

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF
WESTRIDGE MECHANICAL LTD.**

ORDINARY ADMINISTRATION

TRUSTEE'S PRELIMINARY REPORT TO CREDITORS

BACKGROUND

Westridge Mechanical Ltd. (the “**Company**” or “**Westridge**”) operated in Mission, British Columbia and was a mechanical contractor specializing in new construction, which was primarily multi-family projects. Services provided included plumbing, HVAC, fire suppression, and the design of these systems if required.

Westridge was incorporated on March 16, 2015 and began operations soon thereafter. A search of the British Columbia Corporate Registry dated January 13, 2021 indicates that Vince White (“**Mr. White**” or the “**Director**”) was the Company’s sole director at that time. Mr. White also managed the Company’s operations.

It is our understanding that Westridge experienced growth each year as the Company was awarded larger construction projects.

Pursuant to a credit agreement dated December 27, 2019, The Bank of Nova Scotia (“**Scotiabank**”), advanced certain loans to Westridge under a demand loan facility in the maximum amount of \$1,500,000. As security for the repayment of the demand loan facility, Westridge executed a General Security Agreement in favour of Scotiabank which granted security over all of the Company’s personal property. Notice of Scotiabank’s security interest was registered in the British Columbia Personal Property Registry on January 3, 2020.

We are advised that Westridge lacked sufficient working capital to fund the costs incurred with larger construction projects as well as fund other operating costs incurred until projects were completed and construction holdbacks released. Cash flow constraints were exacerbated at the onset of the COVID-19 pandemic, as the availability of new projects significantly reduced.

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We understand that management anticipated that several new material contracts would begin in 2020. However, this did not materialize due to concerns and challenges related to the COVID-19 pandemic. We have reviewed financial statements prepared on a Notice to Reader basis by the Company’s external accountants for the fiscal year ending August 31, 2020. The financial statements reported a net operating loss before adjusting for taxes of approximately \$2.6 million.

As a result, and in the Fall of 2020, the Director determined that the Company was no longer viable, and we are advised that operations ceased on or about November 6, 2020.

On November 19, 2020, Scotiabank issued a formal demand and Notice of Intention to Enforce Security in accordance with Section 244 of the *Bankruptcy and Insolvency Act* (“**BIA**”).

BANKRUPTCY ORDER

On January 25, 2021, Scotiabank filed a Notice of Motion with the Supreme Court of British Columbia seeking a Bankruptcy Order against Westridge. The Bankruptcy Order was granted on February 4, 2021 (the “**Date of Bankruptcy**”) and MNP Ltd. was appointed Licensed Insolvency Trustee (the “**Trustee**”) of the Bankrupt Estate subject to creditor affirmation at the First Meeting of Creditors.

Notice of the Bankruptcy Order and First Meeting of Creditors was sent to all known creditors on February 11, 2021.

ASSETS

According to the Statement of Affairs filed in the bankruptcy, the assets of Westridge include:

Statement of Affairs

| | | |
|-------------------------|----|------------------|
| Cash | \$ | 807 |
| Accounts Receivable | \$ | 655,000 |
| Furniture and Equipment | \$ | 3 |
| Vehicles | \$ | 80,500 |
| Real Property | \$ | 852,000 |
| | | <hr/> |
| | \$ | <u>1,588,310</u> |

Cash on Deposit

Westridge maintained bank accounts at Scotiabank, The Toronto-Dominion Bank (“**TD**”), and Prospera Credit Union (“**Prospera**”). The Trustee wrote to all three financial institutions requesting that the accounts be modified to be deposit only to facilitate collection of accounts

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receivable, and to forward all funds on hand and banking documents to the Trustee. At the Date of Bankruptcy, there appeared to be only minimal balances in the accounts held at TD and Prospera. As Scotiabank provided a demand loan facility to Westridge, there was not a positive cash balance at the Date of Bankruptcy.

The Trustee estimates to collect a total of less than \$1,000 from cash on deposit.

Cash Held in Trust

Pursuant to certain consent orders pronounced in December 2020, the total amount of \$255,658.57 (“**Cash Security**”) was paid to Richard Buell Sutton LLP to be held in trust with respect to certain liens and holdbacks. Specifically, the Cash Security pertains to amounts owing to T.S.M. Mechanical Inc. who had been retained by Westridge as a subcontractor on three (3) construction projects.

T.S.M. Mechanical has filed a reclamation of property claim with the Trustee in the amount of \$255,658.57.

Accounts Receivable

The Company’s Statement of Affairs reported total accounts receivable of \$1,732,200, of which \$655,000 was considered collectable.

The Company’s books and records indicated that trade accounts receivable (including holdbacks) at the Date of Bankruptcy exceeded \$2.3 million. Subsequent to the bankruptcy, the Trustee wrote to the various outstanding trade accounts advising of the bankruptcy and directing payment to the Trustee’s office.

The Trustee is in the process of reviewing various contracts, correspondence, lien claims and other documents in relation to accounts receivable. From our review to date, it appears that there are material holdback amounts which may be subject to builders’ liens and/or trust claims of the various subcontractors who provided services on the respective contracts and were not paid.

Until such time as the Trustee completes its review and corresponds with customers and subcontractors, it is difficult to provide a reasonable estimate of funds which may be collectable, and not subject to liens and/or trust claims. However, from the Trustee’s initial review, and based on information reviewed to date, collection of outstanding accounts may be less than \$1 million as reported on the Statement of Affairs.

Inventory

There was no inventory on hand at the date of bankruptcy and the Director has advised that the Company did not generally maintain inventory, as specific materials were purchased as required for each project.

Furniture and Equipment

Westridge owns a small amount of office furniture, computer equipment and hand tools reported on the Statement of Affairs at a total value of \$3 to reflect the anticipated nominal value.

The Director advised that employees were expected to supply their own tools and should additional tools be required the Company would lease them.

Vehicles

The Statement of Affairs reports vehicles with a value totaling \$80,500. Specifically, the Statement of Affairs reports a 2020 Cadillac Escalade valued at \$80,000, and a 2007 Chevrolet HHR valued at \$500.

We understand that the Cadillac Escalade is subject to a lease/conditional sales contract with GM Financial Canada Leasing Ltd. (“GM”), and GM registered notice of a security interest in the British Columbia Personal Property Registry on July 13, 2020. The 2007 Chevrolet appears to be in poor condition and the odometer reading is 246,833 kilometers.

A search of the Personal Property Registry indicates a number of additional financing statements registered against Westridge and in respect of various Ford vehicles. We are advised by the Director that these vehicles were returned to the lessor, sold, or transferred to a new lessee prior to the Date of Bankruptcy. The Trustee is in the process of obtaining supporting documentation with respect to these transactions.

The Trustee prepared an inventory of the personal property at the premises to which the Director attested to be a complete and accurate representation of the Company’s assets as at the Date of Bankruptcy.

The Trustee does not expect any material realization to result from the disposition of the Company’s furniture, equipment, and vehicles.

Real Property

Westridge owns and operated from an office and warehouse strata unit located at Unit 3 – 7252 River Place, Mission, BC (the “**Strata Unit**”). The Company purchased the Strata Unit in July 2019, and subsequently undertook various renovations costing approximately \$225,000 to increase the usable office space. The Director has advised that the renovations have been completed, and the Strata Unit is subject to a final inspection by the City of Mission.

Just prior to the Date of Bankruptcy, the Strata Unit was listed for sale with Re/max Realty at a list price of \$925,000. Business Development Bank of Canada holds a first ranking mortgage over the Strata Unit and is owed approximately \$634,000 with interest and costs continuing to accrue.

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As the value of the real property appears to be greater than what is owed under the mortgage, the Trustee arrange for a caveat to be submitted to the Land Title Office for filing against title to the Strata Unit.

PROVABLE CLAIMS

It is the duty of the Trustee to examine and satisfy itself as to the validity and priority of all claims filed in the Estate. Claims filed with the Trustee as of 12 pm on February 24, 2021 are as follows:

| | Statement of Affairs | Filed |
|---------------------|-----------------------------|----------------------|
| Secured Creditors | \$ 2,658,656.61 | \$ - |
| Preferred Creditors | \$ - | \$ - |
| Unsecured Creditors | \$ 3,138,238.10 | \$ 571,607.51 |
| Total | <u>\$ 5,796,894.71</u> | <u>\$ 571,607.51</u> |

As at the date of this report, there have been no significant differences between the claims listed on the Statement of Affairs and the claims filed to date with the Trustee.

SECURED CREDITORS

Canada Revenue Agency (“CRA”)

CRA has a “deemed trust” claim or property claim equal to the amount of payroll deductions withheld from employees’ compensation and not remitted to CRA. This claim comes in priority to the claims of all other creditors with the exception of a previously registered mortgage.

From a review of the Company’s records, the Trustee determined that Westridge had failed to remit payroll deductions withheld from employees’ wages to CRA over a number of months prior to the Date of Bankruptcy. The Trustee estimates that CRA’s deemed trust claim for unremitted source deductions totals approximately \$537,000. At the date of this report, CRA has not filed a claim with the Trustee.

Any debt owing to CRA for unremitted Goods and Service Tax and Corporate Income Tax at the date of bankruptcy will rank as a general, unsecured claim.

Claims of Wage Earners

Pursuant to Section 81.3(1) of the BIA, claims of employees who are owed wages, vacation pay, and other compensation for services rendered in the six-month period preceding the Date of Bankruptcy are secured, to the extent of \$2,000, by security over the Company’s current assets (cash and accounts receivable). The BIA also provides security for unpaid wages, vacation pay,

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and other compensation for services rendered in the six-month period preceding the date of receivership in Section 81.4(1).

The Director has advised that all employee wages, vacation pay, and other compensation has been paid in full, and as such, the Trustee does not anticipate receiving claims under Section 81.3(1).

Business Development Bank of Canada (“BDC”)

As reported, BDC holds a first ranking mortgage over the Strata Unit, and at the date of bankruptcy BDC was owed approximately \$634,000.

We understand that pursuant to a priorities’ agreement dated January 7, 2020 between the Company, BDC and Scotiabank (the “**Priority Agreement**”), BDC was granted priority over the Company’s equipment.

Scotiabank

As reported earlier, Scotiabank advanced certain loans to Westridge under a demand loan facility. As at January 20, 2021 Westridge was indebted to Scotiabank in the approximate amount of \$1,516,653, and interest and costs continue to accrue. Pursuant to the terms of the Priority Agreement, Scotiabank was granted priority over the Company’s accounts receivable and inventory.

GM

As previously reported, GM registered a financing statement in the British Columbia Personal Property Registry on July 13, 2020 indicating specific security over a 2020 Cadillac Escalade. Also as reported, the vehicle is in the process of being returned to GM. GM is entitled to file an unsecured claim for any shortfall suffered with respect to this vehicle.

TD

A search of the British Columbia Personal Property Registry indicates that TD registered a financing statement on October 15, 2014 indicating security over all of the Company’s present and after acquired assets. We understand that there are no debt obligations currently owing to TD but the Trustee has written to TD to confirm this understanding.

PREFERRED CREDITORS

Employees

Employees are afforded priority for wages and compensation that are not paid by virtue of Section 81 of the BIA. Claims of employees that relate to the period more than six months preceding the date of bankruptcy are general, unsecured claims and will share ratably with the claims of other

creditors. As reported, we do not anticipate receiving claims from employees for unpaid compensation.

Landlord

As reported, the Company operated from a Strata Unit which Westridge owed, and from the Trustee’s understanding there were no other leased premises.

UNSECURED CREDITORS

The Statement of Affairs reports total unsecured creditors of approximately \$4.2 million, including the estimated deficiency claims of secured creditors.

Ultimately the amounts owing to unsecured creditors will be based on proofs of claim filed and admitted by the Trustee.

SALE AND REALIZATION OF ASSETS

All of the Company’s personal and real property appear to be encumbered by the registered secured claims of BDC and Scotiabank, as well as the anticipated property claim of CRA. As such, it is likely that the Trustee (on behalf of the unsecured creditors) has no interest in the assets.

However, the Trustee, and with the approval of Inspectors if appointed, may take steps to realize upon various personal property with the agreement of the respective lenders. The Trustee is also in discussions with BDC with respect to the proposed sale of the Strata Unit.

OTHER MATTERS

Books and Records

The Trustee is in possession of certain books and records at the date of bankruptcy that were obtained from the Director, external bookkeeper, and external accountant.

Insurance

The Trustee obtained a copy of notice of cancellation of the Company’s Commercial Insurance Policy due to non-payment of the premiums effective January 1, 2021. As of the Date of Bankruptcy there was no policy in place, and the Trustee has advised representatives of BDC and Scotiabank of this, and we are currently working with these lenders with respect to insurance coverage going forward.

Legal Proceedings

The Trustee has not commenced any legal proceedings at the date of this report.

The Trustee is in the process of reviewing documents pertaining to various actions filed against Westridge and in relation to various construction projects and related holdbacks.

Conservatory and Protective Measures

The Trustee changed the locks to the Company's premises on the Date of Bankruptcy in order to secure the premises and protect the assets.

Preferences, and Transactions at Under Value

The Trustee will review the Company's books and records preceding the date of bankruptcy in order to ascertain whether or not any preferential payments and/or reviewable transactions have occurred within the last three months or, where related parties are involved, within the last twelve months.

Directive 5R – 3rd Party Guarantee

Pursuant to a written agreement between the Trustee and Scotiabank, Scotiabank has agreed to pay the Trustee its reasonable fees and expenses incurred in administering the bankruptcy.

ESTIMATED REALIZATION

While the Trustee has not completed its review of the Company's accounts receivable, given the claims of CRA, trust claimants, and other secured creditors, it is not anticipated that there will be any funds available for the claims of unsecured creditors in the Bankrupt Estate.

All dividends payable by the Trustee to creditors are subject to a 5% levy payable to the Office of the Superintendent of Bankruptcy.

This concludes the Trustee's Preliminary Report to Creditors.

DATED at the City of Vancouver, in the Province of British Columbia, this 24th day of February, 2021.

MNP Ltd.

In its capacity as Licensed Insolvency Trustee
of the Bankrupt Estate of Westridge Mechanical Ltd.
and not in its personal capacity



Greg Ibbott, CPA, CA, CIRP, LIT
Vice President