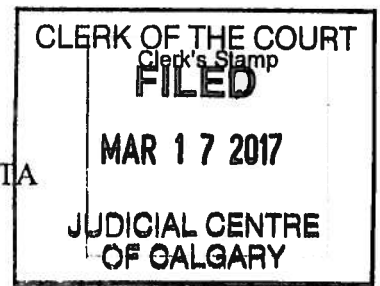


COURT FILE NUMBER 1601-14400  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY



APPLICANT FACTORS WESTERN INC., formerly 1239783 Alberta Ltd.

RESPONDENTS DCR INC. and X-TREME CUSTOM RIDES INC.

IN THE MATTER OF THE RECEIVERSHIP OF  
DCR INC. and X-TREME CUSTOM RIDES INC.

DOCUMENT **FIRST REPORT OF THE RECEIVER,  
HARDIE & KELLY INC.  
MARCH 16, 2017**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
Norton Rose Fulbright Canada LLP  
400, 3rd Avenue SW, Suite 3700  
Calgary, Alberta T2P 4H2  
Phone: 403-267-8399  
Fax: 403-264-5973  
Email: [randal.vandemosselaer@nortonrosefulbright.com](mailto:randal.vandemosselaer@nortonrosefulbright.com)  
Attention: Randal Van de Mosselaer

**FIRST REPORT OF THE RECEIVER  
HARDIE & KELLY INC.  
MARCH 16, 2017**

**I N D E X**

INTRODUCTION .....	1
TERMS OF REFERENCE .....	1
BACKGROUND .....	1
INITIAL ACTIVITIES OF THE RECEIVER .....	2
PROPOSED AMENDMENT TO THE RECEIVERSHIP ORDER .....	3
RECOMMENDATION .....	4

## **INTRODUCTION**

1. On November 8, 2016, Factors Western Inc. (“FWI”) made an application to the Court of Queen’s Bench of Alberta (the “Court”) for the appointment of a receiver (the “Receiver”) of the current and future assets, undertakings and property of DCR Inc. (“DCR”) and X-Treme Custom Rides Inc. (“X-Treme”).
2. The Court granted an Order (the “Receivership Order”) on November 4, 2016 (the “Receivership Date”), appointing Hardie & Kelly Inc. as the Receiver of DCR and X-Treme (collectively referred to as the “Companies”).
3. The purpose of this report (the “First Report”) is to provide the Court with:
  - a. An account of the initial activities of the Receiver since the Receivership Date; and
  - b. Background information with respect to the Receiver’s upcoming application seeking to amend the Receivership Order to permit the Receiver to assign the Companies into bankruptcy and the Receiver’s recommendation thereon.

## **TERMS OF REFERENCE**

4. In preparing this First Report, the Receiver has relied upon unaudited financial information, limited records of the Company, discussions with the Company’s former principal and discussion with representatives of FWI. The Receiver has not performed an audit, review or other verification of such information.

## **BACKGROUND**

5. DCR was originally incorporated in Alberta in 2007 and became known as DCR in 2009. The Company was engaged principally in the heavy excavation business. A recent search of the Alberta Corporate Registration System (the “Corporate Registry”) listed Mr. David Rowe as the sole shareholder and director of DCR.

6. X-Treme was incorporated in Alberta in 2013. X-Treme was principally involved with acquiring and customizing vehicles for resale. A recent search of the Corporate Registry lists Mr. Rowe as the sole shareholder and director of X-Treme.
7. Both DCR and X-Treme had ceased operations several months prior to the receivership proceedings.
8. Mr. Rowe is currently an undischarged bankrupt having filed an assignment in bankruptcy on July 20, 2016.

#### **INITIAL ACTIVITIES OF THE RECEIVER**

9. As the Companies had ceased operations well in advance of the Receivership Date, the Receiver was not required to take possession of any premises.
10. The Receiver was advised by both FWI (who had been actively taking steps to attempt to recover assets subject to its security interest) and subsequently Mr. Rowe, that there were no remaining assets to take possession of or realize upon as the Companies' assets had previously been seized by creditors claiming a security interest, and those assets had been sold, transferred or otherwise disposed of.
11. The Receiver was advised that through FWI's efforts prior to the Receivership Date, and with the agreement of Mr. Rowe, FWI took possession of the majority of the Companies' available books and records (the "Records"). However, the Receiver has determined that the Companies' Records are incomplete and not up to date. In an effort to limit the costs of moving and storing the Records, the Receiver has left these Records in the possession of FWI on its undertaking not to destroy or deliver the Records to any other party without the prior written authorization of the Receiver.
12. The Receiver took direct possession of a limited amount of records that were still in the possession of Ms. Connie Rowe and the Companies' external accountants.
13. On December 16, 2016, the Receiver met with Mr. Rowe and his trustee at which time Mr. Rowe confirmed the following:

- a. The operations of the Companies' had ceased;
  - b. There were no employees remaining;
  - c. There were no remaining assets of the Companies; and
  - d. He was not in possession of any of the Companies' assets nor was he in possession of any further books and records.
14. During the meeting with Mr. Rowe, the Receiver provided Mr. Rowe and his trustee with several different lists of assets purporting to list assets which had belonged to one of the Companies at one time, the location or disposition of which are unknown. Mr. Rowe indicated that it was unclear at first glance as to which of the assets may have been owned by one of the Companies and which assets he may have owned personally, so he undertook to review the lists and provide the Receiver with his recollection of the disposition of each of the assets.
15. To date, Mr. Rowe has not provided the Receiver with any further details; however, Mr. Rowe contacted the Receiver on March 15, 2017 to advise that he has not been able to complete his review of the lists in light of the effects of an accident he was involved in back in December 2016. The Receiver emailed Mr. Rowe another copy of the various lists on March 15, 2017.

**PROPOSED AMENDMENT TO THE RECEIVERSHIP ORDER**

16. In light of the state of the Records and the apparent lack of information otherwise available, it may be difficult or impossible for the Receiver to ascertain whether the Companies' assets were disposed of at fair value or whether any preferential transfers or transfers at undervalue may have occurred. The Receiver believes it would be more cost-efficient to be in a position to have recourse to the provisions of the Bankruptcy and Insolvency Act, R.S.C. 1985, chap. B-3, as amended (the "BIA") to question the former management and employees of the Companies under oath in order to attempt to gather preliminary information as to the disposition of assets.

17. The Receiver also believes that it may be beneficial for the general body of the Companies' creditors to have recourse to the powers under the BIA in the event the Receiver determines that preferential transfers or transfers at undervalue have occurred.
18. Finally, based on the Receiver's preliminary review of the Companies' affairs and assets, it appears that the Companies have several unsecured creditors.
19. Consequently, the Receiver is seeking the authority to assign the Companies into bankruptcy pursuant to the provisions of section 49 of the BIA and amending the Receivership Order as may be necessary to provide the Receiver with such authority so that the investigative and other powers of a trustee provided for under the BIA may be utilized.
20. FWI as the principal secured creditor of the Companies is in support of the Receiver pursuing this course of action.

#### RECOMMENDATIONS

21. The Receiver is seeking approval of and recommends to this Honourable Court that the Receiver be granted the authority to assign the Companies into bankruptcy pursuant to the provisions of section 49 of the BIA and amending the Receivership Order as may be necessary to provide the Receiver with such authority.
22. All of which is respectfully submitted this 16<sup>th</sup> day of March 2017.

Hardie & Kelly Inc., in its capacity as  
Receiver of DCR Inc. and X-Treme Custom Rides Inc.  
and not in its personal capacity

Per:

  
\_\_\_\_\_  
Marc Kelly  
Senior Vice President