



COURT FILE NUMBER S224806
VANCOUVER REGISTRY
ESTATE NO. 11-254412

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE RECEIVERSHIP OF
PREMIUM COMFORT HEATING & AIR CONDITIONING LTD.**

SECOND REPORT OF THE RECEIVER

March 15, 2024

SECOND REPORT OF THE RECEIVER

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INTRODUCTION

1. On June 15, 2022 (the “**Date of Appointment**”), FTI Consulting Canada Inc. was appointed as receiver and manager (the “**Receiver**”) of all the assets, undertakings and properties (the “**Property**”) of Premium Comfort Heating & Air Conditioning Ltd. (“**Premium Comfort**” or the “**Company**”) pursuant to an Order of the Honourable Justice Skolrood (the “**Receivership Order**”).
 2. The Receivership Order authorized the Receiver, among other things, to take possession of the Property, market any or all of the Property and sell, convey, transfer or assign the Property with the approval of this Honourable Court in respect of any transactions in excess of \$100,000.
 3. On August 25, 2022, this Honourable Court granted two orders (the “**Sale Approval Orders**”) which, among other things, authorized and approved:
 - (a) an auction services agreement (the “**Vehicle Auction Services Agreement**”) between the Receiver and Maynards Industries II Canada Ltd. (“**MIC**”) to dispose of the Company’s vehicle fleet and vest them in any auction purchaser upon issuance of a bill of sale; and
 - (b) an auction services agreement (the “**Inventory and Equipment Auction Services Agreement**”) between the Receiver and Dodds Bros. Auctions Ltd. (“**Dodds**”) to dispose of the Company’s remaining inventory and equipment, vesting title to such goods in any auction purchaser upon issuance of a bill of sale;
- (collectively, the “**Transactions**”).

4. The Receiver delivered the Receiver's Certificates certifying that the Transactions were completed to the satisfaction of the Receiver on September 26 and October 5, 2022, respectively. Both Receiver's Certificates are attached as Appendix "A".
5. Since that time, the Receiver has been, among other things, assisting Canada Revenue Agency ("CRA") with conducting a trust examination of Premium Comfort's payroll source deduction and GST remittances which was ultimately completed in September of 2023, and which is described in further detail below.
6. Concurrent with this second report of the Receiver (this "**Second Report**"), the Receiver intends to file a notice of application for the following orders:
 - (a) an order (the "**Distribution Order**") authorizing and directing the Receiver to distribute the net proceeds of the estate to certain creditors as set out in this Second Report; and
 - (b) an order (the "**Discharge Order**") that provides for:
 - i. approval of the Receiver's activities as outlined in this Second Report;
 - ii. approval of the Receiver's fees and its legal counsel's fees as outlined in this Second Report; and
 - iii. a discharge of the Receiver in these proceedings.

7. The purpose of this Second Report is to provide this Honourable Court with information with respect to the following:
- (a) the activities of the Receiver since the first report of the Receiver dated August 12, 2022 (the “**First Report**”);
 - (b) the Receiver’s statement of receipts and disbursements from the Date of Appointment to March 13, 2024;
 - (c) a summary of the Receiver’s fees and expenses (the “**Receiver’s Fees**”) and the fees and disbursements of the receiver’s counsel (the “**Receiver’s Counsel’s Fees**”);
 - (d) the details of the secured and potential priority claims against the Company; and
 - (e) a proposed distribution of the net proceeds of realization to certain secured creditors.
8. The Receiver’s reports and other information in respect of these proceedings (the “**Receivership Proceedings**”) are posted on the Receiver’s website at <http://cfcanada.fticonsulting.com/premiumcomfort/>.

TERMS OF REFERENCE

9. In preparing this Second Report, the Receiver has relied upon unaudited financial information, other information available to the Receiver and, where appropriate, the Company’s books and records and discussions with various parties (collectively, the “**Information**”).

10. Except as described in this Second Report:
 - (a) the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
 - (b) the Receiver has not examined or reviewed the financial forecasts and projections referred to in this Second Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
11. Future-oriented financial information reported or relied on in preparing this Second Report is based on assumptions regarding future events. Actual results may vary from forecasts and such variations may be material.
12. The Receiver has prepared this Second Report in connection with the Application. This Second Report should not be relied on for any other purposes.
13. Any advice described in this Second Report has been provided to the Receiver by its counsel, Blake, Cassels & Graydon LLP (the “**Receiver’s Counsel**”), and has been provided to assist the Receiver in considering its course of action and is not intended as legal or other advice to, and may not be relied upon by, any other stakeholder.
14. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

ACTIVITIES OF THE RECEIVER

15. Since the date of the First Report the Receiver has, among other things:
- (a) completed the Transactions and collected the net proceeds pursuant to the Vehicle Auction Services Agreement and Inventory & Equipment Auction Services Agreement;
 - (b) facilitated the filing of claims on behalf of employees who were determined to have claims under the *Wager Earner Protection Program Act (Canada)* (the “WEPPA”);
 - (c) collected certain amounts from the accounts receivable owed to the Company;
 - (d) vacated the leased premise previously occupied by the Company;
 - (e) attended to correspondence with various investors, creditors, lessors and other stakeholders;
 - (f) facilitated a payroll audit and goods and services tax (“GST”) audit by CRA; and
 - (g) prepared this Second Report.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

16. The Receiver's statement of receipts and disbursements from the Date of Appointment to March 13, 2024, is summarized as follows:

Statement of Receipts and Disbursements for the period of June 15, 2022 to March 13, 2024 CAD \$	
Receipts	
Sale of Fixed Assets and Inventory	\$ 445,007
Receiver's Certificate	100,000
Accounts receivable collections	78,827
Other receipts	4,279
GST Collected	160
Total - Receipts	628,273
Disbursements	
Repayment of Receiver's Certificate	100,000
Operating costs	45,290
Occupation rent	36,034
Insurance	19,498
GST/PST Paid	15,742
Contractors	14,197
Bank fees and other	4,073
Receiver's fees and disbursements	137,719
Legal fees and disbursements	35,556
Total - Disbursements	408,110
Cash on Hand	\$ 220,163

- (a) Sale of Fixed Assets and Inventory includes the net proceeds realized from the Transactions;
- (b) Receiver's Certificate of \$100,000 was advanced by National Bank of Canada ("NBC") and secured by the Receiver's Borrowing Charge pursuant to the Receivership Order;
- (c) Accounts Receivable collections are receipts from customers relating to work performed prior to the Date of Appointment;

- (d) Other Receipts includes refunded credits from vendors related to pre-filing operations;
- (e) Amounts owed under the Receiver's Certificate were repaid to NBC on November 4, 2022;
- (f) Operating costs include, among other things, amounts disbursed for storage, utilities and other miscellaneous disbursements;
- (g) Occupation Rent for the Company's leased premises in Kelowna, BC;
- (h) Insurance includes monthly premium payments under the Company's existing financing agreement for its insurance policies;
- (i) GST/PST Paid is for goods and services tax collected by the Receiver and remitted to CRA;
- (j) Contractors includes the costs of retaining Dodds to secure and inventory the Property and other contractors retained by the Receiver;
- (k) Bank fees and other includes wire payment fees, and other miscellaneous bank fees;
- (l) Receiver's Fees were paid to the Receiver in connection with administration of the Receivership Proceeding and are described in further detail below; and
- (m) Legal fees and disbursements were paid to the Receiver's Counsel and are described in further detail below.

17. As at March 13, 2024, the Receiver was holding \$220,163 of cash on hand in the estate trust account.

PROFESSIONAL FEES

18. The professional fees and disbursements of the Receiver and the Receiver's Counsel for the period of June 15, 2022, to January 31, 2024, are summarized in the table below:

Summary of Professional Fees for the Receiver and the Receiver Counsel				
For the period of June 15, 2022 to January 31, 2024				
Firm	Fees	Disbursements	GST/HST	Total
FTI Consulting Canada Inc.	\$ 132,120	\$ 5,600	\$ 6,886	\$ 144,605
Blake, Cassels & Graydon LLP	35,448	108	4,255	\$ 39,811
Total	\$ 167,568	\$ 5,708	\$ 11,141	\$ 184,416

19. Statements of account for the services rendered by the Receiver are set out in the Affidavit of Fees of Brett Wilson.
20. Statements of account of the Receiver's Counsel are set out in the Affidavit of Fees of Peter Bychawski.
21. The Receiver considers that the fees and disbursements charged by the Receiver and the Receiver's Counsel have been necessarily incurred and that the hours and rates charged are fair and reasonable in the circumstances.
22. The Receiver anticipates additional fees and disbursements of \$2,500 for the Receiver and \$12,500 for Receiver's Counsel, to satisfy accrued and unpaid fees and estimated costs to complete the administration of the Receivership Proceedings including the costs of the Application.

DETAILS OF SECURED AND POTENTIAL PRIORITY CLAIMS

23. As more fully described in the First Report, the Receiver is aware of the following secured claims, charges and liens that are owed by the Company, either pursuant to statute, or which have been registered against the Property.

CRA Deemed Trust

24. On May 17, 2023, CRA completed a GST audit, followed by an onsite payroll audit on May 30, 2023.
25. On September 7, 2023, the CRA delivered a notice (the “**CRA Notice**”) to the Receiver asserting a claim of \$279,243, which was compromised of:
- (a) a deemed trust claim (the “**Deemed Trust CRA Claim**”) of \$137,096 ranking in priority to the Secured Creditors, which includes:
 - i. \$99,045 of unremitted payroll source deductions; and
 - ii. \$38,051 of unremitted GST withholdings.
 - (b) An unsecured claim (the “**Unsecured CRA Claim**”) of \$142,147, which relates to outstanding corporate income tax, payroll deductions and GST;
26. A copy of the CRA Notice is attached hereto as Appendix “**B**”.
27. The CRA is asserting a trust claim under subsection 222(3) of the Excise Tax Act only in respect of the Deemed Trust CRA Claim. No security or deemed trust is asserted in respect of the Unsecured CRA Claim, which the Receiver believes to be unsecured.

WEPPA

28. Prior to the Date of Appointment, 34 former employees were terminated. They had unpaid wages that accrued prior to the Date of Appointment and were not paid termination and/or severance pay.
29. In accordance with WEPPA, the Receiver made the former employees aware of the existence of the program and advised that the Receiver would review the Company's books and records and identify employees who were eligible for a claim.
30. After reviewing the Company's books and records, the Receiver determined that former employees were owed a total of approximately \$37,342 for unpaid wages and vacation and \$61,081 for termination and severance pay, which are considered eligible wages under WEPPA (the "**WEPPA Claims**").
31. The WEPPA Claims are secured against the Company's current assets to the extent of up to \$2,000 per employee for wages and compensation (including vacation pay, but excluding severance and termination pay).
32. On January 14, 2023, the Receiver received a statement from Service Canada asserting a subrogated priority claim of \$28,894.38. Subsequent to the statement date, two additional WEPPA claim submissions were received, and the Receiver estimates the total priority amount owing to Service Canada to be \$30,070.38 ("**Priority WEPPA Claim**").

Vehicle Leases

33. Five of the 19 vehicles included in the Vehicle Auction Services Agreement were encumbered by registrations under the British Columbia Personal Property Registry by the following secured parties:
- (a) Ford Credit Canada Company;
 - (b) the Bank of Nova Scotia; and
 - (c) GM Financial Canada Leasing Ltd. (collectively, the “Lessors”).
34. The outstanding balances owing to the Lessors are summarized in the table below:

Vehicle Leases	
CAD \$	
Lessor	Balance
Ford Credit Canada Company	\$ 40,920
Bank of Nova Scotia	10,613
GM Financial Canada Leasing Ltd.	39,078
Total	\$ 90,611

Secured Claims

35. As at June 10, 2022, the amount owing under the NBC facility was approximately \$2.1 million with interest accruing thereafter plus legal and professional fees, costs, charges disbursements and expenses incurred by NBC (the “NBC Loan”).
36. In addition to NBC, the Company owed approximately \$300,000 plus accrued interest and legal costs to Business Development Bank of Canada (the “BDC Loan”).

PROPOSED DISTRIBUTION

37. As setout above, the Receiver currently holds \$220,163 of cash on hand. All Property has been realized upon and the Receiver does not anticipate any further recoveries.
38. The Receiver is seeking authorization from this Honourable Court to distribute the remaining estate funds as follows:
- (a) maintain a holdback of \$20,000 to fund the costs of administering the estate to its completion, including \$15,000 for professional fees and \$5,000 for the destruction of records;
 - (b) a distribution in the amount of \$137,096 to the CRA in satisfaction of the Deemed Trust CRA Claim;
 - (c) a distribution in the amount of \$30,070 to the WEPP in satisfaction of the Priority WEPP Claim; and
 - (d) distribution of the remaining funds to the Lessors, on a prorated basis based on the gross proceeds realized from the sale of their respective collateral.

39. The estimated distributions pursuant to the Distribution Order are set out in the table below:

Proposed Distribution to Creditors			
Cash on Hand			\$ 220,163
Less:			
Cost to complete the administration of the estate			(20,000)
CRA Deemed Trust Claim			(137,096)
Priority WEPPA Claim			(30,070)
Estimated Distribution to Lessors			<u>\$ 32,997</u>
Distribution by Lessor:			
	Gross Sales	Balance	Proposed
Lessors	Proceeds	Owing	Distribution
Ford Credit Canada Company	\$ 84,000	\$ 40,920	\$ 15,934
Bank of Nova Scotia	68,500	10,613	10,613
GM Financial Canada Leasing Ltd.	34,000	39,078	6,449
	<u>\$ 186,500</u>	<u>\$ 90,611</u>	<u>\$ 32,997</u>

40. As there is a shortfall to the prior ranking secured creditors, no distribution is expected for the Secured Lenders in respect of the NBC Loan and the BDC Loan.

CORPORATE BOOKS AND RECORDS

41. Certain of the Company's remaining corporate books and records are currently located at an offsite storage facility. The Receiver is seeking the approval of this Honourable Court to destroy the remaining corporate books and records, except any of those required by statute, unless they are claimed by any of the current or former directors of the Company within 30 days of the Receiver providing written notification of the same. The Receiver has no further need to retain these books and records.
42. The Receiver will use the addresses listed on the Corporate Registry search as the addresses at which to notify the current or former directors.

RECEIVER'S RECOMMENDATIONS

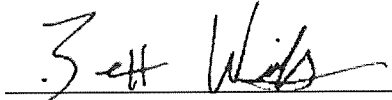
43. The Receiver has realized on the Property and, once the net proceeds have been distributed, its administration of the Receivership Proceedings will be substantially complete.
44. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court grant the following orders:
- (a) the Distribution Order; and
 - (b) the Discharge Order.

All of which is respectfully submitted this 15th day of March 2024.

FTI Consulting Canada Inc.
Licensed Insolvency Trustee, in its capacity as
Receiver of Premium Comfort Heating & Air Conditioning Ltd.



Tom Powell
Senior Managing Director



Brett Wilson
Managing Director

Appendix “A” – Receiver's Completion Certificates

No. S-224806
Vancouver Registry
Estate No. 11-254412

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF
PREMIUM COMFORT HEATING & AIR CONDITIONING LTD.

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Supreme Court of British Columbia (the "**Court**") dated June 15, 2022, FTI Consulting Canada Inc. was appointed as the receiver and manager (in such capacity, the "**Receiver**") of the assets, undertakings, and properties of Premium Comfort Heating & Air Conditioning Ltd.

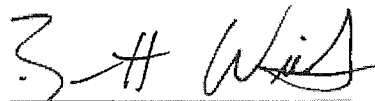
B. Pursuant to an Order of the Court dated August 24, 2022, the Court approved the auction services agreement made as of August 8, 2022 (the "**Auction Agreement**") between the Receiver and Dodds Bros. Auctions Ltd. pursuant to which one or more auction transactions were authorized to be completed in accordance with the terms of the Auction Agreement (the "**Auction Transactions**").

THE RECEIVER CERTIFIES the following:

1. The Auction Transactions have been completed to the satisfaction of the Receiver.
2. The Certificate was delivered by the Receiver at 10:56 am on October 5, 2022.

**FTI Consulting Canada Inc., in its capacity
as the Receiver of the assets, undertakings
and properties of Premium Comfort Heating
& Air Conditioning Ltd.**

Per:



Name: Brett Wilson

Title: Senior Director

No. S-224806
Vancouver Registry
Estate No. 11-254412

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF
PREMIUM COMFORT HEATING & AIR CONDITIONING LTD.

RECEIVER'S CERTIFICATE

RECITALS

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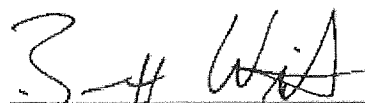
B. Pursuant to an Order of the Court dated August 24, 2022, the Court approved the auction services agreement made as of August 8, 2022 (the "**Auction Agreement**") between the Receiver and Maynards Industries II Canada Ltd. pursuant to which one or more auction transactions were authorized to be completed in accordance with the terms of the Auction Agreement (the "**Auction Transactions**").

THE RECEIVER CERTIFIES the following:

1. The Auction Transactions have been completed to the satisfaction of the Receiver.
2. The Certificate was delivered by the Receiver at 4:13pm on September 26, 2022.

**FTI Consulting Canada Inc., in its capacity
as the Receiver of the assets, undertakings
and properties of Premium Comfort Heating
& Air Conditioning Ltd.**

Per:



Name: Brett Wilson
Title: Senior Director

Second Report FTI Consulting Canada Inc., in its capacity as Receiver of Premium Comfort Heating and Air Conditioning Ltd. dated March 15, 2024

Appendix “B” – CRA Notice of Assessment



Coastal and Central BC Tax Services Office
Surrey BC V3T 5W6

September 07, 2023

ATTENTION: BRETT WILSON
FTI CONSULTING CANADA INC.
SUITE 1610, 520 5TH AVE SW
CALGARY AB T2P 3R7

Dear Sir or Madam:

Re: PREMIUM COMFORT HEATING & AIR CONDITIONING LTD.
of the City of Kelowna
in the Province of British Columbia
Date of the receivership: June 15th, 2022

Please find enclosed our amended claim and supporting schedule in
the above-noted insolvency event for the amount of \$279,242.54.

Issue dividend payment directly to the Receiver General quoting
the account number shown on the schedule.

Please send individual, corporate, payroll and excise duty
dividend payments to:

Canada Revenue Agency
PO BOX 3800 STN A
Sudbury ON P3A 0C3

Please send goods and services tax/harmonized sales tax (GST/HST)
remittances, including dividend payments to the applicable
tax centre (shown on your client's GST/HST return).

If you need more information about this claim, such as a more
detailed breakdown of the debt, please contact the undersigned at
one of the telephone numbers provided in this letter.

.../2

Yours truly,

A handwritten signature in black ink, appearing to be 'A. Mileta', written in a cursive style.

A. Mileta
Resource Officer

Enclosure(s)

Proof of Claim (Form 31)
(Sections 50.1, 81.5, 81.6, subsections 65.2(4), 81.2(1), 81.3(8),
81.4(8), 102(2), 124(2), 128(1), and paragraphs 51(1)(e)
and 66.14(b) of the Act)

Send all notices or correspondence regarding this claim to the following address:

Canada Revenue Agency
Surrey National Verification and Collection Centre
Insolvency Intake Centre
Collections Directorate
9755 King George Blvd
Surrey BC V3T 5E1

Attention: A. Mileta

In the matter of the receivership of PREMIUM COMFORT HEATING & AIR CONDITIONING LTD. of the City of Kelowna in the Province of British Columbia, and the claim of His Majesty the King in Right of Canada as represented by the Minister of National Revenue, creditor.

I, A. Mileta, of the City of Surrey in the Province of British Columbia, do hereby certify:

1. That I am a resource officer/complex case officer of the Canada Revenue Agency.
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That the debtor was, at the date of the receivership namely the 15th day of June, 2022, and still is, indebted to the creditor in the sum of \$279,242.54, as specified in the statement of account attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled.
4. (X) UNSECURED CLAIM of \$142,146.68. That in respect of this debt, I do not hold any assets of the debtor as security.

(X) PROPERTY CLAIM of \$137,095.86.

That property holding a value equal to the debt enumerated in the Schedule "A" was in possession of the debtor and still remains in the possession of the debtor and (or) the trustee. The claimant hereby claims an interest in all assets of the debtor up to the value of the property claim shown. The claimant is entitled to

demand from the trustee the return of the property.

5. That, to the best of my knowledge, the above-named creditor is not related to the debtor within the meaning of section 4 of the Act, and has not dealt with the debtor in a non-arm's length manner.

6. That the following are the payments that I have received from, and the credits that I have allowed to the debtor within the three months immediately before the date of the initial bankruptcy event within the meaning of section 2 of the Act.

NIL

Sworn before me at the City of Surrey in the Province of British Columbia, on September 7th, 2023.



.....
Commissioner of Oaths



.....
Signature of Claimant

AMELIA DRAPER 

A Commissioner for Taking Affidavits for British Columbia

Expiry Date of Appointment:

February 28, 2026

Schedule "A"

Name: PREMIUM COMFORT HEATING & AIR CONDITIONING LTD.

Unsecured claim

Income Tax Act
Account number: 868694050 RC 0001
Assessed period(s): 2018-10-01 to 2020-01-29
Principal: \$7,231.01
Penalty and interest: \$1,979.32

Total: \$9,210.33

Income Tax Act
(relating to payroll deductions for non deemed trust)
Account number: 868694050 RP 0001
Assessed period(s): 2021 - 2022
Principal: \$48,513.52
Penalty and interest: \$33,239.69

Total: \$81,753.21

Excise Tax Act
Account number: 868694050 RT 0001
Assessed period(s): 2021-11-01 to 2022-06-15
Principal: \$42,667.01
Penalty and interest: \$8,516.13

Total: \$51,183.14

Total Unsecured claim \$142,146.68

Property claim


Income Tax Act
(relating to payroll deductions for deemed trust)
Account number: 868694050 RP 0001
Assessed period(s): 2021 - 2022
Principal: \$99,044.77


Total: \$99,044.77


Excise Tax Act
Account number: 868694050 RT 0001
Assessed period(s): 2021-11-01 to 2022-06-15

Principal:	\$38,051.09
Penalty and interest:	\$0.00
Total:	\$38,051.09
Total Property claim	\$137,095.86

Sworn before me at the City of Surrey in the province of British Columbia, on September 7th, 2023.


.....
Commissioner of Oaths


.....
Signature of Claimant


AMELIA DRAPER
A Commissioner for Taking Affidavits for British Columbia
Expiry Date of Appointment: February 28, 2026