

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY OF
Spider Lake Rock and Gravel Ltd.

ORDINARY ADMINISTRATION

TRUSTEE'S PRELIMINARY REPORT TO CREDITORS

BACKGROUND

Spider Lake Rock and Gravel Ltd. (“**SLRG**” or the “**Company**”) was in the business of crushing and selling aggregate products, including gravel and sand, and operated out of a rock quarry in Qualicum Beach, British Columbia (the “**Quarry**”). The Company did not own the Quarry from which it operated and in exchange for the right to use and work the Quarry certain royalty payments were made to the land owner in accordance with an operating agreement/contract. The owner of the land also advanced certain secured loans to SLRG for the purpose of purchasing equipment and to develop the quarry operation.

SLRG is a provincially registered corporation with its registered office listed as 3290 Third Avenue Port Alberni, British Columbia. A corporate records search performed by MNP Ltd. on August 29, 2022 indicated that Thomas Gray (“**Mr. Gray**” or the “**Director**”) is the Company’s sole director.

We understand that Mr. Gray was not in a position to continue to manage SLRG operations in June 2022 and that the relationship between SLRG and the land owner had deteriorated. The land owner cancelled the operating agreement/contract due to breach of contract terms and locked the gates to the Quarry on or about June 16, 2022, at which point, SLRG ceased normal operations.

We understand that Mr. Gray gave his father, Steven Gray, power of attorney over SLRG on July 7, 2022 and Steven Gray had taken steps to preserve the Company’s assets and to address creditor queries on behalf of the Director in the months prior to the Company’s assignment in bankruptcy.

ASSIGNMENT IN BANKRUPTCY

Ultimately, SLRG was unable to meet its obligations as they generally became due and the Company made a voluntary assignment in bankruptcy pursuant to the provisions of the *Bankruptcy and Insolvency Act* effective September 20, 2022. MNP Ltd. was appointed as the Licensed Insolvency Trustee of the Bankrupt Estate (the “**Trustee**”), subject to creditor affirmation at the First Meeting of Creditors.

Notice of the Assignment in Bankruptcy and First Meeting of Creditors was sent to all known creditors on September 20, 2022.

ASSETS

According to the Statement of Affairs filed in the bankruptcy, the Company’s assets include:

Statement of Affairs

Cash in Bank	15,000
Accounts Receivable	8,424
Inventory	1
Machinery & Equipment	605,001
Vehicles	30,000
Total Assets	<u>658,426</u>

Cash in Bank

The Trustee sent a letter to the Company’s banking institution, the Canadian Imperial Bank of Commerce (“**CIBC**”) on September 20, 2022, to advise them of the bankruptcy and to request that the accounts be modified to deposit only accounts and that the funds in the accounts be directed to MNP for the benefit of the estate.

Accounts Receivable

The Trustee sent demand letters to each of the Company’s customers with outstanding accounts owing to the Company on September 26, 2022. As of the date of this report, the Trustee has not collected any of the outstanding accounts receivable.

Inventory

The Company’s inventory consists of blasted rock from the Quarry in various stages of processing from large boulders to gravel. The contract between SLRG and the land owner contemplates the purchase of any unsold inventory remaining at the Quarry by the land owner. The Trustee understands that there is a disagreement between SLRG and the land owner about what should be included as inventory and the Trustee is in the process of reviewing the details surrounding the inventory and will have further discussions with the land owner.

Machinery & Equipment

The value reported on the Company’s statement of affairs for machinery and equipment includes loaders, excavators and various other pieces of land moving equipment. Certain pieces of the Company’s machinery and equipment are located at the Quarry and are under the control of the land owner, as the land owner has a security interest registered against this equipment.

There are two pieces of equipment located at a yard owned by a third party and the Trustee is working with a bailiff to determine next steps with respect to this equipment.

Vehicles

The Company’s statement of affairs reported a single vehicle being a 2019 Dodge Ram Truck with an estimated value of \$30,000. The Dodge Ram Truck has been secured by the Trustee and the Trustee notes that TD Auto Finance (Canada) Inc. has a security registration against this vehicle.

PROVABLE CLAIMS

It is the duty of the Trustee to examine and satisfy itself as to the validity and priority of all claims filed in the Estate. As of the date of this report, six proofs of claim have been filed with the Trustee and represents approximately \$435,568 in total creditor claims.

	Statement of Affairs	Filed
Secured creditors	\$ 276,244.59	\$129,291.62
Preferred creditors	Nil	Nil
Unsecured creditors	\$ 405,107.71	\$ 144,459.38
Total	<u>\$ 1,312,038.07</u>	<u>\$ 435,567.54</u>

As at the date of this report, there have been no significant differences between the claims listed on the Statement of Affairs and the claims filed to date with the Trustee.

SECURED CREDITORS

According to a BC Personal Property Registry search pulled on August 29, 2022, the following parties have security registrations against various SLRG assets:

TD Auto Finance (Canada) Inc. (“**TD Auto**”)
Caterpillar Financial Services Limited (“**CAT Financial**”)
Klaus Schmitt and Elisabeth Schmitt (the “**Schmitt’s**”)
BC Ministry of Finance – Receivables Management Office

TD Auto and CAT Financial

Both TD Auto and CAT Financial have security interests against specific vehicles and/or pieces of equipment. The Trustee is in the process of determining the value of these vehicles/equipment and determining next steps.

Schmitt’s

The Schmitt’s are the land owners of the Quarry and, as mentioned previously in this report, the Schmitt’s advanced certain loans to SLRG for equipment purchases and for development of the Quarry. The Schmitt’s registered their security at BC Personal Property Registry on July 5, 2022.

The Schmitt’s served the Trustee with a Notice of Intention to Enforce a Security on September 22, 2022 and a Notice of Disposition and Intention to Sell also dated September 22, 2022.

The Trustee understands that the value of the equipment that the Schmitt’s have taken steps to enforce their security against is in excess of the amounts owed to the Schmitt’s under the secured loan agreements.

The Trustee has obtained an independent legal opinion on the validity and enforceability of the Schmitt’s security registration and has determined that the security interests granted to the Schmitt’s by SLRG are valid and enforceable.

The Trustee has been in communication with the Schmitt’s to advise of the bankruptcy estate’s interest in any proceeds over and above the Schmitt’s secured amounts and has requested to be kept apprised of and involved in the sales process.

BC Ministry of Finance

The BC Ministry of Finance garnisheed the SLRG bank account on August 26, 2022 in the amount of \$31,145.55 (the “**MOF Garnishment**”) due to non-filing and non-remittance of PST by SLRG. The outstanding SLRG PST returns have since been filed and the amount owing for PST is less than the amount of the MOF Garnishment. The Trustee is in communication with the BC Ministry of Finance to recovery the balance of the MOF Garnishment.

Canada Revenue Agency (“CRA”)

CRA has a “deemed trust” claim or property claim equal to the amount of payroll deductions withheld from employees’ compensation and not remitted to CRA. This claim comes in priority to the claims of all other creditors. Steven Gray has indicated that as of the date of bankruptcy, the Company was current in terms of its remittances for payroll source deductions and expects that there may be an immaterial deemed trust claim.

Any debt owing to CRA for unremitted goods and service tax at the date of bankruptcy will rank as a general, unsecured claim. The statement of affairs reported an estimated debt related to unremitted Goods and Service Tax of approximately \$2,500.

To date, a proof of claim has not been received from CRA in relation to the unremitted payroll source deductions or the goods and service tax. The Trustee will engage in correspondence with CRA for the purpose of confirming the amounts owing to CRA, if any.

Claims of Wage Earners

Pursuant to Section 81.3(1) of the BIA, claims of employees who are owed wages, vacation pay, and other compensation for services rendered in the six-month period preceding the Date of Bankruptcy are secured, to the extent of \$2,000, by security over the Company's current assets (cash, accounts receivable and inventory).

Steven Gray has advised that there are no amounts owing to employee for unpaid wages and/or vacation pay, and as such, the Trustee does not expect to receive claims under Section 81.3(1).

PREFERRED CREDITORS

Employees

Employees are afforded priority for wages and compensation that are not paid by virtue of Section 81 of the BIA. Claims of employees that relate to the period more than six months preceding the date of bankruptcy are general, unsecured claims and will share ratably with the claims of other creditors. As reported, we do anticipate receiving claims from employees for unpaid compensation and they will be processed under the Wage Earner Protection Program.

UNSECURED CREDITORS

The Statement of Affairs reports total unsecured creditors of \$ 405,107.71. Ultimately the amounts owing to the unsecured creditors will be based on proofs of claim filed by the creditors and admitted by the Trustee.

SALE OF ASSETS

The Trustee, with the approval of Inspectors appointed, will take steps to realize upon the Company's physical assets. The Trustee will also take steps to collect the outstanding accounts receivable, cash in the Company's bank account and any refunds available related to the Company's federal and provincial tax filings.

OTHER MATTERS

Books and Records

The Trustee is in possession of certain books and records at the date of bankruptcy that were provided by the Company.

Legal Proceedings

The Trustee has not commenced any legal proceedings at the date of this report.

Conservatory and Protective Measures

The majority of the Company’s physical assets are in the possession of the Schmitt’s and the Trustee has retained a bailiff who has secured the 2019 Dodge Ram and in the process of securing equipment located at the yard owned by a third party.

The Trustee has requested that the Company’s bank accounts be frozen to prevent any further withdrawals or payments being processed. The Trustee has extended the Company’s insurance policy to insure the assets for a period of 60 days effective October 4, 2022. The Trustee has not taken any other conservatory or protective measures with respect to the Company’s assets.

Preferences, and Transactions at Under Value

The Trustee has undertaken a review the Company’s books and records preceding the date of bankruptcy in order to ascertain whether or not any preferential payments and/or reviewable transactions have occurred within the last three months or, where related parties are involved, within the last twelve months. The Trustee’s review of certain transactions is ongoing but has not identified any improper transactions thus far.

Directive 16 Third-Party Deposits and Guarantees

Steven Gray, has provided the Trustee with a retainer in the amount of \$20,000 to cover professional fees over and above the fees that can be paid from the realization of the Company’s unencumbered assets.

ESTIMATED REALIZATION

The total realization will depend on the ability of the Trustee to collect the funds in the Company’s bank accounts, accounts receivable and any refunds available related to the Company’s tax filings and the Trustee’s ability to realize on the Company’s physical assets. It is unknown at this time what funds may be realized by the Trustee from these assets, and therefore if any dividend will be available to the unsecured creditors.

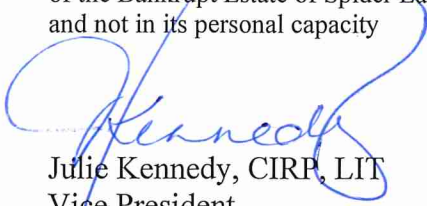
All dividends payable by the Trustee to creditors are subject to a 5% levy payable to the Office of the Superintendent of Bankruptcy.

This concludes the Trustee’s Preliminary Report to Creditors.

DATED at the City of Vancouver, in the Province of British Columbia, this 7th day of October,
2022.

MNP Ltd.

In its capacity as Licensed Insolvency Trustee
of the Bankrupt Estate of Spider Lake Rock and Gravel Ltd.
and not in its personal capacity



Julie Kennedy, CIRP, LIT
Vice President