

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) FRIDAY THE 16th DAY
)
JUSTICE CAVANAGH) OF SEPTEMBER, 2022

IN THE MATTER OF THE RECEIVERSHIP OF 2589504 ONTARIO INC.

**AND IN THE MATTER OF A MOTION PURSUANT TO SUBSECTION 243(1)
OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. C.42 as amended**

DISTRIBUTION AND APPROVALS ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as the Court-appointed receiver and manager (the "**Receiver**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (Canada) and section 101 of the *Courts of Justice Act* of the assets, undertakings and property of 2589504 Ontario Inc. (the "**Debtor**") for an order, among other things, (i) abridging the time for service of the Receiver's Notice of Motion and Motion Record herein, (ii) approving the Receiver's first report dated September 13, 2022 (the "**First Report**"), Confidential Supplement to the First Report dated September 1, 2022 (the "**Confidential Report**") and the activities and proposed activities described therein, (iii) approving and accepting the Receiver's Interim Statement of Receipts and Disbursements, and the fees and disbursements of the Receiver and of the Receiver's counsel, Blaney McMurtry LLP, (iv) pending the completion of the transaction (the "**Transaction**") set out in the purchase and sale agreement (the "**Sale Agreement**") dated August 18, 2022, in respect of the property municipally known as 100 Sheppard Ave. West, Toronto, or until further Order of the Court, sealing the Confidential Report, (v) approving a distribution from the net surplus proceeds from the Transaction to the Debtor's senior secured creditor Equitable Bank ("**Equitable**") in full satisfaction of the Debtor's

outstanding indebtedness to Equitable, (vi) subject to a reasonable reserve until the Receiver's discharge, and following the payment of priority payables, if any, and the distribution to Equitable, approving a distribution of the remaining net surplus proceeds from the Transaction, and all other funds recovered by the Receiver in this proceeding, to the Debtor's subordinate secured creditor Direct Capital Investments Inc. ("**DCI**") in partial satisfaction of the Debtor's outstanding indebtedness to Benjamin Kay, Iser Kay and Jack Kay (the "**Kays**"), (vii) declaring that any payments to be made by the Receiver to DCI instead be paid to Grant Thornton Limited ("**GTL**") in its capacity as trustee and mortgage administrator of the Kays' interests in their loan to the Debtor, (viii) following the closing of the Transaction, and subject to completing any outstanding matters in the receivership of the Debtor, discharging BDO as Receiver of the assets, undertakings and properties of the Debtor and releasing the Receiver from any and all liability that BDO now has or may hereafter have by reason of, or in any way arising out of its acts and omissions while acting in its capacity as Receiver, and (ix) amending the Order of Justice Cavanagh made June 15, 2022 (the "**Appointment Order**") to include a term allowing the Receiver to file an assignment in bankruptcy for the Debtor naming GTL as trustee in bankruptcy, if and only if the Receiver is directed to file such an assignment by way of Court Order, was heard this day at 330 University Avenue, Toronto, by judicial videoconference via Zoom at Toronto, Ontario

ON READING the Receiver's Motion Record dated September 13, 2022, including the First Report and the Confidential Report (the "**Motion Materials**"), and on hearing the submissions of counsel for the Receiver, the Debtor, Equitable Bank, 2413974 Ontario Inc., Grant Thornton Limited and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Eric Golden sworn September 15, 2022, filed:

1. **THIS COURT ORDERS** that the time for service and filing of the Motion Materials is abridged and validated so that this motion is properly returnable today and dispenses with further service thereof.
2. **THIS COURT ORDERS** that upon the Receiver receiving a satisfactory payout statement from Equitable Bank, in the Receiver's sole discretion, the Receiver is authorized and directed to make a distribution to Equitable Bank following the completion of the Transaction in satisfaction of the Debtor's full outstanding secured indebtedness owing to Equitable Bank.

3. **THIS COURT ORDERS** that the First Report and Confidential Report, and the activities of the Receiver described therein, are hereby approved.

4. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements for the period from June 15, 2022, to September 8, 2022, as set out in Appendix "VIII" to the First Report, be and is hereby accepted and approved.

5. **THIS COURT ORDERS** that the fees and disbursements of the Receiver from May 9, 2022, to September 9, 2022, and of Blaney from May 30, 2022, to August 31, 2022, be and are hereby approved.

6. **THIS COURT ORDERS** that pending the completion of the Transaction or until further Order of the Court, the Confidential Report be and is hereby sealed.

7. **THIS COURT ORDERS** that in addition to the powers set out in the Appointment Order, the Receiver is hereby expressly empowered and authorized to file an assignment in bankruptcy on behalf of 2589504 Ontario Inc. appointing Grant Thornton Limited as trustee in bankruptcy, if directed to do so by way of Court Order.

8. **THIS COURT ORDERS** that this Order is effective from the date that it is made, and is enforceable without any need for entry and filing.

9. **THIS COURT ORDERS** that the balance of the Receiver's motion is adjourned to October 19, 2022 at 11:00 a.m.

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

PROCEEDING COMMENCED AT
TORONTO

DISTRIBUTION AND APPROVALS ORDER

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in its capacity as Court-appointed Receiver