

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

BANK OF MONTREAL

Applicant

-and-

OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED  
and KENNETH W. ROWE LIMITED

Respondents

APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3,  
and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

**MOTION RECORD**  
(Returnable January 23, 2012)

January 11, 2012

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# INDEX

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# TAB 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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BETWEEN:

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Applicant

-and-

OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED  
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APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3,  
and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

**NOTICE OF MOTION**

BDO Canada Limited, the Court-Appointed Receiver and Manager of the assets and undertakings of the Respondents, will make a Motion to a Judge presiding over the Commercial List on Monday, January 23, 2012 at 10:00 a.m., or as soon after that time as the Motion can be heard at the court house, 330 University Avenue, 8<sup>th</sup> Floor, Toronto, Ontario, M5G 1R7.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard

- in writing under subrule 37.12.1(1) because it is;
- in writing as an opposed motion under subrule 37.12.1(4);
- orally.

**THE MOTION IS FOR:**

- (a) An Order approving the Second Report to Court of the Receiver and the activities of the Receiver as described therein;
- (b) An Order approving the fees and disbursements of the Receiver and its counsel;
- (c) An Order for the winding up of each of the Respondents in the form included in this Motion Record;
- (d) An Order appointing BDO Canada Limited as liquidator of each of the Respondents;
- (e) An Order approving the proposed liquidation process set out in the Second Report to Court of the Receiver;
- (f) The costs of this Motion; and,
- (g) Such further and other relief as to this Honourable Court may seem just.

**THE GROUNDS FOR THE MOTION ARE:**

- (a) Section 243 (d) of the Ontario *Corporations Act*, R.S.O. 1990, c. C-38 and under s. 207 (1)(b)(iv) of the Ontario *Business Corporations Act*, R.S.O. 1990, c. B-16;
- (b) It is just, convenient and appropriate that the Respondents be wound up in accordance with the terms of the draft Order submitted, and that the liquidator undertake the process described in the Second Report to Court;



- (c) The assets of the Respondents have been sold by the Receiver, and the claims process previously authorized by the Court is complete. There is no remaining business reason for the Respondents to continue to exist, and there remains a surplus of funds available for distribution to the shareholders of the Respondents. The remaining tasks in this matter will be most efficiently and logically completed by a liquidator through a winding-up process.
- (d) Such further and other grounds as the lawyers may advise.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

- (a) Second Report to Court of the Receiver;
- (b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

January 5, 2012

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RCP-E 37A (July 1, 2007)

BANK OF MONTREAL  
Applicant

-and-  
Respondents

OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED et al.

Court File No. CV-11-9306-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**NOTICE OF MOTION**

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RCP-E 4C (July 1, 2007)

# TAB 2



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7

Court File No. CV-11-9306-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

IN THE MATTER OF SECTION 243(1) OF THE BANKRUPTCY  
AND INSOLVENCY ACT, R.S.C. 1995, c.B-3, AS AMENDED; and

IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT,  
R.S.O. 1990 c. C-43, AS AMENDED

IN THE MATTER OF THE RECEIVERSHIP OF OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED  
AND  
KENNETH W. ROWE LIMITED

**SECOND REPORT OF THE RECEIVER BDO CANADA LIMITED**  
**TO THE COURT**  
January 9, 2012

1. This is the second report of the Receiver of Owen Sound Golf and Country Club, Limited (the "Golf Club") and Kenneth W. Rowe Limited ("KWRL") (collectively "OSGCC" or the "Company").
2. The purpose of this report is as follows:
  - To report on the activities of the Receiver since the of the First Report of the Receiver to the Court September 28, 2011(the "First Report") and to obtain approval of same;

- To report on the conduct of the claims process as authorized in the Order of Mr. Justice Cumming of October 11, 2011 (the "Claims Process") and to authorize the receiver to distribute funds to creditors identified pursuant to the Claims Process;
  - To obtain authorization to conduct a winding up of the Golf Club pursuant to the provisions of the *Corporations Act* and of KWRL pursuant to the provisions of the *Ontario Business Corporations Act*;
  - To report to the Court on the Receiver's activities to date and to obtain approval of same;
  - To obtain approval of the accounts of the Receiver and its legal counsel.
3. All capitalized terms shall have the same meanings as defined in the First Report, a copy of which is appended hereto as Exhibit "1".

#### Background

4. OSGCC is a corporation incorporated in 1920 pursuant to the *Ontario Corporations Act*. It is not a non-share capital corporation, but rather, has a number of shareholders, the precise identity of whom remains a matter of some confusion, which will be dealt with later in this report. OSGCC operated an 18-hole golf course on approximately 160 acres in the Township of Georgian Bluffs, near the city of Owen Sound.
5. KWRL is a corporation incorporated pursuant to the *Ontario Business Corporations Act*. It is a wholly-owned subsidiary of OSGCC, and owned 192 acres of land, consisting of a 20-acre parcel on which the practice facility of the Golf Club is located and a separate 172-acre parcel.
6. Pursuant to an Application brought by Bank of Montreal, in July, 2011, the Receiver was appointed by this Honourable Court as Court-Appointed receiver over both OSGCC and KWRL.

**Activities of the Receiver Since September 28, 2011**

7. On October 11, 2011, the Receiver sought and obtained an Order of the Honourable Mr. Justice Cumming approving the sale of the Golf Club and vesting title in the Purchaser (the "Approval Order") and a second Order addressing other aspects of the administration of the Receivership (the "October Order"). Copies of the Approval Order and the October Order are attached hereto as Exhibits "2" and "3" respectively.
  
8. The Approval Order authorized the Receiver to do the following:
  - To take such additional steps as may be necessary or desirable for the completion of the Sale Transaction and conveyance of the Purchased Assets to the Purchaser;
  - To execute a Receivers Certificate to convey the real property to the Purchaser;
  - To hold the proceeds from the assets conveyed in the stead of the property such that claims and encumbrances attached;
  - and to file a copy of the Receivers Certificate with the Court after delivery;
  
9. The October Order authorized the Receiver to do the following:
  - To pay Canada Revenue Agency the amount of \$21,551 in full satisfaction of its property claim in respect of source deductions arrears;
  - To pay Bank of Montreal the amount of \$1,243,555.96 plus interest accrued to date of payment in full of its secured claims and the Receiver's Certificate;
  - To conduct the Claims Process outlined in the First Report
  - In addition the actions of the Receiver and its accounts were approved.
  
10. The sale of the Purchased Assets was completed on October 25, 2011 and a Receiver's Certificate was filed with the Court on the same day.
  
11. The distributions to Bank of Montreal and to Canada Revenue Agency authorized pursuant to the October Order were completed on October 27, 2011. Both disbursements are reflected in the Receiver's Statement of Receipts and Disbursements attached to this report.



12. On October 31, 2011 the receiver initiated the Claims Process authorized in the October Order. The receiver mailed claims packages to all creditors of record based on the records of the Company. The Receiver advertised the Claims Process in local media over four successive weeks.
13. In mid-December the Receiver contacted, either by phone or e-mail, all creditors of record who had not filed claims to inquire as to the status of their claims.
14. The Receiver has been in regular communication with a number of government agencies regarding statutory obligations of the Company. Some of the obligations were not determinable during the currency of the Claims Process due to the nature and calculation of the claims. The Receiver has attempted to quantify these claims to the extent possible, and is working with the government agencies to finalize these amounts. The claims for government agencies as set out in this report use calculated amounts which materially represent the amounts that the Receiver anticipates will be owed to them.
15. The Receiver issued one Notice of Disallowance as provided for in the Claims Process. The creditor is a local plumber who had performed work for the Company in the 2003 to 2005 period. He did not invoice promptly. When he did issue the invoices the Company did not pay as a result of the delay in submitting the bills. The claim was submitted to the Receiver in the amount of approximately \$35,000 together with acknowledgments from a number of former presidents of the Golf Club that the work had been performed. The Receiver is of the view that the work was done properly and not paid for. In the final analysis, however, it is the opinion of the Receiver and its counsel that the claim could not be accepted as it was outside of the limitation period set out in the *Limitations Act*. The creditor will be served with notice of the Receiver's attendance in Court and made aware that he has the right to make application to this Court to dispute the disallowance.
16. A listing of the claims of the company as filed with the Receiver is attached hereto as Exhibit "4". Claims shown as "Admitted" with a total value of \$216,118.99 have been accepted by the Receiver. There are 15 claims shown as "Withdrawn" with a total value of \$1,059.43 indicating that the creditor has communicated by phone, email or facsimile that they would not be filing a claim. There are 21 claims shown as "Not proved" with a

total value of \$3,216.11 indicating that the creditor did not respond to the mailing or subsequent communication.

17. The Receiver has been advised that Canada Revenue Agency has an additional property claim in the amount of \$363.42 relating to a year-end payroll adjustment. This amount is included in the unsecured claim of CRA related to payroll in the amount of \$11,120.61. The HST deemed trust claim will be paid, as shown, in the amount of \$20,536.56.
18. The Receiver's Statement of Receipts and Disbursements is attached hereto as Exhibit "5". The Receiver believes that the balance of funds currently on hand of \$1,205,276.36 is sufficient to make necessary payments to creditors after payment of the costs of administration.
19. The Receiver recommends that it be authorized to make payments as set out in the column titled "Admitted for Dividend" in Exhibit 4 totaling \$216,118.99 to discharge the liabilities of the company pursuant to the Claims Process. Where there are minor adjustments to the claims such as in the case of government agencies, the Receiver recommends that he be authorized to pay the corrected amount of such claims in the ordinary course.

#### Winding Up of the Company

20. The Receiver has now completed the sale of the assets of the Company and, upon approval by this Court for the payment of claims and distribution by the Receiver, will have paid all creditors of the Company. As noted in the First Report the Board of Directors of the Golf Club resigned on July 12, 2011.
21. After payment of claims as recommended herein, and before fees and disbursements necessary to complete the administration of the receivership there is approximately \$987,000.00 remaining in the Receiver's account. There is no management or Board of Directors of the Company to conduct a winding up under the applicable statutes.
22. The Receiver requested its counsel to provide advice regarding the winding up of the Company. Torkin Manes LLP is of the opinion that the Golf Club should be wound up pursuant to the provisions of the *Corporations Act* and that KWRL should be wound up

pursuant to the provisions of the *Ontario Business Corporations Act*. KWRL is a wholly owned subsidiary of the Golf Club.

23. There are many shareholders of the Golf Club, some of whom are active and pay dues, and some of whom own shares but do not play. The shareholder records date from 1920 and do not appear to be complete. The determination of who participates in the distribution of any surplus funds is best determined by the Court as different shareholders have expressed different views of what should happen to the surplus. The Receiver recommends that the winding up of the Company be carried out under the supervision of the Court.
24. The Receiver proposes to engage in a process in its capacity as Liquidator, similar to a claims process, to identify the parties entitled to participate in the distribution of the surplus proceeds, and to report to the Court further as to the results of that process, and, potentially, to recommend a specific distribution of the surplus proceeds.
25. As the Board of Directors of the Golf Club has resigned, the Receiver recommends that it be appointed as the Liquidator of the Company for the purposes of completing final returns, settling final accounts and winding up the Company pursuant to the applicable statutes. Given the familiarity of the Receiver with the Companies, it would appear to be a wasteful duplication of effort for any other party to be appointed Liquidator.
26. The Receiver is seeking the approval of its accounts, filed with the Court under separate cover.

### Recommendations

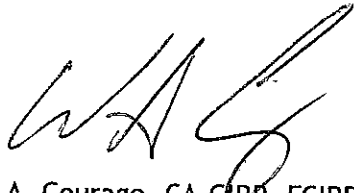
27. The Receiver recommends to the Court as follows:
  - a) That it be authorized to distribute the sum of \$216,118.99 to the creditors as set out in Exhibit 4, subject to any minor adjustments for amounts owed in respect of statutory obligations;
  - b) That the Court appoint BDO Canada Limited as liquidator of the Golf Club pursuant to the *Corporations Act* and of KWRL pursuant to the *Ontario Business Corporations Act*;

- c) That the Receiver's accounts and those of its counsel are approved; and
- d) That its activities to date as set out in this report be approved by the Court.

Respectfully submitted this 9<sup>th</sup> day of January, 2012.

BDO Canada Limited in its capacity as  
Court Appointed Receiver of Owen Sound Golf and Country Club Limited and  
Kenneth W. Rowe Limited

Per:



William A. Courage, CA-CIRP, FCIRP  
Fellow Chartered Insolvency and Restructuring Professional  
Senior Vice-President

Encl



Court File No. CV-11-9306-00CL

**ONTARIO**  
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IN THE MATTER OF SECTION 243(1) OF THE BANKRUPTCY  
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IN THE MATTER OF THE RECEIVERSHIP OF OWEN SOUND GOLF AND COUNTRY CLUB LIMITED  
AND  
KENNETH W. ROWE LIMITED

**FIRST REPORT OF THE RECEIVER BDO CANADA LIMITED**  
**TO THE COURT**

September 28, 2011

1. This is the first report of the Receiver of Owen Sound Golf and Country Club Limited (the "Golf Club") and Kenneth W. Rowe Limited ("KWRL") (collectively "OSGCC" or the "Company").
2. The purpose of this report is as follows:
  - To seek authorization to complete a sale of the assets to Kinsale Investments Limited, who submitted the highest bid in the sale process conducted by the Receiver;
  - To obtain authorization to distribute funds received from the sale of the assets to satisfy the claims of the secured creditor and certain government priorities;

- To obtain authorization to conduct a claims process whereby the Receiver would seek to identify and establish the claims of other creditors;
- To report to the Court on the Receiver's activities to date and to obtain approval of same;
- To obtain approval of the accounts of the Receiver and its legal counsel.

### Background

3. July 15th, 2011 pursuant to an Order of Justice Lederer (the "Order"), BDO Canada Limited was appointed Receiver of OSGCC under section 243(1) of *The Bankruptcy and Insolvency Act* (the "BIA") and section 101 of the *Courts of Justice Act*. The Order is attached hereto as Exhibit "1".
4. The Golf Club was formed as a semi-private, not-for-profit golf course in 1920. It operates an 18-hole golf course on approximately 160 acres in the Township of Georgian Bluffs, near the city of Owen Sound. KWRL is a wholly-owned subsidiary which owns 192 acres of land, consisting of a 20-acre parcel on which the practice facility of the Golf Club is located and a 172-acre parcel that is leased to a local farmer.
5. The original 9 holes of the golf course were designed by Stanley Thompson, a noted golf course architect of the period, and opened for play in 1921. An expansion to 18 holes in 1975 preserved much of the original character of the course. The course is rich in history and offers unique layouts and views of Georgian Bay. The clubhouse building was originally a farmhouse. Considerable concern has been expressed by the club members and the local community that the assets be maintained as a golf course, as opposed to being developed.
6. Bank of Montreal (the "Bank") provided OSGCC with an overdraft facility, demand loan and mortgage loan secured by the assets of OSGCC. According to the affidavit of David Patterson, sworn July 14, 2011, the bank was owed \$1,088,886.61 as of that date.
7. In 2002 OSGCC installed a new irrigation system and paid for the system, in part, using borrowed funds. Over the last five years OSGCC experienced declining revenues and increased costs for course maintenance and upkeep and incurred operating losses over this period. The operating losses were financed by increases in OSGCC's borrowing position with the Bank. In July 2011 the Board of Directors reviewed the operating results for the

first part of the season and determined that revenues and cash flow were lower than anticipated. In reviewing the projections for the balance of the operating year the Board determined that continued operations would result in either exceeding authorized borrowing limits with the Bank or being unable to pay its obligations for the balance of the operating season.

8. The Board decided to close the course on July 5, 2011. The Board resigned on July 12, 2011. After the resignation of the Board of Directors Bank of Montreal applied for the appointment of a Receiver to ensure that the assets were protected.

#### Activities of the Receiver

9. The Receiver was appointed pursuant to the standard form Commercial List Order, which sets out the Receiver's duties and powers. Among other powers the Receiver was empowered to carry on the business of the Debtor and to market any or all of the property of the Debtor.
10. Since its appointment on July 15 the Receiver has taken possession of the property and secured the premises. An inventory of equipment and inventory has been completed.
11. The Receiver retained the existing employees of OSGGC and opened the course on July 20, five days after its appointment, after completing necessary maintenance procedures. The Receiver allowed existing members to continue to play without the payment of additional green fees and actively promoted green fee activity at the course to generate cash flow. Food and beverage operations were continued on a limited basis, consisting of a snack bar type facility at the halfway point of the course and, when appropriate, cart service on the golf course. The Receiver obtained a temporary transfer of the Company's liquor licence from the Alcohol and Gaming Commission of Ontario.
12. The Receiver provided the Notice of Receiver and Statement of Receiver to all creditors of record as required by the provisions of the BIA.
13. The Order authorized the Receiver to borrow funds by way of the Receiver's Certificate that is Schedule "A" to the Order. The Receiver received an advance of \$50,000 from



Bank of Montreal to ensure that it was able to meet its obligations in operating the course.

14. The Receiver's Statement of Receipts and Disbursements for the period from July 15 to September 23, 2011 is attached as Exhibit "2".
15. The Receiver has collected funds from green fees, food and beverage operations, pro shop and membership fees. Amounts that owed by members, as of the date of our appointment for accounts receivable, whether for yearly membership fees that were paid on an installment basis or other charges are shown as 'Accounts Receivable'. The Receiver's activities are shown separately.
16. The payment of wages has been the largest expense incurred by the Receiver. Purchases for food and beverage and maintenance supplies have been incurred at the minimum levels necessary to maintain the course and services to members.
17. Insurance has been continued through the Company's broker with the Receiver added as a named insured on the policy.

#### Assets

18. The golf course itself is owned by the Golf Club and the additional parcels consisting of the practice facility and leased farm land are owned by KWRL. In this way title has not merged pursuant to the provisions of the *Planning Act*.
19. Other assets of the Debtor consist of turf and maintenance equipment, food and beverage equipment and appliances, lounge and office furniture and various tools. In addition, there is a quantity of food and beverage inventory and turf maintenance supplies.
20. Much of the turf maintenance equipment, a beverage cart and 30 golf carts are leased to OSGGC by Maxium Leasing. At the date of our appointment the amount outstanding to Maxium was approximately \$420,000. The Receiver has continued to make payments as required under the terms of the leases, subject to renegotiation of some of the leases to reflect the Receiver's operating requirements. The leased assets were excluded from the

sale process, although the purchaser was given the opportunity to assume the leases, negotiate a buyout of Maxium's position or have the receiver return the equipment. As of the date of this report the purchaser has not indicated a preference with respect to the leased equipment. The Receiver anticipates that this will be dealt with in the ordinary course prior to closing.

21. The Receiver has commissioned one real estate and one personal property appraisal of the assets to assist it in evaluating offers to purchase the assets. The appraisals are not included with this report but copies will be available at the return of the motion for the approval of the proposed sale.

#### Priority Payables

22. The Receiver determined that one employee had been terminated within six months prior to the appointment of the Receiver and was eligible to make a claim under the Wage Earner Protection Program for termination pay based on the Employment Standards Act. The Receiver registered the required information with the Wage Earner Protection Program and asked the employee to complete the appropriate steps to recover permitted amounts. The termination pay calculated was approximately \$850 and does not form a priority over assets in the Receiver's hands.
23. Canada Revenue Agency ("CRA") completed an examination of the Company's payroll records and determined amounts owing on account of source deductions for the period prior to closure. There were no arrears as of the date of closure; amounts owing were current obligations. CRA has advised that the property claim totals \$21,551. This amount constitutes a deemed trust over the assets of OSGCC. The claim of CRA for source deductions also includes an unsecured portion of \$10,757.
24. The Receiver is awaiting final calculation of the claim of CRA for HST owing. The Receiver filed the final returns for the Company up to the date of closure. The total arrears are estimated to be approximately \$21,000 and in the absence of a bankruptcy are a deemed trust claim over the assets of the Company.

### Receiver's marketing of the assets

25. The Order authorized the Receiver to market and sell the assets of OSSGC. The prime operating season of the golf course is from May to September and OSSGC does not own any complimentary winter season assets. The Receiver determined that, by acting quickly, it may be able to complete a sale of the assets prior to the end of the operating season, thereby allowing the purchaser to meet with members prior to the closure of the course for the winter and market itself for the upcoming season. The alternative was for a winter sale process, with the potential loss of members due to the Receiver's inability to plan for the upcoming season. It is also advantageous to the creditors that a sale be completed prior to the winter months, in order to avoid further costs with limited offsetting revenues. Accordingly, the Receiver commenced marketing of the assets shortly after its appointment.
26. The Receiver was contacted directly by a number of parties with interest in the assets immediately after its appointment. As a result of the public interest in the closure of the course the Receiver issued press releases and conducted press interviews, with the result that the closure of the golf course and proposed sale of the assets was covered in the London and Kitchener/Waterloo radio and print media and The Toronto Star. In addition, the Receiver advertised the sale of the assets in the print edition of the Globe and Mail on August 12, 2011, the Owen Sound Sun Times on August 12 and 19, 2011 and on the Receiver's own external web site.
27. The Receiver engaged the services of Links Marketing Group Inc. ("LMG"), a Canadian based publishing and marketing firm with expertise in the golf industry. This firm produces both electronic and traditional print publications. Through LMG, the Receiver placed an advertisement for the sale of the assets in Golf Industry Network, an online golf news publication. The advertisement contained an electronic link to the Receiver's web site. LMG also issued an electronic mail notice of the sale of assets to approximately 4,000 industry parties drawn from its own database.
28. The Receiver prepared a Confidential Information Memorandum ("CIM") that provided interested parties with key information including details of the assets, market analysis,

summarized financial information and details of the sale process. A copy of the CIM is attached as Exhibit "3".

29. The Receiver conducted an information and sale process whereby interested parties were first required to sign a Confidentiality Agreement which could be obtained in electronic format from the Receiver's external web site. Upon signing the Confidentiality Agreement the interested party was provided with electronic access to a 'Virtual Data Room' on the Receiver's external web site which contained, among other things: detailed financial history, listings of owned and leased assets and other information that may be relevant to a potential purchaser such as membership data, employee information, tax notices, liquor licenses, water and septic permits, land surveys and other information. The data room also included a suggested format of Asset Purchase Agreement. The Receiver established a deadline for the submission of bids of September 2, 2011.
30. The Receiver received enquiries from approximately 85 interested parties. Confidentiality Agreements were provided to 64 parties, of whom 48 parties executed and returned a Confidentiality Agreement and were provided with electronic access to the Receiver's virtual data room.
31. Five bids were received for the assets of OSGCC. All of the bids received were based around the preservation and continuation of the operations of the golf course. A schedule showing the bids received and names of bidders will be provided to the Court on an in-camera basis at the return of the motion.

#### Sale to Kinsale

32. The highest bid received was from Kinsale Investments ("Kinsale"). The original bid included a deposit in the amount of approximately 5 per cent of the purchase price. On September 7, 2011 the Receiver accepted this offer on the condition that Kinsale provide a further deposit on acceptance, bringing the total deposit to 10 per cent of the purchase price, being the amount of the suggested deposit in the Asset Purchase Agreement provided by the Receiver. The additional deposit was received by the Receiver on September 9, 2011 and these funds are being held by the Receiver pending closing.

33. The Kinsale bid was compared to the combined real estate and personal property appraisals received. While the purchase price does not equal the totals of the appraisals, the bid was received in a compressed time frame, and did not incur the costs associated with a listing process through a real estate agent nor the additional costs associated with the delay of a listing process. Further, the Receiver is not required to winterize the course and incur carrying costs for the inactive part of the year.
34. On September 7, 2011 the Receiver returned the deposits of the bids that were not accepted.
35. On September 23, 2011, Kinsale indicated that it had completed its due diligence as provided for in the Asset Purchase Agreement, and the Receiver is now making application to the Court for approval of the sale transaction. The Receiver anticipates, after discussions with Kinsale, that the sale transaction will close during the week of October 17, 2011, subject to approval of the Court. Copies of the Kinsale agreement will be available at the return of the motion for approval of the proposed sale.
36. The Receiver is recommending the acceptance of the Kinsale offer by this Court.

#### Distribution of Sale Proceeds

37. The Receiver obtained an independent legal opinion of the validity and enforceability of the security of Bank of Montreal from its solicitors, Torkin Manes LLP. The opinion states that the security of Bank of Montreal over the real and personal property assets of OSGCC is valid subject to the usual caveats and restrictions. Including \$50,000 borrowed from Bank of Montreal by the Receiver, for which a Receiver's Certificate was issued, the total indebtedness of Bank of Montreal is \$1,243,555.96, with interest accruing daily in the amount of \$156.45 from September 26, 2011.
38. The property claim of CRA for Source deductions, as noted in the 'Priority Payables' section of this report is \$21,551.
39. Based on the successful completion of the sale of the assets to Kinsale, the Receiver anticipates there will be sufficient funds to pay in full the secured indebtedness of Bank

of Montreal and the property claim of CRA. Based on the records of OSGCC it appears there is approximately \$130,000 in other claims. After the payment of the secured amounts, it appears there will be sufficient funds available to pay all creditors of OSGCC in full. The Receiver recommends that it be authorized to pay the claim of CRA for the deemed trust portion of Source Deductions in the amount of \$21,551 and the secured claim of Bank of Montreal in the amount of \$1,243,555.96 plus interest to date of payment.

### Claims Process

40. In order to fully establish all other claims against OSGCC as of July 15, 2011, it is necessary for the Receiver to undertake a claims process and identify the creditors. This process would be expected to include the following:

- Advising all known suppliers to OSGCC, according to the Company records, by regular mail and/or facsimile of the possible distribution of funds and providing such suppliers with a standard form proof of claim with which to submit their claim to the Receiver.
- Publication in the local newspaper seeking details of any claims against OSGCC;
- Establishing a claims bar date 60 days from the date of the Receiver's letter, after which no claims would be accepted by the Receiver.
- Authorizing the Receiver, or a party appointed by the Receiver to act as a Claims officer to determine the validity of claims.
- Authorizing a process for a creditor whose claim has been revised or disallowed to dispute the revision or disallowance.
- Re-attending before Court to obtain authorization for distributions to creditors.

41. The unsecured claim of CRA related to arrears of source deductions and the priority claim of CRA, to be finalized, for HST would be addressed through this claims process.

42. The Receiver is seeking the approval of its accounts, filed with the Court under separate cover.

**Recommendations**

43. The Receiver recommends to the Court as follows:

- a) That it be authorized to complete the sale of the assets of OSGCC to Kinsale;
- b) That it be authorized, upon successful completion of the sale to Kinsale, to distribute funds:
  - 1) to Canada Revenue Agency in the amount of \$21,551, in full satisfaction of its property claim in respect of source deduction arrears;
  - 2) to Bank of Montreal in the amount of \$1,243,555.96, plus interest accrued to date of payment in full satisfaction of its secured claim.
- c) That it be authorized to commence a claims process as described herein to establish the full amount of other creditor claims against OSGCC;
- d) That the Receiver's accounts and those of its counsel are approved; and
- e) That its activities to date as set out in this report be approved by the Court.

Respectfully submitted this 28<sup>th</sup> day of September, 2011.

BDO Canada Limited in its capacity as  
Court Appointed Receiver of Owen Sound Golf and Country Club Limited and  
Kenneth W. Rowe Limited  
Per:

William A. Courage, CA-CIRP, FCIRP  
Fellow Chartered Insolvency and Restructuring Professional  
Senior Vice-President

Encl

Land Registrar is hereby directed to enter the parties indicated on Schedule B as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto, but the permitted encumbrances shown on Schedule D shall remain registered on title.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets 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 AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser, if deemed necessary by the Receiver, all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtors.

7. **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 the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors;



PIN 37039-0120 (LT)

1. Transfer of Easement in favour of The Hydro-Electric Power Commission of Ontario registered February 28<sup>th</sup>, 1951 as Instrument No. SK5457;
2. Transfer of Easement in favour of The Hydro-Electric Power Commission of Ontario registered February 28<sup>th</sup>, 1951 as Instrument No. SK5458;
3. Order made under the *Planning Act* registered on June 11<sup>th</sup>, 1969 as Instrument No. R109894;
4. Reference Plan No. 16R-4839 registered March 11<sup>th</sup>, 1991.

PIN 37039-0121 (LT)

1. Transfer of Easement in favour of The Hydro-Electric Power Commission of Ontario registered February 28<sup>th</sup>, 1951 as Instrument No. SK5458;
2. Order made under the *Planning Act* registered on June 11<sup>th</sup>, 1969 as Instrument No. R109894;
3. Reference Plan No. 16R-4839 registered March 11<sup>th</sup>, 1991.

PIN 37039-0340 (LT)

1. Reference Plan No. 16R-4839 registered March 11<sup>th</sup>, 1991.

PIN 37039-0309 (LT)

1. Reference Plan No. RD73 registered April 14<sup>th</sup>, 1969;
2. Order made under the *Planning Act* registered on June 11<sup>th</sup>, 1969 as Instrument No. R109894;
3. Easement Agreement dated April 8<sup>th</sup>, 1987 between The Owen Sound Golf and Country Club, Limited and The Corporation of the Township of Sarawak registered November 30<sup>th</sup>, 1987 as Instrument No. R259070;
4. Reference Plan No. 16R-4839 registered March 11<sup>th</sup>, 1991; and
5. Transfer of Easement dated August 30<sup>th</sup>, 1994 from Owen Sound Golf and Country Club, Limited in favour of Union Gas registered October 12<sup>th</sup>, 1994 as Instrument No. R350368.

BANK OF MONTREAL  
Applicant

-and-  
Respondents

OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED et al.

Court File No. CV-11-9306-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**APPROVAL AND VESTING ORDER**

**TORKIN MANES LLP**  
Barristers & Solicitors  
151 Yonge Street, Suite 1500  
Toronto ON M5C 2W7

Jeffrey J. Simpson (39663M)  
jsimpson@torkinmanes.com  
Tel: 416-777-5413

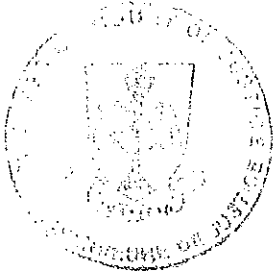
David Chaiton (18362V)  
Tel: 416-643-8814

Tel: 416-863-1188  
Fax: 416-863-0305

Lawyers for the Receiver, BDO Canada Limited

RCP-E 4C (July 1, 2007)





Court File No. CV-11-9306-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE

JUSTICE *Cumming*

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)  
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TUESDAY, THE 11TH

DAY OF OCTOBER, 2011

BETWEEN:

BANK OF MONTREAL

Applicant

-and-

OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED  
and KENNETH W. ROWE LIMITED

Respondents

APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3,  
and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

**ORDER**

**THIS MOTION**, made by BDO Canada Limited (the "Receiver") in its capacity as the Court-appointed receiver and manager of all of the assets, undertakings and properties of Owen Sound Golf and Country Club, Limited and Kenneth W. Rowe Limited, for orders approving the conduct and Bill of Costs of the Receiver, the Bill of Costs of counsel to the Receiver and approving the claims process proposed by the Receiver was heard this day at the court house, 330 University Avenue, 7th Floor, Toronto, Ontario, M5G 1R7.

ON READING the First Report to Court of the Receiver and on hearing the submissions of counsel for the Receiver, counsel for Bank of Montreal and counsel for the Purchaser, no one appearing for any other person on the service list,

1. **THIS COURT ORDERS** that the activities and conduct of the Receiver as described in the First Report to Court of the Receiver, filed, are hereby approved.

2. **THIS COURT ORDERS** that the Bill of Costs of the Receiver as verified by the Affidavit of William A. Courage sworn October 3, 2011, and all fees and disbursements shown thereon, are hereby approved.

3. **THIS COURT FURTHER ORDERS** that the Bill of Costs of counsel to the Receiver as verified by the Affidavit of Stewart Thom sworn October 6, 2011, and all fees and disbursements shown thereon, are hereby approved.

4. **THIS COURT FURTHER ORDERS** that the Receiver is authorized and directed to make the following distributions of funds following completion of the sale of assets authorized pursuant to an Approval and Vesting Order issued on the same date as this Order:

(a) To Canada Revenue Agency in the amount of \$21,551 in full satisfaction of its property claim in respect of source deduction arrears; and

(b) To Bank of Montreal in the amount of \$1,243,555.96 plus interest accrued to date in payment in full satisfaction of its secured claim.

5. **THIS COURT FURTHER ORDERS** that the claims process outlined in the First Report to Court of the Receiver, and the documentation in connection therewith attached as

Schedule A hereto, are hereby approved and the Receiver is hereby authorized and directed to conduct the claims process as outlined therein.

6. **THIS COURT FURTHER ORDERS** that the Receiver shall have its costs of this Motion on a substantial indemnity scale.

*Oct 11, 2011*      *Peter A. Cumming J.*

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

OCT 11 2011

PER/FAR: *NB*

**Schedule A**  
**INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE AGAINST OWEN SOUND GOLF AND**  
**COUNTRY CLUB, LIMITED AND KENNETH W. ROWE LIMITED**  
(hereinafter referred to as "OSGCC")

**A. -Claims Process**

By order of the Honourable XXXXXXXXXX dated XXXXXXX the Ontario Superior Court of Justice the Receiver, BDO Canada Limited, has been authorized to conduct a claims procedure for determining claims against the OSGCC (the "Claims Procedure"). The Claims Procedure, a copy of which is enclosed, shall govern the valuation of all Claims against OSGCC.

This letter provides instructions for responding to or completing the Proof of Claim enclosed herewith. Defined terms which are not defined herein shall have the meaning ascribed thereto in the Claims Procedure Order. A copy of the Claims Procedure Order can be obtained from the Receiver's website at [www.bdo.ca/OSGCC](http://www.bdo.ca/OSGCC).

Please note that this letter is intended as a guide only and that in the event of any inconsistency between the terms of this letter and the terms of the Claims Procedure Order, the terms of the Claims Procedure Order will govern.

The Claims Procedure is intended for any party asserting a claim of any nature or kind whatsoever against OSGCC whether liquidated, unliquidated, contingent or otherwise as of (claims date), or any claim arising from the termination, repudiation or cancellation by OSGCC or its Receiver, of any contract, lease or other agreement as of (claims date) as described in the Claims Procedure Order. If you have any questions regarding the Claims Procedure, please contact the solicitor for BDO Canada Limited, in its capacity as Receiver of OSGCC (the "Receiver") at the address provided below.

All inquiries with respect to the Claims Procedure Order should be addressed to:

Torkin Manes LLP  
Barristers & Solicitors  
151 Yonge Street, Suite 1500  
Toronto, Ontario M5C 2W7

Attention: Mr. David Chaiton  
Telephone: 416-643-8814  
Facsimile: \_\_\_\_\_  
Email: [dchaiton@torkinmanes.com](mailto:dchaiton@torkinmanes.com)

**B. -For Creditors Submitting a Proof of Claim**

If you believe that you have a claim against OSGCC, you will have to file a Proof of Claim with the Receiver.

BDO Canada Limited  
Suite 200, BDO Building  
1717 Second Avenue East  
P.O. Box 725  
Owen Sound, ON N4K 5W9

Attention: Joe Bette  
Telephone: 519-372-0188 x2265  
Email: [jbette@bdo.ca](mailto:jbette@bdo.ca)

Proof of Claims for all Claims (including Director and Officer Claims) must be received by 5:00p.m. (Eastern Standard Time) on (due date) (the "Claims Bar Date") or such later date as the Receiver may consent to in writing.

Additional Proof of Claim forms and a copy of the Claims Procedure Order can be found on the Receiver's website at [www.bdo.ca/osgcc](http://www.bdo.ca/osgcc) or obtained by contacting the Receiver at the address indicated above and providing particulars as to your name, address, facsimile number and e-mail address. Once the Receiver has this information, you will receive, as soon as practicable, additional Proof of Claim forms.

**Failure to file your Proof of Claim so that it is received by the Receiver by the Claims Bar Date will result on your claim being barred and you will be prevented from making or enforcing a Claim against OSGCC. In addition, you shall not be entitled to further notice in and shall not be entitled to participate as a creditor in these proceedings.**

A Proof of Claim for a period arising after the appointment of the Receiver must be received by the Receiver by (DATE), or within 30 days after the claim arose, or by such other date as the Receiver and the claimant agree in writing or the Court so orders.

If the Receiver does not agree with the amount of your claim as filed, and such disagreement cannot be resolved consensually you will receive a Notice of Revision or Disallowance from the Receiver. See \_\_\_\_ for details.

#### GENERAL INSTRUCTIONS FOR COMPLETING THE PROOF OF CLAIM

The Proof of Claim must be completed by an individual or an individual acting on behalf of a corporation. The person acting for a corporation or other person must state the capacity in which they are acting such as "Credit Manager", "Treasurer" etc. The person completing the Claim should have knowledge of the circumstances surrounding the Claim. All Proofs of Claims must be signed, dated and witnessed.

The full name of the Creditor must be filled out in its entirety. Creditors who file a Proof of Claim for a division, or file several Proofs of Claim by division may have their Claims disallowed. **ONLY ONE PROOF OF CLAIM FOR EACH LEGAL ENTITY** may be filed notwithstanding that separate divisions of the same entity may bill OSGCC separately.

A Statement of Account setting out the full particulars of the Claim must accompany each Proof of Claim. The Proof of Claim should include all amounts owing to you for periods up to and including (date). Claims shall be reduced by the amount of any payments thereon, any volume discounts, or any other credits properly applicable to the Claim.



If the Creditor holds security for any Claim a statement of the value and nature of any security, together with copies of the applicable security documents must accompany the Claim.

If the Creditor holds a contingent or unliquidated claim the Claim must set out the details and reasons for the claim as well as the method of valuation thereof.

#### FOR CREDITORS RECEIVING A NOTICE OF REVISION OR DISALLOWANCE

If you have submitted a Proof of Claim the Receiver is entitled to challenge the valuation, status or validity of such Claim by sending you a Notice of Revision or Disallowance no later than thirty days after the receipt of the claim, or such further period as is authorized by the Court. If no Notice of Revision or Disallowance is sent by the Receiver before such time then the Receiver shall be deemed to have accepted your Claim.

#### FOR CREDITORS SUBMITTING A DISPUTE NOTICE

If you are sent a Notice of Revision or Disallowance, you are entitled to dispute the revision or disallowance or your Claim by sending by personal service, facsimile or courier, a Dispute Notice to the Receiver, which must be received within fourteen (14) days of the date of the Notice of Revision or Disallowance. If the Receiver does not receive a Notice of Dispute within this period of time your Claim will be finalized on the basis set out in the Notice of Revision or Disallowance.

Upon delivering the Notice of Dispute you must, within ten (10) days, file an Application for determination of your Claim, such application to be returnable within five (5) days of the filing of the Application.

While these instructions and the accompanying forms are provided to assist you with the preparation of your Proof of Claim and in the Claims Procedure, you must comply with the terms of the Claims Procedure Order dated \_\_\_\_\_ which is available on the Receiver's website.

NOTICE TO CREDITORS OF OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED AND  
KENNETH W. ROWE LIMITED  
(hereinafter referred to as the "OSGCC")

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*RE: NOTICE OF CLAIMS PROCEDURE FOR THE OSGCC*

PLEASE TAKE NOTICE that this notice is being published pursuant to an order of the \_\_\_\_\_ of the *Ontario* Superior Court of Justice \_\_\_\_\_ (the "Claims Procedure Order"). Any person who believes that it has a Claim against OSGCC or their directors and officers should send a Proof of Claim to BDO Canada Limited, in its capacity as the Receiver (the "Receiver") of OSGCC to be received by 5:00 p.m. (Eastern Standard Time) on (claims date) or such other date as the Monitor and the Creditor agree to in writing (the "Claims Bar Date").

**CLAIMS WHICH ARE NOT RECEIVED BY THE CLAIMS BAR DATE WILL BE FOREVER BARRED AND EXTINGUISHED.**

Creditors who require a Proof of Claim form should contact the Receiver (Attention: Joe Bette telephone: (519) 372-0188, Facsimile: (519) 372-0189, or Email: [jbette@bdo.ca](mailto:jbette@bdo.ca), to obtain a Claims Package. Additional Proof of Claim forms can be found on the Monitor's website at [www.bdo.ca/osgcc](http://www.bdo.ca/osgcc).

Dated at Owen Sound this \_\_\_\_\_

PROOF OF CLAIM

FOR CREDITORS OF OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED AND KENNETH W. ROWE LIMITED ( the "OSGCC").

Please read the enclosed Instruction Letter carefully prior to completing this Proof of Claim. Defined terms which are not defined herein shall have the meaning ascribed thereto in the Instruction Letter.

A. Particulars of Creditor

*(Full legal name should be the name of the original Creditor of the OSGCC regardless of whether an assignment of a Claim has been made, or a portion thereof, has occurred prior to or following July 15, 2011.)*

2. Full mailing address of the Creditor (the original Creditor, not the Assignee):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Attention (Contact Person): \_\_\_\_\_

4. Has the Claim been sold or assigned by the Creditor to another party?

Yes: \_\_\_

No: \_\_\_

B. Particulars of Assignee(s) Of any):

1. Full legal name of assignee(s): \_\_\_\_\_ *(If a portion of the Claim has been assigned, insert full legal name of assignee(s) of Claim}. If there is more than one assignee, please attach a separate sheet with the required information.)*

2. Full mailing address of assignee(s): \_\_\_\_\_

1. Telephone number of assignee(s): \_\_\_\_\_

2. Facsimile number of assignee(s): \_\_\_\_\_  
Attention (Contact Person): \_\_\_\_\_

**C. Proof of Claim:**

**THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:**

**1. That I:**

\_\_\_ am a Creditor of one or more of the OSGCC Companies; OR  
\_\_\_ am \_\_\_\_\_(state position or title) of  
\_\_\_\_\_ (name of Creditor)

- 3. That I have knowledge of all the circumstances connected with the Claim described and set out below;
- 4. The OSGCC was and still is indebted to the Creditor as follows (include all Claims that you assert against the OSGCC).

I am asserting a Claim against OSGCC

**D. NATURE OF CLAIM**

*(Check and complete the appropriate category)*

\_\_\_ SECURED PRE-FILING CLAIM:

CDN\$ \_\_\_\_\_ [insert \$ value of Claim]

That in respect of this debt, I hold assets of the OSGCC valued at \$ \_\_\_\_\_ as security, particulars of which are as follows:

*(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)*

\_\_\_ UNSECURED PRE-FILING CLAIM: CDN\$ \_\_\_\_\_ [insert \$ value of Claim]

\_\_\_ POST-FILING CLAIM CDN\$ \_\_\_\_\_ [insert \$ value of Claim]

\_\_\_ CONTRACT REPUDIATION CLAIM

CDN\$ \_\_\_\_\_ [insert \$ value of Claim]  
(arising as a result of or in connection with the default for non-payment, termination, repudiation or disclaimer of any agreement by the OSGCC after July 15, 2011 but not including an Employment Claim)

\_\_\_ EMPLOYMENT CLAIM CDN\$ \_\_\_\_\_ [insert \$ value of Claim]  
(arising as a result of a termination of an employment contract after July 15, 2011 of a former employee of the OSGCC)

\_\_\_ DIRECTOR AND OFFICER CLAIM

CDN\$ \_\_\_\_\_ [insert \$ value of Claim]  
(arising from the rights of any person against the directors and officers of the OSGCC Claim which the Directors or Officers of the OSGCC are by law liable to pay in their capacity as Directors or Officers, in respect of certain amounts payable by the OSGCC on or after July 15, 2011)

TOTAL CLAIM(S) CDN\$ \_\_\_\_\_

*(Note: Claims in currency other than Canadian dollars must be converted to Canadian dollars using the Bank of Canada noon spot rate on July 15, 2011 (the U.S. to Canadian dollar exchange rate conversion on such date was US\$ .9543\$) = CDN\$1.00*

**E. PARTICULARS OF CLAIM**

Other than as already set out herein, the particulars of the undersigned's total Claim are attached hereto.

*(Provide all particulars of the claims and supporting documentation that you feel will assist in the determination of your Claim. including: amount. Description, transaction(s) or agreement(s) giving rise to the claims; name of any guarantor which has guaranteed the claims; amount of invoices, particulars of all credits, discounts, etc. claimed; description of the security. If any granted by the OSGCC to the Creditor and estimated value of such security; and particulars of any Restructuring Claims)*

**F. FILING OF CLAIMS**

Proof of Claim for all Claims (including Director and Officer Claims) against the OSGCC must be received by 5:00p.m. (Eastern Standard Time) on June 30; 2010 or such later date as the Monitor may consent to in writing.

Failure to file your Proof of Claim as directed by the Claims Bar Dates set out above will result in your claim being barred and you will be prohibited from making or enforcing a Claim against the OSGCC and any and any holder of such Claim shall not be entitled to vote on any plan of compromise or arrangement that may be filed or receive any distribution under such or otherwise from the OSGCC.

This Proof of Claim must be delivered by facsimile transmission, personal delivery, electronic communication or prepaid mail addressed to:

The Monitor  
c/o BOO CANADA LIMITED .  
the Court-appointed Monitor of the OSGCC  
1717 Second Avenue East  
Suite 200, PO Box 725  
Owen Sound, ON N4K 5W9

Attention: Joe Bette  
Telephone: (519) 372-0188  
Facsimile: (519) 372-0189  
Email: jbette@bdo.ca

Any such notice or other communication delivered by a Creditor shall be deemed to be received upon actual receipt by the Monitor thereof during normal business hours on a Business Day or, if delivered outside of normal business hours on the next Business Day.

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Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 2011.

Per: \_\_\_\_\_ *[Name of Creditor]*

**BANK OF MONTREAL**  
Applicant

-and-

**OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED et al.**  
Respondents

Court File No. CV-11-9306-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

**PROCEEDING COMMENCED AT TORONTO**

**ORDER**

**TORKIN MANES LLP**

Barristers & Solicitors  
151 Yonge Street, Suite 1500  
Toronto ON M5C 2W7

Jeffrey J. Simpson (39663M)  
jsimpson@torkinmanes.com

Tel: 416-777-5413

David Chaiton (18362V)

Tel: 416-643-8814

Tel: 416-863-1188

Fax: 416-863-0305

Lawyers for the Receiver, BDO Canada Limited

RCP-E 4C (July 1, 2007)





## BDO Canada Limited / BDO Canada Limitée

Exhibit "4"

## Claims Register

In the matter of the receivership of  
Owen Sound Golf and Country Club, Limited and Kenneth W. Rowe Limited  
of the City of Owen Sound, in the County of Grey, in the Province of Ontario

<i>Creditor Name</i>	<i>Proof of Claim?</i>	<i>Claim Status</i>	<i>Rank / Class</i>	<i>SOA Amount</i>	<i>Amount Filed</i>	<i>Admitted for Dividend</i>
<b>Secured creditors</b>						
1. Bank of Montreal Attn: David Patterson	Yes	Secured asset released			1,248,562.36	
2. CANADA REVENUE AGENCY TAXES Attn: INSOLVENCY TEAM 104033154RT0001	Yes	Admitted			20,536.56	
3. Maxium Financial Attn: John Barraclough 102779	Yes	Admitted				
4. Township of Georgian Bluffs	Yes	Withdrawn				
Total : Secured creditors					1,269,098.92	
<b>Unsecured creditors</b>						
1. Acushnet Canada CA010253/CA025253	Yes	Admitted		2,270.43	2,170.44	2,170.44
2. Adidas Canada 415986	Yes	Admitted		405.65	405.65	405.65
3. All Turf OWENSO	Yes	Admitted		9,618.73	2,970.88	2,970.88
4. Alliance Agri-Turf	Yes	Admitted			2,907.49	2,907.49
5. Amer Sports Canada 237126	No	Not proved		179.88		
6. Bank of Montreal Attn: David Patterson	Yes	Secured asset released		1,100,000.00		
7. Barrett Darbyshire	Yes	Admitted			925.60	925.60
8. Benningers Plumbing and Heating	Yes	Disallowed			35,311.10	
9. Brampton Golf Club zx310	Yes	Withdrawn		76.88		
10. Brewers Retail 40325-00	No	Withdrawn		1,922.31		
11. Bruce Telecom 1002-6130-1	No	Not proved		30.45		
12. CANADA REVENUE AGENCY TAXES Attn: INSOLVENCY TEAM 104033154RP0001	Yes	Admitted		1.00	11,120.61	11,120.61
13. CANADA REVENUE AGENCY TAXES Attn: INSOLVENCY TEAM 104033154RT0001	Yes	Admitted		1.00		20,536.56
14. Canadian Linen 56GOLF	Yes	Withdrawn		84.51		
15. Chase Amyot	No	Not proved		178.18		
16. CJOS FM c/o Larche Communications Inc. 1469	Yes	Admitted			2,838.56	2,838.56
17. Club Car 1442921	Yes	Admitted		332.56	332.56	332.56

Claims Register for Owen Sound Golf and Country Club, Limited and Kenneth W. Rowe Li - Continued

<i>Creditor Name</i>	<i>Proof of Claim?</i>	<i>Claim Status</i>	<i>Rank / Class</i>	<i>SOA Amount</i>	<i>Amount Filed</i>	<i>Admitted for Dividend</i>
45. Karen Garvie	Yes	Withdrawn		93.28		
46. KC Automotive 5150	Yes	Admitted		232.25	258.84	258.84
47. Korporate Image's Promotional Marketing Attn: Cheryl Power 101006	Yes	Admitted			316.97	316.97
48. Linde Canada 2020825	Yes	Admitted		473.92	498.92	498.92
49. Markdale Ford Tractor owen0001	No	Not proved		48.42		
50. Mary Gillies	No	Not proved				
51. Maxium Financial Attn: John Barraclough 102779	Yes	Admitted		360,000.00	82,919.36	82,919.36
52. Miller Waste	No	Not proved		365.00		
53. Minister Of Revenue Attn: MANAGER, INSOLVENCY UNIT 104033154ET0001	Yes	Not proved		1.00	1,739.57	
54. Nella Cutlery 3163	No	Not proved		33.58		
55. North Shore Distributing	No	Not proved		281.03		
56. Nu-Gro Limited OWENSO	Yes	Admitted		11,470.46	11,470.46	11,470.46
57. Ontario Ministry of the Enviroment ON1752100	No	Not proved				
58. Ontario Turf	Yes	Admitted		458.89	540.25	540.25
59. P.G. Signs	Yes	Admitted		256.51	256.51	256.51
60. Paper Products Plus	Yes	Admitted		624.30	624.30	624.30
61. Paul Snider	Yes	Admitted			1,384.48	1,384.48
62. PCO gmx32345	Yes	Admitted		113.57	113.57	113.57
63. Pepsico Beverages Canada 8141349	Yes	Admitted		2,850.02	7,049.96	7,049.96
64. Ping Canada 18587	Yes	Withdrawn		627.76		
65. Pitney Bowes 0021400	Yes	Admitted		526.29	526.29	526.29
66. Plant Science Inc 4817	Yes	Withdrawn				
67. Prentice Plumbing and Heating	Yes	Admitted		2,246.85	746.15	746.15
68. Produce Plus	Yes	Admitted		3,185.41	4,167.89	4,167.89
69. R&B Cart Rentals	Yes	Admitted		4,033.00	5,542.23	5,542.23
70. R. MacDonald	No	Not proved		1,031.12		
71. Receiver General for Canada (WEPP) Attn: WEPP Payments 35-124033YY	Yes	Admitted			6,336.24	6,336.24
72. Reliance Home Comfort 0020648112064645	No	Not proved		76.91		
73. Rocket Tour Inc 10858	No	Not proved				

Claims Register for Owen Sound Golf and Country Club, Limited and Kenneth W. Rowe Li - Continued

51

<i>Creditor Name</i>	<i>Proof of Claim?</i>	<i>Claim Status</i>	<i>Rank / Class</i>	<i>SOA Amount</i>	<i>Amount Filed</i>	<i>Admitted for Dividend</i>
74. Rogers Communications Inc. 231-224855301	No	Not proved		73.91		
75. ScoreGolf Canada 282720	No	Not proved		101.47		
76. Scotts Industrial OWEGOL	Yes	Admitted		150.88	150.88	150.88
77. SGS Canada Inc 270778	Yes	Withdrawn		72.32		
78. Smith and Hladil Home Building Centre	Yes	Withdrawn		29.98		
79. Spectrum Communications OWESGC	Yes	Withdrawn		856.54		
80. Stephen Long Electrical 2034/2033	Yes	Admitted		1,321.23	1,321.23	1,321.23
81. Stonehedge Landscape Products	Yes	Admitted		1,515.56	1,515.56	1,515.56
82. Telephone Inc 1360000	No	Not proved		336.24		
83. The Agromart Group 175554/175345	Yes	Withdrawn				
84. The Orr Media Group Inc. 399	Yes	Admitted			220.35	220.35
85. TJ Coffee Shop	Yes	Admitted		92.66	92.66	92.66
86. Town and Country Nursery	Yes	Admitted		2,104.03	2,104.03	2,104.03
87. Township of Georgian Bluffs	Yes	Withdrawn		1.00		
88. Township of Georgian Bluffs 42-03-580-003-10500-0000	Yes	Withdrawn		1.00		
89. TSC 2583	No	Not proved		93.03		
90. Turf Canada 53964	Yes	Admitted		1,664.49	1,664.49	1,664.49
91. Turf Care Products 1050004	Yes	Admitted		415.35	768.11	768.11
92. Union Gas Ltd 17424881620383	Yes	Admitted		126.72	39.82	39.82
93. Union Gas Ltd 17424891620384	Yes	Admitted		102.72	36.58	36.58
94. Union Gas Ltd 17424901620385	Yes	Admitted		930.86	496.48	496.48
95. Welcome Wagon 274299	Yes	Admitted		33.51	57.63	57.63
96. Wilmas Flower Shop	Yes	Admitted		99.44	99.44	99.44
97. Workplace Safety & Insurance Board Attn: EMPLOYER COLLECTIONS BRANCH 1697943	Yes	Admitted		1,520.89	3,364.78	3,364.78
98. Wurth Canada OSGC	Yes	Withdrawn		46.37		
99. Yellow Pages Group 1000048641/1000048642	No	Not proved		122.66		
Total : Unsecured creditors				1,552,037.25	232,633.10	216,118.99

**Deemed Trust Claim**

Claims Register for Owen Sound Golf and Country Club, Limited and Kenneth W. Rowe Li - Concluded

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<i>Creditor Name</i>	<i>Proof of Claim?</i>	<i>Claim Status</i>	<i>Rank / Class</i>	<i>SOA Amount</i>	<i>Amount Filed</i>	<i>Admitted for Dividend</i>
1. CANADA REVENUE AGENCY TAXES Attn: INSOLVENCY TEAM 104033154RP0001	Yes	Admitted			363.42	
2. CANADA REVENUE AGENCY TAXES Attn: INSOLVENCY TEAM 104033154RT0001	Yes	Admitted			20,536.56	
Total : Deemed Trust Claim					20,899.98	
Grand Total:				1,552,037.25	1,522,632.00	216,118.99

Exhibit "5"OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED and  
KENNETH W ROWE, LIMITEDReceiver's Statement of Receipts and Disbursements  
for the period from July 15, 2011 to January 3, 2012

<b>RECEIPTS</b>	\$
Cash on hand	1,026.55
	<u>1,026.55</u>
Accounts receivable	162,398.39
Sale of assets	2,551,000.00
	<u>2,713,398.39</u>
Sales	
Green fees	91,775.28
Carts	33,449.12
Merchandise	27,333.60
Tennis	44.25
Practice	872.42
Beverage cart	17,818.50
Food	6,924.86
Confectionary	8,052.81
Alcohol	6,927.11
	<u>193,197.95</u>
HST collected	33,084.93
Capital assessment	61,168.60
Rental income	2,654.88
Receivers certificate	50,000.00
Misc Receipts	1,948.55
	<u>148,856.96</u>
<b>TOTAL RECEIPTS</b>	<u><u>3,056,479.85</u></u>
<b>DISBURSEMENTS</b>	
Advertising	4,528.67
Appraisal	10,825.00
Association, tournament fees	1,008.50
Bank charges	6,984.55
Cash float	150.00
Change of locks	1,771.50
Computer services	1,268.47
Courier	129.92
Equipment lease	55,655.54
Filing fee	70.00
Greens expenses	38,149.45
HST paid	43,244.38
Legal fees	94,678.37
Liquor licence	105.00

OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED and  
KENNETH W ROWE, LIMITED  
Receiver's Statement of Receipts and Disbursements  
for the period from July 15, 2011 to January 3, 2012

Mail redirect	135.00
Member deposits	7,369.70
Municipal taxes	13,075.59
Payroll services	2,595.51
Photocopies	68.40
Postage	163.48
Purchases - food, beverage and pro shop	16,772.80
Receivers Fees	109,243.95
Repairs and maintenance	4,295.02
Search fees	31.00
Storage	540.00
Telephone	1,471.97
Travel	305.16
Utilities	8,363.64
Wages	157,833.29
Water testing	256.00
	<u>581,089.86</u>
	<u>2,475,389.99</u>
<b>AUTHORIZED PAYMENTS</b>	
Payment to secured creditors	1,248,562.36
Deemed trust source deductions	21,551.27
	<u>1,270,113.63</u>
<b>EXCESS OF RECEIPTS OVER DISBURSEMENTS</b>	<u><u>1,205,276.36</u></u>

# TAB 3

Court File No. CV-11-9306-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE )  
JUSTICE )

MONDAY, THE 23RD  
DAY OF JANUARY, 2012

B E T W E E N:

BANK OF MONTREAL

Applicant

-and-

OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED  
and KENNETH W. ROWE LIMITED

Respondents

APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

**ORDER**

THIS MOTION, made by BDO Canada Limited, the Court-Appointed Receiver and Receiver and Manager of the assets of the Respondents for an Order pursuant to section 243 (d) of the Ontario *Corporations Act*, R.S.O. 1990, c. C-38 (the "Corporations Act") and under s. 207 (1)(b)(iv) of the Ontario *Business Corporations Act*, R.S.O. 1990, c. B-16, as amended (the "OBCA") for an Order winding up the Respondents (the "Companies") and appointing BDO Canada Limited (the "Liquidator") as liquidator of each of the Respondents, was heard this day at the Court house, 330 University Avenue, Toronto, Ontario, M5G 1R7.



ON READING the Second Report to Court of the Receiver (the "Second Report") and on hearing the submissions of the lawyer for the Receiver, no parties appearing in opposition to this Motion,

**APPROVAL OF SECOND REPORT AND ACTIVITIES AND ACCOUNTS**

1. THIS COURT ORDERS that the Second Report is hereby approved and the activities of the Receiver as set out in the Second Report are hereby approved.

2. THIS COURT ORDERS that the fees and disbursements of the Receiver and its counsel as reflected in their respective Bills of Cost as submitted to the Court are hereby approved.

**WINDING-UP AND APPOINTMENT**

3. THIS COURT ORDERS that, pursuant to s. 243(d) of the Corporations Act, the Respondent Owen Sound Golf and Country Club, Limited be wound up.

4. THIS COURT ORDERS that, pursuant to s. 207 (1)(b)(iv) of the OBCA, the Respondent Kenneth W. Rowe Limited be wound up.

5. THIS COURT ORDERS that the Liquidator is hereby appointed liquidator, without security, of all of the assets, property and undertakings of the Companies (the "Property") effective upon the granting of this Order.

**LIQUIDATOR'S POWERS**

6. THIS COURT ORDERS that the Liquidator is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Liquidator is hereby expressly empowered and authorized to do any of the following where the Liquidator considers it necessary or desirable:

- (a) to take possession and control of the Property, including all bank accounts of the Companies, any and all capital assets of the Respondents and any and all proceeds, receipts and disbursements arising out of or from the Property for the purpose of winding up the Companies' business and distributing its property;
- (b) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons, including former employees, accountants and advisors to the Companies, if any, from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;
- (c) to receive and collect all monies and accounts now owed or hereafter owing to the Companies, including such amounts owing or determined to be owing from its shareholders or entities related to them, and to exercise all remedies of the Companies in collecting such monies, including, without limitation, to enforce any security held by the Companies;
- (d) to settle, extend or compromise any indebtedness owing to the Companies;
- (e) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Companies, the Property or the Liquidator, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceedings;

- (f) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Liquidator in its discretion may deem appropriate;
- (g) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$25,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;
- (h) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (i) to exercise any shareholder, partnership, joint venture or other rights which the Companies may have;
- (j) to do all acts and execute, in the name and on behalf of the Companies, all documents, and for that purpose use the seal of the corporation, if any;

- (k) to do and execute all such other things as are necessary for winding up the business and affairs of the Companies and distributing its property;
- (l) to undertake the liquidation process proposed in the Second Report, and, in particular, to identify those shareholders entitled to a distribution of the surplus funds on hand as a result of the sale of the assets of the Respondents by the Receiver.
- (m) to take any steps reasonably incidental to the exercise of these powers; and
- (n) to provide reports to, meet with and discuss with such affected Persons (as defined below) as the Liquidator deems appropriate on all matters relating to the Property and the winding-up, and to share information, subject to such terms as to confidentiality as the Liquidator deems advisable.

and in each case where the Liquidator takes any such actions or steps, its shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Companies, and without interference from any other Person.

**DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE LIQUIDATOR**

7. THIS COURT ORDERS that (i) the Companies, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Liquidator of the existence of any Property in such Person's possession or control, shall grant

immediate and continued access to the Property to the Liquidator, and shall deliver all such Property to the Liquidator upon the Liquidator's request.

8. THIS COURT ORDERS that all Persons shall forthwith advise the Liquidator of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Companies, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Liquidator or permit the Liquidator to make, retain and take away copies thereof and grant to the Liquidator unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Liquidator due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

9. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Liquidator for the purpose of allowing the Liquidator to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Liquidator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Liquidator. Further, for the purposes of this paragraph, all Persons shall provide the Liquidator with all such assistance in gaining

immediate access to the information in the Records as the Liquidator may in its discretion require including providing the Liquidator with instructions on the use of any computer or other system and providing the Liquidator with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDING AGAINST THE LIQUIDATOR**

10. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal shall be commenced or continued against the Liquidator except with the written consent of the Liquidator or with leave of this Court.

#### **LIMITATION ON THE LIQUIDATOR'S LIABILITY**

11. THIS COURT ORDERS that the Liquidator shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part as so found by a court of competent jurisdiction.

#### **LIQUIDATOR'S ACCOUNTS**

12. THIS COURT ORDERS that any expenditure or liability which shall properly be made or incurred by the Liquidator, including the fees and disbursements of the Liquidator and the fees and disbursements of its legal counsel, incurred at the standard rates and charges of the Liquidator and its counsel, shall be allowed to it in passing its accounts and shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (the "Liquidator's Charge"), subject only to the Receiver's charge created pursuant to the Receivership Order of the Honourable Mr. Justice Lederer dated July 15, 2011.

13. THIS COURT ORDERS that the Liquidator and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Liquidator and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

14. THIS COURT ORDERS that prior to the passing of its accounts, the Liquidator shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Liquidator or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

**FUNDING OF THE WINDING-UP**

15. THIS COURT ORDERS that the Liquidator be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Liquidator by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Liquidator's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Liquidator's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, if applicable.

16. THIS COURT ORDERS, for greater certainty, that in the event there are insufficient monies realized from the assets, property and undertaking of the Companies to fund the exercise of the powers and duties conferred upon the Liquidator by this Order, at its sole discretion, loan monies to the Liquidator and receive a Liquidator's Certificate in respect thereof pursuant to the provisions of this Order.

17. THIS COURT ORDERS that neither the Liquidator's Borrowings Charge nor any other security granted by the Liquidator in connection with its borrowings under this Order shall be enforced without leave of this Court.

18. THIS COURT ORDERS that the Liquidator is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Liquidator's Certificates") for any amount borrowed by it pursuant to this Order.

19. THIS COURT ORDERS that the monies from time to time borrowed by the Liquidator pursuant to this Order or any further order of this Court and any and all Liquidator's Certificates evidencing same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders or any prior issued Liquidator's Certificates.

#### **GENERAL**

20. THIS COURT ORDERS that nothing in this Order derogates from any rights that the Liquidator may have pursuant to the applicable provisions of the OBCA.

21. THIS COURT ORDERS that the Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.



22. THIS COURT ORDERS that the Liquidator shall report to this Court upon a proposed distribution of the proceeds of realization of the Property to the shareholders of the Companies.

23. THIS COURT ORDERS that nothing in this Order shall prevent the Liquidator from acting as a trustee in bankruptcy of the Companies or applying for a bankruptcy order in respect of the Companies or assigning it into bankruptcy.

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**Schedule "A"**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY THAT BDO CANADA LIMITED, the liquidator (the "Liquidator") of the assets, undertakings and properties of Owen Sound Golf and Country Club and Kenneth W. Rowe Limited (the "Companies") acquired for, or used in relation to a business carried on by the Companies, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_ day of \_\_\_\_\_ 2012 (the "Order") made in an action having Court File No.: CV-11-9306-00CL, has received as such Liquidator from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Liquidator is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly not in advance on the \_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_ percent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Liquidator pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, if applicable, and the right of the Liquidator to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office or residence of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the

Liquidator to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Liquidator to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Liquidator does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 2012

**BDO CANADA LIMITED, solely in its  
capacity as Liquidator of the Property, and  
not in its personal capacity**

Per: \_\_\_\_\_

Name

Title

I/We have the authority to bind the corporation

BANK OF MONTREAL  
Applicant

-and-

OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED et al.  
Respondents

Court File No. CV-11-9306-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**ORDER**

**TORKIN MANES LLP**  
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Tel: 416-863-1188  
Fax: 416-863-0305

Lawyers for the Receiver, BDO Canada Limited  
RCP-E 4C (July 1, 2007)

BANK OF MONTREAL  
Applicant

-and-  
Respondents

OWEN SOUND GOLF AND COUNTRY CLUB, LIMITED et al.

Court File No. CV-11-9306-00CL

*ONTARIO*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**MOTION RECORD**  
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