

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE  
JUSTICE *Cniappetta*

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MONDAY, THE 4<sup>TH</sup> DAY OF  
MARCH, 2019

BETWEEN:



BANK OF MONTREAL

Applicant

- and -

2495087 ONTARIO INC., 2496800 ONTARIO INC., 1527020 ONTARIO INC.,  
1651033 ONTARIO INC LTD., 1496765 ONTARIO INC LTD. and  
SUNSHINE PROPANE INC.

Respondents

APPLICATION UNDER s. 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c-  
B-3,  
s. 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C-43, and  
Rules 14.05(2), (3) (d), (g) and (h) of the *Rules of Civil Procedure*

**DISTRIBUTION ORDER**

**THIS MOTION**, made by **RSM Canada Limited** in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of 2495087 Ontario Inc., 2496800 Ontario Inc., 1527020 Ontario Inc., 1651033 Ontario Ltd., 1496765 Ontario Ltd. and Sunshine Propane Inc. (the "**Debtors**"), for an order authorizing the Receiver to, among other things, sell the real properties municipally known as 5462 Dundas Street West, Etobicoke, Ontario (the

**"Etobicoke Property")**, 5223 Dundas Street, Burlington, Ontario (the **"Burlington Property")**, and 633 Main Street West, Port Colborne, Ontario (the **"Port Colborne Property")**) (each a **"Property"** and collectively, the **"Properties"**) and to distribute certain of the proceeds therefrom, as described further in the First Report of the Receiver dated February 13, 2019 (the **"First Report"**), was heard this day at Toronto, Ontario.

**ON READING** the First Report and the Confidential Appendices attached thereto, and on hearing the submissions of respective counsel for the Receiver, the Applicants, the Purchaser, and such other counsel as were present, and no one else appearing, although properly served as appears from the affidavit of Michelle Jackson sworn February 13, 2019, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS AND DECLARES** that the First Report and the conduct and activities of the Receiver to February 11, 2019 set out therein be and are hereby approved.
3. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel for the period ended January 31, 2019 as set out in the First Report be and are hereby approved.
4. **THIS COURT ORDERS** that the Receiver's statement of receipts and disbursements as of January 31, 2019 as set out in the First Report, be and are hereby approved.
5. **THIS COURT ORDERS** that the following Confidential Appendices be sealed as follows:
  - (a) Confidential Appendix "HH" to the First Report until the closing of the sale of the Etobicoke Property;

- (b) Confidential Appendix "II" to the First Report until the closing of the sale of the Burlington Property; and
- (c) Confidential Appendix "JJ" to the First Report until the closing of the sale of the Port Colborne Property;

6. **THIS COURT ORDERS** that the Receiver is authorized and directed to pay from the proceeds of sale of the Properties or any of them, the following:

- (a) unpaid accounts relating to operating expenses;
- (b) to the Receiver, an amount equal to the unpaid accounts of the Receiver relating to the Receiver's fees; and
- (c) to Paliare Roland Rosenberg Rothstein LLP ("**Paliare Roland**"), an amount equal to the unpaid accounts of Paliare Roland.

*vd* (d) a hold back equal to the maximum amount of a potential construction lien claim on the Burlington Property by some construction l.c.

7. **THIS COURT ORDERS** that following the payments contemplated in paragraph 6, the Receiver is authorized and directed to pay from the proceeds of sale of the Etobicoke Property the following:

- (a) to CRA, \$2,601.00 owed on account of 1496765 Ontario Ltd.'s source deductions deemed trust liability;
- (b) to BMO:
  - (i) the advances totaling \$99,000 under Receiver Certificates # 2, 6 and 9 plus accrued interest; and
  - (ii) an amount not exceeding the outstanding indebtedness of 1496765 Ontario Ltd. to BMO;

8. **THIS COURT ORDERS** that following the payments contemplated in paragraph 6, the Receiver is authorized and directed to pay from the proceeds of sale of the Burlington Property the following:

(a) to BMO:

- (i) the advances totaling \$87,000 under Receiver Certificates # 1, 8 and 11 plus accrued interest; and
- (ii) an amount not exceeding the outstanding indebtedness of 1651033 Ontario Ltd. to BMO.

9. **THIS COURT ORDERS** that following the payments contemplated in paragraph 6, the Receiver is authorized and directed to pay from the proceeds of sale of the Port Colborne Property the following:

(a) to BMO:

- (i) the advances totaling \$99,000 under Receiver Certificates # 3, 7 and 10 plus accrued interest; and
- (ii) an amount not exceeding the outstanding indebtedness of 1527020 Ontario Inc. to BMO.

10. **THIS COURT ORDERS** that the Receiver may hold back, in respect of each of the Debtors, amounts to cover unpaid operating expenses, potential deemed trust claims and future professional fees.

11. **THIS COURT ORDERS** the Receiver may attempt to access any data saved on the hard drives of the computers found at the Etobicoke Property, the Port Colborne Property, and the real property known municipally as 274 Bayfield Road, Goderich,



Ontario (the "**Goderich Property**") or if that cannot be done, to destroy the hard drives of such computers.

12. **THIS COURT ORDERS** the Receiver may deposit the Cash (as such term is defined in the First Report) into the receivership trust account for the benefit of 1496765 Ontario Ltd.'s creditors.

13. **THIS COURT ORDERS** the Receiver may sell or otherwise dispose of any remaining items at any of the Properties, the Goderich Property or the real property known municipally as 591 and 595 Goderich Street, Port Elgin, Ontario (the "**Port Elgin Property**") and with the Properties and the Goderich Property, the "**Real Properties**") including personal property that may belong to individuals related to the Debtors, that are not removed from those Real Properties, under the Receiver's supervision, within three business days of the date of the Approval and Vesting Order issued in respect of that Property.

14. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



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PER / PAR: 

**BANK OF MONTREAL**  
**Applicant**



**-and-**

Court File No. CV-18-00602537-00CL  
2495087 ONTARIO INC. et al.

**Respondents**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
  
**PROCEEDING COMMENCED AT**  
**TORONTO**

**DISTRIBUTION ORDER**

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