

**ONTARIO**

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

**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**

**IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O.  
1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE  
DEBTORS LISTED AT SCHEDULE "A" HERETO**

**MOTION RECORD  
(Motion Returnable July 28, 2014)**

July 21, 2014

**DENTONS CANADA LLP**

77 King Street West  
Suite 400  
Toronto ON M5K 0A1

**Neil S. Rabinovitch**

LSUC No. 33442F  
Telephone: 416 863-4656  
Facsimile: 416-863-4592  
E-mail: neil.rabinovitch@dentons.com

**CASSELS BROCK & BLACKWELL  
LLP**

Suite 2100, Scotia Plaza  
40 King Street West  
Toronto, ON  
M5H 3C2

**Jane O. Dietrich**

LSUC No. 49302U  
Telephone: 416 860-5223  
Facsimile: 416-640-3144  
E-mail: jdietrich@casselsbrock.com

*Lawyers for the Receiver*

To: SERVICE LIST

**SCHEDULE "A"**

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

**SERVICE LIST**

**TO: A. FARBER & PARTNERS**  
150 York Street, Suite 1600  
Toronto, Ontario  
M5H 3S5

**Hylton Levy**  
Telephone: 416-496-3070  
Fax: 416-496-3839  
Email: [hlevy@farberfinancial.com](mailto:hlevy@farberfinancial.com)

**Paul Denton**  
Telephone: 416-496-3773  
Fax: 416-496-3839  
Email: [pdenton@farberfinancial.com](mailto:pdenton@farberfinancial.com)

*Court Appointed Receiver*

**AND TO: DENTONS CANADA LLP**  
77 King Street West  
Suite 400  
Toronto-Dominion Centre  
Toronto, Ontario  
M5K 0A1

**Neil Rabinovitch**  
Telephone: 416 863-4656  
Fax: 416 863-4592  
Email: [neil.rabinovitch@dentons.com](mailto:neil.rabinovitch@dentons.com)

*Lawyers for the Receiver*

**AND TO: CASSELS BROCK & BLACKWELL LLP**  
Suite 2100, Scotia Plaza  
40 King Street West  
Toronto, Ontario  
M5H 3C2

**Jane O. Dietrich**  
Telephone: 416 860-5223  
Fax: 416 640-3144  
Email: [jdietrich@casselsbrock.com](mailto:jdietrich@casselsbrock.com)

*Lawyers for the Receiver*

**MORTGAGES WITH PPSA REGISTRATIONS**

**AND TO: DALE & LESSMANN LLP**  
Canadian Legal Counsel  
181 University Avenue, Suite 2100  
Toronto, Ontario  
M5H 3M7

**David Mende**  
Telephone: 416 369-7838  
Fax: 416 863-1009  
Email: dmende@dalelessmann.com

*Counsel for Addenda Capital Inc.*

**AND TO: FOGLER, RUBINOFF LLP**  
77 King Street West  
Suite 3000, P.O. Box 95  
TD Centre  
Toronto, Ontario  
M5K 1G8

**Martin R. Kaplan**  
Telephone: 416-941-8822  
Fax: 416-941-8852  
Email: mkaplan@foglers.com

*Counsel for Cameron Stephens Financial Corporation*

**AND TO: WILSON VUKELICH LLP**  
Barristers & Solicitors  
60 Columbia Way, Suite 710  
Markham, ON L3R 0C9

**Douglas D. Langley**  
Telephone: 905-940-8711 (ext.2232)  
Fax: 905-940-8785  
Email: dlangley@wvllp.ca

*Lawyers for Virgin Venture Capital Corporation, 1538456 Ontario Limited and Quincy Investments Limited*

**AND TO:       CORSIANOS LEE**  
Barristers & Solicitors  
3800 Steeles Ave. West  
Suite 203W  
Vaughan, ON L4L 4G9

**George Corsianos**  
Telephone:   905-370-1092  
Fax:           905-370-1095  
Email:        gcorsianos@cl-law.ca

**Jacob Lee**  
Telephone:   905-370-1093  
Fax:           905-370-1095  
Email:        jlee@cl-law.ca

*Lawyers for Virgin Venture Capital Corporation, 1538456 Ontario Limited and Quincy Investments Limited*

**AND TO:       GOLDMAN SLOAN NASH & HABER LLP**  
480 University Avenue  
Suite 1600  
Toronto, Ontario  
M5G 1V2

**Brendan Bissell**  
Telephone:   416-597-6489  
Fax:           416-597-3370  
Email:        bissell@gsnh.com

*Lawyers for Vector Financial Services Limited*

**AND TO:       C&K MORTGAGE SERVICES, INC.**  
1670 Bayview Ave.  
Suite 400  
Toronto, Ontario  
M4G 3C2

**Gary Gruneir**  
Telephone:   416 485 2636  
Fax:           416 482 4043  
Email:        ggruneir@rescomcapital.com

**AND TO: GMS LAW PROFESSIONAL CORPORATION**  
130 King Street West, Suite 1800  
Toronto, Ontario  
M5X 1E3

**Gary M. Sugar**  
Telephone: 416 640-0500  
Fax: 416 640-0501  
Email: gsugar@gmslaw.ca

*Lawyers for C&K Mortgage Services Inc., David Sugar and Phyllis Sugar*

**AND TO: ROBERT KAPLAN**  
Barrister & Solicitor  
15 Coldwater Road  
Toronto, Ontario  
M3B 1Y8

Telephone: 416 441-9712  
Fax: 416 441-6835  
Email: rkaplan@bellnet.ca

*Lawyer and Power of Attorney for Ruth Shuster*

**AND TO: ONTARIO WEALTH MANAGEMENT CORPORATION**  
1 Yorkdale Road  
Suite 511  
Toronto, Ontario  
M6A 3A1

**Graham Tobe**  
Email: gtobe@owemanco.com

**AND TO: GRAHAM TOBE PROFESSIONAL CORPORATION**  
Barristers & Solicitors  
201-2950 Keele Street  
Toronto, ON M3M 2H2

**Amy Lok**  
Telephone: 416-256-1555 ext. 225  
Fax: 416-256-0918  
Email: alok@gtlaw.ca

*Lawyers for Ontario Wealth Management Corporation*

**AND TO: PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**  
155 Wellington St West 35th Floor  
Toronto, Ontario  
M5V 3H1

**Jeffrey Larry**  
Telephone: 416-646-4330  
Facsimile: 416-646-4301  
Email: jeff.larry@paliareroland.com

*Lawyers for First Source Mortgage Corporation and Mark Cosman (Trustee)*

**AND TO: LUTHERAN LIFE INSURANCE SOCIETY OF CANADA (aka FAITHLIFE FINANCIAL)**  
470 Weber St. N.  
Waterloo, ON  
N2J 4G4

**Ben Marshall**  
Email: Bmarshall@faithlifefinancial.ca

**G. Smillie**  
Email: gsmillie@faithlifefinancial.ca

**AND TO: BORDEN LADNER GERVAIS**  
Scotia Plaza  
40 King Street West  
44th Floor  
Toronto, ON  
M5H 3Y4  
F 416.367.6749

**Roger Jaipargas**  
Telephone: 416-367-6266  
Fax: 416 361-7067  
Email: rjaipargas@blg.com

**Kenneth Hanbidge**  
Telephone: 519-747-6155  
Fax: 519 579-2725  
Email: khanbidge@blg.com

*Lawyers for Lutheran Life Insurance Society of Canada (aka Faithlife Financial)*

**AND TO: THE EMPIRE LIFE INSURANCE COMPANY**

Investment Division  
165 University Ave.  
9th Floor  
Toronto, Ontario  
M5H 3B8

**Luci Crawford**, Manager, Mortgage Administration & Compliance Mortgage  
Department

Telephone: 416 947-2564  
Fax: 416 350-3766  
Email: luci.crawford@empire.ca

**AND TO: GARFINKLE BIDERMAN**

Barristers & Solicitors  
Dundee Place  
Suite 801  
1 Adelaide Street East  
Toronto, Ontario  
M5C 2V9

**Robin A. Dodokin**

Telephone: 416 869.1234  
Fax: 416.869.0547  
Email: rdodokin@garfinkle.com

*Lawyers for Empire life Insurance Company*

**AND TO: TORKIN MANES LLP**

Barristers & Solicitors  
151 Yonge Street, Suite 1500  
Toronto, Ontario  
M5C 2W7

**Jeffrey J. Simpson**

Telephone: 416-777-5413  
Fax: 1-888-587-9143  
Email: jsimpson@torkinmanes.com

*Lawyers for PACE Savings and Credit Union Limited*

**AND TO: BEARD WINTER LLP**

130 Adelaide St. W.  
Suite 701  
Toronto, Ontario  
M5H 2K4

**David R. Rothwell**

Telephone: 416-593-5555  
Fax: 416-593-7760  
Email: drothwell@beardwinter.com

*Lawyers for RMG Mortgages, A division of MCAP Financial Corporation (aka MCAP Leasing Inc., MCAP Leasing Limited Partnership)*

**AND TO: MICHAELS & MICHAELS**

Barristers & Solicitors  
1450 Hopkins Street  
Suite 201  
Whitby, Ontario  
L1N 2C3

**Barry H. Michaels**

Telephone: 905.665-.7711  
Fax: 905 430-9100  
Email: bmichaels@michaelslaw.ca

*Lawyers for The Bank of Nova Scotia Trust Company, RDB (Toronto) Holdings Inc., Susan Michaels Holdings Limited, Comfort Capital Inc., JLJR Investments Limited, 1522648 Ontario Inc., Berend Koopmans, Michael Swartz and Audry Michaels*

**AND TO: AIRD & BERLIS LLP**  
Brookfield Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, Ontario  
M5J 2T9

**Harry M. Fogul**  
Telephone: 416.865.7773  
Fax: 416.863.1515  
Email: hfogul@airdberlis.com

**Ian Aversa**  
Telephone: 416.865.3082  
Fax: 416.863.1515  
Email: iaversa@airdberlis.com

*Lawyers for The Bank of Nova Scotia Trust Company, RDB (Toronto) Holdings Inc., Susan Michaels Holdings Limited, Comfort Capital Inc., JLJR Investments Limited, 1522648 Ontario Inc., Berend Koopmans, Michael Swartz and Audry Michaels*

**AND TO: REGIONAL FINANCIAL**  
1450 Hopkins Street, Suite 201  
Whitby, Ontario  
L1N 2C3

Telephone: 905-683-5511  
Fax: 905-430-9300  
Email: lmichaels@regionalfinancial.ca

*Advisors for The Bank of Nova Scotia Trust Company, RDB (Toronto) Holdings Inc., Susan Michaels Holdings Limited, Comfort Capital Inc., JLJR Investments Limited, 1522648 Ontario Inc., Berend Koopmans, Michael Swartz and Audry Michaels*

**MORTGAGEES WITHOUT PPSA REGISTRATIONS**

**AND TO: ROBERT WEISZ**  
421 Bantry Ave.  
Richmond Hill, ON  
L4B 4E9

Email: robbiew1@yahoo.com

**AND TO: MOE SHUSTER c/o C&K MORTGAGE SERVICES, INC.**  
1670 Bayview Ave.  
Suite 400  
Toronto, ON  
M4G 3C2

**Gary Gruneir**  
Email: ggruneir@rescomcapital.com

**AND TO: GMS LAW PROFESSIONAL CORPORATION**  
130 King Street West, Suite 1800  
Toronto, Ontario  
M5X 1E3

**Gary M. Sugar**  
Telephone: 416 640-0500  
Fax: 416 640-0501  
Email: gsugar@gmslaw.ca

*Lawyers for C&K Mortgage Services Inc. and Moe Shuster*

**AND TO: WOOLFSON & WOOLFSON**  
1000 Finch Avenue West Suite, Suite 306  
Toronto, Ontario  
M3V 2V5

**E. Sidney Woolfson**  
Telephone: 416-630-1801  
Fax: 416-630-1805  
Email: woolfson@bellnet.ca

*Lawyers for A. & L. Cabrio Investments Ltd., Ralcap Investment Corporation, Upper Canada Promotions Inc., Lorraine Rotstein, Charles Rotstein, Rose Rotstein, Jack Rotstein, Harry Rotstein, David Freed, 1786549 Ontario Ltd., Jack Kirsh, Esther Kirsh, and Joanne Griffin*

**AND TO: TD CANADA TRUST**

**Bill O'Connor**  
Email: bill.oconnor@tdsecurities.com

**AND TO: FRED RANKEL**  
955 Vandorf Rd.  
Aurora, Ontario  
L4G 3G8

Telephone: 905 841-2170  
Fax: 905 841-7462  
Email: [apeinc@sympatico.ca](mailto:apeinc@sympatico.ca)

**AND TO: SUN LIFE ASSURANCE COMPANY OF CANADA**  
(Formerly Clarica Life Insurance Company)  
AVP Law and Senior Counsel  
150 King Street West, Suite 1400  
Toronto, Ontario  
M5H 1J9

**Glen R. Copeland**  
Telephone: 416 979-4820  
Email: [Glen.Copeland@sunlife.com](mailto:Glen.Copeland@sunlife.com)

**PPSA REGISTRATIONS ONLY**

**AND TO: ING BANK OF CANADA**  
111 Gordon Baker Road  
Toronto, Ontario  
M2H 3R1

**Willy Cheung**  
Email: wcheung@ingdirect.ca

**AND TO: C. ERLICH**  
% Harry Erlich  
1670 Bayview Avenue  
Suite 400  
Toronto, Ontario  
M4G 3C2

**AND TO: COMPUTERSHARE TRUST COMPANY OF CANADA**  
100 University Ave., S Tower, 8th Floor  
Toronto, Ontario  
M5J 2Y1

**AND TO: ROYAL BANK OF CANADA**  
1 Place Ville Marie  
2<sup>nd</sup> Floor  
Montreal, Quebec  
H3B 1A1

**AND TO: MELVYN A. DANCY**  
90 Gurnett Street, Suite 201  
Aurora, ON  
L4G 1P6

Email: mel@dondebinc.com

**AND TO: CRAIG M. JOHNSTON LAW PROFESSIONAL CORPORATION**  
59 Berkeley Street  
Toronto, Ontario  
M5A 2W5

Telephone: 416.364.7772 ext 23  
Fax: 647.435.5385  
Email: Craig@berkeleycounsel.com

*Lawyer for Melvyn Dancy*

**AND TO: RESMOR TRUST COMPANY**  
101 Fredrick St.  
Suite 600  
Kitchener, Ontario  
N2H 6R2

**AND TO: JOHNSON DIVERSEY CANADA INC.**  
2401 Bristol Circle  
Oakville, Ontario  
L6H 6P1

**EXECUTION CREDITOR**

**AND TO: BRENK ENGINEERING INC.**  
201 Millway Ave. Unit 10  
Concord, Ontario  
L4K 5K8

**Peter Kulba/Nicola Ellyett**  
Telephone: 905-660-7732 ext. 221

**OTHER**

**AND TO: MINISTRY OF FINANCE**  
Legal Services Branch  
6th Floor, 33 King Street West  
Oshawa, Ontario  
L1H 8H5

**Kevin O'Hara**  
Telephone: 905 433-6934  
Fax: 905 436-4510  
Email: kevin.ohara@fin.gov.on.ca

*Solicitors for Ministry of Finance for Ontario*

**AND TO: DEPARTMENT OF JUSTICE CANADA**  
Suite 3400, Box 36, The Exchange Tower  
130 King Street West  
Toronto, ON M5X 1K6

**Diane Winters**

Telephone: 416 973-3172  
Fax: 416 973-0810  
Email: [diane.winters@justice.gc.ca](mailto:diane.winters@justice.gc.ca)

**Edward Park**

Telephone: 416 973 3746  
Email: [edward.park@justice.gc.ca](mailto:edward.park@justice.gc.ca)

**Edward Harrison**

Telephone: 416 973-7126  
Email: [edward.harrison@justice.gc.ca](mailto:edward.harrison@justice.gc.ca)

*Solicitors for Canada Revenue Agency*

**AND TO: SEIU UNION**  
41 Adelaide Street North  
Unit 83,  
London, Ontario  
N6B 3P4

**Mana Lindsay**

Telephone: 519-432-2661 Ext. 3255  
Fax: 519-432-1780  
Email: [m.lindsay@seiulocal1.org](mailto:m.lindsay@seiulocal1.org)

**AND TO: RETIREMENT HOMES REGULATORY AUTHORITY**  
160 Eglinton Avenue East  
5<sup>th</sup> Floor  
Toronto, Ontario  
M4P 3B5

**John Risk / Evelyn Spence**

Telephone: 416 440-3575  
Email: [john.risk@rhra.ca](mailto:john.risk@rhra.ca)

**AND TO: MINDEN GROSS LLP**

145 King Street West  
Suite 2200  
Toronto, Ontario  
M5H 4G2

**David T. Ullmann**

Telephone: 416 369-4148  
Fax: 416 864-9223  
Email: dullmann@mindengross.com

**Timothy R. Dunn**

Telephone: 416 369-4335  
Fax: 416 864-9223  
Email: tdunn@mindengross.com

*Counsel for 2279377 Ontario Inc.*

**AND TO: O'NEILL CONTRACTING / 1160145 ONTARIO INC.**

2369 Pigeon Lake Rd RR 2  
Bobcaygeon, ON  
K0M 1A0

**Andrew Bain**

Telephone: 705 738-3687  
Email: mboneill@xplornet.com

**AND TO: LLF LAWYERS LLP**

332 Aylmer Street North  
P.O. Box 1146  
Peterborough, Ontario  
K9J 7H4

**Chris Russell**

Telephone: 705 742-1674 ext. 220  
Fax: 705 742-4677  
Email: crussell@llf.ca

*Counsel for O'Neill Contracting and 1160145 Ontario Inc.*

**AND TO:**     **AIRD & BERLIS LLP**  
Brookfield Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, ON  
M5J 2T9

**D. Robb English**  
Telephone:   416 865-4748  
Fax:           416 863-1515  
Email:         renglish@airdberlis.com

*Lawyers for Ontario Power Authority*

**AND TO:**     **ONTARIO POWER AUTHORITY**  
120 Adelaide Street West  
Suite 1600  
Toronto, Ontario  
M5H 1T1

**Michael Lyle**  
Telephone:   416 969-6035  
Fax:           416 967-1947  
Email:         michael.lyle@powerauthority.on.ca

**AND TO:**     **ALFRED PETER ENTERPRISES INC.**

**Fred Rankel**  
Fax:           905 841-7462  
Email:         apeinc@sympatico.ca

**AND TO :**     **PROGRESSIVE ELECTRICAL SERVICES LIMITED**  
Box 62  
Cumberland Beach, Ontario  
L0K 1G0

**Tyrwhitt Carman**  
Fax:           705-689-0920  
Email:         terry@theshockdoctors.ca

**AND TO:**     **DEANE EWART**  
59 Mississaga St W  
Orillia, Ontario  
L3V 3A7

Fax:           705-325-4195  
Email:         deanewartlaw@bellnet.ca

**AND TO :**     **MILLS & MILLS LLP**  
2 St. Clair Avenue West, Suite 700  
Toronto, Ontario  
M4V 1L5

**James B. Kutcy**  
Telephone:   416 682-7106  
Fax:           416 863-3997  
Email:         james.kutcy@millsandmills.ca

*Lawyers for Imperial Tool & Die Ltd.*

**AND TO :**     **DICKINSON WRIGHT**  
222 Bay Street, 18<sup>th</sup> Floor  
Toronto, Ontario  
M5K 1H1

**David P. Preger**  
Telephone:   416.646-4606  
Fax:           416-865-1398  
Email:         Dpreger@dickinsonwright.com

*Previous Lawyers for Debtors*

**AND TO:**     **THE CORPORATION OF THE CITY OF ORILLIA**  
50 Andrew Street South  
Orillia, Ontario  
L3V 7T5

Attention: Legal Department

**AND TO:**     **TRADERS REALTY LTD.**

**Kevin Ince**  
Email:         tradersrealty@gmail.com

**AND TO: MORRISON BROWN SOSNOVITCH LLP**

Barristers and Solicitors  
1 Toronto Street  
Suite 910  
PO Box 28  
Toronto, Ontario  
M5C 2V6

**David Bleiwas**

Telephone: 416 368-5956  
Fax: 416 368-6068  
Email: dbleiwas@businesslawyers.com

*Lawyers for Dancy with respect to potential transaction*

**AND TO: WILDEBOER DELLELCE LLP**

Weldeboer Dellelce Place  
Barristers & Solicitors  
Suite 800, 365 Bay Street  
Toronto, Ontario  
M5H 2V1

**W. Alfred Apps**

Telephone: 416 361-6211  
Fax: 416 361-1790  
Email: aapps@wildlaw.ca

*Previous Lawyers for the Debtors*

**AND TO: FOGLER, RUBINOFF LLP**

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

**Vern W. DaRe**

Telephone: 416.941.8842  
Fax: 416.941.8852  
Email: vdare@foglers.com

*Lawyers for the Purchaser of Barrie Business Centre*

# INDEX

**INDEX**

<b>DOCUMENT</b>	<b>TAB</b>
Notice of Motion	1
List of Entities	A
Draft Order	B
Draft Approval and Vesting Order (FIT)	
Thirteenth Report of the Receiver	2
Appendix “A” – List of Entities	A
Appendix “B” – Receivership Order, October 17, 2012	B
Appendix “C” – Reasons of Justice Campbell, November 22, 2012	C
Appendix “D” – List of Known Properties	D
Appendix “E” – Endorsement of Justice Morawetz, January 15, 2013	E
Appendix “F” – Order of Justice D. Brown, May 2, 2014	F
Appendix “G” – FIT APS (redacted)	G
Appendix “H” – Development Agreement	H
Appendix “I” – Consent Agreement	I
Appendix “J” – Affidavit of Paul Denton, sworn July 21, 2014	J
Appendix “K” – Affidavit of Neil Rabinovitch, sworn July 21, 2014	K
Appendix “L” – Affidavit of Jane Dietrich, sworn July 18, 2014	L
Confidential Appendix 1 – Unredacted FIT APS	1
Confidential Appendix 2 - Relevant portion of the Eleventh Report addressing the foregoing price range	2
Blackline of Draft Approval and Vesting Order (FIT)	3

**TAB 1**

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

**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**

**IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O.  
1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE  
DEBTORS LISTED AT SCHEDULE "A" HERETO**

**NOTICE OF MOTION  
(RETURNABLE JULY 28, 2014)**

A. Farber & Partners Inc. ("**Farber**") in its capacity as court-appointed receiver (the "**Receiver**") of the debtors referred to at Schedule "A" attached hereto (collectively, the "**Debtors**") will make a motion to a judge presiding over the Commercial List on Monday, July 28, 2014, at 10:00 a.m. or as soon after that time as the motion can be heard at 330 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

1. An order substantially in the form of the draft order attached hereto as Schedule "B", *inter alia*:
  - (a) declaring that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable;

- (b) approving the thirteenth report to Court of the Receiver dated July 21, 2014 (the “**Thirteenth Report**”) and the activities of the Receiver set out therein; and
  - (c) Approving the professional fees and disbursements of the Receiver and its legal counsel as set out in the Affidavits of Paul Denton sworn July 21, 2014, Neil S. Rabinovitch sworn July 21, 2014, and Jane Dietrich sworn July 18, 2014, filed.
2. An order substantially in the form of the draft order attached hereto as Schedule “C”, *inter alia*:
- (a) approving the completion of the sale transaction (the “**FIT Transaction**”) contemplated by the agreement of purchase and sale between the Receiver as vendor and Solera Sustainable Energies Company Limited as purchaser (the “**FIT Purchaser**”) made as of July 8, 2014 (the “**FIT APS**”), a copy of which is attached to the Thirteenth Report; and
  - (b) approving and authorizing the Receiver to enter into and take steps in accordance with the development agreement dated July 8, 2014 between the FIT Purchaser and the Receiver (the “**Development Agreement**”);
  - (c) approving and authorizing the Receiver to enter into and take steps in accordance with consent agreement made as of July 8, 2014 (the “**Consent Agreement**”) between the Receiver and Ontario Power Authority (“**OPA**”);
  - (d) vesting in the FIT Purchaser the Assumed Contracts (as defined and described in the FIT APS) free and clear of encumbrances, other than Permitted Encumbrances (as defined in the FIT APS); and
  - (e) sealing and treating as confidential **Confidential Appendices 1 and 2** to the Thirteenth Report until closing of the transaction set out in the FIT APS or further order of the Court; and

- (f) providing that the relief set out in the order be subject to provisional execution.
3. Such further and other relief as counsel may request and this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

1. On October 17, 2012, pursuant to the Receivership Order, Farber was appointed as the Receiver over all of the undertakings, property and assets of the Debtors;

FIT APS

2. Dondeb held four feed-in-tariff contracts (“**FIT Contracts**”) with the OPA. The contracts related to the Ace Self Storage and Business Centre, Leon’s, Barrie Business Centre and Rockin Boats properties. In brief, each FIT Contract is an agreement with the OPA whereby if electricity is produced in a certain way, the OPA has agreed to purchase such electricity at set prices and for a certain duration.
3. The Receiver previously assigned its rights in the FIT Contract associated with the Ace Self Storage and Business Centre property and with the Rockin Boats property to the purchaser of those assets. For the reasons described below and in the Thirteenth Report, the Receiver has arranged for the marketing of the other FIT Contracts separate and apart from the associated real property;
4. The Barrie Business Center property was sold pursuant to a court approved agreement of purchase and sale between Dondeb, as vendor and MarQuee Davidson Corp., as purchaser. The FIT Contract associated with the Barrie Business Center was expressly excluded from the transaction as part of the excluded assets. The approval and vesting order related to the sale of the Barrie Business Center was granted by this Honourable Court on March 24, 2014 and the transaction has closed.

5. As a result of the marketing efforts arranged for by the Receiver, the Receiver has now entered into the FIT APS, the Development Agreement and the Consent Agreement, which all relate to the FIT Contract previously associated with the Barrie Business Center property;
6. The Consent Agreement provides the OPA's consent to an amendment of the applicable FIT Contract so that the contract can be associated with a new location. The FIT Contract, rather than being associated with the Barrie Business Center property will be associated with a new location (364 St. Vincent Street, Barrie, Ontario) which is a property owned by a party related to the FIT Purchaser;
7. Under the Development Agreement, the FIT Purchaser agrees to cause the construction of the infrastructure necessary to support the connection contemplated by the FIT Contract at the new location;
8. Finally, under the FIT APS, the Receiver has agreed to sell its interest in the FIT Contract to the FIT Purchaser, subject to both the consent of the OPA as well as Hydro One Networks Inc ("HONI"). The consent of OPA and HONI to the sale of the FIT Contract from Dondeb to the FIT Purchaser will not be sought until the project has reached commercial operation;
9. In order to reduce the risk to the Receiver of a delay in construction of the project, the deposit, which is equivalent to 50% of the purchase price payable under the FIT APS is released to the Receiver on the later of 10 days following the granting of the approval and vesting order or the receipt of a Notice to Proceed (as that term is defined in the FIT Contract);

#### APPROVAL OF PROFESSIONAL FEES

10. Pursuant to the Receivership Order, the Receiver was required to maintain Segregated Accounts for each Property listed on Schedule C to the Receivership Order in order to ring-fence costs and recoveries for assets over which there were distinct secured creditors.

11. The Receiver is seeking the approval of the Court with respect to the Fees and Disbursements of the Receiver and its counsel for services rendered specifically for the following properties: Ace Self Storage, 240 Yeoman Street, Brechin, Coldwater, Devonshire Place, Dorset Place, Georgian Manor, Belleville (Pepper/Palmer), Ontario Street, Orillia Independent Living, Preston Springs Gardens, Sussex Place and Tudhope Manor.
12. The Receiver is not, at this time, seeking approval of the fees and expenses associated with properties not listed above or the General Restructuring Administration Expenses (GARE) as defined in the Receivership Order. The Receiver intends to return to court to seek approval of those expenses at a later date.

#### GENERAL

13. The secured creditors affected by the orders sought are being given notice of the motion;
14. The facts as further set out in the Thirteenth Report;
15. The Receivership Order;
16. The provisions of the BIA, FCA, APA, the *Courts of Justice Act* (Ontario) and the *Rules of Civil Procedure* (Ontario); and
17. Such further and other grounds as counsel may advise and this Honourable Court permits.

#### **THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:**

1. The Thirteenth Report and the appendices attached thereto;
2. The Affidavit of Paul Denton sworn July 21, 2014;
3. The Affidavit of Neil S. Rabinovitch sworn July 21, 2014;

4. The Affidavit of Jane Dietrich sworn July 18, 2014; and
5. Such further and other evidence that counsel may advise and this Honourable Court permit.

July 21, 2014

**DENTONS CANADA LLP**

77 King Street West  
Suite 400  
Toronto ON M5K 0A1

**Neil S. Rabinovitch**

LSUC No. 33442F  
Telephone: 416 863-4656  
Facsimile: 416-863-4592  
E-mail: [neil.rabinovitch@dentons.com](mailto:neil.rabinovitch@dentons.com)

**CASSELS BROCK & BLACKWELL  
LLP**

**Jane O. Dietrich**

LSUC No. 49302U  
Telephone: 416 860-5223  
Facsimile: 416- 640 3144  
E-mail: [jdietrich@casselsbrock.com](mailto:jdietrich@casselsbrock.com)

Lawyers for the Receiver

**To: SERVICE LIST**

# SCHEDULE "A"

**SCHEDULE "A"**

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

# SCHEDULE "B"



**ON READING** the Thirteenth Report, the affidavit of Paul Denton sworn July 21, 2014, the affidavit of Neil Rabinovitch, sworn July 21, 2014, the affidavit of Jane Dietrich, sworn July 18, 2014 and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of ● sworn ●, 2014, filed:

**SERVICE**

1. **THIS COURT ORDERS** the timing and method of service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today.

**PROFESSIONAL FEES**

2. **THIS COURT ORDERS** that the Thirteenth Report and the activities of the Receiver as described therein be and are hereby approved.

3. **THIS COURT ORDERS** that the fees and disbursements of the Receiver, A. Farber & Partners Inc., and its legal counsel, Dentons Canada LLP and Cassels Brock & Blackwell LLP, as set out in the affidavit of Paul Denton sworn July 21, 2014, the affidavit of Neil S. Rabinovitch, sworn July 21, 2014, the affidavit of Jane Dietrich, sworn July 18, 2014 be and are hereby approved.

---

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

IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE DEBTORS LISTED AT SCHEDULE "A" HERETO

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

PROCEEDING COMMENCED AT TORONTO

**APPROVAL ORDER**

DENTONS CANADA LLP  
77 King Street West  
Suite 400  
Toronto Ontario  
M5K 0A1

Lawyer: Neil S. Rabinovitch  
LSUC: 33442F  
E-mail: neil.rabinovitch@dentons.com  
Telephone/Facsimile: 416 863-4656 / 416 863-4592

CASSELS BROCK & BLACKWELL LLP  
Suite 2100, Scotia Plaza  
40 King Street West  
Toronto, ON  
M5H 3C2

Lawyer: Jane O. Dietrich  
LSUC: 49302U  
E-mail: jdietrich@casselsbrock.com  
Telephone/Facsimile: 416 860-5223 / 416 640-3144

LAWYERS FOR the Receiver

RCP-E 4C (July 1, 2007)

# SCHEDULE "C"



ON READING the Thirteenth Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of [●] sworn July [●], 2014, filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of each of the Sale Agreement, the Development Agreement between the Purchaser and the Receiver dated July 8, 2014, a copy of which is appended to the Thirteenth Report (the “**Development Agreement**”) and the Consent Agreement between the Receiver and Ontario Power Authority made as of July 8, 2014 and appended to the Thirteenth Report (the “**Consent Agreement**”) by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents, including without limitation as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Assumed Contracts to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule B hereto (the “**Receiver's Certificate**”), all of Dondeb’s right, title and interest in and to the Assumed Contracts, if any, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Campbell dated October 17, 2012; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; (all of which are collectively referred to as the “**Encumbrances**”, and, for greater certainty, this Court

orders that all of the Encumbrances affecting or relating to the Assumed Contracts are hereby expunged and discharged as against the Assumed Contracts.

3. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Assumed Contracts shall stand in the place and stead of the Assumed Contracts, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Assumed Contracts with the same priority as they had with respect to the Assumed Contracts immediately prior to the sale, as if the Assumed Contracts had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

5. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in Dondeb's records related to the Assumed Contracts which pertain to the past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Dondeb.

6. THIS COURT ORDERS that, notwithstanding:

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

the vesting of the Assumed Contracts in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Dondeb and shall not be void or voidable by creditors of Dondeb, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

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

9. THIS COURT ORDERS AND DIRECTS that Confidential Appendix “1” and “2” of the Thirteenth Report be sealed until the filing of the Receiver’s Certificate with the Court or until further order of this Court.

10. THIS COURT ORDERS AND DECLARES that the relief granted by this order is subject to provisional execution.

---

## **Schedule A – Debtors**

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

**Schedule B – Form of Receiver’s Certificate**

Court File No. CV-12-9794-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**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**

**IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O.  
1990 c. C.43, AS AMENDED WITH RESPECT TO **DONDEB INC.** AND ALL THE  
**DEBTORS LISTED AT SCHEDULE “A” HERETO****

**RECEIVER’S CERTIFICATE  
(Feed-in-Tariff Contracts)**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Campbell of the Ontario Superior Court of Justice (the “**Court**”) dated October 17, 2012, A. Farber & Partners Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of Dondeb Inc. (“**Dondeb**”) and the other debtors referred to at Schedule A of the order.

B. Pursuant to an Order of the Court dated July 28, 2014, the Court approved an agreement of purchase and sale between the Receiver and Solera Sustainable Energies Company Limited (the “**Purchaser**”), dated July 8, 2014 (the “**Sale Agreement**”), and provided for the vesting in the Purchaser of Dondeb’s right, title and interest, if any, in and to the Assumed Contracts (as defined in the Sale Agreement), which vesting is to be effective with respect to the Assumed Contracts upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Assumed Contracts; (ii) that the conditions to Closing of the Sale Agreement

have been satisfied or waived by the Receiver and the Purchaser; (ii) Ontario Power Authority has consented in writing to the transfer of the Assumed Contracts; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Assumed Contracts payable on the Closing Date pursuant to the Sale Agreement;
2. Ontario Power Authority has consented in writing to the transfer of the Assumed Contracts;
3. The conditions to Closing set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
4. The Transaction has been completed to the satisfaction of the Receiver.

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

**A. Farber & Partners Inc., in its capacity as Receiver of the undertaking, property and assets of Dondeb Inc., and not in its personal capacity**

Per: \_\_\_\_\_

Name:

Title:

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

IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE DEBTORS LISTED AT SCHEDULE "A" HERETO

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

PROCEEDING COMMENCED AT TORONTO

**APPROVAL AND VESTING ORDER  
(FEED-IN-TARIFF CONTRACTS)**

DENTONS CANADA LLP  
77 King Street West  
Suite 400  
Toronto Ontario  
M5K 0A1

Lawyer: Neil S. Rabinovitch  
LSUC: 33442F  
E-mail: neil.rabinovitch@dentons.com  
Telephone/Facsimile: 416 863-4656 / 416 863-4592

CASSELS BROCK & BLACKWELL LLP  
Suite 2100, Scotia Plaza  
40 King Street West  
Toronto, ON  
M5H 3C2

Lawyer: Jane O. Dietrich  
LSUC: 49302U  
E-mail: jdietrich@casselsbrock.com  
Telephone/Facsimile: 416 860-5223 / 416 640-3144

LAWYERS FOR the Receiver

RCP-E 4C (July 1, 2007)

**TAB 2**

Court File No. CV-12-9794-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**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**

**IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT,  
R.S.O. 1990 C. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND  
ALL THE DEBTORS LISTED AT SCHEDULE "A" HERETO**

**A. FARBER & PARTNERS INC.  
COURT APPOINTED RECEIVER**

**THIRTEENTH REPORT OF THE RECEIVER**

**JULY 21, 2014**

## 1. INTRODUCTION

1. By Court Order dated October 18, 2012, A. Farber & Partners Inc. (“**Farber**”) was appointed receiver (“**Receiver**”) of all of the assets, undertakings and properties of Dondeb Inc. (“**Dondeb**”), and those debtors listed on **Appendix “A”** (collectively, the “**Debtors**”). The Court Order was subsequently amended and restated to be dated October 17, 2012 consistent with the endorsement of the Honourable Justice Campbell (hereinafter referred to as the “**Receivership Order**”), which is attached as **Appendix “B”**. A copy of the reasons of the Honourable Justice Campbell released on November 22, 2012 is attached hereto as **Appendix “C”**.
2. The Debtors were in the primary business of acquiring or developing properties for rent or sale. The Debtors’ properties and operations were located throughout Southern Ontario.
3. The global receivership encompasses 12 legal entities which owned 25 known real properties (collectively the “**Properties**” and each a “**Property**”). The 24 Properties known at the time of the Receivership Order included: four retirement homes and/or independent living homes; two multiple unit apartment buildings; two private schools; five commercial properties; one residential condo unit; one golf course; and nine properties under development comprising vacant land. The list of known properties and assigned numbers is attached as **Appendix “D”**. Property numbers and names as defined in Appendix “D” are used throughout this report. Subsequent to the date of the Receivership Order being granted one additional Property was located, being a vacant piece of land located at 20 Scotia Road in Emsdale Ontario (Township of Perry) owned by 1281515 Ontario Inc. (the “**Scotia Road Property**”), as described in a previous report to the Court.
4. By Order dated October 26, 2012, the Court, among other matters, authorized Receiver Borrowings, with the consent of the mortgagees, by way of a revolving credit up to \$500,000, secured by the Properties, with the foregoing limit excluding borrowings for the completion of the Barrie Business Centre (Property #9). The Receiver was also granted authority, without the consent of The Empire Life

Insurance Company (“**Empire Life**”), to borrow by way of revolving credit of up to \$60,000 for the purpose of funding interim expenditures in respect of the real property located at 301 Byron Street South, Whitby, Ontario and the Hatch House Montessori School operated thereon (Property #13). Collectively, such borrowings were to be secured by way of a fixed and specific charge (“**Receiver’s Borrowing Charge**”) as security for payment of monies, in priority to all security interests, trusts and lien claims including but not limited to deemed trust claims under subsection 227(4) and (4.1) of the *Income Tax Act*, subsection 23(3) and (4) of the *Canada Pension Plan* and subsection 86(2) and (2.1) of the *Employment Insurance Act*, but subordinate in priority to the Receiver’s Charge (as defined in the Receivership Order) and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the *Bankruptcy and Insolvency Act* (the “**BIA**”).

5. On January 8, 2013, the Receiver filed its Second Report to Court (the “**Original Second Report**”) seeking, among other things, approval of agreements of purchase and sale for the following four Properties: (i) Devonshire Place property (Property #4); (ii) Tim Hortons/Wendy’s property (Property #10); (iii) Dorset Place property (Property #22); and (iv) Preston Springs Gardens property (Property #24).
6. On January 11, 2013, the Receiver filed a supplement to its Second Report (the “**First Supplement**”) addressing minor amendments to the transactions involving the Tim Hortons/Wendy’s and the Preston Springs Gardens Properties.
7. On January 14, 2013, (i) without objection from any party, the Court granted the approval and vesting order approving the Devonshire Place property sale; and (ii) the Debtors advised the Court that they were in the process of retaining new counsel and requested an adjournment of one week for the remaining relief; Justice Morawetz granted an adjournment until January 15, 2013 for the approval of the remaining agreements of purchase and sale.
8. On the morning of January 15, 2013, the Debtors, having retained new counsel, filed a responding affidavit and in reply the Receiver filed a second supplement to

the Second Report (the “**Second Supplement**” and together with the Original Second Report and the First Supplement, the “**Second Report**”).

9. After hearing submissions on January 15, 2013, Justice Morawetz delivered his endorsement orally (the “**January 15 Endorsement**”), *inter alia* (i) approving the Tim Hortons/Wendy’s, the Dorset Place and the Preston Springs Gardens agreements of purchase and sale; and (ii) adjourning the requested approval of the Receiver’s activities as set out in the Second Report so that new counsel for the Debtors had time to consider the matters addressed therein with such approval to be brought back before the Court within 60 days. A copy of the January 15 Endorsement is attached as **Appendix “E”** hereto.
10. The Tim Hortons/Wendy’s property transaction closed on January 17, 2013. The Dorset Place property transaction closed on January 22, 2013. The Preston Springs Gardens property transaction closed on January 28, 2013.
11. By Court Order dated February 13, 2013, among other matters, the Receiver’s activities were approved as set out in the Second Report and the Third Report of the Receiver dated February 6, 2013, and interim distributions of proceeds held for the Dorset Place, Preston Springs Gardens and Tim Hortons/Wendy’s Properties were approved. Approval and vesting orders were also granted on February 13, 2013, in respect of transactions involving the Coldwater (Property #3) and Brechin (Property #12) Properties. The Coldwater property transaction closed on February 15, 2013. The Brechin property transaction closed on February 28, 2013. The Devonshire Place property transaction closed on March 1, 2013.
12. On March 25, 2013, the Court granted orders (i) approving an interim distribution in respect of the Coldwater and Devonshire Place Properties; and (ii) approving the activities of the Receiver set out in the Fourth Report of the Receiver dated March 15, 2013. In addition, on March 25, 2013, the Court granted approval and vesting orders as requested by the Receiver in respect of transactions for the sale of the Sussex Place (Property #8) and the Georgian Manor (Property #17) Properties.

13. The Georgian Manor property transaction closed on March 27, 2013. The Sussex Place property transaction closed on April 24, 2013.
14. On May 10, 2013, the Court granted orders (i) approving the Agreements of Purchase of Sale of the following properties: Ontario Street, Hatch House Montessori School and Tudhope Manor; (ii) approving an Auction Agreement for certain panelization equipment, as well as approval of a stalking horse sales agreement for the Ace Self Storage property and business and Stalking Horse sales process for same; (iii) approving the distribution of funds held in respect of the Georgian Manor and Sussex Place Properties; and (iv) approving the activities of the Receiver set out in the Fifth Report of the Receiver dated May 3, 2013.
15. The Ontario Street property transaction closed on May 15, 2013 and the Hatch House Montessori School transaction closed on May 21, 2013.
16. On May 29, 2013, the Court granted (i) an order approving an interim distribution in respect of the Ontario Street and Hatch House Montessori School properties; and (ii) an approval and vesting order in respect of the sale of the Lafontaine Terrace property.
17. On June 11, 2013, following a contested hearing, Justice Newbould made two Orders which, among other things, declared that Empire Life was not entitled to an interest differential on four properties: Dorset Place, Sussex Place, Hatch House and Leons, and approved interim distributions on the Tudhope Manor and Lafontaine Terrace properties, which had closed on May 30 and June 4, 2013 respectively.
18. In a motion originally returnable on July 30, 2013, the Receiver sought an approval and vesting order in respect of the Ace Self Storage business and property. Melvyn A. Dancy (“**Dancy**”) appeared in person at the hearing and advised the Court that he was attempting to retain new counsel and requested an adjournment of the Receiver’s motion. Justice Morawetz granted an adjournment until August 6, 2013. At the return of the Motion on August 6, 2013, Dancy advised that he had still not been able to retain new counsel. Notwithstanding same, the approval and vesting

Order was granted for the sale of the Ace Self Storage business and property to Pace Savings & Credit Union Limited (“**Pace**”), which sales transaction was the culmination of a previously approved stalking horse sales process. Upon closing of the Ace Self Storage transaction, \$6.2 million was authorized to be distributed to the purchaser, Pace. In addition, an Order of the Court was granted on August 6, 2013 which, among other matters, approved interim distributions to the secured creditor of the Coldwater Property and the Brechin Property and reallocation of proceeds from 2338067 Ontario Inc. to Dondeb Inc., related to the sale of the Dorset Place property.

19. On December 2, 2013, the Court granted (i) an order approving a distribution from the remaining proceeds of sale of the Lafontaine Terrace Property; (ii) approval and vesting orders in respect of the sales of the Orillia Prep School, Orillia Retirement Residence, Whispering Pines, Pepper/Palmer and the 240 Yeoman Street properties; and (iii) an order that the motion brought by Dancy seeking leave to file a complaint against Farber be dismissed on a with prejudice basis and without costs unless Dancy provided written notice on or before January 10, 2014 of his intention to bring on the motion. Dancy did not provide such notice.
20. On March 24, 2014, the Court granted an order (i) authorizing the Receiver to consolidate the Segregated Accounts for Ontario Street, Coldwater, Devonshire Place, Sussex Place, 240 Yeoman Street, Brechin and Dorset Place into one account (the “**Dondeb General Account**”); (ii) authorizing the Receiver to transfer \$108,565.68 from the Dondeb General Account to the Tim Hortons/Wendy’s property Segregated Account to reimburse the Tim Hortons/Wendy’s property in respect of deemed trust amounts owing by Dondeb to Canada Revenue Agency (the “**CRA**”) which were paid to the CRA pursuant to the Order of Justice Morawetz made on February 13, 2013; (iii) authorizing the Receiver to distribute \$180,000 to Faithlife Financial in partial satisfaction of the charge/mortgage granted by 2009031 Ontario Inc. in favour of Faithlife Financial against the Tudhope Manor property; (iv) authorizing the Receiver to distribute \$180,000 to CRA in partial satisfaction of amounts deemed to be held in trust by 118 in favour of CRA;

(v) authorizing the Receiver to distribute the amount of \$160,000 to Empire Life in partial satisfaction of the charge/mortgage granted by Dondeb in favour of Empire Life from the proceeds of the Hatch House Montessori School property; (vi) authorizing the Receiver to distribute from the proceeds of sale in respect of the Tim Hortons/Wendy's property the amount of \$12,500 to Sun Life Assurance Company of Canada ("**Sun Life**") in full and final satisfaction of all amounts owing to Sun Life by Dondeb; and (vii) authorizing the Receiver to distribute from the proceeds of sale in respect of the Tim Hortons/Wendy's property the amount of \$100,000 to The Bank of Nova Scotia, Trustee ("**BNS**") in full and final satisfaction of all amounts secured in respect by a charge/mortgage granted by 2339506 Ontario Inc. in favour of BNS as against the Tim Hortons/Wendy's Property. Also on March 24, 2014 approval and vesting orders in respect of the sales of the Rockin Boats, Remo's Ristoronti, Scotia Rd. and Barrie Business Centre properties were granted. As well, an approval and vesting order in respect of a transaction involving the Feed-in-Tariff contract ("**FIT Contract**") between Dondeb and Ontario Power Authority related to the Rockin Boats property was made.

21. On May 2, 2014, the Court granted an Order (i) approving the Twelfth Report and the activities of the Receiver set out therein; (ii) authorizing the Receiver to distribute the amount of \$2,630,000 to First Source Mortgage Corporation and Mark Cosman ("**First Source/Cosman**") and in partial satisfaction of the charge/mortgage granted by Dondeb, in favour of First Source/Cosman in the original principal sum of \$7,100,000 registered on September 1, 2011 as Instrument No. SC928251 (the "**First Source BBC Charge**") against the BBC property from the funds held by the Receiver in the account maintained for the BBC property; (iii) authorizing the Receiver to distribute the amount of \$160,000 to First Source/Cosman in partial satisfaction of the charge/mortgage granted by Dondeb, in favour of First Source/Cosman in the original principal sum of \$150,000 registered on August 24, 2012 as Instrument No. SC1006304 (the "**First Source Tim Hortons Charge**") against the Tim Hortons/Wendy's property from the funds held by the Receiver in the account maintained for the Remo's Ristoronti property; and (iv) authorizing the Receiver to distribute the amount of \$250,000 to The Toronto-

Dominion Bank (“**TD**”) in partial satisfaction of the charge/mortgage granted by Dondeb to The Canada Trust Company as custodian for TD in the original principal amount of \$712,000, registered on November 1, 2005 as Instrument No. SC382515, against the Rockin Boats property from the proceeds of sale of the Rockin Boats property. A copy of the May 2, 2014 Order is attached hereto as **Appendix “F”**.

22. In summary, to date, of the 25 Properties, sales have been completed in respect of the following 23 Properties: Tim Hortons/Wendy’s, Dorset Place, Preston Springs Gardens, Devonshire Place, Coldwater, Brechin, Georgian Manor, Sussex Place, Ontario Street, Hatch House Montessori School, Tudhope Manor, the Lafontaine Terrace, the Ace Self Storage, Orillia Prep School, Orillia Retirement Residence, Whispering Pines, Pepper/Palmer, Yeomen Street, Rockin Boats, Remo’s Ristoronti property, Scotia Road, and the Barrie Business Centre.

## 2. PURPOSE OF REPORT

23. The Purpose of this thirteenth report to the Court of the Receiver (the “**Thirteenth Report**”) is to report to the Court on the activities of the Receiver since the filing of the Receiver’s Twelfth Report to the Court and to provide support for the Receiver’s request for an Order:
- (i) approving the Thirteenth Report and the activities of the Receiver set out therein;
  - (ii) approving the completion of the sale transaction (the “**FIT Transaction**”), related to the property at 92 Davidson Avenue, Barrie, ON, contemplated by the agreement of purchase and sale between the Receiver as vendor and Solara Sustainable Energy Company Limited as purchaser (the “**FIT Purchaser**”) made as of July 8, 2014 (the “**FIT APS**”), approving and authorizing the Receiver to enter into and take steps in accordance with the development agreement date July 8, 2014 between the FIT Purchaser and the Receiver (the “**Development Agreement**”), approving and authorizing the Receiver to enter into and take steps in accordance with

consent agreement made as of July 8, 2014 (the “**Consent Agreement**”) between the Receiver and Ontario Power Authority (“**OPA**”), vesting in the FIT Purchaser the Assumed Contracts (as defined and described in the FIT APS) free and clear of encumbrances, other than Permitted Encumbrances (as defined in the FIT APS); and sealing and treating as confidential **Confidential Appendices 1 and 2** to the Thirteenth Report until closing of the transaction set out in the FIT APS or further order of the Court and providing that the relief set out in the order be subject to provisional execution;

- (iii) approval of Farber’s fees and disbursements as Receiver for the period October 17, 2012 to May 31, 2014; and approval of the fees and disbursements of Farber’s independent legal counsel, counsel Dentons LLP (“**Dentons**”), for the period October 17 2012 to May 31, 2014 and Cassels, Brock & Blackwell LLP (“**Cassels**”) for the period March 2, 2014 to May 31, 2014 for the following 13 properties: Ace Self Storage and Business Centre Inc., 240 Yeoman, Brechin, Coldwater, Devonshire, Dorset Place, Georgian Manor, King City Holdings (Belleville – Pepper/Palmer), Ontario Street, Orillia Independent Living, Preston Springs, Sussex Place and Tudhope Manor.

### **3. DISCLAIMER**

24. Farber has relied upon the financial records and information provided by the Debtors, as well as other information supplied by management, appraisers, accountants, auditors and advisors.

### **4. RECEIVER’S ACTIVITIES**

25. Since May 2, 2014, the Receiver’s activities have included, among other things:
- Monitoring receipts and disbursements, coordinating Receiver’s Borrowings, property tax and debt service payments where cash flow permits and liaising with mortgagees, as appropriate;

- Attending to distribution of funds pursuant to the Court Order dated May 2, 2014;
- Overseeing and monitoring of ongoing operations at Orillia Independent Living, in concert with the current business managers and review and negotiation of offers;
- Monitoring the listing of the Leon's property and expressions of interest;
- Corresponding with prospective purchasers of the remaining Properties; and
- Corresponding by email and telephone with the Debtors' creditors.

**5. APPROVAL OF SALE OF FIT CONTRACT – 92 DAVIDSON AVENUE, BARRIE, ONTARIO**

26. As previously reported in the Receiver's eleventh report to the Court (the "**Eleventh Report**"), Dondeb held four feed-in-tariff contracts ("**FIT Contracts**") with the OPA which were specifically related to the Ace Self Storage and Business Centre, Leon's, Barrie Business Centre and Rockin Boats properties.
27. The FIT Contract contemplates that a project (i.e. solar panels) be constructed in a certain manner and once the project is constructed and complete, OPA will purchase the electricity produced at set contract prices and for a certain duration. (in the above instances, 20 years).
28. The Receiver previously assigned its rights in the FIT Contract associated with the Ace Self Storage and Business Centre property to the purchaser of those assets. In addition, the Receiver obtained Court approval on March 24, 2014 to sell its interest in the FIT Contract associated with the Rockin Boats property, subject to both the consent of the OPA as well as Hydro One Networks Inc. ("**HONI**").
29. The completion of the Rockin Boats FIT project is in process and the Receiver expects that commercial operation will be achieved in the very near future. After commercial operation is achieved, the Receiver will seek the consent of OPA and

HONI to the assignment of the FIT Contract associated with the Rockin Boats Property to the purchaser of that contract.

30. With respect to the FIT Contract associated with the Barrie Business Centre property (the “**Barrie FIT Contract**”), the Receiver is now seeking the Court’s approval of the FIT Transaction contemplated by the FIT APS, the Development Agreement and OPA Consent Agreement. A copy of each of the FIT APS (with the purchase price redacted), the Development Agreement and the Consent Agreement are attached hereto as **Appendices “G”, “H” and “I”** respectively.
31. A copy of the unredacted FIT APS is attached as **Confidential Appendix “1”**. Consistent with other transactions wherein court approval is being sought, the Receiver is seeking a sealing order of the Confidential Appendices pending the earlier of the completion of the transaction contemplated by the FIT APS or further Order of the Court in order to ensure that value of the Property is not impacted if the FIT Transaction does not close.
32. As part of the Receiver’s marketing efforts with respect to the Barrie Business Centre real property, the Receiver, through its counsel, engaged Steenhof Building Services Group (“**Steenhof**”) to conduct a structural feasibility report to confirm whether the Barrie Business Centre rooftop could safely support project contemplated by the Barrie FIT Contract. Steenhof concluded that the Barrie Business Centre rooftop could not safely support the size of the project contemplated by the Barrie FIT Contract without significant structural reinforcement.
33. Additionally, the purchaser of the Barrie Business Centre real property advised the Receiver that they had no interest in purchasing the Barrie FIT Contract as part of their transaction. Accordingly, the Receiver commenced marketing the Barrie FIT Contract separate and apart from the associated real property.
34. The Receiver noted in the Eleventh Report that the marketing of FIT contracts was limited by a number of factors including:

- (i) the requirement of the OPA to consent to an assignment of the FIT Contract to a new entity particularly where the intent is to move the FIT Contract to a new location;
  - (ii) securing a new building in the appropriate geographical location which is also on the same connection point (transmission station) to the power grid as the old location;
  - (iii) the new building rooftop is required to be of sufficient size to host the FIT Contract and must pass structural assessments in order to construct and install the solar panels thereon.
35. Based on the Receiver's experience in marketing the Rockin Boats FIT project, the Receiver understood that an effective marketing strategy for the Barrie FIT Contract was to approach prospective parties (the "**Prospective Purchasers**") that specialized in the construction and installation of medium to large scale solar systems, engineering firms and parties in the construction/real estate industry. The Receiver was aware that in order to attract a purchaser for the Barrie FIT Contract, the Prospective Purchasers would need to be successful in securing a building that met the requirements listed above.
36. Additionally, there is a fine balance required in the number of Prospective Purchasers seeking out acceptable buildings that can accommodate the project contemplated by the Barrie FIT Contract. The Receiver was mindful of the potential negative impact on the Barrie FIT Contract price if numerous Prospective Purchasers were marketing to the same building owners as a result of the limited geographical area.
37. Accordingly, the Receiver approached 6 Prospective Purchasers. As a practical matter, any Prospective Purchaser was required to identify a property that was sufficient in size to host the Barrie FIT Contract, passed a structural assessment and had an owner that was willing to have a solar system installed on the building rooftop.

38. The Receiver advises the Court that only one of the Prospective Purchasers was able to locate a building that met all the above conditions and requirements. Accordingly the Receiver negotiated and has now entered into the FIT APS, the Development Agreement and the Consent Agreement, which all relate to the Barrie FIT Contract.
39. The Consent Agreement provides the OPA's consent to an amendment of the Barrie FIT Contract so that the contract can be associated with a new location (which is within the required geographical area). The Barrie FIT Contract, rather than being associated with the Barrie Business Centre property will be associated with 364 Vincent Street, Barrie, Ontario.
40. Under the Development Agreement, the FIT Purchaser agrees to cause the construction of the infrastructure necessary to support the connection contemplated by the FIT Contract at the new location.
41. Finally, under the FIT APS, the Receiver has agreed to sell its interest in the Barrie FIT Contract to the FIT Purchaser, subject to both the consent of the OPA as well as HONI. The Receiver notes that the consent of OPA and HONI to the sale of the Barrie FIT Contract from Dondob to the FIT Purchaser will not be sought until the project has achieved commercial operational.
42. In the Eleventh Report, the Receiver's consultant disclosed a purchase price range of its five previous transactions. The Receiver is of the view that the purchase price agreed upon with the FIT Purchaser compares favourably to the price range provided in the Eleventh Report and takes into account the effect of the limited geographical location, the size and structural capabilities of the new location and the willingness of the building owner to install a solar system on its building rooftop. The Receiver is of the view that it is reasonable in the circumstances to approve the FIT APS, the Consent Agreement and the Development Agreement. A copy of the relevant portion of the Confidential Appendices of the Eleventh Report addressing the foregoing price range of comparable transactions is attached as **Confidential Appendix 2**. The Receiver further notes that the sale price for the FIT

Contract compares favourably to the price of the Rockin Boats FIT Contract that was previously approved by this Honourable Court.

43. The Receiver continues to market (separately from the associated real property) the FIT Contract associated with the Leon's property as the Receiver also understands that the building on this location is also not structurally able to support a solar system project.

**6. APPROVAL OF RECEIVER AND INDEPENDENT LEGAL COUNSEL FEES AND DISBURSEMENTS**

44. Pursuant to paragraph 20 of the Appointment Order, the Receiver and its legal counsel shall pass its accounts from time to time and seek such approval from this Honourable Court.
45. Set out below in further detail are the Receiver's fees and costs and that of its independent legal counsel Dentons and Cassels for 13 properties, on which the Receiver and its legal counsel are seeking court approval. Each firm's fees and costs analysis is supported by Fee Affidavits attached to this Thirteenth Report, which is reported on in more detail below.
46. At this time the Receiver is not seeking approval of its and its counsel's fees and disbursements specifically allocable to the other Properties or of that attributable to General Administrative and Restructuring Expenses (GARE) which, according to the Receivership Order is to be tracked separately.
47. For the benefit of this Honourable Court, we set out further background information below on the complexity and challenges faced on the Dondeb group global receivership, including a description of the state and condition of the legal entities and properties inherited at the onset of the receivership on October 17, 2012.
48. The Dondeb group of companies and underlying properties represented a diverse range of properties, operations and stakeholders. Properties ranged from a golf course, to schools to retirement homes to apartment buildings to commercial properties for lease, each with some form of ongoing operation, and also various

properties held for development. It comprised 12 companies, 25 properties and over 25 different mortgagees.

49. In the period preceding the receivership, the combination of the severe liquidity challenges, management and infrastructure shortcomings, negatively impacted the state and condition of the individual properties and underlying operations in a significant way. In addition, the individual company's financial reporting and controls were in significant arrears and of little utility at the time of the Receivership Order, which presented further challenges in managing the affairs of the Dondeb group. Deficiencies at the time included:

- (i) Cash management and banking was in significant disarray at the time of the Receiver appointment. There was neither cash management nor bank accounts in place by individual property and legal entity, rather cash was pooled from across the property portfolio and transferred between entities and properties as needed. Additionally, funds borrowed by specific entities were routinely utilized across the Dondeb group.
- (ii) The books and records of the companies and underlying properties were in excess of 3 months in arrears at the Receiver's appointment, while the most recent annual financials statements (review engagement) for legal entities completed was up to December 31, 2010 and/or December 31, 2009 or April 30, 2010 in the case of King City Holdings Ltd.
- (iii) There was over \$2 million in CRA payroll and HST obligations accrued and owing effective October 17, 2012 going back over three years for six entities and related properties.
- (iv) Significant arrears in municipal property taxes had accrued being in excess of \$800,000.
- (v) There were numerous deficiencies in property management, reporting and compliance including: failure to pay insurance premiums resulting in issuance of cancellation notices; threatened or actual disconnection of

property service and utility providers including elevators services due to non payment; deferral of property maintenance, which in certain instances resulted in municipal by-law infractions; failure to comply with Retirement Home Regulatory Authority Agency (“**RHRA**”) application and reporting deadlines; failure to coordinate in a timely and orderly fashion audit and other regulatory reporting to obtain certain government funding (grants and subsidies) for day care (school) and retirement home (subsidies); and non-compliance with certain safety and environmental matters.

- (vi) As a result of increasing liquidity challenges prior to receivership, which included the fact Dondeb was forced to sell revenue producing properties, the Dondeb group continued to leverage the existing property portfolio with expensive subordinated debt and collateral mortgages. Additionally, CRA obligations and municipal taxes were not paid as it attempted to survive on reduced cash flow. This layering on of debt and further obligations has made for a complex unwinding of the legal entities and property portfolio and ensuing sale of individual properties. This has added a level of complexity in terms of the formulation of the marketing and sales strategy for each property, the determination of rights of certain mortgagees and creditors, and ultimately the sale of each property and distribution of proceeds. In particular, in addition to specific security rights, there have been and are allocation, apportionment and marshalling rights which are required to be addressed.
50. In summary, the Receiver and its independent legal counsel inherited a highly dysfunctional group of entities and properties, which has required extensive effort to first stabilize operations and then put in place the infrastructure to help manage individual properties and legal entities going forward.
51. Further with the benefit of hindsight, the asserted value of the individual properties and overall portfolio was much inflated, with many properties located outside the GTA in tougher real estate markets, and in certain instances not fully developed. As

a consequence, significant time and resources were committed on the part of the Receiver and its legal counsel to work with the relevant mortgagees, and as appropriate seek appraisals and multiple competitive listing proposals, so that a marketing and sales process could be tailored to the property and mortgagees, and in so doing validate where the market value truly was for these properties.

52. Since the onset of the receivership, there has been an extensive effort on the part of the Receiver to address the significant accounting, operational and property deficiencies, which included the requirement to set up and maintain ring fenced accounting and segregated banking as mandated by section 3 of the Receivership Order, while coincident with this, properties were prepared for marketing and sale through consultation with the relevant mortgagees.
53. Over the period of the Receivership Proceedings to date, 12 court reports have been submitted (as well as four supplemental reports) and the Receiver's activities were approved as set out in each of those reports.
54. Since the onset of the Receivership, the Receiver has on a regular basis distributed invoices of the Receiver and its legal counsel to the mortgagees by property for review.
55. Detailed particulars by property are set out in the affidavit of fees provided by the Receiver and its legal counsel, which are referenced below. Key activities common to most properties have included: control, stabilization and ongoing monitoring of operations including in certain instances the need to attend to resumption of essential services and deferred maintenance; implementation and maintenance of ring fenced accounting, segregated banking and ongoing monitoring of cash flow, including attending to Receiver's Borrowings; liaising with the mortgagees; liaising with legal counsel; retaining real estate listing agents to list and market the properties for sale; compilation of information to facilitate interested party due diligence; review of offers in conjunction with the listing agents and the relevant mortgagees; negotiation of APS documents; reporting to court; court approval of

transactions and closing of same; review of security and attending to approval of distribution of proceeds to the mortgagees.

56. Significant time was also spent dealing with the opposition of a number of motions as well as motions by and/or ad hoc requests of the Dondeb principal Mr. Mel Dancy (on behalf of the Debtors) in concert with various advisors in an attempt at recapitalization of the Dondeb Group and termination of the Receivership Proceedings. Ultimately, the Debtor's recapitalization plans were not successful. Nonetheless, extensive time and effort was required on the part of the Receiver and its legal counsel, in order to deal these matters on a fair and equitable basis. The delay and extra time and effort did increase the level of fees and disbursements on various properties.

57. Set out below is a table summarizing the fees and costs of the Receiver and its independent legal counsels from October 17, 2012 to May 31 2014 for the 13 properties listed:

**Dondeb Group  
Summary of Fees to May 31, 2014 inclusive of HST**

<b>Property</b>	<b>Farber</b>	<b>Dentons</b>	<b>Cassels</b>	<b>Total</b>
Ace Self Storage and Business Centre Inc. 240 Yeoman Street	\$ 174,139.10	\$ 88,827.95		\$ 262,967.05
Brechin	\$ 17,101.45	\$ 19,029.61		\$ 36,131.06
Coldwater	\$ 14,821.94	\$ 16,542.79		\$ 31,364.73
Devonshire Place	\$ 22,076.10	\$ 25,423.62		\$ 47,499.72
Dorset Place	\$ 29,717.51	\$ 37,102.32		\$ 66,819.83
Georgian Manor	\$ 108,456.63	\$ 148,202.39		\$ 256,659.02
King City Holdings Ltd.	\$ 38,823.66	\$ 35,437.36		\$ 74,261.02
Orillia Independent Living	\$ 20,049.13	\$ 20,336.91		\$ 40,386.04
Ontario Street	\$ 306,526.05	\$ 59,424.68	\$ 1,044.12	\$ 366,994.85
Preston Springs	\$ 17,078.51	\$ 24,650.27		\$ 41,728.78
Sussex Place	\$ 43,523.67	\$ 55,619.36		\$ 99,143.03
Tudhope Manor	\$ 170,462.43	\$ 136,996.29		\$ 307,458.72
	\$ 126,172.28	\$ 50,584.50	\$ 223.74	\$ 176,980.52
	<b>\$ 1,088,948.46</b>	<b>\$ 718,178.05</b>	<b>\$ 1,267.86</b>	<b>\$ 1,808,394.37</b>

58. From the period October 17, 2012 to May 31, 2014 Farber, in its capacity as Receiver has incurred fees of \$949,926.00 and disbursements of \$15,532.06 plus HST of \$123,490.40 specifically in respect of the 13 properties for which approval is sought. A copy of the detailed billings of the Receiver, supported by the Affidavit of Paul Denton sworn July 21, 2014, is attached as **Appendix "J"**. Effective the

date of this report, the Receiver has been paid \$1,062,641.53 of these fees, disbursements and HST.

59. From the period October 17, 2012 to May 31, 2014 the Receiver's legal counsel, Dentons, has incurred fees \$626,052.00 and disbursement of \$9,610.93, plus HST of \$82,515.12 specifically in respect of the 13 properties for which approval is sought. A copy of the detailed billings of Dentons, supported by the Affidavit of Neil S. Rabinovitch sworn July 21, 2014, is attached as **Appendix "K"**. Effective the date of this report, Dentons has been paid \$683,062.44 of these fees, disbursements and HST.

60. From the period March 1, 2014 to May 31, 2014 the Receiver's legal counsel, Cassels, has incurred fees of \$1,122.00 and disbursement of nil plus HST of \$145.86 specifically in respect two of the 13 properties for which approval is sought. A copy of the detailed billings of CBB, supported by the Affidavit of Jane Dietrich sworn July 18, 2014, is attached as **Appendix "L"**.

## 7. STATUS OF MARKETING AND SALE PROCESS OF THE REMAINING PROPERTIES

61. Summarized below (by Property number and name) is the status of the marketing and sales process of the remaining properties up to July 21, 2014:

**21) Orillia Independent Living** (20 Simcoe St., Orillia, Ontario) – The Receiver has listed the Property with Jensen Realty ("**Jensen**") since January 18, 2013 which was extended by a series of listing extensions through to May 31, 2014. Effective the date of this reporting the property is under contract, as due diligence is undertaken pursuant to an agreement of purchase and sale entered into on July 21, 2014.

**23) Leon's** (555 Memorial Ave., Orillia, Ontario) – The Receiver continues to market the property through a listing agent. There have been a number of enquiries and offers submitted, however, no acceptable offer has been received to date.

**8. RECOMMENDATION**

62. The Receiver respectfully recommends that this Court grant an order for the relief requested in Section 2 hereof.

**A. FARBER & PARTNERS INC.**  
**In its capacity as Receiver of the Debtors**  
**Listed on Appendix A and not in its personal capacity**

A. Farber & Partners Inc.

# APPENDIX “A”

**SCHEDULE "A"**

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

# APPENDIX “B”

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE

)

WEDNESDAY, THE 17<sup>TH</sup>

JUSTICE C. CAMPBELL

)

DAY OF OCTOBER, 2012

)

**THE TORONTO-DOMINION BANK AND THE CANADA TRUST COMPANY**

Applicants

- and -

**DONDEB INC., FIRST SOURCE MORTGAGE CORPORATION AND ONTARIO  
WEALTH MANAGEMENT CORPORATION**

Respondents

**ORDER**

THIS APPLICATION made by the Applicants including the Creditors defined in Schedule "B" hereto 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 A. Farber & Partners Inc. as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of the Debtors referred to at Schedule "A" attached hereto (the "Debtors") acquired for, or used in relation to the business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

WHEREAS those Debtors are defined in Schedule "A" to the Notice of Application in Court File Number CV-12-00009865-00CL which Schedule is attached hereto as Schedule "A".

ON READING the materials filed by the parties in Court File No. CV-12-00009865-00CL and upon hearing the submissions of the Counsel for the Debtors and Counsel for the Creditors listed in Schedule "B" hereto,

## **APPOINTMENT**

1. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, A. Farber & Partners Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties including real property listed as Schedule "C" hereto ("Real Property") of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (the "Property").

## **RECEIVER'S POWERS**

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the 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) after consulting with the relevant mortgagees, and upon obtaining their consent or FURTHER ORDER OF THIS COURT market any or all of the Real Property, including advertising and soliciting offers in respect of the Real Property or any part or parts thereof, signing listing agreements in respect of the Real Property or any part(s) thereof, and negotiating such terms and conditions of sale as the Receiver in consultation with the Mortgagees may deem appropriate, subject to prior approval of this Court being obtained before any sale is completed;
- (e) 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;
- (f) 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;
- (g) to receive and collect all monies subject to provisions in paragraph number 3 herein 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;
- (h) to settle, extend or compromise any indebtedness owing to the Debtors;
- (i) 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;
- (j) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;

- (k) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the 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;
  - (l) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
  - (m) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
    - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000.00, provided that the aggregate consideration for all such transactions does not exceed \$500,000.00; and
    - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each 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, and in each case the Ontario *Bulk Sales Act* shall not apply.
- (n) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
  - (o) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the

Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (p) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (q) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (r) to file assignments into bankruptcy for any of the Debtors with leave of the Court on notice to the Debtors;
- (s) 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;
- (t) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have;
- (u) to undertake improvements to the property municipally known as 92 Davidson Street, Barrie, Ontario upon the consent of the mortgagees thereof; and
- (v) 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.

### **Ring-Fencing and Use of Funds**

3. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected, 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 of the Debtors in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into new property-specific accounts (the "Segregated Accounts") to be opened by the Receiver immediately. The number of Segregated Accounts so opened shall be equivalent to the number of properties owned by the Debtors in the aggregate. The Segregated Accounts shall be segregated such that all receipts in respect of a property shall be deposited into the Segregated Account opened in respect of such property and all permitted disbursements (the "Permitted Disbursements") in respect of such property shall be withdrawn therefrom, if sufficient funds are available. "Permitted Disbursements" shall mean, in relation to the property in respect of which a Segregated Account has been opened, realty taxes, utilities, payroll, insurance, maintenance expenses, other reasonable property-specific expenses and business expenses associated with such property. The Receiver shall have sole signing authority over the Segregated Accounts. The monies, if any, standing to the credit of each Segregated Account, net of any Permitted Disbursements provided for herein, shall be paid on a monthly basis to the mortgagees of such property according to the priority of the registration of such mortgagees' mortgages, or any further Order of this Court. For greater certainty, the term "property" in this paragraph shall include the Business operated by Ace Self Storage and Business Centre Inc. and Pace Savings Credit Union Limited shall be treated as a mortgagee thereof.

4.

- a. THIS COURT ORDERS THAT no payments shall be made to any secured creditor, pursuant to paragraph 3 or 4 otherwise, by the Receiver unless and until the Receiver receives an opinion that such secured creditor's security is valid and enforceable, subject to customary qualifications and assumptions or further Order of the Court.

- b. THIS COURT ORDERS that the lock box arrangements with respect to Briarbrook Apartments Inc. shall remain in effect.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

5. THIS COURT ORDERS that (i) the Debtors, (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.

6. 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 6 or in paragraph 7 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.

7. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully

copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

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, 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 is 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, 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.

### **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 in the appropriate Segregated Accounts as outlined in paragraph 3 herein 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 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**

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 Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. 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**

17. 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 without limitation, pursuant to Retirement Homes Act, 2010, S.O. 2010 ch.11, 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**

18.

- a) THIS COURT ORDERS that the Receiver and its counsel shall be entitled to and is hereby granted a Charge (the "Pre-Filing Receiver's Charge") on the Property as security for such fees and disbursements incurred before this Order was made, to be paid upon sale or refinancing of the relevant Property or Business to each of the Real Properties described in Schedule "C" hereto in the amount of \$11,000.00 per Real Property or Business.
- b) THIS COURT FURTHER 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, 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 incurred 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.

- c) The Receiver and its Counsel shall allocate their respective fees and disbursements with respect to work done on each of the Debtor's Property including Ace Self Storage & Business Centre Inc.

19. THIS COURT ORDERS that the Receiver is hereby authorized to deposit proceeds of sale of any personal property of the Debtors into the appropriate Segregated Account and in connection with Dondeb Inc., the Receiver shall be authorized to apply the said proceeds to the General Restructuring Administrative Expenses (GARE). The Receiver and its Counsel shall keep separate records for GARE defined in paragraph 19 herein.

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 normal 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 is empowered with the consent of the Mortgagees, not including Collateral Mortgagees, of the Real Property against which the borrowings are required 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 \$500,000.00 (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. For greater certainty the foregoing limit shall not include borrowings for completion of the Barrie Business Centre. The whole of each Real Property as defined in respect of which the borrowings have been incurred 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 "D" 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.

#### **GENERAL**

26. 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.

27. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a Trustee in Bankruptcy of the Debtors.

28. 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.

29. 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.

30. THIS COURT ORDERS that in order to facilitate the administration of the within Receivership, the following proceedings, each being Notices of Intention to Make a Proposal. Specifically:

- (a) Dondeb Inc. – 31-1664344
- (b) Ace Self Storage & Business Centre – 31-1664774
- (c) 1711060 Ontario Ltd. – 31-1664775
- (d) 2338067 Ontario Ltd. – 31-1664772
- (e) King City Holdings Ltd. – 31-1671712
- (f) 1182689 Ontario Inc. – 31-1671611
- (g) 2198392 Ontario Inc. – 31-1673260.

are hereby stayed and suspended pending further Order of the Court.

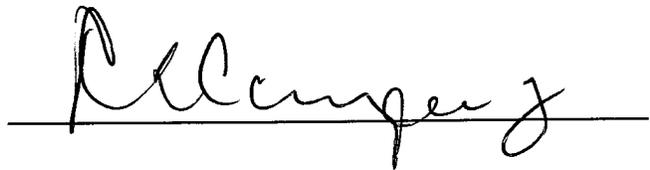
31. THIS COURT ORDERS that the title of proceedings in this matter be changed to read as follows:

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

IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE DEBTORS LISTED AT SCHEDULE "A" HERETO.

32. THIS COURT ORDERS that the Applicant shall have its costs of this motion, 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' estates with such priority and at such time as this Court may determine.

33. 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.



ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.

OCT 22 2012

## Schedule "A"

### The Debtors

Dondeb Inc.

1281515 Ontario Inc.

2338067 Ontario Inc.

2198392 Ontario Ltd.

King City Holdings Ltd.

Guelph Financial Corporation

Briarbrook Apartments Inc.

2009031 Ontario Inc.

1267818 Ontario Ltd.

1711060 Ontario Ltd.

1182689 Ontario Inc.

Ace Self Storage and Business Centre Inc.

## Schedule "B"

The Creditors Present in Court on October 17, 2012

Pace Savings & Credit Union Limited

Vector Financial Services Limited

First Source Mortgage Corporation

Mark Cosman, Trustee

The Empire Life Insurance Company

RMG Mortgages, a division of MCAP Financial Corporation

FaithLife Financial

Addenda Capital Inc.

Virgin Venture Capital Corporation

The Bank of Nova Scotia Trust Company, in trust

RDB (Toronto) Holdings Inc.

Susan Michaels Holdings Limited

Comfort Capital Inc.

JLJR Investments Inc.

1522648 Ontario Inc.

Berend Koopmans

Michael Swartz

Audrey Michaels

The Toronto-Dominion Bank and The Canada Trust Company

Schedule "C" - Real Properties

Properties of Dondob Inc. and Related Companies

Registered Owner of the Property	Number	Property Name	Municipal Description	Property Value	Property Tax Averages	Mortgages	Current Balance	Interest Rate	Maturity Date	Guarantor
Dondob Inc. (NOI Under the BIA filed 11-Sep-12)	1	Ace Self Storage (437 indoor storage units and office rental space, 105,000 sq ft)	256 Hughes Rd. Orillia, ON; 270 Hughes Rd, Orillia, ON; 4575 Huronia Rd, Orillia, ON	\$135,962.59 (256 Hughes Rd.) \$49,141.14 (270 Hughes Rd.) \$10,458.12 (4575 Huronia Rd.) = \$195,561.85	\$135,962.59 (256 Hughes Rd.) \$49,141.14 (270 Hughes Rd.) \$10,458.12 (4575 Huronia Rd.) = \$195,561.85	COLLATERAL 1- Pace Savings & Credit Union Limited 2- Pace Savings & Credit Union Limited 3- Pace Savings & Credit Union Limited (Pace loans collateralized with Ace Self Storage and Business Centre Inc.) 4- Vector Financial Services Limited 5- First Source Mortgage Corporation / Mark Cosman	\$3,450,000 \$1,550,000 \$1,550,000	Prime +1% Prime +1% Prime +1%	Matured Matured Matured	
	2	Ontario St. (Vacant land zoned for industrial, 1.5 acres)	6 Ontario St. Orillia, ON	\$2,647.54	\$2,647.54	1- Fred Rankel	\$800,000	12.00%	1-Jan-14	● Fred Rankel loan - Mel Dancy, 1182689 Ontario Inc., and King City Holdings Ltd.
	3	Coldwater (Vacant land zoned for 120 unit condominiums, 3.96 acres)	233, 249 & 261 Coldwater Ave. Orillia, ON	1,226.77 (233) + 812.10 (249) + 1,212.94 (261) = \$3,251.81	1,226.77 (233) + 812.10 (249) + 1,212.94 (261) = \$3,251.81	1- Fred Rankel	\$800,000	12.00%	1-Jan-14	● Fred Rankel loan - Mel Dancy, 1182689 Ontario Inc., and King City Holdings Ltd.
	4	Devonshire Place (1 Unit Rental Condo, 550 sq ft)	15390 Yonge St Unit 208 Aurora, ON	NIL	NIL	1- Laurentian Bank of Canada	\$73,868	3.00%	1-Aug-14	● Laurentian loan - Mel Dancy
	5	ProSpan / Rockin Boats (Tenanted 1 unit industrial building, 26,000 sq ft)	61 Forest Plain Rd. Orillia, ON	\$108,861.18	\$108,861.18	1- The Canada Trust Company	\$572,974.25 (as of June 12, 2012)	5.74%	Matured	● Canada Trust Company loan - Mel Dancy
	6	Remo's Restaurant (Vacant restaurant, 4,155 sq ft on 0.845 acres of land)	480 West St. South, Orillia ON	NIL	NIL	COLLATERAL 2- First Source Mortgage Corporation 1- Ontario Wealth Management Corporation	\$300,000 = \$372,974	10.5%	1-Aug-12	● First Source loan - Mel Dancy
							\$1,000,000	12.75%	1-Jan-11 (Derek advises extended to 1-Jan-13)	● Ontario Wealth Management loan to Mel Dancy

Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	Number	Property Name	Municipal Description	Property Value	Property Tax Arrears	Mortgages	Current Balance	Interest Rate	Maturity Date	Guarantor
Dondeb Inc. (NOI Under the BIA filed 11-Sep-12)	7	Orillia Retirement Residence (31 unit retirement home, 27,438 sq ft)	24 Simcoe St. Orillia ON	\$44,823.31	1- Vector Financial Services Limited 2- A.&L. Cabrio Investments Ltd. et al (New Haven)	\$2,900,000 \$1,500,000 = \$4,400,000	8.75% 8.75%	10-Jun-12 26-Apr-12	• Vector loan - Mel Dancy	
	8	Sussex Place (47 unit apartment building, 6 storeys, located on 0.9 acres of land)	205 Vodden Street East Brampton, ON	\$40,630.29	1- The Empire Life Insurance Company 2- Ontario Wealth Management Corporation COLLATERAL 3- First Source Mortgage Corporation / Mark Cosman	\$2,682,892.11 (as of September 14, 2012) \$800,000 \$4,121,840.71 (as of September 20, 2012) = \$7,604,733	5.3% 12.5% 9.5%	1-Oct-15 1-Feb-08 1-Sep-13	• Empire Life loan - Mel Dancy • Ontario Wealth Management loan - Mel Dancy, 1134927 Ontario Inc.	
	9	Barrie Business Center (1 tenant large industrial space under construction, 90% complete for phase 1 current building 34,500 sq addition is 26,000 sq ft)	92 Davidson St Barrie, ON	\$11,878.61	1- First Source Mortgage Corporation / Mark Cosman 2- 1160145 Ontario Inc.	\$4,121,840.71 (as of September 20, 2012) \$53,773 = \$4,175,614	9.5% 4.00%	1-Sep-13 11-Oct-12	• 1160145 Ontario Inc. loan - Mel Dancy	
	10	Tim Hortons & Wendy's (Leased restaurant, 3,700 sq ft on 1.86 acres of land)	525 - 545 Memorial Ave Orillia, ON	\$12,069.00	1- Clarica Life Insurance Company 2- Ontario Wealth Management Corporation 3 - Bank of Nova Scotia Trust Company COLLATERAL 4 - First Source Mortgage Corporation/Mark Cosman	\$481,238.41 (as of 18-Sep-12) \$1,000,000 \$1,600,000 \$150,000 (as of September 20, 2012) = \$3,231,238	4.3% 12.75% 11.5% 9.5%	1-Jun-16 1-Jan-11 (Derek address extended to 1-Jan-13) 23-Aug-13 1-Sep-13	• Clarica Life loan - Mel Dancy • Ontario Wealth Management loan - Mel Dancy	
	11	240 Yeoman (Vacant land zoned for 68 unit condominium site, 3.96 acres)	240 Yeoman St. Belleville, ON	\$12,114.29	1- Fred Rankel	\$800,000	17.00%	1-Jan-14	• Fred Rankel loan - Mel Dancy, 1182689 Ontario Inc., and King City Holdings Ltd.	

Properties of Dandeb Inc. and Related Companies

Registered Owner of the Property	Number	Property Name	Municipal Description	Property Value	Property Tax Arrears	Mortgages	Current Balance	Interest Rate	Maturity Date	Grantor
	12	Brechin (100 acre farm, no residence on it)	Brechin (near Orillia, ON)		\$307.99	COLLATERAL 1- Fred Rankel	\$800,000	12.00%	1-Jan-14	•Fred Rankel loan - Mel Dancy, 1182689 Ontario Inc., and King City Holdings Ltd.

Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	Number	Property Name	Municipal Description	Property Value	Property Tax Arrears	Mortgages	Current Balance	Interest Rate	Maturity Date	Guarantor
1182689 Ontario Inc. (NOI Under the BIA filed 1-Oct-12)	13	Hatch House Montessori School (School, 8,315 sq ft on 21,389 sq ft of land)	301 Byron Street South, Whibly, ON	\$39,197.70	1- The Empire Life Insurance Company 2- Minister of Finance	\$493,270 (as of 14-Sep-12) \$518,235 = \$1,011,505	5.60%	1-Apr-2016	● Empire Life loan - Mel Dancy	
	14	Orillia Prep School (School, 3,681 sq ft on 11,475 sq ft of land)	547 Laclie St, Orillia, ON	\$1,267.66	1- Ontario Wealth Management Corporation	\$1,000,000	12.75%	1-Jan-2011 (Derekackises extended 1-Jan-2013)	● Ontario Wealth Management loan - Mel Dancy	
King City Holdings Ltd. (NOI Under the BIA filed 1-Oct-12)	15	Belleville (Pepper) (Vacant land zoned for 17 townhomes, 4.77 acres )	Belleville, ON	\$1,486.91	1- Ontario Wealth Management Corporation	\$300,000	10.00%	1-Apr-10	● Ontario Wealth Management loan - Mel Dancy	
	16	Belleville (Palmer) (Vacant land zoned for 16 townhomes, 4.72 acres)	Belleville, ON		1- Ontario Wealth Management Corporation	\$300,000	10.00%	1-Apr-10	● Ontario Wealth Management loan - Mel Dancy	
1267818 Ontario Ltd.	17	Georgian Manor Banquet Hall (Vacant 2 storey banquet hall, 5,497 sq ft)	52 Morrow Rd Barrie, ON	\$14,583.99	1- Duca Financial Services Credit Union Ltd. COLLATERAL 2- Fred Rankel	\$405,610 (as at 4 Sep-12) \$800,000 = \$1,205,610	7.3% 12%	15-Aug-11 1-Jan-14	● Duca loan - Mel Dancy ● Fred Rankel loan - Mel Dancy, 1182689 Ontario Inc., and King City Holdings Ltd.	
	18	Whispering Pines (9 Hole Golf Course)	451 Golf Course Rd, Huntsville, ON	\$7,253.92	1- Vector Financial Services Limited 2- Robert Weisz/The Bank of Nova Scotia Trust Company	\$600,000 \$250,500 (as at 1-Sep-12) = \$850,000	9.5% 10%	10-Oct-10 (Derek advises extended 1-Aug-2012 in forbearance) 15-Jan-10	● Vector loan - Mel Dancy ● Robert Weisz loan - Mel Dancy ● Robert Weisz loan - Mel Dancy	
1711060 Ontario Ltd. (NOI Under the BIA filed 12-Sep-12)	19	Lafontaine Terrace (38 unit retirement home on 1.52 acres of land)	169 Borden Ave, Kitchener, ON	NIL	1- RMG Mortgages, a division of MCAF Financial Corporation 2- David Sugar et al	\$759,820 \$467,829.38 (as of 1-Sep-12) = \$1,227,149	bank + 1.7% 12.00%	10-Mar-11 1-Nov-11	● RMG loan - Mel Dancy	

Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	Number	Property Name	Municipal Description	Property Value	Property Tax Arrears	Mortgagees	Current Balance	Interest Rate	Maturity Date	Guarantor
2009031 Ontario Inc.	20	Tudhope Manor (40 unit retirement home, 12,340 sq ft on 19,638 sq ft of land)	127 Peter St. N Orillia, ON		\$109,657.11	1- Lutheran Life Insurance Society of Canada (now Faith Life) 2- Minister of Finance	\$2,096,859 (as at 4-Oct-12)  \$275,525  <del>-\$2,372,384</del>	5.88%	1-Dec-12	Lutheran Life loan - Dondeb and Mel Dancy

Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	Number	Property Name	Municipal Description	Property Value	Property Tax Arrears	Mortgages	Current Balance	Interest Rate	Maturity Date	Guarantor
2198392 Ontario Inc.	21	Orillia Independent Living (32 unit retirement home, 24,205 sq ft on 28,837 sq ft of land)	20 Simcoe St. Orillia, ON	\$15,794.13	\$15,794.13	1- Addenda Capital Inc. 2- Cameron Stephens Financial Corporation 3- Virgin Venture Capital Corporation	\$3,951,362.33 (as of August 1, 2012) \$700,000 \$2,774,878.27 (as at 4-Oct-12) = \$6,726,241	4.84% 1.4% 11.5%	1-Apr-12 31-Mar-12 1-Sep-13	• Addenda loan - Mel Dancy • Cameron Stephens loan - Mel Dancy • Virgin loan - Mel Dancy, Derek Dancy, and 2338067 Ontario Inc. (note also cross collateralized)
2338067 Ontario Inc. (NOI Under the BIA filed 12-Sep-12)	22	Dorset Place (51 unit apartment building on 0.76 acres, 6 storeys)	90 Gurnett Street Aurora, Ontario	\$10,882.05	\$10,882.05	1- The Empire Life Insurance Company 2- Virgin Venture Capital Corporation COLLATERAL 3- First Source Mortgage Corporation/Mark Cosman	\$3,111,577.93 (as of August 10, 2012) \$2,774,878.27 (as at 4-Oct-12) \$150,000 (as of September 20, 2012) = \$5,036,455	5.5% 11.5% 9.5%	10-Mar-16 1-Sep-13 1-Sep-13	• Empire Life loan - Mel Dancy • Virgin loan - Mel Dancy, Derek Dancy, and 2198392 Ontario Inc. (note also cross collateralized)
Briarbrook Apartments Inc.	23	Leon's (41,612 sq ft retail store)	555 Memorial Ave Orillia, ON	\$32,470.00	\$32,470.00	1- The Empire Life Insurance Company 2- The Bank of Nova Scotia Trust Company COLLATERAL 3- First Source Mortgage Corporation/Mark Cosman	\$1,539,042 (as of September 14, 2012) \$1,600,000 \$4,121,840.71 (as of September 20, 2012) = \$7,260,882	5.6% 11.5% 9.5%	1-Apr-16 23-Aug-13 1-Sep-13	• Empire Life loan - Mel Dancy • Bank of Nova Scotia loan - Mel Dancy
Guelph Financial Corporation	24	Preston Springs Gardens (Former retirement home under construction 50% complete, on 2.386 acres)	102-110 Fountain St. North, Cambridge, Ontario	25,417.64 (102 Fountain St. S) + 14157.74 (110 Fountain St. S) = \$39,575.38	25,417.64 (102 Fountain St. S) + 14157.74 (110 Fountain St. S) = \$39,575.38	1- First Source Mortgage Corporation COLLATERAL 2- Ontario Wealth Management Corporation (note that this is to secure payment of arrears on all other Ontario Wealth loans to July 1, 2012)	\$300,000 \$2,100,000 (note: no funds advanced; amount represents security for all outstanding Ontario Wealth loans) = \$2,400,000	10.5%	1-Aug-12	• First Source loan - Mel Dancy and Dondeb Inc. • Ontario Wealth Management loan - King City Holdings Ltd., Dondeb Inc., and 1182689 Ontario Inc.
TOTAL	>4			\$ 706,314.72	\$ 706,314.72		\$41,661,808 (Please note that cross-collateralized loans were only included once in this total)			

**SCHEDULE "D"**

**RECEIVER CERTIFICATE**

**“PROPERTY” [Municipal Address]**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$\_\_\_\_\_

1. THIS IS TO CERTIFY that A. Farber & Partners Inc., the receiver (the "Receiver") of the assets, undertakings and properties of [DEBTOR'S NAME] acquired for, or used in relation to the Property described above, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 18<sup>h</sup> of October, 2012 (the "Order") made in an action having Court file number CV-12-00009794-00CL, 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 in respect of the above-noted Property 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 MONTH, 20YR.

A. Farber & Partners Inc., solely in its capacity  
as Receiver of the [Debtors], and not in its  
personal capacity

Per: \_\_\_\_\_  
Name:  
Title:

The Toronto-Dominion Bank et al.

Dondeb Inc. et al

Applicant(s)

- and -

Respondent(s)

Court File No.: CV-12--9794-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding Commenced at Toronto

**ORDER**

**KESTENBERG SIEGAL LIPKUS  
LLP**  
Barristers and Solicitors  
65 Granby Street  
Toronto, Ontario  
M5B 1H8

**MICHAEL R. KESTENBERG**  
Law Society No. 16005H  
**BEVERLY C. JUSKO**  
Law Society Registration #31122C  
Telephone: (416) 597-0000  
Facsimile: (416) 597-6567  
Solicitors for the Applicants

0608-872

# APPENDIX “C”



**SUPERIOR COURT OF JUSTICE**  
 Judges' Administration  
 Court House  
 361 University Avenue, Room 170  
 TORONTO, ONTARIO M5G 1T3  
 Tel: (416) 327-5284 Fax: (416) 327-5417

## FAX / MAIL COVER SHEET

Date: November 22, 2012

To	Fax No.
David P. Preger / Lisa S. Corne / Michael Weinczok	416-865-1398
Gary Sugar	416-366-8571
D.R. Rothwell	416-593-7740
Harry Fogul	416-863-1515
Robin Dodokin	416-869-0547
Beverly Jusko / M.R. Kestenberg	416-597-6567
Roger Jaipargas	416-761-7067
R.B. Bissell	416-597-3370
Jeffrey Larry	416-646-4301
Douglas Langley	905-940-8785
David Mende	416-863-1009
W. Rabinovitch / J. Dietrich	416-863-4592
M. Church	416-775-4675

From: Aggie Gomez  
 Secretary to C. Campbell J.

Total No. of Pages (incl. cover page): 9

Message: DONDEB INC.

COURT FILE NO.: CV-12-00009865-00CL

*The information contained in this facsimile message is confidential information. If the person actually receiving this facsimile or any other reader of the facsimile is not the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please notify us by telephone and return the original message to us at the above address.*

Original will NOT follow. If you do not receive all pages, please telephone us immediately at the above number.

CITATION: Dondeb Inc. (Re), 2012 ONSC 6087  
COURT FILE NO.: CV-12-00009865-00CL  
DATE: 20121122

SUPERIOR COURT OF JUSTICE – ONTARIO  
(COMMERCIAL LIST)

BETWEEN:

IN THE MATTER OF THE COMPANIES  
CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.  
C-36, AS AMENDED

- AND -

IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH  
RESPECT TO DONDEB INC. and the  
ADDITIONAL APPLICANTS LISTED ON  
SCHEDULE "A" HERETO (collectively, the  
"APPLICANTS")

Applicants

)  
)  
) David P. Preger, Lisa S. Corne, Michael  
Weinczok, for the Applicants  
)  
)

)  
) Jeffrey J. Simpson, A. Ronson, for Pace Savings  
& Credit Union Limited  
) Gary Sugar, for David Sugar, et al  
) D.R. Rothwell, for RMG Mortgage/MCAP  
Financial Corporation  
) Harry Fogul, for Regional Financial  
) Robin Dodokin, for Empire Life Insurance Co.  
) Beverly Jusko, M.R. Kestenberg, for TD Bank  
Canada Trust  
) Roger Jaipargas, for Faithlife Financial  
) R.B. Bissell, for Vector Financial Services  
Limited  
) Jeffrey Larry, for First Source Mortgage  
Corporation  
) Douglas Langley, for Virgin Venture Capital  
Corporation  
) David Mende, for Addenda Capital Inc.  
) J. Dietrich, W. Rabinovitch, for A. Farber &  
Partners Inc.  
) M. Church, for SEIU (Union)  
)  
)

HEARD: October 11, 15, 17 and 18, 2012

C. CAMPBELL J.

REASONS FOR DECISION

[1] The applicants seeking an Initial Order under the *Companies Creditors Arrangement Act* are a group of companies owned and controlled by or through the main holding company Dondeb Inc. The proposed relief would include a stay of proceedings in respect of the various companies which own and or operate businesses and real property in Ontario.

[2] The application is vigorously opposed by numerous secured creditors which have mortgage or other security on property beneficially owned by one or more of the companies in the Dondeb "group".

[3] The applicants seek the protection of the *CCAA* to enable an orderly liquidation of the assets and property of the various companies to enable what is asserted to be the remaining equity after sale and expenses to accrue to the benefit of the Dondeb Group.

[4] It is urged that the flexible mechanism of the *CCAA* is appropriate as there are common expenses across some of the companies', common security across others and that any order in liquidation would prevent the incurrence of added cost should individual properties and companies placed in liquidation with the loss of remaining equity.

[5] The applications propose a Debtor in Possession (DIP) financing and administrative charge to secure the fees of professionals and expenses associated with *CCAA* administration. The application is opposed by approximately 75% in value of the secured creditors.

[6] The basis of the opposition can be summarized as follows:

- i) That in many instances the properties over which security is held is sufficiently discrete with specific remedies including sale being more appropriate than the "enterprise" approach posed by the applicants.
- ii) That the proposed DIP/financial and administration changes are an unwarranted burden to the equity of specific properties are evidence of the inappropriate application of the *CCAA*.
- iii) That in the circumstances individual receivership orders for many of the properties is a more appropriate remedy where the creditors and not the debtor would have control of the process.
- iv) That the creditors have lost confidence in the Dondeb family owners of the Dondeb group for a variety of reasons including for breach of promise and representation.
- v) That it is now evident that the applicants will be unable to propose a realistic plan that is capable of being accepted by creditors given a difference in position with respect to value of various properties.

[7] Those who support the applicants in the main wish to see those businesses that are operating on some of the properties such as in one instance, a school, and others like retirement homes continue in a way that may not be possible in a bankruptcy.

[8] During the course of the submissions on the first return date an alternative was proposed by a number of secured creditors, namely a joint or consolidated receivership of the various entities to maximizing creditor control of the process and ensure that costs of administration be allocated to each individual property and company.

[9] The application was adjourned to be returnable October 15, 2012 to allow both the applicants and the opposing creditors to consider their positions hopefully achieve some compromise. In the meantime 4 notices of intention under the BIA were stayed.

[10] The return of the application on October 15, 2012 did produce some modification of position on both sides but not sufficient to permit a CCAA order to be agreed to.

[11] The applicants revised the proposed form of Initial Order to allow for segregation of accounts on the individual properties an entitlement.

[12] The rationale of the applicants for the original Initial Order sought was that if liquidated or otherwise operated in an orderly way by the debtor and a "super" monitor, greater value could be achieved than the secured debt owing in respect to at least a number of the properties which could be available (a) to other creditors in respect of which guarantees or multiple property security could enhance recovery and or (b) the equity holders.

[13] The second major reason advanced by a significant number of creditors appearing through counsel was that they no longer had any confidence in Mr. Dandy, the principal of Dondeb Inc. Significant examples of alleged misleading supported the positions taken.

[14] I accept the general propositions of law advanced on behalf of the applicants that pursuant to s.11.02 of the CCAA the court has wide discretion "on any terms it may impose" to make an Initial Order provided the stay does not exceed 30 days [see *Nortel Networks Corporation (Re)* 2009, CanLII 39492 (ONSC) at para 35 and *Lehndorff General Partners Ltd. (Re)* (1993), 17 CBR (3d) 24 (Ont.Gen.Div. Commercial) CF 33.

[15] The more recent decision of the Supreme Court of Canada in *Century Services Inc. v. Canada (Attorney General)*, (2010), (S.C.C.) 60 at para 15 confirms the breadth and flexibility of the CCAA to not only preserve and allow for restructuring of the business as a going concern but also to permit a sale process or orderly liquidation to achieve maximum value and achieve the highest price for the benefit of all stakeholders. See also *Timminco Limited (Re)* (2012), ONSC 506 at para 49-50 (leave to appeal denied 2012 ONCA 552).

[16] I also accept the general proposition that given the flexibility inherent in the CCAA process and the discretion available that that an Initial Order may be made in the situation of "enterprise" insolvency where as a result of a liquidation crisis not all of the individual entities comprising the "enterprise" may be themselves insolvent but a number are and to propose of the restructuring is to restore financial health or maximize benefit to all stakeholders by permitting further financing. Such process can include liquidation. See *First Leaside Wealth Management (Re)* (2012) (ONSC) 1299 and also *Edgeworth Properties Inc. (Re)* CV-11-9409-CL [Commercial List].

[17] I also accept that while each situation must be looked at on its individual facts the court should not easily conclude that a plan is likely to fail. See *Azure Dynamics Corp. (Re)* (2012), (BCSC) 781 at paras 7-10.

[18] In *Cliffs Over Maple Bay Investments, Ltd. v. Fisgard Capital Corp.* 2008 Carswell BC 1758 (BCCA), the British Columbia Court of Appeal overturned the decision of the chambers' judge extending a stay of proceedings and authorizing DIP financing under the CCAA in the case of a debtor company in the business of land development because:

Although the CCAA can apply to companies whose sole business is a single land development as long as the requirements set out in the CCAA are met, it may be that, in view of the nature of its business and financing arrangements, such companies would have difficulty proposing an arrangement or compromise that was more advantageous than the remedies available to its creditors. The priorities of the security against the land development are often straightforward, and there may be little incentive for the creditors having senior priority to agree to an arrangement or compromise that involves money being paid to more junior creditors before the senior creditors are paid in full. If the developer is insolvent and not able to complete the development without further funding, the secured creditors may feel that they will be in a better position by exerting their remedies rather than by letting the developer remain in control of the failed development while attempting to rescue it by means of obtaining refinancing, capital injection by a new partner or DIP financing.

[19] Similarly, in *Octagon Properties Group Ltd.* 2009 Carswell Alta 1325 (Q.B.) paragraph 17, Kent, J. made the following comments:

This is not a case where it is appropriate to grant relief under the CCAA. First, I accept the position of the majority of first mortgagees who say that it is highly unlikely that any compromise or arrangement proposed by Octagon would be acceptable to them. That position makes sense given the fact that if they are permitted to proceed with foreclosure procedures and taking into account the current estimates of value, for most mortgagees on most of their properties they will emerge reasonably unscathed. There is no incentive for them to agree to a compromise. On the other hand if I granted CCAA relief, it would be these same mortgagees who would be paying the cost to permit Octagon to buy some time. Second, there is no other reason for CCAA relief such as the existence of a large number of employees or significant unsecured debt in relation to the secured debt. I balance those reasons against the fact that even if the first mortgagees commence or continue in their foreclosure proceedings that process is also supervised by the court and to the extent that Octagon has reasonable arguments to obtain relief under the foreclosure process, it will likely obtain that relief.

[20] A similar result occurred in *Shire International Real Estate Investments Ltd.* (2010) CarswellAlta 234 even after an initial order had been granted.

[21] In *Edgeworth*, dealing with the specifics of that case I noted:

Were it not for the numerous individual investors (UDIs, MICs) and others who claim to have any interest in various of the lands as opposed to being general creditors of the Edgeworth companies, I doubt I could have been persuaded to grant the Initial CCAA Order.

[22] At the conclusion of oral submissions which followed on a hearing of the application which commenced on Friday October 11, 2012 continued on October 15 with additional written material and concluded on Wednesday October 17, 2012 again with additional written material and oral submissions the following conclusions were reached.

- (i) The application for an Initial Order under the CCAA based on the material filed be dismissed.
- (ii) The issue of costs incurred by the proposed Monitor Farber and of counsel to the debtor be reserved for further consideration (if not resolved) basis on material to be provided to counsel for the creditors and their submissions.
- (iii) The request for a more limited CCAA Initial Order which like the Original Application is opposed by a significant body of creditors is also rejected.
- (iv) A Global Receivership Order which is supported by most of the creditors appearing to oppose the application and which has the support of Farber which will become Receiver of those companies and properties covered by the application will issue in a format to be approved by counsel and the court.

[23] For ease of administration the Global Receivership Order will issue in Court File No. CV-12-9794-CL and make reference to the various companies and properties to be covered by the Order.

[24] In order to further facilitate administration the following proceedings, each being Notices of Intention to make a proposal

Dondeb Inc.	31-1664344
Ace Sel/Storage & Business Centre	31-1664774
1711060 Ontario Ltd.	31-1664775
2338067 Ontario Ltd.	31-1664772
King City Holdings Ltd.	31-1671612
1182689 Ontario Inc.	31-1671611
2198392 Ontario Inc.	31-1673260

hereby stayed and suspended pending further order of the court.

[25] The request for an Initial Order under the CCAA was dismissed for the simple reason that I was not satisfied that a successful plan could be developed that would receive approval in any meaningful fashion from the creditors. To a large extent, Mr. Dandy is the author of his own misfortune not just for the liquidity crisis in the first place but also for a failure to engage with creditors as a whole at an early date.

[26] In his last affidavit filed Mr. Dandy explained why certain properties were transferred into individual corporations to allow additional financing that would permit the new creditors access to those properties in the event of default. To a certain extent this was perceived by creditors as "robbing Peter to pay Paul" and led to the distrust and lack of confidence the vast majority of creditors exhibit. Had there been full and timely communication both the creditors and the court may have concluded that a CCAA plan could be developed.

[27] Under the proposed Initial Order the fees of the proposed monitor and of counsel to the debtor were an issue as well as leaving the debtor in possession with the cost that would entail.

[28] Counsel for each of the various creditors represented urged that their client's individual property should not be burdened with administrative expenses and professional fees not associated with that property.

[29] Counsel for the debtor advised that to the extent possible his client and the monitor would keep individual accounts. This proposal did not appease the opposing creditors who did agree that their clients could accept what was described as a "global" receiver and that the Farber firm would be acceptable as long as the receiver's charge was allocated on an individual property basis. In other words, the opposing creditors are prepared to accept the work of the professionals of the receiver but not fund the debtor or its counsel.

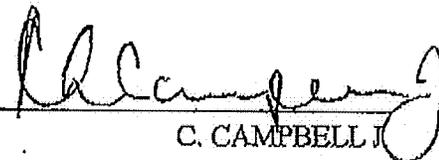
[30] The issue of the fees of Farber incurred to date in respect of preparation of the CCAA application was agreed between the opposing creditors, Farber and its counsel and are not an issue. Counsel for the debtor requested that the court consider a request for fees and costs on the part of the debtor. In order to give an opportunity for the parties to consider the details of such request and possible resolution the issue was deferred to a later date.

[31] Following further submissions on behalf of the debtor I advised the parties that in my view the conditions necessary for approval of an Initial CCAA Order were not met but that a comprehensive Receivership Order should achieve an orderly liquidation of most of the properties and protect the revenue from the operating properties with the hope of potential of some recovery of the debtor's equity.

[32] Counsel are to be commended for the effort and success in reaching agreement on the form of order acceptable to the court.

[33] The CCAA is a flexible instrument, which with judicial discretion, is capable of permitting restructuring, including in appropriate situations, liquidation.

[34] In my view the use of the CCAA for the purpose of liquidation must be used with caution when liquidation is the end goal, particularly when there are alternatives such as an overall less costly receivership that can accomplish the same overall goal.

  
C. CAMPBELL J

Schedule "A"

1. Dondob Inc.
2. Ace Self Storage and Business Centre Inc.
3. 1182689 Ontario Inc.
4. King City Holdings Inc.
5. 1267818 Ontario Ltd.
6. 1281515 Ontario Inc.
7. 1711060 Ontario Ltd.
8. 2009031 Ontario Inc.
9. 2198392 Ontario Ltd.
10. 2338067 Ontario Inc.
11. Briarbrook Apartments Inc.
12. Guelph Financial Corporation

CITATION: Dondel Inc. (Re), 2012 ONSC 6087  
COURT FILE NO.: CV-12-00009865-00CL  
DATE: 20121122

ONTARIO

SUPERIOR COURT OF JUSTICE  
(COMMERCIAL)

BETWEEN:

IN THE MATTER OF THE COMPANIES CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS  
AMENDED

- AND -

IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH RESPECT  
TO DONDEL INC. and the ADDITIONAL APPLICANTS  
LISTED ON SCHEDULE "A" HERETO (collectively, the  
"APPLICANTS")

---

Applicants

REASONS FOR DECISION

---

C. CAMPBELL J.

Released: November 22, 2012

# APPENDIX “D”

## Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	No.	Property Name	Municipal Description	Mortgages
Dondeb Inc. (NOI Under the BIA filed 11-Sep-12)	1	<b>Ace Self Storage</b> (437 Indoor storage units and office rental space, 105,000 sq ft)	256 Hughes Rd, Orillia, ON 270 Hughes Rd, Orillia, ON 4575 Huronia Rd, Orillia, ON	<u>COLLATERAL</u> 1 - Pace Savings & Credit Union Limited 2 - Pace Savings & Credit Union Limited 3 - Pace Savings & Credit Union Limited (Pace loans collateralized with Ace Self Storage and Business Centre Inc.) 4 - Vector Financial Services Limited 5 - First Source Mortgage Corporation/Mark Cosman
	2	<b>Ontario St.</b> (Vacant land zoned for industrial, 1.5 acres)	6 Ontario St., Orillia, ON	1- Fred Rankel
	3	<b>Coldwater</b> (Vacant land zoned for 120 unit condominiums, 3.96 acres)	233, 249 & 261 Coldwater Ave. Orillia, ON	1- Fred Rankel
	4	<b>Devonshire Place</b> (1 Unit Rental Condo, 550 sq ft)	15390 Yonge St Unit 208 Aurora, ON	1- Laurentian Bank of Canada
	5	<b>ProSpan / Rockin Boats</b> (Tenanted 1 unit industrial building, 26,000 sq ft)	61 Forest Plain Rd., Orillia, ON	1- The Canada Trust Company  <u>COLLATERAL</u> 2- First Source Mortgage Corporation
	6	<b>Remo's Restaurant</b> (Vacant restaurant, 4,155 sq ft on 0.845 acres of land)	480 West St. South, Orillia ON	1 - Ontario Wealth Management Corporation
Dondeb Inc. (NOI Under the BIA filed 11-Sep-12)	7	<b>Orillia Retirement Residence</b> (31 unit retirement home, 27,438 sq ft)	24 Simcoe St., Orillia ON	1 - Vector Financial Services Limited  2- A.&L. Cabrio Investments Ltd. et al (New Haven)
	8	<b>Sussex Place</b> (47 unit apartment building, 6 storeys, located on 0.9 acres of land)	205 Vodden Street East Brampton, ON	1- The Empire Life Insurance Company 2- Ontario Wealth Management Corporation  <u>COLLATERAL</u> 3- First Source Mortgage Corporation / Mark Cosman
	9	<b>Barrie Business Center</b> (1 tenant large industrial space under construction, 90% complete for phase 1 current building 34,500 sq addition is 26,000 sq ft)	92 Davidson St, Barrie, ON	1- First Source Mortgage Corporation / Mark Cosman  2- 1160145 Ontario inc.
	10	<b>Tim Hortons &amp; Wendy's</b> (Leased restaurant, 3,700 sq ft on 1.86 acres of land)	525 - 545 Memorial Ave Orillia, ON	1- Clarica Life Insurance Company 2- Ontario Wealth Management Corporation 3 - Bank of Nova Scotia Trust Company  <u>COLLATERAL</u> 4 - First Source Mortgage Corporation/Mark Cosman
	11	<b>240 Yeoman</b> (Vacant land zoned for 68 unit condominium site, 3.96 acres)	240 Yeoman St., Belleville, ON	1- Fred Rankel
	12	<b>Brechin</b> (100 acre farm, no residence on it)	Brechin (near Orillia, ON)	<u>COLLATERAL</u> 1- Fred Rankel

## Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	No.	Property Name	Location / Description	Mortgages
1182689 Ontario Inc. (NOI Under the BIA filed 1-Oct-12)	13	Hatch House Montessori School (School, 8,315 sq ft on 21,389 sq ft of land)	301 Byron Street South, Whitby, ON	1- The Empire Life Insurance Company  2- Minister of Finance
	14	Orillia Prep School (School, 3,681 sq ft on 11,475 sq ft of land)	547 Lacle St, Orillia, ON	1- Ontario Wealth Management Corporation
King City Holdings Ltd. (NOI Under the BIA filed 1-Oct-12)	15	Belleville (Pepper) (Vacant land zoned for 17 townhomes, 4.77 acres)	Belleville, ON	1- Ontario Wealth Management Corporation
	16	Belleville (Palmer) (Vacant land zoned for 16 townhomes, 4.72 acres)	Belleville, ON	1- Ontario Wealth Management Corporation
1267818 Ontario Ltd.	17	Georgian Manor Banquet Hall (Vacant 2 storey banquet hall, 5,497 sq ft)	52 Morrow Rd, Barrie, ON	1- Duca Financial Services Credit Union Ltd.  <u>COLLATERAL</u> 2- Fred Rankel
1281515 Ontario Inc.	18	Whispering Pines (9 Hole Golf Course)	451 Golf Course Rd, Huntsville, ON	1- Vector Financial Services Limited  2- Robert Weisz/The Bank of Nova Scotia Trust Company
1711060 Ontario Ltd. (NOI Under the BIA filed 12-Sep-12)	19	Lafontaine Terrace (38 unit retirement home on 1.52 acres of land)	169 Borden Ave, Kitchener, ON	1- RMG Mortgages, a division of MCAP Financial Corporation  2- David Sugar et al
2009031 Ontario Inc.	20	Tudhope Manor (40 unit retirement home, 12,340 sq ft on 19,638 sq ft of land)	127 Peter St. N, Orillia, ON	1- Lutheran Life Insurance Society of Canada (now Faith Life)  2- Minister of Finance
2198392 Ontario Ltd.	21	Orillia Independent Living (32 unit retirement home, 24,205 sq ft on 28,837 sq ft of land)	20 Simcoe St., Orillia, ON	1- Addenda Capital Inc.  2- Cameron Stephens Financial Corporation  3- Virgin Venture Capital Corporation
2338067 Ontario Inc. (NOI Under the BIA filed 12-Sep-12)	22	Dorset Place (51 unit apartment building on 0.76 acres, 6 storeys)	90 Gumett Street, Aurora, ON	1- The Empire Life Insurance Company  2- Virgin Venture Capital Corporation  <u>COLLATERAL</u> 3- First Source Mortgage Corporation/Mark Cosman
Briarbrook Apartments Inc.	23	Leon's (41,612 sq ft retail store)	555 Memorial Ave, Orillia, ON	1- The Empire Life Insurance Company  2- The Bank of Nova Scotia Trust Company  <u>COLLATERAL</u> 3- First Source Mortgage Corporation/Mark Cosman
Guelph Financial Corporation	24	Preston Springs Gardens (Former retirement home under construction 50% complete, on 2.386 acres)	102-110 Fountain St. North, Cambridge, ON	1- First Source Mortgage Corporation  <u>COLLATERAL</u> 2- Ontario Wealth Management Corporation (note that this is to secure payment of arrears on all other Ontario Wealth loans to July 1, 2012)