

**Wednesday, the 11th
day of August, 2016**

PARTIAL REPORT/AWARD
(Pursuant to Section 62(1)(b) and Form 21 of the *Construction Lien Act*)

IN ACCORDANCE WITH the judgment of reference of The Honourable Mr. Justice Newbould dated 8 January 2015, (the “Judgment of Reference”) the trial of the actions referred to on Schedule “A” attached, commenced on 11 July, 2016, at the City of Toronto, Ontario, in the presence of counsel for the Lien Claimants Pilbro III Inc., Medi Group Incorporated, Cardell Flooring Ltd., Foremont Drywall Inc., 1382479 Ontario Inc., 1382503 Ontario Inc., 2203579 Ontario Inc. cob Foremont Drywall Contracting, Canadian Concrete Forming Limited, Pave Plumbing & Heating Inc., E.D. Carpenters Ltd., Solo Electric Ltd., 1865721 Ontario Inc., GM Exterior Inc., Giancola Aluminum Contractors Inc., counsel for the Lien Claimants Argo Lumber Inc. and Newmar Window Manufacturing Inc., counsel for Puccini Mortgage Corp., 53 Puccini Mortgage Corp., 388242 Ontario Limited, Dapaul Management Limited, Nastell Investments Limited and Castle Lane Design Group Inc. (the “Private Mortgagees”), and counsel the Bank of Montreal, all claims against Home Trust Company having been dismissed on consent without costs by order dated 29 June 2015, the claim by Trudel & Sons Roofing having been dismissed on consent without costs by order dated 29 June 2015, and the claims against Foremost

Mortgage Holding Corporation having been dismissed on consent without costs by order dated 9 September 2015;

AND UPON READING THE EVIDENCE FILED, including the Affidavit of Andreas Havenga sworn 24 March 2015 and exhibits thereto, filed on behalf of Argo Lumber Inc.; the affidavit of Lou D'Ambrosio sworn 24 March 2015 and exhibits thereto, filed on behalf of Newmar Window Manufacturing Inc.; the affidavit of Nunzio Bitondo sworn 30 March 2015 and exhibits thereto, filed on behalf of Con-Drain Company (1983) Limited); the affidavit of Tony Pileggi sworn 12 March 2015 and exhibits thereto, filed on behalf of Pilbro III Inc.; the affidavit of Dominic Montemurro sworn 24 March 2015 and exhibits thereto, filed on behalf of Medi Group Incorporated; the affidavit of Gord Ellis sworn 13 March 2015 and exhibits thereto, filed on behalf of Cardell Flooring Ltd.; the affidavit of Mary Montagner sworn 19 March 2015 and exhibits thereto, filed on behalf of Foremont Drywall Inc., 1382479 Ontario Inc., 1382503 Ontario Inc., 2203579 Ontario Inc. cob Foremont Drywall Contracting; the affidavit of Pat Lamanna sworn 17 March 2015 and exhibits thereto, filed on behalf of Canadian Concrete Forming Limited; the affidavit of Pat Di Stefano sworn 17 March 2015 and exhibits thereto, filed on behalf of Pave Plumbing & Heating Inc.; the affidavit of Sam Dibacco sworn 13 March 2015 and exhibits thereto, filed on behalf of E.D. Carpentry Limited; the affidavit of Sandy Ragno sworn 16 March 2015 and exhibits thereto, filed on behalf of Solo Electric Ltd.; the affidavit of Ismail Parmaksizoglu sworn 16 March 2016 and exhibits thereto, filed on behalf of 1865721 Ontario Inc.; the affidavit of John Giancola sworn 23 March 2015 and exhibits thereto, filed on behalf of GM Exterior Inc.; the affidavit of John Giancola sworn 23 March 2015 and exhibits thereto, filed on behalf of Giancola Aluminum Contractors Inc.; the affidavit of Munira Budhdeo sworn 8 July 2016 and exhibits thereto, filed on behalf of Argyle Hardwood & Flooring Ltd.; and the affidavit of Jack Greenberg sworn 27 March 2015 and exhibits thereto, along with the supplementary affidavit of Jack Greenberg sworn and filed 14 July 2016 filed on behalf of the Private Mortgagees;

AND ON READING THE PLEADINGS AND PROCEEDINGS HEREIN AND CONSENTS FILED, including the consents of the Private Mortgagees, the Bank of Montreal, and the Lien Claimants Labourers' Union of North America Local 183 Members' Benefit Trust Fund, 1865721

Ontario Inc., Paris Kitchens, a Division of The Sanderson-Harold Company Limited, Con-Drain Company (1983) Ltd., Argo Lumber Inc., Newmar Window Manufacturing Inc., King-Con Construction Corporation, 669857 Ontario Inc. o/a Alma Mechanical, Cardell Flooring Limited, Foremont Drywall Inc. et al. carrying on business as Foremont Drywall Contracting, Solo Electric Limited, 1865721 Ontario Inc., GM Exteriors Inc., Pilbro III Inc., Medi Group Incorporated, Canadian Concrete Forming Limited, Pave Plumbing & Heating Inc., E. D. Carpenters Limited, and Giancola Aluminum Contractors Inc., filed, no-one appearing for Renova Recycling or Argyle Hardwood & Flooring Ltd. (although not a Lien Claimant, a motion was filed on behalf of Argyle Hardwood & Flooring Ltd. and is dealt with herein), or any of the Schedule C claimants as identified in the Judgment of Reference;

AND UPON HEARING THE SUBMISSIONS OF COUNSEL attending, including submissions made on 14 July 2016 on behalf of the lien claimants Argo Lumber and Newmar Mechanical;

1. **I FIND AND DECLARE** that each of the persons named in Column 1 of Schedule A to this Partial Report/Award has a lien under the *Construction Lien Act* as against the lands described in Schedule "C" attached, in the amount shown opposite their names in Column 4 of Schedule A, constituting a charge under section 21 of the *Construction Lien Act* upon the holdback required to be retained by the defendant-owners Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc., for which the said defendant-owners are jointly and severally personally liable to the Lien Claimants

2. **I FIND AND DECLARE** that each of the persons named in Column 1 of Schedule A to this Partial Report/Award is entitled to personal judgment in the amount set opposite their names in Column 6 of Schedule A.

3. **I FIND AND DECLARE** that the deficiency in holdback required to be kept by the Defendant Owners, Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc., under the *Construction Lien Act* with respect to each Lien Claimant is the amount set out in Column 4 of

Schedule A, and that each said Lien Claimant has priority over each of the claims of each of the Private Mortgagees to the extent of such deficiency in holdback.

4. **I FIND AND DECLARE** pursuant to paragraph 2(c) of the Judgment of Reference, that Argyle Hardwood & Flooring Ltd. shall have personal judgment only as against the parties listed in Column 6 of Schedule B, for the amount set forth in Column 5 of Schedule B.

5. **I FIND AND DECLARE** that the amounts owed as of June 25th, 2016 by the parties listed in Column 7 of Schedule A to Puccini Mortgage Corp. is \$1,612,338.61, to 53 Puccini Mortgage Corp. is \$3,279,784.31, to 388242 Ontario Limited is \$1,566,246.61, to Nastell Investments Limited \$4,875,419.77, and to Castle Lane Design Group Inc. is \$626,914.92 for an aggregate amount of \$11,960,703.22.

6. **I ORDER** that all claims by all parties against the defendant Bank of Montreal be and the same are hereby dismissed, on consent, without costs.

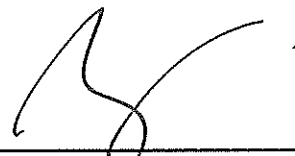
7. **I ORDER** that the following payments be made forthwith by the Monitor in the following priority:

- a) *First in priority*, the Monitor shall pay the Lien Claimants the amounts found due and owing to them for deficiency in holdback as set forth in Column 4 of Schedule A, and upon payment each Lien Claimant's corresponding lien shall be discharged, the certificate of action, if any, shall be vacated, and its lien action, if any, together with all crossclaims, if any, shall be dismissed without costs;
- b) *Second in priority*, the Monitor shall pay the Bank of Montreal, or as it may in writing direct, the Bank of Montreal's costs of this reference fixed and assessed by me inclusive of all fees, disbursements and taxes according to the procedure set out in the consent of the Private Mortgagees and Bank of Montreal annexed as Schedule D hereto;

- c) *Third in priority*, the Monitor shall pay to "Jack Greenburg, in Trust for Private Mortgagees", the balance of the funds held with respect to the subject lands and premises, up to but not exceeding the sum of \$11,960,703.22.
- d) *Fourth*, any surplus remaining in the Monitor's hands after payments as above, if any, shall be retained by the Monitor subject to further disposition by the Court.

8. **I FURTHER ORDER** that in view of the exceptional cooperation of counsel and parties in the resolution of this complex matter there shall be no further costs awarded to any party.

Dated at Toronto, this 11th day of August 2016



Duncan W. Glaholt
Referee

Schedule A Lien Claimants

<u>Column 1</u> Name of person entitled to Construction Lien	<u>Column 2</u> Principal	<u>Col. 3</u> Costs	<u>Column 4</u> Lien amount	<u>Column 5</u> Interest (non- lienable)	<u>Column 6</u> Personal Judgment (claim and interest)	<u>Column 7</u> Primary Debtor
Con-Drain Company (1983) Limited Lien reg. as: YR2016863 Court File No. CV- 13-116355-00	[Incl.]	[Incl.]	\$25,000.00	\$3,522.99	\$98,359.70	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
Pilbro III Inc. Lien reg. as: YR2056986 Court File No. CV-13-116840-00	[Incl.]	[Incl.]	\$91,798.91	\$19,763.85	\$574,117.67	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
Medi Group Incorporated Lien reg. as: YR2057173 Court File No. CV-13-116838-00	[Incl.]	[Incl.]	\$99,714.00	\$18,598.79	\$540,273.79	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
Cardell Flooring Ltd. Lien reg. as: YR2057568 Court File No.	[Incl.]	[Incl.]	\$24,663.34	\$3,384.17	\$98,306.27	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990

<u>Column 1</u> Name of person entitled to Construction Lien	<u>Column 2</u> Principal	<u>Col. 3</u> Costs	<u>Column 4</u> Lien amount	<u>Column 5</u> Interest (non- lienable)	<u>Column 6</u> Personal Judgment (claim and interest)	<u>Column 7</u> Primary Debtor
CV-13-116835-00						Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
Foremont Drywall Inc./1382479 Ontario Inc./1382503 Ontario Inc./2203579 Ontario Inc./c.o.b. Foremont Drywall Contracting Lien reg. as: YR2057675 Court File No. CV-13-116837-00	[Incl.]	[Incl.]	\$61,261.57	\$15,493.60	\$450,071.53	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
Canadian Concrete Forming Limited Lien reg. as: YR2057676 Court File No. CV-13-116834-00	[Incl.]	[Incl.]	\$60,619.39	\$7,708.03	\$223,909.71	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
Pave Plumbing & Heating Inc. Lien reg. as: YR2057677 Court File No. CV-13-116839-00	[Incl.]	[Incl.]	\$26,198.70	\$8,103.82	\$235,406.77	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario

<u>Column 1</u> Name of person entitled to Construction Lien	<u>Column 2</u> Principal	<u>Col. 3</u> Costs	<u>Column 4</u> Lien amount	<u>Column 5</u> Interest (non- lienable)	<u>Column 6</u> Personal Judgment (claim and interest)	<u>Column 7</u> Primary Debtor
						Inc., and 2147650 Ontario Inc.
E. D. Carpenters Ltd. Lien reg. as: YR2058240 Court File No. CV-13-116836-00	[Incl.]	[Incl.]	\$19,527.89	\$11,717.90	\$340,391.91	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
Solo Electric Ltd. Lien reg. as: YR2058688 Court File No. CV-13-116841-00	[Incl.]	[Incl.]	\$30,362.23	\$6,644.27	\$193,008.43	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
1865721 Ontario Inc. Lien reg. as: YR2059379 Court File No. CV-13-116833-00	[Incl.]	[Incl.]	\$20,575.55	\$3,262.82	\$94,781.37	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
GM Exterior Inc. Lien reg. as: YR2062198	[Incl.]	[Incl.]	\$9,451.58	\$1,628.42	\$48,187.62	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario

<u>Column 1</u> Name of person entitled to Construction Lien	<u>Column 2</u> Principal	<u>Col. 3</u> Costs	<u>Column 4</u> Lien amount	<u>Column 5</u> Interest (non- lienable)	<u>Column 6</u> Personal Judgment (claim and interest)	<u>Column 7</u> Primary Debtor
Court File No. CV-13-117058-00						Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
Giancola Aluminum Contractors Inc. Lien reg. as: YR2062199 Court File No. CV-13-117059-00	[Incl.]	[Incl.]	\$16,265.36	\$2,888.23	\$85,467.23	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
L.I.U.N.A. Local 183 et al. Lien reg. as: YR2050961	[Incl.]	[Incl.]	\$7,500.00	\$787.70	\$23,355.71	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
Argo Lumber Inc. and Liens reg. as: YR2048904 Court File No. CV-13-116990-00	[Incl.]	[Incl.]	\$135,060	\$4,752.63	\$139,812.63	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.

<u>Column 1</u> Name of person entitled to Construction Lien	<u>Column 2</u> Principal	<u>Col. 3</u> Costs	<u>Column 4</u> Lien amount	<u>Column 5</u> Interest (non- lienable)	<u>Column 6</u> Personal Judgment (claim and interest)	<u>Column 7</u> Primary Debtor
Newmar Window Manufacturing Inc. YR2050277 and Court File No. CV-13-116991-00	[Incl.]	[Incl.]	\$67,793.32	\$2,385.58	\$70,178.90	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
King-Con Corporation Lien reg. as: YR2049079 Court File No. CV-116857-00	[Incl.]	[Incl.]	\$15,000.00	\$3,724.56	\$108,298.79	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
The Sanderson- Harold Company Ltd., Paris Kitchens Lien reg. as: YR2058638 Court File No. CV-15-539365	[Incl.]	[Incl.]	\$45,000.00	\$7,282.91	\$211,152.91	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
669857 Ontario Inc. o/a Alma Mechanical Lien reg. as: YR2060246 Court File No.	[Incl.]	[Incl.]	\$25,000.00	\$3,733.38	\$112,020.38	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario

<u>Column 1</u> Name of person entitled to Construction Lien	<u>Column 2</u> Principal	<u>Col. 3</u> Costs	<u>Column 4</u> Lien amount	<u>Column 5</u> Interest (non- lienable)	<u>Column 6</u> Personal Judgment (claim and interest)	<u>Column 7</u> Primary Debtor
CV-13-117214-00						Inc., and 2147650 Ontario Inc.
TOTALS			\$780,791.84			

Schedule B Non-lien claims, personal judgment only

<u>Column 1</u> Name of person entitled to personal judgment only	<u>Column 2</u> Principal	<u>Column 3</u> Costs	<u>Column 4</u> Interest	<u>Column 5</u> Personal judgment amount (claim and interest)	<u>Column 6</u> Primary Debtor
Argyle Hardwood & Flooring Ltd.	\$129,516.11	0	\$4,226.95	\$133,743.06	Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148893 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., and 2147650 Ontario Inc.
TOTAL:				\$133,743.06	

SCHEDULE C Legal Description

1. Lot 1, Plan 65M4249, Town of Richmond Hill; PIN: 03206-3418 (LT)
2. Lot 23, Plan 65M4249, Town of Richmond Hill; PIN: 03206-3440 (LT)
3. Lot 24, Plan 65M4249, Town of Richmond Hill; PIN: 03206-3441 (LT)
4. Lot 18, Plan 65M4331, Town of Richmond Hill; PIN: 03206-3502 (LT)
5. Lot 19, Plan 65M4331, Town of Richmond Hill; PIN: 03206-3502 (LT)
6. Lot 20, Plan 65M4331, Town of Richmond Hill; PIN: 03206-3503 (LT)
7. Lot 22, Plan 65M4331, Town of Richmond Hill; PIN: 03206-3505 (LT)
8. Lot 23, Plan 65M4331, Town of Richmond Hill; PIN: 03206-3506 (LT)
9. Lot 24, Plan 65M4331, Town of Richmond Hill; PIN: 03206-3507 (LT)
10. Lot 25, Plan 65M4331, Town of Richmond Hill; PIN: 03206-3508 (LT)

SCHEDULE D

Court File No.: CV-13-10362-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

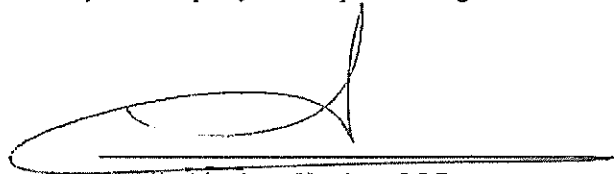
IN THE MATTER OF THE COMPANIES CREDITORS ARRANGEMENT ET. AL
R.S.C. 1985, C.C-36, AS AMENDED

IN THE MATTER OF A PLAN OF COMPROMISE OF ARRANGEMENT OF
SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC.,
2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC.
AND 2147650 ONTARIO INC.

CONSENT

THE PARTIES HERETO, Puccini Mortgage Corp., 53 Puccini Mortgage Corp.,
388242 Ontario Limited, Dapaul Management Limited, Nastell Investments Limited,
Castle Lane Design Group Inc and Bank of Montreal, by their lawyers, consent to the
Procedural Order attached hereto and certify that no party to this proceeding is under
any legal disability.

Date: 19/13/2014



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Lawyers for Puccini Mortgage Corp., 53
Puccini Mortgage Corp., 388242 Ontario
Limited, Dapaul Management Limited,
Nastell Investments Limited, Castle
Lane Design Group Inc.

Date:

July 13, 2016

Agnes Calabretta per AF

Agnes & Calabretta
5700 Yonge Street
Suite 1100,
North York, Ontario,
Lawyers for Bank of Montreal

Court File No.: CV-13-10362-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENTS ACT,
R.S.C. 1985, C.C-36, AS AMENDED

IN THE MATTER OF A PLAN OF COMPROMISE OF ARRANGEMENT OF
SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC.,
2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC.
AND 2147650 ONTARIO INC.

PROCEDURAL ORDER # _____

An issue has arisen between the Bank of Montreal and the Private Mortgagees regarding the costs claimed by the Bank of Montreal in relation to this Reference and the source of the funds to pay such costs.

On the Consent of the Defendants Puccini Mortgage Corp., 53 Puccini Mortgage Corp., 388242 Ontario Limited, Dapaul Management Limited, Nastell Investments Limited and Castle Lane Design Group Inc. and the Bank of Montreal,

1. I hereby direct that the Monitor pay, on a without prejudice basis, from the funds held by the Monitor, after payment of the amounts found to be payable to the Lien Claimants from said funds, but before payment of the amounts owed to the Defendants, Puccini Mortgage Corp., 53 Puccini Mortgage Corp., 388242 Ontario Limited, Dapaul Management Limited, Nastell Investments Limited and Castle Lane Design Group Inc. (the "Private Mortgagees"), the legal costs incurred by Bank of Montreal ("BMO") arising in relation to this Reference which have not been otherwise reimbursed, on the following terms and conditions:

- (a) By no later than August 15, 2016, BMO shall deliver to the Monitor, and to the lawyers for the Private Mortgagees, copies of

all Accounts received by BMO and to be paid by the Monitor (the "Accounts");

- (b) By no later than August 15, 2016, BMO will provide to the Private Mortgagees, and file with me, a Bill of Costs, the dockets of the lawyers involved in the Accounts and, where requested, will provide to the Private Mortgagees copies of the invoices/receipts for disbursements;
- (c) The payment of the funds to BMO will be without prejudice to the rights of the parties herein and BMO will execute a reimbursement agreement in favour of the Private Mortgagees wherein BMO agrees to reimburse the Private Mortgagees after costs are fixed by me should I reduce the Accounts/Bill of Costs;
- (d) I will set a date for the half-day hearing on the costs to be heard not later than September 15th, 2016. Where the amount paid by the Monitor pursuant to this Order to BMO exceeds the amount of costs I order payable to BMO, BMO shall remit the excess payment to the Private Mortgagees within 15 days from my finding; however, if at the time of my finding the Monitor has not yet paid the costs of BMO, then the Monitor shall pay to BMO, from the fund, the amount I order payable to BMO as costs; and
- (e) Within 10 days from receipt of the payment by the Monitor to BMO, BMO is to register a discharge of their Mortgage on Lot 18, M-Plan 65M4331.

ALL OF WHICH IS ORDERED AND DIRECTED THIS _____ DAY OF JULY, 2016

DUNCAN W. GLAHOLT, REFEREE