

Hfx. No. 507069
Estate No. 51-2743163
Court No. 44783
District of Nova Scotia
Division No. 01-Halifax

**SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY & INSOLVENCY**

**IN THE MATTER OF THE PROPOSAL OF
ATLANTIC CRANE & MATERIAL HANDLING LIMITED, LABRADOR
CRANES 2005 LIMITED and LCB RENTALS LIMITED**

**MATERIAL ADVERSE CHANGE REPORT OF THE PROPOSAL TRUSTEE
MNP LTD.**

October 7, 2021

BACKGROUND

1. On June 4, 2021, Atlantic Crane & Material Handling Limited, Labrador Cranes 2005 Limited, and LCB Rentals Limited (the "**Company**") or (the "**Atlantic Crane Group**") filed a Notice of Intention to Make a Proposal ("**NOI**") pursuant to the *Bankruptcy and Insolvency Act* ("**BIA**") and MNP Ltd. consented to act as trustee of the proposal (the "**Proposal Trustee**", or the "**Trustee**").
2. On August 19, 2021, the Supreme Court of Nova Scotia (the "**Court**") granted a Stalking Horse and Bidding Procedures Order, (the "**Sales Process Order**") authorizing the Company to enter into a Stalking Horse Asset Purchase Agreement with Russell Industries Corp, (the "**Stalking Horse Bidder**", or "**Russell**"). This order further authorized and directed the Trustee to undertake a sales and bidding process, the intention of which was to attempt to attract offers greater than the Stalking Horse Bidder, that would generate additional funds for the Company's creditors.
3. On September 9, 2021, the Trustee received an offer in accordance with the Sales Process Order from Hercules SLR Inc. ("**Hercules**") that was greater than the Russell offer by at least the requisite amount called for in the Sales Process Order.
4. On September 16, 2021, an auction was held in accordance with the Sales Process Order between Russell and Hercules. Hercules had the highest offer and was declared the winning bidder.
5. On September 29, 2021, the Court granted a Sale Approval and Vesting Order, approving the sale of the Company's assets to Hercules.
6. On September 29, 2021, the Court granted an order (the "**Third Extension Order**") extending the stay of proceedings and the time for filing a proposal, from October 1, 2021 up to and including October 22, 2021.

7. A copy of this report, court materials and other information pertaining to these proceedings are posted on the Proposal Trustee's website at:

<https://mnpdebt.ca/en/corporate/corporate-engagements/atlantic-crane-group>

PURPOSE OF THIS REPORT

8. The purpose of this Report is to provide the creditors and this Honorable Court with:
- a. Information regarding a material adverse change with respect to the proceeds that were expected to be generated by the sale of the Company's assets to Hercules.
 - b. Information regarding a material adverse change with respect to the projected cash-flow and financial circumstances of the Company; and
 - c. The Proposal Trustee's intended course of action

LIMITATIONS

9. In preparing this Material Adverse Change Report and making the comments herein, the Proposal Trustee has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, certain of the books and records, and other information from other third-party sources, (the "**Information**") of the Company. The Proposal 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 or other standards established by the Chartered Professional Accountants of Canada. If we were to perform additional procedures or to undertake an audit examination of the Information in accordance with generally accepted auditing standards, additional matters may have come to our attention. Accordingly, the Trustee does not express an opinion or provide any other form of assurance on the financial or other information presented herein. The Trustee assumes no responsibility or liability for any loss or damage occasioned by any party as a result of their reliance on this report.

MATERIAL ADVERSE CHANGE – SALE TO HERCULES

10. The Hercules winning bid was \$1,357,000 plus payout of a mortgage in favour of BDC with respect to a warehouse property in New Brunswick.
11. The sale was intended to close on October 5, 2021.
12. On the day of closing, Hercules requested a \$376,033.99 downward adjustment to the purchase price, purporting to reflect a decline in value of certain of the purchased assets. Accordingly, Hercules new offer was \$980,966.01, plus payment of the BDC mortgage.
13. No satisfactory explanation was provided to the Trustee as to the methods used by Hercules to arrive at the requested price adjustment.
14. On the closing date, the Trustee received a solicitor's trust cheque from Hercules in the amount of \$1,230,424.19 which represented the purchase price approved by the court of \$1,357,000, less the requested adjustment of \$376,033.99, plus \$249,458.18 to payout the BDC mortgage. These funds were not accepted and were returned to Hercules' solicitor on October 6, 2021.
15. Russell had previously advised the trustee that should Hercules be unable to close the sale, that they remained interested in purchasing the Company's assets.
16. Russell confirmed to the Trustee on October 7, 2021 that it has conducted additional due diligence and presented a firm offer of \$1,150,000, plus payment of the BDC mortgage, all of which we understand is being wired to the Trustee's trust account on October 7, 2021.
17. The Russell offer presents a premium over Hercules offer of \$169,033.99, it is however, \$100,000 less than the Stalking Horse offer.
18. The TD Bank is the Company's operating lender and its senior secured creditor. The Trustee understands that the TD Bank has requested that the Company's solicitor instruct the Trustee to complete the sale to Hercules.

19. It is the Trustee's opinion that Hercules requested price adjustment represents a Material Adverse Change, and that the Court's direction is required.

MATERIAL ADVERSE CHANGE – CASH FLOW & FINANCIAL POSITION

20. The most recent weekly cash-flow report that was provided to the Trustee is for week ending September 24, 2021. In this cash-flow report, the Company had projected its results for week ending October 1, 2021 and week ending October 4, 2021. These projections indicated that in order for the Company to discharge all of its post NOI filing obligations, it would need an additional \$321,799 over its existing operating line of credit limit.

21. The Company has significant arrears owing to trade creditors in respect of credit granted during the NOI process.

22. The Company has significant arrears owing in respect of the fees of its counsel and the Proposal Trustee.

23. It is the Trustee's opinion that the Company may struggle to meet its payroll and other important operating obligations.

24. It is the Trustee's opinion that the change in cash flow projections represents a Material Adverse Change, and that the Court's direction is required.

TRUSTEE'S INTENDED COURSE OF ACTION

25. It is the Proposal Trustee's intended course of action to:

- (a) File this report with the Official Receiver without delay, pursuant to subsection 50.4(7)(b)(i) of the BIA; and
- (b) Distribute this report to all known creditors of the Company and make available on the Proposal Trustee's website, pursuant to subsection 50.4(7)(c) of the BIA.

All of which is respectfully submitted this 7th day of October 2021.

MNP Ltd. in its capacity as Proposal Trustee in the Notice of Intention to Make a Proposal of Atlantic Crane & Material Handling Limited, Labrador Crane 2005 Limited, and LCB Rentals Limited and not in its personal capacity

A handwritten signature in black ink, consisting of a large, stylized initial 'J' followed by a horizontal line extending to the right.

J. Eric Findlay, CIRP, LIT, CPA
Senior Vice President