

Court File No. CV-23-00700033-00CL

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

THE HONOURABLE MR.) MONDAY, THE 22ND DAY
JUSTICE PENNY) OF JANUARY, 2024

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

7132221 CANADA INC.

Respondent

APPLICATION UNDER SECTION 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

ORDER

**(Approval of Activities and Professional Fees,
Distribution and Discharge of Receiver)**

THIS MOTION, made by BDO Canada Limited (“**BDO**”), in its capacity as Court-appointed receiver (the “**Receiver**”) of the assets, undertakings and properties of the Respondent, 7132221 Canada Inc. (the “**Debtor**”), for an order,

- (a) to the extent necessary, abridging or waiving the time for service and filing of this Notice of Motion and all materials filed in support thereof, validating

the method of service, and dispensing with further service so that this motion is properly returnable on January 22, 2024;

- (b) approving the Second Report to the Court of the Receiver dated January 10, 2024 (the “**Report**”) and the activities and actions of the Receiver described therein;
- (c) approving the Receiver’s Statement of Receipts and Disbursements as set out in the Report;
- (d) approving the professional fees of the Receiver and its legal counsel, including the fee accruals to complete the administration of the receivership (the “**Professional Fees**”);
- (e) approving the distributions to Bank of Montreal (“**BMO**”) and BDC Capital Inc. (“**BDCC**”) on account of their secured claims as set out in the Report;
- (f) approving the assignment to BMO of the WPT Litigation Receivable, as defined in the Report;
- (g) authorizing the Receiver to assign the Debtor into bankruptcy and to transfer \$16,950 from the receivership estate account to the bankruptcy trustee to fund the costs of same;
- (h) subject to the Receiver completing the Remaining Matters, as defined in the Report, and filing a certificate of completion with the Court, discharging the Receiver as receiver of the assets, undertakings and properties of the

Debtor and releasing BDO from any and all liability, save and except for any gross negligence or willful misconduct on the Receiver's part; and

- (i) such further and other relief as counsel may advise and this Honourable Court may deem just;

was heard this day by videoconference.

ON READING the Report and on hearing the submissions of counsel for the Receiver, BMO, BDCC and such other counsel that were present as listed on the participant information sheet, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for and method of service of the Notice of Motion and the Motion Record are hereby abridged and validated, as necessary, and hereby dispenses with further service thereof so that this motion is properly returnable today.
2. THIS COURT ORDERS that the Report and the activities and actions of the Receiver described therein are hereby approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.
3. THIS COURT ORDERS that the Statement of Receipts and Disbursements as set out in the Report be and the same is hereby approved.
4. THIS COURT ORDERS that the Professional Fees of the Receiver and its legal counsel, Miller Thomson LLP, as described in the fee affidavits of Neil Jones sworn

January 9, 2024 attached as Appendix G to the Report and Michael Prosia sworn January 10, 2024 attached as Appendix H to the Report, including the fee accruals described in the Report, be and the same are hereby approved.

5. THIS COURT ORDERS that subject to the payment of the Accrued Obligations, as defined in the Report, establishment of the reserves for the potential priority payable amounts as described in the Report, the transfer of \$16,950 from the receivership estate account to the bankruptcy trustee of the Debtor and payment of the Professional Fees and other residual costs and expenses incurred in the administration of the receivership estate, the Receiver is authorized and directed to distribute the remaining funds in the receivership estate as follows:

- (a) \$93,750 to BDCC in respect of its secured claim; and
- (b) the remainder to BMO in respect of its secured claim, but not to exceed the amount of its secured claim.

6. THIS COURT ORDERS that the Receiver shall be authorized to assign to BMO in respect of its secured claim all right, title and interest of the Debtor in and to the WPT Litigation Receivable, as defined in the Report.

7. THIS COURT ORDERS that the Receiver shall be authorized to assign the Debtor into bankruptcy and to execute on behalf of the Debtor all documents required to do so.

8. THIS COURT ORDERS that the Receiver shall be authorized to transfer to the bankruptcy trustee of the Debtor \$16,950 from the receivership estate account to fund the costs of the bankruptcy.

9. THIS COURT ORDERS that upon the Receiver filing with the Court a certificate in the form attached as Schedule A to this Order, the Receiver shall be discharged as Receiver of the assets, undertakings and properties of the Debtor provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of BDO in its capacity as Receiver.

10. THIS COURT ORDERS AND DECLARES that BDO is hereby released and discharged from any and all liability that BDO now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of BDO while acting in its capacity as Receiver herein, save and except for any gross negligence or willful misconduct on the Receiver's part. Without limiting the generality of the foregoing, BDO is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or willful misconduct on the Receiver's part.

11. 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.



Justice, Ontario Superior Court of Justice

SCHEDULE A

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DISCHARGE CERTIFICATE

BDO Canada Limited, as Receiver, hereby certifies that the Remaining Matters, as defined in the Second Report of the Receiver to the Court dated January 10, 2024 have been completed and that it has completed the administration of the receivership estate.

Dated this ____ day of _____, 202_.

BDO Canada Limited., the Court appointed Receiver of the assets, undertakings and properties of 7132221 Canada Inc.

Per:

Neil Jones

BANK OF MONTREAL 7132221 CANADA INC.
Applicant and Respondent

Court File No. CV-23-00700033-00CL

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

Proceeding commenced at TORONTO

**ORDER
(APPROVAL OF ACTIVITIES AND
PROFESSIONAL FEES, DISTRIBUTION AND
DISCHARGE)**

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Court-appointed Receiver of the assets,
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Canada Inc.**