

**THE QUEEN'S BENCH
WINNIPEG CENTRE**

IN THE MATTER OF: The Appointment of a Receiver pursuant to section 243 of the
Bankruptcy and Insolvency Act, R.S.C. c. B-3, as amended and
section 55(1) of *The Queen's Bench Act C.C.S.M c. C280*, as
amended

BETWEEN:

BANK OF MONTREAL

Plaintiff

-and-

8000140 CANADA LTD.,

Defendant

**FIRST REPORT
OF BDO CANADA LIMITED
IN ITS CAPACITY AS RECEIVER OF 8000140 CANADA LTD.
DATED: JANUARY 10, 2018**

I. Introduction

1. On November 7, 2017, BDO Canada Limited (“**BDO**”) was appointed as interim receiver (the “**Interim Receiver**”), without security, of all the assets, undertakings, and properties acquired for, or used in relation to the business carried on by 8000140 Canada Ltd. (“**Servpro**”), including all proceed thereof (collectively, the “**Property**”), pursuant to an Order (the “**Interim Receivership Order**”) of the Court of Queen’s Bench of Manitoba (the “**Court**”).
2. The Interim Receivership Order was granted as a result of an application filed by Bank of Montreal (“**BMO**”) to appoint an Interim Receiver (the “**Interim Receivership Application**”) over the Property in accordance with section 47 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”). The Interim Receivership Order provided for an initial stay of proceedings to and including December 8, 2017 (the “**Stay Period**”), or until further Order of the Court.
3. On December 6, 2017, prior to the expiration of the Stay Period, BMO brought a further application for the appointment of a Receiver in accordance with section 243 of the BIA. This application was adjourned to December 15, 2017 with the stay period extended to December 22, 2017.
4. On December 20, 2017, the Court granted a Receivership Order (the “**Receivership Order**”) appointing BDO as Receiver, without security, of all Property of Servpro. Paragraph 37 of the Receivership Order provided that the Receiver would file with the Court on or before Friday, January 12, 2018, a further Report of its activities since the date of its First Report filed as Interim Receiver (the “**Interim Receiver Report**”).
5. This First Report of the Receiver is filed in accordance with the direction of the Court in the Receivership Order to provide an update on the activities of the Receiver since the date of the Interim Receiver Report.

II. Actions Taken Since Interim Receiver Report

6. As outlined in the Interim Receiver's Report, there is no business to be saved and the Receiver is focused on verifying and collecting the accounts receivable, and realizing on the fixed assets of Servpro.

a. Accounts Receivable – Collections Process

7. The Receivership Order provides in section 3(f) that the Receiver is empowered and authorized to receive and collect all monies and accounts now owed or hereafter owing to Servpro and to exercise all remedies of Servpro in collecting such monies. The Receiver has been trying to expeditiously collect the accounts receivable of Servpro, but has encountered difficulties in doing so. The Receiver is now receiving some degree of cooperation from Todd Balcain, and hopes that this will lead to a significant portion of the accounts receivable and work in progress being realized upon.
8. The Receiver's primary concern since the date of the Interim Receiver's Report has been to gain some level of co-operation from knowledgeable persons to carry out the estimating and invoicing for the business of Servpro, as the most significant and valuable asset of the company is its Work in Progress and Accounts Receivable.
9. Subsequent to the date of the Interim Receiver Report, the Interim Receiver made numerous attempts to communicate with Mr. Balcain, but encountered difficulties in doing so. From December 1, 2017 through December 5, 2017, the Receiver attempted to contact Mr. Balcain via text message and telephone, but we were unable to arrange an in person meeting. As a result, there was little progress made in this timeframe.
10. After the Court appearance on December 6, 2017, representatives of the Interim Receiver met with Mr. Balcain to have a general discussion as to how the Interim Receivership was unfolding and how it should progress. After that meeting, Mr. Balcain came to the Interim Receiver's office to review the listing of aged accounts receivable and provided his comments on the anticipated collectability of the accounts. There were a number of

accounts that Mr. Balcain advised were validly owing and collectible. In that meeting at the Interim Receiver's office on December 6th, 2017, Mr. Balcain agreed to meet with a representative of the Interim Receiver, Antin Stowell, at 7:45 a.m. on Monday, December 11th at the office of Servpro. The purpose of this meeting was to review some anomalies that the Interim Receiver had found in the accounts receivable records.

11. On December 7th, 2017, the Interim Receiver sent out demand letters to all account debtors identified by Mr. Balcain as validly owing and collectible.
12. On Monday December 11th, Mr. Stowell attended at the Servpro premises as had been agreed but Mr. Balcain did not show up for this meeting. The Interim Receiver did not hear back from Mr. Balcain until Tuesday, December 12, 2017 at 7:12 a.m. when he sent a text indicating that he was ill the day before, and that he would call the Interim Receiver that day. The Interim Receiver did not receive a call from Mr. Balcain on December 12th.
13. The Interim Receiver made numerous attempts to contact Mr. Balcain on December 13th, 2017 and December 14th, 2017, but was unable to reach him or get any responses from him. At 5:36 a.m. on Friday, December 15th, Mr. Balcain sent Bruce Caplan a text message indicating that he had been in hospital December 13th-14th. Mr. Balcain appeared for the court hearing on December 15th, 2017.
14. Mr. Caplan's schedule did not allow for a meeting with Mr. Balcain on December 15th after the court hearing. Mr. Caplan and Mr. Balcain agreed to meet on December 17th, but due to a miscommunication they did not meet that day.
15. Mr. Caplan and Mr. Balcain met on December 18th, 2017, and spent approximately two hours discussing disputes on some of the accounts receivable and the concerns of the Interim Receiver. The parties arrived at an agreement to move forward and try to maximize recoveries. Mr. Balcain indicated that he is willing to work with the Receiver to invoice the Work in Progress and collect the Accounts Receivable. Mr. Balcain told us that with the assistance of Sarah Wojnarski, the former bookkeeper from Servpro (Sarah), he should be able to accomplish those tasks. Mr. Balcain advised that he could perform

the necessary estimating to deliver to Sarah to do the invoicing. The Receiver has since been advised that Sarah is no longer willing to assist the Receiver, and Mr. Caplan and Mr. Balcain have since had a number of discussions about possible alternate arrangements to get the Work In Progress billed. Mr. Balcain thought that he arrived at a solution by attempting to hire another person familiar with the industry but there appeared to be complications with that plan. Mr. Balcain subsequently advised the Receiver that he wanted to engage Jason Dillabough, a former employee from Servpro, who was a project manager and estimated jobs, to assist with the estimating. Bruce had previously spoken with Jason who had also agreed to work for the Receiver if need be and readily agreed with Mr. Balcain's suggestion.

16. Mr. Balcain has advised the Receiver that he has information on projects that should generate approximately \$200,000.00 worth of billings. In order to get those bills sent out, Mr. Balcain needs the assistance of someone either familiar with or capable of learning the invoicing protocol. In order to complete the estimating work, Mr. Balcain needed to make use of a program called Xactimate or Xactware. Servpro had access to this software but due to non-payment of their bills the program was only active until the end of November 2017. Mr. Balcain requested that the Receiver pay to re-activate Xactimate. He then decided that given the time he knew it would take to get routed through the Xactimate telephone assistance he would spend the time himself and find a way to pay for the software. Mr. Balcain did accomplish this and was at Servpro on December 23rd, 2017 to attempt to do some estimating and get some invoicing done.
17. Xactimate is a web based software. Unfortunately there was some confusion surrounding the continuation of services from Shaw at Servpro. Mr. Caplan had requested that a colleague cancel the phone service at Servpro. Due to either a miscommunication or misunderstanding the phone and internet service was cut off thereby preventing Mr. Balcain from accomplishing the tasks that he had set out to do on December 23, 2017.
18. Mr. Balcain has since advised the Receiver that he has done some estimating but the Receiver has not been able to verify that. To date no invoices have been generated that could be sent out.

19. Given it was the holiday season there has been little additional contact with Todd since December 23, 2017. On January 8, 2018, the Receiver reached out to Mr. Balcain via telephone and text to try and arrange a meeting. Mr. Balcain initially responded that he was meeting with his lawyer and would get back to the Receiver after that. Having not heard from Mr. Balcain for a couple of hours, the Receiver texted him and asked if they were meeting. Mr. Balcain texted back stating that he was at his doctor's office and would respond via email.
20. While there appears to have been little verifiable progress on the collection of accounts or billing the Receiver has been advised by Mr. Balcain that he has met with Wawanesa Insurance, a major insurer, who we understand Servpro did a great deal of work for. Mr. Balcain also advised that he attended a dinner with a number of adjusters and he believed that would assist with the collection of the accounts receivable. The Receiver is quite limited in its billing and collection activities given the very unique nature of the invoicing process, and currently is relying on Mr. Balcain to undertake the necessary steps to both bill and collect accounts. Mr. Balcain has agreed to do this under the Receiver's authority but it has been a slow process. The Receiver believes that the best chance to bill and collect is with Mr. Balcain and we have been patiently working with him. Mr. Balcain has advised that given the nature of the business, the accounts receivable and work to be billed will not disappear or evaporate. If the work was done, barring any complaints or deficiencies, it should be paid for.
21. The Receiver is optimistic that continuing with the collection of the accounts receivable will ultimately produce positive results, and it intends on diligently pursuing this potential source of recovery.

b. Realizing on Fixed Assets

22. The Receivership Order provides in section 3(1) that the Receiver is empowered and authorized to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business without the approval of the Court in respect of any transaction not exceeding \$25,000.00, provided that the aggregate consideration for all such transactions does not exceed \$50,000.00.

23. The Receiver has conducted an inventory of the fixed assets and believes that the bulk of the assets are individually valued below \$25,000.00.

III. Conclusion

24. The Receiver intends on continuing with the collections process for the accounts receivable, and evaluating the fixed assets to determine the proper course of action in that regard.

All of which is respectfully submitted at Winnipeg, Manitoba, this 10th day of January, 2018.

BDO Canada Limited,
Court-appointed Receiver of
8000140 Canada Ltd.