

BANKRUPTCY AND INSOLVENCY
FAILLITE ET INSOUVABILITE
FILED
MAR 28 2013
JUDICIAL CENTRE
OF CALGARY

Clerk's stamp:

COURT FILE NUMBER

25-1599811

COURT OF QUEEN'S BENCH OF ALBERTA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY OF
1307754 ALBERTA LTD.

ORDINARY ADMINISTRATION

JUDICIAL CENTRE

CALGARY

APPLICANT

FABER INC.

DOCUMENT

ORDER

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

MILLER THOMSON LLP
Barristers and Solicitors
2700, Commerce Place
10155 - 102 Street
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Phone: 780.429.1751 Fax: 780.424.5866

I hereby certify that this is a true copy of the
original Order
of which it purports to be a copy.

Dated this 28th day of March 2013

Jamie Forth
Judge of the Court of Queen's Bench of Calgary
Division of the
Court of Queen's Bench of Alberta

Lawyer's
Name: Terrence M. Warner
Lawyer's
Email: twarner@millerthomson.com
File No.: 032235.24

DATE ON WHICH ORDER WAS PRONOUNCED: ^{28th} March 22, 2013

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: AD Macleod

UPON the Application of the Applicant, Faber Inc. (hereinafter the "Trustee"); **AND UPON** the Court being requested by the Trustee to provide advice and directions regarding the declaration and payment or distribution of Dividends to the creditors of the bankrupt estate, including directions regarding the division of property of the Bankrupt among creditors who have proven their claims as a dividend in kind; **AND UPON** a review of the Trustee's Report; **AND UPON** being advised that the creditors were fully apprised of the proposal and voted unanimously in favour of the proposal; **AND UPON** being advised that the inspectors in the bankruptcy were informed of the proposal and voted unanimously in favour of the proposal; **AND UPON** being advised that all interested parties were served by mail and an Affidavit of Mailing has been filed with this Honourable Court; **AND UPON** being satisfied that the proposal makes good

commercial sense and will yield a higher return to the creditors of the estate than any other method of distribution.

IT IS HEREBY ORDERED THAT:

1. The timing and method of service of notice of this application is hereby abridged, further service is dispensed with and this motion is properly returnable on the date set out above.
2. The proposed course of action (the "Proposal") which is set out in the Trustee's Report to the Court filed herein ("Trustee's Report") and proposed settlement agreement ("Settlement") with the largest unsecured creditor of the Bankrupt, Marco Contracting Inc. ("Marco"), is hereby approved.
3. This Court authorizes the Trustee to enter into such further and other documentation reasonably required to carry out the terms of this Order and to facilitate the Proposal and the completion of the terms of the Settlement.
4. Subject to the terms of this Order, the Trustee is authorized to transfer to Marco the following real properties referenced in the Trustee's Report, by way of a dividend:
 - (a) Industrial Lands, legally described as
Plan 0714629
Block 5
Lots 2-7;
 - (b) Commercial Lands, legally described as
Plan 0714629
Block 5
Lot 1;
 - (c) 237 Valarosa Place, legally described as
Plan 0614747
Block 3
Lot 17;
 - (d) 229 Valarosa Place, legally described as
Plan 0614747
Block 3
Lot 15;
 - (e) 217 Valarosa Place, legally described as:
Plan 0614747
Block 3
Lot 12

The foregoing properties are hereby collectively referred to herein as the "Real Property".

5. The terms of this Order regarding the Proposal and the transfer of the Real Property to Marco shall become effective only upon the completion and filing with this Honourable Court of a Certificate substantially in the form set out in Schedule "A" to this Order.
6. This Court directs the Registrar of Land Titles for the Province of Alberta (the "Registrar") that upon being presented with a Certified Copy of this Order along with a Certified Copy of the Certificate referred to in the previous paragraph, and instructions from counsel to the Trustee requesting the transfer of title to the Real Property to Marco, shall:
 - (a) cancel all existing Certificates of Title to the Real Property as referred to in the instructions from the Trustee's counsel;
 - (b) issue new Certificates of Title for the Real Property in accordance with the instructions from the Trustee's counsel, subject to existing mortgages, and the reservations and exceptions contained in the existing Certificates of Title, but free and clear of all other liens, encumbrances, caveats or other interests affecting such Lands.
7. This Court orders that notwithstanding the transfer of the Real Property in accordance with this Order and the discharge of all liens, encumbrances, caveats or other interests affecting the Real Property, the discharge shall be entirely without prejudice to such claims and all such claims shall be addressed in the Bankruptcy proceedings subject to the same priorities that exist or existed immediately prior to the transfer of the Real Property;
8. It is hereby ordered that this Order shall be acted upon by the Registrar notwithstanding that the appeal period in respect of this Order has not elapsed, and the appeal period is hereby expressly waived.
9. It is hereby ordered that this Order shall be acted upon by the Registrar as outlined above notwithstanding the provisions of s. 191 of the *Land Titles Act*, R.S.A. 2000, c. L-4, and this Order shall be registered notwithstanding the requirements of subsection 191(1) of the said *Land Titles Act*.
10. This Court expressly:
 - (a) approves the activities of the Trustee as set out in the Trustee's Report; and
 - (b) authorizes and directs the Trustee to pay the appropriate levy to the Superintendent of Bankruptcy based on the total value of the assets distributed;
 - (c) *and approves the* ~~to distribute~~ *and* ~~to distribute~~ *proceeds of the estate of TR* proceeds of the estate to the unsecured creditors in an amount equivalent to the value of the Real Property transferred to Marco.



Justice of the Court of Queen's Bench of Alberta

Schedule "A" – Form of Trustee's Certificate

Clerk's stamp:

COURT FILE NUMBER	25-1599811
COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY	IN THE MATTER OF THE BANKRUPTCY OF 1307754 ALBERTA LTD.
	ORDINARY ADMINISTRATION
JUDICIAL CENTRE	CALGARY
APPLICANT	FABER INC.
DOCUMENT	TRUSTEE'S CERTIFICATE
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	MILLER THOMSON LLP Barristers and Solicitors 2700, Commerce Place 10155 – 102 Street Edmonton, AB, Canada T5J 4G8 Phone: 780.429.1751 Fax: 780.424.5866

Lawyer's
Name: Terrence M. Warner
Lawyer's
Email: twarner@millerthomson.com
File No.: 032235.24

TRUSTEE'S CERTIFICATE

RECITALS

- (A) Faber Inc. was appointed as the bankruptcy trustee (the "**Trustee**") of 1307754 Alberta Ltd. (the "**Bankrupt**").
- (B) Pursuant to an Order of the Court of Queen's Bench of Alberta dated March 22, 2013, the Court approved the Trustee's proposal for distribution of the assets of the Bankrupt Estate (the "**Proposal**") by the Trustee to the unsecured creditors of the Bankrupt;
- (C) As part of the Proposal, this court approved the Settlement Agreement made between the Trustee and Marco Contracting Ltd. ("Marco") regarding the proposed transfer of the Real Property of the Bankrupt to Marco in accordance with the terms of the Settlement Agreement;
- (D) The Court's approval of the proposed transfer and distribution of the assets is to become effective only upon the filing by the Trustee of a certificate confirming (i) the securing by Marco of financing for the payout of the existing Mountain View Credit Union

mortgage(s) and the provision of evidence thereof to the satisfaction of the Trustee; (ii) Marco has provided evidence satisfactory to the Trustee of arrangements made with the Town of Didsbury and 596296 Alberta Ltd. (subsequent mortgagees) to assume the respective mortgages; and (iii) that in regard to the Residential properties, Marco has secured the agreement of the Mortgagee to assume the mortgage(s) and the provision of evidence thereof to the satisfaction of the Trustee.

THE TRUSTEE CERTIFIES the following:

1. Marco has provided evidence satisfactory to the Trustee of new financing sufficient to pay out the existing mortgage(s) to the Mountain View Credit Union in respect of the Industrial and Commercial properties pursuant to the Settlement Agreement;
2. Marco has provided evidence satisfactory to the Trustee of arrangements made with the Town of Didsbury and 596296 Alberta Ltd. (subsequent mortgagees) to assume the respective mortgages;
3. Marco has provided evidence satisfactory to the Trustee of an agreement with the Mortgagee to assume the mortgage(s) registered on title to the Residential Properties pursuant to the Settlement Agreement;
4. Marco has provided to the Trustee an acknowledgment that it shall pay to the Trustee prior to the transfer of the Real Property, all applicable GST pursuant to the *Excise Tax Act* (Canada) (the "Act") payable in connection with the transactions, or alternatively delivers to the Trustee a certificate confirming that Marco is a registrant for purposes of the Act together with an undertaking by Marco to pay all applicable GST and an indemnity executed by Marco indemnifying the Trustee with respect to all GST payable in connection with this transaction; and
5. The Trustee sees no impediment to the Proposal set out in its Report and sanctioned by the Court proceeding as contemplated to the satisfaction of the Trustee.

This Certificate was signed by the Trustee at Edmonton on _____, 2013.

FABER INC., in its capacity as Trustee of 1307754
Alberta Ltd. and not in its personal capacity

Per: _____
Name:
Title: