



Court File No. CV-24-00723897-00CL

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

THE HONOURABLE

)

TUESDAY, THE 15th

JUSTICE STEELE

)

DAY OF APRIL, 2025

)

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended,
and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as
amended*

BETWEEN:

NATIONAL BANK OF CANADA

Applicant

- and -

COMMCACHE ASSET MANAGEMENT INC. and 52 LACROIX INC.

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited in its capacity as the Court-appointed receiver (the "**Receiver**") of certain assets, undertakings and properties of Commcache Asset Management Inc. ("**Commcache**") and 52 Lacroix Inc. ("**52 Lacroix**", and together with Commcache, the "**Debtors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale between the Receiver and Sudbury Apartment Rentals Limited (the "**Purchaser**"), dated February 12, 2025, as amended by Amendment to Agreement of Purchase and Sale, accepted on March 21, 2025, and further amended by Amendment to Agreement of Purchase and Sale, accepted on March 25, 2025 (collectively, the "**Sale Agreement**"), appended to the Second Report of the Receiver dated April 4, 2025 (the "**Second Report**"), and vesting in the Purchaser, Commcache's right, title and interest in and to the real property described in the Sale Agreement (the "**Real Property**"), was

heard this day at 330 University Avenue, Toronto, Ontario by judicial videoconference via Zoom.

ON READING the Second Report, and the Factum of the Receiver, dated April 7, 2025 and on hearing the submissions of counsel for the Receiver, counsel for National Bank of Canada, and any such other counsel and parties as were listed on the Participant Information Form, no one appearing for any other party although properly served as appears from the affidavits of Amanda Campbell, sworn April 4, 2025 and April 7, 2025, filed:

SERVICE

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

APPROVAL OF TRANSACTION

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby ratified 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 Real Property 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 Commcache's right, title and interest in and to the Real Property described in the Sale Agreement and 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 Conway dated August 14, 2024; (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) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Real Property are hereby expunged and discharged as against the Real Property upon delivery of the Receiver's Certificate.

4. **THIS COURT ORDERS** that upon the registration in the applicable land registry office or land titles office of an application for registration of this Order in the applicable prescribed form, the applicable land registrar is hereby directed to enter the Purchaser as the owner of the subject Real Property identified in Schedule B hereto in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Real Property shall stand in the place and stead of the Real Property, 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 Real Property with the same priority as they had with respect to the Real Property immediately prior to the sale, as if the Real Property 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 Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors;

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

Jana
Steele

Digitally signed
by Jana Steele
Date: 2025.04.15
14:24:55 -04'00'

Court File No. CV-24-00723897-00CL

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

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and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as
amended*

BETWEEN :

NATIONAL BANK OF CANADA

Applicant

- and -

COMMCACHE ASSET MANAGEMENT INC. and 52 LACROIX INC.

Respondents

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Conway of the Ontario Superior Court of Justice (the "**Court**") dated August 14, 2024, BDO Canada Limited was appointed as the receiver (the "**Receiver**") of certain assets, undertakings and properties of Commcache Asset Management Inc. ("**Commcache**") and 52 Lacroix Inc.

B. Pursuant to an Order of the Court, dated April 15, 2025, the Court approved the agreement of purchase and sale dated February 12, 2025, as amended by Amendment to Agreement of Purchase and Sale, accepted on March 21, 2025, and further amended by Amendment to Agreement of Purchase and Sale, accepted on March 25, 2025 (collectively, the "**Sale Agreement**") between the Receiver and Sudbury Apartment Rentals Limited (the "**Purchaser**") and provided for the vesting in the Purchaser of Commcache's right, title and interest in and to the Real Property, which vesting is to be effective with respect to the Real Property 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 Real Property; (ii) that the Purchaser's Conditions and Vendor's Conditions to Closing as set out in the Schedule "A" of the Sale

Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction 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 Real Property payable on the Closing Date pursuant to the Sale Agreement;
2. The Purchaser's Conditions and Vendor's Conditions to Closing as set out in Schedule "A" of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**BDO CANADA LIMITED, in its capacity as
Receiver of certain assets, undertakings, and
properties of Commcache Asset Management
Inc. and 52 Lacroix Inc., and not in its
personal or corporate capacity**

Per: _____
Name:
Title:

Schedule B – Real Property

PIN 02131-0156 (LT)

LTS 161 TO 163 PLAN 18SB CITY OF SUDBURY

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

PIN 02131-0156 (LT)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
SD476145	2023/05/25	Charge	\$2,460,000	Commcache Asset Management Inc.	National Bank of Canada
SD476146	2023/05/25	Notice of Assignment of Rents (General)	N/A	Commcache Asset Management Inc.	National Bank of Canada
SD503472	2024/08/27	Application to Register Court Order	N/A	Ontario Superior Court of Justice	BDO Canada Limited

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

(unaffected by the Vesting Order)

- a) Instrument No. S92594, being an Agreement registered on June 24, 1987;
- b) Instrument No. S93414, being a Notice registered on October 16, 1987; and
- c) Instrument No. SD411983, being a Transfer registered on January 6, 2021.

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NATIONAL BANK OF CANADA - and - COMMCACHE ASSET MANAGEMENT INC. and 52 LACROIX INC.

Applicant	Respondent
	<div>ONTARIO</div> <div>SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)</div> <div>PROCEEDING COMMENCED AT TORONTO</div> <div>APPROVAL AND VESTING ORDER</div> <div>DENTONS CANADA LLP 77 King Street West, Suite 400 Toronto-Dominion Centre Toronto, ON M5K 0A1</div> <div>John Salmas (LSO # 42336B) Tel: 416-863-4737 john.salmas@dentons.com</div> <div>Sara-Ann Wilson (LSO # 56016C) Tel: 416-863-4402 sara.wilson@dentons.com</div> <div>Birpal Benipal (LSO # 89984B) Tel: 416-862-3471 birpal.benipal@dentons.com</div> <div>Lawyers for BDO Canada Limited in its capacity as court-appointed receiver of Commcache Asset Management Inc. at 52 Lacroix Inc.</div>