

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

BETWEEN:

**PRUDENT EXCELLENCE MORTGAGE INVESTMENT
CORPORATION**

Applicant

-and-

TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC.

Respondent

APPLICATION UNDER SUBSECTION 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

**SUPPLEMENTARY MOTION RECORD OF THE RECEIVER,
BDO CANADA LIMITED**

July 10, 2023

ROBINS APPLEBY LLP
Barristers + Solicitors
2600 - 120 Adelaide Street West
Toronto, ON M5H 1T1

Dominique Michaud LSO No.: 56871V
dmichaud@robapp.com
Tel: (416) 360-3795

Anisha Samat LSO No. 82342Q
Email: asamat@robapp.com
Tel: (416) 360-3728
Fax: (416) 868-0306

Lawyers for the Court-Appointed Receiver,
BDO Canada Limited

TO: ATTACHED SERVICE LIST

**SERVICE LIST
(as at June 2023)**

<p>XS LAW PROFESSIONAL CORPORATION 205-219 Oxford Street West London, ON N6H 1S5</p> <p>Xin Sun LSO No.: 69885Q Tel: (519) 681-9180 Email: xin@xsunlaw.com</p> <p>Lawyers for Prudent Excellence Mortgage Investment Corporation</p>	<p>TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC. A10-3000 Highway 7 Markham ON L3R 4X9</p> <p>Email: 910396787@qq.com and wang-0606@msn.com</p>
<p>BDO CANADA LIMITED 500-20 Wellington Street East Toronto, ON M5E 1C5</p> <p>Josie Parisi Tel: (416) 369-6031 Email: jparisi@bdo.ca</p> <p>Gary Cerrato Tel: (416) 369-6058 Email: gcerrato@bdo.ca</p> <p>Court-Appointed Receiver</p>	<p>BLANEY MCMURTRY LLP 1500-2 Queen Street East Toronto, ON M5C 3G5</p> <p>Eric Golden LSO No.: 38239M Tel: (416) 593-3927 Email: egolden@blaney.com</p> <p>Chad Kopach LSO No.: 48084G Tel: (416) 593-2985 Email: ckopach@blaney.com</p> <p>Lawyers for CTBC Bank Corp.</p>
<p>ROBINS APPLEBY LLP 2600-120 Adelaide Street West Toronto, ON M5H 1T1</p> <p>Dominique Michaud LSO No. 56871V Tel: (416) 360-3795 Email: dmichaud@robapp.com</p> <p>Lawyers for the Receiver, BDO Canada Limited</p>	<p>DOOLEY LUCENTI LLP 10 Checkley Street Barrie, ON L4N 1W1</p> <p>Eric Gionet LSO No.: 40204P Tel: (705) 792-7963 Email: egionet@dllaw.ca</p> <p>Lawyers for Gerrits Engineering Limited</p>

<p>DAOUST VUKOVICH LLP 3000-20 Queen Street West Toronto, ON M5H 3R3</p> <p>Paul Hancock LSO No.: 56791T Tel: (416) 597-6824 Email: phancock@dv-law.com</p> <p>Lawyers for 10853828 Canada Inc. and Delbrook Triumphant Builders Inc.</p>	<p>DEPARTMENT OF JUSTICE Ontario Regional Office 400-120 Adelaide Street West Toronto, ON M5H 1T1</p> <p>Diane Winters LSO No.: 20824V Tel: (416) 952-8563 Email: Diane.Winters@justice.gc.ca</p> <p>Lawyers for Canada Revenue Agency</p>
<p>SUNSION LAW PROFESSIONAL CORPORATION 906-250 Consumers Road North York, ON M2J 4V6</p> <p>Catherine Fangqi Qin LSO No.: 76350J Tel: (416) 792-6681 Email: catherine@sunsionlaw.com</p> <p>Lawyers for Xiaofeng Fu and Meng Sun</p>	<p>HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE MINISTER OF FINANCE Insolvency Unit 33 King Street West Oshawa, ON L1H 8H5</p> <p>Leslie Crawford Tel: (905) 433-5657 Email: leslie.crawford@ontario.ca; insolvency.unit@ontario.ca</p>
<p>WEINTRAUB ERSKINE HUANG LLP Barristers 501-365 Bay Street Toronto, ON M5H 2V1</p> <p>Rebecca Huang LSO No.: 52555D Tel: (416) 306-8452 Email: Rebecca.huang@wehLitigation.com</p> <p>Lawyers for Wiseway Global Canada Consulting Ltd.</p>	

Email Service List: xin@xsunlaw.com; 910396787@qq.com; wang-0606@msn.com; jparisi@bdo.ca; gcerrato@bdo.ca; dmichaud@robapp.com; egionet@dllaw.ca; phancock@dv-law.com; Diane.Winters@justice.gc.ca; catherine@sunsionlaw.com; leslie.crawford@ontario.ca; insolvency.unit@ontario.ca; Rebecca.huang@wehLitigation.com; egolden@blaney.com; ckopach@blaney.com; nafi@sunsionlaw.com

INDEX

TAB	APPENDIX	DOCUMENT
1.		Supplement to the Fourth Report of BDO Canada Limited, in its capacity as Court Appointed Receiver dated July 10, 2023
	A.	Receiver's Contract Porgress Analysis Schedules
	B.	Letter from Sunsion Law Professionnal Corporation dated July 10, 2023
	C.	Letter from Robins Appleby LLP dated July 10, 2023

TAB 1

Court File No. CV-22-00677227-00CL

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

BETWEEN:

**PRUDENT EXCELLENCE MORTGAGE INVESTMENT
CORPORATION**

Applicant

- and -

TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC.

Respondent

**SUPPLEMENT TO THE FOURTH REPORT OF BDO CANADA LIMITED, IN ITS CAPACITY
AS COURT APPOINTED RECEIVER**

July 10, 2023

TABLE OF CONTENTS

INTRODUCTION..... 3
DISCLAIMER 3
BACKGROUND 4
INTERESTED PARTIES CONTACTING RECEIVER 4

APPENDICIES

Receiver’s Contract Progress Analysis Schedules **A**
Letter from Sunshion Law Professional Corporation dated July 10, 2023 **B**
Letter from Robins Appleby LLP dated July 10, 2023 **C**

INTRODUCTION

1. By Order of the Honourable Madam Justice Conway of the Court of Justice (the “**Court**”) dated March 1, 2022 (the “**Receivership Order**”), BDO Canada Limited (“**BDO**”) was appointed as the Court-appointed receiver (in such capacity, the “**Receiver**”) over the real property owned by Triumph Development HK Bradford Twin Regency Inc. (“**Triumph**” or the “**Debtor**”) municipally known as 2362 Line 8, Bradford West Gwillimbury, ON (the “**Property**”). A copy of the Receivership Order is attached as Appendix “A” to the Fourth Report (defined below). The within proceeding is referred to herein as the “**Receivership Proceeding**”.
2. All definitions and capitalized terms in the Receiver’s Fourth Report to the Court dated June 30, 2023 (the “**Fourth Report**”) remain the same in this Supplemental Report (defined below).

DISCLAIMER

3. In preparing this Supplement to the Fourth Report to the Court dated July 10, 2023 (the “**Supplemental Report**”), the Receiver may have been provided with, and has relied upon, unaudited, draft and/or internal financial information, the Debtor’s books and records, discussions with management of the Debtor (“**Management**”), and information from third-party sources (collectively, the “**Information**”). Except as described in this Supplemental Report:
 - a) the Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CAS**”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CAS in respect of the Information; and
 - b) the Receiver has prepared this Supplemental Report in its capacity as a Court-appointed officer in connection with its motion for advice and directions with respect to certain construction liens. Parties using the Supplemental Report other than for the purposes outlined herein are cautioned that it may not be appropriate for their purposes.
4. Unless otherwise stated, all monetary amounts contained in this Supplemental Report are expressed in Canadian dollars.
5. This Supplemental Report, and other all court materials and orders issued and filed in this Receivership Proceeding are or will be made available on the Receiver’s case website at the following URL: https://www.bdo.ca/en-ca/extranets/triumph_twin_regency/ and will remain available on the website for a period of six (6) months following the Receiver’s discharge.

BACKGROUND

6. Following service of the Receiver's Fourth Report, the Receiver was contacted by interested parties on the service list seeking additional information in respect of the Receiver's analysis of the progress achieved under the project management and construction management contracts in accordance with the weighted average methodology utilized by the Receiver to analyze the Construction Liens as described in Paragraphs 26 to 28 of the Fourth Report.
7. The Receiver's analysis of the progress achieved by 108 Canada and Delbrook under the project management and construction management contracts respectively is attached as **Appendix "A"**. These aforementioned schedules should be read in conjunction with the BDO Construction Services Lien Analysis Memo attached as Appendix G to the Fourth Report.

INTERESTED PARTIES CONTACTING RECEIVER

8. The Receiver and other parties on the service list were contacted by email on June 27, 2023 (prior to the release of the Fourth Report) by a director and possibly one of the indirect owners of Triumph, Lu (Wilson) Shen ("**Shen**"), stating the following:

"I, Lu Shen, am the immediate party involved in the construction liens. Due to my limited proficiency in English and unaffordable legal fees, I was unable to adequately respond and present my position in court before. However, when I received the information from the receivership that these construction liens about Delbrook and 108 Canada were deemed as valid liens, I was so shocked and must step forward to tell the truth. I firmly believe that the two construction liens are invalid and fraudulent. I completely disagree with the proposed settlement. I am now seeking the assistance of a lawyer to help me prepare the necessary Affidavit and collect relevant evidence. Furthermore, I kindly request to cancel this motion at this moment until the facts are fully investigated."

9. Shen was contacted by the Receiver through his counsel Eric Wang (Yixin Wang) while the Receiver was investigating the validity of the Construction Liens given the alleged common ownership among Triumph, Montanaro, 108 Canada and Delbrook which the Receiver has determined to be untrue. Shen has not provided the Receiver with any of Triumph's books and records nor has he provided any information in respect of the Construction Liens. The Receiver understands that Shen is currently in China and the Receiver has not been contacted by Shen's counsel at the time of preparation of this Supplemental Report.

10. The third mortgagees' initial position was that the Construction Liens were invalid given the alleged common ownership of Triumph, Montanaro, 108 Canada and Delbrook. Subsequent to the service of the Fourth Report, the Receiver received a letter dated July 10, 2023 from Catherine Fangqi Qin from Sunsion Law Professional Corporation on behalf of the third mortgagees, Meng Sun and Xiaofeng Fun (together the "**Third Mortgagees**"). The Third Mortgagees are requesting a six month adjournment of the Receiver motion approving the Lien Settlement Agreement and the 108 Distribution and the Delbrook Distribution. A copy of the letter received from Catherine Fangqi Qin is attached hereto as **Appendix "B"**.
11. The Receiver's counsel, Robins Appleby LLP, responded to the Third Mortgagees adjournment request by letter dated July 10, 2023. In this letter, the Receiver corrected numerous incorrect statements and advised that the Receiver has not changed its position and will move forward with the motion scheduled on July 12, 2023. A copy of the letter from Robins Appleby LLP is attached hereto as **Appendix "C"**.

All of which is respectfully submitted this 10th day of July 2023.

BDO CANADA LIMITED,
in its capacity as the Court-appointed Receiver of the real property
owned by Triumph Development HK Bradford Twin Regency Inc.
municipally known as 2362 Line 8, Bradford West Gwillimbury, ON

Per:



Name: Gary Cerrato, CIRP, LIT
Title: Senior Vice-President

APPENDIX A

Summary

<u>Description</u>	<u>Amount</u>
Total Hard Costs (Excluding the Construction Management Fee)	\$ 42,528,438
Total Budget for PM & CM Fee (8% of the Hard Costs)	3,402,275
PM Budget @40% of the Total Budget	1,360,910
Progress Achieved pursuant to PM Agreement	39.5%
PM Fee Due	536,907
CM Budget @60% of the Total Budget	2,041,365
Progress Achieved pursuant to CCDC 5B	4.3%
CM Fee Due	88,253
Total Fee Due (PM + CM)	625,160
Total Fee Due (PM + CM) plus HST@13%	706,431
Total Value on the Quantum Meruit basis (Less Amount Paid (@ \$47,728)	658,703
Third-Party Costs	318,092
Total Lien Value	<u><u>976,795</u></u>

Progress Management Progress Calculation

Actual
39.5%

#	Project Manager Duties	Planned Start	Planned Finish	Duration	Duration %	Category Weightage	Category Internal Weightage	Net Weightage	Actual	Delbrook Remarks	BDO Remarks
	Duties in connection with the servicing and development of the Development Lands and construction of the Improvements upon the Development Lands or parts thereof:	10-Aug-18	06-Nov-20	819							
1	Plans - Supervising the preparation of plans and specifications pertaining to the development of the Development Lands and the construction of the Improvements;	19-Nov-18	06-Aug-20	578	8%	45%	41%	18.6%	40%	We are sharing all the documents / plans that has been developed from 2017 until March 2021.	The agreement stipulates that the PM is responsible for supervising the preparation of plans and specifications for both development of the Development Lands and Construction. Based on the review of the documents provided, we note there have been plans and specifications prepared for the pre-construction services (SPA). However, supervision of the preparation of construction drawings is yet to be performed during the construction phase. The construction drawings are more critical and would involve complexities due to the integration and coordination required within several disciplines.
2	Permits - The direct acquisition of (or supervision of consultants or trade contractors in the acquisition of) all licenses and permits as necessary to permit servicing and development of the Development Lands, including without limitation building permits;	25-Feb-19	13-Sep-19	200	3%		14%	6.4%	30%	We have done the major submissions of the site plan and we were ready to have the final submission in. In addition, we managed to receive the Zoning By-Law Amendment as well as the Demolition Permit for the site.	We note, a demolition permit has been obtained and the Building Permit required for the construction is yet to be obtained pending the SPA's final approval. The other licences and permits required during the construction phase or commissioning phase are yet to be obtained.
3	Government Liaison - The negotiation for and procurement of any necessary municipal, statutory or other government approvals and necessary third party approvals for the development of the Development Lands including, if necessary, zoning amendments, consents to server, formation of a common elements condominium corporation and preparation and registration of a plan of subdivision or registration of a part lot control by-law with respect to the Development Lands;	10-Aug-18	15-Sep-19	401	6%		29%	12.9%	65%	The is clearly shown in our documentations and emails.	Based on the documents provided, it is evident that PM has been liaising with the relevant government / municipal authorities to obtain approvals (Ex: zoning amendments, and other approvals). Furthermore, there are agreements in place to form condominium corporations etc. However, evidence for consent to server (if applicable), and part-lot control, is not available.
4	Studies, etc. - The preparation of all municipal reports, studies, financial projections, analyses and budgets as may be necessary in connection with the development of the Development Lands;	19-Nov-18	28-Dec-18	39	1%		3%	1.3%	75%	We have provided all the studies that were prepared for this jobsite.	We note several third parties have been engaged to conduct studies, preparing reports in relation to the SPA application.
5	Contracts - The negotiation of the usual construction industry contracts for the development of the Development Lands including without limitation architectural, engineering, landscaping and consulting contracts with professional firms approved by the Owner, such contracts to include provision for the preparation of design plans and specifications for, and inspection services relating to, the development of the Developments Lands and contracts for the installation of municipal services required for the development of the Development Lands including connecting any buildings to such services. All such contracts shall be executed by the Owner or the Nominee unless they otherwise direct the Project Manager to enter into such Contracts as agent for the Owner. Notwithstanding the foregoing, the Owner shall not be bound to execute nor shall it be bound by the terms and conditions of contracts for the development of the Development Lands negotiated by the Project Manager unless: (a) the Owner has first Approved such contracts as negotiated; or (b) such contracts involve expenditures not to exceed those provided for such contracts in the Project Management Schedule and Business Plan which have been Approved by the Owner;	31-Dec-18	23-Aug-19	180	2%		13%	5.8%	75%	We have provided all the documentations to show that we have retained all the highly respected consultants for this job and the Owner has approved them.	Professionals and relevant parties identified and coordinated with for performing the studies etc.,
9	Financing - The use of all reasonable efforts to negotiate and submit to the Owner for Approval. Proposed interim and permanent financing and the implementation thereof. Fees payable to third-party brokers for negotiating interim and permanent financing and/or implementing the same, which have been Approved by the Owner or are referred to in Business Plans which have been Approved by the Owner, shall be at the expense of the Owner;	31-Dec-18	16-Sep-19	203	3%	10%	39%	3.9%	90%	We negotiated a project financing with the potential lender for the project and the Letter of Intent was issued. In addition, we were helping the group to secure the bond for Tarion security.	It is evident that a financier had been finalized for the project.
11	Construction Activities - The making of recommendations of appropriate candidates to be retained by the Owner for construction management supervision and on-site oversight; the Owner expressly acknowledging that project on-site oversight and construction management supervision is not part of the duties of the Project Manager;	31-Dec-18	15-Apr-19	105	1%		20%	2.0%	100%	We did recommend few General Contractors/Builders for the Group to Build this project and also the Ownership were having some contacts themselves. However, at the end, the Ownership wanted to engage Delbrook and retain Delbrook under CCDC contract.	Pursuant to the Agreement, the PM is required to make recommendations for the CM contract. Given that Delbrook is retained as a Construction Manager, we evaluate this to be 100% complete.
14	Tarion - The registration of the Nominee under the Ontario New Home Warranties Plan Act (the "NHW Act") as a registered Vendor and/or Builder and the maintenance of such registration in good standing until the completion of all sales of residential buildings in the Development and expiry of any periods during which such registration must be continued under NHW Act and regulations promulgated thereunder;	19-Nov-18	11-Jan-19	53	1%		10%	1.0%	85%	We did receive and obtained the Tarion Registration for this Project.	We note the Tarion registration is complete, however, the scope includes the maintenance of the registration until completion. Therefore, evaluated at 80%.
6	Timing Schedules, Business plan, Pro Formas - The preparation and submission to the Owner for approval of the Project Management Schedule and Business Plan, it being agreed that the Project management Schedule and Business Plan may be adjusted from time to time as changes are made from time to time on the concept and scope of the Development as Approved by the Owner and that such adjustments shall be submitted to the Owner for Approval;	10-Aug-18	11-Jan-19	154	2%		30%	3.0%	60%	We clearly providing all the related documents such as project schedules and proformas. In addition, we brought the 3 rd party consultant to help us with the estimation of the cost too.	Timing Schedule - The Agreement does not define this. Business Plans - shall incorporate all applicable Direct Construction Costs regarding the development, construction and completion of any residential, commercial or other buildings. We note, this shall include a detailed estimate of the hard costs for all the buildings, which is yet to be prepared. However, we have considered progress based on the preliminary estimate. Pro Formas - We note there have been several revisions of Pro Formas developed in consultation with the Altus Group, therefore considered progress.

#	Project Manager Duties	Planned Start	Planned Finish	Duration	Duration %	Category Weightage	Category Internal Weightage	Net Weightage	Actual	Delbrook Remarks	BDO Remarks	010
8	Accounting & Project Account - The providing of all reasonable accounting services as are required for the satisfactory and expeditious planning, construction and development of the Development ; the administration of funds deposited in and paid out of the Project Account (including retention of required statutory lien holdbacks); and the submission to the Owner of regular and timely cost reports as well as additional cost reports ten (10) days after request by the Owner, provided that such request is reasonable;	10-Aug-18	06-Nov-20	819	11%	35%	33%	11.7%	20%	We have provided all the reasonable accounting services and administration for the job and we were in contact with all the consultants too.	Project Account - bank account established by the PM for the purpose of administering payments made to the PM by the Owner and payments made by the PM in connection with the Development. We have reviewed Account statements and summaries, and outstanding payments, but there was no evidence to suggest there is a separate bank account created for this project. Moreover, we have not received a proper project cost report, detailing the amounts received from the Owner and the amounts paid by the PM for each budgeted category. Furthermore, this is required to be provided throughout the course of the project including construction, commissioning, handing over and occupancy. Therefore, progress can be claimed based on progress achieved in the pre-construction activities.	
12	Reports - The preparation and submission of periodic reports as reasonably required by the Owner on the progress of the development of the Development (including construction progress) in conformity with Approved Business Plans and the Project Management Schedule;	10-Aug-18	06-Nov-20	819	11%		33%	11.7%	20%	We have been submitting report via email as well as meeting with the Group and WeChat discussions to update them on the progress of the project regularly.	This is required to be provided through the course of the project including construction, commissioning, handing over and occupancy. Therefore, progress can be claimed based on progress achieved on the pre-construction activities.	
13	Accounts & Records - The maintenance of its office in the City of Markham or in another location approved by the Owner of appropriate and proper books of account and records with respect to the development of the Development Lands and all transactions entered into in performance of the Project Manager's obligations hereunder . The Owner and any person or firm appointed by it shall have the right at reasonable times and internal cause to be made inspections of such books and records and to make copies of the same. All such books and records shall be considered to be the property of the Owner except that the Project Manager may make copies thereof for its own purposes;	10-Aug-18	06-Nov-20	819	11%		33%	11.7%	20%	We clearly have maintained all the related documentation for this project.	Same comments as in "Accounting & Project Account".	
7	Insurance - The negotiation and obtaining of such policies of insurance as the Project Manager considered necessary or desirable to protect the Owner (including the Nominee) and its property and interest from liability, damage or loss, including builder's risk insurance, liability insurance and construction liability insurance, except such policies of insurance as the Owner elects to negotiate for and procure on its own behalf. The Project Manager shall send a copy of each such policy it negotiates and obtains to the Owner and shall review the contents thereof with the Owner as to the amount and scope of coverage. The Owner shall be deemed to have Approved each such policy unless, within thirty (30) days after receipt and review thereof with the Project Manager, it shall by notice in writing advise the Project Manager of its disapproval thereof and the reasons therefore. The Owner shall provide the Project Manager with sufficient funds to pay the premium charged by the insurer for the Approved policy. The Project Manager shall not be liable or responsible in any way for any damage or liability which may be sustained by the Owner by reason of the inadequacy in the amount, type or duration of such Approved or deemed Approved insurance coverage or by reason of the provisions contained in or omitted from any such Approved or deemed Approved insurance contract but shall be liable for a lapse or termination of such Approved contract when the lapse or termination has not been approved by the Owner and is due to the negligence of the Project Manager. The Owner further agrees that all contracts for third party or public liability insurance shall be so written as to protect the Project Manager in the same manner and to the same extent they protect the Owner;	10-Aug-18	15-Sep-19	401	6%	10%	14%	1.4%	0%	The Ownership were arranging their own insurance for their project.	The PM gets no progress, as this part of their scope is taken care of by the Owner, per the PM's statement.	
10	Carrying Costs - The arrangement for payment on behalf of the Owner from the Project Account from funds provided by the Owner of all mortgage debt service, land carrying costs, interim financing costs and other such non-construction costs as may permit the Development Lands to be held and developed as foresaid;	10-Aug-18	06-Nov-20	819	11%		29%	2.9%	20%	We managed to pay the related costs for the development too.	These are ongoing expenses and include maintenance of the land, paying mortgage payments, property taxes, utilities and other non-construction costs throughout the course of the project.	
15	HST - preparation on a timely basis of all HST filings on behalf of the Owner relating to the Development and arrange for the deposit into the Project Account of any refunds relating thereto;	10-Aug-18	06-Nov-20	819	11%		29%	2.9%	0%	The group were handling their own HST / Accounting matters. We even don't know who their accountant is.	The PM gets no progress, as this part of their scope is taken care of by the Owner, per the PM's statement.	
16	General - The carrying out of such other duties (excluding on-site construction management, constructions management supervision and/or oversight of construction during the servicing of the Lands and construction of the Improvements thereon and excluding sales and/or leasing), as are normally carried out by a developer in connection with the development of a Project of the size, type and location of the Development, to the point where the Improvements are ready for closings to purchasers, to the intent that the Project Manager shall use commercially reasonable efforts to cause the Development Lands to be developed, all in conformity with the requirements of applicable statutes, laws, bylaws and ordinances.	10-Aug-18	06-Nov-20	819	11%		29%	2.9%	20%	It is obvious from our emails and all the documentations that we have provided far more services to the Ownership on this project.	These are ongoing expenses and the progress is considered accordingly.	
				7228	100%	100%	400%	100.00%				

							Total CCDC Progress	4.3%			
No	SCHEDULE A1 TO THE AGREEMENT - SERVICES AND COMPENSATION	Weighted Factor			Progress Achieved	Net Progress	Remarks				
1	PRECONSTRUCTION	30%					4.0%				
1.1	General Services	5%									
1.1.1	Attend regular Project meetings with the Owner and the Consultant			75%	1.1%	39%	0.4%	Progress is claimed as per the progress achieved under the PM agreement.			
1.1.2	Provide advice to the Owner and the Consultant with respect to construction and market conditions.			25%	0.4%	39%	0.1%	Progress is claimed as per the progress achieved under the PM agreement.			
1.2	Predesign	5%									
1.2.1	Estimating:			70%							
1.2.1(1)	Confirm or prepare a Class D Construction Cost Estimate.			90%	0.9%	75%	0.7%	The Original estimate prepared by Altus Group is considered a Class D estimate.			
1.2.1(2)	Advise the Owner if it appears that the Construction Cost Estimate may exceed the Project Budget, and make recommendation for corrective action.			10%	0.1%	0%	0.0%	There has been no evidence of such recommendations being made.			
1.2.2	Scheduling: Prepare a preliminary overall Project Schedule.		30%	100%	0.5%	75%	0.3%	The Project Management Schedule is considered a preliminary schedule.			
1.3	Schematic Design Phase	5%									
1.3.1	Constructability: Provide advice on site use and possible improvements, selection of materials, assembly systems, and, equipment and provide recommendations on construction feasibility, availability of materials and labour, time requirements for installation and construction, and factors related to alternative designs and possible economies.		20%	100%	0.3%	15%	0.0%	The documents provided under the folder '1.2.6 Schematic Design' folder include the Altus report and Sales office site plan drawings. There has been no evidence noted with regard to the actual scope.			
1.3.2	Estimating:			80%							
1.3.2(1)	Prepare a Class C Construction Cost Estimate at the end of the Schematic Design Phase.			35%	0.4%	0%	0.00%	There has been no evidence of Class C Estimate.			
1.3.2(2)	Advise the Owner if it appears that the Construction Cost Estimate may exceed the Project Budget, and make recommendation for corrective action.			5%	0.1%	0%	0.00%	Not Applicable.			
1.3.3	Scheduling: Prepare in consultation with the Consultant and the Owner, a preliminary Project Schedule for the Owner's review; such Project Schedule shall take into consideration the sequence and timing of the required basic program decisions, including anticipated design time, approval period, preparation of the documentation, bid calls and subsequent evaluations, trade contract awards, on-site construction activities, and the anticipated date of Substantial Performance of the Work.			45%	0.5%	0%	0.00%	No evidence found.			
1.3.4	Other Services: Assist in providing liaison and coordination among government authorities, utility companies, and other authorities having jurisdiction over the Place of the Work.			15%	0.2%	60%	0.11%	There have been documents illustrating the coordination with the utility companies like Bell, the Electricity department etc.			
1.4	Design Development Phase	30%									
1.4.1	Constructability:			20%							
1.4.1(1)	Provide updates as necessary regarding the availability of materials and labour, building systems, and possible economies.			30%	0.5%	5%	0.03%	The documents and drawings provided under the folder named '1.2.8 Design Dev. Phase' include pictures of the kitchen, hardwood and finishing materials. However, there is no evidence of correspondence with the supplier showing these materials are proposed for this project.			
1.4.1(2)	Make recommendations to the Owner and the Consultant regarding the scope of Work packages subsequent to bidding and awarding of Subcontractor and Supplier contracts.			20%	0.4%	5%	0.02%	There has been no evidence of such recommendations being made.			
1.4.1(3)	Review the Specifications and Drawings and, at the end of the Design Development Phase, make recommendations to the Owner and the Consultant as to constructability and coordination among the Subcontractors.			50%	0.9%	5%	0.05%	Not Applicable.			
1.4.2	Estimating and Cost Control:			50%							
1.4.2(1)	Prepare a Class B Construction Cost Estimate at the end of the Design Development Phase.			35%	1.6%	0%	0.0%	There has been no evidence of Class B Estimate.			
1.4.2(2)	Advise the Owner if it appears that the Construction Cost Estimate may exceed the Project Budget, and make recommendation for corrective action.			10%	0.5%	0%	0.0%	There has been no evidence of such recommendations being made.			
1.4.2(3)	Establish a cost control program and prepare a cash flow forecast for the Project.			55%	2.5%	30%	0.7%	A cash flow has been prepared, but there is no evidence of a cost control program being established.			

No	SCHEDULE A1 TO THE AGREEMENT - SERVICES AND COMPENSATION	Weighted Factor		Progress Achieved	Net Progress	Remarks		
1.4.3	Scheduling:		30%					
1.4.3(1)	Review and update the Project Schedule with appropriate details.			45%	1.2%	10%	0.1%	10% progress claimed based on the PM Schedule.
1.4.3(2)	Advise the Owner if it appears that the Project Schedule may vary from that specified in Article A - 3 of the Agreement - DESCRIPTION OF THE PROJECT or otherwise agreed with the Owner, and make recommendations for corrective action.			40%	1.1%	10%	0.1%	There has been no evidence of such recommendations being made.
1.4.3(3)	Make recommendations to the Owner regarding any equipment or materials which should be pre-ordered to meet the Project Schedule.			15%	0.4%	0%	0.0%	There has been no evidence of such recommendations being made.
1.5	Construction Document Phase		30%					
1.5.1	Constructability:		20%					
1.5.1(1)	Provide updates as necessary regarding the availability of materials and labour, building systems, and possible economies.			30%	0.5%	10%	0.1%	The documents and drawings provided under the folder named '1.2.10.1.1 Constructability Apply Changes' appear to have been for the approval of the Site Plan.
1.5.1(2)	Review the Specifications and Drawings and make recommendations to the Owner and the Consultant as to clarity, consistency, constructability, and coordination among the Subcontractors.			40%	0.7%	5%	0.0%	There is no evidence that suggests that there has been coordination with the suppliers for this project.
1.5.1(3)	Assist the Owner and the Consultant in preparing bid documents for Subcontractors.			15%	0.3%	10%	0.0%	No substantial evidence found.
1.5.1(4)	Assist the Owner in determining the contract security requirements of Subcontractors.			15%	0.3%	0%	0.0%	No evidence found.
1.5.2	Estimating and Cost Control:		45%					
1.5.2(1)	Update the Class B Construction Cost Estimate at defined intervals of Construction Documents completion.			10%	0.4%	0%	0.0%	No substantial evidence found.
1.5.2(2)	Prepare a Class A Construction Cost Estimate at the end of the Construction Document Phase.			50%	2.0%	0%	0.0%	No substantial evidence found.
1.5.2(3)	Update the cash flow forecasts for the Project.			30%	1.2%	0%	0.0%	No substantial evidence found.
1.5.2(4)	Advise the Owner if it appears that the Construction Cost Estimate may exceed the Project budget, and make recommendations for corrective action.			10%	0.4%	0%	0.0%	No substantial evidence found.
1.5.3	Scheduling:		25%				0.0%	
1.5.3(1)	Review and update the Project Schedule with appropriate details.			30%	0.7%	15%	0.1%	There have been some progress updates recording the progress achieved.
1.5.3(2)	Advise the Owner if it appears that the Project Schedule may vary from the specified in Article A-3 of the Agreement - DESCRIPTION OF THE PROJECT or otherwise agreed with the Owner, and make recommendations for corrective action, including changes to Project scope, schedule or budget.			70%	1.6%	15%	0.2%	Same as above.
1.5.4	Other Services:		10%					
1.5.4(1)	Make recommendations to the Owner regarding any equipment or materials which should be pre-ordered to meet the Project Schedule.			100%	0.9%	0%	0.0%	No evidence found.
1.6	Construction Procurement Phase		25%					
1.6.1	Scheduling:		40%					
1.6.1(1)	Review and update the Project Schedule with appropriate details.			100%	3.0%	15%	0.5%	There have been some progress updates recording the progress achieved.
1.6.2	Contracting:		45%					
1.6.2(1)	Develop methods of solicitation for Subcontractors and the distribution of addenda.			25%	0.8%	0%	0.0%	No evidence found.
1.6.2(2)	Prepare the prequalification criteria for Subcontractors and Supplier as required by the Owner.			40%	1.4%	10%	0.1%	There are a few documents that suggest some progress has been made in this category. However, this has been considered under the PM contract as these relate to the studies and reports.
1.6.2(3)	Review for completeness and coordinate all bid documents for the solicitation of competitive bids for the Work to be performed by the Subcontractors.			35%	1.2%	0%	0.0%	No evidence found.
1.6.3	Other Services:		15%					
1.6.3(1)	Update the cash flow forecasts for the Project.			100%	1.1%	10%	0.1%	A cash flow has been prepared, but there is no evidence of a cost control program being established.
2	CONSTRUCTION	65%					0.3%	
2.1	General Service	10%						

No	SCHEDULE A1 TO THE AGREEMENT - SERVICES AND COMPENSATION	Weighted Factor		Progress Achieved	Net Progress	Remarks		
2.1.1	Chair and minute regular Project meetings with the Owner and the Consultant.			100%	6.5%	5%	0.3%	There is no evidence provided to evaluate progress in this category. With both PM and CCDC contracts managed by the same management, it is difficult to calculate the progress.
2.2	Cost Control & Accounting		90%					
2.2.1	Prepare and update the Construction Cost and cash flow forecasts in accordance with the Project budget as specified in Article A-3 of the Agreement - DESCRIPTION OF THE PROJECT or otherwise agreed with the Owner.			25%	14.6%	0%	0.0%	No evidence found.
2.2.2	Develop, implement and maintain a system of Project cost control and accounting.			50%	29.3%	0%	0.0%	No evidence found.
2.2.3	Advise the Owner and the Consultant on the variances between actual cost and Construction Cost Estimate.			10%	5.9%	0%	0.0%	No evidence found.
2.2.4	Provide reasonable assistance and information to permit recovery of all tax rebates where applicable.			5%	2.9%	0%	0.0%	No evidence found.
2.2.5	Provide recommendations to the Owner for necessary changes to maintain the Project budget and Project schedule.			10%	5.9%	0%	0.0%	No evidence found.
3	POST CONSTRUCTION		5%					
3.1	General Service		60%					
3.1.1	Prepare final Construction Cost report.			100%	3.0%	0%	0.0%	Not Applicable.
3.2	Occupancy Review		40%					
3.2.1	Assist the Owner in conducting post-construction occupancy review.			100%	2.0%	0%	0.0%	Not Applicable.

APPENDIX B



SUNSION LAW Professional Corporation

万成律师事务所

July 10, 2023

SENT VIA EMAIL: dmichaud@robapp.com

Robins Appleby LLP
120 Adelaide Street West, Suite 2600
Toronto, ON M5H 1T1

Attention: Mr. Dominique Michaud

Dear Mr. Michaud,

**RE: Prudent Excellence Mortgage Investment Corporation v.
Triumph Development HK Bradford Twin Regency Inc. (the "Receivership")
2362 Line 8, Bradford, ON (the "Property")
Construction Lien of 10853828 Canada Inc. (the "108 Lien")
Construction Lien of Delbrook Triumphant Builders Inc. (the "Delbrook Lien")**

Please be advised that I am the lawyer acting for the third mortgagees, Meng Sun and Xiaofeng Fu (herein "Our Clients").

We recently received your Motion Record regarding your settlement with Delbrook and 108 on July 4, 2023. As more facts need to be investigated and we need more time to thoroughly review all the documents and respond to this motion, we request your consent to adjourn this motion scheduled for July 12, 2023 for at least 6 months.

Upon initial review of the Motion Record, we have identified some issues. The current documents you provided may lead an expert to reconsider their opinion due to incomplete facts, and it appears that additional witnesses need to be called.

First, you required each party to provide opinion letters regarding common ownership and requested corresponding evidence from Delbrook and 108. While this is merely a starting point, it is crucial to investigate whether these liens were properly preserved and perfected. According to *Ontario's Construction Act*, specific steps must be followed by contractors or suppliers to "preserve" and then "perfect" a construction lien, ensuring it does not expire. Preservation involves registering a lien with the Land Registry Office within 60 days of the completion or substantial performance of the construction contract. Perfection must occur within 90 days of the last possible date for preservation. To perfect a preserved lien, a lien claimant must commence a court action to enforce the lien and file a corresponding Certificate of Action with the Land Registry Office. However, up until this point, we have not received the aforementioned documents that would serve as proof of the preservation and perfection of these liens. Without such documentation, these liens should be considered invalid.

Second, the key witness, Mr. Lu Shen, who is the signing officer of the debtor, Triumph Development HK Bradford Twin Regency Inc., has not been called upon. It is important to note that relying solely on the statements of Delbrook and 108 to validate the validity of these liens is inadequate. It is evident from a visual inspection that there are no signs of any construction activity on the property. Therefore, "substantial performance" of their construction contracts and these two liens being "preserved" and "perfected" are questionable at best.

Third, the debtor's position was absent in the whole process until June 27, 2023, when Lu Shen, who was the directing mind of the debtor company sent all parties an email opposing this settlement and stating that the two construction liens about Delbrook and 108 Canada were invalid and fraudulent. As Mr. Lu Shen also indicated in this email that he would provide relevant facts and evidence.

Consequently, our client's position is that further investigation is required, and we request that the Motion scheduled for July 12, 2023, be adjourned for at least 6 months. This will allow every party to thoroughly examine all the facts involved.

Please inform us of your stance and whether you consent to the adjournment before **2PM, July 11, 2023**. Otherwise, we will bring a motion to adjourn and seek costs against you.

Yours truly,

Sunsion Law Professional Corporation



Catherine Fangqi Qin

Barrister & Solicitor

APPENDIX C



ROBINS APPLEBY
BARRISTERS + SOLICITORS

Dominique Michaud
T. 416.360.3795
E. dmichaud@robapp.com
F. 416.868.0306

Delivered by: Email
File No.: 2200186

July 10, 2023

Sunsion Law Professional Corporation
906-250 Consumers Road
Toronto, ON M2J 4V6

Attention: Catherine Fangqi Qin

Dear Ms. Qin:

**Re: Prudent Excellence Mortgage Investment Corporation v. Triumph Development
HK Bradford Twin Regency Inc. – The July 12, 2023 Lien Settlement Motion**

As you know we are counsel for BDO Canada Limited (the “**Receiver**”) in its capacity over the the property municipally known as 2362 Line 8, Bradford West Gwillimbury, Ontario (the “**Property**”) that was previously owned by Triumph Development HK Bradford Twin Regency Inc (the “**Debtor**”). We are in receipt of your letter dated July 10, 2023 (the “**July 10 Letter**”) wherein you have requested to adjourn the motion scheduled on July 12, 2023 (the “**Lien Settlement Motion**”) for a minimum of 6 months.

Unfortunately your letter contains inaccurate information that the Receiver wishes to correct as set out below:

1. The July 10 Letter incorrectly states that you received the motion record in respect of the Lien Settlement Motion on July 4, 2023. The Receiver’s motion record in respect of the Lien Settlement Motion was served by email on July 1, 2023 in accordance with the service protocol set out in the Order of Justice Conway dated March 1, 2023 (the “**Appointment Order**”).
2. The July 10 Letter insinuates that the Receiver has not properly conducted an analysis into the validity of the construction liens of Delbrook Triumphant Builders Inc. (the “**Delbrook Lien**”) and 10853828 Canada Inc. (“**108co Lien**”). Respectfully, this position fails to acknowledge the Legal Opinion that is set out at Appendix H of the Fourth Report of the Receiver dated June 30, 2023 wherein the Delbrook Lien and 108co Lien are analyzed and determined to be valid and enforceable.
3. The July 10 Letter states that you have not received any documentation to support the determination of the preservation and perfection of the Delbrook Lien or the 108co Lien. This statement is incorrect. This information is clearly set out in Appendix G of the Second



Report of the Receiver dated October 7, 2022 (the “**Second Report**”).

4. The July 10 Letter states that the Receiver has failed to reach out to Mr. Shen in respect of the lien claims. This statement is incorrect. As set out in paragraph 8 of the First Report of the Receiver dated September 8, 2022 (the “**First Report**”) and paragraph 12 of the Second Report, despite repeated attempts the Receiver was unable to obtain any information from the Debtor’s Officers and Directors.
5. The Receiver acknowledges that Mr. Shen delivered an email on June 27, 2023 in respect of the Delbrook Lien and the 108co Lien. This was the first contact the Receiver had with Mr. Shen. That being said, since Mr. Shen sent this email, no information was received from Mr. Shen, or any other party, which would cause the Receiver to question its conclusion and recommendation of the settlement of the Delbrook Lien and the 108co Lien.

As set out in the Fourth Report of the Receiver dated June 30, 2023 (the “**Fourth Report**”), the Receiver has conducted a robust investigation and analysis into the Delbrook Lien and the 108co Lien and stands by its recommendation made to the Court. Accordingly, please be advised that the Receiver has not changed its position and will move forward with the Lien Settlement Motion on July 12, 2023.

If you wish to discuss this matter further, please contact me at the coordinates set out above.

Yours very truly,

ROBINS APPLEBY LLP

Per:

Dominique Michaud

DM:w|

robapp\8746447.1

**PRUDENT EXCELLENCE
MORTGAGE INVESTMENT
CORPORATION**

- and-

**TRIUMPH DEVELOPMENT HK
BRADFORD TWIN REGENCY
INC.**

Applicant

Respondent

Court File No.: CV-22-00677227-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

APPLICATION UNDER SUBSECTION 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

PROCEEDING COMMENCED AT TORONTO

**SUPPLEMENTARY MOTION RECORD OF THE
RECEIVER, BDO CANADA LIMITED**

ROBINS APPLEBY LLP

Barristers + Solicitors
2600 - 120 Adelaide Street West
Toronto, ON M5H 1T1

Dominique Michaud LSO No.: 56871V

dmichaud@robapp.com
Tel: (416) 360-3795

Anisha Samat LSO No. 82342Q

Email: asamat@robapp.com
Tel: (416) 360-3728

Lawyers for the Receiver, BDO Canada Limited