

Court File No. CV-20-00650239-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF SECTION 243 (1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C.1985, c.B-43, AS AMENDED;**

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

BETWEEN:

THE BANK OF NOVA SCOTIA

Applicant

- and -

1854313 ONTARIO LIMITED

Respondent

**SUPPLEMENTAL TO THE FIRST REPORT OF BDO CANADA LIMITED
IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF
1854313 ONTARIO LIMITED**

JANUARY 4, 2021

I. INTRODUCTION

1. This report (the “**Supplementary Report**”) is a supplementary to the First Report of BDO Canada Limited (“**BDO**”) in its capacity as Receiver of 1854313 Ontario Limited (“**DCC**” or the “**Company**”) dated December 22, 2020 (the “**First Report**”). The Supplementary Report adopts the definitions contained in the First Report.

II. PURPOSE OF REPORT

2. The purpose of this Supplementary Report of the Receiver is to provide this Court with further information pertaining to tenant matters previously outlined in the First Report.

III. TENANT MATTERS

3. The Receiver advised the Court that certain November and December tenant rents were collected by Touchstone and that the Receiver formally requested that Touchstone turn these rents over to the Receiver as these funds relate to November/December DCC operations and the associated expenses to maintain the Premises and DCC’s operations.
4. Following the issuance of the First Report, the Receiver was forwarded a letter sent to Touchstone from Goodlife Fitness Centres Inc. (“**GoodLife**”) dated December 23, 2020, a tenant of the DCC, outlining that the November and December rental payments paid to Touchstone were done in error and that these funds should be remitted to the Receiver or refunded to GoodLife who will then remit to the Receiver. A copy of this letter is attached hereto as **Appendix “A”**.
5. On December 23, 2020, the Receiver was copied on an e-mail from Mr. Moyal to GoodLife’s General Counsel, wherein Mr. Moyal advised GoodLife that “*Touchstone has set off any received rents from expenses incurred during the management and operation of the mall when it was a mortgagee in possession*”. A copy of this e-mail is attached hereto as **Appendix “B”**.

All of which is respectfully submitted on the 4th day of January, 2021.

BDO Canada Limited
in its capacity as Court-Appointed Receiver of
1854313 Ontario Limited (o/a Downtown Chatham Centre)
and not in its personal or corporate capacity



Clark Lonergan, CPA, CA, CIRP, LIT
Senior Vice-President

APPENDIX 'A'



December 23, 2020

Touchstone Group Ltd.
c/o Moyal & Associates
8 Finch Ave West
North York, ON M2N 2H2

Attention: Matthew Moyal

Dear Mr. Moyal:

Re: GoodLife Fitness Lease at Downtown Chatham Centre

As you are aware, BDO Canada Limited (“BDO”) is the Court Appointed Receiver of 1854314 Ontario Limited, and all rents must now be paid to BDO. Due to an accounting error, GoodLife’s November and December rent payments were inadvertently remitted to Touchstone. As BDO is entitled to those funds, kindly ensure that Touchstone either remits those funds to BDO or refunds the monies to GoodLife and we will remit to BDO.

Your immediate attention to this matter is required.

Yours very truly,

GOODLIFE FITNESS CENTRES INC.

Per: Stephanie Ross
General Counsel

Cc Clark Lonergan, BDO
Frank Rapski



APPENDIX 'B'

Boettger, Adam

From: Boettger, Adam
Sent: Monday, January 04, 2021 5:20 PM
To: Boettger, Adam
Subject: [EXT] Re: GoodLife Fitness - Downtown Chatham Centre

Importance: High

From: Matthew Moyal <matthew@moyalandassociates.com>
Sent: December 23, 2020 12:58 PM
To: Ross, Stephanie <sross@goodlifefitness.com>
Cc: Lonergan, Clark <clonergan@bdo.ca>; Rapski, Frank <frapski@goodlifefitness.com>
Subject: [EXT] Re: GoodLife Fitness - Downtown Chatham Centre
Importance: High

Thank you for your email. We have advised BDO and its solicitors our client Touchstone holds a different position in part in terms of rents received.

However, despite same please be advised that we have already advised BDO that our client Touchstone has set off any received rents from expenses incurred during the management and operation of the mall when it was a mortgagee in possession.

This matter is now between BDO and Touchstone .

Regards
Matthew Moyal
lawyer for touchstone

On 2020-12-23, at 10:54 AM, Ross, Stephanie wrote:

Please see correspondence attached.

Stephanie Ross, B.A. LL.B
General Counsel

Phone: (519) 317-4717

My favourite Group Fitness Class is: RPM

GoodLife FITNESS

Purpose: To give every Canadian the opportunity to live a fit and healthy good life.

www.goodlifefitness.com

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5G5 compliance@goodlifefitness.com 1-800-387-
2524 goodlifefitness.com Unsubscribe or change subscription preferences
(<https://subscribe.goodlifefitness.com>)<Chatham - Downtown Centre - Letter
to Touchstone.pdf>