2021	Y. Liu	3.00	Research re Summary Judgment against the Defendants.	765.00

Jun 28, 2021	L. Price	0.20	Receive and respond to email from student regarding research; clarified student research.	104.00
Jun 29, 2021	Y. Liu	2.80	Research re Summary Judgment against the Defendants.	714.00
Jun 29, 2021	L. Price	0.20	Receive and respond to email from client; receive and respond to student email regarding research; draft letter to opposing counsel to demand Affidavit of Records.	104.00
Jul 5, 2021	L. Price	0.80	Receive and respond to email from client; review and revise research from student.	416.00
Jul 6, 2021	L. Price	0.20	Receive and respond to email from client regarding Summary Judgment Application; set up teleconference; phone call with client; received instructions to draft Application materials.	104.00
Jul 8, 2021	Y. Liu	1.50	Review file materials and prepare for a Summary Judgment Memorandum.	382.50
Jul 12, 2021	Y. Liu	0.50	Prepare for Summary Judgment Application.	127.50
Jul 14, 2021	Y. Liu	3.40	Prepare for Summary Judgment Application and materials; email L. Price regarding the same.	867.00
Jul 14, 2021	L. Price	0.10	Work with Student on Application and Affidavit.	52.00
Jul 15, 2021	Y. Liu	9.10	Review NASE's records to prepare for the Summary Judgment Application and Affidavit.	2,320.50
Jul 15, 2021	L. Price	0.20	Emails with Y. Lui regarding Summary Judgment Application and Affidavit drafts; email to J. Mason to provide access to producible records; review proposed structure of Application/Affidavit.	104.00
Jul 16, 2021	Y. Liu	5.80	Review file materials and prepare for the Summary Judgment Application.	1,479.00
Jul 16, 2021	L. Price	0.20	Receive and respond to emails from Y. Liu regarding Summary Judgment Application.	104.00

Jul 16, 2021	L. Price	0.20	Emails with Y. Lui regarding Summary Judgment Application.	104.00
Jul 19, 2021	Y. Liu	5.20	Draft Application and Affidavit for Summary Judgment; sent email to L. Price regarding my draft.	1,326.00
Jul 23, 2021	L. Price	1.20	Email to S. Carter-Edwards; review and revise Affidavit and Application; email to student.	624.00
Jul 26, 2021	L. Price	1.20	Receive and respond to email from S. Carter-Edwards; email with S. Toupin; review of caselaw and secondary resources in relation to Notice and material changes to contracts.	624.00
Jul 27, 2021	Y. Liu	1.10	Discuss with L. Price regarding Summary Judgment Application; finalize the Application materials.	280.50
Jul 27, 2021	L. Price	1.80	Emails with Y. Lui regarding Application materials and Exhibits; draft Brief; emails regarding Exhibits.	936.00
Jul 28, 2021	Y. Liu	0.40	Collect records for Summary Judgment Application.	102.00
Jul 28, 2021	J. Mason	0.40	Prepare electronic documents from evidence database for Summary Judgment.	98.00
Jul 28, 2021	L. Price	0.30	Emails with discovery services regarding Exhibits.	156.00
Jul 29, 2021	Y. Liu	1.40	Prepare for the Brief of the Summary Judgment, pull relevant records from the database; email L. Price, A. Cabral and J. Mason regarding the relevant records for Affidavit for Summary Judgment.	357.00
Jul 29, 2021	L. Price	0.10	Follow up with S. Carter-Edwards regarding Wynwards' Affidavits of Records.	52.00
Jul 30, 2021	L. Price	0.10	Receive and respond to email from S. Carter-Edwards regarding Wynward Affidavit of Records.	52.00

August 26, 2021
Invoice # 698012030
File No: 446270/000001
Page 5

North American Steel Erectors
Re: Wynward Insurance Group

Jul 30, 2021	L. Price	1.10	Review Exhibits and correspondence between counsel; review case law; draft Brief.	572.00
Jul 30, 2021	L. Price	0.60	Receive and respond to email from D. Hutchinson, gathering Pleadings, providing budget and reporting.	312.00

TO OUR FEES \$ 17,093.00

FEE SUMMARY

<u>Timekeeper</u>	<u>Hours</u>	<u>Avg. Rate/Hr.</u>	<u>Amount</u>
Y. Liu	43.40	\$ 255.00	\$ 11,067.00
J. Mason	0.40	245.00	98.00
L. Price	11.40	520.00	5,928.00
	<u>55.20</u>		<u>\$ 17,093.00</u>

OTHER CHARGES:

Taxable Copies G=GST; Q=QST; H=HST; P=PST \$ 13.00 G

Total Other Charges 13.00

Total Fees and Other Charges 17,106.00



Borden Ladner Gervais LLP
Lawyers | Patent & Trade-mark Agents
Centennial Place, East Tower
1900, 520 - 3rd Avenue S W
Calgary, AB, Canada T2P 0R3
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blg.com

North American Steel Erectors
Re: Wynward Insurance Group

August 26, 2021
Invoice # 698012030
File No: 446270/000001
Page 6

DISBURSEMENTS:

<u>Taxable</u>	G=GST; Q=QST; H=HST; P=PST	
Relativity – Data Hosting Fee		<u>129.96</u> G
Total Taxable Disbursements		<u>129.96</u>
Total Disbursements		129.96
Total Fees and Disbursements and Other Charges		<u>17,235.96</u>
GST on Fees and Taxable Disbursements and Other Charges		<u>861.80</u>
TOTAL THIS INVOICE		<u><u>\$ 18,097.76</u></u>



Borden Ladner Gervais LLP
Lawyers | Patent & Trade-mark Agents
Centennial Place, East Tower
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Calgary, AB, Canada T2P 0R3
T 403.232.9500 F 403.266.1395
blg.com

North American Steel Erectors
160 Griffin Ranch Road
Cochrane, AB T4C 2B8

August 26, 2021
Invoice # 698012030
LP/LP

Re: Wynward Insurance Group

File No: 446270/000001

REMITTANCE COPY

Fees	\$ 17,093.00
Other Charges	13.00
Total Fees and Other Charges	17,106.00
Disbursements	129.96
GST on Fees and Taxable Disbursements and Other Charges	861.80
Total this Invoice	\$ 18,097.76

PLEASE REFER TO PAYMENT OPTIONS PAGE FOR REMITTANCE INFORMATION.



Borden Ladner Gervais LLP
 Lawyers | Patent & Trade-mark Agents
 Centennial Place, East Tower
 1900, 520 - 3rd Avenue S W
 Calgary, AB, Canada T2P 0R3
 T 403.232.9500 F 403.266.1395
 blg.com

North American Steel Erectors
 160 Griffin Ranch Road
 Cochrane, AB T4C 2B8

August 26, 2021
 Invoice # 698012030
 LP/LP

Use one of the following payment methods and ensure your payment contains the details provided in the example.

Client Name	Client #	Invoice #	Amount	Comments
North American Steel Erectors	446270	698012030	18,097.76 (CAD)	Payment for Invoice # 698012030

Payment method # 1 - EFT/WIRE (Preferred Method)

Beneficiary Customer: Borden Ladner Gervais, LLP Bay Adelaide Centre, East Tower 22 Adelaide Street West Toronto, ON, Canada M5H 4E3	Beneficiary Bank: Canadian Clearing Code: //CC000247696 Bank of Nova Scotia PO Box 4234 STN A Toronto, ON, Canada M5W 5P6
Payments Originating from Canada or International Locations (Excluding US Dollars): 12 Digit Account #: 80002 14221 11 Bank #: 002 Transit #: 80002 Swift Code: NOSCCATT	Payments Originating in US Dollars: ACH payments are not accepted 12 Digit Account #: 80002 51181 15 Bank #: 002 Transit #: 80002 Swift Code: NOSCCATT Intermediary Bank (If required):NOTE: do not use intermediary bank as the beneficiary bank Bank of America NA 222 Broadway New York, N.Y. Swift Code: BOFAUS3N 10038 United States ABA #: 026009593

Payment method # 2 - ONLINE PAYMENTS, CANADIAN FUNDS ONLY

You may pay your invoice(s) to BLG through participating Canadian financial institution's online banking. 1. As a bill payment - Select Borden Ladner Gervais through your financial institution and enter your client # 446270 2. As an Interac -e-transfer - Add BLG's e-transfer email address etransfers@blg.com and enter the amount. No security question is needed as BLG is registered for Auto Deposit.
Remittance email required: For payment methods #1 and #2 a payment confirmation must be sent by email to remittanceadvice@blg.com and referencing your client number and invoice(s) paid.

Payment method # 3 - CHEQUES

Send by mail: Borden Ladner Gervais, LLP PO Box # 81100 World Exchange Plaza 100 Queen Street Ottawa, ON, Canada K1P 1B1 Attach remittance details with payment and reference invoice(s) paid.	Send by courier: Borden Ladner Gervais, LLP World Exchange Plaza 100 Queen Street, Suite 1000 Ottawa, ON, Canada K1P 1J9
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For additional information contact cashreceiptscoe@blg.com OR (613) 369-4777

PAYABLE ON RECEIPT
 INTEREST AT THE RATE OF 12.0% PER ANNUM MAY BE CHARGED ON ACCOUNTS WHICH ARE OVERDUE
GST/HST REGISTRATION # R869096974RT0004

District of Alberta
Division No: 02-Calgary
Estate No.: 25-095246
Court No: 25-095246

**IN THE MATTER OF THE BANKRUPTCY OF
NORTH AMERICAN STEEL ERECTORS INC.
(the "Company")
MINUTES OF THE SEVENTH MEETING OF INSPECTORS**


Date: February 9, 2022
Time: 3:30 PM
Location: Teams Call

Present: Crystal Martin - Inspector
Rick Anderson – Trustee, MNP Ltd.
Jacqueline Shellon – Secretary, MNP Ltd.

1. A quorum of Inspectors was present and the meeting was called to order at 3:32 PM.
2. The Trustee provided an update regarding the remaining matter in the estate, the litigation concerning the bankrupt, Shield Industries Ltd. and Wynward Insurance Group, the 9th avenue bridge litigation matter. The Trustee's legal counsel has received a reply from the Department of Justice confirming CRA is not prepared to defer a portion of its property claim to support the Trustee in pursuing this action.
3. The Trustee advised the Inspector that the estate does not have the funds required to continue the litigation, and therefore the Trustee is seeking Inspector approval to proceed with a Section 38 Order to determine whether there is an interest amongst the proven creditors of the estate in taking on the matter.

The Inspector directed the Trustee to proceed with sending notice to all proven creditors in the estate of the Section 38 proceedings.

4. There being no further business, the meeting was terminated at 3:35 PM.



Rick Anderson, CPA, CMA, CIRP, LIT, CFE

Approved by the Inspector this 15 day of February, 2022.



Crystal Martin, Inspector

District of Alberta
Division No: 02-Calgary
Estate No.: 25-095246
Court No: 25-095246

**IN THE MATTER OF THE BANKRUPTCY OF
NORTH AMERICAN STEEL ERECTORS INC.
(the "Company")**

**NOTICE
(Section 38 of the *Bankruptcy and Insolvency Act*)**

TAKE NOTICE THAT MNP Ltd., Trustee of the Estate of North American Steel Erectors Inc. ("NASE"), a Bankrupt, is willing to assign and transfer to any one or more of the creditors all of the Trustee's right, title and interest in the action described below pursuant to Section 38 of the *Bankruptcy and Insolvency Act* ("Act").

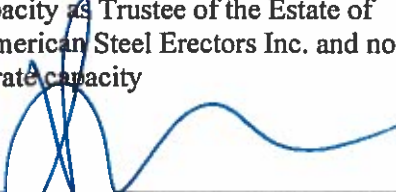
- Litigation regarding a contract for the supply of steel on a project in Calgary, Alberta, (the "9th Avenue Bridge Project") commenced by NASE against Shield Industries Ltd. ("Shield") and Wynward Insurance Group ("Wynward"), who had issued a Performance Bond concerning the 9th Avenue Bridge Project with the Court of Queen's Bench of Alberta. The claim is for \$3,673,856.02 and the penal limit of the Performance Bond is \$1,860,174.02. Shield has not defended the claim, but a Statement of Defence has been filed by Wynward. This litigation was at the document exchange phase as at the date of bankruptcy.

AND FURTHER TAKE NOTICE THAT the Trustee performed its due diligence and completed its investigation with respect to the realization of the subject property. The Trustee has concluded that it does not have access to funds to continue the litigation and effect a potential realization for the benefit of the Creditors.

AND FURTHER TAKE NOTICE THAT Section 38 of the Act provides that, any one or more of the creditors may make application to the Court for an Order authorizing them to take a proceeding in their own name and at their own expense and risk.

Dated at Calgary, Alberta this 23rd day of February 2022.

MNP Ltd.,
In its capacity as Trustee of the Estate of
North American Steel Erectors Inc. and not in its personal
or corporate capacity



Victor P. Kroeger, CPA, CA, CIRP, LIT, CFE
Senior Vice President

District of Alberta
Division No.: 02-Calgary
Estate No.: 25-095246
Court No.: 25-095246

**IN THE MATTER OF THE BANKRUPTCY OF
NORTH AMERICAN STEEL ERECTORS INC.**

NOTICE

(Section 38 of the *Bankruptcy and Insolvency Act* (the “Act”))

FURTHER TO THE NOTICE of MNP Ltd. (the “Trustee”) in its capacity as the Trustee of the Estate of North American Steel Erectors Inc. (“NASE”), a Bankrupt, dated February 23, 2022 (the “Notice”, copy enclosed), the Trustee has obtained records of NASE concerning the litigation commenced by NASE with the Court of Queen’s Bench of Alberta against Shield Industries Ltd. and Wynward Insurance Group concerning the 9th Avenue Bridge Project (as such term is defined in the Notice). As previously described in the Notice, the Trustee has concluded that it does not have access to funds to continue the said litigation and effect a potential realization for the benefit of Creditors.

AND FURTHER TO THE NOTICE, any creditors seeking to pursue an application under Section 38 of the *Act* may, at their own risk and expense within thirty (30) days of the day of this notice, view those records of NASE in the Trustee’s possession concerning the 9th Avenue Bridge Project litigation by contacting the Trustee’s legal counsel, Dean Hutchison, of Caron & Partners LLP, via e-mail phone at 403-770-4023, or via e-mail at dhutchison@caronpartners.com, to make arrangements to view the records.

AND FURTHER TAKE NOTICE THAT any creditors seeking to view the said records shall do so at their own risk and expense, and such creditor(s) shall be responsible for reimbursing the Trustee and its legal counsel for any costs and expenses incurred in making the said records available for viewing.


Dated at Calgary, Alberta this 13th day of April 2022.

MNP Ltd.,
In its capacity as Trustee of the Estate of
North American Steel Erectors Inc., and
not in its personal or corporate capacity



Rick Anderson, CPA, CMA, CIRP, LIT, CFE
Vice President

FILED MAY 07 2020

File No. CI 20-01-27129^B
THIS IS EXHIBIT
referred to in the Affidavit of
Steeve Tourin
Sworn before me this 2
day of June A.D. 2021

A COMMISSIONER FOR OATHS
IN AND FOR THE PROVINCE OF ALBERTA

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

NORTH AMERICAN STEEL ERECTORS INC.,

Daniel Bertram Ramsay
Barrister & Solicitor

plaintiff,

- and -

EXACT DETAILING LTD.,

defendant.

STATEMENT OF CLAIM

MARR FINLAYSON POLLOCK LLP
Barristers and Solicitors
240 River Avenue
Winnipeg, Manitoba
R3L 0B4

DAVID I. MARR

Ph.: (204) 925-5308
Fax: (204) 992-7099

File No. DM190024

**THE QUEEN'S BENCH
Winnipeg Centre**

BETWEEN:

NORTH AMERICAN STEEL ERECTORS INC.,

plaintiff,

- and -

EXACT DETAILING LTD.,

defendant.

STATEMENT OF CLAIM

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a Manitoba lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Queen's Bench Rules*, serve it on the plaintiff's lawyer or where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Manitoba.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGEMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$750.00 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$750.00 for costs and have the costs assessed by the court.

Date: May 7, 2020

Issued by: D. CHAMPAGNE
DEPUTY REGISTRAR
COURT OF QUEEN'S BENCH
FOR MANITOBA

Deputy Registrar
Address of Court Office:
100C – 408 York Avenue
Winnipeg, MB R3C 0P9

TO: EXACT DETAILING LTD.
c/o Thompson Dorfman Sweatman LLP
1700 – 242 Hargrave Street
Winnipeg, MB R3C 0V1
Attention: Meghan C. Ross
lawyers for the defendant

CLAIM

1. The plaintiff claims from the defendant:
 - a) the sum of \$4,677,711.08 (resulting from piecemeal procurement of steel and costs to engage TDS Industrial Services Ltd. to provide detailing services);
 - b) payment for additional damages for breach of contract and breach of the duty of good faith in contractual performance in an amount to be determined at trial;
 - c) pre-judgment and post-judgment interest;
 - d) costs of this action; and
 - e) such further and other relief as this Honourable Court may deem just.

2. The plaintiff, North American Steel Erectors Inc. ("NASE"), is a corporation incorporated pursuant to the laws of the Province of Alberta, and is duly registered to carry on business in the Province of Manitoba, and carries on business as a prime steel contractor across Canada.

3. The defendant, Exact Detailing Ltd. ("Exact") is a corporation incorporated pursuant to the laws of the Province of British Columbia, and carries on the business of providing steel detailing services.

4. This action arises from the design and construction of the Winnipeg Artis Tower (the "Project") located in Winnipeg, Manitoba.

5. On or about April 6, 2018, NASE submitted a revised proposal for the supply and installation of structural steel, joists and decking for the Project and on or about June 13, 2018 Diaser Management (2006) Ltd. ("Diaser"), the Construction Manager, issued a purchase order to NASE to perform the work (the "Contract").

The Sub-Contract

6. On or about May 31, 2018 Exact tendered a quote to NASE for the supply of structural steel design detail services which included the supply of structural and steel design, direction drawings, shop drawings and steel erection detailed layout instructions and modelling and, on or about June 19, 2018 NASE issued a purchase order to Exact therefor, upon terms which included weekly model sharing and progress reporting and payments to be made to Exact when NASE is paid by Diaser (the "Sub-Contract").

7. The value of the Sub-contract is made up of the base contract price of \$375,000.00 plus \$18,750.00 in sales tax (GST of 5%).

8. Clause 2 of the Sub-contract directs that "payments (are) to be made within the latter of thirty (30) days or five (5) days after receipt of payment for such work from Construction Manager" (the "pay when paid clause"). For the purposes of the pay when paid clause, the Construction Manager and the Owner under NASE's contract are one and the same.

9. NASE and Exact have collaborated on previous projects, which were governed by purchase orders issued by NASE which also contained a "pay when paid" clause. Exact understood that "pay when paid" clauses governed the contractual relationship between Exact and NASE, and Exact accepted the pay when paid clause under the Sub-contract.

Extra Work Orders

10. In addition to the base contract, between on or about July 6, 2018 to on or about May 30, 2019, Exact issued 56 extra work orders ("EWOs"), 3 of which were cancelled, for which Exact claimed the sum of \$205,152.41 for the remaining 53 EWOs.

11. In accordance with the Sub-contract, and as agreed by Exact, any changes, including EWOs, had to be approved and paid by the Owner before NASE could issue payments to Exact.
12. Contrary to the terms of the Sub-contract, Exact withheld and failed to provide electronic drawings (models) and issued viewer only drawings such that NASE was unable to make any changes as required, and insisted on payment prior to NASE being paid by the Owner which also contributed to delays in the progress of the work.
13. Notwithstanding NASE's efforts to have Exact comply, on or about June 28, 2019, NASE terminated the Sub-contract and retained TDS Industrial Services Ltd. who had to re-do some of Exact's work for which Exact had been paid, and complete the work left outstanding under the Sub-contract at a cost to NASE of \$230,500.00 and GST of \$11,525.00, totalling \$242,025.00.
14. On or about July 25, 2019, Exact caused a Builder's Lien to be registered against the Owner's property for the sum of \$205,152.41 (the "Lien Amount"), which NASE vacated with Exact's consent by payment into court the Lien Amount without prejudice to any claims, set-offs, or counterclaims which NASE may have, including the validity of the claim for lien itself. The lien was discharged as of January 13, 2020.
15. Exact's claim for lien is improper and exaggerated, and NASE pleads and relies upon section 40 of *The Builders' Liens Act*, C.C.S.M. c. B91.
16. As a result of Exact's misconduct described herein, including its failure to deliver the detailed design model and insisting on premature payment before releasing shop drawings

pursuant to its Sub-contract with NASE, Exact severely impeded NASE's ability to perform the Contract, NASE claims as set out in paragraph 1 hereof.

7th
Date: May 8, 2020

MARR FINLAYSON POLLOCK LLP

Barristers and Solicitors

240 River Avenue

Winnipeg, MB R3L 0B4

Telephone: (204) 925-5308

Facsimile: (204) 992-7099

DAVID I. MARR

lawyers for the plaintiff

THE QUEEN'S BENCH
WINNIPEG CENTRE

BETWEEN:

NORTH AMERICAN STEEL ERECTORS INC.,

plaintiff,

- and -

EXACT DETAILING LTD.,

defendants.

STATEMENT OF DEFENCE AND COUNTERCLAIM OF
EXACT DETAILING LTD.

FILED
JUNE 09 2020

Thompson Dorfman Sweatman LLP
Barristers and Solicitors
1700 - 242 Hargrave Street
Winnipeg MB R3C 0V1

(Matter No. 0167856 MCR)
(Meghan C. Ross 204-934-2467)
(Fax. No. 204-934-0578)
(Toll Free: 1-855-483-7529)

THE QUEEN'S BENCH
WINNIPEG CENTRE

BETWEEN:

NORTH AMERICAN STEEL ERECTORS INC.,

plaintiff,

- and -

EXACT DETAILING LTD.,

defendants.

STATEMENT OF DEFENCE OF EXACT DETAILING LTD.

TO THE DEFENDANTS TO THE COUNTERCLAIM

A LEGAL PROCEEDING has been commenced against you by way of a counterclaim in an action in this court. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS COUNTERCLAIM, you or a Manitoba lawyer acting for you must prepare a Defence to Counterclaim in Form 27C prescribed by the Queen's Bench Rules, serve it on the plaintiff by counterclaim's lawyer or, where the plaintiff by Counterclaim does not have a lawyer, serve it on the plaintiff by Counterclaim, and file it in this court, WITHIN TWENTY DAYS after this Statement of Defence and Counterclaim is served on you.

If you are not already a party to the main action and you are served in another province or territory of Canada or in the United States of America, the period

for serving and filing your defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

IF YOU FAIL TO DEFEND THIS COUNTERCLAIM, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

IF YOU PAY THE AMOUNT OF THE COUNTERCLAIM AGAINST YOU, and \$700.00 for costs, within the time for serving and filing your Defence to Counterclaim, you may move to have the Counterclaim against you dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the amount of the Counterclaim and \$700.00 for costs and have the costs assessed by the court.

June 9, 2020

Issued by "C. Dyson"
Deputy Registrar

TO: NORTH AMERICAN STEEL ERECTORS INC.
c/o Marr Finlayson Pollock LLP
240 River Avenue
Winnipeg MB R3L 0B4
Attention: David I. Marr

STATEMENT OF DEFENCE

1. Exact Detailing Ltd. ("**Exact**") denies the allegations made by North American Steel Erectors Inc. ("**NASE**") against them in the Statement of Claim in this action, except where expressly admitted herein.

2. In response to paragraph 3 of the Statement of Claim, Exact states that it is incorporated pursuant to the laws of the Province of British Columbia, and which carries on business as, *inter alia*, a steel detailer. Exact is registered to carry on business in the Province of Manitoba.

3. In response to paragraphs 4, 5, 6, 7, 8 and 9 of the Statement of Claim and the Statement of Claim as a whole, Exact states that on or about May 31, 2018, Exact submitted a quote to NASE (the "**Quote**"), in which Exact would provide certain steel detailing services at NASE's direction (the "**Work**") that would be used for the construction of a large residential apartment complex located on the property commonly known as 300 Main Street, Winnipeg, Manitoba (the "**Property**") (collectively referred to as the "**Project**"). Terms of the Quote included, *inter alia*:

- (a) Exact would provide detailing services for the Project in the value of \$375,000.00;
- (b) NASE would issue monthly progress payments to Exact upon receipt of an invoice as the Work progressed;

- (c) Any extra Work would be agreed by an extra work order, and the extra work orders would be written and approved prior to commencement of the Work;
- (d) Job coordination between NASE, the general contractor, architect or other trades was not the responsibility of Exact;
- (e) Exact would not be responsible for delays in scheduled completion dates due to design revisions, additions, and lack of prompt response to requests for information;
- (f) NASE would issue progress payments on all invoices issued to it by Exact within 30 days;
- (g) Any overdue balance owing to Exact by NASE would be subject to interest at the rate of 2% per month compounded monthly (or 26.81% per annum) and applied on all past due invoices calculated from the invoice date on which they became due; and
- (h) In the event that NASE defaults on payment, NASE would pay Exact's solicitor and collection costs.

4. In further response to paragraph 6, Exact states that NASE accepted the Quote as provided on May 31, 2018, which formed the subcontract between Exact and NASE for the Project (the "**Subcontract**").

5. In further response to paragraphs 6, 7, 8 and 9 of the Statement of Claim and the Statement of Claim as a whole, Exact denies that the Subcontract contains a "pay when paid clause". Exact further states that on or about June 19, 2018, NASE produced a purchase order that provides "[p]ayments to be made within the later of thirty (30) days or five (5) days after receipt of payment for such work", but Exact denies that this purchase order formed part of the Subcontract.

6. In response to paragraphs 10, 11, 12, 13 and 16 of the Statement of Claim, Exact:

- (a) states that, for and at the request of NASE and pursuant to the Subcontract, it performed the requested Work and related services;
- (b) states that during the course of the Work, NASE and/or its representatives requested that various extra Work be performed;
- (c) states that it issued a proposed extra work order to NASE for approval each time a request for extra Work was made;
- (d) states that throughout the Project, a representative of NASE verbally directed Exact to begin the extra Work immediately on the basis that formal approval would be issued, and Exact commenced the extra Work for NASE on a good faith basis;

- (e) states that NASE subsequently refused to issue all approved extra work orders to Exact and advised that it would not pay for the extra Work, despite having directed Exact to begin the extra Work;
- (f) states that in or about June 2019, NASE terminated the Subcontract without cause, as Exact required extra work orders to complete the Work, pursuant to the terms of the Subcontract; and
- (g) states that by terminating the Subcontract without cause and acting in bad faith, NASE has caused Exact damage and loss, including the value of the Work completed and profit that Exact would have earned under the provisions of the Subcontract.

7. In further response to paragraphs 10, 11, 12, 13 and 16 of the Statement of Claim, Exact states that during the course of completing the Work, Exact issued regular invoices to NASE, pursuant to the terms of the Subcontract. However, contrary to the terms of the Subcontract, NASE has refused to pay certain invoices, leaving the sum of \$205,152.41 (including G.S.T.) owing. Exact has demanded payment from NASE, but NASE has neglected or refused and continues to neglect or refuse to pay the amount owing, or any portion thereof, all of which is due and owing to Exact.

8. In further response to paragraph 12 and 16 of the Statement of Claim, and the Statement of Claim as a whole, Exact:

- (a) states that NASE did not provide notice of any alleged delay;
- (b) denies that it contributed to delays in the progress of NASE's work;
and
- (c) states that if NASE experienced any delays on the Project, which delay is not admitted but denied, such delays are attributable to NASE, and were the result of NASE's numerous late design changes, failure to respond to requests for information in a prompt manner, or at all, and the process by which NASE procured steel for the Project.

9. In response to paragraphs 14 and 15 of the Statement of Claim, Exact states:

- (a) that by reason of the performance of the said Work and related services, the value of the Property has been greatly increased and, pursuant to *The Builders' Liens Act*, CCSM c B91 (the "**BLA**"), Exact became and was entitled to a lien on the Property as at July 25, 2019 in the amount of \$205,152.41 with interest and the costs of this action;
- (b) that on or about July 25, 2019, Exact, pursuant to the BLA, caused Claim for Lien No. 5089893/1 (the "**Lien**") in the amount of \$205,152.41 to be registered against the Property in respect of the said Work and services performed;

- (c) by Consent Order in Court of Queen's Bench File No. CI 19-01-24911 dated December 18, 2019, the Lien was vacated upon payment into court of the sum of \$205,152.41 to stand as security in place of the land; and
- (d) denies that the Lien is improper and exaggerated.

10. In the alternative, and in further response to the Statement of Claim as a whole, Exact says that if NASE did suffer any loss or damage:

- (a) such loss was not caused by any act or omission of Exact;
- (b) NASE was ultimately responsible for such losses; and
- (c) in the further alternative, NASE has failed to adequately mitigate any loss and damage suffered.

11. Exact states that the within action should be dismissed with costs in its favour.

COUNTERCLAIM

12. Exact claims against NASE:

- (a) general damages in the amount of \$205,152.41;

- (b) general damages related to the delay, schedule impact and loss of productivity on the Project in an amount to be determined at trial;
- (c) pre-judgment and post-judgment interest at the rate of 2 percent per month or 26.81 percent per annum, from the date same became due to the date of payment, both before and after judgment;
- (d) in the alternative, pre-judgment and post-judgment interest in accordance with *The Court of Queen's Bench Act, CCSM c C280*, from the date same became due to the date of payment, both before and after judgment;
- (e) a full and complete accounting of the all monies received and disbursed by NASE in relation to the Project;
- (f) a declaration by this Honourable Court that the Lien, registered pursuant to the provisions of the BLA, is valid and enforceable;
- (g) a declaration that the Lien attached to the security posted in respect of same in Court of Queen's Bench File No. CI 19-01-24911;
- (h) an order directing that the sum of \$205,152.41 paid into Court to the credit of Court of Queen's Bench File No. CI 19-01-24911 be paid out to Exact;

- (i) for the purposes aforesaid, that all proper directions be given, proceedings heard and accounts taken;
- (j) a declaration that all funds received by NASE on account of the Project constitute trust funds pursuant to the provisions of the BLA, and that Exact is a beneficiary entitled to the said trust funds;
- (k) a declaration that all funds received by NASE on account of the Project constitute a constructive trust within the meaning of the common law, and that Exact is a beneficiary entitled to the said trust funds;
- (l) a declaration that NASE is in breach of trust for failing to account for the funds received by them on account of the Project;
- (m) judgment as against the defendants pursuant to the BLA and the common law, for such sums received by them on account of the Project for which they are unable to account;
- (n) an order against the defendants to produce such information as may be required and requested pursuant to the provisions of section 58 of the BLA;
- (o) costs of this action on a solicitor and own client basis; and

(p) such further and other orders as to this Honourable Court shall seem just.

13. Exact repeats and relies upon the allegations made and contained in the Statement of Defence.

Subcontract

14. Exact states that, for and at the request of NASE and pursuant to the Subcontract, it performed the requested Work and related services.

15. During the course of completing the Work, Exact issued regular invoices to NASE. However, NASE has refused to pay certain invoices, leaving the sum of \$205,152.41 (including G.S.T.) owing.

16. Exact has demanded payment from NASE, but NASE has neglected or refused and continues to neglect or refuse to pay the amount owing, or any portion thereof, all of which is due and owing to Exact.

Claim for Breach of Trust

17. Exact says that NASE has failed to make full and proper payment to Exact pursuant to the Subcontract for the Work and services provided in the construction of the Project, and that NASE thereby wrongfully or illegally appropriated or converted some or all of the funds received by it for the said project

for its own use or for unauthorized uses, in violation of the provisions of the BLA and in violation of the common law.

18. Exact states that all funds received by the defendant NASE with respect to the Project were and are trust funds pursuant to the provisions of section 4 and 5 of the BLA, and Exact is a beneficiary of those funds.

19. In the alternative, Exact claims that the defendant NASE are constructive trustees of all funds arranged, allocated, appropriated to, received or yet to be received by the said defendants for the purpose of paying or financing the work done on the Project, which trust funds are subject to a beneficial interest in favour of Exact and, accordingly, should have been preserved and/or promptly released for the benefit of Exact.

20. Exact states that NASE is liable for breach of trust, with respect to any funds owed to Exact under the Subcontract for which they cannot or do not account.

21. Exact says that if, on an accounting of sums received by the defendant NASE as set out above, it is found that the defendant NASE appropriated or converted any portion thereof to use or uses not authorized by the BLA or under the terms of the statutory or constructive trust in favour of Exact, the defendant NASE is in breach of trust and liable to Exact for all of Exact's resulting loss, costs and damage.

Claim for Delay

22. In accordance with the Subcontract, NASE was responsible for the coordination of information required by Exact to complete the Work. Exact says that NASE owed it a duty to perform its obligations in good faith and in a reasonably competent manner.

23. Exact states that while the Project proceeded, Exact suffered delays and lost productivity as a result of the acts and/or omissions of NASE.

24. Exact states that NASE made numerous late design changes and failed to respond to requests for information in a prompt manner, or at all. Exact states that NASE has breached its obligations under the Subcontract and has breached the duties of care owed by NASE to Exact.

25. As a result of the breaches of the Subcontract and the breaches of duty owed by NASE to Exact, Exact has suffered further loss and damage, particulars of which include, *inter alia*, lost productivity in an amount to be proven at trial.

26. Exact pleads and relies upon *The Builders' Liens Act*, C.C.S.M. c.B91.

27. Exact therefore claims it is entitled to the relief as set out in paragraph 12 above.

28. This claim may be served outside of Manitoba without leave in accordance with *Queen's Bench Rule* 17.02(f) and 17.02(h).

June 9, 2020

THOMPSON DORFMAN SWEATMAN LLP

Barristers and Solicitors
1700-242 Hargrave Street
Winnipeg MB R3C 0V1

Meghan C. Ross
Phone No.: 204-934-2467
e-mail: mcr@tdslaw.com

**THE QUEEN'S BENCH
Winnipeg Centre**

IN THE MATTER OF s. 55 of *The Builders' Liens Act*, R.S.M. 1987, Chap B91, as amended

BETWEEN:

NORTH AMERICAN STEEL ERECTORS INC.,

applicant,

- and -

EXACT DETAILING LTD.,

respondent.

TRUE COPY

CONSENT ORDER

MARR FINLAYSON POLLOCK LLP

Barristers and Solicitors
240 River Avenue
Winnipeg, Manitoba
R3L 0B4

DAVID I. MARR/LAUREN L. GERGELY

Telephone: (204) 925-5308
Fax: (204) 992-7099

File No. DM190024

THE QUEEN'S BENCH
Winnipeg Centre

THE HONOURABLE JUSTICE

HARRIS

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)

Wednesday, the 18th day of December, 2019

BETWEEN:

NORTH AMERICAN STEEL ERECTORS INC.,

applicant,

- and -

EXACT DETAILING LTD.,

respondent.

TRUE COPY

CONSENT ORDER

THIS APPLICATION, made by the applicant, North American Steel Erectors Ltd., for an order vacating a builders' lien was heard this day at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

ON READING the notice of application, the affidavit of Christine Watson, affirmed December 19, 2019, and on noting the consent of the parties through their counsel:

1. **THIS COURT ORDERS** that upon payment into Court of the sum of \$205,152.41 by the applicant, the following notice of claim for lien registered against lands in the Winnipeg Land Titles Office; namely:

Builders' Lien No. 5089893/1 registered by Exact Detailing Ltd.
on July 25, 2019

shall be vacated from Certificate of Title No. 2961227/1 and these monies shall stand in the place of the lands in accordance with provisions of s.55(2) of *The Builders' Liens Act*;

2. **THIS COURT ORDERS** that such payment into Court shall be without prejudice to any claims, set-offs or counterclaims which are being advanced or which may be advanced against the respondent by or through the applicant or against the applicant by or through the respondent and including, without limiting the generality of the foregoing, all matters relating to the validity of the claim for lien described herein;

3. **THIS COURT ORDERS** that upon either the written consent of the parties, or further application to this Court, the Court shall allow the payment out of all or part of the monies paid into court.

Dated: December 18^{ATA}, 2019

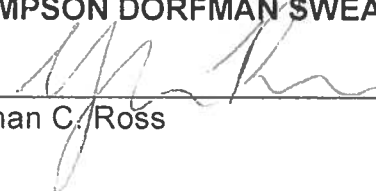


J.

CONSENT AS TO FORM AND CONTENT:

THOMPSON DORFMAN SWEATMAN LLP

Per:



Meghan C. Ross

MARR FINLAYSON POLLOCK LLP

Per:



David I. Marr

Court File No. 3223/19

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER of the *Construction Act*,
R.S.O. 1990, c. C.30 as amended

BETWEEN:

EXACT DETAILING LTD.

Plaintiff

- and -

**NORTH AMERICAN STEEL ERECTORS INC., PICKERING
DEVELOPMENTS (SQUIRES) INC., PICKERING DEVELOPMENTS
(BAYLY) INC., PICKERING DEVELOPMENTS (401) INC. and
ONTARIO GAMING GTA LIMITED PARTNERSHIP, by its general
partner 2569129 ONTARIO INC., also known as PICKERING CASINO**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT(S):

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff.

The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this Statement of Claim is served on you, if you are served in Ontario.

- 2 -

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$1,000 for costs, within the time for serving and filing your Statement of Defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's Claim and \$400 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date December 5, 2019

Issued by



Local Registrar

Address of
court office: 150 Bond Street East
Oshawa ON
L1G 0AZ

- 3 -

- TO: **North American Steel Erectors Ltd.**
c/o Ms. Andrea Lee
Glaholt LLP
Construction Lawyers
141 Adelaide St W, #800
Toronto, Ontario,
Canada M5H 3L5
- AND TO: **Pickering Developments (401) Inc.**
186 Bartley
Toronto, Ontario
Canada, M4A 1E1
- AND TO: **Pickering Developments (Bayly) Inc.**
186 Bartley Drive
Toronto, Ontario
Canada, M4A 1E1
- AND TO: **Pickering Developments (Squires) Inc.**
186 Bartley Drive
Toronto, Ontario
Canada, M4A 1E1
- AND TO: **Ontario Gaming GTA Limited Partnership, by its general partner 2569129
ONTARIO INC., also known as Pickering Casino**
181 Bay Street
No. 4400
Toronto, Ontario
Canada, M4J 2T3

- 4 -

CLAIM

1. The plaintiff claims from the defendants and each of them:
 - (i) payment of the sum of \$232,106.87, inclusive of HST, on account of unpaid fees for the supply of structural steel design and erection drawings including shop drawings and steel erection detailed layout instructions and model supplied to the Lands described below;
 - (ii) payment of additional damages for breach of contract and breach of the duty of good faith in contractual performance in an amount to be determined at trial;
 - (iii) a declaration that the plaintiff is entitled to a lien in the amount of \$232,106.87 against all of the estate, title and interest of the defendants (or each of them) in the lands and premises legally described in the plaintiff's claim for lien, attached hereto as Schedule "A", pursuant to the provisions of the pursuant to the *Construction Act*, R.S.O. 1990, c. C.30 as amended ("*Construction Act*");
 - (iv) a declaration that the plaintiff's lien attaches to any security posted to vacate the plaintiff's claim for lien;
 - (v) a declaration that the plaintiff's claim for lien in the amount of \$232,106.87 is a charge against the holdbacks required to be retained by the defendants (or any of them), pursuant to the provisions of the *Construction Act*;
 - (vi) in the event of default of payment of the said sum of \$232,106.87 plus interest and costs by the defendants, or each of them, an Order or Judgment that all of the estate,

- 5 -

title and interest of the defendants in the lands and premises described in the plaintiff's claim for lien be sold, and the proceeds of sale applied in and towards payment of the plaintiff's lien, plus interest and costs;

- (vii) in the alternative, in the event of default of payment of the said sum of \$232,106.87 plus interest and costs by the defendants, a declaration that any security posted with the court to the credit of the plaintiff's claim for lien be delivered up from the court by the Accountant of the Superior Court of Justice to the plaintiff, in satisfaction of its claim for lien, plus interest and costs, pursuant to the *Construction Act*;
- (viii) damages under s. 39(5) pursuant to the *Construction Act*, as amended for any failure of the Owners to respond to the section 39 demand referred to below, at any material time;
- (ix) for the purposes aforesaid, and for all other purposes, that all necessary directions be given, inquiries made, and accounts be taken;
- (x) payment of pre-judgment and post-judgment interest on all amounts due and owing to the plaintiff pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (xi) costs of this action on a substantial indemnity basis, plus any HST which may be payable on any of the above amounts pursuant to the *Excise Tax Act*, R.S.C. 1985, c. E.15, as amended; and
- (xii) such further and other relief as to this Honourable Court may deem just.

- 6 -

The Parties

2. The plaintiff, Exact Detailing Ltd. (“Exact”), is a corporation incorporated pursuant to the laws of the Province of British Columbia, and carries on business providing steel detailing services. Exact is registered extra-provincially in Ontario.

3. The defendant, North American Steel Erectors Inc. (“NASE”) is a corporation incorporated pursuant to the laws of the Province of Alberta, and carries on business providing structural engineering services as steel contractors for steel requirements on projects. NASE was a contractor on this project which will be defined below.

4. The defendant, Pickering Developments (Bayly) Inc. was at all material times an owner of the lands referred to in Exact’s claims for lien with respect to PIN 26461-007 (LT), and was an “owner” of those lands and premises as defined by Section 1(1) of the *Construction Act*, as amended, in respect of which Exact has caused notice of its claim for lien to be served, and was required to maintain statutory holdback in accordance with the provisions of the *Construction Act*.

5. The defendant, Pickering Developments (401) Inc. was at all material times an owner of the lands referred to in Exact’s claim for lien with respect to PIN 26461-0001 (LT), and was an “owner” of those lands and premises as defined by Section 1(1) of the *Construction Act*, as amended, in respect of which Exact has caused notice of its claims for lien to be served, and was required to maintain statutory holdback in accordance with the provisions of the *Construction Act*.

6. The defendant, Pickering Developments (Squires) Inc. was at all material times an owner of the lands referred to in Exact’s claims for lien with respect to PIN 26330-0107 (LT), and was an “owner” of those lands and premises as defined by Section 1(1) of the *Construction Act*, as

- 7 -

amended, in respect of which Exact has caused notice of its claim for lien to be served, and was required to maintain statutory holdback in accordance with the provisions of the *Construction Act*.

7. The defendant, Ontario Gaming GTA Limited Partnership, by its general partner 2569129 Ontario Inc. also known as Pickering Casino ("**Pickering Casino**") is corporation who is registered as the general partner of a limited partnership, pursuant to the laws of the Province of Ontario.

8. At a time and under terms not known to Exact, some or all of the Owners retained Pickering Casino to undertake the Pickering Casino development to the lands and premises described in Exact's claims for lien (the "**Lands**"). Full particulars of the development agreement are not within Exact's knowledge, but are within the knowledge of some or all of the defendants.

9. The defendants Pickering Developments (Squires) Inc., Pickering Developments (401) Inc. and Pickering Developments (Bayly) Inc., and Pickering Casino are hereinafter collectively referred to as the "**Owners**".

Overview

10. This action arises from unpaid engineering and structural design detail services provided by Exact to the Pickering Casino Project, as defined below, and, in particular, from the supply of structural steel design and erection drawings, including shop drawings, and steel erection detailed layout instructions and modelling. Exact is owed the sum of \$232,106.87 inclusive of HST for the supply of services rendered inclusive of HST.

- 8 -

11. The project involves the ongoing construction of a multi-purpose development which includes but is not limited to: a casino, hotels, an arena, an atrium, a parkade and a concert venue in Pickering (the "**Pickering Casino Project**").

12. The Subcontract as defined below for the Pickering Casino Project is dated June 1, 2018 and as such the old provisions of the *Construction Lien Act* R.S.O. 1990, c. C.30 as amended apply. In the alternative, the provisions of the *Construction Act* apply.

NASE's Contract with the Owners

13. Full particulars of NASE's contract with the Owners are not within Exact's knowledge, but are within the knowledge of some or all of the defendants.

NASE's Subcontract with Exact

14. The governing agreement is reflected in Exact's quotation dated June 1, 2018 (the "**Subcontract**"). At clause 11 therein the Subcontract provides that if NASE does not sign this quotation, or notify Exact in writing of any discrepancies and issues a purchase order or other execution document to proceed with the quoted work, this quote and its terms are deemed to be accepted in their entirety.

15. NASE did not sign the quotation, nor notify Exact in writing of any discrepancies. NASE issued purchase orders to proceed with the quoted work under the Subcontract, and further additional work later requested by and approved by NASE.

16. The initial Subcontract price was \$349,700.00, inclusive of HST, which increased by reason of the extra services requested and approved by NASE. The revised Subcontract price is \$480,353.12, including billing adjustments for applicable HST.

- 9 -

17. The Subcontract work initially included:
 - a. structural steel;
 - b. consultant coordination;
 - c. connection design;
 - d. connections to accommodate bolted joists;
 - e. joist manufacturer co-ordination;
 - f. ABM;
 - g. Kick off meeting attendance; and
 - h. Weekly BIM meetings;
18. Exact's Subcontract work initially did not include:
 - a. Docking;
 - b. OWSJ;
 - c. Girder Truss Engineering;
 - d. Miscellaneous Metals; and
 - e. Catwalks/Lighting Grids at Theatre.
19. This Subcontract scope plus the requested changes constituted what will hereinafter be referred to as the "Work".
20. On March 28, 2019, NASE agreed that it would be necessary to revise previous invoices to accommodate the changes requested by NASE.

Subcontract Terms

21. The Subcontract was subject to certain written terms. These written terms included but are not limited to:

- a. At clause 3 of the Subcontract, NASE is to pay Exact within 30 days of being invoiced;
and
- b. At clause 4 of the Subcontract, interest is to be charged on overdue accounts at 2% per month; compounded monthly (26.81% per annum).

Breach of the Subcontract

22. Exact has invoiced NASE \$480,353.12 to date. However, NASE has only paid \$248,246.25 to date.

23. The outstanding balance is \$232,106.87 owed by NASE to Exact, inclusive of HST.

24. Exact states that NASE is liable for breach of the Subcontract as a result of a failure to pay its outstanding balance of \$232,106.87 regarding the Work which was fully performed in accordance with the Subcontract.

- 11 -

25. As a result, Exact has suffered damages in the amount of \$232,106.87. Exact claims that it is entitled to recover this sum, plus interest at the agreed to Subcontract interest rate of 24.81% per annum.

Exact's Lien

26. By reason of Exact's performance of the Work, including extras as requested by NASE, Exact is owed \$232,106.87 for services to an improvement at the Lands, Exact became and is entitled to a lien upon the estate, title and interest of the Owners in the Lands, as they may appear, in the amount of \$232,106.87 inclusive of HST, plus interest and costs of this action.

27. Exact states that commencing on or about December 5, 2018 and continuing to October 2, 2019, Exact performed the Work required under its Subcontract with NASE in a timely fashion and in a good and workmanlike manner.

28. Alternatively, if there was no Subcontract between Exact and NASE, Exact states that it has performed the Work and extras at the request of the Owners and NASE, the fair value of which is \$232,106.87. Exact has not been paid on account of the Work and therefore states that the Owners and NASE have been unjustly enriched thereby in the amount of \$232,106.87, which sum Exact claims restitution from the Owners and/or NASE. Exact pleads and relies upon the doctrine of *quantum meruit*.

29. On October 21, 2019, Exact served NASE and the Owners with a written notice of lien, and written s.39 demand, and Exact states the Owners have failed to account for the holdbacks required to be maintained, nor have they answered the s.39 demand made by Exact within 21 days, and are therefore liable for any damages suffered thereby.

- 12 -

30. On October 25, 2019, Exact registered a claim for lien, Instrument DR1840477 in the amount of \$232,106.87 inclusive of HST against title to the Lands described therein. A copy of Exact's Claim for Lien is attached hereto as Schedule "A".

31. On October 28, 2019, Exact served each of the Owners with a written notice of lien and a copy of Exact's claim for lien.

32. Exact's claim for lien remains on title to the Lands.

33. At all material times, the lands and premises described in Exact's claim for lien was owned by the Owners and are the Lands to which Exact performed the Work at the request of, upon the credit of, on behalf of, with the consent of and for the benefit of the Owners, therefore, all and each of them are an "owner" within the meaning of the *Construction Act*.

34. The Lands legally described in Exact's claim for lien are owned by the Owners legally and/or beneficially, and are the lands and premises to which Exact supplied its services and Work, from which Work and services have derived a direct benefit and/or have been enriched by the value thereof.

35. Exact therefore claims to be entitled to a lien against the Lands in the amount of \$232,106.87 inclusive of HST; to a charge against the holdbacks required to be retained by the defendants pursuant to the provisions of the *Construction Act*; to a charge against any additional amounts owing pursuant to the provisions of the *Construction Act*; and to payment of their Claim for Lien by the defendants, together with interest thereon and the costs of this action.

36. Exact states that it is entitled to enforce its Lien against the interest of the defendants in the Lands, pursuant to the provisions of the *Construction Act*.



- 13 -

Exact proposes that this action be tried at Oshawa.

DECEMBER 5, 2019

HEAL & CO. LLP
1604 - 250 Yonge Street
Toronto, ON M5B 2L7

Andrew J. Heal (LSO#31095E)
Maria Le Hunte (LSO #74151D)
Tel: (416) 583-5901
Fax: (416) 583-5905

Lawyers for the plaintiff, Exact Detailing Ltd.

SCHEDULE A

LRO # 40 Construction Lien

Received as DR1840477 on 2019 10 25 at 16:45

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 2

Properties

PIN 26461 - 0007 LT
Description PCL CON. 1-15-2 SEC PICKERING; PT LTS 15 & 16 CON 1, OF THE ORIGINAL TOWNSHIP OF PICKERING IN THE COUNTY OF ONTARIO, PTS 2, 3 & 4, 40R5623 EXCEPT PTS 1 & 2, 40R8447 & PTS 1, 2, 3 & 4, 40R8469 ;; SUBJECT TO AN EASEMENT IN GROSS OVER PART 1, PLAN 40R-30556 AS IN DR1814588; CITY OF PICKERING
Address PICKERING

PIN 26461 - 0001 LT
Description PCL CON. 1-15-2 SEC PICKERING; PT LTS 15 & 16 CON 1, TOWNSHIP OF PICKERING, COUNTY OF ONTARIO, PT 1, 40R5623 ;; CITY OF PICKERING
Address PICKERING

PIN 26330 - 0107 LT
Description PCL PICKERING CON.1-17-1 SEC TOWNSHIP OF PICKERING; PT LT 17 CON 1 IN THE TOWNSHIP OF PICKERING, IN THE COUNTY OF ONTARIO PTS 1, 2 & 3, 40R8440 EXCEPT PT 2, 40R10082 ; S/T LT89157 (TRANSFERRED BY DR98641); CITY OF PICKERING
Address PICKERING

Consideration

Consideration \$232,106.87

Claimant(s)

Name EXACT DETAILING LTD.
Address for Service c/o Heal & Co. LLP
 1604 - 250 Yonge Street
 Toronto, ON
 M5B 2L7

I, Matt Arnott, Director of Administration, am the agent of the lien claimant and have informed myself of the facts stated in the claim for lien and believe them to be true.

This document is not authorized under Power of Attorney by this party.

Statements

Name and Address of Owner See Schedule. Name and address of person to whom lien claimant supplied services or materials NORTH AMERICAN STEEL ERECTORS INC. Time within which services or materials were supplied from 2018/12/05 to 2019/10/02 Short description of services or materials that have been supplied supply of structural steel design and erection drawings, including shop drawings, and steel erection detailed layout instructions and model. Contract price or subcontract price \$349,700.00 Amount claimed as owing in respect of services or materials that have been supplied \$232,106.87

Schedule: OWNERS: Pickering Casino, Pickering Developments (Squires) Inc., Pickering Developments (Bayly) Inc., Pickering Developments (401) Inc.; 2028 Kellino Street, Pickering, ON, L1W 3R3, 186 Bartley Drive, Toronto, ON, M4A 1E1. ADDITIONAL OWNERS: Great Canadian Gaming Corporation; 95 Schooner Street, Coquitlam BC V3K 7A8 and 39 Wynford Drive, Toronto, ON M3C 3K5.

Signed By

Zaeshan Balg 744 Broadview Ave., Suite 100 acting for Signed 2019 10 25
 Toronto Applicant(s)
 M4K 2P1

Tel 416-778-4433

Fax 416-778-4432

I have the authority to sign and register the document on behalf of the Applicant(s).

Submitted By

DE FRANCESCA LAW OFFICE PROFESSIONAL 744 Broadview Ave., Suite 100 2019 10 25
 CORPORATION Toronto
 M4K 2P1

Tel 416-778-4433

Fax 416-778-4432

Fees/Taxes/Payment

Statutory Registration Fee \$64.40

LRO # 40 Construction Lien

Received as DR1840477 on 2019 10 25 at 16:45

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 2

<i>Fees/Taxes/Payment</i>	
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<i>Total Paid</i>	\$64.40
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Court File No.

EXACT DETAILING LTD.
Plaintiff

and

**NORTH AMERICAN STEEL ERECTORS INC. AND
PICKERING DEVELOPMENTS (SQUIRES) INC., ET AL**
Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF the *Construction Act*,
R.S.O. 1990, c. C.30, as amended

Proceeding Commenced at **OSHAWA**

STATEMENT OF CLAIM

HEAL & CO. LLP
1604 - 250 Yonge Street
Toronto, ON M5B 2L7

Andrew J. Heal (LSO #31095E)
Maria Le Hunte (LSO #7451D)
Tel: (416) 583-5901
Fax: (416) 583-5905

Lawyers for the Plaintiff Exact Detailing Ltd.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF THE *CONSTRUCTION ACT*, R.S.O 1990, c. C. 30 as amended

B E T W E E N :

EXACT DETAILING LTD.

Plaintiff

- and -

**NORTH AMERICAN STEEL ERECTORS INC., PICKERING
DEVELOPMENTS (SQUIRES) INC., PICKERING DEVELOPMENTS
(BAYLY) INC., PICKERING DEVELOPMENTS (401) INC. and
ONTARIO GAMING GTA LIMITED PARTNERSHIP, by its general
partner 2569129 ONTARIO INC., also known as PICKERING CASINO**

Defendants

**STATEMENT OF DEFENCE OF THE DEFENDANT,
NORTH AMERICAN STEEL ERECTORS INC.**

1. The defendant, North American Steel Erectors ("**NASE**"), admits the allegations contained in paragraphs 2, 11, 29 insofar as Exact served NASE with a written notice of lien and section 39 demand, and 30 of the statement of claim.
2. The defendant, NASE, denies the allegations contained in paragraphs 1, 3, 10, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, the balance of paragraph 29, 32, 35, and 36 of the statement of claim.
3. The defendant, NASE has no knowledge in respect of the allegations contained in paragraphs 4, 5, 6, 7, 8, 9, 13, 31, 33, and 34 of the statement of claim.

THE PARTIES AND PROJECT

4. NASE is a corporation incorporated pursuant to the laws of the Province of Alberta and carries on business as a prime steel contractor across Canada.

5. This action arises from the design and construction of the Pickering Casino Development (the “**Project**”) located in Pickering, Ontario. The Project is owned by Ontario Gaming Greater Toronto Area Limited Partnership (the “**Owner**”).

6. The Owner’s tender process for the Project was commenced in March of 2018. As such, the *Construction Act* (the “**Act**”) R.S.O. 1990, c. C.30, as it read before June 30, 2018 applies.

7. On or about August 14, 2018, NASE contracted with the Owner for the supply and installation of structural steel and metal deck for the casino and atrium, and for detailing and connection design for the casino, hotel, theatre and atrium (the “**Contract**”). On or about February 21, 2019, the Owner issued a Purchase Order to NASE in respect of the Contract.

THE SUBCONTRACT

8. NASE subcontracted the supply of structural steel design detail services, including the supply of structural steel design and erection drawings, shop drawings, and steel erection detailed layout instructions and modelling, to Exact Detailing Ltd. (“**Exact**”).

9. NASE denies that Exact’s June 1, 2018 quotation is the governing agreement between Exact and NASE. NASE never signed the quotation, and furthermore, NASE subsequently issued Purchase Order 1802-001 to Exact dated December 5, 2018 (the “**Subcontract**”). Exact did not raise any issues with the Subcontract at the time, and the parties proceeded to conduct themselves in accordance with the Subcontract. NASE pleads and relies upon the terms of the Subcontract.

10. The value of the Subcontract is made up of the base Subcontract price of \$349,700 plus \$17,485 in sales taxes (valued at 5 percent, or GST). The Subcontract was initially priced to include several components of work on the Project: the casino, the atrium, the hotel, and the theatre. The base Subcontract price decreased from \$349,700 to \$208,975 (exclusive of tax) when Exact and NASE agreed to remove two components of work from the Subcontract, these being the theatre and hotel components.

11. The scope of Exact's work under the Subcontract was "design assist". Exact knowingly subcontracted with NASE on the basis of the Owner's incomplete design, as evidenced by Exact's quotations to NASE prior to the Subcontract. Exact submitted two quotations to NASE in June 2018. In the second quotation, Exact removed terms from the first quotation acknowledging, among other things, that the design scope was not fixed. Exact was solely responsible to ensure its pricing included appropriate contingencies with respect to this key aspect underpinning the Subcontract.

12. In addition, clause 2 of the Subcontract directs that "payments [are] to be made within the later of thirty (30) days or five (5) days after receipt of payment for such work from Construction Manager" (the "**Pay When Paid Clause**"). For the purposes of the Pay When Paid Clause, the Construction Manager and the Owner under NASE's Contract are one and the same.

13. NASE and Exact have collaborated on previous projects, which were governed by purchase orders issued by NASE. These purchase orders also contained a "pay when paid" clause. Exact understood that "pay when paid" clauses governed the contractual relationship between Exact and NASE, and Exact accepted the Pay When Paid Clause under the Subcontract.

THE EXTRA WORK ORDERS

14. From the outset of the Project, Exact commenced issuing Extra Work Orders ("**EWOs**") for the stated purpose of tracking design changes. Given that the scope of the Subcontract was "design assist" and Exact expected to make design changes, Exact assured NASE that EWOs would have no commercial impact and that they were merely issued to record the changes made by Exact.

15. Exact issued a total of 42 EWOs on the Project. Exact initially did not charge NASE for EWOs. However, Exact later started to include the cost of EWOs in its invoices to NASE, including EWOs which were originally stated to be for the purpose of tracking design changes only.

16. In accordance with the Subcontract, and as agreed by Exact, any changes, including EWOs, had to be approved and paid by the Owner before NASE could issue payment to Exact.

17. The Owner advised Exact and NASE that all changes or EWOs submitted by NASE on behalf of Exact were subject to the Owner's review. NASE was instructed not to accept any of Exact's change requests or EWOs without prior approval from the Owner. As of the date of this pleading, the EWOs invoiced by Exact remain subject to the Owner's review.

EXACT'S CLAIM FOR LIEN

18. On December 13, 2019, pursuant to the order of Master Muir, NASE vacated Exact's claim for lien by payment into court of an amount of \$282,106.87, comprised of Exact's claim for lien in the amount of \$232,106.87, and security for costs in the amount of \$50,000, in the form of a Letter of Credit No. OSB60596CGY, dated December 9, 2019, issued by the Bank of Nova Scotia, filed with the Accountant of the Ontario Superior Court of Justice as Accountant's Account Number 557926.

19. Exact's claim for lien is improper and exaggerated. NASE pleads and relies on section 35 of the *Act*.

NASE'S SET OFF

20. Exact is not owed any amounts with respect to the Project. If any sums are owing, which is denied, NASE claims a set-off due to Exact's breaches of the Subcontract, including the late delivery of engineering documents. Further particulars of NASE's set-offs related to the Project will be provided prior to trial.

21. NASE also claims a set-off due to Exact's failure to deliver the detailed design model pursuant to a subcontract for the supply of structural steel services and materials related to the Winnipeg Artis Tower in Winnipeg, Manitoba (the "**Winnipeg Tower Project**"). Further particulars of NASE's set-offs related to the Winnipeg Tower Project will be provided prior to trial.

22. NASE pleads and relies upon sections 12 and 17 of the *Act*, as well as section 111 of the *Courts of Justice Act*, R.S.O., c. C. 43, as amended.

23. NASE requests that this action be dismissed as against it, with costs payable by Exact.

February 20, 2020

GLAHOLT BOWLES LLP
800-141 Adelaide St. W.,
Toronto, ON M5H 3L5

ANDREA LEE LSO No.: 52301A
MADALINA SONTROP LSO No.: 78148C

Tel: 416.368.8280
Fax: 416.368.3467

Lawyers for the Defendant, North American
Steel Erectors Inc.

TO: **HEAL AND CO. LLP**
1604- 250 Yonge Street
Toronto, ON, Canada M5B 2L7

ANDREW J. HEAL LSO No.: 31095E
MARIA LE HUNTE LSO No.: 74151D

Tel: 416.583.5901
Fax: 416.583.5905

Lawyers for the Plaintiff, Exact Detailing Ltd.

AND TO: **PICKERING DEVELOPMENTS (401) INC.**
186 Bartley Drive
Toronto, ON
Canada M4A 1E1

AND TO: **PICKERING DEVELOPMENTS (BAYLY) INC.**
186 Bartley Drive
Toronto, ON
Canada M4A 1E1

AND TO: **PICKERING DEVELOPMENTS (SQUIRES) INC.**
186 Bartley Drive
Toronto, ON
Canada M4A 1E1

AND TO: **ONTARIO GAMING GTA LIMITED PARTNERSHIP, by its general partner 2569129
ONTARIO INC., also known as Pickering Casino**
181 Bay Street, No. 4400
Toronto, ON
Canada M5J 2T3

EXACT DETAILING LTD.
Plaintiff

and

NORTH AMERICAN STEEL ERECTORS INC. et al.
Defendants

Court File No.: 3223/19

ONTARIO
SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE *CONSTRUCTION ACT*,
R.S.O 1990, c. C. 30 as amended

Proceeding commenced at Oshawa, Ontario

STATEMENT OF DEFENCE OF THE DEFENDANT
NORTH AMERICAN STEEL ERECTORS INC.

GLAHOLT BOWLES LLP
800-141 Adelaide St. W.,
Toronto, ON M5H 3L5

ANDREA LEE LSO No.: 52301A
MADALINA SONTROP LSO No.: 78148C

Tel: 416.368.8280
Fax: 416.368.3467

Lawyers for the Defendant, North American
Steel Erectors Inc.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF the *Construction Act*, R.S.O. 1990, c. C.30, as amended

MASTER

Master R. Muir

FRIDAY, THE 13TH DAY

OF DECEMBER, 2019

BETWEEN:

EXACT DETAILING LTD.

Plaintiff

-and-

**NORTH AMERICAN STEEL ERECTORS INC., PICKERING
DEVELOPMENTS (SQUIRES) INC., PICKERING DEVELOPMENTS
(BAYLY) INC., PICKERING DEVELOPMENTS (401) INC. and
ONTARIO GAMING GTA LIMITED PARTNERSHIP, by its general
partner 2569129 ONTARIO INC., also known as PICKERING CASINO**

Defendants

ORDER

THIS MOTION made by the Defendant, North American Steel Erectors Inc. ("NASE"), without notice, pursuant to Section 44(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended, for an Order granting leave for this motion to be heard in Toronto, and vacating the registration of the claim for lien and Certificate of Action of Exact Detailing Ltd. ("Exact"), was heard this day at the Court House, 393 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, filed, the Affidavit of Nadia Bazylewicz, sworn December 12, 2019, and Exhibits attached thereto, filed, upon hearing submissions from counsel for NASE, and upon it appearing that NASE has posted security in the amount of the claim for lien of Exact, in the amount of \$232,106.87 plus security for costs, being \$50,000.00, for a total of \$282,106.87 in the form of a Letter of Credit No. OSB60596CGY, dated December 9, 2019, issued by the Bank of Nova Scotia, filed with the Accountant of the Ontario Superior Court of Justice as Accountant's Account number 557926, ✓ *Rm*

1. **THIS COURT ORDERS** that leave be and the same is hereby granted to bring this motion in Toronto.
2. **THIS COURT ORDERS** that the claim for lien of Exact registered on October 25, 2019 as Instrument No. DR1840477 in the registry office for the Land Titles Division No. 40 (Durham) in respect of the lands and premises described in Schedule "A" hereto, be and the same is, hereby vacated.
3. **THIS COURT ORDERS** that the Certificate of Action of Exact registered on December 9, 2019 as Instrument No. DR1854416 in the registry office for the Land Titles Division No. 40 (Durham) in respect of the lands and premises described in Schedule "A" hereto, be and the same is, hereby vacated.

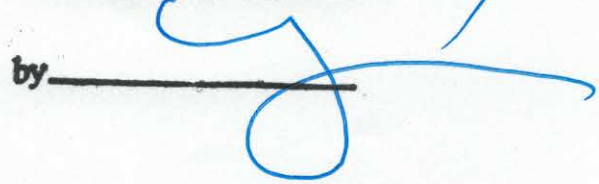
4. **THIS COURT ORDERS** that a copy of this Order shall be served on counsel for Exact
forthwith after entry.



Master R. Muir

ENTERED AT OSHAWA

on December 16, 2019

by _____


SCHEDULE "A"

PIN 26461 - 0007LT

PCL CON. 1-15-2 SEC PICKERING; PT LTS 15 & 16 CON 1, OF THE ORIGINAL TOWNSHIP OF PICKERING IN THE COUNTY OF ONTARIO, PTS 2, 3 & 4, 40R5623 EXCEPT PTS 1 & 2, 40R8447 & PTS 1, 2, 3 & 4, 40R8469 ;; SUBJECT TO AN EASEMENT IN GROSS OVER PART 1, PLAN 40R-30556 AS IN DR1814588; CITY OF PICKERING

PICKERING

PIN 26461 - 0001LT

PCL CON. 1-15-2 SEC PICKERING; PT LTS 15 & 16 CON 1, TOWNSHIP OF PICKERING, COUNTY OF ONTARIO, PT 1, 40R5623 ;; CITY OF PICKERING

PICKERING

PIN 26330 - 0107LT

PCL PICKERING CON.1-17-1 SEC TOWNSHIP OF PICKERING; PT LT 17 CON 1 IN THE TOWNSHIP OF PICKERING, IN THE COUNTY OF ONTARIO PTS 1, 2 & 3, 40R8440 EXCEPT PT 2, 40R10082; S/T LT89157 (TRANSFERRED BY DR98641); CITY OF PICKERING

PICKERING



Court File No.:3223/19

**EXACT DETAILING LTD.
Plaintiff**

- and -

**NORTH AMERICAN STEEL ERECTORS INC. et al.
Defendants**

**ONTARIO SUPERIOR COURT OF JUSTICE
IN THE MATTER OF the *Construction Act*,
R.S.O. 1990, c. C.30, as amended
AND IN THE MATTER OF AN
INTENDED LIEN ACTION
Proceeding commenced at Oshawa, Ontario**

ORDER

**GLAHOLT LLP
Barristers and Solicitors
800-141 Adelaide Street West
Toronto, ON
M5H 3L5**

ANDREA LEE LSO NO.: 52301A

**Tel.: (416) 368-8280
Fax: (416) 368-3467**

**Lawyers for North American
Steel Erectors Inc.**

SETTLEMENT AGREEMENT & MUTUAL RELEASE

Made this 28 day of October, 2021.

BETWEEN:

**MNP LTD. (“MNP”, or the “Trustee”) in its capacity as the trustee in bankruptcy of
the bankrupt estate of NORTH AMERICAN STEEL ERECTORS INC. (“NASE”),
and not in its personal capacity;**

of the First Part

and

**EXACT DETAILING LTD.
 (“Exact”)**

of the Second Part

WHEREAS NASE and Exact are parties to Court of Queen’s Bench of Manitoba (the
“**Manitoba Court**”) Court File No.: CI 20-01-27129 (the “**Manitoba Court Action**”);

AND WHEREAS by a Consent Order granted December 18, 2019 by the Honourable
Justice Harris in the Manitoba Court Action, NASE paid the sum of Two Hundred Five
Thousand One Hundred Fifty -Two Dollars and Forty-One Cents (\$205,152.41) (the “**Manitoba
Lien Monies**”) into the Manitoba Court;

AND WHEREAS Exact and NASE are parties to Ontario Superior Court of Justice (the
“**Ontario Court**”) Court File No. 3223/19 (the “**Ontario Court Action**”);

AND WHEREAS by an Order granted December 13, 2019 by Master Muir in the
Ontario Court Action, NASE posted a letter of credit in the amount of Two Hundred Eighty-Two
Thousand One Hundred Six Dollars and Eighty-Seven Cents (\$282,106.87) from the Bank of
Nova Scotia, specifically letter of credit no. 0SB60596CGY (the “**Letter of Credit**”), which is
held by the Accountant of the Ontario Court as Accountant’s Account number 557926;

AND WHEREAS by a Bankruptcy Order granted July 29, 2021 by the Honourable
Justice Jones of the Court of Queen’s Bench of Alberta, in Bankruptcy and Insolvency, in Court
File No.: BK01-095206, NASE was adjudged bankrupt and MNP was appointed as the trustee in
bankruptcy of the bankrupt estate of NASE;

AND WHEREAS the Trustee, in its capacity as the trustee in bankruptcy of the bankrupt
estate of NASE, and Exact (collectively, the “**Parties**”), have agreed to resolve the Manitoba
Court Action and Ontario Court Action on the terms set out herein;

NOW THEREFORE in consideration of the premises and mutual promises as contained
in this Settlement Agreement and Mutual Release, the sufficiency of which is hereby
acknowledged, it is agreed as follows:

1. In full and final settlement of both the Manitoba Court Action and the Ontario Court Action:
 - (a) The Trustee and Exact shall collectively cause the Manitoba Lien Monies to be paid out of the Manitoba Court and paid to Exact at the address of Exact or its Manitoba legal counsel as set out in paragraph 5 hereof;
 - (b) The Trustee and Exact shall collectively cause the Letter of Credit to be released by the Accountant of the Ontario Court and returned to the Trustee at the address of the Trustee or its legal counsel as set out in paragraph 5 hereof; and
 - (c) The Trustee shall pay to Exact the sum of One Thousand Five Hundred Dollars (\$1,500.00) as an agreed upon contribution to the legal fees incurred by Exact.
2. Upon satisfaction of all requirements of paragraph 1 hereof, the Trustee and Exact shall collectively cause to be filed with:
 - (a) the Manitoba Court in the Manitoba Court Action; and
 - (b) the Ontario Court in the Ontario Court Action;

a Discontinuance of Claim on a without costs basis, a Discontinuance of Counterclaim on a without costs basis, and or any other documents as may be necessary to cease and put to an end to each of the Manitoba Court Action and the Ontario Court Action on a without costs basis.
3. Subject to paragraph 4 hereof, the Trustee, in its capacity as the trustee in bankruptcy of the bankrupt estate of NASE, on behalf of NASE and NASE's predecessors, subsidiaries, parents, affiliated and associated corporations and entities, and their respective insurers, officers, directors, servants, agents, employees, successors and assigns of such corporations and entities, and the heirs, executors, administrators and assigns of those officers, directors, servants, agents, and employees, of the first part; and Exact, on its own behalf and on behalf of its predecessors, subsidiaries, parents, affiliated and associated corporations and entities, and their respective insurers, officers, directors, servants, agents, employees, successors and assigns of such corporations and entities, and the heirs, executors, administrators and assigns of those officers, directors, servants, agents, and employees, of the second part, do hereby respectively remise, release and forever discharge each other and each other's respective predecessors, subsidiaries, parents, affiliated and associated corporations and entities, and their respective insurers, officers, directors, servants, agents, employees, successors and assigns of such corporations and entities, and the heirs, executors, administrators and assigns of those officers, directors, servants, agents, and employees, as the case may be, from any and all manner of actions, cause and causes of action, contracts (whether expressed or implied), claims, demands, damages, loss, injury, suits, debts, sums of money, indemnity, expenses, interest, costs and claims of any kind and every kind and nature whatsoever, at law or in equity or statutory, which they ever had or now have or which they can, shall or may hereafter have by reason of any cause, matter or thing with respect to facts now existing with respect to any allegations made or which could have been asserted in relation to: (a) any matters contained in any pleadings or other documents filed with the

Manitoba Court in the Manitoba Court Action; (b) any matters contained in any pleading or other documents filed with the Ontario Court in the Ontario Court Action; (c) the design and construction of the building known as the Winnipeg Artis Tower located at 300 Main Street, Winnipeg, Manitoba (the “**Winnipeg Tower Project**”); (d) the design and construction of a multi-purpose development including a casino, hotels, an arena, a parkade and concert venue in Pickering, Ontario (collectively, the “**Pickering Casino Project**”); (e) the supply of structural steel design detail services with respect to the Winnipeg Tower Project and or the Pickering Casino Project, including, but not limited to the supply of structural and steel design, direction drawings, shop drawings, erection drawings, steel erection detailed layout instructions and modeling; (f) any quote, purchase order, contract, sub-contract or agreement of any kind between NASE and Exact, and any amounts or invoices issued or payable thereunder, concerning any supplies and or services provided regarding the Winnipeg Tower Project and or the Pickering Casino Project; (g) any work orders concerning the Winnipeg Tower Project and or the Pickering Casino Project; (h) any liens, including, but not limited to, any builder’s lien or construction liens, concerning the Winnipeg Tower Project and or the Pickering Casino Project; (i) any claims or possible claims made under *The Builders’ Lien Act*, C.C.S.M. c. B 91 involving the Winnipeg Tower Project, and or the *Construction Lien Act*, R.S.O. 1990, c. C. 30 and or the *Construction Act*, R.S.O. 1990, c. C.40 involving the Pickering Casino Project; (j) any monies or security paid into the Manitoba Court in the Manitoba Action, including, but not limited to, the Manitoba Lien Monies; (k) any monies or security paid into the Ontario Court in the Ontario Court Action, including, but not limited to, the Letter of Credit; (l) and any and all matters related thereto, whether directly or indirectly.

4. Notwithstanding any release or discharge by the Parties of any and all present and future actions, cause and causes of action, claims, counterclaims, complaints, arbitrations, demands, duties, responsibilities, obligations, covenants, sums of money, indemnity, promises, representations, warranties, suits, losses, damages, costs (including without limitation solicitor and own client fees and costs), interest, expenses, debts, dues, charges, accounts, bonds, statutory rights and obligations, agreements and contracts of any nature that they may have against each other pursuant to paragraph 3 of this Settlement Agreement and Mutual Release, the Parties each understand and agree that the directors and officers of NASE, and the insurers, heirs, executors, administrators and assigns of the directors and officers of NASE, are not released nor discharged from: (i) any trust obligations or duties owed by the directors and officers of NASE to Exact under *The Builders’ Lien Act*, C.C.S.M. c. B 91, the *Construction Lien Act*, R.S.O. 1990, c. C. 30, the *Construction Act*, R.S.O. 1990, c. C.40, or any other similar legislation (collectively, “**Lien Legislation**”); and (ii) any possible claims by Exact against the directors or officers of NASE for breach of trust or breach of any other duty alleged to be owed by them to Exact under any Lien Legislation, at law or in equity.
5. Any notices required or made under this Settlement Agreement and Mutual Release shall in be in writing and shall be delivered via e-mail to the Parties as follows:

To the Trustee:

MNP Ltd.
1500, 640 – 5 Avenue S.W.
Calgary, Alberta T2P 3G4
Attention: Victor Kroeger and Rick Anderson
E-mail: victor.kroeger@mnp.ca; rick.anderson@mnp.ca

With copy to (the Trustee's legal counsel):

Caron & Partners LLP
2120, 237 – 4 Avenue S.W.
Calgary, Alberta T2P 4K3
Attention: Dean Hutchison
E-mail: dhutchison@caronpartners.com

To Exact:

Exact Detailing Ltd.
200, 1770 Fort Street
Victoria, British Columbia V8R 1J5
Attention: Jeff Arnott and Matt Arnott
E-mail: jeff@exactdetailing.com; matt@exactdetailing.com

With Copy To (Exact's Manitoba legal counsel):

Thompson Dorfman Sweatman LLP
1700, 242 Hargrave Street
Winnipeg, Manitoba R3C 0V1
Attention: Meghan Ross
E-mail: mcr@tdslaw.com

And (Exact's Ontario legal counsel):

Heal & Co. LLP
1604, 250 Yonge Street
Toronto, Ontario M5B 2L7
Attention: Andrew Heal
E-mail: aheal@healco.com

6. The Parties covenant that, subject to paragraph 4, they will not commence, continue or pursue any proceedings, claims or actions inconsistent with the terms of this Agreement before any court, tribunal or any other administrative or judicial body against the others or against any individuals, bodies, corporations or trusts who might claim contribution or indemnity from another party. If any party should commence, continue or pursue any such proceedings, claims or actions, they shall forthwith discontinue such proceedings and shall indemnify the other parties for any and all obligations, liability, duty, loss, judgment, damages and costs directly or indirectly suffered, incurred by or awarded against them, whether presently known or unknown, including without limitation solicitor and own client costs and disbursements.

7. Nothing in this Agreement is, nor shall it be construed as or deemed to be, an admission of liability on the part of any of the Parties, nor as a waiver of any defences any party had or an acknowledgment on the part of any party, or anyone acting on their behalf, of any other matter whatsoever.
8. The Parties each represent and certify that the terms of this Agreement are fully understood, that they have had an opportunity to review this Agreement with legal counsel of their choice, that they have formed their own judgment of the facts and circumstances, both known and unknown, and have not relied on any representations of the other, and that this Agreement is voluntarily entered into for the purposes of completely and finally settling all matters between the Parties as addressed herein.
9. This Agreement is made and entered into pursuant to the laws of the Province of Alberta, Canada and shall in all respects be interpreted, enforced, and governed by and under the laws of Alberta. The parties irrevocably attorn to the jurisdiction of the Court of Queen's Bench of Alberta, Judicial Centre of Calgary, for all matters arising out of this Agreement.
10. Should any provision of this Agreement be declared or determined by a court of competent jurisdiction to be void, illegal or invalid, the validity of the remaining parts, terms and provisions shall not be affected and the said void, illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.
11. This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective heirs, successors, executors, administrators and assigns.
12. The signatory of this Agreement on behalf of the Trustee is a duly authorized signatory of and for the Trustee and has the requisite power to bind the Trustee, in its capacity as the trustee in bankruptcy of the bankrupt estate of NASE, to the covenants contained in this Agreement.
13. The signatory of this Agreement on behalf of Exact is a duly authorized signatory of and for Exact and has the requisite power to bind Exact to the covenants contained in this Agreement.
14. The Parties understand and agree that this Agreement constitutes the entire agreement between the Parties and supersedes any and all prior and contemporaneous agreements, understandings, negotiations, discussions or representations, express or implied, oral or written and there are no other warranties, representations or agreements in connection with this subject matter. No supplement, modification, amendment or waiver of this Agreement shall be binding unless executed in writing by each of the Parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.

EXECUTION PAGE TO FOLLOW.]

15. The Parties understand and agree that this Agreement may be executed by facsimile, PDF, or other electronic means and in counterpart and each counterpart shall, for all purposes, be deemed to constitute one and the same agreement with full force and effect, notwithstanding that all Parties are not signatories to the same counterpart.

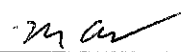
IN WITNESS WHEREOF, this Settlement Agreement and Mutual Release has been executed and delivered by the parties hereto as of the day and year first written above.

MNP LTD., in its capacity as the trustee in bankruptcy of the
bankrupt estate of **NORTH AMERICAN STEEL ERECTORS INC.**
and not in its personal capacity



Name: Victor P. Kroeger
Title: Senior Vice President

EXACT DETAILING LTD.



Name: Matt Arnott
Title: Director of Administration

THE QUEEN'S BENCH
WINNIPEG CENTRE

BETWEEN:

NORTH AMERICAN STEEL ERECTORS INC.,

plaintiff,

- and -

EXACT DETAILING LTD.,

defendant.

ORDER

Thompson Dorfman Sweatman LLP
Barristers and Solicitors
1700 - 242 Hargrave Street
Winnipeg MB R3C 0V1

(Matter No. 0167856 MCR)
(Meghan C. Ross 204-934-2467)
(Fax. No. 204-934-0578)
(Toll Free: 1-855-483-7529)

THE QUEEN'S BENCH
WINNIPEG CENTRE

THE HONOURABLE)
JUSTICE *R. Dewar*) *Tuesday*, the 9th day of
) November, 2021
)

BETWEEN:

NORTH AMERICAN STEEL ERECTORS INC.,

plaintiff,

- and -

EXACT DETAILING LTD.,

defendant.

ORDER

ON READING the pleadings filed herein, and on noting the consent of the plaintiff (defendant by Counterclaim) North American Steel Erectors Inc. and the defendant (plaintiff by Counterclaim) Exact Detailing Ltd.,

AND UPON noting that North American Steel Erectors Inc. was adjudged bankrupt by a Bankruptcy Order pronounced July 29, 2021 by the Court of Queen's Bench of Alberta and MNP Ltd. was appointed as the trustee of the bankrupt estate of North American Steel Erectors Inc.,

1. THIS COURT ORDERS that the Statement of Claim filed by the plaintiff (defendant by Counterclaim) North American Steel Erectors Inc. against the defendant (plaintiff by Counterclaim) Exact Detailing Ltd. is hereby discontinued with prejudice, without costs to any party, and the discontinuance shall constitute a defence to any subsequent action or application in accordance with Manitoba Court of Queen's Bench Rule 23.02(1).

2. THIS COURT FURTHER ORDERS that in accordance with section 61(3) of *The Builders' Lien Act*, C.C.S.M. c. B91, the Counterclaim filed by the defendant (plaintiff by Counterclaim) Exact Detailing Ltd. as against the plaintiff (defendant by Counterclaim) North American Steel Erectors Inc. is hereby discontinued with prejudice, without costs to any party, and the discontinuance shall constitute a defence to any subsequent action or application in accordance with Manitoba Court of Queen's Bench Rule 23.02(1).

November 9, 2021

R.A. DEWAR



**CONSENTED TO AS TO FORM & CONTENT
CARON & PARTNERS LLP**

Per:



Dean Hutchison

Counsel for the Plaintiff / Defendant by Counterclaim, MNP Ltd., in its capacity as the trustee in bankruptcy of the bankrupt estate of North American Steel Erectors Inc.

CONSENTED TO AS TO FORM & CONTENT
THOMPSON DORFMAN SWEATMAN LLP

Per:

A handwritten signature in black ink, appearing to read "Meghan C. Ross", written over a horizontal line.

Meghan C. Ross

Counsel for the Defendant / Plaintiff by Counterclaim, Exact Detailing Ltd.

THE QUEEN'S BENCH

WINNIPEG CENTRE

BETWEEN:

NORTH AMERICAN STEEL ERECTORS INC.,

Applicant,

- and -

EXACT DETAILING LTD.,

Respondents.

APPLICATION UNDER: Section 55(2) of *The Builders' Liens Act*, C.C.S.M. c.B91

TRUE COPY

ORDER

Thompson Dorfman Sweatman LLP
Barristers and Solicitors
1700 - 242 Hargrave Street
Winnipeg MB R3C 0V1

(Matter No. 0167856 MCR)
(Meghan C. Ross 204-934-2467)
(Fax. No. 204-934-0578)
(Toll Free: 1-855-483-7529)

THE QUEEN'S BENCH

WINNIPEG CENTRE

THE HONOURABLE
M.H. JUSTICE *DEWAR*

) *Tuesday*, the *9th* day of
) November, 2021
)

BETWEEN:

NORTH AMERICAN STEEL ERECTORS INC.,
Applicant,

- and -

EXACT DETAILING LTD.,
Respondent.

APPLICATION UNDER: Section 55(2) of *The Builders' Liens Act*, C.C.S.M. c.B91

TRUE COPY

ORDER

THIS Motion, made by the Respondent Exact Detailing Ltd. for an order for the payment of monies out of Court was heard this day at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

ON READING the Notice of Motion, the Affidavit of Tracy Medina sworn October 25, 2021 and the consent of the Applicant North American Steel Erectors Inc. and the Respondent Exact Detailing Ltd., no one for North American Steel Erectors Inc. appearing although properly served,


AND UPON noting that North American Steel Erectors Inc. was adjudged bankrupt by a Bankruptcy Order pronounced July 29, 2021 by the Court of Queen's Bench of Alberta and MNP Ltd. was appointed as the trustee of the bankrupt estate of North American Steel Erectors Inc.

1. THIS COURT ORDERS that the sum of \$205,152.41 paid into Court to the credit of this matter and accrued interest of \$1,456.34 be paid out to the Respondent Exact Detailing Ltd.


2. THIS COURT FURTHER ORDERS that the requirement for the Respondent Exact Detailing Ltd. to file an affidavit in accordance with Court of Queen's Bench Rule 73.03(7)(b), stating that the appeal period from this order for payment out has expired and no appeal is pending, is hereby dispensed with.

3. THIS COURT FURTHER ORDERS that the within application be dismissed without costs.

November 9th, 2021


JUSTICE DEWAR

CONSENTED TO AS TO FORM & CONTENT
CARON & PARTNERS LLP

Per: 
Dean Hutchison

Counsel for the Applicant, MNP Ltd., in its capacity as the trustee in bankruptcy of the bankrupt estate of North American Steel Erectors Inc.

CONSENTED TO AS TO FORM & CONTENT
THOMPSON DORFMAN SWEATMAN LLP

Per:

A handwritten signature in black ink, appearing to read 'M. C. Ross', written over a horizontal line.

Meghan C. Ross

Counsel for the Respondent, Exact Detailing Ltd.

Court File No. CV-19-00003223-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER of the *Construction Act*,
R.S.O. 1990, c. C. 30, as amended

*ASSOCIATE
JUSTICE WIEBE*

) *Mon* DAY, THE *22nd* DAY
)
) OF NOVEMBER, 2021

B E T W E E N:

EXACT DETAILING LTD.

Plaintiff

- and -

**NORTH AMERICAN STEEL ERECTORS INC., PICKERING
DEVELOPMENTS (SQUIRES) INC., PICKERING DEVELOPMENTS
(BAYLY) INC., PICKERING DEVELOPMENTS (401) INC. and ONTARIO
GAMING GTA LIMITED PARTNERSHIP, by its general partner 2569129
ONTARIO INC., also known as PICKERING CASINO**

Defendants

ORDER

THIS MOTION, made on Consent, by the Plaintiff, Exact Detailing Ltd., for an Order granting leave to bring this motion in Toronto, dismissing the within action without costs, and returning the Letter of Credit of North American Steel Erectors Inc. ("NASE") for cancellation, was read this day at the Court House, ~~393 University Avenue~~ *500*, Toronto, Ontario.

ON READING the Affidavit of Andrew J. Heal, sworn November 9, 2021 and the signed Consents of the Plaintiff and of the Defendant, NASE, to the Order sought at this motion, this action having been discontinued as against the Defendants, Pickering Developments (Squires) Inc., Pickering

Developments (Bayly) Inc., Pickering Developments (401) Inc., and Ontario Gaming GTA Limited Partnership, by its general partner 2569129 Ontario Inc., also known as Pickering Casino:

1. **THIS COURT ORDERS** that leave be, and the same is hereby, granted to bring this motion in Toronto.
2. **THIS COURT ORDERS** that the claim for lien of the Plaintiff, Exact Detailing Ltd. (“**Exact Detailing**”), registered as Instrument No. DR1840477 on October 25, 2019, against the lands and premises more particularly described in Schedule “A” hereto, in the Land Registry Office No. 40 (Durham), be, and the same is hereby, discharged.
3. **THIS COURT ORDERS** that the security posted by NASE to vacate the registration of the Claim for Lien of Exact Detailing Ltd. by Order of Master Muir dated December 13, 2019 as evidenced by Accountant’s No. 557926 in the form of Letter of Credit No. OSB60596CGY issued by the Bank of Nova Scotia, shall be delivered up forthwith for cancellation to Heal & Co. LLP to be delivered to Caron Partners LLP, lawyers for MNP Ltd., the Trustee in Bankruptcy for NASE, to be delivered to the Bank of Nova Scotia.
4. **THIS COURT ORDERS** that the requirements of Rule 72.03(2)(c) be, and the same is hereby dispensed with, such that no Affidavit is required for the delivery up for cancellation of Letter of Credit No. OSB60596CGY to Heal & Co. LLP to be delivered to Caron Partners LLP, lawyers for MNP Ltd., the Trustee in Bankruptcy for NASE.
5. **THIS COURT ORDERS** that the within action be, and the same are hereby, dismissed, without costs.
6. **THIS COURT ORDERS** that there be no costs for this motion.

- 3 -

7. **THIS COURT ORDERS** that a copy of this Order be served upon the Defendant, NASE,
forthwith after entry.

Charles Wiebe

Associate Justice C. Wiebe

Schedule "A"

PIN 26461 - 0007 LT

Description PCL CON. 1-15-2 SEC PICKERING; PT LTS 15 & 16 CON 1, OF THE ORIGINAL TOWNSHIP OF PICKERING IN THE COUNTY OF ONTARIO, PTS 2, 3 & 4, 40R5623 EXCEPT PTS 1 & 2, 40R8447 & PTS 1 2, 3 & 4, 40R8469 ;; SUBJECT TO AN EASEMENT IN GROSS OVER PART 1, PLAN 40R-30556 AS IN DR1814588; CITY OF PICKERING

Address PICKERING

PIN 26461 - 0001 LT

Description PCL CON. 1-15-2 SEC PICKERING; PT LTS 15 & 16 CON 1, TOWNSHIP OF PICKERING, COUNTY OF ONTARIO, PT 1, 40R5623; CITY OF PICKERING

Address PICKERING

PIN 26330-0107 LT

Description PCL PICKERING CON. 1-17-1 SEC TOWNSHIP OF PICKERING; PT LT 17 CON 1 IN THE TOWNSHIP OF PICKERING, IN THE COUNTY OF ONTARIO PTS 1, 2 & 3, 40R8440 EXCEPT PT 2, 40R10082 ; SIT LTB9157 (TRANSFERRED BY DR98641); CITY OF PICKERING

Address PICKERING

cw

Court File No. CV-19-00003223-0000

EXACT DETAILING LTD.
Plaintiff

- and -

NORTH AMERICAN STEEL ERECTORS INC. et al.
Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER of the *Construction Act*,
R.S.O. 1990, c. C.30, as amended

Proceeding Commenced at **OSHAWA**

ORDER

HEAL & CO. LLP
Barristers & Solicitors
250 Yonge Street, Suite 1604
Toronto, ON M5B 2L7

Andrew J. Heal (LSO #31095E)
Catherine DiMarco (LSO #50726V)
Tel: 416-583-5901
Email: ahcal@healandco.com

Lawyers for the Plaintiff,
Exact Detailing Ltd.

District of Alberta
Division No: 02-Calgary
Estate No.: 25-095246
Court No: 25-095246

**IN THE MATTER OF THE BANKRUPTCY OF
NORTH AMERICAN STEEL ERECTORS INC.
(the "Company")
MINUTES OF THE SECOND MEETING OF INSPECTORS**

Date: September 7, 2021
Time: 2:30 PM
Location: Teams Call

Present: Crystal Martin - Inspector
Victor Kroeger – Trustee, MNP Ltd.
Rick Anderson – MNP Ltd.
Dean Hutchison – Caron & Partners LLP., Legal Counsel to the Estate

1. A quorum of Inspectors was present and the meeting was called to order.
2. The following motions were **approved** by the Inspector:
 - a. The Trustee has advised that the fixed assets (inventory, vehicles and equipment) of the bankrupt (the "Fixed Assets") are incurring costs to store and insure. There are competing claims against the Fixed Assets however the Trustee does not have the funds to determine entitlement to them. As a result, and based on the desk top appraisal of the assets versus the numerous charges against those assets, namely Canada Revenue Agency's potential deemed trust claim, estimated to be \$1,500,000; Ford Canada's claims against certain vehicles; Scotiabank's secured claim under its general security agreement and the claim of Metal Perrault, who have advanced a construction lien claim over funds held in the debtor's bank account, the Estate has no interest in the assets of the Bankrupt.

The Inspector authorized the Trustee to advise the above claimants that the Trustee will sell the Fixed Assets of NASE, with the costs of sale and the related Trustee fees and disbursements paid from those proceeds, unless the parties unanimously agree to a different process to deal with the Fixed Assets by 12:00 PM Calgary time on September 17, 2021. The net proceeds from the sale will be held by the Trustee along with any cash in the Estate and will either be distributed in accordance with the direction from any unanimous agreement of the claimants, or it will be paid into Court for determination.

The Trustee is to issue this notice immediately.

- b. The Bankrupt is involved in 2 separate litigation matters with Exact Drilling Ltd ("Exact"). In the Manitoba action the Bankrupt commenced an action against Exact for the sum of \$4,677,711.08 resulting from the piecemeal procurement of steel and to recover costs incurred to engage TDS Industrial Services Ltd. to provide detailing services in replacement of Exact who allegedly provided defective detailing services to the Bankrupt. Exact defended and counterclaimed for \$205,152.41 for amounts it claimed the Bankrupt owed it under the terms of the subject Subcontract and filed a builder's lien for this amount. In order to discharge the lien while the litigation continued, the Bankrupt paid the sum of \$205,152.41 into Court. The Bankrupt's Manitoba counsel advised the Trustee that the Bankrupt's claim was weak and that attempting to negotiate a settlement with Exact was appropriate

In the Ontario action, Exact filed a construction lien against one of the Bankrupt's project in the amount of \$232,106.87 and the Bankrupt defended the claim by filing a counterclaim alleging Exact's claim was improper and exaggerated. In order to discharge Exact's lien, the Bankrupt posted a \$282,106.87 letter of credit with the Court. The Bankrupt's Ontario counsel has advised the Trustee that the Bankrupt's claim is weak and that attempting to negotiate a settlement with Exact was appropriate.

The Trustee's counsel has negotiated a settlement of both the Manitoba and Ontario litigation matters with Exact's legal counsel, subject to the Estate's Inspector's approval, whereby: (i) Exact is to receive the

\$205,152.41 held by the Manitoba Court; (ii) Exact will return to the Estate for cancellation the \$282,106.87 letter of credit held by the Ontario Court; and (iii) the parties will discontinue all actions against each other and execute mutual releases.

The Inspector approved the above settlement and instructed the Trustee to finalize the matter.

- c. The Bankrupt had issued a statement of claim with the Alberta Court against Shield Industries Ltd. ("Shield") and Shield's performance bonding company, Wynward Insurance Group ("Wynward") in the amount of \$3,720,348.03. The Wynward performance bond had a limit of \$1,860,174.02. Shield is apparently insolvent so the Bankrupt's only potential recourse is against Wynward. The Bankrupt's Alberta legal counsel advised the Trustee that the Bankrupt was preparing materials for an application for summary judgement against Wynward. The Bankrupt's legal counsel also advised the Trustee that the Bankrupt's claim had a better than 50% chance of success, however, the costs to proceed are estimated to be approximately \$100,000. The Trustee attempted to negotiate a settlement of the claim with Wynward without success. The Trustee does not have funds available to pursue this litigation further..

The Inspector directed the Trustee to send a notice to the Bankrupt's creditors that the Estate is unable to funds this matter and that they can make an application pursuant to Section 38 of the Bankruptcy and Insolvency Act to allow a creditor or creditors to take over the action.

3. There being no further business, the meeting was terminated at 2:45 PM.



Victor Kroeger, CPA, CA, CIRP, LIT, CFE

Approved by the Inspector this _____ day of September, 2021

Crystal Martin, Inspector

District of Alberta
Division No: 02-Calgary
Estate No.: 25-095246
Court No: 25-095246

**IN THE MATTER OF THE BANKRUPTCY OF
NORTH AMERICAN STEEL ERECTORS INC.
(the "Company")
MINUTES OF THE THIRD MEETING OF INSPECTORS**

Date: September 28, 2021
Time: 2:29 PM
Location: Teams Call

Present: Crystal Martin - Inspector
Rick Anderson – Trustee, MNP Ltd.
Dean Hutchison – Caron & Partners LLP., Legal Counsel to the Estate

1. A quorum of Inspectors was present and the meeting was called to order at 2:29 PM.
2. The Trustee provided the Inspector with the following motions for approval:
3. N-Force Crane & Equipment Ltd. has offered to purchase 2 c-cans and the contents of those c-cans for \$20,000 plus GST. A copy of the email is attached hereto.
The Trustee is authorized to accept and close the sale of the c-cans at the 9th Ave Bridge construction project.
4. In an effort to resolve the Exact Detailing litigation in Manitoba and Ontario, the Trustee has been requested to fund a portion of the legal costs associated with having the funds paid in trust and the letter of credit released to the relevant parties. Counsel for Exact has requested the Estate fund one of the litigation matters. The Trustee advised that there funds for this would be limited to a maximum of \$1,500.


Caron & Partners is authorized to agree to funding the applications to finalize the Ontario and Manitoba Exact Detailing litigations for a maximum of \$1,500.

5. There being no further business, the meeting was terminated at 2:34 PM.



Rick Anderson, CPA, CMA, CIRP, LIT, CFE

Approved by the Inspector this 30 day of September, 2021



Crystal Martin, Inspector

Dean Hutchison

From: Dean Hutchison
Sent: March 25, 2022 11:03 AM
To: Dan Ramsay
Cc: Lorraine Chanasyk
Subject: RE: n the Matter of Bankruptcy of North American Steel Erectors Inc. - Court File Number: BK01-095206

Hello Dan,

The actions were resolved following the bankruptcy of North American Steel Erectors Inc., specifically in October/November 2021.

Regards,

Dean Hutchison
Barrister & Solicitor



Caron & Partners LLP
Barristers & Solicitors
Fifth Avenue Place – West Tower
2120, 237 – 4th Avenue, S.W.
Calgary, Alberta T2P 4K3
W: www.caronpartners.com
T: 403.262.3000
D: 403.770.4023
F: 403.237.0111
E: dhutchison@caronpartners.com

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From: Dan Ramsay <dan@ramsaylc.ca>
Sent: March 25, 2022 10:56 AM
To: Dean Hutchison <dhutchison@caronpartners.com>
Cc: Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: Re: n the Matter of Bankruptcy of North American Steel Erectors Inc. - Court File Number: BK01-095206

Dean, can you advise when these 2 actions were resolved.

Thanks,

Dan Ramsay

On Fri, Mar 25, 2022, 9:51 AM Dean Hutchison, <dhutchison@caronpartners.com> wrote:

Good Morning Mr. Ramsay,

We are in receipt of your voicemail message of earlier this morning regarding the above referenced matter, specifically your inquiry regarding our client's, MNP Ltd. in its capacity trustee in bankruptcy (the "Trustee") of North American Steel Erectors Inc. ("NASE"), intentions concerning certain litigation that NASE was involved in as of the date of its bankruptcy. In particular two actions involving NASE in the Manitoba Court of Queen's Bench, Winnipeg Centre, specifically: 1) Court File No. 19-01-24911; and 2) Court File No. CI 20-01-27129; involving NASE and Exact Detailing Ltd. Please be advised that the these two actions have been resolved and discontinued.

Please further be advised that a related action in the Ontario Superior Court of Justice involving NASE and Exact Detailing Ltd., specifically Court File No. 3223/19, has been resolved and discontinued.

Regards,

Dean Hutchison

Barrister & Solicitor



Caron & Partners LLP

Barristers & Solicitors

Fifth Avenue Place – West Tower

2120, 237 – 4th Avenue, S.W.

Calgary, Alberta T2P 4K3

W: www.caronpartners.com

T: 403.262.3000

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E: dhutchison@caronpartners.com

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is assumed. Should you choose to allow us to communicate by e-mail, we will not take any additional security measures (such as encryption) unless specifically requested. Any dissemination or copying of this message by anyone other than the addressee is strictly prohibited

Dean Hutchison

From: Dean Hutchison
Sent: April 21, 2022 4:31 PM
To: dan@ramsaylc.ca
Cc: Lorraine Chanasyk
Subject: RE: North American Steel
Attachments: Affidavit - April 14, 2022 - Notice to Creditors RE Documents Concerning 9th Avenue Bridge Litigation - mail out.pdf

Good Afternoon Dan,

In response to your request in your e-mail of earlier this afternoon set out below, please find attached the Affidavit of Mailing made by the Trustee on April 14, 2022 regarding the mailing of the Notice to Creditors re: Documents Concerning 9th Avenue Bridge Litigation. As you will see, the Affidavit contains the names and mailing addresses of the known purported creditors of North American Steel Erectors Inc.

Your e-mail below states that you are "in the process of filing an application on behalf of Steeve Toupin for the assignment of NASE's legal actions to him." By an "application", do you mean an application for an Order under section 38 of the *Bankruptcy and Insolvency Act*? If so, when do you plan on making this application returnable and serving materials with respect to such application?

Kindly please advise.

Regards,

Dean Hutchison
Barrister & Solicitor



Caron & Partners LLP
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Fifth Avenue Place – West Tower
2120, 237 – 4th Avenue, S.W.
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From: dan@ramsaylc.ca <dan@ramsaylc.ca>
Sent: April 21, 2022 1:59 PM
To: Dean Hutchison <dhutchison@caronpartners.com>
Subject: North American Steel

Hi Dean,

I'm in the process of filing an application on behalf of Steeve Toupin for the assignment of NASE's legal actions to him. Do you have NASE's list of creditors, or an affidavit of service on this action where I can see contact info for the creditors?

Thanks,

Dan Ramsay

Dean Hutchison

From: Dean Hutchison
Sent: May 16, 2022 10:06 AM
To: 'Dan Ramsay'
Cc: Lorraine Chanasyk
Subject: In the Matter of the Bankruptcy of North American Steel Erectors Inc. -BK01-095206

Good Morning Dan,

I hope you had an enjoyable weekend.

I wanted to let you know that the Trustee will be moving forward with seeking its discharge in the very near future. I know you had indicated that your client may be interested in bringing an application under section 38 of the *Bankruptcy and Insolvency Act*, so as a courtesy to you, I thought it prudent that you should know the Trustee will be moving forward with seeking its discharge shortly.

Regards,
Dean

Dean Hutchison
Barrister & Solicitor



Caron & Partners LLP
Barristers & Solicitors
Fifth Avenue Place – West Tower
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Dean Hutchison

From: Dean Hutchison
Sent: June 30, 2022 2:52 PM
To: Andrew Wilkinson; dan@ramsaylc.ca; 'Preet Saini'; Richard Harrison
Cc: Amanda Culshaw; Sarah Znak; Lorraine Chanasyk
Subject: RE: NASE Bankruptcy - S. 38 Application

Importance: High

Good Afternoon All,

Thank you for your e-mail Mr. Wilkinson.

The Trustee's position remains as that set out in my e-mail of June 21st set out below. Since that time we have still not received a substantive response from Mr. Ramsay regarding whether his client will be the section 37 portion of his application and the relief sought concerning the Exact Actions. As noted numerous time previously, if Mr. Ramsay's client proceeds with that portion of his application, it will be opposed by the Trustee and the Trustee will be seeking costs on a solicitor and own client, full indemnity basis.

Also, Mr. Ramsay's client has not submitted a Proof of Claim to the Trustee. As result, the issue of Mr. Ramsay's client's standing to bring an application under section 38 of the BIA remains an issue.

Lastly, we have not heard from Mr. Ramsay concerning the issue of the solicitor's lien asserted by BLG.

I would note that we are now one week from the July 7th hearing date set for Mr. Ramsay's client application. Time is therefore very much of the essence and we require a substantive response from Mr. Ramsay forthwith.

Regards,

Dean Hutchison
Barrister & Solicitor



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From: Andrew Wilkinson <Andrew.Wilkinson@rosellp.com>
Sent: June 30, 2022 1:33 PM
To: Dean Hutchison <dhutchison@caronpartners.com>; dan@ramsaylc.ca; 'Preet Saini' <Preet.Saini@mcmillan.ca>; Richard Harrison <rharrison@wilcraft.com>
Cc: Amanda Culshaw <amanda@ramsaylc.ca>; Sarah Znak <Sarah.Znak@rosellp.com>; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: NASE Bankruptcy - S. 38 Application

All,

I am following up for any comments on the revised Consent Order I had provided below and attached again for convenience. I was optimistic that we would be able to reach agreement on the form of Order with respect to s. 37 (the Bridge litigation), and hopefully that is still possible. I am out of the office starting Tuesday next week and it will slow down my ability to respond and to seek instructions if there are further negotiations to be had. I recognize that the Court application is scheduled for July 7th, and will try to attend if necessary or have someone else from my office attend.

Thanks

Andrew

Andrew Wilkinson, Partner
403.776-0538 | Andrew.Wilkinson@RoseLLP.com
Suite 2100, 440 – 2nd Avenue SW, Calgary, AB, Canada T2P 5E9



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From: Andrew Wilkinson
Sent: June 22, 2022 1:50 PM
To: Dean Hutchison <dhutchison@caronpartners.com>; dan@ramsaylc.ca; 'Preet Saini' <Preet.Saini@mcmillan.ca>; Richard Harrison <rharrison@wilcraft.com>
Cc: Amanda Culshaw <amanda@ramsaylc.ca>; Sarah Znak <Sarah.Znak@RoseLLP.com>; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: NASE Bankruptcy - S. 38 Application

Thanks Dean. I have added a new paragraph 10 to deal with the delivery of the records to Mr. Toupin.

With respect to the portion of Mr. Toupin's Application under section 37 in relation to the Exact Actions, Trisura is not taking any position. I believe there can be two Orders, one dealing with the section 38 application, as attached. A separate Order, if it can be negotiated between the Trustee and Mr. Toupin, can be entered with respect to the section 37/Exact Actions, or that separate Order can result from the Registrar's determination.

Thanks

Andrew

Andrew Wilkinson, Partner

403.776-0538 | Andrew.Wilkinson@RoseLLP.com

Suite 2100, 440 – 2nd Avenue SW, Calgary, AB, Canada T2P 5E9



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From: Dean Hutchison <dhutchison@caronpartners.com>

Sent: June 21, 2022 12:02 PM

To: Andrew Wilkinson <Andrew.Wilkinson@rosellp.com>; dan@ramsaylc.ca; 'Preet Saini' <Preet.Saini@mcmillan.ca>

Cc: Amanda Culshaw <amanda@ramsaylc.ca>; Richard Harrison <rharrison@wilcraft.com>; Sarah Znak <Sarah.Znak@rosellp.com>; Lorraine Chanasyk <lchanasyk@caronpartners.com>

Subject: RE: NASE Bankruptcy - S. 38 Application

Good Day All,

Thank you for your e-mail Mr. Wilkinson.

We have yet to hear from Mr. Ramsay with respect to his client's position concerning the section 37 portion of his application and the relief sought concerning the Exact Actions. As we have indicated previously (in particular by way of our e-mail of Tuesday, June 14th – copy attached), if Mr. Ramsay's client proceeds with that portion of his application, it will be opposed by the Trustee and the Trustee will be seeking costs on a solicitor and own client, full indemnity basis.

Our said e-mail, on a without prejudice basis, provided a mechanism by which the said portion of Mr. Ramsay's client could be dealt with, and suggested that Mr. Ramsay provide his/his client's comments on the proposed form of Order and circulate same. We indicated that from there, we, as counsel for the Trustee, would provide our/the Trustee's comments on the Order. We have yet to hear from Mr. Ramsay on his client's proposed form of Order and we again invite him to circulate a proposed form of Order for our review.

Also, as previously noted in our attached e-mail of June 14, 2022 and in Court at our appearance on June 14th before Justice Yamauchi to confirm the adjournment of Mr. Ramsay's client's application to Thursday, July 7th before Justice Romaine, the Trustee has not received a Proof of Claim with respect to any claims made by Mr. Ramsay's client, Steeve Toupin, against the bankrupt, North American Steel Erectors Inc. (the "Bankrupt" or "NASE"). That continues to be the case as of the time of writing this e-mail. As a result, there remains a corresponding threshold issue as to whether Mr. Toupin is a "creditor" of the Bankrupt with standing to bring an application under section 38 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 (the "BIA").

Lastly, both Mr. Ramsay and I have recently received correspondence from Locklyn Price of Borden Ladner Gervias LLP ("BLG"), who was counsel for NASE regarding Court of Queen's Bench of Alberta Court File No.: 2001-16202 (the "Shield Action") prior to NASE's bankruptcy. BLG has advised that they are asserting a solicitor's lien over the papers and documents of NASE concerning the Shield Action for unpaid legal fees and disbursement in the amount of \$28,861.31. We have advised both Mr. Ramsay and Mr. Price that the Trustee takes no position with respect to BLG's asserted solicitor's lien. We further advised that pursuant to section 16(5) of the BIA entitled "Right of trustee to books of account, etc.", it provides that no person is entitled to set up any lien or retain any papers or documents, including material in electronic form, relating to the accounts or trade dealings of the bankrupt. Further, Rule 68(4) of the *Bankruptcy and Insolvency General Rules*, Can. Reg. 368, C.R.C. 1978, c. 368 (the "BIA Rules") provides that documents on which legal counsel have a lien or a right of retention shall be returned to the legal counsel on completion of the administration of the estate to which the documents relate. The net effect of this is that any solicitor's lien that BLG may have over the documents of NASE concerning the Shield Action is, by virtue of section 16(5) of the BIA, suspended during the period in which the Trustee is administering the estate. After the administration is complete, pursuant to

Rule 68(4) of the BIA Rules, the Trustee will be required to return the papers and documents to the solicitor asserting the lien, who in this case is BLG. Upon the granting of an Order under section 38 of the BIA assigning the Trustee's interest in the Shield Action to any creditor(s) of NASE, there will no longer be any need for the Trustee to hold the paper and documents of NASE concerning the Shield Action for the purposes of administering the estate of NASE. Generally in a section 38 Order concerning the assignment of the trustee's interest in litigation concerning the bankrupt to a creditor(s) of the bankrupt estate, the Order provides that the trustee deliver to a designated creditor, the bankrupt's papers and documents concerning the subject assigned litigation. In the present matter, this would be the papers and documents of NASE concerning the Shield Action over which BLG is asserting a solicitor's lien. In light of these circumstances, it would seem appropriate that the section 38 Order address to whom the papers and documents of NASE concerning the Shield Action currently in the Trustee's possession be sent – either to a designated creditor, or to BLG pending satisfaction of its asserted solicitor's lien. We have invited Mr. Ramsay to provide his position regarding this and a form of Order to address same but have yet to hear from him.

We sincerely hope that we will be hearing from Mr. Ramsay regarding these issues shortly.

Regards,

Dean Hutchison
Barrister & Solicitor



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From: Andrew Wilkinson <Andrew.Wilkinson@rosellp.com>

Sent: June 21, 2022 9:09 AM

To: dan@ramsaylc.ca; Dean Hutchison <dhutchison@caronpartners.com>; 'Preet Saini' <Preet.Saini@mcmillan.ca>

Cc: Amanda Culshaw <amanda@ramsaylc.ca>; Richard Harrison <rharrison@wilcraft.com>; Sarah Znak <Sarah.Znak@rosellp.com>

Subject: RE: NASE Bankruptcy - S. 38 Application

All,

Following up on the attached form of Order. I saw Mr. Harrison had no revisions. Any one else?

Thanks

Andrew

Andrew Wilkinson, Partner
403.776-0538 | Andrew.Wilkinson@RoseLLP.com
Suite 2100, 440 – 2nd Avenue SW, Calgary, AB, Canada T2P 5E9



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From: Andrew Wilkinson
Sent: June 14, 2022 10:22 AM
To: dan@ramsaylc.ca; 'Dean Hutchison' <dhutchison@caronpartners.com>; 'Preet Saini' <Preet.Saini@mcmillan.ca>; Richard Harrison <rharrison@wilcraft.com>
Cc: Amanda Culshaw <amanda@ramsaylc.ca>
Subject: RE: NASE Bankruptcy - S. 38 Application

All, attached is a proposed form of Order for the section 38 aspect of Mr. Toupin's application.

Please let the group know if you have any comments.

Thanks

Andrew

Andrew Wilkinson, Partner
403.776-0538 | Andrew.Wilkinson@RoseLLP.com
Suite 2100, 440 – 2nd Avenue SW, Calgary, AB, Canada T2P 5E9



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From: Andrew Wilkinson
Sent: June 9, 2022 9:04 AM
To: dan@ramsaylc.ca; 'Dean Hutchison' <dhutchison@caronpartners.com>; 'Preet Saini' <Preet.Saini@mcmillan.ca>; Richard Harrison <rharrison@wilcraft.com>
Cc: Amanda Culshaw <amanda@ramsaylc.ca>
Subject: RE: NASE Bankruptcy - S. 38 Application

I think there is still value in starting discussions regarding the s. 38 order form. I will try to provide something early next week if no one else beats me to it.

Thanks

Andrew

Andrew Wilkinson, Partner
403.776-0538 | Andrew.Wilkinson@RoseLLP.com
Suite 2100, 440 – 2nd Avenue SW, Calgary, AB, Canada T2P 5E9



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From: dan@ramsaylc.ca <dan@ramsaylc.ca>

Sent: June 8, 2022 3:52 PM

To: 'Dean Hutchison' <dhutchison@caronpartners.com>; 'Preet Saini' <Preet.Saini@mcmillan.ca>; Andrew Wilkinson <Andrew.Wilkinson@rosellp.com>; Richard Harrison <rharrison@wilcraft.com>

Cc: Amanda Culshaw <amanda@ramsaylc.ca>

Subject: NASE Bankruptcy - S. 38 Application

EXTERNAL MAIL - Verify any attachments or links before opening

Gentlemen,

Richard Harrison, counsel for another creditor, Rangeland Truck & Crane, has indicated his client is interested in participating in the action we are seeking to have assigned. I've included Richard in this email. He has been advised of the adjournment to July 7. I'll have my assistant send you everyone the Webex link.

Given the number of creditors involved at this point, I think we should wait and see if anyone else comes forward or shows up to the June 14 date before we discuss terms for a potential consent order or how to proceed.

Thanks,

Dan Ramsay

Dean Hutchison

From: Dean Hutchison
Sent: June 14, 2022 12:16 PM
To: dan@ramsaylc.ca; 'Andrew Wilkinson'; 'Preet Saini'; Richard Harrison
Cc: anastasia@ramsaylc.ca; Lorraine Chanasyk
Subject: RE: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC. - Court File No. BK01 095206

Hello Dan,

Thank you for your e-mail. I will be attending this afternoon's hearing before the Honourable Mr. Justice Yamauchi.

It is disappointing to hear that you still do not have instructions from Mr. Toupin with respect to the section 37 portion of his application and the relief sought concerning the Exact Actions. With such being the case, as we advised previously, we will be advising the Court at this afternoon's hearing that should your client proceed with this portion of this application, it will be opposed by the Trustee and the Trustee will be seeking costs against your client on a solicitor and own client, full indemnity basis.

Also, we note that the Trustee has not received a Proof of Claim with respect to any claims of your client, Mr. Toupin, against the bankrupt, North American Steel Erectors Inc. (the "Bankrupt"). We will be advising the Court of this fact at this afternoon hearing and that there is a corresponding threshold issue as to whether Mr. Toupin is a "creditor" of the Bankrupt with standing to bring an application under section 38 of the *Bankruptcy and Insolvency Act*.

Lastly, on a **without prejudice basis**,

Regards,

Dean Hutchison
Barrister & Solicitor



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From: dan@ramsaylc.ca <dan@ramsaylc.ca>
Sent: June 14, 2022 11:16 AM
To: 'Andrew Wilkinson' <Andrew.Wilkinson@rosellp.com>; 'Preet Saini' <Preet.Saini@mcmillan.ca>; Dean Hutchison <dhutchison@caronpartners.com>; Richard Harrison <rharrison@wilcraft.com>
Cc: anastasia@ramsaylc.ca; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC. - Court File No. BK01 095206

Hello,

Preet and Andrew, I will inform the court that you are not attending.

I also confirm that there is nothing substantive happening today. To be clear, the s. 37 and s. 38 relief will all be adjourned to July 7, 2022, and I believe that we should be able to get a consent order together after we are sure of all the parties that want to participate.

Regarding the s. 37 relief we are seeking, I don't have instructions regarding Dean's concerns, but I on a without prejudice basis

Dan Ramsay

From: Andrew Wilkinson <Andrew.Wilkinson@rosellp.com>
Sent: June 13, 2022 5:32 PM
To: Preet Saini <Preet.Saini@mcmillan.ca>; Dean Hutchison <dhutchison@caronpartners.com>
Cc: dan@ramsaylc.ca; anastasia@ramsaylc.ca; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC. - Court File No. BK01 095206

I also will not be in attendance on the understanding nothing of substance will be occurring.

Thanks

Andrew

Andrew Wilkinson, Partner
403.776-0538 | Andrew.Wilkinson@RoseLLP.com
Suite 2100, 440 – 2nd Avenue SW, Calgary, AB, Canada T2P 5E9



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From: Preet Saini <Preet.Saini@mcmillan.ca>
Sent: June 13, 2022 4:36 PM
To: Dean Hutchison <dhutchison@caronpartners.com>
Cc: Andrew Wilkinson <Andrew.Wilkinson@rosellp.com>; dan@ramsaylc.ca; anastasia@ramsaylc.ca; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC. - Court File No. BK01 095206

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Thanks Dean. Just removing the Commercial Coordinator from this email chain.

All – I've previously noted to Dan that I have a conflict tomorrow and am unable to attend. I understand there is nothing substantive happening tomorrow and that my attendance is not necessary. If that is incorrect, then please let me know.

mcmillan

Preet Saini

Associate

Pronoun: He / Him / His - Il / lui / son

d 403.531.4716

Preet.Saini@mcmillan.ca

Assistant: Lindsey Roy | 403.531.4712 | lindsey.roy@mcmillan.ca

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From: Dean Hutchison <dhutchison@caronpartners.com>

Sent: Monday, June 13, 2022 3:41 PM

To: CommercialCoordinator QBCalgary <CommercialCoordinator.QBCalgary@albertacourts.ca>

Cc: Preet Saini <Preet.Saini@mcmillan.ca>; andrew.wilkinson@rosellp.com; dan@ramsaylc.ca; anastasia@ramsaylc.ca;

[Lorraine Chanasyk <lchanasyk@caronpartners.com>](mailto:lchanasyk@caronpartners.com)

Subject: RE: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC. - Court File No. BK01 095206

[EXTERNAL/EXTERNE]

Thank you Mr. Dufault. It is greatly appreciated.

Sincerely,

Dean Hutchison
Barrister & Solicitor



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Barristers & Solicitors
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From: CommercialCoordinator QBCalgary <CommercialCoordinator.QBCalgary@albertacourts.ca>
Sent: June 13, 2022 3:39 PM
To: Dean Hutchison <dhutchison@caronpartners.com>
Cc: preet.saini@mcmillan.ca; andrew.wilkinson@rosellp.com; dan@ramsaylc.ca; anastasia@ramsaylc.ca; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC. - Court File No. BK01 095206

Good afternoon,
Webex details are attached.

-Brent

From: Dean Hutchison <dhutchison@caronpartners.com>
Sent: Monday, June 13, 2022 03:26 PM
To: CommercialCoordinator QBCalgary <CommercialCoordinator.QBCalgary@albertacourts.ca>
Cc: preet.saini@mcmillan.ca; andrew.wilkinson@rosellp.com; dan@ramsaylc.ca; anastasia@ramsaylc.ca; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC. - Court File No. BK01 095206

Good Afternoon Mr. Default,

Further to the attached letter of June 7, 2021 from Dan Ramsay of Ramsay Legal Counsel, we understand that the hearing set on the Commercial List for 2:00 p.m. tomorrow, Tuesday, June 13, 2022 before the Honourable Mr. Justice Yamauchi will be proceeding for the limited purposes of dealing with some administrative issues concerning Mr. Ramsay's client's application, which will be heard on a substantive basis on Thursday, July 7, 2022 at 10:30 a.m. before the Honourable Madam Justice Romaine.

As we understand a limited purposes hearing will be taking place tomorrow at 2:00 p.m. before the Honourable Justice Yamauchi, we ask that you please forward to us the Webex connection information for tomorrow's hearing. We apologize for bothering you with the request, but we have requested the Webex connection information from Ramsay Legal Counsel and have not been provided with it. If you could please forward with the Webex connection information to us, it would be greatly appreciated.

Thanks and Regards,
Dean

Dean Hutchison
Barrister & Solicitor



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From: anastasia@ramsaylc.ca <anastasia@ramsaylc.ca>

Sent: June 7, 2022 3:56 PM

To: commercialcoordinator.qbcalgary@albertacourts.ca

Cc: Dean Hutchison <dhutchison@caronpartners.com>; preet.saini@mcmillan.ca; andrew.wilkinson@rosellp.com; dan@ramsaylc.ca

Subject: FW: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC. - Court File No. BK01 095206

You don't often get email from anastasia@ramsaylc.ca. [Learn why this is important](#)

Good afternoon,

With respect to the above referenced matter, please find enclosed correspondence from Mr. Ramsay. Thank you.

Yours truly,



Anastasia Lussier
Paralegal for Dan Ramsay

RAMSAY
LEGAL COUNSEL

Website: www.ramsaylc.ca Phone: 403-247-2111 Fax 403-247-1270 | Email: anastasia@ramsaylc.ca
Suite 104, 2003 14th St NW, Calgary, AB, Canada T2M 3N4

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Dean Hutchison

From: Dean Hutchison
Sent: June 13, 2022 3:09 PM
To: dan@ramsaylc.ca
Cc: 'Amanda Culshaw'; Lorraine Chanasyk
Subject: RE: NASE Bankruptcy - S. 38 Application

Hello Dan,

We do need to have from you on a substantive basis as soon as possible on whether your client will be proceeding with the section 37 and relief sought concerning the Exact Actions portion of his application.

We ask again for the Webex connection information for tomorrow's hearing scheduled for 2:00 p.m. before Justice Yamauchi. Please provide it as that we may have an opportunity to attend at tomorrow's hearing.

Regards,

Dean Hutchison
Barrister & Solicitor



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From: dan@ramsaylc.ca <dan@ramsaylc.ca>
Sent: June 13, 2022 2:54 PM
To: Dean Hutchison <dhutchison@caronpartners.com>
Cc: 'Amanda Culshaw' <amanda@ramsaylc.ca>; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: NASE Bankruptcy - S. 38 Application

Dean, I have not received those instructions yet but will advise Steve. I understand your client's position and I assume that this will be dealt with if we are able to come up with a consent order.

Dan Ramsay

From: Dean Hutchison <dhutchison@caronpartners.com>
Sent: June 13, 2022 11:27 AM

To: dan@ramsaylc.ca

Cc: Amanda Culshaw <amanda@ramsaylc.ca>; Lorraine Chanasyk <lchanasyk@caronpartners.com>

Subject: RE: NASE Bankruptcy - S. 38 Application

Good Morning Dan,

We still have not heard from you as to whether your client intends to proceed with the section 37 portion of his application and with respect to any relief sought concerning the Exact Actions. May we please hear from you on this.

It is my understanding that you are still planning on appearing before Justice Yamauchi at 2:00 p.m. tomorrow (Tuesday, June 14th) to advise the Court, and any creditors who may attend, that your client's application has been adjourned to 10:30 a.m. on Thursday, July 7th before Justice Romaine. We would like to hear from you prior to tomorrow's hearing on your client's position concerning the section 37 and relief regarding the Exact Actions portion of his application. Please be advised that we do plan on attending tomorrow's hearing and if we have not heard from you prior to the hearing regarding your client's position, we will be advising the Court that the Trustee opposes the section 37 and relief sought concerning the Exact Actions portions of your client's application.

We thus sincerely hope that we will receive a substantive response from you prior to 2:00 p.m. tomorrow.

We note that we have not received the Webex confirmation / connection information with respect to tomorrow's hearing. Please forward that information to us as soon as possible so that we will be able to join tomorrow's hearing.

Regards,

Dean Hutchison
Barrister & Solicitor



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D: 403.770.4023
F: 403.237.0111
E: dhutchison@caronpartners.com

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From: Dean Hutchison

Sent: June 8, 2022 3:56 PM

To: dan@ramsaylc.ca; 'Preet Saini' <Preet.Saini@mcmillan.ca>; 'Andrew Wilkinson' <Andrew.Wilkinson@rosellp.com>; Richard Harrison <rharrison@wilcraft.com>

Cc: Amanda Culshaw <amanda@ramsaylc.ca>; Lorraine Chanasyk <lchanasyk@caronpartners.com>

Subject: RE: NASE Bankruptcy - S. 38 Application

Good Afternoon Dan,

Thank you for your e-mail.

We still await hearing from you with respect to whether or not your client will be proceeding with the section 37 portion of his application and with respect to any relief sort concerning the Exact Actions. Please advise.

Regards,

Dean Hutchison
Barrister & Solicitor



Caron & Partners LLP
Barristers & Solicitors
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2120, 237 – 4th Avenue, S.W.
Calgary, Alberta T2P 4K3
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From: dan@ramsaylc.ca <dan@ramsaylc.ca>

Sent: June 8, 2022 3:52 PM

To: Dean Hutchison <dhutchison@caronpartners.com>; 'Preet Saini' <Preet.Saini@mcmillan.ca>; 'Andrew Wilkinson' <Andrew.Wilkinson@rosellp.com>; Richard Harrison <rharrison@wilcraft.com>

Cc: Amanda Culshaw <amanda@ramsaylc.ca>

Subject: NASE Bankruptcy - S. 38 Application

Gentlemen,

Richard Harrison, counsel for another creditor, Rangeland Truck & Crane, has indicated his client is interested in participating in the action we are seeking to have assigned. I've included Richard in this email. He has been advised of the adjournment to July 7. I'll have my assistant send you everyone the Webex link.

Given the number of creditors involved at this point, I think we should wait and see if anyone else comes forward or shows up to the June 14 date before we discuss terms for a potential consent order or how to proceed.

Thanks,

Dan Ramsay

Dean Hutchison

From: Dean Hutchison
Sent: June 8, 2022 3:56 PM
To: dan@ramsaylc.ca; 'Preet Saini'; 'Andrew Wilkinson'; Richard Harrison
Cc: Amanda Culshaw; Lorraine Chanasyk
Subject: RE: NASE Bankruptcy - S. 38 Application

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Dean Hutchison
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Cc: Amanda Culshaw <amanda@ramsaylc.ca>
Subject: NASE Bankruptcy - S. 38 Application

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Given the number of creditors involved at this point, I think we should wait and see if anyone else comes forward or shows up to the June 14 date before we discuss terms for a potential consent order or how to proceed.

Thanks,

Dan Ramsay

Dean Hutchison

From: Dean Hutchison
Sent: June 7, 2022 3:38 PM
To: dan@ramsaylc.ca; 'Preet Saini'; 'Andrew Wilkinson'
Cc: 'Amanda Culshaw'; Lorraine Chanasyk
Subject: RE: Bankruptcy of NASE - Steeve Toupin S. 37 and 38 Application

You are welcome Dan. Kindly please copy me on your letter to the Commercial List Coordinator once same is sent.

I look forward to hearing from you (hopefully shortly) regarding the section 37 relief.

I also look forward to receiving from you a proposed form of Order for review.

Thanks,

Dean Hutchison
Barrister & Solicitor



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From: dan@ramsaylc.ca <dan@ramsaylc.ca>
Sent: June 7, 2022 3:35 PM
To: Dean Hutchison <dhutchison@caronpartners.com>; 'Preet Saini' <Preet.Saini@mcmillan.ca>; 'Andrew Wilkinson' <Andrew.Wilkinson@rosellp.com>
Cc: 'Amanda Culshaw' <amanda@ramsaylc.ca>; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: Bankruptcy of NASE - Steeve Toupin S. 37 and 38 Application

Thanks Dean, I will send the letter with your revisions.

I have conveyed the Trustee's position re the s. 37 relief to my client and will advise.

Dan Ramsay

From: Dean Hutchison <dhutchison@caronpartners.com>
Sent: June 7, 2022 3:21 PM

To: dan@ramsaylc.ca; 'Preet Saini' <Preet.Saini@mcmillan.ca>; 'Andrew Wilkinson' <Andrew.Wilkinson@rosellp.com>

Cc: Amanda Culshaw <amanda@ramsaylc.ca>; Lorraine Chanasyk <lchanasyk@caronpartners.com>

Subject: RE: Bankruptcy of NASE - Steeve Toupin S. 37 and 38 Application

Good Afternoon Dan,

Thank you for your e-mail.

With respect to your draft letter, we have reviewed same with our client, the Trustee, and we are agreeable to you sending the letter on the understanding that nothing substantive would be heard on June 14th. Your client's application will be substantively heard on the agreed upon July 7th at 10:30 a.m. hearing date. The June 14th hearing would simply be to see if any other interested parties attend, to determine their position if they do attend, and to advise them of the new July 7th hearing date. We have a suggested revision to your letter (as outline in the attached redline) to highlight that the substantive hearing would take place on July 7th, and to correct a typo regarding the spelling of my surname.

With respect to dealing with your client's Application by way of consensus form of Order, from our client's, the Trustee's, perspective, that will be dependant on whether or not your client intends to proceed with that portion of his Application seeking relief under section 37 of the *Bankruptcy and Insolvency Act* and seeking relief regarding the Exact Action and the Ontario Exact Action (as such terms are defined in the Affidavit of Steeve Toupin sworn April 20, 2022 filed in support of your client's Application).

As we have noted previously, an application brought under section 37 is an "Appeal to court against trustee" and is, by its very nature, a questioning of an act(s) or decision(s) of the trustee. In this instance, the portion of your client's Application brought under section 37 is questioning the acts and decisions of the Trustee with respect to its handling of the Exact Action and the Ontario Exact Action, which we have previously advised you were resolved and discontinued by the Trustee with the approval of the Inspector. The Trustee takes issue with this portion of your client's Application as there was nothing improper or unreasonable with the Trustee's decisions and conduct regarding either the Exact Action or the Ontario Exact Action, and there is nothing to be "salvaged" (to quote the language used in your client's said Affidavit) regarding the two said settled Actions. As we have advised previously, if your client proceeds with that portion of his Application, it will be vigorously opposed by the Trustee and all costs of the Trustee and its legal counsel in responding to such portion of your client's Application will be sought against your client on a solicitor and own client, full indemnity basis. Again, whether a census on a form of Order can be found will be dependant or whether or not your client proceeds with this portion of his Application. We continue to wait to hear from you as to whether or not your client will be withdrawing this portion of his Application.

Also, if you have a proposed form of Order, we suggest that you please circulate it for our review and comment.

Please feel free to proceed with sending your said letter after making the revisions suggested in the attached redline. Please also feel free to circulate a proposed form of Order concerning your client's Application for our review. Lastly, we once again look forward to hearing from you as to whether the section 37 portion of your client's Application and the relief sought regarding the Exact Action and the Ontario Court Action will be withdrawn.

Regards,

Dean Hutchison
Barrister & Solicitor



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From: dan@ramsaylc.ca <dan@ramsaylc.ca>

Sent: June 7, 2022 1:27 PM

To: Dean Hutchison <dhutchison@caronpartners.com>; 'Preet Saini' <Preet.Saini@mcmillan.ca>; 'Andrew Wilkinson' <Andrew.Wilkinson@rosellp.com>

Cc: Amanda Culshaw <amanda@ramsaylc.ca>

Subject: Bankruptcy of NASE - Steeve Toupin S. 37 and 38 Application

Gentlemen,

I confirm that the above captioned application is **adjourned to July 7, 2022 at 10:30 am**.

I would like to try to get a consensus among us regarding an order and I need some further instructions from Mr. Toupin to proceed. Now that I have spoken to Andrew (for Trisura) and it appears all interested creditors are accounted for, I should be able to get some instruction from Steeve and determine if we can proceed by consensus (assuming there are no other interested creditors).

In the meantime, I was looking for your input regarding the June 14th date. My concern is that there are still almost 50 parties who were served and we haven't heard from. I wouldn't want them showing up to the application, but I also don't want to have to send out 50 letters advising of the new adjournment date. I was thinking of holding the June 14 date open just so that any parties who do show up are informed of the new date, and we can determine if they take a position regarding Steeve's application. I have drafted a letter to the clerk, which is attached.

Alternatively, Andrew brought up including a provision in the s. 38 order that would provide notice to the other creditors and give them the ability to opt-in.

If you have any input on how to proceed, please let me know. I won't send the attached confirmation letter until I hear back from you.

Thanks,

Dan Ramsay

Dean Hutchison

From: Dean Hutchison
Sent: June 3, 2022 11:06 AM
To: dan@ramsaylc.ca
Cc: amanda@ramsaylc.ca; Lorraine Chanasyk
Subject: RE: The Bank of Nova Scotia v. North American Steel Erectors Inc.

Hello Dan,

Thank you for the confirmation regarding the adjournment. If you could please send me a copy of your letter to the Commercial Coordinator confirming the adjournment and rescheduling of your application to July 7th once you have sent it, it would be greatly appreciated. That letter could note that the section 37 portion of the Application is not being pursued, assuming of course that you get those instructions.

I look forward to hearing from you further once you have spoken with your client.

Thanks and Regards,

Dean Hutchison
Barrister & Solicitor



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From: dan@ramsaylc.ca <dan@ramsaylc.ca>
Sent: June 3, 2022 10:52 AM
To: Dean Hutchison <dhutchison@caronpartners.com>
Cc: amanda@ramsaylc.ca; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: The Bank of Nova Scotia v. North American Steel Erectors Inc.

You're welcome, Dean. Preet is available on July 7 so I'll have my assistant reserve that date.

I will be in touch with Andrew, thanks.

I should be able to let you know about the s. 37 issue shortly.

Dan Ramsay

From: Dean Hutchison <dhutchison@caronpartners.com>
Sent: June 3, 2022 10:35 AM
To: dan@ramsaylc.ca
Cc: amanda@ramsaylc.ca; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: The Bank of Nova Scotia v. North American Steel Erectors Inc.

Hello Dan,

Thank you very much for the update. It is greatly appreciated.

I expect Mr. Saini will be amenable to the adjournment to that date but please advise once you have heard from you.

There has been about creditor of North American Steel Erectors Inc. who has expressed in bringing an application under section 38. That is Trisura Guarantee Company, who is represented by Andrew Wilkinson of Rose LLP, whose contact information is:

Andrew Wilkinson, Partner
403.776-0538 | Andrew.Wilkinson@RoseLLP.com
Suite 2100, 440 – 2nd Avenue SW, Calgary, AB, Canada T2P 5E9

You may want to talk to Mr. Wilkinson to discuss your client's Application.

We look forward to hearing from you regarding the removal of the relief sought under section 37 and with respect to the Exact Action and the Ontario Exact Action from your client's Application. I believe we have made the Trustee's position clear regarding that the relief and that the Trustee will vigorously oppose that relief should you client seek to pursue it.

I look forward to hearing from you further.

Thanks and Regards,

Dean Hutchison
Barrister & Solicitor



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From: dan@ramsaylc.ca <dan@ramsaylc.ca>
Sent: June 3, 2022 10:03 AM
To: Dean Hutchison <dhutchison@caronpartners.com>
Cc: amanda@ramsaylc.ca; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: The Bank of Nova Scotia v. North American Steel Erectors Inc.

Hi Dean,

Re adjournment dates, I can set it over to July 7, but I'll have to check with Preet Saini (for Scotiabank) to make sure he is available too. As far as I'm aware, his client is the only other part interested in the actions being assigned.

On the s. 37 issue and those withdrawn claims, I'll have to seek instructions from Mr. Toupin. I am hoping to speak with him today or early next week.

Thanks,

Dan Ramsay

From: Dean Hutchison <dhutchison@caronpartners.com>
Sent: June 3, 2022 9:30 AM
To: dan@ramsaylc.ca
Cc: amanda@ramsaylc.ca; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: The Bank of Nova Scotia v. North American Steel Erectors Inc.
Importance: High

Good Morning Dan,

May we please hear from you with respect to our e-mail of June 1, 2022 of 5:34 pm set out below.

In particular, may please receive confirmation from you that your client's application currently scheduled for June 14, 2022 at 2:00 p.m. on the Commercial List has been adjourned. As noted in our below said e-mail, Wednesday, July 6th at 10:00 a.m. and Thursday, July 7th at 10:00 a.m. are alternative dates that we are available and for which there appears to be available Court time on the Commercial List. Please advise regarding the adjournment of your client's Application to one of these dates or an alternative date. As further noted in our below e-mail, Thursday, July 7th would be our preferred date.

Please also advise if your client will remove from the relief he is seeking in his Application relief section 37 of the *Bankruptcy and Insolvency Act* and with respect to the Exact Action and the Ontario Exact Action. We note once again that if your client proceeds with that portion of his Application, it will be vigorously opposed by the Trustee and all costs of the Trustee and its legal counsel in responding to such portion of your client's Application will be sought against your client on a solicitor and own client, full indemnity basis.

We look forward to hearing from you shortly.

Regards,

Dean Hutchison
Barrister & Solicitor



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Sent: June 1, 2022 5:34 PM
To: dan@ramsaylc.ca
Cc: amanda@ramsaylc.ca; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: The Bank of Nova Scotia v. North American Steel Erectors Inc.

Good Afternoon Dan,

Thank you for the prompt reply.

I do not understand why you did not contact me to discuss the scheduling of your client's Application, particularly given our prior communications regarding the matter. Also, our prior communications were only with respect to an application brought under section 38 of the Bankruptcy and Insolvency Act (the "BIA"). Your client's Application seeks relief under section 37 of the BIA, which changes things considerably.

We do request that your client's Application be adjourned to a later date. Just looking at the on-line Commercial List schedule, together with my own schedule, there is availability on the mornings of Wednesday, July 6th and Thursday, July 7th. I am currently available on both of those dates. We would ask that the Application be adjourned to one of those dates, ideally the morning of Thursday, July 7th at 10:00 a.m. We suggest that if your client is intent on proceeding with relief under section 37 of the BIA and for relief concerning the Exact Action and Ontario Exact Action, that you schedule the entire morning. Please confirm that you will so adjourn your client's application to one of these dates and advise of the dates. If these suggested dates do not work, please advise on alternative suggested dates.

As noted in our prior e-mail of earlier this afternoon, your client, Steeve Toupin, has not submitted any Proof of Claim to the Trustee making any claim provable under the BIA against North American Steel Erectors Inc. (the "Bankrupt"). If your client is intent on proceeding with an application under section 38 of the BIA, your client should consider providing a Proof of Claim to the Trustee as a purported creditor of the Bankrupt.

Lastly, with respect, on a review of your client's Application and the supporting Affidavit of Mr. Toupin, we respectfully disagree with the assertion that the relief you are seeking is primarily under section 38(2) of the BIA. As it relates to the relief sought concerning the Exact Action and the Ontario Exact Action, as we have advised your office previously, specifically by way of our e-mail of March 25, 2022 (copy attached), these Actions have been resolved and discontinued. This means that that these Actions have ceased and been put to an end as a result of a settlement reached between with Exact Detailing Ltd. by the Trustee. There is nothing to be "salvaged" (to quote the language used in paragraph 19 of Mr. Toupin's Affidavit) regarding the Exact Action and the Ontario Exact Action as these Actions have been resolved, discontinued, ceased and put to an end.

These Actions were settled after the Trustee consulted with the legal counsel in both Manitoba and Ontario who had been acting for Bankrupt regarding these Actions prior to the bankruptcy, and assessed the strengths of Bankrupt's claims in these Actions with the benefit of this legal counsel, as well as the benefit of our office as legal counsel to the Trustee, before settling them. Such settlement was done with the approval of the Inspector of the estate of the Bankrupt. By seeking relief regarding these settled Actions under section 37 of the BIA, your client is making an "Appeal to court against trustee" (to quote directly from the language in section 37) and your client is questioning and taking issue with the Trustee's handling of these settled Actions. The Trustee takes issue with that as there was nothing improper or unreasonable with the Trustee's conduct in dealing with these Actions. We therefore again suggest your client not proceed with that portion of his Application seeking relief under section 37 and seeking relief with respect to the Exact Action and the Ontario Exact Action. We repeat again that if your client proceeds with that portion of his Application, it will be vigorously opposed by the Trustee and all costs of the Trustee and its legal counsel in responding to such portion of your client's Application will be sought against your client on a solicitor and own client, full indemnity basis.

We look forward to hearing from you regarding confirmation of the adjournment of your client's Application, the date to which the Application will be adjourned, and to whether your client will proceeding with seeking relief under section 37 and relief regarding the Exact Action and the Ontario Exact Action.

Regards,

Dean Hutchison
Barrister & Solicitor



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Sent: June 1, 2022 2:39 PM
To: Dean Hutchison <dhutchison@caronpartners.com>
Cc: amanda@ramsaylc.ca; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: The Bank of Nova Scotia v. North American Steel Erectors Inc.

Dean,

I apologize for your client being served these materials instead of you receiving them. That was a mistake that arose due to the number of creditors and parties we had to serve. I had also anticipated having much more notice of the application but we ran into difficulties with having the application filed.

In terms of the application itself, the relief we are seeking is primarily under s. 38(2) – assignment of conduct of the actions. The affidavit doesn't make any egregious allegations about the conduct of the trustee, and that is not our intent. We only want Steeve Toupin to have conduct of the actions (including the withdrawn actions, in case they are salvageable), which I didn't think the trustee would object to, based on our past communications. I assumed that you wouldn't object to our application and it wouldn't be necessary for you to attend. It doesn't appear that anyone besides Scotiabank is interested in pursuing the actions, so I didn't think any other creditors would end up attending either.

If the trustee objects to the assignment of the actions to Steeve on the basis of the issues you have outlined below, I would of course accommodate an adjournment. I can have my assistant contact the court and determine some later dates and get back to you. Or we can adjourn sine die if you want to conduct cross-examination or require further documents from us.

Again, I am sorry with the scheduling and service issues.

Dan Ramsay

From: Dean Hutchison <dhutchison@caronpartners.com>
Sent: June 1, 2022 1:54 PM
To: 'Dan Ramsay' <dan@ramsaylc.ca>
Cc: amanda@ramsaylc.ca; Lorraine Chanasyk <lchanasyk@caronpartners.com>
Subject: RE: The Bank of Nova Scotia v. North American Steel Erectors Inc.
Importance: High

Good Afternoon Mr. Ramsay,

Our client, MNP Ltd. in its capacity as the trustee in bankruptcy of the bankrupt estate of North American Steel Erectors Inc. (the "Trustee"), has advised us that they received the attached letter, Application and Affidavit of Steve Toupin, from your office earlier today via the below e-mail.

We are surprised that our office, as legal counsel for the Trustee, was not served with the attached letter, Application and Affidavit. We are particularly surprised given that your office is well aware of the fact that we are legal counsel for the Trustee, and given our prior correspondence with you concerning a possible application to be brought by your client under section 38 of the *Bankruptcy and Insolvency Act* (the "BIA"). We note specifically our e-mail correspondence of April 21st (copy attached), in which we provided you, (in response to your request for same), with a copy of the list of purported creditors of North American Steel Erectors Inc. (the "Bankrupt") and inquired as to when you are planning on making an application under section 38 returnable; and you indicated that you had not looked into dates that you expected to set it down "a bit further down the road".

We are also surprised to see that we were not consulted on a mutually convenient date for the scheduling of your client's attached Application given these prior communications. Upon review of the relief sought in the attached Application, we are still further surprised that we were not consulted on the scheduling of your client's attached Application given that your client is not just seeking relief under section 38 of the BIA, but also under section 37.

We note that there is a threshold issues as to whether your client is a "creditor" (as defined in the BIA) of the Bankrupt and has standing to bring an application under section 38 of the BIA given that your client has not submitted any Proof of Claim to the Trustee asserting any claim provable under the BIA against the Bankrupt.

Given all of the foregoing, we think it is appropriate that your client's attached Application be adjourned from its currently scheduled hearing date of Tuesday, June 14, 2022 at 2:00 p.m., to a later mutually agreed upon date. **Please advise if you/your client are prepared to so adjourn the Application and have it rescheduled to a later mutually agreed upon date.**

We again note that the attached Application seeks relief under section 37 of the BIA. Based on a review of the attached Application and Affidavit, it appears that your client is alleging that the Trustee has acted improperly in its handling of the Exact Action and the Ontario Exact Action (as such terms are defined in the attached Affidavit of Steeve Toupin sworn/affirmed April 20, 2022). This is an extremely serious allegation and one that the Trustee vehemently disputes. Such allegation is without merit. Accordingly, we suggest that your client not proceed with that portion of his Application concerning relief under section 37 of the BIA and for any relief concerning the Exact Action or the Ontario Exact Action (again, as such terms are defined in the attached Affidavit of Steve Toupin sworn April 20, 2022). Be advised, that should your client proceed with such portion of his attached Application, it will be vigorously opposed by the Trustee and all costs of the Trustee and its legal counsel in responding to such portion of your client's Application will be sought against your client on a solicitor and own client, full indemnity basis.

Again, please advise if you/your client are prepared to adjourn the Application to have it rescheduled to a later mutually agreed upon date. If you are, we can then consult the Commercial List Schedule and determine a mutual convenient date. If you/your client are not prepared to so adjourn the Application, please provide the Webex instructions for the current scheduled June 14, 2022 at 2:00 p.m. hearing date as same was not included in the attached documentation your office sent to the Trustee earlier today.

Lastly, all further communications from your office should be directed to our office, to the attention of the undersigned, as legal counsel for the Trustee.

Regards,

Dean Hutchison
Barrister & Solicitor



Caron & Partners LLP
Barristers & Solicitors
Fifth Avenue Place – West Tower
2120, 237 – 4th Avenue, S.W.
Calgary, Alberta T2P 4K3
W: www.caronpartners.com
T: 403.262.3000
D: 403.770.4023
F: 403.237.0111
E: dhutchison@caronpartners.com

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From: Amanda Paulucci <amanda@ramsaylc.ca>
Sent: June 1, 2022 9:51 AM

To: Victor Kroeger <Victor.Kroeger@mnp.ca>

Subject: The Bank of Nova Scotia v. North American Steel Erectors Inc.

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Mr. Kroeger,

Please see the attached correspondence on behalf of Dan Ramsay serving our Application and supporting Affidavit.

Thank you,



Amanda Paulucci
Paralegal

R A M S A Y
LEGAL COUNSEL

Website: ramsaylc.ca

Phone: 403-247-2111 Fax 403-247-1270 | Email: amanda@ramsaylc.ca

Suite 104, 2003 – 14th Street NW, Calgary, AB, Canada T2M 3N4

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Dean Hutchison

From: anastasia@ramsaylc.ca
Sent: July 4, 2022 2:40 PM
To: Dean Hutchison; preet.saini@mcmillan.ca; andrew.wilkinson@rosellp.com; Lorraine Chanasyk; rharrison@wilcraft.com
Subject: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC.
Attachments: NWOLOR.pdf

Good afternoon Counsel,

With respect to the above captioned matter, please find attached an unfiled copy of a Notice of Withdrawal of Lawyer of Record for your information.

Mr. Ramsay has advised Mr. Toupin of the upcoming hearing on July 7, 2022 with a link to join via Webex as well as contact information for all Counsel on file. We do not know what he will choose to do on such date. Thank you.

Yours truly,



Anastasia Lussier
Paralegal for Dan Ramsay

R A M S A Y
LEGAL COUNSEL

Website: www.ramsaylc.ca Phone: [403-247-2111](tel:403-247-2111) Fax [403-247-1270](tel:403-247-1270) | Email: anastasia@ramsaylc.ca
Suite 104, 2003 14th St NW, Calgary, AB, Canada T2M 3N4

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Dean Hutchison

From: anastasia@ramsaylc.ca
Sent: July 5, 2022 1:35 PM
To: 'Andrew Wilkinson'; Dean Hutchison; preet.saini@mcmillan.ca; Lorraine Chanasyk; rharrison@wilcraft.com
Cc: dan@ramsaylc.ca
Subject: RE: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC.
Attachments: BK01-095206-2022-07-04-NWDLW.pdf

Good afternoon,

Further to my email below, please find attached a filed copy of such Notice of Withdrawal of Lawyer of Record. Thank you.

Yours truly,



Anastasia Lussier
Paralegal for Dan Ramsay

RAMSAY
LEGAL COUNSEL

Website: www.ramsaylc.ca Phone: 403-247-2111 Fax 403-247-1270 | Email: anastasia@ramsaylc.ca
Suite 104, 2003 14th St NW, Calgary, AB, Canada T2M 3N4

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From: anastasia@ramsaylc.ca <anastasia@ramsaylc.ca>
Sent: July 4, 2022 3:19 PM
To: 'Andrew Wilkinson' <Andrew.Wilkinson@rosellp.com>; dhutchison@caronpartners.com; preet.saini@mcmillan.ca; lchanasyk@caronpartners.com; rharrison@wilcraft.com
Cc: dan@ramsaylc.ca
Subject: RE: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC.

Certainly, his email is stoupin@northamericansteelerectors.com and his phone number is 1-514-775-2211.



Anastasia Lussier
Paralegal for Dan Ramsay

RAMSAY
LEGAL COUNSEL

Website: www.ramsaylc.ca Phone: 403-247-2111 Fax 403-247-1270 | Email: anastasia@ramsaylc.ca
Suite 104, 2003 14th St NW, Calgary, AB, Canada T2M 3N4

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From: Andrew Wilkinson <Andrew.Wilkinson@rosellp.com>
Sent: July 4, 2022 3:15 PM
To: anastasia@ramsaylc.ca; dhutchison@caronpartners.com; preet.saini@mcmillan.ca; lchanasyk@caronpartners.com; rharrison@wilcraft.com
Subject: RE: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC.

Anastasia, do you or Mr. Ramsay have an email address or phone number for Mr. Toupin?

Thanks

Andrew

Andrew Wilkinson, Partner
403.776-0538 | Andrew.Wilkinson@RoseLLP.com
Suite 2100, 440 – 2nd Avenue SW, Calgary, AB, Canada T2P 5E9



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From: anastasia@ramsaylc.ca <anastasia@ramsaylc.ca>
Sent: July 4, 2022 2:40 PM
To: dhutchison@caronpartners.com; preet.saini@mcmillan.ca; Andrew Wilkinson <Andrew.Wilkinson@rosellp.com>; lchanasyk@caronpartners.com; rharrison@wilcraft.com
Subject: THE BANK OF NOVA SCOTIA v. NORTH AMERICAN STEEL ERECTORS INC.

EXTERNAL MAIL - Verify any attachments or links before opening

Good afternoon Counsel,

With respect to the above captioned matter, please find attached an unfiled copy of a Notice of Withdrawal of Lawyer of Record for your information.

Mr. Ramsay has advised Mr. Toupin of the upcoming hearing on July 7, 2022 with a link to join via Webex as well as contact information for all Counsel on file. We do not know what he will choose to do on such date. Thank you.

Yours truly,



Anastasia Lussier
Paralegal for Dan Ramsay

RAMSAY
LEGAL COUNSEL

Website: www.ramsaylc.ca Phone: 403-247-2111 Fax 403-247-1270 | Email: anastasia@ramsaylc.ca
Suite 104, 2003 14th St NW, Calgary, AB, Canada T2M 3N4

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Form 4
[Rule 2.29]

COURT FILE NUMBER BK01 – 095206
COURT COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE CALGARY
PLAINTIFF THE BANK OF NOVA SCOTIA
DEFENDANT NORTH AMERICAN STEEL ERECTORS INC.
DOCUMENT **NOTICE OF WITHDRAWAL OF LAWYER OF RECORD**



jg

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT RAMSAY LEGAL COUNSEL Suite 101, 4603 Varsity Drive NW Calgary, Alberta T3A 2V7 Ph.: (403) 247-2111 Fax: (403) 247-1270

Attention: Dan B. Ramsay
Solicitor's File No. 21-0016

Counsel for Steeve Toupin, applicant, withdraw as lawyer of record for that party.

The last known address for **Steeve Toupin** is as follows:

264095 Monterra Dr.
Cochrane, AB T4C 0A7

Legal Counsel for **Steeve Toupin, Applicant:**

Ramsay Legal Counsel

Per: _____

Dan B. Ramsay

WARNING

This withdrawal of lawyer of record takes effect 10 days after the Affidavit of Service of this document on every party is filed. After that date, no delivery of a pleading or other document relating to the action is effective service on the former lawyer of record or at any address for service previously provided by the former lawyer of record.