



COURT FILE NO. 1801 - 06578

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANTS MAYNARDS FINANCIAL LIMITED PARTNERSHIP, BY ITS GENERAL PARTNER, MAYNARDS CAPITAL INC.

RESPONDENTS CLAYTON CONSTRUCTION CO. LTD., GLENN ALLAN CLAYTON, AND JOHN JAMES CLAYTON

DOCUMENT **APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

BLAKE, CASSELS & GRAYDON LLP
 3500, 855 – 2nd Street S.W.
 Calgary, Alberta T2P 4J8
 Attention: Ryan Zahara/James Reid
 Telephone: 403-260-9628
 Facsimile: 403-260-9700
 Email: ryan.zahara@blakes.com
james.reid@blakes.com
 File Ref.: 79294/12

NOTICE TO RESPONDENT

This application is made against you. You are a respondent.

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

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

Date	<u>February 11, 2019</u>
Time	<u>2:30 p.m.</u>
Where	<u>Calgary Courts Centre, Justice Chambers</u>
Before Whom	<u>The Honourable Mr. Justice R.A. Neufeld</u>

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. FTI Consulting Canada Inc., in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of all the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the "**Property**") of Clayton Construction Co. Ltd. (the "**Clayton**"), seeks an order (the "**Order**") substantially in the form attached hereto as Schedule "**A**", among other things:
 - (a) abridging the time for service of this application (the "**Application**") and declaring that it is properly returnable today, if necessary, and further service of this Application, other than to those listed on the Service List attached hereto as Schedule "**B**" is hereby dispensed with;
 - (b) approving the actions, conduct and activities of the Receiver and its legal counsel as outlined in the Third Report of the Receiver dated February 4, 2019 (the "**Third Report**") and all other reports filed by the Receiver in these receivership proceedings;
 - (c) approving the Receiver's accounts and the accounts of its independent legal counsel, inclusive of all accrual for the fees and disbursements of the Receiver and those of its legal counsel in connection with the completion of these receivership proceedings, including the costs of this Application;
 - (d) approving the Receiver's Statement of Receipts and Disbursements for the period from May 8, 2018 to February 1, 2019, as set out in the Third Report;
 - (e) authorizing the Receiver to destroy the books and records of Clayton that are not claimed by the former directors by February 21, 2019;
 - (f) declaring that the Receiver has duly and properly discharged its duties, responsibilities and obligations as Receiver;
 - (g) discharging and releasing the Receiver from any and all further obligations as Receiver and any and all liability in respect of any act done by the Receiver in these receivership proceedings, and its conduct as Receiver pursuant to its appointment in accordance with the Receivership Order, or otherwise; and

- (h) such further and other relief as counsel may request and this Honourable Court may deem appropriate.

Grounds for making this Application:

- 2. The grounds upon which the Receiver relies in making the within Application are as follows:
 - (a) on May 8, 2018, Clayton became subject to these receivership proceedings pursuant to an Order of the Honourable Mr. Justice C.M. Jones (the "**Receivership Order**");
 - (b) on June 11, 2018, an order (was granted by the Honourable Madam Justice K.M. Eidsvik approving a sales process (the "**Sales Process**");
 - (c) the Receiver carried out the Sale Process, which resulted in a transaction between the Receiver and Maynard's Capital Inc., which transaction was approved by this Court on August 1, 2018;
 - (d) the realization of all assets and property of Clayton is complete and there are no further assets to be realized upon or recovered;
 - (e) except for some minor administrative matters, the Receiver has performed its mandate as Receiver under the Receivership Order and it is now appropriate that the Receiver be discharged as Receiver, subject to the completion of the final administrative tasks;
 - (f) the reasons described in the Third Report; and
 - (g) such further and other reasons as counsel may request and this Honourable Court may deem just.

Material or evidence to be relied on:

- 3. The Receiver intends to rely upon the following materials:
 - (a) the Receivership Order, filed;
 - (b) the Third Report, filed; and

- (c) such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable rules:

4. The Receiver will rely upon and refer to the Alberta *Rules of Court* during the making of the Application.

Applicable Acts and Regulations:

5. The Receiver will rely upon and refer to the provisions of the *Bankruptcy & Insolvency Act*, RSC 1985, c B-3, as amended, during the making of the Application.

Any irregularity complained of or objection relied on:

6. None.

How application is proposed to be heard or considered:

7. Oral submission by counsel at an application before the Honourable Mr. Justice R. A Neufeld on February 11, 2019 at 2:30 p.m.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant 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.

TAB A

Schedule "A"

Form of Order

(see attached)

COURT FILE NO.	1801 - 06578
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANTS	MAYNARDS FINANCIAL LIMITED PARTNERSHIP, BY ITS GENERAL PARTNER, MAYNARDS CAPITAL INC.
RESPONDENTS	CLAYTON CONSTRUCTION CO. LTD., GLENN ALLAN CLAYTON, AND JOHN JAMES CLAYTON
DOCUMENT	ORDER FOR 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	BLAKE, CASSELS & GRAYDON LLP 3500, 855 – 2nd Street S.W. Calgary, Alberta T2P 4J8 Attention: Ryan Zahara/James Reid Telephone: 403-260-9628 Facsimile: 403-260-9700 Email: ryan.zahara@blakes.com james.reid@blakes.com File Ref.: 79294/12

DATE ON WHICH ORDER WAS PRONOUNCED: February 11, 2019

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary Courts Centre

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice R.A. Neufeld

UPON the application (the "**Application**") by FTI Consulting Canada Inc., in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertaking, property and assets of Clayton Construction Co. Ltd. (the "**Debtor**") for an Order for approval of the Receiver's fees and disbursements, the Receiver's legal counsel's fees and disbursements, approval of the Receiver's activities and discharge of the Receiver;

AND UPON HAVING READ the Receivership Order dated May 8, 2018 (the "**Receivership Order**"), the Third Report of the Receiver dated February 4, 2019 (the "**Third Report**"), and the Affidavit of Service of [●] sworn [●], 2019, filed;

AND UPON HEARING the submissions of counsel for the Receiver and any other counsel in attendance;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. 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 & ACTIVITIES OF RECEIVER

2. The Receiver's accounts for fees and disbursements, as set out in the Third Report are hereby approved without the necessity of a formal passing of its accounts.
3. The accounts of the Receiver's legal counsel Blake, Cassels & Graydon LLP ("**Blakes**"), for its fees and disbursements, as set out in the Third Report are hereby approved without the necessity of a formal assessment of its accounts.
4. The Receiver's activities as set out in the Third Report and in its other reports filed herein are hereby ratified and approved.
5. The Receiver's statement of receipts and disbursements from May 8, 2018 to February 1, 2019, as set out in the Third Report, are hereby approved.

DISCHARGE

4. 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 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.
5. 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.

6. Upon the filing of the Receiver's Completion Certificate, substantially in the form attached hereto as Schedule "A", the Receiver is hereby unconditionally and absolutely discharged as Receiver of the Property (as such term is defined in the Receivership Order). Upon the filing of the Receiver's Completion Certificate the Receiver shall have no further duty, liability or obligation with respect to the Property.
7. 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; 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.

GENERAL

8. The Receiver is authorized and directed to destroy the books and records of the Debtor that are not claimed by the directors or former directors of the Debtor by February 21, 2019.
9. 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.
10. Service of this Order on any party not attending this application is hereby dispensed with.

J.C.Q.B.A.

Schedule "A"

Form of Receiver's Completion Certificate

COURT FILE NO.	1801 - 06578
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANTS	MAYNARDS FINANCIAL LIMITED PARTNERSHIP, BY ITS GENERAL PARTNER, MAYNARDS CAPITAL INC.
RESPONDENTS	CLAYTON CONSTRUCTION CO. LTD., GLENN ALLAN CLAYTON, AND JOHN JAMES CLAYTON
DOCUMENT	RECEIVER'S COMPLETION CERTIFICATE
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	BLAKE, CASSELS & GRAYDON LLP 3500, 855 - 2nd Street S.W. Calgary, Alberta T2P 4J8 Calgary, Alberta T2P 4J8 Attention: Ryan Zahara/James Reid Telephone: 403-260-9628 Facsimile: 403-260-9700 Email: ryan.zahara@blakes.com james.reid@blakes.com File Ref.: 79294/12

This Receiver's Certificate is the Receiver's Certificate referred to in paragraph 6 of the Order of the Honourable Mr. Justice R.A. Neufeld dated February 11, 2019 (the "**Order**"), in these proceedings.

Capitalized terms not otherwise defined herein shall have the meaning given to them in the Third Report of the Receiver, dated February 4, 2019 (the "**Third Report**").

FTI Consulting Canada Inc., solely in its capacity as Court-appointed receiver and manager (the "**Receiver**") of Clayton Construction Co. Ltd. ("**Clayton**") and not in its personal capacity, hereby certifies that:

- (a) all funds in the receivership were received and distributed as described in the Statement of Receipts and Disbursements described in the Third Report, with the exception of any minor discrepancies as compared to the estimated future amounts;
- (b) all documents, accounting records and other papers, records and information related to the business or affairs of Clayton have been destroyed by the Receiver or have been returned to the former directors of Clayton;

- (c) The Remaining Tasks, as described in the Third Report, have been completed by the Receiver.

FTI CONSULTING CANADA INC., in its capacity as the Court-appointed receiver and manager of the undertaking, property and assets of **CLAYTON CONSTRUCTION CO. LTD.** and not in its personal or corporate capacity

Per: _____

Name:

Title:

TAB B

Schedule "B"

Service List

(see attached)

COURT FILE NO. 1801-06578

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANTS MAYNARDS FINANCIAL LIMITED PARTNERSHIP, BY ITS GENERAL PARTNER, MAYNARDS CAPITAL INC.

RESPONDENTS CLAYTON CONSTRUCTION CO. LTD., GLENN ALLAN CLAYTON, and JOHN JAMES CLAYTON

SERVICE LIST

Party	Telephone	Fax	Role
BLAKE, CASSELS & GRAYDON LLP 3500, 855 – 2 nd Street SW Calgary, AB T2P 4J8 RYAN ZAHARA E-mail: ryan.zahara@blakes.com JAMES REID E-mail: james.reid@blakes.com	 403-260-9628 403-260-9731	403-260-9700	Counsel to Receiver
FTI CONSULTING CANADA INC. Suite 1610, 520 - 5th Avenue SW Calgary, AB T2P 3R7 CRAIG MUNRO E-mail: Craig.Munro@fticonsulting.com ROBERT KLEEBAUM E-mail: Robert.Kleebaum@fticonsulting.com	 604-601-5699 403-454-6035	403-232-6116	Receiver
FASKEN MARTINEAU DUMOULIN LLP First Canadian Centre Suite 3400, 350 7th Avenue SW Calgary , AB T2P 3N9 TRAVIS LYSAK E-mail: tlysak@fasken.com MIHAI TOMOS E-mail: mtomos@fasken.com	 403-261-5501 587-233-4107	403-261-5351	Counsel to Maynards Financial Limited Partnership

Party	Telephone	Fax	Role
MCCARTHY TÉTRAULT Suite 4000, 421 – 7 th Avenue SW Calgary, AB T2P 4K9 PANTELIS KYRIAKAKIS E-mail: pkiriakakis@mccarthy.ca	403-260-3536		Counsel to CFSL
BISHOP & MCKENZIE LLP 2300, 10180 - 101 Street NW Edmonton, AB T5J 3S4 JERRITT R. PAWLYK E-mail: j.pawlyk@bishopmckenzie.com	780-420-6236 780-421-2477	780-426-1305	Counsel to Nilex Inc.
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FORD CREDIT CANADA LIMITED PO Box 2400 Edmonton, AB T5J 5C7 MONICA BELANGER		1-866-367-3888	Creditor
KRAMER LTD. 2360 Pasqua St. N Regina, SK S4P 3A8	306-545-3311	306-949-6249	Creditor
FINNING INTERNATIONAL INC. 16901 – 109 Avenue Edmonton, AB T5P 4P6 ANDREW FRASER E-mail: afraser@finning.com	780-930-8899	780-930-8503	Creditor
OAKLEY MECHANICAL LTD. 3916 52 St. Close Lloydminster, SK S9V 2G9 E-mail: oakmec@sasktel.net	306-825-5561	306-825-5568	Creditor

Party	Telephone	Fax	Role
WHITEHORSE MOTORS LTD. 4178 4 Ave Whitehorse, YT Y1A 1J6 TINA WOODLAND E-mail: tina@whitehorsemotors.com		867-667-6246	Creditor
FELDSPAR INC. 5002 65 St. Lloydminster, AB T9V 2K2 KAREN CARLTON E-mail: kcarlton@telus.net	780-875-2208 780-875-2207		Contingent Creditor
COUNTY OF VERMILLION RIVER 4912 - 50 Ave Kitscoty, AB T0B 2P0 E-mail: office@county24.com	780-846-2244	780-846-2716	Creditor
JUSTICE CANADA Prairie Region 606 - 4 th Street SW, Suite 510 Calgary, AB T2P 1T1 JILL MEDHURST E-mail: jill.medhurst@justice.gc.ca	403-299-3985	403-299-3966	Counsel to Canada Revenue Agency
CANADA REVENUE AGENCY Surrey National Verification and Collection Centre 9755 King George Boulevard Surrey BC V3T 5E1	866-891-7403	866-219-0311	Creditor
FOX, WAKEFIELD & SHOLTER LLP 5016 - 48 Street, Lloydminster, AB T9V 0H8 JEREMY WAKEFIELD E-mail: jeremy@midwestlaw.ca	780-875-9105	780-875-6748	Agent for All Points Towing & Plowing Ltd.

Party	Telephone	Fax	Role
YUKON EXPLORATION GREEN GOLD INC. PO Box 1178 Dawson City, YT Y0B 1G0 E-mail: yukonexploration@hotmail.com	604-500-4109		Contractual Counterparty