

COURT FILE NUMBER 24-2994870
COURT COURT OF KING'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE EDMONTON
IN THE MATTER OF THE BANKRUPTCY OF PEPKO PIPE SERVICES LTD.
DOCUMENT **APPLICATION BY BDO CANADA LIMITED, THE TRUSTEE OF THE ESTATE OF PEPKO PIPE SERVICES LTD., A BANKRUPT**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT PARLEE McLAWS LLP
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File Number: 63184.70/bpm



NOTICE TO RESPONDENTS

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

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

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

Date	Tuesday, June 18, 2024
Time	2:00 p.m.
Where	Law Courts, Edmonton, Alberta
Before Whom	Justice M.E. Burns in virtual chambers

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

Remedy claimed or sought:

1. An Order abridging time for service of notice of this Application, and deeming service good and sufficient, if necessary;
2. An Order in favor of BDO Canada Limited, the Trustee in Bankruptcy (the “**Trustee**”) of Pepco Pipe Services Ltd. (the “**Bankrupt**”), pursuant to section 164(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”), requiring Rory McDougall, the sole director of the Bankrupt (the “**Director**”), to produce and deliver to the Trustee records of the Bankrupt (the “**Missing Records**”);
3. If necessary, an Order in favor of the Trustee pursuant to s. 164(1) BIA requiring Pepco Pipes Ltd., previously known as 1124687 Alberta Ltd., who Rory McDougall is also the sole director (“**Newco**”), to produce and deliver the Missing Records;
4. If necessary, an Order under s. 98(1) BIA declaring that any payments made to Newco in respect of the accounts receivable of the Bankrupt (the “**Accounts Receivable**”) are deemed the property of the Trustee, and further ordering that those funds be transferred to the Trustee;
5. If necessary, further or in the alternative, an Order under s. 96 BIA to set aside payments made to Newco, if any, and declaring them void as against the Trustee, or alternatively, ordering Newco to provide the amount of such payments to the Trustee;
6. Costs; and
7. Such further and other relief as Counsel may advise.

Grounds for making this application:

8. The Bankrupt had previously initiated commercial proposal proceedings under Part III Division I of the BIA on October 25, 2023, and the Trustee was appointed as the Proposal Trustee.
9. On May 27, 2024, due to a refusal of the creditors to approve the Proposal, the Bankrupt was deemed to be assigned in into bankruptcy pursuant to s. 57 BIA, with the Trustee serving as the Trustee in Bankruptcy.
10. In carrying out its duties to take possession and make an inventory of the Bankrupt’s deeds, books, records, documents, and property under s. 16(3) BIA, the Trustee has noted the Missing Records.
11. On May 31, 2024, 2282910 Alberta Ltd., carrying on business under the name of FRC Group (the “**FRC Group**”), emailed certain customers of the Bankrupt, stating that the FRC Group and Newco in a partnership had “assumed possession of all purchase orders for work not yet completed” under the Bankrupt, that a new location was being sourced for completion of the work, and that payment of Accounts Receivable was to be made to Newco.

12. On June 3, 2024, Counsel for the Trustee (i) emailed those certain customers of the Bankrupt to advise that payment of the Accounts Receivable only was to be made to the Trustee and (ii) emailed the FRC Group and Newco to cease and desist.
13. After other exchanges of emails, Counsel for the Trustee sent a demand letter on June 5, 2024, to the FRC Group and Newco to demand the return of certain of the Missing Records, being those relating to unbilled and billed accounts receivables of the Bankrupt (including working papers, drawings, customer documents).
14. In other exchanges of emails and a telephone call, the Trustee demanded the Director to deliver up other Missing Records, including accounts receivable records, employee records, records relating to a 2020 Ford F350, and the username and password of the Director for Quickbooks, which have not been provided to date.
15. In further exchanges of emails, the FRC Group advised that it had not and will not collect the Accounts Receivable, and that it now had returned the records relating to the unbilled and billed accounts receivables it had.
16. Such further and other grounds as Counsel may advise.

Material or evidence to be relied on:

17. The Report of the Trustee, dated June 10, 2024; and
18. Such further and other evidence as Counsel may advise.

Applicable rules:

19. Rule 3 of the *Bankruptcy and Insolvency General Rules*, CRC 1978, c 368;
20. Rules 1.3 and 1.4 of the *Alberta Rules of Court*, AR 124/2010; and
21. Such further and other rules as Counsel may advise.

Applicable Acts and regulations:

22. Sections 16(3), 57, 71, 96, 98(1) and 164(1) of the BIA; and
23. Such further and other references as Counsel may advise.

Any irregularity complained of or objection relied on:

24. None.

How the application is proposed to be heard or considered:

25. Before Justice M.E. Burns in virtual chambers.

WARNING

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