



No. S128887  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF AN APPLICATION PURSUANT TO  
SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
R.S.C. 1985, c.B-3, AS AMENDED and SECTION 39 OF THE *LAW AND EQUITY ACT*,  
R.S.B.C. 1996 C.253, AS AMENDED

BETWEEN:

**DUMAS HOLDINGS INC.**

Petitioner

**TERCON INVESTMENTS LTD., TERCON A.C. LTD., TERCON EQUIPMENT LTD.,  
TERCON CONSTRUCTION LTD., TERCON MINING LTD., TERCON ENTERPRISES  
LTD., TERCON MRC LIMITED, FNP VENTURES INC., TERCON MINING PV LTD.,  
TERCON EQUIPMENT ALASKA PARTNERSHIP AND TERCON ALASKA LTD.**

Respondents

**ORDER MADE AFTER APPLICATION**

BEFORE THE HONOURABLE )  
 ) 12/09/2013  
JUSTICE SEWELL )

THE APPLICATION of FTI CONSULTING CANADA INC., in its capacity as Court-appointed Receiver (the “**Receiver**”) of the assets, undertakings and properties of Tercon Investments Ltd., Tercon A.C. Ltd., Tercon Equipment Ltd., Tercon Construction Ltd., Tercon Mining Ltd., Tercon Enterprises Ltd., Tercon MRC Limited, FNP Ventures Inc., Tercon Mining PV Ltd., Tercon Equipment Alaska Partnership and Tercon Alaska Ltd. (collectively, the “**Debtors**”) coming on for hearing at Vancouver, British Columbia, on the 12<sup>th</sup> day of September, 2013; AND ON HEARING Magnus Verbrugge, counsel for the Receiver, and those other counsel listed on Schedule “A” hereto, AND UPON READING the material filed, including the Ninth Report of the Receiver dated September 3, 2013 (the “**Ninth Report**”)<sup>1</sup>;

<sup>1</sup> All capitalized terms not defined herein shall have the meaning ascribed to them in the Ninth Report.

THIS COURT ORDERS AND DECLARES THAT:

1. The time for service of the Notice of Application and supporting materials is hereby abridged and properly returnable today, and the need for further service of the Notice of Application and supporting materials is hereby dispensed with.
2. The Receivership Order dated December 14, 2012 issued by the Court in this proceeding is hereby amended to:
  - (a) remove the requirement to obtain the prior written consent of HSBC Bank Canada, in its capacity as Agent (the “**Agent**”) set out in paragraphs 3(h), 3(m)(i), 3(m)(ii) and 22 of the Receivership Order; and
  - (b) delete paragraphs 27 and 28 of the Receivership Order.
3. The Distribution Order dated January 21, 2013 issued by the Court in this proceeding is hereby amended to:
  - (a) substitute DHI (on account of its claims, including its subrogated or assigned claims) for HSBC in paragraphs 5 and 6 and 23 of the Distribution Order;
  - (b) delete the second reference to HSBC in paragraphs 17 and 18 of the Distribution Order; and
  - (c) delete the reference to HSBC in paragraphs 20 and 31 of the Distribution Order.
4. The Order of the Court dated April 11, 2013 issued by the Court in this proceeding is hereby amended to substitute DHI (on account of its claims, including its subrogated or assigned claims) for the Agent in paragraph 2 of the said Order.
5. The Claims filed with the Receiver in accordance with the Claims Procedure Order and listed in Appendix “A” to the Ninth Report constitute trust claims under the *Builders Lien Act SBC 1997 C.45* (the “**BLA**”) and the Receiver is hereby authorized to pay the Claims listed in Appendix “A” to the Ninth Report.
6. The Claims paid by and assigned to Trisura referenced as Appendix “C” to the Ninth Report, as amended and exhibited as **Exhibit “A”** in the Affidavit of Betty Torsky sworn September 9, 2013, constitute trust claims under the BLA and the Receiver is hereby authorized to pay to Trisura the total amount of the Claims listed in Appendix “C” to the Ninth Report, as amended.
7. The Claims filed with the Receiver listed in Appendix “B” to the Ninth Report do not constitute trust claims under the BLA.
8. The balance of the Lien and Trust Reserve, if any, is hereby released from such reserve and the Receiver is hereby authorized to deal with any such funds in accordance with the provisions of the Distribution Order, as amended hereby.

9. The Receiver is hereby authorized to pay the Secured TCL Employee Claims and the Secured MRC Employee Claims referred to in paragraphs 51 and 52 of the Ninth Report from the amounts collected by the Receiver.
10. Notwithstanding the terms of the Claims Procedure Order dated March 21, 2013 issued in this proceeding, any funds in the hands of the Receiver in respect of the Clean-up Project (the "**Clean-up Project Funds**") may be released by the Receiver and dealt with in accordance with the provisions of the Distribution Order, as amended hereby. For greater certainty, the Clean-up Project Funds shall not be treated as Bonded Project Funds with respect to the Claims Procedure Order.
11. The Receiver shall have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.
12. The activities of the Receiver set out in the Ninth Report filed, be and are hereby approved.
13. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such Orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

THE APPROVAL OF COUNSEL SET OUT IN SCHEDULE "A" OF THIS ORDER, OTHER THAN COUNSEL FOR FTI CONSULTING CANADA INC., IS HEREBY DISPENSED WITH:



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Signature of Magnus Verbrugge

Party  Lawyer for  
FTI Consulting Canada Inc., in its capacity as  
Court-appointed Receiver

BY THE COURT



\_\_\_\_\_  
REGISTRAR

SCHEDULE A - List of Counsel

COUNSEL

JOHN MOSHONAS

TRISURA GUARANTEE INSURANCE COMPANY

MATTHEW SWANSON

THE RECEIVER

CRAIG HELL

THE RECEIVER

DAVID CRUBER

PETITIONER

ANDREA LOCKHART

PETITIONER

AARON WELCH

HER MAJESTY THE QUEEN IN RIGHT OF  
THE PROVINCE OF BRITISH COLUMBIA.

Action No. S128887  
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TERCON ENTERPRISES LTD., TERCON MRC  
LIMITED, FNP VENTURES INC., TERCON MINING  
PV LTD., TERCON EQUIPMENT ALASKA  
PARTNERSHIP AND TERCON ALASKA LTD.**

Respondents

AND:

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
**TERCON INVESTMENTS LTD., TERCON A.C. LTD.,  
TERECON EQUIPMENT LTD., TERCON  
CONSTRUCTION LTD., TERCON MINING LTD.,  
TERCON ENTERPRISES LTD., TERCON MRC  
LIMITED, FNP VENTURES INC., TERCON MINING  
PV LTD., TERCON EQUIPMENT ALASKA  
PARTNERSHIP AND TERCON ALASKA LTD.**

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**ORDER**

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