

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

MOTION RECORD
(Returnable October 31, 2018)

October 22, 2018

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

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

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

Lawyers for the Receiver, RSM Canada Limited

TO: **THE SERVICE LIST**

SERVICE LIST
Re October 31, 2018 Motion

TO: BLANEY MCMURTRY LLP
Barristers and Solicitors
2 Queen Street East, Suite 1500
Toronto, ON M5C 3G5

Reeva M. Finkel
Tel: 416-593-3959
rfinkel@blaney.com

Tel: 416-593-1221
Fax: 416-593-5437

Lawyers for the Applicant,
2292912 Ontario Inc.

AND TO: HIMELFARB PROSZANSKI LLP
Barristers and Solicitors
480 University Avenue, Suite 1401
Toronto, ON M5G 1V2

Tom Arndt
Tel: 416-599-8080 Ext. 252
Fax: 416-599-3131
E-mail: tom@himprolaw.com

Lawyers for 2380009 Ontario Limited

AND TO: CHAITONS LLP
Barristers and Solicitors
5000 Yonge Street, 10th Floor
Toronto, Ontario
M2N 7E9

Maya Poliak
Tel: 416-218-1161
Fax: 416-222-8402
E-mail: maya@chaitons.com

Lawyers for BuiltRite Technologies Inc.

AND TO: **KAGAN SHASTRI LLP**

Lawyers
188 Avenue Road
Toronto, ON M5R 2J1

David Winer (LSUC #39330D)
Tel: 416-368-2100 ext 225
Fax: 416-324-4202
E-mail: dwiner@ksllp.ca

Lawyers for 2383603 Ontario Inc. and William Fong

AND TO: **OSCAR C. WONG PROFESSIONAL CORPORATION**

Barristers and Solicitors
330 Highway 7 East, Suite 503
Richmond Hill, ON L4B 3P8

Oscar Wong (LSUC #17233L)
Tel: 905-881-2992
Fax: 905-881-8856
E-mail: info@ocwlaw.com

Lawyers for Atlantic Advantage Management Inc.
and Atlantic (HS) Capital Inc.

AND TO: **FRED TAYAR & ASSOCIATES PROFESSIONAL CORPORATION**

65 Queen Street West
Suite 1200
Toronto, ON M5H 2M5

Fred Tayar
Tel: 416-363-1800
Fax: 416-363-3356
E-mail: fred@fredtayar.com

Lawyers for Eco Energy Home Services Inc.

AND TO: **ROMANO LAW OFFICE**

Lawyers
22 Goodmark Place, Unit 6
Toronto, ON M9W 6S2

Bernie Romano – Bernie@romanolaw.ca
Jordan Nussbaum - jordan@romanolaw.ca
Tel: (416) 213-1225
Fax: (416) 213-1251

Lawyers for Mario & Gina Iacobelli

AND TO: **GIACOMO FRANCESCONI**
c/o Schneider Ruggiero LLP
Barristers and Solicitors
120 Adelaide St. West, Suite 1000
Toronto, ON M5H 3V1

Attention: George Ruggiero (gruggiero@srlawpractice.com)

AND TO: **G & L CARPENTERS LIMITED**
c/o Schneider Ruggiero LLP
Barristers and Solicitors
120 Adelaide St. West, Suite 1000
Toronto, ON M5H 3V1

Attention: George Ruggiero (gruggiero@srlawpractice.com)

AND TO: **MERCEDES FRANCESCONI**
c/o Schneider Ruggiero LLP
Barristers and Solicitors
120 Adelaide St. West, Suite 1000
Toronto, ON M5H 3V1

Attention: George Ruggiero (gruggiero@srlawpractice.com)

AND TO: **RENATO FRANCESCONI**
c/o Schneider Ruggiero LLP
Barristers and Solicitors
120 Adelaide St. West, Suite 1000
Toronto, ON M5H 3V1

Attention: George Ruggiero (gruggiero@srlawpractice.com)

AND TO: **LUCIEN CARPENTERS LIMITED**
c/o Schneider Ruggiero LLP
Barristers and Solicitors
120 Adelaide St. West, Suite 1000
Toronto, ON M5H 3V1

Attention: George Ruggiero (gruggiero@srlawpractice.com)

AND TO: **CASSELS BROCK & BLACKWELL LLP**
2100 Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2

David S. Ward LSUC #: 33541W
Tel: 416.869.5960
Fax: 416.640.3154
dward@casselsbrock.com

Lawyers for the City of Mississauga

AND TO: **GARTH LOW**
Barrister
70 Bond Street, Suite 200
Toronto, ON M5B 1X3

Tel: 416-365-9320
Fax: 416-365-0695
E-mail: garth.low@garthlow.com

Lawyers for Christophere Ho and
Ho and Associates Consulting Group Inc.

AND TO: **ADVOCATES LLP**
Barristers and Solicitors
One London Place
255 Queens Avenue, 16th Floor
London, ON N6A 5R8

Jeff Van Bakel
J.VanBakel@advocatesLLP.com
Tel: 519-858-8220 ext. 246
Fax: 519-858-0687

Lawyers for Fan Xiao Bing a.k.a. Angela Fan

AND TO: **CANADA REVENUE AGENCY**
National Insolvency Office
1 Front Street West, 2nd Fl.
Toronto, ON M5J 2X6

Attention: Daniela Pesikan
Tel: 416-973-3954
Fax: 416-954-6411

CANADA REVENUE AGENCY
Toronto East Tax Services Office
55 Athol Street East
Oshawa, ON L1H 1K1

Attention: P. Davey (Acct #80682 5139 RT 0001)
Tel: 905-725-4599
Fax: 905-725-4100

AND TO: **DEPARTMENT OF JUSTICE**

Ontario Regional Office
120 Adelaide St. W., Suite 400
Toronto, ON M5H 1T1

Diane Winters - diane.winters@justice.gc.ca
Michael W. Bader, Q.C. - michael.bader@justice.gc.ca
Tel: 416-973-0942
Fax: 416 952 0298

Lawyers for the Canada Revenue Agency

AND TO: **MINISTRY OF FINANCE**

Legal Services Branch
33 King Street West, 6th Floor
Oshawa, ON L1H 8E9

Kevin J. O'Hara
Tel: 905.433.6934
Fax: 905.436.4510
E-mail: kevin.ohara@fin.gov.on.ca

AND TO: **CROWE SOBERMAN INC.**

2 St. Clair Avenue East, Suite 1100
Toronto, ON M4T 2T5

Hans Rizarri
Tel: 416.963.7175
Fax: 416.964.6454
Email: hans.rizarri@crowesoberman.com

Proposal Trustee

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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

NOTICE OF MOTION

RSM Canada Limited, in its capacity as court appointed receiver (in such capacity, the “**Receiver**”) of the assets, property and undertaking of 2380009 Ontario Limited (“**238**”) will make a Motion to a Judge presiding over the Commercial List on Wednesday, October 31, 2018 at 10:00 a.m., or as soon after that time as the Motion can be heard at the court house, 330 University Avenue, 7th Floor, Toronto, Ontario, M5G 1R7.

PROPOSED METHOD OF HEARING: The Motion is to be heard

in writing under subrule 37.12.1(1) because it is on consent;

in writing as an opposed motion under subrule 37.12.1(4);

orally.

THE MOTION IS FOR

1. An order:

- (a) abridging the time for service of this motion, validating service of this motion and dispensing with further service;
- (b) approving the activities of the Receiver as set out in the Seventh Report of the Receiver dated October 22, 2018 (the "**Seventh Report**");
- (c) authorizing the Receiver to carry out the Remaining Duties, as defined in the Seventh Report, and such incidental tasks as are required to complete the Remaining Duties;
- (d) approving the fees and disbursements of the Receiver and its counsel as set out in the Receiver's Seventh Report and the fee affidavits of the Receiver and its counsel appended to the Seventh Report and approving the Receiver's Account and the Torkin Manes Final Fees, as defined herein;
- (e) approving the distribution of the remaining proceeds available in the estate of the Debtor and authorizing the Receiver to proceed to make the Final Distribution and Future Distributions as defined herein;
- (f) discharging RSM as Receiver of the undertaking, property and assets of the Debtor and releasing RSM from any and all liability; and
- (g) Such further and other Relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE

Background

- (a) By Order of the Honourable Justice Newbould dated February 7, 2017 (the "**Appointment Order**"), Collins Barrow Toronto Limited was appointed receiver (the "**Receiver**"), without security, of all of the assets, undertaking and properties of 2380009 Ontario Limited ("**238**" or the "**Debtor**") acquired for or used in relation to the business carried on by the Debtor, including all proceeds thereof. On December 5, 2017, Justice Hainey made an Order that the name RSM Canada Limited be substituted in place of the name Collins Barrow Toronto Limited in respect of this proceeding (and other mandates on which it is acting);
- (b) 238 is an Ontario corporation incorporated on July 9, 2013 and appears to be a single purpose corporation formerly holding legal and beneficial title to certain lands and a free standing industrial building located thereon at 2370 South Sheridan Way, Mississauga, Ontario (the "**Property**");
- (c) The building located on the Property was formerly occupied by a single related-party tenant, BuiltRite Technologies Inc. ("**BuiltRite**"). BuiltRite occupied the Property from February 1, 2014 to August 8, 2017 pursuant to a lease between BuiltRite and 238 dated January 15, 2014 (the "**Lease**");
- (d) The Applicant, 2292912 Ontario Inc. ("**229**"), was (prior to the sale of the Property) the registered holder of a first mortgage on the Property (the "**First Mortgage**") and the first-ranking secured creditor of 238. As a result of defaults and breaches of

the terms of the Mortgage, 229 sought and obtained the appointment of the Receiver;

Approval to List Property and Market for Sale

- (e) By Order of the Honourable Justice Pattillo dated May 29, 2017 (the "**May 29 Order**"), the Receiver was authorized to:
 - (i) enter into a listing agreement (the "**CBRE Listing Agreement**") with CBRE Limited ("**CBRE**") for the marketing for sale of the Property;
 - (ii) list the Property for sale and market the Property to prospective purchasers;
and
 - (iii) terminate the Lease on 45-days' notice, to be given no earlier than June 21, 2017, at the end of which period vacant possession was to be delivered to the Receiver;

- (f) The Lease was terminated as of August 8, 2017, at which point the Receiver took possession of the Property and proceeded with marketing the Property for sale;

Sale Approval and Sale of the Property

- (g) Following the conclusion of the sale process respecting the Property, the Receiver sought approval of the sale of the Property to 2603092 Ontario Inc. On December 5, 2017, the Honourable Justice Conway:

- (i) approved the sale of the Property to the purchaser and granted an Approval and Vesting Order in favour of the purchaser to take effect upon completion of the sale;
 - (ii) authorized the Receiver to make an interim distribution (the “**First Interim Distribution**”) in an amount sufficient to repay the First Mortgage in full;
- (h) The sale of the Property has closed. A copy of the Receiver’s certificate was filed with the Court on December 19, 2017;

July 23 Motion

- (i) On July 16, 2018, the Receiver brought a motion, returnable on July 23, 2018 (the "July 23 Motion"), seeking, inter alia, an Order authorizing the Receiver to:
- (i) distribute \$1,800,000 of the funds in the estate to the Second Mortgagees (the "**Second Interim Distribution**");
 - (ii) retain the remaining funds in the estate, being the amount of \$52,347 (the "**Holdback**"), to cover final fees and expenses of the Receiver and its counsel incurred in connection with completion of the administration of the estate of the Debtor; and
 - (iii) make any additional distributions to creditors of any additional funds which may become available, including any balance of the Holdback funds not applied to the final fees of the Receiver and its counsel;

- (j) The Second Interim Distribution was to be made in a manner consistent with the Receiver's analysis of entitlements to the proceeds of the second mortgage registered on title to the property, in which four separate parties (collectively, the "**Second Mortgagees**") hold part interests. Prior to the return of the July 23 Motion the Receiver sought and obtained the consent of each of the Second Mortgagees to the proposed distribution protocol (the "**Distribution Protocol**");

- (k) In addition to approval of the Second Interim Distribution, and in an effort to minimize the need for further appearances and related costs, the Receiver additionally sought at that time an order authorizing the completion of the remaining duties required in connection with the administration of the estate of the debtor (as set out in the Sixth Report), approving the prospective fees and expenses of the Receiver and its Counsel to be incurred in connection with the completion of the remaining duties without requirement for a further motion before the Court and discharging RSM as Receiver of 238 upon completion of such duties (the "**Discharge Relief**").

- (l) At the return of the July 23 Motion, Justice Pattillo granted the majority of the relief sought by the Receiver, including authorizing the Second Interim Distribution as per the Distribution Protocol, but did not grant the Discharge Relief. As set out in His Honour's endorsement of July 23, 2018, Justice Pattillo was of the view that the Discharge Relief was at that time premature;

Final Fees

- (m) The Receiver's accounts total \$14,533.50 in fees plus HST of \$1,889.36 for a total amount of \$16,422.86 for the period July 7, 2018 to October 12, 2018 and estimated to completion (the "**Receiver's Account**"). The Receiver estimates that its fees to complete the administration of the receivership will be \$4,910 which is included in the \$16,422.86;
- (n) The accounts of the Receiver's counsel, Torkin Manes, totals \$13,230.78 in fees and disbursements and \$1,695.70 in HST for a total of \$14,926.48 (the "**Torkin Manes Account**") for the period July 7, 2017 to October 19, 2018. Torkin Manes estimates that its fees to complete the administration of the receivership will be \$2,500 plus HST (together with the Torkin Manes Account, "**Torkin Manes Final Fees**").
- (o) Collectively the Receiver's Account and Torkin Manes Final Fees shall be referred to herein as the "**Final Fees**";

Final R&D and Proposed Final Distribution

- (p) As per the Receiver's Final Statement of Receipts and Disbursements for the period February 7, 2017 to October 12, 2018 ("**R&D**"), the balance in the Receiver's account is \$52,864, as at October 12, 2018.
- (q) After deduction of the unpaid portion of the Final Fees, the amount of \$34,215.90 is available to be distributed to the Second Mortgagees. The Receiver intends to distribute these funds to the Second Mortgagees in a manner consistent with the

Distribution Protocol consented to by the interested parties and set out in the Seventh Report (the “**Final Distribution**”)

Remaining Duties

- (r) As of the date of this Seventh Report, the Receiver's remaining duties (the “**Remaining Duties**”) include the following:
 - (i) making the Final Distribution; and
 - (ii) preparing the Final Statement of Receiver pursuant to s.246(3) of the Bankruptcy and Insolvency Act.

Discharge

- (s) As the Receiver’s administration is substantially complete, and in order to avoid the costs of making a further motion to the Court to obtain the Receiver’s discharge, the Receiver is presently seeking an order discharging RSM from the powers, duties and obligations attendant to its appointment as Receiver. The Receiver is proposing that the Discharge Order become effective on the day that the Receiver files with the Court a Certificate in which the Receiver certifies that the Receiver has completed the Remaining Duties;

Potential Future Distributions

- (t) It is not anticipated that there will be any distributions available to creditors of the estate of the debtor beyond the Final Distribution amount. A significant shortfall will be suffered by the Second Mortgagees. It is highly unlikely, in the event that

any unanticipated realizations were to become available for distribution to creditors at all, that such amounts would engage the interests of parties other than the Second Mortgagees;

- (u) The proposed Discharge Order provides for the Receiver to be authorized, following discharge, to distribute any additional funds that may come into the hands of the Receiver to the Second Mortgagees, using the same Distribution Protocol employed in both the Final Distribution and Second Interim Distribution, provided that:
 - (i) the total amount payable to the Second Mortgagees does not exceed the total amount owing pursuant to the second mortgage; and
 - (ii) the amount payable to Fan does not exceed \$475,000, as per the Fan Order (each as defined the in the Seventh Report);

Approval of Conduct, Final Fees and R&D

- (v) The Receiver submits that its conduct as set out in the Seventh Report is reasonable and that the Final Fees as set out in the Seventh Report are reasonable and justified in all the circumstances;
- (w) The Receiver requests that this Honourable Court approve the Seventh Report, the R&D, the activities of the Receiver and the Final Fees; and
- (x) Such further and other grounds as the lawyers may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

- (a) the Seventh Report;
- (b) the Fee Affidavits of Torkin Manes and the Receiver;
- (c) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

October 22, 2018

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

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

Lawyers for the Receiver, RSM Canada Limited

TO: **THE SERVICE LIST**

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

NOTICE OF MOTION

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)

TAB 2

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

2292912 ONTARIO INC.

Applicant

- and -

2380009 ONTARIO LIMITED

Respondent

SEVENTH REPORT OF THE RECEIVER OF
2380009 ONTARIO LIMITED

OCTOBER 22, 2018

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I. INTRODUCTION

1. By Order of the Ontario Superior Court of Justice (Commercial List) ("**Court**") dated February 7, 2017 (the "**Appointment Order**"), Collins Barrow Toronto Limited was appointed receiver (the "**Receiver**"), without security, of all of the assets, undertakings and properties of 2380009 Ontario Limited ("**238**" or the "**Debtor**") acquired for, or used in relation to the business carried on by the Debtor, including all proceeds thereof. Torkin Manes LLP ("**Torkin Manes**") is counsel to the Receiver. A copy of the Appointment Order is attached to this report as **Appendix "A"**.
2. On December 5, 2017, Justice Hainey made an Order (the "**Substitution Order**") that the name RSM Canada Limited ("**RSM**") be substituted in place of the name Collins Barrow Toronto Limited in respect of this proceeding (and other mandates on which it is acting). A copy of the Substitution Order is attached hereto as **Appendix "B"**.
3. 238 is an Ontario corporation incorporated on July 9, 2013. The corporation was a single purpose corporation holding legal and beneficial title to certain lands and a free standing industrial building located thereon at 2370 South Sheridan Way, Mississauga, Ontario (the "**Property**").
4. The building located on the Property was occupied by a single tenant, BuiltRite Technologies Inc. ("**BuiltRite**"). BuiltRite occupied the Property from February 1, 2014 to August 8, 2017 pursuant to a lease between BuiltRite and 238 dated January 15, 2014 (the "**Lease**").

-
5. The Receiver has been administering the receivership on the assumption that the only assets of 238 are the Property and any amounts that may be owing to 238 by BuiltRite. The Receiver has been advised by 238 that no financial statements have ever been prepared for 238.

Purpose of Seventh Report

6. The purpose of this seventh and final report of the Receiver (the "**Seventh Report**") is to:
- (a) report to the Court on the activities of the Receiver since the date of the Sixth Report of the Receiver;
 - (b) provide the Court with a summary of the Receiver's cash receipts and disbursements for the period from February 7, 2017 to October 12, 2018 (the "**R&D**"); and
 - (c) seek an order:
 - a. authorizing the Receiver to pay the Final Distribution and complete the Remaining Duties (as defined herein);
 - b. approving the Seventh Report, the Receiver's conduct and activities described therein and the R&D;
 - c. approving the Receiver's Account and Torkin Manes Final Fees (each as defined later herein);
 - d. authorizing the Receiver to pay to the Second Mortgagees (as defined herein) any funds which may be received in the future in connection with the receivership (provided that the aggregate payments made to

the Second Mortgagees do not exceed the amounts to which they are entitled); and

- e. terminating these proceedings and discharging RSM from the powers, duties and obligations attendant to its appointment as Receiver effective upon the filing of the Receiver Discharge Certificate indicating that the Receiver has completed the Remaining Duties (as defined herein).

Terms of Reference

7. In preparing this Seventh Report and making the comments herein, the Receiver has relied upon information from third-party sources (collectively, the “**Information**”). Certain of the information contained in this Seventh Report may refer to, or is based on, the Information. As the Information has been provided by other parties, or obtained from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the CPA Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
8. Unless otherwise stated, all dollar amounts contained in the Seventh Report are expressed in Canadian dollars.

Online Resources

9. The orders and reports referred to in this report, together with related Court documents, are posted on the Receiver's website, which can be found at <http://rsmcanada.com/what-we-do/services/consulting/financial-advisory/restructuring-recovery/current-restructuring-recovery-engagements/2380009-ontario-limited.html>.

II. BRIEF PROCEDURAL HISTORY OF RECEIVERSHIP

10. Following its appointment, the Receiver brought a motion, returnable on May 29, 2017, seeking certain relief in connection with the Property, including authorization to enter into a listing agreement in respect of same and to market the Property for sale. On May 29, 2017, Justice Pattillo made an Order, (the "**May 29 Order**"), a copy of which is attached hereto as **Appendix "C"**, authorizing the Receiver to:
 - (a) enter into a listing agreement (the "**CBRE Listing Agreement**") with CBRE Limited ("**CBRE**") for the marketing for sale of the Property;
 - (b) list the Property for sale and market the Property to prospective purchasers; and
 - (c) as of June 21, 2017, terminate the Lease on 45-days' notice, and directing BuiltRite to deliver vacant possession of the Property to the Receiver within such timeframe.
11. The Lease was terminated and the Receiver took possession of the Property on August 8, 2017. Subsequently, the Receiver marketed the property for sale with

CBRE in accordance with the CBRE Listing Agreement approved by this Honorable Court as referenced above.

12. On November 23, 2017, following completion of the marketing process for the Property, the Receiver brought a motion, returnable on December 5, 2017, for the purpose of seeking, *inter alia*:

(a) an order approving the sale of the Property to the proposed purchaser and vesting title to the Property in the purchaser upon completion of the sale (the “**Approval & Vesting Order**”); and

(b) an order (the “**Ancillary Relief Order**”), *inter alia*, authorizing the Receiver to make an interim distribution (the “**First Interim Distribution**”) from the proceeds of sale of the Property.

13. On December 5, 2017, Justice Conway granted the Approval and Vesting Order and Ancillary Relief Order sought by the Receiver, copies of which are attached hereto as **Appendix “D”** and **Appendix “E”**, respectively.

14. The First Interim Distribution was sufficient to repay the obligations of the Debtor to its senior secured creditor/first mortgagee in full.

15. Should this Honourable Court wish to review a more detailed and comprehensive procedural history of the Receivership, such is set out in the Sixth Report of the Receiver dated July 16, 2018 (the “**Sixth Report**”). A copy of the Sixth Report is attached hereto as **Appendix “F”**, without appendices.

III. JULY 23, 2018 MOTION

16. On July 16, 2018, the Receiver brought a motion, returnable on July 23, 2018 (the “**July 23 Motion**”), seeking, *inter alia*, an Order authorizing the Receiver to:

-
- (a) distribute \$1,800,000 of the funds in the estate to the Second Mortgagees (the "**Second Interim Distribution**");
- (b) retain the remaining funds in the estate, being the amount of \$52,347 (the "**Holdback**"), to cover final fees and expenses of the Receiver and its counsel incurred in connection with performance of the remaining duties; and
- (c) make additional distributions (defined in the Sixth Report as "Future Distribution") to creditors of any additional funds available, including any balance of the Holdback funds not applied to the final fees.
17. As per the Sixth Report, the Second Interim Distribution was proposed to be made to several parties (collectively, the "**Second Mortgagees**") who each hold a part interest in the second mortgage registered on title to the Property (prior to the completion of the sale of the Property and registration of the Approval and Vesting Order), the interest of the Second Mortgagees being the senior ranking secured interest in the proceeds of sale and remaining funds on hand in the Receivership.
18. The second mortgage, in the principal amount of \$2,600,000.00, was registered in favour of:
- (a) Atlantic (HS) Capital Inc. as to 26.92%;
- (b) Atlantic Advantage Management Inc. as to 34.62%; and
- (c) 2383603 Ontario Inc. ("**2383603**") as to 38.46%.

19. As addressed more particularly in the Sixth Report, an additional party to those parties having an interest registered on title to the Property, Angela Fan (“**Fan**”), maintains an interest in any proceeds of the second mortgage otherwise payable to 2383603. Fan’s interest arises from the settlement of a separate proceeding involving Fan and, *inter alia*, 2383603. Pursuant to the settlement between Fan and 2383603, an order was issued by Registrar Mills on November 14, 2017, addressing Fan’s entitlement to receive a share of any proceeds payable pursuant to 2383603’s interest in the second mortgage (the “**Fan Order**”). A copy of the Fan Order is attached hereto as **Appendix “G”**.
20. Prior to the return of the July 23 Motion, the Receiver sought the consent and approval of the Second Mortgagees as to what the Receiver understood to be the appropriate manner of distributing any funds payable pursuant to the second mortgage. Counsel for each of the Second Mortgagees (including Fan) confirmed their respective clients’ consent to the following scheme of distribution (the “**Distribution Protocol**”) to be applied in connection with the Second Interim Distribution:

Payee	Percentage	Distribution Amount
Atlantic (HS) Capital Inc.	26.920	\$484,560
Atlantic Advantage Management Inc.	34.620	\$623,160
2383603	23.076	\$415,368
Fan	15.384	\$276,912
Total	<u>100.000</u>	<u>\$1,800,000</u>

21. In addition to approval of the Second Interim Distribution, and in an effort to minimize the need for further appearances and related costs, the Receiver

additionally sought at that time an order authorizing the completion of the remaining duties required in connection with the administration of the estate of the Debtor (as set out in the Sixth Report), approving the prospective fees and expenses of the Receiver and its counsel to be incurred in connection with the completion of the remaining duties without requirement for a further motion before the Court and discharging RSM as Receiver of 238 upon completion of such duties (the “**Discharge Relief**”).

22. At the return of the July 23 Motion, Justice Pattillo granted the majority of the relief sought by the Receiver, but did not grant the Discharge Relief. As set out in His Honour’s endorsement of July 23, 2018 (the “**July 23 Endorsement**”), Justice Pattillo was of the view that the Discharge Relief was at that time premature. Copies of the July 23 Endorsement and the Order made on July 23, 2018 (the “**July 23 Order**”) are attached hereto as **Appendix “H”**.

IV. RECEIVER’S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

23. Attached to this report as **Appendix “I”** is the Receiver’s Interim Statement of Receipts and Disbursements for the period February 7, 2017 to October 12, 2018. As set out in the R&D, the excess of cash receipts over disbursements is \$52,864.

V. PROFESSIONAL FEES

24. The Receiver’s accounts total \$14,533.50 in fees plus HST of \$1,889.36 for a total amount of \$16,422.86 for the period July 7, 2018 to October 12, 2018 and

estimated to completion (the "**Receiver's Account**"). A copy of the Receiver's Account setting out the total billable hours charged per the account is attached to the Affidavit of Daniel Weisz sworn October 19, 2018 that is attached to this report as **Appendix "J"**. The Receiver estimates that its fees to complete the administration of the receivership will be \$4,910 plus HST after October 12, 2018 and are included in the Receiver's Account.

25. The accounts of the Receiver's counsel, Torkin Manes, total \$13,230.78 in fees and disbursements and \$1,695.70 in HST for a total of \$14,926.48 (the "**Torkin Manes Account**") for the period July 7, 2018 to October 19, 2018. A copy of the Torkin Manes Account, together with a summary of the personnel, hours and hourly rates described in the Torkin Manes Account, supported by the Affidavit of Jeffrey J. Simpson sworn October 19, 2018 is attached to this report as **Appendix "K"**. Torkin Manes estimates that its fees to complete the administration of the receivership will be \$2,500 plus HST, together with the Torkin Manes Account, "**Torkin Manes Final Fees**".

VI. PROPOSED FINAL DISTRIBUTION TO SECOND MORTGAGEES

26. As set out on the Interim R&D, the balance in the Receiver's account is \$52,864 as at October 12, 2018.
27. After taking into account the unpaid portions of the Receiver's Account and Torkin Manes Final Fees, the amount of \$34,215.90 is available to be distributed to the Second Mortgagees. The Receiver intends to distribute these funds to the Second Mortgagees in a manner consistent with the Distribution Protocol

consented to by the interested parties and addressed previously herein (the “**Final Distribution**”).

28. The Final Distribution would therefore be as follows:

Payee	Percentage	Distribution Amount
Atlantic (HS) Capital Inc.	26.920	\$9,210.92
Atlantic Advantage Management Inc.	34.620	\$11,845.54
2383603	23.076	\$7,895.66
Fan	15.384	\$5,263.77
Total	<u>100.000</u>	<u>\$34,215.90</u>

VII. REMAINING DUTIES OF THE RECEIVER

29. As of the date of this Seventh Report, the Receiver's remaining duties (the “**Remaining Duties**”) include the following:

- (a) making the Final Distribution; and
- (b) preparing the Final Statement of Receiver pursuant to s.246(3) of the *Bankruptcy and Insolvency Act*.

30. Once the Receiver has completed its Remaining Duties, the Receiver intends to file a Receiver Discharge Certificate indicating that the Receiver has completed the Remaining Duties, thereby resulting in the Receiver's discharge.

VIII. RECEIVER'S DISCHARGE

31. As the Receiver's administration is substantially complete, and in order to avoid the costs of making a further motion to the Court to obtain the Receiver's discharge, the Receiver is presently seeking an order discharging RSM from the powers, duties and obligations attendant to its appointment as Receiver. The

Receiver is proposing that the Discharge Order become effective on the day that the Receiver files with the Court a Certificate in which the Receiver certifies that the Receiver has completed the Remaining Duties.

32. A copy of the proposed Discharge Order, including the form of Receiver Certificate ("**Receiver Discharge Certificate**"), is attached hereto as **Appendix "L"**. The Receiver brings to the Court's attention that the proposed Discharge Order provides for the Receiver, following the discharge, to distribute to the Second Mortgagees any additional funds that come into the hands of the Receiver using the same Distribution Protocol employed in both the Final Distribution and Second Interim Distribution, provided that:

- (a) the total amount payable to the Second Mortgagees does not exceed the total amount owing pursuant to the second mortgage as per the discharge statement provided by the Second Mortgagees (as attached to the Sixth Report); and
- (b) the amount payable to Fan does not exceed \$475,000, as per the terms set out in the Fan Order.

IX. CONCLUSION

33. The Receiver respectfully requests that the Court grant an Order:
- (a) authorizing and directing the Receiver to make the Final Distribution;
 - (b) approving the Seventh Report, the Receiver's conduct and activities described therein and the R&D;
 - (c) approving the Receiver's Account and Torkin Manes Final Fees;

-
- (d) authorizing the Receiver to distribute to the Second Mortgagees any additional funds that come into the hands of the Receiver in a manner consistent with the Distribution Protocol, provided that:
- i. the total amount payable to the Second Mortgagees is less than the amount owing to the Second Mortgagees pursuant to the second mortgage after payment of the Final Distribution; and
 - ii. the amount payable to Fan's benefit does not exceed \$475,000;
- and
- (e) terminating these proceedings and discharging RSM from the powers, duties and obligations attendant to its appointment as Receiver effective upon the filing of the Receiver Discharge Certificate.

All of which is respectfully submitted to this Court as of this 22nd day of October, 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

APPENDIX A

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST



THE HONOURABLE
JUSTICE

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TUES DAY, THE
7th DAY OF FEBRUARY, 2017

2292912 ONTARIO INC.

Applicant

- and -

2380009 ONTARIO LIMITED

Respondent

ORDER
(appointing Receiver)

THIS MOTION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing COLLINS BARROW TORONTO LIMITED as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of 2380009 ONTARIO LIMITED (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Andrew Jones sworn April 29th, 2016 and the Exhibits thereto, the Supplementary Affidavit of Andrew Jones sworn May 4th, 2016, the Exhibit thereto, and the Further Supplementary Affidavit of Andrew Jones sworn September 27, 2016 and the Exhibits thereto and on hearing the submissions of counsel for 2292912 Ontario Inc. and 2380009 Ontario Limited, no one appearing for the parties on the Service List although duly

served as appears from the affidavits of service of Gail Fairhart sworn May 5, 2016 and Suzana Perik sworn September 29, 2016 and on reading the consent of COLLINS BARROW TORONTO LIMITED to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, COLLINS BARROW TORONTO LIMITED is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

RECEIVER'S POWERS

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

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

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
 - (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, [or section 31 of the Ontario *Mortgages Act*, as the case may be,] shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
 - (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
 - (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
 - (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and

on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;

- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in

that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

10. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including

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

RECEIVER TO HOLD FUNDS

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE RECEIVER'S LIABILITY

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

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

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

FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may

consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further

orders that a Case Website shall be established in accordance with the Protocol with the following URL <http://www.collinsbarrow.com/en/toronto-ontario/current-engagements-toronto/2380009-Ontario>.

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

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

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

29. 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.

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

proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

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

Drew J.

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

FEB 07 2017

PER / PAR:

pl

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that COLLINS BARROW TORONTO LIMITED, the receiver (the "Receiver") of the assets, undertakings and properties of 2380009 Ontario Limited acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$500,000 which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

- 2 -

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

COLLINS BARROW TORONTO LIMITED,
solely in its capacity as Receiver of the Property,
and not in its personal capacity

Per: _____

Name: Daniel Weisz

Title: Senior Vice-President

2292912 ONTARIO INC.

Applicant

- and -

2380009 ONTARIO LIMITED

et al

Respondent

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**ORDER
(appointing Receiver)**

BLANEY McMURTRY LLP
Barristers and Solicitors
2 Queen Street East
Suite 1500
Toronto, Ontario
M5C 3G5

Reeva M. Finkel (LSUC#: 18762E)
Tel: (416) 593-1221
Fax: (416) 593-5437

Lawyers for the Applicant

APPENDIX B

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

THE HONOURABLE) TUESDAY, THE 5TH DAY
JUSTICE HAINEY) OF DECEMBER, 2017

BETWEEN:

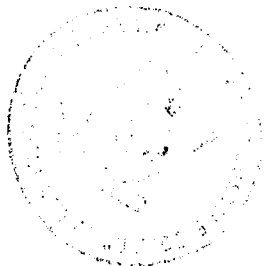
RSM CANADA LIMITED

Applicant

-AND-

1194678 ONTARIO INC.

Respondent



Application under Rule 14.05(3)(h) of the *Rules of Civil Procedure*

SUBSTITUTION ORDER

THIS APPLICATION made by RSM Canada Limited was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Application Record of RSM Canada Limited, including the Affidavit of Bryan A. Tannenbaum sworn December 4, 2017, together with the exhibits attached thereto (the "**Affidavit**"), and on hearing the submissions of counsel for RSM Canada Limited and counsel listed on the Counsel Slip, no one else appearing although served as evidenced by the Affidavit of Service:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record herein is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

EFFECTIVE DATE

1. THIS COURT ORDERS that the effective date of this order (the “**Effective Date**”) shall be December 1, 2017, being the effective date of the acquisition transaction described in the Affidavit and the change of name to RSM Canada Limited (“**Transaction**”).

BIA MANDATES

2. THIS COURT ORDERS that the name RSM Canada Limited be and is hereby substituted in place of the name Collins Barrow Toronto Limited as Trustee in Bankruptcy (the “**Bankruptcy Trustee**”) of the estate files listed as bankruptcies on **Schedule “A”** hereto (the “**BIA Estates**”) and as Proposal Trustee (the “**Proposal Trustee**”) of the estate files listed as proposals on **Schedule “A”** hereto (collectively with the BIA Estates, the “**BIA Mandates**”) and any reference to the name Collins Barrow Toronto Limited in any Court Order in respect of such BIA Mandates or any schedule to such Court Order shall be replaced by the name RSM Canada Limited.

3. THIS COURT ORDERS AND DIRECTS that, for greater certainty all, real and personal property wherever situate of the BIA Estates shall be, remain and is hereby vested in RSM Canada Limited in its capacity as Bankruptcy Trustee, to be dealt with by RSM Canada Limited in accordance with the provisions of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”), pursuant to its powers and obligations as Bankruptcy Trustee of the BIA Estates.

4. **THIS COURT ORDERS** that RSM Canada Limited is authorized and directed to continue and to complete the administration of the BIA Mandates, to deal with the property in the BIA Mandates in accordance with its duties and functions as Bankruptcy Trustee or Proposal Trustee, as the case may be, as set out in the BIA and to receive all remuneration of the Bankruptcy Trustee or Proposal Trustee in the BIA Mandates for services performed from the commencement of each of the BIA Mandates until the discharge of the Bankruptcy Trustee or Proposal Trustee, as applicable.

5. **THIS COURT ORDERS** that the requirement and responsibility for taxation of the Bankruptcy Trustee's or Proposal Trustee's accounts in respect of the BIA Mandates with respect to all work performed in respect of such BIA Mandate from the initial appointment of Collins Barrow Toronto Limited or any other party, through to the completion of the administration of such BIA Mandates and discharge of RSM Canada Limited as Bankruptcy Trustee or Proposal Trustee, as applicable, shall be completed using the name RSM Canada Limited.

6. **THIS COURT ORDERS AND DIRECTS** to the extent that security has been given in the name of Collins Barrow Toronto Limited in cash or by bond of a guarantee company pursuant to section 16(1) of the BIA (the "**Security**"), such Security shall be transferred from the name Collins Barrow Toronto Limited to the name RSM Canada Limited and any party holding such Security be and is hereby directed to take all steps necessary to effect such transfer. RSM Canada Limited shall retain all obligations respecting the Security.

RECEIVERSHIP PROCEEDINGS

7. **THIS COURT ORDERS** that the name RSM Canada Limited be and is hereby substituted in place of the name Collins Barrow Toronto Limited as the Receiver, Receiver and

Manager, or Interim Receiver (collectively, “Receiver”) in respect of the mandates listed in **Schedule “B”** hereto (the “**Receivership Proceedings**”) and any reference to the name Collins Barrow Toronto Limited in any Court Order in respect of such Receivership Proceedings or any schedule to such Court Order shall be replaced by the name RSM Canada Limited.

CONSTRUCTION LIEN ACT PROCEEDINGS

8. **THIS COURT ORDERS** that the name RSM Canada Limited be and is hereby substituted in place of the name Collins Barrow Toronto Limited as trustee under the *Construction Lien Act* in respect of the mandates listed in **Schedule “C”** hereto (the “**CLA Proceedings**”) and any reference to the name Collins Barrow Toronto Limited in any Court Order in respect of such CLA Proceedings or any schedule to such Court Order shall be replaced by the name RSM Canada Limited.

ESTATE TRUSTEE DURING LITIGATION PROCEEDINGS

9. **THIS COURT ORDERS** that the name RSM Canada Limited be and is hereby substituted in place of the name Collins Barrow Toronto Limited as Estate Trustee During Litigation in respect of the mandate listed in **Schedule “D”** hereto (the “**Estate Trustee During Litigation Proceeding**”) and any reference to the name Collins Barrow Toronto Limited in any Court Order in respect of such Estate Trustee During Litigation Proceeding or any schedule to such Court Order shall be replaced by the name RSM Canada Limited.

SUBSTITUTED MANDATES

10. Collectively, the BIA Mandates, the Receivership Proceedings, the CLA Proceedings and the Estate Trustee During Litigation Proceeding are referred to herein as the “**Substituted Mandates**”.

11. **THIS COURT ORDERS** that RSM Canada Limited (and its directors, officers, employees, agents, legal counsel and other representatives, as applicable, collectively “**Representatives**”) will continue to have all rights, benefits, protections and obligations granted to Collins Barrow Toronto Limited (and its Representatives, as applicable) under any order made in the Substituted Mandates or any statute applicable to the Substituted Mandates or any contract or agreement to which RSM Canada Limited is party under the name Collins Barrow Toronto Limited in the Substituted Mandates. For greater certainty and without limitation, this includes the benefit of any indemnity, charge or priority granted in the Substituted Mandates and relief from the application of any statute including the *Personal Information Protection and Electronic Documents Act* (Canada) (“**PIPEDA**”).

12. **THIS COURT ORDERS** that to the extent required by the applicable Orders in the BIA Mandates, Receivership Proceedings, CLA Proceedings and Estate Trustee During Litigation Proceeding, the accounts of Collins Barrow Toronto Limited and its legal counsel in respect of the Substituted Mandates shall be passed in accordance with the applicable Orders in the Substituted Mandates in the name and on the application of RSM Canada Limited.

ACCOUNTS

13. **THIS COURT ORDERS** that RSM Canada Limited be and is hereby authorized to transfer any and all accounts from the name Collins Barrow Toronto Limited to the name RSM Canada Limited and, if the name on such accounts cannot be changed, to transfer all funds that remain in its trust bank accounts that belong or relate to the Substituted Mandates, or otherwise, to accounts in the name RSM Canada Limited, and RSM Canada Limited be and is hereby authorized to take all steps and to execute any instrument required for such purpose. Any bank, financial institution or other deposit-taking institution with which RSM Canada Limited banks be

and is hereby authorized to rely on this Order for all purposes of this paragraph and shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any of the foregoing actions.

14. **THIS COURT ORDERS AND DIRECTS** that RSM Canada Limited be and is hereby authorized to endorse for deposit, deposit, transfer, sign, accept or otherwise deal with all cheques, bank drafts, money orders, cash or other remittances received in relation to any of the Substituted Mandates where such cheques, bank drafts, money orders, cash or other remittances are made payable or delivered to the name Collins Barrow Toronto Limited, in relation to the same, and any bank, financial institution or other deposit-taking institution with which RSM Canada Limited banks be and is hereby authorized to rely on this Order for all purposes of this paragraph and shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any of the foregoing actions.

REAL PROPERTY

15. **THIS COURT ORDERS AND DIRECTS** that the Registrar of Land Titles in any Land Title District wherein any registration was previously made in the name Collins Barrow Toronto Limited in its capacity as Bankruptcy Trustee, Proposal Trustee, Receiver, trustee under the *Construction Lien Act* or Estate Trustee During Litigation in respect of Substituted Mandates including, without limitation, the registrations in respect of the real property described in Schedule "E" hereto, be and is hereby authorized and directed to amend any such registration to reflect the substitution of the name RSM Canada Limited for Collins Barrow Toronto Limited.

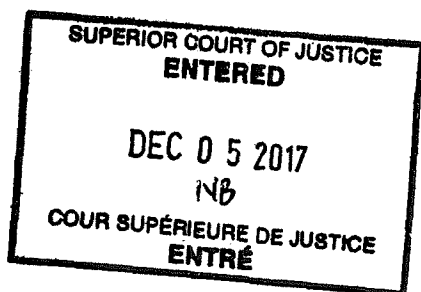
GENERAL

16. **THIS COURT ORDERS** that this Order shall be effective in all judicial districts in Ontario which govern any of the Substituted Mandates.

17. **THIS COURT ORDERS** that the requirement for a separate Notice of Motion and supporting Affidavit to be filed in the Court file of each of the Substituted Mandates be and is hereby waived.

18. **THIS COURT ORDERS** that RSM Canada Limited shall notify the parties on the Service Lists of the Substituted Mandates (if applicable) of the new website established for such Substituted Mandate and shall post a copy of this Order to the website of each Substituted Mandate and that such notice shall satisfy all requirements for service or notification of this application and this Order on any interested party in the Substituted Mandates including, without limitation, proven creditors within the BIA Mandates, parties on the Service Lists of the Substituted Mandates (if applicable), the applicable bankrupts or debtors within the Substituted Mandates, and any other person, and any other requirements of service or notification of this application be and is hereby waived.

19. **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 RSM Canada Limited 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 RSM Canada Limited as may be necessary or desirable to give effect to this Order, or to assist RSM Canada Limited and its agents in carrying out the terms of this Order.



A handwritten signature in black ink, appearing to read "Hainey J.", written over a horizontal line.

Schedule "A": BIA Mandates**Bankruptcies**

Name	Estate Number
1. Carrington Homes Ltd.	31-OR-207962-T
2. CHF (formerly known as Canadian Hunger Foundation)	33-2051143
3. Nordic Gold Salmon Products Ltd.	31-OR-208026-T
4. Sean Teperman Consulting Corp.	31-2294107
5. 1-800 Mascots Inc.	31-2177932
6. George Fernicola	31-457619
7. D. Mady Investments Inc.	31-2281994
8. David Mady Investments (2008) Inc	31-2281991
9. D. Mady Holdings Inc.	35-2292366

Proposals

Name	Estate Number
1. Sean Teperman Consulting Corp.	31-2294107
2. D. Mady Investments Inc.	31-2281994
3. David Mady Investments (2008) Inc.	31-2281991
4. John Robert Charles Hunter	32-1886289
5. William Ian Innes	31-1877401

Schedule "B": Receivership Proceedings

Name	Court File Number
1. 2131059 Ontario Limited	CV-15-10951-00CL
2. 2380009 Ontario Limited	CV-16-011354-00CL
3. 64, 68 and 70 Reynolds Drive, Brockville, Ontario and 10, 14, 18 and 22 Salisbury Avenue, Brockville, Ontario, and 39-85 Costello Avenue, Ottawa, Ontario	17-72881
4. Branch 1-7 of The Polish Alliance of Canada and Polish Association of Toronto, Limited	CV-08-361644
5. Dang Variety Store and Gas Bar and Lucky Restaurant Inc.	C-585-16
6. 2267 Industrial Street Investments Ltd.	CV-15-4228-00

Schedule "C": CLA Proceedings

Name	Court File Number
1. 144 Park Ltd.	CV-15-10843-00CL
2. Jade-Kennedy Development Corporation	CV-15-10882-00CL

Schedule "D": Estate Trustee During Litigation Proceeding

Name	Court File Number
1. Estate of Lev Alexandr Karp	05-100/17

Schedule E: Real Property

Receivership Proceedings

- (i) With respect to the receivership proceedings of 2380009 Ontario Limited, the following properties:

MUNICIPAL ADDRESS: 2370 South Sheridan Way, Mississauga, ON
LEGAL DESCRIPTION: PT LT 33, CON 2 SDS TT , PTS 1 TO 6, 43R10160 ; EXCEPT S/T RO580849; S/T RO646570; SUBJECT TO AN EASEMENT IN GROSS OVER PTS 1, 2, 3, PL 43R34842 AS IN PR2350267; CITY OF MISSISSAUGA
ROLL NUMBER: 05-02-0-048-14400-0000-0 3
PIN: 13429-0002 (LT)

- (ii) With respect to the receivership proceedings of 64, 68 and 70 Reynolds Drive, Brockville, Ontario and 10, 14, 18 and 22 Salisbury Avenue, Brockville, Ontario, and 39-85 Costello Avenue, Ottawa, Ontario, the following properties:

- *Brockville Property*
BLOCK F, PLAN 250, BROCKVILLE, CITY OF BROCKVILLE BEING ALL OF PIN 44175-0386 (LT)
- *Ottawa Property*
BLOCK L, PLAN 529418, NEPEAN, CITY OF OTTAWA BEING ALL OF PIN 04694-0184 (LT)

CLA Proceedings

- (i) With respect to the CLA proceeding of 144 Park Ltd., the unsold units listed below in respect of the following properties:

PIN: 22417-0135 (LT)
LRO: # 58
Property Description: Part of Lots 217, 218, 219 & 267 Plan 385, Being Part 1 on 58R- 17836; Subject to an easement as in WR666363; City of Waterloo

PIN: 22417-0134 (LT)
LRO: # 58
Property Description: Lots 2 & 3, Part of Lots 1, 4, 5, & 6 Plan 186, Being Part 2 on 58R-17836; Subject to an easement as in WR666363; City of Waterloo

144 Park Ltd.: Unsold Units

Unit	23591	0002
Parking	23591	0033
Locker	23591	0016

- (ii) With respect to the CLA proceeding of Jade-Kennedy Development Corporation, the unsold units listed below in respect of the following properties:

Jade-Kennedy Development Corporation: Unsold Phase I Commercial Units

PIN	Property Description
29759-0742 (LT)	Unit 388, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0744 (LT)	Unit 390, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0774 (LT)	Unit 25, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0805 (LT)	Unit 56, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0806 (LT)	Unit 57, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-08014 (LT)	Unit 65, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham

Jade-Kennedy Development Corporation: Unsold Residential Units

PIN	Property Description
29796-0429 (LT)	Unit 178, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0430 (LT)	Unit 179, Level B, York Region Standard Condominium Plan No. 1265

PIN	Property Description
	and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham

Jade-Kennedy Development Corporation: Unsold Phase II Commercial Units

PIN	Property Description
29759-0839 (LT)	Unit 360, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0840 (LT)	Unit 361, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0841 (LT)	Unit 85, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham

Estate Trustee During Litigation Proceeding

With respect to Lev Alexandr Karp, the following property:

PIN 5911 - 0011 LT
Description UNIT 11, LEVEL 1, SIMCOE CONDOMINIUM PLAN NO. 119; PT LT 48 CON 11 (FORMERLY TWP NOTTAWASAGA), PTS 7, 8, 9, 10, 12, 13, 14 & 15 51R18700, PTS 1 & 2 51R19269, MORE FULLY DESCRIBED IN SCHEDULE 'A' OF DECLARATION LT171901 & LT175111;
Address COLLINGWOOD
43 LIGHTHOUSE LANE E
COLLINGWOOD

RSM CANADA LIMITED

1194678 ONTARIO INC.

and

Applicant

Respondent

Court File No: CV-17-587715-00CL

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

Proceeding commenced at Toronto

SUBSTITUTION ORDER

OSLER, HOSKIN & HARCOURT LLP

100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto ON M5X 1B8

Shawn T. Irving (LSUC No. 50035U)
Tel: 416.862.4733

Patrick Riesterer (LSUC No. 60258G)
Tel: 416.862.5947
Fax: 416.862.6666

Lawyers for the Applicant,
RSM Canada Limited

APPENDIX C

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)

MONDAY, THE 29TH

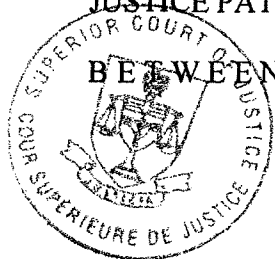
JUSTICE PATTILLO

)

DAY OF MAY, 2017

)

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

ORDER

(Re: Approval of Sales Process)

THIS MOTION, brought by Collins Barrow Toronto Limited in its capacity as the Court-appointed receiver (in such capacity, the "Receiver"), without security of all of the assets, undertakings, properties of 2380009 Ontario Limited ("238") for an order, *inter alia*:

- (a) Authorizing the Receiver to list for sale the property known municipally as 2370 South Sheridan Way, Mississauga, Ontario (the "Property"), pursuant to the terms of a listing agreement with CBRE Limited ("CBRE") and engaging CBRE as the Receiver's agent for the purpose of marketing the Property for sale;
- (b) Authorizing the Receiver to market the Property for sale to prospective purchasers on a vacant possession basis, specifically, free and clear of the tenancy or other

interest of the current lessee of the premises, BuiltRite Technologies Inc. (“BuiltRite”);

- (c) Directing Elias Mancebo (“Mancebo”) and Marcelo Hernandez (“Hernandez”) to provide to the Receiver the “Requested Information”, as defined in the Supplemental Report of the Receiver dated May 24, 2017 (the “Supplemental Report”) within seven days of the date of this Order;
- (d) Approving the First Report to Court of the Receiver dated May 11, 2017 (the “First Report”) and the Supplemental Report and the activities of the Receiver outlined therein as well as the fees and disbursements of the Receiver and its counsel as shown in the Fee Affidavits filed in support of this Motion; and
- (e) Terminating the lease dated January 15, 2014 between 238 as landlord and BuiltRite as Tenant (the “Lease”) on such terms as are set out in the materials filed on this Motion; and
- (f) Sealing certain Confidential Appendices to the First Report.

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

ON READING the First Report, the Supplemental Report and the Factum of the Receiver, and on hearing the submissions of counsel for the Receiver and counsel for BuiltRite and 238 and on being advised of the consent of the parties attending,

1. **THIS COURT ORDERS** that the time for service of this Motion is hereby abridged and validated so that this Motion is properly returnable in Toronto today and hereby dispenses with further service thereof.

2. **THIS COURT FURTHER ORDERS** that the Receiver is authorized to list the Property for sale pursuant to the terms a listing agreement with CBRE substantially in the form as that

appended as Exhibit "N" to the First Report and to engage CBRE as the Receiver's agent for the purpose of marketing the Property for sale.

3. **THIS COURT FURTHER ORDERS** that the Receiver is authorized to market the Property for sale to prospective purchasers on a vacant possession basis, specifically, free and clear of the tenancy of or any other interest of BuiltRite.

4. **THIS COURT FURTHER ORDERS** that the Receiver is authorized to enter into an Agreement of Purchase and Sale in respect of the Property with a prospective purchaser, conditional upon Court approval of any proposed sale of the Property.

5. **THIS COURT FURTHER ORDERS** that Mancebo and Hernandez deliver all Requested Information within their possession, power or control to the Receiver within seven days of the date of this Order failing which the Receiver is authorized to conduct examinations of such persons as it may deem appropriate in order to obtain the Requested Information.

6. **THIS COURT FURTHER ORDERS** that the First Report and the Supplemental Report and the activities of the Receiver outlined therein and the fees and disbursements of the Receiver and its counsel as shown in the Fee Affidavits filed in support of this Motion, are approved.

7. **THIS COURT FURTHER ORDERS** that Confidential Appendices "J", "K", "L" and "M" of the First Report are sealed and shall not be publicly available until such time as the sale of the Property by the Receiver has been fully completed, or until further Order of this Court.

8. **THIS COURT ORDERS** that the Receiver is authorized to terminate the Lease on 45 days' notice to BuiltRite and 238 (the "Notice Period") and that BuiltRite and 238 are ordered to

deliver vacant possession of the Property, in a proper state of cleanliness and repair, upon the expiry of the Notice Period.

9. **THIS COURT ORDERS** that provided that on or before June 2, 2017:

- (a) all rent owing by BuiltRite under the Lease, plus HST, for May 2017 and June 2017 is paid in full;
- (b) all HST arrears owing by BuiltRite under the Lease are paid in full by BuiltRite;
- (c) an insurance certificate from BuiltRite's and 238's insurer naming the Receiver and Sterling Karamar Property Management as additional insured is provided to the Receiver;
- (d) proof of payment of all utilities in respect of the Property is provided to the Receiver; and
- (e) the Receiver is reimbursed \$4,176.43 in respect of utilities paid by Receiver to date.

then the Receiver shall not exercise its right under paragraph 8 of this Order prior to June 21, 2017.

10. **THIS COURT ORDERS** that provided that the obligations set out at paragraph 9 herein are complied with, the Receiver shall not offer the Property for sale prior to June 21, 2017.



C. Irwin
Registrar

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

MAY 30 2017

PER / PAR: 

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

ORDER
(Re: Approval of Sales Process)

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

Jeffrey J. Simpson (39663M)
jsimpson@torkinmanes.com
Tel: 416-777-5413
Fax: 1-888-587-9143

Lawyers for the Receiver, Collins Barrow Toronto Limited

RCP-E 4C (May 1, 2016)

34487.0002/9967917_2

APPENDIX D

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) TUESDAY, THE 5TH DAY
JUSTICE CONWAY) OF DECEMBER, 2017

BETWEEN:

2292192 ONTARIO INC.

Applicant

- and -

2380009 ONTARIO LIMITED

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by RSM Canada Limited (formerly, Collins Barrow Toronto Limited) in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of 2380009 Ontario Limited (the "**Debtor**"), acquired for, or used in relation to the business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and 2603092 Ontario Inc., being the assignee of David Chen in trust for a company to be incorporated (the "**Purchaser**"), made as of October 24, 2017, as Amended by Amending Agreement dated November 17, 2017, and as appended to the Confidential Supplemental Report to the Fourth Report of the Receiver dated November 28, 2017 (the "**1st Supplemental Report**"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, Fourth Report of the Receiver dated November 23, 2017 (the "**Fourth Report**"), the 1st Supplemental Report, the Second Supplemental Report to the Fourth Report dated November 29, 2017 (the "**2nd Supplemental Report**") (collectively, the "**Receiver's Reports**") and on hearing the submissions of counsel

for the Receiver, counsel for the Purchaser, counsel for 2292192 Ontario Inc., no other persons being in attendance,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion 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 Transaction is hereby approved, and that the Sale Agreement is commercially reasonable and in the best interests of the Debtor and its stakeholders. The execution of the Sale Agreement by the Receiver is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Receiver's and all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Newbould dated February 7, 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Peel of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

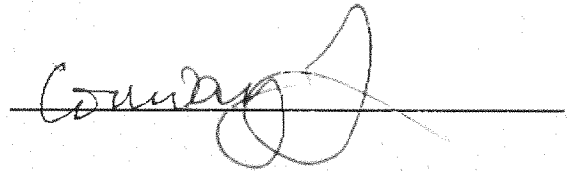
7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial

legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **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.

A handwritten signature in cursive script, appearing to read "Courtenay", is written over a horizontal line. The signature is fluid and somewhat stylized, with a large loop at the end.

Schedule A – Form of Receiver’s Certificate

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

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

BETWEEN:

2292192 ONTARIO INC.

Applicant

- and -

2380009 ONTARIO LIMITED

Respondent

RECEIVER’S CERTIFICATE

RECITALS

- A. Pursuant to an Order of the Honourable Justice Newbould of the Ontario Superior Court of Justice (the "**Court**") dated February 7, 2017, Collins Barrow Toronto Limited was appointed as the receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of 2380009 Ontario Limited (the "**Debtor**"), acquired for, or used in relation to the business carried on by the Debtor, including the proceeds thereof (collectively, the "**Property**").
- B. Pursuant to an Order of the Honourable Justice <*> of the Court dated December <*>, 2017, the name RSM Canada Limited was substituted in place of the name Collins Barrow Toronto Limited as the Receiver of the Debtor.
- C. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "**Sale Agreement**") between the Receiver and [NAME OF PURCHASER] (the "**Purchaser**") and provided for the vesting in the Purchaser of the Receiver’s and the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 16 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 16 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Receiver; and
4. This Certificate was delivered by the Receiver at [TIME] on ► [DATE].

RSM Canada Limited, solely in its capacity as Court-appointed Receiver of 2380009 Ontario Limited and not in its personal or corporate capacity and without personal or corporate liability

Per: _____
 Name: ►
 Title: ►

Schedule B – Purchased Assets

All of the Receiver's (if any) and the Debtor's right, title and interest in and to the Property and the Building (as defined in the Sale Agreement) including, without limitation, the following real property:

MUNICIPAL ADDRESS: 2370 South Sheridan Way, Mississauga, ON
LEGAL DESCRIPTION: PT LT 33, CON 2 SDS TT , PTS 1 TO 6, 43R10160 ; EXCEPT S/T RO580849 ; S/T RO646570; SUBJECT TO AN EASEMENT IN GROSS OVER PTS 1, 2, 3, PL 43R34842 AS IN PR2350267; CITY OF MISSISSAUGA
ROLL NUMBER: 05-02-0-048-14400-0000-0 3
PIN: 13429-0002 (LT)

Schedule C – Claims to be deleted and expunged from title to Real Property

The following Instruments are to be discharged upon registration of the Vesting Order:

1. Instrument No. PR2273791 registered on September 28, 2012, being a Charge in favour of Computershare Trust Company of Canada (“**Computershare**”) in the original principal amount of \$3,630,000 (the “**Computershare Charge**”);
2. Instrument No. PR2273792 registered on September 28, 2012, being a Notice of Assignment of Rents – General in favour of Computershare relating to the Computershare Charge (the “**Computershare GAR**”);
3. Instrument No. PR2350268 registered on April 2, 2013, being a Postponement of Interest in connection with the Computershare Charge in favour of PR2350267, being a Transfer of Easement in favour of The Corporation of the City of Mississauga;
4. Instrument No. PR2350271 registered on April 2, 2013, being a Postponement of Interest in connection with the Computershare GAR in favour of PR2350267, being a Transfer of Easement in favour of The Corporation of the City of Mississauga;
5. Instrument No. PR2420139 registered on August 21, 2013, being a Notice relating to the Computershare Charge;
6. Instrument No. PR2484073 registered on January 6, 2014, being a Charge in favour of Giacomo Francesconi (“**Francesconi**”) in the original principal amount of \$320,000 (the “**Francesconi Charge**”);
7. Instrument No. PR2484074 registered on January 6, 2014, being a Notice of Assignment of Rents - General in favour of Francesconi relating to the Francesconi Charge (the “**Francesconi GAR**”);
8. Instrument No. PR2504209 registered on February 27, 2014, being a Charge in favour of Mario and Gina Iacobelli (collectively, “**Iacobelli**”) in the original principal amount of \$420,000 (the “**Iacobelli Charge**”);
9. Instrument No. PR2504210 registered on February 27, 2014, being a Notice of Assignment of Rents - General in favour of Iacobelli relating to the Iacobelli Charge;
10. Instrument No. PR2504264 registered on February 27, 2014, being a Postponement of Interest postponing the Francesconi Charge to the Iacobelli Charge;
11. Instrument No. PR2518652 registered on April 4, 2014, being a Notice relating to the Francesconi Charge;
12. Instrument No. PR2518656 registered on April 4, 2014, being a Transfer of Charge relating to the Francesconi Charge from Francesconi to G & L Carpenters Limited (“**GL**”) and Francesconi;

13. Instrument No. PR2524004 registered on April 22, 2014, being a Notice relating to the Francesconi Charge;
14. Instrument No. PR2533658 registered on May 13, 2014, being a Notice relating to the Francesconi Charge;
15. Instrument No. PR2533659 registered on May 13, 2014, being a Transfer of Charge relating to the Francesconi Charge from Francesconi and GL to GL, Francesconi, Renato Francesconi ("**Renato**") and Mercedes Francesconi ("**Mercedes**");
16. Instrument No. PR2593857 registered on September 3, 2014, being a Notice relating to the Francesconi Charge;
17. Instrument No. PR2593863 registered on September 3, 2014, being a Transfer of Charge relating to the Francesconi Charge from Francesconi, GL, Mercedes and Renato to Francesconi, GL, Mercedes, Renato and Lucien Carpenters Limited ("**Lucien**");
18. Instrument No. PR2754956 registered on July 28, 2015, being a Charge in favour of Atlantic (HS) Capital Inc. ("**Atlantic HS**"), Atlantic Advantage Management Inc. ("**Atlantic Advantage**") and 2382603 Ontario Inc. ("**2382603**") in the original principal amount of \$2,600,000 (the "**Atlantic Charge**");
19. Instrument No. PR2754957 registered on July 28, 2015, being a Notice of Assignment of Rents - General in favour of Atlantic HS, Atlantic Advantage and 2382603 relating to the Atlantic Charge (the "**Atlantic GAR**");
20. Instrument No. PR2754961 registered on July 28, 2015, being a Postponement of Interest postponing the Iacobelli Charge in favour of the Atlantic Charge;
21. Instrument No. PR2754962 registered on July 28, 2015, being a Postponement of Interest postponing the Francesconi Charge in favour of the Atlantic Charge;
22. Instrument No. PR2820333 registered on November 12, 2015, being an Application to Change Name – Instrument changing the name of 2382603 under the Atlantic Charge to 2383603 Ontario Inc. ("**2383603**");
23. Instrument No. PR2826298 registered on November 23, 2015, being a Transfer of Charge relating to the Atlantic Charge from Atlantic HS, Atlantic Advantage and 2383603 to Atlantic HS, Atlantic Advantage, 2383603 and William Fong ("**Fong**");
24. Instrument No. PR2826619 registered on November 24, 2015, being a partial Transfer of Charge relating to the Atlantic Charge from Fong to Atlantic HS;

25. Instrument No. PR2887876 registered on March 29, 2016, being a Transfer of Charge relating to the Computershare Charge from Computershare to 2292912 Ontario Inc. (“2292192”);
26. Instrument No. PR2887877 registered on March 29, 2016, being a Notice of Assignment of Rents -- General assigning the Computershare GAR to 2292912;
27. Instrument No. PR3075681 registered on February 2, 2017, being a Charge in favour of Bay Point Financial Services Inc. in the original principal amount of \$350,000; and
28. Instrument No. PR3083146 registered on February 22, 2017, being a Notice of Security Interest in favour of Eco Energy Home Services Inc.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

Permitted Encumbrances with respect to the Property (as defined in the Sales Agreement) means:

1. The exceptions and qualifications set out in the *Land Titles Act* (Ontario) and/or on the parcel register for the Property;
2. The reservations, limitations, provisos and conditions expressed in the original grant from the Crown;
3. Any registered or unregistered easements, servitudes, rights-of-way, licences, restrictions that run with the land and other encumbrances and/or agreements with respect thereto (including, without limiting the generality of the foregoing, easements, rights-of-way and agreements for sewers, drains, gas and water mains or electric light and power or telephone, telecommunications or cable conduits, poles, wires and cables);
4. Inchoate liens for taxes, assessments, public utility charges, governmental charges or levies not at the time due or liens for same which are due but the validity of which are being contested in good faith by the Vendor provided that the Vendor has provided security which in the opinion of the Vendor, acting reasonably, is necessary to avoid any lien, charge or encumbrance arising with respect thereto;
5. Any encroachments, minor defects or irregularities indicated on any survey of the Property or which may be disclosed on an up-to-date survey of the Property;
6. Zoning (including, without limitation, airport zoning regulations), use and building by-laws and ordinances, federal, provincial or municipal by-laws and regulations, work orders, deficiency notices and any other noncompliance;
7. Any breaches of any applicable laws, including, without limitation, outstanding building permits, work orders and deficiency notices;
8. Any subdivision agreements, site plan agreements, development agreements and any other agreements with the municipality, region, publicly regulated utilities or other governmental authorities having jurisdiction;
9. Defects or irregularities in title to the Property;

10. The following instruments registered on title to the Property:
 - i. Instrument No. RO568239 registered on January 6, 1981, being an Agreement with The Corporation of the Town of Mississauga;
 - ii. Instrument No. RO646570 registered on June 24, 1983, being a Transfer of Easement in favour of The Corporation of the City of Mississauga (the "City");
 - iii. Instrument No. RO674879 registered on March 14, 1984, being an Agreement with the City;
 - iv. Instrument No. PR2350267 registered on April 2, 2013, being a Transfer of Easement in favour of the City;
 - v. Instrument No. PR2420131 registered on August 21, 2013, being a Transfer of the Property from IGW Industrial GP Inc. to the Debtor; and
 - vi. Instrument No. PR3086095 registered on February 28, 2017, being an Application to Register Court Order relating to the Court Order.

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

APPROVAL AND VESTING ORDER

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

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

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

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

APPENDIX E

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) TUESDAY, THE 5TH DAY
JUSTICE CONWAY) OF DECEMBER, 2017

BETWEEN:

2292192 ONTARIO INC.

Applicant

- and -

2380009 ONTARIO LIMITED

Respondent

ORDER

THIS MOTION, made by RSM Canada Limited (formerly, Collins Barrow Toronto Limited) in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of 2380009 Ontario Limited (the "**Debtor**"), acquired for, or used in relation to the business carried on by the Debtor, including all proceeds thereof for, *inter alia*, an order approving the Receiver's conduct and the fees and disbursements of the Receiver and its counsel was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Fourth Report of the Receiver dated November 23, 2017 (the "**Fourth Report**"), the Confidential Supplemental Report to the Fourth Report of the Receiver dated November 28, 2017 (the "**1st Supplemental Report**"), the Second Supplemental Report to the Fourth Report dated November 29, 2017 (the "**2nd Supplemental Report**") (collectively, the "**Receiver's Reports**") and on hearing the submissions of counsel for the Receiver, counsel for 2603092 Ontario Inc. and counsel for 2292192 Ontario Inc., no other persons being in attendance,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Receiver's Reports is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT FURTHER ORDERS** that the Receiver's Reports, the activities of the Receiver outlined therein including the Receiver's Statement of Receipts and Disbursements, are approved.

3. **THIS COURT FURTHER ORDERS** that the fees and disbursements of the Receiver and its counsel as shown in the Fee Affidavits attached to the Receiver's Reports, filed, are approved.

4. **THIS COURT FURTHER ORDERS** that the borrowing limit referred to in Paragraph 21 of the Order dated February 7, 2017 is increased to \$750,000.

5. **THIS COURT FURTHER ORDERS** that the Receiver is authorized and directed to make the Interim Distribution described in the Receiver's Reports upon the sale of the Property.

6. **THIS COURT FURTHER ORDERS** that the 1st Supplemental Report, including all appendices thereto, is sealed and shall not be publicly available until such time as the sale of the property located at 2370 South Sheridan Way, Mississauga by the Receiver, as contemplated in the Approval and Vesting Order in this matter dated December 5, 2017, has been fully completed, or until further Order of this Court.

7. THIS COURT ORDERS that upon completion of the sale of the property, the Receiver shall hold, from the proceeds of sale, the sum of \$60,000 in trust and shall not distribute same pending an order of the Court respecting the trust claims of Eco Energy Home Services INC.
Conway J.

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**

ORDER

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

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

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

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

Dec 5/17 Matter re Eco add to Jan 10th before me (NOTE) (continued) the primary discussions among counsel in the matter, I have argued the Ave & circularity orders, both unopposed, ~~and the~~ boundary of

HANIS @ MSHAW.CA
 7 - (416) 364-5289
 f - (416) 364-1453

H. HANIS
 FOR THE PURCHASER

e. calby@fedfayr.com
 f. 416-363-3356

Eco Budget Corp Limited
 916-363-1800 x500

RECEIVED

RECEIVED

E SHAW @ HANIS.COM
 F 416 863-0305
 T 416-777-5157

416-593-3959
 416-596-2011

Mc R. FRICKL
 (counsel for Receiver S. Thom)
 229 2912

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2292912 ONTARIO INC V. 2380009 ONTARIO LIMITED
 ET AL.

8
 CV-16-11354-00CL

APPENDIX F

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

2292912 ONTARIO INC.

Applicant

- and -

2380009 ONTARIO LIMITED

Respondent

SIXTH REPORT OF THE RECEIVER OF
2380009 ONTARIO LIMITED

July 16, 2018

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I. INTRODUCTION

1. By Order of the Ontario Superior Court of Justice (Commercial List) ("**Court**") dated February 7, 2017 (the "**Appointment Order**"), Collins Barrow Toronto Limited was appointed receiver (the "**Receiver**"), without security, of all of the assets, undertakings and properties of 2380009 Ontario Limited ("**238**" or the "**Debtor**") acquired for, or used in relation to the business carried on by the Debtor, including all proceeds thereof. Torkin Manes LLP ("**Torkin Manes**") is counsel to the Receiver. A copy of the Appointment Order is attached to this report as **Appendix "A"**.
2. On December 5, 2017, Justice Hainey made an Order (the "**Substitution Order**") that the name RSM Canada Limited ("**RSM**") be substituted in place of the name Collins Barrow Toronto Limited in respect of this proceeding (and other mandates on which it is acting). A copy of the Substitution Order is attached hereto as **Appendix "B"**.
3. 238 is an Ontario corporation incorporated on July 9, 2013. The corporation was a single purpose corporation holding legal and beneficial title to certain lands and a free standing industrial building located thereon at 2370 South Sheridan Way, Mississauga, Ontario (the "**Property**").
4. The building located on the Property was occupied by a single tenant, BuiltRite Technologies Inc. ("**BuiltRite**"), a related company to 238. BuiltRite occupied the Property from February 1, 2014 to August 8, 2017 pursuant to a lease between BuiltRite and 238 dated January 15, 2014 (the "**Lease**").

-
5. The Receiver has been administering the receivership on the assumption that the only assets of 238 are the Property and any amounts that may be owing to 238 by BuiltRite. The Receiver has been advised by 238 that no financial statements have ever been prepared for 238.

II. RELEVANT PROCEDURAL HISTORY OF RECEIVERSHIP

6. Following its appointment, the Receiver brought a motion, returnable on May 29, 2017, seeking certain relief in connection with the Property, including authorization to enter into a listing agreement in respect of same and to market the Property for sale. On May 29, 2017, Justice Pattillo made an Order, (the "**May 29 Order**"), a copy of which is attached hereto as **Appendix "C"**, that states, *inter alia*:

- (a) the Receiver was authorized to:
 - (i) enter into a listing agreement (the "**CBRE Listing Agreement**") with CBRE Limited ("**CBRE**") for the marketing for sale of the Property; and
 - (ii) list the Property for sale and market the Property to prospective purchasers; and
- (b) as of June 21, 2017 the Receiver was authorized to terminate the Lease on 45-days' notice, at the end of which period vacant possession was to be delivered to the Receiver.

7. Following issuance of the May 29 Order, the Receiver encountered difficulty in obtaining access to the Property, which continued to be occupied by BuiltRite, for

the purposes of providing tours to prospective purchasers. Furthermore, BuiltRite continued to be in breach of certain obligations pursuant to the Lease.

8. These issues precipitated Court attendances on July 6, 2017 and July 21, 2017. On July 21, 2017, Justice Conway made an Order (the "**July 21 Order**"), a copy of which is attached hereto as **Appendix "D"**:
 - (a) declaring that a Notice of Termination of Lease issued by the Receiver on June 22, 2017 in respect of the Lease was properly issued and that the Lease was terminated effective as of August 8, 2017 (the "**Termination Date**"); and
 - (b) ordering BuiltRite and 238 to deliver vacant possession of the Property upon the Termination Date.
9. The Receiver took possession of the Property on August 8, 2017 and proceeded to market the property for sale with CBRE in accordance with the CBRE Listing Agreement approved by this Honorable Court as referenced above.
10. On November 23, 2017, following completion of the marketing process for the Property, the Receiver brought a motion, returnable on December 5, 2017, for the purpose of, *inter alia*:
 - (a) seeking approval of the sale of the Property (the "**Approval & Vesting Order**"); and
 - (b) seeking the advice and direction of the Court as to the nature and priority of certain claims asserted by Eco Energy Home Services Inc. ("**Eco**").

-
11. A second motion for advice and directions was brought by Eco, also returnable on December 5, 2017, seeking a declaration that Eco was the beneficiary of a trust in respect of proceeds received by the Receiver in connection with the Property.
 12. On December 5, 2017, Justice Conway:
 - (a) granted the Approval and Vesting Order sought by the Receiver, a copy of which is attached hereto as **Appendix "E"**;
 - (b) granted an additional Order (the "**Ancillary Relief Order**") concerning various ancillary relief. A copy of the Ancillary Relief Order is attached hereto as **Appendix "F"**; and
 - (c) adjourned the motion for advice and directions respecting Eco's claim to January 10, 2018 in order to permit settlement discussions to take place between counsel, with a view to resolving the question of Eco's trust claims. A copy of the Endorsement of Justice Conway is attached hereto as **Appendix "G"**.
 13. Prior to the return of the motion for advice and directions, Eco and the directly affected parties agreed to terms of settlement in principle for the resolution of Eco's claims, which settlement was supported by the Receiver.
 14. At the return on January 10, 2018, Justice Conway made an Endorsement (the "**January 10 Endorsement**") that reads, in part: "The Eco Trust Claim has now been resolved in principle. The [Receiver] is bringing a motion for approval of same, likely unopposed. Motion set for 30 minutes on Jan 24, 2018..." A copy of the January 10 Endorsement is attached hereto as **Appendix "H"**.

-
15. On January 24, 2018, the Receiver's Motion for approval of the Eco settlement was heard and an Order was issued by Justice Hainey (the "**January 24 Order**"), a copy of which is attached hereto as **Appendix "I"**:
- (a) approving the Eco Settlement and the payment to Eco by the Receiver of the settlement amount of \$25,000 and authorizing the Receiver to enter into and complete the Eco Settlement as defined in the Receiver's Fifth Report to the Court dated January 16, 2018 (the "**Fifth Report**");
 - (b) releasing to the Receiver the balance of the Segregated Eco Funds (as defined in the Fifth Report) for use in the administration of the receivership or otherwise for distribution to the creditors of 238; and
 - (c) approving the Fifth Report and the Receiver's activities described therein.
16. The orders and reports referred to in this report, together with related Court documents, are posted on the Receiver's website, which can be found at <http://rsmcanada.com/what-we-do/services/consulting/financial-advisory/restructuring-recovery/current-restructuring-recovery-engagements/2380009-ontario-limited.html>

Purpose of Sixth Report

17. The purpose of this sixth and final report of the Receiver (the "**Sixth Report**") is to:
- (a) report to the Court on the activities of the Receiver since the date of the Fifth Report;
 - (b) report to the Court on the status of the Receiver's communications with Canada Revenue Agency ("**CRA**") in respect of the potential income tax liability arising from the completion of the sale of the Property, CRA's deemed trust claim and other tax matters;

-
- (c) provide the Court with a summary of the Receiver's cash receipts and disbursements for the period from February 7, 2017 to July 6, 2018 (the "R&D"); and
- (d) seek an order:
- a. authorizing the Receiver to pay the Proposed Distribution (as defined herein);
 - b. approving the Sixth Report, the Receiver's conduct and activities described therein and the R&D;
 - c. approving the fees and disbursements of the Receiver and of the Receiver's counsel, from January 1 to July 6, 2018 and January 3 to July 6, 2018, respectively;
 - d. authorizing the Receiver to pay to the Second Mortgagees any funds received in connection with the receivership (the total of which is not to exceed the amounts owing to the Second Mortgagees);
 - e. authorizing the Receiver to make Future Distributions (as defined herein) and to authorize RSM, as former Receiver, to assist in realizing on these amounts as may be reasonably required; and
 - f. terminating these proceedings and discharging RSM from the powers, duties and obligations attendant to its appointment as Receiver effective upon the filing of the Receiver Discharge Certificate indicating that the Receiver has completed the Remaining Duties (as defined herein).

Terms of Reference

18. In preparing this Sixth Report and making the comments herein, the Receiver has relied upon information from third-party sources (collectively, the "Information"). Certain of the information contained in this Sixth Report may refer to, or is based on, the Information. As the Information has been provided by other parties, or obtained from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the CPA Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
19. Unless otherwise stated, all dollar amounts contained in the Sixth Report are expressed in Canadian dollars.

III. CLAIMS OF CANADA REVENUE AGENCY ("CRA")

Potential Capital Gains Tax Liability

20. As set out in the Fifth Report, a copy of which (without appendices save and except Appendices "O" and "P") is attached hereto as **Appendix "J"**, as the sale price of the Property exceeded the price paid for it by 238, the Receiver requested confirmation from CRA that CRA would not take the position that the Receiver bore liability for any capital gains tax payable as a result of the sale of the Property. Such confirmation was not immediately forthcoming from CRA, whose

representatives advised the Receiver that CRA wished to consider its position in this regard.

21. The Receiver and Torkin Manes engaged in discussions and correspondence with CRA and the Department of Justice in relation to this issue, with the Receiver adopting the position that it was not liable for any such taxes.
22. On March 20, 2018, the Receiver obtained confirmation from the Department of Justice that CRA views the capital gains tax arising from the sale of the Property to be solely the liability of 238 and not a liability of the Receiver.

Deemed Trust Claim of CRA

23. The Receiver prepared and filed the outstanding pre- and post- receivership HST returns for 238's HST RT0001 account, based upon such information as was available to the Receiver. Due to rental revenue received and not previously reported by 238, the filings resulted in a pre-receivership HST liability owing by 238.
24. In correspondence dated June 22, 2018, a copy of which is attached hereto as **Appendix "K"**, CRA advised the Receiver that the amount of \$71,356.52 was owing to CRA on account of 238's pre-receivership HST liability and that \$60,535.80 of this amount constituted a deemed trust (the "**Deemed Trust**").
25. The Receiver has paid to CRA the Deemed Trust amount.

Corporate Tax Returns

26. The Receiver had initially intended to seek to recover from CRA HST Input Tax Credits arising during the post-receivership period ("**Post HST ITC's**").

-
27. As of April 30, 2018, the Post HST ITC's claimed by the Receiver totaled \$112,792.69 (the "HST Refund"). However, in discussions with CRA relating to the potential HST Refund, CRA advised that unless all HST and corporate tax returns for 238 were filed, the HST Refund would not be released. No corporate income tax returns had ever been filed by 238.
28. As a result of missing and incomplete financial information for 238, any income tax returns required to be filed on behalf of 238 would need to have been substantially qualified by the Receiver with the Receiver's assumptions. It was accordingly not certain that such returns would be accepted by CRA for the intended purpose.
29. In an effort to avoid this circumstance, the Receiver had submitted to CRA a *Request by an Insolvency Practitioner for a Waiver of the Requirement to file a T2 Corporation Income Tax Return under Subsection 220(2.1) of the Income Tax Act* ("RC342"). If CRA accepted the Receiver's request, then CRA would not require the filing of the 238 corporate income tax returns before payment of any refund associated with 238's Post HST ITC's. Until recently, the Receiver had received no response from CRA in connection with the submitted RC342 nor any indication as to whether it would be approved by CRA.
30. On May 7, 2018, the Receiver received written confirmation from CRA that:
- (a) the RC342 application completed by the Receiver had been accepted;
 - and
 - (b) the Receiver would not be required to file the outstanding corporate income tax returns for the taxation years ending from July 31, 2013 to July 31, 2017, as would otherwise have been necessary.

31. CRA further confirmed that it would update its systems to reflect the approval of the RC342 and that a refund in connection with Post HST ITC's would be released to the Receiver. Attached hereto as **Appendix "L"** is a copy of the May 7 correspondence received from CRA.

32. The Receiver has now received payment of the HST Refund plus accrued interest of \$612.09.

IV. COMPLETION OF SETTLEMENT OF ECO ENERGY HOME SERVICES INC. CLAIMS

33. All settlement documentation has been executed and exchanged by the affected parties. The Receiver has completed the Eco Settlement and paid the settlement funds to Eco.

V. RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

34. Attached to this report as **Appendix "M"** is the Receiver's Interim Statement of Receipts and Disbursements for the period February 7, 2017 to July 6, 2018 ("**R&D**"). As set out in the R&D, the excess of cash receipts over disbursements, after consideration of the payments to the first mortgagee and Eco of \$3,667,914 and \$25,000, respectively, is \$1,852,347.

VI. PROPOSED DISTRIBUTION TO SECOND MORTGAGEES

35. The Receiver proposes to make a distribution to the secured creditor holding the second mortgage registered against title to the Property. The second mortgage

on the Property in the principal amount of \$2,600,000.00 was registered in favour of (i) Atlantic (HS) Capital Inc. as to 26.92%, (ii) Atlantic Advantage Management Inc. as to 34.62% and (iii) 2382603 Ontario Inc. ("**2383603**") as to 38.46% (the "**Second Mortgagees**").

36. The Receiver has received Torkin Manes' opinion that, subject to the usual qualifications, the second mortgage was validly registered against title to the Property in second priority. Given that the first mortgage has been fully repaid, the second mortgage now ranks first in priority among registered encumbrances against title to the Property by date of registration. A copy of Torkin Manes' letter of opinion is attached hereto as **Appendix "N"**.
37. The Receiver has obtained a mortgage discharge statement from the Second Mortgagees that indicates that the amount owing to the Second Mortgagees as of July 23, 2018 will be \$3,751,018.25. A copy of the mortgage statement is attached hereto as **Appendix "O"**.
38. On November 14, 2017, in connection with litigation between Fan Xiao Bing a.k.a. Angela Fan as Plaintiff, and numerous parties including the Second Mortgagees, the Court made an Order (the "**Fan Order**") directing, *inter alia*, that 40% of 2383603's entitlement to any proceeds from the sale of the Property shall be paid to the trust account of Advocates LLP, up to the amount of \$475,000. A copy of the Fan Order is attached hereto as **Appendix "P"**.
39. The Receiver proposes to make a distribution to the Second Mortgagees. As set out in Paragraph 34 above, the excess of cash receipts over disbursements is

\$1,852,347. The Receiver proposes to retain \$52,347 as a holdback (the "Holdback").

40. The Holdback will be used to pay the accounts of the Receiver and its counsel for time incurred subsequent to July 6, 2018. The Holdback remaining, after completion by the Receiver of the Remaining Duties, including the payment of the Receiver's and its counsel's accounts, will be paid to the Second Mortgagees and to Advocates.
41. Taking the above into account, the Receiver proposes to make a distribution of \$1,800,000 to (the "Proposed Distribution"):

Payee	Percentage	Distribution Amount
Atlantic (HS) Capital Inc.	26.920	\$484,560
Atlantic Advantage Management Inc.;	34.620	\$623,160
2383603	23.076	\$415,368
Advocates LLP	15.384	\$276,912
Total	<u>100.000</u>	<u>\$1,800,000</u>

42. The Receiver proposes to pay the balance of the Holdback, plus any additional amounts that may be received by the Receiver, to the above parties using the same percentage allocation as set out in Paragraph 41, provided that (i) the total amount payable to the Second Mortgagees is less than \$3,751,018.25, representing the amount owing to the Second Mortgagees, and (ii) the amount payable to Advocates LLP does not exceed \$475,000 ("Future Distributions").

VII. RECEIVER'S DISCHARGE

43. As the Receiver's administration is substantially complete, and in order to avoid the costs of making a motion to the Court to obtain the Receiver's discharge, the Receiver is presently seeking an order discharging RSM from the powers, duties and obligations attendant to its appointment as Receiver. The Receiver is proposing that the Discharge Order become effective on the day that the Receiver files with the Court a Certificate in which the Receiver certifies that the Receiver has completed the Remaining Duties (defined below).
44. A copy of the proposed Discharge Order, including the form of Receiver Certificate ("**Receiver Discharge Certificate**"), is attached hereto as Appendix "**Q**". The Receiver brings to the Court's attention that the proposed Discharge Order provides for the Receiver, following the discharge of the Receiver, to distribute to the Second Mortgagees any additional funds that come into the hands of the Receiver using the same percentage allocation as set out in Paragraph 41, provided that (i) the total amount payable to the Second Mortgagees is less than \$3,751,018.25, representing the amount owing to the Second Mortgagees, and (ii) the amount payable to Advocates LLP does not exceed \$475,000.

VIII. REMAINING DUTIES OF THE RECEIVER

45. The Receiver's remaining duties (the "**Remaining Duties**") include the following:
- (a) making the Proposed Distribution;
 - (b) filing HST returns until the date of completion of the administration of this receivership;

- (c) preparing Interim and Final Statements of Receiver pursuant to s.246(2) and s.246(3) of the Bankruptcy and Insolvency Act;
 - (d) preparing a final statement of receipts and disbursements, a copy of which is to be attached to the Receiver Discharge Certificate;
 - (e) paying the Receiver's fees and disbursements including legal fees and disbursements; and
 - (f) making Future Distributions after completion of the items referenced in (a) to (e) in this Paragraph 45.
46. Once the Receiver has completed its Remaining Duties, the Receiver intends to file a Receiver Discharge Certificate indicating that the Receiver has completed the Remaining Duties, thereby resulting in the Receiver's discharge.

IX. PROFESSIONAL FEES

47. The Receiver's accounts total \$26,671.35 in fees and disbursements plus HST of \$3,467.28 for a total amount of \$30,138.64 for the period January 1 to July 6, 2018 (the "**Receiver's Account**"). A copy of the Receiver's Account, setting out the total billable hours charged per the account, is attached to the Affidavit of Daniel Weisz sworn July 13, 2018 that is attached to this report as **Appendix "R"**.
48. The accounts of the Receiver's counsel, Torkin Manes, total \$32,006.00 in fees, \$1,062.17 in disbursements and \$4,278.06 in HST for a total of \$37,346.23 (the "**Torkin Manes Account**") for the period January 3 to July 6, 2018. A copy of the Torkin Manes Account, together with a summary of the personnel, hours and

hourly rates described in the Torkin Manes Account, supported by the Affidavit of Barry Cohen sworn July 16, 2018, is attached to this report as **Appendix "S"**.

49. The Receiver proposes that accounts rendered by the Receiver and Torkin Manes for the period subsequent to July 6, 2018, be considered to be approved provided that within 30 days following the delivery to Oscar Wong of the Receiver's and Torkin Manes' accounts, no application to the Court is brought by the Second Mortgagees, or any of them, challenging such account(s).

X. CONCLUSION

50. The Receiver respectfully requests that the Court grant an Order:
- (a) authorizing and directing the Receiver to make the Proposed Distribution;
 - (b) approving the Sixth Report, the Receiver's conduct and activities described therein and the R&D;
 - (c) approving the fees and disbursements of the Receiver and of the Receiver's counsel, from January 1, 2018 to July 6, 2018 and from January 3, 2018 to July 6, 2018, respectively;
 - (d) approving the future fees and disbursements of the Receiver and Torkin Manes for the period subsequent to July 6, 2018 provided that within 30 days following the delivery to Oscar Wong of the Receiver's and Torkin Manes' accounts, no application to the Court is brought by the Second Mortgagees, or any of them, challenging such account(s);
 - (e) authorizing the Receiver to make Future Distributions; and

-
- (f) terminating these proceedings and discharging RSM from the powers, duties and obligations attendant to its appointment as Receiver effective upon the filing of the Receiver Discharge Certificate.

All of which is respectfully submitted to this Court as of this 16th day of July, 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

APPENDIX G

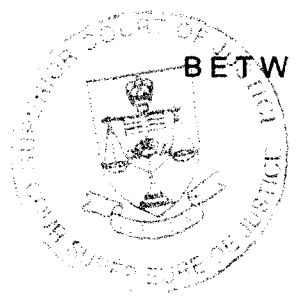
**ONTARIO
SUPERIOR COURT OF JUSTICE**

MASTER *MILLS*

)
)
)
)

TUESDAY, THE *14th*

DAY OF NOVEMBER, 2017



BETWEEN:

FAN XIAO BING a.k.a. ANGELA FAN

Plaintiff

- and -

2380009 ONTARIO INC., COMPUTERSHARE TRUST COMPANY OF CANADA,
2292912 ONTARIO INC., 2383603 ONTARIO INC., PROFILEX INC., MARCELO
ANTONIO HERNANDEZ, CHRISTOPHERE HO, HO AND ASSOCIATES
CONSULTING GROUP INC., WILLIAM FONG, ATLANTIC (HS) CAPITAL INC.,
ATLANTIC ADVANTAGE MANAGEMENT INC., BUILTRITE TECHNOLOGIES INC.
and ELIAS F. MANCEBO

Defendants

ORDER

THIS MOTION, made by the plaintiff, for a preservation order, was heard this day the *14th* day of November 2017, at the court house at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Eric Grigg sworn November 2nd, 2017, filed, the consent of the parties, filed, and on hearing the submissions of the lawyer(s) for the plaintiff:

1. THIS COURT ORDERS that in the event:
 - (a) the premises known municipally as 2370 South Sheridan Way, Mississauga, Ontario, L5T 2M2, the legal description as set out in the Schedule "A" (the "**Property**"), is sold privately, by the Receiver, by court order, by power of sale, and/or any other means (the "**Property Sale**"); and

- (b) the mortgagees of the second mortgage registered on title to the Property (the "**Second Mortgagees**", namely Atlantic (HS) Capital Inc., Atlantic Advantage Management Inc., and 2383603 Ontario Inc.) bearing registration number PR2754956 in land registry office number 43 (the "**Second Mortgage**") are entitled to any of the proceeds of sale from the Property Sale (the "Proceeds of Sale");

the Proceeds of Sale shall be apportioned/allocated to the Second Mortgagees along the following percentages:

- (c) 2383603 Ontario Inc.: 38.46%;
- (d) Atlantic (HS) Capital Inc. and Atlantic Advantage Management Inc.: 61.54%

2. THIS COURT ORDERS that 40% of 2383603 Ontario Inc.'s entitlement to any Proceeds of Sale shall be paid into the trust account of Advocates LLP, up to the amount of \$475,000.00, before any of the Proceeds of Sale shall be distributed to 2383603 Ontario Inc.;

3. THIS COURT ORDERS that any funds paid into the trust account of Advocates LLP, as set out above, shall be released to the plaintiff as a credit towards her claim against 2383603 and William Fong in this action;

4. THIS COURT ORDERS that the Second Mortgage cannot be transferred, conveyed, or assigned by the Second Mortgagees pending further order of the court, or consent of the plaintiff and the Second Mortgagees;

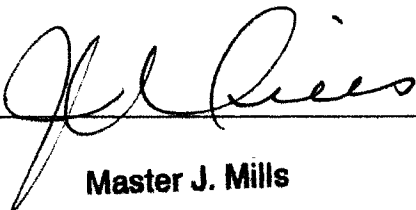
5. THIS COURT ORDERS that the Second Mortgagees shall be at liberty to provide an undertaking to discharge the Second Mortgage and shall be at liberty to discharge the Second Mortgage provided 2383603 Ontario Inc. and its solicitor provide an undertaking to pay \$475,000.00 (or an amount as calculated in accordance with subparagraphs 2(c)(d) and paragraph 3 of this order) from the proceeds of sale into the trust account of Advocates LLP;

6. THIS COURT ORDERS that in the event that more than \$400,000.00 is paid into the trust account of Advocates LLP, pursuant to this order, the plaintiff shall pay

costs to Atlantic (HS) Capital Inc. and Atlantic Advantage Management Inc. in the amount of up to \$10,000.00. For greater certainty, the first \$10,000.00 over and above the \$400,000.00 received by Advocates LLP shall be payable as costs to Atlantic (HS) Capital Inc. and Atlantic Advantage Management Inc.;

7. THIS COURT ORDERS that any transferees or assignees of the Second Mortgage are bound by the terms of this order; and

8. THIS COURT ORDERS that there shall be no costs of this motion.


Master J. Mills

COURT OF QUEBEC / COURTS DE TORONTO
CERT / BOOK NO.
LE / DANS LE REGISTRE NO.

NOV 14 2017

PER / PAR



FAN XIAO BING a.k.a. ANGELA FAN
Plaintiff

and 2380009 ONTARIO INC.
Defendant

Court File No.: CV-16-551581

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at TORONTO

ORDER

ADVOCATES LLP

16th Floor - One London Place
255 Queens Avenue
London ON N6A 5R8

Jeff Van Bakel (56003U)

Tel: (519) 858-8220 ext. 246

Fax: 519-858-0687

Lawyers for the plaintiff

APPENDIX H

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
JUSTICE *Pattillo*)

MONDAY, THE 23RD

DAY OF JULY, 2018

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 Sixth Report of the Receiver dated July 16, 2018 (the "Sixth Report");
- (b) approving the fees and disbursements of the Receiver and its counsel as set out in the Receiver's Fifth Report dated January 16, 2018 (the "Fifth Report"), the Sixth 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 Sixth Report (the "Proposed Distribution") and authorizing the Receiver to proceed to make the Proposed 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 Sixth Report, the affidavits of the Receiver and its counsel as to fees as appended to the Fifth Report and Sixth 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 Sixth Report, and the R&D, as defined in the Sixth Report, are hereby approved.
3. THIS COURT ORDERS that the Receiver is hereby authorized to carry out the Remaining Duties, as defined in the Sixth 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.
- ~~5. THIS COURT ORDERS that accounts rendered by the Receiver and its counsel for the period subsequent to July 6, 2018, shall considered to be approved provided that within 30 days following the delivery to Oscar Wong at info@ocwlaw.com of the Receiver's and its counsel's accounts, no application to the Court is brought by the Second Mortgagees, or any of them, challenging such account(s).~~

LP 5. THIS COURT ORDERS that, after payment of the fees and disbursements herein approved, the Receiver is authorized to pay the monies remaining in its hands in accordance with the Proposed Distribution as set out in the Sixth Report, including any Future Distributions, as defined in the Sixth Report.

LP-x 7. ~~THIS COURT ORDERS that upon payment of the amounts set out in paragraph 6 hereof and upon the Receiver filing the Receiver Discharge Certificate (attached as Schedule "A") upon completion of the activities described in the Sixth Report, 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.~~

LP-x 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.~~



SCHEDULE A

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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 July 23, 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 Sixth 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)

COUNSEL SLIP

COURT FILE NO. CV-16-00011354-OUEL

DATE July 23 2018

NO ON LIST S

TITLE OF
PROCEEDING

2292912 Ontario Inc. re 2380009 Ontario Limited et al

COUNSEL FOR:

PHONE & FAX NOS

PLAINTIFF(S) S. Thom

416-777-5197

APPLICANT(S) for Receiver

416-865-0305

PÉTITIONER(S) Daniel Weisz, RSM

COUNSEL FOR:

PHONE & FAX NOS

DEFENDANT(S)

RESPONDENT(S)

July 23, 2018

Based on the material filed, I am prepared to approve the accounts of the Receiver and its counsel as requested and the distribution to the second mortgages. I am not prepared, however, to discharge the Receiver at this stage. Once all steps are complete and the final accounts provided, the Receiver should apply for the discharge. Judgment accordingly to issue. Signed by me.

[Signature]

APPENDIX I

SCHEDULE "A"

RSM Canada Limited
Court Appointed Receiver of 2380009 Ontario Limited
Interim Statement of Receipts and Disbursements
For the period February 20, 2018 to October 12, 2018

Receipts	
Advances from secured lender (1)	\$ 500,000
Rent	108,000
Sale of Property (2)	7,000,000
HST collected	131,502
Interest Income	14,823
Total receipts	\$ <u>7,754,325</u>
Disbursements	
Appraisals and consultant's reports	\$ 19,503
Commission payable on sale of property	269,500
CRA deemed trust claim (3)	60,536
Insurance	19,573
Legal fees	260,678
Miscellaneous	543
Property Manager	17,500
Property taxes	452,481
Receiver's fees	269,112
Repairs	75,581
Repayment of advances from secured lender (1)	514,967
Security and taking possession	56,532
Settlement - Trust Claim	25,000
Snow removal	1,944
Utilities	29,201
Waste removal / disposal	26,499
HST/PST paid	134,397
Total disbursements	\$ <u>2,233,547</u>
Excess of Receipts over Disbursements	\$ 5,520,777
Less: Payments to Secured Creditors	
Distribution - First Mortgagee (4)	\$ (3,667,914)
Interim distribution - Second Mortgagees:	
Atlantic (HS) Capital	(484,560)
Atlantic Advantage Management Inc.	(623,160)
2383603 Ontario Inc.	(208,241)
Oscar C. Wong (in trust)	(207,127)
Advocates LLP (in trust)	(276,912)
Net funds on hand	\$ <u>52,864</u>

- (1) Funds advanced by 2292912 Ontario Inc. under Receiver Certificates No. 1, 2 and 3, which were repaid with interest subsequent to the closing of the sale of the Property.
- (2) This represents the gross purchase price for the sale of the Property.
- (3) Payment of CRA deemed trust claim in respect of pre-receivership HST collected but not remitted.
- (4) Payment in full of the amount owed to 2292912 Ontario Inc. under its mortgage.

This Appendix forms part of the Seventh Report of the Receiver of 2380009 Ontario Limited dated October 19, 2018 and should only be read in conjunction therewith.

APPENDIX J

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

2292912 ONTARIO INC.

Applicant

- and -

2380009 ONTARIO LIMITED

Respondent

AFFIDAVIT OF DANIEL WEISZ
(Sworn October 19, 2018)

I, **DANIEL WEISZ**, of the City of Vaughan, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Senior Vice-President of RSM Canada Limited ("**RSM**") and as such I have personal knowledge of the matters to which I hereinafter depose, save and except those matters based upon information and belief, in which case I have stated the source of such facts, all of which I verily believe to be true.
2. Pursuant to an order of the Court dated February 7, 2017, Collins Barrow Toronto Limited was appointed receiver (the "**Receiver**"), without security, of all of the assets,

undertakings and properties of 2380009 Ontario Limited (the “Debtor”) acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof.

3. On December 5, 2017, Justice Hainey made an Order (the “Substitution Order”) that the name RSM Canada Limited be substituted in place of the name Collins Barrow Toronto Limited in respect of this proceeding (and other mandates on which it is acting).

4. Attached hereto and marked as Exhibit “A” to this my affidavit are copies of invoices issued by RSM for fees and disbursements incurred by the Receiver in respect of the receivership proceedings for the period July 7, 2018 to October 12, 2018 and estimated to completion (the “Period”). The total fees and disbursements charged for the Period are \$14,533.50, plus HST of \$1,889.36 for a total of \$16,422.86. The average hourly rate charged during the Period was \$404.83.

5. The invoices are a fair and accurate description of the services provided, and to be provided, and the amounts charged by RSM for the Period.

6. Attached hereto and marked as Exhibit “B” is a schedule summarizing the invoices in Exhibit “A”, the total billable hours charged, the total fees charged and the average hourly rate charged.

7. I make this affidavit in support of a motion for an Order approving the Receiver’s fees and disbursements and for no other or improper purpose.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, this 19th day of October, 2018

A Commissioner, etc.

Bryan Allan Tannenbaum, a Commissioner, etc.,
Province of Ontario for RSM Canada LLP
and RSM Canada Limited
Expires January 9, 2021.

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DANIEL WEISZ

**THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF DANIEL WEISZ SWORN BEFORE ME
THIS 19th DAY OF OCTOBER, 2018**



A Commissioner, etc.

*Bryan Allen Tannenbaum, a Commissioner, etc.,
Province of Ontario, for RSM Canada LLP
and RSM Canada Limited.
Expires January 5, 2021*



RSM CANADA LIMITED
 Licensed Insolvency Trustee
 11 King St W, Suite 700, Box 27
 Toronto, ON M5H 4C7

GST/HST: 80784 1440 RT 0001

T +1 416 480 0160
 F +1 416 480 2646

www.rsmcanada.com

To RSM Canada Limited
 Court-appointed Receiver of 2380009 Ontario Limited
 11 King Street West, Suite 700
 Toronto, ON M5H 4C7

Date August 13, 2018

Client File 301618-36118

Invoice 19

No. 5450129

For professional services rendered with respect to the appointment of RSM Canada Limited¹ as Court-appointed Receiver of 2380009 Ontario Limited ("238" or the "Company") for the period July 7, 2018 to July 31, 2018.

Date	Professional	Description
07/09/2018	Brenda Wong	Review Torkin Manes LLP ("Torkin") changes to report and make updates; email to Torkin to request Torkin fee accounts and discharge statement from second mortgagee; review Torkin accounts.
07/10/2018	Brenda Wong	Update statement of receipts and disbursements and fee affidavit; make updates to report and compile report appendices.
07/10/2018	Daniel Weisz	Review summary of activities, review updated Sixth Report to Court and make changes thereto.
07/11/2018	Brenda Wong	Review Torkin invoice and prepare cheque requisition; update report.
07/11/2018	Daniel Weisz	Review discharge statement sent by O. Wong of Oscar C. Wong Professional Corporation; email to S. Thom of Torkin re status of report.
07/12/2018	Cindy Baeta	Prepare bank reconciliation.
07/13/2018	Cindy Baeta	Prepare disbursement cheques.
07/13/2018	Brenda Wong	Make updates to report; check references to source documents.
07/13/2018	Daniel Weisz	Discussion with S. Thom re report to court; review and update affidavit of fees; update report.
07/16/2018	Brenda Wong	Updating draft report.
07/16/2018	Daniel Weisz	Work on finalizing report; attend at Torkin re report and fee affidavit; discussion with S. Thom on documentation received from O. Wong; review draft Discharge Order and provide comments to S. Thom; review draft Receiver Discharge Certificate and provide comments.

¹ Pursuant to a Substitution Order dated December 5, 2017, the Receiver's name was changed from Collins Barrow Toronto Limited to RSM Canada Limited effective December 1, 2017.

August 13, 2018

Invoice 19

Page 2

Date	Professional	Description
07/17/2018	Brenda Wong	Review emails re final report and motion record; arrange for posting to web page.
07/17/2018	Daniel Weisz	Review draft notice of motion and provide comments to S. Thom; review email from J. Van Bakel re proposed distribution and discussion with S. Thom on same.
07/18/2018	Daniel Weisz	Review emails re proposed distribution; discussion with S. Thom on same and supplementary report required.
07/19/2018	Brenda Wong	Review draft supplemental report to Receiver's Sixth Report.
07/19/2018	Daniel Weisz	Review and update supplemental report to Sixth Report to Court.
07/20/2018	Daniel Weisz	Attend at Torkin to meet with S. Thom to review Supplemental Report to Court, update, and finalize same.
07/23/2018	Brenda Wong	Prepare letter to BMO Bank of Montreal ("BMO") re transfer of distribution funds to Torkin.
07/23/2018	Daniel Weisz	Prepare for and attend in court re Receiver Application for approval of interim distribution and other matters; email to S. Thom re proposed interim distribution; discussion with S. Thom re status of wire of funds.
07/24/2018	Brenda Wong	Prepare letter to BMO re redemption of funds held in short-term investment.
07/24/2018	Daniel Weisz	Review email from S. Smyth re trees falling on 2370 South Sheridan Way property; discussion with S. Thom re same; discussion with B. Wong on same.
07/25/2018	Brenda Wong	Call to BMO to follow up on processing of wire transfer.
07/26/2018	Cindy Baeta	Post deposit to Ascend.
07/30/2018	Daniel Weisz	Review directions for payout of distribution sent to Torkin.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

August 13, 2018
 Invoice 19
 Page 3

FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Daniel R. Weisz, CPA, CA, CFF, CIRP, LIT	Senior Vice President	9.00	\$ 495	\$ 4,455.00
Brenda Wong, CIRP, LIT	Senior Manager	3.90	\$ 375	1,462.50
Cindy Baeta	Estate Administrator	0.50	\$ 110	55.00
Total hours and professional fees		13.40		\$ 5,972.50
HST @ 13%				776.43
Total payable				\$ 6,748.93

PAYMENT BY VISA / MC ACCEPTED

Card Number _____ Expiry Date _____
 Name on Card _____ Amount _____

WIRE PAYMENT DETAILS

For CA\$ Payments: For credit to the account of RSM Canada Limited, Account No. 90-21116, Canadian Imperial Bank of Commerce Branch No. 00002, Commerce Court Banking Centre, Toronto, ON M5L 1G9

ONLINE/TELEPHONE BANKING available at major financial institutions under the account "RSM Canada Limited"

Terms: Payment upon receipt. Interest will be charged at the rate of 12% per annum (1% per month) on overdue accounts.
 RSM CANADA LIMITED



GST/HST: 80784 1440 RT 0001

117
RSM CANADA LIMITED
Licensed Insolvency Trustee
11 King St W, Suite 700, Box 27
Toronto, ON M5H 4C7

T +1 416 480 0160
F +1 416 480 2646

www.rsmcanada.com

To RSM Canada Limited
Court-appointed Receiver of 2380009 Ontario Limited
11 King Street West, Suite 700
Toronto, ON M5H 4C7

Date October 17, 2018

Client File 301618-36118

Invoice 20

No. 5490727

For professional services rendered with respect to the appointment of RSM Canada Limited¹ as Court-appointed Receiver of 2380009 Ontario Limited ("238" or the "Company") for the period August 1, 2018 to October 12, 2018 and estimated to completion.

Date	Professional	Description
08/01/2018	Brenda Wong	Review emails re payout to secured lenders and prepare cheque requisition for posting of same; arrange for posting of Court Order to web page.
08/01/2018	Daniel Weisz	Review emails and discussion with B. Cohen of Torkin Manes LLP ("Torkin") on distribution to secured lenders.
08/02/2018	Cindy Baeta	Prepare disbursement cheque.
08/13/2018	Brenda Wong	Review summary of activities; review Torkin account; file July 31, 2018 HST return.
08/13/2018	Daniel Weisz	Review summary of activities.
08/17/2018	Cindy Baeta	Prepare disbursement cheques; prepare bank reconciliation.
08/17/2018	Daniel Weisz	Review and sign cheques.
08/27/2018	Donna Nishimura	Deposit cheque at the bank.
08/27/2018	Brenda Wong	Review and process of HST refund received.
08/27/2018	Daniel Weisz	Discussion with B. Wong re status of finalization of the receivership administration.
08/29/2018	Asiyya Pisani	Prepare draft statement of receipts and disbursements.
09/07/2018	Daniel Weisz	Review and sign cheques.
09/11/2018	Brenda Wong	Meet with A. Pisani re preparation of updated statement of receipts and disbursements ("R&D") for the report pursuant to Section 246(2) of the Bankruptcy and Insolvency Act.
09/11/2018	Asiyya Pisani	Make revisions to the R&D.

¹ Pursuant to a Substitution Order dated December 5, 2017, the Receiver's name was changed from Collins Barrow Toronto Limited to RSM Canada Limited effective December 1, 2017.

Date	Professional	Description
09/14/2018	Cindy Baeta	Prepare bank reconciliation.
09/24/2018	Brenda Wong	Review draft R&D and update to August 31.
09/25/2018	Daniel Weisz	Discussion with S. Thom of Torkin re applying for the Receiver's discharge; discussion with B. Wong on same and email to S. Thom re same.
09/26/2018	Daniel Weisz	Review draft Section 246(2) interim report of receiver and discussion with B. Wong on same.
09/27/2018	Brenda Wong	Fax Interim Report of Receiver to the Office of the Superintendent of Bankruptcy and arrange for posting to web page.
09/27/2018	Daniel Weisz	Discussion with B. Wong re timing of report to the Court.
10/01/2018	Daniel Weisz	Draft Seventh Report to the Court.
10/03/2018	Brenda Wong	Review draft Seventh Report to the Court.
10/03/2018	Daniel Weisz	Review B. Wong comments on draft report and forward draft to S. Thom.
10/04/2018	Daniel Weisz	Review and filing of emails.
10/05/2018	Brenda Wong	Review Canada Revenue Agency correspondence.
10/09/2018	Brenda Wong	Review status of billings and update affidavit of fees.
10/09/2018	Daniel Weisz	Review of emails.
10/11/2018	Daniel Weisz	Discussion with S. Thom re report to Court.
<i>Estimated to completion:</i>		
		Finalize Seventh Report to the Court and Affidavit of Fees; update Statement of Receipts and Disbursements and calculate fees estimated to completion.
		Preparation of Final Statement of Receiver pursuant to 246(3) of the Bankruptcy and Insolvency Act and filing same with Office of the Superintendent of Bankruptcy.
		Filing of final HST return and form RC145 to close account.
		Prepare disbursement cheques and bank reconciliations.
		Final file administration including closing estate bank account.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

FEE SUMMARY

Professional	Level	Hours	Rate	Fees
<u>Actual fees incurred to October 12, 2018</u>				
Daniel R. Weisz, CPA, CA, CFF, CIRP, LIT	Senior Vice President	4.90	\$ 525	2,572.50
Brenda Wong, CIRP, LIT	Senior Manager	1.70	\$ 395	671.50
Asiyya Pisani, CPA, CA	Senior Associate	1.20	\$ 275	330.00
Cindy Baeta/Donna Nishimura	Estate Administrator	0.70	\$ 110	77.00
Total hours and professional fees		<u>8.50</u>		\$3,651.00
<u>Add: Estimated fees to completion</u>				
Daniel R. Weisz, CPA, CA, CFF, CIRP, LIT	Senior Vice President	4.00	\$ 525	2,100.00
Brenda Wong, CIRP, LIT	Senior Manager	6.00	\$ 395	2,370.00
Cindy Baeta/Donna Nishimura	Estate Administrator	4.00	\$ 110	440.00
Total hours and professional fees		<u>14.00</u>		\$4,910.00
Total hours and fees incurred and estimated to completion		<u>22.50</u>		\$8,561.00
HST @ 13%				1,112.93
Total payable				\$9,673.93

PAYMENT BY VISA / MC ACCEPTED

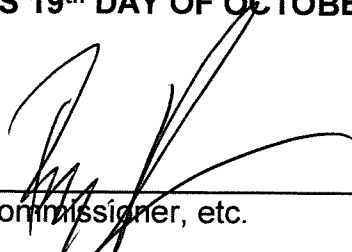
Card Number _____ Expiry Date _____
 Name on Card _____ Amount _____

WIRE PAYMENT DETAILS

For CA\$ Payments: For credit to the account of RSM Canada Limited, Account No. 90-21116, Canadian Imperial Bank of Commerce Branch No. 00002, Commerce Court Banking Centre, Toronto, ON M5L 1G9

ONLINE/TELEPHONE BANKING available at major financial institutions under the account "RSM Canada Limited"

**THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF DANIEL WEISZ SWORN BEFORE ME
THIS 19th DAY OF OCTOBER, 2018**



A Commissioner, etc.

**Bryan Allan Tannenbaum, a Commissioner, etc.
Province of Ontario, for RSM Canada LLP
and RSM Canada Limited
Expires January 5, 2021.**

In the Matter of the Receivership of
2380009 Ontario Limited
Summary of Receiver's Fees
For the Period July 7, 2018 to October 12, 2018 and Estimated to Completion

Invoice #	Invoice Date	Period	Hours	Fees	Disburse - ments	Subtotal	HST	Total	Average Hourly Rate
19	13-Aug-18	July 7 to 31, 2018	13.4	\$ 5,972.50	\$ -	\$ 5,972.50	\$ 776.43	\$ 6,748.93	\$445.71
20	17-Oct-18	August 1, 2018 to October 12, 2018 and estimated to completion	22.5	8,561.00		8,561.00	1,112.93	9,673.93	\$380.49
						-	-	-	
Total			35.9	\$ 14,533.50	\$ -	\$ 14,533.50	\$ 1,889.36	\$ 16,422.86	\$404.83

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

AFFIDAVIT OF DANIEL WEISZ

RSM CANADA LIMITED

11 King Street West
Suite 700, PO Box 27
Toronto, ON M5H 4C7

Daniel Weisz, Lic # 1889
E-mail: daniel.weisz@rsmcanada.com

Telephone: 416-646-8778
Facsimile: 416-480-2646

Receiver of 2380009 Ontario Limited

APPENDIX K

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

AFFIDAVIT OF JEFFREY J. SIMPSON

I, Jeffrey J. Simpson, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am a Lawyer with the law firm of TORKIN MANES LLP (“**Torkin Manes**”), which has been engaged as independent counsel to RSM Canada Limited (“**RSM**”), in its capacity as Court-Appointed Receiver, over the assets and undertakings of 2380009 Ontario Limited in this proceeding and as such have knowledge of the matters to which I hereinafter depose either through my own knowledge or by informing myself with respect thereto in which case I have indicated the source of my information and belief.

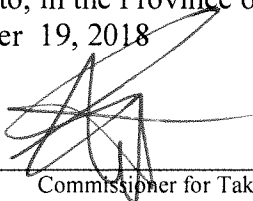
2. Attached hereto as **Exhibit "A"** is a Bill of Costs representing the accounts issued by Torkin Manes to RSM, in its capacity as Court-Appointed Receiver, which includes detailed descriptions of the work performed for the period from July 11, 2018 to and including October 19, 2018. The total fees charged by Torkin Manes to RSM during this period were

\$12,637.50 plus HST of \$1,642.88, plus disbursements of \$593.28 plus HST of \$52.82, for a total amount of \$14,926.48.

3. I confirm that the attached Bill of Costs accurately reflect the services provided by Torkin Manes in this matter and the fees and disbursements claimed by it during the period described above.

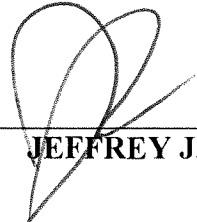
4. Additionally, attached hereto as **Exhibit "B"** is a summary of additional information with respect to the aforesaid accounts indicating all members of Torkin Manes who worked on this matter during the period described above, their year of call to the bar, total time charges and hourly rates, and I hereby confirm that this list represents an accurate accounts of such information.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario on October 19, 2018



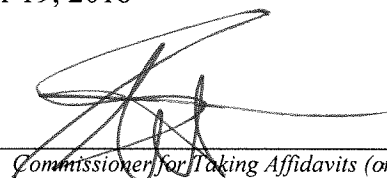
Commissioner for Taking Affidavits
(or as may be)

}



JEFFREY J. SIMPSON

This is Exhibit "A" referred to in the Affidavit of Jeffrey J. Simpson
sworn October 19, 2018

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Commissioner for Taking Affidavits (or as may be)

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

**BILL OF COSTS
(For the Period July 11, 2018 to October 19, 2018)**

TO PROFESSIONAL SERVICES RENDERED HEREIN AS FOLLOWS:

Jul 11 18	SDT	E-mail correspondence with Oscar Wong re payout statement; e-mail correspondence with Receiver re same	0.20
Jul 12 18	SDT	Preparation of Notice of Motion and draft discharge order re motion for Receiver discharge; communications with Receiver re motion for Receiver discharge and distribution	0.30
Jul 13 18	SDT	Preparation of materials re Receiver discharge motion	1.60
Jul 16 18	SDT	Draft notice of motion/draft order re discharge; communications with Receiver re service of materials, issues re distribution and required consents; service of 6th Report	3.30
Jul 17 18	SDT	E-mail and telephone call with Jeff Van Bakel re intended effect of Fan Order; telephone call to David Winer; telephone call to Receiver re distribution issue and Fan Order; revisions to Notice of Motion and Discharge Order	1.80
Jul 18 18	SDT	Communications with Jeff Van Bakel and David Winer re dispute respecting proposed distribution; communications with Receiver re same	0.60

Jul 19 18	SDT	Telephone call with Receiver; telephone call with counsel for Fan and 2383603 re dispute as to interpretation of Fan Order; preparation of Supplemental to Sixth Report addressing Disputed Funds Protocol; communications with Receiver re same; revisions to same	3.80
Jul 20 18	SDT	Finalization of Receiver's Supplemental to 6th Report; communications and meeting with Receiver re same; communications with Jeff Van Bakel and David Winer re resolution of dispute re interpretation of Fan Order	1.90
Jul 23 18	SDT	Preparation for and attendance in court re discharge motion; communications with service list and second mortgagee interested parties re order and endorsement; communications with second mortgagees re authorization and direction	2.20
Jul 24 18	SDT	Received and reviewed correspondence re neighbour property damage; communications with Receiver re same	0.20
Jul 25 18	SDT	Telephone call with Bernie Romano re discharge of Receiver; communications with counsel for Fan re Authorization and Direction to release proposed distribution funds	0.40
Aug 1 18	BAC	Deal with distribution of funds to second mortgagee and Angela Fan; correspondence to/from counsel; telephone discussion with Receiver	0.40
Sep 20 18	SDT	Communications with Oscar Wong re discharge motion and administration of receivership; communications with Receiver re scheduling of discharge motion	0.30
Sep 24 18	SDT	Communications with Receiver re status	0.30
Sep 25 18	SDT	Correspondence with Receiver re scheduling of discharge motion; correspondence with court re same; communications with Oscar Wong re consent to scheduling of discharge motion	0.60
Sep 26 18	SDT	Correspondence with Oscar Wong re scheduling of discharge motion; correspondence with court re confirmation of date	0.20
Sep 28 18	SDT	Communications with Court re scheduling of discharge motion; communications with Oscar Wong re same	0.20
Oct 4 18	SDT	Received/reviewed draft Seventh Report	0.40
Oct 12 18	SDT	Revisions/comment re Receiver's Seventh Report	3.90

Oct 15 18	SDT	Further revisions to Receiver's Seventh Report; preparation of Notice of Motion; communications with Receiver re revisions/comments on Seventh Report and timing of service of same	4.10
Oct 19 18	SDT	Preparation of draft Order; finalization of Notice of Motion; communications with Receiver and attending to service issues	2.80
Total Hours:			29.50

OUR FEE:	\$12,637.50
HST:	\$ 1,642.88
SUB-TOTAL	<u>\$14,280.38</u>

LAWYERS' SUMMARY: FEES SUBJECT TO HST:

<u>LAWYERS AND LEGAL ASSISTANTS INVOLVED</u>	<u>HOURLY RATE</u>	<u>HOURS WORKED</u>
Barry A. Cohen	\$675.00	0.40
Stewart Thom	\$425.00	29.10

DISBURSEMENTS

TAXABLE DISBURSEMENTS:

Reproduction of documents	\$100.00
Deliveries	\$ 25.92
Binding service	\$ 12.16
Document Scanning	\$ 80.30
Laser copies	\$ 84.40
Process Server	\$ 100.00
Colour Copies	\$ 3.50
	<u>\$ 406.28</u>

NON-TAXABLE DISBURSEMENTS:

File a Motion	\$ 160.00
Bank transfer and service charges	\$ 27.00
	<u>\$ 187.00</u>

Total Disbursements	\$ 593.28	
HST on Disbursements	\$ 52.82	
TOTAL DISBURSEMENTS AND HST:		\$ 646.10
TOTAL FEE, DISBURSEMENTS & HST		\$ 14,926.48

October 19, 2018

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

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

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

Lawyers for the Receiver, RSM Canada Limited

TO: **THE SERVICE LIST**

34487.0002/11769355_1

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

**BILL OF COSTS
(For the Period July 11, 2018 to October 19, 2018)**

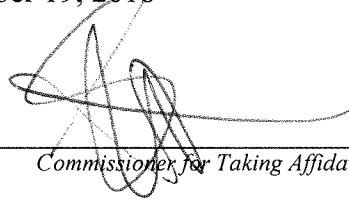
TORKIN MANES LLP
Barristers & Solicitors
151 Yonge Street, Suite 1500
Toronto, ON M5C 2W7

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

This is Exhibit "B" referred to in the Affidavit of Barry A. Cohen
sworn October 19, 2018

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Commissioner for Taking Affidavits (or as may be)

Summary of Additional Lawyer Information

<u>Lawyer</u>	<u>Year of Call</u>	<u>Hours Billed</u>	<u>Hourly Rate</u>	<u>Total Billed</u>
Barry A. Cohen	1967	0.40	\$675.00	\$270.00
Stewart Thom	2008	29.10	\$425.00	<u>\$12,367.50</u>
TOTAL				<u><u>\$12,637.00</u></u>

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

AFFIDAVIT OF JEFFREY J. SIMPSON

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

Stewart Thom (55695C)
sthom@torkinmanes.com
Direct Tel: 416-777-5197
Direct 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)

APPENDIX L

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)

WEDNESDAY, THE 31TH

JUSTICE

)

DAY OF OCTOBER, 2018

)

B E T W E E N:

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;

DRAFT

- (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.

DRAFT

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.

DRAFT

SCHEDULE A

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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;

DRAFT

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

DRAFT

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)

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TAB 3

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	WEDNESDAY, THE 31 TH
)	
JUSTICE)	DAY OF OCTOBER, 2018

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;

DRAFT

- (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.

DRAFT

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.

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SCHEDULE A

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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;

DRAFT

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

DRAFT

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)

DRAFT

Revised: May 11, 2010

Court File No. ——— CV-16-011354-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE ———) ~~WEEKDAY~~ WEDNESDAY, THE #31TH
JUSTICE ———)
DAY OF MONTH OCTOBER, 20YR 2018

BETWEEN:

PLAINTIFF

Plaintiff

2292912 ONTARIO INC.

Applicant

- and -

DEFENDANT

Defendant

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 {RECEIVER'S NAME} RSM Canada Limited ("RSM") in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of {DEBTOR} 2380009 ONTARIO LIMITED (the "Debtor"), for an order, *inter alia*:

- (a) ~~1.~~ approving the activities of the Receiver as set out in the report Seventh Report of the Receiver dated {DATE} October 22, 2018 (the "Seventh Report") and the statement of receipts and disbursements referred to therein;

- (b) ~~2-~~approving the fees and disbursements of the Receiver and its counsel as set out in the Seventh Report and the appendices thereto;
- (c) ~~3-~~approving the distribution of the remaining proceeds available in the estate of the Debtor; ~~{and}~~ as set out in the Seventh Report (the "Final Distribution") and authorizing the Receiver to proceed to make the Final Distribution;
- (d) ~~4-~~discharging ~~{RECEIVER'S NAME}~~RSM as Receiver of the undertaking, property and assets of the Debtor~~{~~; and
- (e) ~~5-~~releasing ~~{RECEIVER'S NAME}~~RSM from any and all liability, as set out in paragraph ~~58~~ of this Order~~}~~¹,

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 ~~although served as evidenced by the Affidavit of~~ ~~{NAME}~~ sworn ~~{DATE}~~, filed²;

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. 1-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.

¹ If this relief is being sought, stakeholders should be specifically advised, and given ample notice. See also Note 4, below.

² This model order assumes that the time for service does not need to be abridged.

4. ~~2.~~ THIS COURT ORDERS that the fees and disbursements of the Receiver and its counsel, as set out in ~~the Report and the Fee Affidavits~~, are hereby approved, together with the Torkin Manes Final Fees and Receiver's Account, as defined in the Seventh Report.

5. ~~3.~~ THIS COURT ORDERS that, after payment of the fees and disbursements herein approved, the Receiver shall ~~pay~~ is authorized to distribute to creditors the monies remaining in its hands to ~~[NAME OF PARTY]³~~ 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. ~~4.~~ THIS COURT ORDERS that upon payment of the amounts set out in paragraph ~~3~~ 5 hereof ~~{and upon the Receiver filing a certificate certifying that it has completed the other activities described in the Report}~~ 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 ~~[RECEIVER'S NAME]~~ RSM in its capacity as Receiver.

8. ~~5.~~ THIS COURT ORDERS AND DECLARES that ~~[RECEIVER'S NAME]~~ RSM is hereby released and discharged from any and all liability that ~~[RECEIVER'S NAME]~~ RSM now

³ ~~This model order assumes that the material filed supports a distribution to a specific secured creditor or other party.~~

has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of ~~[RECEIVER'S NAME]~~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, ~~[RECEIVER'S NAME]~~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.⁴

⁴~~The model order subcommittee was divided as to whether a general release might be appropriate. On the one hand, the Receiver has presumably reported its activities to the Court, and presumably the reported activities have been approved in prior Orders. Moreover, the Order that appointed the Receiver likely has protections in favour of the Receiver. These factors tend to indicate that a general release of the Receiver is not necessary. On the other hand, the Receiver has acted only in a representative capacity, as the Court's officer, so the Court may find that it is appropriate to insulate the Receiver from all liability, by way of a general release. Some members of the subcommittee felt that, absent a general release, Receivers might hold back funds and/or wish to conduct a claims bar process, which would unnecessarily add time and cost to the receivership. The general release language has been added to this form of model order as an option only, to be considered by the presiding Judge in each specific case. See also Note 1, above.~~

SCHEDULE A

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LISTBETWEEN:2292912 ONTARIO INC.Applicant-and-2380009 ONTARIO LIMITEDRespondentAPPLICATION 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 amendedRECEIVER'S DISCHARGE CERTIFICATERECITALS

- 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)

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Description	#11779117v1<Client> - MODEL receivership-discharge-order-EN
Document 2 ID	interwovenSite://TORKINMANES-DMS/Client/11809865/1
Description	#11809865v1<Client> - receivership-discharge-order FINAL
Rendering set	Torkin WP9 Standard

Legend:	
<u>Insertion</u>	
Deletion	
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<u>Moved to</u>	
Style change	
Format change	
Moved-deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	117
Deletions	80
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	197

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

**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)