

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) ON THURSDAY, THE 9TH
) ON THURSDAY, THE ~~12TH~~ DAY
)
M_r _____ JUSTICE) OF ~~JUNE~~, 2025
) JULY
J KRAWCHENKO

B E T W E E N:

CAISSE DESJARDINS ONTARIO CREDIT UNION INC.

Applicant

- and -



12905060 CANADA INC., 1000373090 ONTARIO INC.,
14611799 CANADA INC., 14833074 CANADA INC.,
14825641 CANADA INC., 12631521 CANADA INC.,
1000593693 ONTARIO INC. and NELS MOXNESS

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION made by BDO Canada Limited in its capacity as the Court-appointed as Receiver and Manager (in such capacities, the "**Receiver**"), without security, of all the assets, undertakings, and properties of 12905060 Canada Inc. ("**129**"), 1000373090 Ontario Inc. ("**10003**"), 14611799 Canada Inc. ("**146**"), 14833074 Canada Inc. ("**1483**"), 14825641 Canada Inc. ("**1482**"), 12631521 Canada Inc. ("**126**") and 1000593693 Ontario Inc. ("**10005**") (collectively the "**Debtors**") for an Order, amongst other things, approving the terms of the two separate sales transactions described in the First Report of the Receiver, dated June 3rd 2025 (the "**First Report**") was heard this day by judicial video conference, ZOOM, at the Courthouse at 45 Main Street, Hamilton, Ontario.

ON READING the First Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although served ~~as appears~~ from the Affidavit of _____ sworn _____, 2025, filed:

1. **THIS COURT ORDERS** that that the time for service of the Receiver's Notice of Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction (the "**Pelham Sale Transaction**") is hereby approved, and the execution of the agreement of purchase and sale (the "**Pelham APS**") for 55 Pelham Road, St. Catharines, Ontario (the "**Pelham Property**") 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 Pelham Sale Transaction and for the conveyance of the Pelham Property to Jacqueline Kutlesa (the "**Pelham Purchaser**")
3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Pelham Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's rights, title and interest in and to the Pelham Property described in the Pelham APS [and listed on Schedule B hereto] shall vest absolutely in the Pelham 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 Justice Spurgeon dated March 27th, 2025; (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) 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 Pelham Property are hereby expunged and discharged as against the Pelham Property.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for Niagara North (St. Catharines) of an Application for Vesting Order in the form prescribed by the Land Titles Act, the Land Registrar is hereby directed to enter the Pelham Purchaser as the owner of the subject real property identified in Schedule B (Pelham Property) hereto in fee simple, and is hereby directed to delete and expunge from title to the Pelham Property all of the Claims listed in Schedule C hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Pelham Property shall stand in the place and stead of the Pelham 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 Pelham Property with the same priority as they had with respect to the Pelham Property immediately prior to the sale, as if the Pelham 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.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. **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 the Debtor and any bankruptcy order issued pursuant to any such applications; and

c. any assignment in bankruptcy made in respect of the Debtor;

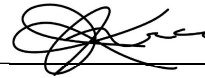
the vesting of the Pelham Property in the Pelham Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, 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.

8. **THIS COURT ORDERS AND DECLARES** that the Pelham Sale Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

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.

10. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order without the need for entry or filing.

A handwritten signature in black ink, appearing to be 'K. Lee', is written above a horizontal line.

Issued and entered electronically by

Local Registrar
45 Main St East
Hamilton, ON
L8N 2B7

Schedule "A"

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Spurgeon, of the Ontario Superior Court of Justice (the "Court") dated March 27, 2025, BDO Canada Ltd was appointed as the receiver (the "Receiver") of the undertaking, property and assets of 12905060 Canada Inc. ("**129**"), 1000373090 Ontario Inc. ("**10003**"), 14611799 Canada Inc. ("**146**"), 14833074 Canada Inc. ("**1483**"), 14825641 Canada Inc. ("**1482**"), 12631521 Canada Inc. ("**126**") and 1000593693 Ontario Inc. ("**10005**") (collectively the "**Debtors**").

B. Pursuant to an Order of the Court dated [DATE], the Court approved the Pelham APS made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Pelham Purchaser") and provided for the vesting in the Pelham Purchaser of the Debtor's right, title and interest in and to the Pelham Property, which vesting is to be effective with respect to the Pelham Property upon the delivery by the Receiver to the Pelham Purchaser of a certificate confirming (i) the payment by the Pelham Purchaser of the Purchase Price for the Pelham Property; (ii) that the conditions to Closing as set out in section • of the Pelham APS have been satisfied or waived by the Receiver and the Pelham Purchaser; and (iii) the Pelham Sale 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 Pelham APS.

THE RECEIVER CERTIFIES the following:

1. The Pelham Purchaser has paid and the Receiver has received the Purchase Price for the Pelham Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section ● of the Sale Agreement have been satisfied or waived by the Receiver and the Pelham 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 LTD., in its capacity as Receiver
of the undertaking, property and assets of the
Debtors, and not in its personal capacity

Per:

Name:

Title:

Schedule “B” – Pelham Property (Purchased Assets)

MUNICIPAL ADDRESS: 55 Pelham Rd., St. Catharines, Ontario, L2S 1R5

LRO: 30

DESCRIPTION: LT 1990 CP PL 2 GRANTHAM; ST. CATHARINES

PIN: 46172-0104 (LT)

“Schedule C” – Claims to be deleted and expunged from title to Pelham Property

1. A mortgage/charge registered on April 21st, 2023, as Instrument No. NR640079 by 14825641 Canada Inc. as Chargor and Caisse Desjardins Ontario Credit Union Inc. as Chargee
2. A Notice for Assignment of Rent General registered on April 21st, 2023, as Instrument No. NR640080 from 14825641 Canada Inc. as Chargor and Caisse Desjardins Ontario Credit Union Inc

Schedule “D” – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property
(unaffected by the Vesting Order)

**CAISSE DESJARDINS ONTARIO CREDIT UNION
INC.**

Applicant

-and-

12905060 CANADA INC. et al.
Respondents

Court File No.: CV-25-00089291-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
HAMILTON

APPROVAL AND VESTING ORDER

SPEPPER ZEITZ KLAIMAN PC
Barristers & Solicitors
100 Sheppard Avenue East, Suite 850
Toronto, Ontario M2N 6N5

JASON D. SPETTER
LSO No. 46105S
Tel: 416-789-0652
Fax: 416-789-9015
Email: jspetter@szklaw.ca

Lawyers for the Receiver,
BDO Canada Limited