

**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 May 2, 2014)**

April 28, 2014

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# 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**

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 Friday, May 2, 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 twelfth report to Court of the Receiver dated April 28, 2014 (the "**Twelfth Report**") and the activities of the Receiver set out therein;

- (c) authorizing the Receiver to distribute the amount of \$2,630,000 to First Source Mortgage Corporation and Mark Cosman ("**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 \$7,100,000 registered on September 1, 2011 as Instrument No. SC928251 (the "**First Source BBC Charge**") against the Barrie Business Centre Property (as that term is defined in the Order of Justice Campbell dated October 17, 2012 (the "**Receivership Order**")) from the funds held by the Receiver in the account maintained for the Barrie Business Centre Property;
- (d) 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 (as that term is defined in the Receivership Order) from the funds held by the Receiver in the account maintained for the Remo's Ristoronti Property (as that term is defined in the Receivership Order);
- (e) authorizing the Receiver to distribute the amount of \$250,000 to The Toronto-Dominion Bank ("**TD**") in partial satisfaction of the charge/mortgage (the "**TD Charge**") 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 (as that term is defined in the Receivership Order) from the proceeds of sale of the Rockin Boats Property;

- (f) declaring that the distributions contemplated by the Order be without prejudice to any rights of subrogation, marshaling, apportionment or assessment that any subordinate creditors may have; and
  - (g) declaring that nothing in the Order prevents a person from challenging the amount and allocation of the holdbacks and reserves being retained by the Receiver at a future date.
2. 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;

Barrie Business Centre Distribution

2. The transaction for the sale of the Barrie Business Centre Property was approved by the Court on March 24, 2014 and closed on April 14, 2014;
3. The Receiver has received an opinion from its independent legal counsel, Dentons Canada LLP (“**Dentons**”) that the First Source BBC Charge is valid with respect to the Barrie Business Centre Property, subject to typical qualifications and assumptions;
4. The Receiver has reviewed a payout statement provided to it by First Source / Cosman which shows that in excess of the proposed distribution amount of \$2,630,000 is owed by Dondeb to First Source / Cosman and is secured by the First Source BBC Charge;
5. The Receiver will continue to maintain a reserve from the Barrie Business Centre Property proceeds with respect to fees and disbursements of the Receiver and legal counsel as more particularly set out in the Twelfth Report;

Remo's Ristoronti Distribution

6. The transaction for the sale of the Remo's Ristoronti Property was approved by the Court on March 24, 2014 and closed on April 10, 2014;
7. The only registered charge over the Remo's Ristoronti Property is in favour of Ontario Wealth Management Corporation in the principal amount of \$1,000,000 (the "**OWMCO Charge**"). The OWMCO Charge was also registered against the Tim Hortons/Wendy's Property and the Orillia Prep School Property (as that term is defined in the Receivership Order).
8. Amounts owing under the OWMCO Charge were fully satisfied from proceeds of sale of the Tim Hortons/Wendy's Property. First Source/Cosman is a subordinate creditor on the Tim Hortons/Wendy's Property. There are no creditors who have registered a charge against the Remo's Ristoronti Property subordinate to the OWMCO Charge.
9. In the Receiver's view, in accordance with the doctrine of marshalling, the proceeds of sale of the Remo's Ristoronti Property and Tim Hortons/Wendy's Property should be distributed in such a fashion to put First Source/Cosman in the same position that they would have been in if the debt secured by the OWMCO Charge had first been satisfied from the proceeds of the Remo's Ristoronti Property. A distribution to First Source/Cosman as proposed by the Receiver from the proceeds of the Remo's Ristoronti Property proceeds, in the Receiver's view, accomplishes this.
10. The Receiver has received opinions from its independent legal counsel, Dentons that the OWMCO Charge and the First Source Tim Hortons Charge are valid, subject to typical qualifications and assumptions;
11. The Receiver has reviewed a payout statement provided to it by First Source / Cosman which shows that in excess of the proposed distribution amount of \$160,000 is owed by Dondeb to First Source/Cosman and is secured by the First Source Tim Hortons Charge;

12. The Receiver will continue to maintain a reserve from the Remo's Ristoronti Property proceeds with respect to fees and disbursements of the Receiver and legal counsel as more particularly set out in the Twelfth Report;

#### Rockin Boats Property Distribution

13. The transaction for the sale of the Rockin Boats Property was approved by the Court on March 24, 2014 and closed on March 28, 2014;
14. The Receiver has received an opinion from its independent legal counsel, Dentons that the TD Charge is valid with respect to the Rockin Boats Property, subject to typical qualifications and assumptions;
15. The Receiver has reviewed a payout statement provided to it by TD which shows that in excess of the proposed distribution amount of \$250,000 is owed by Dondeb to TD and is secured by the TD Charge;
16. The Receiver will continue to maintain a reserve from the Rockin Boats Property proceeds with respect to fees and disbursements of the Receiver and legal counsel as more particularly set out in the Twelfth Report;

#### General

17. The secured creditors affected by the orders sought are being given notice of the motion;
18. The facts as further set out in the Twelfth Report;
19. The Receivership Order;
20. The provisions of the BIA, the *Courts of Justice Act* (Ontario) and the *Rules of Civil Procedure* (Ontario); and
21. 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 Twelfth Report and the appendices attached thereto; and
2. Such further and other evidence that counsel may advise and this Honourable Court permit.

April 28, 2014

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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

**SCHEDULE "B"**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ● ) FRIDAY, THE 2<sup>ND</sup>  
JUSTICE ● ) DAY OF MAY, 2014

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

ORDER

THIS MOTION made by A. Farber & Partners Inc. in its capacity as court-appointed receiver (the "**Receiver**") of the debtors referred to at Schedule "A" attached hereto (collectively, the "**Debtors**") for an order *inter alia*: (i) declaring that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that the motion is properly returnable; (ii) approving the twelfth report to Court of the Receiver dated April 28, 2014 (the "**Twelfth Report**") and the activities of the Receiver set out therein; (iii) authorizing the Receiver to distribute the amount of \$2,630,000 to First Source Mortgage Corporation and Mark Cosman ("**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 \$7,100,000 registered on September 1, 2011 as Instrument No. SC928251 (the "**First Source BBC Charge**") against the Barrie Business Centre Property (as that term is defined in the Order of Justice Campbell dated October 17, 2012 (the "**Receivership Order**")) from the funds held by the Receiver in the

account maintained for the Barrie Business Centre Property; (iv) 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 (as that term is defined in the Receivership Order) from the funds held by the Receiver in the account maintained for the Remo’s Ristoronti Property (as that term is defined in the Receivership Order); (v) authorizing the Receiver to distribute the amount of \$250,000 to The Toronto-Dominion Bank (“**TD**”) in partial satisfaction of the charge/mortgage (the “**TD Charge**”) 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 (as that term is defined in the Receivership Order) from the proceeds of sale of the Rockin Boats Property; (vi) declaring that the distributions contemplated by the Order be without prejudice to any rights of subrogation, marshaling, apportionment or assessment that any subordinate creditors may have; and (vii) declaring that nothing in the Order prevents a person from challenging the amount and allocation of the holdbacks and reserves being retained by the Receiver at a future date was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion dated April 28, 2014 and the Twelfth Report, and upon hearing the submissions of the counsel for the Receiver, no other party appearing, although duly served, as appears from the Affidavit of Service of ● sworn April ●, 2014, filed,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Twelfth Report and the activities of the Receiver set out therein, be and are hereby approved.

3. **THIS COURT ORDERS** that the Receiver is authorized to distribute the amount of \$2,630,000 to First Source/Cosman in partial satisfaction of the First Source BBC Charge from the funds held by the Receiver in the account maintained for the Barrie Business Centre Property.

4. **THIS COURT ORDERS** that the Receiver is authorized to distribute the amount of \$160,000 to First Source/Cosman in partial satisfaction of the First Source Tim Hortons Charge from the funds held by the Receiver in the account maintained for the Remo's Ristoronti Property.

5. **THIS COURT ORDERS** that the Receiver is authorized to distribute the amount of \$250,000 to TD in partial satisfaction of the TD Charge from the funds held by the Receiver in the account maintained for the Rockin Boats Property.

6. **THIS COURT ORDERS AND DECLARES** that the distributions contemplated by this Order be without prejudice to any rights of subrogation, marshaling, apportionment or assessment that any subordinate creditors may have.

7. **THIS COURT ORDERS** that nothing in this Order prevents a person from challenging the amount and allocation of the holdbacks and reserves being retained by the Receiver at a future date.

**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.

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

**ORDER  
(May 2, 2014)**

DENTONS CANADA LLP  
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CASSELS BROCK & BLACKWELL LLP  
2100 Scotia Plaza, 40 King Street West,  
Toronto Ontario M5H 3C2

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LAWYERS FOR the RECEIVER

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

**NOTICE OF MOTION  
(returnable May 2, 2014)**

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

CASSELS BROCK & BLACKWELL LLP  
2100 Scotia Plaza, 40 King Street West,  
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LAWYERS FOR the RECEIVER



# TAB 2

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**

**TWELFTH REPORT OF THE RECEIVER**

**APRIL 28, 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 are 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. A copy of the interim distribution Order made on February 13, 2013 (the “**Tim Hortons Distribution Order**”) is attached hereto as **Appendix “F”**.
12. 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.
13. 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.

14. The Georgian Manor property transaction closed on March 27, 2013. The Sussex Place property transaction closed on April 24, 2013.
15. 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.
16. The Ontario Street property transaction closed on May 15, 2013 and the Hatch House Montessori School transaction closed on May 21, 2013.
17. 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.
18. 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.
19. 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 Dondob Inc., related to the sale of the Dorset Place property.

20. 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.
21. 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 "**Dondob General Account**"); (ii) authorizing the Receiver to transfer \$108,565.68 from the Dondob 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 Dondob 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. Copies of the orders made on March 24, 2014 are attached as **Appendices "G", "H", "I", "J", "K" and "L"**.

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 Rd., and the Barrie Business Centre.



## 2. PURPOSE OF REPORT

23. The Purpose of this twelfth report to the Court of the Receiver (the "**Twelfth Report**") is to report to the Court on the activities of the Receiver since the filing of the Receiver's Eleventh Report to the Court and to provide support for the Receiver's request for 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.

### 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 March 24, 2014, the Receiver's activities have included, among other things:

- Attending to the closing of the sale of the Scotia Rd. property on March 26, 2014;
- Attending to the closing of the sale of the Rockin Boats property on March 28, 2014;
- Attending to the closing of the sale of the Remo's Ristoroni property on April 28, 2014;
- Attending to the closing of the sale of the Barrie Business Centre property on April 14, 2014;
- Monitoring receipts and disbursements, coordinating Receiver's Borrowings, property tax and debt service payments where cash flow permits and liaising with mortgagees, as appropriate;
- Overseeing and monitoring of ongoing operations at Orillia Independent Living, in concert with the current business managers;
- Corresponding with prospective purchasers of the remaining Properties; and
- Corresponding by email and telephone with the Debtors' creditors.

#### **Property #9 Barrie Business Centre – Interim Distribution**

26. The Barrie Business Centre property ("BBC") is an industrial space located on approximately 9 acres in the City of Barrie, with an original building of

approximately 34,500 square feet and approximately 28,500 square feet of new/additional space that was under construction at the time the Receivership Order was granted which continues to remain incomplete.

27. On January 6, 2014, after consultation with the First Source/Cosman, the Receiver entered into an agreement of purchase and sale with Larry Goldman Inc. in trust (which was assigned to Marquee Davidson Corp. (“**MDC**”)) subject to Court approval (the “**MDC APS**”).
28. On March 24, 2014, the Court approved the MDC APS and the transaction closed on April 14, 2014.
29. Pursuant to the closing of the transaction, Farber was paid \$3,526,761.09 at closing which was net of \$19,321.40 in closing adjustments related to realty taxes and utilities and credit for funds held by the City of Barrie of \$271,082.49. This represented the balance of the purchase price, taking into account the real estate adjustments at closing, the deposits of \$300,000 held by the Receiver’s legal counsel. A copy of the closing statement and cash summary statement for the transaction are attached as **Appendix “M”**.
30. The Receiver has reviewed a payout statement from First Source/Cosman dated April 25, 2014 which indicates that the principal, accrued interest and costs owing under the First Source BBC Charge is \$3,592,887.71 (effective May 1, 2014). A copy of the payout statement is attached as **Appendix “N”**. The Receiver is comfortable that the amount owed by Dondeb to First Source/Cosman that is secured by the First Source BBC Charge is substantially in excess of the proposed interim distribution to First Source/Cosman. The Receiver has not, however, performed a detailed review of the application of prior distributions against the principal, accrued interest, costs and fees and therefore expresses no view as to the exact amount owing by Dondeb to First Source/Cosman that is secured by the First Source BBC Charge.

31. To support the ongoing operations of the BBC property and assessment of cost to complete including retention of architect and engineering consultants, First Source/Cosman has also provided Receiver's Borrowings of \$195,347.02 since commencement of the receivership proceedings, which is in addition to the above loan. The Receiver repaid First Source/Cosman for this amount on April 24, 2014, which, inclusive of interest accrued to April 24, 2014, totaled \$219,509.53.
32. The Receiver has obtained a legal opinion from its independent legal counsel, Dentons Canada LLP ("**Dentons**") that, subject to the customary assumptions and qualifications, the First Source BBC Mortgage is valid in accordance with its terms. A copy of the Dentons security opinion dated March 18, 2013 is attached as **Appendix "O"**.
33. Pursuant to the Receivership Order, the Receiver has set up and maintained segregated bank accounts and ring fenced accounting for each property. Attached as **Appendix "P"** is a copy of a statement of receipts and disbursement for the period October 17, 2012 to April 25, 2014 for the BBC Property showing a balance of \$2,796,589.20.
34. Set out below is a table summarizing the proposed interim distribution to First Source/Cosman for the BBC Property, taking into account the current net cash position for the property effective April 23, 2014, the mortgagee loan payout position effective May 2, 2014, priority claims, charges and fees, with estimated reserve to be held until such time as all claims and costs are determined.

<b>Barrie Business Centre</b>	
<b>Proposed Interim Distribution effective April 25, 2014</b>	
Funds held in segregated trust account April 25, 2014	2,796,589.20
Less: Receiver's Holdback for unpaid property, engineering consultants costs and fees, GARE and costs to complete the administration	(160,000.00)
Less: Partial Loan Repayment to First Source	(2,630,000.00)
<b>Current Available Balance</b>	<b>6,589.20</b>

35. The proposed interim distribution contemplates the following: (i) that First Source/Cosman be paid out \$2,630,000 in partial satisfaction of its total loan; and

(ii) that the Receiver reserve approximately \$160,000 for all claims and costs required to complete the administration of the global receivership, including architect and engineering services previously provided on the property, general restructuring administrative expenses (“GARE”) and professional fees incurred since April 1, 2014, with a final distribution to be undertaken once all such amounts are determined.

36. The Receiver also proposes that the requested interim distribution order be made without prejudice to any rights of marshaling, subrogation or apportionment that any subordinate creditors may have, in particular, as it relates to the property which may be free and clear if the proposed interim distribution occurs.

#### **Property #6 Remos Ristoranti – Interim Distribution**

37. The Remos property is a vacant restaurant approximately 4,100 square feet in size which is located on approximately 0.8 of an acre of land in Orillia, Ontario. The property was owned by Dondeb. The mortgagee of record was Ontario Wealth Management Corporation (“OWMCO”) which has registered a charge in the principal amount of \$1,000,000 over the Remo’s Ristoronti property (the “OWMCO Charge”).
38. On February 19, 2014, after consultation with the relevant mortgagee, the Receiver entered into an agreement of purchase and sale with SGH Investments Inc. (“SGH”), subject to Court approval (the “SGH APS”).
39. On March 24, 2014, the Court approved the SGH APS and the transaction closed on April 10, 2014.
40. Pursuant to the closing of the transaction, Farber was paid \$299,655.87 at closing which was net of \$24,344.13 in closing adjustments related to realty taxes and utilities. This represented the balance of the purchase price, taking into account the real estate adjustments at closing and the deposit of \$36,000 held by the Receiver. A copy of the closing statement and cash summary statement for the transaction are attached as **Appendix “Q”**.

41. To support the ongoing maintenance of the Remo's Ristoronti property, OWMCO has also provided Receiver's Borrowings of \$12,500 since commencement of the receivership proceedings, which is in addition to the above mortgage. The Receiver repaid OWMCO for this amount on April 24, 2014, which inclusive of interest accrued to April 24, 2014 totaled \$14,115.07.
42. The Receiver has obtained a legal opinion from its independent legal counsel, Dentons, that subject to the customary assumptions and qualifications the OWMCO Charge over the Remo's Ristoronti Property was valid in accordance with its terms. A copy of the Dentons security opinion dated December 14, 2012 is attached as **Appendix "R"**.
43. The OWMCO Charge was registered against each of the Remo's Ristoronti, Orillia Prep School and Tim Hortons/Wendy's Property. OWMCO received a distribution from the Tim Hortons/Wendy's Property in full and final satisfaction of all amounts owing under the OWMCO Charge pursuant to the Tim Hortons Distribution Order. In accordance with the Tim Hortons Distribution Order, the distribution to OWMCO was made without prejudice to any rights of marshalling or apportionment that subject creditors on the Tim Hortons/Wendy's property may have.
44. On the Tim Hortons/Wendy's property, subsequent to the OWMCO Charge, both BNS and First Source/Cosman had registered charges. The Receiver has obtained a legal opinion from its independent legal counsel, Dentons, that subject to the customary assumptions and qualifications the charges in favour of BNS (the "**BNS Charge**") and First Source/Cosman (the "**First Source/Cosman Tim Hortons Charge**") were valid in accordance with their terms. A copy of the Dentons security opinion dated January 16, 2013 is attached as **Appendix "S"**.
45. The BNS Charge is in the process of being repaid in full pursuant to an Order granted March 24, 2014. The First Source/Cosman Tim Hortons Charge remains outstanding.

46. The Receiver is of the view that pursuant to the doctrine of marshalling, First Source/Cosman has rights of marshalling with respect to the OWMCO Charge as against the Remo's Ristoronti property. Notably, (i) both the Tim Hortons/Wendy's property and the Remo's Ristoronti property were both owned by Dondeb; and (ii) there were no registered encumbrances on the Remo's Ristoronti property subsequent to the OWMCO Charge. As result, the doctrine of marshalling would provide that the debt secured by the OWMCO Charge should be treated as first being satisfied out of the Remo's Ristoronti property, so as to not prejudice First Source/Cosman as a subsequent encumbrancer on the Tim Horton's/Wendy's property.
47. As a result, the Receiver's view is that it is appropriate to distribute the proceeds of sale from the Remo's Ristoronti property to First Source/Cosman pursuant to the First Source/Cosman Tim Hortons Charge. A payout statement for amounts owing by Dondeb to First Source/Cosman that are secured by the First Source/Cosman Tim Hortons Charge dated as of April 25, 2014 (with interest calculated to May 1, 2014) is attached as **Appendix "T"** which shows a balance owing of \$208,020.40 . The Receiver has reviewed the payout statement and is comfortable that the amount owing by Dondeb to First Source/Cosman and secured by the First Source/Cosman Tim Hortons Charge is well in excess of the proposed interim distribution. The Receiver has not however performed a detailed review of all interest, fees and costs accrued owing to First Source/ Cosman and expresses no view as the exact amount owing secured by the First Source/Cosman Tim Hortons Charge.
48. Pursuant to the Receivership Order, the Receiver has set up and maintained segregated bank accounts and ring fenced accounting for each property. Attached as **Appendix "U"** is a copy of a statement of receipts and disbursement for the period October 17, 2012 to April 25, 2014 for the Remo's Ristoronti Property showing a balance of \$205,461.84.
49. Set out below is a table summarizing the proposed interim distribution to the collateral mortgagee for the Remo's Ristoronti Property, taking into account the

current net cash position for the property effective April 25, 2014, the mortgagee loan payout position effective May 1, 2014, priority claims, charges and fees, with estimated reserve to be held until such time as all claims and costs are determined.

<b>Remos 480 West Street Orillia</b>	
<b>Proposed Interim Distribution effective April 25, 2014</b>	
Funds held in segregated trust account April 25, 2014	205,461.84
Less: Receiver's Holdback for Fees, GARE and Cost to Complete, final property costs	(41,000.00)
Less: Partial Loan Repayment to First Source	(160,000.00)
<b>Current Available Balance</b>	<b>4,461.84</b>

50. The proposed interim distribution contemplates the following: (i) that First Source/Cosman be paid \$160,000.00 in partial satisfaction of its charge against the Tim Hortons/Wendy's property based on a marshalling of the OWMCO Charge discussed above; and (ii) that the Receiver reserve approximately \$41,000 for all claims and costs required to complete the administration of the global receivership, including any general restructuring administrative expenses ("GARE"), with a final distribution to be undertaken once all such amounts are determined.
51. The Receiver also proposes that the requested interim distribution order be made without prejudice to any rights of marshaling, subrogation or apportionment that any subordinate creditors may have, in particular, as it relates to the property which may be free and clear if the proposed interim distribution occurs.

**Property #5 Rockin Boats – Interim Distribution**

52. The Rockin Boats property is an industrial building located at 61 Forest Plain Road in the Township of Oro-Medonte, which is just south of Orillia, Ontario. The property was owned by Dondeb. The mortgagees of record were: TD and First Source Mortgage Corporation ("First Source").
53. On November 28, 2103, as amended by agreements dated December 30, 2013, after consultation with the relevant mortgagees, the Receiver entered into an agreement of purchase and sale with JessEm Products Limited ("JPL"), subject to Court approval (the "JPL APS").



54. On March 24, 2014, the Court approved the JPL APS and the transaction closed on March 28, 2014.
55. Pursuant to the closing of the transaction, Farber was paid \$516,309.64 at closing which was net of \$163,680.36 in closing adjustments related to realty taxes. This represented the balance of the purchase price, taking into account the real estate adjustments at closing and the deposit of \$68,000.00 held by the Receiver's legal counsel. A copy of the closing statement and cash summary statement for the transaction are attached as **Appendix "V"**.
56. The Receiver has reviewed a payout statement from the loan services company that manages the TD Loan, namely PNC Real Estate dated April 25, 2014 which indicates that the principal and accrued interest owing under its mortgage loan is over \$632,545.13 calculated to April 30, 2014, which is substantially in excess of the proposed interim distribution to TD. A copy of the payout statement is attached as **Appendix "W"**. The Receiver has reviewed the payout statement and is comfortable that the amount owing by Dondob to TD and secured by the TD Charge is substantially in excess of the proposed interim distribution. The Receiver has not however performed a detailed review of all interest, fees and costs accrued owing to TD and expresses no view as the exact amount secured by the TD Charge.
57. The Receiver has obtained a legal opinion from its independent legal counsel, Dentons, that subject to the customary assumptions and qualifications the security interest of TD in the Rockin Boats Property is valid in accordance with its terms. A copy of the Dentons security opinion dated January 16, 2013 is attached as **Appendix "X"**.
58. Pursuant to the Receivership Order, the Receiver has set up and maintained segregated bank accounts and ring fenced accounting for each property. Attached as **Appendix "Y"** is a copy of a statement of receipts and disbursement for the period October 17, 2012 to April 25, 2014 for the Rockin Boats Property showing a balance of \$289,790.83.

59. Set out below is a table summarizing the proposed interim distribution to TD for the Rockin Boats Property, taking into account the current net cash position for the property effective April 25, 2014, the mortgagee loan payout position effective April 30, 2014, priority claims, charges and fees, with estimated reserve for claims to be held until such time as all claims and costs are determined.

<b>Rockin Boats 61 Forest Plain Road, Orillia</b>	
<b>Proposed Interim Distribution effective April 25, 2014</b>	
Funds held in segregated trust account April 25, 2014	289,790.83
Less: Receiver's Holdback for Fees, GARE and Cost to Complete, final property costs	(38,000.00)
Less: Partial Loan Repayment to TD Bank	(250,000.00)
<b>Current Available Balance</b>	<b>1,790.83</b>

60. The proposed interim distribution contemplates the following: (i) that TD be paid out \$250,000 in partial satisfaction of its collateral loan; and (ii) that the Receiver reserve approximately \$38,000 for all claims and costs required to complete the administration of the global receivership, including any general restructuring administrative expenses (“GARE”), with a final distribution to be undertaken once all such amounts are determined.
61. The Receiver also proposes that the requested interim distribution order be made without prejudice to any rights of marshaling, subrogation or apportionment that any subordinate creditors may have, in particular, as it relates to the property which may be free and clear if the proposed interim distribution occurs.

**5. STATUS OF MARKETING AND SALE PROCESS OF THE REMAINING PROPERTIES**

62. Summarized below (by Property number and name) is the status of the marketing and sales process of the remaining properties up to April 28, 2014:

**21) Orillia Independent Living** (20 Simcoe St., Orillia, Ontario) – The Receiver listed the Property with Jensen Realty (“Jensen”) since January 18, 2013. Jensen is continuing to market the property and, in concert with the Receiver, is continuing discussions with multiple interest parties.

23) Leon's (555 Memorial Ave., Orillia, Ontario) – The Receiver has listed the property with a series of brokers since its appointment and the Receiver is currently in negotiations with an interested party introduced by Royal LePage First Contact Realty.

**6. RECOMMENDATION**

63. 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) Dondob 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:

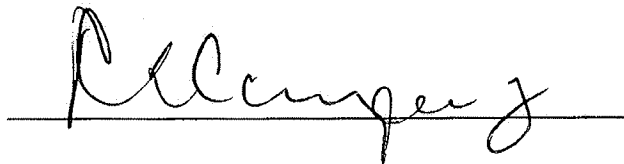
IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND  
IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43, AS AMENDED WITH RESPECT TO DONDEB INC. AND ALL THE DEBTORS LISTED AT SCHEDULE "A" HERETO.

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 Dondeb Inc. and Related Companies

Registered Owner of the Property	Property Number	Property Name	Municipal Description	Property Value	Major Assets	Current Liabilities	Interest Rate	Maturity Date	Collateral
Dondeb 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; 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	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	1 - Fred Rankel	\$900,000	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) + 832,10 (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)	35390 Yonge St Unit 208 Aurora, ON	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	1 - The Canada Trust Company COLLATERAL 2 - First Source Mortgage Corporation	\$572,974.25 (as of June 12, 2012) \$300,000 = \$872,974	5.74% 10.5%	Matured 1-Aug-12	● Canada Trust Company loan - Mel Dancy ● First Source loan - Mel Dancy
	6	Remo's Ristranti (Vacant restaurant, 4,155 sq ft on 0.845 acres of land)	480 West St. South, Orillia ON	NIL	1 - Ontario Wealth Management Corporation	\$1,000,000	12.75%	1-Jan-11 (Derek advises extended to 1-Jan-13)	● Ontario Wealth Management loan - Mel Dancy



Properties of Dondob Inc. and Related Companies

Registered Owner of the Property	Number	Property Name	Municipal Description	Property Value	Property Tax Amount	Registered Assets	Current Loans	Interest Rate	Maturity Date	Signature
Dondob 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 Heaven)	\$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 Volden Street East Brampton, ON	\$40,850.29		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, 1194927 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	\$11,876.61		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	\$481,298.41 (as of 18-Sep-12) \$1,000,000 \$1,600,000 \$150,000 (as of September 20, 2012) =\$3,231,298	4.3% 12.75% 11.5% 9.5%	1-Jun-16 1-Jan-11 (Derek address extended to 1-Feb-13) 28-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. Bellefleur, ON	\$12,114.29		1- Fred Rankel	\$860,000	17.00%	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 Address	Municipal Description	Property Value	Property Tax Arrears	Mortgages	Current Balance	Interest Rate	Maturity Date	Supplier
	12	Brechin (100 acre farm, no residence on it)	Brechin (near Orillia, ON)	\$507.99	\$507.99	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 Dondob Inc. and Related Companies

Registered Owner of the Property	Number	Property Name	Physical Description	Property Value	Mortgages	Current Balance	Interest Rate	Maturity Date	Collateral
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	\$59,197.70	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 (pre-advices 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	\$7,259.92	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	Latontaine Terrace (38 unit retirement home on 1.52 acres of land)	169 Borden Ave, Kitchener, ON	NIL	1- RMG Mortgages, a division of MFCAP Financial Corporation 2- David Sugar et al	\$759,820 \$467,829.38 (as of 1-Sep-12) = \$1,227,199	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 Amount	Mortgages	Current Balance	Interest Rate	Maturity Date	Statement
2009031 Ontario Inc.	20	Tudhope Manor (40 unit retirement home, 12,340 sq ft on 19,658 sq ft of land)	127 Peter St. N Orillia, ON	\$109,657,111	\$109,657,111	1- Lutheran Life Insurance Society of Canada (now Faith Life) 2- Minister of Finance	\$2,056,859 (as at 4-Oct-12) \$275,525 = \$2,372,384	5.88%	1-Dec-12	• Lutheran Life loan - Dondeb and Mel Dancy

Properties of Dondeb Inc. and Related Companies

Registered Owner of the Property	Property Name	Municipal Description	Property Value	Assessors Tax Base	Market Value	Current Balance	Interest Rate	Maturity Date	Security
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	\$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	4.8%  14%  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		1- The Empire Life Insurance Company 2- Virgin Venture Capital Corporation <u>COLLATERAL</u> 3- First Source Mortgage Corporation/Mark Cosman	\$3,114,577.93 (as of August 10, 2012)  \$2,774,878.27 (as at 4-Oct-12)  \$150,000 (as of September 20, 2012)  =\$8,036,455	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		1- The Empire Life Insurance Company 2- The Bank of Nova Scotia Trust Company <u>COLLATERAL</u> 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 2.385 acres)	102-110 Fountain St. North, Cambridge, Ontario	25,417.64 (102 Fountain St. 5) + 14157.74 (110 Fountain St. 5) =\$39,575.38		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)	\$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			704,517.72			\$5,163,405			(Please note that cross collateralized loans were only included 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.

Applicant(s)

- and -

Dondeb Inc. et al

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

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



[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.

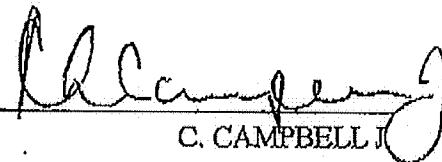
[30] The issue of the fees of Farber incurred to date in respect of preparation of the CCAA application was agreed between the opposing creditors, Farber and its counsel and are not an issue. Counsel for the debtor requested that the court consider a request for fees and costs on the part of the debtor. 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: Dondob 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 DONDEB INC. and the ADDITIONAL APPLICANTS  
LISTED ON SCHEDULE "A" HERETO (collectively, the  
"APPLICANTS")

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Applicants

REASONS FOR DECISION

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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)