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**IN THE MATTER OF THE INTERIM RECEIVERSHIP OF**

**THOMAS DYLAN SUITOR**

**SECOND SUPPLEMENT TO THE SECOND REPORT OF THE INTERIM RECEIVER**

**MAY 30, 2025**

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## 1.0 INTRODUCTION

1. This report (the “**Second Supplemental Report**”) filed by the Interim Receiver is a supplement to the Second Report of the Interim Receiver dated May 16, 2025 (the “**Second Report**”) and to the First Supplemental Report dated May 23, 2025 (the “**First Supplemental Report**”). Any capitalized terms not defined herein have the meanings given to them in the Second Report and the First Supplemental Report.
2. On May 26, 2025 the Honourable Justice Steele’s endorsement noted, among other things, that the Receiver shall submit a second supplementary report to note the proposed changes regarding the requested relief. A copy of the endorsement of Justice Steele is attached hereto as **Appendix “A”**.

## 2.0 BACKGROUND

### 2.1 Constraints on Property Dispositions

3. Mr. Suitor owns real property both personally and through various corporations that are considered “Related Entities” for the purposes of these proceedings. All of the real properties owned by Mr. Suitor and the Related Entities are subject to mortgages registered by various mortgagees, details of which were provided in the Second Report. While some of the mortgages remain in good standing, several are presently in default or are at imminent risk of default.
4. Since the appointment of the Interim Receiver on October 7, 2024, and as a result of the restrictions set out in the Appointment Order, Mr. Suitor has been unable to sell any of the Real Properties. This restriction was later compounded by the issuance of a Bankruptcy Order on March 25, 2025, and the subsequent appeal of that Order which resulted in a stay of proceedings. The combined effect of these overlapping proceedings and judicial directions has created a legal and procedural impasse, effectively preventing any sale of the Real Properties through conventional means.

5. Mr. Suitor has advised the Interim Receiver that he intends to perfect his appeal of the Bankruptcy Order, and understands that it may be several months or longer before the appeal is heard. In the interim, he does not have the financial means to maintain the mortgage payments or other carrying costs associated with the Real Properties. He has further indicated that, absent the ability to realize on these assets, he anticipates that the Real Properties will fall into default, resulting in further deterioration of value across the estate.
6. The Appointment Order explicitly mandates that the Interim Receiver is to act in a manner that protects the assets of the estate. In discharging this duty, the Interim Receiver is to act for the benefit of all stakeholders, including but not limited to unsecured creditors. The Interim Receiver's role is not simply to monitor the assets, but to act in a manner that preserves and maximizes recoveries for the estate as a whole.
7. In view of the foregoing, the Interim Receiver has proposed a Court-supervised Sales Process as a practical, cost-effective, and expedient mechanism to convert the Real Properties into cash. This would enable the repayment of secured debt in priority, reduce or eliminate ongoing carrying costs, and avoid value erosion that would otherwise occur if enforcement actions proceed on a piecemeal basis or if defaults continue to accumulate across the portfolio.

## **2.2 Comparative Cost Efficiency of Proposed Sales Process**

8. The Sales Process proposed by the Interim Receiver provides the benefit of lower enforcement costs through economies of scale when compared to the costs that may otherwise result from the various mortgagees taking separate enforcement actions. To demonstrate this potential benefit, the Interim Receiver has prepared a hypothetical comparison demonstrating the cost efficiencies and expected net recovery differentials associated with individual enforcement efforts by secured creditors (Scenario 1) compared to a consolidated sales process administered by the Interim Receiver (Scenario 2). A copy of the Interim Receiver's cost comparison is attached hereto as **Appendix "B"**.

9. This analysis illustrates that the proposed consolidated Sales Process is expected to result in materially lower cumulative enforcement costs relating primarily to professional fees for court applications and motions. The consolidation of these efforts allows for a streamlined process, coordinated marketing strategy, and consistent treatment of stakeholders across the various properties.
10. Importantly, the analysis further supports the Interim Receiver's position that a unified sales strategy is more likely to preserve value for the estate and maximize recoveries for the benefit of all stakeholders, including unsecured creditors. Individual enforcement proceedings by multiple secured creditors would not only delay the realization process but would significantly erode equity through duplicative and unnecessary professional fees.
11. In addition to the foregoing, the proposed Sales Process would reduce the burden on the Court; rather than the Court overseeing a potential seven separate receivership proceedings, there would simply be one consolidated process.
12. Accordingly, the Interim Receiver continues to recommend that the Court approve the Interim Receiver's proposed Sales Process, carving out the specific properties noted below from its scope.

### **3.0 REQUESTED EXEMPTIONS**

13. Since the appointment of the Interim Receiver, various secured creditors have approached the Interim Receiver with requests to either lift the stay of proceedings or seek leave of the Court to initiate enforcement proceedings, including the appointment of receivers. In fulfilling its mandate, the Interim Receiver has carefully considered each request against its duty to preserve and maximize the value of the estate, while also assessing whether opposing such actions would have any net benefit to the stakeholders other than the secured creditor making the request.
14. In cases where the secured debt appeared to exceed or approximately equal the estimated fair market value of the property, or where enforcement was imminent and

unavoidable, the Interim Receiver did not oppose the requested carve-outs. The subsections below outline the specific carve-outs and the rationale in each case.

### **3.1 Court-Appointed Receiverships (MNP Ltd.)**

15. Following the issuance of the Appointment Order, several properties were placed into receivership at the request of secured creditors. Notably, MNP was appointed as receiver over the following properties pursuant to creditor applications:
  - (a) 1083 Main Street, Hamilton, Ontario - The application was brought by the secured creditor on October 11, 2024. The Interim Receiver provided its consent to lift the stay on October 18, 2024, and MNP was appointed as receiver pursuant to a Court Order dated December 10, 2024;
  - (b) 380–390 Princess Avenue, London, Ontario - The application was brought by the secured creditor on October 29, 2024. The Interim Receiver consented to the lifting of the stay, and MNP was appointed as receiver on November 22, 2024; and
  - (c) 17–19 Collier Street, St. Catharines, Ontario. - The application was brought by the secured creditor on November 5, 2024. The Interim Receiver consented to the lifting of the stay on November 29, 2024, and MNP was appointed as receiver on November 28, 2024.
16. In each of these cases, the Interim Receiver did not oppose the appointment of MNP, as there appeared to be no equity available in the properties beyond the secured debt and reasonable enforcement costs. Further, these applications were already well-advanced by the time of the Interim Receiver’s appointment, and opposition would have been inconsistent with the Interim Receiver’s duty to avoid unnecessary costs or delays that would further erode estate value.

### **3.2 267 Leslie Street, Sudbury – Lift Capital Inc.**

17. On April 25, 2025, counsel for Lift Capital Inc., the first mortgagee on the property municipally known as 267 Leslie Street, Sudbury, Ontario, requested that the Interim Receiver consent to the lifting of the stay of proceedings in order to permit enforcement action under its mortgage. After reviewing the financial position and available valuation data, the Interim Receiver concluded that there was likely little to no equity in the property beyond the amount owed to the secured lender, net of reasonable transaction and enforcement costs.
18. Accordingly, the Interim Receiver consented to the request, as opposing the enforcement would not result in any net benefit to the estate and would contravene the Interim Receiver's mandate to act in the best interests of all stakeholders.
19. Subsequently, on April 29, 2025, Lift Capital Inc. filed a Notice of Sale under Mortgage in accordance with the *Mortgages Act*, formally commencing enforcement proceedings.

### **3.3 BMO and BDC Enforcement Applications**

20. The Bank of Montreal ("**BMO**") is the first mortgagee over the properties municipally known as 43 Centre Street and 34 Rykert Street, both in St. Catharines, Ontario. BMO issued a notice under section 244(1) of the *Bankruptcy and Insolvency Act* on September 19, 2024, indicating its intention to commence enforcement proceedings. On April 14, 2025, the Interim Receiver consented to the lifting of the stay of proceedings to permit BMO to proceed with its enforcement efforts.
21. The Business Development Bank of Canada ("**BDC**") is the first mortgagee over the property known municipally as 1391 Ontario Street, Burlington, Ontario. BDC issued a section 244 notice on February 24, 2025. The Interim Receiver consented to the lifting of the stay in this matter on April 14, 2025, after determining that the secured debt exceeded or was near the market value of the property.



22. The Interim Receiver consented to the lifting of the stay apropos BMO's and BDC's enforcement efforts in advance of the relief being sought. In each case, the Interim Receiver concluded that the value of the real property was insufficient to support the costs of administering a sale process, and the enforcement by the secured parties would not prejudice the estate given the absence of anticipated equity.

### **3.4 Peakhill Capital – 644 Hamilton Road and 164–168 Picton Street, Hamilton**

23. Peakhill Capital is the mortgagee on properties municipally known as:
- (a) 642 Hamilton Road, Hamilton, Ontario; and
  - (b) 164–168 Picton Street East, Hamilton, Ontario.
24. To date, Peakhill has not issued any formal enforcement notices or taken steps toward receivership, as there is no present default on their loans. However, Peakhill has raised concerns stemming from Canada Mortgage and Housing Corporation (CMHC) lending agreements that may restrict any third-party control over the sale or disposition of the mortgaged properties. These concerns are ongoing, and the Interim Receiver understands that Peakhill is reserving its rights should circumstances change.
25. After reviewing valuation data, the Interim Receiver concluded that it is not likely that there would be equity in these properties after accounting for the mortgage indebtedness and realization costs.

### **3.5 Rationale for Carve-Outs**

26. In each of the above scenarios, the Interim Receiver considered its statutory and Court-imposed obligations. Where there was no apparent equity beyond the secured claims—and particularly where a secured creditor was already taking steps to enforce—the Interim Receiver considered it inadvisable to oppose enforcement or object to a carve-out from the Interim Receiver's proposed Sales Process. To have

done so would have resulted in further delay, litigation costs, and deterioration of value, all to the detriment of the broader estate. This is not to say that the Interim Receiver agrees that the enforcement actions noted above were in the best interest of any of the stakeholders, including the secured creditors who initiated those actions, but the Interim Receiver concluded that allowing the enforcement actions to proceed was consistent with its duty to protect and preserve value for the stakeholders.

### **3.6 207 Ross Street, St. Thomas – Libro Credit Union**

27. The Interim Receiver takes a materially different position in respect of 207 Ross Street, which is subject to a mortgage held by Libro Credit Union Limited (**“Libro”**). The facts surrounding this property are distinct in that:

- (a) The principal balance owing to Libro is significantly lower than the appraised fair market value of the property;
- (b) There are no subsequent registered mortgages aside from forgivable loans from the City of St. Thomas (the **“City”**);
- (c) According to Libro’s own affidavit evidence, the loan remains current and in good standing, with all scheduled payments having been made since the mortgage was advanced/renewed in 2021;
- (d) The Interim Receiver has received multiple opinions of value confirming a substantial equity cushion in the property, as discussed in the Second Report and the First Supplemental Report;
- (e) The Interim Receiver was advised by Heather Sheridan (a City representative) that the City does not oppose the Interim Receiver’s proposed sale of 207 Ross Street; and
- (f) A transparent, Court-supervised realization process is warranted for 207 Ross Street in particular. Aside from Libro, potential stakeholders include the City (who registered a charge on title to 207 Ross Street of \$960,000

pursuant to its Service Manager Contribution Agreement dated May 16, 2016 (“**SMCA**”) and a second charge of \$49,704, securing forgivable loan advances), the crown corporations and ministries referred to in the SMCA, the Canadian Mental Health Association (“**CMHA**”) (which holds a lease of 207 Ross Street), and the low-income tenants who reside at 207 Ross Street under sub-leases from CMHA. Their respective interests ought to be afforded proper consideration. The Interim Receiver, as the Court-appointed officer in this proceeding, is in the best position to efficiently manage the potential stakeholders’ different interests.

#### **4.0 POSITION OF THE INTERIM RECEIVER**

28. The Interim Receiver has carefully considered the status of each property and the impact of enforcement proceedings initiated or contemplated by secured creditors. In each instance where properties were carved out of the proposed Sales Process, the Interim Receiver concluded that doing so would not negatively impact the estate. Rather, such carve-outs were appropriate given the absence of anticipated equity. The Interim Receiver acted in accordance with its mandate to preserve value, avoid unnecessary cost, and maximize recoveries for the benefit of all stakeholders.
29. Conversely, in the case of 207 Ross Street, the Interim Receiver maintains that the property holds substantial equity and that its inclusion in the proposed Sales Process is not only justified but essential to fulfilling the Interim Receiver’s role. There is no evidence of mortgage default, and the secured claim of Libro is modest in comparison to the property’s estimated fair market value. As such, a sale supervised by the Interim Receiver is expected to yield a meaningful surplus for the estate when compared to the likely result of Libro taking direct enforcement action in the circumstances.
30. Lastly, as set out in the First Supplemental Report, Libro has not raised any concerns with the Interim Receiver’s proposed Sales Process or any other relief being sought by the Interim Receiver at this time. While the benefit of Libro taking direct

enforcement action remains uncertain and unspecified, the detrimental effects of Libro's proposed carve-out to the estate are clear and significant.

31. The Interim Receiver continues to recommend that the Court approve the proposed Sales Process, including the retention of 207 Ross Street within its scope, but excluding 267 Leslie Street, 642 Hamilton Road, and 164–168 Picton Street East, as the most cost-effective and efficient path forward to preserve and realize value from the Real Properties.
32. Attached hereto as **Appendix "C"** is the draft Order which the Interim Receiver is requesting the Court to grant. Attached hereto as **Appendix "D"** is a blacklined copy thereof, reflecting the changes made to the draft Order found at tab 3 of the motion record.

All of which is respectfully submitted to this Court as of this 30<sup>th</sup> day of May, 2025.

**TDB RESTRUCTURING LIMITED**, solely in its capacity as  
Interim Receiver of Thomas Dylan Suitor and not in its personal or  
corporate capacity

Per:



Jeffrey Berger, CPA, CA, CIRP, LIT  
Managing Director

# Appendix A



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL SLIP/ENDORSEMENT**

COURT FILE NO.: BK-24-00208718-OT31

DATE: May 26, 2025

NO. ON LIST: 3

TITLE OF PROCEEDING: SUITOR et al

BEFORE JUSTICE: JUSTICE STEELE

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party, Crown:**

| Name of Person Appearing   | Name of Party   | Contact Info   |
|----------------------------|---|--|
| Michael E. Cassone         | Solicitors for Libro Credit Union Limited                   | <a href="mailto:mcassone@harrisonpensa.com">mcassone@harrisonpensa.com</a>   |
| Tanya A. Pagliaroli        | Lawyers for the Debtor, Thomas Dylan Suitor                 | <a href="mailto:tanya@taplaw.ca">tanya@taplaw.ca</a>   |
| Fred Tayar<br>Joshua Tayar | Lawyers for Interim Receiver applicant                      | <a href="mailto:fred@fredtayar.com">fred@fredtayar.com</a><br><a href="mailto:Joshua@fredtayar.com">Joshua@fredtayar.com</a> |
| Jeff Berger                | TDB Restructuring Limited, Interim Receiver of Dylan Suitor | <a href="mailto:jberger@tdbadvisory.ca">jberger@tdbadvisory.ca</a>   |

**For Defendant, Respondent, Responding Party, Defence:**

| Name of Person Appearing | Name of Party  | Contact Info   |
|--------------------------|--|--|
| Jennifer Stam            | Counsel for The Fuller Landau Group Inc., as the Lion's Share Receiver | <a href="mailto:Jennifer.stam@nortonrosefulbright.com">Jennifer.stam@nortonrosefulbright.com</a> |

**For Other, Self-Represented:**

| Name of Person Appearing | Name of Party  | Contact Info   |
|--------------------------|--|--|
| David Im                 | Court-Appointed Secured Lender Representative Counsel in the Balboa CCAA Proceedings | <a href="mailto:dim@chaitons.com">dim@chaitons.com</a>                   |
| Patrick Corney           | Lawyer for the National Bank of Canada   | <a href="mailto:pcorney@millerthomson.com">pcorney@millerthomson.com</a> |
| Dom Michaud              | Lawyer for Peakhill Capital Inc.   | <a href="mailto:dmichaud@robapp.com">dmichaud@robapp.com</a>             |

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## **ENDORSEMENT OF JUSTICE STEELE:**

1. TDB Restructuring Limited (“TDB”), in its capacities as the Trustee in Bankruptcy and Court-Appointed Interim Receiver of Thomas Dylan Suitor seeks an order, among other things:
  - i. Approving the Interim Receiver’s Second Report and activities;
  - ii. Authorizing TDB to sell ten properties;
  - iii. Declaring that TDB shall remain the interim receiver of all of Mr. Suitor’s property under Osborne J.’s October 7, 2024 Order until the disposition of Mr. Suitor’s appeal of the bankruptcy order;
  - iv. Granting charges on the Properties to secure the fees of TDB and its counsel and the borrowings of TDB;
  - v. Authorizing TDB to redact Confidential Appendix “1” and seal it from the public record until the closing of the transaction or further court order; and
  - vi. Approving the fees and disbursements of TDB and its counsel.
2. The order sought also includes the following para. 30 regarding the costs of the receiver and manager of The Lion’s Share Group Inc.:

THIS COURT ORDERS THAT Fuller, in its capacity as receiver and manager of the property, assets and undertaking of The Lion’s Share Group Inc., shall have its costs of the motion for the appointment of the Interim Receiver on a full indemnity basis to be paid out of the proceeds of the sale of the Sale Process Properties and shall have the benefit of the Sales Process Administrative Charge in respect of such amounts provided that such entitlement shall be subordinate to the interests of all valid and enforceable mortgage debt registered on title to the Sales Process Properties.

3. Mr. Suitor opposes the inclusion of the above provision of the order. Further, Mr. Suitor seeks to bring his own motion regarding costs. This relief shall be adjourned to **June 16, 2025 at 10 am (90 minutes)**, before me, subject to my availability on the Commercial List.
4. Prior to the motion, Libro Credit Union had filed materials. Libro is the first mortgagee on 207 Ross Street, St. Thomas, Ontario, one of the Properties TDB seeks to sell.
5. Libro opposes the inclusion of the Ross Street Property in the proposed sale process. Libro wants to sell the Ross Street Property under a power of sale or by seeking the appointment of a separate receiver.
6. At the hearing today, Peak Hill indicated that further to conversations last week with TDB, an agreement has been reached between Peak Hill and TDB to extricate the two Peak Hill Properties from the proposed sale process.
7. TDB then indicated there was another Property in respect of which an agreement had previously been reached to extricate it from the proposed sales process. Accordingly, TDB now seeks approval to enter into a sales process with regard to seven (instead of ten) Properties.

8. The materials filed, including the proposed order, did not reference these arrangements, nor why these agreements were struck with respect to certain Properties, nor the Interim Receiver's recommendation with regard to same. While the Supplementary Report addresses TDB's rationale for proposing to exclude Libro, it does not address the other Properties that are now sought to be excluded. I would also expect a supplementary report from TDB regarding this proposed change to the requested relief.
9. The Court expects that updated materials and draft orders will be filed prior to the Court attendance if the relief sought is varied, particularly where there is opposition.
10. The motion is adjourned to **June 5, 2025 at 10 am (90 minutes)**, before me, subject to my availability on the Commercial List.

A handwritten signature in blue ink, appearing to read 'J Steele', is positioned above a horizontal line.

Justice Steele

Date: May 26, 2025



# Appendix B

**Scenario 1 - Each mortgagee independently appoints a Receiver to sell**

| Description                             | Property 1 | Property 2 | Property 3 | Property 4 | Property 5 | Property 6 | Property 7 | Total      |
|---|------------|------------|------------|------------|------------|------------|------------|------------|
| Motion to Appoint a Receiver            | 20,000     | 20,000     | 20,000     | 20,000     | 20,000     | 20,000     | 20,000     | 140,000    |
| Motion to Approve a Sale Process        | 15,000     | 15,000     | 15,000     | 15,000     | 15,000     | 15,000     | 15,000     | 105,000    |
| Motion to Approve a Sale and obtain AVO | 15,000     | 15,000     | 15,000     | 15,000     | 15,000     | 15,000     | 15,000     | 105,000    |
| Motion for Distribution and Discharge   | 15,000     | 15,000     | 15,000     | 15,000     | 15,000     | 15,000     | 15,000     | 105,000    |
| Total Professional Fees                 | \$ 65,000  | \$ 65,000  | \$ 65,000  | \$ 65,000  | \$ 65,000  | \$ 65,000  | \$ 65,000  | \$ 455,000 |

**Scenario 2 - The Interim Receiver conducts a consolidated sale process**

| Description                             | Property 1 | Property 2 | Property 3 | Property 4 | Property 5 | Property 6 | Property 7 | Total      |
|---|------------|------------|------------|------------|------------|------------|------------|------------|
| Motion to Appoint a Receiver            | 5,714      | 5,714      | 5,714      | 5,714      | 5,714      | 5,714      | 5,714      | 40,000     |
| Motion to Approve a Sale Process        | 4,286      | 4,286      | 4,286      | 4,286      | 4,286      | 4,286      | 4,286      | 30,000     |
| Motion to Approve a Sale and obtain AVO | 4,286      | 4,286      | 4,286      | 4,286      | 4,286      | 4,286      | 4,286      | 30,000     |
| Motion for Distribution and Discharge   | 4,286      | 4,286      | 4,286      | 4,286      | 4,286      | 4,286      | 4,286      | 30,000     |
| Total Professional Fees                 | \$ 18,571  | \$ 18,571  | \$ 18,571  | \$ 18,571  | \$ 18,571  | \$ 18,571  | \$ 18,571  | \$ 130,000 |

**Potential Savings for the Estate** \$ 325,000

**Assumptions/Comments**

- 1 The cost estimates herein are strictly hypothetical, and meant to be representative of the average fees one would expect in the circumstances.
- 2 In an effort to be extremely conservative, the Interim Receiver's cost for each motion have been estimated as approximately double the cost that would be incurred by each independent applicant/receiver, as the Interim Receiver's motions would be more involved. However, the costs borne by the Interim Receiver in Scenario 2 would be allocated amongst the 7 properties, resulting in materially lower professional fees being borne by each property/secured lender.
- 3 All property-specific tasks and fees would be tracked separately and allocated to specific properties, and therefore do not factor into the above analysis.
- 4 The Court's time and resources would not be burdened by hearing 7 separate motions and overseeing 7 separate sale processes.

# Appendix C



4. declaring that TDB shall remain the interim receiver, without security, of all of the property, assets and undertaking of Suitor under the Order of the Honourable Justice Osborne dated October 7, 2024 ("**Appointment Order**") until disposition of Suitor's appeal of the Bankruptcy Order dated March 26, 2025 ("**Bankruptcy Order**") or further Order of the Court;
5. granting charges on the Sales Process Properties to secure (i) the fees and disbursements of the Interim Receiver and those of its counsel and (ii) the borrowings of the Interim Receiver;
6. authorizing the Interim Receiver to redact Confidential Appendix "1" from its Second Report and Confidential Appendices "1" and "2" from the First Supplement, and sealing them from the public record until the closing of the sales of the Sales Process Properties or further order of the Court;
7. approving the interim statement of receipts and disbursements of the Interim Receiver for the period from October 7, 2024 to May 13, 2025; and
8. approving the fees and disbursements of the Interim Receiver and those of its counsel, as set out in the Second Report and the Fee Affidavits (defined below);

was heard this day by videoconference at 330 University Avenue, Toronto, Ontario, the issue of the applicant The Fuller Landau Group Inc. ("**Fuller**")'s costs of the motion for the appointment of the Interim Receiver adjourned to June 16, 2025,

**ON READING** the notice of motion, the Reports, the affidavits of Jeffrey Berger and Mindy Tayar as to fees (the "**Fee Affidavits**"), and on hearing the submissions of counsel for the Interim Receiver, Fuller, Suitor, and Libro Credit Union Limited, no one else on the

Service List appearing although duly served as evidenced by the affidavit of service of Marie Pacheco, filed:

**Service**

1. **THIS COURT ORDERS THAT** the time for service of the notice of motion and motion record is hereby abridged and validated so that this motion is properly returnable today, and hereby dispenses with further service thereof.

**Approval of the Reports, Interim Statement of Receipts and Disbursements, and Professional Fees and Disbursements**

2. **THIS COURT ORDERS THAT** the Reports and the activities and conduct of the Interim Receiver as described therein, be and are hereby approved.

3. **THIS COURT ORDERS THAT** the interim statement of receipts and disbursements of the Interim Receiver for the period from October 7, 2024 to May 13, 2025, be and is hereby approved.

4. **THIS COURT ORDERS THAT** the fees and disbursements of the Interim Receiver and those of its counsel, as set out in the Second Report and the Fee Affidavits, are hereby approved.

5. **THIS COURT ORDERS AND DECLARES THAT** TDB shall remain the interim receiver, without security, of all of the property, assets and undertaking of Suitor under

the Appointment Order until disposition of Suitor's appeal of the Bankruptcy Order or further Order of the Court.

**Sealing of Confidential Appendix "1"**

6. **THIS COURT ORDERS THAT** the Interim Receiver is authorized *nunc pro tunc*, to redact Confidential Appendix "1" from its Second Report and Confidential Appendices "1" and "2" from the First Supplement, and that the Confidential Appendices be sealed from the public record until the closing of the sales of the Sales Process Properties or further order of the Court.

**Sale of Properties**

7. **THIS COURT ORDERS THAT**, subject to the terms of this Order and further orders of the Court, the properties in the list below (the "**Sales Process Properties**") shall be sold in the manner described in this Order, subject to approval of the Court:

| <b>Municipal Address</b>                 | <b>PIN</b>         | <b>Property Description</b>  | <b>Registered Owner</b>               |
|--|--------------------|--|---------------------------------------|
| 775 King Rd.,<br>Burlington, Ontario     | 07096-0052<br>(LT) | PT LT 1 , CON<br>BROKEN FRONT ,<br>PART 1 ,<br>20R11690; CITY<br>OF BURLINGTON     | Thomas Dylan Suitor                   |
| 2298 Fassel Ave.,<br>Burlington, Ontario | 07077-0108<br>(LT) | PT LT 103 , PL 338<br>, AS IN 791083 ;<br>BURLINGTON                               | Thomas Dylan Suitor                   |
| 10 Norfolk St S,<br>Simcoe, Ontario      | 50225-0112<br>(LT) | PT LT 1-2 BLK 96<br>PL 182 AS IN<br>NR412200 T/W<br>NR412200;<br>NORFOLK<br>COUNTY | 10 Norfolk St. Inc.                   |
| 133 Prospect Ave.<br>Hamilton, Ontario   | 17208-0073<br>(LT) | LT 87, PL 506 ; PT<br>LT 88, PL 506 , AS   | Prospect Real Estate<br>Holdings Inc. |

|   |                    |  |                                      |
|---|--------------------|--|--------------------------------------|
|   |                    | IN CD385956, S/T<br>CD385956, IF ANY<br>; HAMILTON   |                                      |
| 38 Duncan Ave. S,<br>Kirkland Lake, Ontario | 61407-0431<br>(LT) | PCL 1061 SEC<br>CST; LT 48 PL<br>M32TIM TECK<br>SRO; KIRKLAND<br>LAKE ; DISTRICT<br>OF TIMISKAMING | Commercial Urkel Inc.                |
| 388 Downie Street,<br>Stratford, Ontario    | 53116-0113<br>(LT) | LT 17 PL 25<br>STRATFORD; PT<br>LT 18 PL 25<br>STRATFORD AS<br>IN R310549 ;<br>STRATFORD           | 388 Downie St. Inc.                  |
| 207 Ross Street, St.<br>Thomas, Ontario     | 35220-0174<br>(LT) | LOT 65 PLAN 86,<br>PART OF LOT 46<br>PLAN 86 AS IN<br>E401586 &<br>E411464; CITY OF<br>ST. THOMAS  | McWhirter-Horvath<br>Properties Inc. |

### **Expanded Powers of the Interim Receiver**

8. **THIS COURT ORDERS THAT** the Interim Receiver is hereby authorized to conduct a sale of the Sales Process Properties in such a manner as the Interim Receiver, in its discretion, may determine for the purpose of maximizing the recovery upon the sales of the Sales Process Properties.

9. **THIS COURT ORDERS THAT** the Interim Receiver be and hereby is empowered and authorized, but not obligated, to act at once in respect of the Sales Process Properties and, without in any way limiting the generality of the foregoing, the Interim Receiver is hereby expressly empowered and authorized to do any of the following where the Interim Receiver considers it necessary or desirable:



- (a) to take possession of and exercise control over the Sales Process Properties and any and all proceeds, receipts and disbursements arising out of or from the Sales Process Properties;
- (b) 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 Interim Receiver's powers and duties, including, without limitation, those conferred by this Order;
- (c) to market any or all of the Sales Process Properties, including advertising and soliciting offers in respect of the Sales Process Properties or any part or parts thereof and negotiating such terms and conditions of sale as the Interim Receiver in its discretion may deem appropriate;
- (d) to sell, convey, transfer, lease or assign the Sales Process Properties, with the approval of this Court in respect of any such transaction;
- (e) to apply for any vesting orders or other orders necessary or advisable to convey the Sales Process Properties or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting the Sales Process Properties;

(f) to report to, meet with and discuss with Suitor, mortgagees of the Sales Process Properties, and other persons or entities having an interest in any of the Sales Process Properties (collectively, the “**Stakeholders**”) as the Interim Receiver deems appropriate on all matters relating to the Sales Process Properties, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable;

(g) to register a copy of this Order and any other Orders in respect of the Sales Process Properties on title to the Sales Process Properties; and

(h) 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 Interim Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other persons, and without interference from any other person.

10. **THIS COURT ORDERS THAT** the Interim Receiver shall develop a written plan for the sales of the Sales Process Properties in an orderly fashion (the “**Plan of Sale**”) which shall provide for the marketing for sale of the Sales Process Properties.

11. **THIS COURT ORDERS THAT** the Interim Receiver shall be at liberty to retain such professionals and obtain such reports as are necessary to draft and undertake the Plan of Sale.

12. **THIS COURT ORDERS THAT** the Interim Receiver shall solicit marketing proposals from a minimum of three (3) real estate brokers of the Interim Receiver's choosing.

13. **THIS COURT ORDERS THAT** the Stakeholders shall participate to the extent reasonably requested by the Interim Receiver in the marketing and sale of the Sales Process Properties.

14. **THIS COURT ORDERS THAT** for the purpose of the matters set out in this Order, all communications to or from the Interim Receiver, or to or from counsel for any of the Stakeholders, may be by way of email. All notices or documents that this Order requires to be given or delivered to any of the Stakeholders or the Interim Receiver may be delivered to the lawyers for the party or the Interim Receiver entitled to such notice.

15. **THIS COURT ORDERS THAT**, upon request of the Interim Receiver, the Stakeholders shall provide to the Interim Receiver such appraisal or valuation information as relates to the Sales Process Properties that is or may come to be in their possession.

16. **THIS COURT ORDERS THAT** the Interim Receiver is hereby directed and empowered to:

- a) seek, upon at least five (5) business days' notice to the Stakeholders, this Court's direction on such matters as the Interim Receiver deems necessary; and
- b) report to this Court as the Interim Receiver deems appropriate or as this Court directs, in respect of such matters as may be relevant to the proceedings herein.

**Fees, Disbursements, and Borrowings of Interim Receiver and Charges**

17. **THIS COURT ORDERS THAT** the Interim Receiver and counsel to the Interim 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. The fees for the Interim Receiver, and its partners or employees, will be charged at each person's then-prevailing hourly rate.

18. **THIS COURT ORDERS THAT** the Interim Receiver and its counsel shall pass their accounts from time to time, and for this purpose the accounts of the Interim Receiver and its counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. **THIS COURT ORDERS THAT** all costs, fees and disbursements of the Interim Receiver, its counsel, and its agents, be allocated to each of the Sales Process Properties

on such basis as the Court shall determine upon the passing of accounts or at such other time as the Court deems appropriate.

20. **THIS COURT ORDERS THAT** prior to the passing of its accounts, the Interim 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 Interim Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

21. **THIS COURT ORDERS THAT** the reasonable fees and disbursements of the Interim Receiver in connection with its duties and those of advisors and others whom it engages, including the Interim Receiver's counsel, shall be paid out of the proceeds of sale of the Sales Process Properties, subject to further order or direction of the Court.

22. **THIS COURT ORDERS THAT** the Interim Receiver and counsel to the Interim Receiver shall be entitled to and are hereby granted a charge on the Sales Process Properties in the amount of \$250,000 (the "**Sales Process Administrative Charge**"), as security for the payment of (i) the costs of this motion and (ii) their respective fees and disbursements that will accrue from the date hereof onwards, which security shall have priority over all security interests, trusts (including, without limitation, deemed trusts), liens, mortgages, charges and encumbrances, statutory or otherwise, in favour of anyone, but it shall rank on a *pari passu* basis with the Interim Receiver's Charge defined in

paragraph 15 of the Appointment Order, and shall be subordinate in priority to the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 ("**BIA**").

23. **THIS COURT ORDERS THAT** the Interim Receiver be at liberty and it is hereby empowered to borrow by way of a credit facility, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000 in relation to any Sales Process Property and does not exceed \$500,000 in the aggregate (or such greater amounts that 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 Interim Receiver by this Order, including interim expenditures. The whole of the Sales Process Properties shall be and are hereby charged by way of a fixed and specific charge (the "**Sales Process Borrowings Charge**") as security for the payment of the monies borrowed, together with interest, fees and charges thereon, in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of anyone, but it shall rank on a *pari passu* basis with the Interim Receiver's Borrowings Charge defined in paragraph 18 of the Appointment Order, and shall be subordinate in priority to the Sales Process Administrative Charge, the Interim Receiver's Charge defined in paragraph 15 of the Appointment Order, and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the *BIA*.

24. **THIS COURT ORDERS THAT** neither the Sales Process Borrowings Charge nor any other security granted by the Interim Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

25. **THIS COURT ORDERS THAT** the Interim Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “B” to the Appointment Order (the “**Interim Receiver’s Certificates**”), modified as appropriate to reflect its mandate hereunder and the Sales Process Borrowings Charge, for any amount borrowed by it pursuant to this Order.

26. **THIS COURT ORDERS** that the monies from time to time borrowed by the Interim Receiver pursuant to this Order or any further order of this Court and any and all Interim 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 Interim Receiver’s Certificates.

**Limitation of Liability of the Interim Receiver**

27. **THIS COURT ORDERS THAT** the Interim Receiver shall incur no liability or obligation as a result of its appointment or carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Interim Receiver by section 14.06 of the *BIA* or by any other applicable legislation.

28. **THIS COURT ORDERS THAT** nothing herein contained shall vest in the Interim Receiver the ownership of the Sales Process Properties, or the assets or undertaking of the owners of the Sales Process Properties, nor shall it expose the Interim Receiver to any liability under the *Environmental Protection Act* (Ontario), the *Ontario Water Resources Act*, the *Transportation of Dangerous Goods Act* (Canada), the *Canada Environmental Protection Act*, the *Emergency Plans Act* (Ontario), the regulations thereunder, or any similar legislation. The Interim Receiver shall be deemed not to be in possession of the Sales Process Properties under any environmental laws.

**No Proceedings Against the Interim Receiver**

29. **THIS COURT ORDERS THAT** no proceeding or enforcement process in any court or tribunal shall be commenced or continued against the Interim Receiver except with the written consent of the Interim Receiver or with leave of this Court.

**Costs**

30. **THIS COURT ORDERS THAT** the Interim Receiver shall have its costs of this motion on a full indemnity basis to be paid out of the proceeds of sale of the Sales Process Properties.



**No Requirement for Entry or Filing of this Order**

31. **THIS COURT ORDERS THAT** this Order is effective from the date it is made, and it is effective and enforceable without the need for entry or filing.

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**Steele J.**

IN THE MATTER OF THE BANKRUPTCY OF THOMAS DYLAN SUITOR, AN INDIVIDUAL WITH A LOCALITY OF BURLINGTON, ONTARIO

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**ORDER**

**FRED TAYAR & ASSOCIATES**

**Professional Corporation**

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

**FRED TAYAR – LSO No. 23909N**

T: 416-363-1800 ext. 200

E: [fred@fredtayar.com](mailto:fred@fredtayar.com)

**Lawyers for TDB Restructuring Limited**

# Appendix D

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY  
(COMMERCIAL LIST)**

THE HONOURABLE ) \_\_\_\_\_ DAY, THE \_\_\_\_\_  
JUSTICE **KIMMEL-STEELE** ) DAY OF \_\_\_\_\_, 2025

**IN THE MATTER OF THE BANKRUPTCY OF THOMAS DYLAN SUITOR,  
an individual with a locality of Burlington, Ontario**

**ORDER**

**THIS MOTION**, made by the Trustee in Bankruptcy and Court-Appointed Interim Receiver of Thomas Dylan Sutor (“**Sutor**”), TDB Restructuring Limited (“**Interim Receiver**” or “**TDB**”), for an order, *inter alia*:

1. abridging the time for service of the notice of motion and motion record, if necessary;
2. approving the Second Report of the Interim Receiver dated May 16, 2025 (the “**Second Report**”), the Supplement to the Second Report dated May 23, 2025 (“**First Supplement**”), the Second Supplement to the Second Report dated May 30, 2025 (“**Second Supplement**”) (collectively, the “**Reports**”), and the activities and conduct of the Interim Receiver as described therein;
3. authorizing the Interim Receiver to sell the Sales Process Properties (defined below);

4. declaring that TDB shall remain the interim receiver, without security, of all of the property, assets and undertaking of Suitor under the Order of the Honourable Justice Osborne dated October 7, 2024 ("**Appointment Order**") until disposition of Suitor's appeal of the Bankruptcy Order dated March 26, 2025 ("**Bankruptcy Order**") or further Order of the Court;
5. granting charges on the Sales Process Properties to secure (i) the fees and disbursements of the Interim Receiver and those of its counsel and (ii) the borrowings of the Interim Receiver;
6. authorizing the Interim Receiver to redact Confidential Appendix "1" from its Second Report and Confidential Appendices "1" and "2" from the First Supplement, and sealing itthem from the public record until the closing of the sales of the Sales Process Properties or further order of the Court;
7. approving the interim statement of receipts and disbursements of the Interim Receiver and its counsel for the period from October 7, 2024 to May 13, 2025; and
8. approving the fees and disbursements of the Interim Receiver and those of its counsel, as set out in the Second Report and the Fee Affidavits; (defined below);

was heard this day by videoconference at 330 University Avenue, Toronto, Ontario; the issue of the applicant The Fuller Landau Group Inc. ("Fuller")'s costs of the motion for the appointment of the Interim Receiver adjourned to June 16, 2025.

**ON READING** the notice of motion, the ~~Second Report, together with the appendices thereto~~ Reports, the affidavits of Jeffrey Berger and Mindy Tayar as to fees (the "**Fee Affidavits**"), and ~~the Consent of the applicant The Fuller Landau Group Inc. ("Fuller") to~~

~~the making of this Order, filed, and~~ on hearing the submissions of counsel for the Interim Receiver, Fuller, Sutor, and Libro Credit Union Limited, no one else on the Service List appearing although duly served as evidenced by the affidavit of service of Marie Pacheco, filed:

### **Service**

1. **THIS COURT ORDERS THAT** the time for service of the notice of motion and motion record is hereby abridged and validated so that this motion is properly returnable today, and hereby dispenses with further service thereof.

### **Approval of ~~Second Report~~the Reports, Interim Statement of Receipts and Disbursements, and Professional Fees and Disbursements**

2. **THIS COURT ORDERS THAT** the ~~Second Report~~Reports and the activities and conduct of the Interim Receiver as described therein, be and are hereby approved.

**3. THIS COURT ORDERS THAT** the interim statement of receipts and disbursements of the Interim Receiver for the period from October 7, 2024 to May 13, 2025, be and is hereby approved.

**3.4. THIS COURT ORDERS THAT** the fees and disbursements of the Interim Receiver and those of its counsel, as set out in the Second Report and the Fee Affidavits, are hereby approved.

**4.5. THIS COURT ORDERS AND DECLARES THAT** TDB shall remain the interim receiver, without security, of all of the property, assets and undertaking of Sutor under the Appointment Order until disposition of Sutor's appeal of the Bankruptcy Order or further Order of the Court.

**Sealing of Confidential Appendix "1"**

**5.6. THIS COURT ORDERS THAT** the Interim Receiver is authorized *nunc pro tunc*, to redact ~~the~~ Confidential Appendix "1" from its Second Report and Confidential Appendices "1" and "2" from the First Supplement, and that the Confidential ~~Appendix~~Appendices be sealed from the public record until the closing of the sales of the Sales Process Properties or further order of the Court.

**Sale of Properties**

**6.7. THIS COURT ORDERS THAT**, subject to the terms of this Order and further orders of the Court, the properties in the list below (the **"Sales Process Properties"**) shall be sold in the manner described in this Order, subject to approval of the Court:

| <b>Municipal Address</b>                         | <b>PIN</b>                     | <b>Property Description</b>  | <b>Registered Owner</b>               |
|--|--------------------------------|--|---------------------------------------|
| 775 King Rd.,<br>Burlington, Ontario             | 07096-0052<br>(LT)             | PT LT 1 , CON<br>BROKEN FRONT ,<br>PART 1 ,<br>20R11690; CITY<br>OF BURLINGTON | Thomas Dylan Sutor                    |
| 2298 Fassel Ave.,<br>Burlington, Ontario         | 07077-0108<br>(LT)             | PT LT 103 , PL 338<br>, AS IN 791083 ;<br>BURLINGTON                           | Thomas Dylan Sutor                    |
| <del>642 Hamilton Rd.,<br/>London, Ontario</del> | <del>08335-0013<br/>(LT)</del> | <del>LOT 8 PLAN 404<br/>LONDON/LONDON<br/>TOWNSHIP</del>                       | <del>642 Hamilton Road<br/>Inc.</del> |

|   |                                |  |                                       |
|---|--------------------------------|--|---------------------------------------|
| 10 Norfolk St S,<br>Simcoe, Ontario                   | 50225-0112<br>(LT)             | PT LT 1-2 BLK 96<br>PL 182 AS IN<br>NR412200 T/W<br>NR412200;<br>NORFOLK<br>COUNTY   | 10 Norfolk St. Inc.                   |
| <del>164-168 Picton St E,<br/>Hamilton, Ontario</del> | <del>17157-0186<br/>(LT)</del> | <del>PT LT 18-19 PL 61<br/>S/S PICTON ST<br/>BTN MARY ST &amp;<br/>FERGUSON AV AS<br/>IN AB395681<br/>EXCEPT THE<br/>EASEMENT<br/>THEREIN; CITY OF<br/>HAMILTON</del>  | <del>164 Picton St. Inc.</del>        |
| 133 Prospect Ave.<br>Hamilton, Ontario                | 17208-0073<br>(LT)             | LT 87, PL 506 ; PT<br>LT 88, PL 506 , AS<br>IN CD385956, S/T<br>CD385956, IF ANY<br>; HAMILTON   | Prospect Real Estate<br>Holdings Inc. |
| 38 Duncan Ave. S,<br>Kirkland Lake, Ontario           | 61407-0431<br>(LT)             | PCL 1061 SEC<br>CST; LT 48 PL<br>M32TIM TECK<br>SRO; KIRKLAND<br>LAKE ; DISTRICT<br>OF TIMISKAMING   | Commercial Urkel Inc.                 |
| 388 Downie Street,<br>Stratford, Ontario              | 53116-0113<br>(LT)             | LT 17 PL 25<br>STRATFORD; PT<br>LT 18 PL 25<br>STRATFORD AS<br>IN R310549 ;<br>STRATFORD   | 388 Downie St. Inc.                   |
| <del>267 Leslie Street,<br/>Sudbury, Ontario</del>    | <del>02132-0333<br/>(LT)</del> | <del>PCL 3750 SEC SES<br/>LT 27, PLAN M125,<br/>EXCEPT COMM<br/>AT A POINT IN THE<br/>S EASTERN LIMIT<br/>OF SAID LT 27<br/>DISTANT 5.7 FT<br/>FROM THE MOST<br/>SLY ANGLE OF<br/>SAID LT; THENCE<br/>S WLY ALONG<br/>SAID S EASTERN<br/>LIMIT 5.7 FT TO<br/>SAID MOST SLY</del> | <del>Upgrade Housing Inc.</del>       |



|   |                    |  |                                      |
|---|--------------------|--|--------------------------------------|
|   |                    | <del>ANGLE; THENCE<br/>N WLY ALONG<br/>SAID S WESTERN<br/>LIMIT OF SAID LT,<br/>107.0 FT 6 IN TO<br/>THE MOST WLY<br/>ANGLE OF SAID<br/>LT; THENCE N ELY<br/>ALONG THE N<br/>WESTERN LIMIT<br/>OF SAID LT, 2.6<br/>FT; THENCE S ELY<br/>IN A STRAIGHT<br/>LINE TO THE POC.<br/>PLAN ATTACHED<br/>TO 118472, NOW<br/>PCL 20288 S.E.S.<br/>CITY OF<br/>SUDBURY</del> |                                      |
| 207 Ross Street, St.<br>Thomas, Ontario | 35220-0174<br>(LT) | LOT 65 PLAN 86,<br>PART OF LOT 46<br>PLAN 86 AS IN<br>E401586 &<br>E411464; CITY OF<br>ST. THOMAS  | McWhirter-Horvath<br>Properties Inc. |

### **Expanded Powers of the Interim Receiver**

~~7.8.~~ **THIS COURT ORDERS THAT** the Interim Receiver is hereby authorized to conduct a sale of the Sales Process Properties in such a manner as the Interim Receiver, in its discretion, may determine for the purpose of maximizing the recovery upon the sales of the Sales Process Properties.

~~8.9.~~ **THIS COURT ORDERS THAT** the Interim Receiver be and hereby is empowered and authorized, but not obligated, to act at once in respect of the Sales Process Properties and, without in any way limiting the generality of the foregoing, the Interim Receiver is

hereby expressly empowered and authorized to do any of the following where the Interim Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Sales Process Properties and any and all proceeds, receipts and disbursements arising out of or from the Sales Process Properties;
- (b) 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 Interim Receiver's powers and duties, including, without limitation, those conferred by this Order;
- (c) to market any or all of the Sales Process Properties, including advertising and soliciting offers in respect of the Sales Process Properties or any part or parts thereof and negotiating such terms and conditions of sale as the Interim Receiver in its discretion may deem appropriate;
- (d) to sell, convey, transfer, lease or assign the Sales Process Properties, with the approval of this Court in respect of any such transaction;
- (e) to apply for any vesting orders or other orders necessary or advisable to convey the Sales Process Properties or any part or parts thereof to a purchaser or

purchasers thereof, free and clear of any liens or encumbrances affecting the Sales Process Properties;

(f) to report to, meet with and discuss with Suitor, mortgagees of the Sales Process Properties, and other persons or entities having an interest in any of the Sales Process Properties (collectively, the “**Stakeholders**”) as the Interim Receiver deems appropriate on all matters relating to the Sales Process Properties, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable;

(g) to register a copy of this Order and any other Orders in respect of the Sales Process Properties on title to the Sales Process Properties; and

(h) 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 Interim Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other persons, and without interference from any other person.

~~9.~~10. **THIS COURT ORDERS THAT** the Interim Receiver shall develop a written plan for the sales of the Sales Process Properties in an orderly fashion (the “**Plan of Sale**”) which shall provide for the marketing for sale of the Sales Process Properties.

~~10.~~11. **THIS COURT ORDERS THAT** the Interim Receiver shall be at liberty to retain such professionals and obtain such reports as are necessary to draft and undertake the Plan of Sale.

~~11.~~12. **THIS COURT ORDERS THAT** the Interim Receiver shall solicit marketing proposals from a minimum of three (3) real estate brokers of the Interim Receiver's choosing.

~~12.~~13. **THIS COURT ORDERS THAT** the Stakeholders shall participate to the extent reasonably requested by the Interim Receiver in the marketing and sale of the Sales Process Properties.

~~13.~~14. **THIS COURT ORDERS THAT** for the purpose of the matters set out in this Order, all communications to or from the Interim Receiver, or to or from counsel for any of the Stakeholders, may be by way of email. All notices or documents that this Order requires to be given or delivered to any of the Stakeholders or the Interim Receiver may be delivered to the lawyers for the party or the Interim Receiver entitled to such notice.

~~14.~~15. **THIS COURT ORDERS THAT**, upon request of the Interim Receiver, the Stakeholders shall provide to the Interim Receiver such appraisal or valuation information as relates to the Sales Process Properties that is or may come to be in their possession.

~~15.~~16. **THIS COURT ORDERS THAT** the Interim Receiver is hereby directed and empowered to:

- a) seek, upon at least five (5) business days' notice to the Stakeholders, this Court's direction on such matters as the Interim Receiver deems necessary; and
- b) report to this Court as the Interim Receiver deems appropriate or as this Court directs, in respect of such matters as may be relevant to the proceedings herein.

**Fees, Disbursements, and Borrowings of Interim Receiver and Charges**

~~16.~~17. **THIS COURT ORDERS THAT** the Interim Receiver and counsel to the Interim 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. The fees for the Interim Receiver, and its partners or employees, will be charged at each person's then-prevailing hourly rate.

~~17.~~18. **THIS COURT ORDERS THAT** the Interim Receiver and its counsel shall pass their accounts from time to time, and for this purpose the accounts of the Interim Receiver and its counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

~~18.~~19. **THIS COURT ORDERS THAT** all costs, fees and disbursements of the Interim Receiver, its counsel, and its agents, be allocated to each of the Sales Process Properties

on such basis as the Court shall determine upon the passing of accounts or at such other time as the Court deems appropriate.

~~19-20.~~ **THIS COURT ORDERS THAT** prior to the passing of its accounts, the Interim 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 Interim Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

~~20-21.~~ **THIS COURT ORDERS THAT** the reasonable fees and disbursements of the Interim Receiver in connection with its duties and those of advisors and others whom it engages, including the Interim Receiver's counsel, shall be paid out of the proceeds of sale of the Sales Process Properties, subject to further order or direction of the Court.

~~21-22.~~ **THIS COURT ORDERS THAT** the Interim Receiver and counsel to the Interim Receiver shall be entitled to and are hereby granted a charge on the Sales Process Properties in the amount of \$250,000 (the "**Sales Process Administrative Charge**"), as security for the payment of (i) the costs of this motion and (ii) their respective fees and disbursements that will accrue from the date hereof onwards, which security shall have priority over all security interests, trusts (including, without limitation, deemed trusts), liens, mortgages, charges and encumbrances, statutory or otherwise, in favour of anyone, but it shall rank on a *pari passu* basis with the Interim Receiver's Charge defined in

paragraph 15 of the Appointment Order, and shall be subordinate in priority to the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 ("**BIA**").

~~22.~~23. **THIS COURT ORDERS THAT** the Interim Receiver be at liberty and it is hereby empowered to borrow by way of a credit facility, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000 in relation to any Sales Process Property and does not exceed \$500,000 in the aggregate (or such greater amounts that 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 Interim Receiver by this Order, including interim expenditures. The whole of the Sales Process Properties shall be and are hereby charged by way of a fixed and specific charge (the "**Sales Process Borrowings Charge**") as security for the payment of the monies borrowed, together with interest, fees and charges thereon, in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of anyone, but it shall rank on a *pari passu* basis with the Interim Receiver's Borrowings Charge defined in paragraph 18 of the Appointment Order, and shall be subordinate in priority to the Sales Process Administrative Charge, the Interim Receiver's Charge defined in paragraph 15 of the Appointment Order, and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the *BIA*.

~~23-24.~~ **THIS COURT ORDERS THAT** neither the Sales Process Borrowings Charge nor any other security granted by the Interim Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

~~24-25.~~ **THIS COURT ORDERS THAT** the Interim Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “B” to the Appointment Order (the “**Interim Receiver’s Certificates**”), modified as appropriate to reflect its mandate hereunder and the Sales Process Borrowings Charge, for any amount borrowed by it pursuant to this Order.

~~25-26.~~ **THIS COURT ORDERS** that the monies from time to time borrowed by the Interim Receiver pursuant to this Order or any further order of this Court and any and all Interim 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 Interim Receiver’s Certificates.

**Limitation of Liability of the Interim Receiver**

~~26-27.~~ **THIS COURT ORDERS THAT** the Interim Receiver shall incur no liability or obligation as a result of its appointment or carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Interim Receiver by section 14.06 of the *BIA* or by any other applicable legislation.



~~27.~~28. **THIS COURT ORDERS THAT** nothing herein contained shall vest in the Interim Receiver the ownership of the Sales Process Properties, or the assets or undertaking of the owners of the Sales Process Properties, nor shall it expose the Interim Receiver to any liability under the *Environmental Protection Act* (Ontario), the *Ontario Water Resources Act*, the *Transportation of Dangerous Goods Act* (Canada), the *Canada Environmental Protection Act*, the *Emergency Plans Act* (Ontario), the regulations thereunder, or any similar legislation. The Interim Receiver shall be deemed not to be in possession of the Sales Process Properties under any environmental laws.

#### **No Proceedings Against the Interim Receiver**

~~28.~~29. **THIS COURT ORDERS THAT** no proceeding or enforcement process in any court or tribunal shall be commenced or continued against the Interim Receiver except with the written consent of the Interim Receiver or with leave of this Court.

#### **Costs**

~~29.~~30. **THIS COURT ORDERS THAT** the Interim Receiver shall have its costs of this motion on a full indemnity basis to be paid out of the proceeds of sale of the Sales Process Properties.

~~30. THIS COURT ORDERS THAT Fuller, in its capacity as receiver and manager of the property, assets and undertaking of The Lion's Share Group Inc., shall have its costs of the motion for the appointment of the Interim Receiver on a full indemnity basis to be paid out of the proceeds of sale of the Sale Process Properties and shall have the benefit of~~

~~the Sales Process Administrative Charge in respect of such amounts provided that such entitlement shall be subordinate to the interests of all valid and enforceable mortgage debt registered on title to the Sales Process Properties.~~

**No Requirement for Entry or Filing of this Order**

31. **THIS COURT ORDERS THAT** this Order is effective from the date it is made, and it is effective and enforceable without the need for entry or filing.

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**Kimme!Steele J.**

IN THE MATTER OF THE BANKRUPTCY OF THOMAS DYLAN SUITOR, AN INDIVIDUAL WITH A LOCALITY OF BURLINGTON, ONTARIO

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**ORDER**

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