

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

BETWEEN:

PILLAR CAPITAL CORP.

Applicant

- and -

TURUSS (CANADA) INDUSTRY CO., LTD.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE*
ACT, R.S.O. 1990, c. C-43, AS AMENDED

**SUPPLEMENTAL REPORT TO THE EIGHTH REPORT OF MNP LTD.
AS RECEIVER AND MANAGER OF THE ASSETS, UNDERTAKINGS
AND PROPERTIES OF TURUSS (CANADA) INDUSTRY CO., LTD.**

October 28, 2021

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Appendix “A”: Correspondence confirming Emix’s agreement with the notice of revision

Appendix “B”: Amended Claims Summary

INTRODUCTION

1. On September 18, 2020, MNP Ltd. was appointed as the receiver and manager (the “**Receiver**”) without security, of the assets, undertakings and properties of Turuss (Canada) Industry Co., Ltd. (“**Turuss**”), by order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”).
2. This is the supplemental report (the “**Supplemental Report**”) to the Eighth Report of the Receiver dated October 25, 2021 (the “**Eighth Report**”).
3. Capitalized terms not defined in this report are as defined in the Eighth Report.

BACKGROUND

4. On October 25, 2021, the Receiver filed the Eighth Report to the Court in support of its motion to:
 - (a) abridge the time for service of the Motion Record dated October 25, 2021, the Notice of Motion dated October 25, 2021, and the Eighth Report;
 - (b) approving and authorizing a distribution by the Receiver to Proven Creditors, as determined by the Receiver in accordance with the terms with the Claims Procedure set out in Claims Procedure Order, from the Remaining Sales Proceeds;
 - (c) approving the Eighth Report, and the activities of the Receiver as set out therein;
 - (d) approving the fees and disbursements of the Receiver and its legal counsel, Dentons, as set out in the Henechowicz Affidavit and the Kennedy Affidavit;
 - (e) approving the R&D; and
 - (f) such further and other grounds as counsel may advise and this Court may permit.

PURPOSE OF THIS SUPPLEMENTAL REPORT

5. The purpose of the Supplemental Report is to provide the Court with an update on the Claims Procedure since the filing of the Eighth Report.

POST-EIGHTH REPORT UPDATE

6. Since the filing of the Eighth Report, the Receiver has been in communication with Qi, Emix, and Hydro One with respect to their claims submitted as part of the Claims Procedure. The Receiver reports the following information to the Court with respect to the aforementioned claims:

- (a) the Receiver and Qi are continuing discussions in an effort to resolve matters associated with the Qi Claim;
- (b) the Receiver has been provided with written confirmation from Emix's counsel confirming that Emix accepts the revised amount of \$147,544.45, and the Receiver therefore anticipates that no Objection will be filed. Attached hereto as **Appendix "A"** is correspondence confirming Emix's agreement with the notice of revision; and
- (c) the Receiver has corresponded with Hydro One with respect to the Proof of Claim made by Hydro One against Turuss in the amount of \$348,472.83, and the corresponding notice of revision dated October 25, 2021 containing a revised amount of \$302,631.82. Hydro One has provided the Receiver with further details on Hydro One's Proof of Claim, which has resulted in the Receiver determining that the original amount of \$348,472.83 claimed by Hydro One in the Proof of Claim is proper. As such, the Receiver accepts the Hydro One Proof of Claim in the amount of \$348,472.83.

Attached hereto as **Appendix "B"** is an Amended Claims Summary.

7. The Receiver is reasonably satisfied that the claims asserted by Emix, and Hydro One have now been properly determined in accordance with the Claims Procedure

and a distribution on account of these resolved claims is appropriate and reasonable in the circumstances.

CONCLUSION

8. Based on the foregoing and as outlined in this Supplemental Report, the Receiver respectfully requests that this Court issue an order approving a distribution on account of the resolved Emix claim and Hydro One claim.

All of which is respectfully submitted this 28th day of October, 2021.

**MNP LTD,
In its capacity as the Court-appointed
Receiver and Manager of Turuss
(Canada) Industry Co., Ltd. and not in its
personal or corporate capacity**

Per: _____



Jerry Henechowiec CPA, CA, CIRP, LIT
Senior Vice President

Appendix “A”
to the Supplemental Report to the
Eighth Report of the Receiver

Loberto, Daniel

From: Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>
Sent: Monday, October 25, 2021 10:01 PM
To: Loberto, Daniel
Cc: Tracey Mason; Jerry Henechowicz; Kennedy, Robert
Subject: Re: Turuss (Canada) Industry Co. Ltd. - Claims Procedure
Attachments: image001.jpg; image003.jpg; image001.jpg; Notice of Revision - Emix.pdf

[WARNING: EXTERNAL SENDER]

Daniel,

Our client agrees with the revision.

Regards,

Oren Chaimovitch
Devry Smith Frank LLP
100-95 Barber Greene Road
Toronto, ON
M3C 3E9
Direct: [416-446-3342](tel:416-446-3342)
Fax: [416-449-7071](tel:416-449-7071)

On Oct 25, 2021, at 2:59 PM, Loberto, Daniel <daniel.loberto@dentons.com> wrote:

Good afternoon,

Further to your communications with MNP Ltd., in its capacity as receiver (the “**Receiver**”) of Turuss (Canada) Industry Co., Ltd., we deliver to you a notice of revision (the “**Notice of Revision**”) in accordance with the Claims Procedure Order dated August 3, 2021 (the “**Claims Procedure Order**”).

If you intend to dispute the amount in the Notice of Revision, please note that Emix Ltd. (the “**Claimant**”) has within fifteen (15) days of receipt of the Notice of Revision (“**Objection Period**”) to object in accordance with the Claims Procedure Order.

If the Claimant agrees with the amount outlined in the Notice of Revision, please provide written confirmation of your agreement before the end of the Objection Period to facilitate the distribution we are seeking at the motion occurring on Friday, October 29th, 2021.

Regards,



Daniel A. Loberto
Associate

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daniel.loberto@dentons.com

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From: Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>
Sent: Thursday, October 21, 2021 4:11 PM
To: Roberto, Daniel <daniel.loberto@dentons.com>
Cc: Tracey Mason <Tracey.Mason@devrylaw.ca>; Kennedy, Robert <robert.kennedy@dentons.com>
Subject: RE: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

[WARNING: EXTERNAL SENDER]

Daniel,

We had earlier provided the attached calculation. At the bottom is shows the balance of the security deposit held which needs to be updated to reflect our invoices to total \$5,755.86, leaving a security deposit of \$12,650.64.

We also have work in progress of approximately \$800 that our client will want taken from the deposit, which would leave \$11,850.16.

Yours truly,

Oren Chaimovitch
Devry Smith Frank LLP
100-95 Barber Greene Road
Toronto, ON
M3C 3E9
Direct: 416-446-3342
Fax: 416-449-7071

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From: Roberto, Daniel [<mailto:daniel.loberto@dentons.com>]
Sent: Thursday, October 21, 2021 3:23 PM
To: Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>
Cc: Tracey Mason <Tracey.Mason@devrylaw.ca>; Kennedy, Robert <robert.kennedy@dentons.com>

Subject: RE: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

Importance: High

Hi Oren and Tracey,

I follow up on Robert's email from this morning. May you please provide the residual amount left over from the deposit once legal fees and removal costs have been subtracted? Based on previous totals provided, I anticipate that the number is \$12,260.64, but please confirm. We are in Court next week and intend to serve materials shortly.

Kind regards,



Daniel A. Loberto

Associate

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From: Kennedy, Robert <robert.kennedy@dentons.com>

Sent: Thursday, October 21, 2021 8:52 AM

To: Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>

Cc: Tracey Mason <Tracey.Mason@devrylaw.ca>; Loberto, Daniel <daniel.loberto@dentons.com>

Subject: RE: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

Good morning:

What will be the residual amount left from the deposit?



Robert J. Kennedy

Partner

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From: Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>
Sent: October 20, 2021 10:29 AM
To: Kennedy, Robert <robert.kennedy@dentons.com>
Cc: Tracey Mason <Tracey.Mason@devrylaw.ca>; Loberto, Daniel <daniel.loberto@dentons.com>
Subject: RE: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

[WARNING: EXTERNAL SENDER]

Robert,

The invoice for the \$3,000 removal costs is attached.

Regards,

Oren Chaimovitch
Devry Smith Frank LLP
100-95 Barber Greene Road
Toronto, ON
M3C 3E9
Direct: 416-446-3342
Fax: 416-449-7071

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From: Kennedy, Robert [<mailto:robert.kennedy@dentons.com>]
Sent: Wednesday, October 20, 2021 10:01 AM
To: Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>; Loberto, Daniel <daniel.loberto@dentons.com>
Cc: Tracey Mason <Tracey.Mason@devrylaw.ca>
Subject: RE: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

As noted below, we will be in Court next week seeking the approval of distributions on account of accepted claims pursuant to the claims procedure.

We need the 3K invoice and the accounting relating to the residual deposit amounts as soon as possible.



Robert J. Kennedy

Partner

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From: Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>
Sent: October 19, 2021 9:50 AM
To: Loberto, Daniel <daniel.loberto@dentons.com>
Cc: Kennedy, Robert <robert.kennedy@dentons.com>; Tracey Mason <Tracey.Mason@devrylaw.ca>
Subject: RE: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

[WARNING: EXTERNAL SENDER]

Daniel,

We will provide redacted invoices for the legal fees claimed. We will ask our client for the invoices to evidence the cost of removal.

Regarding the right to apply the deposit to the costs incurred, it is in the lease. I attach extracts from the lease and explain as follows:

1. Paragraph 1.1(g)(ii) provides that the security deposit becomes the property of the landlord in the event of insolvency proceedings;
2. Article 11 requires the tenant to remove its belongings at the end of the lease.
3. Paragraph 16.3 requires the tenant to pay the landlord's costs incurred, including legal costs.
4. Paragraph 16.5 allows the landlord to apply the security deposit to the costs it has incurred.

Thanks,

Oren Chaimovitch
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Direct: 416-446-3342
Fax: 416-449-7071

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From: Loberto, Daniel [<mailto:daniel.loberto@dentons.com>]
Sent: Tuesday, October 19, 2021 9:23 AM
To: Tracey Mason <Tracey.Mason@devrylaw.ca>
Cc: Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>; Kennedy, Robert <robert.kennedy@dentons.com>
Subject: RE: Turuss (Canada) Industry Co. Ltd. - Claims Procedure
Importance: High

Good morning Tracey,

The Receiver has reviewed the information previously provided by your office. We note that Emix has raised additional amounts to what was provided on your proof of claim, namely the removal fee (\$3,000) and legal fees (\$5,093.66).

Please provide further details of these amounts at your earliest convenience, as the Receiver will be attending Court next week to address the distribution to creditors. It would be helpful if you could provide corresponding documentation. In addition, please direct the Receiver to the authority (and relevant provision) stating that Emix may reduce the security deposit by the amounts indicated.

Thank you,

 **Daniel A. Loberto**
Associate

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From: Loberto, Daniel
Sent: Wednesday, October 6, 2021 9:28 AM
To: Tracey Mason <Tracey.Mason@devrylaw.ca>
Cc: Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>; Kennedy, Robert <robert.kennedy@dentons.com>
Subject: RE: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

Thanks Tracey. We will review and revert back to you if we have any questions.

Kind regards,



Daniel A. Loberto
Associate

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From: Tracey Mason <Tracey.Mason@devrylaw.ca>
Sent: Wednesday, October 6, 2021 9:03 AM
To: Loberto, Daniel <daniel.loberto@dentons.com>
Cc: Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>; Tracey Mason <Tracey.Mason@devrylaw.ca>
Subject: FW: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

[WARNING: EXTERNAL SENDER]

Mr. Loberto, please see responses from our client, in blue, to your inquiries, set out below.

- We notice that monthly rent is in the amount of \$12,725.69. May you please provide a breakdown of this rent, including a breakdown of the additional rent? $\text{Monthly amounts} = \text{Basic Rent} + \text{TMI} + \text{Signage} + \text{HST} = \$6,696.67 + 4,316.00 + 249 + 1,464.02 = \$12,725.69$
- Please provide a breakdown of the \$44,863.40 for arrears in rent and other charges owing up to and including September 1, 2020; See attached calculation detailing Jun 2020 until Sep 2020 and amounts from Oct 2020 to Jun 2021
- Please confirm if the leased space remained empty during the claim period (up to the end of the lease); and Confirmed. We also paid \$3,000 + HST to empty the contents left behind by tenant.
- Please confirm if the landlord applied the deposit to the outstanding amounts. We have not applied the deposit yet. Deposit is \$21,406.50 which should be lowered by the \$3,000.00 paid for removal as above and Legal Fees (\$5,093.66 paid to date). We were waiting on this being finalized before utilizing the Security Deposit.

Thank you

Tracey Mason
Law Clerk
Direct: 416-446-3346
Fax: 416-449-7071

Devry Smith Frank LLP
Lawyers & Mediators
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From: Loberto, Daniel [<mailto:daniel.loberto@dentons.com>]
Sent: September 24, 2021 2:20 PM
To: Tracey Mason <Tracey.Mason@devrylaw.ca>
Cc: Kennedy, Robert <robert.kennedy@dentons.com>; Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>
Subject: RE: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

Good afternoon Tracey,

We refer to the attached Proof of Claim against Turuss (Canada) Industry Co., Ltd., and supporting documentation. May you please confirm and provide the following, as applicable:

- We notice that monthly rent is in the amount of \$12,725.69. May you please provide a breakdown of this rent, including a breakdown of the additional rent?
- Please provide a breakdown of the \$44,863.40 for arrears in rent and other charges owing up to and including September 1, 2020;
- Please confirm if the leased space remained empty during the claim period (up to the end of the lease); and
- Please confirm if the landlord applied the deposit to the outstanding amounts.

Thank you,

Daniel A. Loberto

Associate

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From: Tracey Mason <Tracey.Mason@devrylaw.ca>

Sent: Tuesday, August 17, 2021 10:16 AM

To: Fatemah Khalfan <Fatemah.Khalfan@mnp.ca>; Loberto, Daniel <daniel.loberto@dentons.com>

Cc: Kennedy, Robert <robert.kennedy@dentons.com>; Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>;

Matthew Lem <Matthew.Lem@mnp.ca>; Jerry Henechowicz <Jerry.Henechowicz@mnp.ca>

Subject: RE: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

[WARNING: EXTERNAL SENDER]

Thank you Fatemah.

Tracey Mason
Law Clerk
Direct: 416-446-3346
Fax: 416-449-7071

Devry Smith Frank LLP
Lawyers & Mediators
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From: Fatemah Khalfan [<mailto:Fatemah.Khalfan@mnp.ca>]

Sent: August 17, 2021 10:15 AM

To: Tracey Mason <Tracey.Mason@devrylaw.ca>; daniel.loberto@dentons.com
Cc: robert.kennedy@dentons.com; Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>; Matthew Lem <Matthew.Lem@mnp.ca>; Jerry Henechowicz <Jerry.Henechowicz@mnp.ca>
Subject: RE: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

Good morning Tracey,

Thank you for sending in your proof of claim and supporting documentation, which I can confirm that we also received on August 6, 2021.

Fatemah

Fatemah Khalfan

ESTATE ADMINISTRATOR, CORPORATE INSOLVENCY

PH. 416.596.1711
111 Richmond Street West
Suite 300
Toronto, ON
M5H 2G4
fatemah.khalfan@mnp.ca
mnpdebt.ca

From: Tracey Mason <Tracey.Mason@devrylaw.ca>
Sent: August 17, 2021 9:18 AM
To: daniel.loberto@dentons.com
Cc: robert.kennedy@dentons.com; Fatemah Khalfan <Fatemah.Khalfan@mnp.ca>; Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>; Tracey Mason <Tracey.Mason@devrylaw.ca>
Subject: FW: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

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Mr. Loberto, further to your email below, attached please find our completed Proof of Claim on behalf of our client, Emix Ltd., which Proof of Claim was sent to Fatemah Khalfan at MNP on August 6, 2021.

Kindly confirm receipt of the attached documents.

Thank you,
Tracey Mason

Tracey Mason
Law Clerk
Direct: 416-446-3346
Fax: 416-449-7071

Devry Smith Frank LLP
Lawyers & Mediators
[Toronto](#) | [Barrie](#) | [Whitby](#)

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From: Loberto, Daniel [<mailto:daniel.loberto@dentons.com>]
Sent: Friday, August 13, 2021 5:14 PM
To: Oren Chaimovitch (Devry) <Oren.Chaimovitch@devrylaw.ca>
Cc: Kennedy, Robert <robert.kennedy@dentons.com>
Subject: Turuss (Canada) Industry Co. Ltd. - Claims Procedure

Good afternoon,

We refer to the attached Claims Procedure Order dated August 3, 2021 (the “**Claims Procedure Order**”), which approved a Claims Procedure in relation to claims against Turuss (Canada) Industry Co., Ltd (“**Turuss**”). The Claims Procedure Order includes claims package for your review and consideration. If you intend to file a claim against Turuss, you are to file a proof of claim. Please note that the Claims Procedure Order establishes a claims bar date of before **5:00p.m. on September 30, 2021.**

Kind regards,

Daniel A. Loberto
Associate

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Appendix “B”
to the Supplemental Report to the
Eighth Report of the Receiver

TURUSS (CANADA) INDUSTRY CO., LTD.
AMENDED SUMMARY OF UNSECURED CREDITOR CLAIMS FILED AND PROVEN
AS AT OCTOBER 28, 2021

UNSECURED CREDITOR	NOTE	AMOUNT FILED	ADJUSTMENT	PROVEN
1. Canada Revenue Agency, customs and excise tax		\$ 60,885.08	\$	60,885.08
2. Eastern Overhead Doors Ltd.		20,340.00		20,340.00
3. Emix Limited	1.	159,394.61	- 11,850.16	147,544.45
4. Global Payments Inc.		33,987.67		33,987.67
5. Hatten Home Hardware		599.15		599.15
6. Hydro One Networks	2.	348,472.83		348,472.83
7. James Hingston		15,453.84		15,453.84
8. Liyuan Qi		313,223.00		-
9. Primex Energy Inc.		55,180.24		55,180.24
10. Weiler's Cleaning & Restoration Ltd.		913.71		913.71
11. Workplace Safety and Insurance Board		1,294.88		1,294.88
		\$ 1,009,745.01	\$ (11,850.16)	\$ 684,671.85

NOTES

1. Agreed adjustment for application of security deposit.
2. Claim corrected for payment for services provided post receivership that were in error applied to pre-receivership balance.

PILLAR CAPITAL CORP.
Applicant

- and -

TURUSS (CANADA) INDUSTRY CO., LTD.
Respondent

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

PROCEEDING COMMENCED AT TORONTO

**SUPPLEMENTAL REPORT TO THE EIGHTH
REPORT OF THE RECEIVER**

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Lawyers for the Receiver