

Form 27
[Rules 6.3 and 10.52(1)]

Clerk's stamp:

RL

COURT FILE NUMBER 2303 17033
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF BANK OF MONTREAL
DEFENDANTS 2396610 ALBERTA INC., ALI ABSHIR DINI
and ADEN SHIRE ALI

DOCUMENT **APPLICATION BY BDO CANADA LIMITED
IN ITS CAPACITY AS RECEIVER OF
2396610 ALBERTA INC.**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
MILLER THOMSON LLP
Barristers and Solicitors
2700, Commerce Place
10155-102 Street
Edmonton, AB, Canada T5J 4G8
Phone: 780.429.1751 Fax: 780.424.5866

Lawyer's Name: Terrence M. Warner
Lawyer's Email: twarner@millerthomson.com
File No.: 240413.5

NOTICE TO RESPONDENTS

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	<u>February 21, 2024</u>
Time	<u>10:30 a.m.</u>
Where	<u>Edmonton Law Courts Virtual Courtroom 86 https://albertacourts.webex.com/meet/virtual.courtroom86</u>
Before Whom	<u>The Honourable Justice J.J. Gill</u>

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. BDO Canada Limited, in its capacity as the Court-appointed receiver (the “**Receiver**” or “**BDO**”) of 2396610 Alberta Inc. (“**239**”), seeks an Order substantially in the form of order attached to this application as Schedule “A”:
 - (a) Abridging, if necessary, the time required for service of notice of this application and all materials in support, and declaring service of the same to be good and sufficient;
 - (b) Approving the actions, conduct and activities of the Receiver as described in the First Report to the Court of the Receiver, dated February 9, 2024 (the “**First Report**”); and
 - (c) Approving the accounts for the fees and disbursements of the Receiver incurred in these proceedings up to and including February 9, 2024, as set out in the First Report.
2. Such further and other relief as the Receiver may advise.

Grounds for making this application:

3. Upon the application of the Bank of Montreal, BDO was appointed as Receiver of 239 pursuant to the Order of the Honourable Justice M.E. Burns of the Court of King’s Bench of Alberta (the “**Court**”), granted November 20, 2023 and filed November 23, 2023 (the “**Receivership Order**”).
4. 239 owned, leased and managed a nine-unit residential apartment building located at 10734 - 108 Street NW, Edmonton, Alberta, legally described as: PLAN B4, BLOCK 8, LOT 192.
5. The Receiver has been unsuccessful in its attempts to contact the director of 239 and therefore, the Receiver has not received or reviewed 239’s books and records.

Approval of the Receiver’s Activities

6. The Receiver seeks the approval of the Court for the activities set out in the First Report.
7. The First Report sets out the activities of the Receiver since its appointment, and sets out the Receiver’s administration of the receivership estate.
8. All of the activities of the Receiver in the course of the administration of the receivership of 239 as described in the First Report are commercially reasonable, were made in good faith and are appropriate in the circumstances.

Approval of Accounts

9. The Receiver seeks the approval of the Court of its fees and disbursements.
10. Pursuant to the Receivership Order, the Receiver was granted a first charge over the property of 239 as security for its fees and disbursements.

11. A summary of the Receiver's fees and disbursements is provided in the First Report.
12. The fees and disbursements of the Receiver are reasonable and necessary for the administration of the Receivership.

Material or evidence to be relied on:

13. The Receivership Order, granted November 20, 2023 and filed November 23, 2023.
14. The First Report to the Court of the Receiver, dated February 9, 2024 and filed February 12, 2024.
15. Such further and other material or evidence as counsel may advise and this Honourable Court may permit.

Applicable rules:

16. *Alberta Rules of Court*, Alta Reg 124/2010, including Rules 1.3, 6.1, 6.3, 11.27, and 13.5.
17. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

18. *Judicature Act*, RSA 2000 c J-2, as amended.
19. *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.
20. The *Personal Property Security Act*, RSA 2000, c P-7, as amended.
21. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

22. None.

How the application is proposed to be heard or considered:

23. In Commercial Chambers, Virtual Courtroom 86.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

SCHEDULE "A"

Clerk's stamp:

COURT FILE NUMBER 2303 17033
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF BANK OF MONTREAL
DEFENDANTS 2396610 ALBERTA INC., ALI ABSHIR DINI
and ADEN SHIRE ALI

DOCUMENT

ORDER

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

MILLER THOMSON LLP
Barristers and Solicitors
2700, Commerce Place
10155-102 Street
Edmonton, AB, Canada T5J 4G8
Phone: 780.429.1751 Fax: 780.424.5866

Lawyer's
Name: Terrence M. Warner
Lawyer's
Email: twarner@millerthomson.com
File No.: 240413.5

DATE ON WHICH ORDER WAS PRONOUNCED: February 21, 2024

PLACE WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice J.J. Gill

ORDER

UPON the application of BDO Canada Limited in its capacity as the Court-appointed receiver (the "**Receiver**") of the Defendant 2396610 Alberta Inc.; AND UPON reviewing the Receivership Order, granted November 20, 2023 and filed November 23, 2023; AND UPON reviewing the First Report to the Court of the Receiver, dated February 9, 2024 and filed February 12, 2024(the "**First Report**"); AND UPON being advised that parties on the service list with an interest in these proceedings were served with notice of the Application in this matter; AND UPON hearing the submissions of counsel for the Receiver and any other counsel or interested parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Service of notice of this application and all materials in support is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

2. The actions, conduct and activities of the Receiver as described in the First Report are hereby approved.
3. The accounts for the fees and disbursements of the Receiver incurred in these proceedings up to and including February 9, 2024, as set out in the First Report, are hereby approved without the necessity of a formal passing of accounts.
4. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by Facsimile, electronic mail, personal delivery or courier, and by posting a copy of this Order on the Receiver's website, and service on any other person is hereby dispensed with. Service is deemed to be effected the next business day following transmission or delivery of this Order.

Justice of the Court of King's Bench of Alberta