

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ROYAL BANK OF CANADA

Applicant

and

1000502168 ONTARIO INC. operating as THE KIPPS MARKET

Respondent

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED; AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS
AMENDED**

**SUPPLEMENTARY APPLICATION RECORD
(Returnable August 27, 2024)**

August 13, 2024

FOGLER, RUBINOFF LLP

Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8

Vern W. DaRe (LSO# 32591E)

Tel: 416.941.8842
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Lawyers for the Applicant, Royal Bank of
Canada

TO: THE SERVICE LIST

SERVICE LIST

TO:	<p>FOGLER, RUBINOFF LLP 77 King Street West Suite 3000, P. O. Box 95 Toronto, ON M5K 1G8</p> <p>Vern DaRe Tel: (416) 941-8842 Fax: (416) 941-8852 Email: vdare@foglers.com</p> <p>Lawyers for Applicant, Royal Bank of Canada</p>
AND TO:	<p>BHANGU LAW PROFESSIONAL CORPORATION Barrister & Solicitor 7900 Hurontario Street, Suite 501 Brampton, ON L6Y 0P6</p> <p>Sukhjinder Bhangu Tel: (416) 883-2437 Fax: (416) 883-2436 Email: sb@bhangulawoffice.com</p> <p>Lawyers for the Respondent, 1000502168 Ontario Inc. operating as The Kipps Market</p>
AND TO:	<p>BDO CANADA LIMITED 25 Main Street West, Suite 805 Hamilton, ON L8P 1H1</p> <p>Chris Mazur Tel: (905) 524-1008 Fax: (905) 570-0249 Email: cmazur@bdo.ca</p> <p>Peter Crawley Tel: (289) 678-0243 Email: pcrawley@bdo.ca</p> <p>Proposed Receiver</p>

AND TO:	AIRD & BERLIS LLP Brookfield Place 181 Bay Street, #1800 Toronto, ON M5J 2T9 Ian Aversa Tel: (416) 865-3082 Email: iaversa@airdberlis.com Shaun Parsons Tel: (416) 637.7982 Email: sparsons@airdberlis.com Lawyers for the Proposed Receiver
AND TO:	MANJOT KAUR GILL 6 Oliver Road Bx 37 Kaladar, ON K0H 1Z0
AND TO:	NARINDER GILL 1722 Old Hwy 2 Belleville, ON K8N 4Z2
AND TO:	PARVINDER SINGH BURN 28 Alice Street Eganville, ON K0J 1T0
AND TO:	CANACAP 250 Ferrand Drive, Suite 401 Toronto, ON M3C 3G8
AND TO:	PRUDENT LAW Suite 360 – 4 Robert Speck Parkway Mississauga, ON L4Z 1S1 Devesh Gupta Tel: (905) 361-9789 Fax: (289) 801-2248 Email: devesh@prudentlaw.ca Lawyers for Pravin Gupta and Anita Gupta

AND TO:	CRA – TAX – ONTARIO Shawinigan-Sud National Verification and Collection Centre 4695 Shawinigan-Sud Blvd. Shawinigan-Sud, QC G9P 5H9
AND TO:	CANADA REVENUE AGENCY, LEGAL SERVICES 555 McKenzie Road Ottawa, ON K1A 0L5 Email: AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca
AND TO:	DEPARTMENT OF JUSTICE (CANADA) Ontario Regional Office, Tax Law Section 120 Adelaide Street West, Suite 400 Toronto, Ontario M5H 1T1 Email: AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca Lawyers for Canada Revenue Agency
AND TO:	MINISTRY OF FINANCE – ON PST, EHT & OTHER TAXES Ministry of Revenue 33 King Street West, 6 th Floor Oshawa, ON L1H 8H5 Asta Alberry Fax: (905) 436-4524 Email: insolvency.unit@ontario.ca
AND TO:	HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE MINISTER OF FINANCE Insolvency Unit 6 th Floor, 33 King Street West Oshawa, Ontario L1H 8H5 Insolvency Unit Email: insolvency.unit@ontario.ca Tel: (905) 433-5657 Fax: (905) 436-4510

AND TO:	CITY OF BELLEVILLE – TAX DEPARTMENT 183 Pinnacle Street Belleville, ON K8N 3A5 Email: tax.info@belleville.ca
AND TO:	CITY OF BELLEVILLE / THE CORPORATION OF THE CITY OF BELLEVILLE 169 Front Street Belleville, ON K8N 2Y8

**ONTARIO
SUPERIOR COURT OF JUSTICE**

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SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS
AMENDED**

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TAB 1

Court File No. CV-24-00096443-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ROYAL BANK OF CANADA

Applicant

and

1000502168 ONTARIO INC. operating as THE KIPPS MARKET

Respondent

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED; AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS
AMENDED**

AFFIDAVIT OF KATELIN Z. PARKER

I, Katelin Z. Parker, of the City of Mississauga, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am a law clerk with the law firm of Fogler, Rubinoff LLP, lawyers for the Applicant, Royal Bank of Canada ("**RBC**") and, as such, have knowledge of the matters to which I hereinafter depose.
2. Where I do not have personal information, I have stated the source of my information and do verily believe it to be true.
3. I swear this Affidavit supplemental to the Affidavit of Sharon D'Costa, sworn on June 26, 2024 and in support of RBC's Application seeking to appoint BDO Canada Limited ("**BDO**") as receiver of the assets, undertakings and properties of the

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Respondent pursuant to section 243 of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act* (the "**Receivership Application**") and for no other or improper purpose.

4. RBC's Receivership Application was initially heard by this Court on July 25, 2024.

5. The day before, on July 24, 2024 at 4:55 p.m., Vern DaRe ("**DaRe**"), counsel for RBC in this Receivership Application, received an email from Sukhjinder Bhangu ("**Bhangu**"), counsel for the Respondent, indicating that, among other things, he had just been retained that day as counsel for the Respondent and he would be requesting an adjournment of the Receivership Application in order to enable his client to serve and file its response. Attached as **Exhibit "A"** to this my Affidavit is a copy of the said email from Mr. Bhangu.

6. On July 25, 2024 upon hearing the initial Receivership Application, Justice Williams, among other things, adjourned RBC's Receivership Application for at least two weeks to be rescheduled by Mr. DaRe with a returnable date within four weeks subject to court availability, and ordered that, "*Mr. Bhangu shall provide Mr. DaRe, today, with proof of the respondent's financing commitment. Mr. DaRe shall provide Mr. Bhangu, today, with a payout statement. Mr. DaRe shall ensure that Mr. Bhangu receives a copy of this endorsement, as the court does not have his coordinates.*" Attached hereto as **Exhibit "B"** to this my Affidavit is a copy of the said Endorsement of Justice Williams (the "**Endorsement**").

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7. As per the Endorsement, Mr. DaRe provided Mr. Bhangu on July 25, 2024 at 4:45 PM with a copy of the Endorsement, acknowledged providing RBC's payout statement to him earlier in the day and requested full particulars regarding the alleged financing commitment. Attached hereto to this my Affidavit as **Exhibit "C"** is a copy of Mr. DaRe's email to Mr. Bhangu dated July 25, 2024.

8. In reply to Mr. DaRe's aforementioned email, Mr. Bhangu stated in his email of July 25, 2024 at 5:41 PM, among other things, that RBC's payout statement is not acceptable as it is not a proper payout statement and should include all costs of BDO or BDO's counsel and RBC's counsel incurred in this matter as of today. Attached hereto to this my Affidavit as **Exhibit "D"** is a copy of Mr. Bhangu's email dated July 25, 2024.

9. On July 25, 2024 at 5:48 PM, Mr. Bhangu also provided Mr. DaRe with a copy of the alleged financing or mortgage commitment letter. Attached hereto to this my Affidavit as **Exhibit "E"** is a copy of Mr. Bhangu's email dated July 25, 2024 to Mr. DaRe including the alleged financing or mortgage commitment letter as an attachment. In the email message, Mr. Bhangu also states that his client is in "the process of having a revised commitment which will have no conditions of obtaining environmental phase 1 and phase 2 reports as the same are not applicable to this matter."

10. On July 25, 2024 at 6:19 PM, Mr. DaRe replied to Mr. Bhangu and copied others by acknowledging, among other things, receipt of the alleged financing or mortgage commitment letter and that we would review it shortly or in due course; and that the initial RBC payout statement *"we sent earlier on to you, as I noted in my message, does*

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not include certain costs including BDO's, Aird & Berlis', Fogler's fees and costs, and the insurance premiums paid by BDO/RBC. You are requesting that these amounts be included in the payout statement. I have copied BDO, A&B and Foglers on this email, and I am requesting that they provide me with the amount of their total fees and costs in this matter as of today, to be added to the payout statement." Attached as **Exhibit "F"** to this my Affidavit is a copy of Mr. DaRe's email to Mr. Bhangu dated July 25, 2024.

11. The next day, on July 26, 2024 at 8:13 AM, Mr. DaRe wrote to Mr. Bhangu and copied others, noting, among other things, several concerns or questions regarding the alleged financing or mortgage commitment letter. In particular, Mr. DaRe wrote as follows regarding the alleged financing or mortgage commitment letter:

" Regarding the Mortgage Loan Agreement dated July 25, 2024 that you provided us yesterday, I have a few comments, concerns or questions that I would appreciate that you addressed, responded too, corrected or rectified:

1. *My biggest concern is that it is not signed by the lender and does not appear to be a firm commitment. While it is signed by the two borrowers, 1000502168 Ontario Inc. and Manjot Kaur Gill, the lender, Gardar Group has not signed the document. In fact, paragraph 48 of the document states that "This mortgage loan commitment **IS SUBJECT TO CHANGE PRIOR TO COMPLETION OF TRANSACTION VIA EXECUTION OF INSTRUMENT BY THE LENDER (US)** (my emphasis). Without the signature of the lender on the document and given that the Mortgage Loan Agreement you provided us is "subject to change prior to completion of transaction via execution of instrument by the Lender (us)", this is not a firm commitment but closer to an unsigned expression of interest or conditional offer. Please rectify this deficiency forthwith by asking the Lender to sign the Mortgage Loan Agreement acknowledging agreement and acceptance, and ask the Lender to delete or waive the condition at paragraph 48;*
2. *There are other conditions set out in the Mortgage Loan Agreement that make the document more a conditional offer than a firm commitment: (i) para. 42 (appraisal report of the property upon an appraiser of the lender's choosing); (ii) para. 43 (satisfactory inspection to be carried out by the Lender); (iii) para. 44 (articles of incorporation); (iv) para. 46 (satisfactory net worth and*

- 5 -

security/collateral review to be made based upon appraisal and ESA Phase 1 and Phase 2 reports prior funding (if applicable); and para. 47 (Satisfactory net worth review shall be conducted of each applicant prior to completion of this transaction). Again, these appear to be conditions and therefore the Mortgage Loan Agreement is not a firm commitment to finance. Please rectify this deficiency forthwith by asking the Lender to delete or waive the conditions at paragraphs 42, 43, 44, 46 and 47 of the Mortgage Loan Agreement;

3. *I notice that the legal description of the property and the Borrowers' lawyer or notary needs to be completed;*
4. *I see that the closing or advance of the principal amount is scheduled for August 26, 2024 under the Mortgage Loan Agreement. I am assuming that this outside date is because Justice Williams adjourned the receivership application two to four weeks (i.e., one month as the outside date) from July 25 and since August 25 is a Sunday, the next day is August 26, 2024 (Monday);*
5. *Who is the Gardar Group? I see no address or contact person on the letterhead of the Mortgage Loan Agreement. Paragraph 39 of the Mortgage Loan Agreement talks about the methodology of giving proper Notice to the parties under the Agreement but that will be difficult if the Lender does not even provide its address or contact person in the document; and*
6. *We would like a few provisions added to the Mortgage Loan Agreement that link the financing to the payout of RBC including under the chart at the first and second page, a Purpose heading as follows: **Purpose: The purpose of this financing is to fully repay the Borrowers' indebtedness to the Royal Bank of Canada.** Also, under the heading: **Date of Advance**, it states that on August 26, 2024: "This is the date we will advance YOU (the Borrowers) the principal amount." (my emphasis). Our preference is that the funds be advanced to RBC, its counsel or the Borrowers' counsel's trust account instead and this section or heading should be amended as such. "*

Attached as **Exhibit "G"** to this my Affidavit is a copy of Mr. DaRe's email to Mr. Bhangu dated July 26, 2024.

12. In reply to Mr. DaRe's above email, Mr. Bhangu wrote to Mr. DaRe and copied others on July 26, 2024 at 10:52 AM, among other things, indicating that he would respond to Mr. DaRe's above email at the end of the day and requesting a proper

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payout statement from RBC. Attached as **Exhibit "H"** to this my Affidavit is a copy of Mr. Bhangu's email to Mr. DaRe dated July 26, 2024.

13. On July 26, 2024 at 2:11 PM, Mr. DaRe provided Mr. Bhangu and copied others with a revised copy of RBC's payout statement including outstanding professional fees and disbursements of RBC's counsel, BDO and BDO's counsel, as of July 25, 2024. Attached hereto as **Exhibit "I"** to this my Affidavit is a copy of Mr. DaRe's email to Mr. Bhangu dated July 26, 2024, including the attached RBC revised payout statement as of July 25, 2024. As of July 25, 2024, the total amount owing by the Respondent to RBC, including the outstanding professional fees and disbursements of RBC's counsel, BDO and BDO's counsel, was \$1,006,056.98.

14. On July 29, 2024 at 8:38 AM, Mr. DaRe wrote to Mr. Bhangu and copied others as follows: *"Good morning, On Friday, July 26, 2024 at about 2 PM, we provided you with a copy of RBC's revised payout statement. Please provide us with a copy of the revised commitment from the lender. Also, we raised six (6) comments, concerns or questions below and we are requesting that they be addressed either in the revised commitment or by you. Thank you."* Attached as **Exhibit "J"** to this my Affidavit is a copy of Mr. DaRe's email to Mr. Bhangu dated July 29, 2024.

15. On July 29, 2024 at 3:33 PM, Mr. DaRe wrote to Mr. Bhangu and copied others as follows: *"Mr. Bhangu, We received the email below from our Mail Room, which is obviously troubling or concerning from RBC's perspective. Please let us know forthwith whether Kipps Market [the Respondent] is in fact closed for business or not operating,*

- 7 -

and if it is closed, whether the premises of the convenience store located on College St. in Belleville are fully secured, locked and protected? Thank you." (our emphasis) Attached hereto as **Exhibit "K"** to this my Affidavit is a copy of the email from Mr. DaRe to Mr. Bhangu dated July 29, 2024.

16. On July 30, 2024, Mr. DaRe was informed that Anita Gupta and Pravin Gupta, the alleged third mortgagees of the premises or convenience store owned by the Respondent, had retained counsel in this matter. Attached hereto as **Exhibit "L"** to this my Affidavit are copies of email exchanges between Mr. DaRe and the Guptas' lawyer.

17. I am advised by Mr. DaRe that as of the date of this Affidavit that despite Mr. DaRe's above email requests to Mr. Bhangu on July 26, 2024 and July 29, 2024, that Mr. Bhangu has not provided Mr. DaRe with a copy of the alleged revised financing or mortgage commitment letter, has not responded too or addressed the six (6) concerns or questions raised above regarding the alleged financing or mortgage commitment letter, and has not answered whether or not the Respondent's business is closed or operating and whether or not the premises of the convenience store are fully secured, locked and protected.

18. Narinder Gill is or was one of the directors, owners and/or officers of the Respondent. Attached as **Exhibit "M"** is a copy of the Corporate Profile Report of the Respondent.

19. Narinder Gill is or was also a director and/or officer of 1557113 Ontario Inc. operating as Kaladar General Store, 1870431 Ontario Inc. operating as Cloyne General

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Store/Cloyne Shell, 2500994 Ontario Ltd. operating as Trenton Esso and 2544924 Ontario Inc. operating as Belleville Esso (collectively, the "**Debtors**"). Attached hereto and marked as **Exhibit "N"** are copies of the Corporate Profile Reports for each of the Debtors.

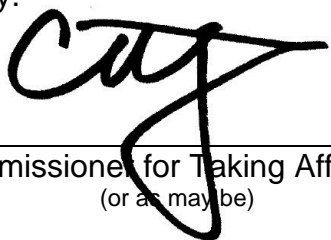
20. BDO was appointed receiver of the Debtors by Order of Justice Osborne dated November 17, 2023 (the "**Appointment Order**"). In the Endorsement, pursuant to which the Appointment Order was granted, Justice Osborne directed that the Appointment Order be held in abeyance and would become effective on December 1, 2023, unless certain refinancing of some of the Debtors' indebtedness was obtained or closed by November 30, 2023.

21. Since the above refinancing was not obtained or did not close by November 30, 2023, the Appointment Order became effective on December 1, 2023. Attached hereto and marked as **Exhibit "O"** to this my Affidavit are copies of the Appointment Order and Endorsement of Justice Osborne, dated November 17, 2023.

22. The subsequent First Report of BDO, as receiver of the Debtors, dated January 31, 2024 (the "**First Report**"), confirmed, among other things, at paragraphs 1.1.1, 1.1.2 and 1.1.3, that as a result of the Debtors or some of the Debtors "failing to secure replacement financing by November 30, 2023, the Appointment Order became effective on December 1, 2023." Attached hereto and marked as **Exhibit "P"** is a copy of the First Report (without exhibits) to the Court regarding the Debtors.

- 9 -

SWORN by Katelin Z. Parker of the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)



KATELIN Z. PARKER

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

This is Exhibit “A” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A large, bold, handwritten signature in black ink, appearing to read 'CHW', is written over a horizontal line.

Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

From: Bhangu Law Office <sb@bhangulawoffice.com>
Sent: Wednesday, July 24, 2024 4:55 PM
To: DaRe, Vern W. <vdare@foglers.com>
Subject: RBC v. 1000502168 Ontario Inc. operating as The Kipps Market; CV-24-00096443-0000

You don't often get email from sb@bhangulawoffice.com. [Learn why this is important](#)

Good afternoon,

Please note that we have been retained by the respondent in the above referenced matter. Since we were retained only today, we do not have sufficient time to prepare a response to the application made by your client. In order to appropriately respond, we will be requesting an adjournment of the hearing of the Application in order to enable our client to serve and file its response.

In the mean time, we request you to provide us with a payout statement outlining all amounts owed to your client as of today along with a per diem amount.

Regards,

Sukhjinder Bhangu
Barrister & Solicitor

Tel: 416-883-2437
Fax: 416-883-2436

Bhangu Law Professional Corporation
Barrister & Solicitor
7900 Hurontario Street, Suite 501
Brampton, Ontario
L6Y 0P6



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E-Mail Confidentiality Disclaimer:

This communication is intended for use by the individual(s) to whom it is specifically addressed and should not be read by, or delivered to, any other person. Such communication may contain privileged or confidential information. If you have received this communication in error, please notify the sender and permanently delete the communication. Thank you for your cooperation.

This is Exhibit “B” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubenstein LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

ENDORSEMENT OF CIVIL MOTION, APPLICATION OR CASE CONFERENCE

SHORT TITLE OF PROCEEDINGS: Royal Bank of Canada v. 1000502168 Ontario Inc.
operating as The Kipps Market

COURT FILE NO.: Court File No. CV-24-00096443-0000

BEFORE: ~~TBD~~ WILLIAMS, J.

HEARD ON: July 25, 2024

COUNSEL:

Vern W. DaRe of Fogler, Rubinoff LLP for the plaintiff/applicant
~~To be completed by party~~ for defendant/respondent; Shaun Parsons for the proposed receiver
Mr. Bhangu

RELIEF REQUESTED: The Applicant is seeking the court-appointment of a Receiver over the property of Respondent, 1000502168 Ontario Inc. operating as The Kipps Market.

☐ ORDER SIGNED

☐ ON CONSENT

☐ UNOPPOSED

☐ NO ONE APPEARED

☐ ADJOURNED TO [Click here to enter a date.](#)

ENDORSEMENT:

Mr. Bhangu appeared and requested an adjournment on behalf of the respondent. RBC opposed the adjournment. Mr. Bhangu said he had only been retained the previous day. He said that Mr. Gill's father had died recently and that Mr. Gill had been in India. He said the respondent has a financing commitment from the Gardar Group.

RBC's counsel Mr. DaRe said the respondent has been unresponsive to RBC inquiries since February. He said the receivership order is required urgently. He said the respondent had allowed insurance coverage on the mortgaged property to lapse but then conceded that coverage had since been reinstated by the proposed receiver.

As it appears the respondent has a financing commitment, as Mr. Bhangu was only very recently retained and as Mr. Gill has had a death in the family, the adjournment is granted. I appreciate RBC's frustration but do not agree that the order must be granted today.

The application shall be adjourned for at least two weeks, to be spoken to. Mr. DaRe shall reschedule the motion through the trial coordinator's office in Ottawa. If a return date is not available within four weeks, Mr. DaRe shall ask the trial coordinator to contact me.

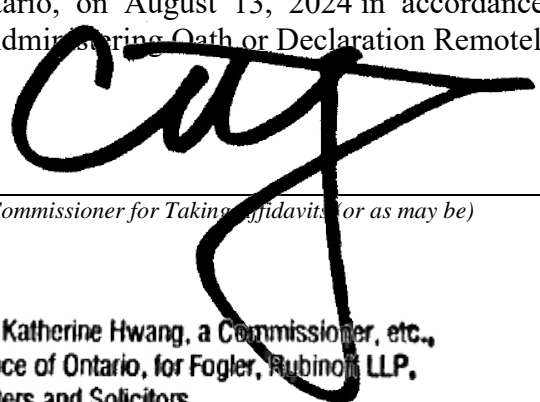
July 25, 2024
Date: ~~xxxxxxxxxxxxxxxxxxxx~~

"H.J. Williams, J."

Justice WILLIAMS [Click here to enter text.](#)

Mr. Bhangu shall provide Mr. DaRe, today, with proof of the respondent's financing commitment. Mr. DaRe shall provide Mr. Bhangu, today, with a payout statement. Mr. DaRe shall ensure that Mr. Bhangu receives a copy of this endorsement, as the court does not have his coordinates.

This is Exhibit "C" referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

Subject: FW: Endorsement of Justice Williams | RBC v. 1000502168 Ontario | CV-24-96443
Attachments: Endorsement (Williams J.)- RBC v. 1000502168 Ontario- July 25 2024.pdf

From: DaRe, Vern W.
Sent: Thursday, July 25, 2024 4:45 PM
To: Bhangu Law Office <sb@bhangulawoffice.com>
Subject: FW: Endorsement of Justice Williams | RBC v. 1000502168 Ontario | CV-24-96443

Mr. Bhangu,

Please find attached a copy of Her Honour's Endorsement dated July 25, 2024 regarding today's receivership application brought by RBC (the "Endorsement").

Pursuant to the Endorsement, among other things, "Mr. Bhangu shall provide Mr. DaRe, today, with proof of the respondent's financing commitment. Mr. DaRe shall provide Mr. Bhangu, today, with a payout statement. Mr. DaRe shall ensure that Mr. Bhangu receives a copy of this endorsement, as the court does not have his coordinates."

As per the Endorsement, please provide me **today** with proof of the respondent's financing commitment. We would appreciate full details regarding the alleged financing including the identity and contact person of the lender, the closing date and all relevant information.

As per the Endorsement, I have already provided you with a copy of RBC's payout statement as of July 22, 2024, excluding costs including BDO's, BDO's counsel (Aird & Berlis LLP) and RBC's counsel (Fogler Rubinooff LLP) costs in this matter and the costs to reimburse BDO/RBC for the insurance premiums in the interim that had to be paid to maintain insurance coverage on the premises including the amount of \$1,066.61 for July + \$1,056.35 for August totalling \$2,122.96 for the insurance premiums.

As per the Endorsement, I have provided you with a copy of this Endorsement in this email as per the attached.

Regards,



Vern W. DaRe
Partner
Fogler, Rubinooff LLP
Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
Direct: 416.941.8842
Main: 416.864.9700
Toll Free: 1.866.861.9700
Fax: 416.941.8852
Email: vdare@foglers.com
foglers.com

ENDORSEMENT OF CIVIL MOTION, APPLICATION OR CASE CONFERENCE

SHORT TITLE OF PROCEEDINGS: Royal Bank of Canada v. 1000502168 Ontario Inc.
operating as The Kipps Market

COURT FILE NO.: Court File No. CV-24-00096443-0000

BEFORE: ~~TRD~~ WILLIAMS, J.

HEARD ON: July 25, 2024

COUNSEL:

Vern W. DaRe of Fogler, Rubinoff LLP for the plaintiff/applicant
~~TO BE COMPLETED BY PARTY~~ for defendant/respondent; Shaun Parsons for the proposed receiver
Mr. Bhangu

RELIEF REQUESTED: The Applicant is seeking the court-appointment of a Receiver over the property of Respondent, 1000502168 Ontario Inc. operating as The Kipps Market.

☐ ORDER SIGNED

☐ ON CONSENT

☐ UNOPPOSED

☐ NO ONE APPEARED

☐ ADJOURNED TO [Click here to enter a date.](#)

ENDORSEMENT:

Mr. Bhangu appeared and requested an adjournment on behalf of the respondent. RBC opposed the adjournment. Mr. Bhangu said he had only been retained the previous day. He said that Mr. Gill's father had died recently and that Mr. Gill had been in India. He said the respondent has a financing commitment from the Gardar Group.

RBC's counsel Mr. DaRe said the respondent has been unresponsive to RBC inquiries since February. He said the receivership order is required urgently. He said the respondent had allowed insurance coverage on the mortgaged property to lapse but then conceded that coverage had since been reinstated by the proposed receiver.

As it appears the respondent has a financing commitment, as Mr. Bhangu was only very recently retained and as Mr. Gill has had a death in the family, the adjournment is granted. I appreciate RBC's frustration but do not agree that the order must be granted today.

The application shall be adjourned for at least two weeks, to be spoken to. Mr. DaRe shall reschedule the motion through the trial coordinator's office in Ottawa. If a return date is not available within four weeks, Mr. DaRe shall ask the trial coordinator to contact me.

July 25, 2024
Date: ~~XXXXXXXXXXXXXXXXXXXX~~

"H.J. Williams, J."

Justice WILLIAMS [Click here to enter text.](#)

Mr. Bhangu shall provide Mr. DaRe, today, with proof of the respondent's financing commitment. Mr. DaRe shall provide Mr. Bhangu, today, with a payout statement. Mr. DaRe shall ensure that Mr. Bhangu receives a copy of this endorsement, as the court does not have his coordinates.

This is Exhibit “D” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

From: Bhangu Law Office <sb@bhangulawoffice.com>

Sent: Thursday, July 25, 2024 5:41 PM

To: DaRe, Vern W. <vdare@foglers.com>

Subject: RE: RBC v. 1000502168 Ontario Inc. operating as The Kipps Market; CV-24-00096443-0000

Good afternoon:

The statement provided by you in your email under reply is not acceptable as it is not a proper payout statement. Or please confirm that the statement you provided is a proper payout statement and no further amounts are due as of today. In the alternative, as acknowledged by you in the court, please provide a proper payout statement including all costs of BDO or BDO's counsel and RBC's counsel incurred in this matter as of today.

Regards,

Sukhjinder Bhangu
Barrister & Solicitor

From: DaRe, Vern W. <vdare@foglers.com>

Sent: July 25, 2024 12:23 PM

To: Bhangu Law Office <sb@bhangulawoffice.com>

Subject: RE: RBC v. 1000502168 Ontario Inc. operating as The Kipps Market; CV-24-00096443-0000

Mr. Bhangu,

Further to your request below, please find attached a redacted version of the RBC payout statement as of July 22, 2024, excluding costs including BDO's, BDO's counsel (Aird & Berlis LLP) and RBC's counsel (Fogler Rubinoff LLP) costs in this matter.

Also, further to today's application, short adjournment of two to four weeks depending on court availability and direction by Justice Williams, expected in the forthcoming Endorsement of Her Honour later today or tomorrow, please provide us with a copy of the commitment letter or financing letter confirming the payout of RBC and its costs, that you said in court was in your possession. Also, provide us with full details regarding the alleged financing including the identity and contact person of the lender, and the closing date.

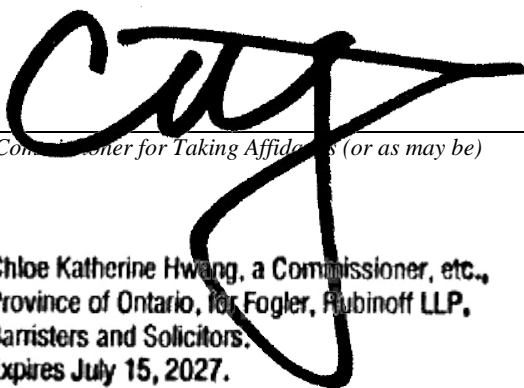
Regards,



Vern W. DaRe
Partner
Fogler, Rubinoff LLP
Lawyers
77 King Street West
Suite 3000, P.O. Box 95

TD Centre North Tower
Toronto, ON M5K 1G8
Direct: 416.941.8842
Main: 416.864.9700
Toll Free: 1.866.861.9700
Fax: 416.941.8852
Email: vdare@foglers.com
foglers.com

This is Exhibit “E” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

Subject: RE: Endorsement of Justice Williams | RBC v. 1000502168 Ontario | CV-24-96443
Attachments: Kipps Commitment (003).pdf

From: Bhangu Law Office <sb@bhangulawoffice.com>
Sent: Thursday, July 25, 2024 5:48 PM
To: DaRe, Vern W. <vdare@foglers.com>
Subject: RE: Endorsement of Justice Williams | RBC v. 1000502168 Ontario | CV-24-96443

Your payout statement is deficient as outlined in our previous email. Please provide a proper payout statement.

However, in the mean time, we are enclosing herewith the mortgage commitment as received by our client. Our client is in the process of having a revised commitment which will have no conditions of obtaining environmental Phase 1 and phase 2 reports as the same are not applicable to this matter.

Regards,

Sukhjinder Bhangu

This document sets out the terms of your mortgage loan agreement.
Please read it carefully and keep it in a safe place.
You and your refer to each borrower named below.
We, our and us refer to Gardar Group.

Gardar Mortgage Loan Type: **Commercial Unit Financing (Rural)**

Date: **July 25, 2024**

Borrowers:

1000502168 ONTARIO INC.
6 OLIVER ROAD BX 37
KALADAR, ON
K0H 1Z0 CAN

MANJOT KAUR GILL
6 OLIVER ROAD BX 7
KALADAR, ON
K0H 1Z0 CAN

Registered amount of your collateral charge:
\$1,000,000.00

Address of the property being used as security:
103 COLLEGE ST WEST
BELLEVILLE, ON
K8P 2G3 CAN

Legal Description of property:
TO BE DETERMINED VIA SOLICITOR
PRIOR TO COMPLETION OF
TRANSACTION

Your lawyer or notary:
TO BE DETERMINED

Principal Amount	\$1,000,000
Annual Interest Rate	12.00000% as of July 25, 2024 This rate is variable and expressed as if calculated monthly not in advance. Interest on the outstanding principal and accrued interest amounts is calculated and charged daily.
Determination of Interest	Your annual interest rate is Scotia Prime Rate plus 5.30000% . As of July 25, 2024 , the Scotia Prime rate is 6.70000% , which means your annual interest rate as of July 25, 2024 is 12.00000% Your Annual interest rate will change automatically if and when the Scotia Prime Rate changes. Scotia Prime rate is a variable rate that is NOT set, and adjusted at our discretion. You can contact us at info@gardar.ca for further information.
Term	12 months This is the length of time this mortgage loan will be in effect, unless it is renewed. It starts on August 26, 2024 (the first day of the month following the date we advance the principal amount to you) and ends August 26, 2025 . The term is closed, which means if you pay some or all of your mortgage loan before the end of the term, you will have to pay any applicable <i>Prepayment Charges</i> (see below).
Date of Advance	August 26, 2024 This is the date we will advance you the principal amount. We charge interest at the annual interest rate from this date.
Payments	Your interest payment is \$10,000.00 . It is due on the 1 st of every month throughout the term beginning October 1, 2024 . This interest payment includes payment towards only the interest amount and not the principal amount or any accrued interest amount.

	Before your first interest payment, you must make a payment of \$2,301.37 for the interest owing from the date we advance you the principal amount to the start date of the term of your mortgage loan, which is September 1, 2024 .
Amortization	Interest Only When the term starts, you will continue to make monthly interest payments, which will continue until the end of the prescribed term.
Prepayment Privilege	You have the option of making the following prepayments without paying any prepayment charges. You may make one or lump-sum payments each calendar year, up to 5% (\$50,000.00) of the original principal amount. The minimum amount you can prepay is \$25,000.00 . The full amount of any lump-sum payment will pay down the principal amount of your mortgage loan. If you prepay your mortgage loan in full, you may have to pay the administration fees described under <i>Other Fees</i> below.
Prepayment Charges	If you pay more than the 5% prepayment option set above, you must pay a prepayment charge of the three months interest amount. (This pre-payment charge will not be applicable after the first 3 months of the term).
Default Insurance	Not applicable
Other Fees	Fees charged at the time mortgage loan agreement is advanced: Legal counsel retention fee: \$3,955.00 Fees charged at the time mortgage loan is advanced: Administration fee (property appraisal/valuation): To be determined Administration fee (collateral charge registration): \$500.00 Fee charged at the time the transaction takes place: Legal counsel fee minus retention fee: \$0.00 Consulting fee (5.0%; inclusive of lender and/or broker fee): \$50,000.00

Details of your mortgage loan

Background

1. The Mortgagor is registered as owner of the estate in fee simple possession, in the following described property (the "Property") located at 103 COLLEGE ST WEST, BELLEVILLE, K8P 2G3 CAN Canada, legal description to be determined via Solicitor prior to completion of transaction.
2. Any buildings or structures on the Property and anything now or later attached or affixed to the buildings or the Property including additions, alterations and improvements located on, above or below the surface of the Property are covered by this Mortgage. However, no additions, alterations or improvements will be made by the Mortgagor without the Mortgagee's prior written consent. Any addition, alteration or improvement will be subject to all recorded easements, rights of way, conditions, encumbrances and limitations, and to all applicable building and use restrictions, zoning laws and ordinances, if any, affecting the Property.

IN CONSIDERATION OF the sum lent to the Mortgagor by the Mortgagee, in the amount of \$1,000,000.00 Canadian Dollars (the "Principal Amount") the receipt of which the Mortgagor hereby acknowledges itself indebted, the parties to this Mortgage agree as follows:

1. For securing to the Mortgagee the repayment in the manner set out below of the Principal Amount and interest (and other amounts hereby secured), the Mortgagor hereby mortgages to the Mortgagee all of the Mortgagor's interest in the Property.
2. This Mortgage will be governed by both the law of Ontario and any applicable federal law (the "Applicable Law"). All rights and obligations contained in this Mortgage are subject to any requirements and limitations of the

(Fixed uninsured variable interest rate mortgage loan agreement (FVR))

Applicable Law.

3. The Mortgagor, for value received, promises to pay to the Mortgagee, on demand, the Principal Amount, interest and all fees and costs on the terms set out in this Mortgage or in any amendment, extension or renewal of the Mortgage and any additional amounts secured by this Mortgage on the terms elsewhere provided for such debts and liabilities.
4. The Mortgagor agrees to pay the Principal Amount with interest before and after maturity and before and after default at the rate of 12.00000% calculated per annum and compounding annually (the "Interest Rate"). The Interest Rate will be calculated from the date this Mortgage begins (the "Advance date") and accrues until the whole of the Principal Amount is paid.
5. The Principal Amount and interest will be repaid in consecutive monthly installments of \$10,000.00 each on the First of each month.
6. The Interest Adjustment Date for this Mortgage is September 1, 2024.
7. The Mortgagor agrees to pay all amounts payable pursuant to this Mortgage and all additional amounts secured by this Mortgage without abatement, set-off or counterclaim. Should the Mortgagor make any claim against the Mortgagee either initially or by way of abatement, set-off or counterclaim, the Mortgagor agrees that any such claim will not diminish or delay the Mortgagor's obligations to make the payments as provided in this Mortgage.
8. All monthly payments received by the Mortgagee will first be applied in payment of the interest calculated at the Interest Rate, and second in payment of the Principal Amount. However, if the Mortgagor is in default, then the Mortgagee will apply any payments received during this period as the Mortgagee chooses. If the Mortgagor is in default in payment of any amount including interest, interest will be payable on the interest and other arrears at the Interest Rate compounded monthly.
9. The Mortgagor may prepay the full outstanding balance (including the principal and any accrued interest) at any time upon payment of three months' interest at the existing interest rate as set out in the Mortgage or, if renewed, in the agreement for the last renewal of the Mortgage calculated on the full principal amount being repaid.
10. When the Mortgagor pays the Principal Amount, interest and all the other amounts secured by this Mortgage in full and notifies the Mortgagee in writing and requests a discharge of this Mortgage, the Mortgagee will discharge this Mortgage. The Mortgagor will give the Mortgagee a reasonable time after payment in which to prepare and issue the discharge.
11. The Mortgagor warrants and agrees that:
 - a. the Mortgagor has good title to the Property;
 - b. the Mortgagor will preserve the Mortgagor's title to the Property and the validity and priority of this Mortgage and will forever warrant and defend the same for the Mortgagee against the claims of all persons;

- c. the Mortgagor has the authority to mortgage the Property;
 - d. on default, the Mortgagee will have quiet possession of the Property;
 - e. the Property is free from all encumbrances;
 - f. the Mortgagor will execute further assurance of the Property as will be requisite;
 - g. the Mortgagor has not done any act to encumber the Property.
12. The Mortgagor agrees that the Property includes all property of any kind that is now or at any time in the future attached or affixed to the land or buildings or placed on and used in connection with them, as well as all alterations, additions and improvements to the buildings.
13. The Mortgagor will pay all taxes and other fees levied on the Property and all accounts for utilities supplied to the Property and all charges, mortgages, liens and other encumbrances on the Property (the "Taxes") when they are due and comply with all other obligations under them. Upon the Mortgagee's request, the Mortgagor will promptly provide receipts showing that the Taxes have been paid.
14. Alternatively, at the Mortgagee's discretion, rather than paying the Taxes directly, the Mortgagor will pay to the Mortgagee, on the day periodic payments are due under this Mortgage, a sum in escrow to provide for payment of the Taxes.
15. The Mortgagor will not sell, transfer, lease or otherwise dispose of all or any part of the Property or any interest in the Property or if a corporation, permit a change in control, without the Mortgagee's prior written approval. Any transfer approved by the Mortgagee must involve the purchaser, transferee or lessee entering into an assumption agreement in a form satisfactory to the Mortgagee. Acceptance of any payments from any purchaser, transferee or lessee or after a change in control not approved in writing, will not constitute an approval or waiver by the Mortgagee.
16. The Mortgagor will insure, in the Mortgagee's favor, all buildings on the Property that are the subject of the Mortgage. The insurance will include protection against damage by fire and other perils including "extended peril coverage" and any other perils that the Mortgagee requests. The insurance must cover replacement costs of any buildings on the Property in Canadian dollars. The Mortgagor will choose the insurance company but the final selection is subject to the Mortgagee's approval. The insurance policies will include a standard mortgage clause stating that any loss is payable to the Mortgagee. This Mortgage will be sufficient proof for any insurance company to pay any claims to the Mortgagee and to accept instructions from the Mortgagee regarding any insurance claims relating to the Property.
17. The Mortgagor will provide the following at the request of the Mortgagee:
- a. a copy of the insurance policy;
 - b. receipts of all paid insurance premiums; and
 - c. renewal notices and evidence of renewal completion.
18. In the event of loss, the Mortgagor will provide prompt notice to the Mortgagee and the insurance carrier. The Mortgagor will provide the Mortgagee proof of all claims at the Mortgagor's own expense and will perform all necessary acts to enable the Mortgagor to obtain all insurance proceeds from the claim. The insurance proceeds, in whole or in part, will be applied to the restoration and repair of the Property, if the restoration and repair is

economically feasible. If the restoration and repair is not economically feasible, then the insurance proceeds will be applied to the remainder of the Mortgage, whether or not the balance of the Mortgage is then due. Any remaining funds from the insurance claim will be paid to the Mortgagor.

19. The Mortgagor will maintain the Property in good order and condition and will promptly make all necessary repairs, replacements, and improvements. The Mortgagor will not allow any part of the Property to become or remain vacant without the written consent of the Mortgagee. The Mortgagor will not commit waste and will not remove, demolish or materially alter the Property or any part of it without prior written consent from the Mortgagee. The Mortgagee may, whenever necessary, enter upon and inspect the Property. If the Mortgagor, or anyone claiming under the Mortgagor, neglects to keep the Property in good condition and repair, or commit any act of waste on the Property, or do anything by which the value of the Property is thereby diminished, all of which the Mortgagee will be the sole judge, the Mortgagee may (but is not obliged to) enter the Property and effect such repairs or work as it considers necessary.
20. The Mortgagor will not use, store, release, deposit, recycle, or permit the presence of hazardous substances on the Property, generally accepted items for residential use excepted, which includes but is not limited to asbestos, PCBs, radioactive materials, gasoline, kerosene, or other flammable petroleum products (the "Hazardous Substances"). The Mortgagor is also prohibited from performing any acts on the Property involving any Hazardous Substances that would materially affect the value of the Property or would require clean-up or remedial action under federal, provincial, or local laws and codes.
21. Until default by the Mortgagor under this Mortgage, the Mortgagor will have quiet possession and receive the rents and profits from the Property.
22. The Mortgagor will be in default under this Mortgage upon the happening of any of the following events:
 - a. the Mortgagor defaults in the payment of the Principal Amount, interest or any other amount secured by this Mortgage, when payment of such amount becomes due under the terms of this Mortgage or as elsewhere provided for any other amount secured by this Mortgage;
 - b. the Mortgagor fails to observe or to perform any term or covenant which the Mortgagor has agreed to observe or perform under this Mortgage or elsewhere where an amount is secured by this Mortgage;
 - c. any information or statement the Mortgagor has given or made before, at or after signing the Mortgage, in respect of the Property or the Mortgagor's affairs is incorrect or untrue at the time it was given or made;
 - d. the Mortgagor ceases or threatens to cease to carry on in a sound businesslike manner, the business in which the Mortgagor ordinarily conducts on, or with respect to all or any part of, the Property;
 - e. the Property is a condominium unit or units and a vote authorizes the termination of the condominium or the sale of all or substantially all of the condominium corporation's assets or its common elements or the condominium corporation fails to insure the unit and common elements;
 - f. a petition in bankruptcy is filed against the Mortgagor, the Mortgagor makes a general assignment for the benefit of the creditors, a receiver, interim receiver, monitor or similar person is placed or is threatened to be placed in control of or for the overview of Mortgagor's affairs or Property, or in the opinion of the Mortgagee, the Mortgagor becomes insolvent;
 - g. a construction or similar type lien is registered against the Property or if default occurs under any other lien, mortgage or encumbrance existing against the Property;

- h. the Mortgagor abandons or does not visibly and consistently occupy the Property; or
- i. the Property or a material part of the Property is expropriated.

23. If at any time the Mortgagor should be in default under this Mortgage, the Principal Amount and interest and all amounts secured by this Mortgage will, at the option of the Mortgagee, become due and payable immediately.
24. If at any time the Mortgagor is in default and the Mortgagee does not require the Mortgagor to pay immediately in full as described above, the Mortgagee will retain the right to seek full immediate payment if the Mortgagor is in default at a later time. Any forbearance on the part of the Mortgagee upon default, which includes but is not limited to acceptance of late payment, acceptance of payment from third parties, or acceptance of payments less than the amount then due, will not constitute as waiver to enforce acceleration on default.
25. In the event that the Mortgagee elects to accelerate the Mortgage, the Mortgagee will provide notice to the Mortgagor in accordance with the Applicable Law.
26. The Mortgagor may be charged with fees in association with the default of this Mortgage or for the protection of the Mortgagee's interest for this Mortgage, which may include, but is not limited to, lawyers' fees and property inspections (the "Other Fees"). The absence of specific charges which may be levied against the Mortgagor in this Mortgage does not preclude the Mortgagee from charging such costs as Additional Fees. However, the Mortgagee will not charge any fees which are prohibited by Applicable Law and the Mortgagee will not charge any fees above and beyond the amount or percentage allowed under the Applicable Law. The Additional Fees will carry the rate of 12.00 percent, calculated annually. The Additional Fees' total including interest will become due upon written request by the Mortgagee.
27. If at any time the Mortgagor should fail to uphold the covenants in this Mortgage, or if a legal proceeding commences which materially affects the Mortgagee's interest in the Property, the Mortgagee may pay or perform any reasonable action as necessary to protect the Mortgagee's interest, which includes, but is not limited to:
- a. payment of any insurance premiums, taxes, or levies which are accruing against the Property;
 - b. payment of sums due secured by a prior lien which has priority over this Mortgage;
 - c. payment of legal fees in relations to any legal proceedings or legal costs arising from the Property; and
 - d. payment of reasonable costs in repairing and maintaining the Property.
28. Any action referred to in this section is optional for the Mortgagee and the Mortgagee has no duty or obligation to carry out any of the remedies listed in this section and will not incur any liability in the failure to perform such tasks.
29. Any amount disbursed by the Mortgagee in relation to the protection of the Mortgagee's security will become Additional Fees payable by the Mortgagor.
30. If at any time the Mortgagor should be in default under this Mortgage, the Mortgagee will have the right to foreclose and force the sale of the Property without any judicial proceeding. Any delay in the exercising of this right will not constitute as waiver on the part of the Mortgagee to exercise this option at a subsequent time should the Mortgagor

remain in default or if the Mortgagor becomes default again in the future.

31. The Mortgagee will have the right to pursue all remedies for the collection of the amounts owing on this Mortgage that are provided for by the Applicable Law, whether or not such remedies are expressly granted in this Mortgage, including but not limited to foreclosure proceedings.
32. If the Mortgagee invokes the power of sale, the Mortgagee or its agent will execute a written notice of the event of default and the Mortgagee's election to sell the Property. The Mortgagee or its agent will mail copies of the notice as prescribed by Applicable Law to the Mortgagor and other persons required by Applicable Law. The Mortgagee or its agent will give public notice of sale to the Mortgagor in the manner provided for by Applicable Law. After the time required by Applicable Law, the Mortgagee or its agent, without demand on the Mortgagor, will sell the Property at public auction to the highest bidder, at the time and place and subject to the terms indicated in the notice of sale. The Mortgagee or its agent may postpone sale of the Property by public announcement at the time and place of any scheduled sale.
33. Headings are inserted for the convenience of the parties to the Mortgage only and are not to be considered when interpreting this Mortgage. Words in the singular mean and include the plural and vice versa. Words in the masculine gender mean and include the feminine gender and vice versa. Words importing persons include firms and corporations and vice versa.
34. If any provision of this Mortgage will be held invalid or be prohibited by the Applicable Law, such provision will not invalidate the remaining provisions of this Mortgage and such provisions of the Mortgage will be amended or deleted as necessary to comply with the Applicable Law.
35. Nothing contained in this Mortgage will require the Mortgagor to pay, or for the Mortgagee to accept, interest in an amount greater than that allowed by the Applicable Law. If the payment of interest or other amounts under this Mortgage would otherwise exceed the maximum amount allowed under the Applicable Law or violate any law as to disclosure or calculation of interest charges, then the Mortgagor's obligations to pay interest or other charges will be reduced or amended to the maximum rate or amount permitted under the Applicable Law.
36. If the Mortgagor is more than one person or legal entity, each person or legal entity who signs it will be jointly and severally bound to comply with all covenants and obligations of the Mortgagor and the said covenants and obligations will bind all of the Mortgagor's successors and permitted assigns. The Mortgage will enure to the benefit of the Mortgagee and the Mortgagee's successors and assigns.
37. The covenants contained in this Mortgage are additional and supplemental, to the extent permitted by law, to the covenants set out in the Applicable Law regarding Mortgages.
38. Any notice given by either party in this Mortgage must be in writing. Unless otherwise provided in this Mortgage or prohibited by law, where this Mortgage allows or requires the Mortgagee to make a demand on or give a notice to any person, the Mortgagee will make the demand or give the notice by:
 - a. delivering it to the party at the Property or the party's last known address;

- b. by mailing it by prepaid registered mail addressed to the party at the Property or the party's last known address;
- c. by sending it by facsimile to the party's last known number; or
- d. where the party is a corporation, by so delivering or sending it to the last known address or number of a director, officer, employee or attorney of the corporation.

- 39. Any notice or demand delivered as described will constitute as sufficient delivery. Any notice, demand mail and facsimile (the "Notice") made will constitute as being effective on the same day that it was sent, unless the day in which the Notice was sent falls on a national holiday, Saturday or Sunday, in which case, the next business day would be considered as the day of receipt.
- 40. Any party in this instrument whose address has changed is responsible for notifying the other respective parties of the change in address.
- 41. Property PIN/ROLE NUMBERS to be determined and provided prior to completion of transaction by Solicitor
- 42. Receipt from the borrower(s) and/or guarantor(s) of an appraisal report of the subject property upon an appraiser of lender's choosing
- 43. Satisfactory inspection to be carried out by the Lender Up-to-date surveys of the property showing the lot dimensions
- 44. Articles of incorporation of the company(ies) & guaranteeing company(ies) (if applicable)
- 45. A consultancy fee of 5.00% will be charged, and is to be paid out upon closure of this transaction from the proceeds, this fee is inclusive of any lender or broker fees
- 46. Satisfactory net worth and security/collateral review to be made based upon appraisal and ESA Phase 1 and Phase 2 reports prior funding (if applicable)
- 47. Satisfactory net worth review shall be conducted of each applicant prior to completion of this transaction
- 48. This mortgage loan commitment is subject to change prior to completion of transaction via execution of written instrument by the Lender (*us*)

Your Signature

By signing below, you acknowledge that you:

- Accept this mortgage loan agreement
- Agree to all the terms and conditions on it, and
- Have received a copy of this mortgage loan agreement

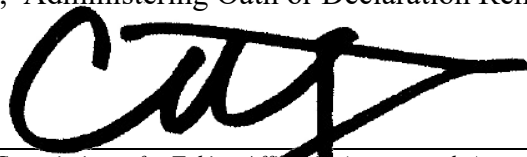
Borrowers Signature X Manje
1000502168 ONTARIO INC.
(AUTHORIZED OFFICER(s))

Date Signed: July 25/2021

Borrowers Signature X Manje
MANJOT KAUR GILL

Date Signed: July 25/2024

This is Exhibit “F” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

From: DaRe, Vern W. <vdare@foglers.com>
Sent: July 25, 2024 6:19 PM
To: Bhangu Law Office <sb@bhangulawoffice.com>
Cc: Venton, Scott R. <sventon@foglers.com>; Ian Aversa (iaversa@airdberlis.com) <iaversa@airdberlis.com>;
sparsons@airdberlis.com; Crawley, Peter <pcrawley@bdo.ca>
Subject: FW: Endorsement of Justice Williams | RBC v. 1000502168 Ontario | CV-24-96443

Good Evening,

I acknowledge receipt of the attached alleged financing commitment to pay out RBC in this matter, which we will review shortly or in due course. Thank you for your message below.

The payout statement we sent earlier on to you, as I noted in my message, does not include certain costs including BDO's, Aird & Berlis', Fogler's fees and costs, and the insurance premiums paid by BDO/RBC. You are requesting that these amounts be included in the payout statement. I have copied BDO, A&B and Foglers on this email, and I am requesting that they provide me with the amount of their total fees and costs in this matter as of today, to be added to the payout statement.

Regards,



Vern W. DaRe
 Partner
 Fogler, Rubinoff LLP
 Lawyers
 77 King Street West
 Suite 3000, P.O. Box 95
 TD Centre North Tower
 Toronto, ON M5K 1G8
 Direct: 416.941.8842
 Main: 416.864.9700
 Toll Free: 1.866.861.9700
 Fax: 416.941.8852
 Email: vdare@foglers.com
foglers.com

From: Bhangu Law Office <sb@bhangulawoffice.com>
Sent: Thursday, July 25, 2024 5:48 PM
To: DaRe, Vern W. <vdare@foglers.com>
Subject: RE: Endorsement of Justice Williams | RBC v. 1000502168 Ontario | CV-24-96443

Your payout statement is deficient as outlined in our previous email. Please provide a proper payout statement.

However, in the mean time, we are enclosing herewith the mortgage commitment as received by our client. Our client is in the process of having a revised commitment which will have no conditions of obtaining environmental Phase 1 and phase 2 reports as the same are not applicable to this matter.

Regards,

Sukhjinder Bhangu

This is Exhibit “G” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

From: DaRe, Vern W.

Sent: Friday, July 26, 2024 8:13 AM

To: Bhangu Law Office <sb@bhangelawoffice.com>

Cc: Venton, Scott R. <sventon@foglers.com>; Ian Aversa (iaversa@airdberlis.com) <iaversa@airdberlis.com>; sparsons@airdberlis.com; Crawley, Peter <pcrawley@bdo.ca>

Subject: RE: Endorsement of Justice Williams | RBC v. 1000502168 Ontario | CV-24-96443

Good morning, Mr. Bhangu,

Further to the payout statement we provided you yesterday, I have asked RBC to update the statement and I have asked BDO, Aird & Berlis and Foglers to provide me with their outstanding fees and costs as of July 25, 2024.

Regarding the Mortgage Loan Agreement dated July 25, 2024 that you provided us yesterday, I have a few comments, concerns or questions that I would appreciate that you addressed, responded too, corrected or rectified:

- (1) My biggest concern is that it is not signed by the lender and does not appear to be a firm commitment. While it is signed by the two borrowers, 1000502168 Ontario Inc. and Manjot Kaur Gill, the lender, Gardar Group has not signed the document. In fact, paragraph 48 of the document states that "This mortgage loan commitment **IS SUBJECT TO CHANGE PRIOR TO COMPLETION OF TRANSACTION VIA EXECUTION OF INSTRUMENT BY THE LENDER (US)** (my emphasis). Without the signature of the lender on the document and given that the Mortgage Loan Agreement you provided us is "subject to change prior to completion of transaction via execution of instrument by the Lender (us)", this is not a firm commitment but closer to an unsigned expression of interest or conditional offer. Please rectify this deficiency forthwith by asking the Lender to sign the Mortgage Loan Agreement acknowledging agreement and acceptance, and ask the Lender to delete or waive the condition at paragraph 48;
- (2) There are other conditions set out in the Mortgage Loan Agreement that make the document more a conditional offer than a firm commitment: (i) para. 42 (appraisal report of the property upon an appraisal of the lender's choosing); (ii) para. 43 (satisfactory inspection to be carried out by the Lender); (iii) para. 44 (articles of incorporation); (iv) para. 46 (satisfactory net worth and security/collateral review to be made based upon appraisal and ESA Phase 1 and Phase 2 reports prior funding (if applicable); and para. 47 (Satisfactory net worth review shall be conducted of each applicant prior to completion of this transaction). Again, these appear to be conditions and therefore the Mortgage Loan Agreement is not a firm commitment to finance. Please rectify this deficiency forthwith by asking the Lender to delete or waive the conditions at paragraphs 42, 43, 44, 46 and 47 of the Mortgage Loan Agreement;
- (3) I notice that the legal description of the property and the Borrowers' lawyer or notary needs to be completed;
- (4) I see that the closing or advance of the principal amount is scheduled for August 26, 2024 under the Mortgage Loan Agreement. I am assuming that this outside date is because Justice Williams adjourned the receivership application two to four weeks (i.e., one month as the outside date) from July 25 and since August 25 is a Sunday, the next day is August 26, 2024 (Monday);
- (5) Who is the Gardar Group? I see no address or contact person on the letterhead of the Mortgage Loan Agreement. Paragraph 39 of the Mortgage Loan Agreement talks about the methodology of giving proper Notice to the parties under the Agreement but that will be difficult if the Lender does not even provide its address or contact person in the document; and

- (6) We would like a few provisions added to the Mortgage Loan Agreement that link the financing to the payout of RBC including under the chart at the first and second page, a Purpose heading as follows: **Purpose: The purpose of this financing is to fully repay the Borrowers' indebtedness to the Royal Bank of Canada.** Also, under the heading: **Date of Advance**, it states that on August 26, 2024: "This is the date we will advance **YOU (the Borrowers)** the principal amount." (my emphasis). Our preference is that the funds be advanced to RBC, its counsel or the Borrowers' counsel's trust account instead and this section or heading should be amended as such.

Thank you.



Vern W. DaRe
 Partner
 Fogler, Rubinoff LLP
 Lawyers
 77 King Street West
 Suite 3000, P.O. Box 95
 TD Centre North Tower
 Toronto, ON M5K 1G8
 Direct: 416.941.8842
 Main: 416.864.9700
 Toll Free: 1.866.861.9700
 Fax: 416.941.8852
 Email: vdare@foglers.com
foglers.com

This is Exhibit “H” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

From: Bhangu Law Office <sb@bhangulawoffice.com>
Sent: Friday, July 26, 2024 10:52 AM
To: DaRe, Vern W. <vdare@foglers.com>
Cc: Venton, Scott R. <sventon@foglers.com>; Ian Aversa (iaversa@airdberlis.com) <iaversa@airdberlis.com>; sparsons@airdberlis.com; Crawley, Peter <pcrawley@bdo.ca>
Subject: RE: Endorsement of Justice Williams | RBC v. 1000502168 Ontario | CV-24-96443

Good morning :

Thank you for the below email which will be responded to by the end of the day.

In the mean time, can you please provide a proper payout statement ad ordered by the court? Your client may not be satisfied by the terms and conditions of the commitment, their interest should be to get paid out. We request that your client leaves the terms and conditions to be fulfilled by our client.

We await a proper payout statement as soon as possible as the lender has requested for the same and a revised commitment will be issued only upon receipt of the payout statement.

Regards,

Sukhjinder Bhangu

From: DaRe, Vern W. <vdare@foglers.com>
Sent: July 26, 2024 8:13 AM
To: Bhangu Law Office <sb@bhangulawoffice.com>
Cc: Venton, Scott R. <sventon@foglers.com>; Ian Aversa (iaversa@airdberlis.com) <iaversa@airdberlis.com>; sparsons@airdberlis.com; Crawley, Peter <pcrawley@bdo.ca>
Subject: RE: Endorsement of Justice Williams | RBC v. 1000502168 Ontario | CV-24-96443

Good morning, Mr. Bhangu,

Further to the payout statement we provided you yesterday, I have asked RBC to update the statement and I have asked BDO, Aird & Berlis and Foglers to provide me with their outstanding fees and costs as of July 25, 2024.

Regarding the Mortgage Loan Agreement dated July 25, 2024 that you provided us yesterday, I have a few comments, concerns or questions that I would appreciate that you addressed, responded too, corrected or rectified:

- (1) My biggest concern is that it is not signed by the lender and does not appear to be a firm commitment. While it is signed by the two borrowers, 1000502168 Ontario Inc. and Manjot Kaur Gill, the lender, Gardar Group has not signed the document. In fact, paragraph 48 of the document states that "This mortgage loan commitment **IS SUBJECT TO CHANGE PRIOR TO COMPLETION OF TRANSACTION**

VIA EXECUTION OF INSTRUMENT BY THE LENDER (US) (my emphasis). Without the signature of the lender on the document and given that the Mortgage Loan Agreement you provided us is "subject to change prior to completion of transaction via execution of instrument by the Lender (us)", this is not a firm commitment but closer to an unsigned expression of interest or conditional offer. Please rectify this deficiency forthwith by asking the Lender to sign the Mortgage Loan Agreement acknowledging agreement and acceptance, and ask the Lender to delete or waive the condition at paragraph 48;

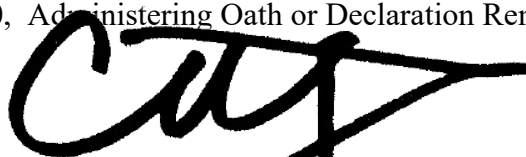
- (2) There are other conditions set out in the Mortgage Loan Agreement that make the document more a conditional offer than a firm commitment: (i) para. 42 (appraisal report of the property upon an appraiser of the lender's choosing); (ii) para. 43 (satisfactory inspection to be carried out by the Lender); (iii) para. 44 (articles of incorporation); (iv) para. 46 (satisfactory net worth and security/collateral review to be made based upon appraisal and ESA Phase 1 and Phase 2 reports prior funding (if applicable); and para. 47 (Satisfactory net worth review shall be conducted of each applicant prior to completion of this transaction). Again, these appear to be conditions and therefore the Mortgage Loan Agreement is not a firm commitment to finance. Please rectify this deficiency forthwith by asking the Lender to delete or waive the conditions at paragraphs 42, 43, 44, 46 and 47 of the Mortgage Loan Agreement;
- (3) I notice that the legal description of the property and the Borrowers' lawyer or notary needs to be completed;
- (4) I see that the closing or advance of the principal amount is scheduled for August 26, 2024 under the Mortgage Loan Agreement. I am assuming that this outside date is because Justice Williams adjourned the receivership application two to four weeks (i.e., one month as the outside date) from July 25 and since August 25 is a Sunday, the next day is August 26, 2024 (Monday);
- (5) Who is the Gardar Group? I see no address or contact person on the letterhead of the Mortgage Loan Agreement. Paragraph 39 of the Mortgage Loan Agreement talks about the methodology of giving proper Notice to the parties under the Agreement but that will be difficult if the Lender does not even provide its address or contact person in the document; and
- (6) We would like a few provisions added to the Mortgage Loan Agreement that link the financing to the payout of RBC including under the chart at the first and second page, a Purpose heading as follows: **Purpose: The purpose of this financing is to fully repay the Borrowers' indebtedness to the Royal Bank of Canada.** Also, under the heading: **Date of Advance**, it states that on August 26, 2024: "This is the date we will advance **YOU (the Borrowers)** the principal amount." (my emphasis). Our preference is that the funds be advanced to RBC, its counsel or the Borrowers' counsel's trust account instead and this section or heading should be amended as such.

Thank you.



Vern W. DaRe
 Partner
 Fogler, Rubinoff LLP
 Lawyers
 77 King Street West
 Suite 3000, P.O. Box 95
 TD Centre North Tower
 Toronto, ON M5K 1G8
 Direct: 416.941.8842
 Main: 416.864.9700
 Toll Free: 1.866.861.9700
 Fax: 416.941.8852
 Email: vdare@foglers.com
foglers.com

This is Exhibit "I" referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

Subject: RBC v. 1000502168 Ontario
Attachments: Payout Statement (as of July 25, 2024) - 4855-5554-3507 1.docx

From: DaRe, Vern W.
Sent: Friday, July 26, 2024 2:11 PM
To: Bhangu Law Office <sb@bhangulawoffice.com>
Cc: Venton, Scott R. <sventon@foglers.com>; Ian Aversa (iaversa@airdberlis.com) <iaversa@airdberlis.com>; sparsons@airdberlis.com; Crawley, Peter <pcrawley@bdo.ca>
Subject: RBC v. 1000502168 Ontario

Please find attached the revised payout statement of RBC in this matter.

Regards,



Vern W. DaRe
Partner
Fogler, Rubinoff LLP
Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
Direct: 416.941.8842
Main: 416.864.9700
Toll Free: 1.866.861.9700
Fax: 416.941.8852
Email: vdare@foglers.com
foglers.com

RBC PAYOUT STATEMENT**Re: 1000502168 Ontario Inc. o/a The Kipps Market****AMOUNTS OWING AS OF JULY 25, 2024**

Royal Bank of Canada ("RBC")					
Facility	Present balance	Accrued Interest	Prepayment Charge	Per Diem	Total
73701675 002	\$10,218.06	\$81.83	\$0.00	\$2.82	\$10,299.89
73701675 004	\$12,451.02	\$24.07	\$0.00	\$6.82	\$12,475.09
73701675 003	\$892,024.19	\$43,779.50	\$0.00	\$243.17	\$935,803.69*
Fogler, Rubinoff LLP ("FR")					
	Fees	Disbursements	Taxes		Total
	\$23,048.00**	\$2,213.10	\$3,275.51		\$28,536.61***
BDO Canada Limited ("BDO")					
Professional Fees	HST	Travel Expense	Insurance Premiums Paid		Total
\$9,300.00	\$1,209.00	\$368.20	\$2,122.96		\$13,000.16***
Aird & Berlis LLP ("A&B")					
	Total fees up to and including July 25, 2024, including disbursements and taxes				Total
					\$5,941.54***
TOTAL AMOUNT OWING (as of July 25, 2024):					<u>\$1,006,056.98</u>

*The payout amount is subject to change if RBC discovers any error or omission in the calculation of the amount owing and/or if any of the payout values are based on the RBC Royal Bank Prime Lending Rate and that Rate is adjusted in any way between the date of preparation of this payout

statement and the payout date. The payout amount is also subject to change or increase based on the per diem interest set out above to and including the payout date.

**FR provided a courtesy discount of approximately \$2,600.

***The payout amount is subject to change or increase based on any additional, reasonable professional fees and disbursements incurred by FR, BDO and/or A&B after July 25, 2024 in this matter.

This is Exhibit “J” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20 Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

From: DaRe, Vern W.
Sent: Monday, July 29, 2024 8:38 AM
To: Bhangu Law Office <sb@bhangelawoffice.com>
Cc: Venton, Scott R. <sventon@foglers.com>; Ian Aversa (iaversa@airdberlis.com) <iaversa@airdberlis.com>; sparsons@airdberlis.com; Crawley, Peter <pcrawley@bdo.ca>
Subject: RE: Endorsement of Justice Williams | RBC v. 1000502168 Ontario | CV-24-96443

Good morning,

On Friday, July 26, 2024 at about 2 PM, we provided you with a copy of RBC's revised payout statement.

Please provide us with a copy of the revised commitment from the lender. Also, we raised six (6) comments, concerns or questions below and we are requesting that they be addressed either in the revised commitment or by you.

Thank you.



Vern W. DaRe
 Partner
 Fogler, Rubinoff LLP
 Lawyers
 77 King Street West
 Suite 3000, P.O. Box 95
 TD Centre North Tower
 Toronto, ON M5K 1G8
 Direct: 416.941.8842
 Main: 416.864.9700
 Toll Free: 1.866.861.9700
 Fax: 416.941.8852
 Email: vdare@foglers.com
foglers.com

From: DaRe, Vern W. <vdare@foglers.com>
Sent: July 26, 2024 8:13 AM
To: Bhangu Law Office <sb@bhangelawoffice.com>
Cc: Venton, Scott R. <sventon@foglers.com>; Ian Aversa (iaversa@airdberlis.com) <iaversa@airdberlis.com>; sparsons@airdberlis.com; Crawley, Peter <pcrawley@bdo.ca>
Subject: RE: Endorsement of Justice Williams | RBC v. 1000502168 Ontario | CV-24-96443

Good morning, Mr. Bhangu,

Further to the payout statement we provided you yesterday, I have asked RBC to update the statement and I have asked BDO, Aird & Berlis and Foglers to provide me with their outstanding fees and costs as of July 25, 2024.

Regarding the Mortgage Loan Agreement dated July 25, 2024 that you provided us yesterday, I have a few comments, concerns or questions that I would appreciate that you addressed, responded too, corrected or rectified:

- (1) My biggest concern is that it is not signed by the lender and does not appear to be a firm commitment. While it is signed by the two borrowers, 1000502168 Ontario Inc. and Manjot Kaur Gill, the lender, Gardar Group has not signed the document. In fact, paragraph 48 of the document states that "This mortgage loan commitment **IS SUBJECT TO CHANGE PRIOR TO COMPLETION OF TRANSACTION VIA EXECUTION OF INSTRUMENT BY THE LENDER (US)** (my emphasis). Without the signature of the lender on the document and given that the Mortgage Loan Agreement you provided us is "subject to change prior to completion of transaction via execution of instrument by the Lender (us)", this is not a firm commitment but closer to an unsigned expression of interest or conditional offer. Please rectify this deficiency forthwith by asking the Lender to sign the Mortgage Loan Agreement acknowledging agreement and acceptance, and ask the Lender to delete or waive the condition at paragraph 48;
- (2) There are other conditions set out in the Mortgage Loan Agreement that make the document more a conditional offer than a firm commitment: (i) para. 42 (appraisal report of the property upon an appraiser of the lender's choosing); (ii) para. 43 (satisfactory inspection to be carried out by the Lender); (iii) para. 44 (articles of incorporation); (iv) para. 46 (satisfactory net worth and security/collateral review to be made based upon appraisal and ESA Phase 1 and Phase 2 reports prior funding (if applicable); and para. 47 (Satisfactory net worth review shall be conducted of each applicant prior to completion of this transaction). Again, these appear to be conditions and therefore the Mortgage Loan Agreement is not a firm commitment to finance. Please rectify this deficiency forthwith by asking the Lender to delete or waive the conditions at paragraphs 42, 43, 44, 46 and 47 of the Mortgage Loan Agreement;
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- (5) Who is the Gardar Group? I see no address or contact person on the letterhead of the Mortgage Loan Agreement. Paragraph 39 of the Mortgage Loan Agreement talks about the methodology of giving proper Notice to the parties under the Agreement but that will be difficult if the Lender does not even provide its address or contact person in the document; and
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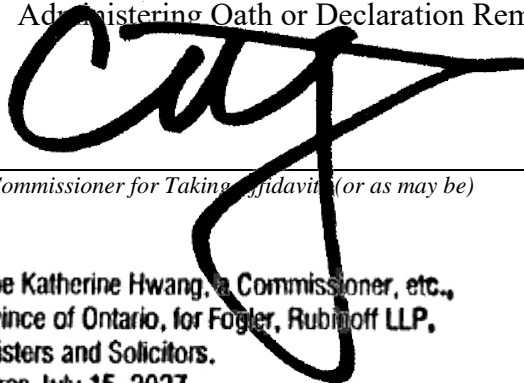
Thank you.



Vern W. DaRe
Partner
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77 King Street West
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Toronto, ON M5K 1G8
Direct: 416.941.8842
Main: 416.864.9700
Toll Free: 1.866.861.9700
Fax: 416.941.8852
Email: vdare@foglers.com
foglers.com

This is Exhibit “K” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubloff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

From: DaRe, Vern W.

Sent: Monday, July 29, 2024 3:33 PM

To: Bhangu Law Office <sb@bhangulawoffice.com>

Cc: Venton, Scott R. <sventon@foglers.com>; Crawley, Peter <pcrawley@bdo.ca>; Ian Aversa (iaversa@airdberlis.com) <iaversa@airdberlis.com>; sparsons@airdberlis.com

Subject: FW: Returned package from Purolator re. Kipps Market

Mr. Bhangu,

We received the email below from our Mail Room, which is obviously troubling or concerning from RBC's perspective. Please let us know forthwith whether Kipps Market is in fact closed for business or not operating, and if it is closed, whether the premises of the convenience store located on College St. in Belleville are fully secured, locked and protected?

Thank you.



Vern W. DaRe

Partner
Fogler, Rubinoff LLP
Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
Direct: 416.941.8842
Main: 416.864.9700
Toll Free: 1.866.861.9700
Fax: 416.941.8852
Email: vdare@foglers.com
foglers.com

From: TPH Mail Room <tphmailroom@foglers.com>

Sent: Monday, July 29, 2024 12:47 PM

To: DaRe, Vern W. <vdare@foglers.com>; Pham, Michelle <mpham@foglers.com>

Subject: Returned package from Purolator

Hi,

We received a returned package from Purolator which was sent out to 1000502168 Ontario Inc / The Kipps Market at 103 College St West, Belleville. The reason for return is "Business Closed".

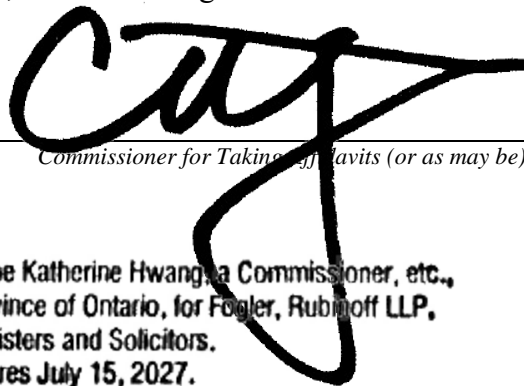
On our net run we will drop it off at Michelle's desk.

Thanks,

TPH Mail Room

Mail Room
Fogler, Rubinoff LLP
Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
Direct: 416.864.9700 x315
Main: 416.864.9700
Toll Free: 1.866.861.9700
Fax: 416.941.8852
Email: tphmailroom@foglers.com
foglers.com

This is Exhibit “L” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A large, bold, handwritten signature in black ink, appearing to read 'CHW', is written over a horizontal line.

Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

From: Devesh Gupta <devesh@prudentlaw.ca>
Sent: Tuesday, July 30, 2024 2:54 PM
To: DaRe, Vern W. <vdare@foglers.com>
Subject: RE: RBC v 1000502168 Ontario Inc. - your file number 242284

Thank you Mr. Da Re.

I have written to Mr. Bhangu separately.

Sincerely,

Devesh Gupta

Lawyer

P: (905) 361-9789

F: (289) 801-2248

devesh@prudentlaw.ca



REAL ESTATE | CORPORATE | CIVIL LITIGATION

Suite 360 – 4 Robert Speck Parkway, Mississauga, ON, L4Z 1S1

www.prudentlaw.ca

CONFIDENTIALITY NOTICE: This email, including any attachments, may contain information that is confidential and privileged. Any unauthorized disclosure, copying or use of this email is prohibited. If you are not the intended recipient, please notify us by reply email or telephone call and permanently delete this email and any copies immediately.

From: DaRe, Vern W. <vdare@foglers.com>
Sent: Tuesday, July 30, 2024 2:47 PM
To: Devesh Gupta <devesh@prudentlaw.ca>
Cc: Bhangu Law Office <sb@bhangelawoffice.com>
Subject: RE: RBC v 1000502168 Ontario Inc. - your file number 242284

ATTENTION – This message comes from an external sender. If you were not expecting it, use caution before opening attachments or clicking on links.

Hello Mr. Gupta,

I have copied Mr. Bhangu in response to your email below. At this time, please direct your questions to him regarding the financing commitment referred to by Justice Williams in her Endorsement.

Regards,



Vern W. DaRe
 Partner
 Fogler, Rubinoff LLP
 Lawyers
 77 King Street West

Suite 3000, P.O. Box 95
 TD Centre North Tower
 Toronto, ON M5K 1G8
 Direct: 416.941.8842
 Main: 416.864.9700
 Toll Free: 1.866.861.9700
 Fax: 416.941.8852
 Email: vdare@foglers.com
foglers.com

From: Devesh Gupta <devesh@prudentlaw.ca>
Sent: Tuesday, July 30, 2024 2:27 PM
To: DaRe, Vern W. <vdare@foglers.com>
Subject: RBC v 1000502168 Ontario Inc. - your file number 242284

Hello Mr. Da Re,

I act for Mr. Pravin Gupta and Ms. Anita Gupta in their mortgage to 1000502168 Ontario Inc. and others. I am in receipt of you letter dated July 25, 2024 enclosing the endorsement of Justice Williams.

Can you please advise if Mr. Bhangu has provided the new financing commitment for the borrowers to you? If so, can you please forward a copy?

Also, can you please provide me with Mr. Bhangu's contact information?

Sincerely,

Devesh Gupta

Lawyer

P: (905) 361-9789

F: (289) 801-2248

devesh@prudentlaw.ca



REAL ESTATE | CORPORATE | CIVIL LITIGATION

Suite 360 – 4 Robert Speck Parkway, Mississauga, ON, L4Z 1S1

www.prudentlaw.ca

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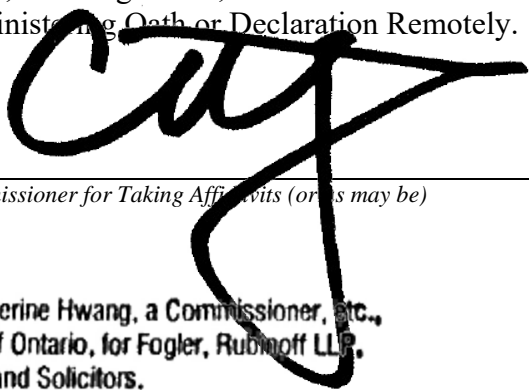
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Before printing, please consider the environment.

This is Exhibit “M” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**



Ministry of Public and
Business Service Delivery

Profile Report

1000502168 ONTARIO INC. as of May 07, 2024

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	1000502168 ONTARIO INC.
Ontario Corporation Number (OCN)	1000502168
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	April 11, 2023
Registered or Head Office Address	1722 Old Hwy 2, Belleville, Ontario, K8N4Z2, Canada

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Director(s)**Minimum Number of Directors**
Maximum Number of Directors1
10**Name**
Address for Service
Resident Canadian
Date BeganMANJOT KAUR GILL
6 Oliver Rd Bx 37, Kaladar, Ontario, K0H 1Z0, Canada
Yes
April 11, 2023**Name**
Address for Service
Resident Canadian
Date BeganNARINDER GILL
1722 Old Hwy 2, Belleville, Ontario, K8N4Z2, Canada
Yes
March 14, 2024

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Active Officer(s)**Name**

MANJOT KAUR GILL

Position

President

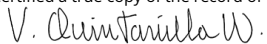
Address for Service

6 Oliver Rd, Kaladar, Ontario, K0H 1Z0, Canada

Date Began

April 11, 2023

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.



Director/Registrar

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Corporate Name History

Name

1000502168 ONTARIO INC.

Effective Date

April 11, 2023

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Active Business Names

Name	THE KIPPS MARKET
Business Identification Number (BIN)	1000502207
Registration Date	April 11, 2023
Expiry Date	April 10, 2028

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Document List

Filing Name	Effective Date
CIA - Notice of Change PAF: NARINDER GILL	March 20, 2024
CIA - Notice of Change PAF: NARINDER GILL	March 14, 2024
CIA - Notice of Change PAF: MANJOT KAUR GILL	March 14, 2024
CIA - Notice of Change PAF: MANJOT KAUR GILL	February 08, 2024
CIA - Notice of Change PAF: MANJOT KAUR GILL	May 29, 2023
CIA - Initial Return PAF: MANJOT KAUR GILL	April 11, 2023
BCA - Articles of Incorporation	April 11, 2023

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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This is Exhibit “N” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**



Ministry of Public and
Business Service Delivery

Profile Report

1557113 ONTARIO INC. as of September 05, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	1557113 ONTARIO INC.
Ontario Corporation Number (OCN)	1557113
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	August 26, 2003
Registered or Head Office Address	10201 On-41, Kaladar, Ontario, Canada, K0H 1Z0

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Active Director(s)

Minimum Number of Directors
Maximum Number of Directors

1
5

Name
Address for Service
Resident Canadian
Date Began

BALWINDER GILL
10201 Highway 41, Kaladar, Ontario, Canada, K0H 1Z0
Yes
January 09, 2009

Name
Address for Service
Resident Canadian
Date Began

NARINDER S. GILL
10201 Hwy #41, Kaladar, Ontario, Canada, K0H 1Z0
Yes
December 01, 2006

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Active Officer(s)

Name	BALWINDER GILL
Position	Secretary
Address for Service	10201 Highway 41, Kaladar, Ontario, Canada, K0H 1Z0
Date Began	January 09, 2009

Name	NARINDER S. GILL
Position	President
Address for Service	10201 Hwy #41, Kaladar, Ontario, Canada, K0H 1Z0
Date Began	December 01, 2006

Name	NARINDER S. GILL
Position	Treasurer
Address for Service	10201 Hwy #41, Kaladar, Ontario, Canada, K0H 1Z0
Date Began	December 01, 2006

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Corporate Name History

Name

1557113 ONTARIO INC.

Effective Date

August 26, 2003

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Active Business Names

Name	KALADAR GENERAL STORE
Business Identification Number (BIN)	1000533083
Registration Date	May 10, 2023
Expiry Date	May 09, 2028

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Expired or Cancelled Business Names

Name	KALADAR GENERAL STORE
Business Identification Number (BIN)	161312145
Status	Inactive - Expired
Registration Date	December 06, 2006
Expired Date	December 05, 2011

Name	KALADAR GENERAL STORE
Business Identification Number (BIN)	261020655
Status	Inactive - Expired
Registration Date	October 11, 2016
Expired Date	October 10, 2021

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Document List

Filing Name	Effective Date
BCA - Articles of Amendment	December 28, 2021
Annual Return - 2019 PAF: NARINDER GILL - DIRECTOR	October 25, 2020
Annual Return - 2018 PAF: NARINDER GILL - DIRECTOR	July 14, 2019
Annual Return - 2017 PAF: NARINDER GILL - DIRECTOR	July 08, 2018
Annual Return - 2016 PAF: NARINDER GILL - DIRECTOR	July 02, 2017
Annual Return - 2015 PAF: NARINDER GILL - DIRECTOR	October 09, 2016
CIA - Notice of Change PAF: NARINDER GILL - DIRECTOR	September 11, 2015
Annual Return - 2015 PAF: NARINDER GILL - DIRECTOR	April 25, 2015
CIA - Notice of Change PAF: NARINDER GILL - DIRECTOR	January 21, 2015
Annual Return - 2014 PAF: NARINDER GILL - DIRECTOR	April 04, 2014
Annual Return - 2013 PAF: NARINDER GILL - DIRECTOR	April 27, 2013
Annual Return - 2012 PAF: NARINDER GILL - DIRECTOR	April 14, 2012
Annual Return - 2011 PAF: NARINDER GILL - DIRECTOR	October 25, 2011

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Annual Return - 2010 PAF: NARINDER GILL - DIRECTOR	December 04, 2010
Annual Return - 2009 PAF: NARINDER GILL - DIRECTOR	November 07, 2009
CIA - Notice of Change PAF: STEPHEN DUGGAN - OTHER	May 06, 2009
Annual Return - 2008 PAF: NARINDER GILL - DIRECTOR	January 03, 2009
CIA - Notice of Change PAF: KULWANT GREWAL - DIRECTOR	January 18, 2007
CIA - Initial Return PAF: KULWANT GREWAL - DIRECTOR	December 11, 2003
BCA - Articles of Incorporation	August 26, 2003

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Ministry of Public and
Business Service Delivery

Profile Report

1870431 ONTARIO INC. as of September 05, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	1870431 ONTARIO INC.
Ontario Corporation Number (OCN)	1870431
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	March 14, 2012
Registered or Head Office Address	6 Oliver Rd, Kaladar, Ontario, Canada, K0H 1Z0

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

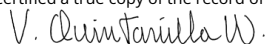
V. Quintanilla W.

Director/Registrar

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Active Director(s)**Minimum Number of Directors**
Maximum Number of Directors1
5**Name**
Address for Service
Resident Canadian
Date BeganBALWINDER GILL
6 Oliver Road, Kaladar, Ontario, Canada, K0H 1Z0
Yes
March 14, 2012**Name**
Address for Service
Resident Canadian
Date BeganNARINDAR GILL
6 Oliver Road, Kaladar, Ontario, Canada, K0H 1Z0
Yes
March 14, 2012**Name**
Address for Service
Resident Canadian
Date BeganNARINDER GILL
6 Oliver Road, Kaladar, Ontario, Canada, K0H 1Z0
Yes
March 14, 2012

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.



Director/Registrar

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Active Officer(s)**Name****Position****Address for Service****Date Began**

BALWINDER GILL

Secretary

6 Oliver Road, Kaladar, Ontario, Canada, K0H 1Z0

March 14, 2012

Name**Position****Address for Service****Date Began**

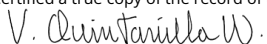
NARINDAR GILL

President

6 Oliver Road, Kaladar, Ontario, Canada, K0H 1Z0

March 14, 2012

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.



Director/Registrar

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Corporate Name History

Name

1870431 ONTARIO INC.

Effective Date

March 14, 2012

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Expired or Cancelled Business Names

Name	CLOYNE GENERAL STORE / CLOYNE SHELL
Business Identification Number (BIN)	261020788
Status	Inactive - Expired
Registration Date	October 11, 2016
Expired Date	October 10, 2021

Name	CLOYNE GENERAL STORE
Business Identification Number (BIN)	230447708
Status	Inactive - Expired
Registration Date	April 30, 2013
Expired Date	April 29, 2018

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Document List

Filing Name	Effective Date
Annual Return - 2019 PAF: NARINDER GILL - DIRECTOR	October 11, 2020
Annual Return - 2018 PAF: NARINDER GILL - DIRECTOR	July 14, 2019
BCA - Articles of Amendment	April 26, 2019
Annual Return - 2017 PAF: NARINDER GILL - DIRECTOR	July 08, 2018
Annual Return - 2016 PAF: NARINDER GILL - DIRECTOR	July 02, 2017
Annual Return - 2015 PAF: NARINDER GILL - DIRECTOR	October 09, 2016
Annual Return - 2014 PAF: NARINDAR GILL - DIRECTOR	February 21, 2015
Annual Return - 2013 PAF: NARINDAR GILL - DIRECTOR	January 25, 2014
Annual Return - 2012 PAF: NARINDAR GILL - DIRECTOR	January 25, 2014
BCA - Articles of Incorporation	March 14, 2012

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

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Ministry of Public and
Business Service Delivery

Profile Report

2500994 ONTARIO LTD. as of September 05, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	2500994 ONTARIO LTD.
Ontario Corporation Number (OCN)	2500994
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	January 20, 2016
Registered or Head Office Address	10201 Hwy 41, Kaladar, Ontario, Canada, K0H 1Z0

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Active Director(s)

Minimum Number of Directors
Maximum Number of Directors

1
10

Name
Address for Service
Resident Canadian
Date Began

NARINDER GILL
10201 Highway 41, Kaladar, Ontario, Canada, K0H 1Z0
Yes
January 20, 2016

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Active Officer(s)

Name	NARINDER SINGH GILL
Position	President
Address for Service	10201 Highway 41, Kaladar, Ontario, Canada, K0H 1Z0
Date Began	January 20, 2016

Name	NARINDER SINGH GILL
Position	Secretary
Address for Service	10201 Highway 41, Kaladar, Ontario, Canada, K0H 1Z0
Date Began	January 20, 2016

Name	NARINDER SINGH GILL
Position	Treasurer
Address for Service	10201 Highway 41, Kaladar, Ontario, Canada, K0H 1Z0
Date Began	January 20, 2016

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Corporate Name History

Name

2500994 ONTARIO LTD.

Effective Date

January 20, 2016

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Expired or Cancelled Business Names

Name	TRENTON ESSO
Business Identification Number (BIN)	270962400
Status	Inactive - Expired
Registration Date	September 07, 2017
Expired Date	September 06, 2022

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Document List

Filing Name	Effective Date
Annual Return - 2019 PAF: NARINDER GILL - DIRECTOR	October 25, 2020
Annual Return - 2018 PAF: NARINDER GILL - DIRECTOR	July 14, 2019
Annual Return - 2017 PAF: NARINDER GILL - DIRECTOR	July 08, 2018
CIA - Notice of Change PAF: NARINDER GILL - DIRECTOR	November 02, 2017
Annual Return - 2016 PAF: NARINDER GILL - DIRECTOR	October 29, 2017
CIA - Notice of Change PAF: MATT GEMMELL - OTHER	June 08, 2017
BCA - Articles of Incorporation	January 20, 2016

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Ministry of Public and
Business Service Delivery

Profile Report

2544924 ONTARIO INC. as of September 05, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	2544924 ONTARIO INC.
Ontario Corporation Number (OCN)	2544924
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	November 07, 2016
Registered or Head Office Address	10201 Hwy 41, Kaladar, Ontario, Canada, K0H 1Z0

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V. Quintanilla W.

Director/Registrar

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Active Director(s)

Minimum Number of Directors
Maximum Number of Directors

1
10

Name
Address for Service
Resident Canadian
Date Began

BALWINDER GILL
6 Oliver Road, Kaladar, Ontario, Canada, K0H 1Z0
Yes
November 07, 2016

Name
Address for Service
Resident Canadian
Date Began

NARINDER GILL
6 Oliver Road, Kaladar, Ontario, Canada, K0H 1Z0
Yes
November 07, 2016

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Active Officer(s)

There are no active Officers currently on file for this corporation.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Corporate Name History

Name

2544924 ONTARIO INC.

Effective Date

November 07, 2016

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Active Business Names

Name	BELLEVILLE ESSO
Business Identification Number (BIN)	290812874
Registration Date	July 24, 2019
Expiry Date	July 23, 2024

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

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V. Quintanilla W.

Director/Registrar

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Document List

Filing Name	Effective Date
BCA - Articles of Amendment	December 27, 2021
Annual Return - 2019 PAF: NARINDER GILL - DIRECTOR	October 11, 2020
Annual Return - 2018 PAF: NARINDER GILL - DIRECTOR	October 20, 2019
Annual Return - 2017 PAF: NARINDER GILL - DIRECTOR	November 25, 2018
Annual Return - 2016 PAF: NARINDER GILL - DIRECTOR	November 25, 2018
BCA - Articles of Incorporation	November 07, 2016

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

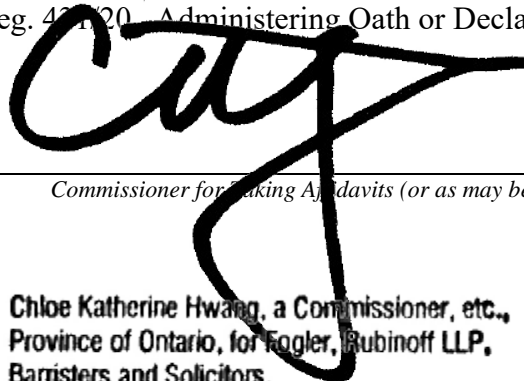
Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

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This is Exhibit "O" referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20 Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**



**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00707172-00CL

DATE: November 17, 2023

NO. ON LIST: 4

TITLE OF PROCEEDING: TANDIA FINANCIAL CREDIT UNION LIMITED v. 1557113 ONTARIO INC. et al

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
SPENCE, MIRANDA and LICI, MATILDA	TANDIA FINANCIAL CREDIT UNION LIMITED	mlici@airdberlis.com
		mspence@airdberlis.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
KULATHUNGAM, JONATHAN	1557113 ONTARIO INC.	jkulathungam@teplitskyLLP.com
	1870431 ONTARIO INC.	
	2500994 ONTARIO LTD.	
	2544924 ONTARIO INC.	

For Other:

Name of Person Appearing	Name of Party	Contact Info
SEIFER, DAVID	PROPOSED RECEIVER, BDO	dseifer@dickinsonwright.com
MAZUR, CHRIS		Cmazur@bdo.ca

ENDORSEMENT OF JUSTICE OSBORNE:

- [1] This receivership application was returnable today. Responding materials on behalf of the debtors were delivered this morning. The hearing was scheduled for 10 AM and the parties requested that it be stood down for one hour to allow for settlement discussions. I agreed.
- [2] Upon resumption, the parties advised that they had reached an agreement which effectively contemplates the appointment of the receiver today but the suspension of its powers, on consent. While in some circumstances the court is reluctant to appoint a receiver but suspend its powers, I am satisfied that such is appropriate in the circumstances. The parties have agreed on the language of this Endorsement and indeed provided it to me on consent.
- [3] Tandia Financial Credit Union Limited (the “Applicant”) commenced this application to appoint BDO Canada Limited as receiver (in such capacity, the “Receiver”), without security, of all of the assets, properties and undertakings of each of 1557113 Ontario Inc., 1870431 Ontario Inc., 2500994 Ontario Ltd., and 2544924 Ontario Inc. (collectively, the “Respondents”) acquired for or used in relation to a business or businesses carried on by the Respondents, including over the property municipally known as:
- (a) 10201 Hwy 41, Kaladar, ON K0H 1Z0;
 - (b) 14265 Hwy 41, Cloyne, ON K0H 1K0;
 - (c) 28 Monogram Place, Trenton, ON K8V 5P8; and
 - (d) 395 Bell Blvd, Belleville, ON K8P 5H9 (the “Real Properties” and collectively, the “Property”).
- [4] The Respondents own and operate gas stations at the Real Properties.
- [5] The parties’ agreement hinges on the Respondents securing re-financing to pay out the Applicant’s indebtedness in full, and meeting certain milestones. Accordingly, the receivership order is unopposed on certain strict terms which I will set out below.
- [6] I am satisfied that it is appropriate to appoint the Receiver in the circumstances and so grant the Receivership Order sought by the Applicant, but order that it shall be held in abeyance on the following terms:
- (a) the re-financing by 1557113 Ontario Inc. and 2500994 Ontario Ltd. in respect of the real properties located at 10201 Hwy 41 and 28 Monogram Place must close on or before November 30, 2023 (the “First Refinancing”). Otherwise, the Receiver shall be authorized to commence its mandate vis-à-vis all Respondents as of December 1, 2023, and the receivership order shall be effective and enforceable without any need for entry or filing;
 - (b) provided that the First Refinancing closes on or before November 30, 2023, the remaining Respondents, being 1870431 Ontario Inc. and 2544924 Ontario Inc., must provide a commitment letter in respect of the properties located at 14265 Hwy 41 and 395 Bell Blvd on or before December 5, 2023, which letters must provide for a closing date of January 5, 2024 at latest (the “Commitment Letters”). Otherwise, the Receiver shall be authorized to commence its mandate vis-à-vis 1870431 Ontario Inc. and 2544924 Ontario Inc. as of December 6, 2023, and the receivership order shall be effective and enforceable without any need for entry or filing;
 - (c) if the Applicant is not repaid in full on or before January 5 2024, the Receiver shall be authorized to commence its mandate vis-à-vis 1870431 Ontario Inc. and 2544924 Ontario Inc. as of January

6, 2024, and the receivership order shall be effective and enforceable without any need for entry or filing.

- [7] I direct the Applicant's counsel to advise me in writing, via email to the Commercial List Office, whether or not each of those three milestones has been met and whether the receivership comes into effect. If a full refinancing is achieved in accordance with the above timelines, such that the Applicant is repaid in full as contemplated, the parties shall notify the Commercial List Office, and a dismissal order in respect of the receivership order may be sought in writing on consent.

Osman, J.

Court File No. CV-23-00707172-00CL

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

THE HONOURABLE MR.)	FRIDAY, THE 17 TH
)	
JUSTICE OSBORNE)	DAY OF NOVEMBER, 2023

B E T W E E N:

TANDIA FINANCIAL CREDIT UNION LIMITED

Applicant

- and -

**1557113 ONTARIO INC., 1870431 ONTARIO INC., 2500994 ONTARIO LTD. AND
2544924 ONTARIO INC.**

Respondents

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

**ORDER
(appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing BDO Canada Limited as receiver (in such capacity, the "**Receiver**") without security, of all of the assets, undertakings and properties of each of 1557113 Ontario Inc., 1870431 Ontario Inc., 2500994 Ontario Ltd., and 2544924 Ontario Inc. (collectively, the "**Debtors**") acquired for, or used in

relation to a business carried on by the Debtors, including the real properties municipally known as:

- (i) 10201 Hwy 41, Kaladar, ON K0H 1Z0;
- (ii) 14265 Hwy 41, Cloyne, ON K0H 1K0;
- (iii) 28 Monogram Place, Trenton, ON K8V 5P8; and
- (iv) 395 Bell Blvd, Belleville, ON K8P 5H9 (the “**Real Properties**” and collectively, the “**Property**”),

was heard this day by videoconference.

ON READING the affidavit of Dawood Khan sworn October 20, 2023 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and all other counsel listed on the counsel slip, no one else appearing for any other person on the service list, although duly served as appears from the affidavit of service of Daisy Jin sworn October 20, 2023 and on reading the consent of BDO Canada Limited to act as the Receiver,

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO Canada Limited is hereby appointed Receiver, without security, of all of the Property of the Debtors, including the Real Property, acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof.

RECEIVER’S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality

of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;

- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof, and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtors, (ii) all of their respective current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of

the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

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

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

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtors, the Receiver, or affecting the Property, including, without limitation, certification, licenses and permits, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any

registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

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

13. **THIS COURT ORDERS** that in the event that an account for the supply of goods and/or services is transferred from the Debtors to the Receiver, or is otherwise established in the Receiver's name, no Person, including but not limited to a utility service provider, shall assess or otherwise require the Receiver to post a security deposit as a condition to the transfer/establishment of the account.

RECEIVER TO HOLD FUNDS

14. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any

source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

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

PIPEDA

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE RECEIVER'S LIABILITY

18. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, including, but not limited to, any illness or bodily harm resulting from a party or parties contracting COVID-19, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

19. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect

of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

FUNDING OF THE RECEIVERSHIP

22. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

SERVICE AND NOTICE

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

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

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

GENERAL

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

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

31. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

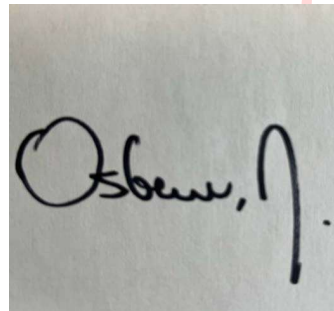
33. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid

by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

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

35. **THIS COURT ORDERS AND DIRECTS** that, as soon as practicable, the Land Registry Offices for the Land Titles Divisions of Frontenac (No. 13), Hastings (No. 21), and Lennox (No. 29) accept this Order for registration on title to the Real Property described in Schedule "B" hereto.

36. **THIS COURT ORDERS** that this Order is effective from the date it is made and is enforceable without any need for entry or filing.

A rectangular stamp containing a handwritten signature in black ink. The signature appears to be "Osborne, J." with a stylized flourish at the end.

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SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that BDO Canada Limited, the receiver (the "**Receiver**") of the assets, undertakings and properties of each of 1557113 Ontario Inc., 1870431 Ontario Inc., 2500994 Ontario Ltd., and 2544924 Ontario Inc. (collectively, the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 17th day of November, 2023 (the "**Order**") made in an action having Court file number CV-23-00707172-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

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

DATED the _____ day of _____, 20__.

BDO Canada Limited, solely in its capacity
as Receiver of the Property of each of 1557113
Ontario Inc., 1870431 Ontario Inc., 2500994
Ontario Ltd., and 2544924 Ontario Inc., and not
in its personal capacity

Per: _____

Name:

Title:

SCHEDULE "B"**DESCRIPTION OF REAL PROPERTY**

- (i) 40373-0418 (LT), PCL PLAN-1 SEC 21M117; LT 3 PL 21M117 SIDNEY; S/T LT23728; QUINTE WEST; COUNTY OF HASTINGS; SUBJECT TO AN EASEMENT IN GROSS OVER PART 1, 21R25257 AS IN HT240482
- (ii) 40429-0562 (LT), PT LT 36 CON 2 SIDNEY; PTS 1 & 2 PL 21R24989; S/T EASE IN GROSS OVER PT 2 AS IN HT27841 COUNTY OF HASTINGS; CITY OF BELLEVILLE
- (iii) 36177-0213 (LT), PT LT 16 RANGE B BARRIE AS IN FR774761; NORTH FRONTENAC
- (iv) 45044-0342 (LT), PT LT 11, CON 7 KALADAR AS IN LA192847 EXCEPT FIRSTLY; S/T K3189, EXCEPT PTS 4 & 5, 29R9575; ADDINGTON HIGHLANDS

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto

ORDER
(appointing Receiver)

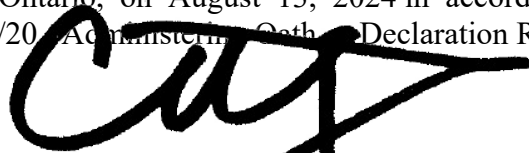
AIRD & BERLIS LLP
Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Kyle B. Plunkett (LSO # 61044N)
Tel: (416) 865-3406
Email: kplunkett@airdberlis.com

Samantha Hans (LSO #84737H)
Tel: (437) 880-6105
Email: shans@airdberlis.com

Lawyers for Tandia Financial Credit Union Limited

This is Exhibit “P” referred to in the Affidavit of Katelin Z. Parker sworn by Katelin Z. Parker of the the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 13, 2024 in accordance with O. Reg. 431/20 Administering Oaths Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**Chloe Katherine Hwang, a Commissioner, etc.,
Province of Ontario, for Fogler, Rubinoff LLP,
Barristers and Solicitors.
Expires July 15, 2027.**

Court File No. CV-23-00707172-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

BETWEEN:

TANDIA FINANCIAL CREDIT UNION LIMITED

Applicant

- and -

1557113 ONTARIO INC., 1870431 ONTARIO INC., 2500994 ONTARIO LTD. AND
2544924 ONTARIO INC.

Respondents

IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985 c. B-3, AS AMENDED; AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43 AS AMENDED

FIRST REPORT TO THE COURT
SUBMITTED BY BDO CANADA LIMITED
IN ITS CAPACITY AS RECEIVER OF
1557113 ONTARIO INC., 1870431 ONTARIO INC., 2500994 ONTARIO LTD. AND
2544924 ONTARIO INC.

JANUARY 31, 2024

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Listing of Appendices

Appendix A	-	Appointment Order dated November 17, 2023
Appendix B	-	Endorsement of Osborne J. dated November 17, 2023
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Appendix D	-	Redacted Summary of Listing Proposals
Appendix E	-	Fee Affidavit of Peter Crawley dated January 31, 2024
Appendix F	-	Fee Affidavit of John Leslie sworn January 31, 2024
Confidential Appendix 1	-	Summary of Listing Proposals

1.0 INTRODUCTION AND PURPOSE OF REPORT

1.1 Introduction

- 1.1.1 By way of an order of the Honourable Justice Osborne of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated November 17, 2023 (the "Appointment Order"), BDO Canada Limited was appointed as the receiver (the "Receiver"), without security, of all the Property (as defined in the Appointment Order) of 1557113 Ontario Inc. ("155Co"), 1870431 Ontario Inc. ("187Co"), 2500994 Ontario Ltd. ("250Co") and 2544924 Ontario Inc. ("254Co", and collectively the "Companies"). A copy of the Appointment Order is attached hereto as Appendix "A".
- 1.1.2 The initial Court attendance in this proceeding occurred on November 17, 2023 (the "Initial Hearing Date"). The result of that attendance was the issuance of the Appointment Order, albeit in abeyance as per the Endorsement of Justice Osborne dated November 17, 2023 (the "November 17th Endorsement"), pending 155Co and 187Co obtaining refinancing of their applicable portions of the Indebtedness by November 30, 2023. A copy of the November 17th Endorsement is attached hereto as Appendix "B".
- 1.1.3 As a result of 155Co and 187Co failing to secure replacement financing by November 30, 2023, the Appointment Order became effective on December 1, 2023 (the "Receivership Date").
- 1.1.4 The application for the appointment of the Receiver was brought by Tandia Financial Credit Union Limited ("Tandia") to whom the Companies were collectively indebted in the approximate amount of \$12,027,241 as of August 22, 2023 (together with accruing interest and costs, the "Indebtedness"). The Indebtedness remains outstanding at the time of writing this report.
- 1.1.5 The Indebtedness is secured by, inter alia, a collateral mortgage registered against each of the Real Properties (as defined below) and general security agreements signed by each of the Companies.

1.2 Debtors' Business and Operations

- 1.2.1 155Co owns land municipally known as 10201 Hwy 41, Kaladar, ON, and from which it operates a Shell branded gas station and convenience store ("Kaladar Shell"). This location also had an LCBO Outlet, The Beer Store, Pizza Pizza and a third-party owned Subway franchise (the "Subway").
- 1.2.2 187Co owns land municipally known as 14265 Hwy 41, Cloyne, ON, and from which it operates a Shell branded gas station and convenience store ("Cloyne Shell"). This location also has retail stores including an LCBO Outlet, The Beer Store, Country Style and Mr. Sub.
- 1.2.3 250Co owns land known as 28 Monogram Place, Trenton, ON, and from which it operates an Esso branded gas station and convenience store ("Trenton Esso").

This location also has an Extreme Pita quick-serve food restaurant and a carwash operation.

1.2.4 254Co owns land known municipally as 395 Bell Blvd, Belleville ON, and from which it operates an Esso branded gas station and convenience store ("Belleville Esso"). This location also has a Second Cup and a carwash operation.

1.2.5 Each of the Companies owns the respective real property from which they operate (collectively the "Real Properties").

1.2.6 Kaladar Shell, Cloyne Shell, Trenton Esso and Belleville Esso are collectively referred to as the "Gas Stations" herein.

1.3 Purpose of this Report

1.3.1 This report is the Receiver's first report to the Court (the "First Report") in this proceeding and is filed to:

- Report to the Court on the Receiver's activities since December 1, 2023;
- Provide the Court with details about the proposed sale process (the "Sale Process") for the sale of the Gas Stations, including the underlying Real Properties;
- Provide support for the Receiver's motion to obtain an Order:
 - Approving the Sale Process and authorizing the Receiver to proceed with entering into the Colliers Listing Agreements (as defined herein);
 - Approving this First Report and the activities of the Receiver;
 - Approving the fees and disbursements of the Receiver and its legal counsel, Dickinson Wright LLP (the "Receiver's Counsel") to December 31, 2023; Approving the Receiver's request to increase the Receiver's Borrowings Charge (as defined in the Appointment Order) from \$200,000 to \$500,000;
 - Sealing Confidential Appendix 1 until the earlier of the completion of the transaction(s) for the sale of all of the Gas Stations or further order of the Court; and
 - Providing such further relief as the Court deems appropriate.

1.4 Terms of Reference

1.4.1 In preparing this First Report, the Receiver has relied upon the Debtors' books and records, unaudited and draft financial information available, certain financial information obtained from third parties, and discussions with various individuals (collectively, the "Information"). The Receiver has not audited, 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 ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly the Receiver expresses no opinion or other form of assurance contemplated under the CAS in respect of the Information.

- 1.4.2 This First Report has been prepared for the use of this Court in respect of the above-noted relief. This First Report should not be relied upon for any other purpose. The Receiver will not assume responsibility or liability for losses incurred as a result of the circulation, publication, reproduction or use of this First Report contrary to the provisions of this paragraph.
- 1.4.3 All references to dollars are in Canadian currency unless otherwise noted.
- 1.4.4 In accordance with the Appointment Order, copies of unsealed materials and prescribed notices delivered and/or filed in the receivership proceedings are available on the Receiver's case website at:

<https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/kaladargasgroup>

2.0 RECEIVER'S ACTIVITIES & OPERATIONS

2.1 Introduction

- 2.1.1 The purpose of this Section is to provide the Court with a summary of the Receiver's activities and status of operations since the issuance of the Appointment Order.

2.2 Preparations for the Initial Hearing Date

- 2.2.1 The Receiver had undertaken the necessary planning and preparations in advance of the Initial Hearing Date and arranged for its staff to be in position and ready to take possession of each of the Gas Stations on the Initial Hearing Date.

2.3 Taking Possession

- 2.3.1 Upon being appointed, the Receiver attended at each of the Gas Stations on the Receivership Date to meet staff, discuss ongoing operations, observe assets, and change locks.
- 2.3.2 At the Receivership Date each of the Gas Stations was open and selling to the public. However, 155Co, and 250Co were not selling fuel as inventory levels were depleted and 187Co had limited fuel quantities however its pylon (posting gas prices) was not functioning. 254Co did have fuel as it has a consignment arrangement with its fuel supplier.

2.4 Employees

- 2.4.1 At the time of the Receiver's appointment the Companies collectively had fourteen (14) employees across the four (4) sites who remained actively employed at the time.
- 2.4.2 Employees advised the Receiver that they had not been paid their wages by the Companies since early summer of 2023. Upon review of the Companies' payroll records it appears to the Receiver that the pay period ending dates of the last payrolls processed through the online payroll service were as follows:
- Kaladar Shell - July 8, 2023
 - Cloyne Shell - June 24, 2023
 - Trenton Esso - June 24, 2023
 - Belleville Esso - July 29, 2023
- 2.4.3 The Receiver notified each employee of the existence of the Wage Earner Protection Program ("WEPP") verbally on December 1, 2023 and in writing on December 11, 2023 and requested that employees send details of unpaid wages to the Receiver so that WEPP claims could be prepared.

2.4.4 The Receiver has prepared the calculations of amounts owing based on information provided by employees and has presented these liabilities to the owners of the Companies for comment. The Receiver is awaiting the owners' response at the time of writing this report.

2.4.5 The Receiver is attending to the requisite filings under the Wage Earner Protection Program in respect of employees based on the information submitted.

2.5 Insurance Policies

2.5.1 Immediately upon being appointed, the Receiver contacted Co-Operators insurance to serve the Appointment Order on them and request that all active insurance policies remain in force.

2.5.2 Each of the four Companies had active commercial and general liability policies that were in good standing. The Receiver has been added to each of these policies as a named insured and continues to make the monthly premium payments thereon.

2.5.3 155Co, 187Co and 254Co each had active environmental impairment liability ("EIL") policies in place and in good standing at the time of the Receiver's appointment. The Receiver has been added as named insured to these policies as well.

2.5.4 250Co did not have an EIL policy in place as it had lapsed for non-payment prior to the Receiver's appointment.

2.5.5 The Receiver was able to obtain a new EIL policy in respect of 250Co. This policy went into force on December 29, 2023.

2.6 Operations Management Agreement

2.6.1 Prior to its appointment, the Receiver communicated with several known gas station managers and selected KRS Group of Companies Inc. ("KRS") to assist the Receiver with the management of the day-to-day operations of the Gas Stations.

2.6.2 The Receiver and KRS entered into an operations management agreement effective December 1, 2023 wherein KRS agreed to assist the Receiver with re-opening and operating the Gas Stations.

2.6.3 Prior to being able to re-open each of the Gas Stations, arrangements were made with each fuel supply company and payment processors to ensure that all proceeds were being redirected for the account of the Receiver and not the prior owners and managers of the Companies.

2.6.4 Various repairs have been undertaken at certain locations to enable them to be reopened. For example:

- There was damage inflicted on the computers and communications systems at Trenton Esso prior to the Receiver's appointment which rendered the point-of-sale system inoperable;

- Significant plumbing repairs were performed at Kaladar Shell to address leaks and flooding problems impacting both Kaladar Shell's store and the Subway.
- The pylon signs at each of Kaladar Shell, Cloyne Shell and Trenton Esso were not properly displaying fuel prices, which has a negative impact on attracting customers to make purchases.

2.6.5 Arrangements were also made with the fuel supply companies of Kaladar Shell, Cloyne Shell and Trenton Esso to replenish fuel inventory levels.

2.6.6 Kaladar Shell re-opened on December 18, 2023.

2.6.7 Cloyne Shell and Belleville Esso on December 22, 2023.

2.6.8 Trenton Esso re-opened on December 30, 2023 upon obtaining EIL insurance.

2.6.9 Each of the Gas Stations was granted the necessary license by the Alcohol and Gaming Commission of Ontario on January 26, 2024 to allow each station to sell OLG lottery products.

2.6.10 KRS has applications pending with the Liquor Control Board of Ontario to obtain necessary authorizations to continue selling alcohol from Kaladar Shell and Cloyne Shell. KRS has also secured tobacco licenses for each location. Lottery, tobacco and alcohol sales are important for driving foot traffic into the convenience stores where the greatest profit margins are earned.

2.7 Receipts & Disbursements

2.7.1 Attached hereto as Appendix "C" is the Receiver's Interim Statement of Receipts and Disbursements for the period December 1, 2023 to January 24, 2024 (the "R&D").

2.7.2 At this time, the Receiver has \$98,978.15 in the collective estate trust accounts.

3.0 SALE PROCESS

3.1 Introduction

- 3.1.1 Pursuant to the Appointment Order, the Receiver was authorized to market any or all of the Property including advertising and soliciting offers in respect of the Property or any part or parts thereof, and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate.
- 3.1.2 Given (i) the nature of the Companies' assets and operations, being primarily operating gas stations and owning real property, and (ii) the extensive number of owner/operators and/or investors in the gas station market and the number of parties that have contacted the Receiver to-date, in order to maximize realizations for the stakeholders, it is imperative to maximize exposure to the market.
- 3.1.3 Additionally, the range of values of the Gas Stations is largely subject to historical results (i.e., pre-covid) versus recent results, when the Gas Stations were operating at less-than-optimal efficiency due to cash and/or other constraints, versus anticipated future results of a new operator that may have other synergies to increase profit margins.
- 3.1.4 Further, the Receiver understands that prior to the receivership one or more of the Gas Stations were being marketed for sale by the Companies, and prior to the Receivership Date an agent had brought forward at least one offer on the Cloyne Shell. However, the proposed transaction did not proceed. It is not clear to the Receiver as to whether the Property, or any parts thereof, were publicly listed for sale.
- 3.1.5 Accordingly, the Receiver is of the view that the best means of exposing the Gas Stations for sale is to enter into a listing agreement with a licensed listing brokerage and have them exposed on the Multiple Listing Service ("MLS").

3.2 Listing Proposals

- 3.2.1 The Receiver contacted the following real estate brokerages to request listing proposals for the Gas Stations:
 - Premier Group Realty Inc. ("Premier");
 - International Realty Firm Inc Brokerage ("IRF");
 - CBRE Limited ("CBRE"); and
 - Colliers Macaulay Nicolls Inc. ("Colliers")
 (collectively the "Realtors").
- 3.2.2 A summary of the listing proposals (the "Listing Proposals"), redacted for the proposed listing prices, is attached hereto as Appendix "D". The redacted portions of the Listing Proposals contain commercially sensitive information that would negatively affect realizations if disclosed. An unredacted summary of the listing proposals received is attached hereto as Confidential Appendix "1". The Receiver

recommends that the Confidential Appendix be sealed until the transaction(s) for the sale of all of the Gas Stations closes.

- 3.2.3 In their analyses, the Realtors utilized various assumptions in determining the valuation of the Gas Stations and provided various strategies and proposed commission rates.
 - 3.2.4 In the Listing Proposals received, three (3) of the four (4) Realtors (Premier, IRF and Colliers) suggested listing the Gas Stations on MLS without a specific list price (and instead list at \$1.00) and seek offers from interested parties.
 - 3.2.5 In the circumstances, the Receiver agrees with this view as a proposed listing price could have the effect of either understating the potential value of the Gas Stations or set a price that is far too high for the market and thereby eliminate interest from potential purchasers.
 - 3.2.6 The commission rates in the listing proposals range from 2.0% to 2.5% if there is no co-operating broker to 2.75% to 5% when there is a co-operating broker. Of the four (4) Realtors, Colliers had the lowest commission rate (2.0% to Colliers if Colliers is the only agent involved in the transaction or 2.75% if there is a cooperating agent involved, with 1.0% to the cooperating agent).
 - 3.2.7 Based on the Realtors' analyses/valuations, their proposed marketing strategies and their proposed commission structures, the Receiver recommends listing the Gas Stations with Colliers based on their experience, ability to attract national exposure and lower commission rate structure, with a list price of \$1.00 (i.e., in order to have the Properties listed on MLS).
 - 3.2.8 As the Gas Stations are each owned by separate entities, the Receiver proposes to list each of the Gas Stations separately, however, this will not prevent potential purchasers from submitting offers for one or more of the Gas Stations.
 - 3.2.9 Subject to the Court's approval sought herein, the Receiver is negotiating listing agreements with Colliers for each of Kaladar Shell, Cloyne Shell, Trento Esso and Belleville Esso (the "Colliers Listings Agreements").
 - 3.2.10 The Receiver has discussed the terms of the Listing Proposals with the Companies' largest secured creditor and has been advised that they support the Receiver's recommendation with respect to entering into the Colliers Listing Agreements.
 - 3.2.11 Accordingly, the Receiver recommends that this Honourable Court authorize the Receiver to proceed with entering into the Colliers Listing Agreements.
- 3.3 Proposed Sale Process
- 3.3.1 The proposed Sale Process contemplates the following schedule:

January / February 2024	Preparation of Marketing Campaign & Pre-Marketing Due Diligence
February-March 2024	Distribution of e-brochure, Targeted calls, Initial ad placements, launch on MLS for \$1, Distribution of Information Package to interested parties (upon execution of NDA), Property tours, submission of offers
March-April, 2024	Evaluate offers, negotiate offers, and finalize execution of agreements
April - May 2024	Select buyer, obtain Court approval(s) and close transaction(s)

- 3.3.2 The Sale Process may be extended by the Receiver, acting reasonably, with a view to completing a transparent and equitable sales process to generate interest in and offers for the Gas Stations.
- 3.3.3 The Gas Stations shall be transferred free and clear of all liens and claims, subject to any permitted encumbrances, pursuant to an approval and vesting order issued by the Court approving the transaction.
- 3.3.4 The sale of the Gas Stations will be on an “as is, where is” basis, without representations or warranties from the Receiver or any of its respective directors, officers, partners, employees, agents, advisors or estates, except those specified in the asset purchase agreement.
- 3.3.5 Each offer received will be reviewed and evaluated by the Receiver, considering factors such as the proposed purchase price, net value provided by such bid, deposit amount, the counterparties to such transactions, transaction speed and certainty, transaction costs, and the feasibility and timing of transaction completion, and such other matters as the Receiver may consider.
- 3.3.6 The Receiver recommends that the Court issue an Order approving the Sale Process for the following reasons:
- (a) the Sale Process is reasonable and appropriate at this time based on the reasons identified above;
 - (b) the Sale Process is fair, open and transparent and is intended to canvass the market broadly on an efficient basis to obtain the highest and best price; and
 - (c) the Sale Process and the timelines set out herein are flexible and provide sufficient time to obtain bids that maximize value for the Gas Stations.

4.0 *PROFESSIONAL FEES*

- 4.1.1 Pursuant to paragraph 19 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 Counsel constitute part of the "Receiver's Charge".
- 4.1.2 The fees and disbursements of the Receiver for the period ending December 31, 2023 are detailed in the affidavit of Peter Crawley dated January 31, 2024, a copy of which is attached hereto as Appendix "E".
- 4.1.3 The fees and disbursements of the Receiver's Counsel are detailed in the Affidavit of John Leslie, a copy of which is attached hereto as Appendix "F".
- 4.1.4 The Receiver's fees to December 31, 2023 encompass 290.80 hours at an average hourly rate of approximately \$436.15 for a total of \$126,832.50 before disbursements and applicable taxes. The Receiver is therefore requesting that this Honourable Court approve its total fees inclusive of disbursements and applicable taxes in the amount of \$147,009.90.
- 4.1.5 The Receiver's Counsel's fees to December 28, 2023 encompass 40.7 hours at an average hourly rate of approximately \$575.43 for a total of \$23,420.00 prior to disbursements of \$154.00 and applicable taxes. The Receiver is therefore requesting that this Honourable Court approve the Receiver's Counsel's total fees and disbursements inclusive of applicable taxes in the amount of \$26,638.62.

5.0 RECEIVER'S BORROWINGS CHARGE

5.1 Introduction

- 5.1.1 As stated at paragraph 22 in the Appointment Order, the Receiver is empowered to borrow funds for the purpose of funding the exercise of powers and duties conferred upon the Receiver, including interim expenditures.
- 5.1.2 The current stated limit of the Receiver's Borrowings Charge is \$200,000 pursuant to the Appointment Order.
- 5.1.3 The Receiver borrowed the sum of \$200,000 (the "Receiver's Initial Borrowing") from Tandia on December 19, 2023 and issued a Receiver's Certificate on that date to evidence the borrowing as being subject to the Receiver's Borrowings Charge.
- 5.1.4 The Receiver's Initial Borrowing is reflected in the R&D net of a \$6,000 interest reserve that Tandia is holding.
- 5.1.5 The working capital required to resurrect the gas stations has consumed much of the Receiver's Initial Borrowing. While the Receiver has been able to obtain some credit from suppliers, other suppliers such as fuel and convenience store suppliers typically require immediate payment. A load of fuel typically costs approximately \$80,000. While 254Co has a consignment arrangement with its fuel supplier, 155Co, 187Co and 250Co each have buy/sell type fuel supply agreements.
- 5.1.6 In addition to operating costs such as payroll and utilities, the Receiver is obligated to pay KRS \$10,000 + HST as a monthly management fee for each Gas Station.
- 5.1.7 As stated above, the Receiver had \$98,978.15 in its estate trust accounts. However, at the time of this report there are trade payables owing of \$64,287.66, excluding the fuel supplier accounts. Amounts owing to fuel suppliers fluctuates daily as credit and debit card settlements are processed for the fuel suppliers' accounts and new fuel purchases are made. At the time of writing this First Report the Receiver owed fuel suppliers approximately \$34,000 in respect of Cloyne Shell and Trenton Esso. Each of these stations will require a load of fuel in the near future, increasing the Receiver's liabilities by approximately \$160,000.
- 5.1.8 The gas stations have yet to achieve operational profitability as sales volumes are not yet at breakeven levels. As fuel volumes increase and lottery/alcohol/tobacco sales are added it is expected that the gas stations will return to being profitable and become self-funding.
- 5.1.9 As a result of the liquidity challenges posed by the \$200,000 limit, the Receiver hereby requests that this Honourable Court authorize an increase in the Receiver's Borrowings Charge to \$500,000.

6.0 CONCLUSION

For the reasons set out above, the Receiver respectfully requests that the Court issue an order:

- a) approving this report and the actions of the Receiver described herein;
- b) approving the Sale Process;
- c) authorizing the Receiver to enter into the Colliers Listing Agreements;
- d) approving the fees and disbursements of the Receiver and Receiver's Counsel as outlined herein;
- e) approving the requested increase in the Receiver's Borrowings Charge;
- f) sealing Confidential Appendix 1 until the earlier of the closing of the transaction or transactions for the sale of the Gas Stations or further order of the Court; and
- g) Providing such further relief as the Court deems appropriate.

All of which is respectfully submitted this 31st day of January, 2024.

BDO CANADA LIMITED, solely in its capacity as
Court-appointed Receiver of 1557113 Ontario Inc.,
1870431 Ontario Inc., 2500994 Ontario Ltd. and
2544924 Ontario Inc. and not in its corporate or personal capacity.



Per: Peter Crawley, MBA, CPA, CA, CIRP, LIT
Vice President

ROYAL BANK OF CANADA

Applicant

-and-

1000502168 ONTARIO INC. operating as THE KIPPS
MARKET

Respondent

Court File No. CV-24-00096443-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
OTTAWA

AFFIDAVIT OF KATELIN Z. PARKER

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Lawyers for the Applicant, Royal Bank of Canada

TAB 2

Court File No. CV-24-00096443-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)	TUESDAY, THE 27 th
)	
JUSTICE)	DAY OF AUGUST, 2024

ROYAL BANK OF CANADA

Applicant

- and -

1000502168 ONTARIO INC. operating as THE KIPPS MARKET

Respondent

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED; AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS**

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicant, Royal Bank of Canada (“**RBC**”), for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing BDO Canada Limited as receiver and manager (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and properties of 1000502168 Ontario Inc. c.o.b. as The Kipps Market (the

“**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, was heard this day by way of judicial video conference in Ottawa, Ontario.

ON READING the affidavit of Sharon D'Costa sworn June 26, 2024 and the Exhibits thereto, the affidavit of Katelin Z. Parker sworn August 13, 2024 and the Exhibits thereto, and on hearing the submissions of counsel for RBC, the proposed Receiver, the Respondent, and any other counsel that were present, no one else appearing although duly served as appears from the affidavit of service of Michelle Pham sworn July 12, 2024 and August 13, 2024, and on reading the consent of BDO Canada Limited to act as the Receiver,

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO Canada Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof and the real property municipally known as 103 College Street West, Belleville, Ontario, legally described in Schedule "B" hereto (the “**Real Property**”) and all proceeds thereof (collectively, the “**Property**”).

RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the

Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$150,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

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

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and

- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall

provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased

premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the

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

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile

numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

14. **THIS COURT ORDERS** that all employees of the Debtor, if any, shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may

specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA AND ANTI-SPAM LEGISLATION

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

16. **THIS COURT ORDERS** that any and all interested stakeholders in this proceeding and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in this proceeding, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to such other interested stakeholders in this proceeding and their counsel and

advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE RECEIVER'S LIABILITY

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

RECEIVER'S ACCOUNTS

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

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

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

FUNDING OF THE RECEIVERSHIP

22. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver's Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

LISTING OF THE REAL PROPERTY

26. **THIS COURT ORDERS** that the Receiver may, without further order of the Court, enter into a listing agreement for the sale of the Real Property (the "**Listing Agreement**") with a broker or realtor approved by the Receiver and take such additional steps and execute such additional documents as may be necessary or desirable to implement the Listing Agreement.

SERVICE AND NOTICE

27. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the

Commercial List website at [https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/#Part III The E-Service List/](https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/#Part_III_The_E-Service_List/)) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (the “**Rules**”) this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol and shall be accessible by selecting the Debtor’s name from the engagement list at the following URL <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements>.

28. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

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

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

31. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

33. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the

Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

35. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from today's date and is enforceable without the need for entry and filing.

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$_____

1. THIS IS TO CERTIFY that BDO Canada Limited, the receiver (the “**Receiver**”) of the assets, undertakings and properties of 1000502168 Ontario Inc. c.o.b. as The Kipps Market (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof and the real property municipally known as 103 College Street West, Belleville, Ontario (collectively, the “**Property**”) appointed by Order of the Ontario Superior Court of Justice (the “**Court**”) dated the 27th day of August, 2024 (the “**Order**”) made in an action having Court file number ____-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$250,000 which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

**BDO CANADA LIMITED, solely in its
capacity as Receiver of the Property, and
not in its personal capacity**

Per: _____

Name:

Title:

SCHEDULE "B"**LEGAL DESCRIPTION OF REAL PROPERTY**

PIN: 40454 - 0095 LT

DESCRIPTION: PT LT 80-81 PL 148 THURLOW PT 1 21R5979; S/T QR404938;
BELLEVILLE; COUNTY OF HASTINGS

MUNICIPAL ADDRESS: 103 COLLEGE ST. W., BELLEVILLE, ONTARIO K8P 2G3

ROYAL BANK OF CANADA

Applicant

-and- 1000502168 ONTARIO INC. operating as THE KIPPS
MARKET
Respondent

Court File No. CV-24-00096443-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
OTTAWA

**ORDER
(APPOINTING RECEIVER)**

FOGLER, RUBINOFF LLP

Lawyers

77 King Street West

Suite 3000, P.O. Box 95

TD Centre North Tower

Toronto, ON M5K 1G8

Vern W. DaRe (LSO# 32591E)

Tel: 416.941.8842

Fax: 416.941.8852

Email: vdare@foglers.com

Lawyers for the Applicant, Royal Bank of Canada

TAB 3

Court File No. CV-24-00096443-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)	THURSDAY <u>TUESDAY</u> , THE 25th <u>27th</u>
)	
JUSTICE)	DAY OF JULY <u>AUGUST</u> , 2024

ROYAL BANK OF CANADA

Applicant

- and -

1000502168 ONTARIO INC. operating as THE KIPPS MARKET

Respondent

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED; AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS**

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicant, Royal Bank of Canada ("**RBC**"), for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing BDO Canada Limited as receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of 1000502168 Ontario Inc. c.o.b. as The Kipps Market (the

“Debtor”) acquired for, or used in relation to a business carried on by the Debtor, was heard this day by way of judicial video conference in Ottawa, Ontario.

ON READING the affidavit of Sharon D'Costa sworn June 26, 2024 and the Exhibits thereto, [the affidavit of Katelin Z. Parker sworn August 13, 2024 and the Exhibits thereto](#), and on hearing the submissions of counsel for RBC ~~and~~ the proposed Receiver, [the Respondent](#), and any other counsel that were present, no one else appearing although duly served as appears from the affidavit of service of Michelle Pham sworn July 12, 2024 [and August 13, 2024](#), and on reading the consent of BDO Canada Limited to act as the Receiver,

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO Canada Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof and the real property municipally known as 103 College Street West, Belleville, Ontario, legally described in Schedule "B" hereto (the “**Real Property**”) and all proceeds thereof (collectively, the “**Property**”).

RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver,

and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$150,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

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

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and

- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer,

software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to

observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or

the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

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

other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

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

PIPEDA AND ANTI-SPAM LEGISLATION

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE RECEIVER'S LIABILITY

18. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program*

Act. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

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

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

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

FUNDING OF THE RECEIVERSHIP

22. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver's Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

25. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all

Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

LISTING OF THE REAL PROPERTY

26. **THIS COURT ORDERS** that the Receiver may, without further order of the Court, enter into a listing agreement for the sale of the Real Property (the "**Listing Agreement**") with a broker or realtor approved by the Receiver and take such additional steps and execute such additional documents as may be necessary or desirable to implement the Listing Agreement.

SERVICE AND NOTICE

27. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/#Part_III_The_E-Service_List/) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (the "**Rules**") this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol and shall be accessible by selecting the Debtor's name from the engagement list at the

following URL <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements>.

28. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

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

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

31. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the

Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

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

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

35. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from today's date and is enforceable without the need for entry and filing.

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$_____

1. THIS IS TO CERTIFY that BDO Canada Limited, the receiver (the “**Receiver**”) of the assets, undertakings and properties of 1000502168 Ontario Inc. c.o.b. as The Kipps Market (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof and the real property municipally known as 103 College Street West, Belleville, Ontario (collectively, the “**Property**”) appointed by Order of the Ontario Superior Court of Justice (the “**Court**”) dated the ~~25th~~27th day of ~~July~~August, 2024 (the “**Order**”) made in an action having Court file number ____-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$250,000 which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

**BDO CANADA LIMITED, solely in its
capacity as Receiver of the Property, and
not in its personal capacity**

Per: _____

Name:

Title:

SCHEDULE "B"**LEGAL DESCRIPTION OF REAL PROPERTY**

PIN: 40454 - 0095 LT

DESCRIPTION: PT LT 80-81 PL 148 THURLOW PT 1 21R5979; S/T QR404938;
BELLEVILLE; COUNTY OF HASTINGS

MUNICIPAL ADDRESS: 103 COLLEGE ST. W., BELLEVILLE, ONTARIO K8P 2G3

ROYAL BANK OF CANADA

Applicant

-and- **1000502168 ONTARIO INC. operating as THE KIPPS
MARKET**
Respondent

Court File No. CV-24-00096443-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**PROCEEDING COMMENCED AT
OTTAWA**ORDER
(APPOINTING RECEIVER)****FOGLER, RUBINOFF LLP**

Lawyers

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Lawyers for the Applicant, Royal Bank of Canada

60774335.2

ROYAL BANK OF CANADA

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Court File No. CV-24-00096443-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
OTTAWA

SUPPLEMENTARY APPLICATION RECORD

FOGLER, RUBINOFF LLP

Lawyers

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