ONTARIO

Superior Court of Justice / Cour supérieure de justice

Select Court Address

at **80 Dundas Street, London, ON**

(Court office address)

Court File Number/
Numéro de dossier du greffe
CV-24-00002090-0000

Endorsement/ Inscription

Plaintiff/Applicant Requérant(e):	DOUGLAS JOSEPH EDWARD HARDY and FRANCES JANET HARDY	☐ Present/ Comparaît
Counsel/ Avocat(e):	Mitchell C. Brown / Michael Ng	☒ Present/ Comparaît
Email/ Courriel:		

Defendant/ Respondent Intimé(e)	ROBERT RANDALL HAWKEN AND AMSARAL HOLDINGS INC.	☐ Present/ Comparaît
Counsel/ Avocat(e):	Todd Storms – not appearing	☐ Present/ Comparaît
Email/ Courriel:		
Defendant/ Respondent Intimé(e)	CHERYL HAWKEN	☐ Present/ Comparaît
Counsel/ Avocat(e):	Rod Refcio – Mr. Chapman – not on record – advises in process Of limited retainer	☒ Present/ Comparaît
Email/ Courriel:		
Receiver :	BDO CANADA LIMITED	☒ Present/ Comparaît
Counsel/ Avocat(e):	Bart Sarsh / Terrance (Yuan) Li	☒ Present/ Comparaît
Email/ Courriel:		

14-Aug-2026

JUSTICE Tranquilli

Event type/ Type d'événement: *Choose from the menu or enter the event type manually*

☐ In-person/ comparution en personne
☒ Videoconference/ vidéoconférence
☐ Audioconference/ Audioconférence
☐ In writing/ par écrit

ENDORSEMENT/ INSCRIPTION

ALSO APPEARING:

1. Ms. Dale, A – intervenor, Arc Financial Planning Group Ltd.

2. Counsel for other interested parties also appearing: Mr. Smith, S (Collins, Campbell and Lippold); Ms. Stafford for Mr. McKeigan (Kilbourne, Trott, Walmsley, Brown), D., Mr. Raikes (Novakowski), A; Ms. Shabo, A. (GMS Mortgage)

This civil matter arises from an investment fraud discovered in 2024 regarding the defendant principal's operation of the "Dufferin Financial Group" and which is the subject of a criminal proceeding. There is parallel civil litigation by several aggrieved investors, all of whom also follow this proceeding, wherein these plaintiff investors caused a receiver to be appointed, amongst other relief sought and provided to date. Receiver was appointed by order of Gorman J. dated March 21, 2025 to oversee the sale of three real properties – two in London and one in Grand Bend. The London properties are sold. The defendants apparently reside in the Grand Bend property.

Before the court today are:

1. Receiver's motion for approval of the First Report, sealing order re confidential appendices regarding the sale of the Grand Bend property, approval of the interim receipts and disbursements, fees, release of holdback funds, approval of the Grand Bend sale on terms including vacant possession within 45 days, discharge of a mortgage in favour if the Nowakowskis and approval of the claims process.

2. Intervenor's motion by Arc Financial Planning Group for standing to obtain court approval of an asset purchase proposal.

3. Defendant Cheryl Hawken's request through Mr. Refcio's office (not formally retained but advises of a limited scope retainer) for an adjournment/terms to permit her to remain in possession of Grand Bend property pending the sale process and with a view to making an offer for the property.

Mr. Hawken does not appear although counsel was served. Court is told his counsel, who does not appear, takes no position on the relief sought.

Receiver, these plaintiffs and all interested parties vigorously oppose the adjournment request. Court was also not persuaded an adjournment or other terms of accommodation for Ms. Hawken in respect of the Grand Bend property were reasonable at this stage in the process. These investors have been waiting for relief since 2024 and these plaintiffs are elderly and should not have to wait any longer.

This property has long been the subject of an intended sale in the 2025 order and should be no surprise. While this motion may have commenced in early July, it was not out of the blue, but simply the latest step taken further to the appointment of the receiver. The process and goals have been clearly identified since the outset. The property must be listed without delay and I am satisfied that vacant possession is necessary to ensure a reasonably efficient process.

It is unclear how a realistic purchase proposal would be made in the face of the Mareva injunctions issued, which would require variation. In any event, there is nothing preventing this defendant from otherwise making efforts to vary the necessary orders with a view to making a competitive offer for the property when this is listed by the receiver.

The receiver's motion, as amended on certain terms regarding the Novakowski mortgage (discharge after sale, with fund distribution to be either the subject of a settlement or motion), is otherwise unopposed. The record amply justifies the relief sought and the amended order reviewed by counsel with the court. Motion is granted and draft order signed.

Arc Financial seeks to essentially complete an asset purchase that was in process with the defendant principal of Dufferin Financial before the fraud issues arose. The subjects of the asset purchase are excluded from those under the receiver's oversight. The interested parties either take no position or consent. Certain of the assets were already transferred to the intervenor by Canada Life after these fraud issues arose. The Receiver has not been involved in this transaction so as to provide its approval or opinion on the calculation of the purchase price but does not oppose the relief sought.

I am satisfied it is just and appropriate for Arc Financial to have standing and for approval of the asset purchase. The materials outline the basis for the arms-length purchase price (quantum and mechanism), which also reflects some adjustments and a modest increase to the lump sum payment after discussions amongst the parties. The structure of the transaction as a lump sum is reasonable because it provides certainty and the adjustment to price also reflects the risks assumed by the purchaser given the delay since this purchase was first negotiated and the discovery of the intervening frauds. The transfer is in the interest of affected clients and sale proceeds will be directed to the Receiver.

Draft ancillary order, claims process order and approval and vesting order signed.

☐ Order to go in accordance with minutes of settlement or consent filed./ Ordonnance conformément au procès-verbal de l'audience de transaction ou le consentement déposé.

Next attendance/ prochaine comparution:
☐ In person/ comparution en personne,
☐ Videoconference/ vidéoconférence,
☐ Audioconference/ audioconférence
☐ Interpreter required/ interprète nécessaire :

Additional details, if any/ Détails supplémentaires, le cas échéant:

R Tranquilli J

Signature