



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00740765-00CL

DATE: September 18, 2026

NO. ON LIST: 2

TITLE OF PROCEEDING: UBC SOLUTIONS INCORPORATED v. 1680 BRIMLEY LIMITED
PARTNERSHIP et al

BEFORE: JUSTICE J. DIETRICH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

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For Defendant, Respondent, Responding Party:

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For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
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ENDORSEMENT OF JUSTICE J. DIETRICH

- [1] TDB Restructuring Limited the court-appointed receiver of the real property municipally known as 1680 Brimley Road, Scarborough, Ontario (the “**Real Property**”) and all other property of the respondents, 1680 Brimley Limited Partnership (“**1680**”), 2808908 Ontario Inc. (“**280**”) and Brimley Progress Developments Inc. (the “**Nominee**”, and together, the “**Debtors**”) seeks the following relief:
- (a) approval of the Receiver’s sales process for the Real Property;
 - (b) an order that Hansalex Corp. (“**Hansalex**”) pay \$24,941,549.49 to the receivership estate;
 - (c) an order compelling the Debtors to deliver their books and records and grant access to their servers for imaging;
 - (d) an order approving a lien claims process;
 - (e) an order authorizing Definity Insurance Company, HDI Global SE – CAB, Liberty Mutual Insurance Company, XL Specialty Insurance Company and Catlin Canada, Intact Insurance Company, and Marsh Canada Limited (for Lloyds of London) (together, the “**Insurance Companies**”) to pay unearned premiums to CAFO Insurance (“**CAFO**”);
 - (f) approval of the Receiver’s First Report dated June 30, 2026 (the “**First Report**”) and the Receiver’s Supplement to the First Report dated July 27, 2026 (the “**Supplement to the First Report**”), and the activities of the Receiver as set out therein;
 - (g) approval of the fees and disbursements of the Receiver and its counsel;
 - (h) an order increasing the Receiver’s borrowing charge under paragraph 20 of the Appointment Order from \$500,000 to \$1,000,000; and
 - (i) an order sealing Confidential Appendices 1 and 2 to the First Report and Confidential Appendix “1” to the Supplement to the First Report (together, the “**Confidential Appendices**”).
- [2] The Debtors oppose the approval of Receiver's sales process, the request that Hansalex be ordered to pay \$24,941,549.49 to the receivership estate, the order that the Receiver be permitted unrestricted access to comingled books and records of the Debtors and third parties; and to a limited extend approval of the

First Report and the activities of the Receiver set out therein as well as approval of the Receiver and its counsel's fees. Further, the Debtors request an order sealing confidential exhibits A and B to the affidavit of Hans Jain sworn July 20, 2026 (the "**Confidential Exhibits**"). The sealing request is not opposed.

- [3] Defined terms used but not otherwise defined herein have the meaning set out in the factum of the Receiver filed for use on this motion.
- [4] I will first address the unopposed relief.

Construction Lien Claims Process

- [5] For context, the Debtors are Ontario entities formed to acquire, hold and develop the Real Property. The Real Property is approximately 4.42 acres of vacant development land at 1680 Brimley Road, Scarborough (PIN 06000-0540 (LT)). Pre-receivership, the Debtors were pursuing a high-density, mixed-use residential development (the "**Brimley Project**") contemplating four mixed-use residential towers comprising approximately 1,591 residential dwelling units, approximately 29,602 sq ft of retail floor area, and an approximately 8,681 sq ft childcare facility.
- [6] Pursuant to a Credit Agreement dated September 29, 2023 (as amended), the Lender advanced a land loan of \$70,000,000 (the "**Land Loan**"). The Security includes a first mortgage/charge of \$80,000,000 registered against title. first-ranking security over all of the Debtors' current and after acquired property pursuant to three (3) general security agreements dated September 29, 2023, and a general assignment of rents and leases.
- [7] The Debtors failed to repay on maturity and failed to make required payments. As of May 12, 2025, the indebtedness was approximately \$80,449,071.35, with interest accruing at 18.00% per annum.
- [8] Five construction liens are registered against title to the Real Property, totaling \$4,166,612.41. The Receiver proposes a structured Lien Claims Process including a vetting and review process, a dispute mechanism and recommendations to the Court. The holders of registered construction lien claimants have been served, their comments have been incorporated into the draft order sought and do not oppose the relief requested. I am satisfied that the relief sought is appropriate and is consistent with other Orders of this Court: see *KEB Hana as Trustee v. Mizrahi Commercial (THE ONE) LP et al.*, 2024 ONSC 1678 (CanLII).

Unearned Insurance Premiums

- [9] CAFO financed premiums on certain insurance policies maintained by the Debtors. Following cancellation of certain policies, CAFO asserted an entitlement to any unearned insurance premiums that may be payable by the insurers and that the premiums did not form part of the property of the Debtors. The Receiver has reviewed the agreements relating to the premiums CAFO financed, obtained a legal opinion that CAFO holds a priority claim to the unearned insurance premiums, and received confirmation from the Lender that it does not assert a claim to the unearned premiums.
- [10] CAFO proposed that it will collect the unearned premiums from insurers, apply unearned premiums to the outstanding debt owed to it, and deliver any balance to the Receiver. There is no opposition to this approach and I am satisfied it is appropriate in the circumstances.

Receiver's Borrowings

- [11] Pursuant to paragraph 20 of the Appointment Order, the Receiver was empowered to borrow up to \$500,000 for the purpose of funding the receivership. To the date of the First Report, the Receiver had borrowed \$350,000. The Receiver has not fully utilized the borrowings permitted pursuant to the Appointment Order however it continues to incur costs in connection with maintenance and preservation of the Real Property and the administration of these proceedings and anticipates further significant expenses. The Receiver requests an increase to \$1,000,000. The Lender is supportive of this request and I am satisfied it is appropriate in the circumstances.

Sealing

- [12] The limited sealing order being sought is necessary to preserve the Receiver's ability to maximize the value of the Real Property. I am satisfied that the requested sealing order for the Confidential Appendices to the First Report and the Confidential Exhibits meets the test in *Sherman Estate v. Donovan* 2021 SCC 25 at para 38 and that disclosure of this information would pose a risk to the public interest in enabling stakeholders of a company in receivership to maximize the realization of assets. The Receiver is directed to follow the applicable guidelines for the filing of sealed material with the court, and to eventually apply, at the appropriate time, for an unsealing order, if necessary.
- [13] As noted above, the remaining relief was opposed by the Debtors.

Books and Records

- [14] The history of the matter set out in the First Report shows repeated requests by the Receiver for books and records from the Debtors. The obligation to provide the Receiver with books and records is already contained in the order appointing the Receiver.
- [15] Many of the books and records appear to be on a shared server and co-mingled with books and records from other corporations who have the same directors as the Debtors and which are related to Atria. The Debtors have raised concerns as well that the records also contain certain privileged information. They have proposed that a third party be retained to review the records and provide records relating to the Debtors to the Receiver (subject to claims of privilege).
- [16] Both parties rely on the unreported decision of Penny J. in the Matter of the Bankruptcy of Creative Wealth Media Finance Corp dated March 6, 2024 at para 20-24 [**Creative Wealth**].
- [17] As discussed with counsel at the hearing, given the claims for privilege, I agree that a third party should be retained to first review the records and provide the records relating to the Debtors to the Receiver. As in Creative Wealth, Atria and the Debtors have chosen to structure their affairs in this way and at this point are to bear 50% of the costs, without prejudice to the Receiver making submissions that they should bear 100% of the costs after a review of the records. Atria is to pay upfront an estimate of its 50% share of the costs.
- [18] As discussed during the hearing, counsel are working on a form of order which can be signed at the case conference scheduled for October 6, 2026 as discussed below.

Sale Process

- [19] During the hearing I raised concerns about the request for approval of the Sale Process. To the extent the Sale Process has been completed, the request for approval is more properly made in the context of the request for approval of the First Report and the activities of the Receiver set out therein.
- [20] That is distinct from approval of a sale process to be carried out by the Receiver in the future.
- [21] The Receiver says that what is proposed going forward is that the Real Property remain listed on MLS with CBRE. However, at the same time, it is possible that certain of the books and records to be produced (as noted above) may influence the proposed sale process. The Debtors have also provided reports from other real estate brokers asking basic questions about the CBRE process that have not been responded to by the Receiver.
- [22] Given the outstanding information, I am not prepared to approve a future sale process that consists of continuing the MLS listing already in place at this time. In saying this, I should not be taken to agree with the Respondents' position that simply because the listing process has not obtained actionable offers to date it is insufficient. It may be that is the appropriate path forward, however, I do not have evidence before me to support this request. Rather, concerns have been raised about CBRE's sale process (including where it advertised, pictures of the wrong property being posted and the involvement of UBC as lender in the process) that should be addressed. The Receiver has advised they will provide a report responding to these concerns and updating their recommendation for next steps in the sale process.
- [23] In this regard, as an officer of the Court, I expect that the Receiver has and will continue to consult with relevant stakeholders in the ordinary course, including as appropriate representatives of the Debtors.

Approval of First Report

- [24] The request to approve the First Report and the supplement thereto is not unusual and there are good policy and practical reasons for doing so: see *Target Canada Co. (Re)*, 2015 ONSC 7574 at paras. 2, 12, 22. The observations in those cases while made in the context of a *Companies' Creditors Arrangement Act* proceeding apply to the activities of a court appointed receiver: see *Triple-I Capital Partners Limited v 12411300 Canada Inc*, 2023 ONSC 3400 at para 66.
- [25] In discussing the approval of the First Report and the activities of the Receiver set out therein, a key issue raised by the Respondents is the Receiver's conduct as it relates to the CMHC Certificates of Insurance. The parties agreed that additional evidence was required to fully understand the Receiver's activities in that regard. As a result, the approval of the First Report and the Receiver's conduct is without prejudice to positions that any person may take in the future regarding CMHC Certificates of Insurance. As well, the approval of the conduct to date does not restrict the Debtors from suggesting that the sale process to be followed hereafter should not follow what has already been approved or create any presumption that it should.

Approval of Fees

- [26] The Receiver also seeks approval of the fees and disbursements of itself and its legal counsel, as set out in fee affidavits attached to the First Report. In this respect, as the Court of Appeal for Ontario held in *Bank of Nova Scotia v Diemer* 2014 ONCA 851 at paras 33 and 45, this Court does not undertake a line-

by-line analysis of the invoices. Rather, the guiding principles on fee approvals of this nature are whether the fees are fair, reasonable, and proportionate given the value of the property and liabilities as well as the complexity of the proceeding. In considering these guiding principles, the fees of the Receiver and its counsel are appropriate and are approved. Given the comments above regarding the approval of the First Report, counsel to the Respondents indicated it took no position on approval of the fees.

Request for an Order that Hansalex Pay \$24,941,549.49

- [27] I am not prepared to grant the relief requested by the Receiver at this time. However, I am also not prepared to dismiss the motion as requested by the Debtors.
- [28] I am simply not satisfied with the status of the record before the Court with respect to this issue. The Debtors argue the motion should be dismissed given, in their submissions, the Receiver has not met its burden as required under the *Fraudulent Conveyances Act*. My concern is that the relevant information has not been provided to the Receiver by the Debtors as required by the order appointing the Receiver.
- [29] As an example, the Receiver notes that approximately \$15 million was transferred from the Debtors' bank accounts to the account of Hansalex in the week before the Receivership order. However, the transfer was made by \$500,000 being repeatedly deposited into the Debtors' account and then being repeatedly transferred to Hansalex. I have no explanation for this repeated transfer before me. The Debtors baldly state it was an accounting entry (which I have concerns with given money actually moved), but it is not clear where the funds came from or why.
- [30] It may be that production of the books and records noted above will assist, but in the meantime the Receiver is to provide a list of questions regarding the transfers to counsel for the Respondents by September 25th, 2026. The timeline for responses can be addressed at the October 6, 2026 case conference, or if answered prior to the case conference, next steps in the matter can be addressed.
- [31] Going forward, it is important that the Receiver also serve Hansalex with material regarding this relief.

Disposition

- [32] Orders to go in the form signed by me this day.
- [33] As noted above, a further case conference is scheduled before me at **9:00 am on October 6, 2026** to address the outstanding issues regarding the payments to Hansalex and the books and records and



Justice J. Dietrich

Date: Sep 18, 2026