

Nos. B200284  
B200285  
B200286  
B200287  
Vancouver Registry

Estate Nos. 11-2650763  
11-2650762  
11-2650761  
11-2650764

**IN THE MATTER OF THE BANKRUPTCIES OF  
CONIAN DEVELOPMENTS INC.,  
CONIAN DEVELOPMENTS (LA VODA) INC.,  
CONIAN DEVELOPMENTS (LA VODA II) INC. AND  
FLII CONSTRUCTION LTD. (the “Companies”)**

**TRUSTEE'S SECOND REPORT TO CREDITORS**

**DATED MARCH 15, 2022**

## **A. Introduction**

1. On July 9, 2020, the Companies were each deemed to have made an assignment in bankruptcy as a result of the failure to file a proposal within the required period in the NOI proceedings. McEown and Associates Ltd. was appointed as trustee in bankruptcy of each of the Companies (the “Trustee”).
2. This report has been prepared by McEown and Associates Ltd. in its capacity as Trustee of each of the Companies based on information available as at March 14, 2022.
3. The purpose of this report is to provide information with respect to the following:
  - a. Activities of the Trustee since its appointment;
  - b. Sale of La Voda Project Lands and payout of lien claims;
  - c. Allocation of sale proceeds between La Voda Project Lands;
  - d. Summary of unsecured claims filed,
  - e. Proposed claims process,
  - f. Potential conflict; and
  - g. Conclusions and recommendations.
4. Further information in respect of the NOI proceedings and these bankruptcy proceedings are posted on the Trustee’s website at <https://www.mceownassociates.com/conian-developments-inc-et-al>.

## **B. Disclaimer and Terms of Reference**

5. Except as specified, in preparing this report the Trustee has obtained and relied upon unaudited, draft and/or internal information which the Companies advise has been compiled from the Companies’ books and records. Where available, the Trustee has reviewed external records and documentation including post-filing banking records, corporate searches and financial statements.
6. Except as otherwise described in this report the Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information which has been provided in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountant Canada Handbook; and
7. This report has been prepared solely for the purpose described and readers are cautioned that it may not be appropriate for other purposes.

8. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

**C. Activities of the Trustee since its Appointment**

9. The Trustee's activities since being appointed include, but are not limited to, the following
  - a. Preparing and sending out notices of the first meeting of creditors to all known creditors for the Companies.
  - b. Preparing draft Statements of Affairs for the Companies with the assistance of the former accountant, Ronnie Gill. The Statements of Affairs were sent to Mr. Khaliq for review and signature, but Mr. Khaliq did not respond or return a signed copy of the Statement of Affairs.
  - c. Preparing the Trustee preliminary reports to the creditors for the Companies.
  - d. Reviewing the creditor claims filed for purposes of voting at the first meeting of creditors for the Companies.
  - e. Preparing for and attending the first meeting of creditors for the Companies.
  - f. Communicating with creditors of the Companies regarding the administration of the estate.
  - g. Meetings and discussions with the Inspectors regarding the status of the administration of the estate, seeking instructions regarding the administration of the estates and keeping the Inspectors apprised with respect to administration of the bankruptcy of BC Currency Exchange.
  - h. Attending to the required statutory filings of the Companies for all periods up to the date of bankruptcy.
  - i. Attending to the filing of employees claims pursuant to the Wage Earners Protection Act.
  - j. Reviewing the supporting documentation included with the filed creditor proofs of claim.
  - k. Monitoring the activities of the Receiver appointed with respect to the sale of the Project Lands and attending at Court proceeding to approve the sale of the La Voda properties.
  - l. Reviewing and approving the La Voda Project Lands lien claims and arranging payout of same and dealing with the allocation of sale proceeds issue.

#### **D. Sale of La Voda Project Lands and Payout of Lien Claims**

10. The Receivership Order empowered the Receiver to sell, convey, transfer, lease or assign the property of the Companies or any part or parts thereof out of the ordinary course of business without court approval in respect of a single transaction for consideration up to \$250,000, provided the aggregate consideration of such transactions did not exceed \$750,000 and with court approval in respect of any transaction in which the individual or aggregate purchase price exceeded such limits.
11. Several builder's liens were filed against the La Voda Project Lands from work done on the La Voda Project (the "**Liens**") by various subcontractors (the "**Lien Claimants**").
12. The Receiver retained Cushman & Wakefield ULC ("**Cushman**") as the listing agent of the Project Lands on August 12, 2020. Starting on the same date, Cushman listed the Project Lands and began a marketing campaign to sell them.
13. On September 22, 2020, Cushman received an offer from 1266833 B.C. Ltd., which has since changed its name to Quadra Holdings (King George) Ltd. ("**Quadra**").
14. On September 23, 2020, after negotiations involving several counter offers, the Receiver accepted this offer.
15. The Honourable Madam Justice Morellato granted orders on November 2, 2020 (the "**November 2 Order**") and December 15, 2020 (the "**December 15 Order**", and together with the November 2 Order, (the "**Sale Orders**") approving the sale of the Project Lands to Quadra for \$35,105,000.
16. The December 15 Order cancelled the Liens from title to the Project Lands and identified certain funds from the sale proceeds to constitute security in substitution for the Project Lands (the "**Security**"). The Security also secured any claims of lien against the holdback retained with respect to improvements which were being constructed on the Project Lands.
17. After certain priority payments were made pursuant to the Sale Orders, and a holdback by the Receiver for a mortgage held by CBA Enterprises Ltd. ("**CBA**"), which secured an amount of approximately \$2.3 million (that is the subject of a priority dispute with the Trustee that is discussed later in this report), the balance of the proceeds of sale of the Project Lands, including the Security, was paid to the Trustee in trust pending further order of the Court.
18. On or around April 19, 2021, counsel for the Trustee sent a letter to the Lien Claimants advising that the Trustee consented to lift the stay of proceedings imposed under s. 69.3(1) of the BIA to ensure the Lien Claimants had the opportunity to file a notice of civil claim for their Liens as required by the *Builders Lien Act*, and urging the Lien Claimants to file their notices of civil claim before the expiry of the one-year limitation period imposed under s. 33 of the *Builder's Lien Act*.

19. After the Trustee substantially completed its review of the Liens, it applied to Court, and on September 17, 2021, Madam Justice Watchuk granted orders in respect of each of the Companies authorizing the Trustee to pay out the Liens it approved by paying the Lien payout amounts to the Receiver, to be further distributed to the Lien Claimants (the “**Lien Claim Order**”).
20. The Lien Claim Order also authorized the Trustee to pay out the Liens, through the Receiver, that the Trustee approved or will approve since the date of the Lien Claim Order.
21. The Trustee has completed its review of the liens and has authorized the payout of all approved liens through the Receiver with the exception of the disputed liens.

#### **E. Disputed Liens**

22. Certain Lien Claimants disputed the Trustee’s assessment of their Liens. These Lien Claimants are as follows:
  - a. AAA Plumbing and Heating Ltd. – claimed **\$291,067.25**, disputed portion of claim \$174,743.52;
  - b. Pacific Edge Forming Ltd. – claimed **\$164,223.11**, disputed portion of claim \$135,425.59; and
  - c. MSD Engineering – claimed **\$161,262.15**, disputed portion of lien \$94,500.00.

(the “**Disputed Lien Claimants**”)

23. The Trustee has now negotiated settlements with the disputed lien claimants that has reduced the amounts due to the lien claimants by approximately \$210,000.

#### **F. Allocation of Sale Proceeds between La Voda Project Lands**

24. The Project Lands owned by La Voda II (the “**La Voda II Lands**”) were subject to a mortgage held by CBA Enterprises Ltd. (“**CBA**”), which secured an amount of approximately \$2.3 million.
25. An initial appraisal of the La Voda II Lands by Grover, Elliot & Co. Ltd. (“**Grover Elliot**”) dated January 8, 2021 appraised their value at \$11.8 million. The result was that on an allocation of the sale proceeds between the Project Lands, there was a shortfall to CBA of approximately \$1.1 million. In order to reduce the interest accruing under the CBA mortgage, the Trustee funded \$1 million to CBA to reduce the mortgage interest on a without prejudice basis.
26. CBA obtained a second appraisal of the Project Lands by Altus Group Limited (“**Altus**”) dated October 26, 2021, which concluded that the retrospective market value of the Project Lands owned by La Voda I was \$23 million and the La Voda II Lands was \$20

million. Based on this appraisal, CBA would be paid its mortgage plus accrued interest in full.

27. Grover Elliot advised the Trustee that Altus used comparatives for its appraisal from early 2021 well after the sale approval date in November 2020. The fall of 2020 saw a depressed economy due to Covid-19 but improved significantly in 2021. Despite the huge variation between the two appraisal values, CBA would only need to show a small increase in the appraised value of the La Voda II Lands to result in its mortgage principal and accrued interest being paid in full.
28. At this time, the Trustee and the Trustee's counsel have been in contact with CBA's counsel to resolve this issue. Absent a settlement, the matter will be set down for a summary determination by the Supreme Court of British Columbia. Such a hearing will very likely be at a substantial cost to the estate as this matter will need to be resolved through a summary trial process which likely will require expert evidence and cross-examination of the experts.

#### **G. Summary of and Description of Unsecured Claims Filed**

29. The proofs of claim filed with the Trustee to date but not yet reviewed and approved by the Trustee, can be summarized as follows:

Conian Developments Inc. (Unsecured Lenders)	\$18,773,237
Conian Developments Inc. (other creditors)	45,962
Conian Developments (La Voda) Inc.	1,121,975
Conian Developments (La Voda) II Inc.	57,277
FLII Construction Ltd.	<u>883,184</u>
	<u>\$20,881,635</u>

*Note: The above claims do not include the duplicate claims filed by Kuzco Lighting, Brar Natural Flour Milling and House of Sher, the claim of Rana Khaliq and the Unsecured Lender claims are only shown as filed against Conian Developments Inc. even though several Unsecured Lenders filed duplicate claims against the other Conian companies.*

30. The Lender Claims against Conian Developments Inc. represent those individuals and companies that advanced funds through BC Currency Exchange Ltd. ("BCCE") on an unsecured basis (the "Unsecured Lenders"). These Unsecured Lenders have filed claims against BCCE in an aggregate amount of approximately \$25.5 million.
31. Many of these Unsecured Lenders appear to have advanced money to BCCE, on the understanding that the funds would be in some manner utilized for the development of

the La Voda Project. BCCE and the Companies are related companies by virtue of Rana Khaliq being the sole shareholder and director of each.

32. The review and determination of the Lender Claims is further complicated because it is apparent that Rana Khaliq ran a Ponzi like lending scheme that resulted in new lenders lending money to BCCE which was used to pay earlier lenders or BCCE customers. A determination of the claims is further complicated due to the lack of documentation associated with the loans.
33. Most of the Unsecured Lenders were also receiving regular interest payments that were being funded by either the BCCE Currency customers or new lenders. The borrowed funds were also comingled with the BCCE customer funds.
34. The former controller of BCCE advises that approximately \$10 million of BCCE's funds were advanced to the La Voda Project. Assuming the advances to the La Voda Project can be verified, BCCE may be in a position to file a proof of claim in the bankruptcies of the Companies for the advances made to the La Voda Project Companies.
35. Many of the Unsecured Lenders have not provided supporting documentation with their claims. Further supporting documentation has been requested through the Claims Process set out below.

#### **H. Claims Process**

36. As a result of the Unsecured Lenders being involved in a Ponzi like investment scheme, their claims should be based on the net funds advanced being the total of the funds advanced less any payments received including both principal or interest payments. The claims adjudication process is different than the claims process under the provisions of the BIA and therefore should be a claims process sanctioned by the Court.
37. On February 22<sup>nd</sup>, 2022, the Trustee of BCCE made an application for a claims process order that gives the Unsecured Lenders the opportunity to submit their claims with the appropriate backup documentation. The claims process is designed to provide those Unsecured Lenders who have already submitted a claim, the opportunity to provide proper back-up documentation that will substantiate their claim.
38. As the Unsecured Lenders unwittingly participated in an unlawful Ponzi lending scheme, the Trustee of BCCE will be tasked with ensuring that all principal and/or interest payments that were received by the Unsecured Lenders is properly accounted for in the calculation of each claim. Accordingly, the Unsecured Lenders will be required to substantiate all payments received by them in their back-up documentation attached to their proofs of claim.

#### **I. Conflict of Interest**

39. Given that McEown and Associates Ltd. has been appointed as trustee in the bankruptcy of both BCCE and the Companies, the Trustee may find itself in a conflict in adjudicating claims advanced by BCCE against the La Voda Project Companies and claims advanced

by the Unsecured Lenders against both BCCE and the Companies. The Unsecured Lenders may also be in a position to advance trust claims against the Companies in relation to the funds they advanced to the Companies or Mr. Khaliq.

40. The Inspectors of the estate have recommended that Jervis Rodrigues of BDO Canada Limited be the substituted Trustee. The Trustee substitution requires approval by way of special resolution at a properly constituted meeting of the creditors of the La Voda Companies which meeting is scheduled for March 17, 2022 at 9:30 am in Vancouver.

#### **J. Estate Funds**

41. The funds in the estate accounts can be summarized as follows:

Conian Developments Inc.	\$	106
Conian Developments (La Voda) Inc.		5,987,863
Conian Developments (La Voda) II Inc.		98
FLII Construction Ltd.		<u>235,873</u>
		<u>\$ 6,223,940</u>

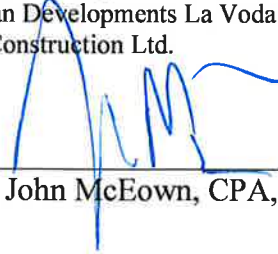
In addition to the funds referred to above the Bowra Group holds approximately \$2,000,000 in Trust that will be disbursed to the Trustee upon settlement and payment of balance due to CBA.

#### **Conclusions and Recommendations**

42. The Trustee supports its substitution by BDO Dunwoody which should be approved at the meeting of creditors on March 17, 2022.
43. Following the substitution the Trustee will proceed with a taxation of its accounts and discharge.

#### **McEown and Associates Ltd.**

Trustee in the Matter of the Bankruptcies of  
Conian Developments Inc.  
Conian Developments La Voda Inc.  
Conian Developments La Voda II Inc.  
FLII Construction Ltd.



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Per: John McEown, CPA, CA, CIRP, LIT