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1901-05545

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

PLAINTIFF

CANADIAN WESTERN BANK

DEFENDANTS

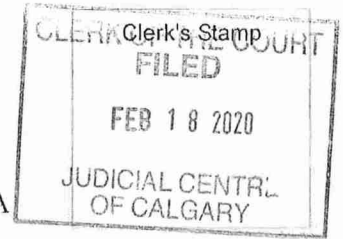
AAA WINDOWS LTD., AAA HOLDINGS LTD., AAA  
DOORS LTD., RANBIR SANDHU, MOHINDER SANDHU,  
SUKHDEV SANGHA and BALDEV SANGHA

DOCUMENT

**FIRST REPORT OF RECEIVER  
HARDIE & KELLY INC.  
FEBRUARY 14, 2020**

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**FIRST REPORT OF THE RECEIVER  
HARDIE & KELLY INC.  
FEBRUARY 14, 2020**

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## INTRODUCTION

1. On January 27, 2020, Canadian Western Bank (“**CWB**”) made an application to the Court of Queen’s Bench of Alberta (the “**Court**”) seeking orders for:
  - a. The appointment of a receiver and manger (the “**Receiver**”) of the current and future assets, undertakings and properties of AAA Holdings Inc. (“**Holdings**”) and of the current and future assets, undertakings and properties, exclusive of accounts receivable, of AAA Windows Ltd. (“**Windows**”);
  - b. The approval of a transaction between A-Apollo Windows and Doors Ltd. (“**A-Apollo**”) and Hardie & Kelly Inc. (“**H&K**”) as the proposed receiver (the “**Proposed Receiver**”) pursuant to an agreement of purchase and sale (the “**Holdings PSA**”) to acquire all or substantially all of the physical assets of Holdings consisting of the land and building located at the municipal address of 3530 – 32<sup>nd</sup> Street NE, Calgary, Alberta (the “**Property**”).
  - c. The approval of a transaction between 2214308 Alberta Inc. (“**221 Alberta**”) and the Proposed Receiver pursuant to an agreement of purchase and sale (the “**Windows PSA**”) in respect of Windows’ physical assets consisting of inventory, work-in-process, machinery, office equipment and furniture and two vehicles as well as the books and records of Windows and any assignable intellectual property (telephone numbers, website domain and trade name).
  - d. The authorization for the Receiver to take such steps as necessary to close the two transactions as contemplated by each of the Holdings PSA and the Windows PSA (collectively referred to as the “**PSA’s**”); and

- e. The sealing of the Proposed Receiver's January 20, 2020 confidential supplement (the "**Confidential Supplement**") containing copies of the PSA's and the relevant appraisals obtained by the Proposed Receiver in support of the proposed sales transactions for a period of three months subsequent to the Receiver's discharge.
2. In contemplation of CWB's January 27, 2020 Court application, the Proposed Receiver filed the Proposed Receiver's Report and the Confidential Supplement with this Honourable Court providing:
    - Background information in respect of the businesses and affairs of Holdings and Windows;
    - The Proposed Receiver's findings as a result of its review of the financial position of each of Holdings and Windows; and
    - Details in respect of the PSA's and the Proposed Receiver's recommendations thereto.
  3. On January 27, 2020, the Court granted four Orders as follows:
    - A Receivership Order (the "**Receivership Order**") appointing H&K as the Receiver of Holdings and Windows;
    - An Approval and Vesting Order approving the sale to 221 Alberta as contemplated by the Holdings PSA;
    - An Approval and Vesting Order approving the sale to A-Apollo as contemplated by the Windows PSA; and
    - A Sealing Order directing the sealing of the Confidential Supplement until a period of 90 days following the discharge of the Receiver.
  4. The purpose of this report (the "**First Report**") is to provide the Court with:
    - An update as to the status of the sales to each of 221 and A-Apollo;
    - A synopsis of the activities of the Receiver subsequent to its formal appointment:

- Statements of Receipts and Disbursements;
- Details of the Receiver's accounts and those of the Receiver's legal counsel in contemplation of the passing of the respective interim accounts; and
- Details of the Receiver's recommended interim distribution in respect of the sales proceeds derived from the consummation of the sale contemplated by the Holdings PSA.

### STATUS OF SALES

5. As set out in the Proposed Receiver's Report, the proposed sales were contemplated to close almost immediately upon obtaining the Court's approval. On the afternoon of January 27, 2020, the Receiver executed *Receiver's Certificates* evidencing that the sales to each of 221 Alberta and A-Apollo had closed and that all terms and conditions of the sales had been satisfied, including receipt of the respective sales proceeds.
6. The only outstanding items the Receiver needs to address in respect of the sales are as follows:
  - There is a post-closing adjustment period expiring February 29, 2020 relating to an adjustment, if any, to realty property tax calculations as it relates to the sale of the Property to 221 Alberta; and
  - A supplier of Windows has subsequently claimed ownership to certain of the equipment sold to A-Apollo (the "**Supplier's Claim**"). The Receiver and its legal counsel are investigating the claim.

### ACTIVITIES OF THE RECEIVER

7. Shortly after closing the sales on the afternoon of January 27, 2020, the Receiver met representatives of 221 Alberta and A-Apollo at the Property to conduct a final walkthrough of the Property and to formally turn over possession of the Property and the Windows' assets to 221 Alberta and A-Apollo.

8. While attending the Property, the Receiver also met with the available employees of Windows (the “**Former Employees**”) to:
- Advise them of the receivership proceedings;
  - Advise them that the Receiver was terminating their employment with Windows effective immediately pursuant to the authority provided to the Receiver pursuant to paragraph 14 of the Receivership Order and indicated that formal written notice confirming same would be issued to their personal residence;
  - Explain that they may be eligible to receive payment for a portion of any outstanding compensation that may be owed by Windows under the *Wage Earner Protection Program Act* (“**WEPPA**”) and that the information necessary to file a claim with Service Canada would be provided to them by the Receiver in due course; and
  - Introduce the representatives of A-Apollo who advised the Former Employees that they intended to commence operations in the near future and that they anticipated contacting most of the Former Employees in the upcoming days to offer employment.
9. The Receiver subsequently issued formal termination notices to the Former Employees.
10. The former owners/management (“**Management**”) of Windows indicated they were not prepared to assist the Receiver with the preparation of T4’s and Records of Employment (“**ROE’s**”) to be issued to the Former Employees, so the Receiver is still in the process of attempting to sort through the available books and records in order to prepare and issue these documents.

#### Statutory Notices

11. The Receiver prepared and issued the *Notices of Receiver and Manager* and *Receiver and Manager’s Statements* as prescribed by the *Bankruptcy and Insolvency Act* (the “**BIA**”) to the creditors of Holdings and Windows as represented by Management.

Records

12. The Receiver has taken possession of the books and records thought to assist with the preparation of the T4's and ROE's. 221 Alberta and A-Apollo have allowed the Receiver to temporarily leave the remaining books and records on location at the Property.

**OUTSTANDING ADMINISTRATIVE MATTERS**

13. At this time, the Receiver anticipates the following tasks remain to be completed in respect of each of Holdings and Windows before the Receiver is in a position to make application for its discharge:

AAA Holdings Ltd.

- Attend to any post-closing adjustments as it relates to property taxes;
- Attend to the filing of any necessary GST and or income tax returns;
- Address any audit requests that may be advanced by Canada Revenue Agency ("CRA");
- Complete the proposed interim distribution of funds as set out in this First Report and ultimately propose and undertake a final distribution of funds in due course; and
- Address the disposition of books and records.

AAA Windows Ltd.

- Complete and issue the ROE's and T4's to the Former Employees;
- Attend to the administration of the Former Employees' claims under WEPPA;
- Submit final payroll information to Workers' Compensation Board – Alberta;
- Complete the investigation into the Supplier's Claim;
- Attend to the filing of any necessary GST and or income tax returns;

- Address any audit requests that may be advanced by CRA;
- Propose and undertake a final distribution of funds in due course; and
- Address the disposition of books and records.

### **BANKRUPTCY OF HOLDINGS**

14. On February 11, 2020, the Receiver assigned Holdings into bankruptcy pursuant to the authority granted to the Receiver by paragraph 3(r) of the Receivership Order. The first meeting of creditors is scheduled to be held on February 25, 2020.

### **STATEMENTS OF RECEIPTS AND DISBURSEMENTS**

15. Attached as **Appendix “A”** is a copy of the Receiver’s Statement of Receipts and Disbursements as at February 14, 2020 (the “**Holdings Interim R&D**”) indicating the Receiver currently maintains approximately \$4.2 Million in its trust account.
16. Attached as **Appendix “B”** is a copy of the Receiver’s Statement of Receipts and Disbursements as at February 14, 2020 (the “**Windows Interim R&D**”) indicating the Receiver currently maintains approximately \$289,000 in its trust account.

### **PROFESSIONAL FEES**

17. To date, the Receiver has rendered one account in respect of each of Holdings and Windows (the “**Receiver’s Initial Accounts**”) through to February 11, 2020, copies of which are available for the Court to review upon request, as follows:
- Holdings - \$10,065.00, plus GST; and
  - Windows - \$16,410.00, plus GST.
18. During the course of the proceedings, the Receiver's legal counsel has to date issued three accounts (the “**Receiver’s Counsel’s Initial Accounts**”) in respect of each of Holdings and Windows through to January 31, 2020, copies of which are available for the Court to review upon request, as follows:
- Holdings - \$14,213.17, plus GST; and



- Windows – \$16,598.48, plus GST.
19. The Receiver is of the opinion that the Receiver's Initial Accounts and the Receiver's Counsel's Initial Accounts are appropriate and reasonable in the circumstances in light of the time required to prepare for the sales and the approval application in advance of formally being appointed as the Receiver.
  20. The Receiver proposes to satisfy these accounts from the funds currently maintained by the Receiver.

### **PROPOSED INTERIM DISTRIBUTION**

#### **AAA Holdings Ltd.**

21. The Receiver believes that it is appropriate at this time to make an interim distribution of the funds realized from the sale of the Property.
22. As detailed in **Appendix "C"**, the Receiver recommends the following interim distributions:
  - The City of Calgary - \$166,436.60 representing payment in full on account of property tax arrears forming a priority charge against the Property; and
  - CWB - \$3,996,865.22 representing a partial payment on account of the approximately \$4.2 Million owed to it by Holdings pursuant to CWB's security interests.
23. The Receiver has obtained an independent opinion from its legal counsel confirming that CWB's security interests are valid and enforceable.
24. In light of Holdings not having any employees and the concurrent bankruptcy proceeding, the Receiver is not aware of the existence of any other creditor claims that may rank in priority to those of The City of Calgary and CWB.

AAA Windows Ltd.

25. The Receiver anticipates that in light of CRA's pending deemed trust claim relating to Windows' unremitted source deductions, estimated to be at least \$235,000, any residual proceeds available after satisfaction of the Receiver's Charge provided for by paragraph 18 of the Receivership Order will be distributed to CRA.
26. The Receiver does not propose to make a distribution in respect of Windows at this time pending the completion of an anticipated audit by CRA.

**RECOMMENDATIONS**

27. The Proposed Receiver recommends to this Honourable Court the following:
- Approval of the Holdings Interim R&D and the Windows Interim R&D;
  - Approval of the Receiver's Initial Accounts and the Receiver's Counsel's Initial Accounts; and
  - Approval of the proposed interim distributions to The City of Calgary and CWB as proposed in this First Report.

All of which is respectfully submitted this 14<sup>th</sup> day of February 2020.

Hardie & Kelly Inc.,  
in its capacity as Receiver and Manager of  
AAA Holdings Ltd. and AAA Windows Ltd.

Per:



Marc Kelly  
Senior Vice President

# APPENDIX “A”

**AAA Holdings Ltd, in receivership**  
**Receiver's Statement of Receipts and Disbursements**  
**as at February 14, 2020**

**Receipts**

Sales proceeds	\$ 4,225,000.00	
		4,225,000.00

**Disbursements**

Property taxes	6,210.60	
Filing fees	70.00	
		6,280.60
Cash on hand		<u>\$ 4,218,719.40</u>

# APPENDIX “B”

**AAA Windows Ltd, in receivership**  
**Receiver's Statement of Receipts and Disbursements**  
**as at February 14, 2020**

**Receipts**

Sale of assets	\$ 280,000.00	
GST collected	14,000.00	
		294,000.00

**Disbursements**

Appraisal fees	4,500.00	
GST paid	225.00	
Filing fees	70.00	
		4,795.00
Cash on hand		<u>\$ 289,205.00</u>

**AAA Holdings Ltd, in receivership**  
**Receiver's Statement of Receipts and Disbursements**  
**as at February 13, 2020**

**Receipts**

Sales proceeds	\$ 4,225,000.00	
<hr/>		4,225,000.00

**Disbursements**

Property taxes	6,210.60	
Filing fees	70.00	
<hr/>		6,280.60

Cash on hand		<u>\$ 4,218,719.40</u>
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# APPENDIX “C”



**AAA Holdings Ltd., in receivership  
Proposed Interim Distribution**

Funds on hand as per Appendix "A"	\$ 4,218,789.40
Less provisions for:	
Receiver's Initial Accounts	(10,568.25)
Receiver's Counsel's Initial Accounts	(14,919.33)
Holdback for final property tax adjustments and professional fees to complete	<u>(30,000.00)</u>
	(55,487.58)
Funds available for distribution	<u>\$ 4,163,301.82</u>
Proposed Distribution:	
City of Calgary re: property tax arrears	\$ 166,436.60
Canadian Western Bank	<u>3,996,865.22</u>
	<u>\$ 4,163,301.82</u>