

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

2292912 ONTARIO INC.

Applicant

- and -

2380009 ONTARIO LIMITED

Respondent

SUPPLEMENTAL REPORT TO THE
FIRST REPORT OF THE RECEIVER OF
2380009 ONTARIO LIMITED

May 24, 2017

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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 (“**CBTL**”) 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 (the “**Property**”).
2. The first report of the Receiver dated May 11, 2017 (the “**First Report**”) was filed with the Court on May 12, 2017. The purpose of this Supplemental Report to the First Report (“**Supplemental Report**”) is to:
 - (a) provide additional information on the requests for information made to Messrs. Hernandez and Mancebo;
 - (b) provide information on the continuing failure of BuiltRite to meet its obligations pursuant to the Lease; including non-payment of the May rent;
 - (c) adding “and in providing such information on, and access to, the Sheridan Property as the Receiver and/or its agents request” to the Receiver’s request in the First Report for an Order to “seek an Order that each of 238 and BuiltRite shall fully cooperate with the Receiver and CBRE in allowing the Sheridan Property to be viewed by prospective purchasers”; and
 - (d) to seek an Order for immediate termination of the Lease effective 10 days following the date of the Order.
3. The Supplemental Report should be read in conjunction with the First Report. Defined terms in this Supplemental Report have, unless indicated otherwise

herein, the same meanings as set out in the First Report. The Terms of Reference included in the First Report also apply to the Supplemental Report.

4. Unless otherwise stated, all dollar amounts contained in the Supplemental Report are expressed in Canadian dollars.

II. RECEIVER'S REQUESTS FOR INFORMATION

5. As noted in the First Report, certain records requested by the Receiver from Messrs. Hernandez and Mancebo had not been provided to the Receiver as of the date of the First Report. The Receiver has made, most recently on March 10, 22 and 29, April 7 and 25, 2017, repeated requests for the following information:

- copies of the most recent notices of assessment and past two years of statutory remittances;
- copies of the past two years' corporate tax returns;
- copies of the 2014 and 2015 bank statements with cancelled cheques and bank reconciliations;
- Certificate of Insurance confirming that BuiltRite has an insurance policy in place for the Sheridan Property;
- confirmation that the outstanding balance on 238's Enbridge account for the Sheridan Property has been paid and proof of payment;
- copy of the most recent hydro bill/statement from Alectra Utilities (formerly Enersource); and
- information as to whether the monthly payments of \$18,000 paid to Timbercreek Mortgage Servicing Inc. by BuiltRite, on behalf of 238 prior to the receivership, and made pursuant to a Direction re Funds that is attached to the copy of the Lease provided to the Receiver, were inclusive, or exclusive, of HST.

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6. In addition, on April 26 and May 9, 2017, in order to prepare for a trust exam by Canada Revenue Agency, the Receiver requested of Messrs. Hernandez and Mancebo:
- confirmation that no corporate tax returns have been filed by 238 and that no HST returns have been filed since October 31, 2014; and
 - accounting records for 238 from the date of incorporation to the present including bank reconciliations, general ledger detail report, trial balance, cheque register, copies of invoices paid, data file for 238's accounting software, etc.
7. Lastly, on May 8 and 12, 2017, the Receiver requested the name of the contact person at the premises to provide a tour of the Sheridan Property for, and respond to the questions of, the consultant being retained by the Receiver to prepare a Phase One Environmental Site Assessment for the Sheridan Property. As of the date of the Supplemental Report, no responses to these requests have been received by the Receiver. Accordingly, the Receiver is requesting that the relief sought by the Receiver as set out in the First Report be expanded to include that each of 238 and BuiltRite provide such information on, and access to, the Sheridan Property as the Receiver and/or its agents request.
8. On May 16, 2017, the Receiver sent a letter to Messrs. Hernandez and Mancebo requesting that they forward the information enumerated above (the "**Requested Information**"), or advise if (any of) the Requested Information is not presently available and the date that that Requested Information will be provided to the Receiver (the "**March 16 Letter**"). A copy of the March 16 Letter is attached at

Appendix "A" to the Supplemental Report. As of the date of the Supplemental Report, no response to the March 16 Letter has been received by the Receiver.

9. The Receiver respectfully requests that the Court grant an order requiring Messrs. Hernandez and Mancebo to deliver the Requested Information to the Receiver within seven (7) days of the order failing which the Receiver shall be at liberty to conduct examinations of such persons as it deems necessary to obtain the Requested Information.

III. THE LEASE

10. Pursuant to the terms of the Lease, BuiltRite is to pay 238 basic rent of \$18,000.00 plus HST monthly in advance on the 1st day of each and every month, from February 1, 2014 to January 31, 2019. BuiltRite has failed to pay the May rent of \$18,000 plus HST and such default continues.
11. On May 16, 2017, the Receiver sent a letter to BuiltRite requesting (i) payment of the rent due May 1, 2017 (referencing communications by the Receiver on May 2, May 4 and May 10, 2017), (ii) a reimbursement from BuiltRite for two Enbridge bills that had been paid by the Receiver, and (iii) that BuiltRite pay a third Enbridge bill which had been received by the Receiver and to provide payment confirmation to the Receiver. A copy of the letter is attached at Appendix "B" to the Supplemental Report.
12. As of May 19, 2017, as BuiltRite had not provided evidence that the Enbridge April bill had been paid, the Receiver paid the Enbridge April bill.
13. In addition, on May 19, 2017, the Receiver sent an e-mail to Messrs. Mancebo and Hernandez informing them that the April Enbridge bill had been paid by the

Receiver and requesting reimbursement thereof by BuiltRite. In that e-mail, the Receiver also referred to its correspondence of May 16, 2017 (Appendices “A” and “B” to the Supplemental Report) and requested responses to that correspondence. As of the date of this report, no responses to the May 19 e-mail, or the May 16, 2017 correspondence, has been received by the Receiver. A copy of the May 19, 2017 e-mail (without appendices) is attached at Appendix “C” to the Supplemental Report.

14. The Receiver sees no meaningful purpose in sending further communication to 238/BuiltRite concerning non-payment of rent, failure to reimburse the Receiver for Enbridge accounts or for the aforementioned information. Based on the lack of response received to date, the Receiver does not see how further requests for the same information will result in any response being received.

IV. CONCLUSION

15. In addition to and with reference to the relief requested in the First Report, the Receiver respectfully requests that the Court add (1) “and in providing such information on, and access to, the Sheridan Property as the Receiver and/or its agents request” to the Receiver’s request in the First Report for an Order to “seek an Order that each of 238 and BuiltRite shall fully cooperate with the Receiver and CBRE in allowing the Sheridan Property to be viewed by prospective purchasers”; and (2) an order declaring the Lease is terminated ten (10) days from the date of the Order and allowing the tenant ten (10) days to vacate the premises.

All of which is respectfully submitted to this Court as of this 24th day of May, 2017.

COLLINS BARROW TORONTO 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

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APPENDIX A



**Collins Barrow Toronto Limited,
Licensed Insolvency Trustee**
Collins Barrow Place
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Toronto, Ontario M5H 4C7
Canada
T: 416.480.0160
F: 416.480.2646

toronto.collinsbarrow.com

May 16, 2017

**Via email to mhernandez@builtritetech.com
and to emancebo@builtritetech.com**

Mr. Marcelo Hernandez and
Mr. Elias Mancebo
c/o BuiltRite Technologies Inc.
2370 South Sheridan Way
Mississauga, ON L5J 2M4

Dear Sirs:

2380009 Ontario Limited ("238"), In Receivership

We are writing to you with respect to our prior requests for information. We refer you to the Receiver's repeated requests (most recently on March 10, 22 and 29, and April 7 and 25, 2017) for information relating to the business affairs of 238. To date, we have not yet received the following information from you:

- (i) Copies of the most recent notices of assessment and past two years of statutory remittances;
- (ii) Copies of the past two years' corporate tax returns;
- (iii) Copies of the 2014 and 2015 bank statements with cancelled cheques and bank reconciliations;
- (iv) Certificate of Insurance confirming that BuiltRite Technologies Inc. has an insurance policy in place for 2370 South Sheridan Way (the "**Property**");
- (v) Confirmation that the outstanding balance on the Enbridge account for the Property has been paid and proof of payment;
- (vi) Copy of the most recent hydro bill/statement from Alectra Utilities (formerly Enersource); and
- (vii) Information as to whether the payments of \$18,000 paid to Timbercreek Mortgage Servicing Inc. on behalf of 238 prior to the receivership were inclusive, or exclusive, of HST.

In addition, as requested on April 26 and May 9, 2017, we require:




- (viii) Confirmation that no corporate tax returns have been filed by 238 and that no HST returns have been filed since October 31, 2014; and
- (ix) Accounting records for 238 from the date of incorporation to the present including bank reconciliations, general ledger detail report, trial balance, cheque register, copies of invoices paid, data file for your accounting software, etc.

Lastly, as requested on May 8 and 12, 2017, we require the name of the contact person at the premises to provide a tour of the Property for, and respond to the questions of, the consultant being retained by the Receiver to prepare a Phase One Environmental Site Assessment for the Property.

We request your immediate attention to forwarding the information requested above to the Receiver, or your advice of which of the above requested information is not presently available and the date that that information will be provided to us.

Yours truly,

COLLINS BARROW TORONTO LIMITED in its capacity as
Court-appointed Receiver of 2380009 Ontario Limited
and not in its personal capacity



Per: Brenda Wong, CIRP, LIT
Senior Manager

APPENDIX B



Collins Barrow Toronto Limited
Licensed Insolvency Trustee
Collins Barrow Place
11 King Street West
Suite 700, PO BOX 27
Toronto, Ontario M5H 4C7
Canada
T: 416.480.0160
F: 416.480.2646

toronto.collinsbarrow.com

May 16, 2017

Via email to mhernandez@buitritetech.com
and to emancebo@buitritetech.com

Builtrite Technologies Inc.
2370 South Sheridan Way
Mississauga, ON L5J 2M4

Attention: Marcelo Hernandez/Elias Mancebo

Dear Sirs:

2380009 Ontario Limited, In Receivership
Re: 2370 South Sheridan Way, Mississauga (the "Property")

We are writing to you with reference to the monthly payment of \$18,000 plus HST due on May 1, 2017 from BuiltRite Technologies Inc. ("**BuiltRite**") in connection with its occupation of the Property which has to date not been received by the Receiver. On May 2 and May 4 we contacted you to ask when this payment would be made to the Receiver and Mr. Hernandez responded on May 4 that the payment would be sent upon Mr. Mancebo's return on May 9, 2017. On May 10, when payment was not received, we sent to Messrs. Mancebo and Hernandez a follow-up e-mail to which we have received no response.

In addition, BuiltRite has yet to reimburse the Receiver for two Enbridge bills paid by the Receiver for \$2,033.61 and \$1,551.98 in respect of charges incurred by BuiltRite at the Property. We request that BuiltRite reimburse the Receiver for these two amounts. We also request that BuiltRite pay the attached Enbridge bill for April utility charges for \$590.84 by May 19, 2017 and send proof of that payment to the Receiver.

We request your immediate attention to these matters.

Please let the writer know if you have any questions on the above or require any additional information.

Yours truly,

COLLINS BARROW TORONTO LIMITED in its capacity as
Court-appointed Receiver of 2380009 Ontario Limited
and not in its personal capacity


Per: Brenda Wong, CIRP, LIT
Senior Manager

Encl.



APPENDIX C

Brenda Wong

From: Brenda Wong
Sent: Friday, May 19, 2017 4:33 PM
To: mhernandez@builtritetechnology.com; emancebo@builtritetechnology.com
Cc: Daniel Weisz
Subject: 2380009 Ontario Limited - Receiver's letters of May 16, 2017
Attachments: Letter to M Hernandez May 16 2017.pdf; Letter to BuiltRite_May 16.pdf

Tracking:	Recipient	Delivery
	mhernandez@builtritetechnology.com	
	emancebo@builtritetechnology.com	
	Daniel Weisz	Delivered: 5/19/2017 4:33 PM

Marcelo and Elias,

As we have not received confirmation from you that BuiltRite has paid the Enbridge April bill for \$590.84, the Receiver issued a cheque for payment of the bill today. Accordingly, we request that BuiltRite reimburse the Receiver for payment of the Enbridge April bill.

We also have not received a response from you in respect of other matters addressed in our letters to you of May 16, 2017. Would you please provide a response. Copies of those letters are attached for your reference.

Brenda

Brenda Wong
Senior Manager
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