



COURT FILE NUMBER **1801-05326**  
COURT Court of Queen's Bench of Alberta  
JUDICIAL CENTRE Calgary

1104612

PLAINTIFF **ATB FINANCIAL**

DEFENDANTS **GEMINI CORPORATION AND GEMEC SERVICES LTD.**

DOCUMENT **ORDER FOR FINAL DISTRIBUTION, APPROVAL OF RECEIVER'S FEES AND DISBURSEMENTS, APPROVAL OF RECEIVER'S ACTIVITIES, AND DISCHARGE OF RECEIVER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **Fasken Martineau DuMoulin LLP**  
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Date on which Order was pronounced: November 25, 2020  
Location where Order was pronounced: Calgary, Alberta  
Name of Justice who made this Order: The Honourable Justice B.E.C. Romaine

**UPON** the application of FTI Consulting Canada Inc. in its capacity as the Court appointed receiver (the "**Receiver**") of the undertaking, property and assets of Gemini Corporation and Gemec Services Ltd. (together, the "**Debtor**") for an Order for the final distribution of proceeds, approval of the Receiver's fees and disbursements, approval of the Receiver's activities and discharge of the Receiver; **AND UPON** having read the fourth report of the Receiver dated November 16, 2020 (the "**Fourth Report**") and such other materials in the

pleadings and proceedings as deemed necessary; **AND UPON HEARING** the submissions of counsel for the Receiver and any other interested parties appearing at the within application; **IT IS ORDERED THAT:**

#### **GENERAL**

1. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Fourth Report.
2. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

#### **ACCOUNTS AND ACTIVITIES**

3. The Receiver's accounts for fees and disbursements, as set out in the Fourth Report, are hereby approved without the necessity of a formal passing of its accounts.
4. The accounts of the Receiver's legal counsel, Fasken Martineau DuMoulin LLP, for its fees and disbursements, as set out in the Fourth Report, are hereby approved without the necessity of a formal assessment of its accounts.
5. The Receiver's conduct, actions, and activities throughout the within proceedings, including its activities as set out in the Fourth Report and in all of its other reports filed herein, the Statement of Receipts and Disbursements as included in the Fourth Report, are hereby ratified and approved.

#### **DISTRIBUTIONS AND HOLDBACK**

6. The Receiver is hereby authorized and directed to:
  - (a) make a distribution to ATB Financial in the amount of up to \$586,000 as set out in the Fourth Report;
  - (b) retain a holdback of \$65,826 (the "**Holdback**") on account of the remaining costs to complete the administration of the within receivership proceedings as set out in the Fourth Report; and

- (c) distribute any residual funds from the Holdback to ATB upon completion of all remaining administrative matters in the within receivership proceedings.


## **DISCHARGE**

7. On the evidence before the Court, the Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the within proceedings up to and including the date hereof, and the Receiver shall not be liable for any act or omission on its part including, without limitation, any act or omission pertaining to the discharge of its duties in the within proceedings, save and except for any liability arising out of any in fraud, gross negligence or willful misconduct on the part of the Receiver, or with leave of the Court. Subject to the foregoing any claims against the Receiver in connection with the performance of its duties are hereby stayed, extinguished and forever barred.
8. No action or other proceedings shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver, except with prior leave of this Court on Notice to the Receiver, and upon such terms as this Court may direct.
9. Upon the Receiver filing with the Clerk of the Court a Receiver's Certificate confirming that: (a) all matters set out in paragraph 6 of this Order have been completed; and (b) the Receiver's remaining administrative tasks have been completed, the Receiver shall be unconditionally and absolutely discharged as Receiver of the Debtor and the Receiver shall have no further duty, liability or obligation with respect to the Property, provided however, that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, including but not limited to the performance of duties required to implement the settlement of the lien claim of Hi-Way 9 and the Costs Application and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of the Receiver in its capacity as Receiver.
10. As soon as possible after the granting of this Order, the directors and shareholders of the Debtor shall be provided with a notice (the "**Books and Records Notice**") by the Receiver to collect the books and records of the Debtor ("**Books and Records**"). If the

directors do not collect the Books and Records within 30 days of the Receiver providing them with the Books and Records Notice, the Receiver is hereby authorized to destroy immediately thereafter any Books and Records that are no longer required by the Receiver.

**SERVICE**

11. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by Facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
12. Service of this Order on any party not attending this application is hereby dispensed with.

  
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Justice of the Court of Queen's Bench of Alberta