

District of Ontario  
Division No.: 09 - Toronto  
Estate No. 31-2613545  
Court No. 31-2613545

IN THE MATTER OF THE BANKRUPTCY OF  
ONTARIO HVAC & WATER INC.  
OF THE CITY OF BOWMANVILLE  
IN THE PROVINCE OF ONTARIO

## Trustee's Preliminary Report to the Creditors

### BACKGROUND

1. Ontario HVAC & Water Inc. ("**Ontario HVAC**" or the "**Company**") sold, rented and serviced heating, ventilation, and air conditioning ("**HVAC**") systems. The Company was headquartered in Scarborough, Ontario until December 31, 2018, and operated from Bowmanville, Ontario thereafter until the date of Bankruptcy.

2. Ontario HVAC derived the majority of its revenue from two sources: (i) the sale and rental of HVAC equipment to residential customers in Ontario, and (ii) the maintenance and servicing of HVAC equipment.

#### Causes of Insolvency

3. The Trustee understands that the Company ceased carrying on and/or generating new business sometime in 2018. Ontario HVAC was directly indebted to One Dealer Financial Services Inc. ("**ODFSI**") pursuant to and under the terms of a Program Agreement between the Company and ODFSI dated February 10, 2016 (the "**Program Agreement**").

4. Pursuant to the Program Agreement, ODFSI purchased from the Company, among other assets, the rights and interests of Ontario HVAC in certain lease contracts entered into by the Company with third party customers (the "**Relevant Lease Contracts**"), including, among other things, the right to receive payments from those customers and to the related HVAC equipment which is the subject thereof (collectively, the "**Purchased Assets**").

5. The Relevant Lease Contracts were included as Purchased Assets under the Program Agreement and, accordingly, pursuant to the terms of the Program Agreement, the Company had no remaining ownership interest in such Relevant Lease Contracts.

6. Ontario HVAC's obligation to ODFSI pursuant to the Program Agreement included, but was not limited to, the following:

- a) ODFSI was to maintain a reserve account (the "**Cash Reserve Account**") on which an entry is to be made for a portion of each purchase of relevant lease contracts. If at any time the amount of funds in the Cash Reserve Account fell below the Reserve Floor (as defined in the Program Agreement), Ontario HVAC was obligated to remit cash to ODFSI to restore the Cash Reserve Account to the required reserve amount.
- b) Pursuant to the Program Agreement, if a Relevant Lease Contract becomes a defaulted contract, ODFSI is entitled to debit the Cash Reserve Account to cover any shortfall on the balance of payments owing under the default contracts that ODFSI had purchased.

- c) Ontario HVAC was responsible for the payment of all fees, expenses and costs payable under the open bill agreement with Enbridge Gas Distribution Ltd. ("**Enbridge**"), as well as all pre-authorized payment ("**PAP**") accounts.
- d) The Company sold the Purchased Assets to ODFSI on a fully-serviced basis. Ontario HVAC must take or cause to be taken all such actions as may be necessary or advisable from time to time to administer, service and collect the Purchased Assets (collectively, the "**Servicing Costs**"); and
- e) The Company was required to reimburse ODFSI for all out-of-pocket expenses incurred by ODFSI in connection with enforcement of the ODFSI's rights under the Program Agreement, including without limitation, the fees and disbursements of counsel of ODFSI and together with the defaulted contracts, the OBA and PAP amounts and Servicing Costs.
- f) If Ontario HVAC failed to pay any of its obligations, ODFSI could debit the cash reserve account by an aggregate amount up to such overdue obligations.
- g) Security for Ontario HVAC's obligations to ODFSI, including, without limitation, its obligations under the Program Agreement, Ontario HVAC granted security in favour of ODFSI (the "**Security**") including by way of General Security Agreement.

7. As mentioned above, the collateral secured by the Security appears to be significantly less than the indebtedness owed by the debtor to ODSFI, resulting in ODFSI's claim being largely unsecured.

8. As such, an application for bankruptcy was made to the Court by ODFSI.

9. As a result of its financial difficulties, Ontario HVAC could not afford to settle the debt owing to ODFSI, had money owing to friends and family, had terminated its employees and contractors because it was unable to continue to pay them and did not have any further resources to continue operations.

#### **SECTION A: PRELIMINARY EVALUATION OF ASSETS**

10. According to the Company's Statement of Affairs, the assets of the Bankrupt as at the date of bankruptcy consist of the following:

	Estimated to Realize
Accounts receivable	<u>\$1.00</u>
Total assets	<u>\$1.00</u>

11. The Company's accounts receivables are comprised of future cash flow to be derived from contracts in place with Enbridge. As of the date of this report, the Trustee has not yet determined the value of the future cash flows from these contracts.

#### **SECTION B: CONSERVATORY AND PROTECTIVE MEASURES**

12. The Trustee has been advised that the Company operated from the home of the President, Mr. Sean Kennedy, and did not own any equipment or fixed assets.

13. The Trustee has been advised that Enbridge administers the billing for certain consumer contracts owned by the Company. Enbridge bills and collects on those contracts and remits payment to

Ontario HVAC after deduction of its commission. After its appointment, the Trustee wrote to Enbridge to notify it of the bankruptcy and to request that Enbridge terminate all existing usernames and passwords for the Company's biller ID and provide new credentials for the Company's Enbridge account to the Trustee. The Trustee will be following up with Enbridge to arrange for the transfer of the Company's account to the Trustee or its agents.

14. The Trustee wrote to TD Canada Trust ("TD") where the Company's accounts were held, to notify TD of the bankruptcy, request that TD freeze the Company's accounts and assets, and arrange for the transfer of funds held in the Company's accounts. TD has advised that the Company has two accounts at TD, with a total balance of \$4,250. The Trustee has requested that TD keep both accounts open for the time being, pending the Trustee's decision on how the Enbridge account will be administered.

### SECTION C: LEGAL PROCEEDINGS

15. The Trustee is not involved in any legal proceedings at this time and has not retained counsel.

### SECTION D: PROVABLE CLAIMS

16. The claims filed by creditors as of 11:00 a.m. on February 14, 2020, are as follows:

	Per Statement of Affairs	Filed as of February 14, 2020
Secured	\$1.00	\$ 30,000.00
Unsecured	309,649.71	112,523.71
Contingent	-	6,802.93
<u>Total</u>	<u>\$309,650.71</u>	<u>\$149,326.64</u>

17. The Trustee will review the differences between the amounts set out in the Proofs of Claim filed and the amounts included in the SOA in the event there are funds available for distribution to Ontario HVAC's creditors.

### SECTION E: SECURED CREDITORS

18. A search conducted of the Personal Property Security Act Registration System identified five parties as having a secured interest in the Company's assets as at the date of bankruptcy:

Secured Party	Charge over
One Dealer Financial Services Inc.	Inventory, Equipment, Accounts, Motor Vehicles, Other
CLE Leasing Enterprise Ltd.	Equipment, Other
Enbridge Gas Distribution Inc.	Accounts, Other
Thinking Capital Financial Corporation	Inventory, Equipment, Accounts, Other
Equirex (Bennington Financial Corp.)	Equipment, Other

Equirex has filed a contingent claim in respect of a guarantee given by Ontario HVAC for equipment leased to another company, Ontario Reno Services Inc.

### SECTION F: ANTICIPATED REALIZATIONS AND PROJECTED DISTRIBUTION

19. Based on the proofs of claim filed to date and the limited information on the SOA, the Trustee is unable to estimate at this time the amount that may be realized from the Company's accounts receivable,

or what funds may be available for distribution to Ontario HVAC's creditors. The Trustee will review this matter further with the Inspectors.

**SECTION G: TRANSFERS AT UNDERVALUE AND PREFERENCE PAYMENTS**

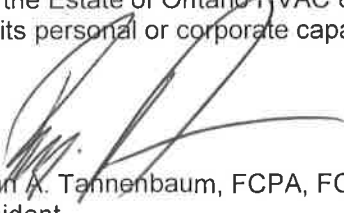
20. The Trustee has not reviewed the Company's books and records to date. The Trustee will review this matter further with the inspectors.

**SECTION H: OTHER MATTERS**

21. The Trustee has no other matters to report.

Dated at Toronto, Ontario, this 14<sup>th</sup> day of February, 2020.

**RSM CANADA LIMITED** in its capacity as  
Trustee of the Estate of Ontario HVAC & Water Inc., a bankrupt  
and not in its personal or corporate capacity



Per: Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT  
President