

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

THE HONOURABLE

)

TUESDAY, THE 5th

JUSTICE OSBORNE

)

DAY OF MARCH, 2024

)

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

9052526 CANADA INC.

Respondent

APPLICATION UNDER SUBSECTION 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.43, AS AMENDED

DISCHARGE ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as the Court-appointed receiver (the "**Receiver**"), of all of the undertakings, properties and assets of 9052526 Canada Inc. (the "**Debtor**"), for an order, *inter alia*:

- (a) approving the second report of the Receiver dated February 23, 2024 (the "**Second Report**") and the activities of the Receiver detailed therein;

- (b) approving the fees and disbursements of the Receiver and its legal counsel;
- (c) approving the distribution of the remaining proceeds available in the estate of the Debtor;
- (d) discharging BDO Canada Limited as Receiver of the undertaking, property and assets of the Debtor); and
- (e) releasing BDO Canada Limited from any and all liability, as set out in paragraph 6 of this Order,

was heard this day by judicial videoconference at the Courthouse at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report, the affidavits of the Receiver and its counsel as to the fees attached as Appendix “J” and Appendix “K” to the Second Report, respectively (collectively, the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Receiver, The Toronto-Dominion Bank, and such other counsel and parties as listed on the Attendance Slip, no one else appearing although served as appears from the Affidavit of Amanda Adamo sworn February 23, 2024;

1. **THIS COURT ORDERS** that the time for service of the Second Report and the motion record in respect of this motion is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.
2. **THIS COURT ORDERS** that the Second Report and the activities of the Receiver set out 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 fees and disbursements of the Receiver and its counsel, including the accruals to complete the Final Activities (*as defined in the Second Report*), as set out in the Second Report and the Fee Affidavits, are hereby approved.

4. **THIS COURT ORDERS** that, after payment of the fees and disbursements herein approved, the Receiver shall pay the monies remaining in its hands to the Toronto-Dominion Bank.

5. **THIS COURT ORDERS** that upon payment of the amounts set out in paragraph 4 hereof, and upon the Receiver filing a certificate substantially in the form appended hereto as Schedule "A" certifying that it has completed the other remaining activities described in the Second Report (the "**Discharge Certificate**"), Receiver shall be discharged as Receiver of the undertaking, property and assets 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 Canada Limited, in its capacity as Receiver

6. **THIS COURT ORDERS AND DECLARES** that BDO Canada Limited is hereby released and discharged from any and all liability that BDO Canada Limited now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of BDO Canada Limited while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, BDO Canada Limited 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 wilful misconduct on the Receiver's part.

7. **THIS COURT ORDERS** that this order is effective from today's date and is enforceable without the need for entry and filing.

SCHEDULE "A"

Court File No. CV-21-00667820-00CL

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Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
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DISCHARGE CERTIFICATE

RECITALS

A. Pursuant to Orders of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated September 20, 2021 and October 18, 2022, BDO Canada Limited was appointed as the receiver (the "**Receiver**") of all of the undertaking, property and assets of 9052526 Canada Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated March 5, 2024 (the "**Discharge Order**"), the Court approved the discharge of the Receiver effective upon the filing by the Receiver of a certificate confirming: (i) the payment of approved professional fees and disbursements; (ii) the payment of residual funds in the Debtor's estate to the Applicant, The Toronto-Dominion Bank; and, (iii) the completion of the remaining activities to complete its administration, as set out in the Second Report to Court of the Receiver dated February 23, 2024 (the "**Final Activities**").

THE RECEIVER CERTIFIES the following:

1. the Receiver has paid all approved professional fees and disbursements;
2. the Receiver has effected the final distribution to The Toronto-Dominion Bank; and
3. the Receiver has completed the Final Activities.

THIS CERTIFICATE was executed by the Receiver on _____, 2024

BDO CANADA LIMITED, solely in its capacity as Court-appointed Receiver of all of the undertaking, property and assets of 9052526 Canada Inc. and not in any personal, corporate or other capacity

Per: _____
Name:
Title:

THE TORONTO-DOMINION BANK
Applicant

-and-

9052526 CANADA INC.
Respondent

APPLICATION UNDER SUBSECTION 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

Court File No. CV-21-00667820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

Proceedings commenced at **TORONTO**

DISCHARGE ORDER

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