

District of Alberta
Division No: 01-Edmonton
Court File No.: 0903 10386

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON
IN BANKRUPTCY**

**IN THE MATTER OF THE RECEIVERSHIP OF
Wayout Enterprises Inc, Ruson Underground Ltd. and 751077 Alberta Ltd. (also
known as Silver Projects Ltd.)**

RECEIVER'S FIRST REPORT TO THE COURT

1.0 INTRODUCTION AND PURPOSE OF REPORT

Pursuant to an Order of the Court of Queen's Bench of Alberta (the "Court") granted July 15th, 2009, Meyers Norris Penny Limited was appointed as Receiver (the "Receiver") of all of the current and future assets, undertakings and property (the "Property") of Wayout Enterprises Inc, Ruson Underground Ltd. and 751077 Alberta Ltd. (also known as Silver Projects Ltd.) (collectively known as the "Company").

The purpose of this report is to advise the Court of the activities undertaken by the Receiver relative to its taking control of the Property of the Company and seek the Court's advice and direction with respect to the sale of certain Property of the Company.

2.0 BACKGROUND

The Company's business activities consisted of installing and repairing underground water and sewer services. The head office, which was leased by the Company, was located at 2899 Broadmoor Boulevard, Sherwood Park, Alberta. The Company also had ownership of fenced-in bare land (the "Yard") located at 120 Portage Close, Sherwood Park, Alberta.

Pursuant to a Corporate Registries Search dated May 22nd, 2009 the voting Shareholders and Director's of Wayout Enterprises Inc. are listed as George Way (16.66%), Christina Way (16.66%), James Way (16.66%), Sean Way (16.66%), Aaron Way (16.66%) and David Way (16.66%).

Pursuant to a Corporate Registries Search dated June 25th, 2009 the sole voting Shareholder and Director of 751077 Alberta Ltd. is listed as George Way.

Pursuant to a Corporate Registries Search dated June 25th, 2009 the sole voting Shareholder of Ruson Underground Ltd. is 751077 Alberta Ltd. and the sole Director is listed as George Way.

Based on the Company's Books and Records, operations ceased at the end of June, 2009 and at that time the only active contract was with the City of Fort Saskatchewan known as the 108 Street Rehabilitation Project (the "Project"). To the Receiver's knowledge no work had been completed on this Project from the end of June, 2009 to the date of Receivership.

3.0 ACTIVITIES OF THE RECEIVER

3.1 Possession of Fixed Assets and Property

Upon verbal confirmation of the Receivership appointment the Receiver travelled to the Company's head office and the Yard on the evening of July 15, 2009, to ensure that the Property was adequately secured. As the Receiver was not in possession of a filed Court Order or keys to the premises the locks were unable to be changed, however, the Receiver confirmed that the doors to the premises were locked and that the Yard was fenced with a locked gate. A majority of the Company's equipment was stored in the Yard so the Receiver proceeded to add an additional chain lock to the gate.

The Receiver also contracted Paladin Security Group Ltd. to provide mobile patrol security services hourly from 8 PM July 15, 2009 to 8 AM July 16, 2009.

Upon receipt of a copy of the filed Court Order on July 16, 2009, the Receiver enlisted a locksmith to change the locks at the head office. The Director's of the Company also provided the Receiver with the keys to the existing locks of the head office and the Yard on July 16, 2009.

The Receiver was advised by Sterling Johnson that additional Property of the Company was located at the Project site in Fort Saskatchewan, Alberta (the "Project Site"). The majority of the materials and heavy equipment were safeguarded by a fenced yard, however, the remaining materials were not safeguarded by a fence. The Receiver determined that the remaining materials were secure as by reason of their large weight and size and difficulty to move.

The Receiver transported all of the heavy equipment from the Project site to the Yard on July 17, 2009. All materials were left at the Project site due to a dispute regarding ownership which will be discussed in further detail below. In the interim, these materials were protected by a 24 hour security guard placed at the location by the city of Fort Saskatchewan who were involved in the dispute.

The Receiver was also advised that two (2) pieces of heavy equipment belonging to the Company were located on the property of a third party in Lac La Biche, Alberta. An agent of the Receiver was able to identify these pieces and they were transported to the Yard for safekeeping on July 19, 2009.

A copy of the Notice and Statement of Receiver was prepared and forwarded to every known creditor of the Company on July 24, 2009 notifying them of the appointment. A copy of the Notice and Statement of Receiver is attached as 'Exhibit A' to this report.

3.2 Inventory

On July 16, 2009 three (3) employees of the Receiver attended the premises and recorded an inventory of the Company's assets both within the head office and in the Yard. Due to the large quantity, the Receiver was unable to complete the inventory until the end of the day on July 17, 2009.

On July 16, 2009 an employee of the Receiver attended the Project site in Fort Saskatchewan to complete an inventory of the assets at this location. An agent of the Receiver completed an inventory of the assets in Lac La Biche.

3.3 Books and Records

On July 16, 2009 the Receiver took possession of the Books and Records stored at the Company's head office relevant to the administration of the Receivership.

3.4 Ongoing Operations

As outlined above, the Company had ceased operations at the Project Site prior to the commencement of the Receivership. When the Receiver travelled to the Project site to take possession of the assets there was uncertainty regarding the ownership of the materials on site between the Receiver, the City of Fort Saskatchewan and Western Surety Company (the Surety Bond company associated with the project). An inventory of the Project materials in question is attached hereto as 'Exhibit B'. The materials are estimated at a value of \$62,571.09 which has been calculated by the Receiver using original order invoices provided to the Receiver by suppliers of the Project.

After multiple discussions, and to assist in the completion of the Project, the Western Surety Company advanced the sum of \$62,571.09 to the Receiver's counsel on August 21, 2009 to be held in trust pending resolution of the entitlement to the materials. An Order was granted by this honourable Court on September 1, 2009 preserving the rights of the parties in respect of the disputed funds. The Receiver is currently determining entitlement.

3.5 Banking

On July 21, 2009 the Toronto Dominion Bank ("TD") provided confirmation to the Receiver that all the Company's bank accounts had been frozen. The Receiver has no knowledge of the existence of any accounts other than those with TD Bank. The Receiver has requested the balance of funds in the accounts (approximately \$4,500).

3.6 Insurance

Upon appointment, the Receiver confirmed that the Company had an existing Insurance Policy through Lloyd Sadd Insurance Brokers ("Lloyd Sadd") and was valid up to July 31, 2009. The Receiver reviewed the existing Policy and determined that it adequately covered the Company's assets so the Receiver forwarded a copy of the appointing Order to Lloyd Sadd on July 21, 2009 to initiate a renewal of the Policy. The Receiver was subsequently advised that it would be required to obtain financing for the Policy from an outside company ("CAFO") associated with Lloyd Sadd in order to finalize the renewal. CAFO was not willing to provide the Receiver with the financing unless the original appointing Order was varied to allow them the ability to terminate the insurance contract with the Receiver in the event of a default. The Receiver opined that amending the original appointing Order would involve substantial additional Receiver and legal fees and was not a cost effective option.

As a result, the Receiver has obtained insurance through its own insurance provider.

3.7 Employees

Based upon the Company's Books and Records all of the employees of the Company had been issued both a Record of Employment and a T4 slip on June 24, 2009. One (1) employee of the Company has since come forward to the Receiver making a claim for wages of \$300. According to the employee he was working on the Project, however, his final paycheque did not clear the Company's bank account prior to it being frozen. The Receiver has instructed the employee to consult with Western Surety Company for payment of wages as a Labour and Materials Bond had been posted for the Project.

4.0 ASSETS

4.1 Accounts Receivable

Upon review of the Company's books and records the Receiver has identified the following list of outstanding accounts receivable ("A/R"):

Table 1

Company	Amount Due (\$)	Amount Collected (\$)
1102940 Alberta Ltd.	14,531.24	0.00
1124871 Alberta Ltd.	6,793.34	0.00
735836 Alberta Ltd. ⁽¹⁾	57,708.87	0.00
City of Edmonton	61,804.54	0.00
City of Fort Saskatchewan ⁽²⁾	119,621.12	0.00
Horton CBI, Limited	3,465.00	3,465.00
IBI Group	27,491.26	0.00
MGN Constructors Ltd.	109,270.37	0.00
Pinnacorp Investments Inc. ⁽¹⁾	14,261.03	0.00
Prairie Erectors	2,055.54	0.00
Terwillegar Lands Ltd.	4,865.85	0.00
Terwillegar Pointe Communities	1,638.00	0.00
The Rohit Group	2,357.78	0.00
Town of Beaumont ⁽³⁾	66,836.31	0.00
Trails of Mill Creek	595.51	595.51
Van Brabant Oil Ltd	100.80	0.00
Total	493,396.56	4060.51

Notes

1. Invoices requesting payment of Progress Billings have been issued by the Receiver, however, the A/R debtors are requesting a Statutory Declaration, that all trades have been paid in full, prior to any funds being released. The Receiver and the Receiver's Counsel continue to investigate collection of these A/R in the absence of a Statutory Declaration as it is difficult for the Receiver to provide such a sworn document.
2. The Receiver has confirmed that there is a Progress Claim owing to the Company from the City of Fort Saskatchewan, however, there is an ongoing discussion between the Receiver, the City of Fort Saskatchewan and Western Surety Company as to who is entitled to these payments. The City of Fort Saskatchewan has also advised the Receiver that additional costs incurred to re-tender the Project are to be off-set against the balance payable. The Receiver and the Receiver's counsel continue to investigate the collection of this A/R.
3. The Receiver has been advised by the Town of Beaumont that this payment was paid personally to the former management of the Company. The Receiver continues to investigate this matter.

Initial collection letters were issued to all parties listed in Table 1 above on July 22, 2009. Second Request collection letters were issued to all parties who had not responded to the original request on August 18, 2009. Due to the outstanding issues surrounding some of the A/R, the Receiver is unable to comment as to the estimated realization of the A/R and continues to investigate the collection of all A/R.

4.2 Appraisals

On July 20, 2009 the Receiver retained Century Services Inc. ("Century") to appraise all of the Company's materials, inventory, non-serial numbered goods, equipment and serial numbered goods. A copy of the Century appraisal is attached as 'Exhibit C' to this Report. The Receiver also enlisted Ritchie Brothers Auctioneers ("Ritchie") to strictly assess the Company's equipment and serial numbered assets and provide a Gross Guarantee Proposal with

respect to a forced sale value of these assets specifically. A copy of the Proposal provided by Ritchie is attached as 'Exhibit D'.

4.3 Materials, Inventory and Non Serial Numbered Assets

As detailed in 'Exhibit C' (the Poly Tank on page 12 plus all assets on pages 15 and 16), Century appraised the materials, inventory and non-serial numbered assets of the Company at a gross forced sale value of \$25,350.

4.4 Equipment and Serial Numbered Assets

As detailed in 'Exhibit C', Century appraised the equipment and serial numbered assets of the Company at a gross forced sale value of \$1,415,350 with the net forced sale value being \$1,196,850 after auctioneer commissions and expenses of \$218,500.

As detailed in 'Exhibit D' Ritchie provided the Receiver with a Gross Guarantee Proposal for the equipment and serial numbered assets of the Company using a forced sale value totalling \$1,182,000 with the net forced sale value being \$1,150,000 after transportation and refurbishing costs of \$32,000.

4.5 Real Property

As previously noted, the Company is the registered owner of Land located at 120 Portage Close, Sherwood Park, Alberta. At the time of the Receivership the land was listed for sale by a real estate agent with Re/Max Advantage ("Re/Max") for a sale price of \$795,000. Before the Receiver decided upon a course of action to liquidate the real property, Re/Max provided an unconditional Offer to Purchase the Land (see 'Exhibit E') on behalf of Ventures North Financial Inc. for a sum of \$735,000. Details on the Offer to Purchase are as follows:

Table 2

Purchase price ⁽¹⁾	\$ 735,000
Less:	
Realtor fees ⁽²⁾	\$ 35,000
Net proceeds from sale	\$ 700,000

Notes:

1. The purchase price is \$735,000 plus GST.
2. Realtor fees are \$35,000 plus GST.

As outlined in Table 2 above, the Offer to Purchase provides for a gross realizable value of the land totalling the sum of \$735,000. While this is \$60,000 lower than the original listing price of \$795,000 the offer appears fair and reasonable when considering the option of relisting the property with all of the additional time and professional fees that would be required to do so.

5.0 SECURED CREDITORS

The Receiver contacted parties with security interests in the Company's Property pursuant to their registration with the Alberta Personal Property Registry and requested payout balances of any loans outstanding. A schedule of the secured creditors, associated balances owing, appraised values and description of assets is attached as 'Exhibit F'. A further summary of the Receiver's findings are outlined below.

5.1 Caterpillar Financial Services Inc. ("CAT")

The Receiver requested and obtained payout figures for five (5) pieces of heavy equipment secured to CAT. A detailed description of these assets is included in 'Exhibit F'. The Receiver's counsel has reviewed the security and registration documents provided by CAT in relation to each piece of equipment and determined that CAT has a valid and enforceable security interest. The Receiver has since been advised that the total balance owing by the Company to CAT in the sum of \$208,376.84 has been paid by Sterling Johnson.

5.2 General Acceptance Corporation of Canada Limited ("GMAC")

The Receiver requested and obtained payout figures for balances owing on two (2) vehicles secured to GMAC. A detailed description of these assets is included in 'Exhibit F'. Subsequent to receipt of the payout figures, the Receiver has been advised that the second position secured creditor, Sterling Johnson, paid the balance owing on the loans in the sum of \$12,021.93.

5.3 John Deere Credit ("JDC")

The Receiver requested and obtained payout figures for one (1) piece of heavy equipment and three (3) attachments secured to JDC. A detailed description of these assets is included in 'Exhibit F'. The Receiver's counsel has reviewed the security and registration documents provided by JDC and determined the security to be valid and enforceable. The Receiver has released the equipment to JDC, inclusive of all attachments, as there appeared to be nominal net equity available after selling costs and further professional fees to warrant a sale.

5.4 Sterling Johnson

Sterling Johnson registered a GSA against all present and after-acquired personal property of the Company. A review by the Receiver's counsel has determined that the GSA is both valid and enforceable thereby giving him a valid first charge over certain assets and a valid second charge over the remaining Property. As at the date of Receivership the debt owing to Sterling Johnson totalled \$4,036,680.85. As Sterling Johnson has paid out all other secured parties, with the exception of the equipment released to JDC, he now holds a first charge over all the remaining Company's Property listed in 'Exhibit F'.

In lieu of cash, Sterling Johnson has consented to off-set his debt upon transfer of ownership to all the Company's Property, excluding Real Property and A/R, but including materials, inventory, non-serial numbered assets, equipment and serial numbered assets to his possession (ie. the assets specified in 'Exhibit F' other than the JDC assets). Despite the \$46,850 increase in the Century net forced sale value on equipment and serial numbered goods over the net forced sale value of Ritchie, Ritchie provided the Receiver with a guaranteed value so the Receiver elected to calculate the off-set based on the guaranteed sale price provided by Ritchie (less applicable transportation and refurbishing costs) while using the values for the non-serial numbered assets as appraised by Century.

Further details are outlined in Table 3 below:

Table 3

Gross guarantee per proposal ⁽¹⁾	1,182,000
Appraised value of small assets ⁽²⁾	<u>25,350</u>
	1,207,350
Less:	
John Deere Hitachi Zaxis 270 and three attachments ⁽³⁾	(125,000)
Transportation costs ⁽⁴⁾	(12,000)
Refurbishing costs ⁽⁴⁾	(20,000)
Selling commission on small assets (15%) ⁽⁵⁾	<u>(3,802)</u>
	(160,320)
Total dollar value of off-set	<u>1,046,548</u>

Notes:

1. This value is obtained from the Ritchie proposal based on a gross guarantee forced sale auction value of the heavy equipment and serial numbered assets.
2. This value is obtained from the Century appraisal.
3. As this piece of equipment and all attachments have been returned to the secured creditor, the gross guarantee from Ritchie has been adjusted down by the appraised value of the equipment and attachments totalling \$125,000.
4. The transportation and refurbishing costs are as estimated by Ritchie.
5. Selling commission of 15% is as provided by Century.

Transfer of the assets alluded to in Table 3 above to Sterling Johnson reduces the balance owing on the debt from \$4,036,680.85 to \$2,990,132.85 (\$4,036,680.85 - \$1,046,548).

5.5 TD Bank ("TD")

TD has a mortgage registered against the Company's Real Property with a balance outstanding of \$391,392.71. TD also registered a General Security Agreement ("GSA") over all present and after-acquired personal property of the Company giving TD a valid and enforceable second charge over the assets of the Company behind the first position secured creditor, Sterling Johnson. Counsel for the Receiver has reviewed the security, registration and mortgage documents and determined that TD has a valid and enforceable first charge over the Yard. The Receiver has been advised that Sterling Johnson has settled with TD for an amount of \$380,000 and subsequently paid out this amount to TD.

In conjunction with this, TD also has a loan against one (1) of the Company's serial numbered assets. TD has provided the Receiver with a payout figure of \$2,238.35 for the loan and the Receiver has been advised that Sterling Johnson has since paid out the full balance owing.

5.6 Wayjax Industries ("Wayjax")

Wayjax had registered a Garage Keepers' lien in the amount of \$3,583.39 on one (1) piece of equipment prior to the date of Receivership. After seeking an opinion from the Receiver's counsel, it has determined that this lien's validity and enforceability were questionable, however, the Receiver was subsequently advised that Sterling Johnson nevertheless paid the outstanding balance owing on the lien on September 17, 2009. As Sterling Johnson had a second charge on the asset it was his prerogative to make this payment.

CONCLUSION

Based on all the information discussed within this Report, the Receiver presents the following recommendations:

- Court approval to transfer or vest the assets specified in 'Exhibit F' to this Report, other than the JDC assets, to Sterling Johnson in exchange for an off-set to the debt owed pursuant to his security in the amount of \$1,046,548.
- Court approval to sell the Land to Venture North Financial Inc., as detailed in paragraph 4.5 above, resulting in gross proceeds available to the estate totalling \$735,000 (plus GST).

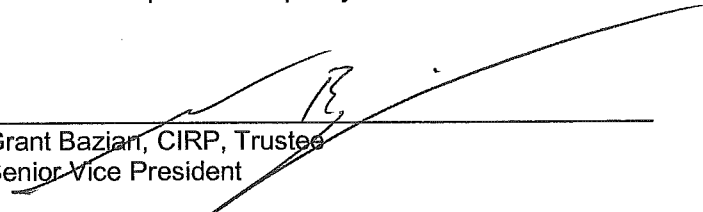
Respectfully submitted this 30th day of September, 2009.

Meyers Norris Penny Limited

In its capacity as Receiver of

the Company

And not in its personal capacity



Grant Bazjan, CIRP, Trustee
Senior Vice President