

Court File No. CV-16-11578-00CL

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

BETWEEN:

COMTECH FIRE CREDIT UNION LIMITED

Applicant

-and-

MARK EUGENE GAUTHIER

Respondent

APPLICATION UNDER Subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended, Section 101 of the *Courts of Justice Act*, R.S.O. 1990 c. C.43, as amended, and Rule 14.05(3)(g) and (h) of the *Rules of Civil Procedure*

NOTICE OF MOTION

BDO CANADA LIMITED in its capacity as the Court-appointed receiver (the "Receiver"), without security, of the real property of the respondent municipally known as 36, 38, 40, and 42 University Avenue East, Waterloo, Ontario (collectively, the "Properties"), will make a motion to a Judge on Monday, the 3rd day of April, at 10:00 a.m. or as soon after that time as the motion can be heard at the courthouse, 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

Orally.

THE MOTION IS FOR AN ORDER:

1. If required, abridging the time for service and filing of this notice of motion and motion record, validating service effected, and dispensing with service thereof on any party other than the persons served;
2. Approving the First Report of the Receiver dated March 22, 2017 (the "**First Report**") and the activities and conduct of the Receiver described therein.
3. Approving the engagement of CBRE Limited by the Receiver to list and market the Properties for sale.
4. Sealing Confidential Appendices "A" through "G" to the First Report, and the unredacted copy of the motion record, until the Receiver has filed a Receiver's Certificate confirming the completion of a sale of the Properties, or further order of this court.
5. Approving the professional fees and disbursements of the Receiver from November 14, 2016 to March 10, 2017.

6. Approving the professional fees and disbursements of the Receiver's counsel from October 21, 2016 to March 21, 2017.
7. For such further and other relief as this Honourable Court should deem just.

THE GROUNDS FOR THE MOTION ARE:

- a) As set forth in the First Report;
- b) Rules 1.04, 3.02, 16.04, 16.08, 37.07(2),(3) and (4), and 41.05 of the *Rules of Civil Procedure*;
- c) Section 249 of the *Bankruptcy and Insolvency Act*; and,
- d) Such further and other grounds as counsel may advise and as this Honourable Court may permit.

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

- a) The First Report of the Receiver dated March 22, 2017 with the appendices thereto; and
- b) Such further and other evidence as counsel may advise and as this Honourable Court may permit.

DATE: March 23, 2017

J. ROSS MACFARLANE
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Lawyers for the Receiver, BDO Canada Limited

TO: **Attached Service List**

SERVICE LIST

<p>Mark Eugene Gauthier 59 Greencroft Court Kitchener, ON N2N 3H6</p> <p>Email: mkgauth@sympatico.ca</p> <p>Respondent</p>	<p>BDO Canada Limited 25 Main Street West Suite 805 Hamilton, ON L8P 1H1</p> <p>Chris Mazur Tel: (905) 524-1008 Fax: (905) 570-0249 Email: CMazur@bdo.ca</p> <p>Proposed Receiver</p>
<p>SimpsonWigle LAW LLP Barristers and Solicitors 1 Hunter Street East Suite 200 Hamilton, ON L8N 3W1</p> <p>David J. Jackson Tel: (905) 528-8411 Fax: (905) 528-9008 Email: jacksond@simpsonwigle.com</p> <p>Lawyers for the Applicant</p>	<p>Bernard Gropper Barrister and Solicitor 300 – 261 Davenport Road Toronto, ON M5R 1K3</p> <p>Bernard Gropper Tel: (416) 962-3000 Fax: (416) 487-3002 Email: bgropper@gropperlaw.com</p> <p>Lawyer for the second mortgagee, 2174217 Ontario Inc.</p>
<p>Minden Gross LLP Barristers and Solicitor 145 King Street West Suite 2200 Toronto, ON M5H 4G2</p> <p>Steven Pearlstein Tel: (416) 362-3711 Fax: (416) 864-9223 Email: spearlstein@mindengross.com</p> <p>Lawyers for the third mortgagee, Clifton Blake Capital Corp.</p>	<p>Canada Revenue Agency c/o Department of Justice The Exchange Tower 130 King Street West Suite 3400 Toronto, ON M5X 1K6</p> <p>Diane Winters Diane.Winters@justice.gc.ca</p> <p>Peter Zevenhuizen Peter.Zevenhuizen@justice.gc.ca</p> <p>Tel: (416) 973-3172 Fax: (416) 973-0810</p>

<p>Her Majesty the Queen in Right of the Province of Ontario as represented by The Ministry of Finance 33 King Street West 6th Floor Oshawa, ON L1H 1A1</p> <p>Kevin J. O'Hara Kevin.Ohara@ontario.ca</p> <p>Vicki Schnurr Vicki-Schnurr@ontario.ca</p> <p>Tel: (905) 433-6934 Fax: (905) 436-4510</p>	<p>The Guarantee Company of North America Suite 1400 4950 Yonge Street Toronto, ON M2N 6K1</p>
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 Proceeding commenced at **TORONTO**

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