

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

B E T W E E N:

BENJAMIN KAY, ISER KAY and JACK KAY

Plaintiffs

- and -

**DIRECT CAPITAL INVESTMENTS INC. in its personal capacity and in its
capacity as a trustee for the Plaintiffs, DIRECT MORTGAGE INC.,
PAGONAS PAPADOGAMBROS, STEPHEN FREEDMAN, 2589504
ONTARIO INC., NO. 16 HOSPITALITY LTD., GEORGE
PAPADOGAMBROS, HARRY CHRISTAKIS, SPRINGOS LAW,
ANGELOS PRINGOS, GARFINCLE BIDERMAN LLP and BARRY
POLISUK**

Defendants

**PROCEEDING UNDER SECTION 243 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**

**MOTION RECORD OF THE RECEIVER BDO CANADA LIMITED
(SALE APPROVAL AND VESTING ORDER
RETURNABLE SEPTEMBER 16, 2022)**

VOLUME I OF II

September 13, 2022

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Lawyers for BDO Canada Limited,
in its capacity as Court-appointed Receiver

TO: SERVICE LIST

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SUPERIOR COURT OF JUSTICE
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TAB 1

Court File No. CV-21-00660400-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

BENJAMIN KAY, ISER KAY and JACK KAY

Plaintiff

- and -

**DIRECT CAPITAL INVESTMENTS INC. in its personal capacity and in its
capacity as trustee of a trust for the Plaintiffs, DIRECT MORTGAGE INC.,
PAGONAS PAPADOGAMBROS, STEPHEN FREEDMAN, 2589504
ONTARIO INC., NO. 16 HOSPITALITY LTD., GEORGE
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Defendants

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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****

NOTICE OF MOTION

(Receiver's Motion for Sale Approval and Vesting Order)

BDO Canada Limited (“**BDO**”), in its capacity as the Court-appointed receiver of all of the assets, undertakings and property of 2589504 Ontario Inc. (“**258 Ontario**” or the “**Debtor**”), acquired for, or used in relation to a business carried on by it (in such capacity, the “**Receiver**”), will make a motion to a Judge presiding over the Commercial list on September 16, 2022 at 12:00 p.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The Motion is to be heard by judicial video conference via Zoom co-ordinates to be provided to the Service List prior to the motion date.

THE MOTION IS FOR AN ORDER:

1. abridging the time for service of the Receiver's Motion Record and related Notice of Motion, validating service of the Motion Record and related Notice of Motion, and dispensing with further service thereof;
2. approving the Receiver's first report dated September 13, 2022 (the "**First Report**"), the Receiver's Confidential Supplemental Report to the First Report dated September 13, 2022 (the "**Confidential Report**"), and the activities and proposed activities described therein;
3. approving a purchase and sale agreement (the "**Sale Agreement**") in respect of the property municipally known as 100 Sheppard Avenue West, Toronto, Ontario (the "**Real Property**"), dated August 18, 2022, which the receiver accepted on August 23, 2022, subject to Court Approval;
4. authorizing the Receiver to complete the transaction contemplated in the Sale Agreement (the "**Transaction**"), and authorizing the Receiver to execute all other ancillary documents and agreements required to complete the Transaction;
5. pending the completion of the Transaction, or until further Order of the Court, sealing the Confidential Report consisting of (the "**Confidential Information**"):
 - i. the Appraisal for the Real Property;
 - ii. an un-redacted copy of the Sale Agreement;
 - iii. the Receiver's summary of realtor listing proposals for the Real Property; and
 - iv. the Receiver's summary of offers received for the Real Property;

6. vesting in the purchaser under the Sale Agreement (the “**Purchaser**”) all right, title and interest in and to the Real Property, free and clear of encumbrances, other than permitted encumbrances;
7. amending the Order of Justice Cavanagh made June 15, 2022 (the “**Appointment Order**”) to include a term allowing the Receiver to file an assignment in bankruptcy for 258 Ontario naming Grant Thornton Limited (“**GTL**”) as trustee in bankruptcy, if and only if the Receiver is directed to file such an assignment by way of Court Order;
8. approving and accepting the Receiver’s Interim Statement of Receipts and Disbursements from June 15, 2022 (the date of the Receiver’s appointment) to September 8, 2022, as set out in Appendix VIII to the First Report;
9. approving the fees and disbursements of the Receiver for the period from May 9, 2022 to September 9, 2022, as set out in Appendix IX of the First Report and the fees and disbursements of the Receiver’s counsel, Blaney McMurtry LLP (“**Blaneys**”), for the period from May 30, 2022 to August 31, 2022, as set out in Appendix X to the First Report;
10. approving a distribution from the net surplus proceeds from the Transaction to 258 Ontario’s senior secured creditor Equitable Bank (“**Equitable**”) in full satisfaction of 258 Ontario’s outstanding indebtedness to Equitable (approximately \$4,085,961.11 as of September 6, 2022);
11. subject to a reasonable reserve until the Receiver’s discharge, and following the payment of priority payables, if any, and the above distribution to Equitable, approving a distribution of the remaining net surplus proceeds from the Transaction, and all other funds recovered by the Receiver in this proceeding, to 258 Ontario’s subordinate secured creditor Direct

Capital Investments Inc. (“**DCI**”) in partial satisfaction of 258’s outstanding indebtedness to the Plaintiffs herein;

12. declaring that any payments to be made by the Receiver to DCI instead be paid to GTL in its capacity as trustee and mortgage administrator of the Plaintiffs’ interests in their loan to 258 Ontario;
13. following the closing of the Transaction, and subject to completing any outstanding matters in the receivership of 258 Ontario, discharging BDO as Receiver of the assets, undertakings and properties of 258 Ontario and releasing the Receiver from any and all liability that BDO now has or may hereafter have by reason of, or in any way arising out of its acts and omissions while acting in its capacity as Receiver; and
14. such further and other relief as counsel may advise and this Honourable Court deems just.

THE GROUNDS FOR THIS MOTION ARE:

Background

1. 258 Ontario is the owner of the Real Property. Harry Christakis (“**Christakis**”) and George Papadogambros (“**Papadogambros**”) are the directors and officers of 258 Ontario;
2. by way of Order made December 24, 2021 (the “**Trustee and Administrator Order**”), GTL was appointed as trustee and mortgage administrator of the interests of the Plaintiffs Benjamin Kay, Iser Kay and Jack Kay (collectively, the “**Kays**”) for a loan they had made to 258 Ontario (the “**Kay Loan**”), secured by, among other things, a mortgage over the Real Property in the name of the administrator of the Kay Loan, DCI (the “**DCI Mortgage**”);

3. on April 19, 2022, the DCI Mortgage was transferred to GTL;
4. by way of the Appointment Order, on application by GTL in its capacity as Court-appointed Trustee and Administrator, BDO was appointed as the receiver, without security, of all the assets, undertakings and properties of 258 Ontario acquired for, or used in relation to a business carried on by 258 Ontario, including the Real Property, and all proceeds thereof;
5. the Real Property is 258 Ontario's only asset of significance. It is a multi-tenant three-story commercial property, with approximately 10,000 square feet of rentable space and 14 parking spaces, located just west of the intersection of Yonge and Sheppard in Toronto, Ontario. At the time of the Appointment Order, there were five tenants identified;
6. the Real Property is subject to a first ranking mortgage, granted in favour of Equitable as security for a mortgage loan extended by Equitable to 258 Ontario, registered on title on February 24, 2020, in the principal amount of \$4,000,000.00 (the "**Equitable Mortgage**");
7. the obligations of 258 Ontario to Equitable, including costs, fees and interest charges to September 6, 2022, total approximately \$4,085,961.11, and are reflected in the Equitable payout statement attached as Appendix V to the First Report. The per diem rate is \$589.83 (the "**Equitable Indebtedness**");
8. the second ranking DCI Mortgage, in the principal amount of \$2,100,000.00, was registered on title on March 14, 2018;
9. by way of a Postponement of Interest registered on title on February 25, 2020, the DCI Mortgage was subordinated to the Equitable Mortgage;

10. the obligations of 258 Ontario to the Kays, including costs and interest charges to September 7, 2022, total approximately \$3,415,920.00, and are reflected in a payout statement attached as Appendix VII to the First Report. The per diem rate is \$933.55 (the “**Kay Indebtedness**”);
11. the Real Property is also subject to a third ranking mortgage, granted in favour of 2413974 Ontario Inc. (“**241 Ontario**”) as security for certain mortgage loans extended by 241 Ontario to 258 Ontario, registered on title on October 15, 2021, in the principal amount of \$457,500.00 (the “**241 Mortgage**”);
12. there will be insufficient proceeds from the Transaction to pay out the Kay Loan in full, let alone make any distribution under the 241 Mortgage;

The Marketing and Sale Process

13. the Appointment Order authorizes the Receiver to market any or all of the Real Property, and negotiate terms and conditions of sale and to sell, convey, transfer or assign the Real Property or any part or parts thereof;
14. the Receiver requested and obtained listing proposals for the Real Property from three national qualified and experienced real estate brokers (including CBRE Limited, Real Estate Brokerage (“**CBRE**”));
15. the Receiver and CBRE entered into a listing agreement on August 3, 2022, and on August 4, 2022, CBRE listed the Real Property for sale at a list price of \$5,688,000;
16. four offers were received for the Real Property, with the highest one an unconditional offer made on August 18, 2022, by 1000105943 Ontario Limited (“**943 Ontario**”), whose principal is related to one of the two principals of 258 (the “**943 Offer**”);

17. on August 23, 2022, and subject to Court approval, the Receiver accepted the 943 Offer;
18. some of the significant terms of the 943 Offer include:
 - i. the Real Property is being sold “as is, where is” with no representations or warranties provided by the Receiver;
 - ii. a non-refundable deposit of \$400,000 paid on acceptance of the offer, that is being held by CBRE;
 - iii. the sale is subject to Court approval and issuance of a vesting order; and
 - iv. the closing date is 30 days following the issuance of the vesting order.
19. the purchase price for the Real Property is as set out in the unredacted copy of the Sale Agreement, which is set out at **Confidential Appendix “I”**, and subject to a request for sealing Order;
20. the Receiver commissioned a property appraisal from Altus Group Limited (the “**Appraisal**”). The purchase price in the Sale Agreement is consistent with the appraised value in the Appraisal;
21. the Receiver recommends that this Court approve the Transaction for the following reasons:
 - i. CBRE undertook a thorough marketing process for the Real Property, including receipt of over 22 Confidentiality Agreements, conducting over 10 tours with interested parties and receipt of four formal offers;
 - ii. 943 Ontario has provided a substantial non-refundable deposit;
 - iii. the accepted offer from 943 Ontario represents the highest and best offer received;

- iv. the Transaction is commercially reasonable;
 - v. completion of the Transaction is in accordance with the mandate of the Receiver to realize on the Real Property of 258 Ontario; and
 - vi. Equitable, as the first mortgage holder, and GTL in its capacity as Trustee over the Kay Loan secured by the DCI Mortgage, were kept apprised by the Receiver of the marketing and sale efforts, and are in favour of proceeding with the Transaction, notwithstanding that the Kays will suffer a shortfall on their indebtedness;
22. the Receiver is of the view that the marketing and sale process was conducted in a manner that: (i) was fair to all who participated in it; (ii) maintained appropriate confidentiality and a level playing field for all potential and actual bidders; and (iii) resulted in the best and highest offer for the Real Property;
23. no information has come to the Receiver's attention which indicates that a better result could have been achieved;

Proposed Distribution

24. based upon the proceeds from the sale of the Real Property there will be sufficient funds to repay the Equitable Indebtedness in full. In addition, barring any unforeseen priority payables coming to light, and subject to a reasonable reserve until its discharge, the Receiver anticipates surplus proceeds available for partial payment towards the Kay Indebtedness. However, there will be insufficient funds to payout the DCI Mortgage in full, and none to remit to the third mortgagee;
25. the Receiver engaged Blaneys to provide a legal opinion on the validity and enforceability of the security held by Equitable and DCI over 258, including the Real Property. The

opinion confirms that the Equitable Mortgage is in first priority, the DCI Mortgage is in second priority, and are both valid and enforceable in accordance with their terms. In addition, the DCI personal property security is in second place behind Equitable's personal property security. The Blaneys security opinions are attached as Appendix IV and VI to the First Report;

Bankruptcy of 258 Ontario

26. the lawyers for GTL, Chaitons LLP, advised Blaney that GTL intends to bring a motion for an Order directing the Receiver to assign 258 Ontario into bankruptcy, with GTL to act as trustee in bankruptcy of 258 Ontario. However, the Appointment Order does not provide the Receiver with that power;
27. as a result, the Appointment Order needs to be varied to allow for 258 Ontario to be assigned into bankruptcy, only if so directed to do by Court Order and only on motion by GTL;

Receipts and Disbursements

28. the Interim Statement of Receipts and Disbursements of the Receiver attached as Appendix VIII to the First Report is a fair and accurate representation of the funds received and disbursed directly by the Receiver since the Appointment Order herein. It sets out actual receipts over disbursements of approximately \$54,890.33;

Professional Fees

29. the Receiver has retained Blaneys as its counsel for legal matters that have arisen in respect of the Receivership;

30. the fees and disbursements of the Receiver and of Blaneys that are sought to be approved on this motion are fair and reasonable in the circumstances;

Sealing Order

31. if made public, the Confidential Information could potentially negatively impact the sale value of the Real Property if the Transaction does not close;
32. the salutary effects of sealing the Confidential Information outweigh the deleterious effects of doing so;
33. section 249 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B.3;
34. Rules 2.03, 3.02, 37 and 41.05 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194;
and
35. such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED ON THE HEARING OF THE MOTION:

1. the First Report of the Receiver dated September 13, 2022;
2. the Confidential Supplemental Report to the First Report dated September 13, 2022; and
3. such further and other grounds as counsel may advise and this Honourable Court may permit.

September 13, 2022

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Lawyers for BDO Canada Limited,
in its capacity as Court-appointed
Receiver

TO: SERVICE LIST

BENJAMIN KAY, et al.
Plaintiffs

and

Court File No. CV-21-00660400-00CL
DIRECT CAPITAL INVESTMENTS INC. et al.
Defendants

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

Proceeding commenced at Toronto

**NOTICE OF MOTION
(Receiver's Motion for Sale Approval and Vesting Order)**

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Lawyers for BDO Canada Limited,
in its capacity as Court-appointed Receiver

TAB 2

Court File No. CV-21-00660400-00CL

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

BETWEEN:

BENJAMIN KAY, ISER KAY and JACK KAY

Applicants

- and -

DIRECT CAPITAL INVESTMENTS INC. in its personal capacity and in its capacity as trustee of a trust for the Plaintiffs, DIRECT MORTGAGE INC., PAGONAS PAPADOGAMBROS, STEPHEN FREEDMAN, 2589504 ONTARIO INC., NO. 16 HOSPITALITY LTD., GEORGE PAPADOGAMBROS, HARRY CHRISTAKIS, SPRINGOS LAW, ANGELOS SPRINGOS, GARFINKLE BIDERMAN LLP and BARRY POLISUK

Respondents

**FIRST REPORT TO THE COURT
SUBMITTED BY BDO CANADA LIMITED,
IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF
2589504 ONTARIO INC.**

September 13, 2022

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INTRODUCTION AND PURPOSE OF REPORT

Introduction

1. By Order of the Honourable Mr. Justice Cavanagh of the Ontario Superior Court of Justice (the “**Court**”) dated June 15, 2022 (the “**Appointment Order**”), BDO Canada Limited (“**BDO**”) was appointed as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”) of the assets, undertakings and properties of 2589504 Ontario Inc. (“**258**” or the “**Company**”), pursuant to the application made by Grant Thornton Limited (“**GTL**”) in its capacity as Trustee over the investment of Benjamin Kay, Iser Kay and Jack Kay (collectively the “**Kays**”) in the property owned by 258. A copy of the Appointment Order is attached as **Appendix “I”**.
2. 258 is an Ontario corporation with its registered head office located in Toronto, Ontario and is the registered owner of the real property municipally known as 100 Sheppard Avenue West, North York, Ontario (the “**Real Property**”). The Real Property is a commercial building consisting of three floors with leased office space. Harry Christakis (“**Christakis**”) and George Papadogambros (“**Papadogambros**”) are the directors and officers of 258.
3. By way of court order dated December 24, 2021 (the “**Trustee and Administrator Order**”), GTL was appointed as trustee and mortgage administrator of the interests of the Kays for a loan they had made to 258 (the “**Kay Loan**”), secured by, among other things, a mortgage over the Real Property in the name of the administrator of the Kay Loan, Direct Capital Investments Inc. (“**DCI**”) (the “**DCI Mortgage**”).
4. On April 19, 2022, the DCI Mortgage was transferred to GTL.
5. The Real Property is subject to a first ranking mortgage granted in favour of Equitable Bank (“**Equitable**”) as security for a mortgage loan extended by Equitable to 258. As of June 2, 2022, 258 was indebted to Equitable in the aggregate amount of approximately \$4,012,976.75.
6. The DCI Mortgage is the second ranking mortgage over the Real Property. As of June 2, 2022, 258 was indebted to the Kays in the aggregate amount of approximately \$3,210,580.
7. A third ranking mortgage is registered against the Real Property in favour of 2413974 Ontario Inc. (“**241**”) in the principal amount of \$457,500.

8. The Appointment Order empowered and authorized, but did not obligate the Receiver to, among other things:
 - i. Take possession of and exercise control over the Real Property and any and all proceeds, receipts and disbursements arising out of or from the Real Property;
 - ii. Market the Real Property on such terms and conditions of sale as the Receiver deems appropriate;
 - iii. Sell, convey, transfer, lease or assign the Real Property;
 - iv. Apply for any vesting order or other orders necessary to convey the Real Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Real Property; and
 - v. Report to, meet and discuss with such affected Persons (as defined in the Appointment Order), as the Receiver deems appropriate on all matters relating to the Real Property and the receivership proceedings.
9. This first report of the Receiver dated September 13, 2022 (the “**First Report**”), and other court materials and orders issued and filed in these receivership proceedings, are available on the Receiver’s case website at: <http://www.bdo.ca/en-ca/extranets/2589504>.
10. The Receiver has also prepared and filed with the Court, subject to a request for sealing Order, a Confidential Supplemental Report to the First Report dated September 13, 2022 (the “**Confidential Supplemental Report**”), which should be read by the Court in conjunction with this First Report and will assist the Court in considering the relief being sought by the Receiver herein.

Purpose of this Report

11. The purpose of this First Report is to update the Court on the Receiver’s activities following its appointment and is filed in support of the Receiver’s motion for the following Orders:
 - a) Approving the sale transaction contemplated by the Purchase and Sale Agreement for the Real Property (the “**Sale Agreement**”) between the Receiver as vendor and 1000105943 Ontario Inc. (“**943 Ontario**”) as purchaser (the “**Purchaser**”), entered

into on August 23, 2022 (subject to Court approval), and authorizing the Receiver to complete the transaction contemplated therein (the “**Transaction**”);

- b) Approving the Receiver’s execution of the Sale Agreement and authorizing the Receiver to execute all other ancillary documents and agreements required to complete the Transaction;
- c) Providing that upon delivery by the Receiver to 943 Ontario of a Receiver’s Certificate (as defined in the draft Sale Approval and Vesting Order) and thereby completing the Transaction, 258’s right, title and interest, if any, in and to the Real Property shall vest in and to 943 Ontario, free and clear of all encumbrances, except for any permitted encumbrances, easements or restrictive covenants as set out in Schedule “C” of the draft Sale Approval and Vesting Order;
- d) Until the completion of the Transaction or until further Order of this Court, sealing the Confidential Supplemental Report and the appendices thereto, which contain commercially sensitive information, and which are comprised of the following:
 - (i) Appraisal of the Real Property;
 - (ii) Summary of realtor listing proposals received;
 - (iii) Summary of offers received; and
 - (iv) The unredacted Sale Agreement.
- e) Approving this First Report, the Confidential Supplemental Report and the conduct and actions of the Receiver to date;
- f) Amending the Appointment Order to allow for GTL to assign the Company into bankruptcy, and for GTL to act as trustee in bankruptcy of the Company;
- g) Approving the fees and disbursements of the Receiver and its legal counsel, Blaney McMurtry LLP (“**Blaney**”), as outlined herein and detailed in the supporting fee affidavits appended hereto;

- h) Approving a distribution of the net proceeds from the Transaction to 258's senior secured creditor Equitable in full satisfaction of 258's outstanding indebtedness to Equitable;
- i) Subject to a reasonable reserve until the Receiver's discharge, and following the above distribution to Equitable, approving a distribution of surplus proceeds, if any, from the Transaction and any other funds recovered by the Receiver in this proceeding, to GTL on account of 258's outstanding indebtedness to the Kays;
- j) Approving the interim statement of operational receipts and disbursements of 258 from the date of the Receiver's appointment to September 8, 2022 (the "**Interim R&D**");
- k) Subject to completing any remaining outstanding matters, following closing of the Transaction, discharging BDO as Receiver of the assets, undertakings and properties of the Company;
- l) Releasing the Receiver from any and all liability that BDO now has or may hereafter have by reason of, or in any way arising out of its acts and omissions while acting in its capacity as Receiver; and
- m) Authorizing such further and other relief as counsel may advise and this Honourable Court may permit.

Scope and Terms of Reference

12. The First Report has been prepared for the use of this Court and the Company's stakeholders as general information relating to the Company and to assist the Court in making a determination on whether to grant the relief sought herein. Accordingly, the reader is cautioned that this First Report may not be appropriate for any other purpose. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this First Report for a purpose different than set out in this paragraph.
13. Except as otherwise described in this First Report:

- (a) The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
- (b) The Receiver has not conducted an examination or review of any financial forecast and projections in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.

Accordingly, the Receiver expresses no opinion or other form of assurance with respect to such information except as expressly stated herein

14. Unless otherwise stated, all monetary amounts contained in this First Report are expressed in Canadian dollars.

ACTIVITIES OF THE RECEIVER

15. Since its appointment, the Receiver has, *inter alia*:
- a) served the Appointment Order upon Papadogambros and demanded that he deliver the books and records of the Company to the Receiver;
 - b) attended the Real Property and met with Papadogambros and the tenants;
 - c) served the Appointment Order on the tenants and advised them to direct future rent payments to the Receiver;
 - d) undertaken a cursory review of the tenant leases;
 - e) engaged Richmond Advisory Services (“RAS”) as property manager for the Real Property;
 - f) changed locks and secured unoccupied units;
 - g) notified the existing insurer, suppliers and utilities and arranged for appropriate coverage to continue;
 - h) conducted regular site visits;

- i) prepared and mailed statutory notices pursuant to sections 245 and 246 of the *Bankruptcy and Insolvency Act* (“**BIA**”);
- j) communicated with the bookkeeper of the Company, on numerous occasions, for an update on, among other things, status of the complete books and records and the filing of outstanding Harmonized Sales (“**HST**”) Tax and other statutory returns for 258;
- k) communicated with Canada Revenue Agency (“**CRA**”);
- l) arranged and held discussions with realtors for the proposed marketing and sale of the Real Property;
- m) entered into a 6-month listing agreement with CBRE (as defined herein) to market the Real Property for sale;
- n) engaged Altus Group Limited (“**Altus**”) to prepare an appraisal of the Real Property;
- o) received, reviewed, and discussed findings of the Real Property appraisal with Altus;
- p) reviewed and negotiated offers received on the Real Property and strategized with the retained realtor;
- q) requested Blaney’s to prepare security opinions; and
- r) communicated and kept the stakeholders apprised of marketing efforts and interest in the Real Property.

THE REAL PROPERTY

16. The Real Property is the only known and identified tangible asset of 258.
17. As previously mentioned, the Real Property is a commercial building that consists of three floors above grade, and one floor slightly below grade. The Real Property has approximately 10,000 square feet of leasable office space and 14 parking spaces.

18. At the time of the Appointment Order, the tenants identified by Papadogambros were: i) HCA Architecture Inc. , ii) No. 16 Hospitality Inc. (“**No. 16**”), iii) Monica Kim, CPA, iv) MZ Naturopathic Mgt Ltd. and v) Choisun Consulting (“**Choisun**”).
19. HCA Architecture Inc. is owned and operated by Christakis.
20. No. 16 Hospitality is owned and operated by Papadogambros.
21. Papadogambros initially identified Choisun as a tenant, however, after repeated attempts by the Receiver to engage with Choisun and attorn rent, it was acknowledged that Choisun was no longer a tenant. Accordingly, the Receiver secured the unit previously occupied by Choisun.
22. A list of the current tenants, the unit they occupy and monthly gross rent amounts, as identified by the Receiver, are as follows:

Tenant	Unit	Gross Rent
HCA Architecture Inc.	100	\$ 7,940.85
No.16 Hopitality Inc.	116	\$ 9,472.28
Monica Kim, CPA	201	\$ 5,296.26
MZ Naturopathic Mgt Ltd.	202	\$ 1,698.01

23. To date, the Receiver has collected and deposited \$66,285.93 in rent from the tenants, inclusive of HST.

MARKETING AND SALES PROCESS

24. Upon its appointment, the Receiver commissioned a property appraisal from Altus (the “**Appraisal**”). A copy of the Appraisal is attached to the Confidential Supplemental Report.
25. In addition, the Receiver requested and obtained three listing proposals from Avison Young Commercial Real Estate Services, LP, Brokerage, CBRE Limited, Real Estate Brokerage (“**CBRE**”) and Colliers MaCaulay Nicholls Inc. (“**Colliers**”) for the Real Property. A summary of the listing proposals is attached to the Confidential Supplemental Report.
26. The Receiver engaged in further discussions with all the realtors regarding listing price, broker commissions and, in the case of Colliers, previous marketing and sale efforts in respect of the Real Property.

27. On August 3, 2022, the Receiver entered into a listing agreement with CBRE. CBRE is a large national real estate services company and is familiar and experienced with commercial properties in the area, as well as Court-Appointed receivership sales. The Real Property was listed at \$5,688,000. Attached as **Appendix “II”** is a copy of the listing agreement.
28. CBRE immediately started marketing the Real Property, which marketing activities included the following:
- i. Posting the listing with the Toronto Real Estate Board and on the Multiple Listing Service;
 - ii. Engaging in a digital campaign through the use of various social media outlets, email campaigns and website creation;
 - iii. posting and promoting the Real Property to over 13,000 industry contacts;
 - iv. Print media;
 - v. Posting external “For Sale” signage on the Real Property;
 - vi. Cold calling; and
 - vii. Engaging in discussion with and providing property tours to interested parties.
29. CBRE reported initial interest in the Real Property to be strong, but eventually slowed down, as is normal with a new listing. The detailed activity reports of CBRE are attached to the Confidential Supplemental Report.
30. CBRE presented the Receiver with a total of four formal offers for the Real Property:

Company	Date Offer Received
1000105943 Ontario Inc.	August 18, 2022
Corner Capital Corp.	August 15, 2022
1000071618 Ontario Inc.	August 15, 2022
GO 10M Corp.	August 23, 2022

A summary of the offers is attached to the Confidential Supplemental Report. CBRE reported other interested parties, however, their valuations were far below listing price and the parties chose not to submit formal Purchase and Sale Agreements.

31. The principal of 943 Ontario is Jim Papadogambros, a party related to Papadogambros.
32. The Receiver had instructed CBRE to negotiate with Corner Capital Corp. (“**Corner**”), advise it had received a superior offer with no conditions and requested that Corner come back with their final and best offer.
33. Corner advised they required two vacant floors for their own use and were not confident that they would be able to materially improve their offer.
34. After further discussions with stakeholders, on August 23, 2022, the Receiver accepted 943 Ontario’s Purchase and Sale Agreement (the “**Sale Agreement**”). A redacted copy of the Sale Agreement is attached as **Appendix “III”**. An unredacted copy of the Sale Agreement is attached to the Confidential Supplemental Report. Significant terms of the Sale Agreement include:
 - i. the Real Property is being sold “as is, where is” with no representations or warranties provided by the Receiver;
 - ii. a non-refundable deposit of \$400,000 was paid on acceptance of the offer and is being held by CBRE;
 - iii. the sale is subject to Court approval and issuance of a vesting order; and
 - iv. the closing date is 30 days following the issuance of the approval and vesting order.
35. The Receiver recommends that this Court approve the Transaction for the following reasons:
 - i. CBRE undertook a thorough marketing process for the Real Property, including receipt of over 22 Confidentiality Agreements, conducting over 10 tours with interested parties and receipt of four formal offers;
 - ii. 943 Ontario has provided a substantial non-refundable deposit;
 - iii. The accepted offer from 943 Ontario represents the highest and best offer received;
 - iv. The Transaction is commercially reasonable;
 - v. Completion of the Transaction is in accordance with the mandate of the Receiver to realize on the Real Property of 258; and

- vi. Equitable, as the first mortgage holder, and GTL in its capacity as Trustee over the investment of the Kays as the second mortgage holder, were kept apprised by the Receiver of the marketing and sale efforts, and are in favour of proceeding with the Transaction, notwithstanding that the Kays will suffer a shortfall on the Kay Loan.
36. The Receiver is of the view that the marketing and sales process was conducted in a manner that: (i) was fair to all who participated in it; (ii) maintained appropriate confidentiality and a level playing field for all potential and actual bidders; and (iii) resulted in the best and highest offer for the Real Property.
37. No information has come to the Receiver's attention which indicates that a better result could have been achieved.

PRIORITY PAYABLES

38. Upon taking possession, the Receiver identified that the Company's last HST filing was for the period ending September 30, 2019. The Company was in a refund Input Tax Credit ("ITC") position at the time.
39. Additionally, the Company's bookkeeper, Total Balance Accounting Services ("TBAS"), operating out of No. 16's unit, advised the Receiver that 258's books were incomplete and the reason why statutory filings were not up to date.
40. TBAS advised the HST filing and other statutory filings were behind due to the Company's books and records being incomplete. TBAS reported "*waiting for invoices from the law firm*" and "*Working on reconciling 2022 and waiting for a few bills and invoices*" as reasons for the deficient records.
41. TBAS advised they were working on bringing the accounting up to date to enable the filing of the outstanding HST returns. TBAS subsequently filed HST returns for the period up to and ending on December 31, 2021 with a reported \$56,217.90 in refundable ITC's.
42. CRA is holding these ITC's as the Company continues to be behind in its corporate income tax filings and HST filings. The Receiver has been attempting to work with the Company's bookkeeper to bring the HST and corporate tax filings up to date.
43. The Receiver has requested on numerous occasions, from TBAS and 258, the updated accounting records and QuickBooks electronic accounting datafiles, so that it may file the

necessary statutory returns. As of the date of this First Report, TBAS and 258 have ignored the Receiver's requests.

44. Currently the Receiver is unable to determine the Company's exposure, if any, for HST.
45. 258 did not have employees or maintain a source deduction account with CRA. The Receiver has confirmed this with CRA.
46. Finally, the Receiver is in receipt of a property tax account statement, dated August 16, 2022, which reports the municipal property tax owing by 258 at the time totalling \$442.95. Additionally, a final installment due September 1, 2022 of \$6,080.81 has gone unpaid. Accordingly, the total estimated municipal property tax arrears are \$6,523.76, plus accruing interest (the "**Property Tax Arrears**" and with HST, the "**Priority Payables**").
47. The Receiver has yet to quantify the full extent of the Priority Payables and continues to work with the Company's bookkeeper and CRA to do so as expeditiously as possible and shall pay the same in advance of any final distribution(s) to GTL and the Receiver's discharge.

SECURED CREDITORS, SECURITY OPINION(S) AND PROPOSED DISTRIBUTIONS

48. The Company's first ranking secured creditor is Equitable.
49. The Receiver engaged its legal counsel, Blaney, to undertake a security review of Equitable's security and to provide a legal opinion on the validity and enforceability of the security held by Equitable. Blaney has advised the Receiver that subject to the usual qualifications and assumptions, it is of the opinion that the security granted by 258 in favour of Equitable creates a valid security interest enforceable in accordance with its terms. A copy of Blaney's security opinion regarding the Equitable security is attached as **Appendix "IV"**.
50. The obligations of 258 to Equitable, including costs, fees, and interest charges to September 6, 2022, total approximately \$4,085,961.11 (with a reported per diem rate of \$589.83) (the "**Equitable Indebtedness**"), and are reflected in a statement provided to the Receiver attached as **Appendix "V"**.
51. Additionally, the Receiver engaged Blaney to undertake a security review of DCI's security and to provide a legal opinion on the validity and enforceability of the security held by the Kays. Blaney has advised the Receiver that subject to the usual qualifications and assumptions, it is of the opinion that the security granted by 258 in favour of DCI creates a

valid security interest and enforceable in accordance with its terms and is subordinated to Equitable. A copy of Blaney's security opinion regarding DCI's security is attached as **Appendix "VI"**.

52. The obligations of 258 to the Kays, including costs and interest charges to September 7, 2022, total approximately \$3,415,920.00 (with a reported per diem rate of \$933.55) (the "**Kays' Indebtedness**"), and are reflected in a statement provided to the Receiver attached as **Appendix "VII"**.
53. The Receiver has not requested a legal opinion on the security held by 241, given that the Receiver believes there will be a significant shortfall to the Kays.
54. Based upon the proceeds from the sale of the Real Property there will be sufficient funds to repay in full the Equitable Indebtedness. In addition, barring any unforeseen priority payables coming to light, and subject to a reasonable reserve until its discharge, the Receiver anticipates surplus proceeds available for a partial payment towards the Kays' Indebtedness.
55. Accordingly, the Receiver requests permission of the Court to distribute to Equitable out of the net sale proceeds following closing of the Transaction, the amount required to satisfy the Equitable Indebtedness in full, including interest and costs to the date of closing of the Transaction.
56. Subject to a reasonable reserve until its discharge, the Receiver also requests permission of the Court to distribute to GTL a partial payment in respect of the Kays' Indebtedness, after payment by the Receiver of Priority Payables, payment of the Equitable Indebtedness, outstanding operating costs incurred during the Receiver's appointment and after payment of the Receiver's fees and disbursements and the legal fees and disbursements of the Receiver's legal counsel.

BANKRUPTCY OF 2589504 ONTARIO INC.

57. The lawyers for GTL, Chaitons LLP, advised Blaney that GTL intends to bring a motion for an Order directing the Receiver to assign the Company into bankruptcy, with GTL to act as trustee in bankruptcy of the Company. However, the Appointment Order does not provide the Receiver with that power. As a result, the Appointment Order needs to be varied to allow for the Company to be assigned into bankruptcy, only if so directed to do by Court Order and only on motion by GTL.

INTERIM STATEMENT OF OPERATIONAL RECEIPTS AND DISBURSEMENTS

58. Attached as **Appendix “VIII”** is a summary of the interim operational receipts and disbursements associate with the rental and management of the Real Property during the receivership proceedings (“**Interim R&D**”). As the Transaction has not closed, the Interim R&D report is limited to the receipts and disbursements from the date of the Receiver’s appointment to September 8, 2022.
59. The Receiver is seeking the Court’s approval of the Interim R&D.

PROFESSIONAL FEES

60. Pursuant to paragraph 17 of the Appointment Order, any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees and disbursements of the Receiver and the fees and disbursements of the Receiver’s legal counsel, Blaney’s, constitute part of the “Receiver’s Charge”. The fees and disbursements of the Receiver for the period May 9, 2022 to September 9, 2022 are detailed in the affidavit of Peter Naumis sworn September 9, 2022, a copy of which is attached hereto as **Appendix “IX”**. The fees and disbursements of Blaney’s for the period of May 30, 2022 to August 31, 2022 are detailed in the affidavit of Chad Kopach sworn September 9, 2022, a copy of which is attached as **Appendix “X”**.
61. The detailed narratives contained in the invoices provide a fair and accurate description of the services provided and the amounts charged by BDO as Receiver. Included with the invoices is a summary of the time charges of partners and staff, whose services are reflected in the invoices, including the total fees and hours billed.
62. The Receiver’s fees for the period May 9, 2022 to September 9, 2022 encompass 119.10 hours at an average hourly rate of approximately \$368.09 for a total of \$43,839.50 prior to disbursements of \$2,651.11 and applicable taxes. The Receiver is therefore requesting that this Honourable Court approve total fees and disbursements inclusive of applicable taxes in the amount of \$52,534.38.
63. Blaney’s fees for the period May 30, 2022 to August 31, 2022 encompass 31.8 hours at an average hourly rate of approximately \$589.31 for a total of \$18,740.00 prior to disbursements of \$589.31 and applicable taxes. The Receiver is therefore requesting that this Honourable Court approve Blaney’s total fees and disbursements inclusive of applicable taxes in the amount of \$21,469.74

64. The Receiver respectfully submits that the Receiver's fees and disbursements, and Blaney's fees and disbursements, are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the Appointment Order.
65. Further, the Receiver and its legal counsel estimate they will incur additional fees and disbursements to complete the administration of the receivership proceeding, including but not limited to:
 - i. Drafted and finalizing this First Report and the Confidential Supplemental Report;
 - ii. Attending Court on September 16, 2022 in respect of the approval of the Transaction and this First Report;
 - iii. Monitoring the Real Property and continuing to collect rent from the tenants until the Transaction is completed;
 - iv. Completing the Transaction;
 - v. Working with TBAS to finalizing all outstanding statutory returns, including pre-receivership HST, and collecting any refundable taxes owing;
 - vi. Determining and paying and Priority Payables;
 - vii. Filing the Receiver's HST returns to completion of this administration and follow up for receipt of any input tax credits;
 - viii. Filing the Receiver's final report with the Office of the Superintendent of Bankruptcy;
 - ix. Distributing the surplus funds in the Receiver's hands to Equitable and the Kays;
 - x. Potentially assigning the Company into bankruptcy;
 - xi. A further Court attendance forthwith following Closing to deal with any remaining outstanding matters, including distributions, and a supplementary First Report for that attendance; and
 - xii. Filing its discharge certificate to conclude its mandate.

The additional fees will be summarized in the fee affidavits to be appended to the supplementary First Report.

DISCHARGE OF THE RECEIVER

66. Upon quantifying and paying any Priority Payables and completion of the above distributions following Closing, the Receiver will have substantially completed the administration of the receivership, subject to the residual matters set out below.
67. The Receiver therefore respectfully requests that the receivership proceedings then be terminated, and the Receiver be discharged, subject to the Receiver performing the following:
 - i. Completing the Transaction;
 - ii. Payment of a fee accrual of the Receiver and Counsel, together with any final estate expenses;
 - iii. If so directed by the Court, assigning the Company into bankruptcy;
 - iv. Distributing the funds in the Receiver's hands;
 - v. Filing HST returns up to the Receiver's discharge;
 - vi. Issuing the Receiver's final report and statement of receipts and disbursements pursuant to section 246(3) of the BIA; and
 - vii. Such further and other administrative and ancillary matters as may be necessary to complete the administration of the Receivership estate.
68. Upon completion of the above noted items (collectively defined as the "**Remaining Activities**"), the Receiver will file a certificate with the Court confirming same (the "**Receiver's Certificate**"), whereupon the termination of the receivership proceedings and the discharge of the Receiver, and the accompanying release of the Receiver, would become effective.

RECOMMENDATIONS

69. The Receiver recommends and respectfully requests that this Honourable Court make an Order as requested in paragraph 11 above.

All of which is respectfully submitted this 13th day of September 2022.

BDO CANADA LIMITED
in its capacity as Court-Appointed Receiver
of 2589504 Ontario Inc.
and without personal or corporate liability



Name: Peter Naumis, B. Comm., CIRP, LIT
Title: Vice President

Appendix I

Court File No. CV-21-00660400-00CL

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

THE HONOURABLE MR.)	WEDNESDAY, THE 15 TH
)	
JUSTICE CAVANAGH)	DAY OF JUNE, 2022

B E T W E E N:

BENJAMIN KAY, ISER KAY and JACK KAY

Plaintiff

- and -

**DIRECT CAPITAL INVESTMENTS INC. in its personal capacity and in its
capacity as trustee of a trust for the Plaintiffs, DIRECT MORTGAGE INC.,
PAGONAS PAPADOGAMBROS, STEPHEN FREEDMAN, 2589504
ONTARIO INC., NO. 16 HOSPITALITY LTD., GEORGE
PAPADOGAMBROS, HARRY CHRISTAKIS, SPRINGOS LAW,
ANGELOS SPRINGOS, GARFINKLE BIDERMAN LLP and BARRY
POLISUK**

Defendants

ORDER

(Appointing Receiver over 2589504 Ontario Inc.)

THIS MOTION, made by Grant Thornton Limited in its capacity as Trustee (the “**Trustee**”) over the Plaintiffs’ investments in the property owned by 2589504 Ontario Inc. (the “**Debtor**”) for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing BDO Canada Limited (“**BDO**”) as receiver (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including the

property municipally known as 100 Sheppard Avenue West, Toronto, Ontario, was heard this day by Zoom videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Benjamin Kay sworn April 15, 2022, the Affidavit of Jackson Chau sworn May 13, 2022, the Affidavit of Lynda Christodoulou sworn June 10, 2022 and the Affidavit of George Papadogambros sworn June 14, 2022 and on hearing the submissions of counsel for the Trustee, counsel for Equitable Bank, counsel for the Debtor and such other persons as are listed on the Counsel Slip, and on reading the consent of BDO to act as the Receiver,

APPOINTMENT

1. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO is hereby appointed Receiver, without security, of all the assets, undertakings and properties of the Debtor acquired for, or used in relation to the business carried on by the Debtor, and all proceeds thereof (the “**Property**”). For greater certainty, in this Order, Property includes, without limitation, the real property municipally known as 100 Sheppard Avenue W., Toronto, Ontario and bearing the legal description set out in **Schedule “A”** hereto, and all proceeds thereof.

RECEIVER’S POWERS

2. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent

security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any contracts or agreements, in connection therewith (including any amendments and modifications thereto), repudiate or disclaim any contracts or agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform, modify and/or terminate any contracts or agreements to which the Debtor is a party;
- (d) to engage contractors, tradespersons, quantity surveyors, consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, including a property manager, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order, for greater certainty, the Receiver is authorized and directed to seek proposals from real estate brokers and retain a real estate broker to market and list the property without a further order of the Court;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to market available rental units, enter into new rental agreements or renew expiring rental agreements where applicable;

- (h) to undertake any renovations and make any repairs to the Property necessary to ensure the Property is well maintained and rentable and is in compliance with the applicable laws and building codes;
- (i) to settle, extend or compromise any indebtedness owing to the Debtor;
- (j) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (k) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (l) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (m) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000.00, provided that the aggregate consideration for all such transactions does not exceed \$250,000.00; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each case notice under subsection 63(4) of the Ontario *Personal Property Security Act* and notice under section 31 of the Ontario *Mortgages Act* shall not be required;

- (n) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (o) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (p) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (q) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor and to meet with and discuss with such governmental authority and execute any agreements required in connection with or as a result of such permits, licenses, approvals or permissions (but solely in its capacity as Receiver and not in its personal or corporate capacity);
- (r) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (s) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;
- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and

any party

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

3. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel, unit holders, and shareholders, and all other persons acting on its instructions or behalf; (iii) Direct Capital Investments Inc., George Papadogambros, Pagonas Papadogambros and Direct Mortgage Inc.; and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any aspect(s) or portion(s) of the Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

4. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

5. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

6. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

7. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property, or any assets on the premises belonging to the Debtor, shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property or any assets on the premises belonging to the Debtor, are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

8. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in

respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

9. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

10. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, web hosting and website administration services, ecommerce payment processing services, centralized banking services, payroll services, insurance, transportation services, third party logistics services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

11. **THIS COURT ORDERS** that in the event an account for the supply of goods and/or services is transferred from the Debtor to the Receiver, or is otherwise established in the Receiver's name, no Person, including but not limited to a utility service provider, shall assess or

otherwise require the Receiver to post a security deposit as a condition to the transfer/establishment of the account.

RECEIVER TO HOLD FUNDS

12. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

14. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not

complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver's Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

18. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver's Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon,

in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "B"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

23. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

24. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: www.bdo.ca/en-ca/extranets/2589504.

25. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile

transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

26. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

27. **THIS COURT ORDERS** that the within proceeding in respect of the Debtor, the Receiver and the Property (the "**Receivership Proceeding**") shall immediately upon issuance of this Order be assigned a new Court file number referenced in paragraph 27 of this Order and proceed separately from this proceeding.

28. **THIS COURT ORDERS AND DIRECTS** that the title of proceedings in the Receivership Proceeding shall be as follows:

Court File No. CV-22-_____ -00CL

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

IN THE MATTER OF THE RECEIVERSHIP OF 2589504 ONTARIO INC.

**AND IN THE MATTER OF A MOTION PURSUANT TO SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. C.42 AS AMENDED**

29. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

30. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

31. **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.

32. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. **THIS COURT ORDERS** that the Trustee shall have its costs of this Motion, up to and including entry and service of this Order, provided for by the terms of the Trustee's security or, if not so provided by the Trustee's security, then on a substantial indemnity basis to be paid by the Receiver from the proceeds from the Property with such priority and at such time as this Court may determine, but not in priority to Equitable Bank's security over the Property.

34. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

A handwritten signature in blue ink, appearing to read "Cavanagh", is enclosed in a light-colored rectangular box with a thin border.

Digitally signed by
Mr. Justice Cavanagh

SCHEDULE "A"**REAL PROPERTY**

PIN: 10145-0014 (LT)

PARCEL 23-1, SECTION M389 LOT 23, & PT LOT 24 PLAN 66M389; COMMENCING AT THE SOUTHEAST ANGLE OF LOT 24; THENCE WESTERLY ALONG THE NORTH LIMIT OF SHEPPARD AVENUE, 20' MORE OR LESS TO A POINT DISTANT 30' EASTERLY FROM THE SOUTHWEST ANGLE OF SAID LOT; THENCE NORTHERLY PARALLEL TO THE WEST LIMIT OF SAID LOT, 117'8" MORE OR LESS TO THE NORTH LIMIT THEREOF; THENCE EASTERLY ALONG SAID NORTH LIMIT, 20' MORE OR LESS TO THE NORTHEAST ANGLE OF SAID LOT; THENCE SOUTHERLY ALONG THE EAST LIMIT OR SAID LOT, 117'8" MORE OR LESS TO THE PLACE OF BEGINNING. TWP OF YORK/NORTH YORK, CITY OF TORONTO

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that BDO Canada Limited the receiver and manager (the "**Receiver**") of the assets, undertakings and properties of 2589504 Ontario Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the ___ day of _____, 20__ (the "**Order**") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

BDO CANADA LIMITED solely in its capacity as court-appointed receiver, and not in its personal capacity

Per: _____
Name:
Title:

BENJAMIN KAY et. al.

-and-

DIRECT CAPITAL INVESTMENTS INC. et. al.

Plaintiffs

Defendants

Court File No. CV-21-00660400-00CL

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

PROCEEDING COMMENCED AT
TORONTO

RECEIVERSHIP ORDER

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

Maya Poliak (LSO #54100A)
Tel: (416) 218-1161
E-mail: maya@chaitons.com

**Lawyers for Grant Thornton Limited as Trustee over the
Plaintiffs' investment interest**

Appendix II



Listing Agreement - Commercial Seller Representation Agreement Authority to Offer for Sale

Form 520
for use in the Province of Ontario

This is a Multiple Listing Service® Agreement



OR

This Listing is Exclusive

EXCLUSIVE



BETWEEN:

BROKERAGE: **CBRE Limited**

2005 SHEPPARD AVE E., #800, Toronto (the "Listing Brokerage") Tel. No. (416) 494-0600

SELLER: BDO Canada Limited, in its capacity as Court Appointed Receiver of *2589504 Ontario Inc. (the "Seller")

In consideration of the Listing Brokerage listing the real property for sale known as 100 Sheppard Avenue West, Toronto, ON

..... (the "Property")
the Seller hereby gives the Listing Brokerage the **exclusive and irrevocable** right to act as the Seller's agent,

commencing at 12:01 a.m. on the day of August, 20²²

until 11:59 p.m. on the day of February, 20²³ (the "Listing Period"),

{ Seller acknowledges that the length of the Listing Period is negotiable between the Seller and the Listing Brokerage and, if an MLS® listing, may be subject to minimum requirements of the real estate board, however, in accordance with the Real Estate and Business Brokers Act, 2002, (REBBA), **if the Listing Period exceeds six months, the Listing Brokerage must obtain the Seller's initials.** }

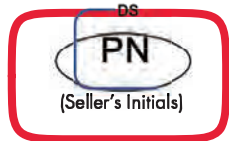


to offer the Property **for sale** at a price of:

..... **Five Million Six Hundred Eighty Eight Thousand** Dollars (\$CDN) **5,688,000.00**

and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property.

The Seller hereby represents and warrants that the Seller is not a party to any other listing agreement for the Property or agreement to pay commission to any other real estate brokerage for the sale of the property.



1. DEFINITIONS AND INTERPRETATIONS: For the purposes of this Agreement ("Authority" or "Agreement"):
"Seller" includes vendor and a "buyer" includes a purchaser or a prospective purchaser. A purchase shall be deemed to include the entering into of any agreement to exchange, or the obtaining of an option to purchase which is subsequently exercised, or the causing of a First Right of Refusal to be exercised, or an agreement to sell or transfer shares or assets. "Real property" includes real estate as defined in the Real Estate and Business Brokers Act (2002). The "Property" shall be deemed to include any part thereof or interest therein. A "real estate board" includes a real estate association. Commission shall be deemed to include other remuneration. This Agreement shall be read with all changes of gender or number required by the context. For purposes of this Agreement, anyone introduced to or shown the Property shall be deemed to include any spouse, heirs, executors, administrators, successors, assigns, related corporations and affiliated corporations. Related corporations or affiliated corporations shall include any corporation where one half or a majority of the shareholders, directors or officers of the related or affiliated corporation are the same person(s) as the shareholders, directors, or officers of the corporation introduced to or shown the Property.

2. COMMISSION: In consideration of the Listing Brokerage listing the Property for sale, the Seller agrees to pay the Listing Brokerage a commission of ⁴ % of the sale price of the Property or **3% if CBRE Listing team procures buyer with no cooperating broker.**

for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period, as may be acceptable to the Seller.

INITIALS OF LISTING BROKERAGE:

INITIALS OF SELLER(S):

a purchaser who has not retained a broker in respect of the offer, and who was introduced to the Property by CBRE during the Listing Period or shown the Property during the Listing Period by CBRE.

The Seller will have no other liability to CBRE regarding a sale during or after the Holdover Period.

The Seller authorizes the Listing Brokerage to co-operate with any other registered real estate brokerage (co-operating brokerage), and to offer to pay the co-operating brokerage a commission of2..... % of the sale price of the Property or out of the commission the Seller pays the Listing Brokerage.

The Seller further agrees to pay such commission as calculated above if an agreement to purchase is agreed to or accepted by the Seller or anyone on the Seller's behalf within180..... days after the expiration of the Listing Period (Holdover Period), so long as such agreement is with anyone who was introduced to the Property from any source whatsoever during the Listing Period or shown the Property during the Listing Period. If, however, the offer for the purchase of the Property is pursuant to a new agreement in writing to pay commission to another registered real estate brokerage, the Seller's liability for commission shall be reduced by the amount paid by the Seller under the new agreement.

The Seller further agrees to pay such commission as calculated above even if the transaction contemplated by an agreement to purchase agreed to or accepted by the Seller or anyone on the Seller's behalf is not completed, if such non-completion is owing or attributable to the Seller's default or neglect, said commission to be payable on the date set for completion of the purchase of the Property.

Any deposit in respect of any agreement where the transaction has been completed shall first be applied to reduce the commission payable. Should such amounts paid to the Listing Brokerage from the deposit or by the Seller's solicitor not be sufficient, the Seller shall be liable to pay to the Listing Brokerage on demand, any deficiency in commission and taxes owing on such commission.

In the event the buyer fails to complete the purchase and the deposit or any part thereof becomes forfeited, awarded, directed or released to the Seller, the Seller then authorizes the Listing Brokerage to retain as commission for services rendered, fifty (50%) per cent of the amount of the said deposit forfeited, awarded, directed or released to the Seller (but not to exceed the commission payable had a sale been consummated) and to pay the balance of the deposit to the Seller.

All amounts set out as commission are to be paid plus applicable taxes on such commission.

and if the purchaser was introduced to the Property during the Listing Period by CBRE or this other registered real estate brokerage,

3. REPRESENTATION: The Seller acknowledges that the Listing Brokerage has provided the Seller with written information explaining agency relationships, including information on Seller Representation, Sub-agency, Buyer Representation, Multiple Representation and Customer Service. The Seller understands that unless the Seller is otherwise informed, the co-operating brokerage is representing the interests of the buyer in the transaction. The Seller further acknowledges that the Listing Brokerage may be listing other properties that may be similar to the Seller's Property and the Seller hereby consents to the Listing Brokerage acting as an agent for more than one seller without any claim by the Seller of conflict of interest. Unless otherwise agreed in writing between Seller and Listing Brokerage, any commission payable to any other brokerage shall be paid out of the commission the Seller pays the Listing Brokerage.

The Seller hereby appoints the Listing Brokerage as the Seller's agent for the purpose of giving and receiving notices pursuant to any offer or agreement to purchase the Property.

MULTIPLE REPRESENTATION: The Seller hereby acknowledges that the Listing Brokerage may be entering into buyer representation agreements with buyers who may be interested in purchasing the Seller's Property. In the event that the Listing Brokerage has entered into or enters into a buyer representation agreement with a prospective buyer for the Seller's Property, the Listing Brokerage will obtain the Seller's written consent to represent both the Seller and the buyer for the transaction at the earliest practical opportunity and in all cases prior to any offer to purchase being submitted or presented.

The Seller understand and acknowledges that the Listing Brokerage must be impartial when representing both the Seller and the buyer and equally protect the interests of the Seller and buyer. The Seller understands and acknowledges that when representing both the Seller and the buyer, the Listing Brokerage shall have a duty of full disclosure to both the Seller and the buyer, including a requirement to disclose all factual information about the Property known to the Listing Brokerage.

However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:

- that the Seller may or will accept less than the listed price, unless otherwise instructed in writing by the Seller;
- that the buyer may or will pay more than the offered price, unless otherwise instructed in writing by the buyer;
- the motivation of or personal information about the Seller or buyer, unless otherwise instructed in writing by the party to which the information applies or unless failure to disclose would constitute fraudulent, unlawful or unethical practice;
- the price the buyer should offer or the price the Seller should accept; and
- the Listing Brokerage shall not disclose to the buyer the terms of any other offer.

However, it is understood that factual market information about comparable properties and information known to the Listing Brokerage concerning potential uses for the Property will be disclosed to both Seller and buyer to assist them to come to their own conclusions.

Where a Brokerage represents both the Seller and the Buyer (multiple representation), the Brokerage shall not be entitled or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices.

MULTIPLE REPRESENTATION AND CUSTOMER SERVICE: The Seller understands and agrees that the Listing Brokerage also provides representation and customer service to other sellers and buyers. If the Listing Brokerage represents or provides customer service to more than one seller or buyer for the same trade, the Listing Brokerage shall, in writing, at the earliest practicable opportunity and before any offer is made, inform all sellers and buyers of the nature of the Listing Brokerage's relationship to each seller and buyer.

INITIALS OF LISTING BROKERAGE:

DS
al

INITIALS OF SELLER(S):

DS
PN

- 4. REFERRAL OF ENQUIRIES:** The Seller agrees that during the Listing Period, the Seller shall advise the Listing Brokerage immediately of all enquiries from any source whatsoever, and all offers to purchase submitted to the Seller shall be immediately submitted to the Listing Brokerage by the Seller before the Seller accepts or rejects the same. If any enquiry during the Listing Period results in the Seller's accepting a valid offer to purchase during the Listing Period or within the Holdover Period after the expiration of the Listing Period described above, the Seller agrees to pay the Listing Brokerage the amount of commission set out above, payable within five (5) days following the Listing Brokerage's written demand therefor.
- 5. MARKETING:** The Seller agrees to allow the Listing Brokerage to show and permit prospective buyers to fully inspect the Property during reasonable hours and the Seller gives the Listing Brokerage the sole and exclusive right to place "For Sale" and "Sold" sign(s) upon the Property. The Seller consents to the Listing Brokerage including information in advertising that may identify the Property. The Seller further agrees that the Listing Brokerage shall have sole and exclusive authority to make all advertising decisions relating to the marketing of the Property during the Listing Period. The Seller agrees that the Listing Brokerage will not be held liable in any manner whatsoever for any acts or omissions with respect to advertising by the Listing Brokerage or any other party, other than by the Listing Brokerage's gross negligence or wilful act.
- 6. WARRANTY:** The Seller represents and warrants that the Seller has the exclusive authority and power to execute this Authority to offer the Property for sale and that the Seller has informed the Listing Brokerage of any third party interests or claims on the Property such as rights of first refusal, options, easements, mortgages, encumbrances or otherwise concerning the Property, which may affect the sale of the Property.
- 7. INDEMNIFICATION AND INSURANCE:** The Seller will not hold the Listing Brokerage and representatives of the Brokerage responsible for any loss or damage to the Property or contents occurring during the term of this Agreement caused by the Listing Brokerage or anyone else by any means, including theft, fire or vandalism, other than by the Listing Brokerage's gross negligence or wilful act. The Seller agrees to indemnify and save harmless the Listing Brokerage and representatives of the Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury, including but not limited to loss of the commission payable under this Agreement, caused or contributed to by the breach of any warranty or representation made by the Seller in this Agreement and, if attached, the accompanying data form. The Seller warrants the Property is insured, including personal liability insurance against any claims or lawsuits resulting from bodily injury or property damage to others caused in any way on or at the Property and the Seller indemnifies the Brokerage and all of its employees, representatives, salespersons and brokers (Listing Brokerage) and any co-operating brokerage and all of its employees, representatives, salespersons and brokers (co-operating brokerage) for and against any claims against the Listing Brokerage or co-operating brokerage made by anyone who attends or visits the Property.
- 8. ENVIRONMENTAL INDEMNIFICATION:** The Seller agrees to indemnify and save harmless the Listing Brokerage and representatives of the Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury as a result of the Property being affected by any contaminants or environmental problems.
- 9. FAMILY LAW ACT:** The Seller hereby warrants that spousal consent is not necessary under the provisions of the Family Law Act, R.S.O. 1990, unless the spouse of the Seller has executed the consent hereinafter provided.
- 10. FINDERS FEES:** The Seller acknowledges that the Brokerage may be receiving a finder's fee, reward and/or referral incentive, and the Seller consents to any such benefit being received and retained by the Brokerage in addition to the commission as described above.
- 11. VERIFICATION OF INFORMATION:** The Seller authorizes the Listing Brokerage to obtain any information from any regulatory authorities, governments, mortgagees or others affecting the Property and the Seller agrees to execute and deliver such further authorizations in this regard as may be reasonably required. The Seller hereby appoints the Listing Brokerage or the Listing Brokerage's authorized representative as the Seller's attorney to execute such documentation as may be necessary to effect obtaining any information as aforesaid. The Seller hereby authorizes, instructs and directs the above noted regulatory authorities, governments, mortgagees or others to release any and all information to the Listing Brokerage.
- 12. USE AND DISTRIBUTION OF INFORMATION:** The Seller consents to the collection, use and disclosure of personal information by the Brokerage for the purpose of listing and marketing the Property including, but not limited to: listing and advertising the Property using any medium including the Internet; disclosing Property information to prospective buyers, brokerages, salespersons and others who may assist in the sale of the Property; such other use of the Seller's personal information as is consistent with listing and marketing of the Property. The Seller consents, if this is an MLS® Listing, to placement of the listing information and sales information by the Brokerage into the database(s) of the MLS® System of the appropriate Board, and to the posting of any documents and other information (including, without limitation, photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions) provided by or on behalf of the Seller into the database(s) of the MLS® System of the appropriate Board. The Seller hereby indemnifies and saves harmless the Brokerage and/or any of its employees, servants, brokers or sales representatives from any and all claims, liabilities, suits, actions, losses, costs and legal fees caused by, or arising out of, or resulting from the posting of any documents or other information (including, without limitation, photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions) as aforesaid. The Seller acknowledges that the database, within the board's MLS® System is the property of the real estate board(s) and can be licensed, resold, or otherwise dealt with by the board(s). The Seller further acknowledges that the real estate board(s) may: during the term of the listing and thereafter, distribute the information in the database, within the board's MLS® System to any persons authorized to use such service which may include other brokerages, government departments, appraisers, municipal organizations and others; market the Property, at its option, in any medium, including electronic media; during the term of the listing and thereafter, compile, retain and publish any statistics including historical data within the board's MLS® System and retain, reproduce and display photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions which may be used by board members to conduct comparative analyses; and make such other use of the information as the Brokerage and/or real estate board(s) deem appropriate, in connection with the listing, marketing and

INITIALS OF LISTING BROKERAGE:

INITIALS OF SELLER(S):



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selling of real estate during the term of the listing and thereafter. The Seller acknowledges that the information, personal or otherwise ("information"), provided to the real estate board or association may be stored on databases located outside of Canada, in which case the information would be subject to the laws of the jurisdiction in which the information is located.


In the event that this Agreement expires or is cancelled or otherwise terminated and the Property is not sold, the Seller, by initialling:

consent to allow other real estate board members to contact the Seller after expiration or other termination of this Agreement to discuss listing or otherwise marketing the Property.

(Does)
 (Does Not)

- 13. SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms of this Agreement.
- 14. CONFLICT OR DISCREPANCY:** If there is any conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto, shall constitute the entire Authority from the Seller to the Brokerage. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein.
- 15. ELECTRONIC COMMUNICATION:** This Agreement and any agreements, notices or other communications contemplated thereby may be transmitted by means of electronic systems, in which case signatures shall be deemed to be original. The transmission of this Agreement by the Seller by electronic means shall be deemed to confirm the Seller has retained a true copy of the Agreement.
- 16. ELECTRONIC SIGNATURES:** If this Agreement has been signed with an electronic signature the parties hereto consent and agree to the use of such electronic signature with respect to this Agreement pursuant to the *Electronic Commerce Act, 2000, S.O. 2000, c17* as amended from time to time.
- 17. SCHEDULE(S) A & B** and data form attached hereto form(s) part of this Agreement.

THE LISTING BROKERAGE AGREES TO MARKET THE PROPERTY ON BEHALF OF THE SELLER AND REPRESENT THE SELLER IN AN ENDEAVOUR TO OBTAIN A VALID OFFER TO PURCHASE THE PROPERTY ON THE TERMS SET OUT IN THIS AGREEMENT OR ON SUCH OTHER TERMS SATISFACTORY TO THE SELLER.

DocuSigned by:  8/3/2022 Adrian Lee

(Authorized to bind the Listing Brokerage) (Date) (Name of Person Signing)

THIS AGREEMENT HAS BEEN READ AND FULLY UNDERSTOOD BY ME, I ACCEPT THE TERMS OF THIS AGREEMENT AND I ACKNOWLEDGE ON THIS DATE I HAVE SIGNED UNDER SEAL. Any representations contained herein or as shown on the accompanying data form respecting the Property are true to the best of my knowledge, information and belief.

SIGNED, SEALED AND DELIVERED I have hereunto set my hand and seal:

BDO Canada Limited, in its capacity as Court Appointed Receiver of 2589504 Ontario Inc.

(Name of Seller) Peter Naumis 8/3/2022

(Signature of Seller/Authorized Signing Officer) (Seal) (Date) (Tel. No.)

(Signature of Seller/Authorized Signing Officer) (Seal) (Date) (Tel. No.)

SPOUSAL CONSENT: The undersigned spouse of the Seller hereby consents to the listing of the Property herein pursuant to the provisions of the Family Law Act, R.S.O. 1990 and hereby agrees to execute all necessary or incidental documents to further any transaction provided for herein.

(Spouse) (Seal) (Date) (Tel. No.)

DECLARATION OF INSURANCE

The Salesperson/Broker/Broker of Record Tony Gill, Bryant Wilson, Mike Czestochowski & Evan Stewart
(Name of Salesperson/Broker/Broker of Record)

hereby declares that he/she is insured as required by REBBA.


..... (Signature(s) of Salesperson/Broker/Broker of Record)

ACKNOWLEDGEMENT
The Seller(s) hereby acknowledge that the Seller(s) fully understand the terms of this Agreement and have received a copy of

this Agreement on the 3rd day of August, 20 22
Peter Naumis 8/3/2022

(Signature of Seller) (Date)

(Signature of Seller) (Date)

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Schedule A Listing Agreement - Commercial Authority to Offer for Sale

Form 523
for use in the Province of Ontario

This Schedule is attached to and forms part of the Listing Agreement - Commercial Authority to Offer for Sale (Agreement) between:

BROKERAGE: CBRE LIMITED, and

SELLER: BDO Canada Limited, in its capacity as Court Appointed Receiver of *2589504 Ontario Inc.

for the property known as 100 Sheppard Ave W, North York, ON

..... dated the 3 day of August ~~July~~, 2022

100 Sheppard Ave W, North York, ON

PIN: 101450014

LEGAL DESCRIPTION: PARCEL 23-1, SECTION M389 LOT 23, & PT LOT 24 PLAN 66M389; COMMENCING AT THE SOUTHEAST ANGLE OF LOT 24; THENCE WESTERLY ALONG THE NORTH LIMIT OF SHEPPARD AVENUE, 20' MORE OR LESS TO A POINT DISTANT 30' EASTERLY FROM THE SOUTHWEST ANGLE OF SAID LOT; THENCE NORTHERLY PARALLEL TO THE WEST LIMIT OF SAID LOT, 117'8" MORE OR LESS TO THE NORTH LIMIT THEREOF; THENCE EASTERLY ALONG SAID NORTH LIMIT, 20' MORE OR LESS TO THE NORTHEAST ANGLE OF SAID LOT; THENCE SOUTHERLY ALONG THEEAST LIMIT OR SAID LOT, 117'8" MORE OR LESS TO THE PLACE OF BEGINNING.TWP OF YORK/NORTH YORK , CITY OF TORONTO

This form must be initialed by all parties to the Agreement.

INITIALS OF BROKERAGE:

INITIALS OF SELLERS(S):



Schedule B Listing Agreement - Commercial Authority to Offer for Sale

Form 523
for use in the Province of Ontario

This Schedule is attached to and forms part of the Listing Agreement - Commercial Authority to Offer for Sale (Agreement) between:

BROKERAGE: CBRE LIMITED, and

SELLER: BDO Canada Limited, in its capacity as Court Appointed Receiver of *2589504 Ontario Inc.

for the property known as 100 Sheppard Ave W, North York, ON

..... dated the 3 day of August , 20 22


Termination Clause:

In the event that this listing agreement is terminated as a result of 2589504 Ontario Inc. terminating the receivership proceedings, the Listing Brokerage shall be paid a termination fee of \$25,000 (inclusive of disbursements and HST) by the Seller as compensation for their time spent and expenses incurred while marketing the Property. No such fee, or any portion of any such fee payable to the Listing Brokerage, will be payable to any co-operating brokerage. No fee will be payable to the Listing Brokerage or any co-operating brokerage if the Receiver otherwise exercises prior to closing its right under any agreement of purchase and sale to terminate such agreement.

This form must be initialed by all parties to the Agreement.

INITIALS OF BROKERAGE: 

INITIALS OF SELLERS(S): 

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COMMERCIAL - SALE MLS® DATA INFORMATION FORM



MLS® LISTING # _____

FOR BOARD USE ONLY FOR A NEW LISTING OR TO BE COMPLETED FOR A RE-RUN.

Mandatory Field
All Property Types **Optional Field**
All Property Types

PROPERTY INFORMATION

ASSESSMENT ROLL NUMBER (ARN)

1 9 0 8 0 7 2 0 3 0 0 1 6 0 0

PIN

1 0 1 4 5 0 0 1 4

AREA

T o r o n t o

MUNICIPALITY

C 0 7

COMMUNITY *

I a n s i n g - W e s t g a t e

* MANDATORY IF AVAILABLE

STREET NUMBER

1 0 0

STREET NAME

S h e p p a r d

ABBREVIATION

A v e

DIR

W

APT/UNIT

POSTAL CODE

M 2 N 1 M 6

LEGAL DESCRIPTION (LOT, PLAN, CONCESSION)

Plan M389 Lot 23 Pt Lot 24

PROPERTY MANAGEMENT COMPANY

LOT FRONT ▲*

7 0 . 0 1

LOT DEPTH ▲*

1 1 7 . 0 0

LOT/BLDG/UNIT CODE ▲

Lot

Bldg

Unit

LOT SIZE CODE ▲

Feet

Acres

LOT IRREGULARITIES

* NOT MANDATORY FOR COMMERCIAL CONDO

DIRECTION/MAIN CROSS STREETS

Y o n g e S t & S h e p p a r d A v e W

MAP

MAP COL (NUMERIC)

MAP ROW (ALPHA)

▲ IF NOT APPLICABLE ENTER "0"

PRICE/DATES

◆ One of Possession Date or Possession Remarks is Mandatory

LIST PRICE

5 6 8 8 0 0 0 . 0 0

LIST PRICE CODE

NOTE: REFER TO PRICE CODES

F o r S a l e

MIN. RENTAL TERM (MONTHS)

MAX. RENTAL TERM (MONTHS)

SELLER NAME

BDO Canada Limited, in its capacity as Court Appointed Receiver of*

CONTRACT COMMENCEMENT

0 8 / / 2 0 2 2
M M D D Y Y Y Y

EXPIRY DATE

0 2 / / 2 0 2 3
M M D D Y Y Y Y

POSSESSION DATE ◆

/ / / / /
M M D D Y Y Y Y

POSSESSION REMARKS ◆

3 0 - 9 0 D a y s

TAXES

3 4 7 1 6 . 0 7

TYPE TAXES (check 1)

Annual T. & O.
 N/A T.M.I.

TAX YEAR

2 0 2 2

ASSESSMENT

ASSESSMENT YEAR

CONDO MAINTENANCE FEES (MONTHLY) *

* MANDATORY FOR COMMERCIAL & INDUSTRIAL CONDOS ONLY

FORM 590



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SELLERS INITIALS

PN

DETAILS

ZONING

Commercial Zoning (C6)

TYPE - PRIMARY (check 1)	CATEGORY (check 1)	USE (check 1)			
<input type="checkbox"/> Commercial Retail Property (Do not use for Sale of Business)	<input type="checkbox"/> Highway Commercial <input type="checkbox"/> Multi-Use <input type="checkbox"/> Retail <input type="checkbox"/> Service <input type="checkbox"/> Commercial Condo <input type="checkbox"/> Institutional*	<input type="checkbox"/> Automotive Related <input type="checkbox"/> Health & Beauty Related <input type="checkbox"/> Bank* <input type="checkbox"/> Church* <input type="checkbox"/> School* <input type="checkbox"/> Other*	<input type="checkbox"/> Hospitality/Food Related <input type="checkbox"/> Other <input type="checkbox"/> Retail Store Related <input type="checkbox"/> Service Related *uses for Institutional category only	<input type="checkbox"/> Service Related	
<input type="checkbox"/> Sale of Business	<input type="checkbox"/> With Property <input type="checkbox"/> Without Property	<input type="checkbox"/> Apparel <input type="checkbox"/> Art Gallery <input type="checkbox"/> Art Supplies <input type="checkbox"/> Automotive Related <input type="checkbox"/> Bakery <input type="checkbox"/> Banquet Hall <input type="checkbox"/> Bar/Tavern/Pub <input type="checkbox"/> Beauty Salon <input type="checkbox"/> Bed & Breakfast <input type="checkbox"/> Butcher/Meat <input type="checkbox"/> Cabins/Cottages <input type="checkbox"/> Café <input type="checkbox"/> Car Wash <input type="checkbox"/> Caterer/Cafeteria <input type="checkbox"/> Coffee/Donut Shop	<input type="checkbox"/> Coin Laundromat <input type="checkbox"/> Convenience/Variety <input type="checkbox"/> Copy/Printing <input type="checkbox"/> Crafts/Hobby <input type="checkbox"/> Dairy Products <input type="checkbox"/> Day Care <input type="checkbox"/> Delicatessen <input type="checkbox"/> Delivery/Courier <input type="checkbox"/> Distributing <input type="checkbox"/> Drugstore/Pharmacy <input type="checkbox"/> Dry Cleaning/Laundry <input type="checkbox"/> Electronics <input type="checkbox"/> Entertainment <input type="checkbox"/> Fast Food/Takeout <input type="checkbox"/> Fitness/Training	<input type="checkbox"/> Florist <input type="checkbox"/> Food Court Outlet <input type="checkbox"/> Footwear <input type="checkbox"/> Fruit/Vegetable/Market <input type="checkbox"/> Funeral Home <input type="checkbox"/> Furniture <input type="checkbox"/> Garden/Landscaping <input type="checkbox"/> Gas Station <input type="checkbox"/> Golf Course <input type="checkbox"/> Golf Driving Range <input type="checkbox"/> Gravel Pit/Quarry <input type="checkbox"/> Grocery/Supermarket <input type="checkbox"/> Hair Salon <input type="checkbox"/> Hardware/Tools <input type="checkbox"/> Home Improvement	<input type="checkbox"/> Hotel/Motel/Inn <input type="checkbox"/> Jewellery <input type="checkbox"/> Manufacturing <input type="checkbox"/> Marina <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Other <input type="checkbox"/> Pizzeria <input type="checkbox"/> Real Estate Office <input type="checkbox"/> Restaurant <input type="checkbox"/> Self Storage <input type="checkbox"/> Service Related <input type="checkbox"/> Spa/Tanning <input type="checkbox"/> Sporting Goods <input type="checkbox"/> Sports/Entertainment <input type="checkbox"/> Travel Agency <input type="checkbox"/> Wood Working
<input type="checkbox"/> Store With Apartment/Office	<input type="checkbox"/> Store With Apartment/Office				
<input type="checkbox"/> Investment	<input type="checkbox"/> Accommodation ¹ <input type="checkbox"/> Apartment ² <input type="checkbox"/> Retail <input type="checkbox"/> Industrial <input type="checkbox"/> Recreational ³ <input type="checkbox"/> Office	<input type="checkbox"/> Bed & Breakfast ¹ <input type="checkbox"/> Apts-2 To 5 Units ² <input type="checkbox"/> Golf ³	<input type="checkbox"/> Cabins/Cottages ¹ <input type="checkbox"/> Apts-6 To 12 Units ² <input type="checkbox"/> Marina ³	<input type="checkbox"/> Hotel/Motel/Inn ¹ <input type="checkbox"/> Apts-13 To 20 Units ² <input type="checkbox"/> Campground ³	<input type="checkbox"/> Other ¹ <input type="checkbox"/> Apts-Over 20 Units ² <input type="checkbox"/> Sports/Entertainment ³ <input type="checkbox"/> Other ³
		1 - uses for Accommodation only 2 - uses for Apartment only 3 - uses for Recreational only All others have no uses.			
<input checked="" type="checkbox"/> Office	<input checked="" type="checkbox"/> Office	<input type="checkbox"/> Medical/Dental	<input checked="" type="checkbox"/> Professional Office	<input type="checkbox"/> Other	
<input type="checkbox"/> Industrial	<input type="checkbox"/> Free Standing <input type="checkbox"/> Multi-Unit <input type="checkbox"/> Industrial Condo	<input type="checkbox"/> Cooler/Freezer/ Food Inspected	<input type="checkbox"/> Factory/Manufacturing <input type="checkbox"/> Laboratory	<input type="checkbox"/> Other <input type="checkbox"/> Transportation	<input type="checkbox"/> Warehouse
<input type="checkbox"/> Farm	<input type="checkbox"/> Agricultural	<input type="checkbox"/> Cash Crop <input type="checkbox"/> Dairy Products	<input type="checkbox"/> Hobby <input type="checkbox"/> Horse	<input type="checkbox"/> Livestock	<input type="checkbox"/> Other
<input type="checkbox"/> Land	<input type="checkbox"/> Raw (Outside Official Plan) <input type="checkbox"/> Designated	<input type="checkbox"/> Bush <input type="checkbox"/> Golf <input type="checkbox"/> Gravel Pit/Quarry <input type="checkbox"/> Industrial	<input type="checkbox"/> Hospitality <input type="checkbox"/> Office <input type="checkbox"/> Other	<input type="checkbox"/> Parking Lot <input type="checkbox"/> Recreational <input type="checkbox"/> Residential	<input type="checkbox"/> Restricted <input type="checkbox"/> Retail <input type="checkbox"/> Waterfront

3 FREESTANDING

Yes No

4 TOTAL AREA

9 | 8 | 3 | 5 | . | 0 | 0

4 TOTAL AREA CODE (check 1)

- Acres
- Hectares
- Square Feet
- Sq. Ft. Divisible
- Square Metres
- Sq. M. Divisible

% BUILDING

5 OFFICE/APT AREA

1 | 0 | 0

5 OFFICE/APT AREA CODE (check 1)

- Percentage
- Square Feet
- Sq. Ft. Divisible
- Square Metres
- Sq. M. Divisible

6 INDUSTRIAL AREA

6 INDUSTRIAL AREA CODE (check 1)

- Percentage
- Square Feet
- Sq. Ft. Divisible
- Square Metres
- Sq. M. Divisible

7 RETAIL AREA

7 RETAIL AREA CODE (check 1)

- Percentage
- Square Feet
- Sq. Ft. Divisible
- Square Metres
- Sq. M. Divisible



PN

APPROXIMATE AGE

- New
- 0 - 5 Years
- 6 - 15 Years
- 16 - 30 Years
- 31 - 50 Years
- 51 - 99 Years
- 100 + Years

AREA INFLUENCES

- (check 2)
- Greenbelt/Conservation
 - Major Highway
 - Public Transit
 - Recreation/Community Center
 - Skiing
 - Subways

PHYSICALLY HANDICAPPED-EQUIPPED

- Yes No

8 BASEMENT

- Yes No

UFFI (check 1)

- No
- Partially Removed
- Removed
- Yes

9 CLEAR HEIGHT

FEET INCHES

BAY SIZE

WIDTH FT IN
 LENGTH FT IN

10 SPRINKLERS (check 1)

- No
- Partial
- Yes

11 UTILITIES

- Available
- Yes
- No

VOLTS

AMPS

12 WATER (check 1)

- Municipal
- None
- Other
- Well

WATER SUPPLY TYPES

(check 1)

- Bored Well
- Cistern
- Community Well
- Drilled Well
- Dug Well
- Lake/River
- Shared Well

13 AIR CONDITIONING

(check 1)

- No
- Partial
- Yes

14 HEAT TYPE (check 1)

- Baseboard
- Elec Forced Air
- Elec Hot Water
- Fan Coil
- Gas Forced Air Closed
- Gas Forced Air Open
- Gas Hot Water
- None
- Oil Forced Air
- Oil Hot Water
- Oil Steam
- Other
- Propane Gas
- Radiant
- Solar
- Steam Radiators
- Water Radiators
- Woodburning

WASHROOMS

SHIPPING DOOR TYPES

15 TRUCK LEVEL SHIP DOORS #

DOOR HEIGHT FT IN

DOOR WIDTH FT IN

15 DOUBLE MAN SHIP DOORS #

DOOR HEIGHT FT IN

DOOR WIDTH FT IN

15 DRIVE-IN LEVEL SHIP DOORS #

DOOR HEIGHT FT IN

DOOR WIDTH FT IN

15 GRADE LEVEL SHIP DOORS #

DOOR HEIGHT FT IN

DOOR WIDTH FT IN

16 ELEVATOR (check 1)

- Freight/Public
- Freight
- None
- Public

17 GARAGE TYPE (check 1)

- Boulevard
- Covered
- Double Detached
- In/Out
- Lane
- None
- Other
- Outside/Surface
- Pay
- Plaza
- Public
- Reserved/Assigned
- Single Detached
- Street
- Underground
- Valet
- Visitor

PARKING SPACES TOTAL

NUMBER OF TRAILER PARKING SPOTS

063 OUTSIDE STORAGE

- No Yes

18 RAIL

- Available No Yes

CRANE

- No Yes

SURVEY

- No Yes

SOIL TEST (check 1)

- Construction Audit
- Construction & Environmental
- Environment Audit
- No
- Yes

19 SEWERS (check 1)

- None
- Sanitary Available
- Sanitary + Storm
- Sanitary + Storm Available
- Sanitary
- Septic Available
- Septics
- Storm
- Storm Available

COMMENTS

REMARKS FOR CLIENTS (use up to 463 characters)

1. Appear in the Brokerage Full, Client Full and Flyer Reports in TorontoMLS and are published on the Internet.
2. **REMARKS MUST RELATE DIRECTLY TO PROPERTY.**
3. **DISCLOSE POTL DETAILS & POTL MONTHLY FEES IN THIS FIELD.**

Rare Free Standing Office Building Offering Flexible Configurations. Great Opportunity for a Wide Range of Uses Including Medical. Centrally Located Offering Easy Access to TTC and Major Highways. Possibility for Future Development.

EXTRAS (use up to 240 characters)

1. Appear in the Brokerage Full, Client Full and Flyer Reports in TorontoMLS and are published on the Internet.
2. **REMARKS MUST RELATE DIRECTLY TO PROPERTY.**

COMMENTS

064

REMARKS FOR BROKERAGES (use up to 280 characters)

- 1. Appear in the Brokerage Full Report in TorontoMLS and not on the Client Reports and are not published on the Internet.
- 2. LIST ALL EQUIPMENT THAT IS RENTED, LEASED, OR LEASED TO OWN FOR THE PROPERTY INCLUDING THE DETAILS AND TERMS. REFER TO RESIDENTIAL INFORMATION CHECKLIST - RENTAL OR LEASE - FIXTURE(S)/CHATTEL(S) INCLUDED - FORM 823.
- 3. ADDITIONAL CONTACT INFORMATION IS ALLOWED ONLY IN THIS FIELD.

*2589504 Ontario Inc.

Additional Listing Agents are
 Mike Czestochowski - (416) 495 6257
 Evan Stewart - (416) 695 6205

FINANCIAL INFORMATION

20 FINANCIAL STATEMENT 21 CHATELS 22 FRANCHISE 23 DAYS OPEN HOURS OPEN 24 EMPLOYEES

Yes No Yes No Yes No One Two Three Four Five Six Seven Varies

25 SEATS 26 L.L.B.O. BUSINESS/BUILDING NAME (37 characters) TAXES EXPENSE

INSURANCE EXPENSE MANAGEMENT EXPENSE MAINTENANCE HEAT EXPENSES HYDRO EXPENSE WATER EXPENSE

OTHER EXPENSES GROSS INCOME/SALES VACANCY ALLOWANCE OPERATING EXPENSES NET INCOME BEFORE DEBT

EST. INV. VALUES AT COST COMMON AREA UPCHARGE PERCENTAGE RENT EXPENSES Actual Estimated YEAR EXPENSES

MORTGAGE COMMENTS

◆ COMPLETE ONLY IF YOU HAVE ENTERED ANY AMOUNT(S)

BROKERAGE INFORMATION

LISTING BROKERAGE OFFICE PHONE 4 1 6 - 4 9 4 - 0 6 0 0

CBRE Limited Inc. L.B. FAX NO. 4 1 6 - 4 9 4 - 6 4 3 5

BROKER 1/SALESPERSON 1 BROKER 1/SALESPERSON 1 PHONE 4 1 6 - 4 9 5 - 6 2 6 1

BROKER 2/SALESPERSON 2 BROKER 2/SALESPERSON 2 PHONE 4 1 6 - 4 9 5 - 6 2 7 8

COMMISSION TO CO-OPERATING BROKERAGE 2 %

SPIS ENERGY CERTIFICATION CERTIFICATION LEVEL

GREEN PROPERTY INFORMATION STATEMENT DISTRIBUTE TO DDF™/IDX DISTRIBUTE TO INTERNET DISPLAY ADDRESS ON INTERNET

APPOINTMENTS PERMISSION TO CONTACT LB TO ADVERTISE

OCCUPANCY (check 1) CONTACT AFTER EXPIRED HOLDOVER DAYS 1 8 0

VIRTUAL TOUR URL (100 characters)

PHOTO OPTIONS

SELLER HEREBY ACKNOWLEDGES HAVING RECEIVED A COPY OF PART 2 OF 2 OF THE LISTING AGREEMENT.

Peter Naumis

SIGNATURE _____ 3D6198C75A5F450...

SIGNATURE _____

DATE 8/3/2022

DATE _____



Appendix III

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT dated as of the 18 day of August 2022.

B E T W E E N:

**BDO CANADA LIMITED, SOLELY IN ITS CAPACITY AS
THE COURT-APPOINTED RECEIVER OF THE ASSETS,
UNDERTAKINGS AND PROPERTIES OF 2589504
ONTARIO INC.
AND NOT IN ANY PERSONAL, CORPORATE OR OTHER
CAPACITY**

(the “Vendor” or the “Receiver”)

- and –

1000105943 ONTARIO INC.

(the “Purchaser”)

WHEREAS the Vendor was appointed as Receiver of the Purchased Assets (*as defined below*) pursuant to the order of the Honourable Mr. Justice Cavanagh dated June 15, 2022 (the “**Receivership Order**”) for the purpose of, amongst other things, authorizing the Receiver to sell the Purchased Assets upon the terms and subject to the conditions set out herein;

AND WHEREAS the Purchaser offers to purchase the Purchased Assets from the Vendor upon the terms and subject to the conditions hereof, subject to, the terms of this Agreement and the approval by the Court of this Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT, in consideration of the agreements contained in this Agreement and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each of the Parties), the Parties agree as follows:

**ARTICLE 1
INTERPRETATION**

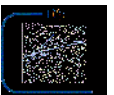
1.01 Definitions

In this Agreement, including the recitals and Schedules to this Agreement, unless something in the subject matter or context is inconsistent therewith:

- (a) “**Accounts**” means all accounts and other amounts due, owing or accruing due to either of the Debtor, including all accounts receivable, as at the Closing Time.

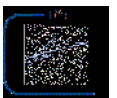
Naumis,
Peter

Digitally signed by Naumis, Peter
DN: cn=Naumis, Peter,
email=PNaumis@bdo.ca
Reason: I am approving this
document
Date: 2022.08.23 15:48:01 -04'00'



- 2 -

- (b) “**Adjustments**” means the adjustments to the Purchase Price provided for and determined pursuant to Section 2.05.
- (c) “**Agreement**” means this agreement and all amendments made to this agreement by written agreement between the Parties.
- (d) “**Approval and Vesting Order**” means an Order of the Court, approving the transaction contemplated hereby and vesting the Purchased Assets in the Purchaser on Closing, substantially in the form of the draft order attached as Schedule “B” hereto.
- (e) “**Assignment Order**” means an Order of the Court authorizing and directing the assignment to the Purchaser of the contract for which a third-party consent, approval or waiver is required, in form and substance satisfactory to the Purchaser and the Vendor, each acting reasonably.
- (f) “**Assumed Contracts**” has the meaning set out in Section 3.02.
- (g) “**Business**” means the business carried on by the Debtor, which primarily involves the operation of a rental property.
- (h) “**Business Day**” means a day other than a Saturday, Sunday or statutory holiday in the Province of Ontario.
- (i) “**Cash**” means any cash or cash equivalent on hand or in any bank account at the Closing Date.
- (j) “**Chattels**” means any equipment, furniture, machinery, plant, apparatus and fittings, inventory, supplies and other chattels located on the Lands, if any, which are owned by the Debtor and, in each case, are used exclusively in the maintenance, repair, management and operation of the Business and the Lands, as well as buildings situate on the Lands.
- (k) “**Closing**” means the completion of the purchase and sale of the Purchased Assets contemplated by Article 2 of this Agreement.
- (l) “**Closing Date**” means the Thirtieth (30th) day following the issuance of the Approval and Vesting Order by the Court or such other date as may be agreed to in writing by the Purchaser and the Vendor.
- (m) “**Closing Time**” means 5:00 p.m. (Eastern Time) on the Closing Date.
- (n) “**Contracts**” means all contracts, licenses, permits, approvals, leases, other than the Leases, and agreements which were entered into by or on behalf of the Debtor with third parties for the development, maintenance, management, operation, cleaning, security, fire protection or servicing of the Lands (including, without limitation, any contracts regarding the supply of utilities to the Lands) and all contracts for the



lease of equipment and all contracts for the supply or sale of any service or product and also includes any chose in action.

- (o) “**Court**” means the Ontario Superior Court of Justice (Commercial List).
- (p) “**Cure Costs**” means the amount required to cure all monetary defaults under any Contract that is the subject of an Assignment Order.
- (q) “**Debtor**” means 2589504 Ontario inc., as applicable.
- (r) “**Deposit**” has the meaning set out in Section 2.03.
- (s) “**Encumbrance**” means any encumbrance, lien, charge, hypothec, mortgage, pledge, title retention agreement, security interest, reservation of title, easement, right of occupation, option to buy, pre-emptive right to buy, right of first refusal or first offer, transfer restriction or any agreement to create any of the foregoing.
- (t) “**Excluded Assets**” means the following assets, property, rights and interests of the Debtor relating to the Business:
 - (i) the Rejected Contracts.
- (u) “**Execution Date**” means the date upon which this Agreement has been executed and accepted by the Vendor.
- (v) “**Existing Contracts**” means all contracts, agreements, orders, commitments, supply contracts and other engagements by or with third parties existing on the Execution Date which relate to the Business, excluding the Leases.
- (w) “**HST Legislation**” has the meaning set out in Section 2.06.
- (x) “**Interim Period**” means the period of time commencing on the date the Purchaser delivers an executed copy of this Agreement to the Vendor, up to and including the Closing Date.
- (y) “**Lands**” means the lands and buildings municipally located at 100 Sheppard Avenue West, Toronto, Ontario M2N 1M6 and legally described in Schedule “C” hereto.
- (z) “**Leases**” means, collectively, all offers to lease, agreements to lease, leases, lease amendments, renewal or extension agreements, subleases and other rights or licenses granted by or on behalf of the Debtor or the Vendor or their respective predecessors in title to possess or occupy the Lands or any part or parts thereof as of the date hereof, together with all security, guarantees and indemnities of the tenants’ obligations thereunder, in each case as amended, renewed or otherwise varied, particulars of which are set forth in Schedule “A” hereto, and all material correspondence or other agreements related thereto and “Lease” means any one of the Leases.



- (aa) “**Liability**” means any debt, loss, damage, adverse claim, fines, penalties, liability or obligation (whether direct or indirect, known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, matured or unmatured, determined or determinable, disputed or undisputed, liquidated or unliquidated, or due or to become due, and whether in or under statute, contract, tort, strict liability or otherwise), and includes all costs and expenses relating thereto (including all fees, disbursements and expenses of legal counsel, experts, engineers and consultants and costs of investigation) (collectively, “Liabilities”).
- (bb) “**Parties**” means the Purchaser and the Vendor.
- (cc) “**Permitted Assignee**” means a company to be incorporated by the Purchaser for the object of acquiring the Purchased Assets.
- (dd) “**Person**” means and includes any individual, corporation, partnership, firm, joint venture, syndicate, association, trust, government, governmental agency or board or commission or authority, and any other form of entity or organization.
- (ee) “**Purchased Assets**” means, the Debtor’s right, title and interests, if any, in and to (a) the Purchased Property; (b) the Leases; (c) the Chattels; (d) the Accounts, and (e) the Assumed Contracts (if any), but for greater certainty does not include the Excluded Assets.
- (ff) “**Purchase Documents**” means, collectively, this Agreement and all other agreements and documents executed and delivered by one or both of the Parties at the Closing.
- (gg) “**Purchase Price**” has the meaning set out in Section 2.02.
- (hh) “**Purchased Property**” means the Lands which are more particularly described in Schedule “C” hereto.
- (ii) “**Rejected Contracts**” means those Existing Contracts which the Purchaser does not wish to assume on Closing.
- (jj) “**Sunset Date**” means, 2022.
- (kk) “**Tenants**” means all Persons having a right to occupy any rentable area of the Lands pursuant to a Lease; and “**Tenant**” means any one of such Tenants.

1.02 Headings

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms “**herein**”, “**hereof**”, “**hereunder**”, “**hereto**” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion of this Agreement. Unless something in the subject matter or context is inconsistent therewith, references in this Agreement to Articles and Sections are to Articles and Sections of this Agreement.



1.03 Extended Meanings

In this Agreement, words importing the singular number only will include the plural and vice versa, words importing the masculine gender will include the feminine and neuter genders and vice versa, and words importing persons will include individuals, partnerships, limited partnerships, associations, trusts, unincorporated organizations, governments, governmental authorities, companies and corporations. The term “**including**” means “including, without limiting the generality of the foregoing,” and the term “**include**” has a corresponding meaning.

1.04 Statutory References

In this Agreement, unless something in the subject matter or context is inconsistent therewith, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

1.05 Vendor’s Capacity

The Vendor is acting solely in its capacity as the Court-appointed Receiver of the assets, undertakings and properties of the Debtor and shall have no personal or corporate liability under this Agreement. Any claim against the Vendor shall be limited to, and only enforceable against the property and assets then held by or available to the Vendor in its capacity as Receiver and shall not apply to the Vendor’s personal property and assets held by it in any other capacity. The Vendor shall have no personal or corporate liability of any kind, whether in equity, contract, tort or otherwise.

1.06 Schedules

The following schedules are attached to this Agreement and incorporated by reference and deemed to be part of this Agreement:

Schedule “A” – Leases

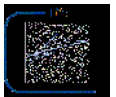
Schedule “B” – Form of Approval and Vesting Order

Schedule “C” – Legal Description of Purchased Property

ARTICLE 2 PURCHASE AND SALE OF PURCHASED ASSETS

2.01 Purchase and Sale of Purchased Assets

Upon and subject to the provisions hereof, the Vendor agrees to sell the Purchased Assets to the Purchaser, and the Purchaser agrees to purchase the Purchased Assets from the Vendor, at the Closing Time.



2.02 Purchase Price for Purchased Assets

The purchase price payable by the Purchaser to the Vendor for the Purchased Assets shall be the sum of [REDACTED] dollars. (the “**Purchase Price**”).

2.03 Payment of Purchase Price

The Purchase Price shall be paid by the Purchaser to the Vendor as follows:

- (a) subject to Sections 4.01 - 4.04, a non-refundable deposit in the amount of Four Hundred Thousand (\$400,000.00) dollars (the “**Deposit**”) by way of bank draft or wire transfer to an account specified by the Vendor within five (5) business days following the Purchaser’s execution of this Agreement; and
- (b) the balance of the Purchase Price by wire transfer to an account specified by the Vendor at or before the Closing Time.

For clarity, the Deposit payable by the Purchaser shall be retained by the Vendor whether or not the transaction contemplated by this Agreement is completed or this Agreement is terminated by either party, regardless of the reasons for such failure to complete the transaction or the termination of this Agreement, save and except for (i) the non-fulfillment of the condition contained in Section 4.01(a); (ii) the Purchaser elects to terminate this Agreement under Section 4.01(b); and (iii) the Vendor or Purchaser elects to terminate this Agreement pursuant to Section 4.02.

2.04 Allocation of Purchase Price

Not later than five (5) Business Days prior to Closing, the Purchaser shall, acting reasonably, provide to the Vendor an allocation of the Purchase Price among the Purchased Assets.

2.05 Adjustments

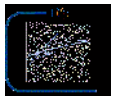
Adjustments shall be made as of the Closing Date on an accrual basis. The Vendor shall be responsible for all expenses and entitled to all revenue accrued from the Purchased Assets for that period ending on the Closing Date and thereafter the Purchaser shall be responsible for all expenses and shall be entitled to all revenue accruing from the Purchased Assets.

Adjustments shall include all realty taxes, current rents including additional rent, prepaid rents or prepaid revenue and interest thereon (if any), and interest thereon (if any), and common area cost recoveries from Tenants, and other adjustments established by the usual practice in the Province of Ontario for the purchase and sale of commercial property.

The provisions of this Section 2.05 shall survive Closing.

2.06 Harmonized Sales Tax

The Purchase Price excludes HST. The Purchaser agrees and confirms that the Purchaser will be, at the time of Closing, a registrant under Part 9 of the *Excise Tax Act* (Canada) (the “**HST Legislation**”). The Vendor and Purchaser acknowledge that the purchase by the Purchaser of the



Purchased Property is governed by the provisions of Section 221(2)(b) and 228(4)(a) of the HST Legislation. Accordingly, the Vendor has no obligation to collect HST on the Purchase Price and the Purchaser shall self-assess the HST owing in respect of the transaction of the purchase and sale contemplated by this Agreement. The Purchaser will indemnify and save harmless the Vendor in respect of any amounts, demands or claims owing or which may become owing in respect of any HST exigible on the completion of this transaction.

The Purchaser shall pay, upon the completion of the transaction contemplated by this Agreement, in addition to the Purchase Price, all applicable federal and provincial taxes exigible in connection with the Purchased Assets (collectively, "**Exigible Taxes**"). The Purchaser will indemnify and save harmless the Vendor in respect of any amounts, demands or claims owing or which may become owing in respect of any Exigible Taxes on the completion of this transaction. If requested by the Purchaser, and as applicable, the Vendor agrees to execute an election (the "**ETA Election**") pursuant to Section 167(1) of the ETA to have the sale of the Purchased Assets take place without the requirement for the collection or remittance of harmonized sales tax to the extent possible. The Purchaser agrees to file such election in accordance with the provisions of the ETA and will provide the Vendor with its undertaking to do so.

2.07 Land Transfer Tax

The Purchaser shall pay all applicable land transfer tax upon the registration of the Approval and Vesting Order in respect of the Purchased Property. Accordingly, the Vendor has and shall have no obligation or liability in respect of land transfer tax. The Purchaser will indemnify and save harmless the Vendor in respect of any amounts, demands or claims owing or which may become owing in respect of any land transfer tax exigible, assessed, in respect of, or arising out of the completion of this transaction.

2.08 Assumed Obligations

At the Closing Time, the Purchaser shall also assume and be liable for the following (collectively, the "**Assumed Obligations**"):

- (a) the Debtor's Liabilities under the Assumed Contracts;
- (b) all Liabilities and claims arising or accruing from the use of the Purchased Assets from and after the Closing; and
- (c) all Taxes arising or accruing from and after the Closing from the use of the Purchased Assets, including, without limitation, HST to be collected and remitted to Canada Revenue Agency when due.

2.09 Excluded Liabilities

Except as otherwise set out herein, the Purchaser is not assuming, and shall not be deemed to have assumed, any Liabilities of the Debtor (collectively, the "**Excluded Liabilities**"), which Excluded



Liabilities include, but are not limited to, all Liabilities and claims arising or accruing from the use of the Purchased Assets prior to the Closing (other than under the Assumed Contracts).

ARTICLE 3

ADDITIONAL BUSINESS TERMS

3.01 Insurance

The Purchaser shall arrange its own insurance in respect of the Purchased Assets on Closing and the Vendor shall not assign any insurance policies to the Purchaser.

3.02 Assumed Contracts

During the Interim Period and at least five (5) Business Days prior to the Closing Date, the Purchaser shall provide written notice to the Vendor setting out those contracts which the Purchaser has elected to assume on Closing (the “**Assumed Contracts**”), and such notice shall be deemed to be a provision contained in this Agreement. The Vendor shall terminate all Rejected Contracts on or before Closing.

On Closing, the Purchaser shall assume all Assumed Contracts and all obligations thereunder. The Assumed Contracts shall be assigned to the Purchaser on Closing pursuant to an assignment of contracts.

Nothing in this Agreement shall be construed as an agreement to assign any Contract that requires the consent, approval or waiver of any third party, unless the consent, approval or waiver required to assign such Contract has been given. In the event an assignment of Contract(s) requires third party consent, approval or waiver, the Vendor shall use commercially reasonable efforts to obtain such consent prior to Closing.

In the event a third-party refuses to give its consent, approval or waiver to the assignment of Contract(s), the Purchaser may request that that Vendor apply to Court, at the same time as it seeks the Approval and Vesting Order, for an Assignment Order in respect of such Contract(s) provided that (a) such request must be submitted to the Vendor at least 21 days prior to the hearing for the Approval and Vesting Order and, if granted, the Purchaser shall be responsible for all Cure Costs, which shall be paid to the Vendor on Closing in the same manner, but in addition to, the Purchase Price.

Assumed Obligations

At the Closing Time, the Purchaser shall also assume and be liable for the following (collectively, the “**Assumed Obligations**”):

- (a) the Debtor’s Liabilities under the Assumed Contracts;
- (b) all Liabilities and claims arising or accruing from the use of the Purchased Assets from and after the Closing; and



- (c) all Taxes arising or accruing from and after the Closing from the use of the Purchased Assets, including, without limitation, HST to be collected and remitted to Canada Revenue Agency when due.

3.03 Vendor's Representations

The Vendor represents to and in favour of the Purchaser that, subject to the issuance by the Court of the Approval and Vesting Order, each of the following statements is on the date of this Agreement, and will at the Closing Time be, true and correct:

- (a) the Vendor has good and sufficient power, authority and right to enter into this Agreement and each of the other Purchase Documents to be entered into by it and to complete the transactions to be completed by it hereunder and thereunder;
- (b) the Vendor has the right to sell the Purchased Assets in accordance with the provisions of this Agreement and has not sold or otherwise disposed or agreed to sell or otherwise dispose of any of the Purchased Assets and has not mortgaged, charged or encumbered any of the Purchased Assets; and
- (c) the Vendor is not now and will not on Closing be non-residents of Canada within the meaning of Section 116 of the Income Tax Act (and the Vendor shall deliver to the Purchaser at the Closing Time a statutory declaration confirming the foregoing).

3.04 Purchaser's Representations

The Purchaser, and in the event of an assignment by the Purchaser to the Permitted Assignee, the Permitted Assignee shall represent to and in favour of the Vendor that each of the following statements is, and will at the Closing Time be, true and correct:

- (a) the Purchaser or Permitted Assignee is a corporation duly incorporated and subsisting under the law of Ontario;
- (b) the Purchaser or Permitted Assignee has good and sufficient corporate power and corporate authority to enter into this Agreement and each of the other Purchase Documents to be entered into by it and to complete the transactions to be completed by it hereunder and thereunder;
- (c) the Purchaser is registered for purposes of Part IX of the ETA and the Purchaser's registration number is _____; and
- (d) the Purchaser is not, and it and its permitted assigns will not, at Closing, be a non-Canadian person within the meaning of the Investment Canada Act (Canada) and is not a non-resident of Canada for the purposes of the ITA.

3.05 Electronic Registration

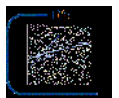
The Parties acknowledge that the Teraview Electronic Registration System is operative and mandatory in the applicable Land Titles Offices relating to the Purchased Property. The Parties



shall each authorize their respective legal counsel to enter into a document registration agreement in the form adopted by the joint LSO-CBAO Committee on Electronic Registration of Title Documents. The delivery and exchange of documents and closing funds and the release thereof to Vendor and Purchaser, as the case may be: (a) shall not occur contemporaneously with the registration of the applicable application for registration of the Approval and Vesting Order (and other registrable documentation); and (b) shall be governed by the document registration agreement pursuant to which legal counsel receiving any documents or funds will be required to hold same in escrow and will not be entitled to release except in strict accordance with the provisions of the document registration agreement.

3.06 Closing

- (a) The Closing will be completed at the Closing Time and shall take place at 5:00 pm (Eastern) on the Closing Date at the offices of the Vendor's Solicitors or such other date, place and time as the Parties may agree in writing (including virtually by way of the electronic transfer of documents).
- (b) Any tender of documents or money under this Agreement may be made upon the Parties or their respective lawyers.
- (c) The Vendor covenants to execute, *where applicable*, and deliver the following to the Purchaser at or before the Closing Time:
 - (i) a copy of the issued and entered Receivership Order;
 - (ii) a copy of the issued and entered Approval and Vesting Order;
 - (iii) a statement of adjustments in accordance with Section 2.05 hereof;
 - (iv) an undertaking to readjust for the adjustments set out in Section 2.05 hereof;
 - (v) the ETA Election under section 167 of the ETA as set out in Section 2.06
 - (vi) an assignment and assumption of all Assumed Contracts (to the extent assignable) effective from and after the Closing Date;
 - (vii) an assignment and assumption of all Leases (to the extent assignable) effective from and after the Closing Date;
 - (viii) a certificate, dated as of the Closing Date, certifying:
 - i. that, except as disclosed in such certificate, the Vendor has not been served with any notice of appeal with respect to the Receivership Order or the Approval and Vesting Order, or any notice of any application, motion or proceedings seeking to set aside or vary the Approval and Vesting Order or enjoin, restrict or prohibit the completion of the transaction contemplated hereby;

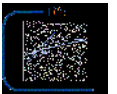


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- ii. that all representations, warranties and covenants of the Vendor contained in this Agreement are true as of the Closing Time, with the same effect as though made on and as of the Closing Time; and
 - iii. the non-merger specified in Section 3.07 hereof and elsewhere herein
- (ix) an acknowledgement, dated as of the Closing Date, that each of the conditions to Closing in favour of the Vendor has been fulfilled, performed or waived as of the Closing Time; and
- (x) such further documentation relating to the completion of the transaction contemplated hereby as is otherwise referred to herein or as may be required by the Purchaser (acting reasonably), any applicable law or governmental authority.
- (d) The Purchaser covenants to execute, where applicable, and deliver the following to the Vendor at or before the Closing Time:
 - (i) indefeasible payment and satisfaction in full of the Purchase Price in accordance with Section 2.03 hereof;
 - (ii) an allocation of the Purchaser price in accordance with Section 2.04 hereof;
 - (iii) if necessary, payment or evidence of payment of HST applicable to the Purchased Assets or, if applicable, appropriate tax exemption certificates with respect to HST in accordance with the terms hereof;
 - (iv) an indemnity in favour of the Vendor in respect of HST, Exigible Taxes and land transfer tax, pursuant to Section 2.06 and Section 2.07 hereof;
 - (v) an undertaking to readjust for the adjustments set out in Section 2.05 hereof;
 - (vi) an assignment and assumption of all Assumed Contracts (to the extent assignable) effective from and after the Closing Date;
 - (vii) an assignment and assumption of all Leases (to the extent assignable) relating to the period from and after the Closing Date;
 - (viii) a certificate, dated as of the Closing Date, certifying:
 - i. that all representations, warranties and covenants of the Purchaser contained in this Agreement are true as of the Closing Time, with the same effect as though made on and as of the Closing Time; and

Naumis,
Peter

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email=PNaumis@bdo.ca
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- ii. the non-merger specified in Section 3.07 hereof and elsewhere herein;
- (ix) an acknowledgement, dated as of the Closing Date, that each of the conditions to Closing in favour of the Purchaser has been fulfilled, performed or waived as of the Closing Time; and
- (e) such further documentation relating to the completion of the transaction contemplated hereby as is otherwise referred to herein or as may required by the Purchaser (acting reasonably), any applicable law or governmental authority.

3.07 Survival of Representations

The representations and warranties contained in this Agreement, other than those contained in Section 2.05, 3.02, 3.03, 3.04, 3.05, and 5.17, shall merge on Closing. In the event that either party shall become aware of any material breach of a representation or warranty prior to the Closing, it shall forthwith advise the other party in writing and the sole right and remedy of the other party with respect thereto shall be the termination of this Agreement pursuant to the representations in favour of the other party contained in Section 3.04 or 3.05, as applicable. Notwithstanding any of the provisions contained in this Agreement to the contrary, the Vendor's liability with respect to any breach of a representation, warranty or covenant contained in this Agreement shall be limited to the amount of the Deposit and the Vendor shall not be liable for any loss of profits, loss of revenue, loss of contract, loss of business opportunity or any consequential loss or indirect loss or damages of any nature or kind.

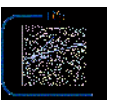
ARTICLE 4 **CONDITIONS AND TERMINATION RIGHTS**

4.01 Approval and Vesting Order Condition

- (a) This Agreement is conditional on the issuance by the Court of the Approval and Vesting Order on or before the Sunset Date. In the event the Approval and Vesting Order has not been issued by the Court on or before the Sunset Date, this agreement shall be null and void and the Purchaser shall be entitled to the return of the Deposit and neither the Purchaser nor the Vendor shall have any obligations under this Agreement.
- (b) In the event the Approval and Vesting Order is issued by the Court, but stayed by the Court prior to the completion of the transaction contemplated by this Agreement, the Vendor shall be entitled, at the Vendor's option, on written notice to the Purchaser to extend the Closing Date for such period or periods as it determines by written notice thereof to the Vendor, provided that such extensions do not exceed an aggregate of ninety (90) days, in order to provide the Purchaser and the Vendor with additional time to effect the lifting of such stay.

Naumis,
Peter

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4.02 Termination

Without derogating from the right of the Vendor to terminate this Agreement as a result of the failure of the Vendor to complete any of its obligations as set out in this Agreement or as a result of any of the conditions for the benefit of the Purchaser (including those conditions for the mutual benefit of the Vendor and Purchaser) as set out in this Agreement having not been met and not being waived, notwithstanding anything to the contrary contained in this Agreement, at any time prior to the date on which the Court makes the Approval and Vesting Order, the Vendor may, in its sole and unfettered discretion, elect by written notice to the Purchaser to terminate this Agreement, and the Vendor will not have any liability to the Purchaser for any loss or damage suffered by it as a result of such termination.

4.03 Effects of Termination

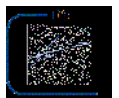
If this Agreement is terminated pursuant to Section 4.01 or 4.02:

- (a) the Deposit shall be returned to the Purchaser;
- (b) all further rights and obligations of the parties under or pursuant to this Agreement shall terminate without further liability of any party to the other; and
- (c) the Purchaser shall return to the Vendor all documents, work papers and other material of the Vendor relating to the Transaction, whether obtained before or after the execution hereof.

4.04 Injunction or Failure to Give Possession

- (a) Subject to the rights of the Vendor in Sections 4.01, 4.02 and 4.03, in the event that:
 - (i) the Vendor is unable to complete the transaction contemplated by this Agreement as a result of any injunction or other order of any court of competent jurisdiction; or
 - (ii) the Vendor is unable to provide to the Purchaser possession of the Purchased Assets as required by this Agreement,

the Vendor will forthwith provide written notice thereof to the Purchaser (including full particulars with respect thereto). The Purchaser will then have the right, at its option, to extend the Closing Date for such period or periods as it determines by written notice thereof to the Vendor, provided that such extensions do not exceed an aggregate of ninety (90) days. During such extension or extensions, the Vendor will diligently attempt to settle such legal proceedings, to vacate such order and otherwise to remove all such impediments to the completion of the transaction contemplated by this Agreement. If all such impediments are not removed to the satisfaction of the Purchaser, acting reasonably, on or before the Closing Date (as such Closing Date may be extended pursuant to this Section 4.04), then this Agreement may, at the option of either party, be terminated by written notice to such effect to the other party. If either party so elects, (i) this Agreement shall



terminate; and (ii) thereafter the Purchaser shall be entitled to the return of the Deposit and the Parties will be released from all further obligations under this Agreement and neither party will have any liability to the other for any loss or damage suffered by it.

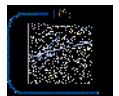
ARTICLE 5 **GENERAL**

5.01 No Representations, Warranties or Conditions by Vendor

The Purchaser acknowledges and agrees that the Receiver is selling and the Purchaser is purchasing the Purchased Property and the Purchased Assets on an “*as is, where is*” and “*without recourse*” basis as the Purchased Property and the Purchased Assets shall exist on the Closing Date, including, without limitation, whatever defects, conditions, impediments, hazardous materials or deficiencies exist at Closing, whether patent or latent. Notwithstanding any other provision of this Agreement (except as set out in Section 3.04) or any of the other document or communication exchanged by the Parties, no representations, warranties or conditions, express, implied, imposed by statute or otherwise, are made by the Vendor or Debtor with respect to the title, physical characteristics, use, zoning, existence of latent defects, maintenance, repair or condition (including environmental) of the Purchased Property or any of the other Purchased Assets or any other matter. The Purchaser acknowledges and agrees that (i) the description of the Purchased Property and the Purchased Assets contained in this Agreement, and in any other document or communication exchanged by the Parties is for the purpose of identification only and no representation, warranty or condition has or will be given by the Receiver concerning the accuracy of such description; and, that (ii) the Purchaser has conducted such inspections of the description of, condition of and title to the Purchased Property and the Purchased Assets as it deemed appropriate and has satisfied itself with regard to all such matters. The Parties further acknowledge and agree that it is the express intention of the Vendor and the Purchaser that the Purchased Property and the Purchased Assets shall be transferred to the Purchaser in their condition at Closing Time and state of repair “as is” and “where is”, with all faults, and that the Vendor shall have no obligation to deliver possession of the Purchased Property and the Purchased Assets in any manner and that, at the Closing Time, the Purchaser shall take possession of the Purchased Property and the Purchased Assets wherever situated. Without limitation to the foregoing, the Parties acknowledge and agree that any and all representations, warranties and conditions, express or implied, pursuant to the *Sale of Goods Act* (Ontario) do not apply the transactions contemplated hereby and/or have been waived by the Purchaser.

5.02 Further Assurances

Each of the Parties will from time to time execute and deliver all such further documents and instruments and do all such acts and things as the other party may, either before or after the Closing Date, reasonably required to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.



5.03 Time of the Essence

Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by the Parties or by their respective solicitors who may be specifically authorized in that regard.

5.04 Benefit of the Agreement

This Agreement will enure to the benefit of and be binding on the respective successors (including any successor by amalgamation or operation of law) and permitted assigns of the Parties.

5.05 Entire Agreement

This Agreement, together with the other Purchase Documents, constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede any prior understandings and agreements between the Parties with respect thereto. There are no terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties other than as expressly set out in this Agreement and the other Purchase Documents.

5.06 Amendments and Waiver

No modification of or amendment to this Agreement will be valid or binding unless in writing and duly executed by both of the Parties. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.

5.07 Assignment

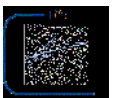
Except as provided in this Section 5.07, the Purchaser shall not, without the prior written consent of the Vendor, assign all or any portion of its rights and/or obligations under this Agreement or direct that title be vested on Closing in any Person other than the Purchaser.

Prior to Closing, the Purchaser shall be entitled on five (5) Business Days prior written notice to the Vendor to assign all or any portion of its interest to the Permitted Assignee.

In the event of an assignment to the Permitted Assignee, as a condition precedent thereto, the Permitted Assignee shall enter into an assumption with the Vendor in form satisfactory to the Parties, each acting reasonably, and provided that such assignment shall not relieve the Purchaser of any of its obligations or liabilities under this Agreement. In addition, the Permitted Assignee shall comply with the provisions of Section 221(2)(b) and 228(4)(a) of the HST Legislation.

5.08 Fees

Each of the Parties will pay its own legal, accounting and other fees and expenses incurred in connection with the preparation, execution and delivery of this Agreement and the other Purchase Documents and the completion of the transaction contemplated hereby or thereby, as well as any other costs and expenses whatsoever and howsoever incurred.



Each of the Parties will pay its own agent fees or commissions, if any, in respect of the Transaction contemplated hereby.

5.09 Non-Business Day

If any amount required to be paid under this Agreement is due on a day which is not a Business Day, such amount will be paid on the next following Business Day.

5.10 Notices

Any demand, notice, objection or other communication to be given in connection with this Agreement or any of the Purchase Documents shall be given in writing by personal delivery, registered mail, courier or email addressed to the recipient as follows:

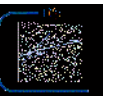
To the Purchaser: Colliers Macaulay Nicolls Inc.
 Attention: Chris Luxton
 E-Mail:chris.luxton@colliers.com

To the Vendor : **BDO Canada Limited**
 360 Oakville Place Drive – Suite 500
 Oakville, ON L6H 6K8
 Attention: Peter Naumis
 E-Mail: pnaumis@bdo.ca

with a copy to:

Blaney McMurtry LLP
2 Queen Street East – Suite 1500
Toronto, ON M5C 3G5
Attention: Eric Golden
E-mail: egolden@blaney.com

or to such other address, facsimile number, e-mail or individual as may be designated by notice by either party to the other party. Any demand, notice, objection or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the fifth (5th) Business Day following the deposit thereof in the mail and, if given by courier, on the second (2nd) Business Day following the sending thereof and, if given by facsimile or e-mail, on the date of the sending thereof if sent prior to 6:00pm (Eastern) and on the next Business Day date of the sending thereof if sent after 6:00pm (Eastern). If the party giving any demand, notice, objection or other communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, such demand, notice, objection or other communication shall not be mailed but shall be given by personal delivery, courier or facsimile.



5.11 Currency

All dollar amounts referred to in this Agreement are denominated in Canadian currency.

5.12 Governing Law

This Agreement and the other Purchase Documents shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

5.13 Severability

If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect.

5.14 Electronic Execution

Delivery of this Agreement may be effected by a party by facsimile or other electronic transmission of the execution page hereof to the other party. A party so delivering this Agreement shall thereafter forthwith deliver to the other party an original execution page hereof with its original signature thereon, provided that any failure by a party to so deliver such original execution page shall not affect the validity or enforceability of this Agreement against that party.

5.15 Tender

Any tender of notices, documents or monies hereunder may be made on the Vendor or the Purchaser or their respective solicitors. Any monies may be tendered by a negotiable cheque certified by a Canadian chartered bank or by a bank draft drawn on one of Canada's five largest chartered banks.

5.16 Counterparts

This Agreement may be executed in counterparts. Each executed counterpart shall be deemed to be an original. Both executed counterparts taken together shall constitute one agreement.

5.17 Access to Books and Records

For a period of six (6) years from the Closing Date or for such longer period as may be required by applicable laws, the Purchaser covenants and agrees to retain all original Books and Records relating to the Purchased Assets for the period prior to the Closing Date.

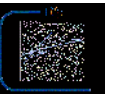
5.18 Irrevocable Offer

The Purchaser covenants and agrees that the offer to purchase constituted by the delivery of a copy of this Agreement executed by the Purchaser shall be irrevocable and open for acceptance by the Vendor until August 25, 2022.

[EXECUTIONS ON SEPARATE PAGE.]

Naumis,
Peter

Digitally signed by Naumis, Peter
DN: cn=Naumis, Peter,
email=PNaumis@bdo.ca
Reason: I am approving this
document
Date: 2022.08.23 15:54:31 -04'00'



THIS AGREEMENT may be accepted by giving a copy thereof to the Purchaser with the Vendor's acceptance endorsed thereon. If so accepted prior to the expiration hereof, this Agreement shall constitute a binding contract between the Parties to purchase and sell the Purchased Property on the terms and conditions herein set forth.

DATED the 18 day of August 2022.

1000105943 ONTARIO INC.



per:

Name: **JIM PAPADOGAMBROS**
Title: **DIRECTOR**

I have authority to bind the Purchaser..

ACCEPTANCE

The Vendor hereby accepts this Agreement and covenants and agrees to sell the Purchased Property to the Purchaser subject to and in accordance with the provisions and conditions hereof.

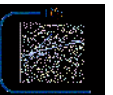
DATED the _____ day of August, 2022.

BDO CANADA LIMITED, solely in its capacity as Court-appointed Receiver of the assets, undertakings and property of 2589504 Ontario Inc. and not in any persona, corporate or other capacity

per: **Naumis, Peter** Digitally signed by Naumis, Peter
DN: cn=Naumis, Peter,
email=PNaumis@bdo.ca
Reason: I am approving this
document
Date: 2022.08.23 15:45:04 -04'00'

Name: Peter Naumis
Title: Vice President

I have authority to bind the Receiver.



SCHEDULE "A"

LEASES

1. MONICA KIM
2. CHOISUN CONSULTING
3. HCA ARCHITECTURE INC.
4. MZ NATUROPHATHIC OPTIMIZED
5. NO.16 HOSPITALITY INC.
6. All other leases all offers to lease, agreements to lease, leases, lease amendments, renewal or extension agreements, subleases and other rights or licenses granted by or on behalf of the Debtor or the Vendor or their respective predecessors in title to possess or occupy the Lands or any part or parts thereof as of the Purchase and Sale Agreement, together with all security, guarantees and indemnities of the tenants' obligations thereunder, in each case as amended, renewed or otherwise varied.



SCHEDULE "B"

FORM OF APPROVAL AND VESTING ORDER

See attached.

Court File No. <*>

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) <*>, THE <*>
)
JUSTICE <*>) DAY OF <*>, 2021
)

B E T W E E N:

BENJAMIN KAY, ISER KAY and JACK KAY

Plaintiff

- and -

**DIRECT CAPITAL INVESTMENTS INC. in its personal capacity and in its
capacity as trustee of a trust for the Plaintiffs, DIRECT MORTGAGE INC.,
PAGONAS PAPADOGAMBROS, STEPHEN FREEDMAN, 2589504
ONTARIO INC., NO. 16 HOSPITALITY LTD., GEORGE
PAPADOGAMBROS, HARRY CHRISTAKIS, SPRINGOS LAW,
ANGELOS SPRINGOS, GARFINKLE BIDERMAN LLP and BARRY
POLISUK**

Defendants

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited., in its capacity as the Court-appointed receiver (the "Receiver") of the assets, undertakings and property of 2589504 Ontario Inc. (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by a purchase and sale agreement (the "Sale Agreement") between the Receiver and <*> (the "Purchaser") dated <*>, 2022 and appended to the First Report of the Receiver dated <*>, 2022 (the "Report"), and vesting in the Purchaser the Debtor's rights, title and interests in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario by "Zoom" videoconference.

ON READING the Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of <*> sworn <*> filed:

1. THIS COURT ORDERS that the time for service and filing of the Motion Materials is abridged and validated so that this motion is properly returnable today and dispenses with further service thereof.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement 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 Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Exhibit "A" hereto (the "Receiver's Certificate"), all of the Debtor's rights, title and interests in and to the Purchased Assets described in the Sale Agreement and listed on Exhibit "B" hereto shall vest absolutely in the 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 Mr. Justice Pattillo dated May 25, 2021 ; (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 Exhibit "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 Exhibit "D" hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the appropriate Land Titles Division of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Exhibit “B” hereto (the “Real Property”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Exhibit “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 Purchased Assets shall stand in the place and stead of the Purchased Assets, 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 Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets 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, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

8. 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 either of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of either of the Debtor.

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of either 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 settlement, 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.

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 is effective from today's date and is enforceable without the need for entry and filing.

Exhibit A – Form of Receiver’s Certificate

Court File No. <*>

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

BENJAMIN KAY, ISER KAY and JACK KAY

Applicant

- and -

DIRECT CAPITAL INVESTMENTS INC. in its personal capacity and in its capacity as trustee of a trust for the Plaintiffs, DIRECT MORTGAGE INC., PAGONAS PAPADOGAMBROS, STEPHEN FREEDMAN, 2589504 ONTARIO INC., NO. 16 HOSPITALITY LTD., GEORGE PAPADOGAMBROS, HARRY CHRISTAKIS, SPRINGOS LAW, ANGELOS SPRINGOS, GARFINKLE BIDERMAN LLP and BARRY POLISUK

Respondent

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated June 15, 2022, BDO Canada Limited was appointed as the receiver (the "Receiver") of the assets, undertakings and property of 2589504 Ontario Inc. (the "Debtor").

B. Pursuant to an Order of the Court dated <*>, 2022, the Court approved the purchase and sale agreement dated <*>, 2022 (the "Sale Agreement") between the Receiver and <*> (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor’s rights, title and interests in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing set

out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the transaction contemplated by the Sale Agreement 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 Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The transaction contemplated by the Sale Agreement has been completed to the satisfaction of the Receiver.

THIS CERTIFICATE was delivered by the Receiver at <*> on <*>, 2022.

BDO CANADA LIMITED, solely in its capacity as Court-appointed Receiver of the assets, undertakings and property of 2589504 Ontario Inc. and not in any personal, corporate or other capacity

Per: _____

Name:

Title:

Exhibit B – Purchased Assets

100 Sheppard Ave W

Legal: Plan M389 Lot 23 Pt Lot 24

PIN#:101450014

Exhibit C – Claims to be deleted and expunged from title to Real Property**<TO BE CONFIRMED>**

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To

**Exhibit D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

SPECIFIC PERMITTED ENCUMBRANCES

Nil.

<TO BE CONFIRMED>

GENERAL PERMITTED ENCUMBRANCES

1. Any municipal by-laws or regulations affecting the Real Property or its use and any other municipal land use instruments including without limitation, official plans and zoning and building by-laws, as well as decisions of the committee of adjustment or any other competent authority permitting variances therefrom, and all applicable building codes;
2. Registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including without limitation, subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements; provided same have been complied with or security has been posted to ensure compliance and completion as evidenced by a letter from the relevant authority or regulated utility;
3. Any unregistered easement, right-of-way, agreements or other unregistered interest of claims not disclosed by registered title provided same does not materially impact the Purchaser's intended use of the Purchased Assets;
4. Any encroachments or other discrepancies that might be revealed by an up-to-date plan of survey of the Real Property;
5. Such other minor encumbrances or defects in title which do not, individually or in the aggregate, materially affect the use, enjoyment or value of the Real Property or any part thereof, or materially impair the value thereof;
6. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute; and
7. The following exceptions and qualifications contained in Section 44(1) of the *Land Titles Act*: paragraphs 7, 8, 9, 10, 12 and 14.

SCHEDULE "C"

LEGAL DESCRIPTION OF PURCHASED PROPERTY

Municipal Address: 100 Sheppard Avenue West, Toronto, Ontario M2N 1M6

Legal Description: Plan M389 Lot 23 Pt Lot 24

Appendix IV

September 13, 2022

BDO Canada Limited
360 Oakville Place Drive
Suite 500, Oakville, Ontario
L6H 6K8

Dear Sirs:

Re: Opinion to BDO Canada Limited ("BDO") as Court-Appointed Receiver and Manager of all of the assets, undertakings and properties of 2589504 Ontario Inc. (the "Borrower") regarding the validity and enforceability of security held by Equitable Bank (the "Lender") in connection with the real property at 100 Sheppard Avenue West, North York, Ontario (the "Property")

We have been provided with copies of the following documents:

1. an order of the Ontario Superior Court of Justice (Commercial List) made June 15, 2022, appointing BDO as Receiver and Manager of all of the assets, undertakings and properties of the Borrower acquired for, or used in relation to a business carried on by the Borrower, including the Property, pursuant to proceedings commenced by Benjamin Kay, Iser Kay and Jack Kay (the "**Applicants**");
2. the Motion to Appoint a Receiver filed on behalf of the Applicants with the Ontario Superior Court of Justice (Commercial List) on April 15, 2022 (the "**Motion to Appoint**"), including the Affidavit of Benjamin Kay sworn April 15, 2022 attached at Tab "2" of the Motion to Appoint (the "**Kay Affidavit**");
3. the Motion Record filed on behalf of the Lender with the Ontario Superior Court of Justice (Commercial List) on May 13, 2022 (the "**Motion**"), including the Affidavit of Jackson Chau sworn May 13, 2022 attached at Tab "1" of the Motion (the "**Jackson Affidavit**");
4. the Supplemental Motion to Appoint a Receiver filed on behalf of the Applicants with the Ontario Superior Court of Justice (Commercial List) on June 10, 2022 (the "**Supplemental Motion to Appoint**"), including the Affidavit of Lynda Christodoulou sworn June 10, 2022 attached at Tab "2" of the Supplemental Motion to Appoint (the "**Christodoulou Affidavit**");
5. the Factum filed on behalf of the Applicants with the Ontario Superior Court of Justice (Commercial List) on June 10, 2022 (the "**Applicants Factum**"); and
6. the Affidavit of George Papadogambros sworn June 14, 2022,

(collectively, the "**Proceedings**").

You have asked us to provide you with an opinion in connection with the security set out in Schedule "A" relating to the Property (the "**Security**"). Specifically, you have asked us to opine on the enforceability of the Security in the Province of Ontario, and on the validity and perfection of the security interests (the "**Security Interests**") in the personal property collateral (the "**Collateral**") to which the *Personal Property Security Act* (Ontario) ("**PPSA**") applies, as granted under the Security or any of it in the Province of Ontario. We do not act for the Borrower or the Lender in this matter and did not act in the preparation of the Security or the registration of it.

Examination of Documents

For the purposes of the opinions set out herein, we have examined:

- (a) copies of the Security;
- (b) copies of search results conducted in the Province of Ontario against the Borrower with the Ministry of Consumer and Business Services (Ontario) and under the following statutes:
 - (i) the *Bank Act* (Canada);
 - (ii) the *Bankruptcy and Insolvency Act* (Canada);
 - (iii) the *Execution Act* (Ontario); and
 - (iv) the PPSA,the results and currency of which are set out in Schedule "B";
- (c) a subsearch of title against the real property owned by the Borrower, the results of which are set out in Schedule "C". Please note that a subsearch of title is not a full search of title upon which a title opinion can be given. Our subsearch also did not include a search of adjoining lands to confirm *Planning Act* (Ontario) compliance nor did we confirm whether there was access to the real property; and
- (d) such statutes and public records, original or copies (certified or otherwise identified to our satisfaction) of corporate records, certificates and such other instruments as we have deemed necessary or appropriate for the purposes of this opinion.

For the purposes of the opinions expressed below we have considered the questions of law, made the searches and investigations, and examined originals or copies, certified or otherwise identified to our satisfaction, of the certificates of public officials and other certificates, documents and records, that we considered necessary or relevant, and we have relied without independent verification or investigation on all statements as to matters of fact contained in the certificates, documents and records we examined.

Assumptions and Reliances

For the purposes of the opinions expressed below, we have assumed, without independent investigation or inquiry:

- (a) that with respect to all documents examined by us, the signatures are genuine, the individuals signing those documents had legal capacity at the time of signing, all documents submitted to us as originals are authentic, and certified, conformed or photocopied copies, or copies transmitted electronically or by facsimile, conform to the authentic original documents;
- (b) the completeness, truth, accuracy and currency of the indices and filing systems maintained by the public offices and registries where we have searched or enquired or have caused searches or enquiries to be made and upon the information and advice provided to us by appropriate government, regulatory or other similar officials with respect to those matters referred to in this letter;
- (c) the accuracy of the description of the Collateral set out in the Security;
- (d) that:
 - (i) the Borrower has rights in the Collateral;
 - (ii) value, as that term is defined in the PPSA, has been given to the Borrower; and
 - (iii) the Borrower has not agreed to postpone the time for attachment of the Security Interests;
- (e) that the Collateral does not include "consumer goods", as that term is defined in the PPSA;
- (f) that there is and was at all relevant times a valid, legal, enforceable and subsisting debt or other obligation owing by the Borrower to the Lender;
- (g) that the Borrower:
 - (i) was at the time of authorization, execution and delivery of the Security, and is now, validly constituted and existing under the laws pursuant to which it was constituted;
 - (ii) had the corporate power and authority to execute, deliver and perform its obligations under the Security;
 - (iii) has taken all necessary corporate action to authorize the execution, delivery and the performance of its obligations under the Security; and
 - (iv) has duly executed and delivered the Security;
- (h) that each of the parties to the Security other than the Borrower is validly constituted and existing in accordance with the laws under which it is constituted and has all necessary power and capacity to execute and deliver the Security and perform its obligations under the Security;

- (i) that the Security constitutes a legal, valid and binding obligation of each of the parties to it other than the Borrower, enforceable against each of those other parties under the laws of the applicable jurisdiction governing the Security in accordance with its terms, subject to the qualifications below;
- (j) that the Security executed by the Borrower has not been amended, restated, replaced, terminated or released, and remains in full force and effect;
- (k) that there are no:
 - (i) agreements, judgments, rulings, instruments, facts or understandings affecting or concerning the Security, the Security Interests and/or the various principal obligations for which the Security is granted; or
 - (ii) statutory or regulatory prohibitions on, and no consents, licenses, approvals, authorizations or exemptions of any federal or provincial governmental body or regulatory authority required for or in connection with, the execution, delivery and performance by the Borrower of the Security or the Security Interests and/or the various principal obligations with respect to which the Security is granted;

which are not apparent from a review of the Security and which would or might affect the validity or enforceability of the Security;

- (l) that the execution and delivery by the Borrower of the Security, and the performance by the Borrower of its rights and obligations under the Security did not and do not breach or contravene, and were not and are not in conflict with, any law or regulation applicable to such Borrower or any other agreement to which such Borrower is a party;
- (m) that the execution, delivery and performance of obligations under the Security by the Borrower did not and does not constitute a preference, fraudulent preference, conveyance, fraudulent conveyance, settlement or reviewable transaction under sections 91 or 95 of the *Bankruptcy and Insolvency Act* (Canada) or any similar provincial legislation relating to those issues;
- (n) that the Lender has not by implicit or explicit course of conduct, waiver, release, discharge, cancellation, forbearance or other means, oral or written, taken any action or steps which have, or which could or would have, altered, diminished, suspended or otherwise affected the terms, conditions of enforceability of the Security or the indebtedness, liabilities and obligations secured by the Security or any of it; and
- (o) that the Lender did not know and did not have any reason to believe at any time that the creation of the Security Interests was in contravention of any agreement by which the Borrower or its property or assets were bound, if there was such a contravention.

Laws Addressed

Except as stated below, the opinions expressed in this letter are limited to the laws of, and the federal laws of Canada applicable in, the Province of Ontario. In particular, without limiting the preceding statement, we express no opinion:

- (a) with respect to the laws of any other jurisdiction, to the extent those laws may govern any aspect of the Security or govern the validity, the perfection, the effect of perfection or non-perfection, or the enforcement of any Security Interests, as a result of the conflict of laws rules of the Province of Ontario; or
- (b) whether, under the conflict of laws rules of the Province of Ontario, the laws of the Province of Ontario would govern the validity, perfection, effect of perfection or non-perfection or enforcement of any of the Security Interests.

It is our understanding that the Borrower only has assets in the Province of Ontario, so as instructed by you we have limited our review to Ontario law.

Opinions

Based upon the assumptions and reliances stated above, and subject to the qualifications and limitations stated below, we are of the opinion that:

1. The Security to which the Borrower is a party constitutes a legal, valid and binding obligation of such Borrower, enforceable against such Borrower, as applicable in accordance with its terms, and would be valid and enforceable against a trustee in bankruptcy of such Borrower.
2. With respect only to the mortgages that are registered against title to the Property, assuming that there are no other postponements or other agreements among the parties to the mortgages registered against title to the Property other than those that appear on the parcel register of the Property as of September 7, 2022, we confirm that the Equitable Charge (as defined in Schedule "A") is the first ranking mortgage registered against title to the Property.
3. The Security creates valid first ranking Security Interests in favour of the Lender as described in that security under the laws of the Province of Ontario in any Collateral to which the PPSA applies, to secure payment and performance of the obligations secured by the Security.
4. Registration has been made in all public offices provided for under the laws of the Province of Ontario where registration is necessary to perfect the Security Interests in favour of the Lender and such Security Interests would be valid and enforceable against a trustee in bankruptcy of the Borrower.

Qualifications and Limitations

The opinions in the letter are subject to the following qualifications and limitations:

1. The legality, validity, binding effect and enforceability of the Security are subject to and

may be limited by applicable bankruptcy, insolvency, reorganization, arrangement, winding-up, liquidation, moratorium, preference and other similar laws of general application affecting the enforcement of creditors' rights generally.

2. The enforceability of the obligations of the Borrower under the Security is subject to general equitable principles, including those relating to the conduct of parties such as reasonableness and good faith in the exercise of discretionary powers, to laws relating to laches, undue influence, unconscionability, duress, misrepresentation and deceit, estoppel and waiver, and to the powers of courts to stay proceedings before them, to stay the execution of judgments to relieve from penalties or the consequences of default (particularly if the default is minor or non-substantive) and to grant relief against forfeiture, and the principle that equitable remedies such as injunctive relief and specific performance are only available in the discretion of the court.
3. A secured creditor may be required to give a debtor reasonable time to satisfy any demand for payment or performance of its obligations under any of the Security before exercising any rights or remedies under it.
4. We express no opinion regarding the existence of, or the right, title or interest of the Borrower in and to, any real property or personal property. There is no title registry system in the Province of Ontario with respect to personal property, and no office of public record in which the title to personal property situate in the Province of Ontario may be examined.
5. We express no opinion regarding the priority of the Security or other interests expressed to be created by the Security, subject to Opinion no. 2 and Opinion no. 3 above on the ranking of the mortgages registered against title to the Property and the ranking of the Security Interests under the PPSA.
6. We express no opinion with respect to any equitable mortgage or any unregistered postponements or other agreements not disclosed by the registered title of the Property.
7. We express no opinion as to whether the provisions of Part VII of the *Financial Administration Act* (Canada) have been complied with. An assignment of federal Crown debts which does not comply with that Act is ineffective as between the assignor and assignee and as against the Crown. Consequently, the Lender would not have a valid security interest in federal Crown debts unless that Act is complied with.
8. The federal laws of Canada require or permit notices, filings or registrations to be made or other steps or actions to be taken in order to preserve, perfect or protect security interests in certain types of property, including, without limitation, rolling stock, vessels registered under the *Canada Shipping Act, 2001*, patents, trade-marks and copyrights. To the extent that security interests are created by the Security in any of that property, then notices, filings or registrations under those laws may be necessary or desirable in order to preserve, perfect or protect those security interests. We have not searched for the existence of any interests or rights against that property under any of those federal laws, and accordingly we express no opinion as to the creation of security interests in that property.
9. The PPSA imposes certain obligations on secured creditors which cannot be varied by contract and which may also affect the enforcement of certain rights and remedies contained

- in the Security to the extent that those rights and remedies are inconsistent with or contrary to the PPSA.
10. We express no opinion as to the enforceability of any provision of the Security which requires any Borrower to pay, or to indemnify the Lender for, the costs and expenses of the Lender in connection with judicial proceedings, since those provisions are subject to the discretion of the court to determine by whom and to what extent those costs should be paid.
 11. We express no opinion on any provision in the Security which:
 - (a) purports to restrict the access to, or waive the benefit of, statutory, legal or equitable rights, remedies or defences;
 - (b) limits rights of set-off otherwise than in accordance with applicable law;
 - (c) states that amendments or waivers of or with respect to the Security that are not in writing will be ineffective;
 - (d) purports to bind or affect, or confer a benefit upon, persons who are not parties to the Security;
 - (e) purports to exculpate a party from a liability or duty otherwise owed by it to another party; or
 - (f) provides that a certificate or a similar document will be treated as conclusive, final or binding.
 12. The enforceability of any provision in the Security which:
 - (a) purports to sever any provision which is invalid or unenforceable under applicable law without affecting the validity or enforceability of the remainder of the relevant Security;
 - (b) stipulates or limits the level of damages to which a party is entitled; or
 - (c) selects the jurisdiction whose laws are to apply or where a dispute is to be resolved;is subject to the discretion of a court.
 13. We express no opinion as to licences, permits or approvals that may be required in connection with the enforcement of the Security by the Lender or by a person on its behalf, whether such enforcement involves the operation of the business of a Borrower or a sale, transfer or disposition of their respective property and assets.
 14. We express no opinion as to any Security Interests with respect to any property of a Borrower that is transformed in such a way that it is not identifiable or traceable, or any proceeds of property of a Borrower that are not identifiable or traceable.
 15. We express no opinion as to any Security Interests in any of the circumstances described in section 4(1) of the PPSA, in respect of which the PPSA is stated to have no application.

16. We express no opinion as to the validity of the Security Interests: (i) in any Collateral consisting of a receivable, license, approval, privilege, franchise, permit, lease or agreement (collectively, "**Special Property**") to the extent that the terms of the Special Property or any applicable law prohibit its assignment or the granting of security interests in it, or require, as a condition of such assignment or grant, a consent, approval or other authorization or registration which has not been made or given, (ii) in permits, quotas or licenses which are held by or issued to a Borrower, or (iii) in growing crops.
17. The enforceability of the Security Interests in accounts or chattel paper as against an account debtor of a Borrower is subject to notice of the Security Interest and a direction to pay to the Lender being given to that account debtor, the terms of the contract between such Borrower, and that account debtor and any defence or claim arising out of the contract or a closely connected contract, and any other defence or claim of that account debtor against such Borrower, accruing before the account debtor has knowledge of the Security Interest. Further, the Security Interests will not be binding on that account debtor to the extent that the debt or account is paid or otherwise discharged before notice of the Security Interests is given to that account debtor, together with a direction to pay the account or debt to the Lender.
18. Notwithstanding that the Security Interests have been perfected by registration under the PPSA, Security Interests in:
 - (a) investment property, as that term is defined in the PPSA, will be defeated by certain claimants obtaining control of that property in the circumstances described in the PPSA or in the *Securities Transfer Act, 2006* (Ontario);
 - (b) instruments, chattel paper, documents of title or money, as those terms are defined in the PPSA, will be defeated by certain claimants obtaining possession of that property in the circumstances described in the PPSA or the *Bills of Exchange Act* (Canada); and
 - (c) goods (as defined in the PPSA) will be defeated by certain claimants to whom a Borrower sells or leases those goods in the ordinary course of business in the circumstances described in the PPSA.
19. The enforceability of the Security is subject to the *Limitations Act, 2002* (Ontario).
20. The subordination and standstill agreement between the Lender and Direct Capital Investments Inc. attached as Exhibit I of the Jackson Affidavit does not have a specific date although it appears to have been executed in December 2019. The Postponement of Interest attached as Exhibit J of the Jackson Affidavit was registered on title to the Property on February 25, 2020.
21. We express no opinion regarding any guarantee with respect to the loan secured by the Equitable Charge.

This opinion is solely for the benefit of its addressees in connection with the Security. This opinion may not be relied upon in any manner by any other person and may not be disclosed, quoted, filed with a governmental agency or otherwise referred to without our prior written consent.

Yours very truly,

Blaney McMurtry LLP

SCHEDULE "A"

SECURITY

1. First Charge/mortgage (by postponement AT5372319 registered February 25, 2020) in the principal amount of \$4,000,000.00 registered on February 24, 2020 as Instrument No. AT5371311 made by the Borrower in favour of the Lender (the "**Equitable Charge**").
2. Instrument No. AT5371312 registered February 24, 2020 being a first Notice of Assignment of Rents (General) (by postponement AT5372320 registered February 25, 2020) in favour of the Lender, being further security for the Equitable Charge referred to in item 1 above.
3. The commitment letter dated November 26, 2019 from the Lender to the Borrower.
4. The general security agreement dated December 12, 2019 executed by the Borrower in favour of the Lender.

SCHEDULE "B"

(see attached)

2589504 ONTARIO INC.

A. *Profile Report*

The corporation profile report obtained from the Ministry of Government Services September 7, 2022 against the name **2589504 Ontario Inc.** shows that it is an **active** Ontario corporation, incorporated **July 27, 2017**, with a registered office at **1899 Leslie Street, Toronto, Ontario M3B 2M3**

According to the profile report, the directors of the corporation are: Harry Christakis
George Papadogambros

According to the profile report, the officers of the corporation are: Harry Christakis – Secretary and Treasurer
George Papadogambros - President

The profile report discloses that the corporation does not have a current or expired Business name.

B. *PPSA Search Results – current to September 6, 2022(verbal)*

A search was made in the records of the central office of the Personal Property Security Registration System in the Province of Ontario. As at September 6, 2022, **the following registrations were found** with respect to **2589504 Ontario Inc.:**

	File No.	Registration No.	Reg'n Period	Debtor	Secured Party	Collateral
1.	737010063	20180306 1549 1862 7791	10 years	2589504 Ontario Inc. 1899 Leslie Street Toronto, ON M3B 2M3	Direct Capital Investments Inc. 1899 Leslie Street Toronto, ON M3B 2M3	Inventory, Equipment, Accounts, Other, Motor Vehicle Included General Collateral Description: PROPERTY USED IN CONNECTION WITH, SITUATE AT, OR ARISING FROM, THE OWNERSHIP, DEVELOPMENT, USE OR DISPOSITION OF, THE LAND AND PREMISES KNOWN AS 100 SHEPPARD AVENUE, WEST, TORONTO ON M2N 1N6

	File No.	Registration No.	Reg'n Period	Debtor	Secured Party	Collateral
		20200224 1200 1590 7661 Subordination				SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 737010063 IS POSTPONED AND SUBORDINATED TO SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 760317228
		20200224 1328 1590 7680 Subordination				SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 737010063 IS POSTPONED AND SUBORDINATED TO SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 760317228.
2.	737010099	20180306 1550 1862 7792	10 years	2589504 Ontario Inc. 1899 Leslie Street Toronto, ON M3B 2M3	Direct Capital Investments Inc. 1899 Leslie Street Toronto, ON M3B 2M3	Accounts, Other General Collateral Description: GENERAL ASSIGNMENT OF RENTS - IN RESPECT TO THE LAND AND PREMISES KNOWN AS 100 SHEPPARD AVENUE, WEST, TORONTO ON M2N 1N6
		20200224 1200 1590 7662 Subordination				SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 737010099 IS POSTPONED AND SUBORDINATED TO SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 760317228.

	File No.	Registration No.	Reg'n Period	Debtor	Secured Party	Collateral
		20200224 1328 1590 7681 Subordination				SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 737010099 IS POSTPONED AND SUBORDINATED TO SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 760317228.
3.	760317228	20200224 1158 1590 7659	10 years	2589504 Ontario Inc. 100 Sheppard Avenue West Toronto, ON M2N 1M6	Equitable Bank 700-30 St. Clair Avenue West Toronto, ON M4V 3A1	Inventory, Equipment, Accounts, Other General Collateral Description: PROPERTY NOW OR HEREAFTER USED IN CONNECTION WITH, SITUATE AT, OR ARISING FROM THE OWNERSHIP, DEVELOPMENT, USE OR DISPOSITION OF THE LANDS MUNICIPALLY KNOWN AS 100 SHEPPARD AVENUE WEST, TORONTO, ONTARIO AND PROCEEDS THEREOF. SECURITY INCLUDING BUT NOT LIMITED TO GENERAL SECURITY AGREEMENT AND GENERAL ASSIGNMENT OF RENTS.

	File No.	Registration No.	Reg'n Period	Debtor	Secured Party	Collateral
4.	761231754	20200325 1633 1219 3160	4 years	2589504 Ontario Inc. 100 Sheppard Ave W Toronto, ON M2N 1M6 Harry Christakis DOB: 16 Jun 1960 5 Crowling Crt North York, ON M2N 1M6	Canadian Dealer Lease Services Inc. 372 Bay Street, Suite 1800 Toronto, ON M5H 2W9 Bank of Nova Scotia – DLAC 44 King Street W, Scotia Plaza Toronto, ON M5H 1H1	Equipment, Other, Motor Vehicle Included Amount: 72592 Year: 2019 Make: Jaguar Model: XJ VIN: SAJXJ2GD8K8W18043 General Collateral Description: OUR SECURITY INTEREST IS LIMITED TO THE MOTOR VEHICLES LISTED ABOVE AND THE PROCEEDS OF THOSE VEHICLES

C. s. 427 Bank Act Search

A search was made of the notices of intention to give security under the *Bank Act* registered in the Province of Ontario. As at September 7, 2022, **no matches** were found with respect to **2589504 Ontario Inc.**

D. Insolvency Search

A search against **2589504 Ontario Inc.** conducted at the Office of the Superintendent of Bankruptcy of the public record kept by the Superintendent of Bankruptcy for all the Districts and Divisions in Canada and the public record was found to contain **the following facts and references** to the aforementioned name from 1978 to September 2, 2022:

1. BIA Estate Number: 31-459386
 - a. BIA Estate Name” 2589504 Ontario Inc. (100, Sheppard Avenue West, Toronto, ON M2N 1M6
 - b. Estate Type: Receivership
 - c. Date of Proceeding: 2022-06-15
 - d. Total Liabilities: \$0
 - e. Total Assets: \$0
 - f. Appointed Licensed Insolvency Trustee or Administrator (Responsible Person): BDO Canada Limited (Peter Naumis)

E. Execution Act

An OWL search was conducted against **2589504 Ontario Inc.** As of September 7, 2022, there were **no writs** of execution under the *Execution Act* against **2589504 Ontario Inc.** on file with the Sheriff of the City of Toronto.

SCHEDULE "C"

(see attached)

SCHEDULE "C"

REAL PROPERTY SEARCHES

Municipal Address: 100 Sheppard Ave. West, Toronto (formerly Willowdale)

Registered Owner: 2589504 Ontario Inc.

Subsearch as of: September 7, 2022

Legal Description: Parcel 23-1, Section M389 Lot 23 and Part Lot 24 Plan 66M389; Commencing at the southeast angle of Lot 24; Thence Westerly along the north limit of Sheppard Avenue 20 feet more or less to a point distant 30 feet easterly from the southwest angle of said Lot; Thence northerly parallel to the west limit of said Lot, 117feet 8 inches more or less to the north limit thereof; Thence easterly along said north limit 20 feet more or less to the northeast angle of said lot; Thence southerly along the east limit of said lot 117feet 8 inches more or less to the place of beginning; Township of York/NorthYork; City of Toronto

Registered Encumbrances:

1. Instrument No. B67867 registered July 24, 1961, being a Notice of a Decision of The Committee of Adjustments.
2. Instrument No. B220278 registered May 16, 1968, being a Notice of a Decision of The Committee of Adjustments
3. Instrument No. 66BA1611 registered January 10, 1980, being a Plan under the Boundaries Act
4. Instrument No. AT4820571 registered March 14, 2018, being a Transfer to the current registered owner **2589504 Ontario Inc.** (Land Transfer Tax paid on \$4,800,000)
5. Instrument No. AT4820574 registered March 14, 2018, being a **second Charge** (by postponement AT5372319 registered February 25, 2020) to and in favour of Direct Capital Investments Inc. in the original principal amount of \$2,100,000. This Charge has been Transferred in favour of **Grant Thornton Limited** by Transfer of Charge AT6048652 registered April 19, 2022.
6. Instrument No. AT4820575 registered March 14, 2018 being a second Notice of Assignment General (Rents) (by postponement AT5372320 registered February 25, 2020), also in favour of Direct Capital Investments Inc.

7. Instrument No. AT5371311 registered February 24, 2020, being a **first Charge** (by postponement AT5372319 registered February 25, 2020), to and in favour of **Equitable Bank** in the original principal amount of \$4,000,000.
8. Instrument No. AT5371312 registered February 24, 2020, being a first Notice of Assignment General (Rents) (by postponement AT5372320 registered February 25, 2020), also in favour of Equitable Bank.
9. Instrument No. AT5885468 registered October 15, 2021, being a **third Charge** to and in favour of **2413974 Ontario Inc.** in the original principal amount of \$457,000.
10. Instrument No. AT6018763 registered June 16, 2022, being an Application to Register a Court Order appointing BDO Canada Limited as Receiver of assets of 2589504 Ontario Inc.
11. Clear execution search vs the registered owner (2589504 Ontario Inc.) obtained September 8, 2022.

Appendix V

Date September 8, 2022

Lawyer: Weir Foulds LLP

Attention: Wojtek Jaskiewicz

Mortgage No.: 375269
Mortgagor: 2589504 Ontario Inc.
Guarantors: George Papadogambros and Harry Christakis
Secured Property: 100 Sheppard Avenue W Toronto ON M2N1M6
Mailing Address: 116-100 Sheppard Avenue W, Toronto ON M2N 1M6
Mailing Address (George): 195 Cameron Avenue, Toronto ON M2N 1E6
Mailing Address (Harry): 5 Crowling Court, Richmond Hill ON L4E 3Y6
Maturity Date: February 14, 2023
Property Type: CFG
Fire Insurance Required: Yes
Conventional/Insured: Conventional
Tax Component: Yes

<u>Statement Purpose</u>	<u>Type</u>
Payout Statement for Information Purposes	Mortgage

<u>Mortgage Interest Rate</u>	5.49%
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Principal Balance as at May 14, 2022	\$ 3,910,812.63
Accrued Interest at 5.49% from May 14, 2022 to Sep 6, 2022	\$ 66,387.18
Late Payment Interest	\$ 658.40
3 Months Interest	\$ 53,675.90
Returned Payment Fees	\$ 400.00
Legal Fees	\$ 54,040.72
Tax Account Balance	\$ (1,113.72)
Statement Fee	\$ 100.00
Legal Action Administration Fees	\$ 1,000.00

TOTAL	\$ 4,085,961.11
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Per Diem on Principal Balance: \$ 589.83

*Plus any and all legal fees incurred

Sincerely,
 Michael A.
Equitable Bank

E. & O.E.

Appendix VI

September 13, 2022

BDO Canada Limited
360 Oakville Place Drive
Suite 500, Oakville, Ontario
L6H 6K8

Dear Sirs:

Re: Opinion to BDO Canada Limited ("BDO") as Court-Appointed Receiver and Manager of all of the assets, undertakings and properties of 2589504 Ontario Inc. (the "Borrower") regarding the validity and enforceability of security held by Direct Capital Investments Inc. (the "Lender") in connection with the real property at 100 Sheppard Avenue West, North York, Ontario (the "Property")

We have been provided with copies of the following documents:

1. an order of the Ontario Superior Court of Justice (Commercial List) made June 15, 2022, appointing BDO as Receiver and Manager of all of the assets, undertakings and properties of the Borrower acquired for, or used in relation to a business carried on by the Borrower, including the Property, pursuant to proceedings commenced by Benjamin Kay, Iser Kay and Jack Kay (the "**Applicants**");
2. the Motion to Appoint a Receiver filed on behalf of the Applicants with the Ontario Superior Court of Justice (Commercial List) on April 15, 2022 (the "**Motion to Appoint**"), including: i) the Affidavit of Benjamin Kay sworn April 15, 2022 attached at Tab "2" of the Motion to Appoint (the "**Kay Affidavit**"); and ii) an order of the Ontario Superior Court of Justice (Commercial List) made December 24, 2021 (the "**Trustee Replacement Order**") attached as Exhibit B of the Motion to Appoint;
3. the Motion Record filed on behalf of Equitable Bank with the Ontario Superior Court of Justice (Commercial List) on May 13, 2022 (the "**Motion**"), including the Affidavit of Jackson Chau sworn May 13, 2022 attached at Tab "1" of the Motion (the "**Jackson Affidavit**");
4. the Supplemental Motion to Appoint a Receiver filed on behalf of the Applicants with the Ontario Superior Court of Justice (Commercial List) on June 10, 2022 (the "**Supplemental Motion to Appoint**"), including the Affidavit of Lynda Christodoulou sworn June 10, 2022 attached at Tab "2" of the Supplemental Motion to Appoint (the "**Christodoulou Affidavit**");
5. the Factum filed on behalf of the Applicants with the Ontario Superior Court of Justice (Commercial List) on June 10, 2022 (the "**Applicants Factum**"); and
6. the Affidavit of George Papadogambros sworn June 14, 2022,

(collectively, the “**Proceedings**”).

You have asked us to provide you with an opinion in connection with the security set out in Schedule "A" relating to the Property (the "**Security**"). Specifically, you have asked us to opine on the enforceability of the Security in the Province of Ontario, and on the validity and perfection of the security interests (the "**Security Interests**") in the personal property collateral (the "**Collateral**") to which the *Personal Property Security Act* (Ontario) ("**PPSA**") applies, as granted under the Security or any of it in the Province of Ontario. We do not act for the Borrower or the Lender in this matter and did not act in the preparation of the Security or the registration of it.

Examination of Documents

For the purposes of the opinions set out herein, we have examined:

- (a) copies of the Security;
- (b) copies of search results conducted in the Province of Ontario against the Borrower with the Ministry of Consumer and Business Services (Ontario) and under the following statutes:
 - (i) the *Bank Act* (Canada);
 - (ii) the *Bankruptcy and Insolvency Act* (Canada);
 - (iii) the *Execution Act* (Ontario); and
 - (iv) the PPSA,the results and currency of which are set out in Schedule “B”;
- (c) a subsearch of title against the real property owned by the Borrower, the results of which are set out in Schedule "C". Please note that a subsearch of title is not a full search of title upon which a title opinion can be given. Our subsearch also did not include a search of adjoining lands to confirm *Planning Act* (Ontario) compliance nor did we confirm whether there was access to the real property; and
- (d) such statutes and public records, original or copies (certified or otherwise identified to our satisfaction) of corporate records, certificates and such other instruments as we have deemed necessary or appropriate for the purposes of this opinion.

For the purposes of the opinions expressed below we have considered the questions of law, made the searches and investigations, and examined originals or copies, certified or otherwise identified to our satisfaction, of the certificates of public officials and other certificates, documents and records, that we considered necessary or relevant, and we have relied without independent verification or investigation on all statements as to matters of fact contained in the certificates, documents and records we examined.

Assumptions and Reliances

For the purposes of the opinions expressed below, we have assumed, without independent

investigation or inquiry:

- (a) that with respect to all documents examined by us, the signatures are genuine, the individuals signing those documents had legal capacity at the time of signing, all documents submitted to us as originals are authentic, and certified, conformed or photocopied copies, or copies transmitted electronically or by facsimile, conform to the authentic original documents;
- (b) the completeness, truth, accuracy and currency of the indices and filing systems maintained by the public offices and registries where we have searched or enquired or have caused searches or enquiries to be made and upon the information and advice provided to us by appropriate government, regulatory or other similar officials with respect to those matters referred to in this letter;
- (c) the accuracy of the description of the Collateral set out in the Security;
- (d) that:
 - (i) the Borrower has rights in the Collateral;
 - (ii) value, as that term is defined in the PPSA, has been given to the Borrower; and
 - (iii) the Borrower has not agreed to postpone the time for attachment of the Security Interests;
- (e) that the Collateral does not include "consumer goods", as that term is defined in the PPSA;
- (f) that there is and was at all relevant times a valid, legal, enforceable and subsisting debt or other obligation owing by the Borrower to the Lender;
- (g) that the Borrower:
 - (i) was at the time of authorization, execution and delivery of the Security, and is now, validly constituted and existing under the laws pursuant to which it was constituted;
 - (ii) had the corporate power and authority to execute, deliver and perform its obligations under the Security;
 - (iii) has taken all necessary corporate action to authorize the execution, delivery and the performance of its obligations under the Security; and
 - (iv) has duly executed and delivered the Security;
- (h) that each of the parties to the Security other than the Borrower is validly constituted and existing in accordance with the laws under which it is constituted and has all necessary power and capacity to execute and deliver the Security and perform its obligations under the Security;

- (i) that the Security constitutes a legal, valid and binding obligation of each of the parties to it other than the Borrower, enforceable against each of those other parties under the laws of the applicable jurisdiction governing the Security in accordance with its terms, subject to the qualifications below;
- (j) that the Security executed by the Borrower has not been amended, restated, replaced, terminated or released, and remains in full force and effect;
- (k) that there are no:
 - (i) agreements, judgments, rulings, instruments, facts or understandings affecting or concerning the Security, the Security Interests and/or the various principal obligations for which the Security is granted; or
 - (ii) statutory or regulatory prohibitions on, and no consents, licenses, approvals, authorizations or exemptions of any federal or provincial governmental body or regulatory authority required for or in connection with, the execution, delivery and performance by the Borrower of the Security or the Security Interests and/or the various principal obligations with respect to which the Security is granted;

which are not apparent from a review of the Security and which would or might affect the validity or enforceability of the Security;

- (l) that the execution and delivery by the Borrower of the Security, and the performance by the Borrower of its rights and obligations under the Security did not and do not breach or contravene, and were not and are not in conflict with, any law or regulation applicable to such Borrower or any other agreement to which such Borrower is a party;
- (m) that the execution, delivery and performance of obligations under the Security by the Borrower did not and does not constitute a preference, fraudulent preference, conveyance, fraudulent conveyance, settlement or reviewable transaction under sections 91 or 95 of the *Bankruptcy and Insolvency Act* (Canada) or any similar provincial legislation relating to those issues;
- (n) that the Lender has not by implicit or explicit course of conduct, waiver, release, discharge, cancellation, forbearance or other means, oral or written, taken any action or steps which have, or which could or would have, altered, diminished, suspended or otherwise affected the terms, conditions of enforceability of the Security or the indebtedness, liabilities and obligations secured by the Security or any of it; and
- (o) that the Lender did not know and did not have any reason to believe at any time that the creation of the Security Interests was in contravention of any agreement by which the Borrower or its property or assets were bound, if there was such a contravention.

Laws Addressed

Except as stated below, the opinions expressed in this letter are limited to the laws of, and the federal laws of Canada applicable in, the Province of Ontario. In particular, without limiting the preceding statement, we express no opinion:

- (a) with respect to the laws of any other jurisdiction, to the extent those laws may govern any aspect of the Security or govern the validity, the perfection, the effect of perfection or non-perfection, or the enforcement of any Security Interests, as a result of the conflict of laws rules of the Province of Ontario; or
- (b) whether, under the conflict of laws rules of the Province of Ontario, the laws of the Province of Ontario would govern the validity, perfection, effect of perfection or non-perfection or enforcement of any of the Security Interests.

It is our understanding that the Borrower only has assets in the Province of Ontario, so as instructed by you we have limited our review to Ontario law.

Opinions

Based upon the assumptions and reliances stated above, and subject to the qualifications and limitations stated below, we are of the opinion that:

1. The Security to which the Borrower is a party constitutes a legal, valid and binding obligation of such Borrower, enforceable against such Borrower, as applicable in accordance with its terms, and would be valid and enforceable against a trustee in bankruptcy of such Borrower.
2. With respect only to the mortgages that are registered against title to the Property, assuming that there are no other postponements or other agreements among the parties to the mortgages registered against title to the Property other than those that appear on the parcel register of the Property as of September 7, 2022, we confirm that the GTL Charge (as defined in Schedule "A") is the second ranking mortgage registered against title to the Property.
3. The Security creates valid second ranking Security Interests in favour of the Lender as described in that security under the laws of the Province of Ontario in any Collateral to which the PPSA applies, to secure payment and performance of the obligations secured by the Security.
4. Registration has been made in all public offices provided for under the laws of the Province of Ontario where registration is necessary to perfect the Security Interests in favour of the Lender and such Security Interests would be valid and enforceable against a trustee in bankruptcy of the Borrower.

Qualifications and Limitations

The opinions in the letter are subject to the following qualifications and limitations:

1. The legality, validity, binding effect and enforceability of the Security are subject to and

may be limited by applicable bankruptcy, insolvency, reorganization, arrangement, winding-up, liquidation, moratorium, preference and other similar laws of general application affecting the enforcement of creditors' rights generally.

2. The enforceability of the obligations of the Borrower under the Security is subject to general equitable principles, including those relating to the conduct of parties such as reasonableness and good faith in the exercise of discretionary powers, to laws relating to laches, undue influence, unconscionability, duress, misrepresentation and deceit, estoppel and waiver, and to the powers of courts to stay proceedings before them, to stay the execution of judgments to relieve from penalties or the consequences of default (particularly if the default is minor or non-substantive) and to grant relief against forfeiture, and the principle that equitable remedies such as injunctive relief and specific performance are only available in the discretion of the court.
3. A secured creditor may be required to give a debtor reasonable time to satisfy any demand for payment or performance of its obligations under any of the Security before exercising any rights or remedies under it.
4. We express no opinion regarding the existence of, or the right, title or interest of the Borrower in and to, any real property or personal property. There is no title registry system in the Province of Ontario with respect to personal property, and no office of public record in which the title to personal property situate in the Province of Ontario may be examined.
5. We express no opinion regarding the priority of the Security or other interests expressed to be created by the Security, subject to Opinion no. 2 and Opinion no. 3 above on the ranking of the mortgages registered against title to the Property and the ranking of the Security Interests under the PPSA.
6. We express no opinion with respect to any equitable mortgage or any unregistered postponements or other agreements not disclosed by the registered title of the Property.
7. We express no opinion as to whether the provisions of Part VII of the *Financial Administration Act* (Canada) have been complied with. An assignment of federal Crown debts which does not comply with that Act is ineffective as between the assignor and assignee and as against the Crown. Consequently, the Lender would not have a valid security interest in federal Crown debts unless that Act is complied with.
8. The federal laws of Canada require or permit notices, filings or registrations to be made or other steps or actions to be taken in order to preserve, perfect or protect security interests in certain types of property, including, without limitation, rolling stock, vessels registered under the *Canada Shipping Act, 2001*, patents, trade-marks and copyrights. To the extent that security interests are created by the Security in any of that property, then notices, filings or registrations under those laws may be necessary or desirable in order to preserve, perfect or protect those security interests. We have not searched for the existence of any interests or rights against that property under any of those federal laws, and accordingly we express no opinion as to the creation of security interests in that property.
9. The PPSA imposes certain obligations on secured creditors which cannot be varied by contract and which may also affect the enforcement of certain rights and remedies contained

- in the Security to the extent that those rights and remedies are inconsistent with or contrary to the PPSA.
10. We express no opinion as to the enforceability of any provision of the Security which requires any Borrower to pay, or to indemnify the Lender for, the costs and expenses of the Lender in connection with judicial proceedings, since those provisions are subject to the discretion of the court to determine by whom and to what extent those costs should be paid.
 11. We express no opinion on any provision in the Security which:
 - (a) purports to restrict the access to, or waive the benefit of, statutory, legal or equitable rights, remedies or defences;
 - (b) limits rights of set-off otherwise than in accordance with applicable law;
 - (c) states that amendments or waivers of or with respect to the Security that are not in writing will be ineffective;
 - (d) purports to bind or affect, or confer a benefit upon, persons who are not parties to the Security;
 - (e) purports to exculpate a party from a liability or duty otherwise owed by it to another party; or
 - (f) provides that a certificate or a similar document will be treated as conclusive, final or binding.
 12. The enforceability of any provision in the Security which:
 - (a) purports to sever any provision which is invalid or unenforceable under applicable law without affecting the validity or enforceability of the remainder of the relevant Security;
 - (b) stipulates or limits the level of damages to which a party is entitled; or
 - (c) selects the jurisdiction whose laws are to apply or where a dispute is to be resolved;is subject to the discretion of a court.
 13. We express no opinion as to licences, permits or approvals that may be required in connection with the enforcement of the Security by the Lender or by a person on its behalf, whether such enforcement involves the operation of the business of a Borrower or a sale, transfer or disposition of their respective property and assets.
 14. We express no opinion as to any Security Interests with respect to any property of a Borrower that is transformed in such a way that it is not identifiable or traceable, or any proceeds of property of a Borrower that are not identifiable or traceable.
 15. We express no opinion as to any Security Interests in any of the circumstances described in section 4(1) of the PPSA, in respect of which the PPSA is stated to have no application.

16. We express no opinion as to the validity of the Security Interests: (i) in any Collateral consisting of a receivable, license, approval, privilege, franchise, permit, lease or agreement (collectively, "**Special Property**") to the extent that the terms of the Special Property or any applicable law prohibit its assignment or the granting of security interests in it, or require, as a condition of such assignment or grant, a consent, approval or other authorization or registration which has not been made or given, (ii) in permits, quotas or licenses which are held by or issued to a Borrower, or (iii) in growing crops.
17. The enforceability of the Security Interests in accounts or chattel paper as against an account debtor of a Borrower is subject to notice of the Security Interest and a direction to pay to the Lender being given to that account debtor, the terms of the contract between such Borrower, and that account debtor and any defence or claim arising out of the contract or a closely connected contract, and any other defence or claim of that account debtor against such Borrower, accruing before the account debtor has knowledge of the Security Interest. Further, the Security Interests will not be binding on that account debtor to the extent that the debt or account is paid or otherwise discharged before notice of the Security Interests is given to that account debtor, together with a direction to pay the account or debt to the Lender.
18. Notwithstanding that the Security Interests have been perfected by registration under the PPSA, Security Interests in:
 - (a) investment property, as that term is defined in the PPSA, will be defeated by certain claimants obtaining control of that property in the circumstances described in the PPSA or in the *Securities Transfer Act, 2006* (Ontario);
 - (b) instruments, chattel paper, documents of title or money, as those terms are defined in the PPSA, will be defeated by certain claimants obtaining possession of that property in the circumstances described in the PPSA or the *Bills of Exchange Act* (Canada); and
 - (c) goods (as defined in the PPSA) will be defeated by certain claimants to whom a Borrower sells or leases those goods in the ordinary course of business in the circumstances described in the PPSA.
19. Grant Thornton Limited ("**GTL**") replaced the Lender as the trustee for the GTL Charge pursuant to the Trustee Replacement Order. GTL has not replaced the Lender under the Lender's PPSA registration against the Borrower, however, the Trustee Replacement Order appears to be broad enough in scope such that any proceeds of the Collateral should be paid to GTL and not the Lender.
20. The security agreement between the Lender and Borrower attached as Exhibit F of the Motion to Appoint does not have a specific date although it appears to have been executed in February 2018. The PPSA registration against the Borrower in favour of the Lender as evidenced in the PPSA search attached as Exhibit H of the Motion to Appoint was registered on March 6, 2018.
21. The enforceability of the Security is subject to the *Limitations Act, 2002* (Ontario).

22. The subordination and standstill agreement between the Lender and Equitable Bank attached as Exhibit I of the Jackson Affidavit does not have a specific date although it appears to have been executed in December 2019. The Postponement of Interest attached as Exhibit J of the Jackson Affidavit was registered on title to the Property on March 6, 2018.
23. The GTL Charge refers in the Chargor box to George Papas as being the person who signed on behalf of the Borrower. It appears that there is no such person as “George Papas” and that this may just be a name that George Papadogambros goes by. We assume that George Papadogambros actually authorized the registration of the GTL Charge and that he represented himself as being “George Papas” when doing so, which does not invalidate his signature or his authorization of the GTL Charge on behalf of the Borrower.

This opinion is solely for the benefit of its addressees in connection with the Security. This opinion may not be relied upon in any manner by any other person and may not be disclosed, quoted, filed with a governmental agency or otherwise referred to without our prior written consent.

Yours very truly,

Blaney McMurtry LLP

SCHEDULE “A”**SECURITY**

1. Instrument No. AT4820574 registered March 14, 2018, being a second Charge (by postponement AT5372319 registered February 25, 2020) to and in favour of Direct Capital Investments Inc. in the original principal amount of \$2,100,000. This Charge has been Transferred in favour of Grant Thornton Limited by Transfer of Charge AT6048652 registered April 19, 2022 (the “**GTL Charge**”).
2. Instrument No. AT4820575 registered March 14, 2018 being a second Notice of Assignment General (Rents) (by postponement AT5372320 registered February 25, 2020), also in favour of Direct Capital Investments Inc.
3. The commitment letter from the Lender to the Borrower dated January 26, 2018.
4. The security agreement executed by the Borrower in favour of the Lender dated February 2018.

SCHEDULE "B"

(see attached)

2589504 ONTARIO INC.

A. *Profile Report*

The corporation profile report obtained from the Ministry of Government Services September 7, 2022 against the name **2589504 Ontario Inc.** shows that it is an **active** Ontario corporation, incorporated **July 27, 2017**, with a registered office at **1899 Leslie Street, Toronto, Ontario M3B 2M3**

According to the profile report, the directors of the corporation are: Harry Christakis
George Papadogambros

According to the profile report, the officers of the corporation are: Harry Christakis – Secretary and Treasurer
George Papadogambros - President

The profile report discloses that the corporation does not have a current or expired Business name.

B. *PPSA Search Results – current to September 6, 2022(verbal)*

A search was made in the records of the central office of the Personal Property Security Registration System in the Province of Ontario. As at September 6, 2022, **the following registrations were found** with respect to **2589504 Ontario Inc.:**

	File No.	Registration No.	Reg'n Period	Debtor	Secured Party	Collateral
1.	737010063	20180306 1549 1862 7791	10 years	2589504 Ontario Inc. 1899 Leslie Street Toronto, ON M3B 2M3	Direct Capital Investments Inc. 1899 Leslie Street Toronto, ON M3B 2M3	Inventory, Equipment, Accounts, Other, Motor Vehicle Included General Collateral Description: PROPERTY USED IN CONNECTION WITH, SITUATE AT, OR ARISING FROM, THE OWNERSHIP, DEVELOPMENT, USE OR DISPOSITION OF, THE LAND AND PREMISES KNOWN AS 100 SHEPPARD AVENUE, WEST, TORONTO ON M2N 1N6

	File No.	Registration No.	Reg'n Period	Debtor	Secured Party	Collateral
		20200224 1200 1590 7661 Subordination				SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 737010063 IS POSTPONED AND SUBORDINATED TO SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 760317228
		20200224 1328 1590 7680 Subordination				SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 737010063 IS POSTPONED AND SUBORDINATED TO SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 760317228.
2.	737010099	20180306 1550 1862 7792	10 years	2589504 Ontario Inc. 1899 Leslie Street Toronto, ON M3B 2M3	Direct Capital Investments Inc. 1899 Leslie Street Toronto, ON M3B 2M3	Accounts, Other General Collateral Description: GENERAL ASSIGNMENT OF RENTS - IN RESPECT TO THE LAND AND PREMISES KNOWN AS 100 SHEPPARD AVENUE, WEST, TORONTO ON M2N 1N6
		20200224 1200 1590 7662 Subordination				SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 737010099 IS POSTPONED AND SUBORDINATED TO SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 760317228.

	File No.	Registration No.	Reg'n Period	Debtor	Secured Party	Collateral
		20200224 1328 1590 7681 Subordination				SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 737010099 IS POSTPONED AND SUBORDINATED TO SECURITY INTERESTS PERFECTED BY REFERENCE FILE NUMBER 760317228.
3.	760317228	20200224 1158 1590 7659	10 years	2589504 Ontario Inc. 100 Sheppard Avenue West Toronto, ON M2N 1M6	Equitable Bank 700-30 St. Clair Avenue West Toronto, ON M4V 3A1	Inventory, Equipment, Accounts, Other General Collateral Description: PROPERTY NOW OR HEREAFTER USED IN CONNECTION WITH, SITUATE AT, OR ARISING FROM THE OWNERSHIP, DEVELOPMENT, USE OR DISPOSITION OF THE LANDS MUNICIPALLY KNOWN AS 100 SHEPPARD AVENUE WEST, TORONTO, ONTARIO AND PROCEEDS THEREOF. SECURITY INCLUDING BUT NOT LIMITED TO GENERAL SECURITY AGREEMENT AND GENERAL ASSIGNMENT OF RENTS.

	File No.	Registration No.	Reg'n Period	Debtor	Secured Party	Collateral
4.	761231754	20200325 1633 1219 3160	4 years	2589504 Ontario Inc. 100 Sheppard Ave W Toronto, ON M2N 1M6 Harry Christakis DOB: 16 Jun 1960 5 Crowling Crt North York, ON M2N 1M6	Canadian Dealer Lease Services Inc. 372 Bay Street, Suite 1800 Toronto, ON M5H 2W9 Bank of Nova Scotia – DLAC 44 King Street W, Scotia Plaza Toronto, ON M5H 1H1	Equipment, Other, Motor Vehicle Included Amount: 72592 Year: 2019 Make: Jaguar Model: XJ VIN: SAJXJ2GD8K8W18043 General Collateral Description: OUR SECURITY INTEREST IS LIMITED TO THE MOTOR VEHICLES LISTED ABOVE AND THE PROCEEDS OF THOSE VEHICLES

C. s. 427 Bank Act Search

A search was made of the notices of intention to give security under the *Bank Act* registered in the Province of Ontario. As at September 7, 2022, **no matches** were found with respect to **2589504 Ontario Inc.**

D. Insolvency Search

A search against **2589504 Ontario Inc.** conducted at the Office of the Superintendent of Bankruptcy of the public record kept by the Superintendent of Bankruptcy for all the Districts and Divisions in Canada and the public record was found to contain **the following facts and references** to the aforementioned name from 1978 to September 2, 2022:

1. BIA Estate Number: 31-459386
 - a. BIA Estate Name” 2589504 Ontario Inc. (100, Sheppard Avenue West, Toronto, ON M2N 1M6
 - b. Estate Type: Receivership
 - c. Date of Proceeding: 2022-06-15
 - d. Total Liabilities: \$0
 - e. Total Assets: \$0
 - f. Appointed Licensed Insolvency Trustee or Administrator (Responsible Person): BDO Canada Limited (Peter Naumis)

E. Execution Act

An OWL search was conducted against **2589504 Ontario Inc.** As of September 7, 2022, there were **no writs** of execution under the *Execution Act* against **2589504 Ontario Inc.** on file with the Sheriff of the City of Toronto.

SCHEDULE "C"

(see attached)

SCHEDULE "C"

REAL PROPERTY SEARCHES

Municipal Address: 100 Sheppard Ave. West, Toronto (formerly Willowdale)

Registered Owner: 2589504 Ontario Inc.

Subsearch as of: September 7, 2022

Legal Description: Parcel 23-1, Section M389 Lot 23 and Part Lot 24 Plan 66M389; Commencing at the southeast angle of Lot 24; Thence Westerly along the north limit of Sheppard Avenue 20 feet more or less to a point distant 30 feet easterly from the southwest angle of said Lot; Thence northerly parallel to the west limit of said Lot, 117feet 8 inches more or less to the north limit thereof; Thence easterly along said north limit 20 feet more or less to the northeast angle of said lot; Thence southerly along the east limit of said lot 117feet 8 inches more or less to the place of beginning; Township of York/NorthYork; City of Toronto

Registered Encumbrances:

1. Instrument No. B67867 registered July 24, 1961, being a Notice of a Decision of The Committee of Adjustments.
2. Instrument No. B220278 registered May 16, 1968, being a Notice of a Decision of The Committee of Adjustments
3. Instrument No. 66BA1611 registered January 10, 1980, being a Plan under the Boundaries Act
4. Instrument No. AT4820571 registered March 14, 2018, being a Transfer to the current registered owner **2589504 Ontario Inc.** (Land Transfer Tax paid on \$4,800,000)
5. Instrument No. AT4820574 registered March 14, 2018, being a **second Charge** (by postponement AT5372319 registered February 25, 2020) to and in favour of Direct Capital Investments Inc. in the original principal amount of \$2,100,000. This Charge has been Transferred in favour of **Grant Thornton Limited** by Transfer of Charge AT6048652 registered April 19, 2022.
6. Instrument No. AT4820575 registered March 14, 2018 being a second Notice of Assignment General (Rents) (by postponement AT5372320 registered February 25, 2020), also in favour of Direct Capital Investments Inc.

7. Instrument No. AT5371311 registered February 24, 2020, being a **first Charge** (by postponement AT5372319 registered February 25, 2020), to and in favour of **Equitable Bank** in the original principal amount of \$4,000,000.
8. Instrument No. AT5371312 registered February 24, 2020, being a first Notice of Assignment General (Rents) (by postponement AT5372320 registered February 25, 2020), also in favour of Equitable Bank.
9. Instrument No. AT5885468 registered October 15, 2021, being a **third Charge** to and in favour of **2413974 Ontario Inc.** in the original principal amount of \$457,000.
10. Instrument No. AT6018763 registered June 16, 2022, being an Application to Register a Court Order appointing BDO Canada Limited as Receiver of assets of 2589504 Ontario Inc.
11. Clear execution search vs the registered owner (2589504 Ontario Inc.) obtained September 8, 2022.

Appendix VII



September 8, 2022

BDO Canada Limited
360 Oakville Place Drive
Suite 500
Oakville ON L6H 6K8

Attention: Peter Naumis, Vice President

Grant Thornton Limited
11th Floor
200 King Street West, Box 11
Toronto, ON
M5H 3T4
T +1 416 366 0100
F +1 416 360 4949

Dear Mr. Naumis:

**RE: Payout Statement – 100 Sheppard Avenue West, Toronto, Ontario
Mortgage Investment of Benjamin Kay, Iser Kay and Jack Kay
LOAN TO 2589504 ONTARIO INC (“Kay Mortgage Investment”)**

As requested, included below is a schedule detailing the amount owing in respect of the Kay Mortgage Investment on the mortgage granted by 2589504 Ontario Inc. (the “**Debtor**”) against the real property located at 100 Sheppard Avenue West, Toronto, Ontario (the “**Property**”).

The total amount due to Grant Thornton Limited in its capacity as Court-appointed Trustee over the Kay Mortgage Investment on the Property totals \$3,415,920 (the “**Outstanding Amount**”) as at September 7, 2022, consisting of:

Principal and Interest Balance	\$3,103,287.00
Legal and other enforcement costs	311,983.00
Demand Letter Fee	300.00
Discharge Statement Fee	350.00
Outstanding Amount	\$ 3,415,920.00

Per diem interest costs after September 7, 2022 total \$933.55.

Please issue payment for the Outstanding Amount via certified cheque payable to:

**GRANT THORNTON LIMITED in its capacity as Court-appointed
Trustee over the Mortgage Investment of Benjamin Kay, Iser Kay
and Jack Kay LOAN TO 2589504 ONTARIO INC**
11th Floor, 200 King Street West, Box 11
Toronto, Ontario
M5H 3T4

Attention: Chris Rowe

Should you have any questions regarding the contents of this letter, please contact Maya Poliak of Chaitons LLP.

Yours very truly,

**GRANT THORNTON LIMITED in its capacity
as Court-appointed Trustee over the Mortgage
Investment of Benjamin Kay, Iser Kay and Jack Kay
LOAN TO 2589504 ONTARIO INC**

Per:



Jonathan Krieger CPA, CPA, CIRP, LIT
Senior Vice President

cc: Maya Poliak, Chaitons LLP

Appendix VIII

2589504 ONTARIO INC.
INTERIM STATEMENT OF OPERATIONAL RECEIPTS & DISBURSEMENTS
AS AT SEPTEMBER 8, 2022

	Total
RECEIPTS	
Rental Income, note 1	\$ 58,660.13
HST Collected	7,625.80
Interest	17.19
	\$ 66,303.12
TOTAL RECEIPTS	
DISBURSEMENTS	
Filing Fees paid to Official Reciever	72.82
Change Locks	1,259.00
Insurance	2,394.69
Utilities	4,378.88
Repairs and Maintenance	1,020.00
Property Management	1,295.00
HST Paid on Disbursements	992.40
	\$ 11,412.79
TOTAL DISBURSEMENTS	\$ 11,412.79
ESTATE BALANCE	\$ 54,890.33

Notes:

1. Rental income does not reflect the September rent payment for Monica Y. Kim, CPA, or MZ Naturopathic Ltd., which are in the Receivr's possession, however, as at date of this accounting, have not yet been deposited.
2. Above accounting does not include the following accrued and unpaid expenses:

Property management fees - August:	\$ 2,070.00
Altus Appraisal:	6,600.00
Est. Utilities:	1,700.00
HST:	1,127.10
	\$ 11,497.10

Appendix IX

Court File No. CV-21-00660400-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

BENJAMIN KAY, ISER KAY and JACK KAY

Applicant

- and -

DIRECT CAPITAL INVESTMENTS INC. in its personal capacity and in its capacity as trustee of a trust for the Plaintiffs, DIRECT MORTGAGE INC., PAGONAS PAPADOGAMBROS, STEPHEN FREEDMAN, 2589504 ONTARIO INC., NO. 16 HOSPITALITY LTD., GEORGE PAPADOGAMBROS, HARRY CHRISTAKIS, SPRINGOS LAW, ANGELOS SPRINGOS, GARFINKLE BIDERMAN LLP and BARRY POLISUK

Respondents

AFFIDAVIT OF PETER NAUMIS

I, PETER NAUMIS, of the City of Mississauga, of the Regional Municipality of Peel, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Vice President of BDO Canada Limited ("**BDO**"), Court appointed receiver 2589504 Ontario Inc. ("**258**") (in such capacity, the "**Receiver**"), and as such have knowledge of the matters hereinafter deposed.
2. The Receiver was appointed pursuant to an Order of the Honourable Mr. Justice Cavanagh dated June 15, 2022 (the "**Order**").
3. Pursuant to the Order, the Receiver has provided services and incurred disbursements for 258, which are more particularly described in the detailed accounts attached hereto as **Exhibit "A"**.

4. The hourly billing rates set out in the Receiver’s accounts are normal hourly rates charged by BDO for services rendered in relation to similar proceedings.
5. The time shown in the detailed accounts attached as **Exhibit “A”**, are a fair and accurate description of the services provided and the amounts charged by the Receiver, which reflect the Receiver’s time as billed at its standard billing rates.
6. The Receiver requests that the Court approve its interim accounts for the period from May 9, 2022 to September 9, 2022 in the amount of \$52,534.38 inclusive of HST of \$6,043.78, for the services set out in **Exhibit “A”**.
7. This Affidavit is sworn in support of the Receiver’s motion for, among other things, approval of its fees and disbursements, and those of its legal representatives for no other or improper purpose.

SWORN before me at the City of Toronto)
 in the Province of Ontario on this 9th day)
 of September 2022.)
)
)
)
)
)



.....
 Commissioner for Taking Affidavits



 Peter Naumis

**Gary Vincenzo Cerrato, a Commissioner, etc.,
 Province of Ontario, for BDO Canada LLP and
 BDO Canada Limited, and their subsidiaries,
 associates and affiliates. Expires March 9, 2023.**

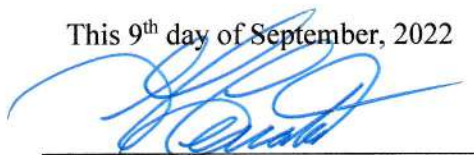
Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF PETER NAUMIS

Sworn before me

This 9th day of September, 2022

A handwritten signature in blue ink, appearing to be "K. [unclear]", written over a horizontal line.

Commissioner for taking Affidavits, etc.



Tel: 905 615 8787
 Fax: 905 615 1333
 www.bdo.ca

BDO Canada Limited
 360 Oakville Place Drive, Suite 500
 Oakville ON L6H 6K8 Canada

Grant Thornton Limited in its capacity as Trustee
 over the investment of Benjamin Kay, Iser Kay and Jack Kay
 c/o BDO Canada Limited
 360 Oakville Place Drive
 Suite 500
 Oakville, Ontario
 L6H 6K8

Date	Invoice No.
September 9, 2022	#CINV - TBD

RE: 2589504 Ontario Inc.

FOR PROFESSIONAL RECEIVERSHIP SERVICES RENDERED for the period commencing May 9, 2022 to September 9, 2022 inclusive per attached detail:

Our Fee		\$	43,839.50
Disbursements			
Travel/Mileage	398.33		
Courier/postage/Misc	60.80		
Administrative Fee - 5%	2,191.98		2,651.11
			<u>46,490.61</u>
HST - 13.00% (R101518124)			<u>6,043.78</u>
TOTAL		\$	<u><u>52,534.38</u></u>

	Hours	Rate	Amount
J. Parisi, Partner	1.10	595.00	654.50
P. Naumis, Senior Manager	58.75	435.00	25,556.25
S. Burrowes, Manager	24.90	350.00	8,715.00
W. Ge, Senior Analyst	24.10	300.00	7,230.00
Administrative Support	10.25	164.27	1,683.75
	<u>119.10</u>		<u>\$ 43,839.50</u>

Date	Professional	Hrs.	Description
9-May-22	Peter Naumis	0.50	Consent form. Discussions with Equitable counsel re: engagement, Grant Thornton, etc. Call with Jonathan Krieger (GT) re: appointment.
10-May-22	Peter Naumis	0.25	Update and discussion with counsel for Equitable re: application for receiver. Correspondence with counsel for 2nd mortgagee re: draft form of Order.
18-May-22	Peter Naumis	0.25	Update from counsel re: revised motion date, etc.
30-May-22	Peter Naumis	0.25	Update from Jackson and Eric.
8-Jun-22	Peter Naumis	0.50	Call with Blaney's re: appointment motion, draft order, debtor's refinancing, etc.
10-Jun-22	Peter Naumis	0.50	Review and comment on draft order ahead of motion. Update on debtor responses, re-finance, etc.
13-Jun-22	Peter Naumis	1.00	Continued amendments to draft order. Review application, update on debtor's proposed payout, etc.
14-Jun-22	Peter Naumis	1.25	Correspondence to and from counsel re: revisions to order being sought, etc. Prepare for upcoming motion and proposed mandate. Further amendments to draft form of order. Call with appointing creditor re: quantum of receiver's certificate.
15-Jun-22	Peter Naumis	0.50	Discussion with Lock-it Security re: taking possession. Call with Eric Golden re: Notice to Tenants, Rent Attornments, etc.
16-Jun-22	Peter Naumis	1.25	Discussion with counsel re: rent attornments, registering Order on title, etc. Call with George. Correspondence to George.
16-Jun-22	Stephanie Burrowes	0.20	Review endorsement.
17-Jun-22	Peter Naumis	2.25	Travel to property, meet George. Obtain available books and records, assess property and meet tenants. Discuss George's view that he will be funded next week to payout the first and second mtg. Call with Blaney's, discuss initial assessment and meeting with debtor.

17-Jun-22	Stephanie Burrowes	4.50	Attend 100 Sheppard Ave. W. to meet with director of Company and compile documentation/take pictures of location/meet with tenants. Email to George. Review leases and put together contact information for tenants. Review engineering/environmental reports and upload to drive. Upload pictures to drive. Left Arun at Richmond Advisory a message and emailed him regarding the property management of the building. Discussion with Arun. Emailed Arun details requested.
17-Jun-22	Wendy Ge	0.30	Print out receivership order
17-Jun-22	Wendy Ge	2.50	Onsite with Stephanie and Peter, taking possession, meeting with principal and tenant, etc.
17-Jun-22	Wendy Ge	0.60	Scan HST returns, NOAs, utility bills, insurance policies, TD bank statements, save on directory, etc.
17-Jun-22	Wendy Ge	0.30	Draft write up for insolvency insider
20-Jun-22	Peter Naumis	2.50	Update, realtors re: listing proposals, reconciliation of tenant leases with rent roll, engagement of property management, etc. Review leases. Review bank statements and query certain transactions. Update on realtors and request for listing proposals.
20-Jun-22	Stephanie Burrowes	1.60	Emails with IT regarding extranet. Follow up email to George. Draft direction to tenant letters and go through possible realtors. Review bank statements and leases to match rent deposits. Email to Anthony at Colliers regarding listing proposal, Mike at CBRE and Aidan at Avison. Review extranet and request changes from IT.
20-Jun-22	Wendy Ge	0.50	Review leases and reconcile with rent roll provided by George
20-Jun-22	Wendy Ge	0.20	Update account and opportunity on CRM
20-Jun-22	Wendy Ge	0.50	Update rent roll reconciliation
21-Jun-22	Peter Naumis	1.00	Discussions with Stephanie re: lack of information received from George, HST filings behind, Notice to tenants, discrepancy with leases and rent roll, etc.
21-Jun-22	Stephanie Burrowes	2.50	Follow up with realtors regarding scheduling time to view property. Call with Chris from Colliers. Emails with George regarding information request and discrepancies in rent roll. Revise letter to tenants and calculate monthly rent amounts. Try searching for contact information for tenants. Review operating costs and advise realtors of same.

21-Jun-22	Wendy Ge	0.10	Send filing info to insolvency insider
21-Jun-22	Wendy Ge	0.60	Print out tenant letters, orders for tomorrow
22-Jun-22	Peter Naumis	1.00	Call and update with George re: payout to Equitable and the Kay's. Follow up on realtor proposals and property manager. Update from Stephanie and Wendy re: books and records, HST filings, etc.
22-Jun-22	Stephanie Burrowes	1.50	Provide rent roll to Arun at Richmond Advisory and various emails. Draft Notice of Receiver. Various emails to George regarding Jaguar on PPSA. Email to Wojtek. Discussion with Peter. Review bank statements to determine monthly operating costs.
22-Jun-22	Wendy Ge	2.00	Meeting and viewing of property located at 100 Sheppard Ave. W with property manager and brokers
22-Jun-22	Wendy Ge	0.50	Draft letters to insurance broker and insurance company
23-Jun-22	Peter Naumis	1.25	Review, update and finalize Receiver's Notice and Statement. Update from George re: payout. discussions with Stephanie re: monitoring of bank account, etc. Review/amend correspondence to insurer.
23-Jun-22	Stephanie Burrowes	0.70	Call with Aidan from Avison regarding listing proposal and information on property. Email information request to George. Review Jag lease and bank statement sent. Draft letter to leasing company for Jaguar.
23-Jun-22	Wendy Ge	2.50	Meeting with Laura and Mike at CBRE for viewing of property, travelling to be onsite
23-Jun-22	Wendy Ge	0.30	Email Aiden, Laura and Mike to follow up on timeline of listing proposal, discussion with Peter
24-Jun-22	Franca Iannilli	1.50	Finalize Notice of Receiver and Receiver's Statement, Update and fax to the OSB, save confirmation mail out notices to the creditors and directory, Prepare File folders, mail out letter to Canada Dealer Lease Services Inc.
24-Jun-22	Peter Naumis	1.25	Follow up with realtors for listing proposals, follow up with George for missing information and follow up with bookkeeper re: HST filings.
24-Jun-22	Wendy Ge	0.25	Email, print out and mail out letter to broker along with court order, post postage on WD
24-Jun-22	Wendy Ge	0.15	Fax out letter to broker along with court order, post postage on WD
24-Jun-22	Wendy Ge	0.20	Respond to Aidan at Avison Young, and forward required info

27-Jun-22	Peter Naumis	1.50	Follow up with realtors re: listing proposals. Follow up with Elaine re: HST filings. Follow up with George re: requested information. Ongoing discussions and update from Elaine re: QuickBooks, HST, records, etc.
27-Jun-22	Stephanie Burrowes	0.40	Forward rent roll to Aidan and Avison and answer further questions regarding the property. Email to Richmond Advisory Services to engage services. Review Colliers listing proposal.
28-Jun-22	Peter Naumis	0.75	Correspondence with George and bookkeeper. Update re: books and records and HST filing. Update from realtor. Update from property manager.
28-Jun-22	Stephanie Burrowes	0.50	Forward Notice of Receiver and Court Order to Enbridge and Toronto Hydro. Review property management agreement and telephone call with Monica Kim, tenant.
29-Jun-22	Peter Naumis	1.00	Draft letter to TD Bank. Correspondence with George re: information request, rent collection for July, etc. Correspondence and update from bookkeeper, demand for QuickBooks backup, non-cooperation, etc. Update property manager. Further follow up with relators.
30-Jun-22	Franca Iannilli	0.45	Prepare Affidavit of mailing of Receiver and Receiver Statement
30-Jun-22	Peter Naumis	2.25	Realtor communication. Review listing proposals and summarize key facts. Draft schedule of estimated realization. Further communication with George re: queries. Follow up on rent payments due for July 1.
5-Jul-22	Peter Naumis	0.75	Rent collection update from Wendy. Rent payment reconciliation and lease discrepancy, Update from George re: payout. Realtor correspondence and update.
5-Jul-22	Wendy Ge	2.50	Pick up tenants rent for July 2022 from Monica and MZ Naturopathic and 6 months post dated cheques from George and Harry
6-Jul-22	Peter Naumis	1.00	Update rents, tenant unable to locate, etc. Update realtor listing proposals. Update George.
6-Jul-22	Stephanie Burrowes	0.20	Email to Toronto Hydro regarding setting up utility. Set up in Ascend.
6-Jul-22	Wendy Ge	0.20	Reconcile rent cheques with tenant letters, call MZ Naturopathic, email George regarding Choisun Consulting
6-Jul-22	Wendy Ge	0.20	Correspond with George, Peter and Eric re tenant rent

7-Jul-22	Franca Iannilli	0.60	Follow up as phone call, left message and email the OSB regarding update Certificate, photo copy all cheques.
7-Jul-22	Stephanie Burrowes	0.10	Call with Enbridge to ensure utilities switched over.
8-Jul-22	Peter Naumis	1.00	Correspondence with George. Call with counsel and Equitable Bank.
8-Jul-22	Stephanie Burrowes	0.50	Complete forms.
11-Jul-22	Lourdes Dula	0.50	filled in the banking info & emailed request to RBC to open a new bank account
11-Jul-22	Peter Naumis	1.00	Discussions/update with realtors. Call with potential appraisers, proposals re: timing and costs for 100 Sheppard. Call to George re: Cloison Consulting, update, etc. Finalize with RAS management agreement.
11-Jul-22	Stephanie Burrowes	0.10	Added to ResourceMe.
11-Jul-22	Wendy Ge	0.10	Forward tenant contact info to property manager - Arun
11-Jul-22	Wendy Ge	0.20	Follow up with insurer Chirag Bhatija re payment terms, coverage on the property, etc.
11-Jul-22	Wendy Ge	0.10	Call back tenant Monica and left voicemail
11-Jul-22	Wendy Ge	0.20	Call with Arun to clarify lock changes and tenant contact info
12-Jul-22	Peter Naumis	1.00	Correspondence with realtor. Update from George re: Choison tenancy and potential payout. Correspondence and update from appraisers. Draft/revisions to Agreement of Purchase and Sale template.
13-Jul-22	Franca Iannilli	0.45	Prepare Cheque deposit, photo copy all cheques, scan and save in directory, send to Toronto.
13-Jul-22	Stephanie Burrowes	0.20	Email response to property managers regarding cleaning company. Attend to rent cheques.
13-Jul-22	Wendy Ge	0.20	Discuss with Franca re post dated cheques and posting in Ascend
14-Jul-22	Peter Naumis	1.50	Update: realtors, appraisal firms and Grant Thornton. Review realtor listing agreement and provide comments. Call to and from CRA re: HST filings, audit, etc.
14-Jul-22	Wendy Ge	0.30	Prepare letter to CRA to request RT0002 account and send out by email
14-Jul-22	Wendy Ge	0.20	Follow up with insurance company
15-Jul-22	Peter Naumis	0.75	Review listing agreement. Provide comments to counsel for review. Update to second mortgagee. Correspondence with realtors.
18-Jul-22	Lourdes Dula	0.50	stamped /endorsed cheques & entered, posted deposit entries

19-Jul-22	Peter Naumis	0.50	Debtor correspondence re: utilities. Update from Altus re: appraisal. Update realtor re: schedule A.
20-Jul-22	Franca Iannilli	0.60	Input Cheques in ASCEND, print list of post dated cheques, prepare cheque deposit and send to Lou, Prepare Cheque req for Filing Fees and email to Lou.
20-Jul-22	Lourdes Dula	0.30	posted entry & processed & printed esigned cheque for mailing.
20-Jul-22	Peter Naumis	0.25	CBRE due diligence update. Cheque requisition review and approval.
20-Jul-22	Wendy Ge	0.30	Post post dated cheques for rent in Ascend
21-Jul-22	Peter Naumis	0.75	Update Altus re: appraisal. Correspondence with counsel re: listing agreement and schedule 'A'. Update realtor. Follow up with George re: purported refi.
22-Jul-22	Peter Naumis	0.50	Altus engagement letter, update counsel re: listing agreement and schedule A. Call with counsel.
22-Jul-22	Wendy Ge	1.50	Go through appraisal proposal letter and appendix A, summary required info and docs, forward to Richard, discuss with Peter
25-Jul-22	Peter Naumis	1.50	Update with counsel re: listing agreement revisions, APS revisions, etc. Call with CBRE re: changes. Call to Grant Thornton to discuss termination clause and fixed fee payable to CBRE in the event 258 redeems. Correspondence wit George and accountant re: HST filings, janitor contact details. Correspondence and update from property manger re: identified areas of concern. Call to CRA.
25-Jul-22	Wendy Ge	0.50	Review and compile documents and forward to Bryant at CBRE for due diligence requests
26-Jul-22	Peter Naumis	0.50	Call with Grant Thornton to further discuss listing agent break fee on termination, admin status, etc. Update counsel.

27-Jul-22	Peter Naumis	1.75	Travel to 100 Sheppard, meet with George. Discuss books and records, HST and T2 filings. George continues to advise that records incorrect due to improperly booked inter-company transactions. Need to clean up before filing. Elaine working on it. Discussions around refinancing and paying out 1st and 2nd. Review property and vacant units. Update with realtor re: listing agreement, termination clause, Receiver's form of APS, etc. Correspondence from insurer re: cancellation due to material risk.. Update to Wendy, point out clause in Receivership Order preventing termination of insurance.
27-Jul-22	Wendy Ge	0.50	Call with Peter regarding keys, insurance, respond to insurer regarding discontinued services, etc.
28-Jul-22	Franca Iannilli	0.20	Update ASCEND and e-file File Fees, print and scan to the directory, mail out cheque.
28-Jul-22	Peter Naumis	1.00	Discussions with Kay's trustee - Grant Thornton. Review, finalize and disseminate correspondence to various entities that transacted with 258 in prior 12 months.
29-Jul-22	Peter Naumis	0.25	Realtor correspondence
2-Aug-22	Janice Malcolm	0.20	Process cheques for deposit
2-Aug-22	Stephanie Burrowes	0.20	Cheque requisition Enbridge invoice. Email to tenant, Monica, regarding August rent payment.
3-Aug-22	Stephanie Burrowes	0.10	Cheque requisition.
5-Aug-22	Wendy Ge	0.35	Deposit slip preparation, scan cheque, forward to trustee, send out by courier to Toronto office
5-Aug-22	Wendy Ge	1.00	Make copies of keys for units at 100 Sheppard, prepare courier, send out to realtor
8-Aug-22	Lourdes Dula	0.30	entered, posted entries & processed & printed esigned cheque to courier to Oakville office
8-Aug-22	Peter Naumis	1.75	Realtor correspondence, listing agreement, listing and Receiver's form of APS. Update on August rents. Follow up with Wawanesa re: insurance. Follow up with alternate insurers. Correspondence from Grant Thornton - August 3. Review with counsel and request to issue letters. Review counsel proposed response and comment.
8-Aug-22	Stephanie Burrowes	0.40	Attend to August rent payments. Email to George and Elaine regarding water and waste collection at the property. Review and discuss file with Peter.
9-Aug-22	Lourdes Dula	0.30	entered, posted & processed & printed esigned cheque to courier.

9-Aug-22	Peter Naumis	1.25	Realtor correspondence and update. Update draft APS. Forward to realtor for potential interested parties. Update to and from Elaine and George re: HST filings, books and records. NSF payment for July rent from No. 16.
9-Aug-22	Stephanie Burrowes	0.50	Provided tenant contact information to realtor. Draft insolvency insider ad for sale of property. Cheque requisition for City of Toronto water payment. Email to property management regarding August rent.
10-Aug-22	Peter Naumis	1.50	Update from Wawanesa confirming retention of insurance coverage. Correspondence with realtor re: signage on building, update on interest, etc. NSF cheque from No. 16 Hospitality, correspondence to George re: replacement. Update from realtor re: tours and non-cooperation from George and Harry. Correspondence with George.
10-Aug-22	Stephanie Burrowes	0.10	Email to Toronto Hydro.
10-Aug-22	Wendy Ge	0.25	Arrange for time to meet with Claudia at Altus
11-Aug-22	Franca Iannilli	1.50	Sending out courier for the same day, email Peter, follow up with tracking once sign. Cheques came in from Lou mail to Enbridge and City of Toronto.
11-Aug-22	Lourdes Dula	0.30	took notes, entered, posted & processed cheque for esignature
11-Aug-22	Peter Naumis	1.25	Correspondence with realtor re: access. Correspondence with George re: emergency access to 3rd floor in case of emergency. Forward default letter to No. 16 Hospitality. Update with Richmond Advisory. Finalize draft APS and forward to CBRE. Workout replacement July rent with George.
11-Aug-22	Stephanie Burrowes	0.40	Attend to cheques received and invoices. Emails with Toronto Hydro and cheque requisition. Attend to rent payments.
11-Aug-22	Wanda Labonte [C]	0.10	Prepare bank reconciliation - July 2022
11-Aug-22	Wendy Ge	0.30	Call with Bryant re key issue, discuss with Peter, call Arun and left voicemail
11-Aug-22	Wendy Ge	0.20	Coordinate with Franca to get keys at office
12-Aug-22	Peter Naumis	1.00	Realtor update and weekly status report. Review. Call to realtor to discuss yesterdays tours, interest and feedback. Update on August rents and No. 16 July NSF. Communicate with Grant Thornton re: realtor feedback. Correction to draft APS.
12-Aug-22	Stephanie Burrowes	0.10	Attend to rent matters.

12-Aug-22	Wendy Ge	3.00	Attend 100 Sheppard Ave W, meet with inspector, calls with Leraz and Peter, pick up keys for unoccupied units, make extra copies of keys, etc.
15-Aug-22	Lourdes Dula	0.30	printed documents, entered, posted & printed esigned cheques to courier.
15-Aug-22	Peter Naumis	0.25	Realtor and insurer correspondence and update.
15-Aug-22	Stephanie Burrowes	0.20	Attend to insurance matters and payments.
16-Aug-22	Lourdes Dula	0.30	took notes, entered, posted entries & processed cheque for esignature.
16-Aug-22	Peter Naumis	1.00	Review two offers received. Discuss with realtor and strategize counter. Discuss and update Equitable Bank re: offers and Receiver's intentions.
16-Aug-22	Stephanie Burrowes	0.60	Looked into questions from Claudia from Atlas regarding the building (tenants, capital cost scheduled, budget etc.). Responded to Claudia. Email to Elaine requesting additional information. Cheque requisition for property management.
17-Aug-22	Franca Iannilli	0.30	Prepare (2) cheque deposits, scan, save and prepare to send by courier and email Lou.
17-Aug-22	Peter Naumis	0.50	Correspondence and call with realtor re: Colliers potentially fishing for information to report to Debtor. Correspondence with counsel. Update from Elaine re: HST filings.
17-Aug-22	Stephanie Burrowes	0.30	Attend to property taxes. Respond to purchaser queries.
18-Aug-22	Peter Naumis	1.25	Discussion with relator re: market rents, offers, additional tours. Update stakeholders. Receive and review new APS. Forward to EQ and counsel. Discussions re: counters to two viable offers.
18-Aug-22	Stephanie Burrowes	0.40	Attend to realtor emails regarding rental rates. Review MZ lease and email to Peter regarding amounts being paid.
18-Aug-22	Wendy Ge	0.50	Viewing with Claudia and Anna for valuation at 100 Sheppard
19-Aug-22	Peter Naumis	0.50	Discussion and update from appraiser. Discussion with counsel and stakeholder re: offers received, counter, etc. Discussions with realtor.
22-Aug-22	Lourdes Dula	0.50	stamped/endorsed & entered. Posted deposit entries.

22-Aug-22	Peter Naumis	1.25	Update stakeholders. Call with CBRE on offers from Corner Capital and Jim Papas. Strategize go forward. Draft schedule of estimated realization. Discussions with Jonathan Krieger (Grant Thornton) re: Levy offer and Jim Paps offer, terms and conditions, offer price, closing, etc. GT consents to the Receiver's position on accepting the Jim Papas offer and moving forward with this group.
22-Aug-22	Stephanie Burrowes	0.50	Reviewed estimated realization schedule and responded to Peter regarding potential changes. Review July bank reconciliation. Email to insurance company regarding funds taken.
23-Aug-22	Peter Naumis	0.50	Discussion and update with CBRE re: two offers, signback's, etc.
24-Aug-22	Franca Iannilli	0.10	Mail, scan, save and email staff.
24-Aug-22	Peter Naumis	1.00	Correspondence with CBRE re: offer late last night. Review, irrevocable to August 30, same date as deposit due from APS accepted August 23. Will hold in case deposit not received. Update re: request for updated QuickBooks data backup file. Update George re: insurance pull premium twice, Receiver paid and pulled from Georges bank account.
24-Aug-22	Stephanie Burrowes	0.10	Email to insurance regarding payment taken from George by mistake.
25-Aug-22	Peter Naumis	0.25	Call with George re: deposit timing, issues with cleaners, etc.
26-Aug-22	Peter Naumis	0.25	Issue with cleaners WSIB and insurance. Communicate with cleaners and George.
29-Aug-22	Stephanie Burrowes	0.10	Email correspondence regarding insurance coverage.
31-Aug-22	Franca Iannilli	0.15	Prepare Cheque. req- scan, email, save and email Lou to mail from her end.
31-Aug-22	Lourdes Dula	0.70	printed documents, entered, posted entries & processed & printed esigned cheques for mailing.
31-Aug-22	Peter Naumis	0.75	Confirmation re: deposit received by CBRE, report planning for AVO, Distribution and discharge. Insurance confirmation for SIS Cleaners. Update stakeholders re: deposit received from purchaser.
31-Aug-22	Stephanie Burrowes	2.70	Cheque requisitions for insurance and property management. Draft court report.

1-Sep-22	Stephanie Burrowes	5.20	Email to insolvency insider to pull sales ad. Draft court report. Call and left message for Wendy at CRA regarding RT0001 refund and opening the RT0002. Draft confidential supplement report.
6-Sep-22	Janice Malcolm	0.10	Process cheque for deposit
6-Sep-22	Peter Naumis	3.00	Review and amend draft First Report of Receiver. Update and discussions with realtor. Update to bookkeeper re: HST and T2 filings. Update and correspondence with George. Review and amend draft Confidential Supplemental Report to the First Report of Receiver.
7-Sep-22	Peter Naumis	0.25	Review draft Altus report, call with appraiser.
7-Sep-22	Peter Naumis	0.25	Call and update with George re: status of books, HST filing and T2 filings.
8-Sep-22	Josie Parisi	1.10	Second partner review of report and confidential supplement.
8-Sep-22	Peter Naumis	3.00	Report comments from counsel. Review, update and supplement certain discussions. Call and update with realtor. Call with Altus.
9-Sep-22	Peter Naumis	3.00	Fee affidavit, Kays' payout, finalize report and appendices, forward to counsel for motion materials. Update with realtor. Update with debtor. Review Notice of Motion and draft Order. Discussions with counsel.

Appendix X

Court File No. CV-21-00660400-00CL

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

B E T W E E N:

BENJAMIN KAY, ISER KAY and JACK KAY

Plaintiffs

- and -

**DIRECT CAPITAL INVESTMENTS INC. in its personal capacity and in its
capacity as a trustee for the Plaintiffs, DIRECT MORTGAGE INC.,
PAGONAS PAPADOGAMBROS, STEPHEN FREEDMAN, 2589504
ONTARIO INC., NO. 16 HOSPITALITY LTD., GEORGE
PAPADOGAMBROS, HARRY CHRISTAKIS, SPRINGOS LAW,
ANGELOS PRINGOS, GARFINCLE BIDERMAN LLP and BARRY
POLISUK**

Defendants

FEE AFFIDAVIT OF CHAD KOPACH

1. I am a partner with the law firm of Blaney McMurtry LLP (“**Blaneys**”), independent counsel for the Receiver, BDO Canada Limited (“**BDO**”, or the “**Receiver**”). As such, I have knowledge of the matters hereinafter deposed to except where stated to be on information and belief, and where so stated I verily believe it to be true.

2. Pursuant to an Order of Justice Cavanagh of the Superior Court of Justice (the “**Court**”) dated June 15, 2022 (the “**Appointment Order**”), on application by Grant Thornton Limited (“**GTL**”) in its capacity as Court-appointed Trustee over the Plaintiffs’ (the “**Kays**”) investments in the property owned by the 2589504 Ontario Inc. (“**258 Ontario**”), BDO was appointed, pursuant to Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”) and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (the “**CJA**”) as the receiver, without security,

of all the assets, undertakings and properties of the 258 Ontario acquired for, or used in relation to a business carried on by 258 Ontario and all proceeds thereof.

3. Blaneys has provided services and incurred disbursements in relation to the Receivership for the period from May 30, 2022 to and including August 31, 2022, as described in the Legal Costs Summary attached hereto and marked as **Exhibit “A”**, and the detailed accounts rendered by Blaneys for the periods ending June 30, 2022, July 31, 2022 and August 31, 2022, which are attached hereto and marked as **Exhibits “B”, “C”, and “D”**, respectively (the **“Blaneys Accounts”**).

4. Notwithstanding the production of the Blaneys Accounts, Blaneys and the Receiver are in no way waiving privilege or confidentiality with respect to the accounts or the activities described therein.

5. Based on my review of the Blaneys Accounts and my personal knowledge of this matter, the Blaneys Accounts represent a fair and accurate description of the services provided and the amounts charged by Blaneys.

6. A total of approximately 31.8 hours were expended by Eric Golden, Chad Kopach and Blaneys’ law clerks during the period noted above in performing legal services relating to the Receivership proceeding herein.

7. I verily believe that the hourly billing rates, outlined in detail in the Blaneys Accounts, are in the range of normal average hourly rates charged by legal counsel for services rendered in relation to engagements similar to Blaneys’ engagement with respect to the Receivership.

8. I swear this Affidavit in support of a motion for, among other things, approval of Blaneys' fees and disbursements, and for no improper purpose.

SWORN by Chad Kopach at the City of Toronto, in the Province of Ontario, before me on September 9, 2022.



Commissioner for Taking Affidavits
LUCAS STREZOS

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CHAD KOPACH

This is Exhibit "A" referred to in the Affidavit of Chad Kopach sworn September 9, 2022.



Commissioner for Taking Affidavits (or as may be)

LUCAS STREZOS

LEGAL COSTS SUMMARY

LAWYER	YEAR OF CALL	HOURLY RATE
Eric Golden	1996	\$625.00
Chad Kopach	2003	\$550.00

SUMMARY OF ACCOUNTS

No.	Period of Account	Fees	Disbursements	H.S.T.	Total
1.	June 30, 2022	\$7,285.00	\$285.23	\$955.35	\$8,525.58
2.	July 31, 2022	\$4,937.50	N/A	\$641.88	\$5,579.38
3.	August 31, 2022	\$6,517.50	N/A	\$847.28	\$7,364.78
TOTAL		\$21,469.74			
Average Hourly Rate – (before H.S.T.)		Total fees (before H.S.T.): \$18,740.00 / total hours: 31.8 = \$589.31			

This is Exhibit "B" referred to in the Affidavit of Chad Kopach sworn September 9, 2022.

A handwritten signature in blue ink, appearing to be "L. Strezos", written over a horizontal line.

Commissioner for Taking Affidavits (or as may be)

LUCAS STREZOS

HST REGISTRATION # R119444149

PRIVATE AND CONFIDENTIAL
BDO Canada Limited
360 Oakville Place Drive
Suite 500 Oakville ON L6H 6K8

Date
August 22, 2022

Invoice No.
746446

File No.
203998-0001

Attention: Mr. Peter Naumis

RE: 2589504 Ontario Inc.

TO ALL PROFESSIONAL SERVICES RENDERED on your behalf in connection with the above noted matter for the period ended June 30, 2022 as more particularly described below.

<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
May 30, 2022	EG	0.30	Email from Jackson with Endorsement from last attendance; review same; email to same and Receiver re same and material
May 31, 2022	EG	1.00	Review EQ initial affidavit; update parcel page and review same; arrange for corporate profile and review same;
May 31, 2022	DK	0.20	Attend to subsearch of title; obtain and review property parcel register, confirming ownership;
May 31, 2022	JK	0.20	Conducted Corporate and PPSA searches against 2413974 Ontario Inc.;
June 1, 2022	EG	0.10	Email from and to Maya Poliak re status;
June 3, 2022	EG	0.10	Email from Jackson re status;
June 8, 2022	EG	0.40	Call from BDO re status; email to Maya Poliak re background documents and status; call with same re same; email to BDO re same;
June 10, 2022	EG	0.10	Email from Chaitons with draft order; email to Wojtek and Peter re same;
June 13, 2022	EG	1.50	Emails from and to BDO re Jun 15 hearing; review moving Receivership record, and review and amend appointment order;

Date
August 22, 2022

Invoice No.
746446

File No.
203998-0001

-2-

<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
June 14, 2022	EG	1.30	Emails to EQ and BDO/WF re Appointment Order; emails from and to same re same; email from Wojtek re debtor position; email to and from EQ re same; communications with Peter re GT position on EQ/BDO proposed revisions; call from Maya re status; emails to and from Paliare re same; review responding affidavit;
June 15, 2022	EG	1.90	Email from Maya re its clients' position; communications with Peter and Wojtek re same; call with Peter Naunis re steps once receiver appointed and responding material; emails to same re same; emails with Wojtek re court status; instructions to Dawn re A&D to registered order on title; emails between Dawn and Peter and emails to Peter re same; notice letter to tenants and email to Peter re same; review Endorsement; email to Maya re Schedule A to Appointment Order;
June 15, 2022	DK	0.90	Receipt of instructions to register Receivership Order on title; review draft Order and motion materials, confirming subject lands; draft electronic application to register court order by BDO Canada Limited together with acknowledgment and direction authorizing electronic completion and registration and forward same for review and execution;
June 16, 2022	EG	1.10	Emails between Dawn Kearns and Peter and to and from same re registration of Appointment Order on title; email to Maya and GT re same; emails to and from GT re appraisal and rent roll; briefly review GT appraisal; emails to and from Peter re next steps;
June 16, 2022	DK	1.00	Discuss form of application and acknowledgment with respect to capacity of applicant; receipt of executed authorization; receipt and review of copy of issued court order; finalize application and attend to electronic registration; obtain copy of registered instrument and updated property parcel register; confirm same to E. Golden;

Date
August 22, 2022

Invoice No.
746446

File No.
203998-0001

-3-

<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
June 17, 2022	EG	0.90	Call from counsel for debtor re next steps and alleged refi; email to Peter re status; call with Peter re issues; emails to and from Jackson re EQ appraisal; review GT appraisal, and version of same from EW with different price; arrange for updated muni tax statement;
June 17, 2022	DK	0.40	Attend to request for municipal tax and water certificates;
June 20, 2022	EG	0.30	Email from Dawn re tax and water statements; emails to and from Maya/GT and BDO/WF re same;
June 20, 2022	DK	0.40	Receipt and review of municipal tax and water certificates; confirm same to E. golden;
June 21, 2022	EG	0.20	Call with Jackson re status;
June 22, 2022	EG	0.50	Email to BDO re status and listing of property; call from Peter re same; emails between BDO and GT re listing agent and debtor HST; reporting to EQ;
June 23, 2022	EG	0.30	Communications with EQ and BDO re listing status and agent; emails to and from Paliare re status of refi; communications with BDO re release of debtor bank record to GT;
June 29, 2022	EG	0.30	Email from and to BDO re property manager contract; email from BDO re Colliers proposal and property value as well as status of other 2 listing proposals; review same Colliers proposal and prelim valuation;

OUR FEE HEREIN:

\$7,285.00

FEE HST:

\$947.05

<u>Lawyer</u>	<u>Title</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Eric Golden	Partner	10.30	\$625.00	\$6,437.50
Dawn Kearns	Clerk	2.90	\$275.00	\$797.50
John Kroupis	Clerk	0.20	\$250.00	\$50.00

Disbursements

	<u>Amount</u>
Profile Report/Point in Time Report* - N	\$16.00
Registration Fees* - Non-Taxable	\$66.30
Computer Searches - R.E. (Teraview) * -	\$9.95

Date
August 22, 2022

Invoice No.
746446

File No.
203998-0001

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<u>Disbursements</u>	<u>Amount</u>
Cyberbahn Agent Service Fee	\$29.60
Municipal Inquiries* - Non-Taxable	\$129.13
Registration Fees	\$11.05
Computer Searches - R.E. (Teraview)	\$23.20
TOTAL DISBURSEMENTS:	\$285.23
*HST is not charged	
DISBURSEMENT HST:	<u>\$8.30</u>
TOTAL FEES AND DISBURSEMENTS:	\$7,570.23
TOTAL HST:	<u>\$955.35</u>
TOTAL AMOUNT DUE:	<u>\$8,525.58</u>

BLANEY McMURTRY LLP

Eric Golden
E. & O.E

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General Account No. 0680-5215022 Swift Code: TDOMCATTOR
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number is quoted on all forms of payment.**
Contact email clientservices@blaney.com

This is Exhibit "C" referred to in the Affidavit of Chad Kopach sworn September 9, 2022.

A handwritten signature in blue ink, appearing to be "L. Strezos", written over a horizontal line.

Commissioner for Taking Affidavits (or as may be)

LUCAS STREZOS

HST REGISTRATION # R119444149

PRIVATE AND CONFIDENTIAL
BDO Canada Limited
360 Oakville Place Drive
Suite 500 Oakville ON L6H 6K8

Date
August 22, 2022

Invoice No.
746448

File No.
203998-0001

Attention: Mr. Peter Naumis

RE: 2589504 Ontario Inc.

TO ALL PROFESSIONAL SERVICES RENDERED on your behalf in connection with the above noted matter for the period ended July 31, 2022 as more particularly described below.

<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
July 6, 2022	EG	2.80	Review listing proposals and summary thereof; email to BDO re same; email from and to BDO re refi status; review estimated realizations; review proposed PM agreement; revisions to same; emails with BDO re same, rent collections and insurance; email between GT and BDO re questions; emails with BDO re sharing of proposals; emails between GT and BDO re same and emails to and from GT re same; emails between GT and BDO re production of debtor record; communications with BDO re same;
July 8, 2022	EG	0.50	Conference call with group re status and next steps; emails with BDO re production of debtor records to GT; emails bw BDO and BDO re same;
July 11, 2022	EG	0.30	Emails between EQ and BDO re appraisal; email to BDO re same; email from BDO to GT with TD Bank statements;
July 12, 2022	EG	0.50	Communications with BDO and EQ re listing agreement, APS and appraisal; communications with clerk re muni tax arrears;
July 14, 2022	EG	0.30	Email from BDO with Altus and CBRE

Date
August 22, 2022

Invoice No.
746448

File No.
203998-0001

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<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>			
			appraisal quotes; communications with BDO and EQ re same; email from BDO to GT re status update;			
July 19, 2022	EG	0.10	Emails with BDO re APS schedule;			
July 22, 2022	EG	2.20	Call with Peter re CBRE and listing agreement/APS schedule, deposit; revisions to listing agreement and schedule to APA;			
July 26, 2022	EG	0.30	Email from and to BDO re listing agreement;			
July 28, 2022	EG	0.90	Emails from and to BDO re finalizing listing agreement and Schedule to APS; call with same re same and requests from GT to issue letters to certain payees of debtor; review GT letters;			
OUR FEE HEREIN:						\$4,937.50
FEE HST:						\$641.88
<u>Lawyer</u>		<u>Title</u>	<u>Hours</u>	<u>Rate</u>		<u>Amount</u>
Eric Golden		Partner	7.90	\$625.00		\$4,937.50
TOTAL FEES AND DISBURSEMENTS:						\$4,937.50
TOTAL HST:						<u>\$641.88</u>
TOTAL AMOUNT DUE:						<u>\$5,579.38</u>

BLANEY McMURTRY LLP

Eric Golden
E. & O.E

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Date
August 22, 2022

Invoice No.
746448

File No.
203998-0001

-3-

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To pay by Wire: TD Canada Trust, Bank No. 004, Transit No. 10252,
General Account No. 0680-5215022 Swift Code: TDOMCATTOR
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number is quoted on all forms of payment.**
Contact email clientservices@blaney.com

This is Exhibit "D" referred to in the Affidavit of Chad Kopach sworn September 9, 2022.

A handwritten signature in blue ink, appearing to be 'L. Strezos', is positioned above a horizontal line.

Commissioner for Taking Affidavits (or as may be)

LUCAS STREZOS

HST REGISTRATION # R119444149

PRIVATE AND CONFIDENTIAL
BDO Canada Limited
360 Oakville Place Drive
Suite 500 Oakville ON L6H 6K8

Date
August 31, 2022

Invoice No.
747418

File No.
203998-0001

Attention: Mr. Peter Naumis

RE: 2589504 Ontario Inc.

TO ALL PROFESSIONAL SERVICES RENDERED on your behalf in connection with the above noted matter for the period ended August 31, 2022 as more particularly described below.

<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
August 3, 2022	EG	0.10	Email from and to BDO re listing status;
August 8, 2022	EG	0.90	Emails to and from BDO re listing agreement and APS schedule; email from and to same re GT doc request; email to GT re same;
August 9, 2022	EG	0.80	Email from and to BDO re GT letters to debtors' receivables; email from same with final CBRE listing agreement; emails with BDO re APS schedule and interest in property; email from and to Wojtek re potential bankruptcy; emails to and from GT re letters to debtors' receivables and listing documents;
August 10, 2022	EG	1.10	Communications with BDO re property and advertising/showings; emails between BDO and borrowers re showings; emails with BDO re same and borrower rent default; email from BDO with final form of APS schedule; review same and email to BDO with final version;
August 11, 2022	EG	0.10	Email from BDO re borrower lease default remedied; email from BDO re CBRE reporting;
August 12, 2022	EG	0.30	Email from CBRE re marketing & sale process update; email from same re Altus appraisal status;

Date
August 31, 2022

Invoice No.
747418

File No.
203998-0001

-2-

<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
August 16, 2022	EG	1.00	Email from BDO with two potential offers; review same; communications with BDO and EQ re same; email from BDO to GT re same; email from GT re CBRE additional marketing details; emails with BDO re Altus appraisal;
August 17, 2022	EG	1.30	Email from counsel for borrower re offers; communications with BDO re same and source of info; emails to and from BDO re issue of disclaimer of borrowers' leases requested under one offer, and providing info/docs that will allow to analyze issue; review same from BDO; email to borrower counsel re offers;
August 18, 2022	EG	1.00	Emails to and from BDO re debtor rents in building; emails and call with Peter re same and disclaimer offer; communications with EQ re same; email from BDO re new offer from 105; communications with EQ re same;
August 19, 2022	EG	1.20	Review latest offers in detail; emails to and from BDO re recommendation; emails between BDO and EQ re offers; emails with BDO re Altus appraisal;
August 22, 2022	EG	0.50	Emails between GT and BDO re offers; emails with BDO re counter to highest offer; email from EQ re offer;
August 23, 2022	EG	0.30	Email from and to BDO re GT position on offer; email from and to BDO re potential alternate offer;
August 24, 2022	EG	0.10	Email from second mortgagee counsel re next steps;
August 25, 2022	EG	0.70	Call with Maya Poliak re status, offer and next steps; emails to same re accepted offer emails with BDO re sign back of offer and deposit;
August 31, 2022	EG	0.50	Emails with BDO re AVO motion; review APS closing deadline; communications with Kopach re scheduling;
August 31, 2022	CK	0.60	Correspondence with court and with counsel regarding September 16 return date; instructions to clerk regarding same; review APS and instructions to LS regarding motion

Date
August 31, 2022

Invoice No.
747418

File No.
203998-0001

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<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>			
			material for AVO motion;			
OUR FEE HEREIN:						\$6,517.50
FEE HST:						\$847.28
	<u>Lawyer</u>		<u>Title</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
	Eric Golden		Partner	9.90	\$625.00	\$6,187.50
	Chad Kopach		Partner	0.60	\$550.00	\$330.00
TOTAL FEES AND DISBURSEMENTS:						\$6,517.50
TOTAL HST:						<u>\$847.28</u>
TOTAL AMOUNT DUE:						<u>\$7,364.78</u>

BLANEY McMURTRY LLP

Eric Golden
E. & O.E

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General Account No. 0680-5215022 Swift Code: TDOMCATTOR
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Contact email clientservices@blaney.com

BENJAMIN KAY, et al.
Plaintiffs

and

Court File No. CV-21-00660400-00CL
DIRECT CAPITAL INVESTMENTS INC. et al.
Defendants

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

Proceeding commenced at Toronto

FEE AFFIDAVIT OF CHAD KOPACH

BLANEY McMURTRY LLP

Barristers & Solicitors
2 Queen Street East, Suite 1500
Toronto ON M5C 3G5

Eric Golden (LSO #38239M)

Tel: (416) 593-3927
egolden@blaney.com

Chad Kopach (LSO #48084G)

Tel: (416) 593-2985
ckopach@blaney.com

Lawyers for the Court Appointed Receiver,
BDO Canada Limited

TAB 3

Court File No. CV-21-00660400-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	FRIDAY THE 16 th
)	
JUSTICE CAVANAGH)	DAY OF SEPTEMBER , 2022

B E T W E E N:

BENJAMIN KAY, ISER KAY and JACK KAY

Plaintiffs

- and -

**DIRECT CAPITAL INVESTMENTS INC. in its personal capacity and in its
capacity as trustee of a trust for the Plaintiffs, DIRECT MORTGAGE INC.,
PAGONAS PAPADOGAMBROS, STEPHEN FREEDMAN, 2589504
ONTARIO INC., NO. 16 HOSPITALITY LTD., GEORGE
PAPADOGAMBROS, HARRY CHRISTAKIS, SPRINGOS LAW,
ANGELOS SPRINGOS, GARFINKLE BIDERMAN LLP and BARRY
POLISUK**

Defendants

**PROCEEDING UNDER SECTION 243 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**

SALE APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited., in its capacity as the Court-appointed receiver (the "**Receiver**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (Canada) and section 101 of the *Courts of Justice Act* of the assets, undertakings and property of 2589504 Ontario Inc. (the "**Debtor**") for an order, among other things, abridging the time for service of the Receiver's Notice of Motion and Motion Record herein, authorizing and directing the Receiver to carry out the purchase and sale agreement (the "**Sale Agreement**") between the Receiver and 1000105943 Ontario Inc. (the "**Purchaser**") dated August 18, 2022, and appended to the First Report of the Receiver dated September 13, 2022 (the "**First Report**"), approving the

sale transaction (the "**Transaction**") contemplated by the Sale Agreement and vesting in the Purchaser the Debtor's rights, title and interests in and to the real property described in the Sale Agreement and listed on Schedule "B" hereto (the "**Purchased Asset**"), was heard this day at 330 University Avenue, Toronto, Ontario by "Zoom" videoconference.

ON READING the Receiver's Motion Record dated September 13, 2022, including the First Report and the Confidential Supplement to the First Report dated September 13, 2022 (the "**Motion Materials**"), and on hearing the submissions of counsel for the Receiver, the Debtor, Equitable Bank, Grant Thornton Limited and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Eric Golden sworn September 13, 2022, filed:

1. **THIS COURT ORDERS** that the time for service and filing of the Motion Materials is abridged and validated so that this motion is properly returnable today and dispenses with further service thereof.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement 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 Transaction and for the conveyance of the Purchased Asset to the Purchaser.
3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtor's rights, title and interests in and to the Purchased Asset described in the Sale Agreement and listed on Schedule "B" hereto shall vest absolutely in the Purchaser 1000105943 Ontario Inc., 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 Mr. Justice Cavanagh dated June 15, 2022; (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” hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Asset are hereby expunged and discharged as against the Purchased Asset.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the appropriate Land Titles Division of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Exhibit “B” hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real 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 Purchased Asset shall stand in the place and stead of the Purchased Asset, 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 Purchased Asset with the same priority as they had with respect to the Purchased Asset immediately prior to the sale, as if the Purchased Asset 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 either of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of either of the Debtor.

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

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

Schedule A – Form of Receiver’s Certificate

Court File No. CV-21-00660400-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

BENJAMIN KAY, ISER KAY and JACK KAY

Plaintiffs

- and –

**DIRECT CAPITAL INVESTMENTS INC. in its personal capacity and in its
capacity as trustee of a trust for the Plaintiffs, DIRECT MORTGAGE INC.,
PAGONAS PAPADOGAMBROS, STEPHEN FREEDMAN, 2589504
ONTARIO INC., NO. 16 HOSPITALITY LTD., GEORGE
PAPADOGAMBROS, HARRY CHRISTAKIS, SPRINGOS LAW,
ANGELOS SPRINGOS, GARFINKLE BIDERMAN LLP and BARRY
POLISUK**

Defendants

**PROCEEDING UNDER SECTION 243 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**

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated June 15, 2022, BDO Canada Limited was appointed as the receiver (the "**Receiver**") of the assets, undertakings and property of 2589504 Ontario Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated September 16 2022, the Court approved the purchase and sale agreement dated August 18, 2022 (the "**Sale Agreement**") between the Receiver and 1000105943 Ontario Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of

the Debtor's rights, title and interests in and to the real property municipally known as 100 Sheppard Ave. West, Toronto (the "**Purchased Asset**"), which vesting is to be effective with respect to the Purchased Asset upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the purchase price for the Purchased Asset; (ii) that the conditions to closing set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the transaction contemplated by the Sale Agreement 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 Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the purchase price for the Purchased Asset payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The transaction contemplated by the Sale Agreement has been completed to the satisfaction of the Receiver.

THIS CERTIFICATE was delivered by the Receiver at <*> on <*>, 2022.

BDO CANADA LIMITED, solely in its capacity as Court-appointed Receiver of the assets, undertakings and property of 2589504 Ontario Inc. and not in any personal, corporate or other capacity

Per: _____

Name:

Title:

Schedule B – Purchased Assets**100 Sheppard Ave. West, Toronto**

Legal: Parcel 23-1, Section M389 Lot 23 and Part Lot 24 Plan 66M389; Commencing at the southeast angle of Lot 24; Thence Westerly along the north limit of Sheppard Avenue 20 feet more or less to a point distant 30 feet easterly from the southwest angle of said Lot; Thence northerly parallel to the west limit of said Lot, 117feet 8 inches more or less to the north limit thereof; Thence easterly along said north limit 20 feet more or less to the northeast angle of said lot; Thence southerly along the east limit of said lot 117feet 8 inches more or less to the place of beginning; Township of York/North York; City of Toronto

PIN#:10145-0014

Schedule C – Claims to be deleted and expunged from title to Real Property

1. Instrument No. AT4820571 registered March 14, 2018, being a Transfer to the current registered owner 2589504 Ontario Inc.
2. Instrument No. AT4820574 registered March 14, 2018, being a second Charge (by postponement AT5372319 registered February 25, 2020) to and in favour of Direct Capital Investments Inc. in the original principal amount of \$2,100,000.
3. Instrument No. AT4820575 registered March 14, 2018 being a second Notice of Assignment General (Rents) (by postponement AT5372320 registered February 25, 2020), also in favour of Direct Capital Investments Inc.
4. Instrument No. AT5371311 registered February 24, 2020, being a first Charge (by postponement AT5372319 registered February 25, 2020), to and in favour of Equitable Bank in the original principal amount of \$4,000,000.
5. Instrument No. AT5371312 registered February 24, 2020, being a first Notice of Assignment General (Rents) (by postponement AT5372320 registered February 25, 2020), also in favour of Equitable Bank.
6. Instrument No. AT5372319 registered February 25, 2020 to and in favour of Equitable Bank.
7. Instrument No. AT5372320 registered February 25, 2020 to and in favour of Equitable Bank.
8. Instrument No. AT5885468 registered October 15, 2021, being a third Charge to and in favour of 2413974 Ontario Inc. in the original principal amount of \$457,000.
9. Instrument No. AT6048652 registered April 19, 2022 in favour of Grant Thornton Limited.
10. Instrument No. AT6018763 registered June 16, 2022, being an Application to Register a Court Order appointing BDO Canada Limited as Receiver of assets of 2589504 Ontario Inc.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

1. Any municipal by-laws or regulations affecting the Real Property or its use and any other municipal land use instruments including without limitation, official plans and zoning and building by-laws, as well as decisions of the committee of adjustment or any other competent authority permitting variances therefrom, and all applicable building codes;
2. Registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including without limitation, subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements; provided same have been complied with or security has been posted to ensure compliance and completion as evidenced by a letter from the relevant authority or regulated utility;
3. Any unregistered easement, right-of-way, agreements or other unregistered interest of claims not disclosed by registered title provided same does not materially impact the Purchaser's intended use of the Purchased Assets;
4. Any restrictive covenants and building restrictions affecting the Real Property;
5. Any encroachments or other discrepancies that might be revealed by an up-to-date plan of survey of the Real Property;
6. Liens for taxes, local improvements, assessments or governmental charges or levies not at the time due or delinquent;
7. Undetermined, inchoate or statutory liens and charges (including, without limitation, the liens of public utilities, workers, suppliers of materials, contractors, subcontractors, architects and unpaid vendors of moveable property) incidental to any current operations of the Real Property which have not been filed pursuant to any legal requirement or which relate to obligations not yet due or delinquent;
8. Such other minor encumbrances or defects in title which do not, individually or in the aggregate, materially affect the use, enjoyment or value of the Real Property or any part thereof, or materially impair the value thereof;
9. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute;
10. The following exceptions and qualifications contained in Section 44(1) of the *Land Titles Act*: paragraphs 7, 8, 9, 10, 12 and 14;
11. Instrument No. B67867 registered July 24, 1961, being a Notice of a Decision of The Committee of Adjustments;

12. Instrument No. B220278 registered May 16, 1968, being a Notice of a Decision of The Committee of Adjustments; and
13. Instrument No. 66BA1611 registered January 10, 1980, being a Plan under the Boundaries Act.

BENJAMIN KAY, et al.
Plaintiffs

and

Court File No. CV-21-00660400-00CL
DIRECT CAPITAL INVESTMENTS INC. et al.
Defendants

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

Proceeding commenced at Toronto

SALE APPROVAL AND VESTING ORDER

BLANEY McMURTRY LLP

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Lawyers for BDO Canada Limited,
in its capacity as Court-appointed Receiver

TAB 4

Court File No. CV-21-00660400-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	FRIDAY THE 16 th
)	
JUSTICE CAVANAGH)	DAY OF SEPTEMBER , 2022

B E T W E E N:

BENJAMIN KAY, ISER KAY and JACK KAY

Plaintiff

- and -

**DIRECT CAPITAL INVESTMENTS INC. in its personal capacity and in its
capacity as trustee of a trust for the Plaintiffs, DIRECT MORTGAGE INC.,
PAGONAS PAPADOGAMBROS, STEPHEN FREEDMAN, 2589504
ONTARIO INC., NO. 16 HOSPITALITY LTD., GEORGE
PAPADOGAMBROS, HARRY CHRISTAKIS, SPRINGOS LAW,
ANGELOS SPRINGOS, GARFINKLE BIDERMAN LLP and BARRY
POLISUK**

Defendants

**APPLICATION UNDER SECTION 243 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**

DISTRIBUTION AND APPROVALS ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as the Court-appointed receiver and manager (the "**Receiver**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (Canada) and section 101 of the *Courts of Justice Act* of the assets, undertakings and property of 2589504 Ontario Inc. (the "**Debtor**") for an order, among other things, (i) abridging the time for service of the Receiver's Notice of Motion and Motion Record herein, (ii) approving the Receiver's first report dated September 13, 2022 (the "**First Report**"), Confidential

Supplement to the First Report dated September 1, 2022 (the “**Confidential Report**”) and the activities and proposed activities described therein, (iii) approving and accepting the Receiver’s Interim Statement of Receipts and Disbursements, and the fees and disbursements of the Receiver and of the Receiver’s counsel, Blaney McMurtry LLP, (iv) pending the completion of the transaction (the “**Transaction**”) set out in the purchase and sale agreement (the “**Sale Agreement**”) dated August 18, 2022, in respect of the property municipally known as 100 Sheppard Ave. West, Toronto, or until further Order of the Court, sealing the Confidential Report, (v) approving a distribution from the net surplus proceeds from the Transaction to the Debtor’s senior secured creditor Equitable Bank (“**Equitable**”) in full satisfaction of the Debtor’s outstanding indebtedness to Equitable, (vi) subject to a reasonable reserve until the Receiver’s discharge, and following the payment of priority payables, if any, and the distribution to Equitable, approving a distribution of the remaining net surplus proceeds from the Transaction, and all other funds recovered by the Receiver in this proceeding, to the Debtor’s subordinate secured creditor Direct Capital Investments Inc. (“**DCI**”) in partial satisfaction of the Debtor’s outstanding indebtedness to Benjamin Kay, Iser Kay and Jack Kay (the “**Kays**”), (vii) declaring that any payments to be made by the Receiver to DCI instead be paid to Grant Thornton Limited (“**GTL**”) in its capacity as trustee and mortgage administrator of the Kays’ interests in their loan to the Debtor, (viii) following the closing of the Transaction, and subject to completing any outstanding matters in the receivership of the Debtor, discharging BDO as Receiver of the assets, undertakings and properties of the Debtor and releasing the Receiver from any and all liability that BDO now has or may hereafter have by reason of, or in any way arising out of its acts and omissions while acting in its capacity as Receiver, and (ix) amending the Order of Justice Cavanagh made June 15, 2022 (the “**Appointment Order**”) to include a term allowing the Receiver to file an assignment in bankruptcy for the Debtor naming GTL as trustee in bankruptcy, if and only if the Receiver is directed to file such an assignment by way of Court Order, was heard this day at 330 University Avenue, Toronto, by judicial videoconference via Zoom at Toronto, Ontario

ON READING the Receiver’s Motion Record dated September 13, 2022, including the First Report and the Confidential Report (the “**Motion Materials**”), and on hearing the submissions of counsel for the Receiver, the Debtor, Equitable Bank, Grant Thornton Limited and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Eric Golden sworn September 13, 2022, filed:

1. **THIS COURT ORDERS** that the time for service and filing of the Motion Materials is abridged and validated so that this motion is properly returnable today and dispenses with further service thereof.
 2. **THIS COURT ORDERS** that upon the Receiver receiving a satisfactory payout statement from Equitable Bank, in the Receiver's sole discretion, the Receiver is authorized and directed to make a distribution to Equitable Bank following the completion of the Transaction in satisfaction of the Debtor's full outstanding secured indebtedness owing to Equitable Bank.
 3. **THIS COURT ORDERS** that the First Report and Confidential Report, and the activities of the Receiver described therein, are hereby approved.
 4. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements for the period from June 15, 2022, to September 8, 2022, as set out in Appendix "VIII" to the First Report, be and is hereby accepted and approved.
 5. **THIS COURT ORDERS** that the fees and disbursements of the Receiver from May 9, 2022, to September 9, 2022, and of Blaney from May 30, 2022, to August 31, 2022, be and are hereby approved.
 6. **THIS COURT ORDERS** that pending the completion of the Transaction or until further Order of the Court, the Confidential Report be and is hereby sealed.
 7. **THIS COURT ORDERS** that this Order is effective from the date that it is made, and is enforceable without any need for entry and filing.
 8. **THIS COURT ORDERS** that the balance of the Receiver's motion is adjourned to October ____, 2022.
-

BENJAMIN KAY, et al.
Plaintiffs

and

Court File No. CV-21-00660400-00CL
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Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE
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DISTRIBUTION AND APPROVALS ORDER

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

Proceeding commenced at Toronto

**MOTION RECORD OF THE RECEIVER (SALE
APPROVAL AND VESTING ORDER RETURNABLE
SEPTEMBER 16, 2022)
VOLUME I OF II**

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