

Court file no. 35-2481393

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

**IN THE MATTER OF THE BANKRUPTCY OF  
SIRIUS CONCRETE INC. OF THE CITY OF  
WATERLOO, IN THE PROVINCE OF ONTARIO**

**RESPONDING MOTION RECORD  
(Returnable 18 November 2020)**

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**Lawyer for Responding Parties**

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**AFFIDAVIT OF JOHN CAMARA**

I, John Camara, of the County of Middlesex, solemnly affirm as follows:

1. I am the construction manager of Ayerswood Developments Corp. ("Ayerswood"). Ayerswood acts as the general contractor for the construction of a twelve storey residential building municipally known as 45 Yarmouth Street, in Guelph, Ontario ("the Building").
  2. Exhibit A to this affidavit is a true copy of the contract between Sirius Concrete Inc. ("Sirius") and Ayerswood dated 14 March 2018. I negotiated this contract with the president of Sirius, David Forbes. The work to be done by Sirius may be generally described as providing the labour, equipment, and materials to construct the concrete structure of the three underground parking levels, the twelve above ground levels, and the roof slab and penthouse for the Building. A few concrete components, such as staircases, were constructed off site, but otherwise Sirius would erect on site the formwork and reinforcing steel, then pour the concrete in order to
-

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form the poured reinforced concrete exterior walls, load bearing interior columns and partition walls, interior stairs, elevator shafts, balconies, floor slabs, ceiling slabs, and parking garage levels of the Building. Once the excavation was done, Sirius would be the significant trade on site as until their concrete work for each level was done other trades could not proceed with their work such as plumbing, mechanical, electrical, doors, windows, drywall, and interior finishes (this is not intended to be an exhaustive list of all the other trades and components required to complete a twelve story residential apartment building). This is why it was important that Sirius proceed with its work efficiently and not be the cause of delaying the completion of the Building.

3. At the time the contract with Sirius was signed, the start date for their work could not be determined as it was dependent upon prior work involving excavation, shoring, and underground services, having been done. One of the aspects of my negotiations with Sirius was the length of time it would take for them to do their work. What was agreed before Sirius started its work was six days per floor. (This refers to the above ground floors, not the parking levels). By August 2018 it was apparent that the work by Sirius was proceeding more slowly than expected. I wanted Sirius to provide a schedule that they would assure me would be kept. Exhibit B to this affidavit is an email from Sirius to me on 4 September 2018 and my response. Sirius was now saying it would take 10 days per floor and as can be seen from my response I reminded them of the six days per floor that had been agreed.
-

4. The 10 days per floor was not achieved. The autumn of 2018 and January 2019 saw Sirius falling farther behind their promises of when floors would be completed.
5. There was no provision in the contract for how much Sirius would be paid periodically, only a provision for payment in 30 days after invoice and a total price for the work. There was no schedule of values setting out how the total contract price was allocated (for example, so much for each floor completed). Sirius rendered monthly invoices from May to December 2018, which Ayerswood paid.
6. By February 2019 the three underground parking levels, most of the ground floor, and part of the second floor had been formed by Sirius. This was substantially behind the schedule originally discussed with Sirius, and substantially behind the 10 days per floor. Exhibit C to this affidavit is an email exchange between myself and Sirius on 11 and 12 February 2019. I am expressing my considerable concern about the delays. As before, I received assurances from Sirius that they would do something. In past I had thought that paying the invoices of Sirius, and not arguing about the amount charged in relation to the work done, would provide an incentive for them to get the work done at the Building and prioritize this project over others. As February 2019 progressed, and the work by Sirius did not progress, I considered that a different approach, namely withholding payment until progress was demonstrated, would be appropriate.

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7. By the first of March 2019 Ayerswood had not paid the January 2019 invoice of Sirius. The amount of that after deduction of holdback, and with HST, was \$381,578.40.
8. Exhibit D to this affidavit is my email exchange with Sirius on the first of March 2019. In my email of 10:51 a.m. on March first I write that I was at the job site in Guelph and was disappointed that no one from Sirius showed up. A meeting on site had been set up for that morning at which Sirius was to present a detailed plan that would address the problems with their delays and deficiencies. While still on site I received a call from Tomas Waite, the project manager at Sirius, apologizing for their failure to come to the meeting and asking that the meeting be put back to the following Tuesday, March fifth. I was told that they were discussing their plan to get back on track with their work at the Building and needed a bit more time hence the need to delay the meeting until the following Tuesday. At that time Tomas asked me if I could help out by giving them the cheque for the January invoice (this is the \$381,578.40). I expressed my reluctance to do that until I received a satisfactory plan from them and some confidence it would be adhered to. Tomas assured me that Sirius was committed to providing me with an effective plan and sticking to it so that their work would be back on track and get completed. He told me that if I provided the cheque now that would ensure that Sirius would push things along to get their work done. The assurance of Sirius committing to finishing up the work on an efficient schedule was of huge importance to me as the project was significantly behind schedule, so in reliance on these assurances from Sirius, and

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believing them, I relented and agreed to release the cheque that day. Sirius sent Tom Waite's girlfriend on that Friday, 1 March, to pick up the cheque and in good faith I gave it to her. I did not suspect any foul play.

9. What I did not know on March first was that Sirius had already been working with its licenced insolvency trustee prior to March first and the documents were prepared, and signed on March first 2019, to put Sirius into bankruptcy. In short, when Sirius dealt with me on March first, and persuaded me to release the cheque to them, Sirius knew it was not going to be doing any further work on the Building. So when Sirius wrote to me on 1 March 2019 - "Tobin and myself will be making more site appearances to get things on track. Please be patient with us as we work through the issues." – Ayerswood was being lied to. Exhibit E to this affidavit is a copy of the Statement of Affairs of Sirius. While it shows a date of 1 March 2019, the amount of information in that form was self-evidently not compiled only after 12:44 p.m. that day [the time of the above quoted email]. Sirius knew they would not be returning to site and deceived me.
10. I, and hence Ayerswood, was assured by Sirius that if the payment of their January invoice was given to them they would come to the meeting on 5 March 2019 with a concrete plan to solve the problems and would move their work ahead promptly. This was pure deception with the object of getting Ayerswood to release the cheque. I, and hence Ayerswood, believed these lies, and in the belief that Sirius would be not just continuing their work to completion, but promptly to completion, I relented on the

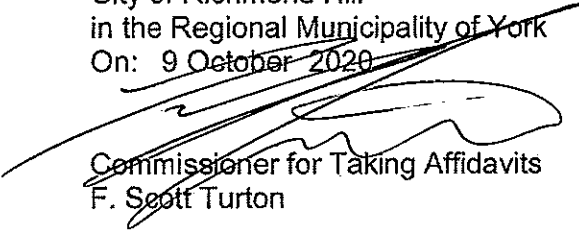
- 6 -

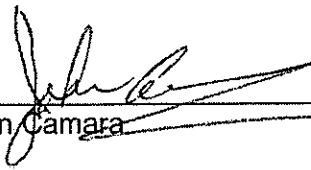
decision to withhold the cheque and released to Sirius the cheque of 1 March 2019 for \$381,578.40.

11. If Sirius had told me the truth on March first 2019 that they had already been working with BDO Canada Limited ("the Trustee") and were going to assign Sirius into bankruptcy and abandon their contract for the Building I never would have released the \$381,578.40 cheque to them; Ayerswood would not have made that payment. The value of the work by Sirius, coupled with the deficiencies in it, and the delay of the completion of the Building that they caused, meant that they had been overpaid for the work they had done. Sirius was not owed \$381,578.40, or any part of that money, and it only received that cheque due to their deceit as I have outlined above.
12. I do not have a copy of the cheque for \$381,578.40 to exhibit to this affidavit. The reason is that the cheque was certified on 1 March 2019, and it was not certified by Ayerswood. I believe it to be a quite reasonable conclusion that either Sirius or the Trustee had that cheque certified to prevent any possibility of Ayerswood stopping payment on it when Ayerswood discovered how it had been deceived. The first of March was a Friday, and the date and time of the bankruptcy of Sirius is Monday, 4 March 2019, at 7:57 a.m.
13. Ayerswood commissioned Truest Quantity Surveyors to report on the value of the work done by Sirius and exhibit F to this affidavit is a copy of their report. I accept as correct, and agree with, the conclusion of this report that Sirius was overpaid by \$702,551.61.




14. If the funds being held by the Trustee, namely the \$381,578.40, plus the 10% holdback attributable to that amount, are not returned to Ayerswood then Ayerswood will have paid for work that was not done and the creditors of Sirius will receive funds that were not earned by Sirius and were obtained through deceit.

Affirmed before me in accordance with )  
Regulation 431/20 to the *Commissioners* )  
*for Taking Affidavits Act* )  
From the *(location of the deponent)* )  
City of London )  
In the County of Middlesex )  
To the *(location of the commissioner)* )  
City of Richmond Hill )  
in the Regional Municipality of York )  
On: 9 October 2020 )  
 )  
Commissioner for Taking Affidavits )  
F. Scott Turton )

  
\_\_\_\_\_  
John Camara

# AYERSWOOD DEVELOPMENT CORPORATION

SUBCONTRACT NO. A18-45YAR-013 DATE: Mar 14, 2017-2018

SUBCONTRACTOR: Sirius Concrete Inc. 

ADDRESS: P.O. Box 25070 Kitchener, Ontario N2A 4A5  
589 Colby Drive, Waterloo, Ontario N2V 1A1

TELEPHONE: 519-808-4237

JOB SITE: 45 Yarmouth St Guelph, ON

TIMING: The work shall commence in accordance with contract requirements.

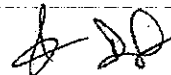
WORK: The Subcontractor shall complete performance of the following work, to the satisfaction and direction of the Contractor, in accordance with the approved plans and specifications, and in strict compliance with all applicable Federal, Provincial and Municipal legislation and all regulations and orders made or issued there under.

To provide all labour, equipment and materials to carry out all work to build a 12 storey Concrete structure apartment building with a Three (3) storey Concrete structure underground garage as per SBM Engineering Structural Engineer and structural drawings, and Patrick Trottier Architectural drawing integrated with SBM Engineers, most updated drawings and specifications, the Ontario building code and the City of Guelph Rules and Regulations and without limiting the generality of the foregoing, the Subcontractor shall perform the following:

- All structural and architectural work must be performed as per Strik, Baldinelli Moniz most updated drawings and specifications and using Patrick Trottier Architect drawings integrated with SBM Engineering drawings and specifications
- Land Development Solutions Site drawings as guidance for the ground floor elevations and sleeves for services
- Soils Engineers Englobe to approve bearing soils before any footing are poured
- Supply all necessary forms of any type to form and pour all concrete footings, crane footings, one sided walls in garage perimeter walls, columns, walls, slabs in garages and building tower
- Supply, place and finish all necessary concrete as per specifications
- Supply and place all necessary reinforcing steel and wire mesh as per specifications
- Supply one (1) tower crane with operator, inclusive transportation from yard to job site and back, erection and dismantle, install tower crane base and associated anchors, hook up to Ayerswood power shed and transformer. Provide cab tire from crane to hydro power shed. Provide all maintenance needed, Inspection report for the crane and associated equipment.
- Provide hoisting for the elevator motors and roof top HVAC units plus mechanical equipment before crane is taken down. Equipment not to exceed tower crane capacity
- Supply all equipment and materials to fill in all of the slab crane openings on each and every floor when the crane is removed
- Provide your own safety representative and first aid person and conduct your own meetings and talks and comply with Ayerswood Development Corporation's Health and Safety Policy Program and Procedures. Joint safety meetings will take place as the project evolves and more trades are on site.
- Provide all safety rails and safety equipment in all work areas and safety fence one floor below working area
- Provide all shoring of slabs as needed and necessary for as long as it is needed.
- A good housekeeping must be maintained at all times on the entire area of forming work
- Provide full time supervision for you work
- Your supervisor to provide full cooperation with Ayerswood on site supervisor or any other Ayerswood personal directly involved on the project about safety issues, schedules, coordinating deliveries and unclear details on drawings etc.
- All false work detail drawings for forming in every aspect must be provided to Ayerswood and stamped by a qualified professional engineer and be kept on site at all times before actual work begins
- Provide all layout work and elevations by a proper competent surveyor person
- Provide all labour to install any structural lintels, beam pockets, beam bolt connections, excluding masonry walls.
- Supply and place, trowel finishes on concrete garage slab on grade saw cut and spray cure as per standards
- Provide and place wire mesh for garage slab on grade
- Supply and install vapour barrier under the basement floors
- Supply and install all rebar
- Supply and install all specified concrete including winter heat
- Supply and install all tarps and heat, winter protection for pouring of walls and reinforced slabs
- Place a trowel finish on all reinforced slabs and including slab on grade
- Supply of concrete pumping if necessary

THIS IS EXHIBIT A TO THE AFFIDAVIT OF  
JOHN CAMARA AFFIRMED BEFORE ME ON  
9 OCTOBER 2020

A COMMISSIONER ETC. (SCOTT THURTON)



- Provide on-site coordination with excavator to ensure proper time for excavation and backfilling of footings.
- Supply and install all precast stairs for garage and building tower
- Supply a Kryton or Zypex or equivalent water proofing additive to the concrete mix for all the underground garage perimeter walls.
- Form and pour all structural walls and slabs including footing up to the roof including mechanical penthouse, elevator, machinery rooms and roof
- Form and pour all concrete parapet, curbs around the roof as per drawing specifications including top of stair tower, mechanical room and elevator room.
- Use elevator shop drawings provided to you to form proper elevator pit, shaft and room sizes
- Form and pour all balcony slabs as part of the main floor slab on every floor
- Provide all labour to install all cast-in inserts; door frames, vent sleeve, Pipe or electrical sleeves etc.
- All exterior concrete wall surface, interior garage walls and columns, stairwell walls, under balconies to be patched, (bag rub) and smooth face ground to receive paint, and all necessary equipment like swing stages etc. must be provided
- Provide a tie off lineyard at each balcony patio door opening cast in to wall or slab location discussed on site
- All exterior and interior poured concrete walls to be inline and plumb to avoid in and out step imperfections including concrete beams and keep elevator shafts square and plumb
- Clear out your own working area from materials, snow and debris etc.
- Provide your own crane swamper hook up man
- Provide your own traffic control

NOTE: The tower crane package must include the following in the total price of the contract

- One tower crane
- All parts and service including labour
- Erection and Dismantle
- Foundation anchors
- Foundation Engineering
- Structural Inspection
- Foundation Fabrication
- Insurance coverage
- Tower crane operator for the duration of the project
- Transportation to site and back to yard
- **NO CELL PHONE USE ON JOBSITE** unless you are the supervisor or superintendent
- Provide a breakdown cost for the garage and building tower for labour and materials
- Provide a job schedule.
- Provide a payment schedule on a per floor basis
- All work will be performed in accordance with the Ministry of Labour ; rules and Regulations

PRICE: The total price, including all applicable taxes, for the work shall be \$7,022,950.00; subject to the provisions of the construction Lien Act, payable net 30 days after receipt of invoice between 1<sup>st</sup> and 8<sup>th</sup> of the month.

**INSURANCE**

The Subcontractor shall supply a current certificate of liability insurance showing that coverage is carried for claims arising from its operations under this contract for bodily injury and property damage, including completed operations coverage, with limits of not less than Two Million Dollars (\$2,000,000.00) inclusive coverage.

**WORKER'S COMPENSATIONS:**

The Subcontractor shall pay any amounts as and when they become preformed under this contract, and shall supply a valid W.C.B. Clearance Certificate as evidence. No payments will be made under this contract until the above documents have been supplied.

**TERMS & CONDITIONS:**

The terms and conditions contained on the reverse side hereof which shall form part of the contract resulting from the Subcontractor's acceptance of this Subcontract. This contract shall not be effective until it has been signed by both the Subcontractor and the Contractor.

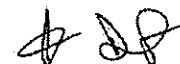
**AYERSWOOD DEVELOPMENT CORPORATION**

Per:   
Duly Authorized Officer

**SIRIUS CONCRETE INC.**

Per:   
Duly Authorized Officer

P. O. BOX 3117, LONDON, ONTARIO N6A 4J4  
Phone: (519) 433-8126 FAX: (519) 456-1628



# TERMS AND CONDITIONS OF SUBCONTRACT

1. The following terms, (together with those on the reverse page) and all the plans, specifications and other documents referred to herein, shall constitute the contract between the parties which the parties hereto covenant and agree to observe and perform. The intention of the documents is to include all labour and materials reasonably necessary for the proper execution of the work. It is understood that the plans and specifications are and shall remain the property of the Contractor. The Subcontractor acknowledges that by the commencement of work and/or the supply of materials the Subcontractor shall be conclusively deemed to have accepted the contract in all respects.
2. The Subcontractor shall provide all labour and materials and all scaffolding, tools, apparatus and plant necessary for the execution of this work. The Subcontractor shall at all times be solely responsible for loss or damage to the same including, without limitation, for loss or damage to his work until completion and acceptance by the Contractor.
3. The Subcontractor shall be liable for and shall replace or pay for any loss or damage to work and/or materials of others, including the Contractor, caused by the Subcontractor or his employees.
4. The Subcontractor shall indemnify and save the Contractor harmless from any liability on account of infringement of any trade mark or patent rights.
5. No alteration shall be made in the work and/or materials shown or described by the plans and specifications except on a written order signed by a properly authorized officer or agent of the Contractor. It is mutually agreed that the Contractor shall be entitled to vary the extent of the work and/or materials, either by way of addition or deduction, and any and all such additions and deductions shall be valid and binding upon the Subcontractor and when so made the value of the work and/or materials thus added or deducted shall be computed and the contract price shall be varied accordingly, and provided that in no event shall the Subcontractor be entitled to extra compensation from the Contractor without such a written order. Any charges shall in no way affect or void the parties' obligations under this contract.
6. Notwithstanding any omissions in plans, specifications or addenda thereto (if any), the parties agree that, for the contract price, the Subcontractor shall supply all materials and labour necessary for the proper execution of the work referable to the trade or trades which are the subject of this contract, all in a good and workmanlike manner.
7. If the Subcontractor in the course of his work finds any discrepancies or errors in the plans and specifications or in the instructions given for the performance of the work, he shall immediately inform the Contractor in writing. Any work done after such discovery will be done at the Subcontractor's risk, unless he receives the Contractor's written authorization.
8. The Subcontractor shall clear away all dirt and rubbish caused by his operations as often as requested by the Contractor, and shall leave the premises in a neat and clean condition.
9. The Subcontractor will indemnify and save harmless the Contractor against all claims for damages by third parties who are injured while on the job site at the request of or for the purpose of doing business with the Subcontractor.
10. The Contractor may order the immediate removal of any worker considered by the Contractor to be incompetent and of all materials considered by it to be unsatisfactory.
11. Work on all material called for shall be commenced forthwith in order that the Subcontractor may commence deliveries and start work at the building as soon as it is in condition to receive it. If in the judgment of the Contractor the Subcontractor is not making sufficient progress in the preparation of the materials herein called for and thereby causing or threatening to cause delay in the general progress of the work, the Contractor shall have the right to investigate the cause of said delay and expedite deliveries, and all expenses thus incurred by the Contractor shall be charged to and paid by the Subcontractor.
12. The Subcontractor shall at all times provide facilities for inspection by the contractor of the work done and of materials furnished or to be furnished hereunder by the Subcontractor. Such inspection may be made at the site of the work, or at shops or at any other place where materials required hereunder are in course of preparation, manufacture, treatment or storage. The Subcontractor shall within 24 hours after receiving written notice from the Contractor to that effect, proceed to remove from the grounds or buildings all materials condemned by the Contractor as being of less than first quality, whether worked or unworked, and to take down all portions of the work which the Contractor shall by like written notice condemn as unsound or improper, or as in any way failing to conform to the drawings and specifications, and shall make good all work in other lines damaged by such removal. The Contractor and its representatives shall have full and free access to the shops, factories or other places of business of the Subcontractor, and the subcontractors of this Subcontractor, in order that the Contractor may inform itself of the general condition and progress of the work herein contemplated.
13. The Subcontractor agrees to indemnify and save harmless the Contractor from and against all claims, suits, judgements and damages brought, recovered or exacted against the Contractor for or on account of any claim growing out of any damage to property or any injury or death sustained by any person or persons by reason of any act, omission, or negligence of the said Subcontractor, his agents, employees or subcontractors, as well as against any claims by employees of the Subcontractors of his subcontractors, or the dependants of any such employees under the provisions of the Workers' Compensation Act, and the Subcontractor will moreover procure and maintain adequate insurance or other security satisfactory to the Contractor to protect the Contractor and keep it indemnified from and against any and all such claims, suits, judgements or damages mentioned hereinabove. It is understood and agreed that if the Subcontractor being called upon to do so, is unable within 7 days to satisfy the Contractor that adequate insurance or other security satisfactory to the Contractor is in force in accordance with the foregoing covenant, then in that event the Contractor shall have the right to procure adequate insurance and to charge the premium to the Subcontractor in which event the Subcontractor agrees to furnish the contractor on demand an accurate statement of his payrolls in order to arrive at the premium to be charged.
14. The Subcontractor shall repair and make good any damages or fault in the building that may appear within one year after its completion as the result of imperfect or defective work done on material furnished by the Subcontractor. The Subcontractor shall indemnify the Contractor against loss or damage from any defects in material or workmanship furnished by the Subcontractor for such period as the Contractor is liable under all municipal, provincial, federal and common law.
15. The Subcontractor shall cooperate with the Contractor and all other subcontractors with whose work that of the Subcontractor may come in contact, in order to avoid any conflict and insure a first class workmanlike job in every respect.
16. Should a labour dispute involving the Subcontractor affect the progress of the project, or should the Subcontractor be adjudged a bankrupt, or if he should make a general assignment for the benefit of the creditors, or if the receiver should be appointed on account of his insolvency, or if he should at any time refuse or neglect to supply a sufficient number of skilled workers, or sufficient materials of the proper quality, or fail in any respect to execute the work with promptness or diligence, or fail in the performance of any agreements herein contained, the Contractor shall be at liberty to provide any such labour and materials and to deduct the cost thereof from any money then due or here after to become due to the Subcontractor under this contract and the Contractor shall also be at liberty to terminate the employment of the Subcontractor for the said work and cancel this contract and to enter upon the premises and take possession of and use without cost to the Contractor, for the purpose of completing the work comprehended under this contract, all materials, tools and appliances thereon, and to employ any other person or persons to finish the work and to provide the materials therefor; and in case of such cancellation of contract or discontinuance of employment, the Subcontractor shall not be entitled to receive any further payment under this contract until the said work shall be wholly finished at which time if the unpaid balance of the amount to be paid under this contract shall exceed the expenses incurred by the contractor in finishing the work, such excess shall be paid by the Contractor to the Subcontractor; but if such expense shall exceed such unpaid balance, the Subcontractor shall pay the difference to the Contractor immediately upon demand.
17. The Subcontractor's work must pass inspection by the Contractor's job superintendent, by all municipal representatives, and by the relevant mortgage company inspectors, if any, and no payment shall be made unless such inspection is satisfactory in every way.
18. The Subcontractor waives and releases all claims, liens or rights of lien now existing or that may here after exist for work done or labour performed or material furnished under this contract upon the building project(s) and upon the land on which the same is/are situated and upon any monies or monies due or to become due from any person or persons to the Contractor and agrees to furnish immediately upon demand a good and sufficient waiver of lien on said premises, lands and monies from every person or persons, corporation or corporations furnishing labour or material under the Subcontractor.
19. Advance payments may be made by the Contractor if, in its opinion, the same are proper to aid the Subcontractor in the performance of the contract. Notwithstanding anything herein contained, the Contractor shall be entitled to retain the statutory holdback provided for in the Construction Lien Act and the final payment to the Contractor shall not become due and payable until forty-six days after this contract is completed, upon the delivery of a waiver of lien by the Subcontractor and his suppliers (if any) and a letter of clearance of the Subcontractor from the Worker's Compensation Board.
20. In the case of any dispute between the Contractor and the Subcontractor regarding the quality and/or quantity of the work and/or materials supplied hereunder, the architect or structural engineer employed by the Contractor for the project shall be the person to arbitrate, and his decision shall be binding upon both parties.
21. The conditions of this contract shall be binding on the parties hereto, their executors, administrators, successors and assigns, and shall be interpreted with such grammatical and other changes as may be required in the circumstances.

*[Handwritten signatures]*

**John J. Camara**

---

**From:** John J. Camara  
**Sent:** Tuesday, September 04, 2018 11:22 AM  
**To:** 'Tomas Waite'  
**Subject:** RE: 45 Yarmouth - Sirius Concrete Schedule

Thank you.

What ever happen to the 6 days per floor which is more in line with what we negotiated for?

This is a start but you guys are going to do a lot of tweaking to this schedule starting now.

There were 2 days lost on the pour #1 because of the ramp steel not being delivered and predicament of whether or not it was going to rain. These decisions will have to be tighten up and not be changed every day.

As of today I see a lot of deck ready for rebar and yet it will not be delivered until tomorrow why? The center core walls should have the reinforcing installed and ready to have the forms closed and pour tomorrow, we still don't know if the rebar for the south wall will be delivered tomorrow, the stair tower on the North West was scheduled to be moved today but because of the #1 deck pour change we can't get the contractor to move it for us until Thursday this week.

You can see that at this crucial time of the project thing need to be completed as planned.

Lets work together to come up with a better schedule than the present one.

**From:** Tomas Waite <twaite@siriusconcrete.ca>  
**Sent:** Tuesday, September 04, 2018 9:08 AM  
**To:** John J. Camara <JJC@cpirentals.com>  
**Cc:** Jamie Parkes <jparkes@siriusconcrete.ca>; Tobin Tompkins <tompkins@siriusconcrete.ca>; Tim Minkarious <timinkarious@gmail.com>; Dave Forbes <dforbes@siriusconcrete.ca>  
**Subject:** 45 Yarmouth - Sirius Concrete Schedule

Hi John,

Sorry for the delay on getting you this but please find attached our preliminary schedule for the 45 Yarmouth project. We are looking at about 10 days per floor on the typical levels. Please review and let me know if you have questions or concerns.

Regards,

Tomas Waite, C.Tech. – Project Manager  
 PO Box 25070 Kitchener, ON N2A 4A5  
 T: 1.866.218.6173 x 104 D: 1.226.243.2245  
[twaite@siriusconcrete.ca](mailto:twaite@siriusconcrete.ca)



THIS IS EXHIBIT B TO THE AFFIDAVIT OF  
 JOHN CAMARA AFFIRMED BEFORE ME ON  
 9 OCTOBER 2020.

  
 A COMMISSIONER ETC (SCOTT TURTON)

**John J. Camara**

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**From:** John J. Camara  
**Sent:** Tuesday, February 12, 2019 8:54 AM  
**To:** 'Jamie Parkes'  
**Cc:** 'Tobin Tompkins'; 'Tomas Waite'  
**Subject:** RE: lost time

Thank you Jamie,  
 Thank you for this update, mother nature does not always cooperate.  
 What I do need from you is a plan as to how you can regain some of this lost time going forward.

**From:** Jamie Parkes <jparkes@siriusconcrete.ca>  
**Sent:** Monday, February 11, 2019 8:42 AM  
**To:** John J. Camara <JJC@cpirentals.com>  
**Cc:** Tobin Tompkins <ttompkins@siriusconcrete.ca>; Tomas Waite <twaites@siriusconcrete.ca>; ryan@45yarmouth.ca  
**Subject:** lost time

Good morning John;

In the last 2 weeks we have had some down time due to weather and crane issue's. On Jan 30, 2019 the crane was not operational due to severe cold weather. It was -23 degree Celsius with wind chill of -32 degree Celsius. On Jan 31, 2019 our crane was shut down again because of severe cold weather. It was -24 degree Celsius with a wind chill of -34 degree Celsius. On Feb 1, 2019 our crane's swing motor broke down at 11:30am and they were unable to fix it until Feb 2, 2019 so we lost most of our day due to crane breakdown. On Feb 6, 2019 Ryan Ludwig talked to Jamie Apperson about shutting down the whole sit because of the freezing rain storm we had. I was not on site that day and had a conversation with Ryan about the weather and he stated that it would be wise to shut down site because of safety for the workers and crane. On Feb 8, 2019 the crane was shut down for the day due to high winds. The winds were gusting over 80 km/h so we lost production that day as well. This email is for your records to show lost time. Thanks John

Jamie Parkes, – Site Supervisor  
 PO Box 25070 Kitchener, ON N2A 4A5  
 T: 1.226.868.9020  
[jparkes@siriusconcrete.ca](mailto:jparkes@siriusconcrete.ca)



THIS IS EXHIBIT C TO THE AFFIDAVIT OF  
 JOHN CAMARA AFFIRMED BEFORE ME ON  
 9 OCTOBER 2020

  
 A COMMISSIONER ETC (SCOTT TURTON)

**John J. Camara**

---

**From:** John J. Camara  
**Sent:** Tuesday, February 12, 2019 1:42 PM  
**To:** 'Dave Forbes'  
**Subject:** RE: 45 Yarmouth Concrete Schedule, Feb 11, 2019

Thank you Dave for your quick reply.

At the end of the day all we want is for us not to loose site of the schedule going forward. Anything that can done to expedite the erection of the structure should be considered at all times. We are now sitting on the side lines waiting to start other trades and we cant do that unless the concrete structure moves up as per the schedule I put together going forward. The schedule going forward is based on our original conversation when we met at Skyrise's office for the first time, and I think it's a reasonable one.

Dave, I have a lot of respect and admiration for you , and I am not telling you how to run your business but I do have to look after Ayerswood" affairs. When you have a birds eye view on what goes on a daily basis you yourself would have done something about it already, and I would not have to spend time sending out these emails.

Thank you for your cooperation.

-----Original Message-----

**From:** Dave Forbes <dforbes@siriusconcrete.ca>  
**Sent:** Tuesday, February 12, 2019 1:29 PM  
**To:** John J. Camara <JJC@cpirentals.com>; Tobin Tompkins <tompkins@siriusconcrete.ca>; Tomas Waite <twait@siriusconcrete.ca>; Jamie Parkes <jparkes@siriusconcrete.ca>  
**Cc:** Ryan Ludwig <Ryan@45Yarmouth.com>  
**Subject:** RE: 45 Yarmouth Concrete Schedule, Feb 11, 2019

Good Afternoon John,

I will be looking into your concerns with my team immediately. On a high level, we have lost est. 8 weeks due to excavation, performance and weather. Our schedule shows a new finishing the week of July 29th. We will review to fine where we can gain ground. As for housekeeping, with the transition moving parking garage to tower, the site is a mess and we will clean it up as forming material is transferred. We that all of your concerns to heart and will be putting a plan together that I hope you will fine satisfactory. I sure I will be calling for your input.

Thank you,

David Forbes - GSC: Business Manager  
 PO Box 25070 Kitchener, ON N2A 4A5  
 dforbes@siriusconcrete.ca  
 T: 1.519.808.4237

-----Original Message-----

**From:** John J. Camara <JJC@cpirentals.com>  
**Sent:** Tuesday, February 12, 2019 12:28 PM  
**To:** Dave Forbes <dforbes@siriusconcrete.ca>; Tobin Tompkins <tompkins@siriusconcrete.ca>; Tomas Waite <twait@siriusconcrete.ca>; Jamie Parkes <jparkes@siriusconcrete.ca>  
**Cc:** Ryan Ludwig <Ryan@45Yarmouth.com>  
**Subject:** FW: 45 Yarmouth Concrete Schedule, Feb 11, 2019

---

Good morning Gentlemen.

I have taken the time to prepare this concrete forming schedule so we can get a better handle on the progress going forward. As you know Ayerswood has commitments in place with many trades other than Sirius Concrete and in order to fulfill these commitment I would ask that you get together and figure out as to how you are going to keep this schedule going. I understand that the weather always plays a big part on a project such as this, and adjustments need to me made when it occurs.

It will be a month on the 14th of February since the first half of the second floor was poured and the walls are still not completed. It seems to me that you guys don't have the forms required or paired up to accomplish the outcome. Example, the forming crews are taking forms from grid line 9 West of the stairwell to fill in the wall on grid line 1 that has been sitting around since the slab was poured. There are other similar examples throughout the floor. The wall on grid line 6 has had the rebar up for some time and yet no forms are up, why? A set of forms should have been made to pour this wall along time ago. Some one needs to organize the forming sequence ie: the set of forms needed per floor to keep the schedule going.

One more thing, I want the site cleared of all debris, equipment scattered throughout the ground floor and especially outside on Yarmouth and Baker streets, including between the buildings on the South side. I am not happy with the house cleaning on this project. I hope you give this matter serious consideration and a solution to resolve it sooner than later.

I will be available to discuss the contents of this email at any time.

-----Original Message-----

From: copier@cpirentals.com <copier@cpirentals.com> On Behalf Of copier@  
Sent: Tuesday, February 12, 2019 10:13 AM  
To: John J. Camara <JJC@cpirentals.com>  
Subject: 45 Yarmouth Concrete Schedule, Feb 11, 2019

Reply to: copier@cpirentals.com <copier@cpirentals.com> Device Name: MY27 Device Model: MX-2640N  
Location: 920 Commissioners Rd E

File Format: PDF (Medium)  
Resolution: 200dpi x 200dpi

Attached file is scanned image in PDF format.

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<http://www.adobe.com/>



FEB 18/2019 = HOLIDAY = FAMILY DAY

APRIL 19/2019 = " = EASTER, GOOD FRIDAY

CONCRETE SCHEDULE STARTING FEB 11/2019  
8 DAYS PER FLOOR

# January

S	M	T	W	T	F	S
	1	2	3	4	5	
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

↑ - 250 cold

# May

S	M	T	W	T	F	S
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

↑ - FLOOR

# February

S	M	T	W	T	F	S
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	

✓ = with no production 13 NO CRANE AN.

# June

S	M	T	W	T	F	S	
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	30

DECLARED BANKRUPTCY

# March

S	M	T	W	T	F	S	
3	4	5	6	7	8	9	
10	11	12	13	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	31

H'S YARMOUTH LAST DAY ON SITE

# April

S	M	T	W	T	F	S	
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	28

SIRIUS CONCRETE

# July

S	M	T	W	T	F	S				
1	2	3	4	5	6					
7	8	9	10	11	12	13				
14	15	16	17	18	19	20				
21	22	23	24	25	26	27	28	29	30	31

# August

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

# September

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

# October

S	M	T	W	T	F	S
	1	2	3	4	5	
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

# November

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

# December

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

**John J. Camara**

---

**From:** Tomas Waite <twait@siriusconcrete.ca>  
**Sent:** Friday, March 01, 2019 12:44 PM  
**To:** John J. Camara; Dave Forbes; Tobin Tompkins  
**Cc:** Ryan Ludwig  
**Subject:** RE: 45 Yarmouth Jobsite

Hi John,

Tobin and myself will be available for Tuesday morning. As discussed yesterday Tobin and myself will be making more site appearances to get things on track. Please be patient with us as we work through the issues. If you wish to discuss further prior to our meeting on Tuesday please feel to free to call Tobin or myself.

Regards,

Tomas Waite, C.Tech. – Project Manager  
 PO Box 25070 Kitchener, ON N2A 4A5  
 T: 1.519.854.3084  
[twait@siriusconcrete.ca](mailto:twait@siriusconcrete.ca)



**From:** John J. Camara <JJC@cpirentals.com>  
**Sent:** Friday, March 1, 2019 11:08 AM  
**To:** Dave Forbes <dforbes@siriusconcrete.ca>; Tobin Tompkins <ttompkins@siriusconcrete.ca>; Tomas Waite <twait@siriusconcrete.ca>  
**Cc:** Ryan Ludwig <Ryan@45Yarmouth.com>  
**Subject:** 45 Yarmouth Jobsite  
**Importance:** High

Good Morning

I was at the job site in Guelph this morning and was disappointed not to meet anyone of you on site. I understand that we have a business to run and I don't expect you to be at my beck and call but I do want and need to see an organized job site. I realize that the weather has been a challenge in recent weeks but the lack of organization has made it worse for your employees there. For sometime now we have advised you that the housekeeping needs attention. The lack of housekeeping is creating a hazardous work environment for your employees and other trades involved. We also need to address the unfinished areas throughout the building that need to be completed. I am requesting a meeting to take place , on site, Tuesday Mar 05, 2019 at 8:30am with a representative from Sirius Concrete who has the authority to make decisions and bring forth a plan to organize this project , get it back on track and keep it on track and organized going forward.

Regards

John Camara

THIS IS EXHIBIT D TO THE AFFIDAVIT OF  
 JOHN CAMARA AFFIRMED BEFORE ME ON  
 9 OCTOBER 2020.

  
 A COMMISSIONER ETC (SCOTT TURTON)

**John J. Camara**

---

**From:** John J. Camara  
**Sent:** Friday, March 01, 2019 1:38 PM  
**To:** 'Tomas Waite'; 'Tobin Tompkins'  
**Cc:** Ryan Ludwig  
**Subject:** RE: 45 Yarmouth Jobsite

Hi Tom,

As I told you before my mission in life is not to make your life miserable or to be harping at you guys every day, but I feel like no one is listening and there is not a lot of effort from upper management to get this project untangled. I think that as of now and not one or two weeks from now, one of you guys whether it's you or Tobin need to spend full days on site to get it turned around and on some type of schedule. The following is where I see some problems occurring.

If you were to contact me and we agree that you finish covering the ground floor, I will provide the heat that would be beneficial for you in accomplishing the following.

- A) It would help thaw the second floor slab and make it easier for you to clear the snow and ice and set your tables.
  - B) While the heat is on you would be able to complete the concrete work on the ground floor, at the lobby area, stairwell B, scrape and sweep the entire ground floor, remove all forming materials that are being used, strip out the underside of the second floor deck on the South West corner etc.
  - C) It will allow you to layout for the block work on the entire ground floor.
  - D) It will allow you to erect all the block walls on the ground floor.
  - E) After the block work is completed we can build our respective offices on the ground floor and remove the office trailers from the exterior to clear the way for the utilities to be installed early April.
- 1) The cleanup is our biggest problem on this site. Instead of complaining that there is no lay down room why not clean all the scattered unusable material and debris and be done with it once and for all.
  - 2) There is wood, reinforcing, shores, concrete, wire, etc. all mixed in and covered with ice, I even found a vibrator covered in ice. We need to get a handle on this ASAP, Ayerswood will not tolerate this type of housekeeping any longer.
  - 3) The same housekeeping practices will have to apply to the floor you are working on to avoid unnecessary accidents that may shut the job down.
  - 4) Building the tables take time just like anything else you have to set up, but it's a lot harder when you can't even move because of the clutter surrounding the work area.
  - 5) I provided you guys with a schedule going forward, but I haven't heard from you as to how you propose to honour it.
  - 6) We need immediate action in resolving these issues and stabilize the schedule going forward.

I hope you take this matter very serious and come up with a plan to solve it before our meeting Tuesday March 5, 2019.

Thank you for your attention regarding these concerns

John.

**From:** Tomas Waite <twaite@siriusconcrete.ca>  
**Sent:** Friday, March 01, 2019 12:44 PM  
**To:** John J. Camara <JJC@cpirentals.com>; Dave Forbes <dforbes@siriusconcrete.ca>; Tobin Tompkins <ttompkins@siriusconcrete.ca>  
**Cc:** Ryan Ludwig <Ryan@45Yarmouth.com>  
**Subject:** RE: 45 Yarmouth Jobsite

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Regards,

Tomas Waite, C.Tech. – Project Manager  
PO Box 25070 Kitchener, ON N2A 4A5  
T: 1.519.854:3084  
[twaite@siriusconcrete.ca](mailto:twaite@siriusconcrete.ca)



**From:** John J. Camara <[JJC@cpirentals.com](mailto:JJC@cpirentals.com)>  
**Sent:** Friday, March 1, 2019 11:08 AM  
**To:** Dave Forbes <[dforbes@siriusconcrete.ca](mailto:dforbes@siriusconcrete.ca)>; Tobin Tompkins <[ttompkins@siriusconcrete.ca](mailto:ttompkins@siriusconcrete.ca)>; Tomas Waite <[twaite@siriusconcrete.ca](mailto:twaite@siriusconcrete.ca)>  
**Cc:** Ryan Ludwig <[Ryan@45Yarmouth.com](mailto:Ryan@45Yarmouth.com)>  
**Subject:** 45 Yarmouth Jobsite  
**Importance:** High

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I realize that the weather has been a challenge in recent weeks but the lack of organization has made it worse for your employees there.

For sometime now we have advised you that the housekeeping needs attention. The lack of housekeeping is creating a hazardous work environment for your employees and other trades involved.

We also need to address the unfinished areas throughout the building that need to be completed.

I am requesting a meeting to take place , on site, Tuesday Mar 05, 2019 at 8:30am with a representative from Sirius Concrete who has the authority to make decisions and bring forth a plan to organize this project , get it back on track and keep it on track and organized going forward.

Regards

John Camara

District of: Ontario  
 Division No. 05 - London  
 Court No.  
 Estate No.

Original  Amended

-- Form 78 --  
 Statement of Affairs (Business Bankruptcy) made by an entity  
 (Subsection 49(2) and Paragraph 158(d) of the Act / Subsections 50(2) and 62(1) of the Act)  
 In the matter of the bankruptcy of  
**Sirius Concrete Inc.**  
 of the City of Waterloo, in the Municipality of Waterloo, in the Province of Ontario

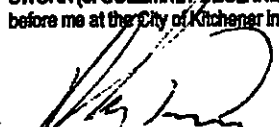
To the bankrupt:  
 You are required to carefully and accurately complete this form and the applicable attachments showing the state of your affairs on the date of the bankruptcy, on the 1st day of March 2019. When completed, this form and the applicable attachments will constitute the Statement of Affairs and must be verified by oath or solemn declaration.

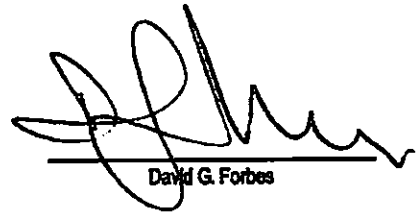
LIABILITIES (as stated and estimated by the officer)	
1. Unsecured creditors as per list "A" .....	2,591,154.71
Balance of secured claims as per list "B" .....	0.00
Total unsecured creditors .....	2,591,154.71
2. Secured creditors as per list "B" .....	2.00
3. Preferred creditors as per list "C" .....	0.00
4. Contingent, trust claims or other liabilities as per list "D" estimated to be reclaimable for .....	0.00
Total liabilities .....	2,591,156.71
Surplus .....	NIL

ASSETS (as stated and estimated by the officer)	
1. Inventory .....	0.00
2. Trade fixtures, etc. ....	0.00
3. Accounts receivable and other receivables, as per list "E"	
Good .....	1,112,228.00
Doubtful .....	783,908.00
Bad .....	0.00
Estimated to produce .....	1,112,228.00
4. Bills of exchange, promissory note, etc., as per list "F" ...	0.00
5. Deposits in financial institutions .....	0.00
6. Cash .....	0.00
7. Livestock .....	0.00
8. Machinery, equipment and plant .....	0.00
9. Real property or immovable as per list "G" .....	0.00
10. Furniture .....	0.00
11. RRSPs, RRIAs, life insurance, etc. ....	0.00
12. Securities (shares, bonds, debentures, etc.) .....	0.00
13. Interests under wills .....	0.00
14. Vehicles .....	5.00
15. Other property, as per list "H" .....	170,001.00
If bankrupt is a corporation, add:	
Amount of subscribed capital .....	0.00
Amount paid on capital .....	0.00
Balance subscribed and unpaid .....	0.00
Estimated to produce .....	0.00
Total assets .....	1,282,234.00
Deficiency .....	1,308,922.71


I, David G. Forbes, of the City of Kitchener in the Province of Ontario, do swear (or solemnly declare) that this statement and the attached lists are to the best of my knowledge, a full, true and complete statement of my affairs on the 1st day of March 2019 and fully disclose all property of every description that is in my possession or that may devolve on me in accordance with the Act.

SWORN (or SOLEMNLY DECLARED)  
 before me at the City of Kitchener in the Province of Ontario, on this 1st day of March 2019.

  
 Robyn Durwin, Commissioner of Oaths  
 For the Province of Ontario  
 Expires March 7, 2019

  
 David G. Forbes

THIS IS EXHIBIT E TO THE AFFIDAVIT OF  
 JOHN CAMARA AFFIRMED BEFORE ME ON  
 9 OCTOBER 2020.

  
 A COMMISSIONER EFC (SCOTT TURTON)

District of: Ontario  
 Division No. 05 - London  
 Court No.  
 Estate No.

FORM 78 - Continued

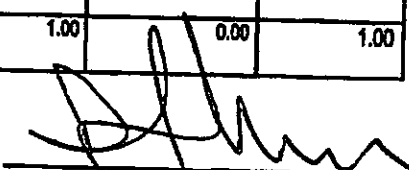
List "A"  
 Unsecured Creditors

Sifus Concrete Inc.

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
1	4Refuel	PO Box 57323 Stn A Toronto ON M5W 5M5	10,565.61	0.00	10,565.61
2	Acco Group	654 Fairway Rd S, Unit B Kitchener ON N2C 1X3	783.69	0.00	783.69
3	Active Heavy Towing	1764 Victoria St. N Kitchener ON N2B 3E5	316.40	0.00	316.40
4	Advance Construction Equipment	607 Colby Drive Waterloo ON N2V 1A1	2,549.27	0.00	2,549.27
5	AGF - REBAR INC.	80 Centennial Rd Kitchener ON N2B 3G1	370,189.10	0.00	370,189.10
6	Alder Construction Group Ltd	1-617 Colby Drive Waterloo ON N2V 1Y9	1.00	0.00	1.00
7	Alexander Carlos	102-25 Hugo Cres Kitchener ON N2M 3Z3	1.00	0.00	1.00
8	Alonso Villanueva	151-320 Westminster Ave London ON N6C 5H5	1.00	0.00	1.00
9	Andrew Paset	238 Hilltop Drive Ayr ON N0B 1E0	1.00	0.00	1.00
10	Andrew Scott	27 Cedar St. N Kitchener ON N2M 2H3	1.00	0.00	1.00
11	BATTLEFIELD EQUIPMENT-ONTARIO	880 South Service Road PO Box 9340 LCD1 Hamilton ON L8L 7X7	1,019.13	0.00	1,019.13
12	Becker Brothers	915 Wilson Ave Kitchener ON N2C 1J1	1,663.93	0.00	1,663.93
13	BMO Financial Group of BankruptcyHighway.com Attr: Mike Timko	PO Box 57100 Etobicoke ON M9Y 3Y2	590,000.00	0.00	590,000.00
14	Bofts Plus	7100 Torbram Rd Mississauga ON L4T 4B5	2,501.90	0.00	2,501.90
15	Bradley Johnson	27 Totton Ave Hamilton ON L8H 4K4	1.00	0.00	1.00
16	Brette Irvine	133 Donnererwerth Drive Kitchener ON N2E 4C8	1.00	0.00	1.00
17	Brian Nadesu	79 East Street Cambridge ON N1R 4P2	1.00	0.00	1.00
18	C.J. PINK LTD.	675 Donnybrook Drive Dorchester ON N0L 1G5	37,064.34	0.00	37,064.34
19	Cambridge Concrete Pumping	226 Bolda Ave Ayr ON N0B 1E0	20,936.65	0.00	20,936.65
20	Centrefine Sanitation	108 Mag Drive, Unit #1 London, ON N6E 3T7	1,460.30	0.00	1,460.30
21	Chad Alexander	583 Northampton Place Waterloo ON N2T 2M4	1.00	0.00	1.00
22	Chris Hoffarth	48 Adam Street Midway ON N0G 2J0	1.00	0.00	1.00
23	Christopher Taber	2075 Preston Road Cavan ON K9J 6X4	1.00	0.00	1.00
24	Christopher Doherty	2-308 Kwanis Peak Drive London ON N5W 4M9	1.00	0.00	1.00

01-Mar-2019

Date

  
 David G. Forbes

District of: Ontario  
 Division No. 05 - London  
 Court No.  
 Estate No.

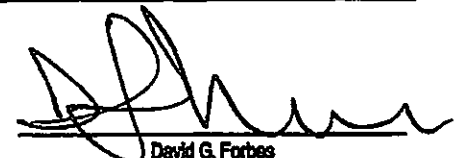
FORM 78 -- Continued

List "A"  
 Unsecured Creditors  
 Sirius Concrete Inc.

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
25	Christopher McIntyre	45-81 Eagen Street Kitchener ON N2M 5C7	1.00	0.00	1.00
26	CLAC	P.O. Box 219 89 South Service Rd Grimby ON L3M 4G3	137,930.98	0.00	137,930.98
27	Cody Reidt	333 Cornridge Place Waterloo ON N2T 2N2	1.00	0.00	1.00
28	Colin Harburn	132 Maxwell Cres London ON N5X 1Z2	1.00	0.00	1.00
29	Colin Swance	126 Poldin Drive Norwich ON N0J 1P0	1.00	0.00	1.00
30	Cooper Rentals	P.O.Box 4590 Station A Toronto ON M5W 7B1	24,061.01	0.00	24,061.01
31	COTTON INC	2125 FRUITBELT PARKWAY NIAGARA FALLS ON L2J 0A5	329,071.35	0.00	329,071.35
32	CRA - Sudbury Tax Services Office 850777434 RP0001	PO Box 5548 3 - 451 Talbot St. London ON N6A 4R3	303,994.00	0.00	303,994.00
33	CRA - Sudbury Tax Services Office 850777434 RT0001	PO Box 5548 3 - 451 Talbot St. London ON N6A 4R3	1.00	0.00	1.00
34	Craig Daly	38 Marlowood Drive Kitchener ON N2M 2H5	1.00	0.00	1.00
35	David Caughey	132 Bridge Street West Waterloo ON N2K 1K9	1.00	0.00	1.00
36	Daxit Chotara	126 Coopershawk St Kitchener ON N2K 4S8	1.00	0.00	1.00
37	Derek Hodgson	216 Laurel Springs Court Kitchener ON N2N 3N8	1.00	0.00	1.00
38	Derek Hoffarth	306 Prince Street Walkerton ON N0G 2V0	1.00	0.00	1.00
39	DESJARDINS CARD SERVICES	P.O. BOX 8601 STN CENTRE-VILLE FCDQ MONTREAL QC H3C 3V2	612.52	0.00	612.52
40	DOKA CANADA LTD.	12673 Coleraine Drive Bolton ON L7E 3B5	353,641.83	0.00	353,641.83
41	Dustin Hennebury	9-499 Albert Street Waterloo ON N2L 5A7	1.00	0.00	1.00
42	EFCO Canada Co.	PO Box 15239, Station A Toronto ON M5W 1C1	18,884.22	0.00	18,884.22
43	Elgin Meechan	A-372 Churchill Court Waterloo ON N2L 6B4	1.00	0.00	1.00
44	Forbesdale Fabrication	642960 Rd. 64 Ingersoll ON N5C 3J6	14,807.52	0.00	14,807.52
45	Form & Build Supply	1175 Frances St London ON N5W 2L9	10,593.73	0.00	10,593.73
46	Giles Bonds	133 London Street N Hamilton ON L8H 4B6	1.00	0.00	1.00

01-Mar-2019

Date



David G. Forbes

District of: Ontario  
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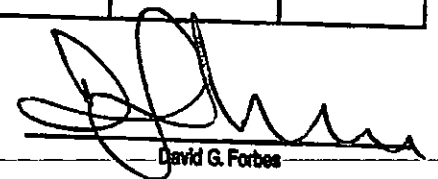
List "A"  
 Unsecured Creditors

Sirius Concrete Inc.

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
47	GILLIES LUMBER INC	777 Industrial Road Cambridge ON N3H 4W2	9,955.04	0.00	9,955.04
48	Glenarran Holdings Inc	589 Colby Dr Waterloo ON N2V 1A1	5,620.00	0.00	5,620.00
49	Harkirat Singh Sidhu	74 Starlight Ave Breslau ON N0B 1M0	1.00	0.00	1.00
50	Ian Glenn Bell	10 Bleams Road East New Hamburg ON N3A 1G4	1.00	0.00	1.00
51	IBS Engineering Limited	21 Fairview Blvd. Guelph ON N1G 1H3	408.80	0.00	408.80
52	Information Network Systems	75 Northland Road Waterloo ON N2V 1Y8	328.85	0.00	328.85
53	Jaclyn Serwotnyk	23 Monterey Road Kitchener ON N2B 1V2	1.00	0.00	1.00
54	Jacob Wall	2489 Pinegrove Road Delhi ON N4B 2E5	1.00	0.00	1.00
55	James Ayton	415 Belmont Ave W Kitchener ON N2M 1N1	1.00	0.00	1.00
56	James Spowart	39 Hillbrook Cres Kitchener ON N2N 1J4	1.00	0.00	1.00
57	Jamie Apperson	68 Krug Street Kitchener ON N2H 2X7	1.00	0.00	1.00
58	Jamie Gagne	476 Redfox Drive Waterloo ON N2K 2T1	1.00	0.00	1.00
59	Jamie Parkas	272B Northlake Drive Waterloo ON N2V 1A9	1.00	0.00	1.00
60	Jason Baker	99 Kay Crescent Fergus ON N1M 0G2	1.00	0.00	1.00
61	JDI Cleaning Systems	108-3380 South Service Road Burlington ON L7N 3J5	469.82	0.00	469.82
62	Jeremy Chambers	174 Cole Road Guelph ON N1G 4A2	1.00	0.00	1.00
63	Jery Welsh	22 Ashford Court Brampton ON L6V 2Z1	1.00	0.00	1.00
64	Jesse Griffin	8 Andrew Street Arthur ON NDG 1A0	1.00	0.00	1.00
65	John Pettie	39 Todd Street Cambridge ON N1R 1G6	1.00	0.00	1.00
66	Jonathon Lopez	428 Paterson Ave London ON N5W 5C7	1.00	0.00	1.00
67	Jordan Mandigo	98 Wilson Court St. Mary's ON M4X 0B8	1.00	0.00	1.00
68	Jory Bataman	618 Taylor Crescent Burlington ON L7L 7A5	1.00	0.00	1.00
69	Justin Lefebvre	1799 Notre Dame Drive St. Agatha ON N0B 2L0	1.00	0.00	1.00
70	Kandace St. Louis	49 Edna Street Kitchener ON N2H 2E2	1.00	0.00	1.00

01-Mar-2019

Date



David G. Forbes



District of: Ontario  
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FORM 78 - Continued

List "A"  
 Unsecured Creditors  
 Sirius Concrete Inc.

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
71	Kim Efsthaliou	932 Eden Oak Court Kitchener ON N2A 0H4	1.00	0.00	1.00
72	KIM EFSATHIOU	932 EDEN OAK COURT KITCHENER ON N2A 0H4	15.58	0.00	15.58
73	Krystal Mcowen	201185 Kehl Street Kitchener ON N2M 5B9	1.00	0.00	1.00
74	Linde Canada Limited	P.O. Box 15687, Station A Toronto ON M5W 1C1	150.76	0.00	150.76
75	Lucas Alexander Forbes	642960 Road 64 Ingersoll ON N5C 3J6	1.00	0.00	1.00
76	Mark Machan	62 Ridgeway Crescent Kitchener ON N2E 3M2	1.00	0.00	1.00
77	Matthew Batus	68 Chalmers St. S. Cambridge ON N1R 6A5	1.00	0.00	1.00
78	Michel Roux	3966 Village Creek Drive Stavensville ON L0S 1S0	3,915.45	0.00	3,915.45
79	Ministry of Finance - ON PST, EHT & Other Taxes Attn: Mrs. Asia Albery	Ministry of Revenue 33 King Street West 8th Floor Oshawa ON L1H 8H5	1.00	0.00	1.00
80	MNP LLP	3rd Floor 139 Northfield Drive West Waterloo ON N2L 5A6	9,492.00	0.00	9,492.00
81	Modespace	2300 North Park Drive Brampton ON L6S 6C6	1,570.70	0.00	1,570.70
82	Nathan Aubert	1970 Centre Road Hamilton ON L8N 2Z7	1.00	0.00	1.00
83	Nathan Ayton	1B, 415 Belmont Ave W Kitchener ON N2M 1N1	1.00	0.00	1.00
84	National Rent-All Inc	1-280 Shirley Ave Kitchener ON N2B 2E1	4,428.44	0.00	4,428.44
85	NextSys Networking Inc.	668 Tritium Drive Unit 4 Kitchener ON N2R 1J3	2,879.01	0.00	2,879.01
86	Nicholas Waika	69 Muscovy Drive Elmira ON N3B 3M8	1.00	0.00	1.00
87	Northfield Auto Services	661 Colby Drive Waterloo ON N2V 1C2	6,325.72	0.00	6,325.72
88	OSLIM CONSTRUCTION LTD.	510 - 445 2ND W AVE VANCOUVER BC V5Y 0E8	25,090.00	0.00	25,090.00
89	Paul Hennigan	6 Brybeck Cres, Apt 105 Kitchener ON N2G 2B9	1.00	0.00	1.00
90	Paul McDougald	598A Royal Beech Drive Waterloo ON N2T 2K3	1.00	0.00	1.00
91	Pro Steel Fabrication	2500 Williams Parkway Unit #23 Brampton ON L6S 5M9	135.60	0.00	135.60
92	Progressive Contractors Association	1024 Parsons Road SW Edmonton AB T6X 0J4	1,999.26	0.00	1,999.26
93	Reber Guys Installation Inc.	90 Adam Street Cambridge ON N3C 2K6	1,249.50	0.00	1,249.50

01-Mar-2019

Date

  
 David G. Forbes

District of: Ontario  
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FORM 78 - Continued

List "A"  
 Unsecured Creditors

Strfus Concrete Inc.

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
94	Ricardo Desousa	170 Cedarwoods Cres Kitchener ON N2C 2J8	1.00	0.00	1.00
95	ROC Corp	250 Royal Oak Road Cambridge ON N3E 0A4	69,020.41	0.00	69,020.41
96	Rogers	PO Box 9100 Don Mills ON M3C 3P9	588.55	0.00	588.55
97	Ronald's Crane Operations Ltd.	47 Staphania Ave Brampton ON L6Y 0R8	4,418.30	0.00	4,418.30
98	Ryan Lam	236 Greyfox Drive Kitchener ON N2E 3M4	1.00	0.00	1.00
99	Sarah Hazel	124 Collega St. W. Waterford ON N0E 1Y0	1.00	0.00	1.00
100	Savoie Cranes & Services	83 Baintree Way Cambridge ON N1T 2J6	2,305.20	0.00	2,305.20
101	Scott Forest Products Ltd	55 Coats Rd Concord ON L4K 1M8	25,148.15	0.00	25,148.15
102	SDA Contracting	2075 Preston Road Cavan-Monaghan ON K8J 0G5	3,491.70	0.00	3,491.70
103	Skycrane	1664 York Rd Niagara-On-The-Lake ON L0S 1J0	19,888.00	0.00	19,888.00
104	Spectrum Communications Ltd	250 Lawrence Ave Kitchener ON N2M 1Y4	1,503.57	0.00	1,503.57
105	St. Marys Cement Inc	PO Box 4090 STN A C/O Lockbox 917330 Toronto ON M5W 0E9	67,314.11	0.00	67,314.11
106	Stephen Van Katwijk	448 Shelly Drive, Unit A Kitchener ON N2C 1N2	1.00	0.00	1.00
107	STEPHENSON'S RENTAL SERVICES	6695 COLUMBUS ROAD MISSISSAUGA ON L5T 2G9	13,602.97	0.00	13,602.97
108	Stubbe's Precast Inc	30 Muir Line Harley ON N0E 1E0	4,550.00	0.00	4,550.00
109	Sunbelt Rentals Inc.	PO Box 99257, Station Terminal Vancouver BC V6B 0N5	15,035.49	0.00	15,035.49
110	Taylor Tompkins	156 Ferris Drive Wellesley ON N2B 2T0	1.00	0.00	1.00
111	The Country Tool Shed	104 Dundas St Thamesford ON N0M 2M0	32,179.47	0.00	32,179.47
112	The Rental Hub	1987 Bessline Road W. Bowmanville ON L1C 3K3	3,541.45	0.00	3,541.45
113	Thomas S. Butt	44 Sloan Drive Zorra ON N0M 2M0	1.00	0.00	1.00
114	Timothy Minkarous	66 Zeller Drive Kitchener ON N2A 4A9	1.00	0.00	1.00
115	Tobin Tompkins	133 Michael Myers Road Baden ON N3A 0A5	1.00	0.00	1.00
116	Tomas Waite	23 Monterey Road Kitchener ON N2B 1V2	1.00	0.00	1.00
117	Torcan Lift Equipment	115 Rivalda Road Toronto ON M8M 2M6	389.85	0.00	389.85

01-Mar-2019

Date

  
 David G. Forbes

District of: Ontario  
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FORM 78 -- Continued

List "A"  
 Unsecured Creditors

Strius Concrete Inc.

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
118	Vilayvone Somsarith	126 Maplecrest Drive Braslau ON N0B 1M0	1.00	0.00	1.00
119	WILLIAMS FORM HARDWARE AND ROCKBOLT	670 INDUSTRIAL ROAD LONDON ON N6V 1V1	452.00	0.00	452.00
120	Williams Scotsman of Canada, Inc	PO Box 4090 STN A C/O 911630 Toronto ON M5W 0E9	1,570.70	0.00	1,570.70
121	Wiston Hernandez	4072 Rolling Valley Drive Mississauga ON L5L 2K3	1.00	0.00	1.00
122	Workplace Safety & Insurance Bnd	Stadon A P.O. Box 4115 Toronto ON M5W 2V3	11,508.28	0.00	11,508.28
123	Workplace Safety and Insurance Board Attrc c/o Collection Services	200 Front St W Toronto ON M5V 3J1	1.00	0.00	1.00
124	Wuis Brothers Construction	3 Sandbourne Drive, PO Box 5 Portypool ON L0A 1K0	7,901.54	0.00	7,901.54
<b>Total:</b>			<b>2,591,154.71</b>	<b>0.00</b>	<b>2,591,154.71</b>

01-Mar-2019

Date



David G. Forbes

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FORM 78 - Continued


List "B"  
 Secured Creditors

Situs Concrete Inc.

No.	Name of creditor	Address	Amount of claim	Particulars of security	When given	Estimated value of security	Estimated surplus from security	Balance of claim
1	BMO Financial Group c/o BankruptcyHighway.com Attr: Mike Timko	PO Box 57100 Etobicoke ON M9Y 3Y2	1.00	Motor Vehicles - Automobile - 2011 - Chevy - Silverado  Motor Vehicles - Automobile - 2012 - Chevy - Silverado 2500  Motor Vehicles - Automobile - 2010 - Chevy - Silverado  Motor Vehicles - Automobile - 2010 - Chevy - Silverado  Motor Vehicles - Automobile - 2009 - Chevy - Express Van		1.00  0.00  0.00  0.00  0.00	  1.00  1.00  1.00	
2	CWB National Leasing Inc./ (formerly National Leasing Group Inc) Attr: Bankruptcy Designate	1525 Buffalo Pl Winnipeg MB R3T 1L9	1.00	Other - Server and Survey Equipment		1.00		
<b>Total:</b>			<b>2.00</b>			<b>2.00</b>	<b>4.00</b>	<b>0.00</b>

01-Mar-2019

Date


  
David G. Forbes

District of: Ontario  
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FORM 78 - Continued

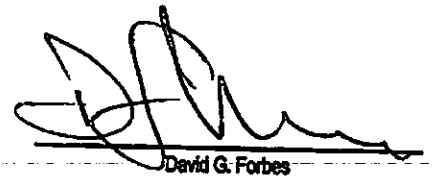
List "C"  
Preferred Creditors for Wages, Rent, etc.

Stilus Concrete Inc.

No.	Name of creditor	Address and occupation	Nature of claim	Period during which claim accrued	Amount of claim	Amount payable in full	Difference ranking for dividend
Total:					0.00	0.00	0.00

01-Mar-2019

Date



David G. Forbes

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FORM 78 - Continued


List 'D'  
Contingent or Other Liabilities

Strius Concrete Inc.

No.	Name of creditor or claimant	Address and occupation	Amount of liability or claim	Amount expected to rank for dividend	Date when liability incurred	Nature of liability
Total:			0.00	0.00		

01-Mar-2019

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David G. Forbes

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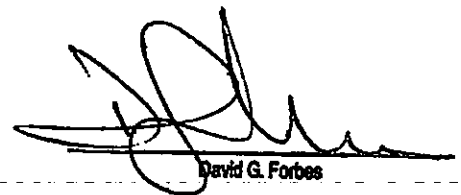
FORM 78 - Continued

List "E"  
 Debts Due to the Bankrupt  
 Sifus Concrete Inc.

No.	Name of debtor	Address and occupation	Nature of debt	Amount of debt (good, doubtful, bad)	Folio of ledgers or other book where particulars to be found	When contracted	Estimated to produce	Particulars of any securities held for debt
1	AR	Colby Dr Waterloo ON	AR	1,112,228.00 783,908.00 0.00		01-Mar-2019	1,112,228.00	NA
Total				1,112,228.00 783,908.00 0.00			1,112,228.00	

01-Mar-2019

Date



David G. Forbes

District of: Ontario  
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FORM 78 - Continued

List F

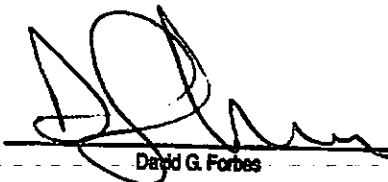
Bills of Exchange, Promissory Notes, Lien Notes, Chattel  
Mortgages, etc., Available as Assets

Sirius Concrete Inc.

No.	Name of all promissory, acceptors, endorsers, mortgagors, and guarantors	Address	Occupation	Amount of bill or note, etc.	Date when due	Estimated to produce	Particulars of any property held as security for payment of bill or note, etc.
Total:				0.00		0.00	

01-Mar-2019

Date



David G. Forbes



District of: Ontario  
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FORM 78 - Continued

List "G"  
 Real Property or Immovables Owned by Bankrupt  
 Stilus Concrete Inc.

Description of property	Nature of bankrupt interest	In whose name does title stand	Total value	Particulars of mortgages, hypothecs, or other encumbrances (name, address, amount)	Equity or surplus
<b>Total:</b>			0.00		0.00

01-Mar-2019

Date



David G. Forbes

District of: Ontario  
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FORM 78 - Concluded

List "H"  
 Property


Sirius Concrete Inc.

## FULL STATEMENT OF PROPERTY

Nature of property	Location	Details of property	Original cost	Estimated to produce
(a) Stock-in-trade			0.00	0.00
(b) Trade fixtures, etc.			0.00	0.00
(c) Cash in financial institutions			0.00	0.00
(d) Cash on hand			0.00	0.00
(e) Livestock			0.00	0.00
(f) Machinery, equipment and plant			0.00	0.00
(g) Furniture			0.00	0.00
(h) Life insurance policies, RRSPs, etc.			0.00	0.00
(i) Securities			0.00	0.00
(j) Interests under wills, etc.			0.00	0.00
(k) Vehicles		Automobile - 2011 - Chevy - Silverado	0.00	1.00
		Automobile - 2012 - Chevy - Silverado 2500	0.00	1.00
		Automobile - 2010 - Chevy - Silverado	0.00	1.00
		Automobile - 2010 - Chevy - Silverado	0.00	1.00
		Automobile - 2009 - Chevy - Express Van	0.00	1.00
(l) Taxes			0.00	0.00
(m) Other		Equipment	115,000.00	115,000.00
		Server and Survey Equipment	1.00	1.00
		Inventory	55,000.00	55,000.00
<b>Total:</b>				<b>170,006.00</b>

01-Mar-2019

Date



David G. Forbes



**Cost to Complete Report  
For  
Concrete Work**

**45 Yarmouth Street,  
Guelph, Ontario**

DATE: 10<sup>th</sup> June 2019

***Prepared For:***

John Camera

Ayerswood Developments

London, ON

***Prepared By:***

TruEst Quantity Surveyors

1124 Gainsborough Road

Unit 1-A

Phone: 519-266-6762

Fax: 1-877-209-9067

Email: [pritesh@truestqs.com](mailto:pritesh@truestqs.com)

THIS IS EXHIBIT F TO THE AFFIDAVIT OF  
JOHN CAMARA AFFIRMED BEFORE ME ON  
9 OCTOBER 2020

  
A COMMISSIONER ETC (SCOTT TURTON)

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Cost Planning | Cost Control | Reserve Fund Study | Budget Review | Loan Monitoring | Contractors Estimates

10<sup>th</sup> June 2019,

Ayerswood Developments.  
London, Ontario

Attention: Mr. John Camera

**RE: Cost to Complete report for Concrete Work at 45 Yarmouth Street in Guelph, Ontario – Sirius Concrete**

Dear Mr. John Camera,

Please find enclosed our report for work completed and cost to Complete for concrete work by Sirius Concrete for the project mentioned above.

This report was prepared based on the documents we received from your office, personal interview and our site inspection.

This estimate of the cost to complete is meant to give you the amount of work completed by Sirius concrete. As per our interview and site meeting, we have understood that Sirius had left the site with the work in progress on the Second floor. The new contractor on site poured part of the second floor and full Ceiling. Our report is based on the scope provided on contract with Sirius Concrete Inc.

We recommend that the Owner and legal team carefully review this report, including all clarifications. This is to ensure that the entire scope of work is captured within the content of the report, especially when this report is prepared in the absence of a Quotation from the contractor.

We trust our work will assist in the process of finalizing the dispute and look forward to our continued involvement in this important project.

Best Regards,  
TruEst Quantity Surveyor

A handwritten signature in black ink, appearing to read "Pritesh Shah", is written over a horizontal line.

Pritesh Shah PQS  
President

Encl: ( Report)

**Cost to Complete Report**  
**Concrete Work (By Sirius Concrete Inc.)**



**1. INTRODUCTION**

**1A) SCOPE OF WORK**

TruEst is hired by Ayerswood Development Corp to provide a report on completion of concrete work done by Sirius Concrete Inc.

The purpose of this report is to Identify the quantity of actual work completed on site by the concrete contractor. The completion quantity is solely based on the drawings, Site visit, Interview with the project manager and Scope of work identified on the subcontract (# A18-45YAR-13 Dated 14<sup>th</sup> March 2018) provided by the Ayerswood Developments and Purchase order ( # 15082 ( extra cost), dated 03rd April 2018) issued by Ayerswood Developments Corp.

As per the information provided by the Project manager of Ayerswood Developments Corporation, TruEst understood that Sirius Concrete Inc. had left the site when the work on the second floor was under progress. A new contractor on site completed the Columns between Gride line 2 to 9 and A to C2. Other than the deficiency listed in Appendix B of this report all other work from the Second floor down to Lower level three, including foundation, is completed by Sirius Concrete Inc. For the calculation purpose columns between grid line, 2 to 9 and A to C2 is considered as a part of deficiency to allow us to create a cutoff point.

All work related to shoring was not the part of this subcontract hence excluded from the calculation.

The list of documents reviewed is mentioned under section 2B of this report.

**1B) PROJECT DESCRIPTION**

The project site is located at 45 Yarmouth Street in Guelph, Ontario. The project consists of new building construction of 12 floors above ground and Three floors below ground. The Typical residential units start from the 2<sup>nd</sup> floor and up and partial retail area on the Ground floor. All other levels below the ground floor and part of the ground floor is parking.

The Ayerwood Development Corporation had retained Sirius Concrete Inc to carry out Concrete work for this project.

**1.C) ACCURACY OF REPORT**

The accuracy of this report is  $\pm 15\%$  based on the documentation provided as well as the visual nondestructive site inspection done by TruEst. During our site inspection, TruEst did not cut, open or took and sample for testing concrete to avoid any loss of warranty.

45 Yarmouth Street

10<sup>th</sup> June 2019

## **Cost to Complete Report**

### **Concrete Work (By Sirius Concrete Inc.)**

Mr. John Camera from Ayerswood Developments corporation was informed during a site meeting about this process.

## **2. BASIS OF REPORT**

### **2A) INFORMATION**

TruEst had received Architectural and Structural Drawings on 24<sup>th</sup> May 2019. Due to the nature of work, Architectural drawings are NOT reviewed. This report is based on reviewing and quantifying concrete work from structural drawings, and Site Inspection, Interview with the Project Manager of Ayerwood Development Corporation. The amount shown under contract value is the amount directly adopted from the subcontract and purchase orders for an extra cost.

### **2B) DOCUMENTS REVIEWED**

This Report is based on a review of the following documents.

1. Structural Drawings: 16<sup>th</sup> revision – 29<sup>th</sup> March 2019
  - S1.0 General Notes
  - S1.1 General Notes
  - S1.2 Schedules
  - S2.0 Foundation Plan
  - S2.1 Foundation Plan
  - S2.2 Lower Level 2 Framing
  - S2.3 Lower Level 1 Framing
  - S2.4 Grind Level Framing
  - S2.5 Second Floor Framing
  - S2.6 Third Floor Framing
  - S2.7 Fourth Floor Framing
  - S2.8 Fifth Floor Framing
  - S2.9 6<sup>th</sup>, 8<sup>th</sup>, 10<sup>th</sup> and 12<sup>th</sup> Floor Framing
  - S2.10 7<sup>th</sup>, 9<sup>th</sup> and 11<sup>th</sup> Floor Framing
  - S2.11 Roof & Mech Penthouse framing
  - S2.12 Mechanical Penthouse roof framing
  - S3.0 Section
  - S3.1 Section
  - S4.0 Details
  - S4.1 Details
  - S4.2 Typical Details
2. Specifications: On Structural Drawings.
3. Shop Drawings:
  - Was not reviewed as it was not available at the time of review.
4. Agreements between Contractor and Developer
  - Subcontract agreement# A18-45YAR-03 dated 14<sup>th</sup> March 218
  - Purchase order # 15082 dated April 03rd, 2018
5. Quotation from Contractor:
  - None

45 Yarmouth Street  
10<sup>th</sup> June 2019

**Cost to Complete Report**  
**Concrete Work (By Sirius Concrete Inc.)**

6. Preliminary Project Schedule:
  - Not available for review.
7. Certification :
  - Not reviewed as it was not available at the time of review

**2C) Site Inspection**

Below is the brief highlight of the site inspection. The detail of remaining work is provided under Cost to Complete in Appendix A, Pictures of our site visits are attached in Appendix C

An initial site visit conducted by Mr. Pritesh Shah to interview Project Manager on 21<sup>st</sup> Of May 2019. Mr. John Camera was accompanied TruEst during the entire site visit. TruEst was informed the following

1. The scope of work completed by Sirius Concrete Inc.
2. Developers concern about the cost to complete of deficiency left unattended.

TruEst Started an inspection visit from the Second-floor level and ended at Lower level three. All photographs for work completed and the typical type of deficiency is documented in Appendix C.

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45 Yarmouth Street  
10<sup>th</sup> June 2019

Cost to Complete Report  
Concrete Work (By Sirius Concrete Inc.)



**2D) Recommendation**

**Summary of Work Completed**

Description	Contract Value	Actual Value (Based on Quantity)	% complete	Cost Complete	Cost to complete	% to Complete	Remarks
Original Scope + Rebar CO	\$6,264,290.00	\$6,264,290.00	41.15%	\$2,577,755.34	\$3,686,534.67	58.85%	
Scope up to Second floor	\$3,200,000.00	\$3,107,364.01	82.88%	\$2,575,517.11	\$531,846.90	16.62%	Ceiling/3rd Floor Slab Incl.
C.O for work up to Second floor	\$49,060.36	\$49,060.36	100%	\$49,060.36	\$0.00	0.00%	
<b>TOTAL Work Completed</b>	<b>\$6,313,350.36</b>	<b>\$6,313,350.36</b>	<b>41.61%</b>	<b>\$2,626,815.70</b>	<b>\$3,686,534.67</b>	<b>58.39%</b>	

45 Yarmouth Street  
10<sup>th</sup> June 2019

Cost to Complete Report  
Concrete Work (By Sirius Concrete Inc.)



**Summary of Amount overpaid**

Description	Contract Value	Work Completed	Amount Paid	\$ Overpaid	Cost to complete	Remarks
Total Invoice Paid- C.O Included	\$6,313,350.36	\$2,626,815.70	\$2,793,324.77	\$166,509.07	-	After Hold Back and before taxes
Invoice Overpaid (HST Portion)	-	-	-	\$4,195.64	-	Invoice to PO#15098 & 15099
Invoice Over paid	-	-	-	<b>\$170,704.71</b>	-	
Cost of Deficiency		\$0.00	\$0.00	\$531,846.90	100%	Incl. Out satnding work- See Appendix B
<b>Total Amount Overpaid</b>				<b>\$702,551.61</b>		
Total Hold Back Retained				(\$310,835.60)		10% of Total amount under Previous Draw.
Outstanding Invoice to date				(\$155,000.00)		
<b>Amount Overpaid</b>				<b>\$236,716.01</b>		

**Cost to Complete Report**  
**Concrete Work (By Sirius Concrete Inc.)**



After a review of drawings and Site inspection, Cost-to-complete is attached in Appendix A.

It is our view that the total value of work completed by Sirius Concrete Inc is CAD 2,626,815.70. This amount excludes all cost related to Deficiency, Outstanding work on the 2<sup>nd</sup> floor and all applicable taxes. Based on this calculation the general contractor was overbilled by \$170,704.71.00

The cost of Complete Deficiency and Outstanding work is CAD 531,846.90, excluding Hold Back and applicable taxes.

**After the calculation shown above, we conclude that General contractor has overpaid and have to recover \$236,716.01 from Sirius Concrete Inc. excluding all taxes.**

**3. DISCLAIMER**

TruEst Quantity Surveyors have performed visual inspections. The percentage of work done is related to the site inspection done by TruEst. This estimate is based on our experience, qualification and the best judgment of our professional consultant. TruEst recommends that the owner carefully review this report. It is also recommended that all work must be verified by the incoming concrete contractor and must be identified in their agreement.

This report is prepared with the best knowledge of TruEst Quantity Surveyors.

Best Regards!

Pritesh Shah, PQS



## **APPENDIX A**

Cost to Complete Calculation

For

Concrete Work Only



45 Yarmouth Street  
Cost to Complete

CONCRETE	25MPA	30 MPA	32 MPA	35MPA	TOTAL M3 of Concrete	% completed	M3 Poured	% to Complete	Remarks
FLOOR/UOM	M3	M3	M3	M3	M3	%	M3	%	
FOUNDATION	774.00	60.00	213.53	17.00	1,064.53	99%	1053.68	1%	Drain Slope for Slab on Grade
LOWER LEVEL 3	0.00	163.00	0.00	275.18	438.18	84%	368.07	16%	Deficiency as per Appendix B
LOWER LEVEL 2	0.00	190.00	0.00	274.18	464.18	84%	389.91	16%	Deficiency as per Appendix B
LOWER LEVEL 1	0.00	210.00	0.00	276.27	486.27	84%	408.47	16%	Deficiency as per Appendix B
GROUND FLOOR	0.00	170.00	0.00	299.15	469.15	84%	394.09	16%	Deficiency as per Appendix B
2ND FLOOR	0.00	74.00	0.00	284.91	358.91	30.0%	107.67	70%	ceiling slab and 11 Columns not completed
3RD FLOOR	0.00	73.00	0.00	282.84	355.84	0%	0.00	100%	No work done
4TH FLOOR	0.00	66.92	0.00	269.01	335.93	0%	0.00	100%	No work done
5TH FLOOR	0.00	67.60	0.00	273.05	340.65	0%	0.00	100%	No work done
6TH FLOOR	0.00	70.36	0.00	235.04	305.40	0%	0.00	100%	No work done
7TH FLOOR	0.00	67.60	0.00	241.81	309.41	0%	0.00	100%	No work done
8TH FLOOR	0.00	70.36	0.00	235.04	305.40	0%	0.00	100%	No work done
9TH FLOOR	0.00	67.60	0.00	241.80	309.40	0%	0.00	100%	No work done
10TH FLOOR	0.00	70.36	0.00	235.04	305.40	0%	0.00	100%	No work done
11TH FLOOR	0.00	67.60	0.00	241.81	309.41	0%	0.00	100%	No work done
12TH FLOOR	0.00	78.51	0.00	11.71	90.22	0%	0.00	100%	No work done
ROOF	0.00	0.00	0.00	236.22	236.22	0%	0.00	100%	No work done
PENTHOUSE	0.00	91.50	0.00	38.78	130.28	0%	0.00	100%	No work done
<b>TOTAL M3</b>	<b>774.00</b>	<b>1,658.41</b>	<b>213.53</b>	<b>3,968.84</b>	<b>6,614.78</b>	<b>41.15%</b>	<b>2721.88</b>	<b>58.85%</b>	

**APPENDIX B**  
Cost of Deficiency



## Ayerswood Developments

**45 Yarmouth Street  
Cost of Deficiency  
(Concrete Work Only)**

Code	Description	Quantity	Unit	Rate	Total	Project Total
<b>1.</b>	<b>Precast Stair</b>					
	All voids between wall/landing with stair require filling.	36.00	Flights	250.00	9,000.00	
<b>2</b>	<b>Walls</b>					
2.1	Approximate of 15% of the wall and columns area (from Lower level 3 to Second floor) require grinding and parging	2,089.35	sq.meter	45.00	94,020.75	
2.2	There are three instance where walls gone off plumb. (one place more then 2 Inch.) need to fix	3.00	Each	2,500.00	7,500.00	
2.3	Hone Comb on walls ( from lower level 3 to Lower level 1) need to be fix	200.00	Sq.meter	75.00	15,000.00	
2.4	All elevator Inserts ( from Lower level 3 to Second Floor) need to be replaced as the elevations are not correct	6.00	floor	1,500.00	9,000.00	
2.5	Knee wall on ground floor near stair B not installed	1.00	sum	5,935.00	5,935.00	
2.6	Wall required to be patched after removal of shoring support (4 locations)	1.00	sum	6,000.00	6,000.00	
2.7	Second floor Columns between grid line A to C2 and 2 to 9 was not done	1.00	sum	13,500.00	13,500.00	
<b>3.</b>	<b>Floors</b>					
3.1	Part of Ground Floor slab is not leveled and higher by 40 to 50mm by other adjacent slab	200.00	sq.meter	75.00	15,000.00	
3.2	Fill in Crane cutout from Lower level 3 to Second Floor	45.00	Sq.meter	350.00	15,750.00	
3.3	Negative slope for floor drain on 6 locations	1.00	sum	7,500.00	7,500.00	
3.4	Third Floor Slab	1.00	sum	240,000.00	240,000.00	
<b>4.</b>	<b>Miscellaneous</b>					
4.1.	Cleaning and disposing off contractors thrash from site ( claim by developer)	1.00	sum	5,000.00	5,000.00	
	<b>TOTAL COST BEFORE SURCHARGE AND OVER HEAD AND PROFITS</b>					<b>443,205.75</b>
4.2	10% Surcharge to complete above work	0.10	%	443,205.75	44,320.58	
4.3	10% Overhead and Profit	0.10	%	443,205.75	44,320.58	
	<b>TOTAL ESTIMATED COST TO COMPLETE DEFICIENCY</b>					<b>531,846.90</b>

**APPENDIX C**

Invoice





Head Office

P.O. Box 25070  
 Kitchener, Ontario  
 866-218-6173

**INVOICE**

**John Camara**  
 Ayerswood Development Corporation  
 P.O. Box 3117,  
 London, Ontario, N6A 4J4  
JJC@cpirentals.com  
 Draw # 11 17-22A-CIP-Ayerswood-45 Yarmouth St. Apartment Building

Invoice # 19,014  
 Date: 28-Feb-19  
 Job # 17-22A-CIP  
 P.O.W.O. #  
 HST# 85077 7434 RT0001  
 Terms: **Net 30 Days**

Progress Billing Period From February 1, 2019 to February 28, 2019.

	Total	Cost to Date	% Complete	Previous Draw	Current Draw
1. Footings to Lower Level 2 Suspended Slab	\$1,290,000.00	\$1,290,000.00	100%	\$1,290,000.00	\$0.00
2. Lower Level 2 Walls to Lower Level 1 Slab	\$575,000.00	\$575,000.00	100%	\$575,000.00	\$0.00
3. Lower Level 1 Walls to Ground Floor Slab	\$575,000.00	\$575,000.00	100%	\$575,000.00	\$0.00
4. 1st Floor Walls to 2nd Floor Slab	\$420,000.00	\$420,000.00	100%	\$420,000.00	\$0.00
5. 2nd Floor Walls to 3rd Floor Slab	\$340,000.00	\$280,000.00	82%	\$130,000.00	\$150,000.00
6. 3rd Floor Walls to 4th Floor Slab	\$340,000.00	\$0.00	0%	\$0.00	\$0.00
7. 4th Floor Walls to 5th Floor Slab	\$275,000.00	\$0.00	0%	\$0.00	\$0.00
8. 5th Floor Walls to 6th Floor Slab	\$275,000.00	\$0.00	0%	\$0.00	\$0.00
9. 6th Floor Walls to 7th Floor Slab	\$275,000.00	\$0.00	0%	\$0.00	\$0.00
10. 7th Floor Walls to 8th Floor Slab	\$275,000.00	\$0.00	0%	\$0.00	\$0.00
11. 8th Floor Walls to 9th Floor Slab	\$275,000.00	\$0.00	0%	\$0.00	\$0.00
12. 9th Floor Walls to 10th Floor Slab	\$275,000.00	\$0.00	0%	\$0.00	\$0.00
13. 10th Floor Walls to 11th Floor Slab	\$275,000.00	\$0.00	0%	\$0.00	\$0.00
14. 11th Floor Walls to 12th Floor Slab	\$275,000.00	\$0.00	0%	\$0.00	\$0.00
15. 12th Floor Walls to Roof Slab	\$295,000.00	\$0.00	0%	\$0.00	\$0.00
16. Mech. Penthouse Walls to Roof	\$90,000.00	\$0.00	0%	\$0.00	\$0.00
17. Slab Infill at Tower Crane	\$26,900.00	\$0.00	0%	\$0.00	\$0.00
18. Winter Conditions Allowance	\$63,100.00	\$45,100.00	71%	\$40,100.00	\$5,000.00

Original Total Contract \$6,215,000.00 \$3,185,100.00 51% \$3,030,100.00 \$155,000.00

Change Orders To Date:

1. C.O. 17-22.01 (Ayerswood P.O. # 15082)	\$49,290.00	\$26,000.00	53%	\$25,000.00	\$1,000.00
2. C.O. 17-22.02 (Ayerswood P.O. # 15098)	\$18,483.38	\$18,483.38	100%	\$18,483.38	\$0.00
3. C.O. 17-22.03 (Ayerswood P.O. # 15099)	\$17,986.46	\$17,986.46	100%	\$17,986.46	\$0.00
4. C.O. 17-22.04 (Ayerswood P.O. # 15666)	\$7,200.00	\$7,200.00	100%	\$7,200.00	\$0.00
5. C.O. 17-22.05 (Ayerswood P.O. # 15668)	\$9,586.17	\$9,586.17	100%	\$9,586.17	\$0.00

NET INVOICE BEFORE HOLDBACK AND H.S.T.:	<i>change Orders</i>	\$156,000.00
LESS 10% HOLDBACK:	<i>1 - EXTRA REINFORCING</i>	\$15,600.00
THIS INVOICE BEFORE HST.:	<i>2 - EXTRA CONCRETE USED IN FOOTINGS</i>	
	<i>3 - EXTRA GRADE BEAM LINE #1</i>	\$140,400.00
	<i>4 - EXTRA GUARD RAIL POSTS</i>	
PLUS - H.S.T. @ 13%	<i>5 - EXTRA CONCRETE ONE SIDE WALL A.L. #10</i>	\$18,252.00

**INVOICE AMOUNT \$158,652.00**

Please make cheque payable to: Sirius Concrete Inc.  
 2% interest per month on overdue balances until paid.

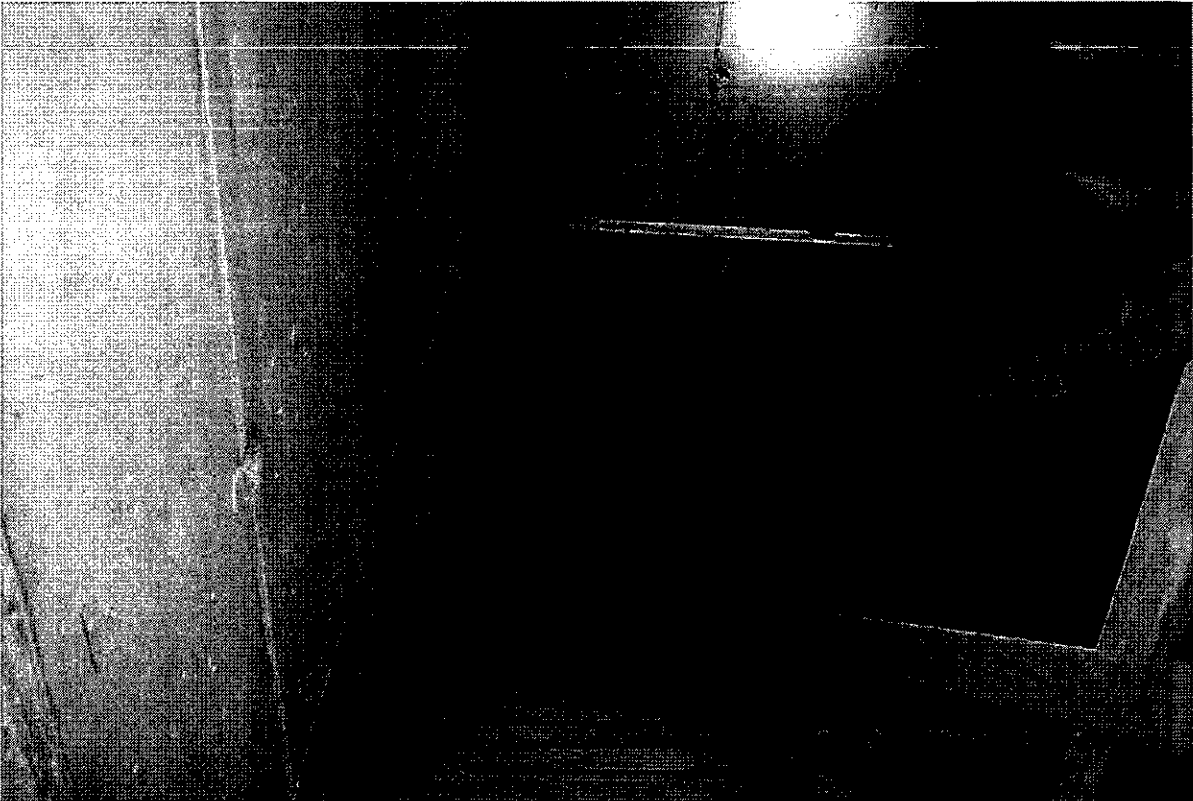
Thank you for your business!

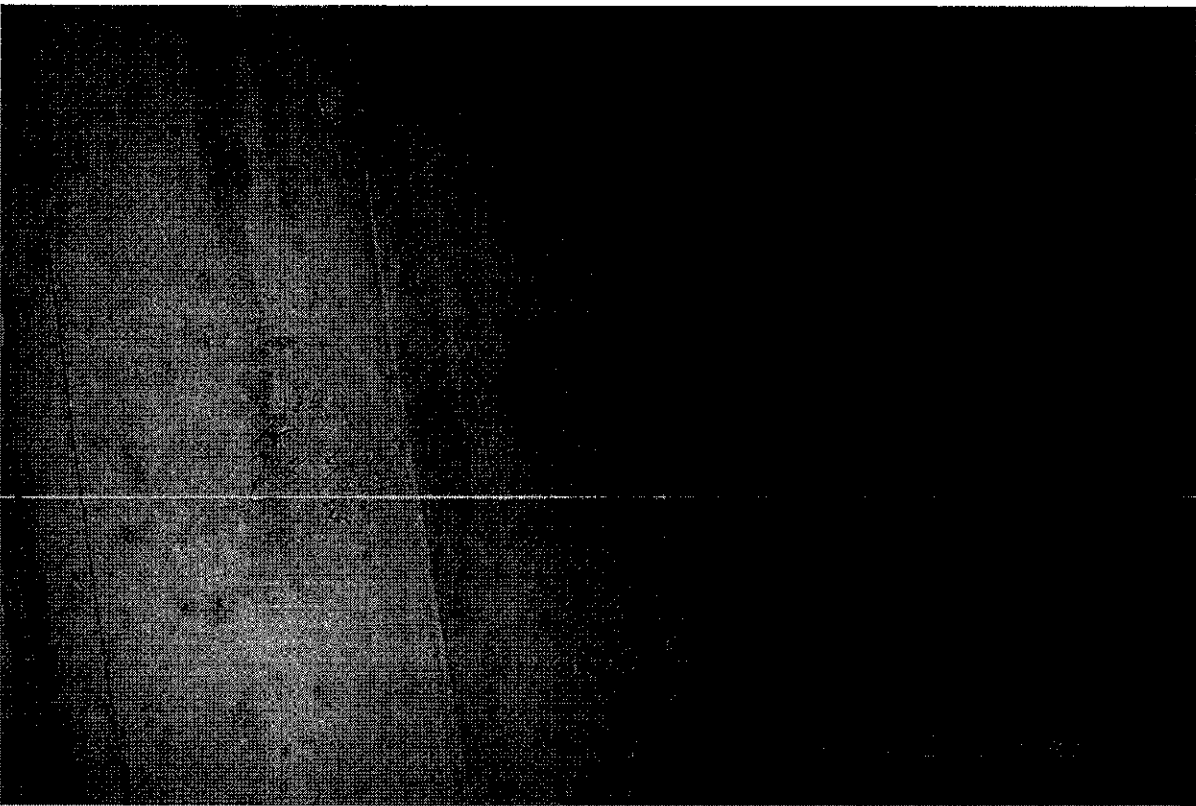
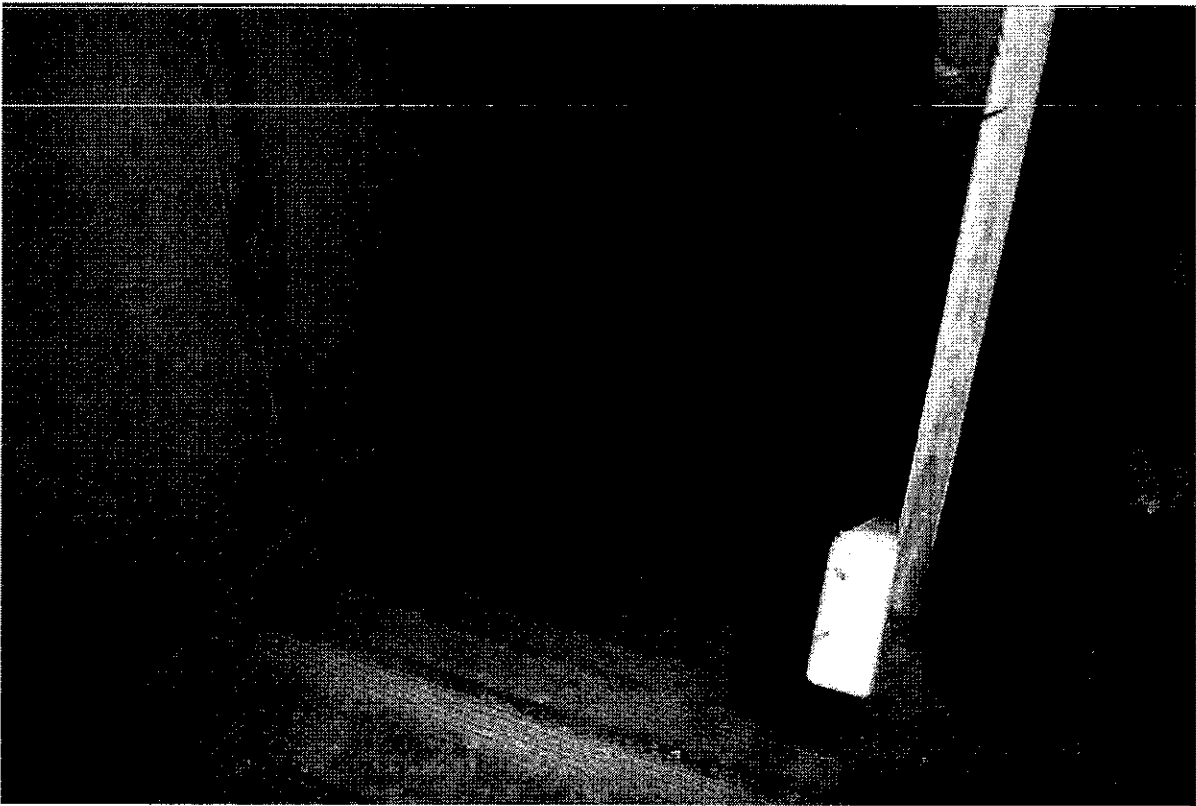
✓-included HST

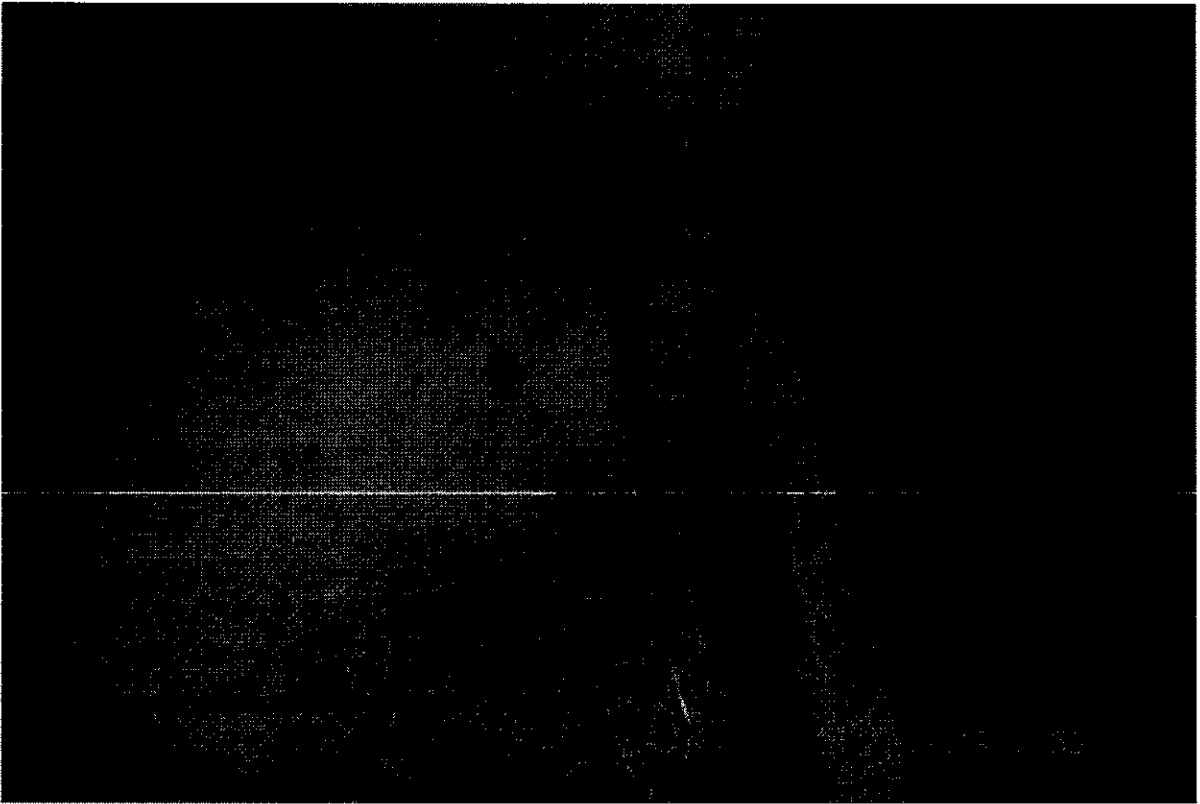
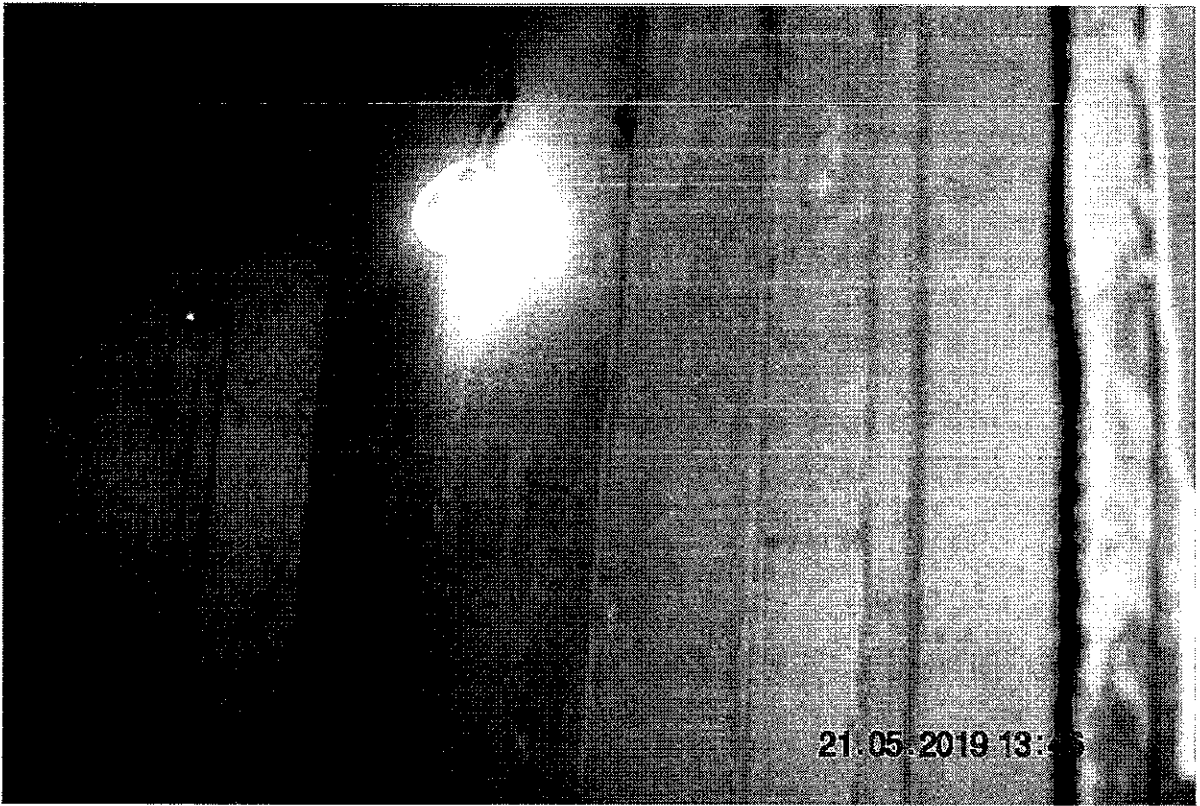
total (A) = \$3,108,356.01

**APPENDIX D**  
Site Photographs

Stair:

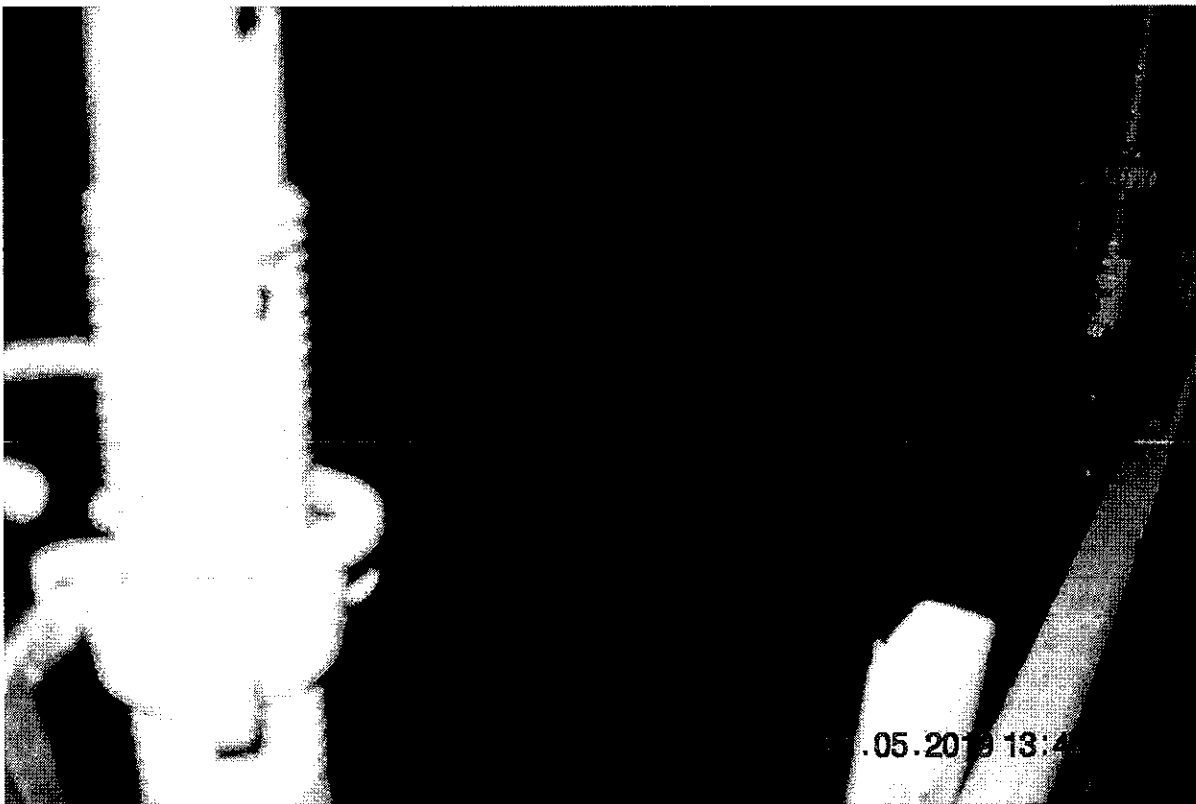


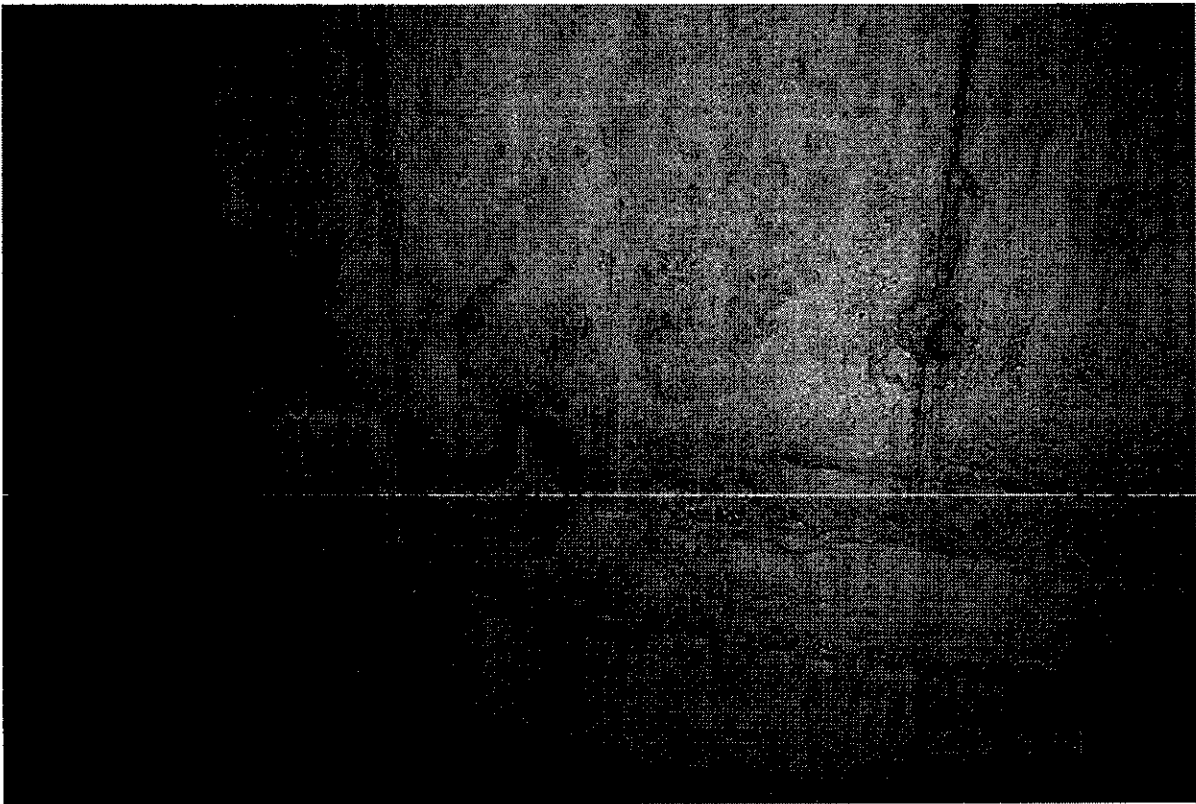
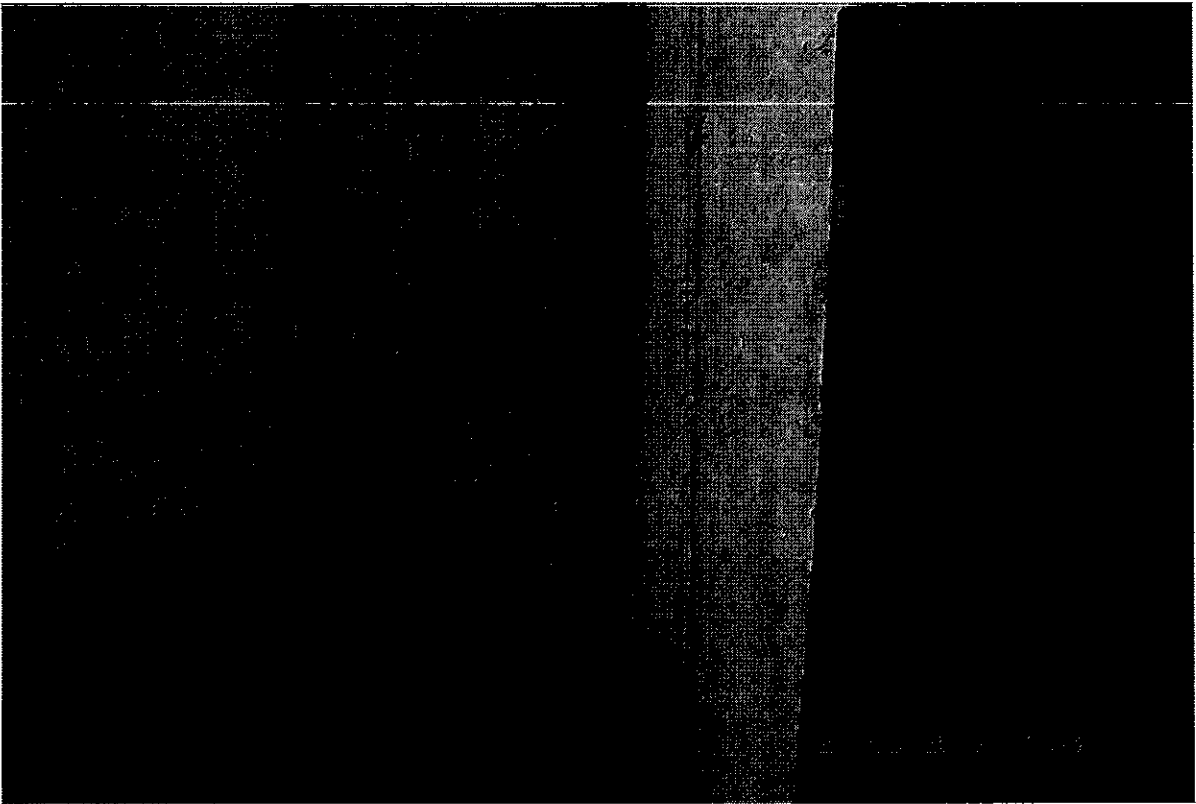




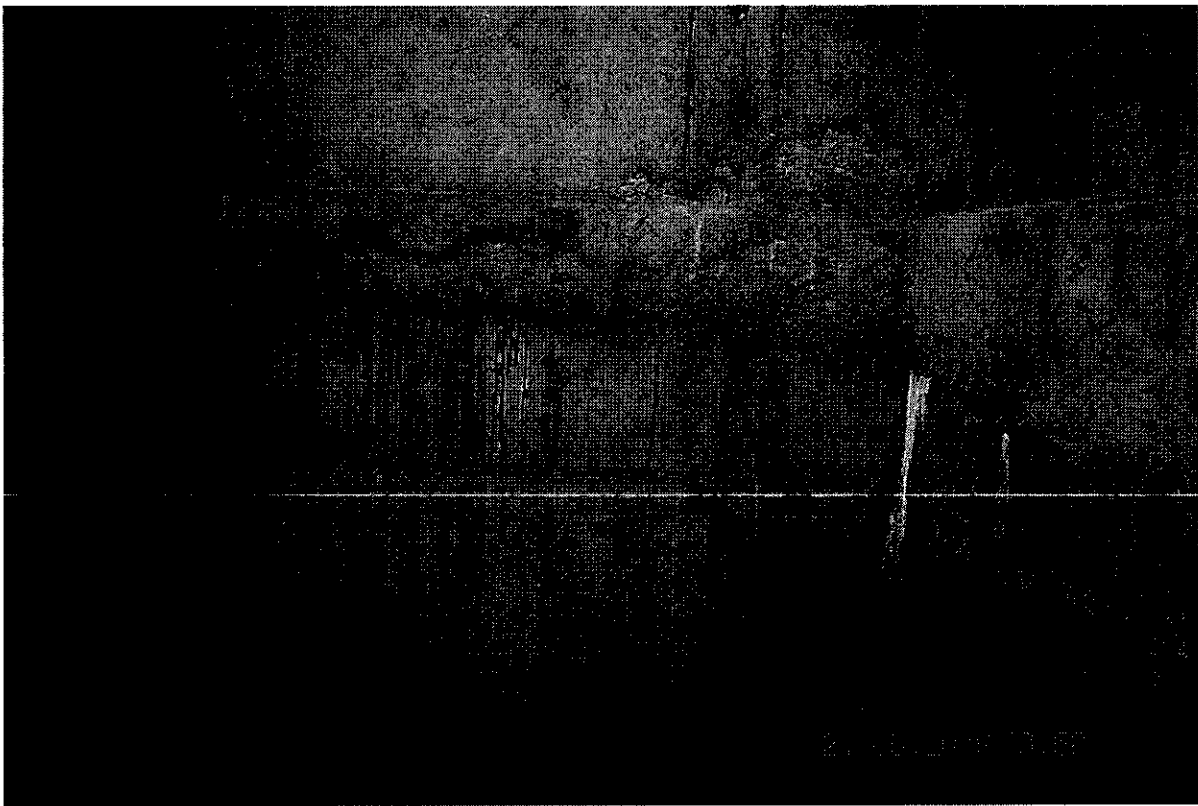
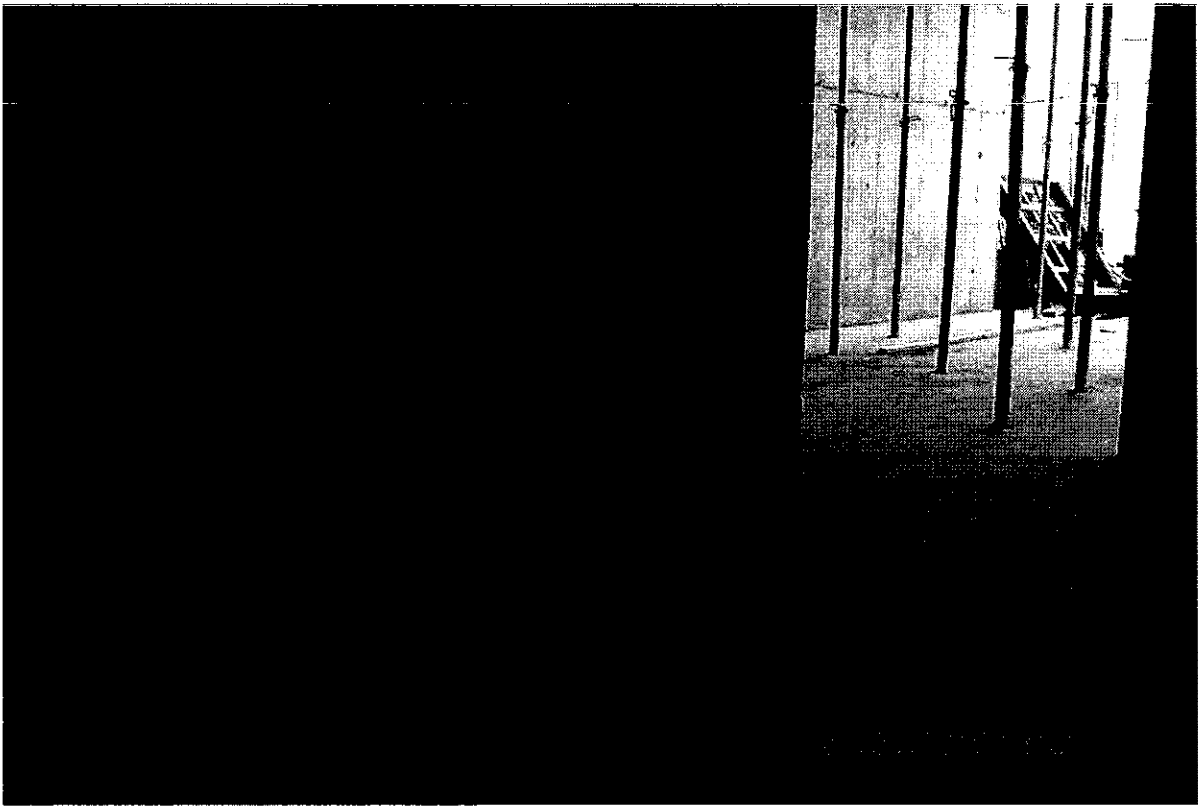


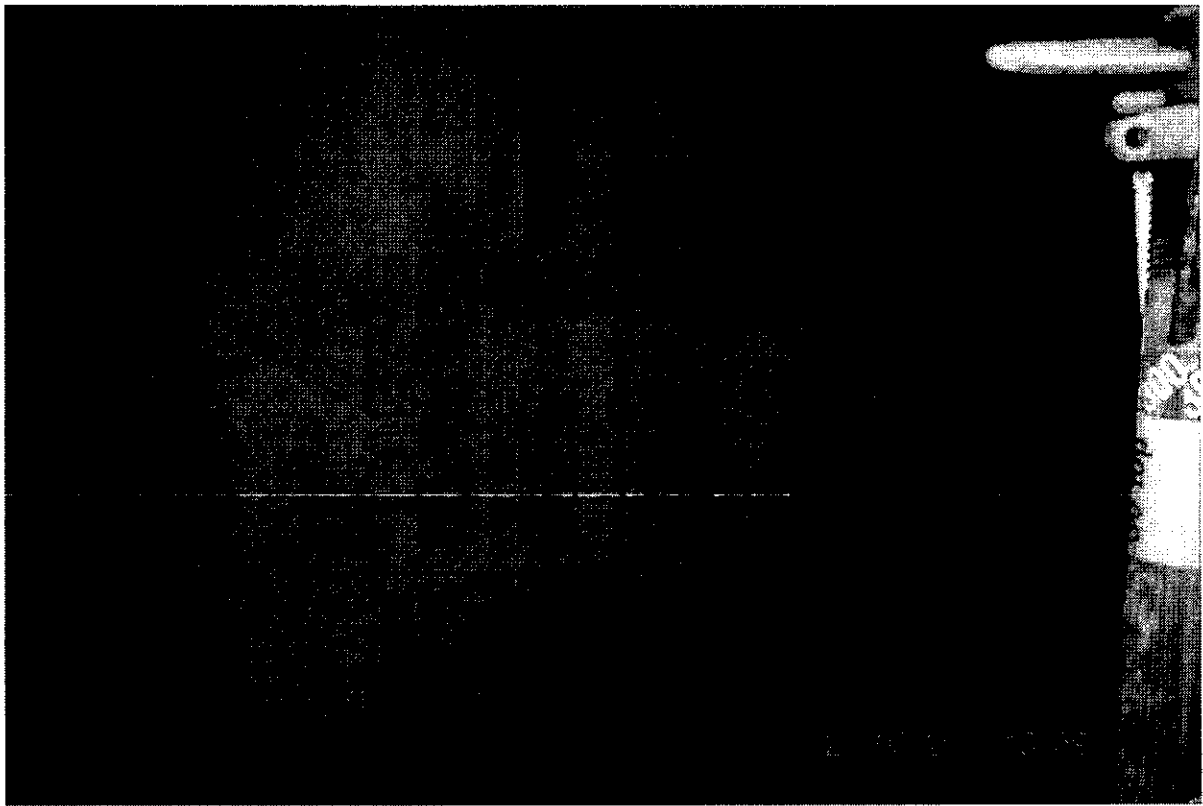
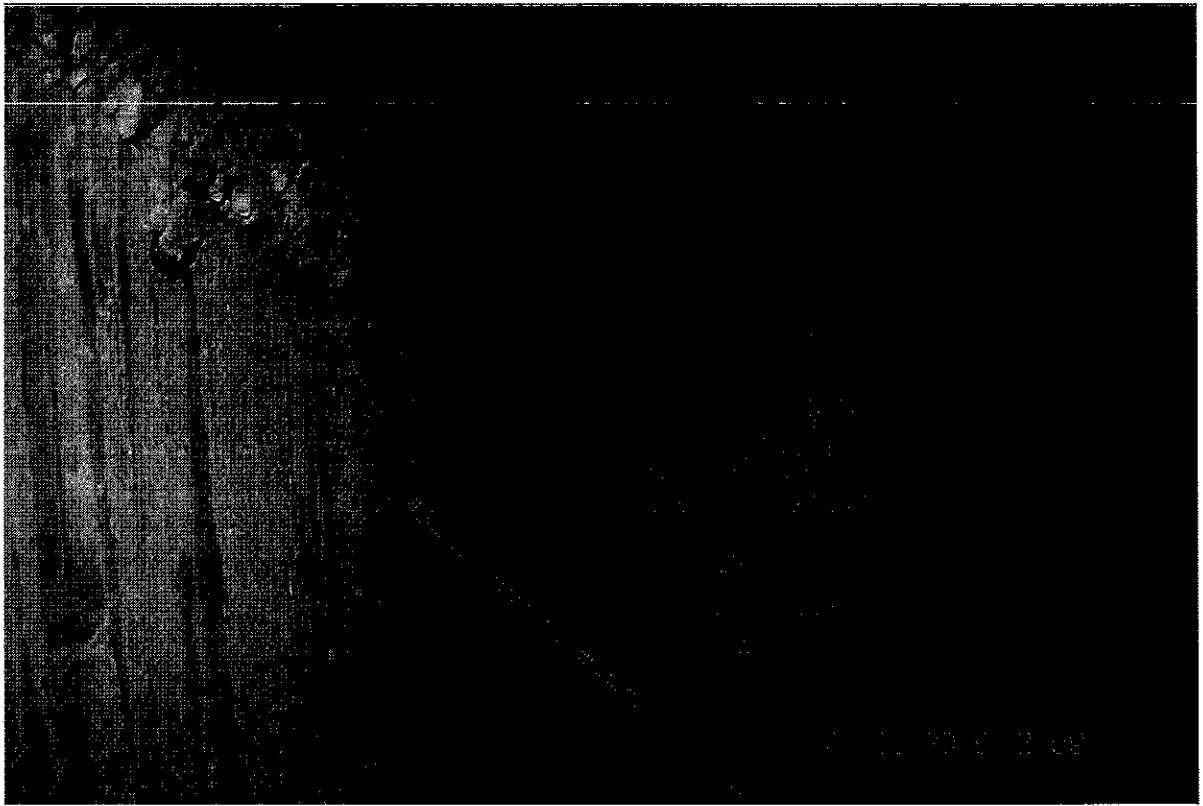
Walls

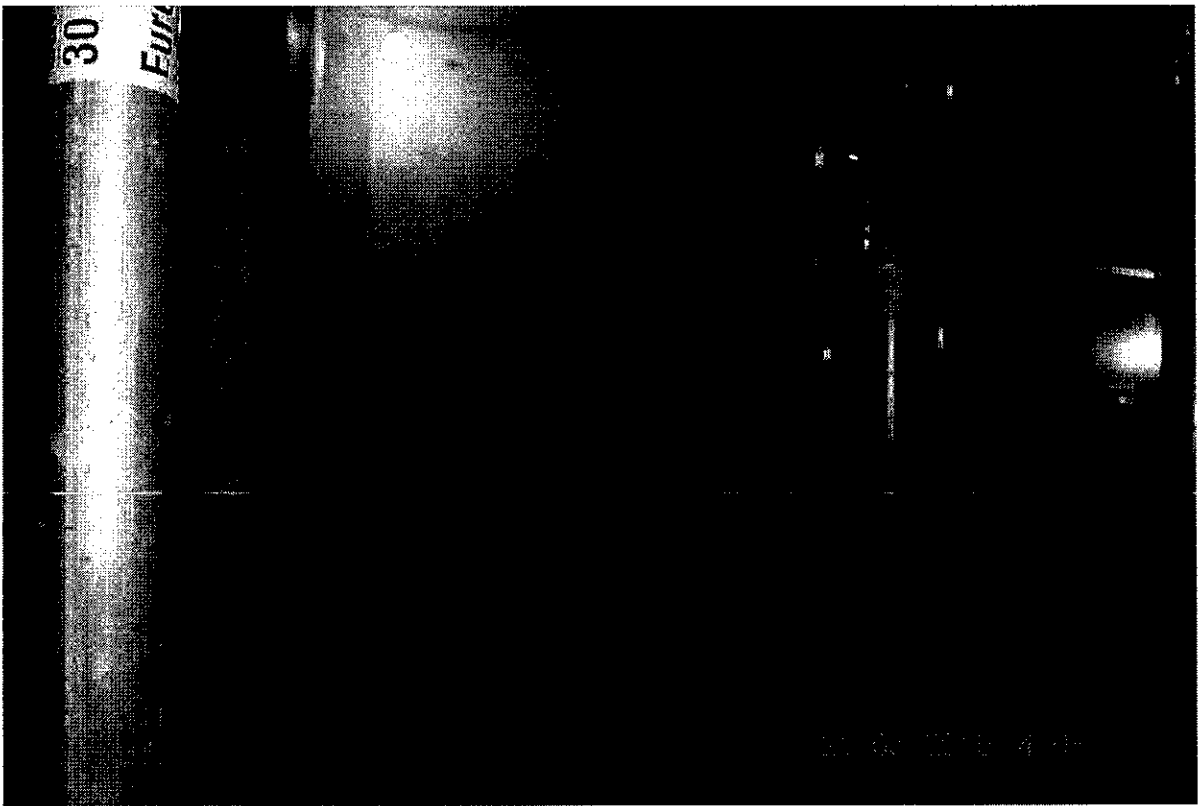
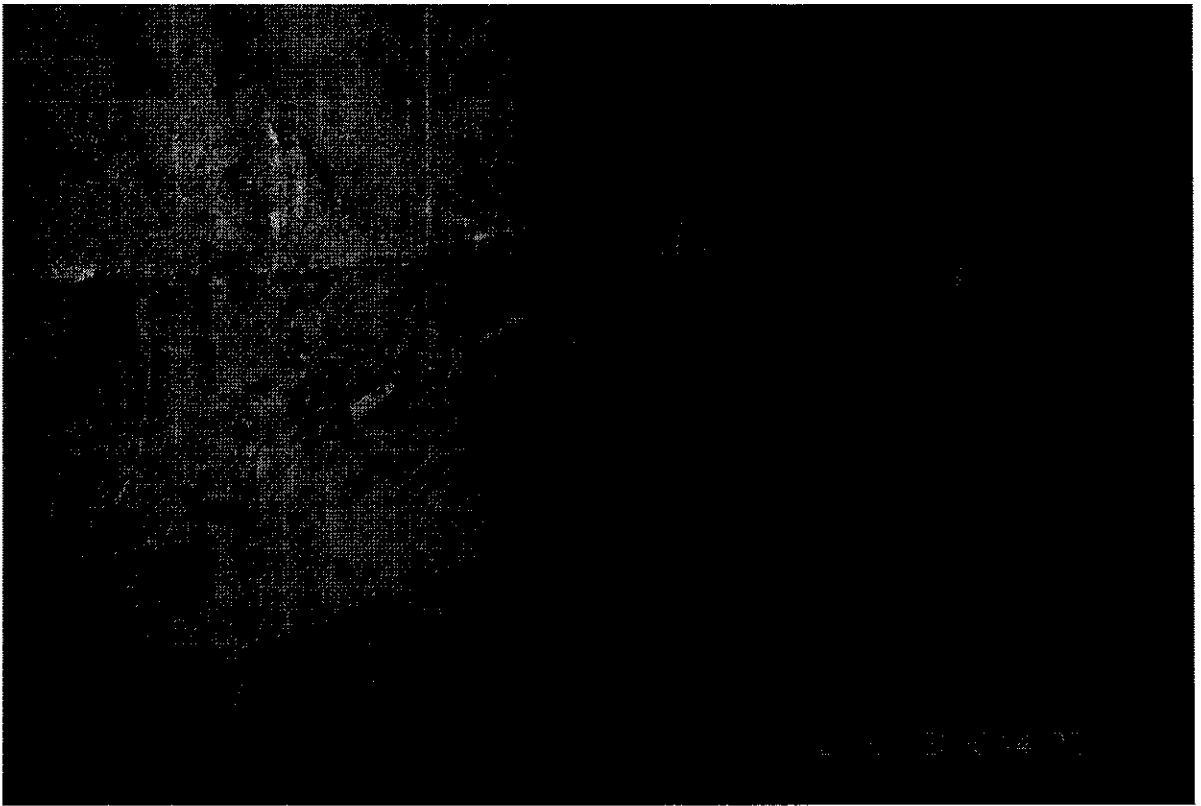


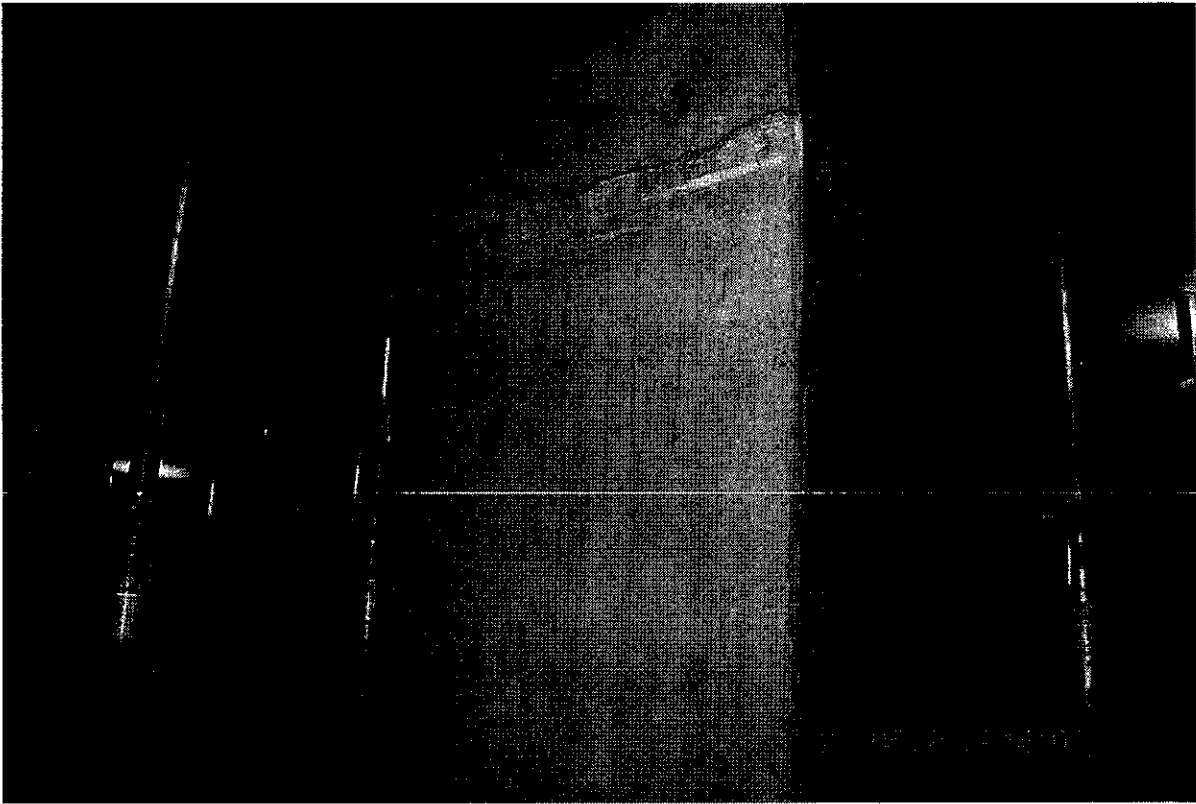
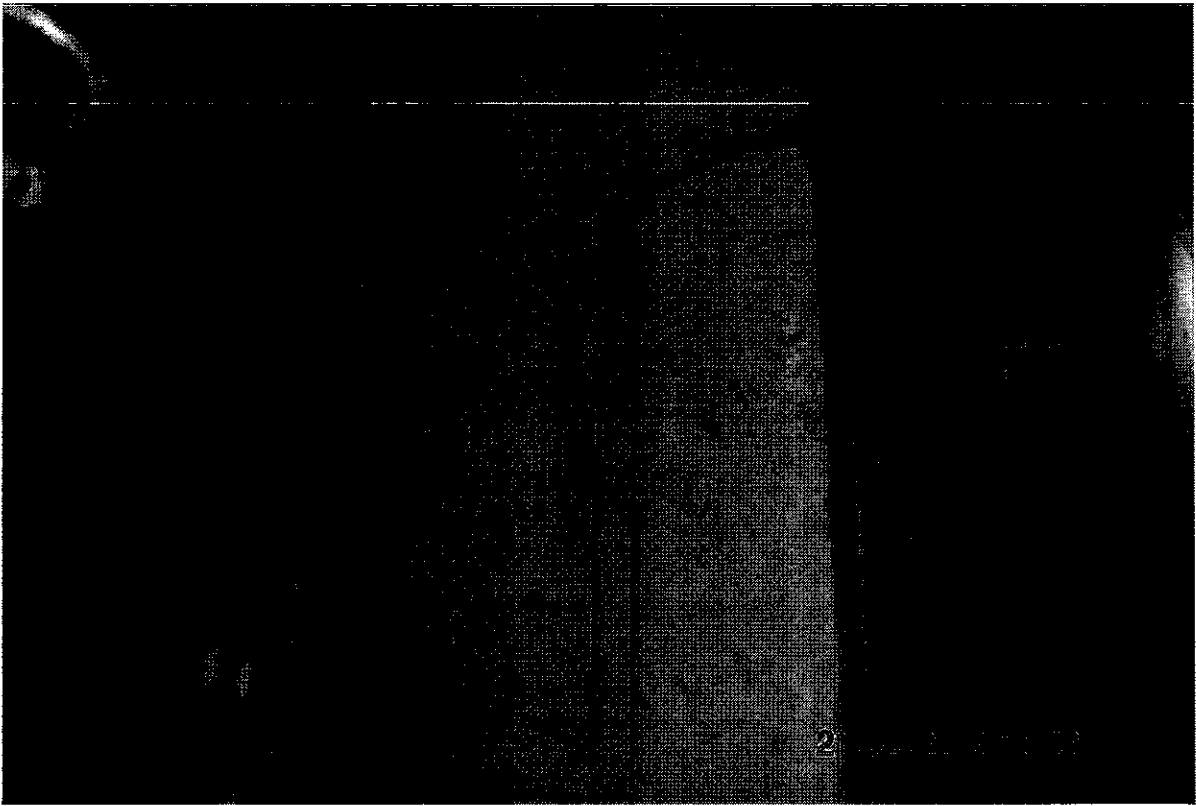


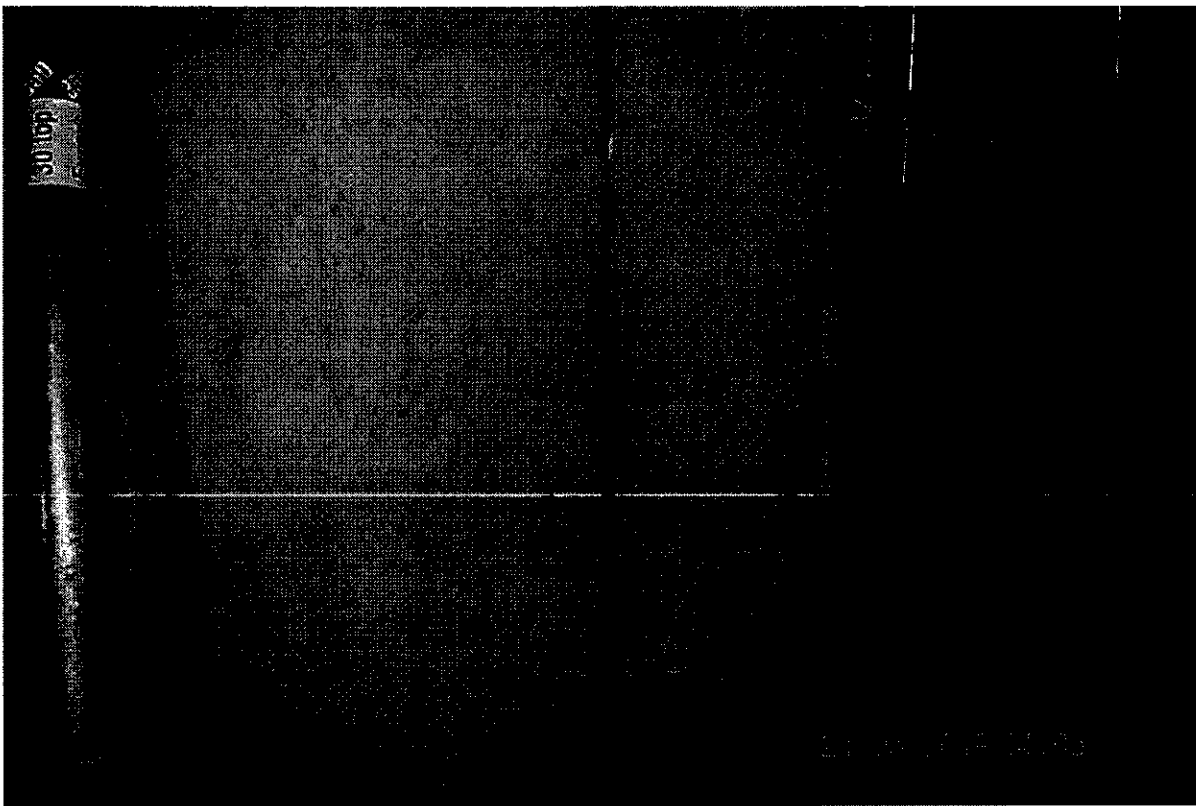
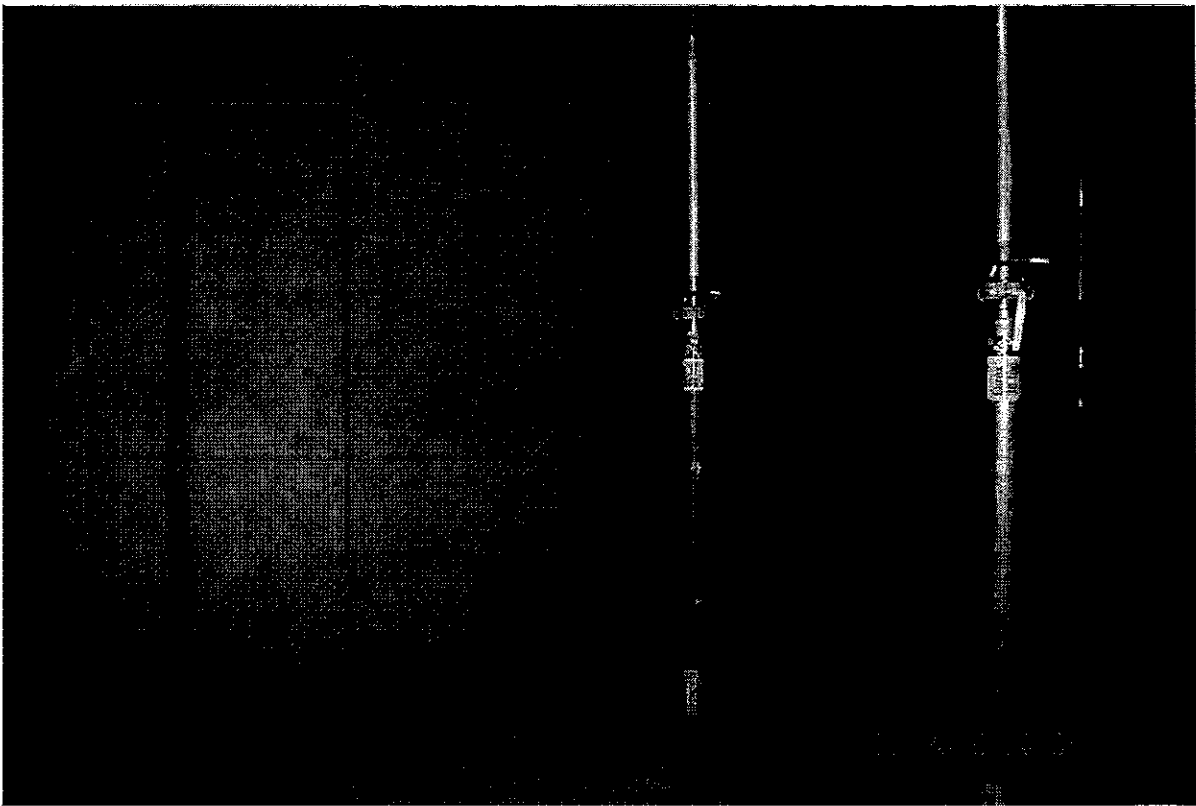


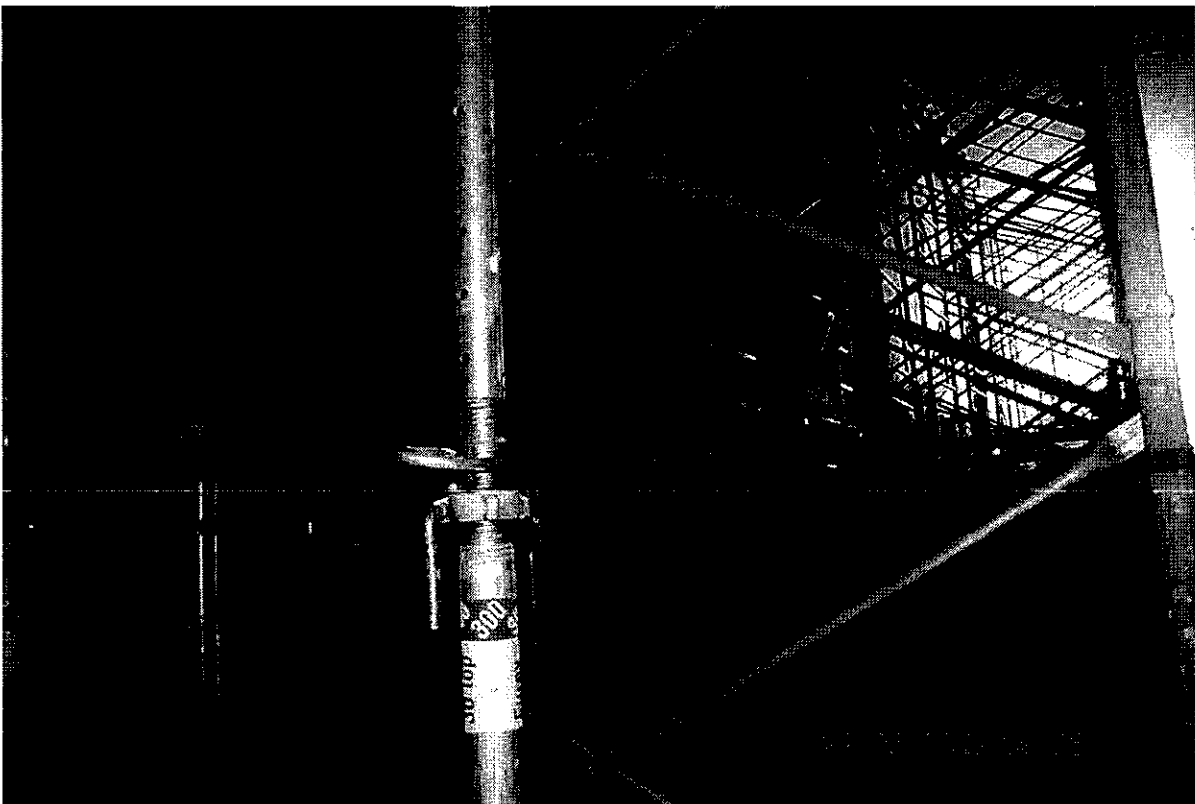


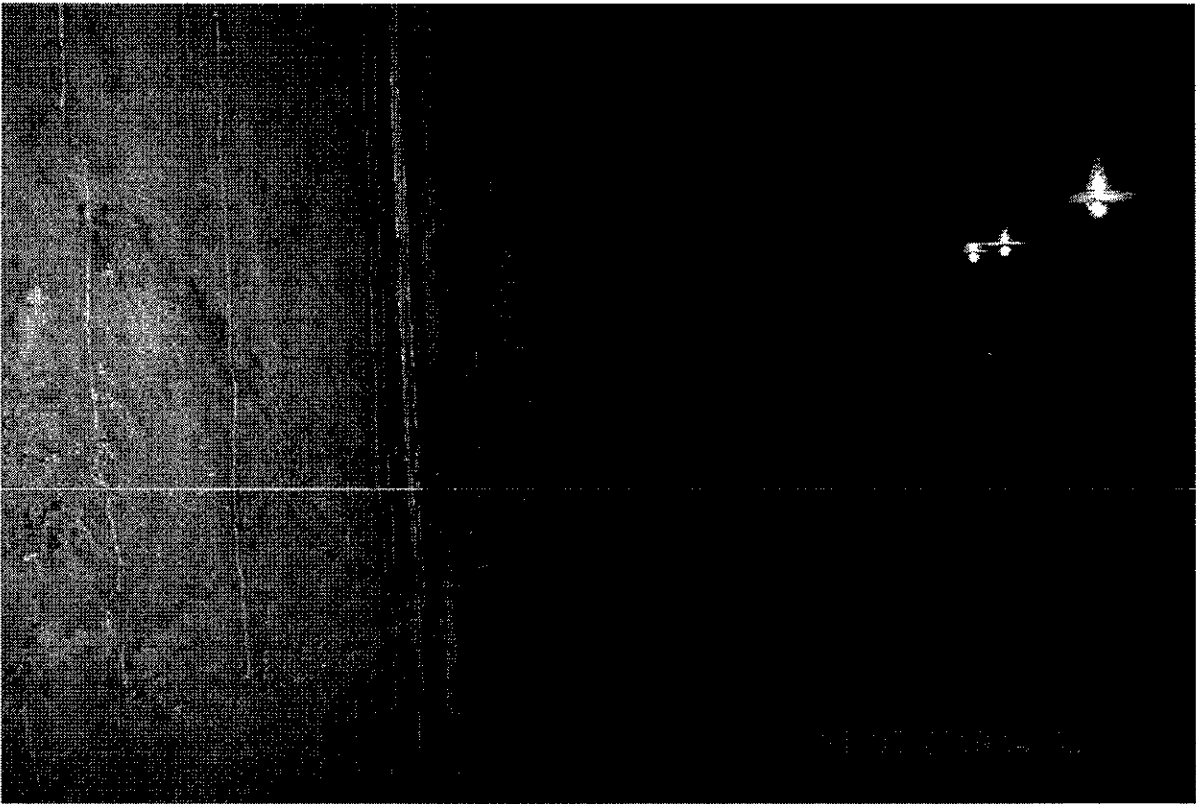
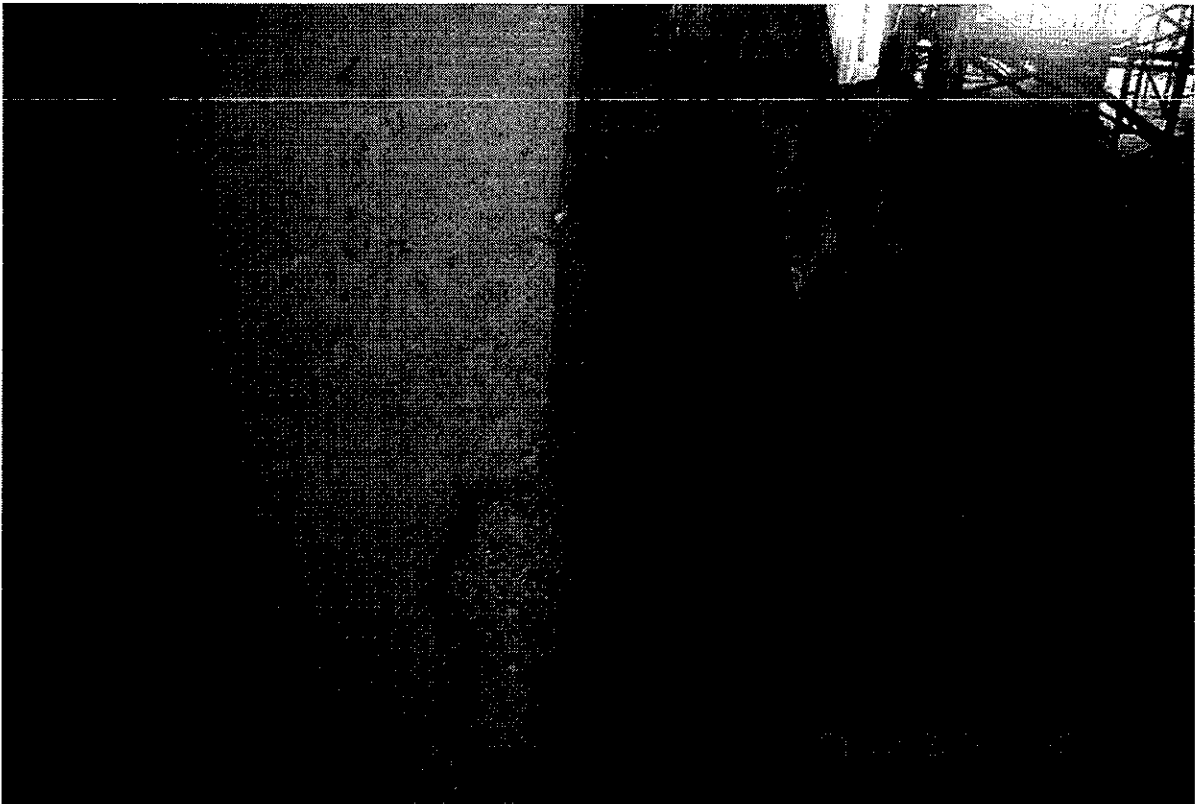


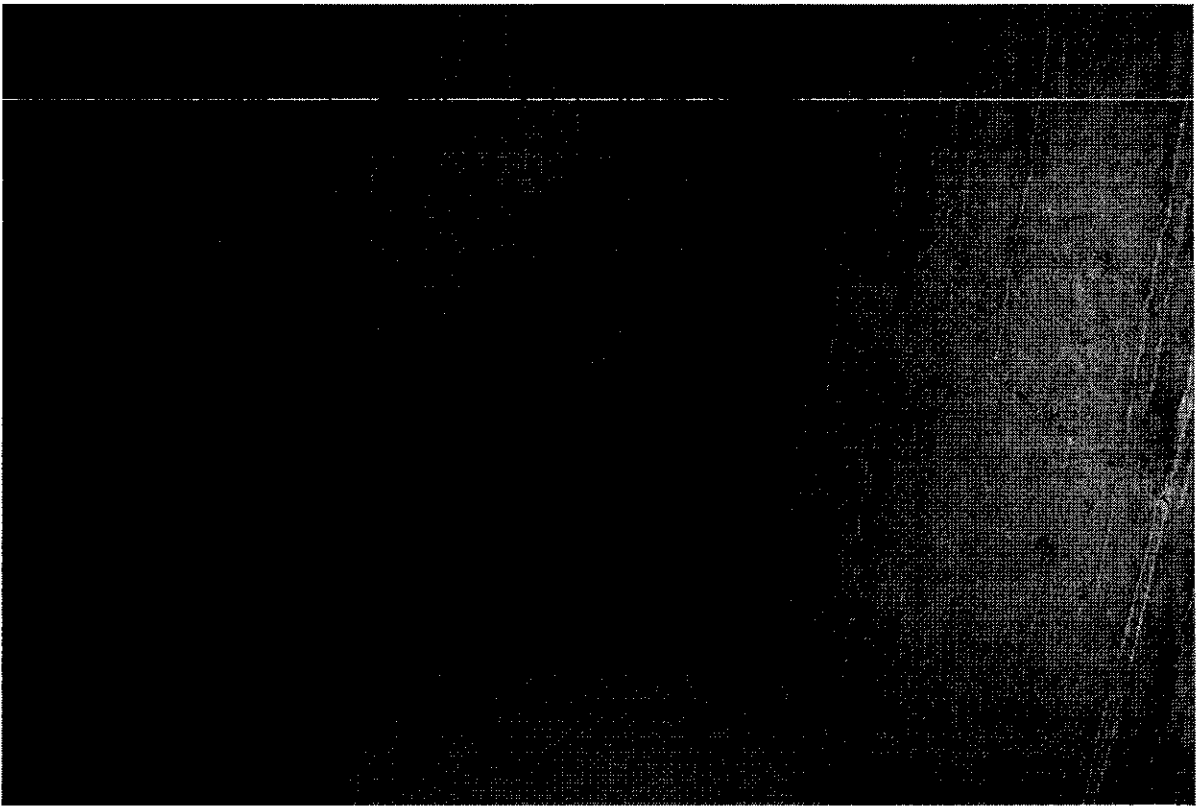




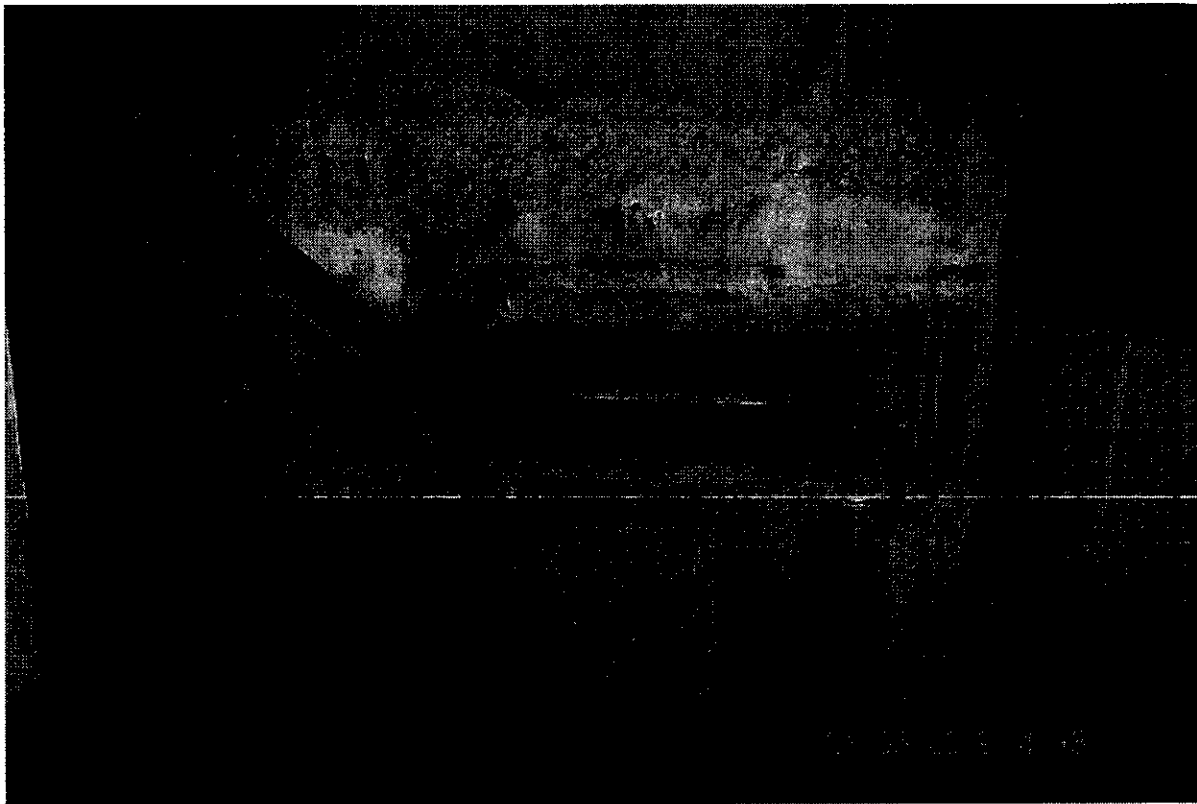


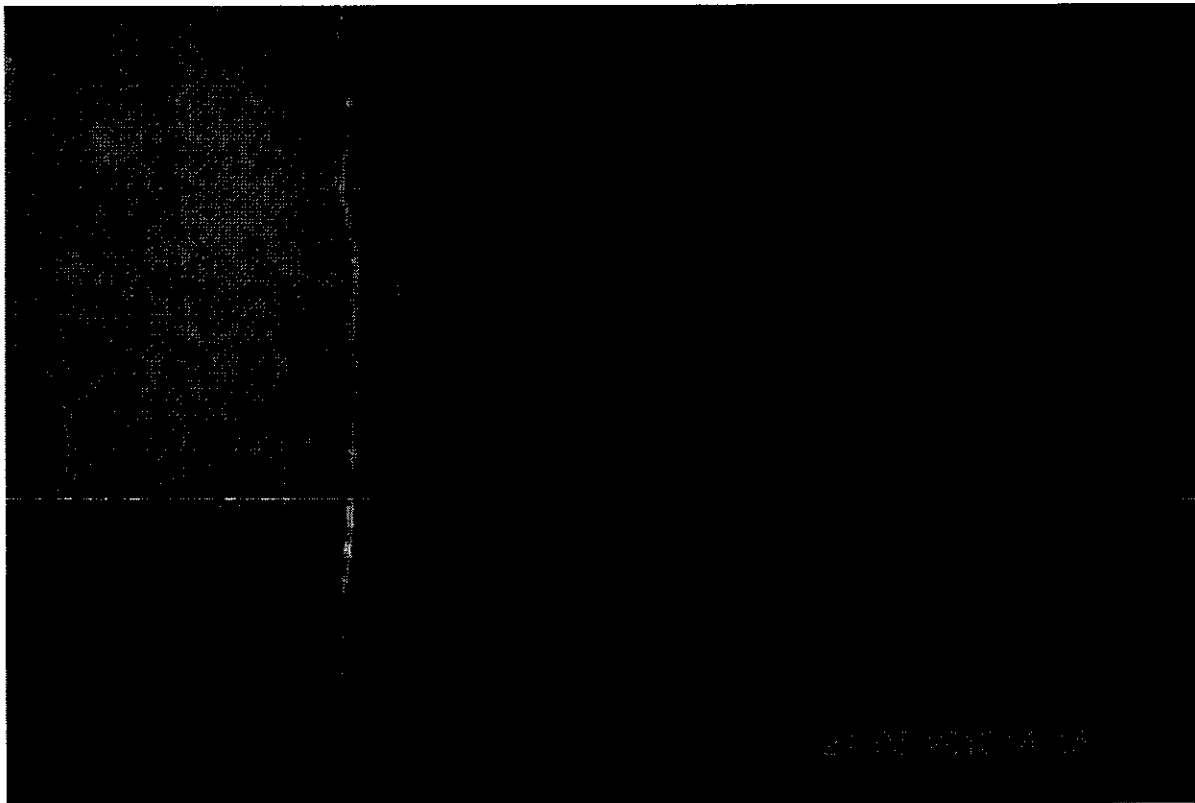
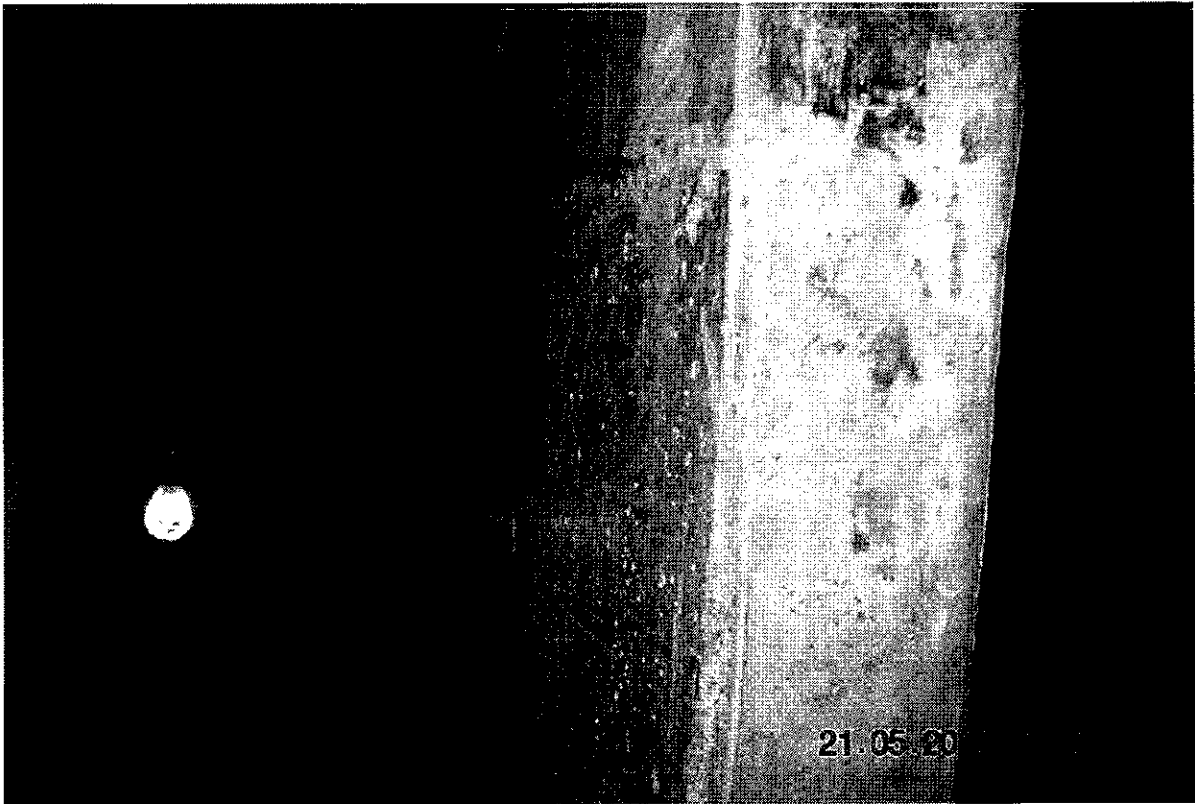


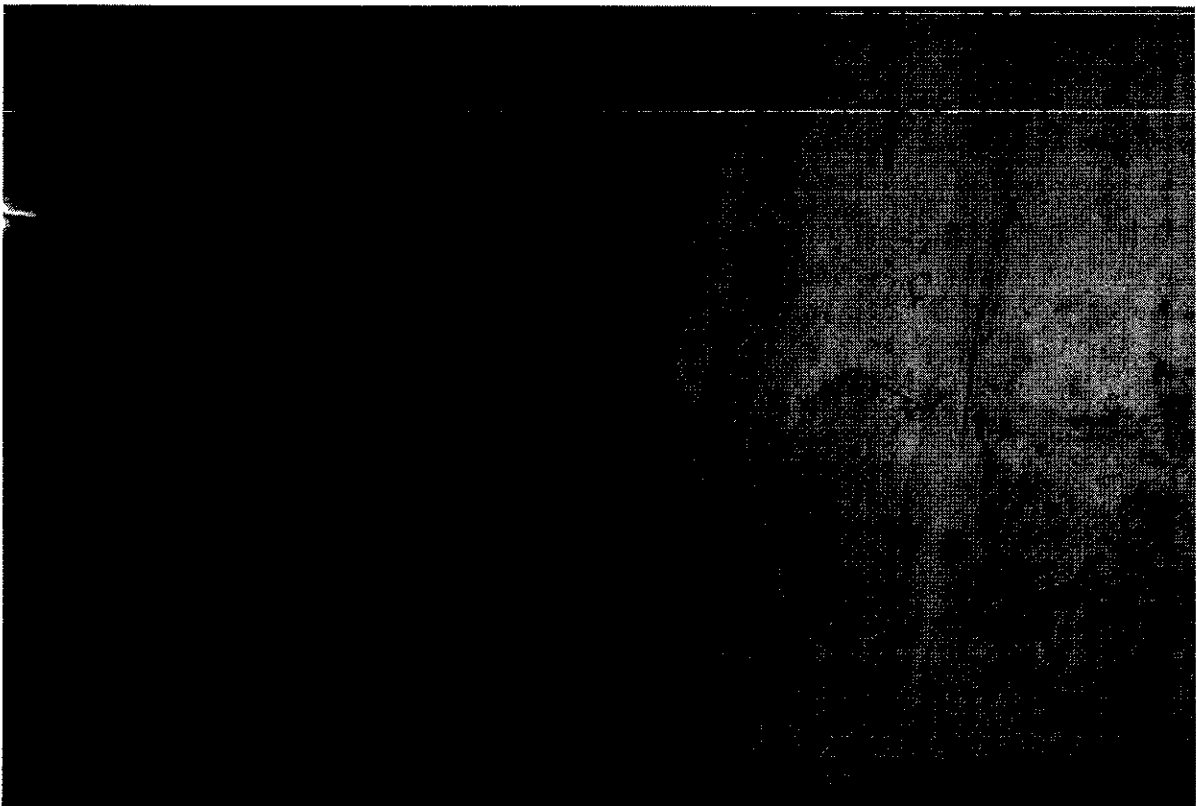




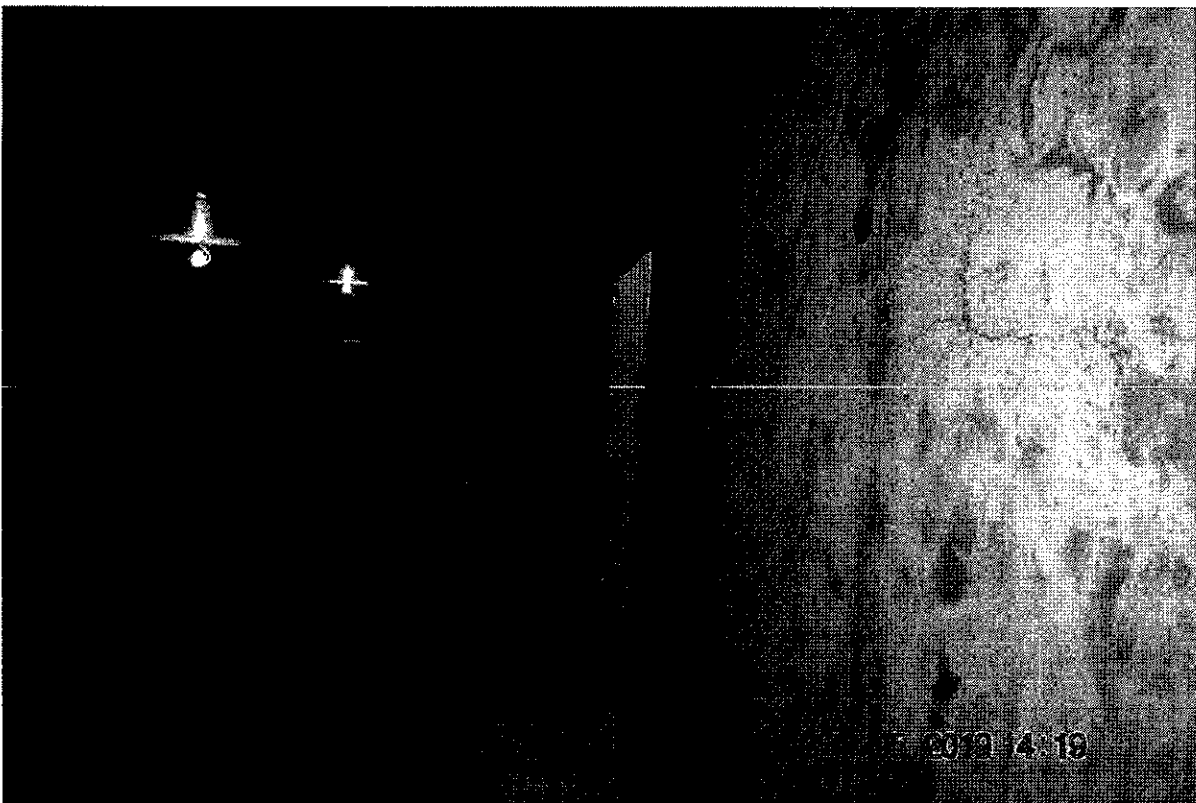


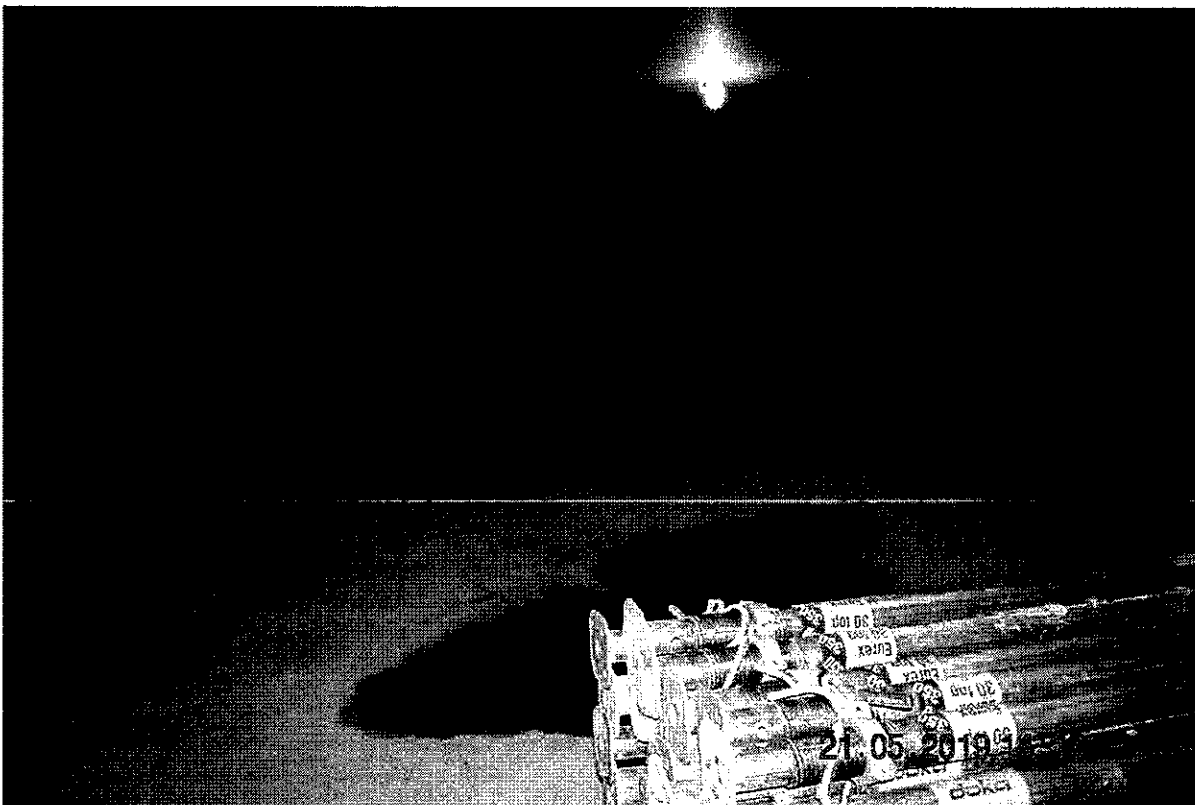
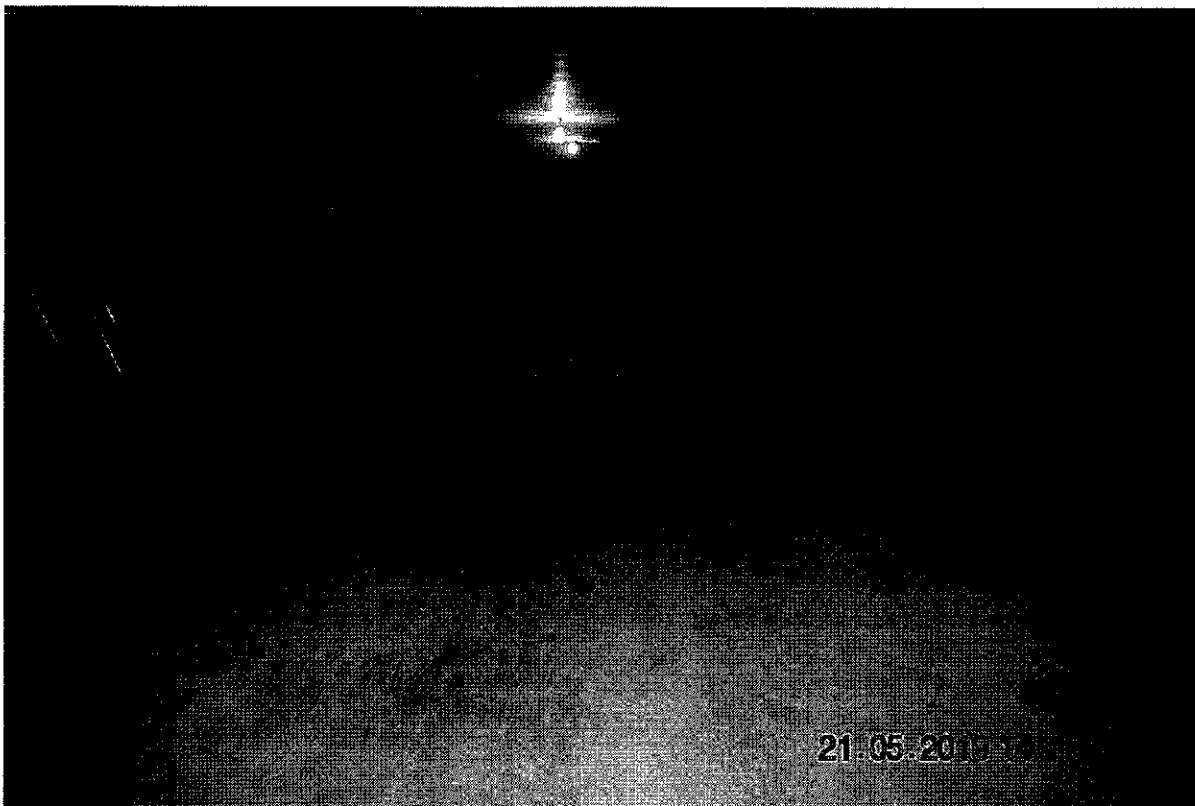


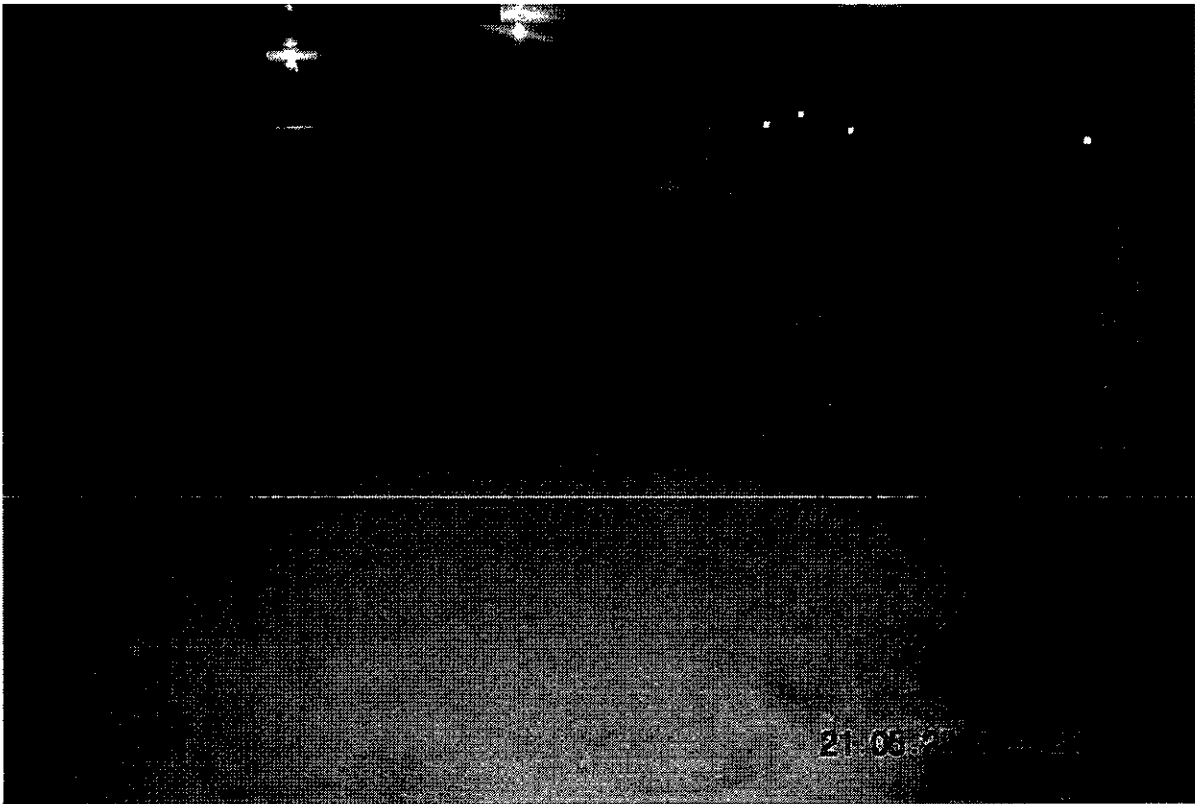
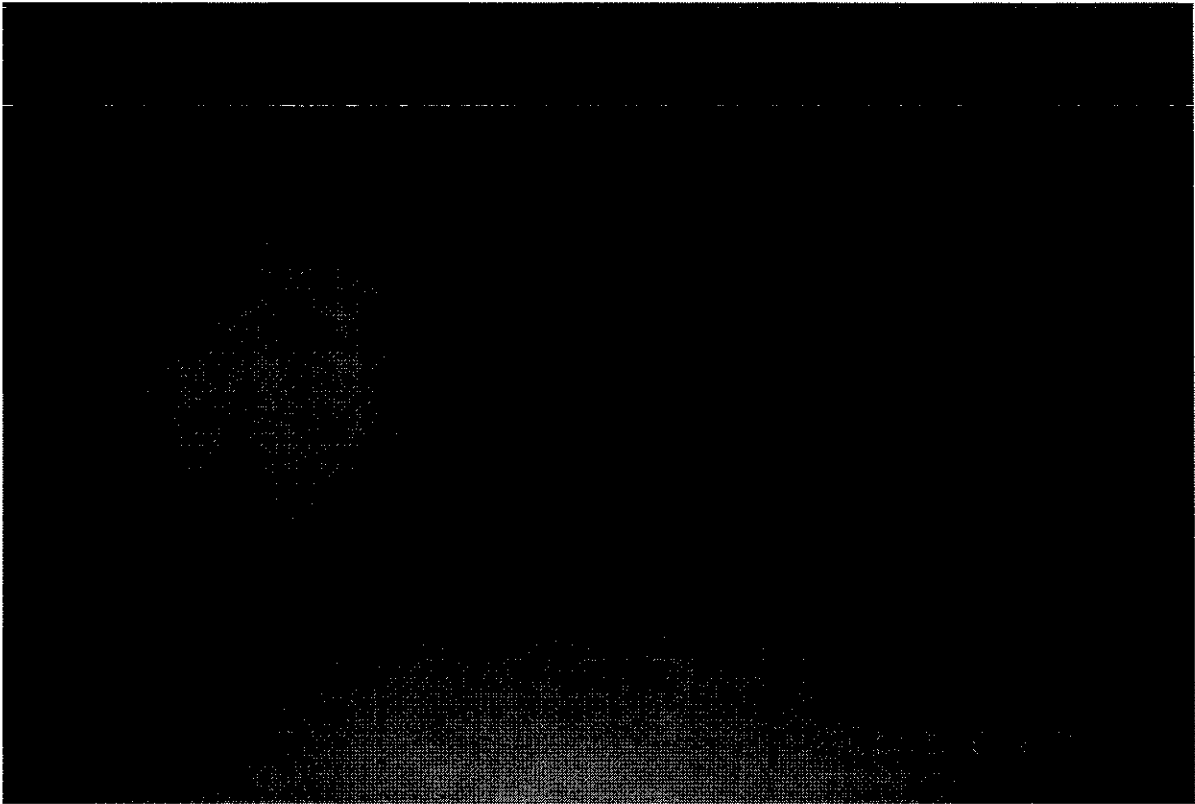


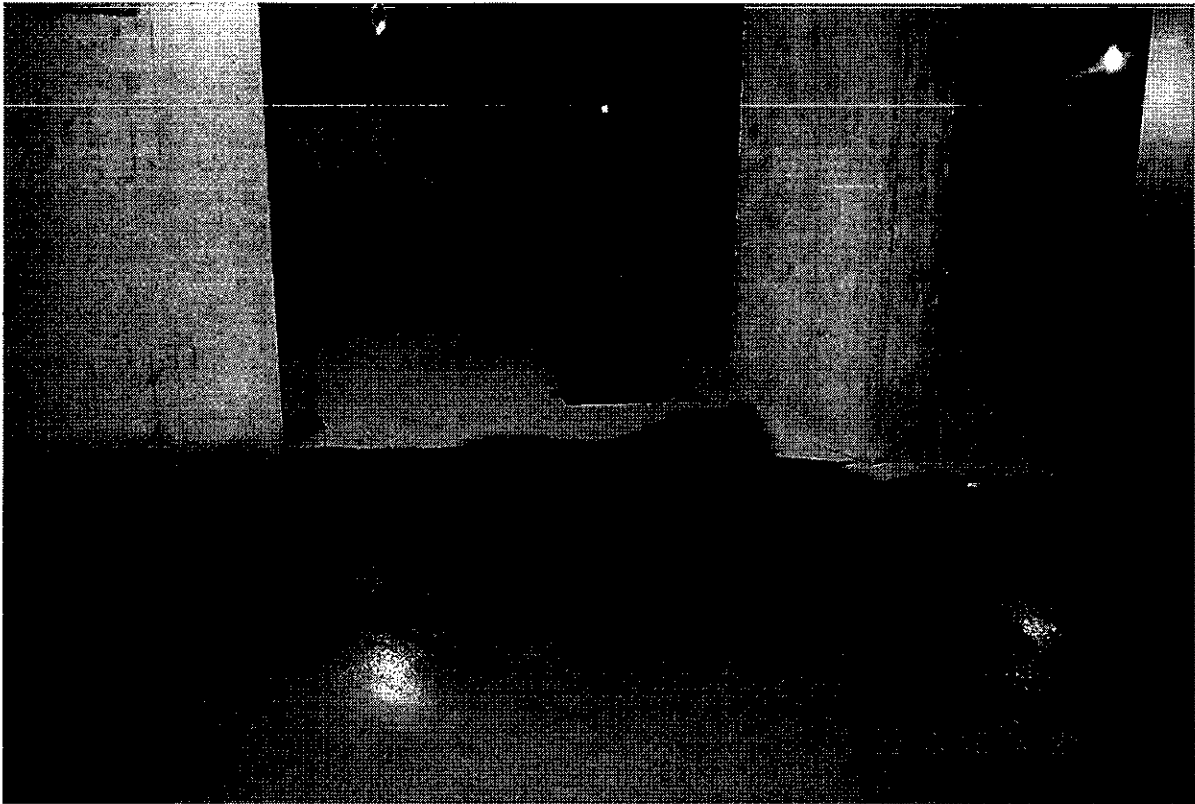


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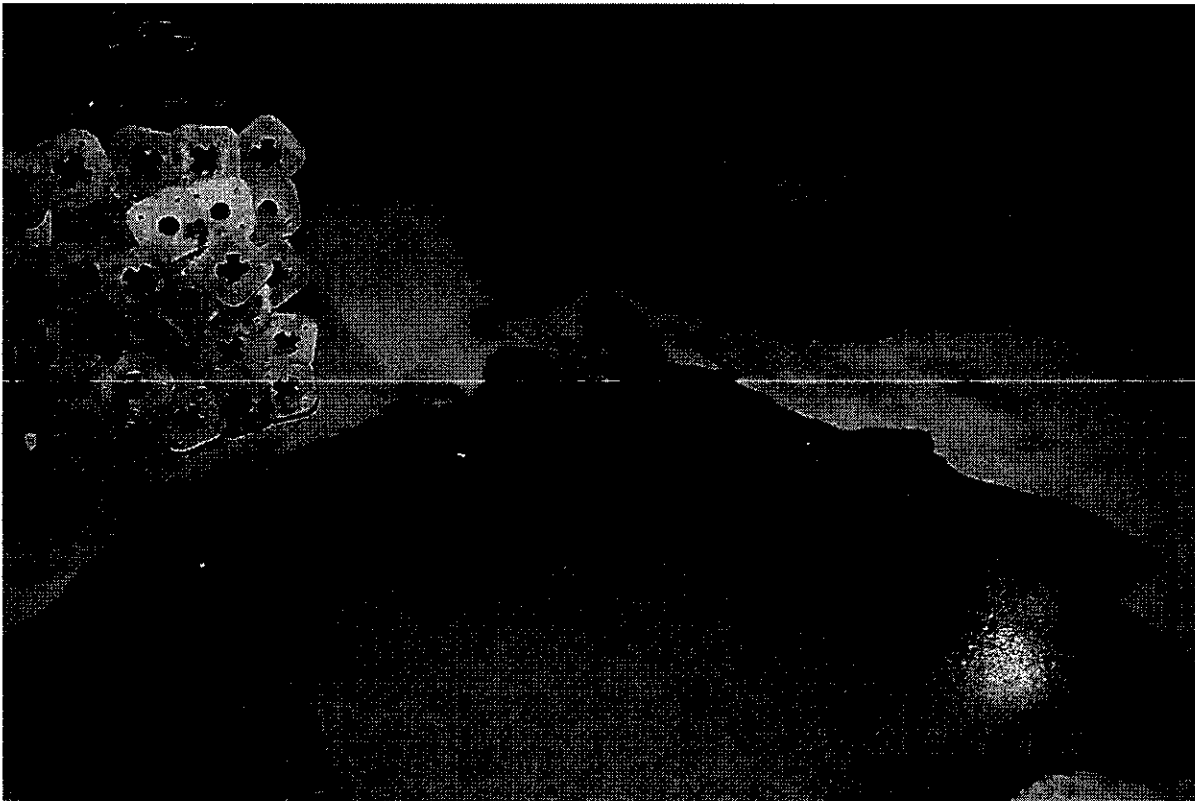


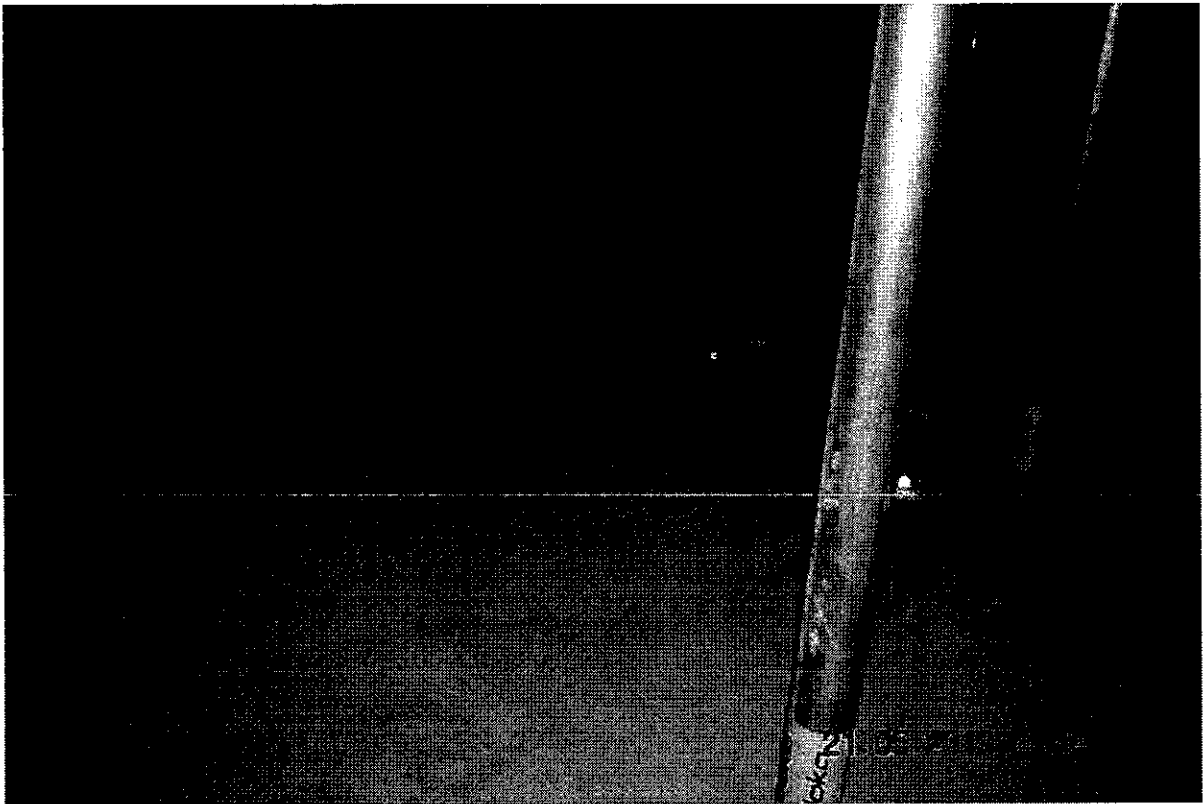
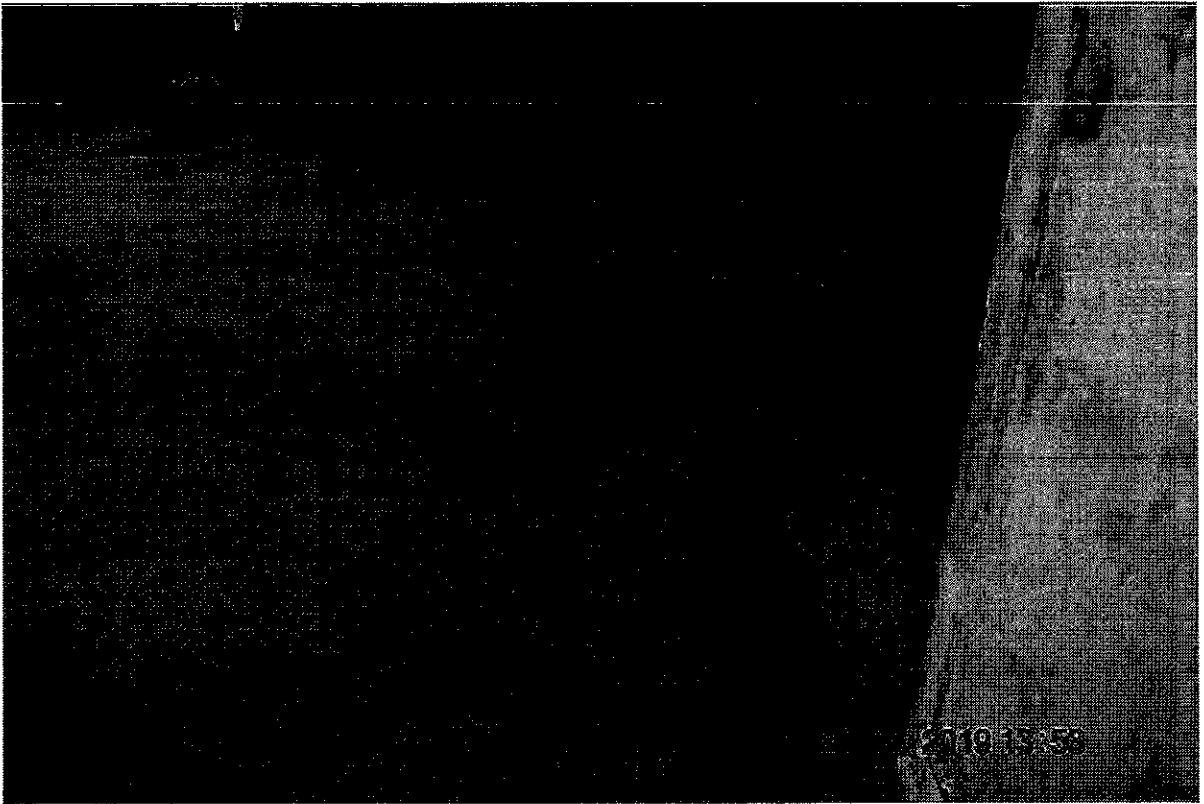


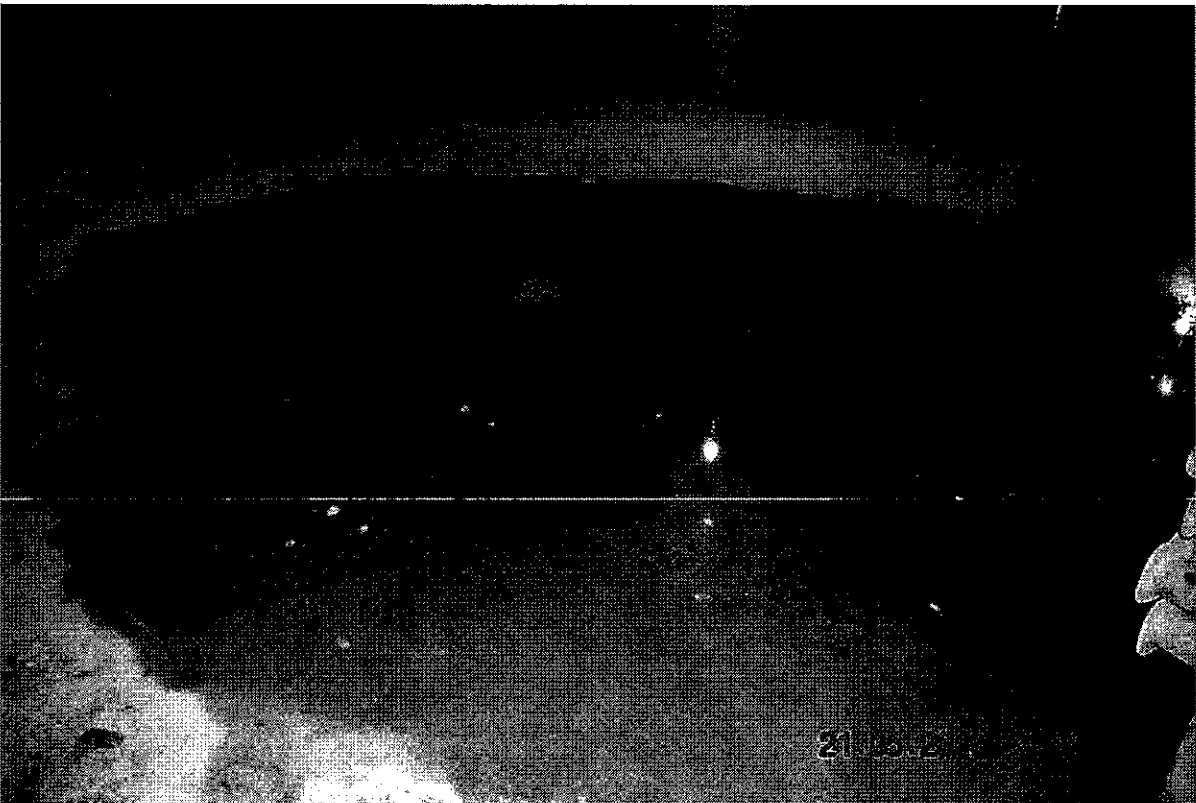
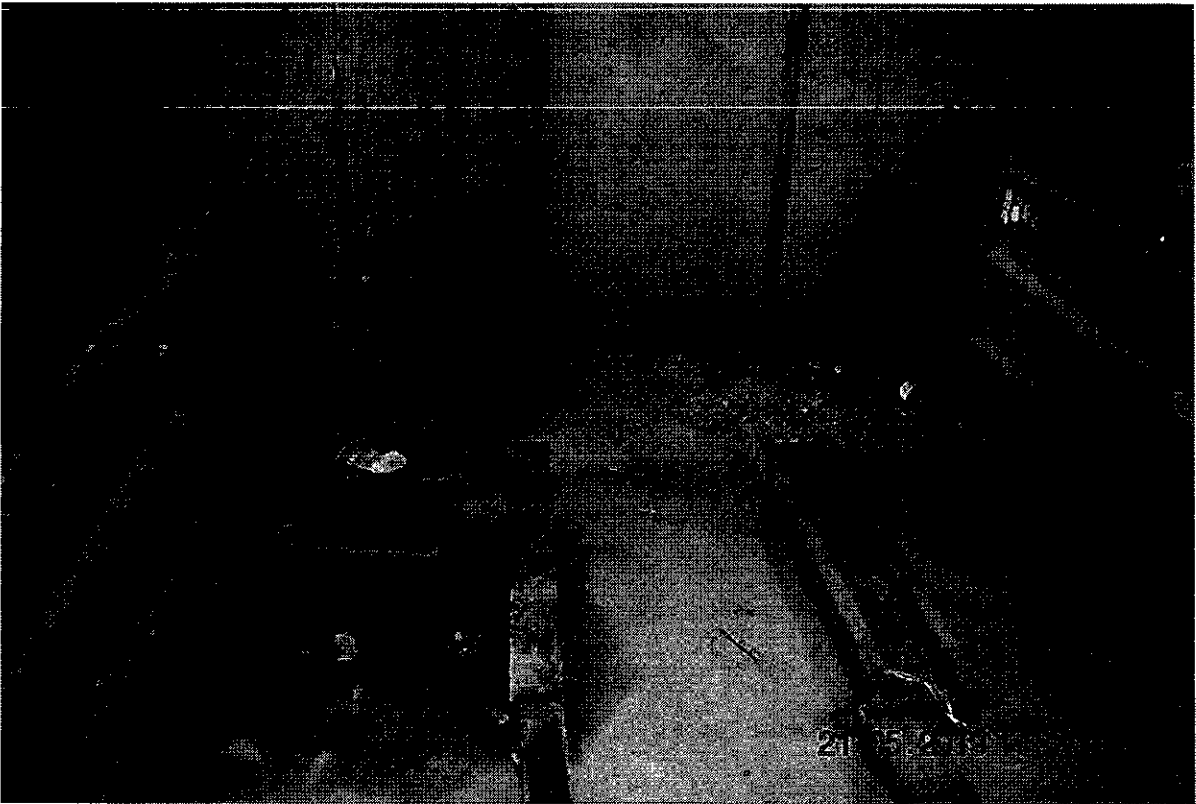




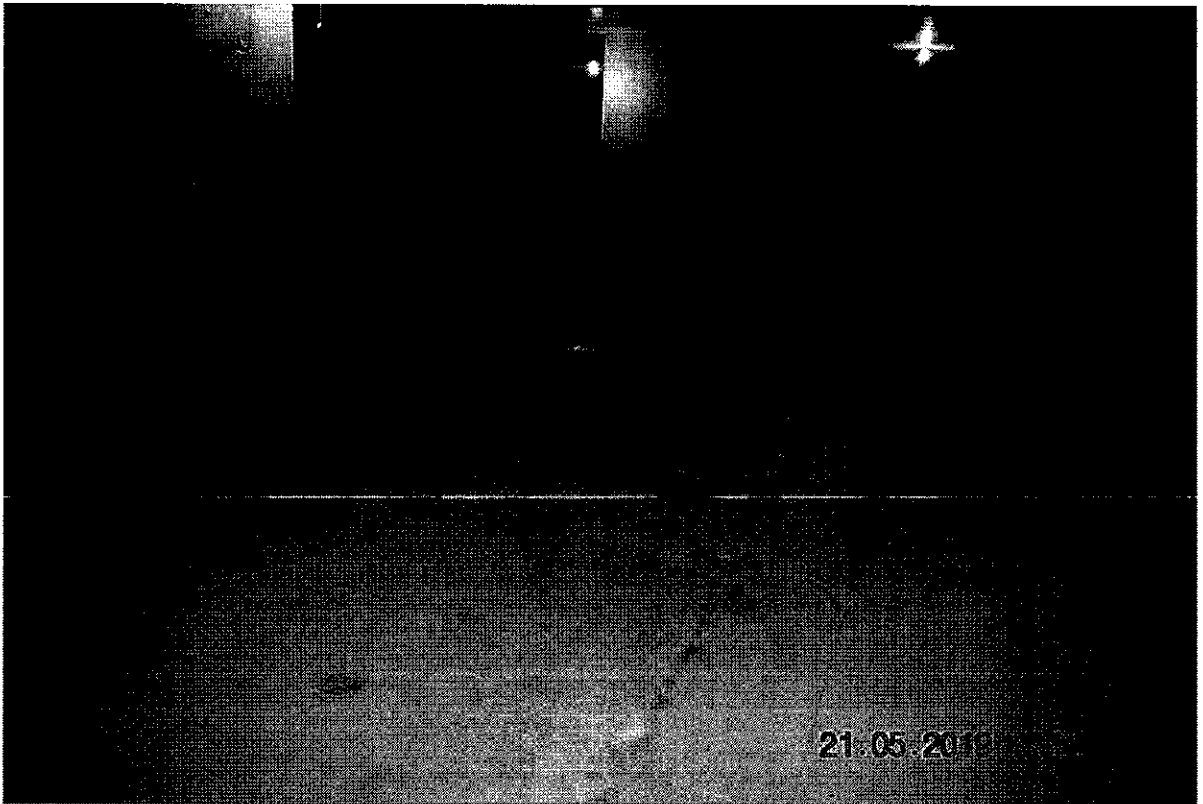
Floor:











Court file no. 35-2481393

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

**IN THE MATTER OF THE BANKRUPTCY OF  
SIRIUS CONCRETE INC. OF THE CITY OF  
WATERLOO, IN THE PROVINCE OF ONTARIO**

BETWEEN:

AYERSWOOD DEVELOPMENT CORPORATION

APPLICANT(S)

*(Court seal)*

and

BDO CANADA LIMITED,  
as Trustee for the Estate of SIRIUS CONCRETE INC.

RESPONDENT(S)

**NOTICE OF APPLICATION**

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing in London on a date to be set by the presiding judge at the hearing for directions scheduled for 10 a.m. on 18 November 2020.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date .....Issued by .....

Local registrar

Address of  
court office

80 Dundas Street  
London, Ontario N6A 6A3

TO:

Harrison Pensa LLP  
Barristers & Solicitors  
450 Talbot Street,  
London ON N6A 4K3

Attn: Melinda Vine

Lawyers for the Trustee  
BDO Canada Limited

## APPLICATION

1. The applicant makes application for:
  - (a) A determination that the sum \$381,578.40 held by the Trustee, which was received by the Trustee in or about the first to the fourth days of March 2019 by way of a cheque issued by Ayerswood Development Corp. ("Ayerswood"), is held by the Trustee in trust in favour of Ayerswood and does not form "property" of the bankrupt Sirius Concrete Inc. pursuant to the *Bankruptcy and Insolvency Act*;
  - (b) A determination that to the extent the amount received by the Trustee from Ayerswood for holdback under the Construction Act included holdback attributable to the said \$381,578.40 amount, such attributable amount should be repaid by the Trustee to Ayerswood;
  - (c) Leave under the *Bankruptcy and Insolvency Act*, if required, to bring this application;
  - (d) Costs and interest as appropriate.
2. The grounds for the application are:
  - (a) Ayerswood is the general contractor for the construction of a twelve storey residential building municipally known as 45 Yarmouth Street, in Guelph, Ontario ("the Building").
  - (b) Pursuant to a written contract between Sirius Concrete Inc. ("Sirius") and Ayerswood dated 14 March 2018 Sirius undertook to perform work that may be generally described as providing the labour, equipment, and materials to construct the concrete

structure of the three underground parking levels, the twelve above ground levels, and the roof slab and penthouse for the Building.

- (c) There was no provision in the contract for how much Sirius would be paid periodically, only a provision for payment in 30 days after invoice and a total price for the work. There was no schedule of values setting out how the total contract price was allocated (for example, so much for each floor completed). Sirius rendered monthly invoices from May to December 2018, which Ayerswood paid.
- (d) By February 2019 the three underground parking levels, most of the ground floor, and part of the second floor had been formed by Sirius. This was substantially behind the schedule represented by Sirius of 10 days per floor.
- (e) By the first of March 2019 Ayerswood had not paid the January 2019 invoice of Sirius. The amount of that after deduction of holdback, and with HST, was \$381,578.40. Ayerswood had determined to withhold that payment due to the delays and deficiencies in the work of Sirius.
- (f) Sirius agreed to meet with Ayerswood on 1 March 2019 in order to present Ayerswood with a plan to complete the work on the Building in a reliable and expeditious manner. Sirius failed to attend the meeting. Sirius contacted Ayerswood on 1 March 2019 and asked to delay the meeting until the following Tuesday, 5 March 2019. Sirius requested Ayerswood to release to it the cheque for the January invoice (\$381,578.40) and assured Ayerswood that Sirius was committed to providing Ayerswood with an effective plan and sticking to it so that their work would be back on track and get completed. Sirius represented to Ayerswood, in order to induce Ayerswood to release the cheque, that if Ayerswood provided the cheque now that would ensure that Sirius would push things along to get their work done. The

assurance of Sirius committing to finishing up the work on an efficient schedule was of huge importance to Ayerswood as the project was significantly behind schedule, so in reliance on these assurances from Sirius, and believing them, Ayerswood relented and agreed to release the cheque that day.

- (g) What Ayerswood did not know on March first was that Sirius had already been working with its licenced insolvency trustee prior to March first and the documents were prepared, and signed on March first 2019, to put Sirius into bankruptcy. When Sirius dealt with Ayerswood on March first, and persuaded it to release the cheque to them, Sirius knew it was not going to be doing any further work on the Building. So when Sirius wrote to Ayerswood on 1 March 2019 - "Tobin and myself will be making more site appearances to get things on track. Please be patient with us as we work through the issues." – Ayerswood was being lied to.
- (h) Ayerswood was assured by Sirius that if the payment of their January invoice was given to them they would come to the meeting on 5 March 2019 with a concrete plan to solve the problems and would move their work ahead promptly. This was pure deception with the object of getting Ayerswood to release the cheque. Ayerswood, believed these lies, and in the belief that Sirius would be not just continuing their work to completion, but promptly to completion, Ayerswood relented on the decision to withhold the cheque and released to Sirius the cheque of 1 March 2019 for \$381,578.40.
- (i) If Sirius had told me the truth on March first 2019 that they had already been working with BDO Canada Limited ("the Trustee") and were going to assign Sirius into bankruptcy and abandon their contract for the Building Ayerswood never would have released the \$381,578.40 cheque to them; Ayerswood would not have made that

payment. The value of the work by Sirius, coupled with the deficiencies in it, and the delay of the completion of the Building that they caused, meant that they had been overpaid for the work they had done. Sirius was not owed \$381,578.40, or any part of that money, and it only received that cheque due to their deceit.

- (j) If the funds being held by the Trustee, namely the \$381,578.40, plus the 10% holdback attributable to that amount, are not returned to Ayerswood then Ayerswood will have paid for work that was not done and the creditors of Sirius will receive funds that were not earned by Sirius and were obtained through deceit.
- (k) A proprietary remedy or the imposition of a constructive trust is appropriate to redress a situation of unjust enrichment, or where funds have been obtained through conduct constituting commercial immorality or misconduct.

3. The following documentary evidence will be used at the hearing of the application:

Affidavit of John Camara

*(Where the notice of application is to be served outside Ontario without a court order, state the facts and the specific provisions of Rule 17 relied on in support of such service.)*

*(Date of issue)*

*(Name, address and telephone number of lawyer or applicant)*

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Lawyer for Ayerswood Development Corporation

Court file no. 35-2481393

**SUPERIOR COURT OF JUSTICE**  
Proceeding commenced at London

**RESPONDING MOTION RECORD**  
**(Returnable 18 November 2020)**

*Name, address, telephone and fax numbers of lawyer or party  
(Law Society registration number of lawyer):*

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