

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

KEVIN D'AMORE

Applicant

- and -

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

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS
ACT*, R.S.O. 1990, C. B. 16, AS AMENDED

**SUPPLEMENTARY MOTION RECORD
(RE THIRTEENTH REPORT OF THE RECEIVER)
(VOLUME 2 OF 2)**

**(RETURNABLE ON A DATE TO BE DETERMINED
BY REGIONAL SENIOR JUSTICE THOMAS)**

March 22, 2021

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Appointed Receiver of Banwell Development
Corporation and Royal Timbers Inc.

APPENDIX F

Court File No. CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

KEVIN D'AMORE

Applicant

- and -

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

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS
ACT*, R.S.O. 1990, C. B. 16, AS AMENDED

**STATEMENT OF ISSUES AND LAW
OF BDO CANADA LIMITED**

(RETURNABLE MAY 29, 2017)

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TO: THE SERVICE LIST

PART I - NATURE OF MOTION

1. This is a motion by BDO Canada Limited, in its capacity as court-appointed receiver (the "Receiver") of the assets, undertakings and properties of Banwell Development Corporation ("Banwell") and Royal Timbers Inc. ("Royal Timbers") for an order,
 - (a) approving the transfer of three one-foot reserve blocks at the rear of three lots sold by the Receiver in 2015;
 - (b) approving the Tenth Report to the Court of the Receiver dated March 14, 2017 (the "Tenth Report");
 - (c) approving the Statements of Receipts and Disbursements for the receivership;
 - (d) approving the professional fees and disbursements of the Receiver and its legal counsel;
 - (e) approving Schedule "F" to the Tenth Report as the basis for future payments to be made by the Receiver on the mortgages held by Simba Group Developments Limited ("Simba") and the estate of Patrick D'Amore (the "Estate") (the "Simba Mortgage Issue"); and
 - (f) declaring that the \$871,000 advanced to Banwell and Royal Timbers during 2009 by Patrick D'Amore is properly repayable to the Estate (the "\$871,000 Loan Issue").
2. This Statement is being filed with the Court to address a) the Simba Mortgage Issue, and b) the \$871,000 Loan Issue.

PART II - ISSUES AND LAW

The Simba Mortgage Issue

3. By Order dated June 24, 2015 the Court authorized the Receiver to distribute to Simba and the Estate the amounts secured by the Simba and Estate mortgages as and when funds became available to the Receiver to do so. Because of concerns raised at that time regarding the amount secured by the Simba and Estate mortgages, a protocol (the "Protocol") was established and incorporated into the Order to facilitate the distributions.

The Protocol requires the Receiver to give written notice to the Service List in this proceeding of the proposed distribution. If no objection is made to the Receiver within 10 days, the distribution may be completed.

June 24, 2015 Order, Motion Record, Tab E.

4. In April 2016 the Receiver provided notice in accordance with the Protocol of an intended distribution of the amounts calculated by the Receiver as owing on the mortgage against the Real Ranchs' Lands. No objection was received and the distribution was completed by the Receiver in early May 2016.

Tenth Report of the Receiver, paragraph 7.5.

5. Thereafter, the Receiver gave notice of two further distributions in accordance with the Protocol. In response to each of those proposed distributions, an objection was received by the Receiver on behalf of Murray Troup ("Troup"). In each case Troup objected to the date from which interest under the mortgage was calculated by the Receiver. Following the receipt of the objections the Receiver completed the distribution of the principal owing under the two mortgages, but not the interest.

Tenth Report of the Receiver, paragraphs 7.6 to 7.10.

6. Given the concerns raised by Troup, the Receiver has prepared a schedule, attached as Schedule "F" to the Tenth Report, setting out the Receiver's analysis and conclusions regarding the dates from which interest is to be calculated on the Simba and Estate mortgages.

Tenth Report of the Receiver, Schedule "F".

7. By letter dated May 10, 2017, counsel for Troup advised that Troup takes no issue with the Receiver's analysis as reflected on Schedule "F", except with respect to mortgage numbers CE269334 and CE269359.
8. Other than the issues raised by Troup's counsel with respect to the interest commencement dates for mortgage numbers CE269334 and CE269359, no other issues have been raised by any party on the Service List.
9. The Receiver has considered the issues raised by counsel for Troup with respect to mortgage numbers CE269334 and CE269359 and is of the view that Schedule "F" is correct. Failing agreement, the interest commencement date for mortgages CE269334

and CE269359 remains to be determined. The Receiver is unaware of any dispute respecting the interest commencement date for the remainder of the Simba and Estate mortgages listed on Schedule "F".

The \$871,000 Loan Issue

10. The Receiver's motion seeks a declaration that the \$871,000 Loan is payable to the Estate. After the motion was served, a further issue arose – whether interest is payable on the \$871,000 Loan?

To whom should the \$871,000 Loan be repaid?

11. Counsel for the Receiver prepared a report dated February 2, 2017 (the "Report") which considered whether the \$871,000 Loan is to be repaid to the Estate or to Scott D'Amore ("Scott") and Kevin D'Amore ("Kevin") as shareholders of Banwell. The Report concluded that the \$871,000 Loan is repayable to the Estate.

Tenth Report of the Receiver, Schedule "G".

12. The stakeholders most affected by this issue are Scott and Kevin. If the \$871,000 Loan is payable to the Estate, then Scott, as the beneficiary of the Estate, will benefit. If the \$871,000 Loan is payable to Scott and Kevin as shareholders, then they will each benefit equally.
13. As set out in the Report, Patrick held his 50% of the shares in Banwell in trust for Scott and Kevin pursuant to a written Declaration of Trust dated March 11, 2003. The Declaration of Trust, by its terms, creates a trust only of the shares and does not create a trust in respect of the \$871,000 Loan. The right of a shareholder to seek repayment of a loan made by the shareholder to the corporation is not an incident of share ownership. As such, the \$871,000 Loan is not repayable to Scott and Kevin simply by virtue of their position as shareholders. Absent a trust being created with respect to the \$871,000 Loan, the \$871,000 is payable to the Estate. As set out in the Report, the documents and evidence made available to the Receiver do not support the existence of such a trust.

Tenth Report of the Receiver, Schedule "G".

14. After service of the Receiver's motion, counsel for Kevin advised Receiver's counsel that Kevin will not be opposing the making of a declaration that the \$871,000 Loan is to be repaid to the Estate.

Interest on the \$871,000 Loan?

15. In an e-mail dated May 3, 2017, counsel for the Estate raised the issue of interest being payable on the \$871,000 Loan and requested that the Receiver address that issue.
16. On May 3, 2017, the Receiver sent a letter to the Service List soliciting their input on the issue of interest being payable on the \$871,000 Loan and, if interest is payable, whether the "interest stops rule" ought to be applied. The "interest stops rule", if applicable, would also apply to the other unsecured claims.

Is interest payable on the \$871,000 Loan?

17. Counsel for the Estate has suggested that interest is payable on the \$871,000 Loan under the terms of the Unanimous Shareholder Agreement (the "USA") made between Patrick L. D'Amore, Trustee, 928579 Ontario Limited, Banwell Development Corporation, J. Murray Troup and Patrick L. D'Amore.
18. Section 4.1 of the USA fixed the rate of interest to be paid to Patrick for "service financing" provided by him. Section 4.1 of the USA reads as follows:

"The parties hereto agree to procure servicing financing from a financial institution in such amounts as are estimated by the parties to be reasonably necessary to provide the services (the "Required Amount") for any phase of the development of the Property. Such financing shall be secured by a demand first mortgage on the lands, and if required D'Amore or 928579 shall severally provide guarantees for the Servicing Financing or additional financing per Section 4.3. Notwithstanding the foregoing, Patrick shall have the option to provide such Servicing Financing at the rate of interest equivalent to the Bank prime plus one (1%) percent per annum as set by the Company's bank from time to time. Partial discharges shall be available or payment of a proportionate share of the servicing costs for each lot or as required by a financial institution advancing the servicing financing plus a discharge fee in the amount of \$175.00."

19. The Receiver is unable to conclude based on the documents provided to it that the \$871,000 Loan was "service financing" within the meaning of section 4.1 of the USA.
20. Sections 4.2 and 4.3 of the USA apply to other types of shareholder loans. Section 4.2 deals with "additional financing" and section 4.3 deal with "voluntary shareholder loans". Neither of those sections address the payment of interest on such loans. Those sections read as follows:

"4.2 Equity advances, capital contributions or loans to the Corporation in excess of those provided in Section 4.1 hereof, shall not be required to be made to the Corporation whatsoever without the consent of all the shareholders except as expressly set forth in this Agreement.

The Required Amount shall be obtained to the greatest extent possible, by term financing which shall be arranged when appropriate, having regard to the status of the Corporation and the financial markets or by borrowing from a chartered bank or other lender acceptable to the Shareholders.

...

4.3 If the Corporation is unable to borrow the Required Amount upon terms acceptable for the Shareholders, then any Shareholder may voluntarily advance whole or part of the Required Amount to the Corporation or pay the same to third parties for the benefit of the Corporation, which such advances or payments shall be deemed a shareholders loan and a debt of the Corporation."

21. The Receiver has not been provided with sufficient evidence to conclude that an agreement for the payment of interest on the \$871,000 Loan was made.
22. The Receivership Order stays proceedings by creditors for the recovery of amounts owing to them. By the Receivership Order, the Estate was precluded from obtaining a judgment on which interest would have been payable at the post-judgment rate. The post-judgment rate of interest in effect at the date of the Receivership Order (June 5, 2013) was 3%. Subject to the comments below with respect to the "interest stops rule", it is the Receiver's view that fairness requires interest to be paid on the \$871,000 Loan (and on any other unsecured claim for which there is no contractual or judgment rate of interest) from the date of the Receivership Order.

The Interest Stops Rule

23. The "interest stops rule" is a common-law rule applied in bankruptcy and winding up proceedings. The rule has been stated as follows:

"One of the governing principles of insolvency law – including proceedings in a winding-up – is that the assets of the insolvent debtor are to be distributed amongst classes of creditors rateably and equally, as those assets are found at the date of the insolvency. This principle has led to the development of the "interest stops rule", i.e., that no interest is payable on a debt from the date of the winding-up or bankruptcy. As Lord Justice James put it, colourfully, in Re Savin (1872), L.R. 7 Ch. 760 (C.A.), at p. 764:

I believe, however, that if the question now arose for the first time I should agree with the rule [i.e. the "interest stops rule"], seeing that the theory in bankruptcy is to stop all things at the date of the bankruptcy, and to divide the wreck of the man's property as it stood at that time."

Canada (Attorney General) v. Confederation Life Insurance Co., [2001] O.J. No. 2610, (Ont. S.C.).

24. The interest stops rule was recently held by the Court of Appeal to also apply to proceedings under the *Companies' Creditors Arrangement Act*.

Re Nortel Networks, 2015, ONCA 681 (CanLII).

25. The primary purpose behind the interest stops rule is fairness to the creditors. The rule prevents creditors with interest entitlements from having their claims grow, post-insolvency, disproportionately to those with no, or lesser, interest entitlements.

Re Nortel Networks, supra, paragraphs 26 and 27.

26. Although there is no bankruptcy or winding up order in this matter, the practical effect of the Receivership Order is the same – the assets of Banwell and Royal Timbers are being fully liquidated with the proceeds being distributed to the parties legally entitled thereto. There is no principled reason for the interest stops rule not to apply in a liquidating receivership. The substance, rather than the form of the proceeding, should determine the application of the rule.

27. In most insolvency proceedings there are insufficient proceeds available to pay the creditors' claims in full as they existed at the date of the insolvency proceeding, let alone post insolvency interest. However, if a surplus exists after payment of the claims as they existed at the date of the insolvency proceeding, that surplus may be used to pay post insolvency interest before a distribution is made to the shareholders.

Canada (Attorney General) v. Confederation Trust Co., 2003 CanLII 18103 (ON SC).

28. In *Canada (Attorney General) v. Confederation Trust Co.* a surplus was realized but the surplus was insufficient to pay all parties their contractually agreed rate of interest. In those circumstances, creditors with proven claims were to be placed, as closely as the surplus permitted, in the same position they would have been if the claims had been paid on the date of the winding up. An interest rate of 5% on all proven claims was applied.

29. The *Bankruptcy and Insolvency Act* also provides for payment of interest from the date of bankruptcy from surplus proceeds. Section 143 of the *Bankruptcy and Insolvency Act* reads as follows:

143. *"Where there is a surplus after payment of the claims as provided in sections 136 to 142, it shall be applied in payment of interest from the date of the bankruptcy at the rate of five per cent per annum on all claims proved in the bankruptcy and according to their priority."*

30. Although the Receiver has prepared a rough analysis of the projected realizations from the receivership, it is, of necessity, uncertain until the realization is complete whether sufficient funds will be realized to satisfy the unsecured creditors' claims, in full, including interest for the period after the date of the Receivership Order. If and when funds become available to do so, the Receiver proposes to distribute funds to the unsecured creditors (including the \$871,000 Loan) in accordance with the following principles:

(a) the amount of the unsecured claims (including interest at the contractual or judgment rate to the date of the Receivership Order) as they existed at the date of the Receivership Order will be paid first on a pro rata basis;

(b) if sufficient proceeds are realized to do so, interest for the receivership period will be paid at the contractually agreed rate, judgment rate or, in the absence of a contractually agreed or judgment rate, 3% (being the post-judgment rate as of the date of the Receivership Order); and

(c) if sufficient proceeds are not realized to pay interest on the unsecured claims for the receivership period in full, interest will be paid on the unsecured claims for the receivership period as follows:

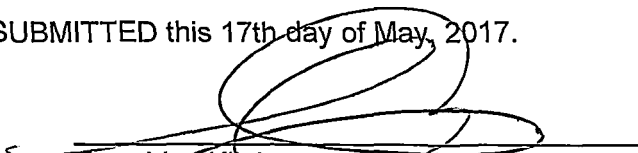
(i) on all unsecured claims at the lowest rate of interest payable on any of the unsecured claims; and

(ii) upon full payment of the interest entitlement of the creditor whose claim has the lowest rate of interest, interest shall then be paid on the remaining claims at the next lowest rate of interest payable on such

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claims and so on until all interest entitlements are paid or the available funds are exhausted.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 17th day of May, 2017.



Tony Van-Klink
MILLER THOMSON LLP

Lawyers for BDO Canada Limited, the
Court-appointed Receiver of Banwell Development
Corporation and Royal Timbers Inc.

SCHEDULE "A"
LIST OF AUTHORITIES

1. *Canada (Attorney General) v. Confederation Life Insurance Co.*, [2001] O.J. No. 2610, (Ont. S.C.).
2. *Re Nortel Networks*, 2015, ONCA 681 (CanLII).

KEVIN D'AMORE BANWELL DEVELOPMENT
Applicant and CORPORATION
 Respondents

Court File No.: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

**STATEMENT OF ISSUES AND LAW
OF BDO CANADA LIMITED**

(returnable May 29, 2017)

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Court File No. CV-11-17088

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SUPERIOR COURT OF JUSTICE**

BETWEEN:

KEVIN D'AMORE

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- and -

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

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS
ACT*, R.S.O. 1990, C. B. 16, AS AMENDED

BRIEF OF AUTHORITIES

(RETURNABLE MAY 29, 2017)

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TO: THE SERVICE LIST

I N D E X

1. *Canada (Attorney General) v. Confederation Life Insurance Co.*, [2001] O.J. No. 2610, (Ont. S.C.).
2. *Re Nortel Networks*, 2015, ONCA 681 (CanLII).
3. *Canada (Attorney General) v. Confederation Trust Co.* 2003 CanLII 18103 (ONSC).

TAB

“1”

COURT FILE NO.: 97-CL-000543

DATE: 20010625

ONTARIO

SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

01 184 062

IN THE MATTER OF	)	Joseph M. Steiner and Edward A.
CONFEDERATION LIFE INSURANCE	)	Sellers, for the Appellant, The Chase
COMPANY	)	Manhattan Bank
)	
AND IN THE MATTER OF THE	)	James Doris and Matthew Milne-Smith,
<i>INSURANCE COMPANIES ACT</i> , S.C.	)	for the Appellant, UBS AG
1991, AS AMENDED)	
)	
AND IN THE MATTER OF THE)	
<i>WINDING-UP ACT</i> , R.S.C. 1985, C. W-)	
11, AS AMENDED)	
)	
BETWEEN:)	
)	
THE ATTORNEY GENERAL OF)	
CANADA)	
)	
	)	Applicant
)	
- and -)	
)	
CONFEDERATION LIFE INSURANCE	)	Graham Smith and Gale Rubenstein, for
COMPANY	)	KPMG Inc., the Respondent Liquidator
)	of Confederation Life Insurance
)	Company
)	
)	Respondent
)	
)	
)	HEARD: April 5, 2001

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REASONS

R. A. BLAIR R.S.J.:

Overview

[1] Two financial institutions – The Chase Manhattan Bank and UBS AG – purchased commercial paper in the form of discount notes from Confederation Life Insurance Company prior to the winding-up order made with respect to that Company on August 12, 1994. The Notes had a total face value of approximately \$160 million (Cdn). They did not mature until after the date of the winding-up.

[2] These appeals raise a relatively narrow point, albeit an interesting and complex one. How are the discount portions of those promissory notes (“the Notes”) to be treated in winding-up proceedings for purposes of an unsecured creditor’s proof of claim? Is the creditor entitled to claim for the full face amount of the Note, or is the unearned discount portion of it to be treated as post-insolvency interest (in which case it becomes unrecoverable on the basis of what is known in some circles as the “interest stops rule”)?

[3] Chase and UBS¹ filed proofs of claim with the Respondent Liquidator in the full face amount of their Notes. The Liquidator partially disallowed the claims, the disallowed portion representing the difference between the face amount of the Notes and the discounted price paid by the purchaser for the Notes. The disallowance was based on the theory that those portions of the Notes were effectively payment of interest and that “interest is only payable to the commencement of the liquidation, August 12, 1994”.

[4] Chase and UBS now appeal the partial disallowance of the Liquidator, in accordance with a proof of claims procedure authorized by Order of this Court dated May

¹ In these Reasons, for the sake of convenience, I shall refer to Confederation Life Insurance Company as “Confederation Life” and to The Chase Manhattan Bank and UBS AG as “Chase” and “UBS”, respectively.

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5, 2000. Chase claims an additional \$494,948.35 to its allowed unsecured claim of \$75,492,052. UBS claims an additional \$833,477.72 to its allowed unsecured claim of \$82,896,000.²

[5] The issue to be determined, then, is whether the discount portion of a bearer note – payable subsequent to the effective date of liquidation – constitutes a future payment of “interest” for purposes of a winding-up proceeding, and is therefore unrecoverable by an unsecured creditor as a claim provable in the proceeding by virtue of the provisions of subsection 71(1) of the *Winding-Up Act*³, unless there is a surplus in the estate.

[6] I have concluded that the answer to that question is “Yes”. My reasons for coming to that conclusion follow.

Background

[7] Counsel filed an Agreed Statement of Facts, and the appeals were argued on that basis. The pertinent facts, in addition to those summarized above, are the following.

[8] Confederation Life issued the debt instruments before the commencement of the winding-up proceedings on August 12, 1994. They were in the form of promissory notes payable to “Bearer” in the face amount of a fixed sum and on due dates which all post-dated the commencement of the winding-up. The Notes were purchased by Chase and UBS from Confederation Life at discounts from their face amounts.

[9] Representative samples of the Notes and of the confirmation slips provided to Chase and UBS at the time of purchases were attached to the Agreed Statement. The

² These amounts are in Canadian dollars. The Notes themselves were issued in amounts of \$1 million or \$5 million U.S.

³ R.S.C. 1985, chapter W-11[“Winding-Up Act”]

Notes themselves did not contain any reference to interest or to yield dates. The terms and pricing of each purchase were set out in the confirmation slips.

[10] It is agreed that commercial instruments similar to the Notes may trade subsequent to their original issuance.

[11] Confederation Life has made no payments on the Notes, other than through the partial distributions to creditors made by the Liquidator during the course of the winding-up. There is no surplus within the Confederation Life estate, as that term is used in s. 95 of the *Winding-Up Act*.

Arguments

The Appellants

[12] On behalf of Chase and UBS, respectively, Mr. Steiner and Mr. Doris argue that the debt owing to their clients by Confederation Life at the date of the winding-up was the full face amount of the Notes, notwithstanding that the amounts were not payable until later dates. They submit that no portion of the face amount of the Notes constitutes interest, and point to the fact that there is no reference to interest or to yield dates on the face of the Notes themselves. They therefore contend that the debt reflected in the Notes is a future debt or future claim which may be the subject of a proof of claim by an unsecured creditor in accordance with subsection 71(1) of the *Winding-Up Act*.⁴ It falls into that category, they say, because it is a claim for a liquidated sum owing by the debtor

⁴ The appeals were argued on the basis that it is the *Winding-Up Act*, as it existed on the date of the winding-up order and before its amendment and re-naming as the *Winding-Up and Restructuring Act* by S.C. 1996 c.6, s. 153, that applies. The proceedings in the Confederation Life insolvency have generally proceeded on this basis. On the view I take of the issues, the outcome of these appeals would be the same whichever version is applied.

(Confederation Life) as at the legally relevant date (the date of the winding-up Order), which by its terms is not payable before that legally relevant date.

[13] Subsection 71(1), prior to the 1996 amendment, read:

When the business of a company is being wound up under this Act, all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, and for liquidated or unliquidated damages, are admissible to proof against the company.

[14] Counsel for the appellants submit, moreover, that Parliament has chosen different ways to deal with the concept of future debts in different insolvency contexts. For example, they point out, section 121 of the *Bankruptcy and Insolvency Act*⁵ provides for the discounting of debts outstanding at the effective date of the bankruptcy, but falling due at a later date at the time when a dividend is paid. Subsection 121(3) of the *BIA* states:

A creditor may prove a debt not payable at the date of the bankruptcy and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of five per cent per annum computed from the declaration of a dividend to the time when the debt would have become payable according to the terms on which it was contracted.

[15] Accordingly, where Parliament has specifically chosen not to provide for a discount on the payment of a future debt, the argument goes – as is the case with section 71(1) of the *Winding-up Act* – the Courts should not impose such a provision on their own.

⁵ R.S.C. 1985, c. B-3, as amended (the “BIA”).

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[16] Finally, the appellants maintain that to attribute an interest factor into the face value of the Notes in this case would be inconsistent with their status as negotiable instruments under the *Bills of Exchange Act*⁶. This is so, they contend, because if the position of the Liquidator is accepted the amounts provable in the winding-up will depend not upon the value of the Notes as stated on their face or upon other information on the face of the Notes, but rather on terms set out in the confirmation slips, which do not form part of the Notes. In short, the amount provable would be something different than the amount of the negotiable instrument, thus destroying their effectiveness under the *Bills of Exchange Act*.

The Liquidator

[17] To these arguments, the Liquidator responds that it is necessary to look at the substance and not the form of the transaction, and that in substance and reality the amount of the discount on the Notes is "interest". It meets all the criteria for interest, counsel submits, and to the extent that Canadian and American jurisprudence has considered the matter, the discount portion of commercial paper has been held to be tantamount to interest.

[18] Therefore, the Liquidator concludes, that portion of the appellants' Notes which represents the difference between the face value of the Notes and what they actually advanced to Confederation Life (plus an attributed additional amount representing a "return" factor accrued or earned prior to the effective date of the winding-up), represents future interest and may not be proved in the winding-up because of the well-recognized "interest stops rule" in insolvency proceedings.

⁶ R.S.C. 1985, chapter B-4, sections 2, 55(1)(a) and (b), 59(1) and (2), 73(a) and (b), 176(1), 185(a), and 186(1).

Law and Analysis

[19] In spite of the skilful arguments advanced by Mr. Steiner and Mr. Doris on behalf of the appellants, I am in agreement with the Liquidator's position.

[20] One of the governing principles of insolvency law – including proceedings in a winding-up – is that the assets of the insolvent debtor are to be distributed amongst classes of creditors rateably and equally, as those assets are found at the date of the insolvency. This principle has led to the development of the “interest stops rule”, i.e., that no interest is payable on a debt from the date of the winding-up or bankruptcy. As Lord Justice James put it, colourfully, in *Re Savin* (1872), L.R. 7 Ch. 760 (C.A.), at p. 764:

I believe, however, that if the question now arose for the first time I should agree with the rule [i.e. the “interest stops rule”], seeing that the theory in bankruptcy is to stop all things at the date of the bankruptcy, and to divide the wreck of the man's property as it stood at that time.

[21] It is the decision of Lord Justice Selwyn in *Re The Humber Iron Works and Shipbuilding Company* (1869), 38 L.J. Ch. 712 (“Re Humber Iron Works”), however, which is often cited as the starting point in the analysis. There – in a winding-up context – he said (at pp. 713-714):

. . . Now it has been admitted, very properly, that, as to interest due at the date of the winding-up, there can be no doubt . . . because . . . interest due at the date of the winding-up is just as much a debt as the principal. . . . Justice, I think, requires . . . that all the money of an insolvent estate, being realized as speedily as possible, should be applied equally and rateably in payment of the debts as they existed at the date of the winding-up. I think, therefore, that nothing should be allowed for interest from that date. Consequently, in the present case, this debt of 25,000£, which had no interest due upon it at the date of the winding-up, should stand as a debt for that sum, and for no more. . . . I think that as the tree falls, so it must lie. It

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must be ascertained what are the debts which existed at the date of the winding-up, and all dividends in the case of an insolvent estate must be declared in respect of the debts so ascertained.

[22] This common law principle has been applied consistently in Canadian bankruptcy and winding-up proceedings. This is so notwithstanding the language of subsection 71(1) of the *Winding-Up Act* and section 121 of the *BLA*, which might be read to the contrary, in my view. The obligation to pay interest on a debt is a claim against the debtor, which exists at the date of the winding-up, but which does not become due or payable until some future date. It represents a future certain claim against the company (*Winding-Up Act*, s. 71(1)). It could be said to constitute a future debt or liability “to which the bankrupt is subject on the day on which the bankrupt becomes bankrupt or to which the bankrupt may become subject before the bankrupt’s discharge by reason of [an] obligation incurred before the day on which the bankrupt becomes bankrupt” (*BLA*, s. 121(1)). A discounted bill or note which matures after the date of winding-up is open to a similar analysis.

[23] Yet the “interest stops” principle has always applied to the payment of post-insolvency interest, and the provisions of subsection 71(1) have never been interpreted to trump the common law insolvency “interest stops rule”. That this remains the case is clarified, in my view, by the re-worded language of subsection 71(1) as it exists in the present *Winding-Up and Restructuring Act*⁷. Counsel submit that the effect of the old and the current versions of subsection 71(1) is in substance the same. The language of the current subsection makes it clear that the “interest stops rule” applies, in my opinion. Subsubsection 71(1) currently states:

71. (1) When the business of a company is being wound up under this Act, all debts and all other claims against the company in existence

⁷ *Supra*, footnote No. 4.

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at the commencement of the winding-up, certain or contingent, matured or not, and liquidated or unliquidated, are admissible to proof against the company and, subject to subsection (2), *the amount of any claim admissible to proof is the unpaid debt or other liability of the company outstanding or accrued at the commencement of the winding-up* (emphasis added).

[24] While the payment of post-insolvency interest and the payment of the face value of a discounted promissory note maturing after the date of liquidation may bear the analysis suggested in paragraph 22 above, the interpretation would lead to inconsistent treatment of interest in proofs of claim situations, if the discount portion of a note is truly interest, depending upon whether the payment is characterized as “interest” or as a “discount”. I do not think the *Winding-Up Act* should be interpreted to give rise to such inconsistent treatment, particularly given the long-standing entrenchment of the “interest stops rule” in Canadian jurisprudence.

[25] Thus, the substance of the issue to be determined by the court is whether the discounted portion of the Confederation Life Notes issued to Chase and UBS constitutes “interest” due or payable at a date subsequent to the effective date of the winding-up. If it is, then the “interest stops” principle must apply, because to hold otherwise would be to hold that a claim for interest which is camouflaged as a “discount” is to be treated differently than other claims for interest. I do not think it would be correct to do so.

[26] Both the Ontario Court of Appeal and the Supreme Court of Canada have recognized that in reality and substance a discount on a bill of exchange is interest. American jurisprudence has adopted the same analysis.

[27] *Singer v. Goldhar*, [1924] 2 D.L.R. 141 (Ont. C.A.), is one such case. It was a foreclosure action. The mortgage in question did not contain any provision respecting interest, but provided for the repayment of a sum as principal which was greater than the

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sum advanced. At trial, the action was dismissed on the basis that no monies were owing because instalment payments which equalled the total amount of the advance had been made. The difference between the amount advanced and the amount that was said to be the "principal" remained outstanding. This additional amount was held to constitute interest, and the monthly instalments to be a blend of principal and interest. Therefore, the provisions of the *Interest Act*⁸ requiring that the interest rate be shown had been breached. The Court of Appeal upheld the trial judgment. In doing so, Masten J.A. stated (p. 144):

Now the ordinary meaning of "*principal*" is the capital sum of money placed out at interest, in other words *the sum actually loaned or advanced* (See Wharton's Law Lexicon, 12th ed., p. 695). "*Interest*" when considered in relation to money *denotes the return or consideration or compensation for the use or retention by one party of a sum of money or other property belonging to another*. 21 Hals. P, 37, para 72.

The definition in Wharton and other law lexicons is to the like effect. This definition applies as accurately to a lump sum agreed by way of compensation as to periodical payments at a rate per cent.

I agree with the observation of my brother Orde made during the argument that the present transaction is, in respect to the question of interest, *analogous to the discount of a bill of exchange where a fixed sum is payable on a day certain though a smaller sum is advanced by the lender, the difference forming the compensation to the lender for the loan of the money advanced*.

Discount in such a case *is defined* in Murray's New English Dictionary, vol. 3, pa. 428, *as "the interest charged by a banker or bill-discounter for advancing the value of a bill before it is due."* On the question whether or not the \$1,200 is interest the principle is the same and the conclusion must be that the difference between the \$3,500 advanced and the \$4,700 to be repaid is interest.

(italics and underlining added)

⁸ R.S.C. 1906, c. 120

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[28] Support for the proposition that a “discount” is in essence “interest” is also found in the decision of the Supreme Court of Canada in *Attorney-General for Ontario v. Barfried Enterprises Ltd.*, [1963] S.C.R. 570. There, the Court was dealing with a bonus in a loan and with whether or not the bonus made the whole cost of the loan excessive and was therefore caught by the provisions of The *Unconscionable Transactions Relief Act* R.S.O. 1960, c. 410. The “whole cost of the loan” was broadly defined to include “interest, discount, subscription, premium, dues, bonus, commission, brokerage fees and charges”. Judson J. noted, in reference to these (p. 575):

The day-to-day accrual of interest seems to me to be an essential characteristic. All the other items mentioned in *The Unconscionable Transactions Relief Act* except discount lack this characteristic. They are not interest. (underlining added)

[29] American insolvency jurisprudence is to the same effect. As one author has put it:

Like Treasury bills, commercial paper is typically a discount security: the investor purchases notes at less than face value and receives the face value at maturity. The difference between the purchase price and the face value, called the discount, is the interest received on the investment. Occasionally, investors request that paper be issued as an interest-bearing note. The investor pays the face value and, at maturity, receives the face value and accrued interest. All commercial paper interest rates are quoted on a discount basis.

See: Hahn, Thomas K., “Commercial Paper”, Chapter 9, *Instruments of Money Market* (Federal Reserve Bank of Richmond), at p. 107.

[30] Or, as Judge Lifland of the U.S. Bankruptcy Court for the Southern District of New York observed, in *In re Chateaugay*, [1990] Bankr. LEXIS 22, at p. 71:

Unmatured interest is without question not an allowed claim under s. 502(b)(2) of the [U.S. Bankruptcy] Code. The dispute arises when we have

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the concept of OID [original interest discount] which in economic reality is interest, but not specifically denominated as such. It is therefore determined that semantics should not distort the rationale and purpose of the Code and that, in the fact situation before this Court, unamortized original issue discount on a note or debenture is indeed unmatured interest which is not an allowable claim under Code s. 502(b)(2).

[31] In my view, the fact that the U.S. Bankruptcy Code has codified the “interest stops rule” in providing that unmatured interest must be disallowed, whereas it is the common law principle which prevails in Canada, makes no difference in the circumstances of this case.

[32] The appellants’ argument that their claims are for the full face amount of the Notes, which just happen to mature at a future date after the winding-up, begs the question of what is the true nature of those claims. They say their claims include no element of interest, but in truth they do. It is relevant to keep in mind that the face value of the Notes was payable on the due date, and not before. Accordingly, their claims are for monies loaned to Confederation Life, plus an amount in excess of the monies advanced to reflect a consideration for the use of the monies advanced to the due date. Such a return, or consideration, is normally called “interest”. Accordingly, the unearned portion of it, as at the date of the winding-up, is not recoverable in the liquidation.

[33] Interest is an important part of what is owing by a debtor. In the case of a money-lender, such as Chase or UBS, it represents the money-lender’s return, or profit, on the transaction. In the case of a supplier, that return or profit is built into the price of the product or service supplied, and interest on overdue payment serves simply to maintain the present value of the price on a continuing basis. As noted in *Re Humber Iron Works*, *supra* (at p. 713), the “interest due at the date of the winding-up is just as much a debt as the principal.”

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[34] Mr. Steiner argued that Chase and UBS are just suppliers of money, and in that sense are in the same position as the supplier of goods or services who supplies on a delayed payment basis but is still entitled to recover the full amount of the price even when the debtor is wound up after delivery but before the payment due date arrives. I do not see it that way, however. The difference is that in the case of the supplier of goods or services on such terms, the product has already been delivered *with the return or profit already earned and built into the delivery price* at the date of the insolvency. In the case of a money supplier, however, while the product – the monies advanced – has been delivered at the date of the insolvency, the return or profit payable to the money lender for the use of the monies is not earned until the borrower has in fact used the monies to the date of maturity, when repayment is due.

[35] Thus, in an insolvency, the money lender who makes advances on the basis of discounted commercial paper is only entitled to claim the amount of the advances plus any portion of the discount which may be said to have been notionally earned as at the effective date of the winding-up. The remaining portion of the discount is unrecoverable “interest” by virtue of the “interest stops rule” in insolvency proceedings.

[36] With respect to the third argument of the appellants, based upon the *Bills of Exchange Act*, I am not persuaded that resort to bills of exchange law and principles is helpful in the circumstances of this case. The Notes are clearly “notes” within the meaning of the *Bills of Exchange Act*, but in my view nothing turns on that point. Assuming that Chase and UBS are holders in due course of the Notes, it is clear that Confederation Life is obligated to pay them the face amount of the Notes, free and clear of any equities between the parties. The question here, however, is whether Chase and UBS are entitled to prove their claim in the liquidation on the basis of those full face amounts, given that the amounts were advanced before the effective date of the winding-up but the face value of the Notes is not payable until after that date. The answer to that

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question depends upon the nature of the amount now being claimed, as I have explained, and the nature of that amount is "interest".

[37] Thus, the issue to be determined here is not concerned with the principles of bills of exchange law, but rather with principles of insolvency law.

Disposition

[38] The appeals of Chase and UBS from the partial disallowance of the claims by the Liquidator are therefore dismissed.

[39] If the parties cannot agree with respect to costs, I may be spoken to in that regard.


R. A. Blair R.S.J.

Released: June 25, 2001

COURT FILE NO.: 97-CL-000543
DATE: 20010625

ONTARIO
SUPERIOR COURT OF JUSTICE

IN THE MATTER OF CONFEDERATION LIFE
INSURANCE COMPANY

AND IN THE MATTER OF THE *INSURANCE
COMPANIES ACT*, S.C. 1991, AS AMENDED

AND IN THE MATTER OF THE *WINDING-UP
ACT*, R.S.C. 1985, C. W-11, AS AMENDED

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

CONFEDERATION LIFE INSURANCE
COMPANY

Respondent

REASONS

R. A. BLAIR R.S.J.

15p

TAB

“2”

COURT OF APPEAL FOR ONTARIO

CITATION: Nortel Networks Corporation (Re), 2015 ONCA 681
DATE: 20151013
DOCKET: C59703

Simmons, Gillese and Rouleau JJ.A.

In the Matter of the *Companies' Creditors Arrangement Act*,
R.S.C. 1985, c. C-36, as amended

And in the Matter of a Plan of Compromise or Arrangement of Nortel Networks Corporation, Nortel Networks Limited, Nortel Networks Global Corporation, Nortel Networks International Corporation and Nortel Networks Technology Corporation

Richard B. Swan, S. Richard Orzy and Gavin H. Finlayson, for the appellant *Ad Hoc* Group of Bondholders

Andrew Kent and Brett Harrison, for the respondent The Bank of New York Mellon

Edmond Lamek, for the respondent Law Debenture Trust Company of New York

Benjamin Zarnett and Graham D. Smith, for the Monitor and the respondent Canadian Debtors

Kenneth D. Kraft and John J. Salmas, for the respondent Wilmington Trust, National Association

Kenneth T. Rosenberg and Ari N. Kaplan, for the respondent Canadian Creditors' Committee

Tracy Wynne, for the Joint Administrators (EMEA)

Scott A. Bomhof and Adam M. Slavens, for Nortel Networks Inc./U.S. Debtors

Heard: April 29, 2015

On appeal from the order of Justice Frank J.C. Newbould of the Superior Court of Justice, dated August 19, 2014, with reasons reported at 2014 ONSC 4777, 121 O.R. (3d) 228.

Rouleau J.A.:

A. OVERVIEW

[1] This appeal represents another chapter in the Nortel proceeding under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("CCAA"), which has been on-going since January 2009. A parallel proceeding under Chapter 11 of the United States *Bankruptcy Code* has also been on-going in Delaware since that time.

[2] The *Ad Hoc* Group of Bondholders (the "appellant") brings this appeal with leave. The group represents substantial holders of "crossover bonds", which are unsecured bonds either issued or guaranteed by certain of the Canadian Nortel entities. The relevant indentures provide for the continuing accrual of interest until payment, at contractually specified interest rates, as well as other post-filing payment obligations, such a make-whole provisions and trustee fees.

[3] In contrast, the claims of other claimants, such as Nortel pensioners and former employees, do not have a provision for interest on amounts owing to them.

[4] Holders of the crossover bonds have filed claims for principal and pre-filing interest in the amount of US\$4.092 billion against each of the Canadian and U.S. Nortel estates. They also claim they are entitled to post-filing interest and related claims under the terms of the crossover bonds. As of December 31, 2013, the amount of this claim was approximately US\$1.6 billion. The total of these two

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amounts represents a significant portion of the proceeds generated from the worldwide sale of Nortel's business lines and other Nortel assets, totalling approximately \$7.3 billion. This latter amount is apparently not growing at any appreciable rate because of the conservative nature of the investments made with it pending the outcome of the insolvency proceedings.

[5] In the context of a joint allocation trial, the CCAA judge directed that two issues be argued:

1. whether the holders of the crossover bond claims are legally entitled ... to claim or receive any amounts under the relevant indentures above and beyond the outstanding principal debt and pre-petition interest (namely, above and beyond US\$4.092 billion); and
2. if it is determined that the crossover bondholders are so entitled, what additional amounts are such holders entitled to so claim and receive.

[6] The CCAA judge answered the first question in the negative and so he did not need to answer the second question. In reaching that conclusion, he accepted that the common law "interest stops rule", which has been held to be a fundamental tenet of insolvency law, applies in the CCAA context. He disagreed with the appellant's submission that the Supreme Court of Canada's decision in *Canada 3000 (Re); Inter-Canadian (1991) Inc. (Trustee of)*, 2006 SCC 24, [2006] 1 S.C.R. 865, and this court's subsequent decision in *Stelco (Re)*, 2007 ONCA 483, 35 C.B.R. (5th) 174, are binding authority that the interest stops rule does not apply in the CCAA context.

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[7] On appeal, the appellant raises two related issues – whether the CCAA judge erred in concluding that an interest stops rule applies in CCAA proceedings and, if not, whether he erred in concluding that the holders of Crossover Bond Claims are not legally entitled to claim or receive any amounts under the relevant indentures above and beyond the outstanding principal debt and pre-petition interest.

[8] I would dismiss the appeal. As I will explain, there are sound legal and policy reasons for applying the interest stops rule in the CCAA context, and as I read *Stelco* and *Canada 3000*, they do not preclude such a result. Nor do I see a basis for varying the order that he made.

B. BACKGROUND

[9] In the CCAA court's initial order of January 14, 2009, the Canadian Debtors¹ were directed, subject to certain exceptions, to make no payments of principal or interest on account of amounts owing by the Canadian Debtors to any of their creditors as of the filing date, unless approved by the Monitor. Further, all proceedings and enforcement processes, and all rights and remedies of any person against the Canadian Debtors were stayed absent consent of the Canadian Debtors and the Monitor, or leave of the court.

¹ There are five Canadian Debtors: Nortel Networks Corporation, Nortel Networks Limited, Nortel Networks Technology Corporation, Nortel Networks International Corporation and Nortel Networks Global Corporation.

[10] In accordance with a claims procedure order dated July 30, 2009, claims against the Canadian Debtors were required to be filed by a claims bar date. Under a subsequent claims resolution order dated September 16, 2010, a disputed claim could be brought before the CCAA court for final determination.

[11] As previously noted, holders of the crossover bonds filed proofs of claim that included not only the principal amount of the debt and interest accrued to the date of insolvency but also contractual claims for interest and other amounts post-filing.

[12] In May 2014, a joint allocation trial, conducted by way of video-link by the CCAA judge in Ontario and Judge Gross in Delaware, commenced on the issue of the allocation of the sale proceeds among the debtor estates, including the Canadian and U.S. estates. In his 2015 decision, the CCAA judge, citing the “fundamental tenet of insolvency law that all debts shall be paid *pari passu*” and that “all unsecured creditors receive equal treatment” held that the \$7.3 billion in funds generated from the Nortel liquidation should be allocated on a *pro rata* basis as among the estates: 2015 ONSC 2987, 23 C.B.R. (6th) 249, at para. 209. He ordered, at para. 258, that the funds be allocated among the debtor estates in accordance with a number of principles, including the principle that each debtor estate “is to be allocated that percentage of the [liquidation proceeds] that the total allowed claims against that Estate bear to the total allowed claims against

all Debtor Estates.” A number of parties have sought leave to appeal that decision.

[13] It was on June 24, 2014, while the joint allocation trial was proceeding, that the CCAA judge directed that the two issues set out above be decided.

C. DECISION BELOW

[14] The CCAA judge began his analysis with a review of cases applying the interest stops rule in the bankruptcy and winding-up context. He noted the relationship between the interest stops rule and the *pari passu* principle, which he described as “a fundamental tenet of insolvency law” that requires equal treatment of unsecured creditors. He found there was “no reason to not apply the [common law] interest stops rule to a CCAA proceeding because the CCAA does not expressly provide for its application.” The issue was “whether the rule should apply to this CCAA proceeding.”

[15] He went on to conclude that “[t]here is no controlling authority in Canada in a case such as this in which there is a contested claim being made by bondholders for post-filing interest against an insolvent estate under the CCAA, let alone under a liquidating CCAA process, or in which the other creditors are mainly pensioners with no contractual right to post-filing interest.” In reaching this conclusion, he distinguished *Stelco* and *Canada 3000* and found that the application of the interest stops rule was supported by the more recent decisions in *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60, [2010] 3

S.C.R. 379, and *Sun Indalex Finance, LLC v. United Steelworkers*, 2013 SCC 6, [2013] 1 S.C.R. 271.

[16] The CCAA judge thus ordered that “holders of Crossover Bond Claims are not legally entitled to claim or receive any amounts under the relevant indentures above and beyond the outstanding principal debt and pre-petition interest (namely, above and beyond US\$4.092 billion).”

D. ISSUES ON APPEAL

[17] The appellant raises two related issues:

1. Did the CCAA judge err in concluding that an interest stops rule applies in CCAA proceedings?
2. If the CCAA judge did not err in concluding that an interest stops rule applies in CCAA proceedings, did he err in holding that holders of Crossover Bonds Claims are not legally entitled to claim or receive any amounts under the relevant indentures above and beyond the outstanding principal debt and pre-petition interest?

E. ANALYSIS

(1) Did the CCAA judge err in concluding that an interest stops rule applies in CCAA proceedings?

[18] The appellant, supported by the Bank of New York Mellon and the Law Debenture Trust Company of New York as indenture trustees, submits that the CCAA judge erred in concluding that the interest stops rule applies.

[19] First, the appellant submits he applied inapplicable case law and misinterpreted case law in concluding that the rule did and should apply. Among other things, the appellant criticizes the CCAA judge's application of the Supreme Court of Canada's decisions in *Century Services* and *Indalex*, which deal with the inter-play between the CCAA and the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA").

[20] The appellant also submits that the application of the interest stops rule in the CCAA context is inconsistent with the CCAA and would have negative practical consequences.

[21] Finally, the appellant submits that *Canada 3000* and *Stelco* are binding authority that preclude the application of the interest stops rule in the CCAA context and that the CCAA judge violated the principle of *stare decisis* in refusing to follow them.

[22] I will deal with these submissions in turn, beginning with a discussion of the interest stops rule and the related *pari passu* principle.

(a) Should the interest stops rule apply in CCAA proceedings?

(i) Origin and scope of the interest stops rule

[23] It is well settled that the *pari passu* principle applies in insolvency proceedings. This principle, to the effect that "the assets of the insolvent debtor are to be distributed amongst classes of creditors rateably and equally, as those

assets are found at the date of insolvency” is said to be one of the “governing principles of insolvency law” in Canada: *Canada (Attorney General) v. Confederation Life Insurance Co.*, [2001] O.T.C. 486, at para. 20 (S.C.), *per* Blair J.² In fact, the *pari passu* principle has been said to be the foremost principle in the law of insolvency not just in Canada but around the world: Rizwaan J. Mokal “Priority as Pathology: The *Pari Passu* Myth” (2001) 60:3 Cambridge L.J. 581, at p. 581. According to an article in the Cambridge Law Journal, “[c]ommentators claim to have found [the *pari passu*] principle entrenched in jurisdictions far removed ... in geography and time”: Mokal, at pp. 581-582.

[24] The *pari passu* principle is rooted in the need to treat all creditors fairly and to ensure an orderly distribution of assets.

[25] As explained in *In re Humber Ironworks and Shipbuilding Co.* (1869), L.R. 4 Ch. App. 643, nearly 150 years ago, a necessary corollary of the *pari passu* principle is the interest stops rule. Absent the interest stops rule, the fairness and orderly distribution sought by the *pari passu* principle could not be achieved. Selwyn L.J. explained the rationale for the interest stops rule, at pp. 645-646:

In the present case we have to consider what are the positions of the creditors of the company, when, as here, there are some creditors who have a right to receive interest, and others having debts not bearing interest.

² As explained in Roderick J. Wood's text on bankruptcy and insolvency law, “insolvency law is the wider concept, encompassing bankruptcy law but also including non-bankruptcy insolvency systems.”: Roderick J. Wood, *Bankruptcy & Insolvency Law* (Toronto: Irwin Law Inc., 2009), at p. 1.

....

It is very difficult to conceive a case in which the assets of a company could be ... immediately realized and divided; but suppose they had a simple account at a bank, which could be paid the next day, that would be the course of proceeding. Justice, I think, requires that that course of proceeding should be followed, and that no person should be prejudiced by the accidental delay which, in consequence of the necessary forms and proceedings of the Court, actually takes place in realizing the assets; but that, in the case of an insolvent estate, all the money being realized as speedily as possible, should be applied equally and rateably in payment of the debts as they existed at the date of the winding-up. I, therefore, think that nothing should be allowed for interest after that date.

[26] Giffard L.J. similarly stated, at p. 647-648:

That rule ... works with equality and fairness between the parties; and if we are to consider convenience, it is quite clear that, where an estate is insolvent, convenience is in favour of stopping all the computations at the date of the winding-up.

...

I may add another reason, that I do not see with what justice interest can be computed in favour of creditors whose debts carry interest, while creditors whose debts do not carry interest are stayed from recovering judgment, and so obtaining a right to interest.

[27] Thus, the primary purpose behind the common law interest stops rule is fairness to creditors. Another purpose is to achieve the orderly administration of an insolvent debtor's estate.

[28] The common law interest stops rule has been consistently applied in proceedings under bankruptcy and winding-up legislation. In fact, as explained by Blair J. in *Confederation Life Insurance Co.* at paras. 22-23, the rule has been applied even when the legislation might be read to the contrary:

This common law principle has been applied consistently in Canadian bankruptcy and winding-up proceedings. This is so notwithstanding the language of subsection 71(1) of the *Winding-Up Act* and section 121 of the *BIA*, which might be read to the contrary, in my view.

...

Yet, the “interest stops” principle has always applied to the payment of post-insolvency interest, and the provisions of subsection 71(1) have never been interpreted to trump the common law insolvency “interest stops rule”.

[29] I will now turn to the question of whether the interest stops rule should be applied in the *CCAA* context.

(ii) Should the interest stops rule apply in *CCAA* proceedings?

[30] The respondents³ maintain that one would expect the interest stops rule to apply in *CCAA* proceedings given that *CCAA* proceedings are insolvency proceedings to which the common law *pari passu* principle applies. Consistent with the *pari passu* principle and the related interest stops rule, creditors in *CCAA*

³ The respondents are the Monitor, the Canadian Debtors, the Canadian Creditors' Committee and the Wilmington Trust, National Association. While technically The Bank of New York Mellon and the Law Debenture Trust Company of New York are also respondents, they support the appellant's position and so my use of the term “respondents” excludes them.

proceedings must surely expect to be treated fairly and not see creditors with interest entitlements have their claims grow, post-insolvency, disproportionately to those with no, or lesser, interest entitlements. In the respondents' submission, the same reasoning used by courts to conclude that the interest stops rule applies in winding-up and bankruptcy proceedings leads to the conclusion that the interest stops rule applies in CCAA proceedings.

[31] The appellant, on the other hand, submits that CCAA proceedings are different from other insolvency proceedings in that they do not immediately or permanently alter the rights of creditors. The filing is intended to give the debtor breathing space so that a plan of compromise or arrangement can be negotiated with creditors and the business can continue. The objective of a CCAA proceeding is a consensual, statutory compromise in the form of a CCAA plan. Such a CCAA plan can provide for any kind of distribution, provided it is approved by the requisite majority of creditors and the court.

[32] In the appellant's submission, until a plan is negotiated or the proceeding is converted to bankruptcy or winding-up, the rights of creditors are not altered; rather, their rights to execute on them are simply stayed. In the appellant's view, therefore, unless and until this sought-after compromise of rights is negotiated, only the exercise of the rights is stayed. The CCAA filing does not affect the right to accrue interest; it only stays the collection of that interest.

[33] The appellant further argues that the CCAA judge's decision is contrary to the established CCAA practice and the reasonable expectations of the parties in this proceeding. In particular, the appellant notes that a CCAA plan may, and often does, provide for the recovery of post-filing interest. The appellant also submits that the application of the interest stops rule would allow debtors to obtain a permanent interest holiday simply by filing for CCAA protection, even if the filing were later withdrawn, causing a permanent prejudice to the creditors not contemplated by the CCAA. And, the appellant submits that an interest stops rule would create a disincentive for creditors to participate in CCAA proceedings since they would not be compensated for delays under the CCAA even if there were ultimately assets available to do so

[34] I do not accept the appellant's submissions on this point. Admittedly, there are differences between the CCAA and other insolvency schemes, including that the CCAA does not provide for a fixed scheme of distribution. Further, assuming a plan of compromise or arrangement under the CCAA is negotiated it may or may not result in a distribution to creditors. Nevertheless, in my view, the same principles that underpin the conclusion that the interest stops rule is necessary in bankruptcy and winding-up proceedings – namely, the fair treatment of creditors and the orderly administration of an insolvent debtor's estate - apply with equal force to CCAA proceedings. I say so for several reasons.

[35] First, the CCAA is part of an integrated insolvency regime, which also includes the BIA. The Supreme Court of Canada in *Century Services* considered the CCAA regime and opined, at para. 24, that “[w]ith parallel CCAA and BIA restructuring schemes now an accepted feature of the insolvency landscape, the contemporary thrust of legislative reform has been towards harmonizing aspects of insolvency law common to the two statutory schemes to the extent possible and encouraging reorganization over liquidation”. The court went on to explain, at para. 78, that the CCAA and BIA are related and “no ‘gap’ exists between the two statutes which would allow the enforcement of property interests at the conclusion of CCAA proceedings that would be lost in bankruptcy”.

[36] Consistent with the notion of harmonization, because the common law interest stops rule applies upon bankruptcy under the BIA, it should follow that the common law rule also applies in a CCAA proceeding unless, of course, the rule is ousted by the CCAA. The CCAA does not address entitlement to claim post-filing interest let alone oust the common law rule with clear wording.

[37] Second, if the interest stops rule were not to apply in CCAA proceedings, the creditors who do not have a contractual right to post-filing interest would, as the Supreme Court explained in *Century Services* at para. 47, have “skewed incentives against reorganizing under the CCAA” and this would “only undermine that statute’s remedial objectives and risk inviting the very social ills that it was enacted to avert.” This concern over skewed incentives was confirmed in *Indalex*

where the Supreme Court held, at para. 51, that “[i]n order to avoid a race to liquidation under the *BIA*, courts will favour an interpretation of the *CCAA* that affords creditors analogous entitlements” to those they would receive under the *BIA*.

[38] Without an interest stops rule under the *CCAA*, the creditors with no claim to post-filing interest would have an incentive to proceed under the *BIA* or the *Winding-up and Restructuring Act*, R.S.C. 1985, c. W-11, where the interest stops rule operates to prevent creditors, such as the appellant, who have a contractual right to interest from improving their proportionate claim against the debtor at the expense of other creditors.

[39] Third, as recognized by the Supreme Court in *Century Services* at para. 77, the “*CCAA* creates conditions for preserving the *status quo* while attempts are made to find common ground amongst stakeholders for a reorganization that is fair to all”. This is achieved through grouping all claims within a single proceeding and staying all actions against the debtor, thus putting creditors on an equal footing: *Century Services*, para. 22.

[40] As submitted by the Canadian Creditors’ Committee, if post-filing interest is available to one set of creditors while the other creditors are prevented from asserting their rights to sue the debtor and obtaining a judgment that bears interest, the *status quo* has not been preserved.

[41] Fourth, if the interest stops rule were not to apply in CCAA proceedings, the key objective of that statute – to facilitate the restructuring of corporations through flexibility and creativity – may be undermined. This is because of the asymmetrical entitlement to interest that would be created. Creditors with an entitlement to post-filing interest may be less motivated to compromise than those creditors without such an entitlement. Using the case under appeal as an example, if post-filing interest is allowed to accrue, the delay and failure to reach a compromise will see the appellant's proportionate claim against the assets of the debtors rise very significantly at the expense of other creditors. One could well understand that if the urgency for reaching a compromise and the incentive to compromise are significantly lower for one group of unsecured creditors than for the balance of the unsecured creditors, restructuring will be more difficult to achieve and the ability to reach creative solutions will be lessened.

[42] Furthermore, if the amount of an unsecured creditor's legal entitlement is constantly shifting as post-filing interest accrues, the ability to find a compromise that is acceptable to all creditors at any one point in time will pose a greater challenge than if the entitlements are fixed as of the date of filing.

[43] Fifth, the principle of fairness supports the application of the interest stops rule. Insolvency proceedings are intended to be fair processes for liquidating or restructuring insolvent corporations. How, one may ask, is it fair if the appellant, an unsecured creditor, sees its claim against the assets of the debtor balloon

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from \$4.092 billion to \$5.692 billion (as of December 31, 2013) because of contractual provisions when the claims of unsecured creditors, who have no such contractual provisions and who have been prevented for almost seven years by the CCAA stay from converting their claims into court judgments that would bear interest, have seen no increase at all? Delays in liquidating the Nortel assets have helped the Monitor achieve the very significant recoveries made (\$7.3 billion) and, in fairness, this achievement should be for the benefit of all creditors.

[44] Finally, I wish to respond to the appellant's concerns.

[45] As to past practice and the reasonable expectations of the parties, I do not view the existence of an interest stops rule as being contrary to established CCAA practice or as preventing a CCAA plan from providing for post-filing interest. Parties may negotiate for a plan that provides for payments of more or less than a creditor's legal entitlement in lieu of the foregone interest. Thus, I do not accept the appellant's submission that there would be a disincentive to participate in CCAA proceedings, which is based on the premise that post-filing interest may not be recovered under a CCAA plan.

[46] The appellant also raised the concern that a debtor company could obtain a permanent interest holiday, resulting in unfairness. The appellant says that if there are proceeds over and above the amounts needed to satisfy the pre-filing claims of creditors, those proceeds would be for the benefit of the shareholders of the debtor. This follows from the fact that the CCAA contains no provision for

the payment of a "surplus" to creditors and the interest stops rule would prevent the unsecured creditors from recovering any post-filing interest. The debtor could therefore resort to the CCAA to stop interest from accruing and operate his business interest free.

[47] This hypothetical raises the same concern about the loss of post-filing interest but in a somewhat different way. The concern is that a debtor may seek CCAA protection to avoid the obligation to pay interest.

[48] There may well be exceptional situations where, at some point in a CCAA proceeding, the common law interest stops rule risks working an unfairness of some sort. I leave for another day what orders, if any, might be made by a CCAA judge in cases such as the hypothetical presented by the appellant where a debtor might be considered to benefit unfairly as a result of the common law interest stops rule. I note, however, that in order to achieve the remedial purpose of the CCAA, CCAA courts have been innovative in their interpretation of their stay power and in the exercise of their authority in the administration of CCAA proceedings. This approach has been specifically endorsed by the Supreme Court of Canada in *Century Services* and would no doubt guide the court should the need arise: see, for example, paras. 61 and 70.

[49] In conclusion, there are sound reasons for adopting an interest stops rule in the CCAA context. I now turn to the argument that *Canada 3000* and *Stelco* preclude the application of the rule.

(b) Are *Canada 3000* and *Stelco* binding authorities to the effect that the interest stops rule does not apply in CCAA proceedings?

[50] The appellant vigorously maintains that the CCAA judge was bound by *Canada 3000* and *Stelco*, which both confirm that the interest stops rule does not apply in CCAA proceedings.

[51] I would not give effect to this submission. As I will explain, both of these decisions should be read narrowly and do not constitute a precedent with respect to the issue raised in this appeal – whether the common law interest stops rule applies in CCAA proceedings.

(i) *Canada 3000*

Background and lower court decisions

[52] The decision in *Canada 3000* arose out of the collapse of three airlines – Canada 3000 Airlines Ltd. and Royal Aviation Inc. (collectively “Canada 3000”), and Inter-Canadian (1991) Inc. (“Inter-Canadian”). Canada 3000 filed for protection under the CCAA and, three days later, filed for bankruptcy. Inter-Canadian filed a *BIA* proposal but the proposal ultimately failed and so it too was placed into bankruptcy effective as of the date it filed its notice of intention to make a proposal.

[53] At the time the airlines collapsed, they owed significant amounts in unpaid airport and navigation charges. As a result, various airport authorities and NAV

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Canada sought remedies under the *Airport Transfer (Miscellaneous Matters) Act*, S.C. 1992, c. 5 (“*Airports Act*”) and the *Civil Air Navigation Services Commercialization Act*, S.C. 1996, c. 20 (“*CANSCA*”). In particular, they sought orders seizing and detaining aircraft leased by the bankrupt airlines. While the lessors of the planes retained legal title to the aircraft, the bankrupt airlines were the registered owner for the purposes of the *Aeronautics Act*, R.S.C. 1985, c. A-2.

[54] The airport authorities and NAV Canada brought proceedings in Ontario and Quebec.

[55] In Ontario, Ground J. dismissed motions for orders permitting the airport authorities and NAV Canada to seize and detain the aircraft leased by Canada 3000: *Canada 3000 (Re)* (2002), 33 C.B.R. (4th) 184 (S.C.). On the question of interest, he concluded, at para. 73, that the airport authorities and NAV Canada were entitled to charge interest on the unpaid charges up to the date of payment or the posting of security for payment.

[56] On appeal from Ground J.'s decision, this court held that the interest question need not be determined since the airport authorities and NAV Canada did not have the right to detain the aircraft: *Canada 3000 (Re)* (2004), 69 O.R. (3d) 1, at para. 197.

Supreme Court's decision

[57] On appeal to the Supreme Court of Canada, the court determined that the airport authorities and NAV Canada had the right to detain the aircraft leased and operated by the bankrupt airlines. The issue of post-filing interest was, therefore, an issue the court had to decide.

[58] In deciding that issue, Binnie J. made the following comment at para. 96:

While a CCAA filing does not stop the accrual of interest, the unpaid charges remain an unsecured claim provable against the bankrupt airline. The claim does not accrue interest after the bankruptcy: ss. 121 and 122 of the [B/A]. [Emphasis added.]

[59] The appellant submits that the underlined words are binding *ratio* and must be followed in this case.

[60] While I agree that Binnie J.'s comment about the CCAA is not *obiter*, I am not convinced that it should be read as broadly as the appellant contends. In *R. v. Henry*, 2005 SCC 76, [2005] 3 S.C.R. 609, Binnie J. warned, at para. 57, against reading "each phrase in a judgment ... as if enacted in a statute". Rather, the question to be asked is "what did the case decide?".

[61] To answer what *Canada 3000* decided about post-filing interest under the CCAA, it is important to consider the context in which Binnie J. made his comment, including the facts of the case, the issues before the court, the structure of his reasons, the wording he used, and what he said as well as what he did not say.

[62] At para. 40., Binnie J. defined the “two major questions raised by the appeals” as follows: (1) “are the *legal titleholders* liable for the debt incurred by the registered owners and operators of the failed airlines to the service providers?” and (2) “even if they are not so liable, are *the aircraft* to which they hold title subject on the facts of this case to judicially issued seizure and detention orders to answer for the unpaid user charges incurred by Canada 3000 and Inter-Canadian?” (emphasis in original). The answer to those two questions turned on the interpretation of the *Airports Act* and *CANSCA*. As Binnie J. noted at para. 36, the case was “from first to last an exercise in statutory interpretation”.

[63] After engaging in a lengthy exercise of statutory interpretation, he concluded that: (1) under s. 55 of *CANSCA*, the legal titleholders were not jointly and severally liable for the charges due to NAV Canada; and (2) under s. 56 of *CANSCA* and s. 9 of the *Airports Act*, the airport authorities and NAV Canada were entitled to apply for an order detaining the aircraft operated by the failed airlines.

[64] Binnie J. then addressed eight additional arguments made by the parties and just before his last paragraph on disposition, he included a section simply entitled “Interest”, starting at para. 93.

[65] He began his analysis of the interest issue by outlining the statutory authority for charging interest: s. 9(1) of the *Airports Act* expressly provided for

the payment of interest, and while CANSCA did not explicitly provide for interest, a regulation under CANSCA imposed interest: para. 93.

[66] “The question then”, said Binnie J. at para. 95, was “how long the interest can run”. He addressed that question as follows, at paras. 95-96:

The airport authorities and NAV Canada have possession of the aircraft until the charge or amount in respect of which the seizure was made is paid. It seems to me that this debt must be understood in real terms and must include the time value of money.

Given the authority to charge interest, my view is that interest continues to run to the first of the date of payment, the posting of security or bankruptcy. If interest were to stop accruing before payment has been made, then the airport authorities and NAV Canada would not recover the full amount owed to them in real terms. Once the owner, operator or titleholder has provided security, the interest stops accruing. The legal titleholder is then incurring the cost of the security and losing the time value of money. It should not have to pay twice. While a CCAA filing does not stop the accrual of interest, the unpaid charges remain an unsecured claim provable against the bankrupt airline. The claim does not accrue interest after the bankruptcy: ss. 121 and 122 of the [BIA]. [Emphasis added.]

[67] Significantly, Binnie J. made no mention in his reasons of the common law interest stops rule or the related *pari passu* principle. Nor did he cite any case law dealing with those issues. In fact, even though it is well established that the interest stops rules applies under the BIA, he did not rely on the common law rule in support of his finding that interest stopped on bankruptcy. Instead, he relied on

ss. 121 and 122 of the *BIA* in concluding that the interest payable under the *Airports Act* and the regulation under *CANSCA* did not accrue post-bankruptcy.

[68] Binnie J.'s analysis of the issue is rooted in the factual and statutory context of the case. In discussing the accrual of interest under the *CCAA*, he specified that the interest was on "unpaid charges", namely charges under *CANSCA* and the *Airports Act*. Binnie J. was not answering an abstract legal question but rather deciding how long interest ran in the particular factual and statutory context.

[69] In effect, I read Binnie J. as saying that a *CCAA* filing does not stop the accrual of interest under *CANSCA* or the *Airports Act* but the statutory provisions of the *BIA* ss. 121 and 122 do. He was not deciding whether, in the absence of the right to interest under *CANSCA* and the *Airports Act*, interest would have accrued or been stopped by the common law interest stops rule.

[70] Let me add that I agree with the *CCAA* judge's comment that Binnie J.'s statement in *Canada 3000* should "now be construed in light of *Century Services* and *Indalex*". In fact, one can well imagine that the court's interpretation of *CANSCA* and the *Airports Act* as allowing the accrual of interest in a *CCAA* proceeding but not in a *BIA* proceeding might have been different had it reached the Supreme Court after these two more recent cases. That question, however, is for another day. For now, I turn to this court's decision in *Stelco*.

(ii) *Stelco*

Background and motion judge's decision

[71] The post-filing interest issue in *Stelco* arose in “the final chapter of the financial restructuring of *Stelco*” under the *CCAA: Stelco (Re)* (2006), 24 C.B.R. (5th) 59, at para. 1 (S.C.). The final chapter involved competing claims to a portion of the amount payable to the holders of subordinated notes (the “Junior Noteholders”) pursuant to *Stelco*'s plan of arrangement (the “Plan”). The claim to these funds (“Turnover Proceeds”) was made by the “Senior Debentureholders”.

[72] The dispute over the Turnover Proceeds arose after *Stelco*'s Plan had been sanctioned and *Stelco* had emerged from restructuring with its debt reorganized. The Senior Debentureholders claimed the Turnover Proceeds on the basis of subordination provisions contained in the Note Indenture under which *Stelco* had issued convertible unsecured subordinated debentures to the Junior Noteholders.

[73] Under the terms of the Note Indenture, the Junior Noteholders expressly agreed that, in the event that the debtor became insolvent, they would subordinate their right of repayment until after repayment in full of “Senior Debt”.

[74] The plan of arrangement that had been approved was a “no interest” plan, meaning that distribution from *Stelco* to the creditors did not include or account for post-filing interest. The Plan, however, provided that the rights as between the Senior Debentureholders and the Junior Noteholders were preserved. The

Senior Debentureholders, who had not received payment of post-filing interest from Stelco under the Plan, demanded payment of it from the Junior Noteholders pursuant to the terms of the Note Indenture. The Junior Noteholders argued, among other things, that the subordination provisions did not survive the Plan's implementation and that the Senior Debentureholders were not entitled to claim post-filing interest from them.

[75] The motion judge, and on appeal, this court ruled in favour of the Senior Debentureholders. The courts found that the Plan was expressly drafted to preserve the subordination provisions and that the CCAA does not purport to affect rights as between creditors to the extent that they do not directly involve the debtor.

How to read *Stelco*?

[76] The appellant and the respondents offer different readings of *Stelco*.

[77] The appellant argues that this court's decision is binding authority for the proposition that the interest stops rule does not apply in the CCAA context. The passages relied on by the appellant include para. 67:

[T]here is no persuasive authority that supports an Interest Stops Rule in a CCAA proceeding. Indeed, the suggested rule is inconsistent with the comment of Justice Binnie in [*Canada 3000*] at para. 96, where he said:

While a CCAA filing does not stop the accrual of interest, the unpaid charges remain an unsecured claim provable

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against the bankrupt airline. The claim does not accrue interest after the bankruptcy: ss. 121 and 122 of the [BIA].

[78] The respondents, for their part, read the case more narrowly as a resolution of an inter-creditor dispute. They submit that the *ratio* of the case is that there was no rule that prohibited giving effect to the agreed upon inter-creditor postponement. To the extent that this court discussed the interest stops rule in the abstract, its comments are *obiter*.

[79] I agree with the respondents. In my view, the court in *Stelco* did not need to decide whether the interest stops rule applies in CCAA proceedings for it to decide the inter-creditor dispute before the court and so its statements about the rule's application are not binding.

[80] This court expressly noted, at para. 44, that it was dealing with an inter-creditor dispute. The Junior Noteholders had accepted the subordination terms in the Note Indenture. They had agreed not to be paid anything, in the event of insolvency, until those who held Senior Debt were paid principal and interest in full. The court affirmed, at para. 44, that the CCAA does not change the relationship among creditors where it does not directly involve the debtor.

[81] As noted, this was a "no interest" plan, meaning that the Senior Debentureholders received no post-filing interest from Stelco. Rather, they sought and eventually received payment of post-filing interest from the Junior Noteholders' share of the proceeds. The court found that the Stelco Plan

contemplated the continued accrual of interest to Senior Debentureholders for the purpose of their rights as against the Junior Noteholders after the CCAA filing date: paras. 59 and 70. It noted that CCAA plans can and sometimes do provide for payments in excess of claims filed in CCAA proceedings. There was no rule precluding the payment of post-filing interest to the Senior Debentureholders in accordance with the Stelco Plan: para. 70.

[82] The court's conclusion that the Junior Noteholders could not rely on the interest stops rule is consistent with the traditional interest stops rule. The interest stops rule relates to claims by creditors against the debtor. It does not deal with arrangements as between creditors. In other words, whether or not the interest stops rule applies in CCAA proceedings did not need to be decided because the agreement between creditors fell outside the scope of that rule.

[83] The appellant makes two further submissions based on its interpretation of s. 6.2(1) of the Note Indenture. That paragraph reads as follows:

6.2 Distribution on Insolvency or Winding-up.

...

(1) the holders of all Senior Debt will first be entitled to receive payment in full of the principal thereof, premium (or any other amount payable under such Senior Debt), if any, and interest due thereon, before the Debentureholders will be entitled to receive any payment or distribution of any kind or character, whether in cash, property or securities, which may be payable or

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deliverable in any such event in respect of any of the Debentures; [Emphasis added.]

[84] The first argument is that the Senior Debentureholders were only entitled to receive principal, premium and interest “which may be payable or deliverable in any such event”, the event being insolvency or bankruptcy proceedings. Therefore, the court must have concluded, at least implicitly, that the Senior Debentureholders would have been entitled to maintain their claim for post-filing interest against Stelco.

[85] The second argument is that, by the terms of s. 6.2(1), the Senior Debentureholders were only entitled to interest “due thereon” and so they could not claim post-filing interest from the Junior Noteholders unless they could claim post-filing interest from Stelco.

[86] I would not give effect to either submission.

[87] In *Stelco*, the court did not address either argument and we do not have a copy of the entire agreement nor do we have the other agreements that form part of the factual matrix. Without that context, this court is not in the position to interpret s. 6.2(1).

[88] In my view, the key question for this court is not how to properly interpret s. 6.2(1) but, rather, how we should read the reasons in *Stelco*. What did the *Stelco* court decide, and specifically, should we read the panel as implicitly deciding that the Senior Debentureholders could not recover post-filing interest

from the Junior Noteholders unless they could claim post-filing interest against Stelco?

[89] In discussing post-filing interest, the court's only mention of the Senior Debentureholders' claim as against Stelco is found at paras. 57-59, where the panel expressly rejected the argument that "any claim the Senior [Debentureholders] have for interest must be based on a "claim" [as defined in the Plan] they have against Stelco for such interest" and that "[i]f the Senior Debt does not include post-filing interest, there can be no claim against the [Junior] Noteholders for such amounts": see paras. 58-59.

[90] Admittedly, the panel made this comment in discussing the effect of the Stelco Plan as opposed to the effect of the interest stops rule. However, as I read the section on post-filing interest as a whole, the court is saying that the Junior Noteholders agreed to be bound by the deal they made. They had agreed to the subordination provisions that guaranteed full payment to the Senior Debentureholders in the event of insolvency, and the Plan affirmed that the Senior Noteholders could claim the full amount that would have been owing had there been no CCAA filing. In this court's words at para. 70, there is no interest stops rule "that precludes such a result." In my view, therefore, this court did not make an implicit finding that the Senior Debentureholders had to be able to claim post-filing interest from Stelco in order to claim post-filing interest from the Junior Noteholders.

[91] In conclusion, I consider the comment that there is no persuasive authority that supports an interest stops rule in CCAA proceedings to be *obiter*. *Stelco* dealt with the effect of an agreement as between creditors as to how, between them, they would share distributions. Whether or not interest stops upon a CCAA filing was of no import in answering that question.

(2) If the CCAA judge did not err in concluding that an interest stops rule applies in CCAA proceedings, did he err in holding that holders of Crossover Bonds Claims are not legally entitled to claim or receive any amounts under the relevant indentures above and beyond the outstanding principal debt and pre-petition interest?

[92] The appellant objects to the wording of the CCAA judge's order. It provides that "holders of Crossover Bond Claims are not legally entitled to claim *or receive* any amounts under the relevant indentures above and beyond the outstanding principal debt and pre-petition interest" (emphasis added). While the appellant asked the CCAA judge to amend his order to delete "or receive", he refused. The appellant submits that, to the extent this precludes the bondholders from receiving post-filing interest under a CCAA plan, the CCAA judge erred. The appellant notes that all the parties in this proceeding agree that a CCAA plan may provide for post-filing interest.

[93] As I explained above, the interest stops rule does not preclude the payment of post-filing interest under a plan of compromise or arrangement.

[94] As I read the CCAA judge's reasons and order, he did not decide otherwise. His decision confirms that the common law interest stops rule applies

in CCAA proceedings. If a plan of compromise or arrangement is concluded, it should not, for example, be read as limiting any right to recover post-filing interest creditors may have as amongst themselves, as existed in *Stelco*, or from non-parties. Nor does it dictate what any creditor may seek in bargaining for a fair plan of compromise or arrangement. In that regard, I do not interpret the CCAA judge's use of the words "or receive" as preventing the appellant from seeking and obtaining such a result in a negotiated plan. In particular, I note the CCAA judge's comment at para. 35 of his reasons that "the parties would of course be free to include post-filing interest payments in a plan of arrangement, as is sometimes done."

[95] The appellant also seeks clarification as to the effect of the words "*any amounts* under the relevant indentures above and beyond the outstanding principal debt and pre-petition interest" (emphasis added). The appellant notes that, without clarification, the wording of the order could potentially preclude the recovery of other contractual entitlements under the relevant indentures, such as costs and make-whole provisions, even though no arguments were advanced before the CCAA judge with respect to any amounts other than post-filing interest.

[96] The issue the CCAA judge was directed to answer was "whether the holders of the crossover bond claims ... [were] legally entitled ... to claim or receive any amounts under the relevant indentures above and beyond the

outstanding principal debt and pre-petition interest". As indicated in the appellant's factum, the only arguments advanced before the CCAA judge related to post-filing interest and not any other amounts under the indentures. The appellant does not appear to have made submissions to the CCAA judge with respect to the costs and make-whole fees it now raises in its factum. This court is in no position to deal with the new argument raised by the appellant. Further, beyond making the broad submission noted above, the appellant did not expand on that submission and direct the court to the specific claims or indenture provisions it relies on in support of its argument or explain why the claims should not be caught by the order.

[97] As I have already indicated, the CCAA judge's order confirms that the interest stops rule, and the limits imposed by the rule, apply in CCAA proceedings. To the extent that the appellant maintains that there are other contractual entitlements under the relevant indentures not covered by the interest stops rule, it is up to the CCAA court to decide if those can now be raised and ruled upon.

F. FINAL COMMENTS

[98] I acknowledge that the Nortel CCAA proceedings are exceptional, particularly with respect to the length of the delay. The amount the appellant claims for post-filing interest and related claims under the indentures, and the resulting impact on other unsecured creditors is so great because of the length of

that process. The principle, however, is the same whether the *CCAA* process is short or long. After the imposition of a stay in *CCAA* proceedings, allowing one group of unsecured creditors to accumulate post-filing interest, even for a relatively short period of time, would constitute unfair treatment vis-à-vis other unsecured creditors whose right to convert their claim into an interest-bearing judgment is stayed.

[99] This decision does not purport to change or limit the powers of *CCAA* judges. Although the decision clearly settles at the outset of a *CCAA* proceeding whether there is a legal entitlement to post-filing interest, it does not dictate how the proceeding will progress thereafter until a plan of compromise or arrangement is approved, or the *CCAA* proceeding is otherwise brought to an end.

[100] The determination of legal entitlement is important as it clearly establishes the starting point in a *CCAA* proceeding. It tells creditors, debtors and the court what legal claim a particular creditor has. Its significance is not only for purposes of setting the voting rights of creditors on any proposed plan of compromise or arrangement, it also ensures that, in assessing any such proposed plan, the parties will know what they are or are not compromising and the court will be equipped to consider the fairness of such a plan.

TAB

“3”

The Attorney General of Canada v. Confederation Trust
Company

[Indexed as: Canada (Attorney General) v. Confederation
Trust Co.]

65 O.R. (3d) 519
[2003] O.J. No. 2754
Court File No. 97-CL-000543A

2003 CanLII 18103 (ON SC)

Ontario Superior Court of Justice
Blair R.S.J.
June 27, 2003

Corporations -- Winding up -- Liquidation -- Surplus --
Priorities -- Post-liquidation interest to be paid out of
surplus -- Payment of interest first before payment of
principal -- Winding-up and Restructuring Act, R.S.C. 1985, c.
W-11, s. 95(2).

Statutes -- Interpretation -- Existing rights
-- Retroactivity -- Statute amended during continuing fact
situation -- Application of statute that comes into effect
during continuing fact situation immediate -- Statute not
having retroactive effect -- Subsection 95(2) of Winding-up and
Restructuring Act applying to liquidation of trust company
-- Winding-up and Restructuring Act, R.S.C. 1985, c. W-11, s.
95(2).

On August 14, 2003, Confederation Trust Company ("C-Trust")
went into liquidation. The liquidator realized upon C-Trust's
property in two funds: (1) the Guarantee Fund, being guaranteed
investment certificates ("Deposit Certificates") held for
depositors and insured under the Trust and Loan Companies Act;
and (2) the Company Fund, being C-Trust's own property. The
Liquidator anticipated that after all contested claims were

resolved there would be about a \$30 million surplus available for distribution. The liquidator applied for a determination of how to calculate interest payments from the surplus. Its recommendations as to the manner of payments was opposed by KPMG Inc., the liquidator of the estate of Confederation Life Insurance Company ("C-Life"), the indirect parent of C-Trust, and by Canada Deposit Insurance Corporation ("CDIC"), C-Trust's largest creditor with a subrogated claim by reason of having complied with its obligations under the Trust and Loan Companies Act, S.C. 1991, c. 45 to guarantee the payment of the C-Trust's deposits. The dispute was over whether the interest was to be paid in accordance with the provisions of s. 95(2) of the Winding-up and Restructuring Act (the "Act") or on some other basis and whether the surplus proceeds should be applied utilizing an "interest first" or a "principal first" focus as a starting point. As between C-Life and CDIC, there was an agreement known as the "Co-operation Agreement" as to the division of the surplus proceeds.

Held, s. 95(2) of the Winding-up and Restructuring Act applied, and the surplus should be applied first to the payment of interest and then to the payment of principal.

Before the enactment of s. 95(2) of the Act, there was no provision in the Act for the payment of post-liquidation interest. Subsection 95(2) of the Act applied to the C-Trust liquidation. The application of s. 95(2) did not have a retroactive effect. The liquidation of C-Trust was ongoing and incomplete when the amendment adding the subsection came into effect. The processing of the estate was a continuing fact situation, and the application of the law that comes into effect during such a situation has immediate as opposed to retroactive effect. There was no entitlement to post-liquidation interest on the part of the claimants unless and until a surplus emerges in the estate and hence there was no vested right to payment of such interest until that condition of entitlement has been satisfied.

There was nothing in the language of s. 95 of the Act to indicate that Parliament intended to alter the traditional rule in insolvency situations that dividends [page520] are to be

applied first to the payment of interest and then to the payment of principal. Absent a stipulation as to the manner of allocation of payments on a debt -- by agreement, course of conduct, or statute -- the general rule in debtor-creditor relationships is the same as the general rule in insolvency situations. There was no reason why s. 95 should be interpreted in a fashion that departed from the traditional approach. In the rare circumstance of a winding-up surplus, creditors who have proven their claims ought to be placed -- as closely as the surplus permits -- in the same position in which they would have been if the proven claims had been paid on the date of the winding-up. The interests of fairness, equality and predictability amongst the creditors and as between the debtor company and its creditors called for the application of the generally accepted rule for the allocation of payments. Therefore, the surplus should be applied first (before the distribution of any remaining surplus to the shareholders) toward the payment of interest at the rate of 5 per cent per annum on all claims proved in the winding-up in accordance with their priority. The post-liquidation interest should be calculated on the basis of a "payment of interest first" methodology.

Cases referred to

Bower v. Marris (1841), Cr. & Ph. 351, 10 L.J. Ch. 356, 41 E.R. 525 (L.C.); Canada Deposit Insurance Corp. v. Canadian Commercial Bank (1993), 11 Alta. L.R. (3d) 371, [1993] 7 W.W.R. 607, 21 C.B.R. (3d) 12 (Q.B.); Downey v. Maes (1992), 8 O.R. (3d) 440 (Gen. Div.); Illingworth v. Elford, [1996] O.J. No. 2893 (QL) (Gen. Div.); In re Cardelucci, 2002 U.S. App. LEXIS 6770 (U.S.C.A. Ninth Circuit); In re Fine Industrial Commodities Ltd., [1956] Ch. 256, [1955] 3 All E.R. 707, [1955] 3 W.L.R. 940, 99 Sol. Jo. 889; In re Humber Iron Works and Shipbuilding Company; Warrant Finance Company's Case (1869), 4 Ch. App. 643, 20 L.T. 859, 17 W.R. 780, 38 L.J. Ch. 712 (L.J.J.); In re McDougall (1883), 8 O.A.R. 309 (C.A.); McGregor v. Gaulin (1848), 4 U.C.R. 378; Robertson v. Carlile (Re), [1949] 2 D.L.R. 525, 30 C.B.R. 60 (Alta. C.A.); Wasserman, Arsenault Ltd. v. Sone (2002), 33 C.B.R. (4th) 145

(Ont. C.A.), supp. reasons (2002), 38 C.B.R. (4th) 119 (Ont. C.A.), affg (2000), 22 C.B.R. (4th) 153 (Ont. S.C.J.)

Statutes referred to

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

Courts of Justice Act, R.S.O. 1990, c. C.43, ss. 128, 130

Trust and Loan Companies Act, S.C. 1991, c. 45

Winding-up and Restructuring Act, R.S.C. 1985, c. W-11 [as am.], ss. 95 (now 95(1)), 95(2)

Authorities referred to

O'Donovan, J., *The Law of Company Liquidation*, 3rd ed. (Sydney: Law Book Co., 1987)

APPLICATION to determine how to calculate interest payments from a surplus in a liquidation under the Winding-up and Restructuring Act, R.S.C. 1985, c. W-11.

Robb C. Heintzman and C.D. Mathias, for PricewaterhouseCoopers Inc., Liquidator for Confederation Trust Company.

Graham Smith and Gale Rubenstein, for KPMG Inc., Liquidator for Confederation Life Insurance Company.

Michael J. MacNaughton, for Canada Deposit Insurance Corporation. [page521]

BLAIR R.S.J.: --

This is a curious point which cannot often have arisen and is not likely to arise with any frequency hereafter. The strange feature of the case is that a company in the process

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of being wound up on the footing that it was an insolvent company now finds itself in the position, in the person of its liquidator, being in possession of a substantial surplus [Note 1].

Overview

[1] Such is the case here.

[2] Confederation Trust Company is in liquidation. Its Liquidator reasonably expects, however, that after all contested claims have been resolved there will be about a \$30 million surplus available for distribution following the payment in full of all proper claims against the estate.

[3] This application involves a fight over the quantum of interest to be paid out of that surplus, and the method by which such payments, if any, are to be calculated. The Liquidator for Confederation Trust, PricewaterhouseCoopers Inc., makes the following recommendations to this court and seeks declaratory relief accordingly. It recommends:

- (a) that the holders of all proper claims against Confederation Trust's estate receive out of any surplus, post-liquidation interest on the outstanding balances of their claims for the period from the date of liquidation (August 14, 1994) to the date on which final payment of the full principal amount of their claims is made;
- (b) that post-liquidation interest be paid at the rate provided for in any contract between a creditor of the estate and Confederation Trust or, in the absence of any contractual provision, at the rate provided for in the Courts of Justice Act [Note 2]; and,
- (c) that, depending on the amount of the available surplus, distributions to creditors should first be made on account of interest and thereafter on account of the principal balances of their claims, all as more particularly set out in the Liquidator's Reports No. 36 and No. 36A.

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[4] The Liquidator's recommendations are opposed by KPMG Inc., the Liquidator of the estate of Confederation Life Insurance Company, and by Canada Deposit Insurance Corporation. [page522]

[5] Confederation Life is the 100 per cent indirect parent of Confederation Trust, as well as a significant creditor. In its parental capacity, it thus stands to benefit to the extent that a greater portion of the Confederation Trust surplus is available for distribution to the insolvent corporation.

[6] Canada Deposit Insurance Corporation ("CDIC") is Confederation Trust's largest creditor. It has a subrogated claim against the estate by reason of having complied with its obligations under the Trust and Loan Companies Act [Note 3] to guarantee the payment of Confederation Trust's deposits.

[7] What is at issue in this application is,

(a) whether post-liquidation interest is payable out of the surplus in accordance with subsection 95(2) of the Winding-up and Restructuring Act [Note 4], (at 5 per cent per annum) or in accordance with a combination of contractual and "pre-judgment interest" type of rates; and,

(b) whether surplus payments are to be made to claimants based upon a "payment of interest first" or a "payment of principal first" methodology.

[8] Depending upon the answers to these questions, the parties calculate the range of payments to claimants to be between about \$4.5 million and \$35.5 million. The answers are therefore of some significance both to the claimant creditors of Confederation Trust and to Confederation Life and CDIC, as the beneficiaries of the return of any surplus to the insolvent company.

Facts

[9] Confederation Trust -- together with its parent Confederation Life -- was placed in liquidation under the

Winding-up Act in August 1994. The liquidator of Confederation Trust was required to realize upon the property of two types of funds, one known as the "Guarantee Fund", the other as the "Company Fund".

[10] The Guarantee Fund was comprised of property held by the Company in trust for depositors. These deposits were in the form of guaranteed investment certificates (the "Deposit Certificates") issued by Confederation Trust to investors. They constituted "guaranteed trust funds" under the Trust and Loan Companies Act and were insured by CDIC. They were for varying terms and called for [page523] repayment of principal on the stipulated maturity dates. Interest was payable on each of the deposits at the rate set out in the Deposit Certificates to their date of maturity, but none provided for interest after maturity. Each Deposit Certificate stated that Confederation Trust "guarantees payment of interest at the rate and terms shown from the date of issue to the date of maturity [but Confederation Trust] will not be liable for interest after maturity date".

[11] The balance of Confederation Trust's assets consisted of its own property and comprised what is known in the liquidation as the Company Fund.

[12] On February 23, 1995, the court approved a scheme of distribution for the Guaranteed Fund and, as well, a first distribution out of that Fund. In August 1997, a claims procedure was approved respecting the Company Fund claims. By order dated April 22, 1998, a fifth and final distribution from the Guarantee Fund was approved, and the shortfall claims were admitted as claims against the Company Fund.

[13] This was followed in April 2000 by what is known as "the Co-operation Agreement" between Confederation Life and CDIC, whereby they settled their respective claims as creditors of Confederation Trust. This settlement broke the logjam in the Confederation Trust liquidation and facilitated the payment of 100 cents on the dollar to Company Fund claimants on account of their proven claims, together with the payment of post-liquidation interest. Under the Cooperation Agreement,

Confederation Life and CDIC have agreed, as between themselves, on a split of the surplus proceeds. CDIC therefore finds itself in the position of supporting Confederation Life in its opposition to the recommendations put forward here by the Liquidator of Confederation Trust.

[14] By order dated January 30, 2001, the court authorized an interim payment of post-liquidation interest at the rate of 5 per cent on the proven claim amounts of all admitted claims against the Company Fund, on deposits determined by CDIC to be uninsured, and to CDIC with respect to the amounts paid by it on account of insured deposits.

Analysis

Subsection 95(2)

[15] To answer the questions posed above, it is necessary, in the first place, to determine whether or not subsection 95(2) of the Winding-up and Restructuring Act (the "Act") applies to the Confederation Trust liquidation.

[16] Prior to the enactment of subsection 95(2) in 1996, the Winding-up Act did not contain any provision for the payment of [page524] post-liquidation interest. Section 95 (now subsection 95(1)) read as follows:

95. The court shall distribute among the persons entitled thereto any surplus that remains after the satisfaction of the debts and liabilities of the company and the winding-up charges, costs and expenses, and unless otherwise provided by law or by the Act, charter or instrument of incorporation of the company, any property or assets remaining after the satisfaction shall be distributed among the members or shareholders according to their rights and interests in the company.

[17] In 1996, at the same time as the Act was renamed the Winding-up and Restructuring Act, subsection 95(2), providing for the payment of interest out of surplus, was added. It states:

95(2) Any surplus referred to in subsection (1) shall first be applied in payment of interest from the commencement of the winding-up at the rate of 5 per cent per annum on all claims proved in the winding-up and according to their priority.

[18] KPMG Inc., as Liquidator of the Confederation Life estate, and CDIC contend that subsection 95(2) applies to the Confederation Trust liquidation. PricewaterhouseCoopers Inc., as Liquidator of the Confederation Trust estate, contends that it does not.

[19] Counsel for PricewaterhouseCoopers Inc. submits that subsection 95(2) does not have retroactive effect and therefore does not apply to the Confederation Trust liquidation because it came into effect after August 14, 1994, the date of liquidation (the "Liquidation Date"). In this respect he relies upon two rebuttable presumptions of statutory interpretation, namely, the presumption against retroactivity and the presumption against interfering with vested rights. Parliament has not expressly stated its intentions regarding the retroactive impact of the amendment, he says, and the right to assert a claim is not to be adversely affected by a statute that comes into force after the right to assert the claim arises, in the absence of sufficient evidence of Parliament's intention to the contrary. Here, he submits, there is no sufficient evidence to the contrary and the creditors' rights to assert their claim for interest arose as at the Liquidation Date, the date as of which the validity of all claims and the rights of all claimants are to be determined. The amendment, therefore, cannot interfere with those vested rights.

[20] In rebuttal, the respondents make three submissions. First, they argue Parliament has indicated its intention in the language of subsection 95(2). When read in the context of other provisions in the Act, namely, the express choice to provide in Part III that other amendments applying to the winding-up of insurance companies would operate only prospectively, thus signalling [page525] that provisions such as subsection 95(1), which are not limited to applying only prospectively, were to

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apply retroactively as well. Secondly, they claim that subsection 95(2) has immediate effect in the circumstances of this case because it is being applied to an incomplete and continuing fact situation -- the ongoing liquidation of the Confederation Trust estate -- and therefore does not have any retroactive effect at all. Finally, the respondents submit that claimants cannot be said to have acquired a "vested right" to post-liquidation interest as at the Liquidation Date because the existence and extent of any surplus is uncertain and contingent, and cannot be determined until the end of the liquidation process -- a point in time after the enactment of subsection 95(2), in the circumstances of this case.

[21] At common-law the "interest stops" rule applied in winding-up proceedings. The rule provided that interest on provable claims stops as at the commencement of the winding-up and that no interest is payable on claims from that date forward, unless there is a surplus in the estate. In the event of a surplus, post-liquidation interest was payable on debts in respect of which there was a right to interest prior to the liquidation. That right could arise contractually, or by virtue of a course of conduct or a judgment, or by some statutory provision. In the absence of such a right, however, no interest was payable for the period following the commencement of the liquidation. See *In re Humber Ironworks and Shipbuilding Company; Warrant Finance Company's Case* (1869), 4 Ch. App. 643, 38 L.J. Ch. 712 (L.J.J.), at pp. 645-47 Ch. App.; *Bower v. Marris* (1841), Cr. & Ph. 351, 10 L.J. Ch. 356 (L.C.); *Re Robertson and Carlisle Ltd.*, [1949] 2 D.L.R. 525, 30 C.B.R. 60 (Alta. C.A.); *In re McDougall* (1883), 8 O.A.R. 309 (C.A.); O'Donovan J., *The Law of Company Liquidation*, 3rd ed. (Sydney: Law Book co., 1987), at pp. 368-69.

[22] Thus, even without specific reference to post-liquidation interest in winding-up legislation, there were circumstances at common-law where such interest could be paid out of surplus. Indeed, it is not contested that, in the Confederation Trust context, the claimants are entitled to some post-liquidation interest out of the surplus liquidation proceeds. On consent, the court approved payment of such interest, on an interim basis, at the rate of 5 per cent by

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Order dated January 30, 2001. The dispute is over whether the interest is to be paid in accordance with the provisions of subsection 95(2), or on some other basis, and whether the surplus proceeds should be applied utilizing an "interest first" or a "principal first" focus as a starting point.

[23] In addition to the common-law exception, PricewaterhouseCoopers Inc. argues that the court has power to authorize [page526] the payment of post-liquidation interest to those claimants who do not have a contractual or other right to interest existing at the Liquidation Date, on the basis of its power under ss. 128 and 130 of the Courts of Justice Act to award pre-judgment interest. It is the combination of this power plus the exceptional power of the courts at common-law that forms the basis for the recommendation that post-liquidation interest should be payable at the rates provided for in the Deposit Certificates to their dates of maturity and at the Courts of Justice Act rates thereafter.

[24] It is not necessary to pursue this line of enquiry further, however, because subsection 95(2) of the Winding-up and Restructuring Act applies to the Confederation Trust liquidation, in my opinion.

[25] To say this is not to give the provision retroactive effect. Although it is not free from doubt, I do not accept the contention that the Claimants acquired a vested right to post-liquidation interest at the Liquidation Date. In my opinion, they acquired, at best, a contingent right to the payment of post-liquidation interest conditional upon there being a surplus in the liquidated estate after payment of all the Company's debts and obligations and of the costs associated with the liquidation. The condition cannot be determined and satisfied until the liquidation of the estate is at least substantially completed.

[26] Here, the liquidation of the Confederation Trust estate was active and ongoing, and far from substantially completed in June 1996, when the amendment adding subsection 95(2) to the Act came into effect. It was not known at that time there would be a surplus. The processing of the estate was a continuing

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fact situation, and the application of a law that comes into effect during such a situation has "immediate", as opposed to "retroactive" effect.

[27] In *Wasserman, Arsenault Ltd. v. Sone* [Note 5], the Ontario Court of Appeal upheld a decision of Farley J. holding that a guardian appointed by the Superintendent of Bankruptcy under the Bankruptcy and Insolvency Act (the "BIA") [Note 6] to complete the administration of a complicated series of estates was entitled to priority for its fees over the claim of a prior trustee in bankruptcy [Note 7] for its fees. The BIA had been amended to provide specifically for such priority, but the amendment came into force after the prior [page527] trustee had substantially completed its work on the estates. The argument that to give priority to the guardian's claim would be to give the amendment retroactive application was rejected. The following passage from the judgment of Weiler J.A., at pp. 158-59 C.B.R., explains why, and the principles enunciated there apply equally to the winding-up of the Confederation Trust estate, in my opinion:

The appellant alleges, secondly, that Farley J. applied s. 136(1)(b) [of the BIA] retroactively. Section 136(1)(b), which gives priority to the fees of a person acting under the direction of the Superintendent over the trustee, came into force on September 30, 1997. Prior to this amendment the expenses of a trustee had first priority. Rumanek submits that on a number of files its work was substantially completed, with only certain procedural or administrative steps remaining, and that it had a vested right to payment for these files prior to the coming into force of s. 136(1)(b). Accordingly, Rumanek submits that it is entitled to payment on these files in priority to the Guardian, and that Farley J. erred in not recognizing this.

The commentary in *Driedger on the Construction of Statutes*, 3rd ed. (1994) at p. 517 is helpful in dealing with this submission. It states:

Legislation clearly is retroactive if it applies to facts all of which have ended before it comes into force.

Legislation clearly is prospective if it applies to facts all of which began after its coming into force. But what of on-going facts, facts in progress? These are either continuing facts, begun but not ended when the legislation comes into force, or successive facts, some occurring before and some after commencement. The application of legislation to on-going facts is not retroactive because, to use the language of Dickson J. in [Gustavson Drilling (1964) Ltd. v. M.N.R., [1977] 1 S.C.R. 271], there is no attempt to reach into the past and alter the law or the rights of persons as of an earlier date. The application is prospective only to facts in existence at the present time. Such an application may affect existing rights and interests, but is not retroactive.

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Legislation that applies to on-going facts is said to have "immediate effect". Its application is both immediate and general: "immediate" in the sense that the new rule operates from the moment of commencement displacing whatever rule was formerly applicable to the relevant facts, and "general" in the sense that the new rule applies to all relevant facts, on-going as well as new.

I agree with Farley J. that these files should be viewed as a continuing fact situation. Rumanek ceased its work prior to the enactment of s. 136(1)(b), but the files were not complete by that date. They were on-going in varying degrees. The Guardian was appointed to complete the administration of these files. Certificates of completion had not been filed. Strictly speaking, there is no entitlement to compensation and hence no vested right to payment until a certificate of completion has been filed. It is at the time of payment that priority is determined and, hence, the application of s. 136(1)(b) does not have retrospective effect. Rumanek does not have a vested right to any fees or disbursements arising from the completion of the Sone estates by the Guardian. Farley J. did not err in his appreciation of s. 136(1)(b).

(Emphasis added) [page528]

[28] Similarly, in this case, the winding-up of the

Confederation Trust estate may be "viewed as a continuing fact situation" that is "on-going in varying degrees". There is no entitlement to post-liquidation interest on the part of the Claimants unless and until a surplus emerges in the estate, and hence there is "no vested right to payment" of such interest until that condition of entitlement has been satisfied. Thus, subsection 95(2) of the Winding-up and Restructuring Act applies to the situation because it has "immediate" and not "retroactive" effect in the circumstances.

The calculation of interest under subsection 95(2)

[29] The traditional rule in insolvency situations is that dividends are to be applied first to the payment of interest and then to the payment of principal. This is said to prevent injustice, promote equity amongst the creditors, and protect the contractual relationship between the parties. See *Bower v. Marris*, supra, at pp. 527-28 Cr. & Ph.; *In re Humber Ironworks and Shipbuilding Company*, supra, at p. 645 Ch. App. PricewaterhouseCoopers Inc. submits the traditional rule should be applied to the payment of post-liquidation interest pursuant to subsection 95(2). The respondents contest this interpretation of the provision and contend for the reverse methodology.

[30] There is nothing in the language of s. 95 of the Winding-up and Restructuring Act itself to indicate that Parliament intended to alter this traditional methodology in the case of a post-liquidation surplus. The respondents submit, however, that post-liquidation interest is only payable after payment in full of all proven claims and that there is nothing in the legislation to suggest a recalculation is to be done regarding distributions already made (which would be necessary if the interest portion of the surplus is to be distributed on a "payment of interest first" basis). Section 95 therefore mandates that distributions are to be credited, first, to the proven claim amounts, they say. Consistent with its choice of a common and consistent rate of interest (5 per cent), Parliament has chosen not to differentiate between claimants based upon the composition of claims as between principal and interest. Such a methodology is also consistent with the statutory regime

of pre-judgment interest under provincial legislation, where interim payments are credited towards payment of unliquidated claims for damages first, then to interest: see, for example, *Downey v. Maes* (1992), 8 O.R. (3d) 440 (Gen. Div.); *Illingworth v. Elford*, [1996] O.J. No. 2893 (QL) (Gen. Div.).

[31] *Downey v. Maes* and *Illingworth v. Elford*, though, involved the effect of pre-payments on the calculation of pre-judgment [page529] interest in insurance cases involving claims for unliquidated damages. In my view, this principle is not of much assistance in considering the methodology for calculating interest payments out of a surplus in a winding-up proceeding. Claims proven in a liquidation are for the most part liquidated claims, arising out of a debtor-creditor relationship. In the case of the claims proven against the Confederation Trust Guaranteed Fund, they were all liquidated. Absent a stipulation as to the manner of allocation of payments on a debt -- by agreement, course of conduct, or statute -- the general rule in debtor-creditor relationships is the same as the general rule in insolvency situations, namely that payments are credited on account of interest first, then principal: see *McGregor v. Gaulin* (1848), 4 U.C.Q.B. 378, per Robinson C.J., at p. 384.

[32] I see no reason why s. 95 should be interpreted in a fashion that departs from the traditional approach. The general purpose of winding-up legislation is to ensure the rateable distribution of the assets of the insolvent company, in accordance with the creditors' priorities. In the rare circumstance of a winding-up surplus, creditors who have proven their claims ought to be placed -- as closely as the surplus permits -- in the same position they would have been in if the proven claims had been paid on the date of the winding-up. The comments of Wachowich A.C.J. (as he then was) in *Canada Deposit Insurance Corp. v. Canadian Commercial Bank* (1993), 21 C.B.R. (3d) 12, 11 Alta. L.R. (3d) 371 (Q.B.), at p. 24 C.B.R., are apt:

The passage of time alone should not alter the ratio of the funds available to the different classes of creditors. In the present circumstances, the priority creditors have been

deprived of their funds for nearly a decade. As Mutual Life pointed out, the unsecured creditors as a class will be enriched with every passing year of delay in the distribution of the estate. One might add to Lord Selwyn's statement [Note 8] "that no person should be prejudiced by the accidental delay which, in consequence of the form and proceedings of the Court and other circumstances, actually occur in realizing the assets" a further caution: no person should be so prejudiced by such delay in the distribution of assets.

(Emphasis in original)

[33] In the circumstances of this case, it is not so much the unsecured creditors who will be enriched by the passing of time as it is Confederation Life in its capacity as the 100 per cent indirect shareholder of Confederation Trust (and CDIC, as a result of the Co-operation Agreement between it and Confederation Life). While I agree with the respondents' submission that there is no inherent policy or goal of maximizing post-liquidation interest so [page530] as to minimize any recovery to the debtor or the shareholder of the debtor pursuant to subsection 95(1) of the Winding-up and Restructuring Act, I do not see why the insolvent company and its shareholders should receive a windfall out of the insolvency before the Claimants have been made as whole as possible in the circumstances. I am satisfied that "the interests of fairness, equality and predictability" amongst the creditors and as between the debtor company and its creditors, call for the application of the generally accepted rule for the allocation of payments made: see In re Cardelucci, 2002 U.S. App. LEXIS 6770 (9th Cir. 2002), at p. 2.

[34] In its Report 36A, PricewaterhouseCoopers Inc. has calculated the post-liquidation interest payable from the available surplus, depending upon various assumptions respecting the rate and methodology to be applied. On the assumption that subsection 95(2) applies and that the applicable rate is 5 per cent, the Liquidator calculates the total post-liquidation interest payable in respect of all admitted claims to be as follows:

- (a) \$4,459,032, if distributions are applied first on account of principal; and,
- (b) \$17,866,181, if distributions are applied first on account of post-liquidation interest and then on account of principal.

[35] The Liquidator estimates the surplus available for the payment of post-liquidation interest will be approximately \$30 million.

Conclusion and Disposition

[36] I therefore conclude that the Confederation Trust surplus should be applied first (before the distribution of any remaining surplus to the shareholders) towards the payment of interest at the rate of 5 per cent per annum on all claims proved in the winding-up in accordance with their priority. The post-liquidation interest is to be calculated on the basis of a "payment of interest first" methodology which, according to the Liquidator, leads to an additional payment to creditors in the aforesaid amount of \$17,866,181.

[37] It is not clear to me from the materials whether the foregoing amount includes the payment of post-liquidation interest in respect of what the parties have referred to as the "Stub Period". The Stub Period represents the time between the Liquidation Date and the date on which CDIC satisfied its obligations under the CDIC Act to Depositors in respect of insured deposits. The Insured Depositors retain their claims against Confederation Trust for post-liquidation interest for the Stub Period and should, [page531] in my opinion, be treated in the same fashion as all other claimants against the Confederation Trust estate.

[38] There will therefore be an Order,

- (a) declaring that post-liquidation (being interest on valid claims against Confederation Trust Company in respect of the period following the issuance of the Order winding-up the Company) is payable on all Court-approved Guaranteed

Fund and Company Fund claims (as defined in the Liquidator's Report No. 36);

- (b) authorizing the Liquidator of Confederation Trust Company to allocate payments to Claimants as between principal and post-liquidation interest in the manner described in paragraph 11 of Report No. 36;
- (c) authorizing the Liquidator of Confederation Trust Company to calculate post-liquidation interest in accordance with the provisions of subsection 95(2) of the Winding-up and Restructuring Act and on a "payment of interest first" methodology, as set out in Column 1B of Schedule B to the Liquidator's Report No. 36A.

[39] If costs are an issue I may be spoken to in that regard.

Order accordingly.

Notes

Note 1: In re Fine Industrial Commodities Ltd., [1955] 3 All E.R. 704, [1956] 1 Ch. 256, per Vaisey J. at p. 260 Ch.

Note 2: R.S.O. 1990, c. C.43, as amended.

Note 3: S.C. 1991, as amended.

Note 4: R.S.C. 1985, c. W-11, as amended by S.C. 1966, c. 6, s. 155. The Winding-up Act was renamed the Winding-up and

Note 5: (2002, 33 C.B.R. (4th) 145 (Ont. C.A.), at p. 158, affg 2000 CarswellOnt 4934, 22 C.B.R. (4th) 153 (Ont. S.C.).

Note 6: R.S.C. 1985, c. B-3 as amended.

Note 7: Also appointed by the Superintendent in Bankruptcy. Restructuring Act in 1996.

Note 8: In re Humber Ironworks and Shipbuilding Company (sub. nom Warrant Finance Company's Case), supra, at pp. 645-46 Ch.

KEVIN D'AMORE and BANWELL DEVELOPMENT
Applicant Respondents
CORPORATION

Court File No.: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

BRIEF OF AUTHORITIES
(returnable May 29, 2017)

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APPENDIX G

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE MR.
JUSTICE B. THOMAS

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)
)

WEDNESDAY, THE
5TH DAY OF JUNE, 2013

B E T W E E N:

KEVIN D'AMORE

Applicant

- and -

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

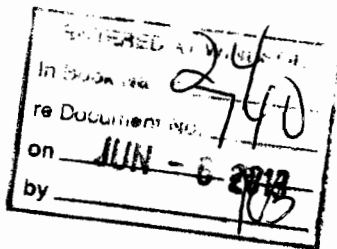
Respondents

ORDER

UPON MOTION made in open court by counsel for M.R. Dunn Contractors Ltd., an execution creditor of Royal Timbers Inc., for the relief granted hereby, was heard this day at Windsor.

ON HEARING the submissions of counsel for M.R. Dunn Contractors Ltd., and the parties named,

1. THIS COURT ORDERS that any execution creditor, including M.R. Dunn Contractors Ltd. after the filing of a Notice of Appearance be added as a respondent to this proceeding for the purpose of receiving notice and with full rights of audience.



Honourable Justice, S.C.J.

RCP-E 59A (July 1, 2007)

KEVIN D'AMORE
Applicant

BANWELL DEVELOPMENT CORPORATIONS et al
Respondents

Court file no.: CV 11-17088

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
WINDSOR

ORDER

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RCP-E 4C (July 1, 2007)

KEVIN D'AMORE

and

Applicant

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

Court File No: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

**SUPPLEMENTARY MOTION RECORD
(RE THIRTEENTH REPORT OF THE
RECEIVER)
(VOLUME 1 OF 2)**

**(RETURNABLE ON A DATE TO BE DETERMINED BY
REGIONAL SENIOR JUSTICE THOMAS)**

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Lawyers for BDO Canada Limited,
Receiver of Banwell Development Corporation

TAB

“2”

Court File No. CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE REGIONAL SENIOR) _____ DAY, THE ____ DAY
)
 JUSTICE THOMAS) OF _____, 2021

B E T W E E N:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE, ROYAL TIMBERS INC. and M.R. DUNN CONTRACTORS LTD.**

Respondents

APPLICATION UNDER SECTION 207 OF THE BUSINESS CORPORATIONS
ACT, R.S.O. 1990, C. B. 16, AS AMENDED

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as Court-appointed receiver (the "**Receiver**") of the assets, undertakings and properties of Banwell Development Corporation and Royal Timbers Inc. ("**Royal Timbers**") pursuant to the Order of The Honourable Mr. Justice Thomas dated June 5, 2013, as amended, for, *inter alia*, an order approving the sale transaction (the "**Transaction**") contemplated by an Agreement of Purchase and Sale dated effective September 11, 2019 (the "**APS**") between the Receiver, as vendor, and 2186234 Ontario Limited (the "**Purchaser**"), as purchaser, and appended as Appendix "A" to the confidential supplement (the "**Confidential Supplement**") to the Thirteenth Report of the Receiver dated February 25, 2021 (the "**Thirteenth Report**"), and directing the Receiver to complete the transaction contemplated thereby in respect of the real property described on Schedule "A" hereto (the "**Real Property**") and vesting in the Purchaser all of Royal Timbers'

right, title and interest in and to the Real Property, was heard in writing this day at the Courthouse, 245 Windsor Avenue, Windsor, Ontario.

ON READING the Thirteenth Report, the Confidential Supplement and the Supplementary Report to the Thirteenth Report dated March 22, 2021, the motion being unopposed, and on noting that no one appeared, although properly served as appears from the affidavit of service, 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, with such minor amendments as the Receiver may deem necessary. 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 and for the conveyance of the Real Property to the Purchaser.
2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule "B"** hereto (the "**Receiver's Certificate**"), all of Royal Timbers' right, title and interest in and to the Real Property shall vest absolutely in the Purchaser, as beneficial owner, and as the Purchaser may direct on closing, as registered owner, free and clear of and from any and 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 (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Thomas dated June 5, 2013; and (ii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Real Property are hereby expunged and discharged as against the Real Property.
3. THIS COURT ORDERS that upon registration in the Land Registry Office for the Land Titles Division of Essex (LRO #12) of an Application for Vesting Order in the form

prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to:

- (a) enter such person as the Purchaser may direct on closing as the owner of the Real Property described in **Schedule "A"** hereto in fee simple; and
 - (b) delete and expunge from title to the Real Property described in **Schedule "A"** hereto all of the Claims listed in **Schedule "C"** hereto; and
 - (c) delete and expunge from title to the Real Property all executions, including the executions described in the "Property Remarks" on the parcel registers for the Real Property.
4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Real Property shall stand in the place and stead of the Real Property, 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 Real Property with the same priority as they had with respect to the Real Property immediately prior to the sale, as if the Real Property 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, notwithstanding:
 - (d) the pendency of these proceedings;
 - (e) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act (Canada)* in respect of Royal Timbers and any bankruptcy order issued pursuant to any such applications; and
 - (f) any assignment in bankruptcy made in respect of Royal Timbers;

the vesting of the Real Property in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Royal Timbers and shall not be void or voidable by creditors of Royal Timbers, 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.

7. THIS COURT ORDERS that the Confidential Supplement shall be sealed until the earlier of the completion of the Transaction and further order of this Court.
8. 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.

*Justice, Ontario Superior Court of
Justice*

Schedule A – Real Property

The lands and premises legally described as:

PIN	Property Description
01566-1012 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 32, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10, 17 TO 23, 25 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; SUBJECT TO AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10, 17 TO 23, 25 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; SUBJECT TO AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER BLOCK 123, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1013 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 6, 17 AND 33, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 33, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986410; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 16, 18 TO 23,</p>

	<p>25, 32, 34 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 16, 18 TO 23, 25, 32, 34 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 32 AND 34 TO 36, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (INFAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1014 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PARTS 34 AND 35, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PARTS 19, 25 AND 35, PLAN 12R27789 AS IN CE269392; SUBJECT TO AN EASEMENT OVER PARTS 18, 19 AND 25, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 (IN FAVOUR OF PARTS 7, 18, 19, 34 AND 35, PLAN 12R27789) AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF 7, 34 AND 35, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PARTS 7, 34 AND 35, PLAN 12R27789) AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 16, 17, 20 TO 23, 32, 33, 36 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986412; SUBJECT TO AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 16, 17, 20 TO 23, 32, 33, 36 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986412; SUBJECT TO AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 32, 33 AND 36 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER BLOCK 123, PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20, 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 7, 34 AND 35, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1015 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 8, 20 AND 36, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 36, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25</p>

	<p>AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PARTS 8 AND 36, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF 8 AND 36, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PARTS 8 AND 36, PLAN 12R27789) AS IN CE986412; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 16 TO 19, 21 TO 23, 25, 32 TO 35, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986413; SUBJECT TO AN EASEMENT OVER PARTS 20 AND 36, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 16 TO 19, 21 TO 23, 25, 32 TO 35, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986413; SUBJECT TO AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 32, 33, 34 AND 35, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1016 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 9 AND 21, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 AND 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986413; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PART 9, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1017 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 10, 22 AND 23, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 AND 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN</p>

12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PART 47, PLAN 12R22842 (IN FAVOUR OF PARTS 10 AND 22, PLAN 12R27789) AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PART 25, PLAN 12R22842 AS IN CE986405; SUBJECT TO AN EASEMENT OVER PART 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PART 10, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PART 23, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986407; CITY OF WINDSOR

Schedule B

Court File No. CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE, ROYAL TIMBERS INC. and M.R. DUNN CONTRACTORS LTD.**

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS
ACT*, R.S.O. 1990, C. B. 16, AS AMENDED

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Thomas of the Ontario Superior Court of Justice (the "**Court**") dated June 5, 2013, as amended, BDO Canada Limited ("**BDO**") was appointed as the receiver (the "**Receiver**") of the assets, undertakings and properties of Banwell Development Corporation and Royal Timbers Inc. ("**Royal Timbers**").

B. Pursuant to an Order of the Court dated _____, 2021, the Court approved an Agreement of Purchase and Sale dated effective September 11, 2019 (the "**APS**") between the Receiver, as vendor, and 2186234 Ontario Limited, as purchaser (the "**Purchaser**"), and appended as **Appendix "A"** to the Confidential Supplement of the Receiver dated February 25, 2021 in respect of the real property legally described on **Schedule B1** hereto (the "**Real Property**") and vesting in the Purchaser all of Royal Timbers' right, title and interest in and to the Real Property, which vesting is to be effective with respect to the Real Property upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Real Property; (ii) that the conditions to closing as

set out in the APS have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APS.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Real Property payable on closing pursuant to the APS;
2. The conditions to closing as set out in the APS have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____[TIME] on _____ [DATE].

BDO CANADA LIMITED solely in its capacity as Court-appointed receiver of Banwell Development Corporation and Royal Timbers Inc. and not in its personal capacity

Per: _____

Name: Stephen N. Cherniak

Title: Senior Vice President

Schedule B1 – Real Property

The lands and premises legally described as:

PIN	Property Description
01566-1012 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 32, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10, 17 TO 23, 25 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; SUBJECT TO AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10, 17 TO 23, 25 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; SUBJECT TO AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER BLOCK 123, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1013 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 6, 17 AND 33, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 33, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986410; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 16, 18 TO 23,</p>

	<p>25, 32, 34 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 16, 18 TO 23, 25, 32, 34 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 32 AND 34 TO 36, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (INFAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1014 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PARTS 34 AND 35, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PARTS 19, 25 AND 35, PLAN 12R27789 AS IN CE269392; SUBJECT TO AN EASEMENT OVER PARTS 18, 19 AND 25, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 (IN FAVOUR OF PARTS 7, 18, 19, 34 AND 35, PLAN 12R27789) AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF 7, 34 AND 35, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PARTS 7, 34 AND 35, PLAN 12R27789) AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 16, 17, 20 TO 23, 32, 33, 36 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986412; SUBJECT TO AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 16, 17, 20 TO 23, 32, 33, 36 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986412; SUBJECT TO AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 32, 33 AND 36 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER BLOCK 123, PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20, 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 7, 34 AND 35, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1015 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 8, 20 AND 36, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 36, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25</p>

	<p>AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PARTS 8 AND 36, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF 8 AND 36, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PARTS 8 AND 36, PLAN 12R27789) AS IN CE986412; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 16 TO 19, 21 TO 23, 25, 32 TO 35, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986413; SUBJECT TO AN EASEMENT OVER PARTS 20 AND 36, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 16 TO 19, 21 TO 23, 25, 32 TO 35, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986413; SUBJECT TO AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 32, 33, 34 AND 35, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1016 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 9 AND 21, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 AND 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986413; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PART 9, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1017 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 10, 22 AND 23, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 AND 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN</p>

12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PART 47, PLAN 12R22842 (IN FAVOUR OF PARTS 10 AND 22, PLAN 12R27789) AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PART 25, PLAN 12R22842 AS IN CE986405; SUBJECT TO AN EASEMENT OVER PART 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PART 10, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PART 23, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986407; CITY OF WINDSOR

Schedule C – Claims to be deleted and expunged from title to the Real Property

Registration Number	Date	Instrument	Amount	Parties From	Parties to
CE163177	2005/08/10	Charge	\$8,000,000	Banwell Development Corporation	Bank of Montreal
CE269243	2007/04/24	Charge	\$252,693	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269244	2007/04/24	Charge	\$103,706	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269246	2007/04/24	Charge	\$289,209	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269247	2007/04/24	Charge	\$96,403	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269248	2007/04/24	Charge	\$83,257	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269250	2007/04/24	Charge	\$194,267	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269253	2007/04/24	Charge	\$201,570	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE286717	2007/08/08	Construction Lien	\$385,450	J. Lepera Contracting Inc.	-
CE292456	2007/09/12	Certificate	-	Superior Court of Justice	J. Lepera Contracting Inc.

CE297633	2007/10/12	Construction Lien	\$42,828	J. Lepera Contracting Inc.	
CE297634	2007/10/12	Construction Lien	\$44,778	J. Lepera Contracting Inc.	
CE304400	2007/11/23	Certificate	-	Superior Court of Justice	J. Lepera Contracting Inc.
CE304401	2007/11/23	Certificate	-	Superior Court of Justice	J. Lepera Contracting Inc.
CE447653	2010/11/02	Notice		Royal Timbers Inc.	2248144 Ontario Limited
CE447656	2010/11/02	Notice		Royal Timbers Inc.	2248144 Ontario Limited
CE569187	2013/06/18	APL Court Order	-	Superior Court of Justice	BDO Canada
CE714324	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE714326	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE714327	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE714329	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE714330	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE714331	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE714332	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE715026	2016/05/30	Transfer of Charge	-	Simba Group Developments Limited D'Amore, Scott	Windsor Family Credit Union Limited

Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property

- a) The reservations, limitations, provisions and conditions expressed in the original Agreement from the Crown and all statutory exceptions to title;
- b) Any registered restrictions or covenants that run with the Real Property provided the same have been complied with in all material respects;
- c) Any easements, rights of way, or right of re-entry in favour of a developer, not materially or adversely impairing the present use of the Real Property;
- d) Any agreements with municipal, utilities or public authorities provided the same have been complied with in all material respects;
- e) Any minor encroachments which might be revealed by an up to date survey of the Real Property; and
- f) The following instruments:

01566-1012					
Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE144181	2005/05/04	Transfer Easement	\$3,760	D'Amore, Pat	The Corporation of the City of Windsor The Windsor Utilities Commission-Water Division Enwin Powerlines Limited Union Gas Limited

CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	Bell Canada Cogeco Cable Systems Inc.
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986410	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE992518	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

01566-1013					
Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE144181	2005/05/04	Transfer Easement	\$3,760	D'Amore, Pat	The Corporation of the City of Windsor The Windsor Utilities Commission-Water Division Enwin Powerlines Limited Union Gas Limited Bell Canada Cogeco Cable Systems Inc.
CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.

CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986411	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE992518	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

01566-1014					
Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	

CE144181	2005/05/04	Transfer Easement	\$3,760	D'Amore, Pat	The Corporation of the City of Windsor The Windsor Utilities Commission-Water Division Enwin Powerlines Limited Union Gas Limited Bell Canada Cogeco Cable Systems Inc.
CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
CE269392	2007/04/25	Transfer Easement		Royal Timbers Inc.	Bell Canada
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986412	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed	

CE992518	2021/02/24	Notice		receiver of Royal Timbers Inc. BDO Canada Limited, solely in its capacity as Court- appointed receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

01566-1015					
Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE144181	2005/05/04	Transfer Easement	\$3,760	D'Amore, Pat	The Corporation of the City of Windsor The Windsor Utilities Commission- Water Division Enwin Powerlines Limited Union Gas Limited

CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	Bell Canada Cogeco Cable Systems Inc.
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986413	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE992518	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

01566-1016					
Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986414	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	

CE992518	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

01566-1017					
Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited

CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986406	2021/01/20	Transfer Easement		Royal Timbers Inc.	Royal Timbers Inc.
CE986407	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986415	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE992518	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

KEVIN D'AMORE
Applicant

and

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE, ROYAL
TIMBERS INC. and M.R. DUNN CONTRACTORS
LTD. Respondents

Court File No: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

APPROVAL AND VESTING ORDER

MILLER THOMSON LLP

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London, ON Canada N6A 5R8

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Fax: 519.858.8511

Lawyers for BDO Canada Limited,
Receiver of Banwell Development
Corporation and Royal Timbers Inc.

TAB

“3”

Court File No. CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE REGIONAL SENIOR) _____ DAY, THE ____ DAY
)
JUSTICE THOMAS) OF _____, 2021

B E T W E E N:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE ~~and~~ ROYAL TIMBERS INC. and M.R. DUNN CONTRACTORS LTD.**

Respondents

APPLICATION UNDER SECTION 207 OF THE BUSINESS CORPORATIONS
ACT, R.S.O. 1990, C. B. 16, AS AMENDED

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as Court-appointed receiver (the "**Receiver**") of the assets, undertakings and properties of Banwell Development Corporation and Royal Timbers Inc. ("**Royal Timbers**") pursuant to the Order of The Honourable Mr. Justice Thomas dated June 5, 2013, as amended, for, *inter alia*, an order approving the sale transaction (the "**Transaction**") contemplated by an Agreement of Purchase and Sale dated effective September 11, 2019 (the "**APS**") between the Receiver, as vendor, and 2186234 Ontario Limited (the "**Purchaser**"), as purchaser, and appended as Appendix "A" to the confidential supplement (the "**Confidential Supplement**") to the Thirteenth Report of the Receiver dated February 25, 2021 (the "**Thirteenth Report**"), and directing the Receiver to complete the transaction contemplated thereby in respect of the real property described on Schedule "A" hereto (the "**Real Property**") and vesting in the Purchaser all of Royal Timbers'

right, title and interest in and to the Real Property, was heard in writing this day at the Courthouse, 245 Windsor Avenue, Windsor, Ontario.

ON READING the Thirteenth Report ~~and~~, [the Confidential Supplement, and the Supplementary Report to the Thirteenth Report dated March 22, 2021](#), the motion being unopposed, and on noting that no one appeared, although properly served as appears from the affidavit of service, 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, with such minor amendments as the Receiver may deem necessary. 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 and for the conveyance of the Real Property to the Purchaser.
2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule "B"** hereto (the "**Receiver's Certificate**"), all of Royal Timbers' right, title and interest in and to the Real Property shall vest absolutely in the Purchaser, as beneficial owner, and as the Purchaser may direct on closing, as registered owner, free and clear of and from any and 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 (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Thomas dated June 5, 2013; and (ii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Real Property are hereby expunged and discharged as against the Real Property.
3. THIS COURT ORDERS that upon registration in the Land Registry Office for the Land Titles Division of Essex (LRO #12) of an Application for Vesting Order in the form

prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to:

- (a) enter such person as the Purchaser may direct on closing as the owner of the Real Property described in **Schedule “A”** hereto in fee simple; and
 - (b) delete and expunge from title to the Real Property described in **Schedule “A”** hereto all of the Claims listed in **Schedule “C”** hereto; and
 - (c) delete and expunge from title to the Real Property all executions, including the executions described in the “Property Remarks” on the parcel registers for the Real Property.
4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Real Property shall stand in the place and stead of the Real Property, 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 Real Property with the same priority as they had with respect to the Real Property immediately prior to the sale, as if the Real Property 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, notwithstanding:
- (d) the pendency of these proceedings;
 - (e) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act (Canada)* in respect of Royal Timbers and any bankruptcy order issued pursuant to any such applications; and
 - (f) any assignment in bankruptcy made in respect of Royal Timbers;

the vesting of the Real Property in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Royal Timbers and shall not be void or voidable by creditors of Royal Timbers, 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.

7. THIS COURT ORDERS that the Confidential Supplement shall be sealed until the earlier of the completion of the Transaction and further order of this Court.
8. 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.

*Justice, Ontario Superior Court of
Justice*

Schedule A – Real Property

The lands and premises legally described as:

PIN	Property Description
01566-1012 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 32, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10, 17 TO 23, 25 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; SUBJECT TO AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10, 17 TO 23, 25 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; SUBJECT TO AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER BLOCK 123, DESIGNATED AS PART 27, PLAN 12R27789<u>12R22842</u> AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1013 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 6, 17 AND 33, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 33, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT</p>

	<p>OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986410; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 16, 18 TO 23, 25, 32, 34 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 16, 18 TO 23, 25, 32, 34 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 32 AND 34 TO 36, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R2778922842 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (INFAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1014 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PARTS 34 AND 35, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PARTS 19, 25 AND 35, PLAN 12R27789 AS IN CE269392; SUBJECT TO AN EASEMENT OVER PARTS 18, 19 AND 25, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 (IN FAVOUR OF PARTS 7, 18, 19, 34 AND 35, PLAN 12R27789) AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R27818028180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF 7, 34 AND 35, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PARTS 7, 34 AND 35, PLAN 12R27789) AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 16, 17, 20 TO 23, 32, 33, 36 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986412; SUBJECT TO AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 16, 17, 20 TO 23, 32, 33, 36 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986412; SUBJECT TO AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 32, 33 AND 36 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER BLOCK 123, PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R2778922842 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20, 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 7, 34 AND 35, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>

01566-1015 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 8, 20 AND 36, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 36, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R27789 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PARTS 8 AND 36, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF 8 AND 36, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PARTS 8 AND 36, PLAN 12R27789) AS IN CE986412; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 16 TO 19, 21 TO 23, 25, 32 TO 35, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986413; SUBJECT TO AN EASEMENT OVER PARTS 20 AND 36, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 16 TO 19, 21 TO 23, 25, 32 TO 35, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986413; SUBJECT TO AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 32, 33, 34 AND 35, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1016 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 9 AND 21, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 AND 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986413; SUBJECT TO AN EASEMENT OVER PART</p>

	<p>21, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8,10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PART 9, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGANTE<u>DESIGNATED</u> AS PART 27, PLAN 12R27789<u>22842</u> AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1017 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 10, 22 AND 23, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 AND 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PART 47, PLAN 12R22742<u>22842</u> (IN FAVOUR OF PARTS 10 AND 22, PLAN 12R27789) AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PART 25, PLAN 12R27789<u>22842</u> AS IN CE986405; SUBJECT TO AN EASEMENT OVER PART 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FVOUR OF PART 10, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PART 10, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PART 23, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986407; CITY OF WINDSOR</p>

Schedule B

Court File No. CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE ~~and~~, ROYAL TIMBERS INC. and M.R. DUNN CONTRACTORS LTD.**

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS
ACT*, R.S.O. 1990, C. B. 16, AS AMENDED

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Thomas of the Ontario Superior Court of Justice (the "**Court**") dated June 5, 2013, as amended, BDO Canada Limited ("**BDO**") was appointed as the receiver (the "**Receiver**") of the assets, undertakings and properties of Banwell Development Corporation and Royal Timbers Inc. ("**Royal Timbers**").

B. Pursuant to an Order of the Court dated _____, 2021, the Court approved an Agreement of Purchase and Sale dated effective September 11, 2019 (the "**APS**") between the Receiver, as vendor, and 2186234 Ontario Limited, as purchaser (the "**Purchaser**"), and appended as **Appendix "A"** to the Confidential Supplement of the Receiver dated February 25, 2021 in respect of the real property legally described on **Schedule B1** hereto (the "**Real Property**") and vesting in the Purchaser all of Royal Timbers' right, title and interest in and to the Real Property, which vesting is to be effective with respect to the Real Property upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Real Property; (ii) that the conditions to closing as

set out in the APS have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APS.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Real Property payable on closing pursuant to the APS;
2. The conditions to closing as set out in the APS have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____[TIME] on _____ [DATE].

BDO CANADA LIMITED solely in its capacity as Court-appointed receiver of Banwell Development Corporation and Royal Timbers Inc. and not in its personal capacity

Per: _____

Name: Stephen N. Cherniak

Title: Senior Vice President

Schedule B1 – Real Property

The lands and premises legally described as:

PIN	Property Description
01566-1012 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 32, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10, 17 TO 23, 25 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; SUBJECT TO AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10, 17 TO 23, 25 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; SUBJECT TO AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER BLOCK 123, DESIGNATED AS PART 27, PLAN 12R27789<u>12R22842</u> AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1013 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 6, 17 AND 33, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 33, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT</p>

	<p>OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986410; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 16, 18 TO 23, 25, 32, 34 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 16, 18 TO 23, 25, 32, 34 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 32 AND 34 TO 36, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R2778922842 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (INFAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1014 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PARTS 34 AND 35, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PARTS 19, 25 AND 35, PLAN 12R27789 AS IN CE269392; SUBJECT TO AN EASEMENT OVER PARTS 18, 19 AND 25, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 (IN FAVOUR OF PARTS 7, 18, 19, 34 AND 35, PLAN 12R27789) AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R27818028180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF 7, 34 AND 35, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PARTS 7, 34 AND 35, PLAN 12R27789) AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 18¹⁹, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 16, 17, 20 TO 23, 32, 33, 36 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986412; SUBJECT TO AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 16, 17, 20 TO 23, 32, 33, 36 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986412; SUBJECT TO AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 32, 33 AND 36 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER BLOCK 123, PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R2778922842 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20, 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 7, 34 AND 35, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>

01566-1015 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 8, 20 AND 36, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 36, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R27789 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PARTS 8 AND 36, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF 8 AND 36, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PARTS 8 AND 36, PLAN 12R27789) AS IN CE986412; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 16 TO 19, 21 TO 23, 25, 32 TO 35, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986413; SUBJECT TO AN EASEMENT OVER PARTS 20 AND 36, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 16 TO 19, 21 TO 23, 25, 32 TO 35, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986413; SUBJECT TO AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 32, 33, 34 AND 35, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1016 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 9 AND 21, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 AND 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986413; SUBJECT TO AN EASEMENT OVER PART</p>

	<p>21, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8,10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PART 9, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGANTE<u>DESIGNATED</u> AS PART 27, PLAN 12R27789<u>22842</u> AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
01566-1017 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 10, 22 AND 23, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 AND 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PART 47, PLAN 12R22742<u>22842</u> (IN FAVOUR OF PARTS 10 AND 22, PLAN 12R27789) AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PART 25, PLAN 12R27789<u>22842</u> AS IN CE986405; SUBJECT TO AN EASEMENT OVER PART 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FVOUR OF PART 10, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PART 23, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986407; CITY OF WINDSOR</p>

Schedule C – Claims to be deleted and expunged from title to the Real Property

Registration Number	Date	Instrument	Amount	Parties From	Parties to
CE163177	2005/08/10	Charge	\$8,000,000	Banwell Development Corporation	Bank of Montreal
CE269243	2007/04/24	Charge	\$252,693	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269244	2007/04/24	Charge	\$103,706	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269246	2007/04/24	Charge	\$289,209	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269247	2007/04/24	Charge	\$96,403	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269248	2007/04/24	Charge	\$83,257	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269250	2007/04/24	Charge	\$194,267	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269253	2007/04/24	Charge	\$201,570	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick

CE286717	2007/08/08	Construction Lien	\$385,450	J. Lepera Contracting Inc.	-
CE292456	2007/09/12	Certificate	-	Superior Court of Justice	J. Lepera Contracting Inc.
CE297633	2007/10/12	Construction Lien	\$42,828	J. Lepera Contracting Inc.	
CE297634	2007/10/12	Construction Lien	\$44,778	J. Lepera Contracting Inc.	
CE304400	2007/11/23	Certificate	-	Superior Court of Justice	J. Lepera Contracting Inc.
CE304401	2007/11/23	Certificate	-	Superior Court of Justice	J. Lepera Contracting Inc.
CE447653	2010/11/02	Notice		Royal Timbers Inc.	2248144 Ontario Limited
CE447656	2010/11/02	Notice		Royal Timbers Inc.	2248144 Ontario Limited
CE569187	2013/06/18	APL Court Order	-	Superior Court of Justice	BDO Canada
CE714324	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE714326	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE714327	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE714329	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE714330	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE714331	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE714332	2016/05/25	Transmisson Charge	-	D'Amore, Patrick	D'Amore, Scott
CE715026	2016/05/30	Transfer of	-	Simba Group Developments	Windsor Family Credit Union

		Charge		Limited D'Amore, Scott	Limited
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Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property

- a) The reservations, limitations, provisions and conditions expressed in the original Agreement from the Crown and all statutory exceptions to title;
- b) Any registered restrictions or covenants that run with the Real Property provided the same have been complied with in all material respects;
- c) Any easements, rights of way, or right of re-entry in favour of a developer, not materially or adversely impairing the present use of the Real Property;
- d) Any agreements with municipal, utilities or public authorities provided the same have been complied with in all material respects;
- e) Any minor encroachments which might be revealed by an up to date survey of the Real Property; and
- f) The following instruments:

01566-1012					
Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE144181	2005/05/04	Transfer Easement	\$3,760	D'Amore, Pat	The Corporation of the City of Windsor The Windsor Utilities Commission-Water Division Enwin

					Powerlines Limited
					Union Gas Limited
					Bell Canada
					Cogeco Cable Systems Inc.
CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986410	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE992518	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed	

				receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

01566-1013					
Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE144181	2005/05/04	Transfer Easement	\$3,760	D'Amore, Pat	The Corporation of the City of Windsor The Windsor Utilities Commission-Water Division Enwin Powerlines Limited Union Gas Limited Bell Canada Cogeco Cable Systems Inc.

CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986411	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE992518	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

01566-1014					
Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE144181	2005/05/04	Transfer Easement	\$3,760	D'Amore, Pat	The Corporation of the City of Windsor The Windsor Utilities Commission-Water Division Enwin Powerlines Limited Union Gas Limited Bell Canada Cogeco Cable Systems Inc.
CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
CE269392	2007/04/25	Transfer Easement		Royal Timbers Inc.	Bell Canada

12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986412	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE992518	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

01566-1015					
Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited

LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	Di Mambro & Mancini Construction Ltd.
CE144181	2005/05/04	Transfer Easement	\$3,760	D'Amore, Pat	The Corporation of the City of Windsor The Windsor Utilities Commission-Water Division Enwin Powerlines Limited Union Gas Limited Bell Canada Cogeco Cable Systems Inc.
CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited

CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986413	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE992518	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

01566-1016					
Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE185377	2005/11/29	APL Absolute		Banwell	

		Title		Development Corporation	
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986414	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE992518	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

01566-1017					
Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986406	2021/01/20	Transfer Easement		Royal Timbers Inc.	Royal Timbers Inc.
CE986407	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986415	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.

CE992517	2021/02/24	Notice	BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.
CE992518	2021/02/24	Notice	BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.
CE996555	2021/03/15	LR's Order	Land Registrar, Essex Land Registry Office

KEVIN D'AMORE
Applicant

and

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE ~~and~~ ROYAL
TIMBERS INC. and M.R. DUNN CONTRACTORS
LTD. Respondents

Court File No: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

APPROVAL AND VESTING ORDER

MILLER		THOMSON		
One		London		Pla
255	Queens	Avenue,	Suite	20
London, ON	Canada	N6A 5R8		
Tony	Van	Klink	LSUC#:	29008
Tel:				519.931.35
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Lawyers	for	BDO	Canada	Limite
Receiver	of	Banwell	Developme	
Corporation	and	Royal Timbers	Inc.	

Document comparison by Workshare 9.5 on Monday, March 22, 2021 1:47:30 PM

Input:	
Document 1 ID	interwovenSite://mtdmswssc.millerthomson.corp/Legal/51379427/1
Description	#51379427v1<Legal> - Approval and Vesting Order (Banwell Road Parcels 5-10)
Document 2 ID	interwovenSite://mtdmswssc.millerthomson.corp/Legal/51379427/2
Description	#51379427v2<Legal> - Approval and Vesting Order (Banwell Road Parcels 5-10)
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
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Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	90
Deletions	27
Moved from	0
Moved to	0
Style change	0
Format changed	0

Total changes	117
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TAB

“4”

THIS MOTION, made by ~~[RECEIVER'S NAME]~~BDO Canada Limited, in its capacity as ~~the~~ Court-appointed receiver (the "~~Receiver~~") of the ~~undertaking, property and assets of [DEBTOR] (the "Debtor") for~~assets, undertakings and properties of Banwell Development Corporation and Royal Timbers Inc. ("Royal Timbers") pursuant to the Order of The Honourable Mr. Justice Thomas dated June 5, 2013, as amended, for, *inter alia*, an order approving the sale transaction (the "~~Transaction~~") contemplated by an ~~agreement of purchase and sale (the "Sale Agreement")~~Agreement of Purchase and Sale dated effective September 11, 2019 (the "APS") between the Receiver ~~and [NAME OF PURCHASER] (the "~~as vendor, and 2186234 Ontario Limited (the "Purchaser") dated [DATE]), ~~as purchaser,~~ and appended ~~to the~~as Appendix "A" to the confidential supplement (the "Confidential Supplement") to the Thirteenth Report of the Receiver dated [DATE] February 25, 2021 (the "Report"); "Thirteenth Report"), and directing the Receiver to complete the transaction contemplated thereby in respect of the real property described on Schedule "A" hereto (the "~~Real Property~~") and vesting in the Purchaser ~~the Debtor's~~all of Royal Timbers' right, title and interest in and to the ~~assets described in the Sale Agreement (the "Purchased Assets")~~Real Property, was heard in writing this day at ~~330 University~~the Courthouse, 245 Windsor Avenue, ~~Toronto~~Windsor, Ontario.

ON READING the ~~Report and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list~~Thirteenth Report, the Confidential Supplement and the Supplementary Report to the Thirteenth Report dated March 22, 2021, the motion being unopposed, and on noting that no one appeared, although properly served as appears from the affidavit of ~~[NAME]~~[NAME] sworn ~~[DATE]~~[DATE] service, filed¹:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved,² and the execution of the ~~Sale Agreement~~APS by the Receiver³ is hereby authorized and

¹~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

²~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

approved, with such minor amendments as the Receiver may deem necessary. 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 and for the conveyance of the ~~Purchased Assets~~ Real Property to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** ~~"B"~~ hereto (the ~~"Receiver's Certificate"~~), all of ~~the Debtor's~~ Royal Timbers' right, title and interest in and to the ~~Purchased Assets described in the Sale Agreement [and listed on Schedule B hereto]~~ Real Property shall vest absolutely in the Purchaser, as beneficial owner, and as the Purchaser may direct on closing, as registered owner, free and clear of and from any and 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 (collectively, the ~~"Claims"~~⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice [NAME] dated [DATE]; (ii) ~~all charges, security interests or claims evidenced by registrations pursuant to the Personal Property Security Act (Ontario) or any other personal property registry system; and (iii) Thomas dated June 5, 2013; and (ii)~~ those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the ~~"Encumbrances"~~), which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the ~~Purchased~~

³ ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

⁴ ~~To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

⁵ ~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

~~Assets~~Real Property are hereby expunged and discharged as against the ~~Purchased Assets~~Real Property.

3. THIS COURT ORDERS that upon ~~the~~ registration in the Land Registry Office for the ~~[Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver]~~ Land Titles Division of ~~{LOCATION}~~Essex (LRO #12) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*⁶, the Land Registrar is hereby directed to :

(a) enter such person as the Purchaser may direct on closing as the owner of the ~~subject real property identified~~Real Property described in **Schedule B**“A” hereto (the ~~“Real Property”~~) in fee simple;; and ~~is hereby directed to~~

(b) delete and expunge from title to the Real Property described in Schedule “A” hereto all of the Claims listed in **Schedule “C”** hereto;; and

(c) delete and expunge from title to the Real Property all executions, including the executions described in the “Property Remarks” on the parcel registers for the Real Property.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the ~~Purchased Assets~~Real Property shall stand in the place and stead of the ~~Purchased Assets~~Real Property, 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~~Real Property with the same priority as they had with respect to the ~~Purchased Assets~~Real Property immediately prior to the sale⁸, as if the ~~Purchased Assets~~Real Property had not been sold and remained in

⁶ Elect the language appropriate to the land registry system (Registry vs. Land Titles).

⁷ The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

⁸ This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

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 all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "A" to the Sale Agreement. 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 Debtor.~~7. THIS COURT ORDERS that, notwithstanding:

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

the vesting of the ~~Purchased Assets~~Real Property in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of ~~the Debtor~~Royal Timbers and shall not be void or voidable by creditors of ~~the Debtor~~Royal Timbers, 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.

7. ~~8.~~ THIS COURT ORDERS ~~AND DECLARES that the Transaction is exempt from the application of the Bulk Sales Act (Ontario).~~that the Confidential Supplement shall be

sealed until the earlier of the completion of the Transaction and further order of this Court.

8. ~~9.~~ 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.

Justice, Ontario Superior Court of
Justice

Schedule A – ~~Form of Receiver's Certificate~~ Real Property

The lands and premises legally described as:

<u>PIN</u>	<u>Property Description</u>
<u>01566-1012 (LT)</u>	<p><u>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 32, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10, 17 TO 23, 25 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; SUBJECT TO AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10, 17 TO 23, 25 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; SUBJECT TO AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER BLOCK 123, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</u></p>
<u>01566-1013 (LT)</u>	<p><u>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 6, 17 AND 33, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 33, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT</u></p>

	<p>OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986410; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 16, 18 TO 23, 25, 32, 34 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 16, 18 TO 23, 25, 32, 34 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 32 AND 34 TO 36, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (INFAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
<p>01566-1014 (LT)</p>	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PARTS 34 AND 35, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PARTS 19, 25 AND 35, PLAN 12R27789 AS IN CE269392; SUBJECT TO AN EASEMENT OVER PARTS 18, 19 AND 25, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 (IN FAVOUR OF PARTS 7, 18, 19, 34 AND 35, PLAN 12R27789) AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF 7, 34 AND 35, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PARTS 7, 34 AND 35, PLAN 12R27789) AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 16, 17, 20 TO 23, 32, 33, 36 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986412; SUBJECT TO AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 16, 17, 20 TO 23, 32, 33, 36 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986412; SUBJECT TO AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 32, 33 AND 36 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER BLOCK 123, PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20, 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 7, 34 AND 35, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
<p>01566-1015 (LT)</p>	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 8, 20 AND 36, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 36, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART</p>

	<p>20, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PARTS 8 AND 36, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF 8 AND 36, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PARTS 8 AND 36, PLAN 12R27789) AS IN CE986412; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 16 TO 19, 21 TO 23, 25, 32 TO 35, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986413; SUBJECT TO AN EASEMENT OVER PARTS 20 AND 36, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 16 TO 19, 21 TO 23, 25, 32 TO 35, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986413; SUBJECT TO AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 32, 33, 34 AND 35, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
<p>01566-1016 (LT)</p>	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 9 AND 21, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 AND 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986413; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PART 9, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10,</p>

	PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR
01566-1017 (LT)	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 10, 22 AND 23, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 AND 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PART 47, PLAN 12R22842 (IN FAVOUR OF PARTS 10 AND 22, PLAN 12R27789) AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PART 25, PLAN 12R22842 AS IN CE986405; SUBJECT TO AN EASEMENT OVER PART 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FVOUR OF PART 10, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PART 10, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PART 23, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986407; CITY OF WINDSOR</p>

11

Schedule BCourt File No. CV-11-17088**ONTARIO
SUPERIOR COURT OF JUSTICE****~~COMMERCIAL LIST~~**

BETWEEN:

~~PLAINTIFF~~**Plaintiff**KEVIN D'AMOREApplicant

- and -

~~DEFENDANT~~**Defendant**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE, ROYAL TIMBERS INC. and M.R. DUNN CONTRACTORS LTD.RespondentsAPPLICATION UNDER SECTION 207 OF THE BUSINESS CORPORATIONS
ACT, R.S.O. 1990, C. B. 16, AS AMENDED**RECEIVER'S CERTIFICATE****RECITALS**

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Mr. Justice Thomas of the Ontario Superior Court of Justice (the "**Court**") dated ~~[DATE OF ORDER], [NAME OF RECEIVER]~~ June 5, 2013, as amended, BDO Canada Limited ("BDO") was appointed as the receiver (the "**Receiver**") of the ~~undertaking, property and assets of [DEBTOR] (the "Debtor")~~ assets, undertakings and properties of Banwell Development Corporation and Royal Timbers Inc. ("Royal Timbers").

B. Pursuant to an Order of the Court dated [DATE], _____, 2021, the Court approved ~~the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Purchaser") and provided for the~~ an Agreement of Purchase and Sale dated effective September 11, 2019 (the "APS") between the Receiver, as vendor, and 2186234 Ontario Limited, as purchaser (the "Purchaser"), and appended as Appendix "A" to the Confidential Supplement of the Receiver dated February 25, 2021 in respect of the real property legally described on Schedule B1 hereto (the "Real Property") and vesting in the Purchaser all of ~~the Debtor's~~ Royal Timbers' right, title and interest in and to the ~~Purchased Assets~~ Real Property, which vesting is to be effective with respect to the ~~Purchased Assets~~ Real Property upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the ~~Purchased Assets~~ Real Property; (ii) that the conditions to ~~Closing~~ closing as set out in ~~section 1 of~~ section 1 of the ~~Sale Agreement~~ APS have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the ~~Sale Agreement~~ APS.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the ~~Purchased Assets~~ Real Property payable on ~~the Closing Date~~ closing pursuant to the ~~Sale Agreement~~ APS;
2. The conditions to ~~Closing~~ closing as set out in ~~section 1 of~~ section 1 of the ~~Sale Agreement~~ APS have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

~~{NAME OF RECEIVER}~~, BDO CANADA LIMITED solely in its capacity as ~~Receiver of the undertaking, property and assets of {DEBTOR}~~, Court-appointed receiver of Banwell Development Corporation and Royal Timbers Inc. and not in its personal capacity

Per: _____

Name: Stephen N. Cherniak

Title: Senior Vice President

Schedule B1 – ~~Purchased Assets~~ Real Property

The lands and premises legally described as:

<u>PIN</u>	<u>Property Description</u>
<u>01566-1012 (LT)</u>	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 32, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; SUBJECT TO AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10, 17 TO 23, 25 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; SUBJECT TO AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10, 17 TO 23, 25 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; SUBJECT TO AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 IN FAVOUR OF PARTS 6 TO 10 AND 33 TO 36, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER BLOCK 123, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 5 AND 32, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
<u>01566-1013 (LT)</u>	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 6, 17 AND 33, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 33, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN</p>

	<p>EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986410; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 16, 18 TO 23, 25, 32, 34 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 16, 18 TO 23, 25, 32, 34 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 IN FAVOUR OF PARTS 5, 7 TO 10, 32 AND 34 TO 36, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (INFAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 6 AND 33, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
<p>01566-1014 (LT)</p>	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PARTS 34 AND 35, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PARTS 19, 25 AND 35, PLAN 12R27789 AS IN CE269392; SUBJECT TO AN EASEMENT OVER PARTS 18, 19 AND 25, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 (IN FAVOUR OF PARTS 7, 18, 19, 34 AND 35, PLAN 12R27789) AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF 7, 34 AND 35, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PARTS 7, 34 AND 35, PLAN 12R27789) AS IN CE986411; SUBJECT TO AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 16, 17, 20 TO 23, 32, 33, 36 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986412; SUBJECT TO AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 16, 17, 20 TO 23, 32, 33, 36 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986412; SUBJECT TO AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 8 TO 10, 32, 33 AND 36 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER BLOCK 123, PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20, 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PARTS 7, 34 AND 35, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 8, 20 AND 36, PLAN</p>

<p>01566-1015 (LT)</p>	<p>12R27789; SUBJECT TO AN EASEMENT OVER PART 36, PLAN 12R27789 AS IN CE144181; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PARTS 8 AND 36, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF 8 AND 36, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PARTS 8 AND 36, PLAN 12R27789) AS IN CE986412; SUBJECT TO AN EASEMENT OVER PART 20, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 16 TO 19, 21 TO 23, 25, 32 TO 35, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986413; SUBJECT TO AN EASEMENT OVER PARTS 20 AND 36, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 16 TO 19, 21 TO 23, 25, 32 TO 35, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986413; SUBJECT TO AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 IN FAVOUR OF PARTS 5, 6, 7, 9, 10, 32, 33, 34 AND 35, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</p>
<p>01566-1016 (LT)</p>	<p>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 9 AND 21, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 AND 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PARTS 25 AND 47, PLAN 12R22842 AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PARTS 23 AND 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PART 9, PLAN 12R27789) AS IN CE986413; SUBJECT TO AN EASEMENT OVER PART 21, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PART 9, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 8, 10, 16 TO 20, 22, 23, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533, DESIGNATED AS PART 27, PLAN 12R22842 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 22</p>

	<p><u>AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER PART 10, PLAN 12R27789 AS IN CE986415; CITY OF WINDSOR</u></p>
<p><u>01566-1017 (LT)</u></p>	<p><u>PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PARTS 10, 22 AND 23, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 AND 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396, SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986397; TOGETHER WITH AN EASEMENT OVER PART 60, PLAN 12R22842 SAVE AND EXCEPT PART 3, PLAN 12R24720 AS IN CE986399; TOGETHER WITH AN EASEMENT OVER PART 26, PLAN 12R22842 AS IN CE986400; TOGETHER WITH AN EASEMENT OVER PART 47, PLAN 12R22842 (IN FAVOUR OF PARTS 10 AND 22, PLAN 12R27789) AS IN CE986405; TOGETHER WITH AN EASEMENT OVER PART 25, PLAN 12R22842 AS IN CE986405; SUBJECT TO AN EASEMENT OVER PART 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 24, PLAN 12R27789 AS IN CE986406; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; TOGETHER WITH AN EASEMENT OVER PARTS 16, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5, 16, 32, 37, 38, 41 AND 42, PLAN 12R27789 AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PARTS 5 AND 32, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986410; TOGETHER WITH AN EASEMENT OVER PART 17, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6, 17 AND 33, PLAN 12R27789 AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 6 AND 33, PLAN 12R27789 (IN FVOUR OF PART 10, PLAN 12R27789) AS IN CE986411; TOGETHER WITH AN EASEMENT OVER PARTS 18 AND 19, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 18, 19, 25, 34 AND 35, PLAN 12R27789 AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PARTS 7, 34 AND 35, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986412; TOGETHER WITH AN EASEMENT OVER PART 20, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8, 20 AND 36, PLAN 12R27789 AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PARTS 8 AND 36, PLAN 12R27789 (IN FAVOUR OF PART 10, PLAN 12R27789) AS IN CE986413; TOGETHER WITH AN EASEMENT OVER PART 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PARTS 9 AND 21, PLAN 12R27789 AS IN CE986414; TOGETHER WITH AN EASEMENT OVER PART 9, PLAN 12R27789 AS IN CE986414; SUBJECT TO AN EASEMENT OVER PARTS 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PARTS 10, 22 AND 23, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PART 10, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 9, 16 TO 21, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986415; TOGETHER WITH AN EASEMENT OVER BLOCK 123 PLAN 12M533 AS IN CE986415; SUBJECT TO AN EASEMENT OVER PART 23, PLAN 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986407; CITY OF WINDSOR</u></p>

Schedule C – Claims to be deleted and expunged from title to the Real Property

<u>Registration Number</u>	<u>Date</u>	<u>Instrument</u>	<u>Amount</u>	<u>Parties From</u>	<u>Parties to</u>
<u>CE163177</u>	<u>2005/08/10</u>	<u>Charge</u>	<u>\$8,000,000</u>	<u>Banwell Development Corporation</u>	<u>Bank of Montreal</u>
<u>CE269243</u>	<u>2007/04/24</u>	<u>Charge</u>	<u>\$252,693</u>	<u>Royal Timbers Inc.</u>	<u>Simba Group Developments Limited and D'Amore, Patrick</u>
<u>CE269244</u>	<u>2007/04/24</u>	<u>Charge</u>	<u>\$103,706</u>	<u>Royal Timbers Inc.</u>	<u>Simba Group Developments Limited and D'Amore, Patrick</u>
<u>CE269246</u>	<u>2007/04/24</u>	<u>Charge</u>	<u>\$289,209</u>	<u>Royal Timbers Inc.</u>	<u>Simba Group Developments Limited and D'Amore, Patrick</u>
<u>CE269247</u>	<u>2007/04/24</u>	<u>Charge</u>	<u>\$96,403</u>	<u>Royal Timbers Inc.</u>	<u>Simba Group Developments Limited and D'Amore, Patrick</u>
<u>CE269248</u>	<u>2007/04/24</u>	<u>Charge</u>	<u>\$83,257</u>	<u>Royal Timbers Inc.</u>	<u>Simba Group Developments Limited and D'Amore, Patrick</u>
<u>CE269250</u>	<u>2007/04/24</u>	<u>Charge</u>	<u>\$194,267</u>	<u>Royal Timbers Inc.</u>	<u>Simba Group Developments Limited and D'Amore, Patrick</u>
<u>CE269253</u>	<u>2007/04/24</u>	<u>Charge</u>	<u>\$201,570</u>	<u>Royal Timbers Inc.</u>	<u>Simba Group Developments Limited and D'Amore, Patrick</u>

CE286717	2007/08/08	Construction Lien	\$385,450	J. Lepera Contracting Inc.	=
CE292456	2007/09/12	Certificate	=	Superior Court of Justice	J. Lepera Contracting Inc.
CE297633	2007/10/12	Construction Lien	\$42,828	J. Lepera Contracting Inc.	
CE297634	2007/10/12	Construction Lien	\$44,778	J. Lepera Contracting Inc.	
CE304400	2007/11/23	Certificate	=	Superior Court of Justice	J. Lepera Contracting Inc.
CE304401	2007/11/23	Certificate	=	Superior Court of Justice	J. Lepera Contracting Inc.
CE447653	2010/11/02	Notice		Royal Timbers Inc.	2248144 Ontario Limited
CE447656	2010/11/02	Notice		Royal Timbers Inc.	2248144 Ontario Limited
CE569187	2013/06/18	APL Court Order	=	Superior Court of Justice	BDO Canada
CE714324	2016/05/25	Transmisson Charge	=	D'Amore, Patrick	D'Amore, Scott
CE714326	2016/05/25	Transmisson Charge	=	D'Amore, Patrick	D'Amore, Scott
CE714327	2016/05/25	Transmisson Charge	=	D'Amore, Patrick	D'Amore, Scott
CE714329	2016/05/25	Transmisson Charge	=	D'Amore, Patrick	D'Amore, Scott
CE714330	2016/05/25	Transmisson Charge	=	D'Amore, Patrick	D'Amore, Scott
CE714331	2016/05/25	Transmisson Charge	=	D'Amore, Patrick	D'Amore, Scott
CE714332	2016/05/25	Transmisson Charge	=	D'Amore, Patrick	D'Amore, Scott
CE715026	2016/05/30	Transfer of	=	Simba Group Developments	Windsor Family Credit Union

		<u>Charge</u>		<u>Limited</u> <u>D'Amore, Scott</u>	<u>Limited</u>
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Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property

(unaffected by the Vesting Order)

- a) The reservations, limitations, provisions and conditions expressed in the original Agreement from the Crown and all statutory exceptions to title;
- b) Any registered restrictions or covenants that run with the Real Property provided the same have been complied with in all material respects;
- c) Any easements, rights of way, or right of re-entry in favour of a developer, not materially or adversely impairing the present use of the Real Property;
- d) Any agreements with municipal, utilities or public authorities provided the same have been complied with in all material respects;
- e) Any minor encroachments which might be revealed by an up to date survey of the Real Property; and
- f) The following instruments:

<u>01566-1012</u>					
<u>Registration Number</u>	<u>Date</u>	<u>Instrument</u>	<u>Amount</u>	<u>Parties From</u>	<u>Parties to</u>
<u>D37712178</u>	<u>1991/12/18</u>	<u>APL (General)</u>		<u>See Document</u>	<u>E & E Builders Limited</u> <u>Di Mambro & Mancini Construction Ltd.</u>
<u>LT336126</u>	<u>2002/02/05</u>	<u>Bylaw</u>		<u>The Corporation of the City of Windsor</u>	
<u>CE144181</u>	<u>2005/05/04</u>	<u>Transfer Easement</u>	<u>\$3,760</u>	<u>D'Amore, Pat</u>	<u>The Corporation of the City of Windsor</u> <u>The Windsor Utilities Commission- Water Division</u>

				Enwin Powerlines Limited
				Union Gas Limited
				Bell Canada
				Cogeco Cable Systems Inc.
CE185377	2005/11/29	APL Absolute Title	Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement	The Corporation of the City of Windsor	Banwell Development Corporation
12R27789	2019/05/14	Plan Reference		
CE902036	2019/08/15	Transfer Easement	Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement	Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement	Royal Timbers Inc.	838605 Ontario Limited
CE986410	2021/01/20	Transfer	Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice	BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE992518	2021/02/24	Notice	BDO Canada Limited, solely in its capacity	

CE996555	2021/03/15	LR's Order		as Court-appointed receiver of Royal Timbers Inc. Land Registrar, Essex Land Registry Office	
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01566-1013 Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE144181	2005/05/04	Transfer Easement	\$3,760	D'Amore, Pat	The Corporation of the City of Windsor The Windsor Utilities Commission- Water Division Enwin Powerlines Limited Union Gas Limited Bell Canada Cogeco Cable

<u>CE185377</u>	<u>2005/11/29</u>	<u>APL Absolute Title</u>		<u>Banwell Development Corporation</u>	<u>Systems Inc.</u>
<u>CE191966</u>	<u>2006/01/04</u>	<u>No _____ Sub Agreement</u>		<u>The Corporation of the City of Windsor</u>	<u>Banwell Development Corporation</u>
<u>12R27789</u>	<u>2019/05/14</u>	<u>Plan Reference</u>			
<u>CE902036</u>	<u>2019/08/15</u>	<u>Transfer Easement</u>		<u>Royal Timbers Inc.</u>	<u>Banwell Gardens Care Centre Facility Inc.</u>
<u>CE986396</u>	<u>2021/01/20</u>	<u>Transfer Easement</u>		<u>Royal Timbers Inc.</u>	<u>2248144 Ontario Limited</u>
<u>CE986397</u>	<u>2021/01/20</u>	<u>Transfer Easement</u>		<u>Royal Timbers Inc.</u>	<u>838605 Ontario Limited</u>
<u>CE986411</u>	<u>2021/01/20</u>	<u>Transfer</u>		<u>Royal Timbers Inc.</u>	<u>Royal Timbers Inc.</u>
<u>CE992517</u>	<u>2021/02/24</u>	<u>Notice</u>		<u>BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.</u>	
<u>CE992518</u>	<u>2021/02/24</u>	<u>Notice</u>		<u>BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.</u>	
<u>CE996555</u>	<u>2021/03/15</u>	<u>LR's Order</u>		<u>Land Registrar, Essex Land Registry</u>	

				<u>Office</u>	
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<u>01566-1014</u>	<u>Registration Number</u>	<u>Date</u>	<u>Instrument</u>	<u>Amount</u>	<u>Parties From</u>	<u>Parties to</u>
	<u>D37712178</u>	<u>1991/12/18</u>	<u>APL (General)</u>		<u>See Document</u>	<u>E & E Builders Limited</u> <u>Di Mambro & Mancini Construction Ltd.</u>
	<u>LT336126</u>	<u>2002/02/05</u>	<u>Bylaw</u>		<u>The Corporation of the City of Windsor</u>	
	<u>CE144181</u>	<u>2005/05/04</u>	<u>Transfer Easement</u>	<u>\$3,760</u>	<u>D'Amore, Pat</u>	<u>The Corporation of the City of Windsor</u> <u>The Windsor Utilities Commission- Water Division</u> <u>Enwin Powerlines Limited</u> <u>Union Gas Limited</u> <u>Bell Canada</u> <u>Cogeco Cable Systems Inc.</u>
	<u>CE185377</u>	<u>2005/11/29</u>	<u>APL Absolute Title</u>		<u>Banwell Development Corporation</u>	
	<u>CE191966</u>	<u>2006/01/04</u>	<u>No Sub Agreement</u>		<u>The Corporation of the City of Windsor</u>	<u>Banwell Development Corporation</u>

CE269392	2007/04/25	Transfer Easement		Royal Timbers Inc.	Bell Canada
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986412	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE992518	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

01566-1015					
Registration Number	Date	Instrument	Amount	Parties From	Parties to

D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE144181	2005/05/04	Transfer Easement	\$3,760	D'Amore, Pat	The Corporation of the City of Windsor The Windsor Utilities Commission-Water Division Enwin Powerlines Limited Union Gas Limited Bell Canada Cogeco Cable Systems Inc.
CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.

CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986397	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited
CE986413	2021/01/20	Transfer		Royal Timbers Inc.	Royal Timbers Inc.
CE992517	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE992518	2021/02/24	Notice		BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.	
CE996555	2021/03/15	LR's Order		Land Registrar, Essex Land Registry Office	

01566-1016	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited
LT336126	2002/02/05	Bylaw		The Corporation of	Di Mambro & Mancini Construction Ltd.

CE185377	2005/11/29	APL Absolute Title	the City of Windsor	Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement	The Corporation of the City of Windsor	Banwell Development Corporation	
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement	Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.	
CE986396	2021/01/20	Transfer Easement	Royal Timbers Inc.	2248144 Ontario Limited	
CE986397	2021/01/20	Transfer Easement	Royal Timbers Inc.	838605 Ontario Limited	
CE986414	2021/01/20	Transfer	Royal Timbers Inc.	Royal Timbers Inc.	
CE992517	2021/02/24	Notice	BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.		
CE992518	2021/02/24	Notice	BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.		
CE996555	2021/03/15	LR's Order	Land Registrar, Essex Land Registry		

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<u>01566-1017</u>	<u>Registration Number</u>	<u>Date</u>	<u>Instrument</u>	<u>Amount</u>	<u>Parties From</u>	<u>Parties to</u>
	<u>D37712178</u>	<u>1991/12/18</u>	<u>APL (General)</u>		<u>See Document</u>	<u>E & E Builders Limited</u> <u>Di Mambro & Mancini Construction Ltd.</u>
	<u>LT336126</u>	<u>2002/02/05</u>	<u>Bylaw</u>		<u>The Corporation of the City of Windsor</u>	
	<u>CE185377</u>	<u>2005/11/29</u>	<u>APL Absolute Title</u>		<u>Banwell Development Corporation</u>	
	<u>CE191966</u>	<u>2006/01/04</u>	<u>No Sub Agreement</u>		<u>The Corporation of the City of Windsor</u>	<u>Banwell Development Corporation</u>
	<u>12R27789</u>	<u>2019/05/14</u>	<u>Plan Reference</u>			
	<u>CE902036</u>	<u>2019/08/15</u>	<u>Transfer Easement</u>		<u>Royal Timbers Inc.</u>	<u>Banwell Gardens Care Centre Facility Inc.</u>
	<u>CE986396</u>	<u>2021/01/20</u>	<u>Transfer Easement</u>		<u>Royal Timbers Inc.</u>	<u>2248144 Ontario Limited</u>
	<u>CE986397</u>	<u>2021/01/20</u>	<u>Transfer Easement</u>		<u>Royal Timbers Inc.</u>	<u>838605 Ontario Limited</u>
	<u>CE986406</u>	<u>2021/01/20</u>	<u>Transfer Easement</u>		<u>Royal Timbers Inc.</u>	<u>Royal Timbers Inc.</u>
	<u>CE986407</u>	<u>2021/01/20</u>	<u>Transfer Easement</u>		<u>Royal Timbers Inc.</u>	<u>838605 Ontario</u>

<u>CE986415</u>	<u>2021/01/20</u>	<u>Transfer</u>		<u>Royal Timbers Inc.</u>	<u>Limited</u> <u>Royal Timbers Inc.</u>
<u>CE992517</u>	<u>2021/02/24</u>	<u>Notice</u>		<u>BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.</u>	
<u>CE992518</u>	<u>2021/02/24</u>	<u>Notice</u>		<u>BDO Canada Limited, solely in its capacity as Court-appointed receiver of Royal Timbers Inc.</u>	
<u>CE996555</u>	<u>2021/03/15</u>	<u>LR's Order</u>		<u>Land Registrar, Essex Land Registry Office</u>	

KEVIN D'AMORE

and

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE, ROYAL
TIMBERS INC. and M.R. DUNN CONTRACTORS
LTD. Respondents

Court File No: CV-11-17088

Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at WINDSOR

APPROVAL AND VESTING ORDER

MILLER THOMSON L
One London Pla
255 Queens Avenue, Suite 20
London, ON Canada N6A 5R8

Tony Van Klink LSUC#: 29008
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Lawyers for BDO Canada Limite
Receiver of Banwell Developme
Corporation and Royal Timbers Inc.

Document comparison by Workshare 9.5 on Monday, March 22, 2021 1:49:36 PM

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Description	#52684472v1<Legal> - Model AVO
Document 2 ID	interwovenSite://mtdmswssc.millerthomson.corp/Legal/51379427/2
Description	#51379427v2<Legal> - Approval and Vesting Order (Banwell Road Parcels 5-10)
Rendering set	Standard

Legend:	
Insertion	
Deletion	
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Moved to	
Style change	
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Moved deletion	
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Split/Merged cell	
Padding cell	

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Insertions	761
Deletions	126
Moved from	0
Moved to	0
Style change	0
Format changed	0

Total changes	887
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TAB

“5”

1. THIS COURT ORDERS that the Approval and Vesting Order of Regional Senior Justice Thomas dated June 18, 2019 in these proceedings be and the same is hereby amended in the form attached hereto as Schedule "A" and titled the "Amended Approval and Vesting Order".

Justice, Ontario Superior Court of Justice

SCHEDULE "A"

Court File No. CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE REGIONAL SENIOR	)	TUESDAY, THE 18th DAY
)	
JUSTICE THOMAS	)	OF JUNE, 2019

B E T W E E N:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE, ROYAL TIMBERS INC. and M.R. DUNN CONTRACTORS LTD.**

Respondents

APPLICATION UNDER SECTION 207 OF THE BUSINESS CORPORATIONS
ACT, R.S.O. 1990, C. B. 16, AS AMENDED

AMENDED APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as Court-appointed receiver (the "**Receiver**") of the assets, undertakings and properties of Banwell Development Corporation and Royal Timbers Inc. ("**Royal Timbers**") pursuant to the Order of The Honourable Mr. Justice Thomas dated June 5, 2013, as amended, for, *inter alia*, an order approving the sale transaction (the "**Transaction**") contemplated by an Agreement of Purchase and Sale dated effective January 3, 2019 (the "**APS**") between the Receiver, as vendor, and 2248144 Ontario Limited (the "**Purchaser**"), as purchaser, and appended as **Appendix "E"** to the Twelfth Report of the Receiver dated June 5, 2019 (the "**Twelfth Report**"), and directing the Receiver to complete the transaction contemplated thereby in respect of the real property described on **Schedule "A"** (the "**Real Property**") and vesting in the Purchaser all of Royal

Timbers' right, title and interest in and to the Real Property, was heard in writing this day at the Courthouse, 245 Windsor Avenue, Windsor, Ontario.

ON READING the Twelfth Report and the Confidential Supplement, the motion being unopposed, and on noting that no one appeared, although properly served as appears from the affidavit of Catherine O'Neill sworn June 14, 2019, 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, with such minor amendments as the Receiver may deem necessary. 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 and for the conveyance of the Real Property to the Purchaser.
2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule "B"** hereto (the "**Receiver's Certificate**"), all of Royal Timbers' right, title and interest in and to the Real Property shall vest absolutely in the Purchaser free and clear of and from any and 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 (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Thomas dated June 5, 2013; and (ii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Real Property are hereby expunged and discharged as against the Real Property.
3. THIS COURT ORDERS that upon registration in the Land Registry Office for the Land Titles Division of Essex (LRO #12) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to:

- (a) enter the Purchaser as the owner of the Real Property described in **Schedule “A”** hereto in fee simple;
 - (b) delete and expunge from title to the Real Property described in **Schedule “A”** hereto all of the Claims listed in **Schedule “C”** hereto; and
 - (c) delete and expunge from title to the Real Property all executions, including the executions described in the “Property Remarks” on the parcel register for the Real Property.
4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Real Property shall stand in the place and stead of the Real Property, 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 Real Property with the same priority as they had with respect to the Real Property immediately prior to the sale, as if the Real Property 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, 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 Royal Timbers and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made in respect of Royal Timbers;

the vesting of the Real Property in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Royal Timbers and shall not be void or voidable by creditors of Royal Timbers, 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.

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.

Justice, Ontario Superior Court of Justice

Schedule A – Real Property

The lands and premises legally described as:

PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PART 24, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; TOGETHER WITH AN EASEMENT OVER PART 25, PLAN 12R22842 AS IN CE986405; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 10, 16 TO 22, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986406; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12, 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986407; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; CITY OF WINDSOR (PIN 01566-1018 (LT)); LRO #12

Schedule B

Court File No. CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE, ROYAL TIMBERS INC. and M.R. DUNN CONTRACTORS LTD.**

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS
ACT*, R.S.O. 1990, C. B. 16, AS AMENDED

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Thomas of the Ontario Superior Court of Justice (the "**Court**") dated June 5, 2013, as amended, BDO Canada Limited ("**BDO**") was appointed as the receiver (the "**Receiver**") of the assets, undertakings and properties of Banwell Development Corporation and Royal Timbers Inc. ("**Royal Timbers**").

B. Pursuant to an Order of the Court dated June ___, 2019, the Court approved an Agreement of Purchase and Sale dated effective January 3, 2019 (the "**APS**") between the Receiver, as vendor, and 2248144 Ontario Limited, as purchaser (the "**Purchaser**"), and appended as **Appendix "E"** to the Twelfth Report dated June 5, 2019 in respect of the real property legally described on Schedule B1 hereto (the "**Real Property**") and vesting in the Purchaser all of Royal Timbers' right, title and interest in and to the Real Property, which vesting is to be effective with respect to the Real Property upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Real Property; (ii) that the conditions to closing as set out in the APS have been satisfied or

waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APS.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Real Property payable on closing pursuant to the APS;
2. The conditions to closing as set out in the APS have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____[TIME] on _____ [DATE].

BDO CANADA LIMITED solely in its capacity as Court-appointed receiver of Banwell Development Corporation and Royal Timbers Inc. and not in its personal capacity

Per: _____

Name: Stephen N. Cherniak
Title: Senior Vice President

Schedule B1 – Real Property

The lands and premises legally described as:

PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PART 24, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; TOGETHER WITH AN EASEMENT OVER PART 25, PLAN 12R22842 AS IN CE986405; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 10, 16 TO 22, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986406; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12, 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986407; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; CITY OF WINDSOR (PIN 01566-1018 (LT)); LRO #12

Schedule C – Claims to be deleted and expunged from title to the Real Property

Registration Number	Date	Instrument	Amount	Parties From	Parties to
CE163177	2005/08/10	Charge	\$8,000,000	Banwell Development Corporation	Bank of Montreal
CE269243	2007/04/24	Charge	\$252,693	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269244	2007/04/24	Charge	\$103,706	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269246	2007/04/24	Charge	\$289,209	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269247	2007/04/24	Charge	\$96,403	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269248	2007/04/24	Charge	\$83,257	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269250	2007/04/24	Charge	\$194,267	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269253	2007/04/24	Charge	\$201,570	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE286717	2007/08/08	Construction	\$385,450	J. Lepera Contracting	

		Lien		Inc.	-
CE292456	2007/09/12	Certificate	-	Superior Court of Justice	J. Lepera Contracting Inc.
CE297633	2007/10/12	Construction Lien	\$42,828	J. Lepera Contracting Inc.	
CE297634	2007/10/12	Construction Lien	\$44,778	J. Lepera Contracting Inc.	
CE304400	2007/11/23	Certificate	-	Superior Court of Justice	J. Lepera Contracting Inc.
CE304401	2007/11/23	Certificate	-	Superior Court of Justice	J. Lepera Contracting Inc.
CE569187	2013/06/18	APL Court Order		Superior Court of Justice	BDO Canada
CE714324	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE714326	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE714327	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE714329	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE714330	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE714331	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE714332	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE715026	2016/05/30	Transfer of Charge		Simba Group Developments Limited D'amore, Scott	Windsor Family Credit Union Limited

Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property

- a) The reservations, limitations, provisions and conditions expressed in the original Agreement from the Crown and all statutory exceptions to title;
- b) Any registered restrictions or covenants that run with the Real Property provided the same have been complied with in all material respects;
- c) Any easements, rights of way, or right of re-entry in favour of a developer, not materially or adversely impairing the present use of the Real Property;
- d) Any agreements with municipal, utilities or public authorities provided the same have been complied with in all material respects; and
- e) Any minor encroachments which might be revealed by an up to date survey of the Real Property; and
- f) The following instruments:

Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE144181	2005/05/04	Transfer Easement	\$3,760	D'Amore, Pat	The Corporation of the City of Windsor The Windsor Utilities Commission-Water Division Enwin Powerlines Limited Union Gas Limited

					Bell Canada Cogeco Cable Systems Inc.
CE185377	2005/11/29	APL Absolute Title		Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement		The Corporation of the City of Windsor	Banwell Development Corporation
12R22842	2006/11/21	Plan Reference			
12R22922	2007/02/07	Plan Reference			
CE267537	2007/04/12	Transfer Easement	\$1	Royal Timbers Inc.	Royal Timbers Inc.
CE269223	2007/04/24	Transfer	\$1	Royal Timbers Inc.	Royal Timbers Inc.
CE269224	2007/04/24	Transfer	\$1	Royal Timbers Inc.	Royal Timbers Inc.
CE269225	2007/04/24	Transfer	\$1	Royal Timbers Inc.	Royal Timbers Inc.
CE269226	2007/04/24	Transfer	\$1	Royal Timbers Inc.	Royal Timbers Inc.
CE269227	2007/04/24	Transfer	\$1	Royal Timbers Inc.	Royal Timbers Inc.
CE269228	2007/04/24	Transfer	\$1	Royal Timbers Inc.	Royal Timbers Inc.
CE269392	2007/04/25	Transfer Easement	\$1	Royal Timbers Inc.	Bell Canada.
CE277655	2007/06/15	APL Consolidate		Royal Timbers Inc.	
CE287636		Transfer	\$1	Royal Timbers Inc.	Royal Timbers Inc.
CE447653	2010/11/02	Notice		Royal Timbers Inc.	
CE447656	2010/11/02	Notice		Royal Timbers	

CE449307	2010/11/17	LR's Order		Inc. Land Registrar	
CE828900	2018/05/14	APL Consolidate		Royal Timbers Inc.	
CE882405	2019/04/23	Transfer Rel&Aband		Royal Timbers Inc.	Royal Timbers Inc.
CE883362	2019/04/29	Transfer Rel&Aband		Royal Timbers Inc.	Royal Timbers Inc.
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986406	2021/01/20	Transfer Easement		Royal Timbers Inc.	Royal Timbers Inc.
CE986407	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited

KEVIN D'AMORE
Applicant

and

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE, ROYAL
TIMBERS INC. and M.R. DUNN CONTRACTORS
LTD. Respondents

Court File No: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

AMENDED APPROVAL AND VESTING ORDER

MILLER THOMSON LLP

One London Place
255 Queens Avenue, Suite 2010
London, ON Canada N6A 5R8

Tony Van Klink LSUC#: 29008M
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Sherry A. Kettle LSUC#: 53561B
Tel: 519.931.3534
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Lawyers for BDO Canada Limited,
Receiver of Banwell Development
Corporation and Royal Timbers Inc.

KEVIN D'AMORE

and

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE, ROYAL
TIMBERS INC. and M.R. DUNN CONTRACTORS
LTD. Respondents

Court File No: CV-11-17088

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

**ORDER
(Amending the Approval and Vesting Order
dated June 18, 2019)**

MILLER THOMSON LLP

One London Place
255 Queens Avenue, Suite 2010
London, ON Canada N6A 5R8

Tony Van Klink LSUC#: 29008M
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Lawyers for BDO Canada Limited,
Receiver of Banwell Development
Corporation and Royal Timbers Inc.

TAB

“6”

1. THIS COURT ORDERS that the Approval and Vesting Order of Regional Senior Justice Thomas dated June 18, 2019 in these proceedings be and the same is hereby amended in the form attached hereto as Schedule "A" and titled the "Amended Approval and Vesting Order".

Justice, Ontario Superior Court of Justice

SCHEDULE "A"

Court File No. CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE REGIONAL SENIOR) TUESDAY, THE 18th DAY
JUSTICE THOMAS) OF JUNE, 2019

B E T W E E N:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE ~~and~~ ROYAL TIMBERS INC. and M.R. DUNN CONTRACTORS LTD.**

Respondents

APPLICATION UNDER SECTION 207 OF THE BUSINESS CORPORATIONS
ACT, R.S.O. 1990, C. B. 16, AS AMENDED

AMENDED APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as Court-appointed receiver (the "**Receiver**") of the assets, undertakings and properties of Banwell Development Corporation and Royal Timbers Inc. ("**Royal Timbers**") pursuant to the Order of The Honourable Mr. Justice Thomas dated June 5, 2013, as amended, for, *inter alia*, an order approving the sale transaction (the "**Transaction**") contemplated by an Agreement of Purchase and Sale dated effective January 3, 2019 (the "**APS**") between the Receiver, as vendor, and 2248144 Ontario Limited (the "**Purchaser**"), as purchaser, and appended as **Appendix "E"** to the Twelfth Report of the Receiver dated June 5, 2019 (the "**Twelfth Report**"), and directing the Receiver to complete the transaction contemplated thereby in respect of the real property described on **Schedule "A"** (the "**Real Property**") and vesting in the Purchaser all of Royal

Timbers' right, title and interest in and to the Real Property, was heard in writing this day at the Courthouse, 245 Windsor Avenue, Windsor, Ontario.

ON READING the Twelfth Report and the Confidential Supplement, the motion being unopposed, and on noting that no one appeared, although properly served as appears from the affidavit of Catherine O'Neill sworn June 14, 2019, 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, with such minor amendments as the Receiver may deem necessary. 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 and for the conveyance of the Real Property to the Purchaser.
2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule "B"** hereto (the "**Receiver's Certificate**"), all of Royal Timbers' right, title and interest in and to the Real Property shall vest absolutely in the Purchaser free and clear of and from any and 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 (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Thomas dated June 5, 2013; and (ii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Real Property are hereby expunged and discharged as against the Real Property.
3. THIS COURT ORDERS that upon registration in the Land Registry Office for the Land Titles Division of Essex (LRO #12) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to:

- (a) enter the Purchaser as the owner of the Real Property described in **Schedule “A”** hereto in fee simple;
 - (b) delete and expunge from title to the Real Property described in **Schedule “A”** hereto all of the Claims listed in **Schedule “C”** hereto; and
 - (c) delete and expunge from title to the Real Property all executions, including the executions described in the “Property Remarks” on the parcel register for the Real Property.
4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Real Property shall stand in the place and stead of the Real Property, 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 Real Property with the same priority as they had with respect to the Real Property immediately prior to the sale, as if the Real Property 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, 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 Royal Timbers and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made in respect of Royal Timbers;

the vesting of the Real Property in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Royal Timbers and shall not be void or voidable by creditors of Royal Timbers, 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.

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.

Justice, Ontario Superior Court of Justice

Schedule A – Real Property

The lands and premises legally described as:

PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PART 24, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; TOGETHER WITH AN EASEMENT OVER PART 25, PLAN 12R22842 AS IN CE986405; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 10, 16 TO 22, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986406; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12, 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986407; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; CITY OF WINDSOR (PIN 01566-1018 (LT)); LRO #12

Schedule B

Court File No. CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE ~~and~~, ROYAL TIMBERS INC. and M.R. DUNN CONTRACTORS LTD.**

Respondents

APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS
ACT*, R.S.O. 1990, C. B. 16, AS AMENDED

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Thomas of the Ontario Superior Court of Justice (the "**Court**") dated June 5, 2013, as amended, BDO Canada Limited ("**BDO**") was appointed as the receiver (the "**Receiver**") of the assets, undertakings and properties of Banwell Development Corporation and Royal Timbers Inc. ("**Royal Timbers**").

B. Pursuant to an Order of the Court dated June ____, 2019, the Court approved an Agreement of Purchase and Sale dated effective January 3, 2019 (the "**APS**") between the Receiver, as vendor, and 2248144 Ontario Limited, as purchaser (the "**Purchaser**"), and appended as **Appendix "E"** to the Twelfth Report dated June 5, 2019 in respect of the real property legally described on Schedule B1 hereto (the "**Real Property**") and vesting in the Purchaser all of Royal Timbers' right, title and interest in and to the Real Property, which vesting is to be effective with respect to the Real Property upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Real Property; (ii) that the conditions to closing as set out in the APS have been satisfied or

waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APS.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Real Property payable on closing pursuant to the APS;
2. The conditions to closing as set out in the APS have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____[TIME] on _____ [DATE].

BDO CANADA LIMITED solely in its capacity as Court-appointed receiver of Banwell Development Corporation and Royal Timbers Inc. and not in its personal capacity

Per: _____

Name: Stephen N. Cherniak
Title: Senior Vice President

Schedule B1 – Real Property

The lands and premises legally described as:

PART LOTS 143 & 144 CONCESSION 1 SANDWICH, DESIGNATED AS PART 24, PLAN 12R27789; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12R27789 IN FAVOUR OF PARTS 1 TO 4, 11 TO 15 AND 26 TO 30, PLAN 12R27789 AS IN CE902036; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12R27789 IN FAVOUR OF PARTS 1, 26, 58 AND 60, PLAN 12R22842 SAVE AND EXCEPT PARTS 1, 2 AND 3, PLAN 12R24720 AS IN CE986396; TOGETHER WITH AN EASEMENT OVER PART 25, PLAN 12R22842 AS IN CE986405; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12R27789 IN FAVOUR OF PARTS 5 TO 10, 16 TO 22, 25, 32 TO 38, 41 AND 42, PLAN 12R27789 AS IN CE986406; SUBJECT TO AN EASEMENT OVER PART 24, PLAN 12, 12R27789 IN FAVOUR OF PARTS 2, 25, 47 AND 59, PLAN 12R22842 SAVE AND EXCEPT PART 1, PLAN 12R26389 AS IN CE986407; TOGETHER WITH AN EASEMENT OVER PART 2, PLAN 12R28180 AS IN CE986408; CITY OF WINDSOR (PIN 01566-1018 (LT)); LRO #12

Schedule C – Claims to be deleted and expunged from title to the Real Property

Registration Number	Date	Instrument	Amount	Parties From	Parties to
CE163177	2005/08/10	Charge	\$8,000,000	Banwell Development Corporation	Bank of Montreal
CE269243	2007/04/24	Charge	\$252,693	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269244	2007/04/24	Charge	\$103,706	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269246	2007/04/24	Charge	\$289,209	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269247	2007/04/24	Charge	\$96,403	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269248	2007/04/24	Charge	\$83,257	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269250	2007/04/24	Charge	\$194,267	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE269253	2007/04/24	Charge	\$201,570	Royal Timbers Inc.	Simba Group Developments Limited and D'Amore, Patrick
CE286717	2007/08/08	Construction	\$385,450	J. Lepera Contracting	

		Lien		Inc.	-
CE292456	2007/09/12	Certificate	-	Superior Court of Justice	J. Lepera Contracting Inc.
CE297633	2007/10/12	Construction Lien	\$42,828	J. Lepera Contracting Inc.	
CE297634	2007/10/12	Construction Lien	\$44,778	J. Lepera Contracting Inc.	
CE304400	2007/11/23	Certificate	-	Superior Court of Justice	J. Lepera Contracting Inc.
CE304401	2007/11/23	Certificate	-	Superior Court of Justice	J. Lepera Contracting Inc.
CE569187	2013/06/18	APL Court Order		Superior Court of Justice	BDO Canada
CE714324	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE714326	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE714327	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE714329	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE714330	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE714331	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE714332	2016/05/25	Transmisson Charge		D'Amore, Patrick	D'Amore, Scott
CE715026	2016/05/30	Transfer of Charge		Simba Group Developments Limited D'amore, Scott	Windsor Family Credit Union Limited

Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property

- a) The reservations, limitations, provisions and conditions expressed in the original Agreement from the Crown and all statutory exceptions to title;
- b) Any registered restrictions or covenants that run with the Real Property provided the same have been complied with in all material respects;
- c) Any easements, rights of way, or right of re-entry in favour of a developer, not materially or adversely impairing the present use of the Real Property;
- d) Any agreements with municipal, utilities or public authorities provided the same have been complied with in all material respects; and
- e) Any minor encroachments which might be revealed by an up to date survey of the Real Property; and
- f) The following instruments:

Registration Number	Date	Instrument	Amount	Parties From	Parties to
D37712178	1991/12/18	APL (General)		See Document	E & E Builders Limited Di Mambro & Mancini Construction Ltd.
LT336126	2002/02/05	Bylaw		The Corporation of the City of Windsor	
CE144181	2005/05/04	Transfer Easement	\$3,760	D'Amore, Pat	The Corporation of the City of Windsor The Windsor Utilities Commission-Water Division Enwin

						Powerlines Limited
						Union Gas Limited
						Bell Canada
						Cogeco Cable Systems Inc.
CE185377	2005/11/29	APL Absolute Title			Banwell Development Corporation	
CE191966	2006/01/04	No Sub Agreement			The Corporation of the City of Windsor	Banwell Development Corporation
12R22842	2006/11/21	Plan Reference				
12R22922	2007/02/07	Plan Reference				
CE267537	2007/04/12	Transfer Easement	\$1	Royal Timbers Inc.		Royal Timbers Inc.
CE269223	2007/04/24	Transfer	\$1	Royal Timbers Inc.		Royal Timbers Inc.
CE269224	2007/04/24	Transfer	\$1	Royal Timbers Inc.		Royal Timbers Inc.
CE269225	2007/04/24	Transfer	\$1	Royal Timbers Inc.		Royal Timbers Inc.
CE269226	2007/04/24	Transfer	\$1	Royal Timbers Inc.		Royal Timbers Inc.
CE269227	2007/04/24	Transfer	\$1	Royal Timbers Inc.		Royal Timbers Inc.
CE269228	2007/04/24	Transfer	\$1	Royal Timbers Inc.		Royal Timbers Inc.
CE269392	2007/04/25	Transfer Easement	\$1	Royal Timbers Inc.		Bell Canada.
CE277655	2007/06/15	APL Consolidate		Royal Timbers Inc.		
CE287636		Transfer	\$1	Royal Timbers		Royal

				Inc.	Timbers Inc.
CE447653	2010/11/02	Notice		Royal Timbers Inc.	
CE447656	2010/11/02	Notice		Royal Timbers Inc.	
CE449307	2010/11/17	LR's Order		Land Registrar	
CE828900	2018/05/14	APL Consolidate		Royal Timbers Inc.	
CE882405	2019/04/23	Transfer Rel&Aband		Royal Timbers Inc.	Royal Timbers Inc.
CE883362	2019/04/29	Transfer Rel&Aband		Royal Timbers Inc.	Royal Timbers Inc.
12R27789	2019/05/14	Plan Reference			
CE902036	2019/08/15	Transfer Easement		Royal Timbers Inc.	Banwell Gardens Care Centre Facility Inc.
CE986396	2021/01/20	Transfer Easement		Royal Timbers Inc.	2248144 Ontario Limited
CE986406	2021/01/20	Transfer Easement		Royal Timbers Inc.	Royal Timbers Inc.
CE986407	2021/01/20	Transfer Easement		Royal Timbers Inc.	838605 Ontario Limited

KEVIN D'AMORE
Applicant

and

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE ~~and~~ ROYAL
TIMBERS INC. and M.R. DUNN CONTRACTORS
LTD. Respondents

Court File No: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

AMENDED APPROVAL AND VESTING ORDER

KEVIN D'AMORE

and

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

Court File No: CV-11-17088

Applicant

[and M.R. DUNN CONTRACTORS LTD.](#)

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

**ORDER
(Amending the Approval and Vesting Order
dated June 18, 2019)**

MILLER	THOMSON	LLP
One	London	Place
255	Queens Avenue,	Suite 2010
London, ON Canada	N6A 5R8	

Tony	Van	Klink	LSUC#:	29008M
Tel:				519.931.3509
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Sherry	A.	Kettle	LSUC#:	53561B
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Lawyers for BDO Canada Limited,
Receiver of Banwell Development
Corporation and Royal Timbers Inc.

Document comparison by Workshare 9.5 on Monday, March 22, 2021 3:17:02 PM

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Court File No. CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE REGIONAL SENIOR) _____ DAY, THE ____ DAY
)
JUSTICE THOMAS) OF _____, 2021

B E T W E E N:

KEVIN D'AMORE

Applicant

- and -

**BANWELL DEVELOPMENT CORPORATION, 928579 ONTARIO LIMITED,
SCOTT D'AMORE, ROYAL TIMBERS INC., AND M.R. DUNN CONTRACTORS LTD.**

Respondents

APPLICATION UNDER SECTION 207 OF THE BUSINESS CORPORATIONS
ACT, R.S.O. 1990, C. B. 16, AS AMENDED

ANCILLARY ORDER

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

- (a) if necessary, abridging or waiving the time for service and filing, dispensing with service, or validating the method of service of all motion confirmation forms, the Motion Record, including the Notice of Motion and the Thirteenth Report of the Receiver dated February 25, 2021 and all appendices thereto (the "**Thirteenth Report**"), the Confidential Supplement to the Thirteenth Report dated February 25, 2021 and all appendices thereto (the "**Confidential Supplement**") and all supplementary motion materials, if any, and directing that any further service of

same be dispensed with such that this motion is properly returnable on a date to be determined by Regional Senior Justice Thomas;

- (b) approving the Thirteenth Report, the Confidential Supplement and the activities and actions of the Receiver described therein;
- (c) approving the Banwell Statement of Receipts and Disbursements, the Royal Timbers Statement of Receipts and Disbursements and the Real Ranchs Trust Account Statement of Receipts and Disbursements, each as defined in the Thirteenth Report (collectively, the “**Statements of Receipts and Disbursements**”);
- (d) approving the professional fees and disbursements of the Receiver and Miller Thomson LLP, counsel to the Receiver, as described in the fee affidavits of Stephen Cherniak sworn February 19, 2021 and Sherry Kettle affirmed February 18, 2021 (collectively, the “**Professional Fees**”); and
- (e) such further and other relief as this Honourable Court deems just.

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

ON READING the Thirteenth Report, the Supplementary Report to the Thirteenth Report dated March 22, 2021 (the “**Thirteenth Report Supplement**”) and the Confidential Supplement, the motion being unopposed, and on noting that no one appeared, although properly served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for service and filing of all motion confirmation forms, the Motion Record, including the Notice of Motion and the Thirteenth Report, and the Thirteenth Report Supplement are hereby abridged and validated, as necessary, such that this motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that the Thirteenth Report, the Confidential Supplement and the Thirteenth Report Supplement and the activities and actions of the Receiver described therein are hereby approved.
3. THIS COURT ORDERS that the Statements of Receipts and Disbursements be and the same are hereby approved.

4. THIS COURT ORDERS that the Professional Fees be and the same are hereby approved.

Justice, Ontario Superior Court of Justice

KEVIN D'AMORE

and

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE, ROYAL
TIMBERS INC. and M.R. DUNN CONTRACTORS
LTD.

Applicant

Respondents

Court File No: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

ANCILLARY ORDER**MILLER THOMSON LLP**One London Place
255 Queens Avenue, Suite 2010
London, ON Canada N6A 5R8Tony Van Klink LSUC#: 29008M
Tel: 519.931.3509
Fax: 519.858.8511Sherry A. Kettle LSUC#: 53561B
Tel: 519.931.3534
Fax: 519.858.8511Lawyers for BDO Canada Limited,
Receiver of Banwell Development
Corporation and Royal Timbers Inc.

-

TAB

“8”

same be dispensed with such that this motion is properly returnable on a date to be determined by Regional Senior Justice Thomas;

- (b) approving the Thirteenth Report, the Confidential Supplement and the activities and actions of the Receiver described therein;
- (c) approving the Banwell Statement of Receipts and Disbursements, the Royal Timbers Statement of Receipts and Disbursements and the Real Ranchs Trust Account Statement of Receipts and Disbursements, each as defined in the Thirteenth Report (collectively, the “**Statements of Receipts and Disbursements**”);
- (d) approving the professional fees and disbursements of the Receiver and Miller Thomson LLP, counsel to the Receiver, as described in the fee affidavits of Stephen Cherniak sworn February 19, 2021 and Sherry Kettle affirmed February 18, 2021 (collectively, the “**Professional Fees**”); [and](#)

~~(e) approving and authorizing the following distributions to be made to creditors of Royal Timbers in full satisfaction of their claims following the completion of the Banwell Road Parcels 5-10 Transaction, as defined in the Thirteenth Report:~~

~~(i) \$129,662.34 to Affleck Greene McMurtry LLP;~~

~~(ii) \$166,671.44 to M.R. Dunn Contractors Ltd.; and~~

~~(iii) \$5,500 to the D'Amore Estate; and~~

[\(e\)](#) ~~(f)~~ such further and other relief as this Honourable Court deems just.

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

ON READING the Thirteenth Report, [the Supplementary Report to the Thirteenth Report dated March 22, 2021 \(the “Thirteenth Report Supplement”\)](#) and the Confidential Supplement, the motion being unopposed, and on noting that no one appeared, although properly served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for service and filing of all motion confirmation forms, the Motion Record, including the Notice of Motion and the Thirteenth Report, [and the](#)

Thirteenth Report Supplement are hereby abridged and validated, as necessary, such that this motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS that the Thirteenth Report ~~and~~ the Confidential Supplement and the Thirteenth Report Supplement and the activities and actions of the Receiver described therein are hereby approved.

3. THIS COURT ORDERS that the Statements of Receipts and Disbursements be and the same are hereby approved.

4. THIS COURT ORDERS that the Professional Fees be and the same are hereby approved.

~~5. THIS COURT ORDERS that, following the completion of the Banwell Road Parcels 5-10 Transaction, as defined in the Thirteenth Report, the Receiver is authorized to make the following distributions in full satisfaction of each creditor's respective claims, and such distributions are hereby approved:~~

~~(a) \$129,662.34 to Affleck-Greene McMurtry LLP;~~

~~(b) \$166,671.44 to M.R. Dunn Contractors Ltd.; and~~

~~(c) \$5,500 to the D'Amore Estate.~~

Justice, Ontario Superior Court of Justice

KEVIN D'AMORE

and

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE ~~and~~ ROYAL
TIMBERS INC. and M.R. DUNN CONTRACTORS
LTD.

Court File No: CV-11-17088

Applicant

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

ANCILLARY ORDER

MILLER	THOMSON	LLP
One	London	Place
255	Queens Avenue,	Suite 2010
London, ON Canada N6A 5R8		

Tony	Van	Klink	LSUC#:	29008M
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Lawyers for BDO Canada Limited,
Receiver of Banwell Development
Corporation and Royal Timbers Inc.

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	Count
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Moved to	0
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Total changes	22

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TAB

“9”

William Sasso dated March 15, 2021 and the Submissions on Interest Stops Rule of D'Amore Construction (2000) Ltd. attached thereto:

1. THIS COURT ORDERS that, following the completion of the Banwell Road Parcels 5-10 Transaction, as defined in the Thirteenth Report, the Receiver is authorized to make the following distributions to unsecured creditors of Royal Timbers in full satisfaction of each creditor's respective claims in Royal Timbers, including pre-receivership interest and post-receivership interest, and such distributions are hereby approved:

- (a) \$162,751.73 to Affleck Greene McMurtry LLP;
- (b) \$166,671.41 to M.R. Dunn Contractors Ltd.;
- (c) \$5,500.00 to the D'Amore Estate; and
- (d) \$27,307.53 D'Amore Construction (2000) Ltd.

Justice, Ontario Superior Court of Justice

KEVIN D'AMORE

and

Applicant

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE and ROYAL
TIMBERS INC. and M.R. DUNN CONTRACTORS
LTD.

Court File No: CV-11-17088

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

DISTRIBUTION ORDER

MILLER THOMSON LLP

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Lawyers for BDO Canada Limited,
Receiver of Banwell Development
Corporation and Royal Timbers Inc.

TAB

“10”

William Sasso dated March 15, 2021 and the Submissions on Interest Stops Rule of D'Amore Construction (2000) Ltd. attached thereto:

1. THIS COURT ORDERS that, following the completion of the Banwell Road Parcels 5-10 Transaction, as defined in the Thirteenth Report, the Receiver is authorized to make the following distributions to unsecured creditors of Royal Timbers in full satisfaction of each creditor's respective claims in Royal Timbers of interest to the date of the Appointment Order and principal, and such distributions are hereby approved:

- (a) \$129,662.34 to Affleck Greene McMurtry LLP;
- (b) \$50,028.46 to M.R. Dunn Contractors Ltd.;
- (c) \$5,500.00 to the D'Amore Estate; and
- (d) \$25,000.00 D'Amore Construction (2000) Ltd.

2. THIS COURT ORDERS that the distribution of post-receivership interest to unsecured creditors of Royal Timbers shall be deferred and paid only if there is a surplus in the combined receivership estates of Royal Timbers and Banwell after payment in full of all principal amounts owing to creditors of Royal Timbers and Banwell.

Justice, Ontario Superior Court of Justice

KEVIN D'AMORE

and

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE, ROYAL
TIMBERS INC. and M.R. DUNN CONTRACTORS
LTD.

Applicant

Respondents

Court File No: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

DISTRIBUTION ORDER**MILLER THOMSON LLP**One London Place
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Corporation and Royal Timbers Inc.

TAB

“11”

William Sasso dated March 15, 2021 and the Submissions on Interest Stops Rule of D'Amore Construction (2000) Ltd. attached thereto:

1. THIS COURT ORDERS that, following the completion of the Banwell Road Parcels 5-10 Transaction, as defined in the Thirteenth Report, the Receiver is authorized to make the following distributions to unsecured creditors of Royal Timbers in full satisfaction of each creditor's respective claims in Royal Timbers of interest to the date of the Appointment Order and principal, and such distributions are hereby approved:

- (a) \$129,662.34 to Affleck Greene McMurtry LLP;
- (b) \$50,028.46 to M.R. Dunn Contractors Ltd.;
- (c) \$5,500.00 to the D'Amore Estate; and
- (d) \$25,000.00 D'Amore Construction (2000) Ltd.

2. THIS COURT ORDERS that the issue of the entitlement of the unsecured creditors of Royal Timbers to post-receivership interest on the principal claims in paragraph 1 above is adjourned to a date to be determined.

Justice, Ontario Superior Court of Justice

KEVIN D'AMORE

and

BANWELL DEVELOPMENT CORPORATION, 928579
ONTARIO LIMITED, SCOTT D'AMORE, ROYAL
TIMBERS INC. and M.R. DUNN CONTRACTORS
LTD.

Applicant

Respondents

Court File No: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

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KEVIN D'AMORE

and

Applicant

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

Court File No: CV-11-17088

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at WINDSOR

**SUPPLEMENTARY MOTION RECORD
(RE THIRTEENTH REPORT OF THE
RECEIVER)
(VOLUME 2 OF 2)**

**(RETURNABLE ON A DATE TO BE DETERMINED BY
REGIONAL SENIOR JUSTICE THOMAS)**

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