



COURT FILE NUMBER: 24-2806171

COURT COURT OF QUEEN'S BENCH OF ALBERTA

**IN THE MATTER OF THE BANKRUPTCY OF ECO-INDUSTRIAL
BUSINESS PARK INC.**

JUDICIAL CENTRE EDMONTON

APPLICANT MNP LTD., in its capacity as the TRUSTEE IN BANKRUPTCY OF ECO-INDUSTRIAL BUSINESS PARK INC., and not in its personal capacity.

RESPONDENT SYMMETRY ASSET MANAGEMENT INC.

DOCUMENT: **ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **OSLER, HOSKIN & HARCOURT LLP**
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File Number: 1231987

DATE ON WHICH ORDER WAS PRONOUNCED: July 18, 2023

NAME OF JUSTICE WHO MADE THIS ORDER: Honourable Justice K. Feth

LOCATION AT WHICH ORDER WAS MADE: Edmonton, Alberta

UPON THE APPLICATION of MNP Ltd., in its capacity as the TRUSTEE IN BANKRUPTCY OF ECO-INDUSTRIAL BUSINESS PARK INC. (the “**Bankrupt**”), and not in its personal capacity (the “**Trustee**”); **AND UPON** reviewing the Affidavit of Victor P. Kroeger, sworn August 4, 2022 (the “**Kroeger Affidavit**”), the Affidavit of Daniel White, sworn September 15, 2022, the Affidavit of David Gamage, sworn November 11, 2022, and the Affidavit of Haven Eboni Edwards, sworn December 2, 2022 (the “**Edwards Affidavit**”) other than paragraphs 6 and 8 thereof; **AND UPON** reviewing the transcript from the examination of David Gamage, held November 15, 2022, the transcript from the examination of Victor P. Kroeger, held November 4, 2022, and the transcript from the examination of Haven Eboni

Edwards, held December 19, 2022; **AND UPON** reviewing the Bench Brief of the Trustee, filed November 18, 2022, the Bench Brief of Symmetry, dated December 1, 2022, and the Bench Brief (Inadmissibility of the Edwards Affidavit) of the Trustee, filed January 3, 2023; **AND UPON** hearing from counsel for the Trustee and counsel for the Respondent, Symmetry Asset Management Inc. (“**Symmetry**”) regarding the Application; **AND UPON** hearing from counsel for the Trustee and the Court-appointed custodian of the practice of counsel for Symmetry regarding costs and the terms of this Order; **IT IS HEREBY ORDERED AND DECLARED THAT:**

1. The Assignment and Assumption Agreements, dated December 1, 2019 between the Bankrupt and Symmetry (attached as Exhibit “S” to the Kroeger Affidavit) are void as against the Trustee as a transfer at undervalue pursuant to section 96 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3.
2. The solicitor’s file(s) (both electronic and paper) for the action/claims subject to the Assignment and Assumption Agreements, or the applicable portion thereof, shall be transferred to Trustee’s counsel, Osler Hoskin & Harcourt LLP (“**Osler**”), within a reasonable period of time following a written request by Osler for same.
3. The Trustee is awarded 50% of its costs against Symmetry for all steps the Trustee undertook to address the Edwards Affidavit, including its cross examination of Ms. Edwards on December 19, 2022 and its preparation of the Trustee’s Bench Brief, filed January 3, 2023, in the amount of \$10,641.38, plus GST.
4. Symmetry shall pay costs and disbursements to the Trustee for the remainder of the Application not addressed in paragraph 3 above in accordance with Column 5 of Schedule C to the Alberta *Rules of Court* in the amount of \$19,152, plus GST.
5. The Clerk of the Court is directed to enter this Order notwithstanding that more than 3 months have elapsed since pronouncement.



J.C.K.B.A.