

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

*In re:*

ARXX CORPORATION, *et al.*,<sup>1</sup>

Debtors in a Foreign  
Proceeding.

Chapter 15

Case No. 13-13313 (KJC)

(Jointly Administered)

Hearing Date: August 26, 2014, at 11:00 a.m.

Objection Deadline: August 4, 2014, at 4:00 p.m.

**NOTICE OF FILING RECEIVER'S FINAL  
REPORT AND MOTION FOR ORDER (I) RECOGNIZING THE  
FINAL ORDER OF THE ONTARIO SUPERIOR COURT OF JUSTICE  
AND (II) APPROVING ENTRY OF A FINAL DECREE**

**PLEASE TAKE NOTICE** that Duff & Phelps Canada Restructuring Inc., (the “**Receiver**”), for the above-captioned debtors (collectively, the “**ARXX Debtors**”) in a proceeding under Canada’s *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and pending before the Ontario Superior Court of Justice, Commercial List, has filed the attached *Receiver’s Final Report* (the “**Final Report**”) and *Motion for Order (i) Recognizing the Final Order of the Ontario Superior Court of Justice and (ii) Approving Entry of a Final Decree* (the “**Motion**”).

**PLEASE TAKE FURTHER NOTICE** that a hearing (the “**Hearing**”) to consider the Motion will be held on August 26, 2014, at 11:00 a.m. (ET) before the Honorable Kevin J. Carey at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 5th Floor, Courtroom No. 5, Wilmington, Delaware 19801.

**PLEASE TAKE FURTHER NOTICE** that any objections to the Motion must be filed on or before August 4, 2014, at 4:00 p.m. (ET) (the “Objection Deadline”) with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801. At the same time, you must serve a copy of the objection so as to be actually received by the following parties on or before the Objection Deadline: (i) Young Conway Stargatt & Taylor LLP, 1000 North King Street, Wilmington, Delaware 19801 (Attn: Matthew P. Lunn); (ii) McMillan LLP, Brookfield Place, 181 Bay Street, Suite 4400, Toronto, ON M5J 2T3, Canada (Attn: Brett Harrison); (iii) Stikeman Elliott LLP, 1155 boul. Rene-Levesque Ouest, 40th Floor, Montreal, QC H3B 3V2, Canada (Attn: Guy P. Martel

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<sup>1</sup> The last four digits of the United States Tax Identification Number, or similar foreign identification number, as applicable, follow in parentheses: ARXX Corporation (3572); ARXX Building Products Inc. (3569); ARXX Building Products U.S.A. Inc. (1061); ECB Holdings, LLC (3572); APS Holdings, LLC (3572); Unisas Holdings, LLC (3572); and Eco-Block International, LLC (3572). The ARXX Debtors’ executive headquarters is located at 800 Division Street, Cobourg, ON, Canada K9A 5V2.

and Dana Borshy); and (iv) Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, Ontario, M5L 1B9 Canada (Attn: Kathryn Esaw).

**PLEASE TAKE FURTHER NOTICE** that you need not appear at the Hearing if you do not object to the relief request in the Motion.

**PLEASE TAKE FURTHER NOTICE** that the Hearing may be continued or adjourned from time to time without further notice other than an announcement of the adjourned date or dates at the Hearing or at a later hearing or by notice filed on this Court's docket.

**PLEASE TAKE FURTHER NOTICE THAT, IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR A HEARING.**

**PLEASE TAKE FURTHER NOTICE** that additional copies of the Motion are available: (a) by accessing the Bankruptcy Court's Electronic Case Filing System, which can be accessed from the Bankruptcy Court's website at <https://ecf.deb.uscourts.gov> (a PACER login and a password are required to retrieve a document); (b) from the Receiver through its website at <http://www.duffandphelps.com/intl/en-ca/Pages/RestructuringCases.aspx?caseId=912>; or (c) upon written request to the Receiver's counsel (by email or facsimile) addressed to: Young Conaway Stargatt & Taylor LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, (Attn.: Beth Oliver, e-mail: [bolivere@ycst.com](mailto:bolivere@ycst.com) or Facsimile 302-576-3394) (without cost).

Dated: July 3, 2014  
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

*/s/ Ian J. Bambrick*

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Matthew B. Lunn (No. 4119)

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as Receiver and Foreign Representative of the ARXX  
Debtors*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

*In re:*

ARXX CORPORATION, *et al.*,<sup>1</sup>

Debtors in a Foreign  
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Chapter 15

Case No. 13-13313 (KJC)

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**Hearing Date: August 26, 2014, at 11:00 a.m.**

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**RECEIVER'S FINAL REPORT AND MOTION FOR ORDER  
(I) RECOGNIZING THE FINAL ORDER OF THE ONTARIO SUPERIOR COURT  
OF JUSTICE AND (II) APPROVING ENTRY OF A FINAL DECREE**

Duff & Phelps Canada Restructuring Inc., in its capacity as the court-appointed receiver and authorized foreign representative (the “**Receiver**”) for the above-captioned debtors (collectively, the “**ARXX Debtors**”) in the proceeding (the “**Canadian Proceeding**”) commenced under Canada’s *Bankruptcy and Insolvency Act* (Canada), R.S.C. 1985, c. B-3 (the “**BIA**”), as amended, and pending before the Ontario Superior Court of Justice, Commercial List (the “**Ontario Court**”), hereby files this final report (the “**Final Report**”) and moves this Court (the “**Motion**,” and together with the Final Report, the “**Final Report and Motion**”) for the entry of an order, substantially in the form attached hereto as **Exhibit C** (the “**Proposed Order**”), pursuant to sections 105(a), 350, 1501(a), 1507, 1517(d), and 1521(a) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “**Bankruptcy Code**”), Rule 5009(c) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 5009-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the

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District of Delaware (the “**Local Rules**”) (i) recognizing and enforcing the Receiver’s Discharge Order (as defined below)<sup>2</sup> and (ii) approving the entry of a final decree closing the above-captioned chapter 15 cases (the “**Chapter 15 Cases**”). In support of the relief requested herein, the Receiver respectfully states as follows:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, section 1501 of the Bankruptcy Code, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P), and the Court may enter a final order consistent with Article III of the United States Constitution. Venue is proper in this District pursuant to 28 U.S.C. § 1410(3), because placing venue in this district will be consistent with the interests of justice and convenience for the ARXX Debtors, having regard to the relief sought by the Receiver.<sup>3</sup>

2. The statutory predicates for the relief requested herein are sections 105(a), 350, 1501(a), 1507, 1517(d), and 1521(a) of the Bankruptcy Code, Bankruptcy Rule 5009(c), and Local Rule 5009-2.

### **GENERAL BACKGROUND**

3. Prior to the consummation of the sale detailed below, the ARXX Debtors were in the business of designing and marketing ICF building products. ICF stands for “Insulating Concrete Forms,” which is a green, energy-efficient technology used in residential and commercial construction. The parent corporation of the ARXX Debtors is ARXX

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<sup>2</sup> A copy of the Receiver’s Discharge Order is attached hereto as **Exhibit A**.

<sup>3</sup> If the Court determines that it cannot enter final orders or judgments consistent with Article III of the Constitution absent the consent of the parties, the Receiver consents to the entry of final orders or judgments by the Court.

Corporation, a Delaware corporation. The business was operated through ARXX Building Products Inc., an Ontario corporation, and ARXX Inc., a Delaware corporation, which is a wholly-owned subsidiary of ARXX Building Products Inc. The corporate headquarters of the ARXX Debtors was located in Cobourg, Ontario.

4. On December 5, 2013, Comerica Bank made an application under the BIA commencing the Canadian Proceeding. On December 9, 2013, the Ontario Court entered that certain *Order* (the “**Receivership Order**”) that, among other things, (i) appointed Duff & Phelps Canada Restructuring Inc. as the Receiver; (ii) authorized the Receiver to oversee the business and operations of the ARXX Debtors; and (iii) granted a stay of proceedings against the ARXX Debtors.

5. On December 27, 2013 (the “**Petition Date**”), the Receiver commenced the Chapter 15 Cases by filing, among other things, petitions on behalf of the ARXX Debtors pursuant to sections 1504 and 1515 and the *Verified Petition for Recognition of Foreign Proceeding and Related Relief and Motion for Provisional Relief in Aid of Canadian Proceeding*, dated December 27, 2013 [Docket No. 8] seeking recognition by this Court of the Canadian Proceeding as a foreign main proceeding under chapter 15 of the Bankruptcy Code.

6. On December 30, 2013, this Court entered an order (i) staying execution against the ARXX Debtors’ assets in the United States pursuant to section 1519(a)(1) of the Bankruptcy Code and (ii) applying sections 362 and 365(e) of the Bankruptcy Code in these Chapter 15 Cases on a provisional basis pursuant to sections 105(a), 1519(a)(3), and 1521(a)(7) of the Bankruptcy Code [Docket No. 17] (the “**Provisional Order**”).

7. On January 31, 2014, this Court entered the *Order Granting Recognition and Related Relief* [Docket No. 44] (the “**Recognition Order**”). Pursuant to the Recognition

Order, this Court (i) recognized the Canadian Proceeding as a “foreign main proceeding” under section 1517 of the Bankruptcy Code; (ii) applied sections 362 and 365(e) of the Bankruptcy Code in the Chapter 15 Cases; (iii) gave full force and effect in the United States to the Receivership Order; and (iv) extended the relief provided in the Provisional Order on a final basis.

8. Additional information about the ARXX Debtors’ business and operations, the events leading up to the Petition Date, and the facts and circumstances surrounding the Canadian Proceeding and the Chapter 15 Cases is set forth in the *First Report of Duff & Phelps Canada Restructuring Inc. as Receiver of ARXX Building Products Inc., ARXX Building Products U.S.A. Inc., ARXX Corporation, ECB Holdings, LLC APS Holdings LLC, Unisas Holdings, LLC and Eco-Block International, LLC*, dated December 19, 2013 (the “**First Report**”), which is attached as Exhibit B to the *Declaration of Matthew B. Lunn in Support of the Verified Petitions for Recognition of Foreign Proceeding and Related Relief and Motion for Provisional Relief in Aid of Canadian Proceeding*, dated December 27, 2013 [Docket No. 9] (the “**Lunn Declaration**”) and the *Affidavit of Michael Moore* in support of the commencement of the Canadian Proceeding, sworn to on December 6, 2013 (the “**Moore Affidavit**”), which is attached as Exhibit A to the Lunn Declaration.

#### **FINAL REPORT**

9. As set forth more fully in the First Report, the *Second Report of Duff & Phelps Canada Restructuring Inc. as Receiver of ARXX Building Products Inc., ARXX Building Products U.S.A. Inc., ARXX Corporation, ECB Holdings, LLC, APS Holdings, LLC, Unisas Holdings, LLC and Eco-Block International, LLC*, dated January 22, 2014 [Docket No. 32] (the “**Second Report**”), the *Third Report of Duff & Phelps Canada Restructuring Inc. as Receiver of*

*ARXX Building Products Inc., ARXX Building Products U.S.A. Inc., ARXX Corporation, ECB Holdings, LLC, APS Holdings, LLC, Unisas Holdings, LLC and Eco-Block International, LLC*, dated June 13, 2014 [Docket No. 63] (the “**Third Report**,” and collectively the “**Receiver’s Reports**”), and the Moore Affidavit, each of which are incorporated herein by reference, in September of 2013, the ARXX Debtors initiated a process to identify potential investors and/or prospective purchasers for their assets. Certain strategic parties were approached in the process, including Airlite Plastics Co. (the “**Airlite**”).

10. On September 19, 2013, Airlite executed a confidentiality agreement and commenced its diligence efforts, and subsequently, on November 12, 2013, Airlite submitted a letter of intent. At the time of the commencement of the Canadian Proceeding, negotiations with Airlite remained ongoing.

11. On December 19, 2013, the Receiver and Airlite settled on the terms of that certain *Asset Purchase Agreement* (the “**Purchase Agreement**”) for the purchase of substantially all of the ARXX Debtors’ business and assets, including certain accounts receivable and inventory, equipment, moulds, patents and other intellectual property, customer information and contracts Airlite assumed, as set forth in the Purchase Agreement (collectively, the “**Purchased Assets**”). The Purchase Agreement was used as a “stalking horse” in a sale process carried out by the Receiver.

12. On December 27, 2013, the Ontario Court entered that certain *Stalking Horse Sales Process Order* (the “**Stalking Horse Order**”), which, among other things, authorized the Receiver to market the ARXX Debtors’ business and assets in accordance with the Stalking Horse Process.<sup>4</sup> The results of the Stalking Horse Process were that nine parties

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<sup>4</sup> Capitalized terms used, but not defined herein, have the meaning given to them in the Stalking Horse Order.

executed a confidentiality agreement and were provided access to a data room containing historical financial and other information and a copy of a confidential information memorandum, but no offers superior to Airlite's stalking horse offer were submitted prior to the bid deadline set by the Ontario Court of January 22, 2014.

13. Following the expiration of the bid deadline, the Receiver confirmed that Airlite was the successful bidder. Pursuant to the Purchase Agreement, as more fully set forth in the Third Report, Airlite agreed to pay for the Purchased Assets a base cash purchase price of \$2.8 million, provide a working capital amount, and assume certain liabilities. The total consideration under the Purchase Agreement was approximately \$3.2 million.

14. On January 29, 2014, the Ontario Court entered that certain *Sale Approval and Vesting Order* by the Ontario Court (the "**Sale Approval and Vesting Order**"), which authorized the sale and transfer (the "**Sale**") by the Receiver of Purchased Assets.

15. On January 31, 2014, this Court entered the *Order, Pursuant to Sections 105(a), 363, 1501, and 1521 of the Bankruptcy Code, and Bankruptcy Rules 2002, 6004, and 9014, (I) Recognizing and Enforcing the Stalking Horse Order and Sale Approval and Vesting Order; (II) Authorizing the Sale of All or Substantially All of the ARXX Debtors' Assets Free and Clear of Any and All Liens, Claims, Encumbrances, and Other Interests, (III) Authorizing Assignment of Certain Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* [Docket No. 45] (the "**U.S. Sale Order**"). Pursuant to the U.S. Sale Order, this Court (i) recognized the Stalking Horse Order and the Sale Approval and Vesting Order; (ii) authorized, pursuant to section 363 of the Bankruptcy Code, the Sale of the ARXX Debtors' right, title, and interest in and to the Purchased Assets to Airlite, except as otherwise provided in the Purchase Agreement; and (iii) granted related relief.



16. On February 3, 2014, the Sale to Airlite closed. Since that time, the Receiver has completed the administration of the receivership in respect of the ARXX Debtors save for certain incidental tasks described in the Third Report. In particular, Comerica Bank was repaid in full over the course of the Canadian Proceeding in accordance with a distribution order made by the Ontario Court on January 29, 2014, a copy of which is attached as Appendix C to the Third Report. The Receiver is not aware of any other secured creditors of the ARXX Debtors.

17. On June 24, 2014, the Ontario Court entered that certain *Receiver's Discharge Order* (the "**Receiver's Discharge Order**") that, among other things, (i) approved the Third Report; (ii) approved the fees and disbursements of the Receiver and the Receiver's legal counsel and the payment thereof; and (iii) discharged the Receiver, upon the filing with the Ontario Court by the Receiver of a certificate certifying that it has completed the incidental tasks described in the Third Report, from its obligations, liabilities, responsibilities, and duties in its capacity as Receiver in the Canadian Proceeding, and releasing and discharging Duff & Phelps Canada Restructuring Inc. from any and all liability that Duff & Phelps Canada Restructuring Inc. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Duff & Phelps Canada Restructuring Inc. while acting in its capacity as Receiver in the Canadian Proceeding, save and except its gross negligence or willful misconduct (the "**Release and Discharge**").<sup>5</sup> Because the Receiver's Discharge Order effectively brings the Canadian Proceeding to a conclusion, the Receiver is proceeding to close the Chapter 15 Cases.

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<sup>5</sup> The Ontario Court also provided its reasoning for entering the Receiver's Discharge Order in that certain *Motion Record*, dated June 24, 2014 (the "**Endorsement**"), a copy of which is attached hereto as **Exhibit B**.

## RELIEF REQUESTED

18. By this Motion, the Receiver respectfully requests that this Court enter the Proposed Order (a) recognizing and enforcing the Receiver's Discharge Order and (b) closing the Chapter 15 Cases.

## BASIS FOR RELIEF REQUESTED

### **I. Recognition of the Receiver's Discharge Order Is Appropriate**

19. Section 1501(a) provides that the purpose of chapter 15 of the Bankruptcy Code includes, but is not limited to, (i) the "fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and the other interested entities, including the debtor[.]" (ii) "greater legal certainty for trade and investment[.]", and (c) the "protection and maximization of the value of the debtor's assets." 11 U.S.C. § 1501(a)(2), (3), and (4).

20. In furtherance of section 1501(a), section 1521(a)(7) of the Bankruptcy Code provides that "[u]pon recognition of a foreign proceeding, . . . where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interest of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including . . . (7) granting any additional relief that may be available to a trustee[.]" 11 U.S.C. § 1521(a).

21. Moreover, section 1507 of the Bankruptcy Code provides that, upon recognition, a court "may provide additional assistance to a foreign representative under this title or under other laws of the United States."

22. The Receiver seeks recognition of the Receiver's Discharge Order, because (i) the Receiver's Discharge Order grants to Duff & Phelps Canada Restructuring Inc. the Release and Discharge and (ii) the discharge of the Receiver will, for all intents and

purposes, bring to an end the Receiver's role as a foreign representative in these Chapter 15 Cases, other than carrying out certain provisions of the Receiver's Discharge Order.

23. Recognition of the Receiver's Discharge Order is proper pursuant to section 1521 and section 1507. The discharge of the Receiver upon the completion of the remaining administrative duties is authorized pursuant to section 1507. Such a discharge is referenced in other sections of the Bankruptcy Code and, therefore, is consistent with domestic policy. For example, section 350 provides that "after an estate is fully administered and the court has discharged the trustee, the court shall close the case." 11 U.S.C. § 350(a) (emphasis added). Moreover, this Court previously held that the Receiver should be recognized as a foreign representative. Now with the Canadian Proceeding at an end, there is no need—or basis—for it to be foreign representative. Thus, recognizing the Receiver's discharge is appropriate pursuant to section 1507's mandate that the Court may provide any additional assistance to the foreign representative under the Bankruptcy Code.

24. Approval of the Release and Discharge additionally is proper in light of the overarching principles set forth in section 1501(a). Pursuant to section 1506, even if chapter 15's requirements for recognition of a foreign order are satisfied, recognition can nevertheless be denied where it would be "manifestly contrary to the public policy of the United States." 11 U.S.C. § 1506. This "public policy" exception has been narrowly construed to apply to only those "matters of fundamental importance to the [United States]." See, e.g., In re Ephedra Prods. Liability Litig., 349 B.R. 333, 336 (S.D.N.Y. 2006) (affirming a decision of the bankruptcy court recognizing a Canadian claims process that did not provide personal injury claimants with the right to a jury trial). The release provided in the Receiver's Discharge Order is functionally

equivalent to the exculpation provisions routinely granted pursuant to a confirmed chapter 11 plan to estate fiduciaries and, therefore, does not contravene U.S. public policy

25. Finally, the Court should enter a final decree and administratively close these Chapter 15 Cases. In short, in light of the Receiver's Discharge Order and the Ontario Court's findings therein, it is not anticipated that the Receiver will have any additional tasks of any significance, and therefore this Court's jurisdiction will not be necessary.

## II. Entry of a Final Decree Is Warranted

26. Section 1517(d) of the Bankruptcy Code provides that "[a] case under this chapter may be closed in the manner prescribed under section 350." 11 U.S.C. § 1517(d). Section 350(a) of the Bankruptcy Code, in turn, provides that "[a]fter the estate is fully administered and the court has discharged the trustee, the court shall close the case." Id. § 350(a). A chapter 15 case has no "estate" per se. *See In re Fairfield Sentry Ltd.*, 458 B.R. 665, 683 (S.D.N.Y. 2011) (citing *In re JSC BTA Bank*, 434 B.R. 334, 341 (Bankr. S.D.N.Y. 2010)). Furthermore, neither the Bankruptcy Code nor the Bankruptcy Rules define the term "fully administered," however, a case may be viewed as fully administered when all administrative claims are resolved and there are no motions, contested matters, or adversary proceedings outstanding. *See In re Kliegl Bros. Univ. Elec. Stage Lighting Co., Inc.*, 238 BR 531, 542 (Bankr. E.D.N.Y. 1999); *In re Gould*, 437 B.R. 34, 38-39 (Bankr. D. Conn. 2010).<sup>6</sup>

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<sup>6</sup> The Advisory Committee Note to the 1991 amendment to Bankruptcy Rule 3022 provides a non-exclusive list of six factors that a court may consider in determining whether an estate has been fully administered for purposes of entry of a final decree. The six factors are: (a) whether the order confirming the plan has become final; (b) whether deposits required by the plan have been distributed; (c) whether the property proposed by the plan to be transferred has been transferred; (d) whether the debtor or the successor of the debtor under the plan has assumed the business of the management of the property dealt with by the plan; (e) whether payments under the plan have commenced; and (f) whether all motions, contested matters, and adversary proceedings have been finally resolved. *See Advisory Committee Note to Fed. R. Bankr. P. 3022* (1991). In determining whether a case has been fully administered, courts have frequently applied the six factors set forth in the Advisory Committee Note. *See In re Union Home and Indus., Inc.*, 375 BR 912, 916-17 (B.A.P. 10th Cir. 2007). The Bankruptcy Court has recognized that these factors "are but a guide in determining whether a case has been fully administered, and not all factors need to be present before the case is closed." *In re SLI, Inc.*, 2005

27. Here, there are no outstanding motions, contested matters or adversary proceedings, and there are no administrative claims that need to be addressed. Further, pursuant to the Sale Approval and Vesting Order and the U.S. Sale Order, the Receiver has disposed of substantially all of the Debtors' assets. As such, the Debtors have no United States assets remaining to be administered in these Chapter 15 Cases. There is nothing further for the Receiver to do in order to discharge its duties under the Recognition Order. Therefore, the requirements of section 350(a) of the Bankruptcy Code have been satisfied and no further administration of these Chapter 15 Cases is necessary.

28. Bankruptcy Rule 5009(c) provides that a foreign representative shall:

file a final report when the purpose of the representative's appearance in the court is completed. The report shall describe the nature and results of the representative's activities in the court. The foreign representative shall transmit the report to the United States trustee, and give notice of its filing to the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all parties to litigation pending in the United States in which the debtor was a party at the time of the filing of the petition, and such other entities as the court may direct. The foreign representative shall file a certificate with the court that notice has been given. If no objection has been filed by the United States trustee or a party in interest within 30 days after the certificate is filed, there shall be a presumption that the case has been fully administered.

Fed. R. Bankr. P. 5009(c).

29. In addition, Local Rule 5009-2 states,

Upon written motion, a foreign representative in a proceeding recognized under § 1517 of the Code, may seek the entry of a final decree when the purpose of the representative's appearance in the Court is completed. Such motion shall describe the nature and results of the representative's activities in the Court[.]

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WL 1668396, at \*2 (Bankr. D. Del. June 24, 2005) (citing *In re Mold Makers, Inc.*, 124 B.R. 766, 768 (Bania. N.D. Ill. 1990)).

Del. L.R. 5009-2(a). Local Rule 5009-2 also mirrors Bankruptcy Rule 5009(c)—it requires the filing of a certificate of service with the Court and provides, “[i]f no objection has been filed by the United States Trustee or a party in interest within 30 days after the certificate is filed, there shall be a presumption that the case has been fully administered and the Court may close the case.” Del. L.R. 5009-2(b).

30. As an initial matter, in accordance with the provisions of Bankruptcy Rule 5009(c), the Final Report set forth herein adequately describes the Receiver’s activities in the Chapter 15 Cases. In addition, Bankruptcy Rule 5009(c) and Local Rule 50092(b) provide that the absence of any objections creates a presumption that the Chapter 15 Cases have been fully administered. The Receiver anticipates that no objection to the Final Report and Motion will be lodged during the 30-day mandated period. Further, even if a party-in-interest objects, the Receiver submits that the facts set forth herein demonstrate that these Chapter 15 Cases have been fully administered and a final decree is appropriate. The Receiver intends to file a certification of counsel at least thirty days after the Final Report is filed (the “**Certification of Counsel**”), and at that time will request entry of the Proposed Order.

31. Upon the filing of the Certification of Counsel, the Chapter 15 Cases will be presumed fully administered, thus the Receiver submits that the Chapter 15 Cases should be closed at that time.

### NOTICE

30. Notice of the Final Report and Motion has been provided to: (i) the ARXX Debtors; (ii) the Office of the United States Trustee for the District of Delaware; (iii) all creditors who have filed a request for notice under Fed. R. Bankr. P. 2002 and Local Rule 9013-1 (iv) all persons or bodies authorized to administer foreign proceedings of the ARXX Debtors; (v) all parties to litigation pending in the United States in which the ARXX Debtors were a party

as of the Petition Date; and (xi) all other persons to whom notice is required pursuant to this Court's *Order Specifying Form and Manner of Service of Notice* [Docket No. 16]. In light of the nature of the relief requested, the Receiver submits that no other or further notice is required.

**NO PRIOR REQUEST**

31. No prior request for the relief sought in this Motion has been made to this or any other court.

**CONCLUSION**

**WHEREFORE**, the Receiver respectfully requests that the Court enter the Proposed Order, substantially in the form annexed hereto as **Exhibit C**, granting (i) the relief requested herein, and (ii) such other and further relief as the Court may deem proper.

Dated: July 3, 2014  
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

*/s/ Ian J. Bambrick*

Matthew B. Lunn (No. 4119)

Justin P. Duda (No. 5478)

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*Attorneys for Duff & Phelps Canada Restructuring Inc.,  
as Receiver and Foreign Representative of the ARXX  
Debtors*

**EXHIBIT A**

**Receiver's Discharge Order**



ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE REGIONAL ) TUESDAY, THE 24TH  
SENIOR JUSTICE MORAWETZ ) DAY OF JUNE, 2014

B E T W E E N:

COMERICA BANK

Applicant

- and -

ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING  
PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS  
HOLDINGS, LLC, AND ECO-BLOCK INTERNATIONAL, LLC

Respondents

RECEIVER'S DISCHARGE ORDER

**THIS MOTION**, made by Duff & Phelps Canada Restructuring Inc., in its capacity as the Court-appointed receiver (in such capacity, the "**Receiver**") of the undertaking, property and assets of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (collectively, the "**ARXX Group**") for an Order in substantially the form set out at Tab 5 of the Receiver's Motion Record was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Receiver's Motion Record in respect of this motion, filed, the Receiver's Third Report dated June 13, 2014 (the "**Third Report**"), filed, the affidavit of David Sieradzki sworn June 13, 2014 (the "**Sieradzki Affidavit**"), filed, and the affidavit of Lily Coodin sworn June 13, 2014 (the "**Coodin Affidavit**"), filed;

AND UPON hearing the submissions of counsel for the Receiver, no one else appearing for any other person on the service list, although duly served as appears from the affidavit of service of Elizabeth Nigro sworn June 13, 2014, filed,

**APPROVAL OF THE RECEIVER'S THIRD REPORT AND ACTIVITIES**

1. THIS COURT ORDERS that the Third Report, including the Receiver's Statement of Receipts and Disbursements for the period from December 9, 2013, to June 13, 2014, and the actions and activities of the Receiver set out therein are hereby approved.

**APPROVAL OF FEES AND DISBURSEMENTS OF RECEIVER AND COUNSEL FOR THE RECEIVER**

2. THIS COURT ORDERS that the fees and disbursements of the Receiver for the period December 9, 2013, to May 31, 2014, as described in the Third Report and the Sieradzki Affidavit, are hereby approved.

3. THIS COURT ORDERS that the fees and disbursements of Torys LLP, counsel for the Receiver, for the period November 26, 2013, to June 11, 2014, as described in the Receiver's Third Report and the Coodin Affidavit, are hereby approved.

4. THIS COURT ORDERS that the Fee Accrual (as defined in the Third Report) is hereby approved.

**DISCHARGE OF RECEIVER**

5. THIS COURT ORDERS that, upon the filing by the Receiver of a certificate in the form attached as Schedule "A" hereto (the "Discharge Certificate") certifying that it has completed the other activities described in the Third Report, Duff & Phelps Canada Restructuring Inc. shall be discharged as Receiver of the undertaking, property and assets of the ARXX Group, provided, however, that notwithstanding its discharge herein:

- (i) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein;
- (ii) the Receiver shall continue to have the benefit of the provisions of all orders made in this proceeding, including all approvals, charges, protections and stays of proceedings in favour of Duff & Phelps Canada Restructuring Inc., in its capacity as Receiver.

6. **THIS COURT ORDERS AND DECLARES** that Duff & Phelps Canada Restructuring Inc. is hereby released and discharged from any and all liability that Duff & Phelps Canada Restructuring Inc. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Duff & Phelps Canada Restructuring Inc. while acting in its capacity as Receiver in these proceedings, save and except its gross negligence or willful misconduct. Without limiting the generality of the foregoing, Duff & Phelps Canada Restructuring Inc. is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within proceedings, save and except for any gross negligence or willful misconduct on the Receiver's part.

7. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver except with prior leave of this Honourable Court and on prior written notice to the Receiver.

#### **FURTHER ADVICE AND DIRECTION**

8. **THIS COURT ORDERS** that, notwithstanding the discharge of the Receiver, the Receiver is hereby granted leave to apply to this Honourable Court for such further advice, direction or assistance as may be necessary to give effect to the terms of this Order.

#### **GENERAL**

9. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada against all persons, firms, corporations, governmental, municipal and regulatory authorities against whom it may be enforceable.

10. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province to act in aid of and to be complementary to this Court in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

JUN 24 2014



Schedule A – Form of Receiver’s Discharge Certificate

Court File No. CV-13-10353-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

BETWEEN:

COMERICA BANK

Applicant

- and -

ARXX BUILDING PRODUCTS INC., ARXX CORPORATION, ARXX BUILDING  
PRODUCTS U.S.A. INC., ECB HOLDINGS, LLC, APS HOLDINGS, LLC, UNISAS  
HOLDINGS, LLC, AND ECO-BLOCK INTERNATIONAL, LLC

Respondents

APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY  
ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

RECEIVER’S DISCHARGE CERTIFICATE

WHEREAS pursuant to an Order of the Honourable Regional Senior Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) made June 24, 2014 (the “**Discharge Order**”), Duff & Phelps Canada Restructuring Inc. was discharged as receiver (the “**Receiver**”) of the undertaking, property, and assets of ARXX Building Products Inc., ARXX Corporation, ARXX Building Products U.S.A. Inc., ECB Holdings, LLC, APS Holdings, LLC, UNISAS Holdings, LLC, and Eco-Block International, LLC (collectively, the “**ARXX Group**”), and not in its personal or corporate capacity, with such discharge to be effective upon the Receiver filing a certificate with this Honourable Court certifying that it has completed the activities described in the Third Report (as defined in the Discharge Order) and in connection with the receivership proceedings.

THE UNDERSIGNED HEREBY CERTIFIES as follows:

1. In accordance with Paragraph 5 of the Discharge Order, the activities described in the Third Report and those necessary to complete the receivership proceedings have been completed.

DATED at Toronto, Ontario this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**DUFF & PHELPS CANADA  
RESTRUCTURING INC., in its capacity as  
the receiver for ARXX Building Products  
Inc., ARXX Corporation, ARXX Building  
Products U.S.A. Inc., ECB Holdings, LLC,  
APS Holdings, LLC, UNISAS Holdings, LLC,  
and Eco-Block International, LLC RICHTER  
INC., and not in its personal or corporate  
capacity**

Per: \_\_\_\_\_

Name: David Sieradzki

Title: Managing Director

COMERICA BANK

and

ARXX BUILDING PRODUCTS INC., ARXX CORPORATION,  
ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS,  
LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, AND  
ECO-BLOCK INTERNATIONAL, LLC  
RESPONDENTS

Court File No. CV-13-10353-00CL

APPLICANT

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

Proceedings commenced in Toronto

**RECEIVER'S DISCHARGE ORDER**

**Torys LLP**

79 Wellington Street West, Suite 3000  
Box 270, TD Centre  
Toronto, Ontario M5K 1N2

**David Bish** (LSUC#: 41629A)

Tel: 416.865.7353

**Lily Coodin** (LSUC#: 62143S)

Tel: 416.865.7541

Fax: 416.865.7380

Lawyers for Duff & Phelps Canada  
Restructuring, Inc., in its capacity as  
the receiver for ARXX Building  
Products Inc., ARXX Corporation,  
ARXX Building Products U.S.A. Inc.,  
ECB Holdings, LLC, APS Holdings,  
LLC, UNISAS Holdings LLC, and  
Eco-Block International, LLC

**EXHIBIT B**

**Endorsement**



COMERICA BANK and ARXX BUILDING PRODUCTS INC., ARXX CORPORATION,  
ARXX BUILDING PRODUCTS U.S.A. INC., ECB HOLDINGS,  
LLC, APS HOLDINGS, LLC, UNISAS HOLDINGS, LLC, AND  
ECO-BLOCK INTERNATIONAL, LLC  
APPLICANT RESPONDENTS

Court File No. CV-13-10353-00CL

June 24 / 14

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Proceedings commenced in Toronto

MOTION RECORD

Torys LLP  
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Toronto, Ontario M5K 1N2  
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David Bish (LSUC#: 41629A)  
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Lawyers for Duff & Phelps Canada  
Restructuring, Inc., in its capacity as  
the receiver for ARXX Building  
Products Inc., ARXX Corporation,  
ARXX Building Products U.S.A. Inc.,  
ECB Holdings, LLC, APS Holdings,  
LLC, UNISAS Holdings, LLC, and  
Eco-Block International, LLC

D. Bish for Duff & Phelps Rec. June 24, 2014

The Recour seeks its discharge subject to performance  
of moving administration steps as set out in  
the Mid Report. The Recour at the Chapter 15  
does not a necessarily seem still outstanding.  
It is possible that there could be a  
small number available for record  
creation. The Recour received that with  
the above this possible, today - it  
will report on the with recommendations  
there is a number. The Recour makes this  
recommendations, may take the steps of  
doing the I report of record creation  
also request approval of 2/3 of members  
Chair. No response was received  
from the group.

In my view the Review has demonstrated a commonsense + practical approach in addressing the issues. It recommends a modest.

Like wise, the Review has taken a commonsense approach in its fee requests. It has allowed for a fee accrual for study + legal counsel to take into account the work that remains. This approach is reasonable in the circumstances since that the sums, if any, will be modest. The approach suggested by the Review is cost-effective.

The fee requests of the Review and the counsel appear to be reasonable in the circumstances and are approved.

Review discharge a sum set out in report order.

Review's Final Report is assumed to settle with amounts described.

HA quoted as said syid

A. H. Harris R.S.T.

**EXHIBIT C**

**Proposed Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

|   |   |
|---|---|
| <i>In re:</i><br><br>ARXX CORPORATION, <sup>1</sup><br><br>Debtor in a Foreign Proceeding.      | Chapter 15<br><br>Case No. 13-13313 (KJC) |
| <i>In re:</i><br><br>ARXX BUILDING PRODUCTS INC.,<br><br>Debtor in a Foreign Proceeding.        | Chapter 15<br><br>Case No. 13-13314 (KJC) |
| <i>In re:</i><br><br>ARXX BUILDING PRODUCTS U.S.A. INC.,<br><br>Debtor in a Foreign Proceeding. | Chapter 15<br><br>Case No. 13-13315 (KJC) |
| <i>In re:</i><br><br>ECB HOLDINGS, LLC,<br><br>Debtor in a Foreign Proceeding.                  | Chapter 15<br><br>Case No. 13-13316 (KJC) |
| <i>In re:</i><br><br>APS HOLDINGS, LLC,<br><br>Debtor in a Foreign Proceeding.                  | Chapter 15<br><br>Case No. 13-13317 (KJC) |

<sup>1</sup> The last four digits of the United States Tax Identification Number, or similar foreign identification number, as applicable, follow in parentheses: ARXX Corporation (3572); ARXX Building Products Inc. (3569); ARXX Building Products U.S.A. Inc. (1061); ECB Holdings, LLC (3572); APS Holdings, LLC (3572); Unisas Holdings, LLC (3572); and Eco-Block International, LLC (3572). The ARXX Debtors' executive headquarters is located at 800 Division Street, Cobourg, ON, Canada K9A 5V2.

*In re:*

UNISAS HOLDINGS, LLC,

Debtor in a Foreign Proceeding.

Chapter 15

Case No. 13-13318 (KJC)

*In re:*

ECO-BLOCK INTERNATIONAL, LLC,

Debtor in a Foreign Proceeding.

Chapter 15

Case No. 13-13319 (KJC)

Ref. Docket Nos. \_\_\_\_\_

**ORDER (I) RECOGNIZING THE FINAL ORDER OF THE ONTARIO SUPERIOR COURT OF JUSTICE AND (II) APPROVING ENTRY OF A FINAL DECREE**

Upon consideration of the motion (the “**Motion**”)<sup>2</sup> of Duff & Phelps Canada Restructuring Inc., in its capacity as the Receiver for the ARXX Debtors in the Canadian Proceeding commenced under Canada’s BIA, as amended, and pending before the Ontario Court, and as Foreign Representative in these Chapter 15 proceedings, for the entry of an order, pursuant to sections 105(a), 350, 1501(a), 1507, 1517(d), and 1521(a) of the Bankruptcy Code, Bankruptcy Rule 5009(c), and Local Rule 5009-2(a), (a) recognizing and enforcing the Receiver’s Discharge Order and (b) approving the entry of a final decree closing the Chapter 15 Cases; and upon consideration of the Receiver’s Discharge Order, which was entered by the Ontario Court on June 24, 2014, and the Receiver’s Report; and the Receiver having filed the *Certification of Service* (the “**Certificate of Service**”), which was attached to the Motion as **Exhibit D**, and having received no objections by August 4, 2014; and this Court having reviewed and considered the Motion and all pleadings related thereto; and this Court having found that (a) this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157

<sup>2</sup>

Capitalized terms used, but not otherwise defined herein, have the meaning given to them in the Motion.

and 1334, section 1501 of the Bankruptcy Code, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; (b) this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P), and the Court may enter a final order consistent with Article III of the United States Constitution; (c) venue is proper in this District pursuant to 28 U.S.C. § 1410(3); and (d) notice of the Final Report and Motion was due and proper under the circumstances; and it appearing that the relief requested in the Motion is in the best interests of the ARXX Debtors, their creditors, and other parties-in-interest; and after due deliberation thereon, and good cause appearing therefor,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is GRANTED as set forth herein.
2. Pursuant to sections 105(a), 350, 1501(a), 1507, 1517(d), and 1521(a) of the Bankruptcy Code, the Receiver's Discharge Order, and all of its terms, including any amendments thereto, is fully recognized and given full force and effect in the United States.
3. This following cases are hereby closed pursuant to sections 1517(d) and 350 of the Bankruptcy Code:
  - ARXX Corporation (Case No. 13-13313 (KJC));
  - ARXX Building Products Inc. (Case No. 13-13314 (KJC));
  - ARXX Building Products U.S.A. Inc. (Case No. 13-13315 (KJC));
  - ECB Holdings, LLC (Case No. 13-13316 (KJC));
  - APS Holdings, LLC (Case No. 13-13317 (KJC));
  - Unisas Holdings, LLC (Case No. 13-13318 (KJC)); and
  - Eco-Block International, LLC (Case No. 13-13319 (KJC)).
4. A docket entry shall be made in each of the above-referenced Chapter 15 Cases reflecting the entry of this order.
5. This order is entered without prejudice to the rights of any party to seek to reopen these cases for cause pursuant to section 350(b) of the Bankruptcy Code.

6. This Court shall retain jurisdiction over any and all matters arising from or related to the interpretation or implementation of this order.

Dated: August \_\_\_\_\_, 2014  
Wilmington, Delaware

---

Kevin J. Carey  
United States Bankruptcy Judge



**EXHIBIT D**

**Certificate of Service**

**CERTIFICATE OF SERVICE**

I, Ian J. Bambrick, hereby certify that on July 3, 2014, I have caused a copy of the foregoing *Receiver's Final Report and Motion for Order (I) Recognizing the Final Order of the Ontario Superior Court of Justice and (II) Approving Entry of a Final Decree* to be served on the parties on the attached service list in the manner indicated.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Ian J. Bambrick

Matthew B. Lunn (No. 4119)

Ian J. Bambrick (No. 5455)

Rodney Square

1000 North King Street

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Telephone: (302) 571-6600

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*Attorneys for Duff & Phelps Canada Restructuring Inc., as  
Receiver and Foreign Representative of the ARXX Debtors*

**SERVICE LIST**

**7/3/2014**

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