



COURT FILE NUMBER 1301-01078  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

PLAINTIFF PYX FINANCIAL GROUP OF CALGARY INC.  
DEFENDANT KASCO CONSTRUCTION (ALTA) LTD.

IN THE MATTER OF THE RECEIVERSHIP OF  
KASCO CONSTRUCTION (ALTA) LTD.

APPLICANT HARDIE & KELLY INC., in its capacity as Court-appointed  
Receiver and Manager of the assets, undertakings and property of  
KASCO CONSTRUCTION (ALTA) LTD.

DOCUMENT APPLICATION

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
Norton Rose Canada LLP  
400 3<sup>rd</sup> Avenue SW, Suite 3700  
Calgary, Alberta T2P 4H2  
Phone: +1 403.267.8222  
Fax: +1 403.264.5973

Attention: Kyle D. Kashuba  
[kyle.kashuba@nortonrose.com](mailto:kyle.kashuba@nortonrose.com)

File No. 01135476-0009

**NOTICE TO RESPONDENT(S):**

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

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

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

Date:	Friday, March 1, 2013
Time:	3:00 p.m.
Where:	Calgary Courts Centre
Before Whom:	The Honourable Mr. Justice A.D. Macleod, of the Commercial List

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. Abridging, if necessary, the time for service of this Application and deeming service good and sufficient.
2. An Order in substantially the same form as that attached as Schedule "A" to this Application, granting the following relief and directions:
  - 2.1 appointing Pyx Financial Group of Calgary Inc. ("**Pyx**") as agent (the "**Agent**") for Hardie & Kelly Inc. in its capacity as Court-appointed receiver and manager (the "**Receiver**") over the assets, undertakings and property (the "**Property**") of Kasco Construction (ALTA) Ltd. ("**Kasco**") with respect to the collection of accounts receivable owing, or appearing to be owing, to Kasco;
  - 2.2 declaring that the Agent shall have the same powers and protections as the Receiver would have at common law, equity and under the Receivership Order filed in this matter on January 29, 2013 (the "**Receivership Order**"), to collect the accounts receivable of Kasco;
  - 2.3 declaring that the Agent shall hold any recovered funds (the "**Recovered Funds**") in their solicitors' trust account pending further order of the Court or agreement between the parties claiming entitlement to the Recovered Funds, and shall provide a report and accounting to the Receiver respecting the Recovered Funds from time to time;
  - 2.4 declaring that, in the event that the Court holds that a party other than Pyx is the owner of or has first priority rights to the Recovered Funds, Pyx's reasonable costs shall rank with and form a part of the Receiver's Charge under the Receivership Order and to that extent, the Agent may pass its accounts in accordance with the same process that the Receiver may under the Receivership Order;
  - 2.5 declaring that proposed form of Order granted shall be specifically without prejudice to the rights, if any, of Pyx, Canada Revenue Agency ("**CRA**") and Dr. Calvin Greene ("**Greene**") over or with respect to the Recovered Funds; and
  - 2.6 declaring that Pyx shall have the ability to provide evidence of its appointment to any debtor of Kasco through service of this Order and Receivership Order upon them.
3. Such further and other relief, advice and directions as counsel may advise and this Honourable Court may deem just and appropriate.

**Grounds for making this application:**

4. On January 29, 2013, Hardie & Kelly Inc. was appointed the Receiver over the Property of Kasco by the Receivership Order.

5. Pursuant to the terms of the Receivership Order, and in particular paragraphs 3(f) and (g) thereof, the Receiver is entitled to receive and collect all monies and accounts owed or owing to Kasco, to exercise all remedies of Kasco collecting such monies, and to settle, extend or compromise any indebtedness owing to Kasco.
6. Pursuant to the terms of the Receivership Order, and in particular paragraph 3(d) thereof, the Receiver is entitled to engage agents, accountants, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of its powers and duties, including without limitation those conferred by the Receivership Order.
7. Pyx, CRA, and Greene have all asserted certain priority arguments over and in respect of the accounts receivable owing to Kasco, and to the expected Recovered Funds.
8. After consultation and discussions with the Receiver, Pyx, CRA and Greene have consented to the appointment of the Agent on the terms set out in the attached form of proposed Order.
9. The Receiver's appointment of Pyx as Agent, and the terms respecting the Recovered Funds, as proposed, are just, appropriate and in the best interest of the administration of the receivership estate and the stakeholders affected thereby.
10. The terms as set out in the proposed form of Order attached hereto as Schedule "A" and are necessary to effect the appointment of the Agent as contemplated by the Receiver, Pyx, CRA and Greene, and the said proposed form of Order has been negotiated between the Receiver, Pyx, CRA and Greene.
11. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**Material or evidence to be relied on:**

12. All pleadings and proceedings, including the Statement of Claim, the Receivership Order, and the other materials filed in the within action.
13. The First Report of the Receiver, filed February 27, 2013
14. The proposed form of Order, attached hereto as Schedule "A".
15. The inherent jurisdiction of this Honourable Court to control its own process.
16. Such further and other material and evidence as counsel may advise and this Honourable Court may permit.

**Applicable rules:**

17. Rules 6.3(1), 6.47(e) and (f), 6.9(1)(a) and 11.27.

**Applicable Acts and regulations:**

18. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, the *Judicature Act*, RSA 2000, c J-2, as amended, and such other Rules, Acts and Regulations as counsel may advise and that this Honourable Court may permit.

**Any irregularity complained of or objection relied on:**

19. None.

**How the application is proposed to be heard or considered:**

20. Oral submissions by counsel at an application in Justice Chambers as agreed and scheduled by counsel, with some or all of the parties present.

**AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.**

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) 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 rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

## Schedule "A"

Clerk's Stamp

COURT FILE NUMBER 1301-01078  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
PLAINTIFF PYX FINANCIAL GROUP OF CALGARY INC.  
DEFENDANT KASCO CONSTRUCTION (ALTA) LTD.

IN THE MATTER OF THE RECEIVERSHIP OF  
KASCO CONSTRUCTION (ALTA) LTD.

APPLICANT HARDIE & KELLY INC., in its capacity as Court-appointed  
Receiver and Manager of the assets, undertakings and property of  
KASCO CONSTRUCTION (ALTA) LTD.

DOCUMENT **ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
Norton Rose Canada LLP  
400 3<sup>rd</sup> Avenue SW, Suite 3700  
Calgary, Alberta T2P 4H2  
Phone: +1 403.267.8222  
Fax: +1 403.264.5973

Attention: Kyle D. Kashuba  
[kyle.kashuba@nortonrose.com](mailto:kyle.kashuba@nortonrose.com)

File No. 01135476-0009

**DATE ON WHICH ORDER WAS PRONOUNCED:** Friday, March 1, 2013

**NAME OF JUDGE WHO MADE THIS ORDER:** Mr. Justice A.D. Macleod

**LOCATION OF HEARING:** Calgary, Alberta

### ORDER

**UPON THE APPLICATION** of Hardie & Kelly Inc. in its capacity as Court-appointed receiver and manager (the "**Receiver**") over the assets, undertakings and property of Kasco Construction (ALTA) Ltd. ("**Kasco**"); **AND UPON** reading the Application and the First Report of the Receiver, filed February 27, 2013; **AND UPON** hearing counsel for the Receiver, Pyx Financial Group of Calgary Inc. ("**Pyx**"), and any other interested parties that may be present;

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

1. The time for service of the Application for this Order is hereby abridged and service thereof is deemed good and sufficient.
2. Pyx is hereby appointed as agent (the "**Agent**") for the Receiver with respect to the collection of accounts receivable owing, or appearing to be owing, to Kasco.
3. The Agent shall have the same powers and protections as the Receiver would have at common law, equity and under the Receivership Order filed in this matter on January 29, 2013 (the "**Receivership Order**"), to collect the accounts receivable of Kasco.
4. The Agent shall hold any recovered funds (the "**Recovered Funds**") in their solicitors' trust account pending further order of the Court or agreement between the parties claiming entitlement to the Recovered Funds, and shall provide a report and accounting to the Receiver respecting the Recovered Funds from time to time.
5. In the event that the Court holds that a party other than Pyx is the owner of or has first priority rights to the Recovered Funds, Pyx's reasonable costs shall rank with and form a part of the Receiver's Charge under the Receivership Order and to that extent, the Agent may pass its accounts in accordance with the same process that the Receiver may under the Receivership Order.
6. This Order shall be specifically without prejudice to the rights, if any, of Pyx, Canada Revenue Agency and Dr. Calvin Greene over or with respect to the Recovered Funds.
7. Pyx shall have the ability to provide evidence of its appointment to any debtor of Kasco through service of this Order and Receivership Order upon them.

---

Justice of the Court of Queen's Bench of Alberta