

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)
JUSTICE H. J. WILTON-SIBER)

WEDNESDAY, THE 31TH
DAY OF OCTOBER, 2018

Handwritten initials



BETWEEN:

2292912 ONTARIO INC.

Applicant

-and-

2380009 ONTARIO LIMITED

Respondent

APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 as amended and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

DISCHARGE ORDER

THIS MOTION, made by RSM Canada Limited ("RSM") in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of 2380009 ONTARIO LIMITED (the "Debtor"), for an order, *inter alia*:

- (a) approving the activities of the Receiver as set out in the Seventh Report of the Receiver dated October 22, 2018 (the "Seventh Report") and the statement of receipts and disbursements referred to therein;
- (b) approving the fees and disbursements of the Receiver and its counsel as set out in the Seventh Report and the appendices thereto;

- (c) approving the distribution of the remaining proceeds available in the estate of the Debtor as set out in the Seventh Report (the "Final Distribution") and authorizing the Receiver to proceed to make the Final Distribution;
- (d) discharging RSM as Receiver of the undertaking, property and assets of the Debtor; and
- (e) releasing RSM from any and all liability, as set out in paragraph 8 of this Order,

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Seventh Report, the affidavits of the Receiver and its counsel as to fees as appended to the Seventh Report (the "Fee Affidavits"), and on hearing the submissions of counsel for the Receiver, no one else appearing;

1. THIS COURT ORDERS that the time for service of this motion is hereby abridged, service of this motion is validated and further service of this motion is hereby dispensed with.
2. THIS COURT ORDERS that the activities of the Receiver, as set out in the Seventh Report, and the R&D, as defined in the Seventh Report, are hereby approved.
3. THIS COURT ORDERS that the Receiver is hereby authorized to carry out the Remaining Duties, as defined in the Seventh Report, and such incidental tasks as are required to complete the Remaining Duties and that no further approvals in respect of same shall be required.
4. THIS COURT ORDERS that the fees and disbursements of the Receiver and its counsel, as set out in the Fee Affidavits, are hereby approved, together with the Torkin Manes Final Fees and Receiver's Account, as defined in the Seventh Report.
5. THIS COURT ORDERS that, after payment of the fees and disbursements herein approved, the Receiver is authorized to distribute to creditors the monies remaining in its hands in accordance with the Final Distribution.

6. THIS COURT ORDERS that should any further amounts become available for distribution to creditors of the estate of the Debtor, that the Receiver is authorized to distribute such amounts to the Second Mortgagees, as defined in the Seventh Report, in accordance with the Distribution Protocol, as defined in the Seventh Report, and subject to the qualifications set out therein that:

- (a) the total amount paid to the Second Mortgagees may not exceed the total amount owed to the Second Mortgagees; and
- (b) the amount payable to Fan, as defined in the Seventh Report, may not exceed \$475,000.

7. THIS COURT ORDERS that upon payment of the amounts set out in paragraph 5 hereof and upon the Receiver filing the Receiver Discharge Certificate (attached as Schedule "A") upon completion of the Remaining Duties, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtor, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of RSM in its capacity as Receiver.

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

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

NOV 01 2018

PER / PAR:




SCHEDULE A

Court File No. CV-16-011354-00CL

**ONTARIO
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2292912 ONTARIO INC.

Applicant

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2380009 ONTARIO LIMITED

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APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 as amended and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

RECEIVER'S DISCHARGE CERTIFICATE

RECITALS

- A. Pursuant to an Order of The Honourable Mr. Justice Newbould dated February 7, 2017 of the Ontario Superior Court of Justice (Commercial List) (the "Court"), Collins Barrow Toronto Limited (now known as RSM Canada Limited), was appointed as the receiver and manager (the "Receiver") without security of all the assets, undertakings and properties of 2380009 Ontario Limited ("238");
- B. Pursuant to an Order of the Court dated October 31, 2018 (the "Discharge Order"), RSM Canada Limited, was discharged as Receiver of the undertaking, properties and assets of 238 to be effective upon the filing by the Receiver with the Court of a certificate confirming that the Receiver has completed the remaining duties as defined in the Seventh Report (the "Remaining Duties");
- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Discharge Order;

THE RECEIVER CERTIFIES the following:

- 1. The Receiver has completed the Remaining Duties;

2. This Certificate was delivered by the Receiver at Toronto on _____, 2018.

RSM CANADA LIMITED, in its capacity as
Court-Appointed Receiver of 2380009 Ontario
Limited and not in its personal capacity

Per: _____

Daniel Weisz, CPA, CA, CFF, CIRP, LIT
Senior Vice President

2292912 ONTARIO INC.
Applicant

-and- 2380009 ONTARIO LIMITED
Respondent

Court File No. CV-16-011354-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

DISCHARGE ORDER

TORKIN MANES LLP

Barristers & Solicitors
151 Yonge Street, Suite 1500
Toronto ON M5C 2W7

Stewart Thom (55695C)
sthom@torkinmanes.com
Tel: 416-777-5197
Fax: 1-877-689-3872

Lawyers for the Receiver, RSM Canada Limited formerly
Collins Barrow Toronto Limited

RCP-E 4C (May 1, 2016)

Applicant

Respondent

200002/ONTARIO LIMITED
Oct 31/18

Court File No. CV-16-011354-00CL

October 31/18
S. Thom for the Receiver

All parties have been served and no objections received. Order to go in the form attached.
C. Thom - hwt

**ONTARIO
SUPERIOR COURT OF JUSTICE
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PROCEEDING COMMENCED AT TORONTO

**MOTION RECORD
(Returnable October 31, 2018)**

TORKIN MANES LLP
Barristers & Solicitors
151 Yonge Street, Suite 1500
Toronto, ON M5C 2W7

Stewart Thom (55695C)
sthom@torkinmanes.com
Tel: 416-777-5197
Fax: 1-877-689-3872

Tel: 416-863-1188
Fax: 416-863-0305



Lawyers for the Receiver, RSM Canada Limited

RCP-E 4C (May 1, 2016)