

Court File Number: 32-2228804  
Estate No. 32-2228804

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE  
A PROPOSAL OF MERIDION HIGHRISE LTD., MERIDION HOLDINGS CORP.,  
MERIDION STRUCTURES LTD., AND 2437156 ONTARIO INC.**

**AND IN THE MATTER OF SECTION 47.1 OF THE  
*BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED**

**SUPPLEMENT TO SECOND REPORT  
OF THE TRUSTEE IN BANKRUPTCY**

**FEBRUARY 26, 2018**

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**INTRODUCTION**

1. On March 15, 2017, Meridion Holdings Corp., Meridion Highrise Ltd., 2437156 Ontario Inc. and Meridion Structures Ltd. each filed a Notice of Intention to Make a Proposal under Section 50.4 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended. A. Farber & Partners Inc. was appointed as proposal trustee in the NOI Proceedings.<sup>1</sup>

2. On March 22, 2017, Farber was appointed as Interim Receiver pursuant to the Order of Justice Hailey, as amended, for the limited purpose of borrowing funds for the funding of payroll, independent contractor and critical supplier amounts, overhead and professional fees, and such other amounts payable by Meridion which were required to ensure the continuation of Meridion's current projects.

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<sup>1</sup> Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Second Report dated August 22, 2017.

3. At the time of the appointment of the Interim Receiver, Meridion's ongoing projects included but were not limited to the following projects:

- (a) the Waterfront Project with Daniels Waterfront;
- (b) the Block 27 Project with Daniels CM; and
- (c) the Block 32 Project with Daniels CM.

4. On April 11, 2017, the Court extended the time period for Meridion to file a proposal to May 29, 2017 and approved the Developer Funding Agreements.

5. Meridion did not enter into a Developer Funding Agreement with Daniels with respect to the Block 32 Project, as the project was transferred to another contractor following the appointment of the Interim Receiver. However, up until the time it was transferred, the Block 32 Project was carried on by parties on the same basis as if a Developer Funding Agreement had been entered into.

6. Meridion was not able to file a viable proposal by May 29, 2017 and did not seek an extension of the period for it to file a proposal.

7. On May 30, 2017, the Meridion Group was deemed to have made assignments in bankruptcy and Farber was appointed as Trustee.

8. The Trustee brought a motion returnable June 2, 2017 seeking, among other things, an order authorizing and directing the Trustee to carry out the remaining work of the Interim Receiver under the Developer Funding Agreements.

9. Pursuant to the Order of Justice Hainey dated June 2, 2017, the Court, among other things, granted the relief sought by the Trustee with respect to the Developer Funding Agreements and sealed the copies of the Developer Funding Agreements that had been filed confidentially with the Court pending further order of the Court.

10. The Trustee brought a motion returnable August 29, 2017 seeking an order, among other things:

- (a) directing Daniels Waterfront to pay to the Trustee forthwith the sum of \$149,702.59 in accordance with the Waterfront Project Developer Funding Agreement, and authorizing and directing the Trustee to distribute such funds, along with the \$367,396.85 currently in its hands, to pay post-NOI obligations with respect to the Waterfront Project;
- (b) directing Daniels CM to pay to the Trustee forthwith the sum of \$104,453.72 in accordance with the Block 27 Project Developer Funding Agreement, and authorizing and directing the Trustee to distribute such funds, along with the \$90,328.17 currently in its hands, to pay post-NOI obligations with respect to the Block 27 Project; and
- (c) directing Daniels CM to pay to the Trustee forthwith the sum of \$83,866.31 and authorizing and directing the Trustee to distribute such funds, along with the \$7,446.07 currently in its hands, to pay post-NOI obligations with respect to the Block 32 Project.

11. In support of its motion, the Trustee filed with the Court its second report dated August 22, 2017 (the “**Second Report**”). The Second Report details matters related to the Projects, the Developer Funding Agreements, the termination of the agreements and the reconciliations prepared by the Trustee regarding the amounts still owed by Daniels and Madison to the Trustee.

12. On August 29, 2017, the Trustee and Daniels appeared before the Honourable Mr. Justice Hainey, at which time Daniels informed the Trustee and the Court that, as certain liens registered with respect to the Projects had been bonded off by Daniels, they were concerned that the amounts sought by the Trustee included amounts that they had already paid in bonding off the liens. In other words, it would represent double payment by Daniels.

13. The Trustee agreed to adjourn its motion to a chambers appointment on August 31, 2017, so as to provide Daniels with additional time to provide evidence that the amounts they had paid to bond the liens included amounts payable to the Trustee in connection with post-filing work or services.

14. The Trustee appeared before Justice Hainey on August 31, 2017, at which time the Trustee’s motion was adjourned *sine die*, as the Trustee had agreed to provide additional time to Daniels to provide such evidence.

15. The Trustee, through its lawyers, made repeated requests of Daniels regarding the outstanding evidence regarding the bonded off liens.

16. On November 28, 2017, the Trustee was informed by Daniels’ lawyers that it would be seeking instructions from Daniels to bring a motion relieving Daniels of the obligation to pay the Trustee for post-filing services where Daniels paid monies into court to vacate liens for such

services. The Trustee informed Daniels that its motion materials would have to be served on all affected suppliers and would need to demonstrate that payment to the Trustee would result in “double payment” for the post-filing services.

17. Daniels agreed to bring such a motion, which was scheduled to be heard on January 18, 2018.

18. On January 11, 2018, Daniels’ lawyers informed the Trustee that it required a four-week adjournment of the motion. The Trustee agreed to adjourn the January 18, 2018 hearing date. However, a new hearing date could not be agreed to with Daniels.

19. On February 5, 2018, the parties appeared before the Honourable Mr. Justice McEwen, at which time the Trustee’s motion was scheduled for March 1, 2018, and Daniels agreed to serve any responding materials by no later than February 15, 2018.

20. On February 15, 2018, Daniels’ lawyers informed the Trustee’s lawyers that Daniels would not be serving any materials.

21. This supplement to the second report (the “**Supplementary Report**”) has been prepared by Farber in its capacity as the Trustee. At the hearing of its motion, the Trustee will be requesting an order:

- (a) authorizing and directing the Trustee to distribute, of the \$367,396.85 currently in its hands funded by Daniels Waterfront, \$95,792.31 to Daniels Waterfront, and the remaining \$271,604.54 to pay post-NOI obligations with respect to the Waterfront Project;

- (b) directing Daniels CM to pay to the Trustee forthwith the sum of \$104,453.72 in accordance with the Block 27 Project Developer Funding Agreement, and authorizing and directing the Trustee to distribute such funds, along with the \$90,328.17 currently in its hands, to pay post-NOI obligations with respect to the Block 27 Project;
- (c) directing Daniels CM to pay to the Trustee forthwith the sum of \$83,866.31 and authorizing and directing the Trustee to distribute such funds, along with the \$7,446.07 currently in its hands, to pay post-NOI obligations with respect to the Block 32 Project; and
- (d) directing Daniels Waterfront and Daniels CM to pay the Trustee its costs related to the motion.

## RECONCILIATIONS

22. As noted in the Second Report, the two Developer Funding Agreements with Daniels were terminated in accordance with their terms in April 2017.

23. The Trustee prepared reconciliations with respect to the Waterfront Project, Block 27 Project and the Block 32 Project, copies of which were attached as appendices to the Second Report.

24. On February 9, 2018, the Trustee was informed by Aluma Systems Inc. (“**Aluma**”) that Aluma was withdrawing any post-NOI invoices submitted for payment to the Trustee pursuant to the Developer Funding Agreement with respect to the Waterfront Project. A copy of the letter dated February 9, 2018 is attached hereto and marked as **Appendix “A”**.

25. As a result of Aluma's withdrawal, the Trustee has prepared an updated reconciliation for the Waterfront Project, a copy of which is attached hereto and marked as **Appendix "B"**.

26. As set out in the reconciliation, there is a surplus of \$95,792.31 with respect to the contributions Daniels has made to date, as a result of Aluma withdrawing its claim on February 9, 2018. At Daniels' request, and subject to the Trustee obtaining the relief sought herein, the Trustee has agreed to issue a cheque in this amount to Daniels. The Trustee is currently holding \$367,396.84, and it is seeking Court authority to release, following the payment of \$95,792.31 to Daniels, the remaining \$271,604.54 to pay post-NOI obligations with respect to Waterfront Project.

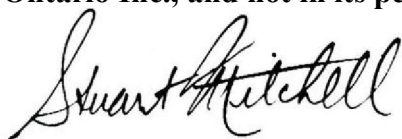
27. With respect to Block 27 Project and the Block 32 Project, the reconciliations have not changed since the ones that the Trustee provides to Daniels in August 2017.

#### **RELIEF SOUGHT FROM THE COURT**

28. Based on the foregoing, the Trustee respectfully recommends that this Court make an order granting the relief detailed in paragraph 21 of this Supplementary Report.

All of which is respectfully submitted this 26<sup>th</sup> day of February, 2018.

**A. FARBER & PARTNERS INC.,  
in its capacity as Trustee in Bankruptcy of  
Meridion Highrise Ltd., Meridion Holdings  
Corp., Meridion Structures Ltd., And 2437156  
Ontario Inc., and not in its personal capacity**




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# **APPENDIX “A”**

Waterfront DFA Summary

Revised Feb 16 2018

**AMENDED DRAFT RECONCILIATION - SEE NOTE**

<b>COSTS</b>	<b>Amount</b>	<b>HST</b>	<b>Total</b>
<u>Paid</u>			
Post	1,503,673.64	43,952.00	1,547,625.64
Pre	568,863.54	62,856.00	631,719.54
<b>Total Paid</b>	<b>2,072,537.18</b>	<b>106,808.00</b>	<b>2,179,345.18</b>
<u>Unpaid (Revised to remove post-filing Salit Steel amounts)</u>			
Aluma	217,252.12	28,242.77	245,494.89
Apr 24 invoices	3,810.56	248.75	4,059.31
May 1 invoices	37,584.00	4,885.92	42,469.92
May 12 invoices	10,320.15	1,315.60	11,635.75
Prefiling Salit	2,312.27	300.60	2,612.87
May 26 invoices	17,180.02	2,232.90	19,412.92
Salit HB	7,831.32	1,018.07	8,849.39
Salit and Northfleet HB on unpaid	17,406.54	2,262.85	19,669.39
<b>remove Aluma</b>	<b>(217,252.12)</b>	<b>(28,242.77)</b>	<b>(245,494.89)</b>
<b>Total Unpaid</b>	<b>96,444.86</b>	<b>12,264.69</b>	<b>108,709.55</b>
<b>Total Paid and Unpaid Costs</b>	<b>2,168,982.04</b>	<b>119,072.69</b>	<b>2,288,054.73</b>

	<b>TOTAL</b>	<b>Paid to Date</b>	<b>Outstanding From Daniels</b>
Costs to be billed	2,168,982.04	2,253,754.00	(84,771.96)
HST on amounts billed	281,967.67	292,988.02	(11,020.35)
Billings with HST	2,450,949.71	2,546,742.02	(95,792.31)

**NOTE: This revised reconciliation reflects Daniels' proposition that Aluma has waived any claim against the Trustee for unpaid post-filing NOI invoices.**

<b>R&amp;D</b>	
<u>Receipts</u>	
Collected	2,450,949.71
<u>Disbursements</u>	
Paid to suppliers with HST	2,288,054.73
HST Remitted	162,894.98
Total Disbursements	2,450,949.71
<b>Net Cash</b>	<b>-</b>

<b>Meridion HST Remittance</b>	
HST Collected	281,967.67
Less ITCs	119,072.69
<b>Required HST To Remit</b>	<b>162,894.98</b>

<b>Allocation of Funds on Hand</b>	
Total Received	2,546,742.02
Total Paid	2,179,345.18
<b>Bank on Account</b>	<b>367,396.84</b>
Earmarked for HST	162,894.98
<b>Remaining for unpaid</b>	<b>204,501.86</b>

<b>Remaining to pay:</b>	
Remaining to pay invoices	108,709.55
HST Net	162,894.98
<b>Total</b>	<b>271,604.53</b>
<b>Funds:</b>	
Outstanding from Daniels	(95,792.31)
In bank	367,396.84
<b>Total</b>	<b>271,604.53</b>

# **APPENDIX “B”**

**Aluma Systems Inc.**44 Simpson Rd  
Bolton, ON  
Canada L7E 1Y4

T 905.857.8562

F 905.857.8564

[www.aluma.com](http://www.aluma.com)

February 9, 2018

**A. Farber & Partners Inc.****Trustee in bankruptcy over the Assets of  
Meridion Structures Ltd., and Meridion Highrise Ltd. ("Meridion")  
150 York Street, Toronto, ON, Suite 1600  
M5H 3S5 (the "Trustee")**

Attention: Stuart Mitchell, Karen Kimel and Peter Crawley

RE: Waterfront South Project Claims

Dear Sirs and Madam:

This letter is to advise that Aluma Systems Inc. ("Aluma") hereby withdraws any post-filing invoices<sup>1</sup> submitted for payment to Aluma by the Trustee pursuant the Developer Funding Agreement executed by the trustee and Daniels Waterfront Corporation, which invoices, for greater certainty only, amount to the total sum of \$ 337,693.52 (collectively, the "Aluma Claims"). The withdrawal of such claims is completely without prejudice to Aluma's right to pursue payment of the remaining sum of \$1,567,268.69 claimed by Aluma in a Claim for Lien (the "Aluma Lien Claim") registered against title to the Waterfront South project as Instrument No. AT 4558058 and this document has no bearing whatsoever on the quantum or timeliness of the Aluma Lien Claim.

Aluma hereby releases and holds harmless the Trustee from any responsibility for collecting and disbursing the said Aluma Claims or the Aluma Lien Claim and acknowledges that it is not in any way relying on or expecting the Trustee to pursue payment of those claims.

We ask that you contact us immediately if there are any issues with this withdrawal of the Waterfront South Aluma Claims.

Yours Very Truly

  
Luis Alvarez  
Director & GM  
Eastern Canada  
Aluma Systems

<sup>1</sup> "Post-filing invoices" means any invoices or other requests for payment submitted by Aluma to the Trustee under the Developer Funding Agreement that relate to work completed after March 15, 2017, the date on which Meridion filed a Notice of Intention to File a Proposal pursuant to the *Bankruptcy and Insolvency Act*.