

700278

Form 27

[Rules 6.3 and 10.52(1)]

COURT FILE NUMBER 2101-04670

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF BANK OF MONTREAL

RESPONDENTS TRADESMEN ENTERPRISES LIMITED  
PARTNERSHIP and TRADESMEN  
ENTERPRISES INC.

APPLICANT KSV RESTRUCTURING INC., in its capacity as  
receiver and manager of TRADESMEN  
ENTERPRISES LIMITED PARTNERSHIP, and  
TRADESMEN ENTERPRISES INC.

DOCUMENT **APPLICATION FOR AN ORDER  
APPROVING INTERIM DISTRIBUTION,  
RECEIVER'S BORROWINGS, FEES AND  
ACTIVITIES**



Justice Horner  
COM  
\$50.00  
July 15, 2021

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **BENNETT JONES LLP**  
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**NOTICE TO THE RESPONDENTS (SERVICE LIST APPENDED AS SCHEDULE "A")**

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

You have the right to state your side of this matter before the Judge.

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

**Date: July 15, 2021**

**Time: 10:00 a.m.**

**Where: The Calgary Courts Centre (Via WebEx Conference)**

**Before Whom: The Honourable Madam Justice Horner**

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. The Applicant, KSV Restructuring Inc. (“**KSV**”), in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) of Tradesmen Enterprises Limited Partnership and Tradesmen Enterprises Inc. (together, “**Tradesmen**”) seeks an order (the “**Interim Distribution Order**”), substantially in the form attached hereto as Schedule “B”:
  - (a) if necessary, abridging the time for service of this Application and deeming service of this Application, together with all supporting materials, to be good and sufficient;
  - (b) approving and ratifying the activities of the Receiver, as described in the First Report of the Receiver dated July 5, 2021 (the “**First Report**”);
  - (c) authorizing and directing the Receiver to make an interim distribution of the Net Proceeds (as defined below) to Bank of Montreal (“**BMO**”) in partial satisfaction of the BMO Pre-Filing Indebtedness (as defined in the First Report);
  - (d) approving an increase to the Receiver’s borrowings and Receiver’s Borrowings Charge (as defined below); and
  - (e) approving the fees and disbursements of the Receiver and its counsel, as set out in the First Report.
2. Such further and other relief as this Honourable Court may deem just.

**GROUND FOR MAKING THIS APPLICATION:**

***Background***

3. On April 15, 2021, BMO sought and obtained an order (the “**Receivership Order**”) appointing KSV as Receiver of all of Tradesmen’s current and future assets, undertakings and property, including all proceeds thereof (collectively, the “**Property**”).

4. Among other things, the Receivership Order:
- (a) authorized the Receiver to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
  - (b) authorized and directed Ritchie Bros Auctioneers (Canada) Ltd. (the “**Liquidator**”) to continue to perform its services under a Liquidation Services Agreement dated March 3, 2021 between the Liquidator and Tradesmen (the “**LSA**”);
  - (c) declared that any proceeds (the “**Net Proceeds**”) arising from the transactions contemplated by the LSA that would be payable to Tradesmen be paid to the Receiver;
  - (d) authorized the Receiver to borrow such other monies up to \$2,500,000 as it deems necessary or desirable to fund these proceedings (the “**Receivership Proceedings**”) pursuant to receiver’s certificates (the “**Receiver’s Certificates**”); and
  - (e) granted a charge up to \$2,500,000 on the Property as security for the Receiver’s borrowings under the Receiver’s Certificates (the “**Receiver’s Borrowings Charge**”).

***Interim Distribution***

- 5. Since the granting of the Receivership Order, the transactions contemplated by the LSA have been completed and the Net Proceeds have been paid to the Receiver.
- 6. To reduce Tradesmen’s interest obligations and facilitate the efficient and timely administration of its estate, the Receiver is now seeking authorization to distribute the Net Proceeds in partial satisfaction of the BMO Pre-Filing Indebtedness.
- 7. The Receiver has obtained a security opinion from its counsel on BMO’s security in respect of the BMO Pre-Filing Indebtedness. The security opinion confirms the validity and enforceability of BMO’s security subject to the standard qualifications and assumptions contained therein.

8. Subject to certain Court-ordered charges, BMO has the senior ranking interest in the Net Proceeds. Solely for the purposes of the proposed Interim Distribution Order, BMO has waived its right to repayment of the Net Proceeds in its capacity as the Interim Lender (as defined in the First Report) and the beneficiary of the Receiver's Borrowings Charge.
9. The proposed interim distribution to BMO in respect of the BMO Pre-Filing Indebtedness will avoid the unfair consequences that would result from directing the Net Proceeds to the partial repayment of the Receiver's Certificates, the Interim Financing Agreement (as defined in the First Report) or to otherwise fund the costs of the Receivership Proceedings. In each case, the Net Proceeds, which are not impressed with a trust, would be dissipated to fund the Litigation (as defined below) for which the ultimate recovery is expected to be subject to numerous trust claims.

#### ***Increasing the Receiver's Borrowings***

10. Pursuant to the Receivership Order, the Receiver is expressly authorized to seek an increase to its borrowings and a corresponding increase to the Receiver's Borrowings Charge.
11. The proposed increase in the Receiver's borrowings is necessary to enable the Receiver to fund the Receivership Proceedings and maximize stakeholder recovery.
12. BMO is supportive of the proposed increase to the Receiver's borrowings and the Receiver's Borrowings Charge.

#### ***Approving the Activities of the Receiver and the Fees and Disbursements of the Receiver and its Counsel***

13. Since the granting of the Receivership Order, the Receiver, with the assistance of its counsel, has acted in good faith and with due diligence to, among other things, advance the Receivership Proceedings, oversee the transactions contemplated by the LSA, and attend to matters in Tradesmen's ongoing litigation against Teck Coal Limited, Fluor Canada Ltd., Canadian Pacific Limited, the Province of British Columbia and FortisBC Energy (the "**Litigation**").

14. Pursuant to the proposed Interim Distribution Order, the Receiver is seeking approval of its activities, as described in the First Report. Further, the Receiver is seeking approval of its fees and disbursements as well as the fees and disbursements of its insolvency and litigation counsel, Bennett Jones LLP and Lawson Lundell LLP, respectively.
15. The proposed fee and activity approval is appropriate in the circumstances.
16. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**MATERIAL OR EVIDENCE TO BE RELIED ON:**

17. This Notice of Application, filed.
18. The First Report, filed.
19. The Affidavit of Service, filed.
20. The Receivership Order.
21. Such other materials or evidence as counsel may advise and this Honourable Court may permit.

**APPLICABLE RULES:**

22. *Bankruptcy and Insolvency General Rules*, C.R.C. 1978, c. 368.
23. *Alberta Rules of Court*, Alta Reg 124/2010.

**APPLICABLE ACTS AND REGULATIONS:**

24. *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3.
25. *Judicature Act*, R.S.A. 2000, c J-2.

**ANY IRREGULARITY COMPLAINED OF OR OBJECTION RELIED ON:**

26. None.

**HOW THE APPLICATION IS PROPOSED TO BE HEARD OR CONSIDERED:**

27. Via WebEx video conference before the Honourable Justice Horner, with some or all of the parties present.

**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 give evidence in response to the application, you must reply by filing an affidavit or other evidence with the court and serving a copy of that affidavit or other evidence on the applicant a reasonable time before the application is to be heard or considered.

**SCHEDULE "A"**  
**SERVICE LIST**

**SERVICE LIST**

COURT FILE NUMBER        2101-04670

COURT                        COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE         CALGARY

PLAINTIFF                  BANK OF MONTREAL

RESPONDENTS             TRADESMEN ENTERPRISES LIMITED PARTNERSHIP  
AND TRADESMEN ENTERPRISES INC.

APPLICANT                 KSV RESTRUCTURING INC., in its capacity as receiver and  
manager of TRADESMEN ENTERPRISES LIMITED  
PARTNERSHIP, and TRADESMEN ENTERPRISES INC.

Party	Relationship
<p><b>KSV Restructuring Inc.</b> 150 King Street West Suite 2308 Toronto, ON M5H 1J9</p> <p>Attention: Bobby Kofman / David Sieradzki Phone: 416-932-6228 (t) / 647-282-6228 (m) Email: <a href="mailto:bkofman@ksvadvisory.com">bkofman@ksvadvisory.com</a> / <a href="mailto:dsieradzki@ksvadvisory.com">dsieradzki@ksvadvisory.com</a></p>	<p>Receiver of Tradesmen Enterprises LP and Tradesmen Enterprises Inc.</p>
<p><b>Bennett Jones LLP</b> 4500 Bankers Hall East 855 2<sup>nd</sup> Street SW Calgary, AB T2P 4K7</p> <p>Attention: Chris Simard/Sean Zweig / Joshua Foster Phone: 403-298-4485/416-777-6254 / 416-777- 7906 Email: <a href="mailto:simardc@bennettjones.com">simardc@bennettjones.com</a> / <a href="mailto:zweigs@bennettjones.com">zweigs@bennettjones.com</a> / <a href="mailto:fosterj@bennettjones.com">fosterj@bennettjones.com</a></p>	<p>Insolvency Counsel for the Receiver</p>



<p><b>Lawson Lundell LLP</b>  1100 Brookfield Place  225 – 6 Avenue SW  Calgary, AB T2P 1N2</p> <p>Attention: William L. Roberts / Alexis Teasdale  Phone: 604-631-9163 / 403-218-7564  Email: <a href="mailto:wroberts@lawsonlundell.com">wroberts@lawsonlundell.com</a> /  <a href="mailto:ateasdale@lawsonlundell.com">ateasdale@lawsonlundell.com</a></p>	<p>Litigation Counsel for the Receiver</p>
<p><b>Borden Ladner Gervais LLP</b>  Centennial Place, East Tower  520 – 3 Avenue SW  Suite 1900  Calgary, AB T2P 0R3</p> <p>Attention: Josef Kruger, QC / Jack Maslen  Phone: 403-232-9563 / 403-232-9790  Email: <a href="mailto:jkruger@blg.com">jkruger@blg.com</a> / <a href="mailto:jmaslen@blg.com">jmaslen@blg.com</a></p>	<p>Counsel for Bank of Montreal</p>
<p><b>Fulcrum Capital Partners Inc.</b>  885 W Georgia St.  Suite 1020  Vancouver, BC V6C 3E8</p> <p>Attention: Graham Flater / Johan Lemmer  Graham: 604-631-8078 (d) / 604-417-1535 (m)  Email: <a href="mailto:graham.flater@fulcrumcapital.ca">graham.flater@fulcrumcapital.ca</a> /  <a href="mailto:johan.lemmer@fulcrumcapital.ca">johan.lemmer@fulcrumcapital.ca</a></p>	<p>Creditor</p>
<p><b>Jenkins Marzban Logan LLP</b>  900 – 808 Nelson Street  Vancouver, BC V6Z 2H2</p> <p>Attention: Michael Dew / David Mckenzie  Phone: 604-895-3160 / 604-895-3155  Email: <a href="mailto:mdew@jml.ca">mdew@jml.ca</a> / <a href="mailto:dmckenzie@jml.ca">dmckenzie@jml.ca</a></p>	<p>Counsel for Emco Corporation, Supplier  C.I.F. Construction Ltd., Subcontractor  Swift Oilfield Supply Incorporated</p>
<p><b>Ogilvie LLP</b>  1400 Canadian Western Bank Place  10303 Jasper Avenue  Edmonton, AB T5J 3N6</p> <p>Attention: Kentigern Rowan, Q.C.  Phone: 780-429-6236  Email: <a href="mailto:krowan@ogilvielaw.com">krowan@ogilvielaw.com</a></p>	<p>Counsel for Precision Forest Industries  Ltd., Subcontractor</p>

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<p><b>Clark Wilson LLP</b>  900 – 855 West Georgia Street  Vancouver, BC V6C 3H1</p> <p>Attention: Satinder Sidhu / Nick Carlson /  Christopher Ramsay / Deborah Hamann-Trou  Satinder: 604-643-3119  Nick: 604-891-7797  Christopher: 604-643-3176  Email: <a href="mailto:ssidhu@cwilson.com">ssidhu@cwilson.com</a> /  <a href="mailto:ncarlson@cwilson.com">ncarlson@cwilson.com</a> / <a href="mailto:cramsay@cwilson.com">cramsay@cwilson.com</a> /  <a href="mailto:dhamann-trou@cwilson.com">dhamann-trou@cwilson.com</a></p>	<p>Counsel for Techmation Electric &amp;  Controls Ltd., Subcontractor</p>
<p><b>Norton Rose Fulbright Canada LLP</b>  400 3 Avenue SW, Suite 3700  Calgary, AB T2P 4H2</p> <p>Attention: Meghan L. Parker  Phone: 403-267-8211  Email: <a href="mailto:meghan.parker@nortonrosefulbright.com">meghan.parker@nortonrosefulbright.com</a></p>	<p>Counsel for Oxford Properties Group,  landlord to Tradesmen Enterprises  Limited Partnership</p>
<p><b>Pihl Law Corporation</b>  300 – 1465 Ellis Street  Kelowna, BC V1Y 2A3</p> <p>Attention: Andrew Prior  Phone: 250-762-5434  Email: <a href="mailto:andrew.prior@pihl.ca">andrew.prior@pihl.ca</a></p>	<p>Counsel for Alberta Pipe Support &amp;  Fabrication Inc., Subcontractor</p>
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<p><b>Alberta Pipe Support &amp; Fabrication Inc.</b>  4403 84 Avenue NW  Edmonton, AB T6B 2S6</p> <p>Attention: Vim Hussan  Phone: 780-462-2251  Email: <a href="mailto:vim@apsfabricationinc.com">vim@apsfabricationinc.com</a></p>	<p>Subcontractor</p>
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<p><b>Buffalo Inspection Services (2005) Inc.</b>  3867 Roper Road NW  Edmonton, AB T6B 3S5</p> <p>Attention: Chelsea Griffiths  Phone: 780-486-7344  Email: <a href="mailto:c.griffiths@buffaloinspection.com">c.griffiths@buffaloinspection.com</a></p>	<p>Subcontractor</p>
<p><b>Canada Revenue Agency  Surrey National Verification and  Collection Centre  Insolvency Intake Centre  Collections Directorate</b>  9755 King George Blvd  Surrey, BC V3T 5E1</p> <p>Attention: Traci Wool  Fax: 1-866-219-0311</p>	

<p><b>CIF Construction Ltd.</b> 6171 Otway Road Prince George, BC V2M 7B4</p> <p>Attention: Meghan Huberdeau Phone: 250-564-8174 Email: <a href="mailto:meghan.huberdeau@cifcon.com">meghan.huberdeau@cifcon.com</a></p>	Subcontractor
<p><b>Crosstown Heating &amp; Ventilating Ltd.</b> 60 Oswald Drive, Box 4177 Spruce Grove, AB T7X 3B4</p> <p>Attention: David Murray / Naomi Popowich Phone: 780-962-4591 Email: <a href="mailto:murray@crosstownheating.com">murray@crosstownheating.com</a> / <a href="mailto:naomi@crosstownheating.com">naomi@crosstownheating.com</a></p>	Subcontractor
<p><b>CWP Constructors Ltd.</b> #210, 8702 48 Avenue NW Edmonton, AB T6E 5L1</p> <p>Attention: Mark Witholt Phone: 780-757-5834 Email: <a href="mailto:mwitholt@cwpcconstructors.com">mwitholt@cwpcconstructors.com</a></p>	Subcontractor
<p><b>Dalco Services Inc.</b> 152 Petrolia Drive Red Deer County, AB T4E 1B4</p> <p>Attention: Heather Wilkinson Phone: 403-348-5554 Email: <a href="mailto:hwilkinson@dalco.ca">hwilkinson@dalco.ca</a></p>	Subcontractor
<p><b>EnQuest Energy Solutions Inc.</b> 8625 – 68 Street SE Calgary, AB T2C 2R6</p> <p>Attention: Heidi Ylijoki Phone: 403-279-2000 Email: <a href="mailto:hyljoki@enquestenergysolutions.com">hyljoki@enquestenergysolutions.com</a></p>	Subcontractor

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<p><b>FourQuest Energy Inc.</b> 9304 39 Avenue NW Edmonton, AB T6E 5T9</p> <p>Attention: Deanna Johnson Phone: 780-485-0690 Email: <a href="mailto:deanna.johnson@fourquest.com">deanna.johnson@fourquest.com</a></p>	Subcontractor
<p><b>Garneau Manufacturing Inc.</b> 8806 – 98 Street Morinville Industrial Park Morinville, AB T8R 1K7</p> <p>Attention: Charles Hastey Phone: 780-939-2129 Email: <a href="mailto:charles.hastey@garweld.com">charles.hastey@garweld.com</a></p>	Subcontractor
<p><b>Hagemeyer Canada Inc. o/a Century Vallen</b> 10449 – 120 Street Surrey, BC V3V 4G4</p> <p>Attention: Colleen James Email: <a href="mailto:colleen.james@vallen.ca">colleen.james@vallen.ca</a></p>	Subcontractor

<p><b>Hallbook Enterprises Ltd.</b>  PO Box 2038  Stony Plain, AB T7Z 1X6</p> <p>Attention: Jennifer Vankleek  Phone: 780-960-8403  Email: <a href="mailto:j.vankleek@hallbookenterprises.ca">j.vankleek@hallbookenterprises.ca</a></p>	Subcontractor
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<p><b>Neptune Coring (Western) Ltd.</b>  21521 112 Avenue NW  Edmonton, AB T5S 2T8</p> <p>Attention: Ben Campbell  Phone: 780-486-4050  Email: <a href="mailto:ben@neptunecoring.com">ben@neptunecoring.com</a></p>	Subcontractor
<p><b>Pinacle Stainless Steel Inc.</b>  7007 – 54 Street SE, Unit 133  Calgary, AB T2C 3C2</p> <p>Attention: Julie Cayer  Phone: 1-855-514-2811  Email: <a href="mailto:jcayer@pinacle.ca">jcayer@pinacle.ca</a></p>	Subcontractor
<p><b>Precision Forest Ind. Ltd. o/a AAA Precision Industries</b>  #300, 15338 123 Avenue NW  Edmonton, AB T5V 1K8</p> <p>Attention: Dare Olubowale  Email: <a href="mailto:accounting@aaaprecisionindustries.com">accounting@aaaprecisionindustries.com</a></p>	Subcontractor

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<p><b>Services Techniques Claude Drouin</b> 180, Boulevard St-Elzear Ouest Laval, QC H7L 3N3</p> <p>Attention: Jenny Coussa Phone: 450-663-7747 Email: <a href="mailto:jenny@stcd.ca">jenny@stcd.ca</a></p>	Subcontractor
<p><b>Swift Oilfield Supply Incorporated</b> 6205 – 97 Street Edmonton, AB T9E 3J5</p> <p>Attention: Sandra Wenzel Phone: 780-423-6979 Email: <a href="mailto:sandra.wenzel@swiftsupply.ca">sandra.wenzel@swiftsupply.ca</a></p>	Subcontractor
<p><b>Teck Coal Limited c/o Teck Resources Limited</b> 3300 – 550 Burrard Street Vancouver, BC V6C 0B3</p> <p>Attention: Blaine Nickel Email: <a href="mailto:Blaine.Nickel@teck.com">Blaine.Nickel@teck.com</a> <a href="mailto:Corporate.Secretary@teck.com">Corporate.Secretary@teck.com</a> <a href="mailto:PDGprocurement@teck.com">PDGprocurement@teck.com</a></p>	Contractual Counterparty to the Applicants
<p><b>Techmation Electric &amp; Controls Ltd.</b> 117 Kingsview Road SE Airdrie, AB T4A 0A8</p> <p>Attention: Loretta Topolnisky Phone: 403-243-0990 Email: <a href="mailto:ltopolnisky@techmationelectric.com">ltopolnisky@techmationelectric.com</a></p>	Subcontractor

<p><b>Transcendent Mining and Mobilization Inc.</b>          PO Box 580          701 Douglas Fir Rd.          Sparwood, BC V0B 2G0</p> <p>Attention: Shelley Lynch / Bud Lynch          Office: 778-521-5144 ext. 103 (Shelley)          Mobile: 250-603-9062 (Shelley)          Email: <a href="mailto:shelley.lynch@transcendentmining.com">shelley.lynch@transcendentmining.com</a> /  <a href="mailto:bud.lynch@transcendentmining.com">bud.lynch@transcendentmining.com</a></p>	Subcontractor
<p><b>Tri-Kon Precast Concrete Products Ltd.</b>          PO Box 491          601 Patterson Street West          Cranbrook, BC V1C 4J1</p> <p>Attention: Tyler Fiorentino          Phone: 250-426-8162          Email: <a href="mailto:tylerf@trikonprecast.com">tylerf@trikonprecast.com</a></p>	Subcontractor
<p><b>WCB Alberta</b></p> <p>Email: <a href="mailto:ebusiness.support@wcb.ab.ca">ebusiness.support@wcb.ab.ca</a></p>	
<p><b>WorkSafeBC</b>          9924 – 107 Avenue          Fort St. John, BC V1J 2R6</p> <p>Attention: Terry Milley          Office: 250-785-1283 local 4681          Fax: 250-785-8976          Email: <a href="mailto:terry.milley@worksafebc.com">terry.milley@worksafebc.com</a></p>	
<p><b>WS Leasing Ltd.</b>          Suite 1900          13450 102 Avenue          Surrey, BC V3T 5Y1</p> <p>Attention:          Phone: 604-528-3802          Fax: 604-525-7572 (fax not successful)          Email: <a href="mailto:leasing@wscu.com">leasing@wscu.com</a></p>	Lessor



**SCHEDULE "B"**  
**PROPOSED INTERIM DISTRIBUTION ORDER**

Clerk's Stamp:



COURT FILE NUMBER 2101-04670  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE OF CALGARY  
PLAINTIFF BANK OF MONTREAL  
RESPONDENTS TRADESMEN ENTERPRISES LIMITED  
PARTNERSHIP, and TRADESMEN ENTERPRISES  
INC.

APPLICANT KSV RESTRUCTURING INC., in its capacity as  
receiver and manager of TRADESMEN  
ENTERPRISES LIMITED PARTNERSHIP, and  
TRADESMEN ENTERPRISES INC.

DOCUMENT **ORDER APPROVING INTERIM  
DISTRIBUTION, RECEIVER'S BORROWINGS,  
FEES AND ACTIVITIES**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT **BENNETT JONES LLP**  
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Calgary, AB T2P 4K7  
Chris Simard/Sean Zweig/Joshua Foster  
Telephone: 403.298.3100  
Facsimile: 403.265.7219  
Email: [simardc@bennettjones.com](mailto:simardc@bennettjones.com)  
[/zweigs@bennettjones.com](mailto:/zweigs@bennettjones.com)/[fosterj@bennettjones.com](mailto:fosterj@bennettjones.com)

**DATE ON WHICH ORDER WAS PRONOUNCED:** July 15, 2021  
**NAME OF JUDGE WHO MADE THIS ORDER:** The Honourable Madam Justice  
Horner  
**LOCATION OF HEARING:** Calgary, Alberta

**UPON THE APPLICATION** of KSV Restructuring Inc. in its capacity as the Court-appointed receiver and manager (in such capacity, the "**Receiver**") of the undertakings, property and assets of Tradesmen Enterprises Limited Partnership and Tradesmen Enterprises Inc.

(together, the “**Debtors**”) for an Order, among other things, approving: (i) an increase to the Receiver’s borrowings and accompanying charge; (ii) the interim distribution of certain auction proceeds; (iii) the activities of the Receiver; and (iv) the fees and disbursements of the Receiver and its counsel;

**AND UPON** having read the Consent Receivership Order granted by the Honourable Madam Justice B.E.C. Romaine on April 15, 2021 (the “**Receivership Order**”), the Application of the Receiver, the First Report of the Receiver dated July 5, 2021 (the “**First Report**”), and other materials filed in the within proceedings; **AND UPON** noting the Affidavit of Service, filed; **AND UPON** hearing the submissions of counsel for the Receiver, counsel for Bank of Montreal (“**BMO**”), and any other counsel or interested parties present;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

#### **SERVICE AND DEFINITIONS**

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, the application for this Order is properly returnable today, and no other person other than those served is required to have been served with notice of this application.
2. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Receivership Order.

#### **RECEIVER’S BORROWINGS**

3. The Receiver’s borrowing limit in paragraph 22 of the Receivership Order be and is hereby increased from the maximum principal amount of \$2,500,000 to the maximum principal amount of \$3,000,000 (or such greater amount as provided for in paragraph 27 of the Receivership Order or as this Court may by further Order authorize). For greater certainty, the whole of the Property shall continue to be charged by 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, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges set out in sections

14.06(7), 81.4(4) and 81.6(2) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”).

## **INTERIM DISTRIBUTION**

4. The Receiver is hereby authorized and directed to make an interim distribution (the “**Distribution**”) of the Net Proceeds (as defined in the Approval and Vesting Order of the Honourable Justice P.R. Jeffrey granted on March 16, 2021 in the proceedings bearing Estate Number BK01 095189) to BMO in partial repayment of the BMO Pre-Filing Indebtedness (as defined in the First Report).
5. Notwithstanding:
  - (a) the pendency of these proceedings and any declaration of insolvency made herein;
  - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the BIA, in respect of the Debtors and any bankruptcy order issued pursuant to any such applications;
  - (c) any assignment in bankruptcy made in respect of the Debtors; or
  - (d) any provisions of any federal or provincial legislation,

the Distribution shall be binding on any trustee in bankruptcy appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

## **APPROVAL OF ACTIVITIES AND FEES**

6. The activities of the Receiver, as described in the First Report, are hereby ratified and approved.

7. The Receiver's accounts for fees and disbursements, as set out in the First Report, are hereby approved without the necessity of a formal passing of its accounts.
8. The accounts of the Receiver's legal counsel, Bennett Jones LLP and Lawson Lundell LLP, for their respective fees and disbursements, as set out in the First Report, are hereby approved without the necessity of a formal passing of their accounts.
9. This Order must be served only upon those interested parties attending or presented at the within application and service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.
10. Service of this Order on any party not attending this application is hereby dispensed with.

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Justice of the Court of Queen's Bench of Alberta