

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

PINNACLE CAPITAL RESOURCES LIMITED in its capacity as general  
partner of RED ASH CAPITAL PARTNERS II LIMITED PARTNERSHIP  
Applicant

- and -

KRAUS INC., KRAUS CANADA INC., STRUDEX FIBRES LIMITED,  
and 538686 B.C. LTD.  
Respondents

APPLICATION UNDER SECTIONS 43 and 243 OF THE *BANKRUPTCY AND INSOLVENCY*  
*ACT*, R.S.C. 1985, c. B-3, as amended

**SUPPLEMENTARY APPLICATION RECORD  
(APPLICATION FOR BANKRUPTCY ORDER  
AND RECEIVER RETURNABLE JUNE 11, 2012)**

June 7, 2012

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Court File No. CV12-9731-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**B E T W E E N:**

PINNACLE CAPITAL RESOURCES LIMITED in its capacity as general  
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Court File No. CV-12-9731-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

PINNACLE CAPITAL RESOURCES LIMITED in its capacity as general  
partner of RED ASH CAPITALPARTNERS II LIMITED PARTNERSHIP

Applicant

- and -

KRAUS INC., KRAUS CANADA INC., STRUDEX FIBRES LIMITED, and  
538626 B.C. LTD.

Respondents

**APPLICATION UNDER SUBSECTION 46(1) and SECTION 243 OF THE  
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, as amended**

**SUPPLEMENTARY AFFIDAVIT OF CHRISTOPHER EMMOTT**

**(Sworn June 7, 2012)**

I, Christopher Emmott, of the City of London in the United Kingdom, MAKE OATH  
AND SAY:

1. I am an Investment Director of Hilco UK Limited ("**Hilco**"), a company incorporated pursuant to the laws of the United Kingdom. As one of the key persons at Hilco responsible for this matter, I have knowledge of the matters discussed in this affidavit. Unless I indicate to the contrary, the following facts are within my personal knowledge. Where I have indicated that I have obtained the facts from other sources, I believe those facts to verily be true.

2. This affidavit supplements my earlier affidavit sworn May 25, 2012 (the "**First Emmott Affidavit**") in order to provide an update on a number of matters, including the status of the proposed purchase of the assets of the Respondents.

### **Overview and Purpose of Affidavit**

3. I swear this affidavit in support of this application by the Applicant, Pinnacle Capital Resources Limited in its capacity as general partner of Red Ash Capital Partners II Limited Partnership, for the relief to be sought on the second hearing date, which is scheduled to take place on June 11, 2012. The following relief is sought:

- (a) the administrative consolidation of the bankruptcy application in respect of Kraus Canada Inc. ("**Kraus Canada**"), originally brought in the Manitoba Court of Queen's Bench in Winnipeg, Manitoba, with the already-consolidated bankruptcy applications of Kraus Inc. ("**Kraus**"), and Strudex Fibres Limited ("**Strudex**");
- (b) the granting of bankruptcy orders against Kraus Canada, Kraus and Strudex (collectively, the "**Operating Companies**"); and
- (c) the appointment of PricewaterhouseCoopers Inc. ("**PwC**") as receiver of all of the Respondents ("**Receiver**") pursuant to section 243 of the *Bankruptcy and Insolvency Act* ("**BIA**").

4. At a hearing on May 28, 2012 ("**Initial Hearing**"), PwC was appointed as interim receiver of the Operating Companies pursuant to subsection 46(1) of the BIA.

**Status of Conditions Precedent**

5. As deposed to in the First Emmott Affidavit, the Receiver, if so appointed, will enter into an asset purchase agreement ("**APA**") with Kraus Brands LP ("**Kraus Brands**" or the "**Purchaser**") whereby Kraus Brands will acquire substantially all of the assets and property of the Respondents (the "**Assets**") with a view to the Purchaser continuing the Respondents' business as a going concern (the "**Purchase Transaction**").
6. The closing of the Purchase Transaction is conditional upon, *inter alia*,
- (a) certain *Competition Act* approvals;
  - (b) offers of employment being made by Kraus Brands to certain non-unionized employees of the Operating Companies;
  - (c) amending the collective agreements with the unions representing unionized employees of the Operating Companies and having such amendments ratified by the applicable union members;
  - (d) the Priority Claims (as defined in the APA) not exceeding a specified maximum amount (the "**Priority Cap**") and there having been no judicial determination that any claims related to any employee plan (including any pension plan) constitute a Priority Claim or that the Purchaser is otherwise liable or responsible for any claims under employee plans (other than as agreed to by the Purchaser); and
  - (e) the granting of orders by this Court (i) adjudging the Operating Companies bankrupt, (ii) appointing the Receiver and (iii) approving the Purchase

Transaction and vesting title to the Assets in and to the Purchaser (collectively, the "**Orders**").

7. Set out below is an update on the status of each of these conditions precedent.

**(a) Competition Act Approval**

8. On June 5, 2012, the Commissioner of Competition (the "**Commissioner**") issued an advance ruling certificate certifying that, pursuant to section 102 of the *Competition Act*, the Commissioner would not have sufficient grounds on which to apply to the Competition Tribunal under section 92 of the *Competition Act* with respect to the Purchase Transaction. This certificate satisfies the condition precedent relating to *Competition Act* approvals.

**(b) Extension of Offers of Employment**

9. Kraus Brands extended offers of employment to all employees actively employed by the Operating Companies as of June 6, 2012 (the "**Assumed Employees**"). The employment offers were made by letters hand-delivered beginning on June 5, 2012 and continuing on June 6, 2012. Persons on long-term disability were not offered employment by the Purchaser.

**(c) Amendments to Collective Agreements**

10. Kraus Brands and the United Food and Commercial Workers, Local 175 (the "**UFCW**") have entered into memoranda of settlement to amend the collective agreement between Strudex and the UFCW dated March 20, 2008 (the "**Strudex CA**") and to amend

the collective agreement between Kraus and the UFCW dated July 1, 2009 (the "**Kraus CA**"). Kraus Brands and the UFCW concluded negotiations on May 7, 2012.

11. The employees subject to the Strudex CA ratified the corresponding memorandum of settlement at a vote held on May 31, 2012 such that there is now a binding settlement. Of the approximately 93 employees eligible to vote under the Strudex CA (of which 85 are actively employed and 8 are on layoff or long-term leave), 89 attended the vote. Seventy-two members, being 81% of those in attendance, voted in favour of the memorandum of settlement.

12. The employees subject to the Kraus CA ratified the memorandum of settlement related thereto at a vote held on May 31, 2012 such that there is now a binding settlement. Of the approximately 165 employees eligible to vote under the Kraus CA, 145 attended the vote. One hundred and twenty-three members, being 84% of those in attendance, voted in favour of the memorandum of settlement.

13. With respect to the third and final union, the Teamsters Local Union No. 213, which represents a unionized workforce of Kraus Canada, the Purchaser intends to waive the requirement to reach a new collective agreement and intends to assume the existing collective agreement obligations to the extent required by law.

**(d) Priority Claims**

14. As of the date hereof, there has been no determination that the quantum of Priority Claims exceeds the Priority Cap or that the Purchaser is liable under any employee plans.



I understand that PwC will provide a further update on the status of Priority Claims in its supplementary report, to be filed.

### **Summary of Status of Conditions Precedent**

15. Save and except for the granting by this Court of each of the Orders, the Purchaser does not believe there are any other material conditions to Closing.

### **Operations stable following Initial Hearing**

16. Following the Initial Hearing, suppliers have continued to provide materials, products and services to the Operating Companies in the usual course. Similarly, sales of the Operating Companies' products have not been affected as customers continue to make purchases in the ordinary course.

### **Kraus Brands takes steps to establish new Pension Plans**

17. As stated in the First Emmott Affidavit, if the Purchase Transaction is approved and consummated, Kraus Brands does not intend to assume the Pension Plans (as defined in the First Emmott Affidavit). Instead, it is Kraus Brands' intention to offer pension plan benefits to the Assumed Employees and unionized employees of the Operating Companies that are substantially similar to pension plan benefits they currently receive.

18. To that end, Kraus Brands is currently working with Manufacturers Life Insurance Company to establish new defined contribution pension plans for the benefit of the Assumed Employees.

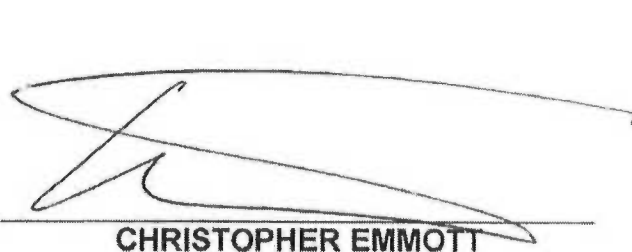
**Transfer of Kraus Canada Bankruptcy Application from Winnipeg**

19. On June 5, 2012, Registrar Berthaudin of the Manitoba Court of the Queen's Bench in Winnipeg made an order transferring the Kraus Canada bankruptcy application to the Commercial List. Attached as **Exhibit "A"** is a copy of such order.

SWORN BEFORE ME at the City of  
Waterloo, in the Province of Ontario, on  
the 7th day of June, 2012.



Commissioner for Taking Affidavits  
(or as may be)



CHRISTOPHER EMMOTT

Robert William Scriven, a Commissioner, etc.,  
Province of Ontario, while a Student-at Law.  
Expires June 22, 2014.

This is Exhibit "A" referred to in the Supplementary Affidavit of  
Christopher Emmott sworn June 7, 2012

A handwritten signature in black ink, appearing to read 'Robert Scriven', written over a horizontal line.

*Commissioner for Taking Affidavits (or as may be)*

Robert William Scriven, a Commissioner, etc.,  
Province of Ontario, while a Student-at Law.  
Expires June 22, 2014.

File No. BK 12-01-02706

**THE QUEEN'S BENCH  
WINNIPEG CENTRE  
IN BANKRUPTCY**

**IN THE MATTER OF:    THE BANKRUPTCY OF KRAUS CANADA INC.**

**B E T W E E N:**

**RED ASH CAPITAL PARTNERS II LIMITED PARTNERSHIP,**

Applicant,

- and -

**KRAUS CANADA INC.,**

Respondent.

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**ORDER  
(TRANSFER PROCEEDINGS)**

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Client File No. 24006-17

**THE QUEEN'S BENCH  
WINNIPEG CENTRE  
IN BANKRUPTCY**

REGISTRAR BERTHAUDIN        )  
  )     The 5<sup>th</sup> day of June, 2012  
  )

**IN THE MATTER OF:     THE BANKRUPTCY OF KRAUS CANADA INC.**

**B E T W E E N:**

**RED ASH CAPITAL PARTNERS II LIMITED PARTNERSHIP,**

Applicant,

- and -

**KRAUS CANADA INC.,**

Respondent.

**ORDER  
(TRANSFER PROCEEDINGS)**

THIS MOTION made by the Applicant to transfer these proceedings to Ontario was heard this day at Winnipeg.

ON READING the pleadings and proceedings herein and in particular the Affidavit of Larry Ellis sworn May 29, 2012 and the Consent to Transfer Proceedings of the Interim Receiver and Proposed Trustee, no one appearing for the Superintendent in Bankruptcy although duly served as appears from the Affidavits of Service of Wayne Parisien and Laura Leigh Buley:

1. THIS COURT ORDERS that service upon the Respondent is hereby validated and this matter is properly before this Court for hearing.
  
2. THIS COURT ORDERS that the within proceedings be transferred to the Ontario Superior Court of Justice (Commercial List) in Bankruptcy and Insolvency, Toronto, being the Court having jurisdiction for Bankruptcy Division No. 31 of the Bankruptcy District of the Province of Ontario.
  
3. THIS COURT HEREBY REQUESTS the aid and recognition of the Ontario Superior Court of Justice (Commercial List) in Bankruptcy and Insolvency, and its officers as may be necessary and desirable to give effect to this Order and to assist the Applicant and its respective agents in carrying out the terms of this Order.

**S.D. BERTHAUDIN**

June 5, 2012

\_\_\_\_\_  
REGISTRAR

PINNACLE CAPITAL RESOURCES LIMITED

Applicant

and

KRAUS INC. et al

Respondents

Court File No. CV-12-9731-00CL

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

**PROCEEDING COMMENCED AT  
TORONTO**

**SUPPLEMENTARY AFFIDAVIT OF  
CHRISTOPHER EMMOTT  
(SWORN JUNE 7, 2012)**

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Lawyers for the Applicant

## **Tab 2**



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	MONDAY, THE 11th
	)	
JUSTICE MORAWETZ	)	DAY OF JUNE, 2012

B E T W E E N:

PINNACLE CAPITAL RESOURCES LIMITED in its capacity as general partner of RED ASH CAPITAL PARTNERS II LIMITED PARTNERSHIP  
Applicant

- and -

KRAUS INC., KRAUS CANADA INC., STRUDEX FIBRES LIMITED, and 538626 B.C. LTD.  
Respondents

**APPLICATION UNDER SUBSECTION 46(1) and SECTION 243 OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, as amended**

**RECEIVERSHIP ORDER**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") appointing PricewaterhouseCoopers Inc. ("**PwC**") as receiver (in such capacity, the "**Receiver**") without security, of all of the assets, undertakings and properties of Kraus Canada Inc., Kraus Inc., Strudex Fibres Limited, and 538626 B.C. Ltd. (collectively, the "**Debtor**") acquired for, or used in relation to the businesses carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Chris Emmott sworn May 25, 2012 (the "**Emmott Affidavit**") and the Exhibits thereto, and the First Report dated May 29, 2012 of PwC (the "**First Report**") in its capacity as Interim Receiver (the "**Interim Receiver**") appointed by order dated May 28, 2012 (the "**Interim Receivership Order**"), and on hearing the submissions of counsel for the Applicant, the Interim Receiver, PwC in its capacity as the proposed Receiver, no one appearing for any other party although duly served as appears from the affidavit of service of [NAME] sworn [DATE];

AND ON BEING ADVISED that the beneficiaries of the Pension Plans (as defined in the Emmott Affidavit) were sent a copy of the Notice as directed by the Interim Receivership Order, and on reading the consent of PwC to act as the Receiver, and upon bankruptcy orders having been issued earlier this day in respect of the Debtor (other than 538626 B.C. Ltd.) to be effective immediately prior to the Effective Time (defined herein), and whereas defined terms used herein, unless otherwise defined, have the meaning ascribed to them in the Emmott Affidavit,

## **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that the relief claimed in paragraphs 1(b)(i) through 1(b)(vi) of the Notice of Application is properly returnable today and that the time for service of the Notice of Motion and Motion Record of the Interim Receiver as authorized and directed by the Interim Receivership Order is hereby abridged and validated so that such Motion is properly returnable today, and hereby dispenses with further service thereof.

## **APPOINTMENT**

2. THIS COURT ORDERS that, pursuant to section 243(1) of the BIA, PwC is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to the businesses carried on by the Debtor, including all proceeds thereof (the "**Property**"), with the power and authority

to complete the Purchase Transaction in accordance with the APA and a sale approval and vesting order to be issued today, if court approval is granted.

3. THIS COURT ORDERS that the appointment of the Receiver shall become effective on the earlier of (a) immediately prior to the closing of the Purchase Transaction or (b) in the event that the APA is terminated in accordance with its terms, immediately following such termination (the "**Effective Time**"). When the Receiver's appointment becomes effective, the Interim Receiver shall be discharged, provided that the Interim Receiver shall continue to have the benefit of the provisions of the Interim Receivership Order including all approvals, protections and stays of proceedings in favour of PwC in its capacity as Interim Receiver.

#### **RECEIVER'S POWERS**

4. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to enter into any agreements or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (k) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property, including, without limiting the generality of the foregoing, to apply for such

orders as are necessary to obtain approval of and carry out the terms of the APA and the Purchase Transaction contemplated thereby;

- (l) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (m) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (n) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (o) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (p) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;
- (q) to take such steps as are necessary to complete the Purchase Transaction;
- (r) in the event the APA is terminated in accordance with its terms, to immediately liquidate the Property, and to retain a liquidator for that purpose on such terms as are acceptable to the Receiver and the Applicant, or as approved by the Court;
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and

- (t) and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

5. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent

service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the



Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVER**

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

#### **CONTINUATION OF SERVICES**

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

#### **RECEIVER TO HOLD FUNDS**

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part,



whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## **EMPLOYEES**

14. THIS COURT ORDERS that all employees of the Debtor not previously terminated have been terminated by the granting of the bankruptcy orders in respect of the Debtor (other than 538686 B.C. Ltd.). The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to the Purchaser and/or prospective purchasers or bidders for the Property and to their advisors (collectively, a "**Recipient**"), but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each Recipient to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property, including the Purchaser, shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

## LIMITATION ON THE RECEIVER'S LIABILITY

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

## RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, not to exceed

\$300,000 in aggregate, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. THIS COURT ORDERS that the Receiver and its legal counsel shall only be required to pass their accounts from time to time if the Applicant makes a written request to the Receiver for such passing of accounts, in which case the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. THIS COURT ORDERS that prior to the passing of its accounts, if so requested, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **GENERAL**

21. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

22. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

23. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents 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 to the Receiver, as an officer of this Court, 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.

24. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

25. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

26. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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PINNACLE CAPITAL RESOURCES LIMITED in its capacity  
as general partner of RED ASH CAPITAL PARTNERS II  
LIMITED PARTNERSHIP

Applicant

and

KRAUS INC., KRAUS CANADA INC., STRUDEX  
FIBRES LIMITED and 538626 B.C. LTD.

Respondents

Court File No. CV12-9731-00CL

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

PROCEEDING COMMENCED AT  
TORONTO

**RECEIVERSHIP ORDER**

**Cassels Brock & Blackwell LLP**  
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Lawyers for the Applicant

## **Tab 3**

Court File No. 31-OR-207897-T

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

*IN THE MATTER OF the Bankruptcy of Kraus Inc.  
65 Northfield Drive West, Waterloo, ON N2J 4J4*

THE HONOURABLE MR.	)	MONDAY, THE 11TH
	)	
JUSTICE MORAWETZ	)	DAY OF JUNE, 2012

*(Court Seal)*

**BANKRUPTCY ORDER  
(Sections 43 and 44 of the Act)**

ON THE APPLICATION of Pinnacle Capital Resources Limited in its capacity as general partner of Red Ash Capital Partners II Limited Partnership, a creditor, of the City of London, in the United Kingdom, filed on May 24, 2012.

Having heard the submissions of the Applicant Creditor;

And it appearing to the Court that the following acts of bankruptcy have been committed:

Kraus Inc. has, within the six months preceding the application for a bankruptcy order, ceased to meet its obligations as they have become due,

1. **THE COURT HEREBY ORDERS** that Kraus Inc. be adjudged bankrupt by virtue of a bankruptcy order hereby made on this date.

2. **THE COURT FURTHER ORDERS** that PricewaterhouseCoopers Inc., of the City of Toronto, in the Province of Ontario, be appointed as Trustee of the estate of the bankrupt.
3. **THE COURT FURTHER ORDERS** that the Trustee give security in cash or by bond or suretyship without delay, in accordance with subsection 16(1) of the *Act*.
4. **THE COURT FURTHER ORDERS** that the costs of the Applicant Creditor be paid out of the estate of the bankrupt on taxation of the estate.
5. **THIS COURT FURTHER ORDERS** that this order shall only become effective immediately prior to the Effective Time, as defined in paragraph 3 of the order of Justice Morawetz dated June 11, 2012 in Ontario Superior Court of Justice (Commercial List) File No. CV-12-9731-00CL which appoints PricewaterhouseCoopers Inc. as receiver of Kraus Canada Inc., Kraus Inc., Strudex Fibres Limited, and 538626 B.C. Ltd. pursuant to section 243 of the *Bankruptcy and Insolvency Act*.

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(Signature of Judge or Registrar)



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

PROCEEDING COMMENCED AT  
TORONTO

**BANKRUPTCY ORDER**

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Lawyers for the applicant

## **Tab 4**

Bankruptcy File No. 21-081406

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

*IN THE MATTER OF the Bankruptcy of KRAUS CANADA INC.  
1551 Church Avenue, Winnipeg MB R2X 1G7*

THE HONOURABLE MR.	)	MONDAY, THE 11TH
	)	
JUSTICE MORAWETZ	)	DAY OF JUNE, 2012

**BANKRUPTCY ORDER  
(Sections 43 and 44 of the Act)**

ON THE APPLICATION of Pinnacle Capital Resources Limited in its capacity as general partner of Red Ash Capital Partners II Limited Partnership, a creditor, of the City of London, in the United Kingdom, filed on May 24, 2012.

Upon this bankruptcy application having been transferred to this court by order of Registrar Berthaudin of the Manitoba Court of Queen's Bench at Winnipeg dated June 5, 2012, made in Manitoba court file no. BK-12-01-02706,

Having heard the submissions of the Applicant Creditor;

And it appearing to the Court that the following acts of bankruptcy have been committed:

Kraus Canada Inc. has, within the six months preceding the application for a bankruptcy order, ceased to meet its obligations as they have become due,

1. **THE COURT HEREBY ORDERS** that pursuant to subsection 43(4) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") this bankruptcy application is hereby administratively consolidated with the following applications for a bankruptcy order which were previously administratively consolidated by order of Justice Morawetz dated May 28, 2012 made in Ontario Superior Court of Justice (Commercial List) File No. CV-12-9731-00CL (the "**Red Ash Application**"):

- (a) bankruptcy application in respect of Kraus Inc. brought in the Ontario Superior Court of Justice as court file no. 31-OR-207897-T; and
- (b) bankruptcy application in respect of Strudex Fibres Limited brought in the Ontario Superior Court of Justice as court file no. 31-OR-207896-T.

2. **THE COURT FURTHER ORDERS** that Kraus Canada Inc. be adjudged bankrupt by virtue of a bankruptcy order hereby made on this date

3. **THE COURT FURTHER ORDERS** that PricewaterhouseCoopers Inc., of the City of Toronto, in the Province of Ontario, be appointed as Trustee of the estate of the bankrupt.

4. **THE COURT FURTHER ORDERS** that the Trustee give security in cash or by bond or suretyship without delay, in accordance with subsection 16(1) of the *Act*.

5. **THE COURT FURTHER ORDERS** that the costs of the Applicant Creditor be paid out of the estate of the bankrupt on taxation of the estate.

6. **THIS COURT FURTHER ORDERS** that this order shall only become effective

immediately prior to the Effective Time, as defined in paragraph 3 of the order of Justice Morawetz dated June 11, 2012 in the Red Ash Application which appoints PricewaterhouseCoopers Inc. as receiver of Kraus Canada Inc., Kraus Inc., Strudex Fibres Limited, and 538626 B.C. Ltd. pursuant to section 243 of the BIA.

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*(Signature of Judge or Registrar)*

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

PROCEEDING COMMENCED AT  
TORONTO

**BANKRUPTCY ORDER**

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Lawyers for the applicant

## **Tab 5**

Court File No. 31-OR-207896-T

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

*IN THE MATTER OF the Bankruptcy of Strudex Fibres Limited  
65 Northfield Drive West, Waterloo, ON N2J 4J4*

THE HONOURABLE MR.	)	MONDAY, THE 11TH
	)	
JUSTICE MORAWETZ	)	DAY OF JUNE, 2012

*(Court Seal)*

**BANKRUPTCY ORDER  
(Sections 43 and 44 of the Act)**

ON THE APPLICATION of Pinnacle Capital Resources Limited in its capacity as general partner of Red Ash Capital Partners II Limited Partnership, a creditor, of the City of London, in the United Kingdom, filed on May 24, 2012

Having heard the submissions of the Applicant Creditor;

And it appearing to the Court that the following acts of bankruptcy have been committed:

Strudex Fibres Limited has, within the six months preceding the application for a bankruptcy order, ceased to meet its obligations as they have become due,

1. **THE COURT HEREBY ORDERS** that Strudex Fibres Limited be adjudged bankrupt by virtue of a bankruptcy order hereby made on this date.



2. **THE COURT FURTHER ORDERS** that PricewaterhouseCoopers Inc., of the City of Toronto, in the Province of Ontario, be appointed as Trustee of the estate of the bankrupt.
3. **THE COURT FURTHER ORDERS** that the Trustee give security in cash or by bond or suretyship without delay, in accordance with subsection 16(1) of the *Act*.
4. **THE COURT FURTHER ORDERS** that the costs of the Applicant Creditor be paid out of the estate of the bankrupt on taxation of the estate.
5. **THIS COURT FURTHER ORDERS** that this order shall only become effective immediately prior to the Effective Time, as defined in paragraph 3 of the order of Justice Morawetz dated June 11, 2012 in Ontario Superior Court of Justice (Commercial List) File No. CV-12-9731-00CL which appoints PricewaterhouseCoopers Inc. as receiver of Kraus Canada Inc., Kraus Inc., Strudex Fibres Limited, and 538626 B.C. Ltd. pursuant to section 243 of the *Bankruptcy and Insolvency Act*.

---

(Signature of Judge or Registrar)

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**PROCEEDING COMMENCED AT  
TORONTO**

**BANKRUPTCY ORDER**

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PINNACLE CAPITAL RESOURCES LIMITED  
in its capacity as general partner of RED ASH  
CAPITAL PARTNERS II LIMITED  
PARTNERSHIP

and KRAUS INC., KRAUS CANADA INC., STRUDEX FIBRES LIMITED and  
538626 B.C. LTD  
Respondents

Applicant

Court File No. CV12-9731-00CL

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

PROCEEDING COMMENCED AT  
TORONTO

**SUPPLEMENTARY APPLICATION RECORD  
(APPLICATION FOR BANKRUPTCY ORDER AND  
RECEIVER RETURNABLE JUNE 11, 2012)**

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