

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) THURSDAY, THE 21<sup>st</sup>  
JUSTICE HAINEY ) DAY OF MARCH, 2019

BETWEEN:

**ROYAL BANK OF CANADA**

Applicant

- and -

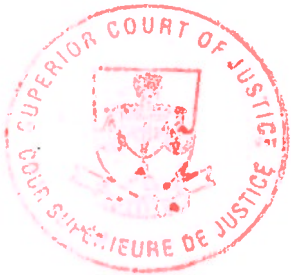
**D.M. ROBICHAUD ASSOCIATES LTD.**

Respondent

**APPLICATION UNDER SUBSECTIONS 47(1) AND 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**SECOND AMENDING ORDER  
(Interim Receiver)**

**THIS MOTION**, made by BDO Canada Limited (“**BDO**”), for, *inter alia*, an Order amending the Order of the Honourable Mr. Justice Hainey dated March 13, 2019, as previously amended by Order of the Honourable Mr. Justice Hainey dated March 15, 2019 (collectively, the “**IR Appointment Order**”) to expand the powers of BDO in its capacity as interim receiver (the “**Interim Receiver**”) of D.M. Robichaud Associates Ltd. (the “**Debtor**”), was heard this day at 330 University Avenue, Toronto, Ontario.



**ON READING** on hearing the submissions of counsel for BDO, Royal Bank of Canada, Trisura Guarantee Insurance Company and LiUNA Local 183 and no one else appearing,

1. **THIS COURT ORDERS** that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the IR Appointment Order be and hereby is amended by deleting subparagraph 2(c) in its entirety and substituting the following therefor:

“(c) April 24, 2019.”

3. **THIS COURT ORDERS** that the IR Appointment Order be and hereby is amended by deleting paragraph 13 in its entirety and substituting the following therefor:

“13. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor. The Interim Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Interim Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in subsection 14.06(1.2) of the *BIA*, other than such amounts as the Interim Receiver may specifically agree in writing to pay, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the *BIA* or under the *Wage Earner Protection Program Act*.”

4. **THIS COURT ORDERS** that the IR Appointment Order be and hereby is amended by adding the following paragraphs:

“3(d.1) to sell, convey, transfer, lease or assign the Property (but not any Property which may be held in trust by the Debtor or the Interim Receiver) or any part or parts thereof out of the ordinary course of business,

(i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and

- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (d.2) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;”

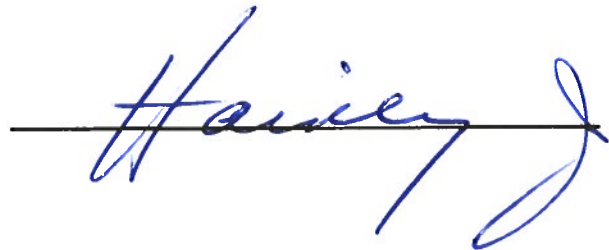
“19 (E) **THIS COURT ORDERS** that the Interim Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$150,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Interim Receiver by this Order, including interim expenditures. For greater certainty borrowings under this paragraph 19(E) and the limit on such borrowings imposed hereby shall be in addition to any existing borrowings under paragraph 19(A) hereof. The accounts receivable from the Town of Richmond Hill in connection with projects RFQ-49-15 and RFQ-89-17 (the “**Richmond Hill Receivables**”) shall be and are hereby charged by way of a fixed and specific charge (the “**Interim Receiver’s Second Borrowings Charge**”) as security for the payment of the monies borrowed pursuant to this paragraph 19(E), together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to subsections 81.4(4) and 81.6(2) of the BIA. For greater clarification, the proceeds of this additional borrowing will be used primarily to fund the completion of these two projects (which is primarily employees' Wages and Monetary Supplementary Benefits, as those terms are defined in the *Construction Act*).

19 (F) **THIS COURT ORDERS** that the Interim Receiver's Second Borrowings Charge shall not be enforced without leave of this Court."

5. **THIS COURT ORDERS** that there shall be no further borrowings after the date of this Order under paragraph 19(A) of the IR Appointment Order, until further Order of the Court.

6. **THIS COURT ORDERS** that, except for the Interim Receiver's Second Borrowings Charge as against the Richmond Hill Receivables, this Order is without prejudice to claims of any trust beneficiaries to any trust property which has been, is, or may be held by the Debtor, or the Interim Receiver.

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 Interim 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 Interim Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Interim Receiver and its agents in carrying out the terms of this Order.



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ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

MAR 22 2019

PER / PAR: *RW*

**ROYAL BANK OF CANADA**

and

**D.M. ROBICHAUD ASSOCIATES LTD.**

Applicant

Respondent

Court File No. CV-19-615922-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST  
PROCEEDING COMMENCED AT TORONTO**

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**SECOND AMENDING ORDER**

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**MINDEN GROSS LLP**  
Barristers and Solicitors  
2200 – 145 King Street West  
Toronto, ON M5H 4G2

**Raymond M. Slattery (LSO# 20479L)**  
rslattery@mindengross.com  
Tel: 416-369-4149  
Fax: 416-864-9223

Lawyers for BDO Canada Limited

(File No. 4113016)