

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

THE EQUITABLE TRUST COMPANY

Plaintiff

- and -

**THE LOUGHEED BLOCK INC., NEIL JOHN RICHARDSON,
HUGH DARYL RICHARDSON and HERITAGE PROPERTY CORPORATION**

Defendants

BEFORE THE HONOURABLE) At Calgary Courts Centre, in the City of
MADAM JUSTICE K.M. HORNER) Calgary, in the Province of Alberta, on
IN CHAMBERS,) Thursday, the 17th day of December, 2009.

AMENDED AND RESTATED RECEIVERSHIP ORDER

UPON the application of the Barclay Street Real Estate Ltd. ("Barclay") in its capacity as court appointed receiver and manager in respect of the Property (defined below) of the Lougheed Block Inc. (the "Debtor"); AND UPON hearing read the Notice of Motion and the Receiver's First Report (the "Receiver's Report"), filed; AND UPON reading the consent of Alger & Associates Inc. to act as receiver and manager ("Receiver") of the Property, filed; AND UPON HEARING counsel for the Receiver, counsel for the Defendants and counsel for other interested parties; IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the notice of application for this order is hereby abridged and service thereof is deemed good and sufficient. Service on any other party other than those parties identified in the Affidavit of Service of Susan Scarlett sworn on December 16, 2009, filed be and the same is hereby dispensed.

REPLACEMENT OF PRIOR ORDERS

2. The following Orders (the "Prior Orders") of this Honourable Court in this action are hereby amended and restated by this Order:
 - (a) Consent Order of Master K. Laycock dated June 25, 2009;
 - (b) Consent Order of Master J.L. Mason dated July 13, 2009; and
 - (c) Consent Order of Master R. Wacowich (confirming and expanding appointment of receiver) dated October 5, 2009. For greater certainty, nothing in this Order amends or restates the Consent Order Nisi granted by Master R. Wacowich on October 5, 2009.

3. The terms of the Prior Orders shall be operative and shall continue to govern the period up to and including the granting of this Amended and Restated Receivership Order provided that any and all actions taken by Barclay pursuant to and in accordance with the terms of the Prior Orders and prior to the granting of this Amended and Restated Receivership Order are hereby approved and validated.

DISCHARGE OF BARCLAY

4. Barclay is hereby discharged as receiver and manager of the Debtor.

APPOINTMENT OF ALGER & ASSOCIATES INC.

5. Pursuant to sections 13(2) of the *Judicature Act*, R.S.A. 2000, c.J-2, section 99(a) of the *Business Corporations Act*, R.S.A. 2000, c.B-9, section 49 of the *Law of Property Act*, R.S.A. 2000, c. L-7, Alger & Associates Inc. is hereby appointed Receiver and Manager, without security, of all of the Debtor's right, title and interest in and to the property legally described as:

Plan A Calgary

Block Forty Three

Lots one (1) to eight (8) inclusive and the most

Westerly five (5) feet in width throughout lot nine (9)

Excepting thereout: the most southerly seventy nine (79)

Feet six (6) inches of the easterly twenty four (24) feet

Six (6) inches of lot four (4) and the most southerly

Seventy nine (79) feet six (6) inches of lots five (5) to eight (8) inclusive

together with all of the Debtor's present and after acquired personal property situate thereon including all proceeds thereof (the "**Property**").

RECEIVER'S POWERS

6. Subject to and in accordance with paragraphs 7 and 8 herein, the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
- (a) to take possession and control of the Property and any and all proceeds, receipts, rents, grants and other monies (the "**Proceeds**") and disbursements arising out of or from the Property;
 - (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate and carry on the business of the Debtor in relation to the Property, including the powers to enter into any agreements including, without limitation, leasing agreements and to incur any obligations in the ordinary course of business, cease to carry on all or any part other business, or cease to perform any contracts of the Debtor in relation to the Property;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, property managers (including, without limitation, Barclay), counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor relating to the Property or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor in respect of the Property and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor as it pertains to the Property;
- (g) with leave of the Court, to settle, extend or compromise any indebtedness owing to or by the Debtor that in any way relates to the Property;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property;
- (j) with leave of the Court, to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the or in any way affecting the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court.
- (k) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (l) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property notwithstanding the provisions of section 191(1) of the *Land Titles Act* (Alberta);

- (m) to apply for any grants including, without limitation, any grants or funding pursuant to any agreement with Provincial, Federal or Municipal Governments or Agencies relating to any Historic Resource Conservation Contribution Agreements, other Contribution Agreements, or Rehabilitation Incentive Agreements or other contracts, project benefits, insurance proceeds, permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor as it pertains to the Property;
- (n) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (o) to take any steps reasonably incidental to the exercise of these powers;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, except as otherwise provided in this Order, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

PAYMENT OF PROCEEDS

7. The Receiver shall pay the Proceeds as follows:

- (a) Toward any fees and disbursements which may be allowed (as provided in paragraph 19 below) to the Receiver;
- (b) For taxes, local improvement charges, and other municipal assessments owing in respect of the Property;
- (c) For normal operating expenses and utilities of the Property;
- (d) In reduction of the claims of the Plaintiff for the outstanding amounts determined to be owing under and pursuant to the Plaintiff's security.

EQUITY OF REDEMPTION

8. Nothing in this Order shall affect or in any way interfere with the Debtor's equity of redemption or the right of any person entitled at law to do so to redeem any security in respect of the Property. For clarity, nothing herein shall in any way limit the ability of the Debtor to market the Property for sale.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

9. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the

Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependant on maintaining possession) to the Receiver upon the Receiver's request.

10. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to or pertaining to the Property, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof provided however that nothing in this paragraph 10 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.

NO PROCEEDINGS AGAINST THE RECEIVER

11. No proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced against Barclay or commenced or continued against the Receiver except with the written consent of Barclay or the Receiver, as the case may be, or with leave of this Court.

NO PROCEEDINGS AGAINST THE PROPERTY

12. No Proceeding against or in respect of the Property shall be commenced or continued except as follows: (a) the within action; (b) the matters in issue as set out in the Notice of Motion issued by Krayzel Corp. on November 30, 2009; (c) the matters in issue and the declarations sought by the mortgagor pertaining to the amounts outstanding under and pursuant to the security held by the Plaintiff; or (d) with the written consent of the Receiver or with leave of this Court and any and all other Proceedings currently under way against the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph 12.

ATMAC HOLDINGS LTD.

13. Notwithstanding paragraph 12 herein, the stay of proceedings as it pertains to the claim of Atmac Holdings Ltd. in Court of Queen’s Bench of Alberta, Judicial District of Calgary Action No. 0901-09748 shall expire on January 25, 2010 unless otherwise extended by the Court and, unless such stay is extended by the Court, a Statement of Defence or Demand of Notice shall be filed and served by or on behalf of the Debtor on or before January 28, 2010, unless Atmac otherwise agrees to extend the time for filing and service of a Statement of Defence or Demand of Notice.

NO EXERCISE OF RIGHTS OR REMEDIES

14. Subject to paragraph 12 herein, all rights and remedies (including, without limitation, set-off rights) against the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

15. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor as it affects the Property, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

16. All Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services pertaining to the Property, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor as it relates to the Property are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and this Court directs that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names in respect of the Property, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

17. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

LIMITATION ON ENVIRONMENTAL LIABILITIES

18. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
- (i) before the Receiver's appointment; or
 - (ii) after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
- (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:
 - A. complies with the order, or
 - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
 - (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by,
 - A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
 - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
 - (iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

Nothing in this Order shall derogate from the protection afforded to the Receiver by Section 14.06 of the BIA or any other applicable legislation.

RECEIVER'S ACCOUNTS

19. Any expenditure or liability which shall have been properly made or incurred by Barclay or properly made or incurred by the Receiver, including the fees of Barclay and of the Receiver and the fees and disbursements of their respective legal counsel, incurred at the standard rates and charges of Barclay and the Receiver and its counsel, shall be allowed in passing of accounts and shall form a first charge ranking *pari passu* as between Barclay and the Receiver on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (the "Receiver's Charge").
20. The Receiver and its legal counsel shall pass their accounts from time to time.
21. The fees and disbursements of Barclay, including the fees of its counsel, as set out in the First Report and the supplement to the Receiver's First Report be and the same are hereby approved. The Receiver is authorized and directed to pay from monies coming into its hands such fees and disbursements.
22. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

23. The Receiver, with leave of the Court, is empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the Barclay Charge.
24. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
25. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court or any part thereof shall rank on a *pari passu* basis.

GENERAL

26. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. Where leave of the Court is required hereunder, application shall be made on notice to the parties registered on the title to the property or in the Personal Property Registry, and any other affected party. Otherwise, any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

Karen Herne
J.C.C.Q.B.A.

APPROVED AS ORDER GRANTED:

FIELD LLP

Per: _____
Jean C. Van Der Lee, Q.C.
Counsel for Atmac Holdings Ltd.

MILLER THOMSON LLP

Per: _____
Nicole T. Taylor-Smith
Counsel for the Defendants

PARLEE McLAWS LLP

Per: _____
Karen I. Fellowes
Counsel for Krayzel Corp.

ENTERED this _____ day of December, 2009.

K. MCAUSLAND 
CLERK OF THE COURT

- 24. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
- 25. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court or any part thereof shall rank on a *pari passu* basis.

GENERAL

- 26. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
- 27. Where leave of the Court is required hereunder, application shall be made on notice to the parties registered on the title to the property or in the Personal Property Registry, and any other affected party. Otherwise, any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

J.C.C.Q.B.A.

APPROVED AS ORDER GRANTED:

FIELD LLP

Per: _____

Jean C. Van Der Lee
Jean C. Van Der Lee, Q.C.
Counsel for Atmac Holdings Ltd.

MILLER THOMSON LLP

Per: _____

Nicole Taylor-Smith
Counsel for the Defendants and
~~Heritage Capital Corporation~~

PARLEE McLAWS LLP

Per: _____

Karen I. Fellowes
Counsel for Krayzel Corp.

ENTERED this _____ day of December, 2009.

Action No. 0901-08221

IN THE COURT OF QUEEN'S BENCH OF
ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

THE EQUITABLE TRUST COMPANY

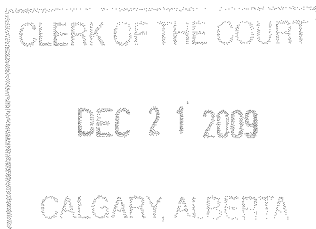
Plaintiff

- and -

**THE LOUGHEED BLOCK INC., NEIL
JOHN RICHARDSON,
HUGH DARYL RICHARDSON and
HERITAGE PROPERTY CORPORATION**

Defendants

**AMENDED AND RESTATED
RECEIVERSHIP ORDER**



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