



NO. B-120334
ESTATE NO. 11-1602931
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY**

IN THE MATTER OF THE PROPOSAL OF

TYAM CIVIL CONSTRUCTORS LTD.

**PROPOSAL TRUSTEE'S
SUPPLEMENTAL REPORT TO ITS FIRST REPORT TO COURT
ON THE TRUST CLAIM SETTLEMENT PROGRAM**

November 29, 2012



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Introduction

1. G. Powroznik Group Inc. of G-Force Group is the Proposal Trustee (the "**Proposal Trustee**") for the Trust Claim Settlement Program of Tyam Civil Constructors Ltd. ("TCC").
2. On November 19, 2012, the Proposal Trustee filed its First Report to the Court on the Trust Claim Settlement Program (the "**First Report**"). This Supplemental Report (the "**Supplemental Report**") should be read in conjunction with the First Report.
3. Except where otherwise noted, any defined terms as set out in the First Report will remain consistent in the Supplemental Report.
4. The purpose of the Supplemental Report is to:
 - a) update the Court with respect to collections of Potential Trust Funds and Holdbacks by the Proposal Trustee subsequent to October 31, 2012;
 - b) seek the Court's authorization for an amended interim distribution relating to certain contracts of TCC contracts; and
 - c) provide stakeholders with updated information with respect to certain matters presented in the First Report.

Collections of Potential Trust Funds since October 31, 2012

5. Since October 31, 2012, the Proposal Trustee has collected additional Potential Trust Funds relating to certain construction contracts of TCC that were described in the First Report, as summarized in the table below:

Contract	Amount of Potential Trust Funds Received Subsequent to October 31, 2012 (including HST) \$
FTG	827,874.25
Amacon Civil Works	299,376.00
City of Surrey** (the "City of Surrey Contract")	20,661.46
TOTAL	1,147,911.71

**Note - The City of Surrey contract was a verbal contract between TCC and the City of Surrey for work relating to the clean-up of debris and video recording of a sanitary sewer in an existing City of Surrey Right of Way at station 399 of the South Perimeter Road project. The Proposal Trustee has received no trust or lien claims relating to the City of Surrey Contract in the Trust Claim Settlement Program.

6. Attached as **Schedule "1"** to this Supplemental Report is an updated summary of all funds received by the Proposal Trustee as at November 29, 2012. This schedule supersedes Schedule 1 in the First Report.

Amended Proposed Interim Distributions

7. As a result of the additional funds received since October 31, 2012, the Proposal Trustee seeks authorization to amend the interim distributions set forth in the First Report for certain contracts as summarized in the table below:

Contract	Original Proposed Interim Distribution Amount from First Report \$	Revised Proposed Interim Distribution Amount \$	Schedule Reference in Supplemental Report
FTG	2,051,779.98	2,790,953.41	"2"
Amacon Civil Works	-	207,573.42	"3"
City of Surrey	-	18,447.73	n/a - see below

8. With respect to the FTG Contract, the Proposal Trustee received additional funds of \$827,874.25 subsequent to October 31, 2012, including HST of \$88,700.82. The revised proposed interim distribution for the funds received from the FTG Contract are included in Schedule "2" to the Supplemental Report which supersedes Schedule 4 in the First Report.
9. Subsequent to its preparation of the First Report, the Proposal Trustee subsequently learned that Winvan Paving Ltd. assigned to TCL a portion of its claim related to the Amacon Civil Works Contract. The updated list of trust and lien claims relating to this contract is included in Schedule "3" to this Supplemental Report and supersedes the prior list of claims provided in Schedule 13 in the First Report. The Proposal Trustee seeks authorization to make an interim distribution of \$207,573.42 for this contract. The Proposal Trustee will retain sums of \$23,063.71 and \$32,076.00 relating to statutory holdbacks and HST, respectively, as explained in the notes to Schedule "3".
10. With respect to the City of Surrey Contract, there are no trust or lien claims against these funds. Included in the \$20,661.46 collected is HST of \$2,213.73. Accordingly, the Proposal Trustee seeks authorization to distribute \$18,447.73 to the Bankruptcy Trustee relating to this contract which will be held in accordance with the priorities under the BIA including the TCL Security.
11. From the receipts described in paragraphs 8, 9 and 10, the Proposal Trustee is retaining the HST of \$88,700.82, \$32,076.00 and \$2,213.73 for the FTG Contract, the Amacon Civil Works Contract, and the City of Surrey Contract, respectively, pending confirmation from CRA on the balance due for HST collections by TCC.

Update on Other Matters in the Trust Claim Settlement Program

12. Since the date of the First Report, the Bankruptcy Trustee has been negotiating with FTG to attempt to settle TCC's claims against FTG (the "FTG Settlement"). The documents relating to the FTG Settlement are being prepared.
13. The Proposal Trustee will continue to attempt to collect any remaining Potential Trust Funds and Holdbacks from Owners and Contractors in advance of making final distributions and seeking its discharge in this matter.

Order Sought

14. In addition to the relief described in the draft Order, the Proposal Trustee is seeking:
 - a) authorization and approval of the amended interim distributions of Potential Trust Funds and Holdbacks for the FTG Contract and the Amacon Civil Works Contract as set forth in the Supplemental Report; and
 - b) authorization and approval for the Proposal Trustee to make a distribution to the Bankruptcy Trustee of \$18,447.73 relating to the City of Surrey Contract.

All of which is respectfully submitted this 29th day of November, 2012.

G. Powroznik Group Inc.
In its capacity as Proposal Trustee for the
Trust Claim Settlement Program
and not in its personal capacity



Per: Mr. Gary Powroznik
Managing Director

Schedule "1"

**Potential Trust Funds, Holdbacks, and Accrued Interest collected
by the Proposal Trustee as at November 29, 2012**

In the matter of the Proposal of Tyam Civil Constructors Ltd.
 Summary of Potential Trust Funds and Holdbacks received by Proposal Trustee
 As at November 29, 2012

Contract	Potential Trust Funds			Holdbacks			TOTAL FUNDS COLLECTED AS AT NOV. 29, 2012
	Total funds received at Oct. 31/12	Funds received in November 2012	Total funds received as at November 29, 2012	Total Holdbacks received at Oct. 31/12	Holdbacks received in November 2012	Total Holdbacks received as at November 29, 2012	
Small jobs							
SNC	182,202.51	-	182,202.51	-	-	-	182,202.51
Trailer Wizards	13,107.25	-	13,107.25	-	-	-	13,107.25
Prism	13,443.34	-	13,443.34	-	-	-	13,443.34
JJM	1,344.33	-	1,344.33	-	-	-	1,344.33
City of Surrey	-	20,661.46	20,661.46	-	-	-	20,661.46
Subtotal small jobs	210,097.44	20,661.46	230,758.90	-	-	-	230,758.90
FTG (note 1)	2,677,018.78	827,874.25	3,504,893.03	-	-	-	3,504,893.03
Metro-Can	38,691.63	-	38,691.63	-	-	-	38,691.63
BPP McGavin Field	-	-	-	18,011.54	-	18,011.54	18,011.54
BPP Cypress Bowl	62,128.70	-	62,128.70	109,350.97	-	109,350.97	171,479.67
Amacon Earthworks	24,665.93	-	24,665.93	31,418.64	-	31,418.64	56,084.57
Amacon Raintanks	492,920.97	-	492,920.97	61,973.76	-	61,973.76	554,894.73
Amacon Bio Swale	244,972.67	-	244,972.67	30,800.51	-	30,800.51	275,773.18
Amacon Civil Works	-	299,376.00	299,376.00	-	-	-	299,376.00
TOTALS	3,750,496.12	1,147,911.71	4,898,407.83	251,555.42	-	251,555.42	5,149,963.25

Notes:

1 - The Proposal Trustee has taken an advance of \$102,379.01 from FTG funds as an advance against its fees, disbursements and HST relating specifically to its work performed on FTG matters in the Trust Claim Settlement Program. No other fee advances have been drawn as of the date of this Report.

Schedule "2"

Claims and Amended Proposed Interim Distributions for FTG Contract

**In the matter of the Proposal of Tyam Civil Constructors Ltd.
Schedule of Trust and Lien Claims and Amended Interim Distributions
FTG Contract**

Description of work:

Contract for earthworks, walls, sanitary and drainage work on the Fraser Transportation Group Constructors South Perimeter Road project. The overall project is a 40 kilometre, four-lane route along the south side of the Fraser River from southwest Delta, B.C. to 176th Street in Surrey, B.C. The Proposal Trustee has received independent legal advice from its counsel that, at law, no holdback obligations apply to the FTG project and therefore there can be no lien claim against the holdback. Accordingly, there are no lien claims for this project.

a) Trust claims admitted

Creditor Name	Trust Claims admitted	Lien Claims - not applicable	Claims assigned to TCL (Y/N)	Amount assigned to TCL \$	Total Claim for distribution \$
ADVANCE TESTING LTD.	5,187.28	-	Y	(5,187.28)	-
BASALITE CONCRETE PRODUCTS	549.64	-	N	-	549.64
BRAIN RALSTON BULLDOZING LTD	21,907.20	-	Y	(21,907.20)	-
BROCK WHITE CANADA COMPANY	1,930.44	-	N	-	1,930.44
CANADIAN DEWATERING LTD.	78,672.15	-	Y	(78,622.87)	49.28
DIRECT EQUIPMENT WEST LTD.	1,353.45	-	N	-	1,353.45
EMCO LIMITED	53,061.01	-	Y	(53,061.01)	-
GIENOW LOG SERVICES INC.	20,272.00	-	N	-	20,272.00
G.W.G RENTALS LTD	6,590.88	-	Y	(6,590.88)	-
GREENBELT EXCAVATING	98,235.20	-	Y	(98,235.20)	-
KRS EXCAVATING LTD.	58,189.60	-	Y	(58,189.60)	-
LAFARGE CANADA INC.	6,050.69	-	Y	(6,050.69)	-
LANGLEY CONCRETE LT PARTNERSHIP	58,317.09	-	Y	(58,085.70)	231.39
MAINLAND L. CONT. LTD.	231,410.42	-	Y	(231,410.42)	-
MAINLAND SAND & GRAVEL LTD.	5,598.83	-	Y	(5,598.83)	-
MCRAE'S ENVIRONMENTAL SERVICES	985.60	-	N	-	985.60
NILEX INC.	55,305.71	-	Y	(55,305.71)	-
PSP Consulting	8,377.60	-	Y	(8,377.60)	-
PROQUIP	147,463.25	-	Y	(147,463.25)	-
RAINWATER MANAGEMENT	25,536.00	-	Y	(25,536.00)	-
REMPEL BROS CONCRETE LTD.	78,162.85	-	Y	(78,162.85)	-
SITECH WESTERN CANADA	672.00	-	N	-	672.00
SPECTRA TEC SERVICES GROUP	319.20	-	N	-	319.20
SUPER SAVE DISPOSAL INC.	3,364.94	-	N	-	3,364.94
SUPER SAVE FENCE RENTALS INC.	519.27	-	N	-	519.27
SUPER SAVE TOILET RENTALS INC	2,740.02	-	Y	(2,522.61)	217.41
UNITED RENTALS CANADA, INC.	8,394.65	-	Y	(8,394.65)	-
VIC'S CUSTOM WELDING	8,316.00	-	Y	(8,316.00)	-
WESTERN LINE LTD.	1,904.00	-	Y	(1,904.00)	-
WESTVIEW SALES LTD.	16,684.64	-	Y	(16,684.64)	-
WETDOWN WATER SERVICES INC.	3,981.60	-	Y	(3,981.60)	-
TYAM CONSTRUCTION LTD.	4,348,036.13	-	n/a	-	4,348,036.13
Totals	5,358,089.34	-	-	(979,588.59)	4,378,500.75

b) Amended Interim Distributions

Amount available for interim distribution

\$ 2,790,953.41

Creditor Name	Trust Claim admitted (from section a)	Distribution amount \$	Percentage entitlement of Claimant %
BASALITE CONCRETE PRODUCTS	549.64	350.35	0.01255%
BROCK WHITE CANADA COMPANY	1,930.44	1,230.51	0.04409%
CANADIAN DEWATERING LTD.	49.28	31.41	0.00113%
DIRECT EQUIPMENT WEST LTD.	1,353.45	862.72	0.03091%
GIENOW LOG SERVICES INC.	20,272.00	12,921.82	0.46299%
LANGLEY CONCRETE LT PARTNERSHIP	231.39	147.49	0.00528%
MCRAE'S ENVIRONMENTAL SERVICES	985.60	628.24	0.02251%
SITECH WESTERN CANADA	672.00	428.35	0.01535%
SPECTRA TEC SERVICES GROUP	319.20	203.47	0.00729%
SUPER SAVE DISPOSAL INC.	3,364.94	2,144.89	0.07685%
SUPER SAVE FENCE RENTALS INC.	519.27	330.99	0.01186%
SUPER SAVE TOILET RENTALS INC	217.41	138.58	0.00497%
TYAM CONSTRUCTION LTD.	4,348,036.13	2,771,534.59	99.30422%
Totals	4,378,500.75	2,790,953.41	100%

Note - To date, the Proposal Trustee has received \$3,504,893.03 (including interest) in trust funds and contractual holdbacks relating to the FTG Contract. The proposed interim distribution above has increased from the amount set forth in the First Report as follows:

Original proposed interim distribution (from First Report)	\$ 2,051,779.98
Add: funds received subsequent to Oct. 31, 2012	827,874.25
Less: HST on funds received subsequent to Oct. 31, 2012	88,700.82
Revised proposed interim distribution	2,790,953.41

The Proposal Trustee will retain the HST on the additional collections pending confirmation from CRA of the balance due from HST collections by TCC.

Schedule "3"

**Revised Claims and Proposed Interim Distributions for
Amacon Civil Works Contract**

**In the matter of the Proposal of Tyam Civil Constructors Ltd.
Schedule of Revised Trust and Lien Claims and Interim Distributions
Amacon Civil Works Contract**

Description of work:

To complete the civil works at 4250 Marine Drive, Burnaby/8485 New Haven Close, Burnaby

a) Trust and lien claims admitted

Creditor Name	Original Trust and lien claims admitted \$	Amount assigned to TCL	Total claims for distribution \$
Bayhill Contracting Ltd.	9,325.96	-	9,325.96
Winvan Paving Ltd.	221,311.17	50,000.00	171,311.17
Tyam Construction Ltd.	-	50,000.00	50,000.00
Totals	230,637.13	-	230,637.13

b) Interim Distributions

Amount available for interim distribution

\$ 207,573.42

see notes

Creditor Name	Trust and lien claim admitted (from section a)	10% Holdback (note 1)	Interim Distribution Amount
Bayhill Contracting Ltd.	9,325.96	932.60	8,393.36
Winvan Paving Ltd.	171,311.17	22,131.12	149,180.05
Tyam Construction Ltd.	50,000.00	-	50,000.00
Totals	230,637.13	23,063.71	207,573.42

Note 1 - Amacon issued substantial completion for the Civil Works Contract on November 6, 2012. Accordingly, the 55 day holdback period pursuant to the BLA has not expired. Therefore, the Proposal Trustee has retained 10% of the total claims by Bayhill Contracting and Winvan Paving, the contractors who did the work, and will distribute the retained amounts after the expiry of the holdback period provided no other lien claims are made against the holdback.

Note 2 - The Proposal Trustee will retain the HST of \$32,076.00 on the total amount collected of \$299,376.00 pending confirmation from CRA on the balance due for HST collections by TCC.

Note 3 - Amacon has retained a holdback of \$29,700 (before HST) until the expiry of the holdback period.