



No. S-229607
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

MITSUBISHI HC CAPITAL CANADA INC.

Petitioner

– and –

**VIC VAN ISLE CONSTRUCTION LTD., VVI CONSTRUCTION LTD.,
AND LORTAP ENTERPRISES LTD.**

Respondents

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF
**VIC VAN ISLE CONSTRUCTION LTD., VVI CONSTRUCTION LTD., AND
LORTAP ENTERPRISES LTD.**

APPLICATION RESPONSE

Application response of: Western Surety Company
(the “**Application Respondent**”, or “**Western**”)

THIS IS A RESPONSE TO the notice of application of BDO Canada Limited, in its capacity as Court-appointed receiver of Vic Van Isle Construction Ltd., VVI Construction Ltd. and Lortap Enterprises Ltd. filed January 22, 2024 (the “**Notice of Application**”).

The Application Respondent estimates that the application will take under 5 minutes.

Part 1: ORDERS CONSENTED TO

The Application Respondent consents to the granting of the orders set out in the following paragraphs of Part 1 of the Notice of Application on the following terms: **NIL**

Part 2: ORDERS OPPOSED

The Application Respondent opposes the granting of the orders set out in the following paragraphs of Part 1 of the Notice of Application: **2(b)**.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The Application Respondent takes no position on the granting of the orders set out in the following paragraphs of Part 1 of the Notice of Application: **NIL**

Part 4: FACTUAL BASIS

1. All capitalized terms used but not otherwise defined herein have the meanings set out in the Notice of Application.
2. Western is a secured creditor of the Petitioners, and a money judgment creditor of Hampton.
3. On January 18, 2024, an Order was made in Supreme Court of British Columbia Kamloops (Action No. S62013) awarding Western judgment against Hampton in the amount of \$585,010.17 plus contractual interest in the amount of \$38,170.71 and costs in the amount of \$1,454.88 (the “**Western Judgment**”).
4. In addition to Western in connection with the Western Judgment, a search of the British Columbia Personal Property Registry indicates there are other secured parties with potential claims or encumbrances against the assets of Hampton.

Part 5: LEGAL BASIS

1. In light of the Western Judgment, and the other apparent secured parties with claims against Hampton’s assets, it is appropriate for the Receiver to pay into court any money that may otherwise be payable to Hampton. Such funds are the subject of adverse claims, including in particular, in respect of the Western Judgment.
2. The Application Respondent relies on:
 - (a) the *Court Order Enforcement Act*, RSBC 1996 Ch. 78; and
 - (b) the inherent jurisdiction of the Court.

Part 6: MATERIAL TO BE RELIED ON

1. The Application Respondent will rely on:

- (a) the Affidavit #1 of Cindy Dixon, sworn January 31, 2024; and
- (b) such other materials or documents as this Honourable Court may permit.

The Application Respondent has not filed in this proceeding a document that contains an address for service. The Application Respondent's ADDRESS FOR SERVICE is:

Address for Service: BORDEN LADNER GERVAIS LLP
1200 Waterfront Centre
200 Burrard Street
P.O. Box 48600
Vancouver, British Columbia
V7X 1T2
Attention: Ryan Laity

Fax number address for service (if any): None

E-mail address for service (if any): rlaity@blg.com

Date: January 31, 2024



Signature of Ryan Laity
 application respondent
 lawyer for the Application Respondent

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APPLICATION RESPONSE

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