

COURT FILE NUMBER	1901-06614
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	W.PIDHIRNEY HOLDINGS LTD.
DEFENDANTS	GALLOWAY CONSTRUCTION GROUP LTD.
DOCUMENT	<b>FIRST REPORT OF THE RECEIVER, MNP LTD., DATED January 20, 2020</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	MLT Aikins LLP 2100 Livingston Place 222 3 Ave SW Calgary, AB T2P 0B4 Attention: Ryan Zahara Telephone: (403) 693-4300 Facsimile: (403) 508-4349 Solicitors for the Receiver, MNP Ltd.

#### **Introduction and Purpose of the Report**

1. MNP Ltd. was appointed as Receiver and Manager (the "Receiver") of Galloway Construction Group Ltd. (hereinafter referred as the "Company" or "Galloway") pursuant to a Court of Queen's Bench of Alberta Order dated June 10, 2019 (the "Receivership Order").
2. The Company operated in the oilfield services industry and was located in Ponoka County, Alberta.
3. In accordance with a December 5, 2019 Government of Alberta Corporate Registry Search the Directors and Shareholders of Galloway are listed as Wade Galloway (Director and 50% Shareholder) and Wayne Pidhirney (Director and 50% Shareholder). A copy of the December 5, 2019 Corporate Registry Search is attached as **Schedule A**.
4. The purpose of the Receiver's First Report to Court ("First Report") is to provide the Court with an update with respect to the following:
  1. Initial Activities of the Receiver;
  2. Assets;
  3. Priority and Secured Claims;
  4. Sales Activities;
  5. Funds Held in Trust;
  6. En-Bloc Offer to Purchase;
  7. Receiver's Interim Statement of Receipts and Disbursements; and
  8. Receiver's Fees and Disbursements.

5. In preparing the First Report and making comments herein, the Receiver has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information of the Debtor, the Debtor's books and records, and information from other third-party sources (collectively, the "Information"). The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with generally accepted assurance standards or other standards established by the Chartered Professional Accountants of Canada.

#### **Initial Activities of the Receiver**

6. On June 11, 2019 the Receiver attended to the head office of Galloway in Ponoka County to meet with one of the shareholders and take possession of the assets.
7. As at the date of Receivership, Galloway was no longer operating and a majority of the employees had been terminated. Other than the shareholders the only remaining employee was the bookkeeper.
8. In taking possession of the assets the Receiver completed the following:
- Inventoried and took pictures of the remaining equipment at the head office location;
  - Took possession of certain books and records including an electronic back up of the accounting data;
  - Contacted the financial institution to freeze existing bank accounts;
  - Contacted Ritchie Bros Auction to confirm assets sold at recent auction sale; and
  - Obtained copies of the existing insurance policy.
9. The Receiver made arrangements with one of the shareholders to complete site checks on the head office location.

#### **Assets**

10. As at the date of receivership Galloway owned the following assets:
- Various small pieces of equipment ("Misc Equipment");
  - Matt Washer Equipment ("Matt Washer");
  - Real Property Legally described as Lot 5, Block 2, Plan 1521209 (the "Head Office");
  - Real Property Legally described as Lot 1, Block 2, Plan 1521209 ("Lot 1");
  - Real Property Legally described as Lot 2, Block 3, Plan 1521209 ("Lot 2");
  - Real Property Legally described as Lot 3, Block 2, Plan 1521209 ("Lot 3");
  - Real Property Legally described as Lot 4, Block 3, Plan 1521209 ("Lot 4"); and
  - Real Property Legally described as Lot 10, Block 28, Plan 0226161 (the "Grande Cache Property");
  - Auction Sale Proceeds;
  - Funds Held in Trust;
  - Accounts Receivable ("AR"); and
  - Cash on Deposit.
11. The Misc Equipment is comprised of some small tools, GPS equipment and ancillary pieces associated with the Matt Washer.
12. The Matt Washer is a piece of equipment custom built by Galloway for the purpose of washing rig matts. Further details regarding the Matt Washer can be found in the October 25,

2019 Mirterra Appraisal Report (the "Mirterra Appraisal"), which is attached to the Confidential Addendum to the Receiver's First Report.

13. The Head Office property is comprised of a building constructed in 2014 with approximately 11,953 sqft of office space and 34,460 sqft of shop space located on approximately 40 acres in the County of Ponoka. Further details relating to the Head Office property can be found in the August 8, 2019 Altus Group Appraisal (the "Building Appraisal"), which is attached to the Confidential Addendum to the Receiver's First Report.
14. Lots 1, 2, 3 and 4 and bare serviced lots adjacent to the Head Office Property in the County of Ponoka. Further details relating to Lots 1, 2, 3 and 4 can be found in the August 8, 2019 Altus Group Appraisal (the "Land Appraisal"), which is attached to the Confidential Addendum to the Receiver's First Report.
15. Prior to the appointment of the Receiver, Galloway had taken the initial steps to compete an access roadway to improve the marketability of the Lots and the Receiver authorized the continuation of this plan and the roadway was completed.
16. The Grande Cache property consists of a vacant lot approximately 1.37 acres with services located in Grande Cache, Alberta.
17. Prior to the appointment of the Receiver, Galloway had transported equipment to the Ritchie Bros Nisku auction yard to be sold in a June 22, 2019 auction. The Receiver contacted Ritchie Bros to have the auction sale proceeds forwarded to the Receiver's office post auction sale. The net auction sale proceeds, after commission and direct costs, paid to the receivership estate were \$314,042.60.
18. Prior to the appointment of the Receiver, Galloway had paid \$596,499.27 into Trust in accordance with a consent order with a judgement creditor.
19. In accordance with the books and records Galloway had \$91,000 in outstanding Accounts Receivable. The Receiver has collected approximately \$76,000 of these outstanding amounts.
20. As at the date of Receivership, Galloway had approximately \$69,000 on deposit with ATB Financial. The Receiver has taken possession of these funds.

#### **Priority and Secured Creditors**

##### *Canada Revenue Agency ("CRA")*

21. CRA has not filed a Deemed Trust claim and to the Receiver's knowledge there is no material payroll source deduction debt outstanding.
22. CRA has not filed a claim for Goods and Services Tax ("GST") and to the Receiver's knowledge there is no material balance outstanding.
23. CRA has not completed a trust exam on either the GST or payroll source deduction accounts.

##### *Roynat Inc. ("Roynat")*

24. In accordance with a January 14, 2020 Alberta Land Titles Search (the "Land Title Search"), Roynat has registered a security interest as against the Head Office property and the Lots by

way of a Collateral Mortgage on August 22, 2014. A copy of the January 14 Alberta Land Titles Search is attached as **Schedule B**.

25. In accordance with a May 3, 2019 Personal Property Registry ("PPR") Search Roynat has registered a General Security Agreement ("GSA") as against all present and after acquired property of Galloway. A copy of the May 3, 2019 PPR Search is attached as **Schedule C**.
26. Pursuant to a payout statement dated January 14, 2020 the balance outstanding to Roynat is approximately \$4,964,530 with a per diem cost of \$925.30.
27. Counsel for the Receiver has provided a security opinion advising that Roynat holds a valid and enforceable first charge over the Head Office property and Lots and a valid second charge over all present and after acquired property (in accordance with a subordinate agreement).

*W. Pidhinrey Holdings Ltd. ("WPH")*

28. Pursuant to the Land Title Search WPH has registered a security interest as against the Head Office property and the Lots by way of a Collateral Mortgage dated May 1, 2017 for an original amount of \$11,000,000.
29. Pursuant to the May 3, 2019 PPR Search, WPH registered a GSA over all Present and After Acquired Property of Galloway on May 27, 2017.
30. Pursuant to a payout statement dated January 14, 2020 provided by WPH the balance outstanding is approximately \$6,097,863 plus costs with a per diem of \$2,574.84.
31. The Receiver's counsel has reviewed the security documents of WPH and provided a letter of opinion advising it has a valid and enforceable first charge on the all present and after acquired property and valid and enforceable second charge on the Head Office property and Lots.

*Other Secured Interests*

32. The May 3, 2019 PPR Search indicates secured interests registered by Wells Fargo and Caterpillar Financial Services Limited in various serial numbered assets, however, both creditors have advised the Receiver that they have been paid in full.
33. The May 3, 2019 PPR Search indicates Trisura Guarantee Insurance Company ("Trisura") registered a secured interest on July 20, 2017 in relation to a bonding facility, however, the Receiver is not aware of any balances owing to Trisura.
34. In accordance with a February 22, 2019 Court Order, Fast Forward Horizontal Directional Drilling (2004) Ltd. obtained a consent judgement as against Galloway for \$590,499.27. The February 22, 2019 Court Order authorized Fast Forward to register a writ as against the Head Office and the Lots. A copy of the February 22, 2019 Court Order is attached as **Schedule D**.

**Sales Activities**

*Head Office and Lots*

35. Galloway listed the Head Office property and the Lots with First Choice Realty (Ponoka) Ltd. ("First Choice") in 2016. On February 27, 2019 Colliers International ("Colliers") partnered with First Choice to provide the services of a national brokerage while First Choice provided local representation. A copy of the February 27, 2019 listing agreement is attached as **Schedule E**.
36. The Head Office property was listed for \$9.5 million (in accordance with a 2016 Commercial Real Estate Appraisal value) and the Lots were listed for a combined value of \$4.0 million.
37. Colliers advises that the following marketing activity has taken place during the pre-receivership listing period:
  - Onsite signage;
  - Listing online including the Colliers website; and
  - Direct email of the listing to commercial realtors and real estate investors known to Colliers.
38. During the Colliers listing period (February 2019 to September 2019) Colliers reported the following activity:
  - 217 website views on the Head Office property and 63 website views on the Lots; and
  - 6 serious inquires with site visits.
39. Prior to the appointment of the Receiver one interested party expressed an interest in purchasing one of the parcels of land within the Lots, however, due to a lack of completed roadway for access to the property the potential purchaser elected to purchase a different location.
40. The Receiver advised Colliers it would not be renewing the listing agreement on September 19, 2019.
41. The Receiver renewed the listing agreement with First Choice on the understanding that a new national partner commercial realtor could be added at a future date.
42. The listing price was reduced to \$8.9 million on October 28, 2019.
43. A contact of the Receiver expressed an interest in the Head Office property and met with First Choice in September 2019. On September 27, 2019 the third party submitted an Offer to Purchase. Details relating to this Offer to Purchase are contained within the Confidential Addendum to the First Report.
44. Upon review of the Offer to Purchase and consultation with the secured creditors the Receiver declined the Offer to Purchase.
45. In November 2019 a second party met with First Choice and, after completing some due diligence, on November 26, 2019 submitted a Letter of Intention to submit an Offer to Purchase (the "LOI"). Upon review of the LOI and consultation with the secured creditors the Receiver declined the LOI. Details relating to this LOI are contained within the Confidential Addendum to the First Report.
46. On December 3, 2019 the potential purchaser submitted a proposal to First Choice for an amended form of Offer to Purchase (the "Proposal"). Upon review of the Proposal and consultation with the secured creditors the Receiver declined the Proposal. Details relating to this Proposal are contained within the Confidential Addendum to the First Report.

47. The Head Office and Lots have been listed since 2016 with First Choice and with Colliers for approximately seven months with exposure to a national real estate market. During that time

2 parties have expressed an interest on the Head Office, however, the terms provided in the LOI and proposal were not commercially reasonable.

#### *Grande Cache Property*

48. The Grande Cache property was rented to a third party prior to the appointment of the Receiver.

49. On November 14, 2019 the Receiver listed the Grande Cache property with Mountain Realty with a list price of \$205,000.

50. On January 3, 2020 a third party submitted an Offer to Purchase the Grande Cache property (the "Grande Cache OTP"). On January 6, 2020 the Receiver submitted a counteroffer requesting an increase in the purchase price. As of January 14, 2020, the Receiver has not received a formal response from the potential purchaser.

#### *Matt Washer*

51. Galloway had listed the Matt Washer for sale prior to the appointment of the Receiver on a website: <https://matwasherforsale.now.site/home>.

52. Galloway directly contacted oilfield service companies believed by Management to have interest in the Matt Washer to solicit interest in a private sale prior to the appointment of the Receiver.

53. Following its appointment, the Receiver contacted various oilfield service companies advising of the asset's availability for purchase. MNP also listed the asset for sale on LinkedIn resulting in 974,046 impressions and 175 on-line viewings.

54. In response to the online marketing and direct industry contacts the Receiver received four inquires that resulted showings. None of these parties submitted an offer to purchase the Matt Washer.

55. The Receiver contacted Ritchie Bros Auctions ("Ritchie Bros") to discuss an online controlled sales process through the Iron Planet platform for the Matt Washer. Ritchie Bros completed some due diligence with respect to the current market and potential listing price and advised the Receiver that it would not be in a position to run the sales process due to uncertainty in the market for this type of asset and capacity constraints.

56. The Receiver contacted Ritchie Bros in November 2019 to revisit the online sale process for the Matt Washer and Ritchie Bros advised they would still not be in a position to market the asset outside of a straight commission process.

#### **Funds Held in Trust**

57. On August 23, 2019 the Court authorized a Consent Order (the "August 23 Order") allowing the funds held in trust (in accordance with the February 22, 2019 Court Order) to be transferred to the Receiver (under the same trust conditions as the February 22 Order). A copy of the August 23 Order is attached as **Schedule F**.

58. The Receiver proposes to retain the funds held in Trust and seek direction from the Court for

distribution at a subsequent application.

#### **En-Bloc Offer to Purchase**

59. On January 13, 2020 WPH submitted an En-Bloc Offer to Purchase all of the remaining assets of Galloway (the "WPH Offer").
60. The WPH Offer is comprised of a combination of payout of the indebtedness in priority to its security (Roynat) and a credit bid. A copy of the WPH Offer is attached to the Confidential Addendum to the Receiver's First Report.
61. The combined liquidation value of the remaining assets is less than the value of the combined secured claims of Roynat and WPH. Based upon the assumption that the Receiver was to liquidate the remaining assets (for the appraised liquidation values) only the secured interests would receive a distribution from the estate.
62. Further analysis of the WPH Offer and the appraised values of the assets is included the Confidential Addendum to the First Report.
63. The Receiver is seeking the Court's approval to accept the WPH Offer.

#### **Receiver's Interim Statement of Receipts and Disbursements**

64. The Receiver's Interim Statement of Receiver's and Disbursements dated January 15, 2020 is attached as **Schedule G**.

#### **Receiver's Fees and Disbursements**

65. The Receiver's Fees and Disbursements to January 14, 2020 are attached in the Affidavit of Eric Sirrs as **Schedule H**.
66. The Receiver's Legal Fees and Disbursements to January 14, 2020 are attached in summary as **Schedule I**.

#### **Court Approvals Sought**

67. The Receiver respectfully requests that the Court grant an Order authorizing the following:
  - a) The activities of the Receiver as described in the First Report;
  - b) Acceptance of the WPH Offer as described in the Confidential Addendum to the Receiver's First Report; and

c) Approval of the Receiver's Fees and Receiver's Legal Fees;

All of which is respectfully submitted this 20th day of January, 2020.

**MNP Ltd.**

In its capacity as Receiver-Manager of

**Galloway Construction Group Ltd.**

And not in its personal or corporate capacity



Per: Eric Sirrs, CIRP, LIT  
Senior Vice President