Court File No. CV-25-00740765-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

UBC SOLUTIONS INCORPORATED

Applicant

\- and -

1680 BRIMLEY LIMITED PARTNERSHIP, 2808908 ONTARIO INC. and BRIMLEY PROGRESS DEVELOPMENTS INC.

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF* JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED

REDACTED RESPONDING FACTUM OF THE RESPONDENTS

(Motion Returnable September 18th, 2026)

Date: September 10th, 2026

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PART I – OVERVIEW

1. This factum is submitted on behalf of 1680 Brimley Limited Partnership, 2808908 Ontario Inc. (“**280**”), and Brimley Progress Developments Inc. (“**Brimley Inc.**”) (collectively, the “**Respondents**”), in opposition to or expressing concerns related to the following relief (collectively, the “**Contested Relief**”) sought by TDB Restructuring Limited (in such capacity, the “**Receiver**”) in its motion returnable September 18, 2026, including:

   (a) approval of the sale process conducted to date and to be conducted hereafter with respect to the marketing and sale of 1680 Brimley Project (as defined below);

   (b) demanding payment of $24,941,549.49 from Hansalex Corporation (“**Hansalex**”);

   (c) allowing the Receiver unrestricted access to commingled records which include records of the debtors and records of third parties; and

   (d) unrestricted approval of the Receiver’s activities and conduct as set out in the First Report of the Receiver dated June 29, 2026 (“**First Report**”) and Supplementary Report dated July 27, 2026 (“**Supplementary Report**”) and related fees.[1]

2. The Receiver’s approach to this sale process has not adequately protected the value of the assets nor generated a reliable test of value. For more than a year, the Receiver has controlled the sale of this Property (as defined below), without prior Court approval or direction, and the process has produced no viable offer. The Receiver’s insistence on continuing the same unsuccessful process, despite contrary professional evidence

[1] The Respondents take no position on the balance of the relief sought by the Receiver on its motion.

supporting a different course, and its reluctance to seek review by this Court gave rise to this motion.[2] The Respondents nonetheless submit that, at a minimum, a more robust approach to the sale process is necessary going forward.

3. The Respondents are also concerned about the loss of the Canada Mortgage and Housing Corporation ("**CMHC**") certificates of insurance (the "**COIs**"). Despite repeated warnings from the Respondents, the Receiver allowed the COIs to lapse during its appointment. The Receiver's conduct in failing to preserve the COIs may require further review, depending on the outcome of the sale process. It is premature for the Court to approve that conduct when its consequences have not yet crystallized. The Court should defer approval of the Receiver's activities until it can assess the consequences of the loss of the COIs and the outcome of the sale process.

4. The ongoing role of UBC also requires, in the Respondents' submission, proactive steps by the Receiver to isolate UBC in the sale process, which it admits it has not yet taken.[3] The evidence shows that UBC has been given access to bids, has influenced the design of the sale process, and the selection of CBRE Limited ("**CBRE**") as listing agent, and has acted in a manner that strongly suggests it intended to participate as a bidder without publicly declaring that fact.[4] UBC should be permitted to bid, but it must remain "outside of the tent" while considering whether and how to do so. Uncertainty about UBC's role and possible credit bid likely chills the market, creating doubt about whether a meaningful competitive bid could succeed.

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[2] Formal Responses to Interrogatories Directed to the Receiver, TDB Restructuring Inc. ("**Interrogatory Responses**") to Questions 3 & 38.
[3] Interrogatory Responses to Question 26.
[4] Interrogatory Responses to Questions 26-27, 30-31.

5. There should be no issue with the books and records, but the receiver has been very rigid in its approach. The Respondents do not object to delivering their books and records to the Receiver and have acknowledged since April 2026 their obligation and willingness to do so, if not before.[5] However, because those books and records are commingled with third-party records (which the Receiver does not deny), the Respondents have repeatedly offered to deliver the commingled records to a third party that can segregate them and then provide the Receiver with the Respondents' books and records.[6] The Receiver has refused to do so.

6. The allegation that the transfers from the Respondents to Hansalex are fraudulent is not supported by the record and should be dismissed. The Receiver has failed to establish that the Hansalex transactions were fraudulent conveyances. The record shows that either the funds the Receiver seeks to pursue were transferred before UBC financed the Brimley Project or were not funds belonging to the Respondents.[7] The Respondents submit that the evidence does not establish a loss to creditors or an intent on their part to defeat, hinder, or delay creditors or evidence of other harm to creditors. The Receiver has sought no evidence from Hansalex, which is not a respondent or otherwise a party to this proceeding.

7. The Respondents submit that the correct course of action to be ordered by this court on the contested issues is as follows:

   (a) The Receiver should be required to consult with the Respondents in designing a sale process that accounts for input from the Respondents and their experts. At a

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[5] Responding Motion Record of 1680 Brimley Limited Partnership, 2808908 Ontario Inc. & Brimley Progress Developments Inc., dated July 17, 2026 ("**RMR**"), Tab 1, Affidavit of Hans Jain sworn July 16, 2026 ("**July 16 Affidavit**") at paras 27,100, 102, Exhibit "D" pp. 42-43,47.
[6] RMR, Tab 1, July 16 Affidavit, at paras 104, Exhibit "D" pp. 42-43,47.
[7] RMR, Tab 1, July 16 Affidavit at paras 93-95, Exhibit "L" at p. 95.

minimum, the process should establish a bid deadline, replace CBRE as listing agent, and provide guidelines governing UBC's participation in and influence over the sale process;

(b) The Receiver's conduct and activities described in the First Report and Supplement Report should not be approved insofar as they relate to the sale process. Any order should expressly be without prejudice to any party's ability to review the impact of the loss of the COIs. The Receiver's evidence on this issue is thin and has not been forthcoming. The information it has provided appears in the Supplementary Report and in responses to written questions relating to the First Report and the Supplementary Report. The record on this issue is not complete, and the impact of the loss of the COIs is not fully understood;

(c) The demand for payment from Hansalex should be dismissed; and

(d) The Respondents' imaged hard drives should be provided to a third party, selected by the Receiver and the Respondents, acting reasonably, who can review and segregate the Respondents' books and records from those of other related companies, as was done in other matters described below.

8. The Respondents also seek a sealing order with respect to the confidential appendices "A" and "B" appended to the affidavit of Hans Jain sworn July 20, 2026 ("**July 20 Affidavit**").

PART II – FACTS

A. The Parties and the Property

9. Atria Development Corporation ("**Atria**") is a vertically integrated condominium and purpose-built rental real estate development company active throughout the Greater Toronto Area and across southern and central Ontario.[8] Hans Jain is Atria's President and the sole director of 280 and Brimley Inc. Over more than 30 years, Mr. Jain has personally participated in every stage of the development life cycle, including land acquisition and planning of large-scale residential development projects through several interrelated companies.[9]

10. The Respondents oversaw the Brimley Project (as defined below) at the property municipally known as 1680 Brimley Road, Scarborough (PIN 06000-0540) (the "**Property**"). The Brimley Project is a two-phase, four-tower development located on the southwest corner of Brimley Road and Progress Avenue, situated on approximately 4.4 acres, and zoned for 1,591 residential units with the expectation that the unit count will increase to 1,900 upon approval of a minor variance together with ground-related retail (the "**Brimley Project**"). Before the receivership, the Brimley Project had site plan approval, building permits, and significant development and construction work had already begun.[10]

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[8] RMR, Tab 1, July 16 Affidavit at para 9.
[9] RMR, Tab 1, July 16 Affidavit at paras 10-14.
[10]RMR, Tab 1, July 16 Affidavit at paras 14-16.

11. On the application of UBC Solutions Incorporated ("**UBC**"), TDB Restructuring Limited was appointed as Receiver over the Property on September 10, 2025, by order of Justice Dietrich (the "**Appointment Order**").[11]

B. The Sale Process

12. After its appointment in September 2025, the Receiver retained CBRE on January 16, 2026 (in consultation with UBC) and commenced a seven-week sale process with an "offer not before" deadline of March 26, 2026.[12] The Respondents were not consulted before the sale process began and were unaware that it had commenced.[13] The Receiver did not seek the Court's approval before commencing the process. When the Respondents learned of it in March 2026, they expressed concerns about various aspects of the sale process, as discussed below. The Respondents encouraged the Receiver to seek advice and direction from the Court, but the Receiver refused.

13. The Receiver now seeks approval of its sale process and the "remaining steps" after the Respondents scheduled a case conference before this Court to seek a motion to review the sale process. The "remaining steps" for which the Receiver now seeks approval appear limited to keeping the Property listed with CBRE without any enhancement to the sale process and do not address the Respondents' concerns.[14]

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[11] MR, Tab 1, First Report, Appendix A: Appointment Order, pp 47-64.
[12] MR, Tab 1, First Report, paras 44 and 47; Supplementary Report, Confidential Appendix 1& Appendix "E"; Formal Interrogatory, response to Question 7.
[13] RMR, Tab 1, July 16 Affidavit at para 19.
[14] Interrogatory Responses to Questions 1-3.

I. CMHC COIs

14. Prior to the appointment of the Receiver, the Respondents secured insured funding from the Canada Mortgage and Housing Corporation ("**CMHC**") through two COIs: one for $376.7 million for the construction phase and a further COI under which the loan would be topped up to $446.3 million upon stabilization.[15] The Respondents took approximately 15 months to procure the COIs, the largest CMHC-insured financing granted in Canada under the MLI Select program in 2025.[16] The COIs were scheduled to expire on March 9, 2026 unless steps were taken to preserve them.[17]

15. The COIs insure lenders against losses from borrower default. As a result, lenders may offer longer amortization periods, lower borrowing costs, and reduced equity and capital requirements. This requires significant due diligence by CMHC, a Crown corporation, which, in turn, enhances financing and construction prospects once COIs are obtained.

16. The COIs were allowed to lapse during the Receiver's appointment, despite repeated warnings from the Respondents.[18] At a minimum, Mr. Jain warned the Receiver in correspondence on three separate occasions: September 24, 2025, November 4, 2025, and March 9, 2026, raising concerns about preserving the COIs and the Brimley Project's value.[19] The Receiver dismissed those concerns. In its November 6, 2025, email, responding to a request to meet about this issue, the Receiver stated that unless Mr. Jain

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[15] RMR, Tab 1, July 16 Affidavit at para 57.
[16] RMR, Tab 1, July 16 Affidavit at paras 52-57.
[17] RMR, Tab 1, July 16 Affidavit at para 66.
[18] RMR, Tab 1, July 16 Affidavit at paras 19, 24, Exhibit "E" (September 24, November 4, and March 9 correspondence) at pp. 50-55.
[19] RMR, Tab 1, July 16 Affidavit at para 30 and Exhibit "E" (September 24, November 4, and March 9 correspondence).

could redeem UBC's security, there was no utility in meeting with him.[20] The Receiver "did not consider the potential preservation of the financing instrument [being the COIs] to be sufficient utility to warrant a meeting" with Mr. Jain.[21]

17. The Receiver has provided no compelling explanation for allowing this to happen despite having multiple options to prevent this outcome.[22] It did not discuss with CMHC or CBRE Capital (Canada) Inc. ("**CBRE Capital**") how to market the COIs effectively.[23] Finally, on February 25, 2026, the Receiver apparently, for the first time, discussed extending the COIs with CMHC. CMHC advised that any extension request had to be submitted through CBRE Capital.[24] CBRE Capital, a CBRE-affiliated mortgage brokerage, acted for the Respondents and UBC in obtaining the COIs.[25]

18. The Receiver requested an extension from CMHC only after commencing its seven-week sale process, which incidentally set the deadline for offers after the COIs were set to expire.[26] The Receiver did not attend court to seek direction on how to deal with the COIs or to consider how the deadline might be extended, either consensually or by imposing a stay or other remedies that might prevent termination of this key asset for the benefit of creditors.

19. The Receiver considered it inappropriate to seek direction or other relief and chose not to seek any remedy, with the result that the COIs expired.[27] The Receiver also did not consider

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[20] Supplementary Report at Appendix "E"; Interrogatory Responses to Question 15.
[21] Interrogatory Responses to Question 15.
[22] Interrogatory Responses to Questions 10-12.
[23] Interrogatory Responses to Question 9.
[24] Supplementary Report, Appendix "E" – Email from Nisan Thurairatnam to Jeff Hurley & Jessica Harland on February 25, 2026.
[25] RMR, Tab 1, July 16 Affidavit at para 55.
[26] Interrogatory Responses to Questions 1-3, 10-12.
[27] Interrogatory Responses to Questions 10-12.

whether the COIs could have been preserved by allowing bidding parties to use a reverse vesting order structure. It refused to answer questions about this approach.[28]

20. There is limited evidence that the Receiver marketed the Property in a manner that highlighted the benefit of the COIs[29], although there is evidence that UBC sought to have the COIs assigned to it as part of its undeclared effort to take over the project.[30]

II. Deficiencies in the Sale Process and Independent Opinions

21. The Receiver substituted CBRE's opinion for its own business judgment on how to conduct the sale process. The Respondents retained two similar agencies, Avison Young, Land Services Group ("**Avison**") and Colliers Project Consulting and Investment Group ("**Colliers**"), to review the process undertaken by CBRE and to advise on its appropriateness. Avison and Colliers have credentials equal to CBRE's, and both have sold properties similar to the Brimley Project.[31]

22. Both Avison and Colliers identified material deficiencies in CBRE's marketing and recommended a court-approved sale process. Their opinions explain why the sale process to date cannot be treated as a reliable measure of value[32]:

(a) The Property was not listed on the Receiver's or CBRE's website;

(b) CMHC financing information was either omitted from the marketing materials or only one of the two COIs was referenced. Avison confirmed that only one COI was

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[28] Interrogatory Responses to Question 11.
[29] Confidential Affidavit of Hans Jain sworn July 20th, 2026: Confidential Appendices A and B
[30] RMR, Tab 1, July 16 Affidavit at paras 74-78.
[31] Confidential Affidavit of Hans Jain sworn July 20th, 2026: Confidential Appendices A and B
[32] Confidential Affidavit of Hans Jain sworn July 20th, 2026: Confidential Appendices A and B

included, while Colliers noted that information about the COIs could add value to potential purchasers;

(c) The data room contained photographs labelled “436 Markham Photos”—photographs from a different property that were included in error;

(d) Marketing was limited to GTA-area developers, although a project of this scale warranted national and international exposure. Colliers cited, among other examples, the Singapore-based GIC acquisition of InterRent REIT and the comparable sale of 215 Lakeshore Boulevard to a British Columbia-based developer as examples of the broader market that should be reached;

(e) An arbitrary bid deadline of March 26, 2026, was imposed after the COIs expired, without prior Court approval of a sale process or a formal marketing plan approved by the Court. Avison confirmed that the marketing materials were inadequate and stated that proper marketing might have identified an established CMHC borrower capable of replacing UBC’s guarantee and thereby preserving the COIs.[33]

23. Counsel for the Respondents was given an opportunity to review a confidential summary of the offers, as has the Court. It is submitted that the summary supports the Respondents' concerns.[34]

24. The Receiver’s April 7, 2026, letter also did not address the Respondents’ concerns about consultation and disclosure.[35]

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[33] Confidential Affidavit of Hans Jain sworn July 20th, 2026: Confidential Appendices A and B

[34] Supplement to the First Report dated July 27, 2026 (“**Supplementary Report**”), Confidential Appendix “1”.

[35] RMR, Tab 1, July 16 Affidavit at paras 73-78 and para 24, Exhibit “B”; Interrogatory Responses to Questions 22 and 25-31.

25. [redacted].[37]

26. UBC also actively solicited various trades and forwarded tender documents and architectural plans for pricing in anticipation of its eventual credit bid, as if it were already the owner or intended to become the owner.[38]

D. The Hansalex Transfers

27. The Receiver identified a series of transactions on September 3 and 4 2025 that appeared to show that approximately $15,618,037.97 was being transferred out of 280. It flagged the transactions and wrote to the Respondents, admitting that it did not know what the transfers were and asking for an explanation.[39]

28. The Receiver's assumption that $15,618,037.97 had been transferred out of the company and away from creditors is incorrect. The Receiver failed to note that, on August 31, 2025, the subject account balance was only $426.40. As of September 5, 2025, the balance was $26.40. The account never had a balance remotely close to $15 million. The amount therefore could not have been transferred away to the detriment of any creditor.[40]

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[36] Written Interrogatory, response to Question 27; Supplementary Report, Confidential Appendix 1.
[37] Written Interrogatory, response to Question 30.
[38] RMR, Tab 1, July 16 Affidavit at para 76.
[39] RMR, Tab 1, July 16 Affidavit at para 86,89, Exhibit "I" at pp. 85-87.
[40] MR, Tab 1, First Report at para 71, Appendix "M" at pp. 132-133; RMR, Tab 1, July 16 Affidavit at para 92, Exhibit "J" at pp. 8.

29. In reality, a series of same-day bookkeeping transactions occurred in which the same $500,000 amount was deposited and withdrawn repeatedly. At no time was the account balance materially greater than $500,000, and at the end of the transactions, the account has essentially returned to its starting balance.[41]

30. The Respondents' explanation is set out in the July 16 Affidavit at paras 86-99. The July 16 Affidavit describes the transfers and internal bookkeeping movements tied to existing intercompany obligations. It does not, as the Receiver alleges, represent a transfer of $15,618,037.97 out of the Respondents. The amount transferred out was offset by the same amount transferred into the Respondents.[42]

31. The Receiver's June 5 letter acknowledged that it did not understand the transfers and requested supporting records. The Receiver did not examine Mr. Jain or any Hansalex representative regarding the transfers.[43] Despite knowing about this issue since its appointment in September 2025, the Receiver took no steps regarding the transfers until June 2026, after the Respondent asked for a review of the sale process.

32. The transfers comprising the remaining balance of the approximately $24 million being sought by the Receiver occurred before 2023. As such, they occurred before UBC made any advances to the Respondents, and none of UBC's capital could have been misdirected.[44] The Receiver has led no evidence in respect of these transfers and has no evidence of the Respondents' financial position at the time. Again, the Receiver asked no

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[41] RMR, Tab 1, July 16 Affidavit at paras 90-91, 93, Exhibit "K" at pp. 90-92.
[42] RMR, Tab 1, July 16 Affidavit at paras 86-89.
[43] MR, Tab 1, First Report of the Receiver, dated June 30, 2026 ("**First Report**") at para 74, Appendix "O", pp. 144-145.
[44] RMR, Tab 1, July 16 Affidavit at paras 94- 95, 98, Exhibit "L" at p. 95.

questions about these transfers on cross-examination despite being presented with an explanation. Before making its loan, UBC received the 2022 and 2023 financial statements, which identified the intercompany related-party loans and their 2023 balances.[45] The Receiver has led no evidence that UBC complained about these transfers, or that any creditor was disadvantaged by them.

33. The above-noted transfers occurred more than two years ago, and no one, including UBC, has commenced to pursue them, despite UBC having known about them since 2023.

E. Books and Records and a Targeted Review Protocol

34. The Respondents do not dispute the Receiver's entitlement to the Respondents' books and records and have complied with various requests by the Receiver.[46] The Respondents provided some records on or around the time of the appointment.[47] The Receiver has not identified what additional records it requires or why, but the Respondents are prepared to provide them nonetheless, subject to the following.

35. The Respondents have advised the Receiver, in writing and in the Affidavit of Hans Jain, sworn July 16, 2026, that they are willing to produce relevant records and provide immediate imaging by an independent third party, subject to preservation and review safeguards.[48] The proposed protocol includes a qualified independent imaging firm, chain-of-custody controls, secure encrypted preservation, agreed custodians, accounts, search terms, document categories and time periods, independent privilege review, exclusion of privileged, personal, irrelevant and non-Respondent records, and production of non-

[45] RMR, Tab 1, July 16 Affidavit at para 98.
[46] RMR, Tab 1, July 16 Affidavit at para 116.
[47] RMR, Tab 1, July 16 Affidavit at para 116, Exhibit "D" at pp. 42-44.
[48] RMR, Tab 1, July 16 Affidavit at paras 100-101, 115, Exhibit "M" at p. 97.

privileged records.[49] They have also offered supervised access for copies of records that the Receiver reasonably considers to belong to the Respondents.[50] The Receiver has not accepted that approach.[51] Any delay in receiving and reviewing the records lies with the Receiver for failing to engage the Respondents on this issue.

36. The Respondents' concern is not whether the Receiver may obtain the Respondents' records, but whether wholesale imaging and unrestricted review are necessary. The servers contain commingled proprietary information of related companies, personal information, and privileged communications unrelated to the Respondents. Unrestricted server imaging and review would expose material beyond the Respondents and beyond the scope of the Appointment Order.[52]

PART III – ISSUES

The issues to be determined on this motion are whether:

a) the sale process proposed by the Receiver or by Respondents should be approved, including whether CBRE should be replaced as listing agent;

b) the transfers between the Respondents and Hansalex are fraudulent conveyances;

c) the Receiver is entitled to review the imaged servers of the Respondents and their related entities;

d) the Receiver's activities and conduct outlined in its First Report and Supplementary Report should be approved; and

e) the confidential appendices to the July 20 Affidavit should be sealed.

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[49] RMR, Tab 1, July 16 Affidavit at paras 102,106-113.
[50] RMR, Tab 1, July 16 Affidavit at paras 115-117.
[51] Supplementary Report at paras 33-34.
[52] RMR, Tab 1, July 16 Affidavit at paras 115-117.

PART IV – LAW AND ARGUMENT

A. The Sale Process Warrants Court Direction and Approval

37. The Receiver should have sought prior Court approval of the sale process before marketing the Brimley Project. Given the scale and complexity of the Brimley Project, approving its sale process before marketing it would have been prudent. The concerns set out in this factum demonstrate that prior approval, while not strictly required, would have been preferable to after-the-fact justification, and consistent with usual practice before this Court. The Receiver's authority to market the Property does not eliminate the Court's supervisory jurisdiction or the Receiver's statutory duty to proceed in a commercially reasonable manner.[53]

38. The *Soundair*[54] factors are not a technical checklist, but they provide the framework for determining whether a receiver's realization process produced the best available result. The factors require the Court to assess whether the process produced that result, rather than whether the ultimate price is the highest in light of the receiver's conduct.[55] The Court's review is guided by fairness, transparency, and integrity; commercial efficacy; and the interests of all affected stakeholders.[56]

39. The Receiver's sale process fails all four factors. It did not preserve the Brimley Project's value. As set out above, the Receiver allowed the Property's most valuable financing attribute, the COIs, to lapse[57]; launched a short 7-week process without prior Court

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[53] S.248 of the *Bankruptcy and Insolvency Act*, RSC, 1985, c. B-3.
[54] *Royal Bank of Canada v. Soundair Corp.*, 1991 CanLII 2727 (ON CA) ("**Soundair**").
[55] The Court must consider: (a) whether the receiver made sufficient effort to obtain the best price without acting improvidently; (b) the interests of all parties; (c) the efficacy and integrity of the process; and (d) whether there has been unfairness.
[56] *Soundair Corp.*; *CCM Master Qualified Fund v. blutip Power Technologies*, 2012 ONSC 1750.
[57] RMR, Tab 1, July 16 Affidavit at paras 56, 62-68.

supervision[58]; excluded stakeholders such as Mr. Jain, who has relevant knowledge[59]; and set the offer deadline after financing expired[60].

40. The Receiver's sale process did not make a sufficient effort to obtain the best price. The offers received are clearly unacceptable given Colliers' valuation, and the market has not produced a reliable test of value despite the Receiver having been appointed a year ago. The Receiver's suggestion that the market is simply too weak to sell the assets is not supported by expert evidence. The Receiver has not identified any meaningful marketing efforts after the "not before March 26" date to attract a bid greater than those received, and no other offer has been received in the past six months.[61]

41. The process lacks integrity and warrants particular attention. The Receiver did not discuss with CMHC or CBRE Capital how to market the COIs.[62] It marketed the Brimley Project without understanding the scope of the COIs, did not seek timely directions, and retained a broker whose affiliate had acted for the Respondents and UBC.[63] [redacted] In addition, UBC has been securing trades for its proposed credit bid and acting like a future owner.[65]

42. Creditors' interests are important, but they are not the only interests that a court officer must protect. The Receiver took the opposite position in its April 7, 2026 letter, asserting that it owed no "consultative or reporting duty" and that "sale and marketing information

[58] MR, Tab 1, First Report at paras 44-47; Supplementary Report, Confidential Appendix "1".
[59] RMR, Tab 1, July 16 Affidavit at para 19.
[60] MR, Tab 1, First Report at para 47.
[61] MR, Tab 1, First Report at paras 51-53.
[62] Formal Interrogatory, response to Question 9.
[63] RMR, Tab 1, July 16 Affidavit at paras 41,43,47.
[64] Supplementary Report, Confidential Appendix "1".
[65] RMR, Tab 1, July 16 Affidavit at paras 71,76-78, 81-84.

was commercially sensitive and need not be shared with the Respondents."[66] The Receiver thereby excluded the Respondents from meaningful consultation despite Mr. Jain's more than 30 years of experience and intimate knowledge of the Property. It only sought to discuss with him whether he could redeem UBC's security.[67]

43. UBC's conduct could be explained as consistent with a predetermined plan to acquire the Property. Although UBC, as the senior secured creditor, would ordinarily seek the highest possible realization from the Property, a creditor that intends to acquire it by credit bid or otherwise may instead prefer a process that facilitates its own acquisition. UBC's solicitation of trades, retention of Citi-Core as construction manager, and creation of a partnership fund with Fiera Capital[68], together with its efforts to obtain the COIs and failure to press for a bid deadline, are consistent with a predetermined plan to acquire the Property.

44. UBC's integrity has also been the subject of public reports and speculation, making it more likely than usual that a hidden agenda could be driving its actions.[69] The Receiver has not asked UBC about its retention of CitiCore as construction manager and instead has stated that its "focus was on obtaining and reviewing information relevant to the property and the administration of the receivership, and it did not make specific enquiries…"[70]

45. The Receiver has confirmed that despite the issues at UBC, the person from whom it takes instructions at UBC has not changed.[71] The Receiver has also confirmed that it "has not conducted any independent investigation into the alleged corruption at UBC or with any

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[66] RMR, Tab 1, July 16 Affidavit at paras 24-26, Exhibit "B" at pp. 33-36.
[67] Supplementary Report at Appendix "E"; Interrogatory Responses to Question 15.
[68] RMR, Tab 1, July 16 Affidavit at paras 76-78.
[69] RMR, Tab 1, July 16 Affidavit at para 80, Exhibit "H" pp. 65-83.
[70] Interrogatory Responses to Question 22.
[71] Interrogatory Responses to Question 29.

parties providing consultation or input to the Receiver for the purpose of investigating such allegations."[72] The nature of the issues at UBC and their possible impact on this receivership remain unexplored.

46. The Colliers and Avison opinions confirm that the defects were in the process, not merely in a disappointing result. These defects potentially suppressed the Property's financing advantage, narrowed the purchaser pool, and deprived bidders of a transparent process.

47. Despite all of these concerns, the Receiver has confirmed that it will not impose a bid deadline going forward or reconsider its marketing or its choice of broker.[73] It seems committed to continuing with its thus far unsuccessful process when a different path is available.

48. The Court has jurisdiction, under the BIA, to direct how the sale should be conducted on this motion.[74] The Respondents submit that the Court should exercise that power and order a consultation process with the Respondents and its experts to design a sale process which should have two defined phases—(i) a Letter of Intent phase and (ii) a qualified bid phase—with firm deadlines, and with CBRE replaced as listing agent.[75] This is a constructive alternative to an open-ended continuation and is designed to achieve the best realization for all stakeholders, consistent with the *Soundair* principles. The Receiver need not accept a bid at the end of that process, which is an ordinary term in a sale process, if no acceptable bid is achieved.

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[72] Interrogatory Responses to Question 36.
[73]MR, Tab 1, First Report at para 52; Interrogatory Responses to Question 3.
[74] S.248 of the *Bankruptcy and Insolvency Act*, RSC, 1985, c. B-3.
[75] RMR, Tab 1, July 16 Affidavit at paras 33-37; July 20 Affidavit, Confidential Appendix "A" and "B" at pp. 7 & 48. The Respondents have suggested 90 days, whereas Colliers has suggested a 60-day "offer date" from marketing launch, and Avison Young has suggested a 2–3-week pre-marketing and 8- 10-week marketing phase for offers.

B. The Receiver Is Entitled to Records Through an Appropriate Protocol

49. The Respondents do not oppose producing their books and records and acknowledge the access and co-operation requirements of the Appointment Order. The dispute is how production should proceed where the Respondents' records are commingled with records of non-Respondent entities and any order should be tailored to relevance, privilege, personal information, and third-party interests.

50. The Respondents have identified some, but not all, of the organizations operating from the head office of the Respondents that also share servers with the Respondents, which demonstrates the need for a process. The Receiver purports to image the servers and review the books and records of all such entities once it has imaged the servers. The Respondents take issue with this and have asked the Receiver to specify what it is seeking in terms of books and records.[76]

51. Wholesale imaging would provide access to all information before any relevance, privilege, personal information, and third-party review. That goes beyond what is necessary. A targeted protocol can give the Receiver responsive records while preserving the interests protected by the Appointment Order. The Respondents have offered to have an independent third-party review commingled documents before the Receiver makes or retains copies.

52. The Respondents' proposed limits on the relief sought by the Receiver go no broader than necessary, and account for privilege and third-party interests and are consistent with approaches granted by this Court in the past.[77]

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[76] RMR, Tab 1, July 16 Affidavit at paras 101, 103, Exhibit "D" at pp. 42-43.
[77] RMR, Tab 1, July 16 Affidavit, enclosure to Exhibit "D", Unreported decision of Penny, J. dated March 6, 2024, *In the Matter of Creative Wealth Media Finance Corp.* at pp. 44-48.

53. The appropriate order is a staged protocol: (a) an agreed independent imaging firm images the relevant devices and maintains chain of custody; (b) the imaged data is secured pending review; (c) the parties agree on custodians, accounts, search terms, document categories and time periods; (d) an independent reviewer conducts privilege and relevance review; (e) privileged, personal, irrelevant and non-Respondent information is withheld or redacted; and (f) responsive, non-privileged records are produced. Any dispute about scope or privilege can be brought back to the Court for summary direction.[78] This process was followed in *In the Matter of Creative Wealth Media Finance Corp.,* which involved TDB Restructuring Ltd. and similar facts.

54. This approach gives the Receiver access to records necessary to perform its mandate without unrestricted access to unrelated information.

C. The Hansalex Claim Is Unsupported and Procedurally Defective

55. The Receiver characterizes the transfers to Hansalex as fraudulent conveyances under the *Fraudulent Conveyances Act*, R.S.O. 1990, c. F.29 ("**FCA**").[79] Section 2 of the FCA voids conveyances made "with intent to defeat, hinder, delay or defraud creditors."[80]

56. The crucial question in a fraudulent conveyance action is whether the plaintiff has proved the debtor's fraudulent intent. The plaintiff alone bears the burden at trial. Although the Plaintiff may raise an inference of fraud by presenting a "badge of fraud" sufficient to impose a "burden of explanation" on the debtor,[81] the presence of such indicia does not

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[78] RMR, Tab 1, July 16 Affidavit at para 111.
[79] *Fraudulent Conveyances Act*, R.S.O. 1990, c. F.29 ("**FCA**").
[80] S. 2 FCA.
[81] *6071376 Canada Inc. v. Khedmatgozar*, 2024 ONCA 248 ("***Khedmatgozar***") at para 9 citing *FL Receivables Trust 2002-A v. Cobrand Foods Ltd.*, 2007 ONCA 425, 85 O.R. (3d) 561 at paras 39-40.

mandate a finding of intent.[82] "Badges of fraud" are no more than typical and suspicious facts that may allow the Court to make a finding of fraud absent an explanation from the debtor. [83] Intent does not arise merely due to a related-party transaction. The Receiver bears the burden of proving fraudulent intent on a balance of probabilities to prove its case in the face of the Respondents' explanations, and it has not done so.

57. The relationship between Hansalex and the Respondents is not disputed, but the record also shows a documented loan and disclosure to UBC that predated UBC's relationship with the Respondents.[84] UBC received the 2022 and 2023 financial statements. UBC therefore had knowledge of the arrangement before advancing its approximately $70 million loan in October 2023. That disclosure is inconsistent with concealment and weighs against an inference that the transfers were intended to defeat UBC or other creditors.

58. There was consideration in the form of the related-party loan and existing intercompany obligations. The evidence therefore provides a commercial explanation for the entries and does not establish a gratuitous transfer or an unexplained extraction from the estate.[85]

59. The relevant bank account of the Respondents opened with a balance of $426.40 on August 31, 2025 and closed with a balance of $26.40 on September 5, 2025, and the statement of account shows corresponding credits and debits. The record does not establish that $15.6 million in cash was available in or removed from the account at that time.[86]

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[82] *Khedmatgozar* at para 10, citing *Montor Business Corporation v. Goldfinger*, 2016 ONCA 406, 351 O.A.C. 241, at para. 72.
[83] *Khedmatgozar* at para 9, citing *FL Receivables Trust 2002-A v. Cobrand Foods Ltd.*, 2007 ONCA 425, 85 O.R. (3d) 561 at paras 39-40, citing *Koop v Smith* (1915), 1915 CanLII 26 (SCC), 51 S.C.R. 554, at pp. 558-59.
[84] RMR, Tab 1, July 16 Affidavit at paras 95, 98.
[85] RMR, Tab 1, July 16 Affidavit at paras 91-92, 95, 97-98, Exhibit "L" at p.95.
[86] RMR, Tab 1, July 16 Affidavit at paras 92, 93, Exhibit "J" at p. 87.

60. A receivership motion is not the proper vehicle to finally adjudicate a disputed third-party claim on an incomplete record. No procedural or practical reason exists to decide the claim now.

61. The absence of examinations is decisive. As set out above, the Receiver advanced its claim after acknowledging that it did not understand the transfers and continues it without examining Mr. Jain or any Hansalex representative. Hansalex is not a respondent in this receivership.

62. Alternatively, if the Court is of the view that some further review is required. Sections 95 and 96 of the *BIA* address reviewable preferences and transfers at undervalue in the bankruptcy context. They do not automatically confer on a court-appointed receiver all investigative and litigation powers available to a trustee-in-bankruptcy.[87] This Court has recognized that a receiver is not automatically granted the investigative powers available to a trustee and must seek such expanded powers before undertaking such an investigation or examination.[88] The Receiver has not taken these steps, despite having had ample time to do so, since its appointment more than a year ago.

63. If this remains a matter which concerns the court, which the Respondents submit it should not, the Court should require the Receiver first to bring a motion to obtain expanded court-authorized powers supported by a *prima facie* case to pursue, and then to serve proper process, produce the supporting records, and allow for responding materials and examinations before pursuing or adjudicating any claim. [89]

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[87] *7032749 Canada Inc. v. 1998514 Ontario Inc.*, 2026 ONSC 3067 ("**703 Canada**") at paras 15, 26-27.
[88] *703 Canada* at paras 26-27.
[89] See *Aquino v. Bondfield Construction Co.*, 2024 SCC 31; *Purcaru v. Seliverstova*, 2015 ONSC 6679, aff'd 2016 ONCA 610; *Khedmatgozar*; and *Goldfinger*.

D. Sale-Related Activities Should Be Assessed After the Process Is Complete

64. Approval of a receiver's activities and conduct is not an automatic administrative step because approval allows the Court to assess whether the receiver acted prudently, diligently, and in good faith, and with commercial reasonableness in discharging its duties.[90]

65. The loss of the COIs is a material event that occurred during the Receiver's mandate and with its knowledge.

66. A receiver may be held liable for allowing a valuable asset to expire to the detriment of the creditors. This is the central allegation in the pending receivership of Stableview Asset Management. In that matter, this Court recently granted a group of investors leave to move to lift the stay, alleging that the receiver allowed a wasting asset to expire.[91]

67. The appropriateness of the sale process is not yet known. The Receiver has not merely followed a pre-approved process that it now seeks the court to confirm it followed; it is asking for after-the-fact approval of a process that has not yet produced a viable result, has had poor results, and has given rise to various concerns. At this point, the Court cannot reliably determine whether the sale-process activities were prudent and commercially reasonable until the sale process is complete and its consequences are known. Also, the efficacy of the past process should be viewed through the lens of the outcome of the Receiver following a more robust, court-approved sale process, as the Respondents urge the Court to order. The Court should therefore defer approval of those prior activities,

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[90] *Target Canada Co. (Re)*, 2015 ONSC 7574
[91] Unreported decision of Steele, J. dated November 4, 2025 in *Ontario Securities Commission v Stableview Asset Management Inc. et al.*

without prejudice to a later motion once the sale process and its consequences are before the Court.

E. Sealing Order

68. The test for a sealing order, as set out in the Supreme Court of Canada decision of *Sierra Club of Canada v. Canada (Minister of Finance)*[92] and modified in the decision of *Sherman Estate v. Donovan*[93], has been met.

69. The Confidential Appendices to the July 20 Affidavit contain confidential and commercially sensitive information and, if publicly disclosed, could materially and negatively impair the ability of the Receiver to market the Brimley Project. Granting a time-limited sealing order maintains public confidence in the efficacy of the insolvency regime, which is an important public interest that should be protected.

70. Protecting the commercially sensitive nature of the Confidential Appendices outweighs any deleterious effects of the sealing order, and no reasonable alternative measure is available. The benefits of a sealing order outweigh its negative effects. Accordingly, the Respondents request an order that the confidential appendices to the July 20 Affidavit be sealed and kept confidential and not form part of the public record until further order of this Honourable Court.

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[92] *Sierra Club of Canada v. Canada (Minister of Finance),* 2002 SCC 41 (CanLII), para 53

[93] Sherman Estate v. Donovan, 2021 SCC 25 (CanLII), para 38.

PART V – ORDER SOUGHT

71. The Respondents respectfully request that this Honourable Court grant the relief sought in paragraphs 8 and 9 above.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS DAY BY:

David T. Ullmann/Birpal Benipal

Schedule "A" – Case Law

1. *2398035 Ontario Inc. v. 2180366 Ontario Inc.*, 2026 ONSC 2470
2. *6071376 Canada Inc. v. Khedmatgozar*, 2024 ONCA 248
3. *7032749 Canada Inc. v. 1998514 Ontario Inc.*, 2026 ONSC 3067
4. *All-Terrain Track Sales and Service Ltd. et al. v. 798839 Ontario Limited et al.*, 2026 ONSC 4384
5. *Aquino v. Bondfield Construction Co.*, 2024 SCC 31
6. *CCM Master Qualified Fund v. Blutip Power Technologies*, 2012 ONSC 1750
7. *Creative Wealth Media Finance Corp. v. Makebelieve Inc. et al.*
8. *FirstOntario Credit Union Limited v. Carmichael et al.*, 2026 ONSC 2688
9. *FL Receivables Trust 2002-A v. Cobrand Foods Ltd.*, 2007 ONCA 425, 85 O.R. (3d) 561
10. *Indcondo v. Sloan*, 2014 ONSC 4018, aff'd 2015 ONCA 752
11. *Koop v Smith* (1915), 1915 CanLII 26 (SCC), 51 S.C.R. 554
12. *Ontario Securities Commission v. Camerlengo Holdings Inc.*, 2023 ONCA 93
13. *Purcaru v. Seliverstova*, 2015 ONSC 6679, aff'd 2016 ONCA 610
14. *Montor Business Corporation v. Goldfinger*, 2016 ONCA 406
15. Royal Bank of Canada v. Soundair Corp., 1991 CanLII 2727 (ON CA)
16. Sherman Estate v. Donovan, 2021 SCC 25 (CanLII)
17. *Sierra Club of Canada v. Canada (Minister of Finance),* 2002 SCC 41 (CanLII)
18. *Target Canada Co. (Re)*, 2015 ONSC 7574

Schedule "B" – Statutes

Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3

Section 95 - Preferences

- **95 (1)** A transfer of property made, a provision of services made, a charge on property made, a payment made, an obligation incurred or a judicial proceeding taken or suffered by an insolvent person
  - **(a)** in favour of a creditor who is dealing at arm's length with the insolvent person, or a person in trust for that creditor, with a view to giving that creditor a preference over another creditor is void as against — or, in Quebec, may not be set up against — the trustee if it is made, incurred, taken or suffered, as the case may be, during the period beginning on the day that is three months before the date of the initial bankruptcy event and ending on the date of the bankruptcy; and
  - **(b)** in favour of a creditor who is not dealing at arm's length with the insolvent person, or a person in trust for that creditor, that has the effect of giving that creditor a preference over another creditor is void as against — or, in Quebec, may not be set up against — the trustee if it is made, incurred, taken or suffered, as the case may be, during the period beginning on the day that is 12 months before the date of the initial bankruptcy event and ending on the date of the bankruptcy.
- **Preference presumed**

(2) If the transfer, charge, payment, obligation or judicial proceeding referred to in paragraph (1)(a) has the effect of giving the creditor a preference, it is, in the absence of evidence to the contrary, presumed to have been made, incurred, taken or suffered with a view to giving the creditor the preference — even if it was made, incurred, taken or suffered, as the case may be, under pressure — and evidence of pressure is not admissible to support the transaction.

- **Exception**

(2.1) Subsection (2) does not apply, and the parties are deemed to be dealing with each other at arm's length, in respect of the following:

  - **(a)** a margin deposit made by a clearing member with a clearing house; or
  - **(b)** a transfer, charge or payment made in connection with financial collateral and in accordance with the provisions of an eligible financial contract.

- **Definitions**

(3) In this section,

clearing house means a body that acts as an intermediary for its clearing members in effecting securities transactions; (*chambre de compensation*)

clearing member means a person engaged in the business of effecting securities transactions who uses a clearing house as intermediary; (*membre*)

creditor includes a surety or guarantor for the debt due to the creditor; (*créancier*)

margin deposit means a payment, deposit or transfer to a clearing house under the rules of the clearing house to assure the performance of the obligations of a clearing member in connection with security transactions, including, without limiting the generality of the foregoing, transactions respecting futures, options or other derivatives or to fulfil any of those obligations. (*dépôt de couverture*)

Section 96 - Transfer at undervalue

- **96 (1)** On application by the trustee, a court may declare that a transfer at undervalue is void as against, or, in Quebec, may not be set up against, the trustee — or order that a party to the transfer or any other person who is privy to the transfer, or all of those persons, pay to the estate the difference between the value of the consideration received by the debtor and the value of the consideration given by the debtor — if
    - **(a)** the party was dealing at arm's length with the debtor and
        - **(i)** the transfer occurred during the period that begins on the day that is one year before the date of the initial bankruptcy event and that ends on the date of the bankruptcy,
        - **(ii)** the debtor was insolvent at the time of the transfer or was rendered insolvent by it, and
        - **(iii)** the debtor intended to defraud, defeat or delay a creditor; or
    - **(b)** the party was not dealing at arm's length with the debtor and
        - **(i)** the transfer occurred during the period that begins on the day that is one year before the date of the initial bankruptcy event and ends on the date of the bankruptcy, or
        - **(ii)** the transfer occurred during the period that begins on the day that is five years before the date of the initial bankruptcy event and ends on the day before the day on which the period referred to in subparagraph (i) begins and

    - **(A)** the debtor was insolvent at the time of the transfer or was rendered insolvent by it, or
    - **(B)** the debtor intended to defraud, defeat or delay a creditor.

- **Establishing values**

(2) In making the application referred to in this section, the trustee shall state what, in the trustee's opinion, was the fair market value of the property or services and what, in the trustee's opinion, was the value of the actual consideration given or received by the debtor, and the values on which the court makes any finding under this section are, in the absence of evidence to the contrary, the values stated by the trustee.

- **Meaning of *person who is privy***

(3) In this section, a ***person who is privy*** means a person who is not dealing at arm's length with a party to a transfer and, by reason of the transfer, directly or indirectly, receives a benefit or causes a benefit to be received by another person.

Section 243 – Secured Creditors and Receivers

Court may appoint receiver

- **243 (1)** Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:
    - **(a)** take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
    - **(b)** exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or
    - **(c)** take any other action that the court considers advisable.

- **Restriction on appointment of receiver**

(1.1) In the case of an insolvent person in respect of whose property a notice is to be sent under subsection 244(1), the court may not appoint a receiver under subsection (1) before the expiry of 10 days after the day on which the secured creditor sends the notice unless

- **(a)** the insolvent person consents to an earlier enforcement under subsection 244(2); or
- **(b)** the court considers it appropriate to appoint a receiver before then.

- **Definition of *receiver***

(2) Subject to subsections (3) and (4), in this Part, ***receiver*** means a person who

  - **(a)** is appointed under subsection (1); or
  - **(b)** is appointed to take or takes possession or control — of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt — under
    - **(i)** an agreement under which property becomes subject to a security (in this Part referred to as a "security agreement"), or
    - **(ii)** a court order made under another Act of Parliament, or an Act of a legislature of a province, that provides for or authorizes the appointment of a receiver or receiver-manager.

- **Definition of *receiver* — subsection 248(2)**

(3) For the purposes of subsection 248(2), the definition ***receiver*** in subsection (2) is to be read without reference to paragraph (a) or subparagraph (b)(ii).

- **Trustee to be appointed**

(4) Only a trustee may be appointed under subsection (1) or under an agreement or order referred to in paragraph (2)(b).

- **Place of filing**

(5) The application is to be filed in a court having jurisdiction in the judicial district of the locality of the debtor.

- **Orders respecting fees and disbursements**

(6) If a receiver is appointed under subsection (1), the court may make any order respecting the payment of fees and disbursements of the receiver that it considers proper, including one that gives the receiver a charge, ranking ahead of any or all of the secured creditors, over all or part of the property of the insolvent person or bankrupt in respect of the receiver's claim for fees or disbursements, but the court may not make the order unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations.

- **Meaning of *disbursements***

(7) In subsection (6), ***disbursements*** does not include payments made in the operation of a business of the insolvent person or bankrupt.

Section 247 - **Good faith, etc.**

247 A receiver shall

- **(a)** act honestly and in good faith; and
- **(b)** deal with the property of the insolvent person or the bankrupt in a commercially reasonable manner.
- 1992, c. 27, s. 89

Section 248 - **Powers of court**

- **248 (1)** Where the court, on the application of the Superintendent, the insolvent person, the trustee (in the case of a bankrupt), a receiver or a creditor, is satisfied that the secured creditor, the receiver or the insolvent person is failing or has failed to carry out any duty imposed by sections 244 to 247, the court may make an order, on such terms as it considers proper,
    - **(a)** directing the secured creditor, receiver or insolvent person, as the case may be, to carry out that duty, or
    - **(b)** restraining the secured creditor or receiver, as the case may be, from realizing or otherwise dealing with the property of the insolvent person or bankrupt until that duty has been carried out,

or both.

- **Idem**

(2) On the application of the Superintendent, the insolvent person, the trustee (in the case of a bankrupt) or a creditor, made within six months after the statement of accounts was provided to the Superintendent pursuant to subsection 246(3), the court may order the receiver to submit the statement of accounts to the court for review, and the court may adjust, in such manner and to such extent as it considers proper, the fees and charges of the receiver as set out in the statement of accounts.

Section 249 - **Receiver may apply to court for directions**

249 A receiver may apply to the court for directions in relation to any provision of this Part, and the court shall give, in writing, such directions, if any, as it considers proper in the circumstances.

***Courts of Justice Act*, R.S.O. 1990, c. C.43**

Section 101 - Injunctions and receivers

101 (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so. R.S.O. 1990, c. C.43, s. 101 (1); 1994, c. 12, s. 40; 1996, c. 25, s. 9 (17).

Terms

(2) An order under subsection (1) may include such terms as are considered just. R.S.O. 1990, c. C.43, s. 101 (2).

***Fraudulent Conveyances Act*, R.S.O. 1990, c. F.29**, ss. 1-4

Sections 1 to 4

Definitions

1. In this Act,

"conveyance" includes gift, grant, alienation, bargain, charge, encumbrance, limitation of use or uses of, in, to or out of real property or personal property by writing or otherwise; ("cession")

"personal property" includes goods, chattels, effects, bills, bonds, notes and securities, and shares, dividends, premiums and bonuses in a bank, company or corporation, and any interest therein; ("biens meubles")

"real property" includes lands, tenements, hereditaments and any estate or interest therein. ("biens immeubles") R.S.O. 1990, c. F.29, s. 1.

Where conveyances void as against creditors

2. Every conveyance of real property or personal property and every bond, suit, judgment and execution heretofore or hereafter made with intent to defeat, hinder, delay or defraud creditors or others of their just and lawful actions, suits, debts, accounts, damages, penalties or forfeitures are void as against such persons and their assigns. R.S.O. 1990, c. F.29, s. 2.

Where s. 2 does not apply

3. Section 2 does not apply to an estate or interest in real property or personal property conveyed upon good consideration and in good faith to a person not having at the time of the conveyance to the person notice or knowledge of the intent set forth in that section. R.S.O. 1990, c. F.29, s. 3.

Where s. 2 applies

4. Section 2 applies to every conveyance executed with the intent set forth in that section despite the fact that it was executed upon a valuable consideration and with the intention, as between the parties to it, of actually transferring to and for the benefit of the transferee the interest expressed to be thereby transferred, unless it is protected under section 3 by reason of good faith and want of notice or knowledge on the part of the purchaser. R.S.O. 1990, c. F.29, s. 4.

Assignments and Preferences Act, R.S.O. 1990, c. A.33

Section 12

Following proceeds of property fraudulently transferred
12 (1) In the case of a gift, conveyance, assignment or transfer of any property, real or personal, that is invalid against creditors, if the person to whom the gift, conveyance, assignment or transfer was made has sold or disposed of, realized or collected the property or any part thereof, the money or other proceeds may be seized or recovered in an action by a person who would be entitled to seize and recover the property if it had remained in the possession or control of the debtor or of the person to whom the gift, conveyance, transfer, delivery or payment was made, and such right to seize and recover belongs not only to an assignee for the general benefit of the creditors of the debtor but, where there is no such assignment, to all creditors of the debtor. R.S.O. 1990, c. A.33, s. 12 (1).

Taking proceeds under execution
(2) Where there is no assignment for the benefit of creditors and the proceeds are of such a character as to be seizable under execution, they may be seized under the execution of any creditor and are subject to the *Creditors' Relief Act, 2010*. R.S.O. 1990, c. A.33, s. 12 (2); 2010, c. 16, Sched. 4, s. 23 (1).

Creditor suing on behalf of the creditor and other creditors
(3) Where there is no assignment for the benefit of creditors and whether the proceeds are or are not of such a character as to be seizable under execution, an action may be brought therefor by a creditor, whether an execution creditor or not, on behalf of the creditor and all other creditors, or such other proceedings may be taken as are necessary to render the proceeds available for the general benefit of the creditors. R.S.O. 1990, c. A.33, s. 12 (3).

Protection of innocent purchasers
(4) This section does not apply as against innocent purchasers of the property. R.S.O. 1990, c. A.33, s. 12 (4).

***Rules of Civil Procedure*, R.R.O. 1990, Reg. 194** 41.05

Rule 41.03 - Form of Order

41.03 An order appointing a receiver shall,

(a) name the person appointed or refer that issue in accordance with Rule 54;

(b) specify the amount and terms of the security, if any, to be furnished by the receiver for the proper performance of the receiver's duties, or refer that issue in accordance with Rule 54;

(c) state whether the receiver is also appointed as manager and, if necessary, define the scope of the receiver's managerial powers; and

(d) contain such directions and impose such terms as are just. R.R.O. 1990, Reg. 194, r. 41.03.

Rule 41.05 - Directions

41.05 A receiver may obtain directions at any time on motion to a judge, unless there has been a reference of the conduct of the receivership, in which case the motion shall be made to the referee. R.R.O. 1990, Reg. 194, r. 41.05.

Court File No. CV-25-00740765-00CL

UBC SOLUTIONS INCORPORATED And 1680 BRIMLEY LIMITED PARTNERSHIP, et al.

Applicant Respondents

Email Address(es) of the recipients: See Service List

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at **TORONTO**

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