

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

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

November 10, 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 appended to the Receiver's First Report.
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 (the "EQ Loan"). The DCI Mortgage is the second ranking mortgage over the Real Property. And a third ranking mortgage is registered against the Real Property in favour of 2413974 Ontario Inc. ("241").
6. On August 23, 2022, the Receiver entered into a Purchase and Sale Agreement with 1000105943 Ontario Inc. ("943 Ontario") with respect to the Real Property.
7. On September 16, 2022, upon a motion brought by the Receiver, this Court granted an order (the "Approval and Vesting Order") which, among other things, approved the sale

transaction between the Receiver and 943 Ontario (the "Sale Transaction"), and vested in 943 Ontario the Company's right, title, and interest in the Real Property. A copy of the Approval and Vesting Order is attached as Appendix "I". In support of this motion, the Receiver filed with this Court its first report dated September 13, 2022 (the "First Report"). The Court further issued an order, which, among other things, approved the conduct and activities of the Receiver and a distribution to Equitable (the "Distribution Order"). A copy of the Distribution Order is attached as Appendix "II".

8. All court filings, materials, reports, 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>.

Purpose of this Report

9. Defined terms used in this Supplement to the First Report of the Receiver dated November 9, 2022 (the "Supplemental Report") and not otherwise defined have the meaning ascribed to them in the First Report. The purpose of this Supplemental Report is to provide the Court with an update on the Sale Transaction and to provide an update on the activities of the Receiver since the First Report and obtain an Order (the "Final Distribution and Discharge Order"), inter alia:
 - a) approving this Supplemental Report and the actions and activities of the Receiver described herein;
 - b) approving the Receiver's Interim Statement of Receipts and Disbursements;
 - c) 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, including the Fee Accrual, and authorizing the Receiver to pay all approved and unpaid fees and disbursements;
 - d) authorizing and directing the Receiver to make a distribution to GTL on account of 258's outstanding indebtedness to the Kays, the Company's subordinate secured creditor, on account of the Company's outstanding indebtedness for principal, interest, and costs, not to exceed the total indebtedness due to the Kays, from the remaining proceeds of sale from the Real Property and any other funds recovered by

the Receiver in this proceeding, after payment of the remaining receivership administration costs, approved professional fees and the payment of the Fee Accrual;

- e) discharging BDO as Receiver of the assets, undertakings, and properties of the Company, upon the filing of a receiver's certificate, substantially in the form set out in the "Schedule "A" of the Final Distribution and Discharge Order (the "Receiver's Discharge Certificate"), with the Court to follow as soon as practicable upon completion of the Remaining Duties (defined below);
- f) 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 herein, save and except for any gross negligence or willful misconduct on the Receiver's part, upon the service of the Receiver's Discharge Certificate; and
- g) Authorizing such further and other relief as counsel may advise and this Honourable Court may permit.

Scope and Terms of Reference

- 10. The Supplemental 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 Supplemental 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 Supplemental Report for a purpose different than set out in this paragraph.
- 11. Except as otherwise described in this Supplemental 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.

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

ACTIVITIES OF THE RECEIVER

Closing of the Sale Transaction

13. The Sale Transaction was scheduled to close within thirty (30) days following the receipt of Approval and Vesting Order dated September 16, 2022.
14. Prior to closing, a related party tenant, No. 16 Hospitality Ltd. ("No. 16") owned and operated by Papadogambros defaulted their September and October rents totaling \$18,944.57, as a result of their rent payments being returned by their bank as "Non-Sufficient Funds".
15. Accordingly, the Receiver and its counsel, Blaney's, engaged in numerous communications with the Purchaser (which was related to Papadogambros), Papadogambros and the Purchaser's counsel, to secure full payment prior to closing.
16. The Purchaser eventually agree to credit to the Receiver on closing in respect No. 16's rent obligation.
17. Furthermore, MZ Naturopathic MGT Ltd. ("MZ") had been in default of its September and October rent obligations totaling \$3,454.02.
18. MZ's rent defaults were satisfactorily remedied on October 17, 2022, prior to closing.
19. In addition, on October 17, 2022, the Receiver's counsel received a formal request for a one-day extension to closing from counsel for 943 Ontario. The Receiver consented to the extension.

20. On October 18, 2022, the Receiver's counsel received a request for an additional extension to closing from counsel for 943 Ontario, this time to Monday October 24, 2022, to allow for the final financing for the Sale Transaction, in the approximate amount of \$625,000, to be received.
21. As a result of the delayed closing and accruing costs, the Receiver agreed to extend closing to October 24, 2022, at the latest on the following conditions:
 - (i) 943 Ont will provide an additional non-refundable deposit of \$700,000.00;
 - (ii) Closing adjustments will be as of Monday October 24 (or such earlier date that the transaction may close);
 - (iii) 943 Ont will credit in favour of the Receiver an amount of \$15,000.00 for, among other things, increased professional costs, accruing per diem on the Equitable mortgage; and
 - (iv) All other terms and provisions of the Agreement of Purchase and Sale will remain the same.
22. GTL's counsel was made aware of the requested extension by the Receiver's counsel and the proposed terms of extension. GTL's counsel consented to same.
23. The additional non-refundable deposit of \$700,000 was received by the Receiver's counsel.
24. On October 21, 2022, the Receiver's counsel confirmed receipt of the balance of funds due under the Sale Transaction. Accordingly, on October 21, 2022, the Receiver and 943 Ont closed the Sale Transaction with respect to the Real Property. The net proceeds available to the Receiver from the sale of the Real Estate, after adjustments and payment of realtor commissions, was \$5,379,694.85:

Proceeds	
Sale price	\$ 5,600,000.00
No. 16 Sept rent	9,472.28
No. 16 Oct rent share	6,416.71
Extension costs	15,000.00
Recapture of 2022 final realty taxes paid	6,752.99
Gross sale proceeds	<u>5,637,641.98</u>
Less disbursements:	
Realtor commission	224,000.00
HST on commissions	29,120.00
Monica Kim Oct rent	
Puchaser share	1,708.47
HCA Architecture Oct rent	
Puchaser share	2,561.56
MZ Naturopath Oct rent	
Puchaser share	557.10
	<u>257,947.13</u>
Net sale proceeds	<u><u>\$ 5,379,694.85</u></u>

25. The Receiver subsequently distributed \$4,126,078.53 to Equitable pursuant to the EQ payout statement marked as Appendix V to the First Report (the "EQ Payout"), in accordance with the Approval and Vesting Order, in full satisfaction of 258's outstanding indebtedness to Equitable.

26. Following payment of the EQ Payout, EQ realized that it had not provided a credit in the EQ Payout for a holdback of \$85,000.00 on the date of the advance of the EQ Loan that was related to an undertaking to obtain a release of an execution against Papadogambros, which undertaking was never satisfied. EQ has advised the Receiver that this holdback was not captured in the EQ Payout as it was held in a separate EQ account. With accrued interest, this holdback currently totals \$85,659.53. In addition, EQ and its counsel Weir Foulds LLP both inadvertently accounted for legal fees and costs in the amount of \$12,413.94. As a result, EQ refunded the Receiver \$98,073.47.

Miscellaneous

27. Upon closing of the Sale Transaction, the Receiver proceeded to have the utility accounts transferred out of the Receiver's name and cancelled the insurance coverage.

28. The Receiver is waiting on a final accounting, reconciliation, and refund, if any, to be provided by the respective utility companies and insurer.

PRIORITY PAYABLES

29. Upon taking possession, the Receiver identified that the Company's last HST filing was for the period ending September 30, 2019. At this time, the Company was in a refund position with respect to its Input Tax Credits ("ITC").

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

35. On October 4, 2022, the Receiver received a call from the GST/HST Compliance Department of Canada Revenue Agency ("CRA"). CRA enquired about the status of the outstanding HST returns and requested the filings be brought current by October 18, 2022.

36. The Receiver communicated this inquiry to TBAS and sought an update on the status of the books and records and filings.

37. TBAS advised that the filings and books and records will be brought current on or prior to October 28, 2022 and asked the Receiver to request an extension with CRA.
38. CRA agreed to extend the time to file the outstanding HST returns to October 28, 2022.
39. As of the date of this Supplemental Report, TBAS has confirmed all HST returns for the 2022 calendar year to the date of the Appointment Order have been filed with CRA. The net result of the Company's HST filings report a refundable HST input tax credit totaling \$55,465.40 (the "HST Refund").
40. CRA has not issued its Notice of Assessment validating the filings and the HST Refund.
41. Additionally, the Company's T2 Corporate Income Tax filings for tax years 2019 - 2021 (the "Corporate Filings") continue to be outstanding. CRA will require the Corporate Filings be brought current before releasing the HST Refund.
42. TBAS advises they continue to work on the Corporate Filings.
43. TBAS has provided an updated QuickBooks data file, however, the Receiver is still not in receipt of the paper books and records and source documents for the relevant statutory tax filings.
44. Currently the Receiver is unable to determine the Company's exposure, if any, for HST. However, as a result of 258's assignment in bankruptcy on September 22, 2022, with Grant Thornton Limited named as its trustee in bankruptcy, HST deemed trust priority, if any, is now relegated to unsecured claim status.
45. 258 did not have employees or maintain a source deduction account with CRA. The Receiver has confirmed this with CRA.
46. Municipal property tax arrears were paid prior to the closing of the Sale Transaction. Accordingly, there are no amounts owing for municipal property taxes.
47. Accordingly, based on the information available, it is the Receiver's belief there are no priority payables that would rank in priority to the DCI Mortgage.
48. The Receiver will continue to work with the Company's bookkeeper and CRA to recover any HST credits available.

SECURITY OPINION AND PROPOSED DISTRIBUTIONS

49. As reported in its First Report, 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 mortgage security and *Personal Property Security Act* security held by the Kays (administered by DCI until replaced by GTL). Blaney 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.
50. The obligations of 258 to the Kays, including costs and interest charges to September 7, 2022, as reported in the Receiver's First Report, total approximately \$3,415,920.00 (with a reported per diem rate of \$933.55) (the "Kays' Indebtedness").
51. Subject to a reasonable reserve until its discharge (discussed below), the Receiver requests that the remaining proceeds from the sale of the Real Property, and other receipts recovered by the Receiver, after payment of: i) outstanding operating costs incurred during the Receiver's appointment and ii) the Receiver's fees and disbursements and the legal fees and disbursements of the Receiver's legal counsel, be distributed to GTL a partial payment in respect of the Kays' Indebtedness.
52. The Receiver is currently holding \$1,329,970 in remaining proceeds from the sale of the Real Property, excluding outstanding professional fees sought to be approved on this motion totalling \$110,861.37 inclusive of disbursements and applicable taxes. The Receiver estimates the current surplus proceeds available for distribution at this time from the sale of the Real Property, and other receipts, less the reasonable reserve in paragraph 49 above, to be \$1,150,000.
53. Therefore, the Receiver request permission of the Court to distribute the \$1,150,000 to GTL, and future net receipts, up to the Kays' indebtedness.
54. The Receiver has not requested a legal opinion on the security held by 241, the third mortgagee over the Real Property, given that there will be a significant shortfall to the Kays.

BANKRUPTCY OF 2589504 ONTARIO INC.

55. On September 16, 2022, upon a motion brought by GTL, this Court granted an order (the "Assignment Order") which authorized and directed the Receiver to file an assignment in

bankruptcy on behalf of 258, and further directed the Receiver to nominate GTL to act as trustee in the bankruptcy administration. A copy of the Assignment Order is attached as Appendix " III" .

56. On September 22, 2022, 258 was assigned into bankruptcy and GTL was appointed as trustee of the estate.

RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS

57. The Receiver's Interim Statement of Receipts and Disbursements is attached as Appendix " IV" .

PROFESSIONAL FEES

58. 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 September 10, 2022, to November 8, 2022, are detailed in the affidavit of Peter Naumis sworn November 9, 2022, a copy of which is attached hereto as Appendix " V" . The fees and disbursements of Blaney's for the period of September 1, 2022, to October 31, 2022 are detailed in the affidavit of Chad Kopach sworn November 8, 2022, a copy of which is attached as Appendix " VI" .
59. The detailed narratives contained in the BDO and Blaney invoices provide a fair and accurate description of the services provided and the amounts charged by BDO as Receiver and Blaney as its counsel. 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.
60. The Receiver's fees for the period September 10, 2022, to November 8, 2022, encompass 55.65 hours at an average hourly rate of approximately \$361.82 for a total of \$20,135.25 prior to disbursements of \$1,006.76 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 \$23,890.47.
61. Blaney's fees for the period September 1, 2022, to October 31, 2022 encompass 152.9 hours at an average hourly rate of approximately \$499.70 for a total of \$76,405.50 prior to disbursements of \$615.93 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 \$86,970.69.

62. 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.
63. 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. drafting and finalizing the Supplemental Report, and the related motion record;
 - ii. attending Court on November 15, 2022 in respect of the approval of this Supplemental Report;
 - iii. working with TBAS to finalizing all outstanding statutory returns, including pre-receivership HST, and collecting any refundable taxes owing;
 - iv. filing the Receiver's HST returns to completion of this administration and follow up for receipt of any input tax credits;
 - v. dealing with CRA on any potential trust exams or audits of statutory filings;
 - vi. working with the respective utility companies and insurer on final accounting, reconciliation, and refund, if any;
 - vii. subject to this Court's approval, distributing the remaining funds in the Receiver's hands to GTL;
 - viii. filing the Receiver's Final Report pursuant to section 246(3) of the *BIA* with the Office of the Superintendent of Bankruptcy;
 - ix. such further and other administrative and ancillary matters as may be necessary to complete the administration of the receivership; and
 - x. Filing the Discharge Certificate with the Court (sub paragraphs (iii) to (ix) are collectively referred to herein as the "Remaining Duties").

64. The additional fees are not expected to exceed \$40,000, exclusive of disbursements and applicable HST (the "Fee Accrual"). The Receiver requests that the Court approve the Fee Accrual, for which the Receiver will only draw upon based on actual time and disbursements incurred.

DISCHARGE OF THE RECEIVER

65. Following the proposed distribution to GTL, subject to this Court's approval, the Receiver will have substantially completed the administration of the receivership, subject to the completion of the balance of the Remaining Duties.

66. Upon completion of the Remaining Duties, the Receiver will file the Receiver's Discharge 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

67. The Receiver recommends and respectfully requests that this Honourable Court make an Order as requested in Paragraph 9 above.

All of which is respectfully submitted this 10th day of November 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"

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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**

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 property described in the Sale Agreement as listed on Schedule "B" hereto (the "**Purchased Assets**"), 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, 2413974 Ontario Inc., 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 15, 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 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 Schedule "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 as listed on Schedule "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 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 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 Schedule “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 including the Application to register Court Order registered as Instrument No. AT6108763 on June 16, 2022.

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, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor.

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



Digitally signed by
Mr. Justice Cavanagh

Schedule A – Form of Receiver’s Certificate

Court File No. CV-22-00687176-00CL

**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**

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 "**Sale Approval and Vesting Order**"), 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 property described in the Sale Agreement as listed in Schedule "B" of the Sale Approval and Vesting Order including the real property municipally known as 100 Sheppard Ave. West, Toronto, Ontario (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:

Schedule B – Purchased Assets

1. Real Property

100 Sheppard Ave. West, Toronto, Ontario

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, 117 feet 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 117 feet 8 inches more or less to the place of beginning; Township of York/North York; City of Toronto

PIN#:10145-0014 (LT)

2. Leases

As set out in Schedule “A” to the Sale Agreement

3. Chattels:

As defined in the Sale Agreement

4. Assumed Contracts

Any Assumed Contracts by the Purchaser, if any, pursuant to and in accordance with the Sale Agreement.

5. Accounts

As defined in the Sale Agreement.

For greater certainty, Purchased Assets shall not and do not include, Input Tax Credits owing to or in relation to the Debtor and any recovery from the Debtor or in relation to the Debtor regarding any 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.

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 \$457,500.
9. Instrument No. AT6048652 registered April 19, 2022 in favour of Grant Thornton Limited.
10. Instrument No. AT6108763 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.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)**

PROCEEDING COMMENCED AT
TORONTO

SALE APPROVAL AND VESTING ORDER

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

APPENDIX "II"

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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**

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, 2413974 Ontario Inc., 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 15, 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 in addition to the powers set out in the Appointment Order, the Receiver is hereby expressly empowered and authorized to file an assignment in bankruptcy on behalf of 2589504 Ontario Inc. appointing Grant Thornton Limited as trustee in bankruptcy, if directed to do so by way of Court Order.

8. **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.

9. **THIS COURT ORDERS** that the balance of the Receiver's motion is adjourned to October 19, 2022 at 11:00 a.m.

 Digitally signed
by Mr. Justice
Cavanagh

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)

PROCEEDING COMMENCED AT
TORONTO

DISTRIBUTION AND APPROVALS ORDER

BLANEY McMURTRY LLP

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

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Chad Kopach (LSO #48084G)

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

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

APPENDIX " III "

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

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

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**

ORDER

THIS MOTION, brought by Grant Thornton Limited, in its capacity as trustee over the “Sheppard Investment” (the “**Trustee**”), for an order authorizing and directing BDO Canada Limited, in its capacity as receiver (the “**Receiver**”) of the property, assets and undertakings of 2589504 Ontario Inc. (the “**Debtor**”), to file an assignment in bankruptcy on behalf of the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario by Zoom videoconference.

ON READING the Notice of Motion, the Affidavit of Bruce Bando sworn September 14, 2022 and the exhibits thereto, and the First Report of the Receiver dated September 13, 2022 and the appendices thereto, and on hearing the submissions of counsel for the Trustee, the Receiver, the Debtor, and such other counsel appearing on the Counsel Slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Lynda Christodoulou sworn September 14, 2022, filed;

1. **THIS COURT ORDERS** that the time for service of the Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to file an assignment in bankruptcy in the name of on behalf of 2589504 Ontario Inc.

3. **THIS COURT ORDERS** that the Receiver is authorized and directed to nominate Grant Thornton Limited to act as trustee in bankruptcy of 2589504 Ontario Inc.

 Digitally signed
by Mr. Justice
Cavanagh

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)

PROCEEDING COMMENCED AT
TORONTO

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

APPENDIX "IV"

IN THE MATTER OF THE RECEIVERSHIP OF
2589504 ONTARIO INC.
OF THE CITY OF TORONTO,
IN THE MUNICIPALITY OF METROPOLITAN TORONTO,
IN THE PROVINCE OF ONTARIO.

RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS
As at November 9, 2022

RECEIPTS		
Sale of Land and Building	\$	5,600,000.00
Rental income		79,524.69
Recoverable expenses		21,752.99
HST collected		10,338.19
Equitable Bank refund		98,073.47
Interest		2,455.00
TOTAL RECEIPTS		<u>5,812,144.34</u>
DISBURSEMENTS		
Administrative disbursement	2,191.98	
Appraisal fees	6,600.00	
Bank charges	34.00	
Realtor commissions	224,000.00	
Filing fees	72.82	
Insurance	3,457.32	
Cleaners	3,613.25	
Change locks	1,259.00	
Miscellaneous	60.80	
Property management	5,135.00	
Travel	398.33	
Utilities	5,876.16	
HST on disbursements	32,388.78	285,087.44
Receiver's fees		
Fee's to Sept 9, 2022	43,839.50	
HST on fee's	5,699.14	49,538.64
Legal fees and disbursements		
Fee's & Disbursements to Aug 31, 2022	19,025.23	
HST on fee's	2,444.51	21,469.74
		<u>356,095.82</u>
Payment to Equitable Bank		4,126,078.53
TOTAL DISBURSEMENTS		<u>4,482,174.35</u>
EXCESS RECEIPTS OVER DISBURSEMENTS		<u>\$ 1,329,970.00</u>
EXCESS RECEIPTS OVER DISBURSEMENTS	\$	1,329,970.00
RECEIVER'S ESTIMATED RECEIPTS AND ACCRUED EXPENSES		
RECEIPTS		
Pending HST refund, note 1		99,592.36
TOTAL ESTIMATED FUTURE RECEIPTS		<u>99,592.36</u>
ESTIMATED AND ACCRUED EXPENSES		
Administrative disbursement	3,006.76	
Miscellaneous - utility reconciliation, etc., note 2	7,500.00	
HST on disbursements	1,365.88	11,872.64
Receiver's fees		
Fee's for Sept 10 - November 8 2022	20,135.25	
HST on fee's	2,617.58	22,752.83
Legal fees and disbursements		
Fee's & Disbursements Sept 1 - Oct 31, 2022	77,021.43	
HST on fee's	9,949.26	86,970.69
Fee Accrual (incl of HST)		45,200.00
TOTAL ESTIMATED AND ACCRUED EXPENSES		<u>166,796.16</u>
Proposed distribution to Grant Thornton Limited		1,150,000.00
ESTIMATED SURPLUS FUNDS, note 3		<u>\$ 112,766.19</u>

Notes:

- The Pending HST refund is a combination of the Debtor's RT0001 filings, which report refundable input tax credits ("ITC") of \$55,465.40 and the Receiver's RT0002 filings, which will be based on actual receipts and disbursements during its administration. The Pending HST refund is only an estimation. CRA has not assessed the Debtor's RT0001 filings as of the date of the First Report.
- The Receiver is working with the various utility companies and insurer to finalize/reconcile its accounts. The Miscellaneous expense is a place holder to consider any outstanding costs associated with the services or otherwise and not known at the time of the First Report.
- Surplus proceeds, if any, subsequent to the Receiver's initial distribution to GTL of \$1,150,000 and the completion of its Remaining Duties, as set out in the First Report, will be distributed to GTL, up to the maximum of the Kays' Indebtedness. The Surplus Proceeds identified above are only an estimate based on information available.

APPENDIX "V"

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

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 September 10, 2022 to November 8, 2022 in the amount of \$23,890.47 inclusive of HST of \$2,748.46, 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
Mississauga in the Province of Ontario on
this 9th day of November 2022.

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Peter Naumis

Commissioner for Taking Affidavits

Stephanie Anne Burrowes, a Commissioner, etc.,
Province of Ontario, for BDO Canada Limited.
Expires November 21, 2022.

Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF PETER NAUMIS

Sworn before me

This 9th day of November, 2022



Commissioner for taking Affidavits, etc.

Stephanie Anne Burrowes, a Commissioner, etc.,
Province of Ontario, for BDO Canada Limited.
Expires November 21, 2022.



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.
November 8, 2022	#CINV - TBD

RE: 2589504 Ontario Inc.

FOR PROFESSIONAL RECEIVERSHIP SERVICES RENDERED for the period commencing September 9, 2022 to November 8, 2022 inclusive per attached detail:

Our Fee	\$	20,135.25
Disbursements		
Administrative Fee - 5%	1,006.76	1,006.76
		<u>21,142.01</u>
HST - 13.00% (R101518124)		2,748.46
TOTAL	\$	<u><u>23,890.47</u></u>

	Hours	Rate	Amount
G. Cerrato, Partner	2.50	595.00	1,487.50
P. Naumis, Senior Manager	32.65	435.00	14,202.75
S. Burrowes, Manager	6.60	350.00	2,310.00
Administrative Support	13.90	153.60	2,135.00
	<u>55.65</u>		<u>\$ 20,135.25</u>

Date	Professional	Hrs.	Description
9-Sep-22	Gary Cerrato	1.50	Second Partner review of report; call with P. Naumis regarding report and my concerns with the extraordinary relief.
12-Sep-22	Peter Naumis	2.00	Discussions with counsel re: request to vary appointment order, assign into bankruptcy, Grant Thornton's motion, etc. Further revisions to court report. Correspondence with Grant Thornton. Update on Jaguar and status of security documents.
12-Sep-22	Stephanie Burrowes	0.30	Respond regarding lease for Jag. Update letter to leasing company for the Jag and instructions to Franca to mail out.
13-Sep-22	Peter Naumis	1.50	Further discussions and updates from counsel. Review revisions to Confidential Report and First Report. Update. NSF payment from No. 16 Hospitality and follow up with George on replacement.
13-Sep-22	Lourdes Dula	1.00	Phone discussion with bank & received copy of returned item, advised the trustee, void/cancelled NSF cheque.
14-Sep-22	Stephanie Burrowes	0.20	Attend to insurance. Organize with IT Assist to have Motion Record uploaded to BDO Extranet.
14-Sep-22	Peter Naumis	0.50	Correspondence with counsel for purchaser. Follow up with George re: September rent.
15-Sep-22	Peter Naumis	0.50	Various emails and correspondence with counsel and stakeholders ahead of AVO motion tomorrow. Review draft AVO, comments, track changes, etc.
15-Sep-22	Lourdes Dula	0.30	Stamped/endorsed cheque, entered, posted deposit entry.
15-Sep-22	Franca Iannilli	0.10	Mail, scan, save and email staff.
15-Sep-22	Stephanie Burrowes	0.20	Attend to Enbridge invoice and upload of motion material to BDO extranet - correspond with IT.
16-Sep-22	Peter Naumis	0.50	Court for Approval and Vesting Order.
16-Sep-22	Stephanie Burrowes	0.30	Cheque requisition. Email to Arun at Richmond Advisory regarding rent collections. Arrange for orders to be uploaded to extranet.
16-Sep-22	Lourdes Dula	0.30	Took notes, entered, posted entries & processed cheque for esignature.
19-Sep-22	Peter Naumis	1.00	Realtor follow up re: court motion, AVO, etc. Discussions with Grant Thornton re: assigning debtor into bankruptcy. Follow up with George re: September NSF payment.

19-Sep-22	Stephanie Burrowes	0.30	Correspondence with Bruce from GT regarding information needed for the bankruptcy.
20-Sep-22	Stephanie Burrowes	0.10	Provide filing information to GT.
21-Sep-22	Peter Naumis	1.00	Update rent collection for September from MZ Naturopath and No. 16 Hospitality NSF payment. Review draft assignment documents. Execute and return to Grant Thornton.
21-Sep-22	Stephanie Burrowes	0.10	Attend to assignment documentation.
21-Sep-22	Lukas Bernas	0.10	Prepared Bank Reconciliation.
22-Sep-22	Stephanie Burrowes	0.10	Provide information to GT.
22-Sep-22	Peter Naumis	1.50	Meet with George. Review concern over CBRE sign installation. Call to CBRE, discuss. Discuss with George "as is where is". Pick up replacement for September NSF cheque. Pick up cheque from MZ Naturopath September rent, paid to No. 16 Hospitality.
23-Sep-22	Franca Iannilli	1.00	Photo copy (2) cheques and prepare cheque deposit for rent, scan, save and go to the Purolator drop off box.
26-Sep-22	Lourdes Dula	0.30	Stamped/endorsed cheques & entered, posted deposit entries.
27-Sep-22	Peter Naumis	0.75	Correspondence from insurer re: outstanding premiums. Notice of Cancellation issued. Look into premium payments. Receiver has cut cheques and submitted in accordance with policy. Investigate. Chase Elaine for updated books and records, HST filings for 2022, etc.
27-Sep-22	Stephanie Burrowes	0.20	Email responses to insurer regarding cancellation notice received.
28-Sep-22	Peter Naumis	0.25	Correspondence with Grant Thornton. Update with counsel.
28-Sep-22	Stephanie Burrowes	0.10	Call with insurance company.
29-Sep-22	Peter Naumis	0.25	Follow up with Elaine re: updated QuickBooks, 2022 HST filings, etc.
30-Sep-22	Peter Naumis	0.25	Continue chasing Elaine for updated books and records, HST filings, etc. Call to George.
30-Sep-22	Stephanie Burrowes	0.10	Attend to insurance coverage.
3-Oct-22	Stephanie Burrowes	0.10	Review August 2022 bank reconciliation.
3-Oct-22	Peter Naumis	1.00	Follow up with George re: updated books and records, HST and other statutory filings. Update with counsel re: closing schedule, return to court, etc. Update with property manager re: October rent cheques.
3-Oct-22	Janice Malcolm	0.20	Process cheques for deposit.

4-Oct-22	Stephanie Burrowes	0.50	Email with insurance provider. Call with CRA GST/HST compliance centre. Email to Elaine regarding outstanding HST filings. Call with Wendy from CRA regarding the RT0002 access codes.
4-Oct-22	Peter Naumis	1.50	Correspondence with Blaney's re: closing target and update from purchaser's counsel, deliverables, etc. Prepare for upcoming closing and ensure purchaser's counsel and BDO have are prepared to close efficiently. Query and update from CBRE. Update to and from George re: books and records. Correspondence form Blaney's re: action items ahead of closing and return motion.
4-Oct-22	Lourdes Dula	0.30	Emailed banking info per request from the trustee.
5-Oct-22	Stephanie Burrowes	0.10	Email response to trustee.
6-Oct-22	Franca Iannilli	0.30	Mail, scan, save and email to staff, cheque deposit, prepare rent photo copy scan and save and send to Toronto Courier.
6-Oct-22	Stephanie Burrowes	0.80	Calls with Enbridge and Toronto Hydro to set up final meter reads for October 17. Cheque requisitions for Enbridge. Email to City of Toronto regarding water and property tax accounts.
6-Oct-22	Peter Naumis	0.50	Chase No. 16 re: NSF Oct rent. Chase HCA re: NSF Oct payment.
6-Oct-22	Lourdes Dula	1.00	Emails, posted returned items, entered, posted & printed esigned cheque for mailing.
11-Oct-22	Peter Naumis	1.00	Correspondence with EQ re: update on closing, rent NSF payments, etc. Follow up with George re: NSF replacement cheques. Correspondence with Blaney's re: Statement of Adjustments, leases, current financial position of leases and tenants.
11-Oct-22	Stephanie Burrowes	0.30	Email to insurance provider regarding payment. Cheque requisition for Richmond Advisory and insurance payment.
12-Oct-22	Peter Naumis	1.00	Discussions with counsel re: closing, NSF rent cheques, etc. Review and comment on draft Statement of Adjustments.
13-Oct-22	Peter Naumis	0.40	Continued closing matters. Follow up with George re: rent cheque replacements.

14-Oct-22	Peter Naumis	1.50	Continue chasing George for rent arrears. Review, execute and forward closing documents to Blaney's. Update from EQ bank re: payout statement.
14-Oct-22	Franca Iannilli	0.15	Mail, scan, save and email staff.
14-Oct-22	Stephanie Burrowes	0.40	HST filings for June 15, 2022 - September 30, 2022.
17-Oct-22	Stephanie Burrowes	0.10	Review revised Statement of Adjustments.
17-Oct-22	Peter Naumis	1.00	Various discussions and updates with George re: closing, finances, etc. Follow up with No. 16 Hospitality re: rent arrears. Instructions to add to closing adjustments. Confirm with counsel. Follow up with counsel. Review revised adjustment schedule. Review draft purchase price allocation. Update from counsel re: closing pushed. Update bank.
17-Oct-22	Lourdes Dula	0.60	Entered, posted & printed esigned cheque for mailing, stamped/endorsed cheque & entered, posted deposit entry.
18-Oct-22	Peter Naumis	1.50	Continued closing issues. Follow up with George. Follow up with counsel. Various discussions with George throughout day for status updates, etc. Continued correspondence, accounting exercises and negotiations re: delay. Various discussions and updates with George.
18-Oct-22	Lukas Bernas	0.10	Prepared Bank Reconciliation
19-Oct-22	Peter Naumis	1.25	Ongoing closing concerns. Correspondence to and from counsel re: Scotia requesting funding back. Call to George, discussions. Review revised extension agreement and terms. Comment. Revised Statement of Adjustments, review approve.
19-Oct-22	Stephanie Burrowes	0.10	Cheque requisition.
19-Oct-22	Lourdes Dula	0.30	Entered, posted & processed & printed esigned cheque for mailing.
20-Oct-22	Peter Naumis	0.25	Closing update.
21-Oct-22	Peter Naumis	1.00	Revised closing schedule and adjustments. Review, approve. Transaction closing.
21-Oct-22	Stephanie Burrowes	0.10	Attend to insurance cancelation.
21-Oct-22	Lourdes Dula	1.50	Phone discussion with bank (3x) re: incoming wire. Received wire confirmation & activities of account, entered, posted wire entries.

24-Oct-22	Peter Naumis	0.50	Closing update, funds in account. Calculate EQ payout inclusive of per diem and legal costs. Requisition wire transfer.
24-Oct-22	Lourdes Dula	2.00	prepared letter for outgoing wire & sent for review & signatures, phone discussion with the trustee, efaxed the request & waiting for the confirmation.
25-Oct-22	Peter Naumis	4.00	Supplemental First Report. Follow up with realtor re: commission statement and surplus proceeds. Follow up with bookkeeper re: status of complete books and records, tax filings, etc.
25-Oct-22	Stephanie Burrowes	1.70	Attend to cancellation of insurance coverage and completing necessary documents. Email correspondence with property managers. Workday invoice. Cheque requisitions. Fee affidavit.
25-Oct-22	Lourdes Dula	1.50	email, phone discussion with bank & received activities of account, incoming wire confirmation, entered, posted wire entry., took notes, posted & processed accruals for esignatures
26-Oct-22	Gary Cerrato	1.00	Partner review of Supplement to the First Report;
26-Oct-22	Peter Naumis	0.50	discussions with Gary C. (BDO), report comments, DCI security. Update report, circulate to counsel for review and comment.
26-Oct-22	Lourdes Dula	0.40	printed esigned cheques for mailing.
27-Oct-22	Stephanie Burrowes	0.20	Cheque requisitions for final utility invoices - Enbridge and Toronto Hydro.
27-Oct-22	Franca Iannilli	0.10	Scan cheque and mail out to Blaney McMurtry LLP
27-Oct-22	Lourdes Dula	0.60	entered, posted entries & processed & printed esigned cheques for mailing
28-Oct-22	Peter Naumis	1.50	Correspondence with CBRE re: surplus deposit funds, wire to Receiver, etc. Correspondence and update from bookkeeper TBAS. January - June 2022 HST RT0001 filings, receive and review updated refundable ITC's. Updated QuickBooks datafile. Update on T2's outstanding. Draft Receiver's interim accounting for surplus funds.
28-Oct-22	Franca Iannilli	0.15	Prepare Cheque Req. email staff, save and email Lou,
28-Oct-22	Lourdes Dula	0.30	took notes, entered, posted entries & processed cheque for esignature

31-Oct-22	Peter Naumis	1.00	Update and correspondence with EQ. Update from TBAS re: books and records, source documents and T2 filings. Update from CBRE re: commission statement, surplus proceeds, etc. Receipt of wire.
31-Oct-22	Lourdes Dula	0.80	Phone discussion with bank & received activities & incoming wire confirmation, entered, posted wire entries
1-Nov-22	Peter Naumis	0.25	Chase TBAS for physical books and records
2-Nov-22	Franca Iannilli	0.10	Mail out cheque to Altus Expert Services.
2-Nov-22	Stephanie Burrowes	0.10	Review RAS invoice and email response.
3-Nov-22	Franca Iannilli	0.10	Return post dated cheques to No. 16 Hospitality Ltd
4-Nov-22	Stephanie Burrowes	0.10	Cheque requisition.
7-Nov-22	Lourdes Dula	0.30	entered, posted, entries & processed cheque for esignature
8-Nov-22	Peter Naumis	3.00	Turned around report from counsel, comments, etc. Update from Equitable Bank re: reimbursement of funds, tracking, etc. Revise/update Supplemental Report and Affidavit. Draft accounting. Complete Receiver's Fee affidavit.

APPENDIX "VI"

**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 September 2, 2022 to and including October 25, 2022, as described in the Legal Costs Summary attached hereto and marked as **Exhibit “A”**, and the detailed accounts rendered by Blaneys dated October 26, 2022 (for the period ending September 30, 2022) and October 31, 2022 (for the period ending October 31, 2022), which are attached hereto and marked as **Exhibits “B”** and **“C”**, 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 152.9 hours were expended by Steven Jeffery, Eric Golden, Chad Kopach, Kym Stasiuk, Matthew Tapia, Rob Hawkins, Lucas Strezos 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 November 8, 2022.)
)
)
)
)
)
)



Commissioner for Taking Affidavits
LUCAS STREZOS (LSO #84438K)



CHAD KOPACH

This is Exhibit "A" referred to in the Fee Affidavit of Chad Kopach sworn November 8, 2022.



Commissioner for Taking Affidavits (or as may be)

LUCAS STREZOS (LSO #84438K)

LEGAL COSTS SUMMARY

LAWYER	YEAR OF CALL	HOURLY RATE
Steven Jeffery	1984	\$750.00
Eric Golden	1996	\$625.00
Chad Kopach	2003	\$550.00
Kym Stasiuk	2008	\$485.00
Matthew Tapia	2019	\$325.00
Rob Hawkins	2021	\$285.00
Lucas Strezos	2022	\$285.00

SUMMARY OF ACCOUNTS

No.	Period of Account	Fees	Disbursements	H.S.T.	Total
1.	September 30, 2022	\$53,792.00	\$505.40	\$7,006.20	\$61,303.60
2.	October 31, 2022	\$22,613.50	\$110.53	\$2,943.06	\$25,667.09
TOTAL		\$86,970.69			
Average Hourly Rate – (before H.S.T.)		Total fees (before H.S.T.): \$76,405.50 / total hours: 152.9 = \$499.70			

This is Exhibit "B" referred to in the Fee Affidavit of Chad Kopach sworn November 8, 2022.



Commissioner for Taking Affidavits (or as may be)

LUCAS STREZOS (LSO #84438K)

HST REGISTRATION # R119444149

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

Date
October 26, 2022

Invoice No.
750969

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 September 30, 2022 as more particularly described below.

<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
September 2, 2022	LStre	4.50	Review file contents, begin drafting Notice of Motion for Sale Approval and Vesting Order motion;
September 6, 2022	SJ	0.20	Emails from and to E. Golden and K. Stasiuk re APA opinions;
September 6, 2022	EG	2.70	Communications with S. Jeffery re security opinions; emails to and from BDO and WF re docs required for same; email from GT with Kay closing book; briefly review same; email to Chaitons re caselines material for its receivership proceeding; emails to and from WF and BDO re EQ payout; email from WF with EQ security docs; briefly review same; further communications with S. Jeffery re security opinions;
September 6, 2022	LStre	5.80	Continue drafting Notice of Motion for Sale Approval and Vesting Order motion;
September 7, 2022	SJ	0.10	Instructions to K. Stasiuk;
September 7, 2022	EG	7.80	Review and revise first draft of BDO report and confidential report; arrange for corporate profile for purchaser; communications with S. Jeffery re payouts and security opinions; emails with Kym re security opinions;

Date
October 26, 2022

Invoice No.
750969

File No.
203998-0001

-2-

<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
			communications with Lucas re NOM and fee affidavit; communications with Maya; communications with WF re updated EQ payout; communications with Kopach re motion return date and communications with stakeolders and BDO re same; further emails with Chaitons re remainder of Kay material and briefly review same; review APA and instructions to Kym re completion of schedules to security opinion and remaining material to be included as part of opinions; communications with Chaitons re report and bankruptcy issue; communications with receiver re same;
September 7, 2022	KS	2.50	Email correspondence with S. Jeffery and E. Golden regarding security opinion; instructing clerk to prepare title summary report; instructing R. Hawkins to prepare corporate search summary report; reviewing various court proceeding documents and security; drafting security opinion;
September 7, 2022	RHawk	0.60	Prepared summary of corporate searches.
September 7, 2022	LStre	2.40	Review accounts and draft fee affidavit in support of Sale Approval and Vesting Order motion;
September 7, 2022	BC	0.90	Receive instructions ; update title and begin a title report ;
September 7, 2022	JK	0.50	Conducted Corporate, Bankruptcy, Bank Act and Execution searches on 2589504 Ontario Inc.;
September 7, 2022	JK	0.20	Conducted Corporate search on 1000105943 Ontario Inc.;
September 8, 2022	SJ	1.80	Review and revise draft opinion; review charge and other security of Equitable; review pleadings;
September 8, 2022	EG	8.20	Communications with Chaiton re bankruptcy, NOM and report; review and revise NOM; review CBRE reporting for NOM contents; instructions to Lucas re same; email from BDO with updated reports; review and revise same;

Date
October 26, 2022

Invoice No.
750969

File No.
203998-0001

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<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
			review service list from Chaitons and instructions to clerk to update; communications with BDO re NOM, reports, bankruptcy issues, and follow-up court attendance;
September 8, 2022	CK	0.90	Review and revise fee affidavit; instructions to clerk regarding same; review accounts regarding potential redactions;
September 8, 2022	KS	1.50	Drafting security opinion; emailing same to S. Jeffery for review; revising approval and vesting order; email correspondence with S. Jeffery regarding same; email correspondence with E. Golden regarding same;
September 8, 2022	LStre	2.00	Review EG's revisions to Receiver's First Report, finalize draft notice of motion for EG's review, finalize draft fee affidavit including proposals for exhibits for CK's review;
September 8, 2022	BC	1.20	Finish search ; search executions ; prepare Title Summary Report ;
September 9, 2022	EG	8.20	Review updated reports from BDO; revise same and amend/remove portions for follow-up hearing; revise NOM; communications with Peter re same; call with Maya; call with Jackson; review and revise security opinions; updated payout from Kay side; email to Chaitons and WF re draft report; review draft fee affidavit;
September 9, 2022	CK	0.30	Revise and finalize fee affidavit; meeting with LS regarding next steps to finalize material;
September 9, 2022	KS	1.40	Revising security opinion; email correspondence with E. Golden regarding same;
September 10, 2022	EG	5.70	Further revisions to NOM and reports; communications with Kopach re same; email to BDO re same;
September 11, 2022	CK	2.80	Review and revise draft notice of motion;
September 12, 2022	SJ	0.60	Email from and telephone call with E. Golden regarding APS and definitions of Accounts and Purchased Assets; review opinion regarding second mortgage and emails from and to K.

Date
October 26, 2022

Invoice No.
750969

File No.
203998-0001

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<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
September 12, 2022	EG	5.80	Stasiuk; Communications with court re new file number for Receivership matter; review Kopach revisions to NOM and Reports; revise same and communications with Kopach re same; draft Vesting Order; email from Kym with revised opinions; further revisions to same and communications with Kym re same; further email from Kym with revised opinions; email from Peter with updated report; call with Peter re same; further revisions to report; communications with clerk re motion record; communications with S. Jeffery re APA terms and scope, and excluded/included assets given potential bankruptcy; communications with BDO re same; communications with Maya re potential revisions to BDO report; communications with Paliare and broker re purchaser counsel;
September 12, 2022	KS	2.90	Drafting second mortgage security opinion; email correspondence with S. Jeffery regarding same; email correspondence with E. Golden regarding same; revising same; revising first mortgage opinion; email correspondence with emailing regarding same;
September 13, 2022	EG	6.40	Further communications with Court re new file number; communications with Kym re opinions; final revisions to same; final revisions to NOM and report; email from BDO with appendices to reports; communications with Paliare re purchaser counsel; communications with J. Fried (purchaser counsel) re APA and Vesting Order; draft administration and distribution order; finalize and proof motion record; communications with clerk re same; communications with BDO re same; email to SL with motion record and re status; email from and and LawPro counsel re same; email from Maya re draft affidavit for bankruptcy order;
September 13, 2022	KS	1.50	Various email and telephone correspondence with E. Golden regarding opinions; revising same; email correspondence with E. Golden

Date
October 26, 2022

Invoice No.
750969

File No.
203998-0001

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<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
September 14, 2022	SJ	0.50	and S. Jeffery regarding same; Emails from and to J Fried; email to E. Golden regarding J. Fried's suggested amendments to vesting order;
September 14, 2022	EG	4.20	Further communications with Court re new file no; email to stakeholders' counsel re same; email from Kay office re additional stakeholders and service on them; emails with purchaser counsel re closing questions and AVO; detailed email to purchaser counsel re scope of APA in light of bankruptcy order; calls with same re same; communications with S. Jeffery re closing issues; email from and LawPro counsel re confidential report; and Lawpro position on motion; emails with EQ counsel re confidential report; communications with BDO re AVO and closing issues; call with Maya re motion and bankruptcy motion; review Kay bankruptcy motion filed;
September 15, 2022	EG	4.40	Multiple emails from purchaser counsel re AVO and closing issues; emails to same re same; emails with court re new style of cause and file no; email to SL re new style of cause and file no; emails to and from counsel for third mortgagee re her client's position on motion; email to Cavanagh J with confidential report and re status; email from purchaser litigation counsel with further revisions to AVO; communications with BDO re same; revise AVO and email to purchaser litigation counsel re same; review Kay factum re bankruptcy motion;
September 16, 2022	EG	6.60	Finalize AVO and admin & distribution orders; communications with Kopach re same; emails from and to counsel for third mortgagee re her client's position and confidential appendix; email to SL with final AVO and compare-write to CL model order; email to SL with final admin order and compare-write to MR version; email from and to EQ re status; email to Cavanagh J with Orders and re status; prepare for motion; communications with stakeholders' counsel attending re status of third mortgagee, and

Date
October 26, 2022

Invoice No.
750969

File No.
203998-0001

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<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
			hearing; attend motion; email from Cavanagh with Order and Endorsement; email to SL re same;
September 16, 2022	CK	1.80	Revisions to draft approvals order and to draft AVO; review exchange of correspondence with third mortgagee; instructions to clerk regarding invitation of Judge to caselines; review caselines to confirm upload of all Receiver's material (save for confidential appendices); report from EG regarding outcome of motion for AVO;
September 20, 2022	SJ	0.50	Telephone call and email from E. Golden; review revised offer; email to E. Golden; conference telephone call with M. Vininsky and B. Kofman of KSV and E. Golden;
September 20, 2022	EG	0.10	Communications with Chaitons re closing;
September 21, 2022	EG	0.30	Email from and to Foglers re closing; email to Maya re same and status of bankruptcy; communications with S. Jeffery re closing; emails from BDO and GT re bankruptcy;
September 22, 2022	EG	0.10	Review certificate of appointment from GT;
September 23, 2022	SJ	0.10	Telephone call from E. Golden;

OUR FEE HEREIN: \$53,792.00
FEE HST: \$6,992.96

<u>Lawyer</u>	<u>Title</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Steven Jeffery	Partner	3.80	\$750.00	\$2,850.00
Eric Golden	Partner	60.50	\$625.00	\$37,812.50
Chad Kopach	Partner	5.80	\$550.00	\$3,190.00
Kym Stasiuk	Partner	9.80	\$485.00	\$4,753.00
Rob Hawkins	Associate	0.60	\$285.00	\$171.00
Lucas Strezos	Associate	14.70	\$285.00	\$4,189.50
Bill Campbell	Clerk	2.10	\$310.00	\$651.00
John Kroupis	Clerk	0.70	\$250.00	\$175.00

<u>Disbursements</u>	<u>Amount</u>
Filing Fees* - Non-Taxable	\$320.00
Certificate of Status* - Non-Taxable	\$24.00
Search - Corporate* - Non-Taxable	\$37.45
Computer Searches - R.E. (Teraview)* -	\$22.10

Date
October 26, 2022

Invoice No.
750969

File No.
203998-0001

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<u>Disbursements</u>	<u>Amount</u>
Cyberbahn Agent Service Fee	\$42.65
Computer Searches - R.E. (Teraview)	\$59.20
TOTAL DISBURSEMENTS:	\$505.40
*HST is not charged	
DISBURSEMENT HST:	<u>\$13.24</u>
TOTAL FEES AND DISBURSEMENTS:	\$54,297.40
TOTAL HST:	<u>\$7,006.20</u>
TOTAL AMOUNT DUE:	<u>\$61,303.60</u>

BLANEY McMURTRY LLP

Eric Golden
E. & O.E

Fees may include charges for services provided by Lawco Limited.
Details are available upon request.

We accept payment by cheque, Wire, VISA, Mastercard and AMEX.
To pay by Visa, Mastercard or Amex please [Click here to pay](#)
To pay by Wire: TD Canada Trust, Bank No. 004, Transit No. 10252,
General Account No. 0680-5215022 Swift Code: TDOMCATTOR
**Please ensure our invoice number, account number and/or file
number is quoted on all forms of payment.**
Contact email clientservices@blaney.com

This is Exhibit "C" referred to in the Fee Affidavit of Chad Kopach sworn November 8, 2022.



Commissioner for Taking Affidavits (or as may be)

LUCAS STREZOS (LSO #84438K)

HST REGISTRATION # R119444149

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

Date
October 31, 2022

Invoice No.
752418

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 October 31, 2022 as more particularly described below.

<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
October 3, 2022	EG	0.40	Emails with Receiver and Matt re closing and next report;
October 3, 2022	MTAP	2.70	Reviewed the Approval and Vesting Order and other Orders; Reviewed the Purchase and Sale Agreement; Reviewed various emails received from the Purchaser's solicitor regarding closing documents and matters and provided comments to the Purchaser's solicitor regarding the same; Provided comments to the client regarding closing documents and matters;
October 4, 2022	EG	0.30	Emails between Matt and BDO and Matt and Foglers re closing; emails with BDO re next report;
October 4, 2022	MTAP	1.40	Reviewed responses received from the client regarding closing documents and matters, provided comments to the client regarding the same and exchanged various emails with the client regarding the same; Followed up with the Purchaser's solicitor regarding the purchase price allocation and assumed contracts and exchanged various emails with the Purchaser's solicitor regarding the same; Provided instructions to H. Chan regarding

Date
October 31, 2022

Invoice No.
752418

File No.
203998-0001

-2-

<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
			updating the Tax Certificate;
October 4, 2022	HC	0.30	Ordering tax certificate.
October 6, 2022	EG	0.30	Email from BDO re related rents not clearing; communications with Matt Tapia re same;
October 6, 2022	MTAP	1.40	Reviewed inquiry received from the client relating to rental arrears, reviewed the relevant provisions of the Purchase and Sale Agreement and provided comments to the client regarding the options for addressing the rental arrears;
October 11, 2022	EG	0.40	Communications with Kopach re NOM and report; communications with Matt re statement of funds and adjustments, and review draft of same; emails between Matt and BDO re rents and deposits/prepayments;
October 11, 2022	MTAP	3.20	Commenced reviewing and revising the draft closing documents received from the Purchaser's solicitor and prepared comments to the Purchaser's solicitor regarding the same;
October 11, 2022	MTAP	1.60	Followed up with the client regarding the tenant information to complete the Statement of Adjustments, reviewed tenant information received from the client, drafted the Statement of Adjustments and exchanged various emails with the client regarding the same;
October 11, 2022	MTAP	1.10	Drafted the Vendor's closing documents;
October 12, 2022	SJ	0.30	Brief review of draft statement of adjustments; emails from J. Fried; instructions to M. Tapia;
October 12, 2022	EG	2.20	Communications with Peter re motion and report, HST, rents and indemnity; emails with Foglers re rents; call with same re same; review APA re rents, indemnity and BDO rights; communications with Matt re same; emails between Matt and Foglers re closing issues; further communications with Matt and BDO re same;
October 12, 2022	MTAP	1.00	Reviewed comments received from the Purchaser's solicitor regarding the revised closing documents, provided comments to the

Date
October 31, 2022

Invoice No.
752418

File No.
203998-0001

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<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
October 12, 2022	MTAP	0.70	Purchaser's solicitor regarding the same and exchanged various emails regarding the same; Reviewed comments received from the client regarding the Statement of Adjustments and provided comments to the client regarding the same; Provided comments to the Purchaser's solicitor regarding the Statement of Adjustments and exchanged various emails regarding the same;
October 12, 2022	MTAP	2.20	Completed reviewing and revising the draft closing documents received from the Purchaser's solicitor and provided comments to the Purchaser's solicitor regarding the same;
October 13, 2022	EG	1.50	Communications with Matt and S. Jeffery re closing issues; communications with BDO re same and motion date/other outstanding issues for final report; status update to relevant stakeholders re rents, closing and motion date; call with Maya re same; email from same re same; emails between Matt and Foglers re closing issues; emails between Matt and BDO re same and closing docs to be signed;
October 13, 2022	CK	1.60	Correspondence from BDO regarding statement re funds and lease payments; correspondence with court regarding date following receipt of HST determination at tend of October; correspondence exchanged with MT regarding Receiver's certificate; follow-up correspondence to court regarding first week of November for return date;
October 13, 2022	MTAP	1.30	Finalized the closing documents and provided comments to the client regarding the same;
October 13, 2022	MTAP	1.00	Reviewed Document Registration Agreement received from the Purchaser's solicitor and executed the same, drafted Undertaking relating to realty tax arrears and executed the same and delivered the foregoing to the Purchaser's solicitor;
October 13, 2022	MTAP	0.40	Reviewed the Purchaser's executed closing documents received from the Purchaser's solicitor to identify issues and confirm

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<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
			completeness;
October 13, 2022	MTAP	0.30	Exchanged emails with the Purchaser's solicitor regarding settling the remaining closing documents;
October 13, 2022	MTAP	0.30	Provided status update to the client regarding the sale transaction, followed up with the client regarding the status of the rental arrears and exchanged various emails regarding the same;
October 14, 2022	SJ	0.10	Instructions to M. Tapia;
October 14, 2022	EG	0.90	Communications with BDO re motion; communications with Maya re same; communications with Matt re leases arrears and communications with Foglers re same; email from EQ with payout; emails between Matt, BDO, EQ and Foglers re closing,
October 14, 2022	MTAP	0.70	Exchanged various emails with the Purchaser's solicitor, Equitable Bank and the client regarding the realty tax arrears; Phone call with the Purchaser's solicitor regarding verifying trust account information;
October 14, 2022	MTAP	0.40	Reviewed the Vendor's executed closing documents received from the client to identify issues and confirm completeness;
October 14, 2022	MTAP	0.40	Revised the Re-Direction regarding Funds and provided comments to the client regarding the same;
October 14, 2022	MTAP	2.40	Exchanged various emails with the Purchaser's solicitor and the client regarding closing documents, closing matters and rental arrears and provided various comments to the client regarding the same;
October 17, 2022	EG	0.70	Emails with Foglers and Matt re rents, and between same and BDO re same and closing details; email from Wojtek re rents; communications with Kopach re motion scheduling; communications with Matt re request for 1 day closing extension; emails between Matt and Foglers re same; emails between and with Matt and BDO re same;

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<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
October 17, 2022	MTAP	2.80	Exchanged various emails and phone calls with the Purchaser's solicitor and the client regarding closing documents, funding matters and extension terms; Phone call with the client to verify account information; Provided instructions to the accounting department regarding processing funds and monitored the flow of funds; Updated HST Registry Search to confirm the existence of the Purchaser's registration; Updated Property Tax Lookup to confirm whether realty tax arrears were received by the City; Drafted change of ownership letter to the City; Provided comments to the client regarding extension terms;
October 17, 2022	MTAP	0.50	Revised the Re-Direction regarding Funds and the Estimated Statement of Funds and exchanged various emails with the client regarding the same;
October 17, 2022	MTAP	0.50	Revised the Statement of Adjustments and exchanged various emails with the Purchaser's solicitor and the client regarding the same;
October 17, 2022	MTAP	0.40	Reviewed Allocation Agreement relating to the purchase price received from the Purchaser's solicitor and exchanged various emails with the Purchaser's solicitor and the client regarding the same;
October 18, 2022	SJ	0.10	Emails from and to E. Golden, P. Naumis, M. Poliak and M. Tapia regarding extension;
October 18, 2022	EG	2.50	Email to Maya re status, closing, next steps and motion; communications with Matt, S. Jeffery, Foglers and BDO re purchaser shortfall on closing funds, request for APA amendment, receiver position and counter offer; emails with Maya re same;
October 18, 2022	CK	0.80	Receipt and review of correspondence regarding further delay on closing date; correspondence to court regarding same, and regarding scheduling of next attendance for November 15;

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<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
October 18, 2022	MTAP	4.40	Exchanged various emails and phone calls with the Purchaser's solicitor and the client regarding closing documents, funding matters and further extension terms; Provided instructions to the accounting department regarding processing funds and monitored the flow of funds; Updated HST Registry Search to confirm the existence of the Purchaser's registration; Updated Property Tax Lookup to confirm whether realty tax arrears were received by the City and revised the Estimated Statement of Funds; Provided various comments to the client regarding extension terms;
October 19, 2022	EG	0.80	Emails with Maya and EQ re status of closing; emails between Matt and Foglers and BDO re closing; communications with Matt and BDO re same;
October 19, 2022	MTAP	2.40	Exchanged various emails and phone calls with the Purchaser's solicitor and the client regarding closing documents, funding matters and settling the extension terms; Provided instructions to the accounting department regarding processing funds and monitored the flow of funds; Revised the Statement of Adjustments;
October 20, 2022	EG	1.00	Communications with counsel for third mortgagee, Maya, counsel for EQ, Foglers, BDO and Matt re closing;
October 20, 2022	MTAP	0.20	Exchanged emails with the Purchaser's solicitor regarding settling the Statement of Adjustments;
October 20, 2022	MTAP	0.40	Exchanged various emails with the Purchaser's solicitor and the client regarding the status of closing and funding matters;
October 20, 2022	MTAP	0.60	Revised the Statement of Adjustments and provided comments to the client regarding funding matters;
October 21, 2022	EG	0.30	Communications with Foglers and Kopach re closing; emails between Foglers and Matt and

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<u>Date</u>	<u>Lawyer</u>	<u>Time</u>	<u>Description</u>
October 21, 2022	CK	1.80	BDO re same; Exchange of correspondence regarding status of closing; correspondence regarding currency of AVO; correspondence from MT regarding confirmation of closing; instructions to clerk regarding Receiver's certificate; correspondence to court regarding filing of certificate; follow up with court;
October 21, 2022	MTAP	2.80	Exchanged various emails with the Purchaser's solicitor and the client regarding closing documents and funding matters; Provided instructions to the accounting department regarding processing funds and monitored the flow of funds; Updated HST Registry Search to confirm the existence of the Purchaser's registration; Reviewed registrations against title to the Property received from the Purchaser's solicitor to identify issues; Submitted change of ownership letter to the City;
October 24, 2022	CK	0.80	Correspondence exchanged with court regarding follow up on filed certificate; receipt and review of same; correspondence to purchaser's lawyer regarding copy of certificate to finalize Receiver's obligations under AVO;
October 24, 2022	MTAP	0.10	Exchanged emails with the client's broker regarding closing matters;
October 25, 2022	EG	0.20	Emails with Maya and S. Freeman re status of transaction and next steps;

OUR FEE HEREIN:
FEE HST:

\$22,613.50
\$2,939.76

<u>Lawyer</u>	<u>Title</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Steven Jeffery	Partner	0.50	\$750.00	\$375.00
Eric Golden	Partner	11.50	\$625.00	\$7,187.50
Chad Kopach	Partner	5.00	\$550.00	\$2,750.00
Matthew Tapia	Associate	37.60	\$325.00	\$12,220.00
Hiuy Chan	Clerk	0.30	\$270.00	\$81.00

Disbursements
Computer Searches - R.E. (Teraview) * -

Amount
\$12.15

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<u>Disbursements</u>	<u>Amount</u>
Municipal Inquiries* - Non-Taxable	\$72.98
Computer Searches - R.E. (Teraview)	\$25.40
TOTAL DISBURSEMENTS:	\$110.53
*HST is not charged	
DISBURSEMENT HST:	<u>\$3.30</u>
TOTAL FEES AND DISBURSEMENTS:	\$22,724.03
TOTAL HST:	<u>\$2,943.06</u>
TOTAL AMOUNT DUE:	<u>\$25,667.09</u>

BLANEY McMURTRY LLP

Eric Golden
E. & O.E

Fees may include charges for services provided by Lawco Limited.
Details are available upon request.

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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
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Lawyers for the Court Appointed Receiver,
BDO Canada Limited