

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE MR.) TUESDAY, THE 6TH DAY
JUSTICE THOMAS) OF OCTOBER, 2015

BETWEEN:

KEVIN D'AMORE

Applicant

- and -

BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE and ROYAL TIMBERS INC.

Respondents

APPLICATION UNDER SECTION 107 OF THE BUSINESS CORPORATIONS
ACT, R.S.O. 1990, C. B. 16, AS AMENDED

ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as Court-appointed receiver of the assets, undertakings and properties of Banwell Development Corporation ("Banwell") and Royal Timbers Inc. pursuant to the Order of The Honourable Mr. Justice Thomas dated June 5, 2013 (the "Receiver"), for, *inter alia*, an order:

- (a) approving the sale transaction contemplated by an Agreement of Purchase and Sale dated effective August 7, 2015 (the "APS") between the Receiver, as vendor, and Hadi Custom Homes Inc. ("Hadi"), as purchaser, in respect of the Phase 3 one foot reserve blocks, as defined in the Ninth Report of the Receiver dated September 25, 2015 (the "Ninth Report"), and directing the Receiver to

complete the transaction contemplated thereby, *nunc pro tunc* (the "**Transaction**");

- (b) discharging and deleting all claims and encumbrances registered against title to the Phase 3 one foot reserve blocks, described in **Schedule "A"**, except permitted encumbrances

was heard this day at the Courthouse, 245 Windsor Avenue, Windsor, Ontario.

ON READING the Ninth Report and on hearing the submissions of counsel for the Receiver, and such other persons as may be present and on noting that no other persons appeared, although properly served as appears from the affidavit of Susan Jarrell sworn September 25, 2015, filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved and the execution of the APS by the Receiver is hereby authorized and approved, *nunc pro tunc*. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction.
2. THIS COURT ORDERS that the Charge registered as Instrument Number CE163177 (the "**Charge**") in favour of Bank of Montreal, in the Land Registry Office of Essex (No. 12), registered against title to the lands and premises described in **Schedule "A"** hereto (the "**Lands**") is hereby discharged and the Land Registrar is directed to delete such instrument from the Lands.
3. THIS COURT ORDERS that the Receivership Order registered as Instrument Number CE569187 in favour of BDO Canada Limited, in the Land Registry Office of Essex (No. 12), registered against title to the Lands is hereby discharged and the Land Registrar is directed to delete such instrument from the Lands.
4. THIS COURT ORDERS that for the purposes of determining the nature and priority of all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, the net proceeds from the sale of the Lands shall stand in the place and stead of the Lands, and all claims and encumbrances shall attach to the net proceeds from the sale of the Lands with the same priority as they had with respect to the Lands immediately prior to the sale, as if the Lands had not

been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. THIS COURT ORDERS that, notwithstanding:

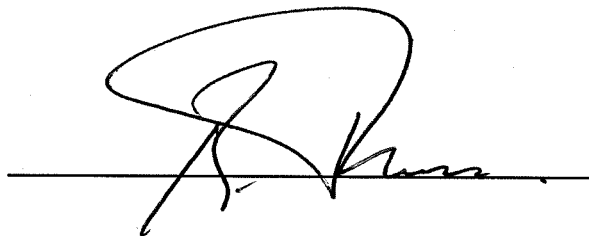
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Banwell and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of Banwell;

the Transaction shall be binding on any trustee in bankruptcy that may be appointed in respect of Banwell and shall not be void or voidable by creditors of Banwell, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

7. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

ENTERED AT WINDSOR	
In Book No.	26
re Document No.	1203
on	06 Oct 2015
by	JLR



SCHEDULE A - Lands

The lands and premises legally described as:

Block 149 (Reserve), Plan 12M533- Windsor; PIN: 01566-0715 (LT)
Block 151 (Reserve), Plan 12M533- Windsor; PIN: 01566-0717 (LT)
Block 153 (Reserve), Plan 12M533- Windsor; PIN: 01566-0719 (LT)
Block 155 (Reserve), Plan 12M533- Windsor; PIN: 01566-0721 (LT)
Block 157 (Reserve), Plan 12M533- Windsor; PIN: 01566-0723 (LT)
Block 159 (Reserve), Plan 12M533- Windsor; PIN: 01566-0725 (LT)
Block 161 (Reserve), Plan 12M533- Windsor; PIN: 01566-0727 (LT)
Block 163 (Reserve), Plan 12M533- Windsor; PIN: 01566-0729 (LT)
Block 165 (Reserve), Plan 12M533- Windsor; PIN: 01566-0731 (LT)
Block 167 (Reserve), Plan 12M533- Windsor; PIN: 01566-0733 (LT)
Block 169 (Reserve), Plan 12M533- Windsor; PIN: 01566-0735 (LT)
Block 171 (Reserve), Plan 12M533- Windsor; PIN: 01566-0737 (LT)
Block 173 (Reserve), Plan 12M533- Windsor; PIN: 01566-0739 (LT)
Block 175 (Reserve), Plan 12M533- Windsor; PIN: 01566-0741 (LT)

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ONTARIO LIMITED, SCOTT D'AMORE and ROYAL
TIMBERS INC.

Court File No: CV-11-17088

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Windsor

ORDER

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