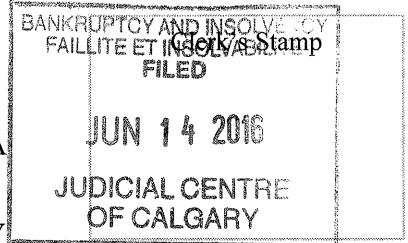


COURT FILE and  
BANKRUPTCY NUMBER

09-4674



COURT

COURT OF QUEEN'S BENCH OF ALBERTA  
IN BANKRUPTCY AND INSOLVENCY

BANKRUPTCY MATTER

**IN THE MATTER OF THE BANKRUPTCY  
OF CHRIS MECHANICAL SERVICES LTD.**

APPLICANT

CENTURY SERVICES CORP.

RESPONDENT

CHRIS MECHANICAL SERVICES LTD.

DOCUMENT

**APPLICATION FOR BANKRUPTCY  
ORDER**

ADDRESS FOR SERVICE  
AND

Robyn Gurofsky/Jessica L. Cameron  
Borden Ladner Gervais LLP  
1900, 520 3<sup>rd</sup> Ave. S.W.  
Calgary, AB T2P 0R3

CONTACT INFORMATION  
OF

Telephone: (403) 232-9774/9715  
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DOCUMENT

File No. 418656/000208

**NOTICE TO RESPONDENTS:**

This application is made against you. You are a respondent or an interested party.

You have the right to state your side of this matter before the Registrar.

To do so, you must be in Court when the application is heard as shown below:

Date: July 26, 2016  
Time: 2:00 p.m.  
Where: Calgary Court Centre, 601-5 Street SW, Calgary, AB  
Before Whom: The Presiding Registrar in Bankruptcy Chambers

Go to the end of this document to see what else you can do and when you must do it.

**Remedy claimed or sought:**

1. The Applicant, Century Services Corp., the assignee of all of the assets and liabilities, including loan accounts, of Century Services Inc. (“**Century**”), a creditor of the Respondent, Chris Mechanical Services Ltd. (the “**CMS**”), applies for an order in respect of CMS substantially in the form attached as **Schedule ‘A’** hereto, including without limiting for the following relief:

- (a) Abridging the time for service of this Application and deeming service good and sufficient upon all interested parties;
- (b) Adjudging CMS bankrupt;
- (c) Granting a Bankruptcy Order in respect of the property of CMS;
- (d) Appointing FTI Consulting Canada Inc. (“**FTI**”) as trustee in bankruptcy of CMS’ bankrupt estate;
- (e) Directing that the costs of the within Application for Bankruptcy Order be paid out of the bankrupt estate; and
- (f) Such further and other relief as this Honourable Court considers just in the circumstances.

**Grounds for making this application:*****Statutory Requirements***

2. Within the year immediately preceding the date of the initial bankruptcy event, CMS carried on business in Calgary, Alberta.

3. CMS is truly and justly indebted to Century for an amount exceeding \$1,000.

4. CMS has committed an act of bankruptcy within the 6 months proceeding the date of the filing of the within Application for Bankruptcy Order by failing to meet its liabilities generally as they became due, in that it failed to pay significant indebtedness owed to and demanded by Century.

5. Pursuant to a Consent Receivership Order granted by the Honourable Justice C.M. Jones on December 18, 2015, FTI was appointed as Receiver for CMS (the “**Receivership Order**”). The Receiver consents to this Application.

6. FTI, with offices in the City of Calgary, is a person qualified to act as Trustee, and has consented to act as such and is acceptable to the Applicant Century.

### ***Detailed Grounds***

7. CMS is indebted to Century as at May 31, 2016 in an amount of \$6,113,034.00, plus accrued and accruing interest, fees and other chargeable costs (the “**Indebtedness**”).

8. The Indebtedness arises from a non-revolving term facility Century provided to CMS pursuant to a Loan Agreement dated March 2, 2015 (the “**Loan Agreement**”).

9. As security for the Loan, CMS executed in favour of Century a General Security Agreement (the “**GSA**”) and a Promissory Note issued by CMS in the amount of the Loan (the “**Promissory Note**”), both dated March 4, 2015 (together the “**Century Security**”).

10. Century, CMS and several other parties are also all parties to an Intercreditor Agreement dated July 28, 2015 (the “**Intercreditor Agreement**”). One of the other parties to the Intercreditor Agreement is 1784761 Alberta Ltd. (“**178**”), a party who has provided a factoring facility to CMS.

11. Pursuant to paragraph 4.2 of the Intercreditor Agreement, the issuance of a demand by 178 under the factoring facility, or otherwise, constitutes an event of default under the Loan Agreement and the Century Security.

12. On or about September 24, 2015, Century became aware that a judgment had been registered against CMS at the Alberta personal property registry (“**PPR**”), contrary to CMS’s warranty under the Loan Agreement to keep all collateral subject to the Century Security free and clear of all liens and encumbrances.

13. On or about November 9, 2015, Century became aware that 178 had issued demand for payment against CMS under the factoring facility, constituting an event of default under the Loan Agreement and Century Security.

14. As a result of the events of default, on November 16, 2015, through its counsel, Century demanded repayment of the Loan from CMS, amongst others, and issued a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, to CMS (together the “**Century Demands**”).

15. Following issuance of the Century Demands, Century, CMS and certain other parties entered into a forbearance agreement dated November 30, 2015 (the “**Forbearance Agreement**”). The Forbearance Agreement provided that CMS would deliver to Century an unconditional executed commitment letter from a reputable lender evidencing a commitment to refinance the outstanding indebtedness owed to Century. In addition, an executed consent receivership order was delivered by CMS, through its counsel, to Century, in the event there was a default under the Forbearance Agreement.

16. Subsequently, on December 15, 2015, 178 filed a Caveat- Re Agreement Charging Lands against certain real property covered by Century’s security under the Loan Agreement. This registration represented an event of default under the Loan Agreement, and therefore Forbearance Agreement.

17. Around this same time, Century learned of a further default under the Loan Agreement, namely that CMS had failed to pay its employee payroll on or about December 11, 2015.

18. As a result of these events of default, Century proceeded to enforce its rights, including seeking the appointment of a Receiver over CMS. FTI was appointed as Receiver of CMS on December 18, 2015 pursuant to the Receivership Order.

19. No payment of the Indebtedness, or any portion thereof has been received from CMS whatsoever and that liability has long since come due.

20. In the result, a Bankruptcy Order should issue against CMS.

**Material or evidence to be relied on:**

21. The supporting Affidavit of Verification of Rod Hudson, sworn June 1, 2016, filed.
22. The Consent to Appointment of FTI Canada Consulting Inc.

**Applicable rules:**

23. Rules 6.3(1), 6.9(1)(a) and 11.27 of the *Alberta Rules of Court*, AR 124/2010.
24. Rules 69-76 of the *Bankruptcy and Insolvency General Rules*, C.R.C. c. 368.

**Applicable Acts and regulations:**

25. The provisions of the *Bankruptcy and Insolvency Act* (Canada), in particular section 43 thereof.

**Any irregularity complained of or objection relied on:**

26. None.


**How the application is proposed to be heard or considered:**

27. In person, before the presiding Registrar in Chambers, on affidavit evidence, with some or all of the parties present.

**DATED** at the City of Calgary, in the Province of Alberta, this 13<sup>th</sup> day of June, 2016

**CENTURY SERVICES CORP.**  
**By its counsel BORDEN LADNER GERVAIS,**

**LLP**

  
\_\_\_\_\_  
Jessica L. Cameron

ISSUED at the City of Calgary, in the Province of Alberta  
this 4 day of June, 2016

K. Laycock  
Registrar of Bankruptcy

ENTERED this \_\_\_ day of June, 2016

\_\_\_\_\_  
Clerk of the Court of Queen's Bench of Alberta

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

**TAKE NOTICE**

That an Application for a Bankruptcy Order has been made in respect of your property and will be heard before the Presiding Registrar in Chambers, at the Calgary Courts Centre located at 601, 5<sup>th</sup> Street SW Calgary, AB on Tuesday the 26<sup>th</sup> day of July, 2016 at the hour of 2:00 pm, or so soon thereafter as the within Application may be heard.

**AND FURTHER TAKE NOTICE**

That if notice of cause against this Application is not filed in Court and a copy thereof served on counsel for the applicant at least two days before the hearing and if you do not appear at the hearing the Court may make a Bankruptcy Order on such proof of the statements in the Application as the Court shall think sufficient.

**SCHEDULE 'A'**  
PROPOSED FORM OF ORDER

COURT FILE and  
BANKRUPTCY NUMBER

COURT

BANKRUPTCY MATTER

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RESPONDENT

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**IN THE MATTER OF THE BANKRUPTCY OF  
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**BANKRUPTCY ORDER**

Robyn Gurofsky/Jessica L. Cameron

Borden Ladner Gervais LLP

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Facsimile: (403) 266-1395

Email:

rgurofsky@blg.com/jcameron@blg.com

File No. 418656/000208

Clerk's Stamp

**DATE ON WHICH ORDER WAS PRONOUNCED: July 26, 2016**

**LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta**

**NAME OF MASTER WHO MADE THIS ORDER: \_\_\_\_\_**

**UPON** the Application of Century Services Corp. ("**Century**"), a creditor of Chris Mechanical Services Ltd. ("**CMS**"); **AND UPON** having read the Affidavit of Verification of Rod Hudson, sworn June 1, 2016, filed; **AND UPON** being satisfied that CMS and all interested and affected parties have been served with notice of the within Application; **AND UPON** being satisfied that CMS has committed an act of bankruptcy in the 6 months preceding the filing of the within Application, specifically that CMS has ceased to meet its liabilities generally as they become due; **AND UPON** noting the consent of CMS' court-appointed receiver and manager, FTI Consulting Canada Inc. ("**FTI**"), endorsed hereon; **AND UPON** noting the consent of FTI to be appointed as trustee in bankruptcy in the within proceedings and being satisfied that it is a person so qualified to act; **AND UPON** hearing from counsel for Century and any other interested party appearing at the Application



**IT IS HEREBY ORDERED AND DECLARATED THAT:**

1. The service of notice of the Application for Bankruptcy Order and materials filed in support thereof, is hereby validated and deemed good and sufficient.
2. Chris Mechanical Services Ltd. (“**CMS**”), a body corporate duly incorporated under the laws of the Province of Alberta and having offices in the City of Calgary, is hereby adjudged bankrupt and a Receiving Order is hereby made against CMS.
3. FTI Consulting Canada Inc. (the “**Trustee**”) is appointed as trustee of the bankrupt estate of CMS and the Trustee is authorized to take all necessary steps to take possession of the deeds, books, records and documents and all property of the bankrupt and to administer the bankrupt estate of CMS.
4. In accordance with section 16(1) of the *Bankruptcy and Insolvency Act* (Canada) the Trustee shall give security in cash or by bond without delay.
5. The costs of and incidental to this Application are to be paid to Century out of the assets of the bankrupt’s estate upon taxation thereof.

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M.C.Q.B.A.

Consented to this \_\_\_ day of June, 2016 by:

**FASKEN MARTINEAU DUMOULIN LLP**

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Per: Travis Lysak  
Solicitors for FTI Consulting Canada Inc.