

Estate No: 32-2701357

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF UNIQUE RESTORATION LTD.  
UNDER THE *BANKRUPTCY AND INSOLVENCY ACT***

**MOTION RECORD OF UNIQUE RESTORATION LTD.**

January 28, 2021

**RORY MCGOVERN PC**

Lawyer

25 Adelaide St. East Suite 1910

Toronto, ON, M5C 3A1

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Lawyer for the Debtor,

Unique Restoration Ltd.

TO: THE SERVICE LIST

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF UNIQUE RESTORATION LTD.  
UNDER THE *BANKRUPTCY AND INSOLVENCY ACT***

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**IN THE MATTER OF THE NOTICE OF INTENTION TO**  
**MAKE A PROPOSAL OF UNIQUE RESTORATION LTD.**  
**UNDER THE *BANKRUPTCY AND INSOLVENCY ACT***

**NOTICE OF MOTION**  
**(Extension of Time to File a Proposal)**  
**(Returnable February 3, 2020)**

Unique Restoration Ltd. (“**Unique**”) will make a Motion to a Judge presiding over the Commercial List at 330 University Avenue, Toronto, Ontario on Wednesday, February 3, 2021 at 11:00 a.m., or as soon after that time as the Motion can be heard, via Zoom teleconference, the details for which are set out in the attached Schedule “A”

**PROPOSED METHOD OF HEARING:** The Motion is to be heard orally.

**THE MOTION IS FOR**

1. An Order, substantially in the form attached at Tab \* of this Motion Record that, among other things:
  - (a) abridges and validates the time for service of this Notice of Motion and the Motion Record and dispenses with further service thereof;
  - (b) extends from February 3, 2021 to March 19, 2021 the time for Crowe Soberman Inc., in its capacity as proposal trustee (the “**Trustee**”) to file with the Official Receiver, on

behalf of Unique, a proposal to creditors pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”); and

(c) such further and other Relief as to this Honourable Court may seem just.

**THE GROUNDS FOR THE MOTION ARE**

- (a) On January 4, 2021, Unique filed a notice of intention under Section 50.4 of the BIA;
- (b) Unless extended, the deadline to file a proposal is February 3, 2021, which date is 30 days after January 4, 2021;
- (c) The commercial list did not have any available dates for this hearing prior to February 3, 2021;
- (d) This is the first stay extension being sought by Unique;
- (e) No creditor would be materially prejudiced if an extension of the stay of proceedings is granted;
- (f) Unique has agreed to a conditional and limited receivership order over its building located at 1220 Matheson Blvd. in the City of Mississauga, Ontario (the “**Building**”) in favour of the Royal Bank of Canada (“**RBC**”), if Unique continues to fail to meet its obligations under Unique’s forbearance agreement with RBC;
- (g) Unique has worked cooperatively with RBC to protect RBC’s interest in respect of the Building;



- (h) Allowing Unique to remain within the protection of the BIA will allow Unique to work towards putting a proposal forward to its creditors which will hopefully result in a favourable outcome for Unique's stakeholders;
- (i) Unique has acted and is acting in good faith and with due diligence, as more fully set out in the affidavit of Steve Leblanc, the president and a director of Unique, which affidavit has been filed in support of the within motion;
- (j) Section 50.4(9) of the BIA; and
- (k) Such further and other grounds as the lawyers may advise.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

- (a) The affidavit of Steve Leblanc sworn January 28, 2021;
- (b) The first report of the Trustee, to be filed; and
- (c) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

January 28, 2021

**RORY MCGOVERN PC**

Lawyer  
25 Adelaide St. East Suite 1910  
Toronto, ON, M5C 3A1

**Rory McGovern LSO# 65633H**

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Tel: (416) 938-7679  
Fax: (647) 559-9694

Lawyer for the Debtor,  
Unique Restoration Ltd.

TO: **THE SERVICE LIST**

RCP-E 37A (September 1, 2020)

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
UNIQUE RESTORATION LTD. UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*

Estate No: 32-2701357

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT  
TORONTO

**NOTICE OF MOTION (FIRST STAY EXTENSION)**

**RORY MCGOVERN PC**

Lawyer  
25 Adelaide St. East Suite 1910  
Toronto, ON, M5C 3A1

**Rory McGovern (65633H)**

rory@rorymcgovernpc.com  
Tel: (416) 938-7679  
Fax: (647) 559-9694

Lawyer for the Debtor,  
Unique Restoration Ltd.

**File Number:**

Estate No: 32-2701357

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**IN THE MATTER OF THE NOTICE OF INTENTION TO**  
**MAKE A PROPOSAL OF UNIQUE RESTORATION LTD.**  
**UNDER THE *BANKRUPTCY AND INSOLVENCY ACT***

**AFFIDAVIT OF STEVE LEBLANC SWORN JANUARY 28, 2021**

I, Steve Leblanc, of the City of Hamilton, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the President of Unique Restoration Ltd. (“**Unique**”), and, as such, have knowledge of the matters contained in this Affidavit. Where the statements included herein are based on information and belief, I have stated the source of that information and believe it to be true. In preparing this affidavit, I consulted with legal, financial and other advisors of Unique and the board of directors of Unique (the “**Board**”).
2. This affidavit is in support of a motion by Unique Restoration Ltd. (“**Unique**”) for an order extending the time from February 3, 2021 to March 19, 2021 for Crowe Soberman Inc., in its capacity as proposal trustee (the “**Trustee**”) to file with the Official Receiver, on behalf of Unique, a proposal to creditors pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”).
3. Unique was incorporated in 1984 and on March 1, 2020, was amalgamated with one of its subsidiaries, 2039648 Ontario Inc. and continued to operate as Unique. A corporate profile report for Unique is attached as Exhibit “**A**”.

4. Unique was engaged in the business of building maintenance and restoration services for multi-unit residential, commercial and industrial projects primarily in British Columbia and Ontario. When Unique first began operating in 1984, it had approximately 20 employees and was generating approximately \$1.5-\$2 million of revenue per year.

5. By the mid 1990s, Unique had grown its business significantly and employed approximately 90 people and was generating approximately \$7-9 million of revenue per year.

6. During the early 2000s, Unique's business rapidly expanded and at its peak in 2016, Unique employed approximately 260 employees and generated approximately \$20 million of revenue per year.

7. As a result of the events which are described herein at paragraphs 11 to 45, on or around March, 2020, Unique ceased its day to day operations as a building restoration and construction company and has no current ongoing restoration projects.

8. As of the date of this affidavit, Unique has no employees and is being operated entirely by the Board which consists of John Kennedy, Martin Williams and me.

9. Unique's only physical asset of any significance is its building which is located at 1220 Matheson Boulevard in the City of Mississauga, Ontario (the "**Building**").

10. Apart from the Building, Unique's only other assets are Litigation Assets, as defined at paragraph 65 herein, and tax assets, the value of which has not yet been determined.

#### **I. Causes of Insolvency**

11. In or around May 2016, Unique entered into a building envelope contract (the “**Building Envelope Contract**”) with Starlight Group Property Holdings Inc., on its own behalf and on behalf of IMH 415 & 435 Michigan Apartments Ltd. IMH Pool XIV LP and IMH GP XIV Ltd. (collectively, “**Starlight**”) for a renovation project in respect of several buildings located in the City of Victoria, British Columbia (the “**Starlight Project**”).

12. In connection with the Starlight Project, Unique secured a labour and materials payment bond from Zurich Insurance Company Ltd. (the “**Bond**”). Given the size of the projects that Unique usually undertook, securing labour and materials bonds was and continues to be an important factor in successfully bidding for construction projects.

13. Unique began working on the Starlight Project as a subcontractor in or around June, 2016.

14. From June 2016 until September 2017, Starlight was the prime contractor in respect of the Starlight Project.

15. On or around December 14, 2016, Worksafe BC conducted an inspection on the worksite of the Starlight Project and issued a stop work order (the “**Stop Work Order**”) with respect to one of the buildings being worked on in connection with the Starlight Project.

16. There was no indication in the report provided by Worksafe BC in connection with the Stop Work Order that Unique had any responsibility for the issue that caused Worksafe BC to issue same.

17. Shortly after the Stop Work Order was issued, on or about January, 2017, Starlight voluntarily stopped work on all of the buildings associated with the Starlight Project (the “**Work Stoppage**”).

18. In or around August, 2017, after a significant and costly delay due to the Work Stoppage, Unique expressed concerns to Starlight about the Work Stoppage, but those concerns were allayed by Starlight after it assured Unique that it would: (a) promptly pay all arrears in connection with Unique's previous invoices, (b) that it did not hold Unique responsible in any way for the Work Stoppage and that it was confident that Unique had carried out its work under the Building Envelope Contract in a good and workmanlike manner, (c) that it would award Unique the Prime Contractor Agreement in connection with the Starlight Project, and (d) that Starlight would promptly pay all of Unique's invoices when rendered.

19. Satisfied with the assurances provided by Starlight, on or about August, 2017, Unique returned to the work site to finish its work under the Building Envelope Contract.

20. In addition to completing its work under the Building Envelope Contract, Unique entered into a prime contractor agreement with Starlight in or around September, 2017 (the "**Prime Contractor Agreement**"), and remained the prime contractor on the site until the Starlight Project was substantially completed.

21. There were no further issues or shutdowns of the Starlight Project while Unique was the prime contractor.

***Starlight Fails to Pay Unique***

22. During the time that Unique was working on the Starlight Project, it incurred substantial costs associated with subcontractors that it hired to complete different aspect of the work in respect of the Building Envelope Contract.

23. Unfortunately, and despite its assurances to the contrary, Starlight continued to fail to pay Unique on time for the invoices Unique provided in connection with the Building Envelope Contract and the Prime Contractor Agreement.

24. As a result of Starlight's failure to pay Unique's invoices, on or about June 15, 2018, Unique partially suspended the performance of its work under Building Envelope Contract, which it was entitled to do under the terms of same.

25. Starlight continued to fail to pay the invoices Unique provided to it in connection with the Building Envelope Contract and the Prime Contractor Agreement after Unique partially suspended its performance.

26. Notwithstanding the dispute between Starlight and Unique, in early September, 2018, in good faith, Unique offered to return to the work site and finish its work in connection with the Building Envelope Contract.

27. On or about September 6, 2018, Starlight purported to terminate the Building Envelope Contract.

28. On or about September 12, 2018, Starlight commenced an action against Unique in connection with the damages it allegedly suffered in connection with the Work Stoppage, among other things. A copy of the Notice of Civil Claim of Starlight is attached as Exhibit "**B**" (the "**Starlight Claim**").

29. In response to the Starlight Claim, Unique defended the action and commenced a counterclaim against Starlight for the various invoices that Starlight failed to pay, among other



things. Copies of Unique's Response to Civil Claim and Counterclaim are attached as Exhibits "C" and "D", respectively.

30. Notwithstanding the merits of the litigation, Unique was unable to advance its claims against Starlight due to the expense of doing so.

31. On or around June 2020, Unique retained new counsel to prosecute its claims against Starlight and it has diligently advanced the litigation since that time.

32. At the present time, the parties have exchanged documents and the trial in respect of the Starlight litigation is set to commence on January 24, 2022. A copy of the Notice of Trial is attached as Exhibit "E".

***Damages in Connection with the Starlight Project***

33. As at the end of June 2018, Unique had outstanding invoices to Starlight in respect of the Building Envelope Contract in the amount of approximately \$2,221,090.57, which invoices were subject to an interest rate of 24.00% per annum (the "**BE Invoices**"). The current value of the BE Invoices is approximately \$3,598,288.43.

34. As of June 30, 2018, Unique had outstanding invoices to Starlight in respect of the Prime Contractor Agreement in the amount of \$80,577.00, which invoices were also subject to an interest rate of 24.00% per annum (the "**PC Invoices**"). The current value of the PC Invoices is approximately \$130,539.16.

35. In connection with the unpaid BE Invoices and the PC Invoices Unique filed two liens as against the Starlight Project pursuant to the *Builder's Lien Act* SBC 1997 C 45 (the "**Liens**")

bearing Claim of Lien Numbers CA6851343 and CA6851342, respectively. On or about December, 2019, the Liens were vacated on consent after lien bonds were secured by Starlight and the value of the Liens was paid into court (the “**Lien Bonds**”). A copy of the draft consent order in respect of the Lien Bonds is attached as Exhibit “**F**”.

36. A copy of the entered consent order in respect of the Lien Bonds has been requested from Unique’s former counsel in case this Court or any of Unique’s creditors would like to review same.

37. Due to Starlight’s breaches of the Building Envelope Contract and the Prime Contractor Agreement, Unique was unable to pay the subcontractors it hired in connection with the Building Envelope Contract. Some of these subcontractors commenced actions against Unique in respect of the amounts Unique owed them in connection with the Starlight Project (the “**Subcontractor Litigation**”).

38. One of the subcontractors that commenced litigation, Ferro Canada Inc., obtained default judgment against Unique on September 26, 2019. A copy of the Default Judgment is attached as Exhibit “**G**” (the “**Ferro Default Judgment**”).

39. In addition to Ferro, the following trade creditors have also commenced proceedings against Unique:

1. Quicklinks Construction o/a Northwest Scaffolding;
2. A-1 Window Mfg. Ltd.;
3. Passaglia Concrete Restoration & Repair Ltd.;

4. Lionsgate Scaffolding; and

5. Scafom Canada Inc.

40. In addition to the foregoing creditors, other creditors may have commenced actions against Unique but I am not aware of any additional proceedings at the time of the swearing of this Affidavit.

41. The damages Unique is exposed to in connection with the Subcontractor Litigation, including the Ferro Default Judgment may be compensable under the terms of the Building Envelope Contract if Unique is successful against Starlight at trial.

42. In addition to the Subcontractor Litigation, on or about September, 2018, a large subcontractor in respect of the Starlight Project called the Bond as Unique could not pay the subcontractor's invoices due to Starlight's defaults under the Building Envelope Contract and Prime Contractor Agreement. A copy of the letter provided by the subcontractor advising Unique that it would be calling the Bond is attached as Exhibit "H".

43. After the Bond was called, Unique was not able to secure bonding for any future projects it would have bid on.

44. In my experience in the construction industry, the ability to secure a bond is often necessary to be able to submit bids for projects in the construction industry. As such, Unique's business was effectively ruined as it was unable to put in a competitive bid for a variety of projects that it would have otherwise bid on.

45. Had Unique been able to bid on other projects, it would have been able to continue generating revenue to cover its obligations as it prosecuted its claims against Starlight.

***The Decision to File the NOI***

46. After consulting with our advisors, it was determined that Unique is insolvent and the best option available to it would be to enter into the notice of intention process under the BIA, allowing the company to (a) sell the Building so as to satisfy by the claims of Unique's secured creditors, the Royal Bank of Canada ("**RBC**") and VGNA Holdings Inc. ("**VGNA**"), and (b) pursue the Starlight Litigation in the hopes that Unique can recover additional amounts to partially or fully satisfy the claims of its unsecured creditors.

47. Accordingly, on January 4, 2021, the Trustee filed with the Official Receiver, on behalf of Unique, a notice of intention to make a proposal to creditors under Section 50.4 of the *Bankruptcy and Insolvency Act*, a copy of which is attached as Exhibit "**I**" (the "**NOI**") and is included with the creditor mailing package that has been provided to Unique's creditors.

***Unique's Creditors and Assets***

48. The total value of creditors claims set out in the form 33 of the NOI is approximately \$9,922,157.79.

***Secured Creditors***

49. Unique's two largest creditors are RBC and VGNA, who are owed a combined amount of approximately \$5 million. Both RBC and VGNA have mortgages in respect of the Building. A copy of a recent parcel register is attached hereto as Exhibit "**J**".

50. VGNA is a creditor of Unique after it took an assignment of a mortgage registered against the Building in the amount of approximately \$1.3 million.

51. RBC is a creditor of Unique as it provided certain credit facilities to Unique in connection with the operation of Unique's business over the years.

52. As of the date of this Affidavit, Unique's total indebtedness to RBC is approximately \$3,664,900.00, which is made up of the following amounts:

- (a) \$3,096,214.43 in respect of principal and interest for a revolving demand facility;
- (b) \$389,898.66 in respect of principal and interest for a term loan;
- (c) \$59,295.64 in respect of a VISA credit card facility; and
- (d) \$22,176.84 in respect of legal fees and expenses.

53. RBC secured its interest against Unique through a combination of personal guarantees that were entered into by myself, Linda Leblanc, John Kennedy and Monica Kennedy, a general security agreement against Unique's assets, and a collateral mortgage against the Building in the amount of \$3.6 million.

*Unsecured Creditors*

54. In addition to the creditors listed in paragraphs 37-39, most of Unique's other creditors are trade creditors or suppliers that may be owed money in connection with services or goods previously supplied to Unique in connection with its various projects (the "**Trade Creditors**").

55. In addition to the Trade Creditors, I am a significant unsecured creditor of Unique as I have been using my personal funds to support Unique's business for the last several years. Unique will be amending the creditor list to include myself as an unsecured creditor prior to any proposal being made to its other creditors.

*RBC Enforces its Security*

56. On or about March 26, 2020, RBC provided Unique with a demand letter and a notice of intention to enforce its security under Section 244(1) of the BIA (the "NOES"), copies of which are attached hereto collectively as Exhibit "K".

57. After it provided the NOES, RBC entered into a forbearance agreement with Unique and certain guarantors on June 4, 2020, which agreement was extended on October 13, 2020 (the "**Forbearance Agreement**"), copies of which agreements are attached collectively as Exhibit "L".

58. As a term of the Forbearance Agreement, Unique executed a consent to the immediate appointment of an interim receiver if Unique's indebtedness to RBC was not paid in full.

59. At the present time, Unique has entered into an agreement of purchase and sale in respect of the Building, which transaction, if it closes should provide sufficient funds to satisfy substantially all of Unique's obligations to RBC and VGNA.

60. Previous attempts to sell the Building have not been successful, in part, due to the effect of the Covid 19 pandemic on the commercial real estate market, among other reasons.

61. Unique's position is that RBC's interests are not stayed as a result of the filing of the NOI and Unique has consented to the appointment of a receiver over the Building only, if it continues to be unable to fulfill its obligations under the Forbearance Agreement.

62. In order to preserve RBC's interest in the Building, Unique has worked cooperatively with RBC and agreed to allow RBC to have a property manager attend at the Building on a weekly basis to ensure that it is being maintained appropriately.

63. Apart from the Building, which is subject to the mortgage interests of the Royal Bank of Canada and VGNA Holdings, the Starlight litigation is Unique's only remaining asset of any significant potential value.

64. In addition to the Starlight litigation, Unique is also considering continuing its prosecution of a counterclaim against Holcim (Canada) Inc. o/a Ontario Redimix ("**Holcim**"), which, if Unique is successful at trial may provide additional funds to assist in the recovery for Unique's creditors (the "**ORM Litigation**"). Attached as Exhibits "**M**" and "**N**" are copies of the statement of claim of Holcim and Unique's statement of defence and counterclaim in respect of the ORM Litigation, respectively.

65. The Starlight litigation and the ORM Litigation may be collectively referred to herein as the "**Litigation Assets**".

### **III. EXTENSION OF TIME TO FILE A PROPOSAL**

66. Unique has been acting in good faith and with due diligence and has continued to do so since the filing of the Notice of Intention.

67. Among other things, since the filing of the Notice of Intention, Unique has:
- (a) finalized its List of Documents and productions in connection with the Starlight Litigation, among other procedural steps;
  - (b) directed its counsel to review the merits of the ORM Litigation and to prosecute same if our counsel and the Trustee believe that it would be in the best interests of Unique's stakeholders to do so;
  - (c) ensured that the Building is maintained and that insurance is in place so as to protect the interests of Unique's secured creditors;
  - (d) actively worked with the Trustee to evaluate its financial position and options and provided its cash flow statement and creditor package in accordance with the time prescribed under the BIA. A copy of the creditor package is attached as Exhibit "H" and the Trustee will file its cash flow statement in its first report, to be filed;
  - (e) kept communication channels open with RBC and informed RBC of its objectives in the BIA process; and
  - (f) has been and will continue working with the Trustee to put forward a proposal to Unique's creditors.
68. Unique is managing the day to day expenses associated with maintaining the Building by utilizing a small amount of holdback funds it recently received from a transaction that closed in February, 2020.



69. Unique will not likely be seeking any debtor in possession financing as it is no longer operating as a going concern.

***Unique is Committed to Ensuring Recovery for Its Creditors***

70. As of the date hereof, the primary focus of Unique is to resolve all of the claims of Unique's secured creditors by facilitating the sale of the Building.

71. Once the Building is sold, Unique will not have any liquid assets available and as such, the Board intends to work cooperatively with our professional advisors to advance the Starlight Litigation and possibly the ORM Litigation in the interests of Unique's other creditors.

72. In furtherance of same, Unique's counsel has agreed to assist Unique in prosecuting the Starlight Litigation by deferring the payment of a substantial portion of his fees so that Unique can recover as much as possible for its creditors and keep its costs during the NOI proceeding minimal.

73. It is anticipated that any proposal that Unique will make to creditors will involve distributing any proceeds from the Litigation Assets to creditors.

74. Once a claims process has been run and any assets Unique receives are distributed, Unique will likely be wound up or sold for the tax assets it has accrued to date, the proceeds of which would provide additional recovery for Unique's creditors.

[THE REST OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]

75. This affidavit is sworn in support of the within motion and for no other or improper purpose.

**SWORN** by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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Commissioner for Taking Affidavits  
(or as may be)

**RORY MCGOVERN**

DocuSigned by:  
  
9594B91E23F5495...

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**STEVE LEBLANC**

RCP-E 4D (September 1, 2020)

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
UNIQUE RESTORATION LTD. UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*

Estate No: 32-2701357

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT  
TORONTO

**AFFIDAVIT OF STEVE LEBLANC**  
**SWORN JANUARY 28, 2021**

**RORY MCGOVERN PC**

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Tel: (416) 938-7679

Fax: (647) 559-9694

Lawyer for the Debtor,  
Unique Restoration Ltd.

**File Number:**

This is Exhibit "A" referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**

Request ID: 025608595  
 Transaction ID: 77985765  
 Category ID: UN/E

Province of Ontario  
 Ministry of Government Services

Date Report Produced: 2021/01/27  
 Time Report Produced: 17:12:09  
 Page: 1

## CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
945406	UNIQUE RESTORATION LTD.	1984/09/18
		Jurisdiction
		ONTARIO
		Former Jurisdiction
		CANADA
Corporation Type	Corporation Status	
ONTARIO BUSINESS CORP.	AMALGAMATED	
Registered Office Address		Date Amalgamated
1220 MATHESON BOULEVARD EAST		2020/03/01
		Amalgamation Ind.
		NOT APPLICABLE
		New Amal. Number
		005030859
		Notice Date
		NOT APPLICABLE
		Letter Date
		NOT APPLICABLE
Mailing Address		Revival Date
NOT AVAILABLE		NOT APPLICABLE
		Continuation Date
		2020/02/25
		Transferred Out Date
		NOT APPLICABLE
		Cancel/Inactive Date
		NOT APPLICABLE
		EP Licence Eff.Date
		NOT APPLICABLE
		EP Licence Term.Date
		NOT APPLICABLE
		Date Commenced in Ontario
		NOT APPLICABLE
		Date Ceased in Ontario
		NOT APPLICABLE
		Number of Directors
		Minimum
		Maximum
		00001
		00003
Activity Classification		
NOT AVAILABLE		

Request ID: 025608595  
Transaction ID: 77985765  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2021/01/27  
Time Report Produced: 17:12:09  
Page: 2

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

945406

**Corporation Name**

UNIQUE RESTORATION LTD.

**Corporate Name History**

**Effective Date**

UNIQUE RESTORATION LTD.

2020/02/12

UNIQUE RESTORATIONS LTD.

1994/07/04

L & G UNIQUE RESTORATIONS LTD.

REFER TO MICROFICHE

L & G UNIQUE RESTORATION LTD.

1984/09/18

**Current Business Name(s) Exist:**

NO

**Expired Business Name(s) Exist:**

NO

Request ID: 025608595  
 Transaction ID: 77985765  
 Category ID: UN/E

Province of Ontario  
 Ministry of Government Services

Date Report Produced: 2021/01/27  
 Time Report Produced: 17:12:09  
 Page: 3

## CORPORATION PROFILE REPORT

### Ontario Corp Number

945406

### Corporation Name

UNIQUE RESTORATION LTD.

### Administrator:

#### Name (Individual / Corporation)

JOHN  
 KENNEDY

#### Address

1220 MATHESON BOULEVARD EAST  
  
 MISSISSAUGA  
 ONTARIO  
 CANADA L4W 1R2

### Date Began

NOT APPLICABLE

### First Director

NOT APPLICABLE

### Designation

DIRECTOR

### Officer Type

### Resident Canadian

Y

### Administrator:

#### Name (Individual / Corporation)

STEVE  
 LEBLANC

#### Address

1220 MATHESON BOULEVARD EAST  
  
 MISSISSAUGA  
 ONTARIO  
 CANADA L4W 1R2

### Date Began

NOT APPLICABLE

### First Director

NOT APPLICABLE

### Designation

DIRECTOR

### Officer Type

### Resident Canadian

Y

Request ID: 025608595  
Transaction ID: 77985765  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2021/01/27  
Time Report Produced: 17:12:09  
Page: 4

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

945406

**Corporation Name**

UNIQUE RESTORATION LTD.

**Administrator:  
Name (Individual / Corporation)**

MARTIN  
WILLIAMS

**Address**

1220 MATHESON BOULEVARD EAST  
  
MISSISSAUGA  
ONTARIO  
CANADA L4W 1R2

**Date Began**

NOT APPLICABLE

**First Director**

NOT APPLICABLE

**Designation**

DIRECTOR

**Officer Type**

**Resident Canadian**

Y



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## CORPORATION PROFILE REPORT

**Ontario Corp Number**

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**Last Document Recorded**

<b>Act/Code</b>	<b>Description</b>	<b>Form</b>	<b>Date</b>
BCA	AMALGAMATION MEMO TO FILE	4	2020/03/01

**THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.**

**ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.**

The issuance of this report in electronic form is authorized by the Director of Companies and Personal Property Security Branch.

This is Exhibit “B” referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

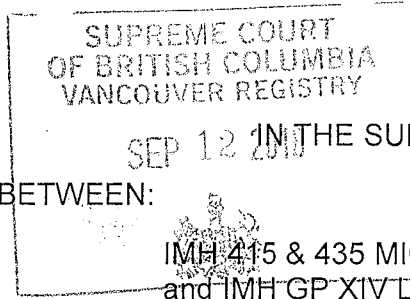


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*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**

S-189965



NO. \_\_\_\_\_  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA  
BETWEEN:

IMH 415 & 435 MICHIGAN APARTMENTS LTD., IMH POOL XIV LP,  
and IMH GP XIV LTD.

PLAINTIFFS

AND

UNIQUE RESTORATION LTD., WYNSPEC MANAGEMENT INC.,  
ZGEMI INC and HARCONBRIDGE CONSTRUCTION LTD.

DEFENDANTS

**NOTICE OF CIVIL CLAIM**

**This action has been started by the plaintiff(s) for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

**Time for response to civil claim**

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or,

- (d) if the time for response to civil claim has been set by order of the court, within that time.

## CLAIM OF THE PLAINTIFFS

### Part 1: STATEMENT OF FACTS

#### A. The Parties

1. The Plaintiff IMH 415 & 435 Michigan Apartments Ltd. ("Michigan Apartments") is a company incorporated pursuant to the laws of the Province of British Columbia. Michigan Apartments is the registered owner of residential apartment buildings located at 415 Michigan Avenue and 435 Michigan Avenue, in the City of Victoria, in the Province of British Columbia ("the Michigan Properties").
2. The Plaintiff IMH Pool XIV LP is a corporation incorporated pursuant to the laws of Province of Ontario and is the beneficial owner of the Michigan Properties. IMH Pool XIV LP and Michigan Apartments are collectively the owners of the Michigan Properties (the "Michigan Owners").
3. The Plaintiff IMH GP XIV Ltd. is a corporation incorporated under the laws of the Province of Ontario and is a general partner of IMH Pool XIV LP.
4. The Defendant Unique Restoration Ltd. ("Unique") is a company incorporated pursuant to the laws of Canada and is extra-provincially registered in British Columbia with an address for delivery at 634 Derment Way, Delta, British Columbia.
5. The Defendant, Wynspec Management Inc. ("Wynspec") is a corporation incorporated pursuant to the laws of the Province of Ontario and is extra-provincially registered in British Columbia, with an address for delivery at Roxwal Lawyers LLP, 5455 152<sup>nd</sup> Street, Suite 212, Surrey, British Columbia.
6. The Defendant, ZGEMI Inc. ("ZGEMI") is a corporation incorporated pursuant to the laws of the Province of Ontario with a registered office at 39 Benton Street, Brampton, Ontario.
7. The Defendant, Harconbridge Construction Ltd. ("Harconbridge") is a company incorporated pursuant to the laws of the Province of British Columbia with a registered and records office at 22717 - 119<sup>th</sup> Avenue, Maple Ridge, British Columbia.

#### B. Renovation of the Michigan Properties

8. On or about November 27, 2015 the Michigan Owners purchased the Michigan Properties.
9. Starlight Group Property Holding Inc. ("Starlight"), is a company incorporated pursuant to the laws of the Province of British Columbia and is an amalgamation of P Kanco Benco Ltd., PD Kanco ALB Holdings Ltd., Starlight Apartments Ltd., Starlight Group Property Holdings Inc., and Starlight Investment (B.C.) Ltd. Starlight Investment (B.C.) Ltd. is a company incorporated pursuant to the laws of British Columbia and is a continuation of Starlight Investments Ltd., which is a corporation,

incorporated pursuant to the laws of the Province of Ontario. Starlight is the asset manager for the Michigan Owners, acting on authority delegated by IMH GP XIV LP.

10. The Plaintiffs planned to renovate the building envelopes and interiors of the Michigan Properties (the "Michigan Project").
11. In or about February 2016, the Plaintiffs retained AREC Environmental Group ("AREC") to conduct asbestos inventory surveys at the Michigan Properties (the "AREC Reports").
12. In or about March 2016, Starlight, on behalf of the Michigan Owners, retained Wynspec to provide specification and tendering services for the building envelope work on the Michigan Project. On or about June 13, 2016 Starlight, acting on behalf of the Michigan, entered into a further contract with Wynspec under which Wynspec agreed to provide contract administration, monitoring and supervision of the building envelope work at the Michigan Project (collectively the "Building Envelope Consulting Contract").
13. On or about March 25, 2016 the Plaintiffs engaged Harconbridge to provide construction services for the Michigan Project, and in particular, the renovation within individual suites at the Michigan Properties (the "Harconbridge Suite Renovation Contract").
14. In or about April 2016 Wynspec provided specifications for the building envelope work for the Michigan Project which included the AREC Reports (the "Building Envelope Specifications").
15. On or about May 19, 2016 Unique entered into a contract with Starlight, acting as the representative of the Michigan Owners, to perform the building envelope work at the Michigan Project. The contract was in the form authored by the Canadian Construction Documents Committee, version 2, 1998 ("CCDC 2"), as modified by the parties (the "Building Envelope Contract").
16. On or about June 6, 2016 ZGEMI entered into a contract with the Michigan Owners to provide construction services on the Michigan Project, specifically the renovation of individual suites at the Michigan Properties (the "ZGEMI Suite Renovation Contract").
17. On or about July 14, 2016 ZGEMI entered into a contract with the Michigan Owners, using the CCDC 2 form as modified by the parties for work on the Michigan Project, specifically, the corridors, entrances and lobbies (the "Common Spaces Contract").
18. In or about August 2016 Starlight, on behalf of the Michigan Owners, retained Wynspec to provide project management services for the Michigan Project (the "Project Management Contract").

**C. Unique's Contractual Obligations and Common Law Duties of Care**

19. In entering into the Building Envelope Contract, the Michigan Owners relied upon Unique's representation that it was knowledgeable and experienced in the completion and management of the type of work required in the Building Envelope

Contract, including the proper construction, means, methods, techniques, sequences and procedures for the renovation of buildings containing asbestos.

20. Pursuant to the express and implied terms of the Building Envelope Contract, Unique agreed, among other things, to:
- (a) Perform the building envelope work required under the Building Envelope Contract, including interior abatement for window replacement and exterior abatement on all surfaces, as per the AREC Reports;
  - (b) Be responsible for taking all necessary steps in accordance with applicable legislation to dispose of, store or otherwise render harmless the asbestos contained in the existing exterior finishes and other materials as identified in the AREC Reports;
  - (c) Assume total control of and responsibility for all work necessary or appropriate for the completion of the building envelope work in a good and workmanlike manner;
  - (d) Be responsible for construction means, methods, techniques, sequences and procedures employed for the building envelope work, irrespective of whether such work was being completed by Unique or its subcontractors;
  - (e) Be responsible to the Michigan Owners for the acts and omissions of the subcontractors, suppliers and persons directly or indirectly employed by Unique;
  - (f) Complete, direct, coordinate and supervise the building envelope work, irrespective of whether such work was being completed by Unique or its subcontractors;
  - (g) Advise the Michigan Owners on the quality, appropriateness and suitability of all work, materials, equipment, building systems, and labour proposed, utilized or undertaken with respect to the building envelope work;
  - (h) Prepare or review all shop drawings, specifications and work proposals required for the building envelope work to ensure that they conformed with the Building Envelope Specifications and were otherwise prepared in a good and workmanlike manner;
  - (i) Ensure that all work completed, materials installed, and equipment utilized for the building envelope work complied with good and workmanlike standards;
  - (j) Periodically inspect all work completed, materials installed, and equipment utilized for the building envelope work for compliance with good and workmanlike standards and the absence of defects and deficiencies;
  - (k) Maintain the work site in a safe and tidy condition and free from the accumulation of waste products and debris;
  - (l) Independently and competently perform all of its obligations under the Building Envelope Contract in a good and workmanlike manner;

- (m) Independently perform from time to time such additional work as was reasonably required to complete the building envelope work in a good and workmanlike manner;
  - (n) When making applications for payment, submit a schedule of values for the parts of the work performed and products delivered as of the last day of the relevant payment period;
  - (o) Provide a statement based on the schedule of values, together with a statutory declaration providing that all accounts and monies due for, *inter alia*, subcontracts and other indebtedness incurred by Unique in performing the work have been paid in full, except for holdback monies properly retained;
  - (p) Cause any construction lien registered by one of its subcontractors against the Michigan Properties to be forthwith removed and released from the title, and in any event, prior to the next payment due to Unique under the Building Envelope Contract;
  - (q) In applying to Wynspec to establish substantial completion of the work, provide to the Michigan Owners and Wynspec a comprehensive list of items to be completed or corrected;
  - (r) Immediately following the issuance of the certificate of substantial performance of the work, establish a reasonable date for finishing the work;
  - (s) Proceed diligently to finally complete the work; and
  - (t) At all times exercise the degree of care, diligence, skill and efficiency that a prudent, experienced and qualified contractor engaged in the provision of services similar to those being performed by Unique with respect to the building envelope work would exercise in comparable circumstances.
21. The Building Envelope Contract contains an indemnification provision as follows:

12.1.1 Without restricting the parties' obligation to indemnify as described in paragraphs 12.1.4 and 12.1.5, the *Owner* and the *Contractor* shall each indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings whether in respect to losses suffered by them or in respect to claims by third parties that arise out of, or are attributable in any respect to their involvement as parties to this *Contract*, provided such claims are:

.1 caused by:

- (1) the negligent acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or
- (2) a failure of the party to the *Contract* from whom indemnification is sought to fulfill its terms or conditions; and

- .2 made by *Notice in Writing* within a period of 6 years from the date of *Substantial Performance of the Work* as set out in the certificate of *Substantial Performance of the Work* issued pursuant to paragraph 5.4.2.2 of GC 5.4 - SUBSTANTIAL PERFORMANCE OF THE WORK or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Work*.

The parties expressly waive the right to indemnity for claims other than those provided for in this *Contract*.

22. Additionally, as a result of, among other things, Unique's representations to the Michigan Owners and Starlight regarding its knowledge and expertise in the completion and management of the type of work required to complete the building envelope work on the Michigan Project, its proximity to the Michigan Project, and its express or implied knowledge of the Plaintiffs' interest in successfully completing the Michigan Project, Unique owed to the Michigan Owners a duty of care to at all times exercise the degree of care, diligence, skill and efficiency that a prudent, experienced and qualified contractor engaged in the provision of services similar to those being performed by Unique with respect to the Michigan Project would exercise in comparable circumstances.

**D. Wynspec's Contractual Obligations and Common Law Duties of Care**

23. In entering into the Building Envelope Consulting Contract, the Michigan Owners relied upon Wynspec's express or implied representation that it was knowledgeable and experienced in the provision of the type of specification, contract administration, consulting and project management services required for the building envelope work on the Michigan Project.
24. Pursuant to the express and implied terms of the Building Envelope Consulting Contract, Wynspec agreed, among other things, to provide the Michigan Owners with complete and competent specification and contract administrative and project management services for the building envelope work performed by Unique, including agreeing to:
- (a) Prepare the Building Envelope Specifications;
  - (b) Carry out the tendering process for the building envelope work, including obtaining bids, carrying out a pre-tender meeting, analyzing bids, and making recommendations to the Michigan Owners;
  - (c) Prepare and administer the Building Envelope Contract;
  - (d) Attend a pre-construction meeting;
  - (e) Conduct periodic site visits to review the work performed under the Building Envelope Contract, including the interior and exterior abatement work;
  - (f) Submit site review reports;



- (g) Review reports from independent inspections and testing firms regarding construction;
  - (h) Carry out general reviews of the work performed by Unique and its subcontractors, including the interior and exterior abatement work, on an "as required" basis to monitor for compliance with the requirements detailed in the Building Envelope Specifications including the AREC Reports, and with all the relevant requirements of the regulatory authorities, including WorkSafe BC.;
  - (i) Evaluate Unique's applications for progress payments and determine the amount owing to Unique and issue certificates for payment; and
  - (j) On receipt of a written application from Unique in accordance with the terms of the Building Envelope Contract, review the work to establish substantial performance of the work, review the work to verify validity of the application and either advise Unique that the work is not substantially performed or issue a certificate stating the date of substantial performance of the work to each of Starlight, on behalf of the Michigan Owners, and Unique.
25. In entering into the Project Management Contract, the Michigan Owners relied on Wynspec's expressed or implied representation that it was knowledgeable and experienced in the provisions of the type of project management services required for the Michigan Project.
26. Pursuant to the express and implied terms of the Project Management Contract, Wynspec agreed, among other things, to provide the Michigan with complete and competent project management services for the Michigan Project including agreeing to:
- (a) Chair site meetings with the Owners and contractors working on the Project at agreed upon intervals;
  - (b) Prepare and coordinate required documentation for building permit applications;
  - (c) Manage the Project's budget cash flow;
  - (d) Obtain required documentation from the contractors working on the Project regarding Liability, Insurance, Workplace Safety and Insurance Board Certificates, Materials Data, and Scheduling;
  - (e) Provide periodic evaluation of the Project's impact on facility operations by creating solutions and giving advice for minimizing problems;
  - (f) Prepare periodic summary reports for distribution to the Owners, the contractors working on the Project and Building Officials if required;
  - (g) Provide updates on Project budgets, scope, scheduling and other issues keeping the Owners informed and providing a record of the work;
  - (h) Review samples of work in progress for compliance with the technical requirements of the specifications during periodic visits;

- (i) Provide written reports to the contractors working on the Project highlighting non-compliant aspects of their work and recommended corrective actions;
  - (j) Check that deviations from the contract requirements are being addressed by the contractors;
  - (k) Perform a final review of the work with the Owners and the contractors working on the Project at the completion of the Project; and
  - (l) Obtain closeout documentation, including warranties, for the Owners.
27. Additionally, as a result of, among other things, Wynspec's representations to the Michigan Owners and Starlight regarding its knowledge and expertise in the provision of the specification, contract and administration, consulting and project management services required on the Michigan Project, its proximity to the Michigan Project and its express or implied knowledge of the Plaintiffs' interest in successfully completing the Michigan Project, Wynspec owed to the Michigan Owners a duty of care to at all times exercise the degree of care, diligence, skill and efficiency that a prudent, experienced and qualified consultant and project manager engaged in the provision of services similar to those being performed by Wynspec with respect to the Michigan Project would exercise in comparable circumstances.

**E. ZGEMI's Contractual Obligations and Common Law Duties of Care**

28. Prior to ZGEMI entering into the Common Spaces Contract, ZGEMI was provided with a copy of the AREC Reports identifying the presence of asbestos in the building envelope, suites and common spaces of the Michigan Properties.
29. Pursuant to the express and implied terms of the Common Spaces Contract, ZGEMI agreed, among other things, to:
- (a) Assume total control of the work and responsibility to direct and supervise the work to ensure conformity with the terms of the Common Spaces Contract;
  - (b) Be responsible for construction means, methods, techniques, sequences, and procedures employed on the work, irrespective of whether such work was being completed by ZGEMI or its sub-contractors and suppliers;
  - (c) Complete, direct, coordinate and supervise the work, irrespective of whether such work was being completed by ZGEMI or its sub-contractors and suppliers;
  - (d) Be responsible to the Owners for the acts and omissions of the subcontractors, suppliers and persons directly or indirectly employed by ZGEMI;
  - (e) Advise the Owners on the quality, appropriateness and suitability of all work, materials, equipment, building systems, and labour proposed, utilized or undertaken with respect to the work;
  - (f) Prepare or review all shop drawings specifications and work proposal required for the work to ensure that they conformed with the Interior Specifications and were otherwise prepared in a good and workmanlike manner;

- (g) Ensure that all work completed, materials installed, and equipment utilized for the work complied with good and workmanlike standards;
- (h) Periodically inspect all work completed, materials installed, and equipment utilized for the work for compliance with good and workmanlike standards and the absence of defects and deficiencies;
- (i) Maintain the work site in a safe and tidy condition and free from the accumulation of waste products and debris;
- (j) Independently and competently perform all of its obligations under the Common Spaces Contracts in a good and workmanlike manner;
- (k) Independently perform from time to time such additional work as was reasonably required to complete the work in a good and workmanlike manner; and
- (l) At all times exercise the degree of care, diligence, skill and efficiency that a prudent, experienced and qualified contractor engaged in the provision of services similar to those being performed by ZGEMI with respect to the work would exercise in comparable circumstances.

30. The Common Spaces Contract contains an indemnification provision as follows:

12.1.1 Without restricting the parties' obligation to indemnify as described in paragraphs 12.1.4 and 12.1.5, the *Owner* and the *Contractor* shall each indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings whether in respect to losses suffered by them or in respect to claims by third parties that arise out of, or are attributable in any respect to their involvement as parties to this *Contract*, provided such claims are:

.1 caused by:

- (1) the negligent acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or
- (2) a failure of the party to the *Contract* from whom indemnification is sought to fulfill its terms or conditions; and

.2 made by *Notice in Writing* within a period of 6 years from the date of *Substantial Performance of the Work* as set out in the certificate of *Substantial Performance of the Work* issued pursuant to paragraph 5.4.2.2 of GC 5.4 - SUBSTANTIAL PERFORMANCE OF THE WORK or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Work*.

The parties expressly waive the right to indemnity for claims other than those provided for in this *Contract*.

31. Prior to commencing work under the ZGEMI Suite Renovation Contract, ZGEMI was aware of the presence of asbestos in the existing construction and finishing materials in the suites to be renovated.
32. The terms of the ZGEMI Suite Renovation Contract required ZGEMI to conduct both moderate risk and high risk abatement of hazardous materials, including asbestos, used in the existing construction and finishing materials in the suites.
33. In entering into the ZGEMI Suite Renovation Contract, the Michigan Owners relied on ZGEMI's express or implied representation that it was knowledgeable and experienced in the provision of those services, and in particular, in providing those services in buildings where there was asbestos in the existing construction and finishing materials.
34. Additionally, as a result of, among other things, ZGEMI's representations to the Michigan Owners and Starlight regarding its knowledge and expertise in the completion and management of the type of work required to complete the work on the Michigan Project, its proximity to the Michigan Project, and its express or implied knowledge of the Plaintiffs' interest in successfully completing the Michigan Project, ZGEMI owed to the Michigan Owners a duty of care to at all times exercise the degree of care, diligence, skill and efficiency that a prudent, experienced and qualified contractor engaged in the provision of services similar to those being performed by ZGEMI with respect to the Michigan Project would exercise in comparable circumstances.

**F. Harconbridge's Contractual Obligations and Common Law Duties of Care**

35. Prior to Harconbridge commencing work on the Michigan Project, Starlight provided Harconbridge with a copy of the AREC Reports, identifying the presence of asbestos in the construction materials used in the interior of the Michigan Properties.
36. The terms of the Harconbridge Suite Renovation Contract required Harconbridge to conduct both moderate risk and high risk abatement of hazardous materials, including asbestos, used in the existing construction and finishing materials in the suites.
37. In entering into the Harconbridge Suite Renovation Contract, the Michigan Owners relied on Harconbridge's express or implied representation that it was knowledgeable and experienced in the provision of those services, and in particular, in providing those services in buildings where there was asbestos in the existing construction and finishing materials.
38. Additionally, as a result of, among other things, Harconbridge's representations to the Michigan Owners and Starlight regarding its knowledge and expertise in the completion and management of the type of work required to complete the work on the Michigan Project, its proximity to the Michigan Project, and its express or implied knowledge of the Plaintiffs' interest in successfully completing the Michigan Project, Harconbridge owed to the Michigan Owners a duty of care to at all times exercise

the degree of care, diligence, skill and efficiency that a prudent, experienced and qualified contractor engaged in the provision of services similar to those being performed by Harconbridge with respect to the Michigan Project would exercise in comparable circumstances.

**G. Discovery of Asbestos during the renovation of the Michigan Properties**

39. On December 14, 2016 WorkSafe BC issued a stop work order on all work on the interior of 415 Michigan due to the failure of the contractor performing interior renovations to use appropriate safe work procedures in performing work that disturbed asbestos containing materials.
40. Following the issuance of the stop work order, Starlight retained North West Environmental Group Ltd. ("North West") to conduct an analysis of bulk materials used in the common spaces at 415 Michigan and to conduct air quality tests.
41. On or about December 30, 2016, VIHA issued a Public Health Order ordering the Michigan Owners to provide information and records relevant to the health hazard at 415 Michigan in the form of potentially exposed asbestos fibres.
42. On or about January 3, 2017 North West advised Starlight of the interim results of its further testing of bulk materials at 415 Michigan, which showed levels of asbestos exceeding WorkSafe limits in materials used in some of the common spaces and suites at 415 Michigan. Starlight, on behalf of the Michigan Owners, immediately stopped the Interior Work at 435 Michigan and notified Worksafe BC of the voluntary work stoppage at 435 Michigan.
43. On or about January 12, 2017 the property manager at 435 Michigan received reports from two residents of suspected asbestos fibres in construction dust inside their suites.
44. On January 13, 2017 Starlight retained North West to inspect and test the two affected suites plus additional suites and selected common areas at 435 Michigan for the presence of asbestos. On the advice of North West, Starlight placed a stop work order on the Building Envelope Work to minimize any further migration of construction dust created by the work into the interior spaces of 435 Michigan.
45. On or about January 19, 2017, North West reported levels of asbestos over the exposure limits in representative samples of dust in the suites and hallways tested at 435 Michigan.
46. On or about January 26, 2017 Starlight gave notice to the tenants at 435 Michigan of a temporary relocation to allow for the cleaning of the suites and common spaces and further post-cleaning testing.
47. On or about January 30, 2017 Starlight retained Pinchin to conduct hazardous materials remediation at 435 Michigan (the "Remediation Work").
48. On or about February 1, 2017 the Medical Health Officer for the Vancouver Island Health Authority ("VIHA") issued an order pursuant to section 31(1)(a) of the *Public Health Act* requiring Starlight to conduct air sampling at 435 Michigan in accordance with the protocol attached to the order (the "Public Health Order").

49. On or about March 3, 2017 the Remediation Work and air testing in compliance with the Public Health Order was completed. On or about March 8, 2018 VIHA approved the re-occupancy of the suites at 435 Michigan.

#### **H. Notice to the Defendants**

50. On or about January 27, 2017, Starlight, on behalf of the Michigan Owners, provided notice in writing to Unique in accordance with the Building Envelope Contract of the claim of the Michigan Owners against Unique arising from the migration of asbestos into the interior of 435 Michigan during the work performed by Unique and/or its sub-contractor under the Building Envelope Contract.
51. On or about January 27, 2017 Starlight, on behalf of the Michigan Owners, provided notice in writing to Wynspec of the claim of the Michigan Owners against Wynspec arising from the migration of asbestos into the interior of 435 Michigan during the work performed by Unique and/or its subcontractors.
52. On or about January 27, 2017 Starlight, on behalf of the Michigan Owners, provided notice in writing to ZGEMI in accordance with the Common Spaces Contract of the claim of the Michigan Owners against ZGEMI arising from the presence of asbestos in the interior of 435 Michigan.
53. On or about May 9, 2017, Starlight, on behalf of the Michigan Owners, provided notice to Harconbridge of the claim of the Michigan Owners arising from the presence of asbestos in suites renovated by Harconbridge pursuant to the Harconbridge Suite Renovation Contract.
54. On or about October 2, 2017, Starlight advised ZGEMI that ZGEMI would not be continuing with a number of projects in Victoria, British Columbia, including the Michigan and Douglas Project.
55. On or about December 20, 2017 Starlight, on behalf of the Michigan Owners, provided written notice to ZGEMI of the termination of the Common Spaces Contract.

#### **I. Default by Unique**

56. Unique failed to remit proper progress payments owing to its subcontractors from the payments made to it by the Michigan Owners despite providing statutory declarations to Starlight that all accounts and monies due to its subcontractors had been paid in full.
57. On or after May 30, 2018 three subcontractors of Unique, Starline Windows Ltd., K & S Railings Ltd., and Prime Coatings Ltd., filed lien claims against the Michigan Properties.
58. Unique has failed to cause the liens filed by its subcontractors against the Michigan Properties to be removed and released from title.
59. On or about June 15, 2018 Unique left the Michigan Project worksite without completing the work under the Building Envelope Contract, in particular, completion

of the window flashings and caulking, the renovation of the storefront, and the landscaping.

60. On or about August 28, 2018 Wynspec provided written notice to Unique that it was in default of its obligations to complete the scope of work under the Building Envelope Contract and advised Unique that, if it did not correct the default within five working days, the Michigan Owners may exercise their right to terminate the Building Envelope Contract ("Default Notice").
61. Despite receipt of the Default Notice, Unique failed to correct the default within the five days specified.
62. On or about September 6, 2018, the Michigan Owners terminated the Building Envelope Contract in accordance with Part 7.

**J. Resulting Loss and Damage**

63. As a result of the presence of asbestos fibres in the interior spaces of the Michigan Properties, including individual suites, corridors, entrances and lobbies, the Plaintiffs suffered loss, damage and expense including:
  - (a) Costs of conducting testing of the interior spaces of the Michigan Properties, including testing performed in compliance with the stop work orders issued by WorkSafe BC and the Public Health Orders issued by VIHA;
  - (b) Costs incurred to relocate tenants of 435 Michigan to alternate accommodation during the testing and abatement procedures;
  - (c) Loss of rental income due to relocation of the 435 Michigan tenants;
  - (d) Lost rental income due to delay in the completion of the Michigan Project;
  - (e) Costs of abatement of the asbestos;
  - (f) Costs incurred for standby charges due to contractor stop work order and tenant relocation; and
  - (g) Costs incurred due to tenant relocation and vacancy of suites, including additional hydro costs and security costs.
64. As a result of Unique's default under the Building Envelope Contract, the Plaintiffs have incurred or will incur loss, cost and expense, including:
  - (a) The cost of completing the work under the Building Envelope Contract; and
  - (b) Costs, expenses and legal fees in connection with the liens filed against the Michigan Properties by Unique's subcontractors.

**K. Unique's breaches of contract and negligence**

65. Unique breached its contractual obligations to the Michigan Owners under the Building Envelope Contract by, among other things:

- (a) Failure to ensure that the building envelope work was carried out in a good and workmanlike manner;
  - (b) Failing to direct and coordinate and supervise the building envelope work completed by Unique or its subcontractor;
  - (c) Failing to ensure the building envelope work complied with the Building Envelope Specifications, and in particular the AREC Report;
  - (d) Failing to ensure that any dust and debris produced in the course of performing the work did not migrate into the interior of the buildings;
  - (e) Failing to exercise the degree of care, diligence and skill required in the work to avoid the migration of asbestos fibers into the interior spaces of the building;
  - (f) Failing to satisfy the accounts of its subcontractors;
  - (g) Failing to take steps to have the liens filed by its subcontractors against the Michigan Properties removed and released from title;
  - (h) Failing to prosecute the work properly and completely and in a timely manner; and
  - (i) Failing to correct its default in compliance with the Default Notice delivered to Unique by Wynspec in accordance with Part 7 of the Building Envelope Contract.
66. Further, and in the alternative, Unique breached its duty of care owed to the Michigan Owners and was negligent by failing to at all times exercise the degree of care, diligence, skill and efficiency that a prudent, experienced and qualified contractor engaged in the provision of services similar to those being performed by Unique with respect to the Michigan Project would exercise in comparable circumstances. Particulars of Unique's negligence include:
- (a) Failing to take any, or any reasonable steps, to prevent the migration of dust debris, asbestos fibers and other hazardous substance during the building envelope work into the interior of the Michigan Properties;
  - (b) Failing to properly abate the accumulation of dust and debris containing asbestos fibers and other hazardous substances created by the building envelope work in the interior of the Michigan Properties;
  - (c) Failing to implement the asbestos abatement procedures required under the Building Envelope Contract;
  - (d) Failing to advise Starlight of the discovery of accumulated dust and debris containing asbestos fibers in one or more suites at 435 Michigan; and
  - (e) Failing to properly assess the risk of further migration of dust and debris containing asbestos fibers and other hazardous substances into suites in the Michigan Properties and failing to take necessary steps to prevent the further migration of such dust and debris into 435 Michigan during its work.



67. Unique's breaches of contract and negligence caused, aggravated or contributed to the migration of construction dust and debris containing asbestos fibers and other hazardous materials into the interior of the Michigan Properties including the common areas and individual suites, and the resulting loss and damage suffered by the Plaintiffs.
68. Unique's breach of contract and negligence resulted in unsafe levels of asbestos fibers and other hazardous substances within the Michigan Properties that posed a substantial danger to the health and safety of the tenants at the Michigan Properties.
69. At all material times Unique could have reasonably foreseen that, by failing to undertake the necessary and contractually required steps to abate the disturbance of material known to contain asbestos and other hazardous substance during the work on the building envelope of the Michigan Properties:
  - (a) Asbestos fibers and other hazardous substances would migrate into the interior of the Michigan Properties and present a serious health risk to the tenants;
  - (b) The Plaintiffs would incur costs and expense in conducting testing to assess the levels of asbestos fibers and other hazardous substances in the Michigan Properties, performing the necessary abatement and clean-up of the asbestos fibers and other hazardous substances and conducting post clean-up testing to ensure the Michigan Properties were safe for occupation by the tenants;
  - (c) The Plaintiffs would suffer losses caused by the delay in the completion of the Michigan Project, due to the stoppage of work during the necessary testing and clean-up time required to obtain the necessary permission from WorkSafe to recommence work in the Michigan Properties; and
  - (d) The Plaintiff would incur losses and costs due to the displacement of tenants during the testing and clean-up of the Michigan Properties.
70. Unique's default under the Building Envelope Contract has caused the Michigan Owners to incur cost and expense in arranging for the work under the Building Envelope Contract to be completed.
71. Unique's breach of its obligation under the Building Envelope Contract to properly remit progress payments to its subcontractors has caused the Michigan Owners to incur cost and expense in addressing lien claims filed by the unpaid subcontractors.
72. As a result of Unique's breach of the Building Envelope Contract and its negligence, as particularized above, the Plaintiffs say that the indemnity obligations of Unique under clause 12.1 of the Building Envelope Contract have been triggered.
73. Unique has failed to indemnify the Michigan Owners with respect to the losses suffered by the Michigan Owners that are within the scope of clause 12.1 of the Building Envelope Contract.
74. The Plaintiffs claim against Unique pursuant to the indemnity provisions in the Building Envelope Contract, for all losses, costs and damages, including interest and all legal costs suffered by the Michigan Owners, caused by the negligent acts or

omissions of Unique and/or its subcontractors, supplier and any other persons directly or indirectly employed by Unique in carrying out the work and/or the failure of Unique to fulfill the terms and conditions of the Building Envelope Contract.

**L. Wynspec's breaches of contract and negligence**

75. Wynspec breached the Building Envelope Consulting Contract by, among other things:
- (a) Failing to properly review the work performed by Unique and its subcontractors;
  - (b) Failing to monitor the steps taken by Unique and its subcontractors regarding the abatement of any hazardous materials, including asbestos, disturbed during the work;
  - (c) Failing to ensure that Unique and its subcontractors took the necessary steps to prevent material containing asbestos from migrating into the interior spaces of the Michigan Properties during the work; and
  - (d) Failing to ensure that Unique and its subcontractors properly contained and removed all dust and debris created during the work to prevent accumulations of dust from migrating into the interior of the Michigan Properties.
76. Wynspec breached the Project Management Contract by, among other things:
- (a) Failing to properly review the work performed on the Michigan Project for compliance with the Building Envelope Specifications, and the AREC Report;
  - (b) Failing to monitor the steps taken by the contractors working on the Michigan Project regarding the abatement of any hazardous materials, including asbestos, disturbed during the Michigan Project; and
  - (c) Failing to ensure that the contractors working on the Michigan Project properly contained and removed all dust and debris created during the work to prevent accumulation of and migration of dust and debris within the Michigan Properties.
77. Further, and in the alternative, Wynspec breached its duty of care owed to the Michigan Owners and was negligent by failing to at all times exercise the degree of care, diligence, skill and efficiency that a prudent, experienced and qualified consultant and project manager engaged in the provision of services similar to those being performed by Wynspec on the Michigan Project would exercise in comparable circumstances.
78. Wynspec's breaches of contract and negligence caused, aggravated or contributed to the defects and deficiencies responsible for the accumulation of and migration of construction dust containing asbestos into the interior of the Michigan Properties, including the common spaces and individual suites, and the resulting damages suffered by the Plaintiffs.

**M. ZGEMI'S breaches of contract and negligence**

79. ZGEMI breached its contractual obligations to the Michigan Owners under the Common Spaces Contract by, among other things:
- (a) Failing to ensure that the work was carried out in a good and workmanlike manner;
  - (b) Failing to direct and coordinate and supervise the work completed by ZGEMI or its subcontractor;
  - (c) Failing to ensure the work complied with the Interior Specifications, and in particular the AREC Reports;
  - (d) Failing to ensure that any dust and debris produced in the performance of the work was properly removed and contained; and
  - (e) Failing to exercise the degree of care, diligence and skill required in the work under the Common Spaces Contract to the disturbance and spread of asbestos fibers in the interior spaces of the Michigan Properties.
80. As a result of ZGEMI's breach of the Common Spaces Contract and its negligence, as particularized above, the Plaintiffs say that the indemnity obligations of ZGEMI under clause 12.1 of the Common Spaces Contract have been triggered.
81. ZGEMI has failed to indemnify the Michigan Owners with respect to the losses suffered by the Michigan Owners that are within the scope of clause 12.1 of the Common Spaces Contract.
82. The Plaintiffs claim against ZGEMI pursuant to the indemnity provisions in the Common Spaces Contract for all losses, costs and damages, including interest and all legal costs suffered by the Michigan Owners, caused by the negligent acts or omissions of ZGEMI and/or its subcontractors, supplier and any other persons directly or indirectly employed by ZGEMI in carrying out the work under the Common Spaces Contract and/or the failure of ZGEMI to fulfill the terms and conditions of the Common Spaces Contract.
83. ZGEMI breached the terms of the ZGEMI Suite Renovation Contract by, among other things:
- (a) Failing to properly conduct the abatement procedures required under the ZGEMI Suite Renovation Contract;
  - (b) Failing to properly contain and remove dust and debris containing or potentially containing asbestos fibers during the renovation work under the ZGEMI Suite Renovation Contract; and
  - (c) Failing to exercise the degree of care, diligence and skill required in the work under the ZGEMI Suite Renovation Contract to avoid the dispersal of asbestos fibers within the suites being renovated and in the other interior spaces of the Michigan Properties.

84. Further, and in the alternative, ZGEMI breached its duty of care owed to the Michigan Owners and was negligent by failing to at all times exercise the degree of care, diligence, skill and efficiency that a prudent, experienced and qualified contractor engaged in the provision of services similar to those being performed by ZGEMI with respect to the Michigan Project would exercise in comparable circumstances. Particulars of ZGEMI's negligence include:
- (a) Failing to take any, or any reasonable steps, to prevent the accumulation of dust and debris containing asbestos fibers and other hazardous substances during its work on the Michigan Project; and
  - (b) Failing to properly abate the accumulation of dust and debris containing asbestos fibers and other hazardous substances created by its work on the Michigan Project.
85. ZGEMI's breaches of contract and negligence caused, aggravated or contributed to the accumulation of construction dust and debris containing asbestos fibers and other hazardous materials in the interior of the Michigan Properties including the common areas and individual suites, and the resulting loss and damage suffered by the Plaintiffs.
86. ZGEMI's breach of contract and negligence resulted in unsafe levels of asbestos fibers and other hazardous substances within the Michigan Properties that posed a substantial danger to the health and safety of the tenants at the Michigan Properties.
87. At all material times ZGEMI could have reasonably foreseen that, by failing to undertake the necessary steps to abate the disturbance of material known to contain asbestos and other hazardous substance during its work on the Michigan Project:
- (a) Asbestos fibers and other hazardous substances would accumulate in the Michigan Properties and present a serious health risk to the tenants;
  - (b) The Plaintiffs would incur costs and expense in conducting testing to assess the levels of asbestos fibers and other hazardous substances in the Michigan Properties, performing the necessary abatement and clean-up of the asbestos fibers and other hazardous substances and conducting post clean-up testing to ensure the Michigan Properties were safe for occupation by the tenants;
  - (c) The Plaintiffs would suffer losses caused by the delay in the completion of the Michigan Project, due to the stoppage of work during the necessary testing and clean-up time required to obtain the necessary permission from WorkSafe to recommence work in the Michigan Properties; and
  - (d) The Plaintiff would incur losses and costs due to the displacement of tenants during the testing and clean-up of the Michigan Properties.
88. ZGEMI's breaches of contract and negligence caused, aggravated or contributed to the defects and deficiencies in the Michigan Properties and, in particular, the presence of asbestos fibers on surfaces and in the air inside the Michigan Properties and the resulting damages suffered by the Plaintiffs.

**N. Harconbridge breaches of contract and negligence**

89. Harconbridge breached the terms of the Harconbridge Suite Renovation Contract by, among other things:
- (a) Failing to properly conduct the abatement procedures required under the Harconbridge Suite Renovation Contract to address the asbestos in the existing construction and finishing materials in the suites;
  - (b) Failing to properly contain and remove dust and debris containing or potentially containing asbestos fibers during the renovation work under the Harconbridge Suite Renovation Contract; and
  - (c) Failing to exercise the degree of care, diligence and skill required in the work under the Harconbridge Suite Renovation Contract to avoid the dispersal of asbestos fibers within the suites being renovated and in the other interior spaces of the Michigan Properties.
90. Further, and in the alternative, Harconbridge breached its duty of care owed to the Michigan Owners and was negligent by failing to at all times exercise the degree of care, diligence, skill and efficiency that a prudent, experienced and qualified contractor engaged in the provision of services similar to those being performed by Unique with respect to the Michigan Project would exercise in comparable circumstances. Particulars of Harconbridge's negligence include:
- (a) Failing to take any, or any reasonable steps, to prevent the accumulation of dust and debris containing asbestos fibers and other hazardous substances during its work on the Michigan Project; and
  - (b) Failing to properly abate the accumulation of dust and debris containing asbestos fibers and other hazardous substances created by its work on the Michigan Project.
91. Harconbridge's breach of contract and negligence caused, aggravated or contributed to the migration of construction dust and debris containing asbestos fibers and other hazardous materials into the interior of the Michigan Properties including the common areas and individual suites, and the resulting loss and damage suffered by the Plaintiffs.
92. Harconbridge's breach of contract and negligence resulted in unsafe levels of asbestos fibers and other hazardous substances within the Michigan Properties that posed a substantial danger to the health and safety of the tenants at the Michigan Properties.
93. At all material times Harconbridge could have reasonably foreseen that, by failing to undertake the necessary steps to abate the disturbance of material known to contain asbestos and other hazardous substance during its work on the Michigan Project:
- (a) Asbestos fibers and other hazardous substances would accumulate in the interior of the Michigan Properties and present a serious health risk to the tenants;

- (b) The Plaintiffs would incur costs and expense in conducting testing to assess the levels of asbestos fibers and other hazardous substances in the Michigan Properties, performing the necessary abatement and clean-up of the asbestos fibers and other hazardous substances and conducting post clean-up testing to ensure the Michigan Properties were safe for occupation by the tenants;
  - (c) The Plaintiffs would suffer losses caused by the delay in the completion of the Michigan Project, due to the stoppage of work during the necessary testing and clean-up time required to obtain the necessary permission from WorkSafe to recommence work in the Michigan Properties; and
  - (d) The Plaintiff would incur losses and costs due to the displacement of tenants during the testing and clean-up of the Michigan Properties.
94. Harconbridge's breach of contract and negligence caused, aggravated or contributed to the defects and deficiencies at the Michigan Properties, and, in particular, the presence of asbestos fibers on surfaces and in the air inside 435 Michigan, and the resulting damages suffered by the Plaintiffs.

## Part 2: RELIEF SOUGHT

1. The Plaintiffs claim against Unique as follows:
- (a) General damages and special damages for breach of the Building Envelope Contract;
  - (b) General and special damages in tort for negligence;
  - (c) A declaration that the Michigan Owners are entitled to indemnity from Unique under the Building Envelope Contract with respect to:
    - (i) Any amounts paid by or on behalf of the Michigan Owners as a result of Unique's failure to fulfill the terms and conditions of the Building Envelope Contract;
    - (ii) Any amounts paid by or on behalf of the Michigan Owners as a result of the negligent acts or omissions of Unique or any of its subcontractors, suppliers or other person directly or indirectly employed by Unique arising out of or attributable to the work performed under the Building Envelope Contract;
    - (iii) Any amounts paid by or on behalf of the Michigan Owners in respect of claims made by third parties arising out of or attributable to the work performed under the Building Envelope Contract;
    - (iv) All legal costs and expenses incurred by the Michigan Owners as a result of Unique's failure to fulfill the terms and conditions of the Building Envelope Contract and/or the negligent acts or omissions of Unique or any of its subcontractors, suppliers or other person directly or indirectly employed by Unique arising out of or attributable to the work performed under the Building Envelope Contract.

- (d) A declaration that Unique is in default of its obligations under the Building Envelope Contract;
  - (e) The costs and expense incurred by the Michigan Owners to complete the work under the Building Envelope Contract as a result of the default by Unique;
  - (f) The costs, expenses and legal fees incurred by the Michigan Owners in connection with the liens filed by Unique's subcontractors against the Michigan Properties;
  - (g) Judgment in favour of the Michigan Owners for all amounts due to the Michigan Owners as set out above.
  - (h) Interest on all damages awarded at the rate provided in the Building Envelope Contract or, in the alternative, a commercially reasonable rate of interest pursuant to the *Court Order Interest Act*, RSBC 1996 c.79;
  - (i) Costs of this action on a solicitor and own client basis pursuant to the Building Envelope Contract, or in the alternative, costs; and
  - (j) Such other relief as this Honourable Court deems to be just and equitable.
2. The Plaintiffs claim against Wynspec as follows:
- (a) General damages and special damages for breach of the Building Envelope Consulting Contract;
  - (b) General damages and special damages for breach of the Project Management Contract;
  - (c) General and special damages in tort for negligence;
  - (d) Judgment in favour of the Plaintiffs for all amounts due to the Plaintiffs as set out above;
  - (e) Interest on all damages pursuant to the *Court Order Interest Act*, RSBC 1996 c.79;
  - (f) Costs of this action; and
  - (g) Such other relief as this Honourable Court deems to be just and equitable.
3. The Plaintiffs claim against ZGEMI as follows:
- (a) General damages and special damages for breach of the Common Spaces Contract and the ZGEMI Suite Renovation Contract;
  - (b) General and special damages in tort for negligence;
  - (c) A declaration that the Michigan Owners are entitled to indemnity from ZGEMI under the Common Spaces Contract with respect to:
    - (i) Any amounts paid by or on behalf of the Michigan Owners as a result of ZGEMI's failure to fulfill the terms and conditions of the Common Spaces Contract;

- (ii) Any amounts paid by or on behalf of the Michigan Owners as a result of the negligent acts or omissions of ZGEMI or any of its subcontractors, suppliers or other person directly or indirectly employed by ZGEMI arising out of or attributable to the work performed under the Common Spaces Contract;
  - (iii) Any amounts paid by or on behalf of the Michigan Owners in respect of claims made by third parties arising out of or attributable to the work performed under the Common Spaces Contract;
  - (iv) All legal costs and expenses incurred by or on behalf of the Michigan Owners as a result of ZGEMI's failure to fulfill the terms and conditions of the Common Spaces Contract and/or the negligent acts or omissions of ZGEMI or any of its subcontractors, suppliers or other person directly or indirectly employed by ZGEMI arising out of or attributable to the work performed under the Common Spaces Contract.
- (d) Judgment in favour of the Plaintiffs for all amounts due to the Plaintiffs as set out above;
  - (e) Interest on all damages awarded at the rate provided for in the Common Space Contract or, in the alternative, a commercially reasonable rate of interest pursuant to the *Court Order Interest Act*, RSBC 1996 c.79;
  - (f) Costs of this action on a solicitor and own client basis pursuant to the Common Spaces Contract, or in the alternative, costs; and
  - (g) Such other relief as this Honourable Court deems to be just and equitable.
4. The Plaintiffs claim against Harconbridge as follows:
- (a) General damages and special damages for breach of the Harconbridge Suite Renovation Contract;
  - (b) General and special damages in tort for negligence;
  - (c) Judgment in favour of the Plaintiffs for all amounts due to the Plaintiffs as set out above;
  - (d) Interest on all damages awarded pursuant to the *Court Order Interest Act*, RSBC 1996 c.79;
  - (e) Costs of this action; and
  - (f) Such other relief as this Honourable Court deems to be just and equitable.

**Part 3: LEGAL BASIS**

1. The Plaintiffs, and each of them, plead, repeat and rely on paragraphs 1 to 94 of Part 1 of the Notice of Civil Claim.
2. The Plaintiffs, and each of them, plead and rely on:



- (a) *Court Order Interest Act*, RSBC 1996, c. 79; and
  - (b) *Negligence Act*, RSBC 1996, c. 333.
3. The Plaintiffs further plead and rely on:
- (a) the Building Envelope Contract;
  - (b) the Building Envelope Consulting Contract;
  - (c) the Project Management Contract;
  - (d) the Commons Spaces Contract;
  - (e) the ZGEMI Suite Renovation Contract; and
  - (f) the Harconbridge Suite Renovation Contract.

Plaintiffs' address for service: 2700-700 West Georgia Street, Vancouver, BC V7Y 1B8

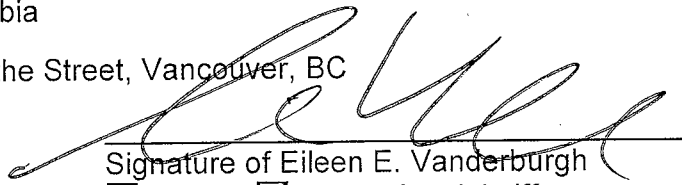
Fax number address for service (if any): 604-484-9700

E-mail address for service (if any): n/a

Place of trial: Vancouver, British Columbia

The address of the registry is: 800 Smithe Street, Vancouver, BC

Dated: September 12th, 2018.



Signature of Eileen E. Vanderburgh  
 plaintiff  lawyer for plaintiffs

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
  - (a) prepare a list of documents in Form 22 that lists
    - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
    - (ii) all other documents to which the party intends to refer at trial, and
  - (b) serve the list on all parties of record.

#### APPENDIX

[The following information is provided for data collection purposes only and is of no legal effect.]

**Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:**

This is a claim for breach of contract and negligence arising from asbestos contamination during a renovation at apartment buildings owned by the Plaintiffs.

**Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

[Check one box below for the case type that best describes this case.]

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods and services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

**Part 3: THIS CLAIM INVOLVES:**

[Check all boxes below that apply to this case.]

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

**Part 4:**

[If an enactment is being relied on, specify. Do not list more than 3 enactments.]

This is Exhibit “C” referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**



No. S-189965  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**IMH 415 & 435 MICHIGAN APARTMENTS LTD., IMH POOL XIV LP, and  
IMH GP XIV LTD.**

**PLAINTIFFS**

**AND:**

**UNIQUE RESTORATION LTD., WYNSPEC MANAGEMENT INC., ZGEMI INC., and  
HARCONBRIDGE CONSTRUCTION LTD.**

**DEFENDANTS**

**RESPONSE TO CIVIL CLAIM**

**Filed by:** Unique Restoration Ltd. (“Unique” or the “Defendant”)

**Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS**

**Division 1 – Defendant’s Response to Facts**

1. The facts alleged in paragraph(s) 21 and 39 of Part 1 of the notice of civil claim are admitted.
2. The facts alleged in paragraph(s) 4, 15, 19 – 22, 50, and 56 – 74 of Part 1 of the notice of civil claim are denied.
3. The facts alleged in paragraph(s) 1 – 3, 5 – 14, 16 – 17, 23 – 38, 40 – 48, 49, 51 – 55, 75 – 94 of Part 1 of the notice of civil claim are outside the knowledge of the defendant(s).

**Division 2 – Defendant’s Version of Facts**

4. Unless otherwise defined herein, Unique adopts the defined terms used in the Notice of Civil Claim of the Plaintiffs dated September 12, 2018 (the “Notice of Civil Claim”). Unique adopts the defined terms without admitting to any of the allegations resulting there from.
5. Unique denies each and every allegation of fact contained in the Notice of Civil Claim unless expressly admitted herein.

## The Parties

6. In specific response to paragraph 4 (Part 1) of the Notice of Civil Claim, Unique carries on building maintenance and restoration services in the multi-unit residential, commercial and institutional sectors in Ontario and British Columbia.
7. Michigan Apartments is the registered owner of the Michigan Properties, which are legally described as follows:

City of Victoria Parcel Identifier: 030-409-519  
Lot A of Lots 1817, 1818, 1819, 1820, 1821, 1822 and 1823 Victoria City Plan  
EPP76927

## The Building Envelope Contract

8. In specific response to paragraph 15 (Part 1) of the Notice of Civil Claim, on or about May 19, 2016, Unique entered into the Building Envelope Contract with Starlight. Starlight entered into the Building Envelope Contract on its own and on behalf of the Michigan Owners.
9. In specific response to paragraph 19 (Part 1) of the Notice of Civil Claim, Unique denies that it made the representations as alleged in to paragraph 19 (Part 1) (the “**Alleged Representations**”).
10. In further specific response to paragraph 19 (Part 1) of the Notice of Civil Claim, if Unique made the Alleged Representations, which is not admitted but expressly denied, then Unique denies that Starlight and the Michigan Owners relied upon the Alleged Representations in entering into the Building Envelope Contract.
11. Wynspec was appointed the “**Consultant**” under the terms of the Building Envelope Contract to provide administration of the Building Envelope Contract.
12. In response to the entire Notice of Civil Claim and in particular paragraph 20 (Part 1), Unique says that the Building Envelope Contract contains, *inter alia*, the following express and implied terms:
  - (a) Unique would perform the exterior wall, windows replacement and balcony repairs (the “**Work**”) as detailed in the Building Envelope Contract;
  - (b) the Work included the following:
    - (i) the interior abatement for windows and doors replacement at 415 Michigan;
    - (ii) interior abatement for window replacement at 435 Michigan; and
    - (iii) exterior abatement for exterior repair work and window replacement at 435 Michigan

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(collectively, the “**Unique Abatement Work**”);

- (c) Unique would have total control of the Work and be solely responsible for the construction means and methods of completing the Work;
- (d) Starlight and the Michigan Owners would provide Unique with access to the Michigan Properties to perform the Work;
- (e) Starlight and the Michigan Owners would be responsible for protecting the Michigan Properties from any damage which occurred as a result of acts or omissions by Starlight, the Michigan Owners, Wynspec and other contractors, including the agents and employees of such parties;
- (f) Starlight and the Michigan Owners would take all reasonable steps to determine whether the Michigan Properties contained any toxic or hazardous substances, including asbestos, and provide Unique with a written list of such substances and their location within the Michigan Properties;
- (g) except for the Unique Abatement Work, Starlight and the Michigan Owners would take all necessary steps, in accordance with applicable legislation, to dispose of, store or otherwise render harmless toxic or hazardous substances which were present at the Michigan Properties prior to Unique commencing the Work;
- (h) Unique would submit invoices (the “**Invoices**”) for payment to Starlight each month in accordance with the payment terms of the Building Envelope Contract;
- (i) Starlight and the Michigan Owners would pay Unique the amounts due under each Invoice within 60 days of the Invoice being submitted to Starlight;
- (j) Starlight and the Michigan Owners would not withhold the payment of any Invoice unless in accordance with the terms of the Building Envelope Contract;
- (k) where a sub-contractor retained by Unique filed a lien in accordance with the *Builders Lien Act*, SBC 1997, c. 45 (the “**Builders Lien Act**”), Starlight and the Michigan Owners would not be entitled to withhold payments from Unique where such a lien resulted from Starlight’s and the Michigan Owners’ failure to pay the Invoices when due; and
- (l) if Starlight and the Michigan Owners failed to pay any of the Invoices when due, Unique would be entitled to suspend the Work after providing 5 days written notice to Starlight.

### **Alleged Negligence**

13. In response to the entire Notice of Civil Claim and in particular paragraph 22 (Part 1), Unique denies that it owed Starlight and the Michigan Owners a duty of care as alleged or at all.

14. In response to the entire Notice of Civil Claim and in particular paragraphs 66 – 74 (Part 1), Unique denies that it owed a duty to the Plaintiffs, or alternatively, deny that they breached any duty owed to the Plaintiffs to:
- (a) take any steps to prevent the migration of dust, debris, asbestos fibers and other hazardous substances during the building envelope work into the interior of the Michigan Properties;
  - (b) abate the accumulation of dust and debris containing asbestos fibers and other hazardous substances created by the building envelope work in the interior of the Michigan Properties;
  - (c) implement the asbestos abatement procedures required under the Building Envelope Contract;
  - (d) advise Starlight of the discovery of accumulated dust and debris containing asbestos fibers in one or more suites at 435 Michigan; and
  - (e) properly assess the risk of further migration of dust and debris containing asbestos fibers and other hazardous substances into suites in the Michigan Properties and take necessary steps to prevent the further migration of such dust and debris into 435 Michigan during Unique's work.

#### **Alleged Breach of the Building Envelope Contract**

15. In response to the entire Notice of Civil Claim and in particular paragraphs 56 – 62, 65 and 67 - 74 (Part 1), Unique denies that it breached the Building Envelope Contract as alleged or at all.
16. In further response to the entire Notice of Civil Claim and in particular paragraphs 56 – 62, 65 and 67 - 74 (Part 1), Unique denies that it failed to perform its obligations under the Building Envelope Contract as alleged or at all.

#### **Alleged Damages**

17. In response to paragraph 63 – 64 of the Notice of Civil Claim, Unique denies that the Plaintiffs have suffered any loss, damage, or expense as alleged or at all.
18. In the alternative, if the Plaintiffs have suffered any loss, damage, or expense, which is denied, then such loss, damage, or expense, was not caused or contributed to by Unique.
19. If the Plaintiffs did suffer any loss, damage or expense, which is not admitted but is expressly denied, then any such loss, damage or expense was not caused or contributed to by Unique but rather by the negligence of Starlight, the Michigan Owners, Wynspec, ZGEMI, Harconbridge or other parties unknown to Unique. Particulars of such negligence are set out in paragraph 30 (Part 1) herein.



20. In the further alternative, if the Plaintiffs have suffered any loss, damage, or expense, which is denied, then the Plaintiffs have failed in their duty to mitigate their loss.

### **Discovery of Asbestos and Stoppage of Work**

21. Unique commenced performance of the Work on or around June 2016.
22. From on or around June 2016 to on or about September 19, 2017, Starlight was the prime contractor for the renovation of the Michigan Properties.
23. As the prime contractor Starlight was responsible for, *inter alia*, managing all aspects of the interior and exterior renovations of the Michigan Properties, including the safe abatement of hazardous materials such as asbestos fibers.
24. On or about December 14, 2016, WorkSafe BC conducted an inspection of the Michigan Properties following a third party complaint that drywall containing asbestos was not being properly stored on site. During the inspection, WorkSafe BC observed an employee of ZGEMI failing to use appropriate abatement procedures when performing interior renovation work that disturbed asbestos containing drywall.
25. On or about December 14, 2016, WorkSafe BC issued a stop work order with respect to 415 Michigan.
26. In specific response to paragraph 43 (Part 1) of the Notice of Civil Claim, on or about January 12, 2017, Unique inspected reports of construction dust inside suites at 435 Michigan and determined, with the assistance of a third party contractor, that the construction dust did not contain asbestos fibers. At all times, Unique advised and updated Wynspec and the property managers at the Michigan Properties with respect to this incident and any other incidents of construction dust migration.
27. On or about January 16, 2017, Starlight voluntarily stopped all work at the Michigan Properties, including the Work to be performed by Unique.
28. In specific response to paragraphs 67 and 68 (Part 1) of the Notice of Civil Claim, Unique denies that it caused, aggravated or contributed to the migration of construction dust and debris containing asbestos fibers and other hazardous materials into the interior of the Michigan Properties.
29. In specific response to paragraph 69 (Part 1) of the Notice of Civil Claim, at all material times, Unique performed the Work, including the Unique Abatement Work, in a good and workmanlike manner, including taking the necessary steps to abate material known to contain asbestos or other hazardous materials.
30. The migration of construction dust and debris containing asbestos fibers and other hazardous materials into the interior of the Michigan Properties was caused, aggravated or contributed to by the negligence of Starlight, the Michigan Owners, Wynspec, ZGEMI, Harconbridge or other parties unknown to Unique. Particulars of the alleged negligence include:

- (a) hiring or engaging incompetent servants, agents or employees to work on the renovations to the Michigan Properties when they knew or ought to have known they lacked the requisite skills, qualifications or experience to do so;
  - (b) entrusting incompetent servants, agents or employees to work on the renovations to the Michigan Properties when they knew or ought to have known that they did not have the requisite knowledge and/or experience to do so;
  - (c) failing to adequately supervise incompetent servants, agents or employees when they knew or ought to have known that they required supervision;
  - (d) failing to adequately instruct or supervise their employees, agents or servants;
  - (e) failing to properly implement, operate or monitor the abatement of hazardous materials, including asbestos fibers;
  - (f) failing to take any steps to prevent the migration of dust, debris, asbestos fibers and other hazardous substances created by work outside the scope of the Unique Abatement Work into the interior of the Michigan Properties;
  - (g) failing to abate the accumulation of dust and debris containing asbestos fibers and other hazardous substances created by work outside the scope of the Unique Abatement Work in the interior of the Michigan Properties;
  - (h) failing to properly assess the risk of further migration of dust and debris containing asbestos fibers and other hazardous substances into suites in the Michigan Properties and take necessary steps to prevent the further migration of such dust and debris into 435 Michigan during work outside the scope of the Unique Abatement Work; and
  - (i) such further and other particulars as they become known to Unique.
31. On or about January 16, 2017, Starlight voluntarily stopped all work at the Michigan Properties, including the Work to be performed by Unique.
32. On or about August 14, 2017, Unique returned to the Michigan Properties to continue performance of the Work following the completion of the Remediation Work.

#### **Breaches by Starlight and the Michigan Owners**

33. From June 2016 to June 2018, Unique submitted Invoices to Starlight for payment on a monthly basis in accordance with the terms of the Building Envelope Contract. During this period of time, Starlight and the Michigan Owners frequently failed to perform their obligation under the Building Envelope Contract to pay such Invoices when due.
34. On or about May 8, 2018, Wynspec issued certificates of substantial completion with respect to the Work.

35. On or about May 30, 2018, Starlight notified Unique that it would be withholding payment of all Invoices on the basis that Unique had failed to provide certain information to Starlight in accordance with section 41 of the *Builders Lien Act*.
36. On or about June 5, 2018, Unique provided to Starlight the information requested in accordance with section 41 of the *Builders Lien Act* and requested Starlight and the Michigan Owners perform their obligations under the Building Envelope Contract to pay the amounts due under the Invoices when due.
37. In breach of their obligations under the Building Envelope Contract, Starlight and the Michigan Owners have refused or neglected to pay the amounts due under the following Invoices:

Invoice No.	Invoice Date	Amount Due	Date Due
7756	02/28/2018	\$214,774.59	05/09/2018
7778	03/30/2018	\$337,159.27	06/08/2018
7809	04/30/2018	\$350,323.41	07/09/2018
7820	05/30/2018	\$24,914.09	08/08/2018
7821	05/09/2018	\$656,688.42	06/09/2018
7810	04/30/2018	\$601,530.79	07/03/2018

(collectively, the “**Outstanding Invoices**”)

38. Starlight and the Michigan Owners have refused or neglected to pay the amounts due under the Outstanding Invoices despite Unique’s demand that they do so.
39. The amount of \$2,185,390.57 plus interest accruing at the rate of 24.00% per annum, remains due and owing to Unique under the Building Envelope Contract.
40. On or about June 7, 2018, Unique by its agent made a claim of lien pursuant to the *Builders Lien Act* alleging that the sum of \$2,221,090.57 is or will become due and owing on May 8, 2018, by causing the said claim of lien to be filed against the Michigan Properties at the Victoria Land Title Office under registration number CA6851343 (the “**Building Envelope Lien**”).
41. The amount secured by the Building Envelope Lien is \$2,185,390.57, plus interest accruing at the rate of 24.00% per annum, pursuant to the Outstanding Invoices.

42. In specific response to paragraphs 57 and 58 (Part 1) of the Notice of Civil Claim, Unique denies that it had any obligation under the Building Envelope Contract to cause the any liens filed by its subcontractors to be removed and released from title to the Michigan Properties because such liens resulted from Starlight's and the Michigan Owners' failure to pay the Invoices when due.
43. Upon notifying Starlight and the Michigan Owners of their failure to perform their obligations under the Building Envelope Contract, Unique was entitled to suspend its performance of the Work pursuant to the terms of the Building Envelope Contract.
44. On or about June 15, 2018, Unique suspended its performance of the Work in accordance with the terms of the Building Envelope Contract. Unique maintained materials for completion of performance of the Work at the Michigan Properties until on or about July 7, 2018.
45. On or about August 28, 2018, Wynspec purported to deliver the Default Notice to Unique.
46. On or about August 29, 2018, Unique requested Wynspec provide details of Unique's alleged default by failing to "complete the contracted scope of work" under the Building Envelope Contract. Wynspec has neglected or refused to provide such details despite Unique's request.
47. On or about August 31, 2018, Unique provided written notice to Wynspec and Starlight that it disputed the validity of the Dispute Notice on the basis that it had been entitled to suspend performance of the Work when it did so on or about June 15, 2018.
48. On or about September 4, 2018, Unique made a good faith effort to cure the alleged default by attending the Michigan Properties to resume performance of the Work, however, Starlight and the Michigan Owners refused to provide Unique with access to the Michigan Properties.
49. By refusing to provide access to Unique to the Michigan Properties to perform the Work, Starlight and Michigan Owners breached their obligations under the Building Envelope Contract or, alternatively, breached their duty to perform their obligations under the Building Envelope Contract honestly and in good faith.
50. On or about September 6, 2018, Starlight provided written notice (the "**Termination Notice**") to Unique purporting to terminate the Building Envelope Contract.
51. On or about September 7, 2018, Unique provided written notice to Starlight that it disputed the validity of the Termination Notice on the basis that the Termination Notice purported to rely on the fact Unique suspended performance of the Work and failed to cure the alleged default in the Default Notice.
52. Starlight and the Michigan Owners breached their obligations to Unique under the Building Envelope Contract by, *inter alia*, the following:

- (a) failing to provide Unique with access to the Michigan Properties to perform the Work;
  - (b) failing to take all reasonable steps to determine whether the Michigan Properties contained any toxic or hazardous substances, including asbestos, and provide Unique with a written list of such substances and their location within the Michigan Properties;
  - (c) except for the Unique Abatement Work, failing to take all necessary steps, in accordance with applicable legislation, to dispose of, store or otherwise render harmless toxic or hazardous substances which were present at the Michigan Properties prior to Unique commencing the Work;
  - (d) failing to pay Unique the amounts due under the Outstanding Invoices; and
  - (e) such further and other particulars as they become known to Unique.
53. As a result of the breaches of the Building Envelope Contract by Starlight and the Michigan Owners and the negligence of Starlight and the Michigan Owners, Unique has suffered loss, damage and expense, including, Unique has suffered loss, damage and expense, including:
- (a) amounts due under the Outstanding Invoices, plus interest;
  - (b) costs incurred as a result of the presence of asbestos fibers in the interior spaces of the Michigan Properties causing Starlight to voluntarily stop all work at the Michigan Properties, including the Work to be performed by Unique;
  - (c) loss of opportunity to complete performance of the Work;
  - (d) loss of income from completing performance of the Work in accordance with the Building Envelope Contract; and
  - (e) such further and other damages to be proven at trial.

### **Division 3 - Additional Facts**

54. On or about September 19, 2017, Unique entered into a prime contractor agreement (the “**Prime Contractor Agreement**”) whereby Starlight retained Unique as the “prime contractor and constructor” for the renovation of the Michigan Properties. Starlight entered into the Prime Contractor Agreement on its own behalf and on behalf of the Michigan Owners.
55. The Prime Contractor Agreement contains, *inter alia*, the following express and implied terms:

- (a) Unique would be responsible for managing all aspects of the interior and exterior renovations of the Michigan Properties from September 19, 2017 until the final completion of such work;
  - (b) Starlight and the Michigan Owners would pay Unique a monthly fee in the amount of \$19,850.00, plus applicable taxes (the “**Monthly Fee**”);
  - (c) Starlight and the Michigan Owners would pay Unique the Monthly Fee within 60 days of the date of each monthly invoice submitted by Unique; and
  - (d) Unique or Starlight/the Michigan Owners could terminate the Prime Contractor Agreement by providing the other with 30 days written notice.
56. In accordance with the terms of the Prime Contractor Agreement, Unique managed all aspects of the interior and exterior renovations of the Michigan Properties starting on September 19, 2017.
57. From September 2017 to June 2018, Unique submitted monthly invoices to Starlight and the Michigan Owners in accordance with the Prime Contractor Agreement.
58. In breach of their obligations under the Prime Contractor Agreement, Starlight and the Michigan Owners have refused or neglected to pay the amounts due under the following Invoices:

<b>Invoice No.</b>	<b>Invoice Date</b>	<b>Amount Due</b>	<b>Date Due</b>
7780	03/30/2018	\$20,144.25	05/29/2018
7805	04/30/2018	\$20,144.25	06/29/2018
7832	05/31/2018	\$20,144.25	07/30/2018
7888	06/30/2018	\$10,072.13	29/08/2018

(collectively, the “**Outstanding Prime Contractor Invoices**”)

59. The amount of \$70,504.88, plus interest accruing at the rate of 24.00% per annum, remains due and owing to Unique under the Prime Contractor Agreement.
60. On or about May 15, 2018, Unique provided written notice to Starlight that it had elected to terminate the Prime Contractor Agreement effective
61. On or about June 7, 2018, Unique by its agent made a claim of lien pursuant to the *Builders Lien Act* alleging that the sum of \$80,577.00 is or will become due and owing on May 8, 2018, by causing the said claim of lien to be filed against the Michigan Properties at the

Victoria Land Title Office under registration number CA6851342 (the “**Prime Contractor Lien**”, collectively, with the Building Envelope Lien, the “**Liens**”).

62. The amount secured by the Prime Contractor Lien is \$70,504.88, plus interest accruing at the rate of 24.00% per annum, pursuant to the Outstanding Prime Contractor Invoices.
63. Unique has complied with the provisions of the *Builders Lien Act* and is entitled to builders liens on the Michigan Properties.

## **Part 2: RESPONSE TO RELIEF SOUGHT**

1. The defendant consents to the granting of the relief sought in paragraphs NIL of Part 2 of the notice of civil claim.
2. The defendant opposes the granting of the relief sought in paragraph 1 of Part 2 of the notice of civil claim.
3. The defendant takes no position on the granting of the relief sought in paragraphs 2 - 4 of Part 2 of the notice of civil claim.

## **Part 3: LEGAL BASIS**

1. Unique denies that the Plaintiffs have suffered any loss, damage or expense, as alleged or at all. If the Plaintiffs have suffered any loss, damage or expense, which is not admitted but is expressly denied, then any such loss, damage or expense did not result from any fault, negligence, breach of duty, breach of statutory duty and/or breach of contract, or breach of warranty, by Unique or by any agents or employees or anyone for whom Unique is responsible.
2. Unique did not breach the Building Envelope Contract, any warranty, or any other agreement with Starlight and/or the Michigan Owners.
3. If the Plaintiffs did suffer any loss, damage or expense, which is not admitted but is expressly denied, then any such loss, damage or expense was not caused or contributed to by Unique but rather by the negligence of Starlight, the Michigan Owners, Wynspec, ZGEMI, Harconbridge or other parties unknown to Unique. Particulars of the alleged negligence are set out in paragraph 30 (Part 1) herein.
4. Unique did not owe an independent and concurrent duty of care to Starlight and/or the Michigan Owners, as alleged or at all. If the Defendants did owe an independent and concurrent duty of care to the Starlight and/or the Michigan Owners, then Unique denies that it breached any such duty, as alleged or at all.
5. If the Plaintiffs have suffered loss, damage or expense, as alleged or at all, which is not admitted but specifically denied, then such loss, damage or expense was not reasonably foreseeable, as to type or amount, from any negligence of Unique, and such negligence was not the proximate cause of any loss, damage or expense allegedly suffered by the Plaintiffs.

6. If the Plaintiffs have suffered loss, damage or expense, as alleged or at all, which is not admitted but specifically denied, then such loss, damage or expense are in the nature of pure economic loss and not recoverable against Unique as alleged or at all.
7. If the Plaintiffs have suffered loss, damage or expense, as alleged or at all, which is not admitted but specifically denied, then Unique says that the Plaintiffs have failed to mitigate or reasonably mitigate its loss, damage, and expense, including:
  - (a) failing to take reasonable steps to reduce the delay in completion of the Michigan Project and reduce the period during which work was stopped at the Michigan Properties;
  - (b) failing to take reasonable steps to earn rental income during the relocation of the tenants of 435 Michigan;
  - (c) failing to take reasonable steps to control the costs of abatement of the asbestos at the Michigan Properties;
  - (d) failing to take reasonable steps to control the costs incurred due to the stoppage of work at the Michigan Properties and the relocation of the tenants of 435 Michigan; and
  - (e) such further and other particulars as they become known to Unique.
8. If the Plaintiffs have suffered loss, damage or expense, as alleged or at all, which is not admitted but specifically denied, then Unique claims a set-off against the amounts owed to Unique by Starlight and the Michigan Owners under the Building Envelope Contract and the Prime Contractor Agreement.
9. Unique denies any liability in respect of the *Negligence Act*, RSBC 1996, c. 333 (the "*Negligence Act*"), as alleged or at all.
10. Unique pleads and relies on the provisions of the *Negligence Act*.
11. Unique pleads and relies on the terms of the Building Envelope Contract and the Prime Contractor Agreement.
12. Unique seeks that the Notice of Civil Claim be struck and/or dismissed with costs to Unique.

Defendant's address for service:

McMillan LLP  
Suite 1500 – 1055 West Georgia Street  
P.O. Box 11117  
Vancouver, BC V6E 4N7  
Attention: Daniel Shouldice

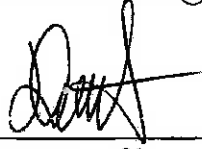


- 13 -

Fax number address for service (if any): n/a

E-mail address for service (if any): daniel.shouldice@mcmillan.ca

Date: November 7, 2018



\_\_\_\_\_  
Signature of lawyer for the Defendant,  
Unique Restoration Ltd.

Daniel Shouldice

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Rule 7-1(1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
  - (a) prepare a list of documents in Form 22 that lists
    - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
    - (ii) all other documents to which the party intends to refer at trial, and
  - (b) serve the list on all parties of record.

This is Exhibit “D” referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A handwritten signature in black ink, appearing to read 'Rory McGovern', is positioned above a horizontal line.

*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**

**SUPREME COURT  
OF BRITISH COLUMBIA  
VANCOUVER REGISTRY**

**NOV 07 2018**

No. S-189965  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**IMH 415 & 435 MICHIGAN APARTMENTS LTD.,  
IMH POOL XIV LP and IMH GP XIV LTD.**

**PLAINTIFFS**

**AND:**

**UNIQUE RESTORATION LTD., WYNSPEC MANAGEMENT INC.,  
ZGEMI INC. and HARCONBRIDGE CONSTRUCTION LTD.**

**DEFENDANTS**

**AND:**

**STARLIGHT GROUP PROPERTY HOLDINGS INC.**

**DEFENDANT BY WAY OF COUNTERCLAIM**

**COUNTERCLAIM**

**Filed by: Unique Restoration Ltd. (“Unique”)**

**To: IMH 415 & 435 Michigan Apartments Ltd., IMH Pool XIV LP, IMH GP XIV Ltd. and  
Starlight Group Property Holdings Inc.**

**And to: Their Solicitors**

**This action has been brought by the plaintiff(s) against the defendant(s) for the relief set out in the  
notice of civil claim filed in this action.**

**TAKE NOTICE that the defendant(s) Unique Restoration Ltd. claim(s) against you for the relief  
set out in Part 2 below.**

**IF YOU INTEND TO RESPOND to the claim made against you in this counterclaim, or if you  
have a set-off or counterclaim that you wish to have taken into account at the trial, YOU MUST  
FILE a response to counterclaim in Form 4 in the above-named registry of this court within the  
time for response to counterclaim described below and SERVE a copy of the filed response to  
counterclaim on the address for service of the defendant(s) bringing this counterclaim.**

**YOU OR YOUR LAWYER may file the response to counterclaim.**

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to counterclaim within the time for response to counterclaim described below.

**Time for response to counterclaim**

A response to counterclaim must be filed and served on the defendant(s) bringing this counterclaim,

- (a) if you were served with the counterclaim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the counterclaim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the counterclaim anywhere else, within 49 days after that service, or
- (d) if the time for response to counterclaim has been set by order of the court, within that time.

**CLAIM OF THE DEFENDANT BRINGING THE COUNTERCLAIM**

**Part 1: STATEMENT OF FACTS**

- 1. Unless otherwise defined herein, Unique adopts the defined terms used in the Notice of Civil Claim of the Plaintiffs dated September 12, 2018 (the “**Notice of Civil Claim**”). Unique adopts the defined terms without admitting to any of the allegations resulting there from.
- 2. Unique pleads, reiterates and relies on the admissions, facts, allegations and defined terms set out in its Response to Civil Claim filed in this proceeding.

**The Parties**

- 3. Unique carries on building maintenance and restoration services in the multi-unit residential, commercial and institutional sectors in Ontario and British Columbia.
- 4. Starlight is the asset and property manager with respect to the Michigan Properties, acting on behalf of the Michigan Owners.
- 5. Michigan Apartments is the registered owner of the Michigan Properties, which are legally described as follows:

City of Victoria Parcel Identifier: 030-409-519  
Lot A of Lots 1817, 1818, 1819, 1820, 1821, 1822 and 1823 Victoria City Plan  
EPP76927

**The Building Envelope Contract**

6. On or about May 19, 2016, Unique entered into the Building Envelope Contract with Starlight. Starlight entered into the Building Envelope Contract on its own and on behalf of the Michigan Owners.
7. Wynspec was appointed the “**Consultant**” under the terms of the Building Envelope Contract to provide administration of the Building Envelope Contract.
8. Unique says that the Building Envelope Contract contains, inter alia, the following express and implied terms:
  - (a) Unique would perform the exterior wall, windows replacement and balcony repairs (the “**Work**”) as detailed in the Building Envelope Contract;
    - (i) the Work included the following:
      - (ii) the interior abatement for windows and doors replacement at 415 Michigan;
      - (iii) interior abatement for window replacement at 435 Michigan; and
      - (iv) exterior abatement for exterior repair work and window replacement at 435 Michigan
  - (collectively, the “**Unique Abatement Work**”);
  - (b) Unique would have total control of the Work and be solely responsible for the construction means and methods of completing the Work;
  - (c) Starlight and the Michigan Owners would provide Unique with access to the Michigan Properties to perform the Work;
  - (d) Starlight and the Michigan Owners would be responsible for protecting the Michigan Properties from any damage which occurred as a result of acts or omissions by Starlight, the Michigan Owners, Wynspec and other contractors, including the agents and employees of such parties;
  - (e) Starlight and the Michigan Owners would take all reasonable steps to determine whether the Michigan Properties contained any toxic or hazardous substances, including asbestos, and provide Unique with a written list of such substances and their location within the Michigan Properties;
  - (f) except for the Unique Abatement Work, Starlight and the Michigan Owners would take all necessary steps, in accordance with applicable legislation, to dispose of, store or otherwise render harmless toxic or hazardous substances which were present at the Michigan Properties prior to Unique commencing the Work;

- (g) Unique would submit invoices (the "Invoices") for payment to Starlight each month in accordance with the payment terms of the Building Envelope Contract;
- (h) Starlight and the Michigan Owners would pay Unique the amounts due under each Invoice within 60 days of the Invoice being submitted to Starlight;
- (i) Starlight and the Michigan Owners would not withhold the payment of any Invoice unless in accordance with the terms of the Building Envelope Contract;
- (j) where a sub-contractor retained by Unique filed a lien in accordance with the *Builders Lien Act*, SBC 1997, c. 45 (the "***Builders Lien Act***"), Starlight and the Michigan Owners would not be entitled to withhold payments from Unique where such a lien resulted from Starlight's and the Michigan Owners' failure to pay the Invoices when due; and
- (k) if Starlight and the Michigan Owners failed to pay any of the Invoices when due, Unique would be entitled to suspend the Work after providing 5 days written notice to Starlight.

#### **Discovery of Asbestos and Stoppage of Work**

9. Unique commenced performance of the Work on or around June 2016.
10. From on or around June 2016 to on or about September 19, 2017, Starlight was the prime contractor for the renovation of the Michigan Properties.
11. As the prime contractor Starlight was responsible for, inter alia, managing all aspects of the interior and exterior renovations of the Michigan Properties, including the safe abatement of hazardous materials such as asbestos fibers.
12. On or about December 14, 2016, WorkSafe BC conducted an inspection of the Michigan Properties following a third party complaint that drywall containing asbestos was not being properly stored on site. During the inspection, WorkSafe BC observed an employee of ZGEMI failing to use appropriate abatement procedures when performing interior renovation work that disturbed asbestos containing drywall.
13. On or about December 14, 2016, WorkSafe BC issued a stop work order with respect to 415 Michigan.
14. On or about January 12, 2017, Unique inspected reports of construction dust inside suites at 435 Michigan and determined, with the assistance of a third party contractor, that the construction dust did not contain asbestos fibers. At all times, Unique advised and updated Wynspec and the property managers at the Michigan Properties with respect to this incident and any other incidents of construction dust migration.
15. On or about January 16, 2017, Starlight voluntarily stopped all work at the Michigan Properties, including the Work to be performed by Unique.

16. At all material times, Unique performed the Work, including the Unique Abatement Work, in a good and workmanlike manner, including taking the necessary steps to abate material known to contain asbestos or other hazardous materials.
17. The migration of construction dust and debris containing asbestos fibers and other hazardous materials into the interior of the Michigan Properties was caused, aggravated or contributed to by the negligence of Starlight, the Michigan Owners, Wynspec, ZGEMI, Harconbridge or other parties unknown to Unique. Particulars of the alleged negligence include:
  - (a) hiring or engaging incompetent servants, agents or employees to work on the renovations to the Michigan Properties when they knew or ought to have known they lacked the requisite skills, qualifications or experience to do so;
  - (b) entrusting incompetent servants, agents or employees to work on the renovations to the Michigan Properties when they knew or ought to have known that they did not have the requisite knowledge and/or experience to do so;
  - (c) failing to adequately supervise incompetent servants, agents or employees when they knew or ought to have known that they required supervision;
  - (d) failing to adequately instruct or supervise their employees, agents or servants;
  - (e) failing to properly implement, operate or monitor the abatement of hazardous materials, including asbestos fibers;
  - (f) failing to take any steps to prevent the migration of dust, debris, asbestos fibers and other hazardous substances created by work outside the scope of the Unique Abatement Work into the interior of the Michigan Properties;
  - (g) failing to abate the accumulation of dust and debris containing asbestos fibers and other hazardous substances created by work outside the scope of the Unique Abatement Work in the interior of the Michigan Properties;
  - (h) failing to properly assess the risk of further migration of dust and debris containing asbestos fibers and other hazardous substances into suites in the Michigan Properties and take necessary steps to prevent the further migration of such dust and debris into 435 Michigan during work outside the scope of the Unique Abatement Work; and
  - (i) such further and other particulars as they become known to Unique.
18. On or about January 16, 2017, Starlight voluntarily stopped all work at the Michigan Properties, including the Work to be performed by Unique.
19. On or about August 14, 2017, Unique returned to the Michigan Properties to continue performance of the Work following the completion of the Remediation Work.

**Breaches by Starlight and the Michigan Owners**

20. From June 2016 to June 2018, Unique submitted Invoices to Starlight for payment on a monthly basis in accordance with the terms of the Building Envelope Contract. During this period of time, Starlight and the Michigan Owners frequently failed to perform their obligation under the Building Envelope Contract to pay such Invoices when due.
21. On or about May 8, 2018, Wynspec issued certificates of substantial completion with respect to the Work.
22. On or about May 30, 2018, Starlight notified Unique that it would be withholding payment of all Invoices on the basis that Unique had failed to provide certain information to Starlight in accordance with section 41 of the Builders Lien Act.
23. On or about June 5, 2018, Unique provided to Starlight the information requested in accordance with section 41 of the Builders Lien Act and requested Starlight and the Michigan Owners perform their obligations under the Building Envelope Contract to pay the amounts due under the Invoices when due.
24. In breach of their obligations under the Building Envelope Contract, Starlight and the Michigan Owners have refused or neglected to pay the amounts due under the following Invoices:

<b>Invoice No.</b>	<b>Invoice Date</b>	<b>Amount Due</b>	<b>Date Due</b>
7756	02/28/2018	\$214,774.59	05/09/2018
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7809	04/30/2018	\$350,323.41	07/09/2018
7820	05/30/2018	\$24,914.09	08/08/2018
7821	05/09/2018	\$656,688.42	06/09/2018
7810	04/30/2018	\$601,530.79	07/03/2018

(collectively, the “**Outstanding Invoices**”)

25. Starlight and the Michigan Owners have refused or neglected to pay the amounts due under the Outstanding Invoices despite Unique’s demand that they do so.
26. The amount of \$2,185,390.57 plus interest accruing at the rate of 24.00% per annum, remains due and owing to Unique under the Building Envelope Contract.



27. On or about June 7, 2018, Unique by its agent made a claim of lien pursuant to the Builders Lien Act alleging that the sum of \$2,221,090.57 is or will become due and owing on May 8, 2018, by causing the said claim of lien to be filed against the Michigan Properties at the Victoria Land Title Office under registration number CA6851343 (the “**Building Envelope Lien**”).
28. The amount secured by the Building Envelope Lien is \$2,185,390.57, plus interest accruing at the rate of 24.00% per annum, pursuant to the Outstanding Invoices.
29. In specific response to paragraphs 57 and 58 (Part 1) of the Notice of Civil Claim, Unique denies that it had any obligation under the Building Envelope Contract to cause the any liens filed by its subcontractors to be removed and released from title to the Michigan Properties because such liens resulted from Starlight’s and the Michigan Owners’ failure to pay the Invoices when due.
30. Upon notifying Starlight and the Michigan Owners of their failure to perform their obligations under the Building Envelope Contract, Unique was entitled to suspend its performance of the Work pursuant to the terms of the Building Envelope Contract.
31. On or about June 15, 2018, Unique suspended its performance of the Work in accordance with the terms of the Building Envelope Contract. Unique maintained materials for completion of performance of the Work at the Michigan Properties until on or about July 7, 2018.
32. On or about August 28, 2018, Wynspec purported to deliver the Default Notice to Unique.
33. On or about August 29, 2018, Unique requested Wynspec provide details of Unique’s alleged default by failing to “complete the contracted scope of work” under the Building Envelope Contract. Wynspec has neglected or refused to provide such details despite Unique’s request.
34. On or about August 31, 2018, Unique provided written notice to Wynspec and Starlight that it disputed the validity of the Dispute Notice on the basis that it had been entitled to suspend performance of the Work when it did so on or about June 15, 2018.
35. On or about September 4, 2018, Unique made a good faith effort to cure the alleged default by attending the Michigan Properties to resume performance of the Work, however, Starlight and the Michigan Owners refused to provide Unique with access to the Michigan Properties.
36. By refusing to provide access to Unique to the Michigan Properties to perform the Work, Starlight and Michigan Owners breached their obligations under the Building Envelope Contract or, alternatively, breached their duty to perform their obligations under the Building Envelope Contract honestly and in good faith.
37. On or about September 6, 2018, Starlight provided written notice (the “**Termination Notice**”) to Unique purporting to terminate the Building Envelope Contract.

38. On or about September 7, 2018, Unique provided written notice to Starlight that it disputed the validity of the Termination Notice on the basis that the Termination Notice purported to rely on the fact Unique suspended performance of the Work and failed to cure the alleged default in the Default Notice.
39. Starlight and the Michigan Owners breached their obligations to Unique under the Building Envelope Contract by, inter alia, the following:
- (a) failing to provide Unique with access to the Michigan Properties to perform the Work;
  - (b) failing to take all reasonable steps to determine whether the Michigan Properties contained any toxic or hazardous substances, including asbestos, and provide Unique with a written list of such substances and their location within the Michigan Properties;
  - (c) except for the Unique Abatement Work, failing to take all necessary steps, in accordance with applicable legislation, to dispose of, store or otherwise render harmless toxic or hazardous substances which were present at the Michigan Properties prior to Unique commencing the Work;
  - (d) failing to pay Unique the amounts due under the Outstanding Invoices; and
  - (e) such further and other particulars as they become known to Unique.
40. As a result of the breaches of the Building Envelope Contract by Starlight and the Michigan Owners and the negligence of Starlight and the Michigan Owners, Unique has suffered loss, damage and expense, including:
- (a) amounts due under the Outstanding Invoices, plus interest;
  - (b) costs incurred as a result of the presence of asbestos fibers in the interior spaces of the Michigan Properties causing Starlight to voluntarily stop all work at the Michigan Properties, including the Work to be performed by Unique;
  - (c) loss of opportunity to complete performance of the Work;
  - (d) loss of income from completing performance of the Work in accordance with the Building Envelope Contract; and
  - (e) such further and other damages to be proven at trial.

### **The Prime Contractor Agreement**

41. On or about September 19, 2017, Unique entered into a prime contractor agreement (the “**Prime Contractor Agreement**”) whereby Starlight retained Unique as the “prime contractor and constructor” for the renovation of the Michigan Properties. Starlight entered

into the Prime Contractor Agreement on its own behalf and on behalf of the Michigan Owners.

42. The Prime Contractor Agreement contains, inter alia, the following express and implied terms:
- (a) Unique would be responsible for managing all aspects of the interior and exterior renovations of the Michigan Properties from September 19, 2017 until the final completion of such work;
  - (b) Starlight and the Michigan Owners would pay Unique a monthly fee in the amount of \$19,850.00, plus applicable taxes (the “**Monthly Fee**”);
  - (c) Starlight and the Michigan Owners would pay Unique the Monthly Fee within 60 days of the date of each monthly invoice submitted by Unique; and
  - (d) Unique or Starlight/the Michigan Owners could terminate the Prime Contractor Agreement by providing the other with 30 days written notice.
43. In accordance with the terms of the Prime Contractor Agreement, Unique managed all aspects of the interior and exterior renovations of the Michigan Properties starting on September 19, 2017.
44. From September 2017 to June 2018, Unique submitted monthly invoices to Starlight and the Michigan Owners in accordance with the Prime Contractor Agreement.
45. In breach of their obligations under the Prime Contractor Agreement, Starlight and the Michigan Owners have refused or neglected to pay the amounts due under the following Invoices:

Invoice No.	Invoice Date	Amount Due	Date Due
7780	03/30/2018	\$20,144.25	05/29/2018
7805	04/30/2018	\$20,144.25	06/29/2018
7832	05/31/2018	\$20,144.25	07/30/2018
7888	06/30/2018	\$10,072.13	29/08/2018

(collectively, the “**Outstanding Prime Contractor Invoices**”)

46. The amount of \$70,504.88, plus interest accruing at the rate of 24.00% per annum, remains due and owing to Unique under the Prime Contractor Agreement.

47. On or about May 15, 2018, Unique provided written notice to Starlight that it had elected to terminate the Prime Contractor Agreement effective
48. On or about June 7, 2018, Unique by its agent made a claim of lien pursuant to the Builders Lien Act alleging that the sum of \$80,577.00 is or will become due and owing on May 8, 2018, by causing the said claim of lien to be filed against the Michigan Properties at the Victoria Land Title Office under registration number CA6851342 (the "**Prime Contractor Lien**").
49. The amount secured by the Prime Contractor Lien is \$70,504.88, plus interest accruing at the rate of 24.00% per annum, pursuant to the Outstanding Prime Contractor Invoices.
50. Unique has complied with the provisions of the *Builders Lien Act* and is entitled to builders liens on the Michigan Properties.

## **Part 2: RELIEF SOUGHT**

1. A declaration that Unique is entitled to a lien pursuant to the *Builders Lien Act* in the amount of \$2,185,390.57, plus interest accruing at the rate of 24.00% per annum, as against the Michigan Properties and against any further security posted or funds paid into Court in substitution for the Michigan Properties.
2. A declaration that Unique is entitled to a lien pursuant to the *Builders Lien Act* in the amount of \$70,504.88, plus interest accruing at the rate of 24.00% per annum, as against the Michigan Properties and against any further security posted or funds paid into Court in substitution for the Michigan Properties.
3. A Certificate of Pending Litigation.
4. A declaration that Starlight and the Michigan Owners are in breach of their obligations under the Building Envelope Contract and the Prime Contractor Agreement.
5. General and special damages for breach of the Building Envelope Contract and the Prime Contractor Agreement.
6. A declaration that Unique is entitled to an indemnity from Starlight and the Michigan Owners in accordance with the Building Envelope Contract with respect to:
  - (a) any amounts paid by or on behalf of Unique as a result of the failure of Starlight and the Michigan Owners to fulfill their obligations pursuant to the terms and conditions of the Building Envelope Contract;
  - (b) any amounts paid by or on behalf of Unique as a result of the negligent acts or omissions of Starlight and the Michigan Owners or anyone for whom Starlight and the Michigan Owners are liable; and
  - (c) all legal costs and expenses incurred by Unique as a result of the failure of Starlight and the Michigan Owners to fulfill their obligations pursuant to the terms and

conditions of the Building Envelope Contract and/or the negligent acts or omissions of Starlight and the Michigan Owners or anyone for whom Starlight and the Michigan Owners are liable.

7. Judgment in favour of Unique for all amounts due to it from Starlight and the Michigan Owners as set out herein.
8. Interest in accordance with the Building Envelope Contract, the Prime Contractor Agreement, the Outstanding Invoices and the Outstanding Prime Contractor Invoices.
9. Costs on a solicitor and own client basis in accordance with the Building Envelope Contract and the Prime Contractor Agreement or, alternatively, costs in accordance with the *Supreme Court Civil Rules*.
10. Such further and other relief as this Honourable Court may deem just.

**Part 3: LEGAL BASIS**

1. Starlight and the Michigan Owners have breached their obligations to Unique under the Building Envelope Contract and the Prime Contractor Agreement.
2. Unique has suffered loss, damage and expense as a result of the breaches of the Building Envelope Contract and the Prime Contractor Agreement by Starlight and the Michigan Owners.
3. Unique pleads and relies on the terms of the Building Envelope Contract and the Prime Contractor Agreement.
4. Unique is entitled to a lien for the amounts due under the Building Envelope Contract and the Prime Contractor Agreement pursuant to the *Builders Lien Act*.

Defendant's address for service:

McMillan LLP  
Suite 1500 – 1055 West Georgia Street  
P.O. Box 11117  
Vancouver, BC V6E 4N7  
Attention: Daniel Shouldice

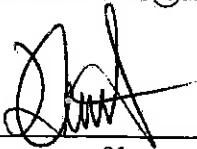
Fax number address for service (if any):

n/a

E-mail address for service (if any):

daniel.shouldice@mcmillan.ca

Date: November 7, 2018

  
\_\_\_\_\_  
Signature of lawyer for the Defendant,  
Unique Restoration Ltd.

Daniel Shouldice

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
  - (a) prepare a list of documents in Form 22 that lists
    - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
    - (ii) all other documents to which the party intends to refer at trial, and
  - (b) serve the list on all parties of record.

This is Exhibit "E" referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A handwritten signature in black ink, appearing to read 'Rory McGovern', is positioned above a horizontal line.

*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**

25-Aug-20

REGISTRY

NO. S-189965  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

IMH 415 & 435 MICHIGAN APARTMENTS LTD., IMH POOL XIV  
LP, and IMH GP XIV LTD.

PLAINTIFFS

AND

UNIQUE RESTORATION LTD., WYNSPEC MANAGEMENT INC.,  
ZGEMI INC. and HARCONBRIDGE CONSTRUCTION LTD.

DEFENDANTS

AND

IMH 415 & 435 MICHIGAN APARTMENTS LTD., IMH POOL XIV  
LP, IMH GP XIV LTD., and STARLIGHT GROUP PROPERTY  
HOLDINGS INC.

DEFENDANTS BY WAY OF COUNTERCLAIM

AND

WYNSPEC MANAGEMENT INC., ZGEMI INC.,  
HARCONBRIDGE CONSTRUCTION LTD., JERRY WAKEFIELD  
CONSTRUCTION INC., GREENPOINT ASBESTOS  
REMEDICATION SERVICES LTD., WESTERN ENVIRONMENTAL  
SERVICES INC. aka WESTERN ENVIRONMENTAL SERVICES  
LTD., dba "WESTERN ENVIRONMENTAL SERVICES", TURCA  
CONSTRUCTION LTD., and DEREK W. NEALE ARCHITECT  
INC., TOM STANISZKIS ARCHITECT INC., JERRY I. DOLL  
ARCHITECT INC., LARRY ADAMS ARCHITECT INC., and  
MOLLY Y. CHAN ARCHITECT INC. collectively carrying on  
business as NSDA ARCHITECTS, a corporate partnership

THIRD PARTIES

**NOTICE OF TRIAL**

*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms]*

Filed by: the Plaintiffs and Defendants by Way of Counterclaim.

TAKE NOTICE that the trial of this proceeding has been set down at the following place,  
date and time:



- 2 -

City	Vancouver, BC
Address of Courthouse	800 Smithe Street
Date	January 24, 2022 to February 25, 2022
Time	10:00 a.m.

---

 Registrar

*[Check whichever one of the following boxes is correct and complete any required information.]*

The place of trial set out above is:

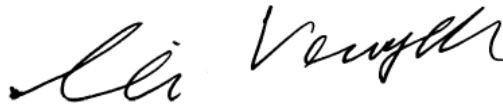
- the place of trial set out in the notice of civil claim.  
 set out in the order of this Honourable Court dated ◆

*[Check whichever one of the following boxes is correct and complete the required information.]*

- All parties of record in this action agree that not more than 24 days is a reasonable time for the hearing of all evidence and argument in this action.  
 There is a disagreement as to the estimate of a reasonable time for the hearing of all evidence and argument in this action. The estimates of the parties of record are as follows:

Name of party	Time Estimate

Dated: July 2, 2020.



Signature of EILEEN E. VANDERBURGH  
 filing party  lawyer for filing parties

Contact information for the parties and their lawyers is as follows:

<p><b>COUNSEL FOR UNIQUE</b>          Rory McGovern Professional Corporation          133 Richmond St. W. Suite 200          Toronto, ON M5H 2L3  <b>Attention: Rory P. McGovern</b>          Tel:          Fax: 647-559-9694          Email: <a href="mailto:rory@rorymcgovernpc.com">rory@rorymcgovernpc.com</a></p>	<p><b>COUNSEL FOR ZGEMI</b>          Clark Wilson LLP          900-885 West Georgia Street          Vancouver, BC V6C 3H1  <b>Attention: Samantha Ip</b>          Tel: 604-687-5700          Fax: 604-687-6314          Email: <a href="mailto:Slp@cwilson.com">Slp@cwilson.com</a></p>
<p><b>COUNSEL FOR GREENPOINT          ASBESTOS REMEDIATION SERVICES</b></p>	<p><b>COUNSEL FOR WYNSPEC</b>          Hayden Law</p>

<p>Dolden Wallace Folick LLP  18<sup>th</sup> flr-609 Granville Street  Vancouver, BC V7Y 1G5  <b>Attention: Michael Libby</b>  Tel: 604-689-3222  Fax: 604-689-3777  Email: <a href="mailto:mllibby@dolden.com">mllibby@dolden.com</a></p>	<p>1818 Gardiner Road  Kamloops, BC V2C 6V8  <b>Attention: Harmon C. Hayden</b>  Tel: 778-469-1818  Email: <a href="mailto:harmon.hayden@haydenlaw.ca">harmon.hayden@haydenlaw.ca</a></p>
<p><b>COUNSEL FOR WESTERN ENVIRONMENTAL</b>  Harper Grey LLP  3200-650 West Georgia Street  Vancouver, BC V6B 4P7  <b>Attention: Brett Weninger</b>  Tel: 604-687-0411  Fax: 604-669-9385  Email: <a href="mailto:bweninger@harpergrey.com">bweninger@harpergrey.com</a></p>	<p><b>COUNSEL FOR JERRY WAKEFIELD CONSTRUCTION INC.</b>  Bilkey Law Corp.  301-186 Victoria Street  Kamloops, BC V2X 5R3  <b>Attention: Charlotte Manning</b>  Tel: 778-473-4350  Fax: 778-471-4351  Email: <a href="mailto:cmanning@bilkeylaw.ca">cmanning@bilkeylaw.ca</a></p>
<p><b>COUNSEL FOR PROPOSED THIRD PARTY NSDA ARCHITECTS</b>  SHK Law Corporation  Suite 700, Two Bentall Centre  555 Burrard Street  Vancouver, BC V7X 1M8  <b>Attention: Don J. Smith</b>  Tel: 604-684-0727  Fax: 604-684-7094  Email: <a href="mailto:DSmith@shk.ca">DSmith@shk.ca</a></p>	<p><b>COUNSEL FOR TURCA CONSTRUCTION</b>  Civil Legal LLP  710-900 West Hastings Street  Vancouver, BC V6C 1E5  <b>Attention: Adrienne Atherton</b>  Tel: 604-358-6648  Email: <a href="mailto:adrienne@civiclegal.ca">adrienne@civiclegal.ca</a></p>
<p><b>COUNSEL FOR THE PLAINTIFF AND DEFENDANTS BY WAY OF COUNTERCLAIM</b>  Alexander Holburn Beaudin + Lang LLP  Barristers + Solicitors  P.O. Box 10057  2700 – 700 West Georgia Street  Vancouver, BC V7Y 1B8  <b>Attention: Eileen E. Vanderburgh</b>  Tel: 604-484-1700  Fax: 604-9700  Email: <a href="mailto:evanderburgh@ahbl.ca">evanderburgh@ahbl.ca</a></p>	

## APPENDIX

*[The following information is provided for data collection purposes only and is of no legal effect.]*

### Part 1: THIS CLAIM INVOLVES THE FOLLOWING:

[Check one box below for the case type that best describes this case.]

- a motor vehicle accident
- a personal injury, other than one arising from a motor vehicle accident
- a dispute about real property (real estate)
- a dispute about personal property
- the lending of money
- the provision of goods or services or other general commercial matters
- an employment relationship
- a dispute about a will or other issues concerning the probate of an estate
- a matter not listed here

### Part 2:

*[If an enactment is being relied on, specify. Do not list more than 3 enactments.]*

This is Exhibit "F" referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**



Reply to the Attention of: Daniel Shouldice  
Direct Line: 604.691.6858  
Email Address: daniel.shouldice@mcmillan.ca  
Our File No.: 255063  
Date: December 18, 2019

**VIA COURIER**

Alexander Holburn Beaudin + Lang LLP  
2700 – 700 West Georgia Street  
Vancouver, BC V7Y 1B8

**Attention: Daniel R. Thompson**

Dear Sirs/Mesdames,

**Re: IMH 415 & 435 Michigan Apartments Ltd. et al v. Unique Restoration Ltd. et al  
BCSC Action No. S-189965, Vancouver Registry**

Further to your email of December 18, 2019, please find enclosed the original revised Consent Order duly executed by the writer.

We look forward to an entered copy of the Consent Order in due course.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Daniel Shouldice', with a long horizontal flourish extending to the right.

Daniel Shouldice

Encl.

NO. S-189965  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

IMH 415 & 435 MICHIGAN APARTMENTS LTD., IMH POOL  
XIV LP, and IMH GP XIV LTD.

PLAINTIFFS

AND

UNIQUE RESTORATION LTD., WYNSPEC MANAGEMENT  
INC., ZGEMI INC. and HARCONBRIDGE CONSTRUCTION  
LTD.

DEFENDANTS

AND

IMH 415 & 435 MICHIGAN APARTMENTS LTD., IMH POOL  
XIV LP, IMH GP XIV LTD., and STARLIGHT GROUP  
PROPERTY HOLDINGS INC.

DEFENDANTS BY WAY OF COUNTERCLAIM

AND

WYNSPEC MANAGEMENT INC., ZGEMI INC.,  
HARCONBRIDGE CONSTRUCTION LTD., JERRY  
WAKEFIELD CONSTRUCTION INC., GREENPOINT  
ASBESTOS REMEDIATION SERVICES LTD., WESTERN  
ENVIRONMENTAL SERVICES INC. aka WESTERN  
ENVIRONMENTAL SERVICES LTD., dba "WESTERN  
ENVIRONMENTAL SERVICES", TURCA CONSTRUCTION  
LTD., and DEREK W. NEALE ARCHITECT INC., TOM  
STANISZKIS ARCHITECT INC., JERRY I. DOLL ARCHITECT  
INC., LARRY ADAMS ARCHITECT INC., and MOLLY Y.  
CHAN ARCHITECT INC. collectively carrying on business as  
NSDA ARCHITECTS, a corporate partnership

THIRD PARTIES

CONSENT ORDER

	)	)
	)	)
	)	)
BEFORE	)	)
	)	)
	)	)
	)	)
	)	)

ON THE APPLICATION OF IMH 415 & 435 Michigan Apartments Ltd., IMH Pool XIV LP,  
and IMH GP XIV Ltd., without a hearing and by consent:

THIS COURT ORDERS that:

1. The Claims of Lien set out in Appendix "A", which were filed in the Victoria Land Title Office, against those lands and premises situated in the City of Victoria, in the Province of British Columbia, known and described as:

PID: 030-409-519 Lot A of Lots 1817, 1818, 1819, 1820, 1821, 1822 and  
1823 Victoria City Plan EPP76927

(the "Lands")

be cancelled from title to the Lands under s. 24 of the *Builders Lien Act* upon the Applicants depositing with the Registrar of this Honourable Court lien bonds, to be issued by Hartford Fire Insurance Company, in the form attached to this Order as Appendix "B", in the amounts of \$2,221,090.57, in respect of Unique Restoration Ltd.'s Claim of Lien no. CA6851343, and \$80,577.00, in respect of Unique Restoration Ltd.'s Claim of Lien no. CA6851342.

2. Any certificates of pending litigation filed in relation to the Claims of Lien as set out in Appendix "A" against the Lands also be cancelled, and there be no further claims by the Respondent against the Lands in relation to the said Claims of Lien.
3. The Registrar of Land Titles at the Victoria Land Title Office shall cause the said Claims of Lien and any certificates of pending litigation filed in relation thereto to be wholly cancelled as against the Lands upon production of a certified copy of this Order, together with a Certificate of the Registrar of this Honourable Court certifying that the said lien bonds have been deposited with the Registrar of this Honourable Court.
4. The cancellation of the said Claims of Lien against the Lands shall not deprive the Respondent of the benefits of the provisions of the *Builders Lien Act* applicable to their Claims of Lien.
5. Nothing in this Order shall affect the right of any person or party to claim that the said Claims of Lien are improper or defective, or that the filing of the said Claims of Lien had been improper or defective, or otherwise affect any right of any person under the *Builders Lien Act*.
6. Any party shall be at liberty to apply further for an Order varying the form or reducing the amount of the security described herein.
7. Any party shall have liberty to apply for further directions.

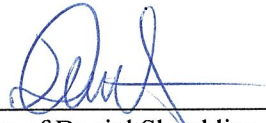
8. This Consent Order may be signed in electronic counterparts.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Dated December \_\_\_\_, 2019

\_\_\_\_\_  
Signature of Eileen E. Vanderburgh  
 party  lawyer for IMH 415 & 435  
Michigan Apartments Ltd., IMH Pool XIV LP,  
and IMH GP XIV Ltd., and Starlight Group  
Property Holdings Inc.

Dated December 18, 2019

  
\_\_\_\_\_  
Signature of Daniel Shouldice  
 party  lawyer for the Respondent

By the Court

\_\_\_\_\_  
Registrar



## APPENDIX "A"

<b>Lien Claimant</b>	<b>Date of Filing of Lien Claim</b>	<b>Registration Number</b>	<b>Face Value of Lien Claim</b>
Unique Restoration Ltd.	June 7, 2018	CA6851342	\$80,577.00
Unique Restoration Ltd.	June 7, 2018	CA6851343	\$2,221,090.57

APPENDIX "B"

FORMS OF LIEN BOND

DRAFT FORM

LIEN BOND

Bond No. \_\_\_\_\_

No. CA6851342  
Amount: \$80,577.00

KNOW ALL PERSONS BY THESE PRESENTS THAT IMH 415 & 435 Michigan Apartments Ltd. and IMH Pool XIV LP (collectively referred to as the "principal"), and Hartford Fire Insurance Company as surety, are held and firmly bound unto the Registrar of the SUPREME COURT OF BRITISH COLUMBIA, Vancouver REGISTRY, British Columbia, as obligee, in the amount of \$80,577.00 of lawful money of Canada for the payment of which sum well and truly to be made the principal and surety bind themselves, their successors, and assigns, jointly and severally firmly by these presents.

WHEREAS Unique Restoration Ltd. has registered Claim of Lien No. CA6851342 in the sum of \$80,577.00 ("the Lien"), dated June 7, 2018 against that property described as:

PID: 030-409-519 Lot A of Lots 1817, 1818, 1819, 1820, 1821, 1822 and  
1823 Victoria City Plan EPP76927

(the "Lands")

NOW THEREFORE the condition of this obligation is that if the principal shall promptly pay any judgment for the Lien or for any claim of a lien against holdback as may be obtained by the Lien Claimant in any action upon the Lien or for a lien against holdback, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

IN THE EVENT that the principal shall fail to satisfy any such judgment, the surety shall forthwith pay to the Registrar of the SUPREME COURT OF BRITISH COLUMBIA, Vancouver REGISTRY, British Columbia, the amount of any such judgment and costs not to exceed the specified penalty of this bond.

IN WITNESS WHEREOF the principal and surety have hereunto affixed their corporate seal duly attested by their proper officers or attorney in their behalf on 11<sup>th</sup> day of December, 2019.

Hartford Fire Insurance Company

IMH 415 & 435 Michigan Apartments Ltd.

(seal)

(seal)

Head of Surety, Canada

IMH Pool XIV LP, by its general  
partner, IMH GP XIV Ltd.

(seal)

DRAFT FORM

LIEN BOND

Bond No. \_\_\_\_\_

No. CA6851343  
Amount: \$2,221,090.57

KNOW ALL PERSONS BY THESE PRESENTS THAT IMH 415 & 435 Michigan Apartments Ltd. and IMH Pool XIV LP (collectively referred to as the "principal"), and Hartford Fire Insurance Company as surety, are held and firmly bound unto the Registrar of the SUPREME COURT OF BRITISH COLUMBIA, Vancouver REGISTRY, British Columbia, as obligee, in the amount of \$2,221,090.57 of lawful money of Canada for the payment of which sum well and truly to be made the principal and surety bind themselves, their successors, and assigns, jointly and severally firmly by these presents.

WHEREAS Unique Restoration Ltd. has registered Claim of Lien No. CA6851343 in the sum of \$2,221,090.57 ("the Lien"), dated June 7, 2018 against that property described as:

PID: 030-409-519 Lot A of Lots 1817, 1818, 1819, 1820, 1821, 1822 and  
1823 Victoria City Plan EPP76927

(the "Lands")

NOW THEREFORE the condition of this obligation is that if the principal shall promptly pay any judgment for the Lien or for any claim of a lien against holdback as may be obtained by the Lien Claimant in any action upon the Lien or for a lien against holdback, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

IN THE EVENT that the principal shall fail to satisfy any such judgment, the surety shall forthwith pay to the Registrar of the SUPREME COURT OF BRITISH COLUMBIA, Vancouver REGISTRY, British Columbia, the amount of any such judgment and costs not to exceed the specified penalty of this bond.

IN WITNESS WHEREOF the principal and surety have hereunto affixed their corporate seal duly attested by their proper officers or attorney in their behalf on 11<sup>th</sup> day of December, 2019.

Hartford Fire Insurance Company

IMH 415 & 435 Michigan Apartments Ltd.

(seal)

(seal)

Head of Surety, Canada

IMH Pool XIV LP, by its general  
partner, IMH GP XIV Ltd.

(seal)

This is Exhibit "G" referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**

Court File No.: CV-19-00619032-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**FERRO CANADA INC.**

Plaintiff

-and-

**IMH 415 & 435 MICHIGAN APARTMENTS LTD.,  
UNIQUE RESTORATION LTD., MARTIN WILLIAMS, JOHN KENNEDY  
and STEVE LEBLANC**

Defendants

**JUDGMENT**

On reading the Statement of Claim in this action and the proof of service of the Statement of Claim on the Defendant Unique Restoration Ltd., filed, and the Defendant Unique Restoration Ltd. having been noted in default,

1. **IT IS ORDERED AND ADJUDGED** that the Defendant Unique Restoration Ltd. pay to the Plaintiff the sum of \$578,196.46 and the sum of \$ 1,246.<sup>00</sup> for the costs of this action.

This judgment bears interest at the rate of 24 per cent per year from its date, *and 3% per year on the costs*

**Conrad Diamante**

Date: ~~June~~ ~~2019~~

**SEP 26 2019**

Signed by: \_\_\_\_\_

Local Registrar

**ENTERED AT / ENREGISTRÉ À TORONTO  
ON / BOOK NO:  
DE / DANS LE REGISTRE NO.:**

**SEP 26 2019**

Address of court office:  
393 University Avenue  
Toronto, Ontario, M5G 1E6

**PER/PR:** *C.D.*

**FERRRO CANADA INC.**  
Plaintiff

-and-

**IMH 415 & 435 MICHIGAN APARTMENTS LTD., UNIQUE RESTORATION LTD. et al**  
Defendants

Court File No. CV-19-00619032-0000

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
PROCEEDING COMMENCED AT  
TORONTO

**JUDGMENT**

**GARFIN ZEIDENBERG LLP**

Lawyers

Yonge-Norton Centre  
5255 Yonge Street, Suite 800  
Toronto ON M2N 6P4

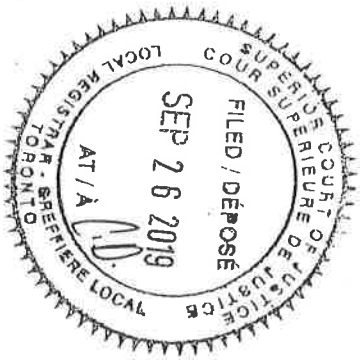
**Louis Vittas** (455461)

Tel: (416) 512-8000

Fax: (416) 512-9992

Email: lsv@gzlegal.com

Lawyers for the Plaintiff



This is Exhibit “H” referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**





Jenkins Marzban Logan LLP  
lawyers

September 4, 2018

File No: 87004-001  
Writer's Direct Line: 604-895-3166  
Email: vwerden@jml.ca

900-808 Nelson St  
Vancouver, BC  
Canada V6Z 2H2

604 681.6564 Tel  
604 681.0766 Fax  
www.jml.ca

A partnership of law  
corporations

**VIA REGISTERED MAIL**

**Zurich Insurance Company Ltd.**  
100 King St. W., Suite 5500  
PO Box 290  
Toronto, ON  
M5X 1C9

Dear Sirs/Mesdames:

**Re: CLAIMANT'S NOTICE TO SURETY**

**Labour and Material Payment**

<b>Bond No. (the "Bond"):</b>	<b>6346351</b>
<b>Bond Amount:</b>	<b>\$1,200,545.77</b>
<b>Principal:</b>	<b>Unique Restoration Ltd.</b>
<b>Obligee:</b>	<b>Starlight Investments Ltd.</b>
<b>Project:</b>	<b>435 Michigan Street, Victoria BC</b>

We are counsel for Starline Windows Ltd. ("Starline"), a subcontractor to the Principal for the above referenced project. We hereby put you on notice that Starline claims payment from you pursuant to the above-captioned Labour and Material Payment Bond in the amount of \$1,103,723.32, plus interest. A copy of the Bond is enclosed.

Starline entered into a written contract with Unique Restoration Ltd., the named Principal on the Bond, on June 28, 2016 (the "Subcontract"). The Subcontract between Starline and the Principal was for the supply and installation of windows and related components for the improvement of the Project. A copy of the Subcontract is enclosed.

Starline performed its obligations under the Subcontract between October 2016 and April 2018, and rendered invoices to the Principal accordingly. Copies of the unpaid invoices are enclosed.

Despite repeated demands, the Principal has not paid Starline. The Principal has asserted no back charges or damages claims against Starline, and has not raised allegations of any deficiencies in the work of Starline.

We hereby demand payment in full of Starline's claim under the Bond. You should, therefore, forward to us a cheque in the amount of \$1,103,723.32 payable to "Jenkins Marzban Logan LLP In Trust".

Page 2 of 2



Please acknowledge receipt of this letter by return mail and inform us when we may expect payment. We look forward to hearing from you at your earliest opportunity.

Yours truly,

Jenkins Marzban Logan LLP

Vanessa S. Werden  
Encls.

Cc (via registered mail):

**Starlight Investments Ltd.**

401 Sky Valley Road  
Salt Spring Island, BC  
V8K 2C3

**Starlight Group Property Holdings and Starlight Investments Ltd.**

c/o Alexander Holburn Beaudin + Lang LLP  
2700 – 700 West Georgia Street  
Vancouver, BC  
V7Y 1B8  
Attention: David Garner

**Unique Restoration Ltd.**

634 Derwent Way  
Delta, BC  
V3M 5P8  
Attention: Tereasa Nicole Land

**Unique Restoration Ltd.**

Head Office  
1220 Matheson Blvd. E.  
Mississauga, ON  
L4W 1R2



ZURICH

Zurich Insurance Company Ltd  
100 King St. W., Suite 5500, P.O. Box 290, Toronto, ON M5X 1C9

LABOUR AND MATERIAL PAYMENT BOND (TRUSTEE FORM)  
CCDC 222 - 2002

wrong name!

No. 6346351

Bond Amount: \$1,200,545.77

UNIQUE RESTORATION LTD. as Principal, hereinafter called the Principal, and Zurich Insurance Company Ltd a corporation created and existing under the laws of Switzerland and duly authorized to transact the business of Suretyship in Canada as Surety, hereinafter called the Surety, are held and firmly bound STARLIGHT INVESTMENTS LTD. as Oblige, hereinafter called the Oblige, in the amount of ONE MILLION TWO HUNDRED THOUSAND FIVE HUNDRED AND FORTY-FIVE DOLLARS AND ~~777~~ 100 Dollars (\$1,200,545.77) lawful money of Canada, for the payment of which sum the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, the Principal has entered into a written contract with the Oblige, dated 19TH day of MAY, 2016 for

EXTERIOR WALL, WINDOW REPLACEMENT AND BALCONY REPAIRS AT 435 MICHIGAN STREET, VICTORIA, BC

in accordance with the Contract Documents submitted, and which are by reference made part hereof and are hereinafter referred to as the Contract.

The Condition of this obligation is such that, if the Principal shall make payment to all Claimants for all labour and material used or reasonably required for use in the performance of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A Claimant for the purpose of this Bond is defined as one having a direct contract with the Principal for labour, material, or both, used or reasonably required for use in the performance of the Contract, labour and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment directly applicable to the Contract provided that a person, firm or corporation who rents equipment to the Principal to be used in the performance of the Contract under a contract which provides that all or any part of the rent is to be applied towards the purchase price thereof, shall only be a Claimant to the extent of the prevailing industrial rental value of such equipment for the period during which the equipment was used in the performance of the Contract. The prevailing industrial rental value of equipment shall be determined, insofar as it is practical to do so, by the prevailing rates in the equipment marketplace in which the work is taking place.
2. The Principal and the Surety, hereby jointly and severally agree with the Oblige, as Trustee, that every Claimant who has not been paid as provided for under the terms of its contract with the Principal, before the expiration of a period of ninety (90) days after the date on which the last of such Claimant's work or labour was done or performed or materials were furnished by such Claimant, may as a beneficiary of the trust herein provided for, sue on this Bond, prosecute the suit to final judgment for such sum or sums as may be justly due to such Claimant under the terms of its contract with the Principal and have execution thereon. Provided that the Oblige is not obliged to do or take any act, action or proceeding against the Surety on behalf of the Claimants, or any of them, to enforce the provisions of this Bond. If any act, action or proceeding is taken either in the name of the Oblige or by joining the Oblige as a party to such proceeding, then such act, action or proceeding, shall be taken on the understanding and basis that the Claimants, or any of them, who take such act, action or proceeding shall indemnify and save harmless the Oblige against all costs, charges and expenses or liabilities incurred thereon and any loss or damage resulting to the Oblige by reason thereof. Provided still further that, subject to the foregoing terms and conditions, the Claimants, or any of them may use the name of the Oblige to sue on and enforce the provisions of this Bond.
3. It is a condition precedent to the liability of the Surety under this Bond that such Claimant shall have given written notice as hereinafter set forth to each of the Principal, the Surety and the Oblige, stating with substantial accuracy the amount claimed, and that such Claimant shall have brought suit or action in accordance with this Bond, as set out in sub-clauses 3 (b) and 3 (c) below. Accordingly, no suit or action shall be commenced hereunder by any Claimant:
  - a) unless such notice shall be served by mailing the same by registered mail to the Principal, the Surety and the Oblige, at any place where an office is regularly maintained for the transaction of business by such persons or served in any manner in which legal process may be served in the Province or Territory in which the subject matter of the Contract is located. Such notice shall be given.

- i) in respect of any claim for the amount or any portion thereof, required to be held back from the Claimant by the Principal, under either the terms of the Claimant's contract with the Principal, or under the lien Legislation applicable to the Claimant's contract with the Principal, whichever is the greater, within one hundred and twenty (120) days after such Claimant should have been paid in full under the Claimant's contract with the Principal;
  - ii) in respect of any claim other than for the holdback, or portion thereof, referred to above, within one hundred and twenty (120) days after the date upon which such Claimant did, or performed, the last of the work or labour or furnished the last of the materials for which such claim is made under the Claimant's contract with the Principal;
  - b) after the expiration of one (1) year following the date on which the Principal ceased work on the Contract, including work performed under the guarantees provided in the Contract;
  - c) other than in a Court of competent jurisdiction in the Province or Territory in which the work described in the Contract is to be installed or delivered as the case may be and not elsewhere, and the parties hereto agree to submit to the jurisdiction of such Court.
4. The Surety agrees not to take advantage of Article 2365 of the Civil Code of the Province of Quebec in the event that, by an act or an omission of a Claimant, the Surety can no longer be subrogated in the rights, hypothec and privileges of said Claimant.
  5. Any material change in the contract between the Principal and the Oblige shall not prejudice the rights or interest of any Claimant under this Bond, who is not instrumental in bringing about or has not caused such change.
  6. The amount of this Bond shall be reduced by, and to the extent of any payment or payments made in good faith, and in accordance with the provisions hereof, inclusive of the payment by the Surety of claims made under the applicable lien legislation or legislation relating to legal hypothecs, whether or not such claim is presented under and against this Bond.
  7. The Surety shall not be liable for a greater sum than the Bond Amount.

IN WITNESS WHEREOF, the Principal and the Surety have Signed and Sealed this Bond dated 6TH day of JUNE, in the year 2016.

SIGNED and SEALED in the presence of

UNIQUE RESTORATION LTD.

\_\_\_\_\_  
Signature  
*Scott Keller*  
Name of person signing

Zurich Insurance Company Ltd

\_\_\_\_\_  
Signature  
JOAN LAWRIE, Attorney-in-fact  
Name of person signing

# STARLINE WINDOWS<sup>®</sup>

ARCHITECTURAL FENESTRATION PRODUCT

**Attn:** Mark Scott  
**To:** Unique Restoration Ltd.  
634 Derwent Way,  
Delta, BC

**Date:** April 7, 2016  
**Phone:** (604) 777-4113  
**Fax:** (604) 777-4101

## PROPOSAL

STARLINE REFERENCE #9451

**Re:** 415 & 435 Michigan  
Victoria, BC

### SCOPE OF WORK:

- **WINDOW WALL**
  - Series 9000 Window Wall
  - Series 4500 Sliding Patio Doors with Starline pull handles, deadbolt lockset & foot lock
  - Powder Coat - Semi-standard or standard color
  - High Performance Low "E" glazing with Warm Edge spacers and Argon gas infill
  - Head deflection channel & seismic jamb
- **INSTALLATION**
  - Site supervised labour
  - Waterproofing and air-barrier
- **ENGINEERED SHOP DRAWINGS**
  - Stamped IFC Shop drawings
  - Site visits & field reviews
  - Schedules
- **DELIVERY**
  - Product distribution using site crane or man-lift
  - Based on project schedule first window delivery Q2 2017

415 Michigan Street.....	\$ 1,441,595.00
435 Michigan Street.....	\$ 670,065.00
<b>TOTAL.....</b>	<b>\$ 2,111,660.00</b>

GST Extra

### Bid Documents:

1. Architectural drawings dated March 11, 2016, issued for pricing
2. Addendums #1 and #2

### Clarification:

1. This proposal includes windows changed to fall within our maximum allowable sizes and further discussions between Starline and customer are required before Starline can confirm configuration design.
2. Operable windows exceed Starline's maximum allowable sizes for the Series 9000. These operable windows must be reduced in size to meet the Starline maximum allowable criteria. This proposal reflects these necessary changes.
3. The Starline Series 4500 patio sliding door achieves a Water Tightness rating of B4 (lab) and B3 (field) when tested to the ASTM E347-96 standards.

Continued on next page...

  
**TROY WESTLAKE**  
 UNIQUE RESTORATION

Page:1 of 2

Brandon Pofferson  
Estimating Manager

9580 - 198<sup>th</sup> Street, Langley, BC V1M 3C8 PHONE: (604) 882-6855 FAX: (604) 882-6890  
 WEB SITE: <http://www.starlinewindows.com> EMAIL: [bpofferson@starlinewindows.com](mailto:bpofferson@starlinewindows.com)

File: 958 7451 - 415 & 435 Michigan -

Troy Westlake

Tuesday, June 28, 2016 at 10:17:09 AM Pacific Daylight Time

Subject: Fwd: Windows and doors for 415 / 435 Michigan st  
Date: Tuesday, June 28, 2016 at 10:03:49 AM Pacific Daylight Time  
From: Pat Leblanc <Pat@uniquerestoration.ca>  
To: Troy westlake <Troy@uniquerestoration.ca>

Call me about this thanks

Cheers,

Patrick Leblanc  
Unique Restoration Ltd.  
Call - 778 977 6065

Begin forwarded message:

From: <paulwood@shaw.ca>  
Date: June 21, 2016 at 09:12:56 PDT  
To: Pat Leblanc <pat@uniquerestoration.ca>  
Subject: Windows and doors for 415 / 435 Michigan st

Hi Pat,

The timeline for window installation upon award of the contract would be:

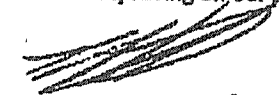
- Immediately measure and order for mock-up windows and doors, one each per building
- Start the shop drawing process which will take 6 to 8 weeks for preliminary drawings, review , and engineered stamped finals
- From the completion of final approval of the shop drawings manufacturing will take place and product will arrive on site 3 to 4 weeks after that. The needed quantity of product will arrive in a timely fashion after that.
- The estimated time for completion of both buildings is approximately 6 months from the start of installation

As you are aware this schedule is dependant on our working together to complete the process. We are prepared to remove and dispose of the existing windows. You are responsible for the remediation of the opening to a state that is acceptable for us to water proof and install the new windows and doors.

Once we have done the mock-ups and have a dozen windows and doors under our belt we can reassess the schedule with the intention of improving on our proposed schedule.

Best Regards,

Paul Wood  
Starline Windows



TROY WESTLAKE  
UNIQUE RESTORATION

# STARLINE WINDOWS

19091 36 Avenue  
SURREY, BC V3Z 0P6  
Tel: (604) 882-5100  
Fax: (604) 882-5102

**Billed To:** Unique Restoration  
634 Derwent Way  
Delta, BC V3M 5P8

Progress Invoice #4

**Customer Code:** UNIQ4

**Date:** January 25, 2017

**Job Name:** 415/435 Michigan Street  
415/435 Michigan Street  
Victoria, BC

**Invoice No.:** MCG004

	<u>Contract</u>		<u>Completed to Date</u>
Basic Contract Amount	\$ 2,111,660.00	54%	\$ 1,134,990.21
Revised Contract Amount	\$ <u>2,111,660.00</u>		\$ <u>1,134,990.21</u>
Work Completed to Date		\$	1,134,990.21
Less Previously Invoiced			<u>(334,407.81)</u>
Current Draw			800,582.40
Less 10% Holdback			<u>(80,058.24)</u>
Subtotal			720,524.16
GST @ 5% (GST# 878380914RT0001)			36,026.21
<b>Total Payable This Draw:</b>		\$	<u><u>756,550.37</u></u>

# STARLINE WINDOWS

19091 36 Avenue  
SURREY, BC V3Z 0P6  
Tel: (604) 882-5100  
Fax: (604) 882-5102

**Billed To:** Unique Restoration  
634 Derwent Way  
Delta, BC V3M 5P8

Progress Invoice #5

**Customer Code:** UNIQ4

Date: April 25, 2017

**Job Name:** 415/435 Michigan Street  
415/435 Michigan Street  
Victoria, BC

Invoice No.: MCG005

	<u>Contract</u>		<u>Completed to Date</u>
Basic Contract Amount	\$ 2,111,660.00	66%	\$ 1,399,540.48
Revised Contract Amount	\$ <u>2,111,660.00</u>		\$ <u>1,399,540.48</u>
Work Completed to Date		\$	1,399,540.48
Less Previously Invoiced			<u>(1,134,990.21)</u>
Current Draw			264,550.27
Less 10% Holdback			<u>(26,455.03)</u>
Subtotal			238,095.24
GST @ 5% (GST# 878380914RT0001)			11,904.76
<b>Total Payable This Draw:</b>		\$	<u><u>250,000.00</u></u>



# STARLINE WINDOWS

19091 36 Avenue  
SURREY, BC V3Z 0P6  
Tel: (604) 882-5100  
Fax: (604) 882-5102

**Billed To:** Unique Restoration  
634 Derwent Way  
Delta, BC V3M 5P8

**Progress Invoice #7**

**Customer Code:** UNIQ4

**Date:** December 22, 2017

**Job Name:** 415/435 Michigan Street  
415/435 Michigan Street  
Victoria, BC

**Invoice No.:** IN14624

	<u>Contract</u>		<u>Completed to Date</u>
Basic Contract Amount	\$ 2,111,660.00	74%	\$ 1,563,911.64
Revised Contract Amount	\$ <u>2,111,660.00</u>		\$ <u>1,563,911.64</u>
Work Completed to Date			\$ 1,563,911.64
Less Previously Invoiced			<u>(1,462,760.16)</u>
Current Draw			101,151.48
Less 10% Holdback			<u>(10,115.15)</u>
Subtotal			91,036.33
GST @ 5% (GST# 878380914RT0001)			4,551.82
<b>Total Payable This Draw:</b>			<u>\$ <u>95,588.15</u></u>

# STARLINE WINDOWS

19091 36 Avenue  
SURREY, BC V3Z 0P6  
Tel: (604) 882-5100  
Fax: (604) 882-5102

**Billed To:** Unique Restoration  
634 Derwent Way  
Delta, BC V3M 5P8

Progress Invoice #9

**Customer Code:** UNIQ4

**Date:** March 23, 2018

**Job Name:** 415/435 Michigan Street  
415/435 Michigan Street  
Victoria, BC

**Invoice No.:** IN14801

	<u>Contract</u>		<u>Completed to Date</u>
Basic Contract Amount	\$ 2,111,660.00	79%	\$ 1,671,840.97
CO #9451.01	1,750.00	0%	-
CO #9451.02	11,218.00	0%	-
Revised Contract Amount	<u>\$ 2,124,628.00</u>		<u>\$ 1,671,840.97</u>
Work Completed to Date		\$	1,671,840.97
Less Previously Invoiced			<u>(1,627,131.31)</u>
Current Draw			44,709.65
Less 10% Holdback			<u>(4,470.97)</u>
Subtotal			40,238.68
GST @ 5% (GST# 878380914RT0001)			2,011.93
<b>Total Payable This Draw:</b>		\$	<u><u>42,250.61</u></u>

# STARLINE WINDOWS

19091 36 Avenue  
SURREY, BC V3Z 0P6  
Tel: (604) 882-5100  
Fax: (604) 882-5102

**Billed To:** Unique Restoration  
634 Derwent Way  
Delta, BC V3M 5P8

**Progress Invoice #10**

**Customer Code:** UNIQ4

**Date:** April 25, 2018

**Job Name:** 415/435 Michigan Street  
415/435 Michigan Street  
Victoria, BC

**Invoice No.:** IN14872  
Revised

	<u>Contract</u>		<u>Completed to Date</u>
Basic Contract Amount	\$ 2,111,660.00	98%	\$ 2,072,007.14
CO #9451.01	1,750.00	100%	1,750.00
CO #9451.02	11,218.00	100%	11,218.00
Revised Contract Amount	<u>\$ 2,124,628.00</u>		<u>\$ 2,084,975.14</u>
Work Completed to Date			\$ 2,084,975.14
Less Previously Invoiced			<u>(1,671,840.97)</u>
Current Draw			413,134.17
Less 10% Holdback			<u>(41,313.42)</u>
Subtotal			371,820.75
GST @ 5% (GST# 878380914RT0001)			18,591.04
<b>Total Payable This Draw:</b>			<u><u>\$ 390,411.79</u></u>

# STARLINE WINDOWS

19091 36 Avenue  
SURREY, BC V3Z 0P6  
Tel: (604) 882-5100  
Fax: (604) 882-5102

**Billed To:** Unique Restoration  
634 Derwent Way  
Delta, BC V3M 5P8

Holdback Invoice

**Customer Code:** UNIQ4

Date: May 8, 2018

**Job Name:** 415/435 Michigan Street  
415/435 Michigan Street  
Victoria, BC

	<u>Contract</u>		<u>Completed to Date</u>
Basic Contract Amount	\$ 2,111,660.00	98%	\$ 2,072,007.14
CO #9451.01	1,750.00	100%	1,750.00
CO #9451.02	11,218.00	100%	11,218.00
Revised Contract Amount	<u>\$ 2,124,628.00</u>		<u>\$ 2,084,975.14</u>
Work Completed to Date			<u>2,084,975.14</u>
Holdback @ 10%			208,497.51
GST @ 5% (GST# 878380914RT0001)			10,424.88
<b>Total Holdback Payable:</b>			<u><u>\$ 218,922.39</u></u>

This is Exhibit "I" referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**



Crowe Soberman Inc.

Crowe Soberman Inc.  
Licensed Insolvency Trustee  
Member Crowe Global

2 St. Clair Avenue East, Suite 1100  
Toronto, ON M4T 2T5  
416 929 2500  
416 929 2555 Fax  
1 877 929 2501 Toll Free  
www.crowesobermaninc.com

January 5, 2021

**TO THE CREDITORS OF UNIQUE RESTORATION LTD.**

Please be advised that UNIQUE RESTORATION LTD. filed a **Notice of Intention to Make a Proposal** on January 4, 2021 under the **Bankruptcy and Insolvency Act**. A copy of this Notice is enclosed herewith.

This is a procedure whereby a debtor, with creditor and Court approval, reorganizes its financial affairs. Our role as Trustee in this matter is to assist the debtor with the development of the Proposal, to liaise with creditors so as to fully explain the Proposal to them and to support and facilitate the decision-making process which creditors will ultimately undertake, ending with their acceptance or rejection of the Proposal.

All liabilities, actual and contingent, of UNIQUE RESTORATION LTD. as at January 4, 2021 are subject to the Proposal mentioned above and are fixed by Section 62(1.1) of the **Bankruptcy and Insolvency Act** as at that date.

All creditors are **STAYED** from commencing or continuing any actions as against UNIQUE RESTORATION LTD. until the Proposal is dealt with by the creditors.

UNIQUE RESTORATION LTD. has thirty (30) days from the date of filing the **Notice of Intention to Make a Proposal** (subject to Court approved extensions of this time period) to lodge a Proposal with us so that we may file it with the Official Receiver.

We will be calling a meeting of creditors to consider the Proposal within twenty-one (21) days of the date on which the Proposal is filed. You will receive Notice of the meeting along with all other necessary documents including the proof of claim form, voting letter, at least ten days in advance of the meeting.

Please feel free to contact our office if you require any further information with respect to this matter.

**CROWE SOBERMAN INC.**  
**Trustee acting in re: the Proposal**  
**of UNIQUE RESTORATION LTD.**

Per: \_\_\_\_\_

A. Frances Doria, Manager  
Senior Estate Administrator



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Mississauga  
Court No. 32-2701357  
Estate No. 32-2701357

In the Matter of the Notice of Intention to make a  
proposal of:

**UNIQUE RESTORATION LTD.**  
Insolvent Person

**CROWE SOBERMAN INC.**  
Licensed Insolvency Trustee

---

Date of the Notice of Intention: January 04, 2021

---

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the *Bankruptcy and Insolvency Act*.

Pursuant to subsection 69(1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: January 05, 2021, 10:43

E-File/Dépôt Electronique

Official Receiver

Federal Building - Hamilton, 55 Bay Street N, 9th Floor, Hamilton, Ontario, Canada, L8R3P7, (877)376-9902



District of: Ontario  
Division No. 09 - Toronto  
Court No.  
Estate No.

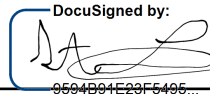
- FORM 33 -  
Notice of Intention To Make a Proposal  
(Subsection 50.4(1) of the Act)

In the matter of the proposal of  
UNIQUE RESTORATION LTD.  
of the City of Mississauga, in the Regional Municipality of Peel  
in the Province of Ontario

Take notice that:

1. I, UNIQUE RESTORATION LTD., an insolvent person, state, pursuant to subsection 50.4(1) of the Act, that I intend to make a proposal to my creditors.
2. Crowe Soberman Inc., LIT of 2 St. Clair Ave East, Suite 1100, Toronto, ON, M4T 2T5, a licensed trustee, has consented to act as trustee under the proposal. A copy of the consent is attached.
3. A list of the names of the known creditors with claims of \$250 or more and the amounts of their claims is also attached.
4. Pursuant to section 69 of the Act, all proceedings against me are stayed as of the date of filing of this notice with the official receiver in my locality.

Dated at the City of Toronto in the Province of Ontario, this 4th day of January 2021.

DocuSigned by:  
  
0504B94E23F5405...

UNIQUE RESTORATION LTD.  
Insolvent Person

To be completed by Official Receiver:

\_\_\_\_\_  
Filing Date

\_\_\_\_\_  
Official Receiver



District of: Ontario  
 Division No. 09 - Toronto  
 Court No.  
 Estate No.

- FORM 33 -

Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
407 ETR Express Toll Route Marion Richardson/Collections	6300 Steeles Ave W Woodbridge ON L4H 1J1		14,714.30
A-1 Window Mfg Ltd	Unit 1-8038 Glenwood Dr Burnaby BC V3N 5E9		31,290.00
Aaron Cole Excavating Ltd	658 Rason Rd Victoria BC V9B 6C6		2,909.90
Acacia Landscape Inc	PO Box 5299 Victoria BC V8R 6N4		890.33
ACT Concrete Placing & Finishing Ltd.	18-755 Vanalman Avenue Victoria BC V8Z 3B8		3,236.21
ADT Security Services Canada Inc. Accounts Receivable	615 18th Street SE Calgary AB T2E 6J5		593.63
Advantage Consulting & Restoration Contracting	1-1270 Finch Ave W North York ON M3J 3J7		326.01
Advantage Electric Services Ltd	14020 Argyll Rd Georgetown ON L7G 5T7		1,506.19
AJW Engineering	17-378 Mayfield Rd Brampton ON L6Z 0E3		3,107.50
Alectra Utilities (formerly Enersource Hydro)	2185 Derry Rd W Mississauga ON L5N 7A6		1,475.17
Allstream			2,353.74
American Express c/o FCT Default Solutions Insolvency Department	PO Box 2514, Stn B London ON N6A 4G9		109,058.47
AMR Barristers & Solicitors LLP	300-145 Wellington St W Toronto ON M5J 1H8		11,572.10
Angel Answering Service	12-1730 Broadway St Port Coquitlam BC V3C 2M8		6,063.75

District of: Ontario  
 Division No. 09 - Toronto  
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- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Apex Steel & Gas Ltd	534 David St Victoria BC V8T 2C8		1,369.20
Avizha Business Solutions Ltd	44 Fairholme Ave North York ON M6B 2W6		339.00
BC Hydro & Power Authority Credit Admin	333 Dunsmuir St, 11th floor Vancouver BC V6B 5R3		1,155.84
Blok-Lok Ltd	12 Ashbridge Cir Woodbridge ON L4L 3R5		411.34
BMO Financial Group c/o BankruptcyHighway.com Mike Timko	PO Box 57100 Etobicoke ON M8Y 3Y2		70,338.56
Britco Boxx Limited Partnership	1000-44-2nd Ave SW Calgary AB T2P 5E9		767.37
Brock White Canada Company LLC	Lockbox V7198C-PO Box 7198 Station Terminal Vancouver BC V6B 4E2		2,487.91
Building & Concrete Restoration Assoc	10 Lawton Ave Toronto ON M4V 1Z4		1,073.50
Capilano Glass & Screens Ltd	1607 Marine Dr North Vancouver BC V7P 1V1		800.75
Castle Precast Ltd	1230 Matheson Blvd E Mississauga ON L4W 1R2		3,983.25
City of Mississauga Revenue Collections	4th Floor 300 City Centre Drive Mississauga ON L5B 3C1	8BRMU0NU	20,847.69
CMD Group	PO Box 46010 St A Toronto ON M5W 4K9		473.75
Coho Communications Ltd	947 Walfred Rd Victoria BC V9C 2P3		780.68
Columbia Fire & Safety Ltd	1-410 Garbally Rd Victoria BC V8T 2K1		517.28

District of: Ontario  
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 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Computer Master	37-3100 Ridgeway Dr Mississuga ON L5L 5M5		5,298.05
Constructconnect Canada Inc	Lockbox T09510C, PO Box 9510 Stn A Toronto ON M5W 2K3		470.46
Construction Distribution & Supply	3-300 Confederation Pkwy Concord ON L4K 4T8		2,187.14
Convoy Supply Ltd. Ayaz Velji	8183 130th Street Surrey BC V3W 7X4		3,912.78
D & F Equipment and Construction	8301 Jane St Concord ON L4K 5P3		1,500,000.00
Earthscapes Land Design & Build Inc.	634 DSrwent Way Delta BC V3M 5P8		91,397.06
Ellice Recycle Ltd	343-A Bay St Victoria BC V8T 1P5		3,363.15
Enbridge Gas Distribution - Ontario Back Office Collections Department	3401 Schmon Pkwy, PO Box 1051 Thorold ON L2V 5A8		9,423.22
Envirosystems Incorporated	11 Brown Ave Dartmouth NB B3B 1Z7		26,989.10
Etobicoke Building Supplies	25 Jutland Rd ETOBICOKE ON M8Z 2G6		4,009.75
Euroseal Contracting Ltd	21-6110 138 St Surrey BC V3X 3V6		26,620.60
Faria Developments Ltd	11046 Westminster Hwy Richmond BC V6X 1B3		41,933.91
Ferrari & Associates Insurance	20-7675 Highway 27 Vaughan ON L4L 4M5		2,157.00
Ferro Canada Inc	8999 Concession Rd 5 Uxbridge ON L9P 1R1		471,562.67

District of: Ontario  
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In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
Creditor	Address	Account#	Claim Amount
First Response Glass	2-4217 Glanford Ave Victoria BC V8Z 4B9		296.18
Fortis BC Energy Inc. - Natural Gas Collection Department	PO Box 6666, Station Terminal Vancouver BC V6B 6M9		1,038.87
Gillis, Derek			15,000.00
Green for Life Environmental	1045 Dunford Ave Victoria BC V9B 2S4		444.97
Green Point Mechanical	22B-115 Woodstream Blvd Vaughan ON L4L 7Y6		8,891.05
Griff Building Supplies Ltd.	340 Ewen Avenue New Westminster BC V3M 5B1		2,839.49
H2X Contracting Ltd	4705 Kevere Rd Victoria BC V9C 4G1		3,854.97
Hamza Demolition & Disposal Ltd			4,996.74
HD Supply Canada Inc	100 Galcat Dr Vaughan ON L4L 0B9		325.11
Hicks Morley Hamilton Stewart Storie LLP	39 FI-77 King St W, TD Tower Box 371 Toronto ON M5K 1K8		848.07
Hilti Canada Corporation	2360 Meadowpine Boul Mississauga ON L5N 6S2		21,551.12
Home Depot c/o Citi Cards Canada (Acct 603529)	PO Box 2052, Stn B Mississauga ON L4Y 0B4		19,942.40
Hooy Remus LLP	210-330 Bay St Toronto ON M5H 2S8		12,004.46
Houle Electric Limited	5050 North Fraser Way Burnaby BC V5J 0H1		3,969.06
Humberview Motors Incorporated	3200 Bloor St W Toronto ON M8X 1E1		2,374.92

District of: Ontario  
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In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
Creditor	Address	Account#	Claim Amount
Insul-Twin Systems Ltd	1-1973 McLean Ave Port Coquitlam BC V3C 1N1		285,684.35
Island Applicators Ltd	6745 Eakin Dr Sooke BC V9Z 0V5		13,310.41
Jamac Sales and Distribution Ltd	141 Don Park Rd Markham ON L3R 1C2		105,643.00
Joyce Group Services Inc	100-1741 Boudary Rd Vancouver BC V5M 3Y7		1,066.80
Klassen Building Supplies	104-14620 64th Ave Surrey BC V3S 1X7		12,487.79
KMS Tool and Equipment Ltd.	110 Woolridge St Coquitlam BC V3K 5V4		252.22
Koster American Corporation	2585 Aviator Dr Virginia Beach VA 23453 USA		4,021.50
Linda M Draav CPA CMA			610.20
Lionsgate Scaffolding Ltd	8601 Main St Vancouver BC V5X 0E6		114,342.87
M. Griffin Ltd	941 View St Victoria BC V3M 5P8		6,450.15
Mahar, Joanne			90,000.00
Mazzei Electric Ltd	10-1850 Northfield Rd Nanaimo BC V9S 3B3		660.05
McFloat Service Inc	1379 Lewisham Dr Mississauga ON L5J 3R1		1,356.00
McIntosh Perry	200-6240 Highway 7 Woodbridge ON L4H 4G3		950.91
McMillan LLP - Toronto Ginger Drew	4400-181 Bay St Toronto ON M5J 2T7		28,929.11
Menzies Metal Products	19370-60th Ave Surrey BC V3S 3M2		7,586.03

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In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Metal Supermarkets - BC	3-20059 92A Avenue Langley BC V1M 3A5		2,827.22
Metro Testing Laboratories Ltd	6991 Curragh Ave Burnaby BC V5J 4V6		12,046.86
Mitchell Sandham	2000-438 University Ave Toronto ON M5G 2K8		4,188.48
Momentum Engineering Management Inc	8-1445 Bonhill Rd Mississauga ON L5T 1V3		3,672.50
Natures Call	177 Creditstone Rd Concord ON L4K 1N5		2,534.64
Northwest Scaffolding	3516 Sparrowhawk Ave Victoria BC V9C 0L8		793,686.42
Novoclad Systems Inc.	Unit B2-1590 Dundas St E Mississauga ON L4X 2Z2		14,421.15
Office Team	PO Box 57349 Stn A Toronto ON M5W 5M5	T57349C	8,338.30
Optimal Roofing Systems inc.	3278-240th St Langley BC V2Z 2J3		48,473.36
Pacific Restorations	5881 Beresford St Burnaby BC V5J 1K1		156,663.45
Parker Johnston Industries Ltd	6791 Oldfield Rd Saanichton BC V6M 2A2		47,503.28
Passaglia Concrete Restoration & Repair Ltd	6885 Aubrey St Burnaby BC V5B 2E4		348,629.89
Pella Western Canada	29-3900 106th Ave SE Calgary AB T2C 5B6		7,309.05
Pitney Bowes Canada Ltd. c/o BankruptcyHighway.com Mike Timko	PO Box 57100 Etobicoke ON M8Y 3Y2		677.38

District of: Ontario  
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In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
Creditor	Address	Account#	Claim Amount
PJ Partners	205-3380 South Service Rd Burlington ON L7N 3J5		21,187.50
Powerplay Electric Ltd	386 Beachview Dr North Vancouver BC V7G 1P6		12,048.75
PPG AC Canada Inc	PO Box 46080 Stn A Toronto ON M5W 4K9		799.83
Praxair Distribution	PO Box 400 Stn D Scarborough ON M1R 5M1		544.92
Prime Coatings Ltd	995 West 3rd St North Vancouver BC V7P 1E4		172,562.13
Purolator Courier Limited Ortie Nesci	5995 Avebury Rd. 3rd Flr. Mississauga ON L5R 3T8		2,549.76
Rapid Equipment Rental Limited	Unit 2-5 St Regis Cres N Toronto ON M3J 1Y9		8,222.44
RBC Special Loans Robert Fick	200 bay Street Torono ON		3,567,585.57
Read Jones Christoffersen Ltd	220-645 Tyee Rd Victoria BC V9A 6X5		570.68
Regal Windows & Doors Systems Inc.	177 Drumlin Circle Concord ON L4K 3E7		51,563.41
Region of Peel - Water Department Water Department	10 Peel Centre Drive Brampton ON L6T 4B9		1,330.77
Richard, Jeff			41,253.70
Rogers	PO Box 9100 Don Mills ON M3C 3P9		4,432.43
Rona Inc /Dick's Lumber	2580 Gilmore Ave Burnaby BC V5C 4T5		8,413.47
Roofmart Pacific Ltd	8321-132nd St Surrey BC V3W 4N6		1,134.39

District of: Ontario  
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In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Royal Disposal & Contracting Services	16 Westacres Dr Toronto ON M6M 2B8		4,237.73
Scafom Canada	19 Delta Park Blvd Brampton ON L6T 5E7		72,571.38
Scotia Tire & Alignment Services Limited	5960 Atlantic Dr Mississauga ON L4W 1N6		649.74
SDI Supplies Ltd	4935 Steeles Ave W Toronto ON M9L 1R4		4,419.73
Spider Staging Canada ULC	Unit 160-13571 Verdun Pl Richmond BC V6V 1W5		41,391.53
SS Laser Tech Ltd	2115-13560 Maycrest Way Richmond BC V6V 2W9		598.53
Starline Windows Ltd Vanessa Werden	900-808 Nelson Street Vancouver BC V6Z 2H2		938,808.44
Summerhill Kitchens	880 Van Isle Way Victoria BC V9B 5R8		357.20
Super Save Disposal Inc	19395 Langley Bypass Surrey BC V3S 6K1		2,144.69
Super Save Fence Rentals Inc	19395 Langley Bypass Surrey BC V3S 6K1		999.92
Super Save Toilet Rentals Inc	19395 Langley Bypass Surrey BC V3S 6K1		2,283.88
Suspended Stages Inc	6989 Merritt Ave Burnaby BC V5J 4R7		66,769.85
Tag Equipment	Unit 24-60 Innovator Ave Stouffville ON L4A 0Y2		3,141.40
Telus Residential/Business Services Rick Wan	3rd Fl - 4519 Canada Way Burnaby BC V5G 4S4		966.61

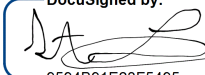


District of: Ontario  
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- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
The Sherwin-Williams Company - District Office Ernie Thibodeau	170 Brunel Rd., Unit A Mississauga ON L4Z 1T5		370.03
Tri-M Plumbing-Drainage Inc	3156-585 Seaborne Ave Port Coquitlam BC V3B 0M3		358.31
United Rentals	115, Ardelt Avenue Kitchener ON N2C 2E1		14,649.40
Vector Corrosion Technologies Ltd	208-669 Ridley Pl Delta BC V3M 6Y9		817.54
Vetro Installs Ltd	820 Dublin St New Westminster BC V3M 2Y6		17,972.85
Victoria Deck Ltd	512 William St Victoria BC V9A 3Y9		19,241.25
Visa			47,819.61
Wallace Industrial Services	341A John St Victoria BC V8T 1T2		1,628.40
West Bay Mechanical Ltd	584 Ledsham Rd Victoria BC V9X 1J8		30,915.67
Whiteplace Painting & Decorating Ltd	Unit 5-315 Steelcase Rd Markham ON L3R 2R5		47,475.26
Workplace Medical Corp	130 Wilson St Hamilton ON L8R 1E2		900.00
<b>Total</b>			<b>9,922,157.79</b>

DocuSigned by:  
  
 9594B91E23E5495

UNIQUE RESTORATION LTD.  
 Insolvent Person

District: ON  
Division No: 09  
Court No: 32-2701357  
Estate No: 32-2701357

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY & INSOLVENCY**

**NOTICE OF STAY OF PROCEEDINGS**

**In the matter of the proposal of  
UNIQUE RESTORATION LTD.  
of the City of Mississauga, in the Regional Municipality of Peel  
in the Province of Ontario**

Please be advised that the above noted filed a Notice of Intention under the *Bankruptcy and Insolvency Act* on January 4, 2021, and Crowe Soberman Inc. was appointed as the Licensed Insolvency Trustee. According to the provisions of Section 69.1 of the *Bankruptcy and Insolvency Act*, all proceedings shall be stayed against the debtor, and more particularly in the following matter, namely:

(a) no creditor has any remedy against the insolvent person or the insolvent person's property, or shall commence or continue any action, execution or other proceedings, for the recovery of a claim provable in bankruptcy,

(b) no provision of a security agreement between the insolvent person and a secured creditor that provides, in substance, that on

*(i) the insolvent person's insolvency,*

*(ii) the default by the insolvent person of an obligation under the security agreement, or*

*(iii) the filing by the insolvent person of a notice of intention under section 50.4,*

the insolvent person ceases to have such rights to use or deal with assets secured under the agreement as he would otherwise have, has any force or effect,

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY & INSOLVENCY**

**NOTICE OF STAY OF PROCEEDINGS**

**In the matter of the proposal of  
UNIQUE RESTORATION LTD.  
of the City of Mississauga, in the Regional Municipality of Peel  
in the Province of Ontario**

DATED at the City of Toronto, in the Province of Ontario, the 5th day of January, 2021.

**CROWE SOBERMAN INC.  
Licensed Insolvency Trustee  
acting in Re: the Proposal of  
UNIQUE RESTORATION LTD.**

**Per: A. Frances Doria, Manager  
Senior Estate Administrator**

To: Creditors of Unique Restoration Ltd.

c.c. Unique Restoration Ltd.  
1220 Matheson Blvd E  
Mississauga ON L4W 1R2

Note: The Proposal of a debtor does not prevent a secured creditor from realizing or otherwise dealing with their security in the same manner as they would have been entitled to realize.

**- Creditor Mailing List -**

In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

Creditor Type	Name	Attention	Address
Secured	RBC Special Loans	Robert Fick	SRF 758692933 200 Bay Street Toronto ON M5J 2W7 bob.fick@rbc.com
Unsecured	407 ETR Express Toll Route	Marion Richardson/Collections	6300 Steeles Ave W Woodbridge ON L4H 1J1 Fax: (905) 264-7511 Bankruptcy@407ETR.com
	A-1 Window Mfg Ltd		Unit 1-8038 Glenwood Dr Burnaby BC V3N 5E9
	Aaron Cole Excavating Ltd		658 Rason Rd Victoria BC V9B 6C6
	Acacia Landscape Inc		PO Box 5299 Victoria BC V8R 6N4
	ACT Concrete Placing & Finishing Ltd.		18-755 Vanalman Avenue Victoria BC V8Z 3B8 Fax: (250) 479-1341
	ADT Security Services Canada Inc.	Accounts Receivable	615 18th Street SE Calgary AB T2E 6J5 Fax: (888) 462-2950 customer.support@adt.ca
	Advance Mobile First Aid & Safety		101-10 King Edward St Coquitlam BC V3K 0E7
	Advantage Consulting & Restoration Contracting		1-1270 Finch Ave W North York ON M3J 3J7
	Advantage Electric Services Ltd		14020 Argyll Rd Georgetown ON L7G 5T7
	AJW Engineering		17-378 Mayfield Rd Brampton ON L6Z 0E3
	Alectra Utilities (formerly Enersource Hydro)		2185 Derry Rd W Mississauga ON L5N 7A6 Fax: (905) 566-2737
	Allstream		PO Box 4622 Stn A Toronto ON M5W 0J9
	American Express c/o FCT Default Solutions	Insolvency Department	PO Box 2514, Stn B London ON N6A 4G9 Fax: (647) 439-1419 dsinsolvency@collectlink.com
	AMR Barristers & Solicitors LLP		300-145 Wellington St W Toronto ON M5J 1H8
	Angel Answering Service		12-1730 Broadway St Port Coquitlam BC V3C 2M8
	Apex Steel & Gas Ltd		534 David St Victoria BC V8T 2C8
	Avizha Business Solutions Ltd		44 Fairholme Ave North York ON M6B 2W6

**- Creditor Mailing List -**

In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

Creditor Type	Name	Attention	Address
Unsecured	BC Hydro & Power Authority	Credit Admin	333 Dunsmuir St, 11th floor Vancouver BC V6B 5R3 Fax: (604) 528-2518
	Big Steel Box		1000-1631 Dickson Ave Kelowna BC V1Y 0B5
	Blok-Lok Ltd		12 Ashbridge Cir Woodbridge ON L4L 3R5
	BMO Financial Group c/o BankruptcyHighway.com	Mike Timko	PO Box 57100 Etobicoke ON M8Y 3Y2 Fax: (416) 253-3610 bankruptcydocuments@asset.net
	Britco Boxx Limited Partnership		1000-44-2nd Ave SW Calgary AB T2P 5E9
	Brock White Canada Company LLC		Lockbox V7198C-PO Box 7198 Station Terminal Vancouver BC V6B 4E2
	Building & Concrete Restoration Assoc		10 Lawton Ave Toronto ON M4V 1Z4
	Capilano Glass & Screens Ltd		1607 Marine Dr North Vancouver BC V7P 1V1
	Castle Precast Ltd		1230 Matheson Blvd E Mississauga ON L4W 1R2
	City of Mississauga	Revenue Collections	8BRMU0NU 4th Floor 300 City Centre Drive Mississauga ON L5B 3C1 Fax: (905) 615-3532 tax@mississauga.ca
	Cloverdale Paint Inc.	Dean Marques	BR 079 1616 Cedar Hill Cross Rd Victoria BC V8P 2P6
	Cloverdale Paint Inc.	Dean Marques	BR015 1624 Pemberton Ave North Vancouver BC V7P 2S6
	CMD Group		PO Box 46010 St A Toronto ON M5W 4K9
	Coho Communications Ltd		947 Walfred Rd Victoria BC V9C 2P3
	Columbia Fire & Safety Ltd		1-410 Garbally Rd Victoria BC V8T 2K1
	Computer Master		37-3100 Ridgeway Dr Mississuga ON L5L 5M5
	Constructconnect Canada Inc		Lockbox T09510C, PO Box 9510 Stn A Toronto ON M5W 2K3
	Construction Distribution & Supply		3-300 Confederation Pkwy Concord ON L4K 4T8
	Convoy Supply Ltd.	Ayaz Velji	8183 130th Street Surrey BC V3W 7X4 Fax: (604) 572-7476 ayaz.velji@convoy-supply.com

**- Creditor Mailing List -**

In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

Creditor Type	Name	Attention	Address
Unsecured	D & F Equipment and Construction		8301 Jane St Concord ON L4K 5P3
	Earthscapes Land Design & Build Inc.		634 DSrwent Way Delta BC V3M 5P8
	Eileen E. Vanderburgh		800 Smithe Street Vancouver BC V6Z 2E1 Fax: (644) 484-9712
	Ellice Recycle Ltd		343-A Bay St Victoria BC V8T 1P5
	Enbridge Gas Distribution - Ontario	Back Office Collections Department	3401 Schmon Pkwy, PO Box 1051 Thorold ON L2V 5A8 Fax: (888) 882-5638
	Envirosystems Incorporated		11 Brown Ave Dartmouth NB B3B 1Z7
	Etobicoke Building Supplies		25 Jutland Rd ETOBICOKE ON M8Z 2G6
	Euroseal Contracting Ltd		21-6110 138 St Surrey BC V3X 3V6
	Faria Developments Ltd		11046 Westminster Hwy Richmond BC V6X 1B3
	Ferrari & Associates Insurance		20-7675 Highway 27 Vaughan ON L4L 4M5
	Ferro Canada Inc		8999 Concession Rd 5 Uxbridge ON L9P 1R1
	First Response Glass		2-4217 Glanford Ave Victoria BC V8Z 4B9
	Fortis BC Energy Inc. - Natural Gas	Collection Department	PO Box 6666, Station Terminal Vancouver BC V6B 6M9 Fax: (888) 224-2720 collections.group@fortisbc.com
	Gillis, Derek		
	Green for Life Environmental		1045 Dunford Ave Victoria BC V9B 2S4
	Green Point Mechanical		22B-115 Woodstream Blvd Vaughan ON L4L 7Y6
	Griff Building Supplies Ltd.		340 Ewen Avenue New Westminster BC V3M 5B1 Fax: (604) 521-6920 sales@griff.ca
	H2X Contracting Ltd		4705 Kevere Rd Victoria BC V9C 4G1
	Hamza Demolition & Disposal Ltd		11640 Aztec St Richmond BC V6X 1H8
	HD Supply Canada Inc		100 Galcat Dr Vaughan ON L4L 0B9
Hicks Morley Hamilton Stewart Storie LLP		39 Fl-77 King St W, TD Tower Box 371 Toronto ON M5K 1K8	

**- Creditor Mailing List -**

In the matter of the proposal of  
**UNIQUE RESTORATION LTD.**  
of the City of Mississauga, in the Regional Municipality of Peel  
in the Province of Ontario

Creditor Type	Name	Attention	Address
Unsecured	Hilti Canada Corporation		2360 Meadowpine Boul Mississauga ON L5N 6S2 Fax: (800) 363-4459
	Home Depot c/o Citi Cards Canada (Acct 603529)		PO Box 2052, Stn B Mississauga ON L4Y 0B4 Fax: (866) 671-5926
	Hooey Remus LLP		210-330 Bay St Toronto ON M5H 2S8
	Houle Electric Limited		5050 North Fraser Way Burnaby BC V5J 0H1
	Humberview Motors Incorporated		3200 Bloor St W Toronto ON M8X 1E1
	IMH Pool XIV LP		c/o Alexander Holburn LLP, 2700-700 West Georgia St Vancouver BC V7Y 1B8 Fax: (604) 484-9700
	Insul-Twin Systems Ltd		1-1973 McLean Ave Port Coquitlam BC V3C 1N1
	Island Applicators Ltd		6745 Eakin Dr Sooke BC V9Z 0V5
	Jamac Sales and Distribution Ltd		141 Don Park Rd Markham ON L3R 1C2
	Joyce Group Services Inc		100-1741 Boudary Rd Vancouver BC V5M 3Y7
	Kal Tire Head Office - Credit	Wendy Edwards	PO Box 1240 Vernon BC V1T 6N6 Fax: (250) 260-6294 wendy_edwards@kaltire.com
	Klassen Building Supplies		104-14620 64th Ave Surrey BC V3S 1X7
	KMS Tool and Equipment Ltd.		110 Woolridge St Coquitlam BC V3K 5V4
	Koster American Corporation		2585 Aviator Dr Virginia Beach VA 23453 USA
	Linda M Draav CPA CMA		
	Lionsgate Scaffolding Ltd		8601 Main St Vancouver BC V5X 0E6
	M. Griffin Ltd		941 View St Victoria BC V3M 5P8
	Mahar, Joanne		
	Mazzei Electric Ltd		10-1850 Northfield Rd Nanaimo BC V9S 3B3
	McFloat Service Inc		1379 Lewisham Dr Mississauga ON L5J 3R1
	McIntosh Perry		200-6240 Highway 7 Woodbridge ON L4H 4G3
	McMillan LLP - Toronto	Ginger Drew	4400-181 Bay St Toronto ON M5J 2T7 Fax: (416) 865-7048

**- Creditor Mailing List -**

In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

Creditor Type	Name	Attention	Address
Unsecured	Menzies Metal Products		19370-60th Ave Surrey BC V3S 3M2
	Metal Supermarkets - BC		3-20059 92A Avenue Langley BC V1M 3A5
	Metro Testing Laboratories Ltd		6991 Curragh Ave Burnaby BC V5J 4V6
	Mitchell Sandham		2000-438 University Ave Toronto ON M5G 2K8
	Mitra, Sanj	Sanj Mitra	Solicitor to RBC Aird & Berlis LLP 181 Bay Street, Suite 1800 Toronto ON M5J 2T9 Smitra@airdberlis.com
	Momentum Engineering Management Inc		8-1445 Bonhill Rd Mississauga ON L5T 1V3
	Natures Call		177 Creditstone Rd Concord ON L4K 1N5
	Northwest Scaffolding		3516 Sparrowhawk Ave Victoria BC V9C 0L8
	Novoclad Systems Inc.		Unit B2-1590 Dundas St E Mississauga ON L4X 2Z2
	Office Team		T57349C PO Box 57349 Stn A Toronto ON M5W 5M5
	Optimal Roofing Systems inc.		3278-240th St Langley BC V2Z 2J3
	Pacific Restorations		5881 Beresford St Burnaby BC V5J 1K1
	Pacific West Systems Supply Ltd.		20109 Logan Ave Langley BC V3A 4L5 Fax: (604) 534-8063 snaidu@pacwestsystems.com
	Parker Johnston Industries Ltd		6791 Oldfield Rd Saanichton BC V6M 2A2
	Passaglia Concrete Restoration & Repair Ltd		6885 Aubrey St Burnaby BC V5B 2E4
	Pella Western Canada		29-3900 106th Ave SE Calgary AB T2C 5B6
Pitney Bowes Canada Ltd. c/o BankruptcyHighway.com	Mike Timko	PO Box 57100 Etobicoke ON M8Y 3Y2 Fax: (416) 253-3610 bankruptcydocuments@asset.net	
PJ Partners		205-3380 South Service Rd Burlington ON L7N 3J5	
Powerplay Electric Ltd		386 Beachview Dr North Vancouver BC V7G 1P6	
PPG AC Canada Inc		PO Box 46080 Stn A Toronto ON M5W 4K9	
Praxair Distribution		PO Box 400 Stn D Scarborough ON M1R 5M1	



**- Creditor Mailing List -**

In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

Creditor Type	Name	Attention	Address
Unsecured	Prime Coatings Ltd		995 West 3rd St North Vancouver BC V7P 1E4
	Propane Depot Inc		3390 Lake City Way Burnaby BC V5A 3A6
	Purolator Courier Limited	Ortie Nesci	5995 Avebury Rd. 3rd Flr. Mississauga ON L5R 3T8 Fax: (905) 712-6762
	Rapid Equipment Rental Limited		Unit 2-5 St Regis Cres N Toronto ON M3J 1Y9
	RBC Special Loans	Jason Zomok	SRF 758692933 20 King Street West, 2nd Floor Toronto ON M5H 1C4 jason.zomok@rbc.com
	Read Jones Christoffersen Ltd		220-645 Tyee Rd Victoria BC V9A 6X5
	Regal Windows & Doors Systems Inc.		177 Drumlin Circle Concord ON L4K 3E7 Fax: (905) 738-4860 info@regalaluminum.com
	Region of Peel - Water Department	Water Department	10 Peel Centre Drive Brampton ON L6T 4B9 Fax: (905) 791-5112 billingops@peelregion.ca
	Richard, Jeff Rogers		PO Box 9100 Don Mills ON M3C 3P9
	Rona Inc /Dick's Lumber		2580 Gilmore Ave Burnaby BC V5C 4T5
	Roofmart Pacific Ltd		8321-132nd St Surrey BC V3W 4N6
	Royal Disposal & Contracting Services		16 Westacres Dr Toronto ON M6M 2B8
	Scafom Canada		19 Delta Park Blvd Brampton ON L6T 5E7
	Scotia Tire & Alignment Services Limited		5960 Atlantic Dr Mississauga ON L4W 1N6
	SDI Supplies Ltd		4935 Steeles Ave W Toronto ON M9L 1R4
	Sonitrol Western Canada Inc		Unit 30-3033 King George Blvd Surrey BC V4P 1B8
	Spider Staging Canada ULC		Unit 160-13571 Verdun Pl Richmond BC V6V 1W5
	SS Laser Tech Ltd		2115-13560 Maycrest Way Richmond BC V6V 2W9
	Starline Windows Ltd	Vanessa Werden	900-808 Nelson Street Vancouver BC V6Z 2H2 Fax: (416) 681-0766 vwerden@jml.ca
	Summerhill Kitchens		880 Van Isle Way Victoria BC V9B 5R8

**- Creditor Mailing List -**

In the matter of the proposal of  
 UNIQUE RESTORATION LTD.  
 of the City of Mississauga, in the Regional Municipality of Peel  
 in the Province of Ontario

Creditor Type	Name	Attention	Address
Unsecured	Summit Tools		3905 1st Ave Burnaby BC V5C 3W3
	Sunrise Painting & Stucco Ltd		85520 Edgemond Village North Vancouver BC V7R 4X1
	Super Save Disposal Inc		19395 Langley Bypass Surrey BC V3S 6K1
	Super Save Fence Rentals Inc		19395 Langley Bypass Surrey BC V3S 6K1
	Super Save Toilet Rentals Inc		19395 Langley Bypass Surrey BC V3S 6K1
	Suspended Stages Inc		6989 Merritt Ave Burnaby BC V5J 4R7
	Tag Equipment		Unit 24-60 Innovator Ave Stouffville ON L4A 0Y2
	Telus Residential/Business Services	Rick Wan	3rd Fl - 4519 Canada Way Burnaby BC V5G 4S4 Fax: (800) 665-1170 camocd.tm@telus.com
	The Sherwin-Williams Company - District Office	Ernie Thibodeau	170 Brunel Rd., Unit A Mississauga ON L4Z 1T5 Fax: (905) 507-0062 ernie.thibodeau@sherwin.com
	Tri-M Plumbing-Drainage Inc		3156-585 Seaborne Ave Port Coquitlam BC V3B 0M3
	United Rentals		115, Ardel Avenue Kitchener ON N2C 2E1 Fax: (519) 743-4771
	Vanessa S. Werden	vwerden@jml.ca	850 Burdett Avenue Victoria BC Fax: (604) 681-0766
	Vector Corrosion Technologies Ltd		208-669 Ridley Pl Delta BC V3M 6Y9
	Vetro Installs Ltd		820 Dublin St New Westminster BC V3M 2Y6
	Victoria Deck Ltd		512 William St Victoria BC V9A 3Y9
	Visa		
	Wallace Industrial Services		341A John St Victoria BC V8T 1T2
	West Bay Mechanical Ltd		584 Ledsham Rd Victoria BC V9X 1J8
	Whiteplace Painting & Decorating Ltd		Unit 5-315 Steelcase Rd Markham ON L3R 2R5
	Workplace Medical Corp		130 Wilson St Hamilton ON L8R 1E2

This is Exhibit "J" referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**

LAND  
REGISTRY  
OFFICE #43

13294-0061 (LT)

PAGE 1 OF 2

PREPARED FOR JAlexopoulos  
ON 2020/12/15 AT 18:05:25

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

PROPERTY DESCRIPTION: PT BLK C PL 904 MISSISSAUGA PT 35 43R1060, S/T RIGHT IN VS232424 ; MISSISSAUGA

PROPERTY REMARKS:ESTATE/QUALIFIER:

FEE SIMPLE  
LT CONVERSION QUALIFIED

RECENTLY:

RE-ENTRY FROM 13294-0198

PIN CREATION DATE:

1999/02/22

OWNERS' NAMES

UNIQUE RESTORATION LTD.

CAPACITY SHARE

BENO

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
**EFFECTIVE	2000/07/29	THE NOTATION OF THE	"BLOCK IMPLEMENTATION DATE" OF 1997/03/18 ON THIS PIN**			
**WAS REPLACED WITH THE	"PIN CREATION DATE"	OF 1999/02/22**				
** PRINTOUT	INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **					
**SUBJECT,	ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:					
**	SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *					
**	AND ESCHEATS OR FORFEITURE TO THE CROWN.					
**	THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF					
**	IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY					
**	CONVENTION.					
**	ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.					
**DATE OF CONVERSION TO	LAND TITLES: 1999/02/23 **					
TT120053	1959/06/15	NOTICE				C
	REMARKS: AMENDMENT OF TORONTO-MALTON AIRPORT ZONING REGULATIONS AMENDED 960306 BY K. BARBISON, DLR					
TT144298	1962/03/13	NOTICE				C
	REMARKS: AMENDMENT OF TORONTO-MALTON AIRPORT ZONING REGULATIONS, AMENDED BY K.BARBISON DLR 96 03 06					
VS163212	1971/02/24	BYLAW				C
VS248789	1973/02/12	NOTICE				C
	REMARKS: AMENDMENT OF TORONTO-MALTON AIRPORT ZONING REGULATIONS LT248789 AMENDED TO READ 248789VS 95/11/14 KATHY POWER					
43R1060	1973/07/10	PLAN REFERENCE				C
LT2057426	2000/03/27	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF THE DEPARTMENT OF TRANSPORT CANADA		C
	REMARKS: PEARSON AIRPORT ZONING REGULATION					

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.

NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

LAND  
REGISTRY  
OFFICE #43

13294-0061 (LT)

PAGE 2 OF 2

PREPARED FOR JAlexopoulos  
ON 2020/12/15 AT 18:05:25

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
PR776189	2004/12/16	TRANSFER	\$1,380,000	FLEET, JOHN GEORGE MENICHAN, JOSEPH BOGEAN	2039638 ONTARIO INC.	C
		<i>REMARKS: PLANNING ACT STATEMENTS</i>				
PR3426633	2018/12/21	CHARGE	\$3,600,000	2039638 ONTARIO INC.	ROYAL BANK OF CANADA	C
PR3426642	2018/12/21	NO ASSGN RENT GEN		2039638 ONTARIO INC.	ROYAL BANK OF CANADA	C
		<i>REMARKS: PR3426633</i>				
PR3534294	2019/09/05	CHARGE	\$600,000	2039638 ONTARIO INC.	ROMA BUILDING RESTORATION LIMITED	C
PR3623123	2020/03/04	APL CH NAME OWNER		2039638 ONTARIO INC.	UNIQUE RESTORATION LTD.	C
PR3651848	2020/05/15	NOTICE	\$1,300,000	ROMA BUILDING RESTORATION LIMITED	UNIQUE RESTORATION LTD.	C
		<i>REMARKS: AMENDING PR3534294</i>				
PR3735718	2020/11/17	TRANSFER OF CHARGE		ROMA BUILDING RESTORATION LIMITED	VGNA HOLDINGS INC.	C
		<i>REMARKS: PR3534294.</i>				

This is Exhibit “K” referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**

<b>AIRD BERLIS</b>
--------------------

Sanjeev Mitra  
Direct: 416.865.3085  
E-mail: [smitra@airdberlis.com](mailto:smitra@airdberlis.com)

March 26, 2020

PRIVATE & CONFIDENTIAL  
DELIVERED BY EMAIL C/O ([gmallough@hoeyremus.com](mailto:gmallough@hoeyremus.com))

**Unique Restoration Ltd.**  
1220 Matheson Boulevard East  
Mississauga, Ontario L4W 1R2

**Attention: Steven Leblanc**

Dear Sirs/Mesdames:

**Re: Royal Bank of Canada (the “Lender”) loans to Unique Restoration Ltd. (the “Debtor”)**

---

We are the lawyers for the Lender in connection with its lending arrangements with the Debtor.

The Debtor is indebted to the Lender with respect to certain credit facilities (the “**Credit Facilities**”) made available by the Lender to the Unique Restoration Ltd. (“**Unique**”), a predecessor of the Debtor, pursuant to and under the terms of a letter credit agreement entered into between the Lender, as lender, and Unique, as borrower, dated September 13, 2017, (as amended, replaced, restated or supplemented from time to time, collectively, the “**Unique Credit Agreement**”).

The Debtor is indebted to the Lender with respect to the Credit Facilities made available by the Lender to 2039638 Ontario Inc. (“**203**”), a predecessor of the Debtor, pursuant to and under the terms of a letter credit agreement entered into between the Lender, as lender, and 203, as borrower, dated January 20, 2020, (as amended, replaced, restated or supplemented from time to time, collectively, the “**203 Credit Agreement**”, together with the Unique Credit Agreement, the “**Credit Agreements**”). All capitalized terms used but not defined herein shall have the meanings given to such terms in the Credit Agreements.

The Debtor is in default of its obligations under the Credit Agreements.

The following amounts are owing to the Lender for principal, interest and fees pursuant to the Credit Facilities, plus costs and expenses, pursuant to the Credit Agreements as of March 25, 2020:

<b>Unique Restoration Ltd.</b>	<b>Indebtedness</b>
Operating Facility	\$3,096,214.43
VISA Facility	\$59,295.64
Term Loan	\$389,898.66
Legal Fees paid by the Lender	\$15,387.25
Unbilled legal fees and disbursements from February 28, 2020 to March 24, 2020	\$6,789.59
<b>Total</b>	<b>\$3,567,585.57</b>

On behalf of the Lender, we hereby make formal demand for payment of \$3,567,585.57, together with accruing interest and any and all costs and expenses (including, without limitation, any additional legal and other professional fees) incurred by the Lender (collectively, the “**Indebtedness**”). Payment is required to be made immediately. Interest continues to accrue on the Indebtedness at the rates established by the Credit Agreements and any other agreement, as applicable.

The Indebtedness is secured by, *inter alia*, a (a) general security agreement granted by Unique in favour of the Lender, (b) a general security agreement granted by 203 in favour of the Lender, and (c) a Collateral mortgage in the amount of \$3,600,000.00 over the property known municipally as 1220 Mattheson Boulevard East, Mississauga, Ontario and legally described in PIN 13294-0061.

If payment of the Indebtedness is not received immediately, the Lender shall take whatever steps it may consider necessary or appropriate to collect and recover the amounts owing to it, including, without limitation, the appointment of an interim receiver, receiver and/or receiver and manager of the Debtor, in which case the Lender will also be seeking all costs associated with doing so.

On behalf of the Lender, we hereby enclose a Notice of Intention to Enforce Security delivered pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA Notice**”).

The Lender hereby reserves its rights to initiate proceedings within the ten (10) day period set out in the BIA Notice, if circumstances warrant such proceedings.

Please govern yourself accordingly.

Yours truly,

**AIRD & BERLIS LLP**

  
Sanjeev Mitra

Encl.

cc: *Bob Fick at Royal Bank of Canada*



**NOTICE OF INTENTION TO ENFORCE SECURITY**  
**(Bankruptcy and Insolvency Act, Subsection 244(1))**

Delivered By EMail

TO: **Unique Restoration Ltd.**  
 1220 Matheson Boulevard East  
 Mississauga, Ontario L4W 1R2

*insolvent company / person*

**TAKE NOTICE** that:

1. Royal Bank of Canada (the "**Lender**"), a secured creditor, intends to enforce its security on the property, assets and undertakings of Unique Restoration Ltd. (the "**Debtor**"), including, without limiting the generality of the foregoing, all assets, undertaking and personal property of the Debtor.
2. The security that is to be enforced (the "**Security**") is in the form of, *inter alia*:
  - (a) a general security agreement dated granted by Unique Restoration Ltd., a predecessor of the Debtor in favour of the Lender;
  - (b) a general security agreement dated granted by 2039638 Ontario Inc., a predecessor of the Debtor in favour of the Lender; and
  - (c) a collateral mortgage in the amount of \$3,600,000.00 over the property known municipally as 1220 Matheson Boulevard East, Mississauga, Ontario and legally described in PIN 13294-0061.
3. As at March 25, 2020, the total amount of the indebtedness secured by the Security is the sum of \$3,567,585.57 in principal and interest, plus accruing interest and recovery costs and fees of the Lender (including, without limitation, the Lender's legal and other professional fees).
4. The Lender will not have the right to enforce the Security until after the expiry of the ten (10) day period after this notice is sent, unless the Debtor consents to an earlier enforcement.

**DATED** at Toronto this 26<sup>th</sup> day of March, 2020.

**ROYAL BANK OF CANADA**  
 by its lawyers, **Aird & Berlis LLP**

Per: \_\_\_\_\_

Sanjeev Mitra

Brookfield Place, Suite 1800  
 181 Bay Street, Box 754  
 Toronto, ON M5J 2T9  
 Tel: 416-863-1500  
 Fax: 416-863-1515

**Note:** This Notice is given for precautionary purposes only and there is no acknowledgement that any person to whom this Notice is delivered is insolvent, or that the provisions of the *Bankruptcy and Insolvency Act* apply to the enforcement of this security.

39352103.3

This is Exhibit "L" referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A handwritten signature in black ink, appearing to read 'Rory McGovern', is written over a horizontal line.

*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**

## FORBEARANCE AGREEMENT

**THIS AGREEMENT** is made as of this 4<sup>th</sup> day of June, 2020.

### **A M O N G S T:**

#### **ROYAL BANK OF CANADA**

(hereinafter referred to as the “**Lender**”)

- and -

#### **UNIQUE RESTORATION LTD.**

(hereinafter referred to as the “**Borrower**”)

- and -

**JOHN KENNEDY (“John”), MONICA KENNEDY (“Monica”), STEVEN LEBLANC (“Steven”) and LINDA LEBLANC (“Linda”)**

(hereinafter collectively referred to as the “**Guarantors**”)

### **RECITALS:**

**WHEREAS** Unique Restoration Ltd. (“**Unique**”) and 2039638 Ontario Inc. (“**203**”) amalgamated on March 1, 2020 and continued to operate as the Borrower.

**AND WHEREAS** the Borrower is directly indebted to the Lender with respect to certain credit facilities (the “**Credit Facilities**”) made available by the Lender to the Borrower pursuant to and under the terms of:

- (a) the letter credit agreement between RBC and Unique dated as of September 13, 2017 and amended by the amending letter agreement dated November 27, 2018 (collectively, as amended, amended and restated, renewed, extended, supplemented, replaced or otherwise modified from time to time, the “**Unique Credit Agreement**”);
- (b) a letter credit agreement between RBC and 203 dated as of January 20, 2020 (as amended, amended and restated, renewed, extended, supplemented, replaced or otherwise modified from time to time and together with the Unique Credit Agreement, the “**Credit Agreements**”).

**AND WHEREAS** Unique, 203 and the Guarantors have directly guaranteed the obligations of the Borrower to the Lender (the “**Guarantees**”), each pursuant to the terms of certain guarantee agreements more particularly set out in **Schedule “A”** hereto;

**AND WHEREAS**, to secure the obligations of the Borrower and the Guarantors (collectively, the “**Credit Parties**”) to the Lender, including, without limitation, those arising under the Credit Agreements and the Guarantees, the Credit Parties have provided security in favour of the Lender (collectively, the “**Security**”) including, without limitation, the security set out in **Schedule “B”** hereto;

**AND WHEREAS** certain of the Credit Facilities are payable on demand and certain defaults have also occurred pursuant to the Credit Agreements and the Lender has demanded repayment of the Indebtedness (as hereinafter defined);

**AND WHEREAS** the Credit Parties have requested and the Lender has agreed to forbear from taking certain actions under the Security in connection with the defaults of the Borrower existing to the date hereof and has agreed to continue to extend the Credit Facilities to the Borrower solely on the terms and conditions and subject to the limitations as specified in this Agreement, so that the Borrower has additional time to indefeasibly repay the Lender, in full, at the end of the Forbearance Period (as defined herein);

**NOW THEREFORE** in consideration of the respective covenants of the parties hereto as herein contained, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions**

In this Agreement, unless the context otherwise requires, all terms defined in the Credit Agreements and not otherwise defined herein shall have the respective meanings ascribed to them in the Credit Agreements. All monetary amounts referred to in this Agreement shall refer to Canadian currency.

### **1.2 Gender and Number**

Words importing the singular include the plural and vice versa and words importing gender include all genders.

### **1.3 Severability**

Each of the provisions contained in this Agreement is distinct and severable, and a declaration of invalidity, illegality or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision of this Agreement.

### **1.4 Headings**

The division of this Agreement into articles, sections and clauses, and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## 1.5 Entire Agreement

Except for the Financing Agreements (as hereinafter defined) and the additional documents provided for herein, this Agreement constitutes the entire agreement of the parties and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, relating to the subject matter hereof. This Agreement may not be amended or modified except by written consent executed by all the parties. No provision of this Agreement will be deemed waived by any course of conduct unless such waiver is in writing and signed by all the parties, specifically stating that it is intended to modify this Agreement.

## 1.6 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflicts of law or principles of comity.

## 1.7 Attornment

Each party hereto irrevocably attorns to the exclusive jurisdiction of the Superior Court of Justice (Commercial List) of the Province of Ontario in the City of Toronto for all matters arising out of or in connection with this Agreement.

## 1.8 Conflicts

If there is any inconsistency or conflict between the terms of this Agreement and the terms of the Credit Agreements, the Guarantees, the Security or any other agreement executed in connection therewith (collectively, the “**Financing Agreements**”), the provisions of this Agreement shall prevail to the extent of the inconsistency, but the foregoing shall not apply to limit or restrict in any way the rights and remedies of the Lender under the Financing Agreements or this Agreement other than as may be specifically contemplated herein.

## ARTICLE 2 ACKNOWLEDGEMENT AND CONFIRMATION

### 2.1 Acknowledgement of Obligations

- (a) Each of the Credit Parties hereby acknowledges, confirms and agrees that, as of the close of business on March 25, 2020, the indebtedness owing to the Lender in respect of advances made pursuant to the Credit Agreements is the amount of \$3,567,585.57, exclusive of amounts which are owing and which may become owing for the Lender’s fees, agent costs, professional fees, accruing interest at the rates set out in the Credit Agreements, costs and any additional borrowings since March 25, 2020 (the “**Indebtedness**”).
- (b) Each of the Credit Parties hereby acknowledges, confirms and agrees that, as a result of the Credit Agreements and the Guarantees:

- (i) the Borrower is indebted to the Lender in respect of the totality of the Indebtedness;
  - (ii) John and Monica are jointly and severally indebted to the Lender in respect of the totality of the obligations of the Borrower to the Lender up to a principal amount of \$950,000.00 from the date of demand plus interest and costs thereon (including, without limitation, the totality of the Indebtedness);
  - (iii) Steven and Linda are jointly and severally indebted to the Lender in respect of the totality of the obligations of the Borrower to the Lender up to a principal amount of \$950,000.00 from the date of demand plus interest and costs thereon (including, without limitation, the totality of the Indebtedness).
- (c) Each of the Credit Parties hereby acknowledges, confirms and agrees that the Indebtedness and any other amounts now or hereafter properly payable by the Credit Parties to the Lender under the Financing Agreements is unconditionally owing to the Lender, without any right of setoff, defence, counterclaim or reduction of any kind, nature or description whatsoever, and the Credit Parties are estopped from disputing such Indebtedness.
  - (d) Each of the Credit Parties hereby acknowledges, confirms and agrees that the Credit Parties will continue to accept statements of the Indebtedness issued by the Lender to be accurate statements of the amount and the particulars of the Indebtedness as of the date of the statement, absent manifest error.

## **2.2 Acknowledgement of Security Interests**

- (a) Each of the Credit Parties hereby acknowledges, confirms and agrees that the Security, as applicable, has not been discharged, waived or varied, that it is binding upon the Credit Parties, as applicable, and that the Security is enforceable in accordance with its written terms until the obligations of the Credit Parties to the Lender have been indefeasibly paid and satisfied in full.
- (b) Each of the Credit Parties hereby acknowledges, confirms and agrees that the Guarantees are and shall continue to be in full force and effect and are valid, binding and enforceable upon the Credit Parties until the obligations of the Credit Parties to the Lender have been indefeasibly paid and satisfied in full, and that neither the execution of this Agreement nor any change to the Indebtedness occasioned hereby, or any other matter arising herefrom, shall in any way affect the continuing effectiveness and validity of the Guarantees.

## **2.3 Acknowledgement of Demands and Notices of Intention to Enforce Security**

Each of the Credit Parties hereby acknowledges, confirms and agrees that each of the Credit Parties has, prior to the execution and delivery of this Agreement, received from the Lender a validly issued and delivered demand for the acceleration and payment of the

Indebtedness (collectively, the “**Demands**”). Each of the Credit Parties further acknowledges, confirms and agrees that the Borrower has, prior to the date of this Agreement, received from the Lender a Notice of Intention to Enforce Security (collectively, the “**Notices**”) pursuant to Section 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) in respect of the Security, and each of the Credit Parties confirms that the ten day notice period set forth in the Notices has expired or, in the alternative, that by execution of this Agreement, the Borrower has waived the ten day notice period required to enforce any security interest that may be required pursuant to Section 244(1) of the BIA in respect of the Security and that, subject only to the terms of this Agreement, there is no further step required by the Lender in order to enforce the Security. Each of the Credit Parties further acknowledges that nothing in this Agreement shall constitute a waiver or revocation of the Demands or the Notices.

#### **2.4 Acknowledgement of Certain Events of Default**

- (a) Each of the Credit Parties hereby acknowledges, confirms and agrees that one or more defaults have occurred and are continuing pursuant to the provisions of the Credit Agreements (any and all such defaults as may be existing and known to the Lender as of the date hereof being referred to as the “**Existing Defaults**”).
- (b) Each of the Credit Parties further acknowledges, confirms and agrees that, as of the date hereof, the Lender has made no promises and has not waived, and does not intend to waive such Existing Defaults, and nothing contained herein or the transactions contemplated hereby shall be deemed to constitute any such waiver.

#### **2.5 Additional Acknowledgements**

Each of the Credit Parties hereby acknowledges, confirms and agrees that:

- (a) the facts set out in the recitals to this Agreement are true and accurate;
- (b) except as hereby amended, the Financing Agreements will remain in full force and effect, unamended, except as provided for herein;
- (c) except as provided for in this Agreement, the Lender (either by itself or through its employees or agents) has made no promises, nor has it taken any action or omitted to take any action, that would constitute a waiver of its rights to enforce the Security and pursue its remedies in respect of the obligations of the Credit Parties to the Lender, or that would stop it from doing so; and
- (d) to the date hereof, the Lender has at all times acted in a commercially reasonable manner and in good faith, and the Credit Parties are estopped from disputing same.

### ARTICLE 3 CONDITIONS PRECEDENT

#### 3.1 Conditions Precedent

The forbearance obligations of the Lender under this Agreement shall not be effective unless and until the Lender shall have received, in each case to the Lender's satisfaction, in its sole discretion:

- (a) a copy of this Agreement, fully executed by each of the Credit Parties;
- (b) written confirmation supported by evidence satisfactory to the Lender, in its sole discretion, that there are no outstanding Priority Payables (as defined herein);
- (c) an executed consent from the Borrower in the form set out in **Schedule "C"** hereto (the "**Receivership Consent**") to the immediate private or court-appointment of an interim receiver, receiver or receiver and manager in respect of all of the Borrower's assets, properties and undertakings, which shall be held in escrow by the Lender's counsel, Aird & Berlis LLP, and automatically and immediately released from escrow in the event of the termination, expiration or non-commencement of the Forbearance Period;
- (c) an executed consent from each of the Credit Parties in the form set out in **Schedule "D"** hereto (the "**Collateral Consent**" and, together with the Receivership Consent, the "**Consents**") to immediate judgment in favour of the Lender which shall be held in escrow by the Lender's counsel, Aird & Berlis LLP, and automatically and immediately released from escrow in the event of the termination, expiration or non-commencement of the Forbearance Period; and,
- (d) certificates of independent legal advice in a form satisfactory to the Lender to confirm that each of Monica and Linda have received independent legal advice in connection with this Agreement and the documents they are required to execute.

#### 3.2 No Condition Precedent to the Effectiveness of the Consents

Each of the Consents shall be effective immediately upon their respective execution and delivery to the Lender.

### ARTICLE 4 FORBEARANCE CONDITIONS

#### 4.1 Forbearance

In reliance upon the acknowledgements, representations, warranties and covenants of the Credit Parties contained in this Agreement and subject to the terms and conditions of this Agreement, and any documents executed in connection herewith, the Lender agrees, subject to the terms hereof, to forbear from exercising its rights and remedies under the Credit Agreements,



the Security, the Guarantees, the *Personal Property Security Act* (Ontario) (the “**PPSA**”), the *Mortgages Act* (Ontario) (the “**Mortgages Act**”) and other applicable law, until the earlier of:

- (a) October 1, 2020; and
  - (b) the occurrence of an Intervening Event (as hereinafter defined and pursuant to section 7.1 of this Agreement),
- (the “**Forbearance Period**”).

#### **4.2 Expiration or Termination of the Forbearance Period**

Upon the expiration or termination of the Forbearance Period, the agreement of the Lender to forbear shall automatically and without further action terminate and be of no further force and effect, it being expressly agreed that the effect of such expiration or termination will be to permit the Lender to exercise its rights and remedies under the Financing Agreements, this Agreement and any other agreement or documents executed in connection herewith immediately, including, without limitation, and whether pursuant to the Consents or otherwise: (i) the exercise of all remedies available pursuant to the Financing Agreements; (ii) the acceleration of all the obligations of the Credit Parties to the Lender without any further notice, passage of time or forbearance of any kind; (iii) the appointment of a private or court-appointed interim receiver, receiver or receiver and manager under the Security held by the Lender from the Credit Parties; (iv) the initiation of any action against the Credit Parties to collect under the Guarantees; and (v) the making of an application to a court of competent jurisdiction, in accordance with Section 1.7 of this Agreement, to enforce any private or other remedies available to the Lender or to seek the appointment by such court of an interim receiver, receiver, receiver and manager and/or trustee in bankruptcy of any of the Credit Parties.

#### **4.3 Tolling**

- (a) As of the date hereof and continuing until the expiration or termination of the Forbearance Period, as applicable, and thereafter until the termination of the tolling arrangements in the manner provided for at paragraph 4.3(b) herein (and notwithstanding the Demands and the Notices delivered by the Lender), the Lender and the Credit Parties hereby agree to toll and suspend the running of the applicable statutes of limitations, laches and other doctrines related to the passage of time in relation to the Indebtedness, the Guarantees, the Security and any entitlements arising from the Indebtedness, the Guarantees or the Security and any other related matters, and each of the parties confirms that this Agreement is intended to be an agreement to suspend or extend the basic limitation period, provided by section 4 of the *Limitations Act, 2002*, S.O. 2002, c. 24, Sched. B (the “**Limitations Act**”) as well as the ultimate limitation period provided by section 15 of the *Limitations Act* in accordance with the provisions of sections 22(3) and 22(4) of the *Limitations Act* and as a business agreement in accordance with the provisions of section 22(5) of the *Limitations Act* and any contractual time limitations on the commencement of proceedings, any claims or defences based

upon such application statute of limitations, contractual limitations or any time related doctrine including waiver, estoppel or laches.

- (b) The tolling provisions of this Agreement will terminate upon either of its parties providing the other with 60 days' written notice of an intention to terminate the tolling provisions hereof, and upon the expiry of such 60 days' notice, any time provided for under the statute of limitations, laches or any other doctrine related to the passage of time in relation to the Indebtedness, the Guarantees, the Security or any claims arising thereunder, will recommence running as of such date, and for greater certainty the time during which the parties agree to the suspension of the limitation period pursuant to the tolling provisions of this Agreement shall not be included in the computation of any limitation period.

#### **4.4 No Other Waivers; Reservation of Rights**

Subject to Section 4.1 of this Agreement, the Lender reserves the right, in its sole and absolute discretion, to exercise any or all of its rights or remedies under any one or more of the Financing Agreements, the PPSA, the Mortgages Act or other applicable law, and the Lender has not waived any such rights or remedies, and nothing in this Agreement and no delay on the part of the Lender in exercising any such rights or remedies, shall be construed as a waiver of any such rights or remedies.

### **ARTICLE 5 REPORTING REQUIREMENTS**

#### **5.1 Reporting Requirements**

During the Forbearance Period, each of the Credit Parties agrees to continue to honour the reporting requirements as previously agreed with the Lender in the Financing Agreements or as amended herein, and shall continue to do so until such time as the obligations of the Credit Parties to the Lender have been repaid indefeasibly and in full. Each of the Credit Parties further agrees to provide the Lender with the following, in each case to the Lender's satisfaction, in the Lender's sole discretion:

- (a) immediately upon receipt by any of the Credit Parties, copies of all offers, binding and non-binding, to purchase the real property known municipally as 1220 Matheson Boulevard East in Mississauga, Ontario and known legally as PIN 13294-0061 (LT) (the "**Premises**");
- (b) as requested by the Lender, written confirmation supported by evidence satisfactory to the Lender, in its sole discretion, that the Borrower has no outstanding Priority Payables (as defined herein) including, without limitation or in any way limiting the generality of the foregoing, Priority Payables owing to Canada Revenue Agency or in respect of property taxes; and
- (c) forthwith upon request, any report, summary, copy or information reasonably requested by the Lender.

## **ARTICLE 6**

### **OBLIGATIONS OF THE CREDIT PARTIES DURING THE FORBEARANCE PERIOD**

#### **6.1 Credit Agreements**

During the Forbearance Period, the Credit Parties shall strictly adhere to all the terms, conditions and covenants of the Credit Agreements, this Agreement and the other Financing Agreements, including, without limitation, terms requiring prompt payment of principal, interest, fees and other amounts when due, except to the extent that such terms, conditions and covenants are otherwise specifically amended by this Agreement.

#### **6.2 Full Co-Operation**

During the Forbearance Period, the Credit Parties shall cooperate fully with the Lender, including, without limitation, by providing promptly all information requested by the Lender, and by providing the Lender full access to the books, records, property, assets and personnel of the Credit Parties wherever they may be situated and in whatever medium they may be recorded, at the request of and at times convenient to the Lender, acting reasonably, which right of access shall include the right to inspect and appraise such property and assets.

#### **6.3 Payment and Other Obligations**

The Borrower hereby covenants and agrees with the Lender to reimburse the Lender for all reasonable expenses, including, without limitation, actual legal and other professional expenses that the Lender has incurred or will incur arising out of its dealings with the Credit Parties and in the protection, preservation and enforcement of the Security and/or the Guarantees, including, without limitation, the actual fees and expenses of the Lender's solicitors, Aird & Berlis LLP (the "**Professional Expenses**"), and that the Professional Expenses shall be for the account of the Borrower and shall be debited directly by the Lender against the accounts of the Borrower upon issuance of invoices evidencing the Professional Expenses, failing which payment will otherwise be made by the Lender for later repayment by the Borrower by no later than the expiration or termination of the Forbearance Period. Nothing in this Agreement shall derogate from the Borrower's obligation to pay for all of the Professional Expenses or shall constitute a cap on Professional Expenses.

#### **6.4 Operational Obligations**

- (a) For the duration of the Forbearance Period, each of the Credit Parties hereby covenants and agrees with the Lender as follows:
  - (i) the Borrower shall close all bank accounts with any institution other than the Lender on or before execution of this Agreement and only utilize their accounts with the Lender for their banking needs during the Forbearance Period, except with the Lender's prior written consent;
  - (ii) the Borrower shall maintain its corporate existence as a valid and subsisting entity and shall not merge, amalgamate or consolidate with any other corporation(s), except with the Lender's prior written consent;

- (iii) except as specifically provided for herein, each of the Credit Parties shall comply in all respects with all terms and provisions of the Financing Agreements and this Agreement and nothing herein derogates therefrom. For greater certainty, except as provided for herein, the Credit Parties shall continue to remit all payments when due under the Financing Agreements and shall operate all facilities within the terms and the limits prescribed therein, except as amended by this Agreement;
- (iv) the Borrower shall comply with any and all cash management obligations and obligations to maintain insurance in accordance with the Financing Agreements;
- (v) the Credit Parties shall be responsible for paying the fees and out of pocket expenses of the Lender and, if the Borrower fail to do so, the amount of such fees and expenses will be added to the Indebtedness, secured by the Security and guaranteed by the Guarantees;
- (vi) the Credit Parties shall not, without the prior written consent of the Lender, make any distribution or payment to any person, corporation or other entity who does not deal with the Credit Parties at arm's length (as such term is defined in the *Income Tax Act* (Canada)), except for:
  - (A) payments of salary at levels not in excess of those now in effect;
  - (B) payments to the Credit Parties' ordinary suppliers in respect of any supply arrangement with the Credit Parties arising in the ordinary course of the Credit Parties' business, which are commercially reasonable and are competitive with payments that would be required to be paid to a comparable supplier acting at arm's length;
- (vii) the Credit Parties shall not, without the prior written consent of the Lender, make any loans or advance money or property to any other party (including, without limitation, any subsidiary or affiliate of any the Credit Parties) or invest in (by capital contribution, dividend or otherwise) or purchase or repurchase the shares or indebtedness or all or a substantial part of the assets or property of any other party (including, without limitation, any subsidiary or affiliate of any of the Credit Parties), or guarantee, assume, endorse, or otherwise become responsible (directly or indirectly) for the indebtedness, performance, obligations or dividends of any other party (including, without limitation, any subsidiary or affiliate of any of the Credit Parties) or agree to do any of the foregoing, other than as required by the Financing Agreements;
- (viii) the Credit Parties shall cooperate with the Lender to rectify any deficiencies in the Security or the Guarantees identified by the Lender;
- (ix) none of the Credit Parties shall encumber, mortgage, hypothec, pledge or otherwise cause any form of lien or charge on any of their property or

- assets, including intangible and contingent assets, without the prior written consent of the Lender;
- (x) the Borrower shall not, without the prior written consent of the Lender, repay any principal or interest which may be owing or become owing in connection with any shareholder or related party loan or any loan made by any party subordinate to the Lender;
  - (xi) the Borrower shall not, without the prior written consent of the Lender, make any distribution (whether by dividend or otherwise) or effect any return of capital on any investment made by any shareholder, or any party related to any shareholder, of the Borrower;
  - (xii) the Borrower shall not, in any case, make any payment to any party if the financial position of Borrower after making such payment would put such Borrower in a position of breach or default of its obligations under the Financing Agreements, this Agreement or constitute an Intervening Event;
  - (xiii) the Borrower shall keep current at all times all obligations that constitute priority obligations, meaning those obligations payable in priority to the obligations owed to the Lender (“**Priority Payables**”), including wages and remittances required to be made for taxes and other liabilities owed to federal, provincial and municipal governments, including, without limitation, property taxes and money owed in respect of employee source deductions pursuant to the *Canada Pension Plan Act* (Canada), *Employment Insurance Act* (Canada) and *Income Tax Act* (Canada), and in respect of Harmonized Sales Tax, and the Credit Parties shall provide to the Lender on a regular basis evidence of such payments satisfactory to the Lender;
  - (xiv) the Credit Parties shall give to the Lender prompt notice of any litigation, arbitration or administrative proceeding before or of any court, arbitration, tribunal or governmental authority affecting any of the assets, property or undertakings of the Credit Parties; and
  - (xv) unless otherwise agreed to herein, the Credit Parties shall not do any act or thing which may have the effect of defeating or delaying the enforcement of the Lender’s rights and remedies under any of the Security or the Guarantees.
- (b) Each of the Credit Parties represents and warrants to the Lender that all the Borrower’s obligations with respect to employee wages and vacation pay are current as of the date of this Agreement and shall remain current throughout the Forbearance Period.

## ARTICLE 7 INTERVENING EVENTS

### 7.1 Intervening Events

Upon the happening of any one of the following events (each an “**Intervening Event**”), the Forbearance Period shall forthwith terminate:

- (a) any material representation, warranty or statement made by any of the Credit Parties in this Agreement or any other agreement with the Lender was untrue or incorrect when made or becomes untrue or incorrect;
- (b) any of the Credit Parties fails to perform or comply with any of its respective covenants or obligations contained in this Agreement, any of the Financing Agreements or in any other agreement or undertaking made between any of the Credit Parties and the Lender, other than the covenants, obligations or undertakings with which the impugned Credit Party has already failed to perform or comply with at time of execution of this Agreement and which are known to the Lender;
- (c) the Borrower fails to maintain and keep current payments of Priority Payables in accordance with the terms of this Agreement, which may result in any claim ranking in priority or *pari passu* to the claim of the Lender;
- (d) the Borrower defaults in timely payment of rentals or other charges due as rent in respect of any leased premises or equipment, subject to the written accommodation between the defaulting party and its landlord;
- (e) any of the Credit Parties defaults in the performance of any obligation under any of the Financing Agreements after the date hereof;
- (f) the occurrence of any other event which, in the opinion of the Lender, acting reasonably, may materially and adversely impact the priority or enforceability of the Security granted by any of the Credit Parties, or the realizable value of the collateral subject to such Security;
- (g) the Security ceases to constitute a first-ranking, valid and perfected security interest against all assets of the Borrower, including, without limitation, the Premises;
- (h) the loss, damage, destruction or confiscation of the Security or any part thereof, unless upon such event, the Credit Parties pay to the Lender forthwith such amount as the Lender, in its sole and absolute discretion, determines is satisfactory;
- (i) any person takes any steps in connection with or in contemplation of enforcement of security, or a distress or execution or similar process levied or enforced against any property of any of the Borrower;

- (j) any person takes possession of any property of any of the Credit Parties by way of or in contemplation of enforcement of security, or a distress or execution or similar process levied or enforced against any property of any of the Borrower;
- (k) any change of ownership, control or management of the Borrower, without the Lender's prior written consent;
- (l) in the Lender's sole opinion, a material adverse change occurs in the business, affairs, financial condition, operation or ownership of the Borrower arising for any reason whatsoever;
- (m) the Borrower fails to maintain current insurance or other material contracts;
- (n) without the Lender's prior written consent, the Borrower ceases to carry on business in the normal course in the same manner as such business has previously been carried on or commits or threatens to commit an act of bankruptcy;
- (o) without the prior written consent of the Lender, any of the Credit Parties takes any action or commences any proceeding or any action or proceeding is taken or commenced by another person or persons against any of the Credit Parties relating to the reorganization, readjustment, compromise or settlement of the debts owed by any of the Credit Parties to its creditors where such reorganization, readjustment, compromise or settlement shall affect a substantial portion of any of the Credit Parties' assets and property, including, without limitation, the filing of a Notice of Intention to Make a Proposal under the BIA, the making of an order under the *Companies' Creditors Arrangement Act* (Canada) or the commencement of any similar action or proceeding by any party other than the Lender;
- (p) the filing of an application for a bankruptcy order against any of the Credit Parties pursuant to the provisions of the BIA by any party other than the Lender;
- (q) the Borrower fails to meet its payroll obligations or does not have sufficient funds available to fund its payroll obligations, or fails to produce evidence, satisfactory to the Lender, acting reasonably, of the availability of such funds to the Lender within one business day prior to the date that any payroll falls due;
- (r) any of the Credit Parties fails to make one or more of the payments, in full or in part, in accordance with the Financing Agreements, as amended only by this Agreement; or
- (s) any of the Credit Parties fails to meet one or more of their reporting requirements in accordance with section 5.1 of this Agreement.

## **ARTICLE 8 GENERAL PROVISIONS**

### **8.1 Effect of this Agreement**

Except as modified pursuant hereto, no other changes or modifications to the terms of the Financing Agreements are intended or implied and in all other respects, the terms of the Financing Agreements are confirmed.

### **8.2 Further Assurances**

The parties hereto shall execute and deliver such supplemental documents and take such supplemental action as may be necessary or desirable to give effect to the provisions and purposes of this Agreement, all at the sole expense of the Credit Parties.

### **8.3 Binding Effect**

This Agreement shall be binding upon and enure to the benefit of each of the parties hereto and its respective successors and permitted assigns.

### **8.4 Survival of Representations and Warranties**

All representations and warranties made in this Agreement or any other document furnished in connection herewith shall survive the execution and delivery of this Agreement and such other document delivered in connection herewith, and no investigation by the Lender or any closing shall affect the representations and warranties or the rights of the Lender to rely upon such representations and warranties.

### **8.5 Confidentiality**

Each of the Credit Parties acknowledges and agrees that the Lender and its professional advisors shall be at liberty, in their sole discretion, to disclose any information obtained from the Credit Parties to any party or parties in order to recover amounts owed to the Lender by the Credit Parties.

### **8.6 Release**

In consideration of the agreements of the Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Credit Parties, on their behalf and on behalf of their successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably release, remise and forever discharge the Lender and each of its successors and assigns, participants, affiliates, subsidiaries, branches, divisions, predecessors, directors, officers, attorneys, employees, lenders and other representatives and advisors (the Lender and all such other persons being hereinafter referred to collectively as the “**Releasees**” and individually as a “**Releasee**”), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defences, rights of set-off, demands and liabilities whatsoever (individually, a “**Claim**” and



collectively, “**Claims**”) of every name and nature, known or unknown, suspected or unsuspected, both arising at law and in equity, which the Credit Parties or any of their successors, assigns or other legal representatives may now own, hold, have or claim to have against the Releasees or any of them for, upon or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the day and date of this Agreement, including, without limitation, for or on account of, or in relation to or in any way in connection with, any of the Financing Agreements or transactions thereunder or related thereto.

### **8.7 No Novation**

This Agreement will not discharge or constitute novation of any debt, obligation, covenant or agreement contained in the Credit Agreements or any of the Financing Agreements but the same shall remain in full force and effect save to the extent amended by this Agreement.

### **8.8 Notice**

Without prejudice to any other method of giving notice, any notice required or permitted to be given to a party pursuant to this Agreement will be conclusively deemed to have been received by such party on the day of the sending of the notice by prepaid private courier to such party at its, his or her address noted below or by email at its, his or her email address noted below. Any party may change its, his or her address for service or address by notice given in the foregoing manner.

Notice to the Credit Parties shall be sent to:

Hooey Remus, Barristers and Solicitors  
330 Bay Street, Suite 210  
Toronto, ON M5H 2S8

Attention: Gregory Mallough  
Email: [gmallough@hooeyremus.com](mailto:gmallough@hooeyremus.com)

Notice to the Lender shall be sent to:

Royal Bank of Canada  
20 King Street West, Second Floor  
Toronto, ON M5H 1C4

Attention: Bob Fick  
Email: [bob.fick@rbc.com](mailto:bob.fick@rbc.com)

with a copy to:

Aird & Berlis LLP, Barristers and Solicitors  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

Attention: Sanj Mitra and Jonathan Yantzi  
Email: [smitra@airdberlis.com](mailto:smitra@airdberlis.com) and [jyantzi@airdberlis.com](mailto:jyantzi@airdberlis.com)

### **8.9 Binding and Enforceable Agreement**

In order for this Agreement to be binding and enforceable, it shall be signed by the Credit Parties by no later than 4:00 p.m. (Toronto time) on June 4, 2020.

### **8.10 Execution in Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and which taken together will be deemed to constitute one and the same instrument. Counterparts may be executed either in original or portable document format (“PDF”) form and the parties adopt any signatures received by emailed PDF as original signatures of the parties, provided, however, that any party providing its signature in such manner will promptly forward to the other party an original of the signed copy of the Agreement which was so emailed.

### **8.11 No Set Off, etc.**

The Credit Parties reaffirm that the Financing Agreements remain in full force and effect as amended hereby and acknowledge and agree that there is no defence, set off or counterclaim of any kind, nature or description to its obligations arising under the Financing Agreements as a result of the execution of this Agreement or otherwise.

### **8.12 Independent Legal Advice, etc.**

Each of the Credit Parties acknowledges and declares that: (a) it has had an adequate opportunity to read and consider this Agreement and to obtain such advice in regard to it as it considers advisable, including, without limitation, independent legal advice; (b) it fully understands the nature and effect of this Agreement; and (c) this Agreement has been duly executed voluntarily.

*[This remainder of this page is intentionally left blank.]*

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first above mentioned.

**UNIQUE RESTORATION INC.**

By: \_\_\_\_\_

Name: JOHN KENNEDY

Title: PRESIDENT

*I have authority to bind the corporation.*

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**JOHN KENNEDY**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**MONICA KENNEDY**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**STEVEN LEBLANC**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**LINDA LEBLANC**

**ROYAL BANK OF CANADA**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*I have authority to bind the corporation.*

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first above mentioned.

**UNIQUE RESTORATION INC.**

By: \_\_\_\_\_

Name:

Title:

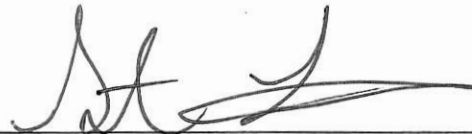
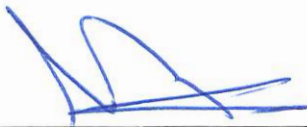
*I have authority to bind the corporation.*

\_\_\_\_\_  
Witness

\_\_\_\_\_  
JOHN KENNEDY

\_\_\_\_\_  
Witness

\_\_\_\_\_  
MONICA KENNEDY



\_\_\_\_\_  
Witness

\_\_\_\_\_  
STEVEN LEBLANC

\_\_\_\_\_  
Witness

  
SEBASTIAN NEGUEZ  
LINDA LEBLANC

**ROYAL BANK OF CANADA**

By: \_\_\_\_\_

Name:

Title:

*I have authority to bind the corporation.*

**IN WITNESS WHEREOF**, the parties hereto have entered into this Agreement as of the date first above mentioned.

**UNIQUE RESTORATION INC.**

By: \_\_\_\_\_

Name:

Title:

*I have authority to bind the corporation.*

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**JOHN KENNEDY**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**MONICA KENNEDY**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**STEVEN LEBLANC**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**LINDA LEBLANC**

**ROYAL BANK OF CANADA**

By:  \_\_\_\_\_

Name: Robert D. Fick

Title: Sr. Mgr. Special Loans

*I have authority to bind the corporation.*

**SCHEDULE A  
GUARANTEES**

1. Guarantee and Postponement of Claim in the amount of \$900,000.00 by Unique regarding the obligations of 203 dated December 12, 2012
2. Guarantee and Postponement of Claim in the amount of \$3,600,000.00 by 203 regarding the obligations of Unique dated December 17, 2018
3. Guarantee and Postponement of Claim in the amount of \$475,000.00 by John and Monica regarding the obligations of 203 dated December 20, 2012
4. Guarantee and Postponement of Claim in the amount of \$475,000.00 by John and Monica regarding the obligations of Unique dated August 12, 2005
5. Guarantee and Postponement of Claim in the amount of \$475,000.00 by Steven and Linda regarding the obligations of 203 dated December 20, 2012
6. Guarantee and Postponement of Claim in the amount of \$475,000.00 by Steven and Linda regarding the obligations of Unique dated August 12, 2005

**SCHEDULE B  
SECURITY**

1. General Security Agreement from Unique dated December 3, 2010
2. General Security Agreement from 203 dated December 2, 2012
3. Collateral mortgage in the amount of \$3,600,000.00 over the property known municipally as 1220 Matheson Boulevard East, Mississauga, together with an assignment of rents granted by 203
4. Postponement and assignment of claim by John dated October 30, 2017
5. Postponement and assignment of claim by Steven
6. Priority Agreement between RBC, as senior lender, Roma Building Restoration Limited, as subordinated lender, and 203 dated November 5, 2019
7. Assumption and Confirmation Agreement from the Debtor dated March 1, 2020

**SCHEDULE C  
CONSENT TO RECEIVER**

**TO: Royal Bank of Canada (the "Lender")**

**AND TO: its solicitors, Aird & Berlis LLP**

---

Unique Restoration Ltd. (the "Debtor") hereby consents to: (i) the immediate appointment by the Lender of a private receiver or receiver and manager in respect of the Debtor's assets, property and undertaking and any and all of the Debtor's books and records (collectively, the "Assets"); and/or (ii) the immediate appointment by Court Order of an interim receiver, receiver or receiver and manager of the Assets pursuant to subsections 47(1) and 243(1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act*.

**DATED** this 30th day of March, 2020.

**UNIQUE RESTORATION LTD.**

By: 

Name: Steven LeBlanc

Title: Sec/Tres

*I have authority to bind the corporation.*



**SCHEDULE D  
CONSENT TO JUDGMENT**

Court File No. \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**ROYAL BANK OF CANADA**

Applicant

- and -

**UNIQUE RESTORATION LTD., JOHN KENNEDY, MONICA KENNEDY, STEVEN  
LEBLANC and LINDA LEBLANC**

Respondents

**CONSENT**

The undersigned consent to Judgment, in substantially the same form as that attached hereto as **Exhibit A**, being entered against them.

The undersigned also certify that the Judgment being sought herein does not affect the rights of any person under disability.

DATED this 30th day of March, 2020.

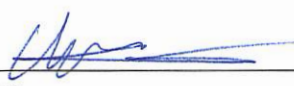
[signature page follows]

**UNIQUE RESTORATION INC.**


By: 

Name: JOHN KENNEDY  
Title: PRESIDENT

*I have authority to bind the corporation.*

  
Witness

  
**JOHN KENNEDY**

  
Witness

  
**MONICA KENNEDY**

Witness

**STEVEN LEBLANC**

Witness

**LINDA LEBLANC**

UNIQUE RESTORATION INC.

By: \_\_\_\_\_

Name:

Title:

*I have authority to bind the corporation.*

Witness

\_\_\_\_\_  
JOHN KENNEDY

Witness

\_\_\_\_\_  
MONICA KENNEDY



Witness

\_\_\_\_\_  
STEVEN LEBLANC

  
STEPHEN MCEWAN  
LINDA LEBLANC

Witness

**EXHIBIT A**

Court File No. \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**B E T W E E N:**

**ROYAL BANK OF CANADA**

Applicant

- and -

**UNIQUE RESTORATION LTD., JOHN KENNEDY, MONICA KENNEDY, STEVEN  
LEBLANC and LINDA LEBLANC**

Respondents

**JUDGMENT**

**THIS APPLICATION**, made by the applicant, Royal Bank of Canada, on consent, for Judgment against the respondents, Unique Restoration Ltd., John Kennedy, Monica Kennedy, Steven Leblanc and Linda Leblanc, was heard this day at Toronto, Ontario.

**ON READING THE CONSENT** signed by the respondents, Unique Restoration Ltd., John Kennedy, Monica Kennedy, Steven Leblanc and Linda Leblanc, and upon hearing the submissions of counsel for the applicant, Royal Bank of Canada,

1. **THIS COURT ORDERS AND ADJUDGES** that the respondent Unique Restoration Ltd. pay to the applicant, Royal Bank of Canada, the sum of \$3,177,686.91, forthwith, together with interest thereon at the prime rate of interest determined by the Royal Bank of Canada from

time to time (the “**Prime Rate**”) plus one and one quarter percentage points (1.25 percentage points) *per annum* from the 26th day of March, 2020 until the date of payment in full.

2. **THIS COURT ORDERS AND ADJUDGES** that the respondent Unique Restoration Ltd. pay to the applicant, Royal Bank of Canada, the sum of \$389,898.66, forthwith, together with interest thereon at the rate of interest of 4.25% *per annum* from the 26th day of March, 2020 until the date of payment in full.

3. **THIS COURT ORDERS AND ADJUDGES** that the respondents John Kennedy and Monica Kennedy jointly and severally pay to the applicant, Royal Bank of Canada, the sum of \$475,000.00, forthwith, together with interest thereon at the Prime Rate plus ninth tenths of a percentage point (0.9 percentage points) *per annum* from the 26th day of March, 2020 until the date of payment in full.

4. **THIS COURT ORDERS AND ADJUDGES** that the respondents Steven Leblanc and Linda Leblanc jointly and severally pay to the applicant, Royal Bank of Canada, the sum of \$475,000.00, forthwith, together with interest thereon at the Prime Rate ninth tenths of a percentage point (0.9 percentage points) *per annum* from the 26th day of March, 2020 until the date of payment in full.

5. **THIS COURT ORDERS AND ADJUDGES** that the respondents John Kennedy and Monica Kennedy jointly and severally pay to the applicant, Royal Bank of Canada, the sum of \$475,000.00, forthwith, together with interest thereon at the Prime Rate plus five percentage points (5 percentage points) *per annum* from the 3rd day of April, 2020 until the date of payment in full.

6. **THIS COURT ORDERS AND ADJUDGES** that the respondents Steven Leblanc and Linda Leblanc jointly and severally pay to the applicant, Royal Bank of Canada, the sum of \$475,000.00, forthwith, together with interest thereon at the Prime Rate plus five percentage points (5 percentage points) *per annum* from the 3rd day of April, 2020 until the date of payment in full.

7. **THIS COURT ORDERS AND ADJUDGES** that the costs of this application are fixed on a full indemnity scale in the amount of \$\_\_\_\_\_ and are payable forthwith, jointly and severally, by the respondents, Unique Restoration Ltd., John Kennedy, Monica Kennedy, Steven Leblanc and Linda Leblanc, to the applicant, Royal Bank of Canada.

This Judgment bears interest on the sum of \$\_\_\_\_\_ for costs at the rate of \_\_\_\_\_% *per annum*, commencing on its date.

\_\_\_\_\_

**ROYAL BANK OF CANADA**

- and -

**UNIQUE RESTORATION LTD. ET AL.**

Applicant

Respondents

Court File No.

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**Proceedings commenced at Toronto**

---

**JUDGMENT**

---

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Sanj Mitra (LSO No. 37934U)**

Tel: 416.865.3085

Fax: 416.863.1515

E-mail: [smitra@airdberlis.com](mailto:smitra@airdberlis.com)

**Jonathan Yantzi (LSO No. 77533A)**

Tel: 416.865.4733

Fax: 416.863.1515

E-mail: [jyantzi@airdberlis.com](mailto:jyantzi@airdberlis.com)

*Lawyers for the Applicant*

**ROYAL BANK OF CANADA** - and - **UNIQUE RESTORATION LTD. ET AL.**

Applicant

Respondents

Court File No.

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**Proceedings commenced at Toronto**

---

**CONSENT**

---

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Sanj Mitra (LSO No. 37934U)**  
Tel: 416.865.3085  
Fax: 416.863.1515  
E-mail: [smitra@airdberlis.com](mailto:smitra@airdberlis.com)

**Jonathan Yantzi (LSO No. 77533A)**  
Tel: 416.865.4733  
Fax: 416.863.1515  
E-mail: [jyantzi@airdberlis.com](mailto:jyantzi@airdberlis.com)

*Lawyers for the Applicant*



## FORBEARANCE EXTENSION AGREEMENT

**THIS AGREEMENT** is made as of this 13th day of October, 2020.

### **A M O N G S T:**

#### **ROYAL BANK OF CANADA**

(hereinafter referred to as the “**Lender**”)

- and -

#### **UNIQUE RESTORATION LTD.**

(hereinafter referred to as the “**Borrower**”)

- and -

**JOHN KENNEDY (“John”), MONICA KENNEDY (“Monica”), STEVEN LEBLANC (“Steven”) and LINDA LEBLANC (“Linda”)**

(hereinafter collectively referred to as the “**Guarantors**”)

### **RECITALS:**

**WHEREAS** the Lender, the Borrower and the Guarantors are parties to a Forbearance Agreement dated June 4, 2020 (the “**Forbearance Agreement**”), pursuant to which the Lender agreed to forbear from exercising its rights and remedies under the Security (as defined in the Forbearance Agreement), any Guarantees (as defined in the Forbearance Agreement) and under applicable law and agreed to continue to fund Credit Facilities (as defined in the Forbearance Agreement) to the Borrowers;

**AND WHEREAS** the Borrower has not made certain payments of principal, interest, fees and other amounts when due (the “**Defaulted Payments**”) in accordance with its obligations under the Forbearance Agreement and the Credit Agreements (as defined in the Forbearance Agreement)

**AND WHEREAS** Intervening Events have occurred under the Forbearance Agreement;

**AND WHEREAS** the Borrower has entered into two prior transactions to sell the real property municipally known as 1220 Matheson Boulevard East, Mississauga, Ontario (the “**Real Property**”) which were terminated without notice to the Lender;

**AND WHEREAS** the Borrower has entered into a further transaction to sell the Real Property which is scheduled to close in December 2020 which is after the expiry of the Forbearance Period as defined in the Forbearance Agreement;

**AND WHEREAS** the Lenders is prepared to delay enforcement of its rights subject only to the conditions contained herein on a limited basis given the repeated failure of the Borrower to fulfil its commitments to the Lender;

**NOW THEREFORE** in consideration of the respective covenants of the parties hereto as herein contained, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

1. Terms that are capitalized but otherwise not defined in this Agreement shall have the same meaning given to them in the Forbearance Agreement.
2. Except as modified by this Agreement, no other changes or modifications to the terms of the Forbearance Agreement, the Credit Agreements or any other documents delivered in connection therewith (collectively, the “**Credit Documents**”) are intended or implied, and in all other respects, the terms of the Forbearance Agreement, the Credit Facilities and the other Credit Documents are confirmed, and the terms of the Forbearance Agreement are incorporated by reference herein.
3. If there is any inconsistency or conflict between the terms of this Agreement and the terms of the Forbearance Agreement, the Credit Agreements, or any other Credit Documents, the provisions of this Agreement shall prevail to the extent of the inconsistency, but the foregoing shall not apply to limit or restrict in any way the rights and remedies of the Lender under the Forbearance Agreement, the Credit Agreement or the other Credit Documents, other than as may be specifically contemplated herein.
4. The parties acknowledge and agree that the forbearance obligations of the Lender have expired without extension and that the Lender is immediately entitled to proceed with an application for the appointment of a Receiver over the assets and undertaking of the Borrower and judgement against the Guarantors (collectively, the “**Application**”). The Forbearance Period shall be extended to the earlier of December 22, 2020 and the occurrence of an Intervening Event provided however, the forbearance obligation of the Lender shall be modified such that it may proceed to issue the Application subject to paragraph 7 herein.
5. The parties hereby agree that the amounts owed by the Borrower to the Lender in respect of the Defaulted Payments during the Forbearance Period, including Professional Expenses incurred by the Lender, are as follows:

Interest on operating line credit facility	\$ 37,908.43
Arrears on Visa credit facility	1,216.65
Arrears on term credit facility	3,879.95
Overdraft account	88.71
Professional Expenses	33,934.59
<b>Total (the “Defaulted Payments Amount”)</b>	<b>\$ 73,148.38</b>

6. The Borrower shall pay to the Lender the sum of \$39,213.70 of the Defaulted Payments Amount by no later than October 19, 2020. The Professional Expenses portion of the

Defaulted Payments Amount together with any additional professional expenses incurred by RBC in connection with its dealings with the Borrower or Guarantors shall be paid on or before the termination of the Forbearance Period. The Borrower shall pay all other amounts required pursuant to the Credit Documents as they come due until the end of the Forbearance Period at which point in time all remaining amounts owed by the Borrower to the Lender shall be indefeasibly repaid in full.

7. Subject to:

- (a) the Borrower making the payments set out in paragraph 6 herein;
- (b) Monica and Linda each delivering a certificate of independent legal advice regarding this Agreement in a form satisfactory to the Lender by October 19, 2020; and
- (c) the Borrower making prompt payment of principal, interest, fees and other amounts when due under the Credit Documents until the Lender is indefeasibly repaid in full;

the Lender shall not seek to have the Application made returnable earlier than December 23, 2020. For greater certainty, if the Borrower defaults on any of the obligations contained in this paragraph, the Lender may seek to have the Application made returnable as soon as the Court will permit and the Borrower and Guarantors shall not oppose the relief sought against by the Lender which may rely on the consents delivered with the Forbearance Agreement.

8. All Professional Expenses, including fees incurred or arising in connection with the involvement of the Lender's counsel and its own financial consultants, shall be for the account of the Credit Parties.
9. The Lender has not waived, and is not, by this Agreement waiving, and has no intention of waiving, any event of default which may be continuing on the date hereof, or any other Event of Default which may occur after the date hereof (whether the same as or similar to the existing defaults or otherwise), nor is it revoking any demand or notices of enforcement delivered to the Credit Parties.
10. The Lender reserves the right, in its sole and unfettered discretion, to exercise any or all of its rights or remedies under any one or more of the Credit Agreements, the other Credit Documents, the PPSA or other applicable law as a result of any event of default which has occurred or which may occur after the date hereof, and the Lender has not waived any such rights or remedies, and nothing in this Agreement, nor any delay on the part of the Lender in exercising any such rights or remedies, shall be construed as a waiver of any such rights or remedies.
11. Each of the Credit Parties acknowledges and declares that: (a) it has had an adequate opportunity to read and consider this Agreement and to obtain such advice in regard to it as it considers advisable, including, without limitation, independent legal advice; (b) it

fully understands the nature and effect of this Agreement; and (c) this Agreement has been duly executed voluntarily.

12. This Agreement may be executed and transmitted by fax or other electronic means, and any signature received by a fax or other electronic transmission shall be treated as an original signature, provided, however, that an original shall be promptly forwarded.

*[This remainder of this page is intentionally left blank.]*

**IN WITNESS WHEREOF**, the parties hereto have entered into this Agreement as of the date first above mentioned.

**ROYAL BANK OF CANADA**

By: 

Name: Robert D. Fick

Title: Sr. Mgr. SLAS

*I have authority to bind the corporation.*

**UNIQUE RESTORATION INC.**

By: \_\_\_\_\_

Name:

Title:

*I have authority to bind the corporation.*

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**JOHN KENNEDY**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**MONICA KENNEDY**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**STEVEN LEBLANC**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**LINDA LEBLANC**

2020. For greater certainty, if the Borrower defaults on any of the obligations contained in this paragraph, the Lender may seek to have the Application made returnable as soon as the Court will permit and the Borrower and Guarantors shall not oppose the relief sought against by the Lender which may rely on the consents delivered with the Forbearance Agreement.

- 8. All Professional Expenses, including fees incurred or arising in connection with the involvement of the Lender's counsel and its own financial consultants, shall be for the account of the Credit Parties.
- 9. The Lender has not waived, and is not, by this Agreement waiving, and has no intention of waiving, any event of default which may be continuing on the date hereof, or any other Event of Default which may occur after the date hereof (whether the same as or similar to the existing defaults or otherwise), nor is it revoking any demand or notices of enforcement delivered to the Credit Parties.
- 10. The Lender reserves the right, in its sole and unfettered discretion, to exercise any or all of its rights or remedies under any one or more of the Credit Agreements, the other Credit Documents, the PPSA or other applicable law as a result of any event of default which has occurred or which may occur after the date hereof, and the Lender has not waived any such rights or remedies, and nothing in this Agreement, nor any delay on the part of the Lender in exercising any such rights or remedies, shall be construed as a waiver of any such rights or remedies.
- 11. Each of the Credit Parties acknowledges and declares that: (a) it has had an adequate opportunity to read and consider this Agreement and to obtain such advice in regard to it as it considers advisable, including, without limitation, independent legal advice; (b) it fully understands the nature and effect of this Agreement; and (c) this Agreement has been duly executed voluntarily.
- 12. This Agreement may be executed and transmitted by fax or other electronic means, and any signature received by a fax or other electronic transmission shall be treated as an original signature, provided, however, that an original shall be promptly forwarded.

*[This remainder of this page is intentionally left blank.]*

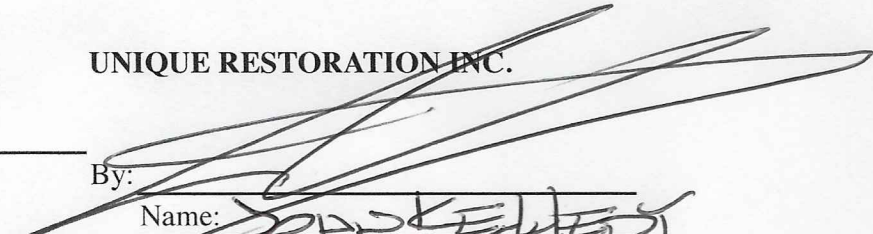
IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first above mentioned.

**ROYAL BANK OF CANADA**

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

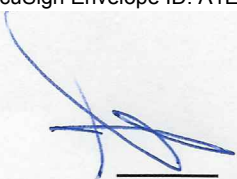
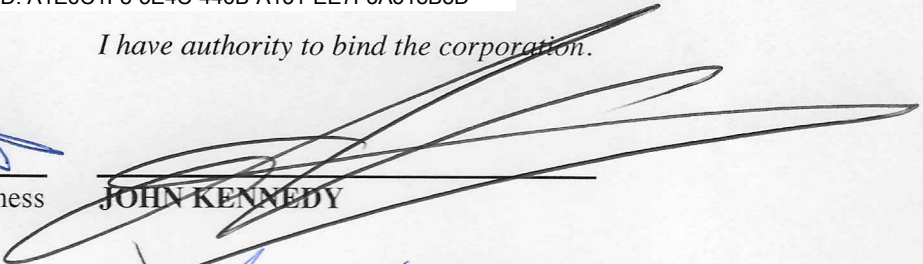
*I have authority to bind the corporation.*

**UNIQUE RESTORATION INC.**

\_\_\_\_\_  
By: 

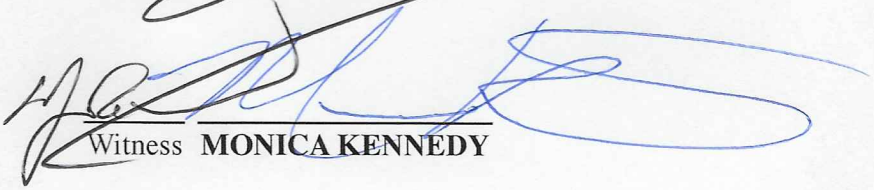
Name: DAVID KELLNER  
Title: PRESIDENT

*I have authority to bind the corporation.*

Witness

**JOHN KENNEDY**



Witness

**MONICA KENNEDY**

Witness

**STEVEN LEBLANC**

Witness

**LINDA LEBLANC**

41739214.5

Forbearance Extension Agreement

Forbearance Extension Agreement

**IN WITNESS WHEREOF**, the parties hereto have entered into this Agreement as of the date first above mentioned.

**ROYAL BANK OF CANADA**

By: \_\_\_\_\_

Name:

Title:

*I have authority to bind the corporation.*

**UNIQUE RESTORATION INC.**

By: \_\_\_\_\_

Name:

Title:

*I have authority to bind the corporation.*

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**JOHN KENNEDY**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**MONICA KENNEDY**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**STEVEN LEBLANC**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**LINDA LEBLANC**



This is Exhibit "M" referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A handwritten signature in black ink, appearing to read 'Rory McGovern', is positioned above a horizontal line.

*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**

Court File No. 81582/12

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF the *Construction Lien Act*,  
R.S.O. 1990, Chapter C.30, as amended

BETWEEN:

HOLCIM (CANADA) INC.  
carrying on business as ONTARIO REDIMIX

Plaintiff

- and -

3414493 CANADA INC.,  
UNIQUE RESTORATION LTD.  
and THE TORONTO-DOMINION BANK

Defendants



**STATEMENT OF CLAIM**

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

11  
Date: December 12, 2012  
vsn ✓

Issued by: *[Signature]*  
Local registrar

TO: 3414493 Canada Inc.  
11 Church Street  
Suite 401  
Toronto, ON M5E 1W1

Address of Court Office:  
150 Bond Street East  
Oshawa, ON L1G 0A2

- 2 -

AND Unique Restoration Ltd.  
TO: 1220 Matheson Boulevard East  
Mississauga, ON L4W 1R2

AND The Toronto-Dominion Bank  
TO: Commercial Mortgage Group  
66 Wellington Street West  
TD Tower, 39<sup>th</sup> Floor  
Toronto, ON M5K 1A2

AND The Toronto-Dominion Bank  
TO: c/o National Accounts  
TD Commercial Banking  
CP Tower - 26<sup>th</sup> Floor  
100 Wellington Street  
Toronto, ON M5K 1A2

- 3 -

**CLAIM**

1. The plaintiff claims as against the defendants, or any of them:
  - (a) a declaration that the plaintiff is entitled to a lien on the lands and premises described in Schedule "A" hereto (the "**Property**");
  - (b) payment of the sum of, or, in the alternative, damages in the amount of, \$67,397.90;
  - (c) payment of prejudgment and postjudgment interest on the sum claimed in subparagraph 1(b) above from November 6, 2012 at the rate of 12% per annum (1% per month); or, in the alternative, in accordance with the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
  - (d) payment of all goods and services tax and harmonized sales tax, where applicable;
  - (e) payment of its costs of this proceeding on a substantial indemnity basis;
  - (f) that, in default of payment of the said sum of \$67,397.90 plus interest and costs by the defendants, all the estate and interest of the defendants in the Property be sold and the proceeds applied in and towards payment of the plaintiff's claim for lien, interest and costs as aforesaid pursuant to the provisions of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (the "**CLA**");
  - (g) a declaration that the plaintiff's claim for lien, plus interest and costs has priority over the Mortgages (as defined below) held by the defendant, The Toronto-Dominion Bank, or, in the alternative, priority over the said Mortgages to the extent of any deficiency in the holdbacks required to be retained by the owner under Part IV of the *CLA* and, in addition or in the alternative, priority over the

- 4 -

said Mortgages to the extent that any advances thereon exceeded the actual value of the Property at the time when the first lien arose or, in the further alternative, priority over the said Mortgages to the extent of any unadvanced portions thereof or, in addition or in the alternative, priority over the said Mortgages to the extent of any advances made thereon after the date of registration of any claim for lien;

- (h) an accounting from the defendant, The Toronto-Dominion Bank, of all advances made, or funds received and disbursed, under its Mortgages or security registered in its favour against title to the Property;
- (i) for the purposes aforesaid and for all other purposes, that all proper directions be given, inquiries made and accounts taken; and
- (j) such further and other relief as this Honourable Court may deem just.

**Parties**

2. The plaintiff, Holcim (Canada) Inc. carrying on business as Ontario Redimix (“**Ontario Redimix**”), is incorporated under the laws of the province of Quebec. Ontario Redimix carries on business in the Province of Ontario as a supplier of ready-mix concrete and related services.

3. The defendant, 3414493 Canada Inc. (“**3414493**”), is incorporated under the laws of Canada and is the registered owner of the Property, which is known municipally as 100 White Oaks Court, Whitby, Ontario.

4. The defendant, Unique Restoration Ltd. (“**Unique**”), is incorporated under the laws of Canada and was at all material times the general contractor with respect to the Project hereinafter described.

- 5 -

5. The defendant, The Toronto-Dominion Bank ("**TD Bank**"), is a Canadian Chartered Bank and is a mortgagee of the Property.

6. TD Bank became a mortgagee (the "**Mortgagee**") of the Property by virtue of the following mortgages (the "**Mortgages**"):

<b>PIN(s)</b>	<b>Charge / Mortgage (Inst. No.)</b>	<b>Registration Date</b>	<b>Principal</b>	<b>Mortgagee</b>
26494-0186 LT 26494-0561 LT	LT890515	March 11, 1999	\$25,415,525.00	The Toronto-Dominion Bank
26494-0186 LT 26494-0561 LT	DR290754	June 28, 2004	\$16,024,750.00	The Toronto-Dominion Bank
26494-0186 LT 26494-0561 LT	DR835390	August 31, 2009	\$8,282,470.06	The Toronto-Dominion Bank
26494-0186 LT 26494-0561 LT	DR987513	April 29, 2011	\$500,000,000.00	The Toronto-Dominion Bank
26494-0186 LT 26494-0561 LT	DR987524	April 29, 2011	\$600,000,000.00	The Toronto-Dominion Bank

### **Contract**

7. On a date unknown to Ontario Redimix but known to one or more of the defendants, 3414493 entered into a contract with Unique with respect to the improvements to be made to the Property (the "**Project**").

8. On or about June 27, 2012, Ontario Redimix entered into an arrangement with Unique whereby Ontario Redimix agreed to supply and deliver ready-mix concrete and related building materials as and when required by Unique to be incorporated in the Project.

- 6 -

9. Under the terms of a credit application agreement between Ontario Redimix and Unique dated November 8, 2011, Unique agreed to pay interest on overdue accounts at the rate of 1% per month (12% per annum).

### Supply

10. From on or about June 27, 2012 to October 1, 2012, Ontario Redimix supplied the necessary ready-mix concrete and related building materials as required by Unique for which there is due and owing to Ontario Redimix by Unique the total sum of \$67,397.90, inclusive of HST, full particulars of which are as follows:

Invoice Date	Invoice No.	Amount
September 30, 2012	703804070	\$1,132.26
October 7, 2012	703830649	\$66,727.63
October 7, 2012	760070953	<u>\$461.99 CR</u>
Total		<u>\$67,397.90</u>

11. Ontario Redimix last supplied material to the Project on October 1, 2012.

### Demand

12. Despite Ontario Redimix's performance, and despite its demands for payment, there is presently due and owing to Ontario Redimix the sum of \$67,397.90, inclusive of HST, for the services and materials supplied and incorporated in the Project.

### Lien

13. The said services and materials as hereinbefore set out are an improvement to the Property as defined by the *CLA*. Such services and materials were furnished by Ontario Redimix at the request of, and upon the credit of, on behalf of, with the privity or consent of, and/or for

- 7 -

the direct benefit of the defendants, or any of them, each of whom is and at all material times was an owner of the Property within the meaning of the *CLA*.

14. By reason of supplying the said services and materials as hereinbefore set out, Ontario Redimix became and is entitled to a lien upon the estate or interest of the defendants having any estate, right, title or interest in the Property, and on any holdback fund, in the sum of \$67,397.90 together with the costs of this action pursuant to the provisions of the *CLA*.

15. On November 13, 2012, Ontario Redimix caused to be registered a claim for lien in the Land Registry Office for the Land Titles Division of the Regional Municipality of Durham (No. 40), as Instrument No. DR1137507 by way of electronic registration in the form attached as Schedule "A" hereto.

#### **Mortgage Claim**

16. With respect to the Mortgages, Ontario Redimix asserts that: the Mortgages were taken with the intention to secure the financing of the improvement; the Mortgages purported to secure funds in excess of the value of the Property as at the time the first lien arose with respect to the improvement; and/or advances were made subsequent to the time a lien with respect to the improvement first arose, including after Ontario Redimix and/or other lien claimants had preserved or perfected lien rights against the Property pursuant to the *CLA*. Ontario Redimix pleads and relies on s. 78 of the *CLA* and claims priority over the interests of the Mortgagee as set out in sub-paragraph 1(g) above.

17. By reason of supplying the services and materials as aforesaid, Ontario Redimix has enhanced the value of the Property and the defendants have received the benefit of same and have been unjustly enriched to the extent of the amount owing to Ontario Redimix at the expense of and to the detriment of Ontario Redimix, which amount represents the reasonable cost to



- 8 -

Ontario Redimix and the reasonable benefit of the defendants. There is no juristic reason for this benefit to the defendants. Ontario Redimix relies on the doctrines of unjust enrichment and *quantum meruit* and *quantum valebant*.

Date: December <sup>11</sup>~~12~~, 2012  
VDBL

**FASKEN MARTINEAU DuMOULIN LLP**  
Barristers and Solicitors  
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Toronto, ON M5H 2T6

**Jonathan F. Lancaster (LSUC #34754S)**  
Tel: 416 865 4479  
Fax: 416 364 7813

Lawyers for the plaintiff

## SCHEDULE "A"

LRO # 40 Construction Lien

Received as DR1137507 on 2012 11 13 at 09:44

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 2

**Properties**

PIN 26494 - 0186 LT  
 Description PCL BLOCK-B-2, SEC M959; PT BLK C, PL M959, PT 2, 40R1060 \* S/T LT120188,  
 LT120189 WHITBY DESCRIPTION AMENDED BY L. MORRISON 98/03/02  
 Address WHITBY

PIN 26494 - 0561 LT  
 Description PCL WHITBY CON 1-31-5, SEC WHITBY; PT LT 31, CON 1, TOWN OF WHITBY, PT 1,  
 40R7175; S/T LT653000 WHITBY  
 Address WHITBY

**Consideration**

Consideration \$ 67,397.90

**Claimant(s)**

Name HOLCIM (CANADA) INC.  
 Address for Service 2300 Steeles Avenue West, 4th Floor  
 Concord, ON L4K 5X6

I, Peter C. Moylan, General Manager, am the agent of the lien claimant and have informed myself of the facts stated in the claim for lien and believe them to be true.

I, Peter C. Moylan, General Manager, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Statements**

Name and Address of Owner 3414493 Canada Inc., 11 Church Street, Suite 401, Toronto, Ontario, M5E 1W1. Name and address of person to whom lien claimant supplied services or materials Unique Restoration Ltd., 1220 Matheson Boulevard East, Mississauga, Ontario, L4W 1R2. Time within which services or materials were supplied from 2012/09/27 to 2012/10/01 Short description of services or materials that have been supplied Ready-mix concrete and related services and materials at 100 White Oaks Court, Whitby, Ontario pursuant to a prevenient arrangement. Contract price or subcontract price \$166,302.28, inclusive of HST. Amount claimed as owing in respect of services or materials that have been supplied \$67,397.90, inclusive of HST.

The lien claimant claims a lien against the interest of every person identified as an owner of the premises described in said PIN to this lien

Schedule: Name of lien claimant: Holcim (Canada) Inc. carrying on business as Ontario Redmix

**Signed By**

Maria Elvira Telfer 333 Bay Street, Suite 2400, Bay acting for Signed 2012 11 13  
 Adelaide Centre Applicant(s)  
 Toronto  
 M5H 2T6

Tel 4163668381  
 Fax 4163647813

I have the authority to sign and register the document on behalf of the Applicant(s).

**Submitted By**

FASKEN MARTINEAU DUMOULIN LLP 333 Bay Street, Suite 2400, Bay 2012 11 13  
 Adelaide Centre  
 Toronto  
 M5H 2T6

Tel 4163668381  
 Fax 4163647813

LRO # 40 Construction Lien

Received as DR1137507 on 2012 11 13 at 08:44

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 2

**Fees/Taxes/Payment**

Statutory Registration Fee	\$60.00
Total Paid	\$60.00

**File Number**

Claimant Client File Number: 228721.00963

HOLCIM (CANADA) INC. carrying on business as ONTARIO REDIMIX - and - 3414493 CANADA INC. et al

Plaintiff

Defendants

Court File No.

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
IN THE MATTER OF the *Construction Lien Act*,  
R.S.O. 1990, Chapter C.30, as amended

Proceeding commenced at Oshawa

**STATEMENT OF CLAIM**

**FASKEN MARTINEAU DuMOULIN LLP**

Barristers and Solicitors  
333 Bay Street, Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

**Jonathan F. Lancaster (LSUC #34754S)**

Tel: 416 865 4479  
Fax: 416 364 7813

Lawyers for the plaintiff

This is Exhibit "N" referred to in the Affidavit of Steve Leblanc sworn by Steve Leblanc of the City of Hamilton, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on January 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**RORY MCGOVERN**

Court File No. 81582/12

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF the *Construction Lien Act*,  
R.S.O. 1990, Chapter C.30, as amended

B E T W E E N :

HOLCIM (CANADA) INC.  
carrying on business as ONTARIO REDIMIX

Plaintiff

- and -

3414493 CANADA INC.,  
UNIQUE RESTORATION LTD.  
and THE TORONTO-DOMINION BANK

Defendants

**STATEMENT OF DEFENCE AND COUNTERCLAIM  
OF THE DEFENDANT, UNIQUE RESTORATION LTD.**

1. The defendant, Unique Restoration Ltd. (“**Unique**”), denies each and every allegation in the Statement of Claim, save and except for those allegations explicitly admitted herein.
2. Unique specifically denies that,
  - (a) the plaintiff is entitled to relief as sought in paragraph 1 of the Statement of Claim;
  - (b) Unique has been unjustly enriched by the plaintiff;
  - (c) the doctrine of *quantum meruit* applies to the plaintiff’s claim;

- (d) the doctrine of *quantum valebant* applies to the plaintiff's claim; and
- (e) any amounts remain outstanding under the "Contract", as defined below.

### **The Parties and the Contract**

3. On March 5, 2012, Unique entered into a stipulated price contract with Carpeit GP Inc. ("**Carpeit**") for the localized repair of the underground parking garage at 100 White Oaks Court, in Whitby, Ontario (the "**Property**").
4. At all material times, Unique was the general contractor for the work performed on the Property (the "**Project**").
5. On June 27, 2012, Unique entered into a contract with the plaintiff whereby the plaintiff agreed to provide Unique with concrete and related supplies and materials for the Project (the "**Contract**"). The Contract consists of individual purchase orders, the total sum of which amounts to \$165,632.01.
6. Unique has fully paid all amounts owing under the Contract to the plaintiff.
7. In the alternative, should any amounts be found owing to the plaintiff, Unique pleads that any such amounts were properly withheld on account of deficient supplies and work provided by the plaintiff and losses suffered by Unique related thereto. Unique pleads and relies upon the legal and equitable doctrines of set-off.

### **The Plaintiff's Improper Lien**

8. Unique denies that the plaintiff is entitled to a lien upon the Property.
9. Unique states that the plaintiff's lien was registered or preserved and perfected out of time. The quantum of the lien is exaggerated and incorrect.
10. The lien is invalid and otherwise improper. Unique pleads and relies upon section 35 of the *Construction Lien Act*, R.S.O. 1990, c. C. 30.

### **Unique's Losses**

11. In breach of the Contract, the plaintiff provided Unique with deficient concrete. More specifically, the concrete provided had exceedingly high air content resulting in the product's extreme delamination. The provided concrete was not in accordance with industry and product standards, nor was it in accordance with the specifications provided by the Project engineering consultant, Construction Control Inc. ("CCI") or the invoices and delivery tickets provided by the plaintiff.

12. In breach of the implied conditions and warranties under the *Sales of Goods Act*, R.S.O. 1990, c. S.1, the concrete was further unfit for its purpose, not of merchantable quality, and not in accordance with its description.

13. As a result, Unique was required to perform extensive repairs to the Property totalling over \$750,000. The repairs involved removing the top layers of the deficient concrete with a hydro demolition machine, cleaning the remaining concrete, reinforcing it with steel, and acquiring and pouring new concrete.

14. Unique suffered significant damage to its good will and has lost future business opportunities and revenues, the full particulars of which will be provided prior to trial.

15. Unique requests that the claim against it be dismissed with costs and that the plaintiff's claim for lien be discharged.

16. On or about December 18, 2012, Unique posted security with the Accountant of the Superior Court of Justice in the amount of \$67,397.90, together with \$16,849.48 as security for costs, the total being \$84,247.38, thereby vacating the registration of the construction lien of the plaintiff. Unique pleads that the posted security ought to be paid out and returned in full to Unique.



## COUNTERCLAIM

17. Unique counterclaims as against the plaintiff as follows:

- (a) damages for breach of contract, loss of good will and loss of business in the sum of \$2,300,000, plus applicable taxes;
- (b) prejudgment and postjudgment interest in accordance with sections 127-129 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43;
- (c) costs of the main action and this Counterclaim; and
- (d) such further and other relief as this Court finds just.

18. Unique pleads and relies upon its allegations as made in the Statement of Defence. Terms as defined in Unique's Statement of Defence have the same meaning as they are used in the Counterclaim.

19. For the reasons described in the Statement of Defence, Unique states that the plaintiff has breached the Contract and has caused Unique to incur costs, damages, losses, and expenses as a result.

20. Unique asks that this Counterclaim be tried together with or immediately following the trial of the main action.

July 14, 2014

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Lawyers for the Defendant,  
Unique Restoration Ltd.

TO: **FASKEN MARTINEAU DuMOULIN LLP**  
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Lawyers for the Plaintiff

HOLCIM (CANADA) INC. and 3414493 CANADA INC. et al.  
Plaintiff Defendants

Court File No: 81582/12

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF  
the *Construction Lien Act*,  
R.S.O. 1990, Chapter C.30

Proceeding commenced at Oshawa

**STATEMENT OF DEFENCE AND  
COUNTERCLAIM OF THE DEFENDANT,  
UNIQUE RESTORATION LTD.**

**McMILLAN LLP**  
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Fax: 416-865-7048

Lawyers for the Defendant,  
Unique Restoration Ltd.

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**IN THE MATTER OF THE NOTICE OF INTENTION TO**  
**MAKE A PROPOSAL OF UNIQUE RESTORATION LTD.**  
**UNDER THE *BANKRUPTCY AND INSOLVENCY ACT***

THE HONOURABLE	)	WEDNESDAY, THE 3RD
	)	
JUSTICE	)	DAY OF FEBRUARY, 2021

**ORDER**  
**(Extension of Time to File a Proposal )**

THIS MOTION, made by the Debtor, Unique Restoration Ltd., for an order extending from February 3, 2021 to March 19, 2021 the time for Crowe Soberman Inc., in its capacity as proposal trustee (the “Trustee”) to file with the Official Receiver, on behalf of Unique, a proposal to creditors pursuant to the *Bankruptcy and Insolvency Act* (the “BIA”) was heard this day at 330 University Avenue, Toronto, Ontario via Zoom teleconference.

ON READING the Affidavit of Steve Leblanc sworn January 28, 2021 and the First Report of the Proposal Trustee dated February 1, 2021 (the “First Report”) and on hearing the submissions of counsel for Unique, the Royal Bank of Canada, and those other parties present, if any, as indicated in the counsel slip, no other parties being present although duly served as appears from the affidavit of service of Rory McGovern sworn January 28, 2021.

**NOTICE AND SERVICE**

1. **THIS COURT ORDERS** that the time for service of the First Report and the motion record in respect of this motion is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

**EXTENSION OF TIME TO FILE A PROPOSAL**

2. **THIS COURT ORDERS** that, pursuant to Section 50.4(9) of the BIA, the period within which Unique may file a proposal be and is hereby extended to March 19, 2021.

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IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
UNIQUE RESTORATION LTD. UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*

Estate No: 32-2701357

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER (FIRST STAY EXTENSION)**

**RORY MCGOVERN PC**

Lawyer  
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Toronto, ON, M5C 3A1

**Rory McGovern (65633H)**

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Lawyer for the Debtor,  
Unique Restoration Ltd.

**File Number:**

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL  
OF UNIQUE RESTORATION LTD. UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*

Court File No. 32-2701357

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT  
TORONTO

**MOTION RECORD (FIRST STAY EXTENSION)**

**RORY MCGOVERN PC**

Lawyer

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**File Number:**